

EUROPEAN AND INTERNATIONAL LEGAL REGULATION OF ENVIRONMENTAL IMPACT ASSESSMENT IN THE COASTAL AREA OF ROMANIA

Mari-Isabella STAN*

ABSTRACT: *The Environmental Impact Assessment is one of the basic tools of environmental policies and legislation and represents a milestone in the development of public and private projects with European funding.*

This article attempts to answer the question: Is environmental impact assessment and strategic environmental impact assessment a necessary and effective for public and private investment in the coastal zone?

However, we can also attempt to answer the question of whether this is an effective strategy towards sustainable development of the Black Sea's Romanian coast, as well as protection and improvement of environment and living standards.

KEYWORDS: *assessment, impact, environment, coastal zone, project, strategy*

JEL CLASSIFICATIONS: *K00, K32*

1. DEFINITION OF ENVIRONMENTAL IMPACT

Environmental protection is an area of major concern in the European Union, and Romania according to the commitment by the EU *acquis* in Chapter 22 - "Environment" has developed and implemented the necessary legislative function with the accession.

Environment from the perspective of sustainable development represents a hierarchy of organizational systems / ecological systems and not an amount of ecological factors: water, air, soil, vegetation, fauna and human settlements that surround man¹. In this context the environmental protection has the following action: rational management of resources, avoiding imbalances in nature conservation, avoiding environmental pollution as well as its reconstruction².

*Associate Professor, PhD., eng, Faculty of Law, Administrative Sciences and Sociology, "Ovidius" University of Constanta, ROMANIA

¹Manoleli D., *Principiile Dezvoltării durabile* - Curs pentru Facultatea de Filozofie, Universitatea din București și pentru Școala Superioară de Științe Politice și Administrative (Master de Politici Publice, Învățământ la distanță), CDrom, 140 pp., 2001, p.71.

²Șchiopu D., *Ecologie și Protecția Mediului*, Publishing House Ceres, Bucharest, 1997, p.70.

Environmental assessment is a policy tool that forces the integration of environment into intersectional decision-making process³ with public consultation and public authorities interested in the effects of implementing plans and programs.

In the evolution of concepts, Environmental Impact Assessment can be defined as a process designed to ensure that significant potential environmental impacts are assessed satisfactorily and are considered in the planning, design, approval and implementation of all types of relevant actions⁴. On the other side, the environmental impact represents any direct or indirect effect of human activities defined in a certain area, which produces a change in the direction of development, the quality status of ecosystem change that may affect human health, environmental integrity, cultural heritage or socio-economic conditions⁵.

Environmental Impact Assessment process is related to the regulation of activities with significant environmental impacts and is accomplished under national environmental law transposing Community legislation in the field.

In Romania was initiated, using relevant legislation, an early monitoring of pollution factors and were established the methodologies for environmental audit and environmental impact studies in the coastal zone.

The notion of territorial sea (or waters is defined in specialty papers as the marine space between a State and its internal waters on the one hand, and the high seas on the other hand, the inner and outer limits⁶.

The surface near the sea known as the coastal area which is particularly important because there live many species of plants and animals whose existence depends on the contact between sea and shore, and it is also where ports and tourism develops. The appearance of ports in the coastal areas favored sustainable development of cities in the territory.

Considerations of environmental impact assessment lies in resolving key issues to ensure a proper quality of life now and in the future, namely the implementation of environmental protection strategy to ensure increased individual and collective well-being and prosperity.

2. LEGAL REGULATIONS REGARDING ENVIRONMENTAL IMPACT IN THE COASTAL ZONE

The legal framework for environmental protection in Romania is regulated by Government Emergency Ordinance no.195/2005⁷, and in Article 2, paragraph 31, the environmental impact assessment is defined as a "*process to identify, describe and determine, according to each case and in accordance with existing legislation, direct and indirect effects, synergistic, cumulative primary and secondary effects of a project on*

³Manoleli D., op.cit., p.74.

⁴Glasson, J., Therivel, R., Chadwick, A., *Introduction to Environmental Impact Assessment*, UCL Press, London, 1994, p.253.

⁵Rojanschi V., Bran F., Diaconu G., *Proiectia și ingineria mediului*, Publishing House Economică, Bucharest, 2002, p.292.

⁶Chilea D., *Drept internațional public*, Publishing House Hamangiu, Bucharest, 2007, p.193.

⁷Government Emergency Ordinance no.195 of 22 December 2005 on environmental protection, published in the Official Gazette of Romania no. 1196 of 30 December 2005.

human health and the environment". The Government Decision no. 445/2009⁸ Article 5, paragraph (2) states that environmental impact assessment *"identify, describe and assess in properly and for each case, the direct and indirect effects of a project on the following factors: human beings, fauna and flora, soil, water, air, climate and the landscape, material assets and cultural heritage, as and the interaction between these factors"*.

