

THE MINISTRY OF CULTURE

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Pursuant to Article 36, paragraph 3 of the Nature Protection Act (Official Gazette 70/05), the Minister of Culture, subject to the approval of the Minister of Environmental Protection, Physical Planning and Construction, hereby issues the

ORDINANCE

ON NATURE IMPACT ASSESSMENT

GENERAL PROVISIONS

Article 1

This Ordinance establishes projects which are subject to mandatory nature impact assessment, the content, timeframe and manner of establishing the nature impact assessment, the method of informing the general public and the method of calculating the security for elimination of possible impacts on nature.

Article 2

The terms used in this Ordinance have the following meaning:

1. ecological network means the system of interrelated or contiguous ecologically important areas which by their well balanced biogeographic distribution contribute substantially to the conservation of the natural balance and biological diversity,
2. ecologically important area means an area that contributes substantially to biological diversity conservation in the Republic of Croatia,
3. security means an amount used for elimination of possible impacts on nature or mitigation of harmful effects of planned projects and it is provided in a form of a bond,
4. compensation terms means terms whose establishment ensures the achievement of the ecological network's conservation objectives, its integrity, interrelation and preservation of the values for which an area was proclaimed a part of the ecological network and where the project implementation resulted in a direct negative effect; the types of compensation terms are laid down in Article 39 of the Nature Protection Act (hereinafter: the Act),
5. mitigation measures means procedures whose implementation ensures the minimising of the project's harmful effects on the ecological network to an acceptable level,
6. precautionary principle means the principle which requires that the nature impact assessment procedure gives priority to the ecological network's conservation objectives when harmful effects of a planned project cannot be determined with certainty,
7. project holder (hereinafter: the Holder) means any legal or natural person planning to realize a certain project in nature, who has submitted a request for carrying out a project pursuant to this Ordinance,
8. nature impact assessment (hereinafter: the Assessment) means the procedure of assessing impacts on nature of a planned project which individually, or in combination with other projects, may have a significant impact on the ecological network relating to the ecological network's conservation objectives and its integrity,
9. project impact area means an area where the effect of impacts of a planned project on

nature is foreseen, including also the area of cumulative impacts of a planned project in combination with other projects,

10. project in nature means any temporary or permanent human influence on nature which may disrupt the natural balance of the ecological network and relates to activities pertaining to physical planning, use of natural resources in water management, forestry and hunting, freshwater and sea fisheries, mining, agriculture, energy, transport, telecommunications, tourism, sport and recreation, etc.

PROJECTS SUBJECT TO MANDATORY NATURE IMPACT ASSESSMENT

Article 3

(1) The Assessment shall be mandatory for a planned project which individually, or in combination with other projects, may have a significant impact on the ecological network.

(2) A project shall mean any planned project and any plan or document planning a project which may affect the ecological network.

NATURE IMPACT ASSESSMENT PROCEDURE AS PART OF ENVIRONMENTAL IMPACT ASSESSMENT

Article 4

For a planned project which may have a significant impact on the ecological network, and for which environmental impact assessment is mandatory in accordance with a special regulation, Assessment shall be provided as part of the environmental impact assessment pursuant to a special regulation.

NATURE IMPACT ASSESSMENT PROCEDURE FOR NATURAL RESOURCE MANAGEMENT PLANS

Article 5

(1) Any natural resource management and use plan in water management, forestry and hunting, freshwater and sea fisheries, mining, agriculture, energy, transport, telecommunications, tourism, sport and recreation, etc., shall be subject to Assessment.

(2) The Assessment of a natural resource management plan shall be carried out in the procedure of establishing the nature protection requirements and measures pursuant to Article 123 of the Act and the obtained prior approval in accordance with Article 125, paragraph 1 of the Act.

(3) Upon the Ministry's issuance of prior approval in accordance with Article 125, paragraph 1 of the Act for a natural resource management plan within the ecological network area, the Assessment shall be deemed as provided.