Strategic Environmental Assessment is similar to Environmental Impact Assessment process, but applying policies, plans and programs, a tool for systematically at the highest government level to facilitate the integration of environmental considerations in the decision-making lead to the identification of specific measures to mitigate the effects and establishes a framework for the subsequent evaluation of projects point of view of environmental protection.⁹

On the other hand, Emergency Ordinance no. 202/2002¹⁰ on the integrated management of the coastal zone defines the coastal zone as *"geographic area located at the sea shore contact, including coastal waters surface and groundwater and the adjacent land, including surface waters and groundwater related to them, strongly interconnected and in close proximity to shoreline, islands and salt lakes, wetlands in touch with the sea, beach and seafront"*.

Directives 85/337/EEC and 97/11/EC adopted by the European Union are based on the principle of prevention in terms of environmental impact assessment, so a key role in defining environmental policies and sustainable development in developing the model were national regulations. Therefore, in 2012, the European Commission proposed to amend Directive 2011/92/EU on assessment of certain public and private projects on the environment.

Directive 2011/92/EU¹¹ encoded by Directive 85/337/EEC and the three subsequent amendments (Directives 97/11/EC, 2003/35/EC and 2009/31/EC) contains a legal requirement for the assessment of environmental impact of public and private projects likely to have significant environmental effects prior to their approval. Therefore, in 2012, the European Commission proposed to amend Directive 2011/92/EU on the effects of certain public and private projects on the environment.

The main European Union tool to promote integrated coastal zone management is the European Parliament and Council Recommendation 2002/413/EC¹² on the implementation of integrated coastal zone management in Europe. Chapter I of this recommendation stresses the importance of a strategic approach to coastal management, based i.a. on recognizing threats caused by climate change, the risks caused by rising sea levels and increased frequency and violence of storms, adopt appropriate measures to protect human settlements in the coastal area and cultural heritage, as well as improving

⁸ Government Decision no. 445 of 8 April 2009 on the impact assessment of certain public and private projects on the environment, published in the Official Gazette of Romania no. 481 of 13 July 2009.

⁹ Order of Ministry of Environment and Water Management no. 117 of 2 February 2006 approving the Manual on the application procedure of environmental assessment for plans and programs, published in the Official Gazette of Romania no. 186 of 27 February 2006.

¹⁰ Government Emergency Ordinance no. 202 of 18 December 2002 on the Integrated Coastal Zone Management, published in the Official Gazette of Romania no. 965 of 28 December 2002.

¹¹ Directive 2011/92/EU (OJ L 26, 28.1.2012, p.1).

¹² Recommendation 2002/413/EC of the European Parliament and of the Council of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe (OJ L 148, 6.6.2002).

coordination of actions taken by authorities in the interaction of the sea shore. These activities therefore also contribute to the integrated management of coastal zones which is part of the EU maritime policy.

3. BASIC PRINCIPLES OF ENVIRONMENTAL IMPACT ASSESSMENT PROJECTS

Starting from the idea that environmental impact assessment is a systematic process of identifying the future consequences of present actions are highlighted eight general principles that govern the entire process of Environmental Impact Assessment, as follows: *participation* in the sense of adequate access and timely process for all stakeholders, *transparency*, namely all decisions based on their assessment and should be open and accessible, *namely* the timing and certainty evaluation process should be agreed in advance and followed by all participants in the process, *responsibility* i.e. makers are responsible for all the parties involved for their actions and decisions in the evaluation process, *credibility* that the assessment should be carried out with professionalism and objectivity, *cost-effectiveness* means that the evaluation process and its results will ensure environmental protection the lowest cost to society, and flexibility as the evaluation process must be able to adapt to cope effectively making any proposal for a decision or situation and be *practical* in the sense that the information and results provided by the assessment to be easy to use in decision making and planning.

National and international legislation in this matter establishes as legal principles strategic elements of environmental regulations, sometimes with a pronounced technical character. They express the legislator's purpose concerning global environmental protection policies and strategic directions or technical elements of implementing the environmental policy.

Referring to the Romanian law, namely the Government Emergency Ordinance no. 195/2005 Article 3 shall list principles and strategic elements that lead to sustainable development. Article 4 mentions ways to implement the principles and strategic elements, some of them requiring mandatory procedure for environmental impact assessment in the initial phase of projects, programs or activities, as follows: integrated pollution prevention and control through the use of best available techniques for activities with significant environmental impact; adopting development programs with respecting the requirements of environmental policy; correlation of spatial planning and urbanism with the environment; conducting environmental assessment before approval of plans and programs that may have significant effect on the environment; environmental impact assessment in the initial phase of projects with significant environmental impact; introduction and use of economic levers and incentives or coercive instruments; solving the levels of competence, environmental issues, depending on their extent; promoting harmonized with European normative acts and international standards.

4. ENVIRONMENTAL IMPACT ASSESSMENT PROCESS

Any economic development project, whether it is simple or a complex holds environmental implications that can be positive or negative. Environmental impact, by definition, involves a sequence of environmental conditions or the creation of a new set of

positive or negative environmental consequences resulting from the implementation of a project. Identifying the impact requires knowledge of areas that are likely to be affected by the implementation of a project and begins with the definition of the evaluation's domain when the project data and the environmental information are known.

4.1 Stages

The Government Decision no. 445/2009 establishes the environmental impact assessment for public and private projects that may have significant environmental effects. The procedure for environmental impact assessment requires going through the procedural steps that concern establishing the importance of submitting a project to environmental impact evaluation, demanding a report on the study, consultation with the public and with the public authorities responsible for environmental protection, considering the environmental impact evaluation report and the result of the consultations in the decision process and ensuring the information over the decision made.

Article 6 provides that the procedure for environmental impact assessment is achieved in stages, as follows:

- a) the screening stage in the procedure of environmental impact assessment;
- b) assessment scoping stage and achieving the environmental impact report;
- c) stage quality analysis report on the environmental impact.

These stages have the following characteristics in common: they are driven by environmental protection authority that is identified to the location of the project and benefit from strict time limits.

a) Screening stage of the project aims at establishing whether the environmental impact assessment is obligatory for the project and comprises two phases: the initial assessment of the application and proper framing.

Following the screening stage in the evaluation of the environmental impact assessment and appropriate environmental protection authority decide according to each case to either: conducting environmental impact assessment and appropriate evaluation, environmental impact assessment carried out without adequate evaluation, performing the relevant evaluation and continuing the procedure for issuing development consent for the project submitted.

- b) assessment scoping stage and achieving the environmental impact report.

After the screening stage of the project, where has been established the necessity of environmental impact assessment for a project, follows the environmental impact assessment of the project. Domain evaluation refers to those problems subject to environmental impact assessment and their extent.

Scoping is also a complicated procedure that is achieved in several steps and must answer questions such as: what are the potential effects of the project on the environment, which of these effects are most important, which are variants of the project that should be taken into account, and therefore, it requires a deeper analysis of the environmental impact assessment study.

The project holder, based on guidelines from the competent environmental authority, which he has to respect, submits the report on environmental impact.

- c) stage quality analysis report on the environmental impact.

At this stage, under the guidance of competent environmental authority, project holder shall organize a public debate in which he presents the environmental impact report and safety report on the investment that is to be made. Opinions and observations are

submitted by the interested public, participating are sent by the competent authority in environmental protection to the project holder with the solutions proposed for analysis.

The analysis can lead to one of the following solutions: acceptance ratio, which involves the decision to issue an agreement or an integrated environmental restoration ratio; a makeover of the report as a result of public comments which involves retracing the previous steps; or a motivated rejection of the report when deciding not to issue an agreement or an integrated environmental agreement.

4.2. Application of Environmental Impact Assessment for the Romanian coastal zone

In order to apply for European funding for Sectoral Operational Programme Environment based on the objectives and priorities of European Union environmental policies, reflecting Romania's international obligations and specific national interests, it is necessary to prepare the required documentation for the financing of public projects and private can have significant environmental effects.

Once a project has been identified as a priority for funding, to prepare the application should be developed the following studies: master plan, feasibility study, economic and financial analysis, institutional analysis and environmental impact assessment.

The economic development of the coastal zone of the Black Sea due to public and private decisions of implementing projects can positively or negatively influence the natural balance of the ecosystem in the short, medium and long term. Therefore, compliance with national and international environmental and development of coastal zone management strategy is the way forward for sustainable development.

Romania has developed a Strategic Environmental Assessment document namely Master Plan "Coastal Protection and Rehabilitation"¹³. The overall objective of this Master Plan is to protect and improve the environment and living standards over the Romanian Black Sea coastal zone and to enhance safety in the south of the coast, which was seriously threatened by the destructive effects coastal erosion. The concept of sustainability has added a decisive visionary element to be implemented in the management and planning based on an ideology of management by objectives and targets.

The purpose of developing the Master Plan was to assess the situation, identify investment needs and determine predominantly argued public and private projects on the medium and long term which must include those components that are a priority in the immediate environment coastline.