NATURE IMPACT ASSESSMENT PROCEDURE FOR A PLANNED PROJECT

Article 6

(1) A Holder shall submit to the Ministry a request for the performance of the Assessment procedure (hereinafter: the Request).

(2) The Request shall contain the following information:

- Name and information on the project holder (legal status, etc.),
 - Name and description of the project,
 - Reasons for proposing the project,
 - Scope of the project (overall area of the project, location, purpose of facilities, etc.),
 - Area of project impact,
 - Description of the project's individual impacts and an estimate of cumulative impacts of the project, including carried out and/or ongoing and/or planned projects, on the ecological network,
 - Anticipated excavations, fillings, material disposal, etc.,
 - Necessity of natural resource utilisation (water, mineral raw materials, etc.),
 - Potential pollution of soil, water, air, etc.,
 - Access roads and method of transport,
 - Duration of construction, implementation and finalisation of the project,
 - Location of the project site in relation to the ecological network,
 - Signature of the responsible person of the Holder.
- The following shall be submitted along with the Request:
- Excerpt from the physical planning documentation (graphical and textual), if such a document exists,
 - Map overlay of the project's area in scale appropriate for determining the project's impact on the ecological network,
 - Other existing documentation.

Article 7

- (1) The Ministry shall carry out the Assessment procedure which consists of four stages: (I) Screening, (II) Main Assessment, (III) Assessment of other feasible options, (IV) Establishment of overriding public interest and compensation terms.
- (2) By way of derogation from paragraph 1 of this Article, the screening procedure may be carried out by the competent state administration offices in accordance with Article 8, paragraph 4 of this Ordinance.
- (3) Expert operations of the Assessment procedure shall be performed by the State Institute for Nature Protection (hereinafter: the Institute), based on the information submitted by the Holder to the Ministry or competent state administration office in accordance with the provisions of this Ordinance.
- (4) The Assessment procedure shall be carried out in line with the precautionary principle.

I Screening

Article 8

- (1) The Screening shall establish if a planned project for which a Request has been submitted requires the performance of the Main Assessment procedure.
- (2) If the Screening establishes that a planned project shall not have any significant impact on the ecological network area, the Ministry or the competent state administration office shall, by decision, establish that the Holder is not obliged to carry out the Main Assessment or that the Holder is granted the right to carry out the project in relation to the ecological network.
- (3) If the ecological network area is also a protected area in the category of strict nature reserve, special nature reserve, national park, nature park and nature monument, and the project will not have any significant impact, the Ministry shall, by the decision referred to in paragraph 2 of this Article, establish the nature protection requirements and measures

pursuant to Article 127, paragraph 3 of the Act.

(4) If the ecological network area is also a protected area in other categories pursuant to Article 127, paragraph 4 of the Act or is not specially protected pursuant to the Act, authorisation for a planned project shall be issued by the competent state administration office. The authorisation shall contain nature protection requirements and measures.

(5) When the Ministry or the competent state administration office establishes in the Screening procedure that it is necessary to carry out the Main Assessment for a planned project, it shall inform the Holder of the decision as well as of the need to supplement the Request with a Nature impact assessment study.

II Main Assessment

Article 9

In the course of the Main Assessment procedure, the Ministry reviews the impacts of the planned project on the integrity of ecological network area in view of the structure and function of the ecological network area and its conservation objectives, and proposes mitigation measures for identified harmful effects.

Article 10

(1) For the purpose of the Main Assessment procedure, a Holder shall supplement the Request with a Nature impact assessment study (hereinafter: the Study), The Study shall be drafted by legal persons authorised in accordance with a special regulation.

(2) The Study shall contain the following information:

1. Description of the project and project site:

- detailed description of the project with map overlays,
- scope of the project (overall area of the project, dimensions, location, and purpose of facilities),
- area of project impact.