All applications for assistance and funding from the European Union must include an Environmental Impact Assessment under the provisions of Council Directive 85/337/EEC as amended by 97/11/EC - Directive on Environmental Impact Assessment.

Coastal and seaside area is subjected to anthropogenic factors pressure with major impact on coastal and marine ecosystems by port activities, shipping, commercial fishing, major urban areas and resorts, tourism and sports, industrial and so on, so that complex interventions of coastal engineering have been conducted along the Romanian coast to protect the shore and increase port of Constanta.

As part of environmental impact assessments in the coastal zone will use the criteria set out in Government Decision no. 445/2009 *on the assessment of certain public*

¹³ Master Plan "Protecția și reabilitarea zonei costiere", Version: V8 (final), September 2012, <http://www.rowater.ro/dadobrogea>, p.18.

and private projects on the environment and will take into account the initial conditions of the environment, the failures reported, sensitive areas, environmental objectives relevant to the plan etc. Utility and effectiveness of strategic environmental impact assessment procedures are demonstrated by balancing development options proposed by plans and programs with the overall objective of ensuring a recognized sustainable development, including environmental protection concept.

The area covered by the Master Plan on the protection and rehabilitation of Romanian coastal zone includes virtually all Romanian seashores, focusing mainly on the development of shoreline protection works to reduce force waves reaching the beach. Shore is the fundamental unit of coastline. The most intense processes of energy or matter transformation, reflected in the continuous dynamic of the landscape which supports all forms of human impact. Most of the erosion protection works, arranging new tourist areas and settlements, land port sites are located in the shoreline. The answer of this fragile territorial system in various forms of human impact is different, positive when optimizing relationships between artificial and natural structures, or negative, accompanied by serious damage if creating discordant relations between constructions of any kind and the landscape.

An additional argument for the use of Environmental Impact Assessment and Strategic Environmental Impact Assessment is that, if properly achieved, it facilitates efficient planning of public and private projects, directly influencing optimal decisions.

Over time, studies have shown the importance of changing projects due to the Environmental Impact Assessment process, which indicates the contribution of this process to the overall planning of public and private projects in the coastal zone.

4.3. Proposed measures to reduce environmental impacts in the coastal zone

In the environmental Report and the evaluation study¹⁴ are offered a range of appropriate general measures to prevent, reduce adverse effects on environmental elements that are relevant to the strategic environmental assessment, taking into account the fact that through Master Plan are promoted appropriate measures to limit the adverse effects on the environment.

The measures proposed¹⁵ in the phase of preparation of the Master Plan viable to limit the impact on the environment and biodiversity are: selecting the intervention in order to minimize the impact on the environment and natural protected areas and waiver of certain limit their work or when you are in the vicinity or within a protected natural area, the application of appropriate environmental management both in the execution of works for the protection and rehabilitation of the coastal zone of the Black Sea coast, as well as during the period of the operations.

For the implementation of strategic environmental management policies exist a wide range of solutions and engineering techniques to achieve the desired objectives in the coastal zone.

Therefore, the main objective of the Master Plan is to protect and rehabilitate the coast, so it is very important that the proposed technical solutions to really contribute to the restoration and improvement of the environment in the area.

¹⁴Idem 13, p.303.

¹⁵Ibidem 14.

4. CONCLUSIONS

The necessity of implementing public and private projects to improve the current situation of the coastal zone in Romania is obvious, especially since some of their funding is non-refundable. In this regard, the central public authorities with responsibilities in project financing for coastal zone studies have prepared studies with the location and prioritization of public and private investment projects.

However, achieving this priority objective for Romania must respect, according to the current legislation the laws in force, the entire bio-system. Benefits of project implementation will not be seen immediately, but negative effects on the environment will be present right from the start of the work.

Therefore, environmental impact assessment, in compliance with proposed measures to limit the negative effects, it must be a complex process involving the participation of all those who are directly affected, but also those who make decisions in this regard.

Achieving strategic environmental impact assessment in the coastal zone respecting European Parliament and Council Recommendation 2002/413/EC which stresses the importance of a strategic approach to coastal management promotes efficient planning of public and private projects. On the other hand, Directive 2011/92/EU requires that *approval of public and private development projects which may have significant effects on the environment should be granted only after an assessment of the likely significant environmental effects of these projects.*

In conclusion, compliance with relevant European legislation and agreements signed by Romania is a safe and effective way to provide future generations an environment conducive to the existence and activity, using dimension of sustainable development - economic sustainability, namely the allocation and management of resources for a better flow of public and private investment.