2. Description of the ecological network area:

- basic properties of the ecological network area due to which it is an ecologically important area,
- names and protection status of the ecological network's surrounding areas which may be affected by the project,
- preservation situation, or description of the existing status of the ecological network,
- basic requirements for preservation of the ecological network's fundamental values,
- properties of habitats and species in the ecological network area,
- structural and functional relations of ecological factors which constitute and ensure the ecological network's integrity,
- other ecological factors significant for the ecological network.

3. Description of the project's impacts on the ecological network and protection measures:

- detailed description of the foreseeable individual impact of the project on the ecological network area,
- detailed description of cumulative impacts of projects (carried out, ongoing and/or planned) on the ecological network area,
- detailed description of the project's impact on optimal habitat conditions,
- detailed description of the project's harmful effects on the ecological network's conservation objectives, its integrity and connection with other parts of the ecological network,

- changes in the ecological network which may occur by carrying out the project,
- proposal of measures for mitigation of the project's harmful effects,
- method, time period and persons to undertake measures for mitigation of the project's harmful effects on the ecological network area,
- estimation of costs for implementing mitigation measures with the cost estimate authorised by a court expert or other authorised expert.

4. Conclusions:

- project's impacts on the ecological network area,
- measures for mitigation of the project's harmful effects with implementation deadlines,
- monitoring programme for preservation of the favourable status of the ecological network area in the project impact area,
- list of organisations, authorities and institutions involved in developing the Study,
- data sources and data collection methods.

(3) The Study shall be submitted in written and electronic form.

Article 11

If the Main Assessment procedure establishes that a Request is acceptable, the Ministry shall issue a decision on authorising the planned project pursuant to Article 37, paragraph 1 of the Act. A decision shall contain nature protection requirements which also contain mitigation measures. The decision shall also establish the payment of security.

Article 12

If the Main Assessment procedure establishes any harmful effects of a project on the ecological network area, the Ministry shall issue a decision refusing the Request and shall inform the Holder of the possibility of instigating the procedure for Assessment of other feasible options.

III Assessment of Other Feasible Options

Article 13

(1) The Assessment of other feasible options shall be used to assess projects with which the objectives of the planned project may be achieved and harmful effects to the ecological network area can be avoided.

(2) For the procedure of Assessment of other feasible options, a Holder shall supplement the Request with a proposal of other feasible options of the project in a form of amendments to the Study referred to in Article 10 of this Ordinance, along with a list of organisations, authorities and institutions involved in the drafting.

Article 14

If the procedure of Assessment of other feasible options establishes that no other proposed option is acceptable, and the harmful effects of the project remain the same, the Ministry shall issue a decision refusing the Request for carrying out the planned project in nature and shall direct the Holder to the procedure for establishing overriding public interest and compensation terms. The request for establishing overriding public interest shall be submitted to the Government of the Republic of Croatia by the Holder through the Ministry pursuant to Article 37, paragraph 2 of the Act.

IV Establishment of Overriding Public Interest and Compensation Terms

Article 15

- (1) The procedure for establishing overriding public interest and compensation terms shall be used to establish if there are any imperative reasons of overriding public interest over the public benefit of nature conservation. If there are such reasons, including those of social or economic nature, or due to the lack of other feasible options, a planned project may be approved subject to the establishment of compensation terms. The approval shall be issued by the Government of the Republic of Croatia pursuant to the Article 37 of the Act.
- (2) If the area of a planned project hosts a habitat type or habitat of a plant, fungi or animal species protected under international treaties and other regulations, the overriding public interest based on which a planned project may be approved may relate only to protection of human health and public safety or to the establishment of significantly more favourable conditions for nature.
- (3) The overriding public interest shall be established after a public discussion has previously been carried out pursuant to Article 17 of this Ordinance.

Article 16

- (1) For the purpose of establishing compensation terms within the meaning of Article 39 of the Act, the Ministry shall establish a Committee.
- (2) The Committee shall consist of permanent members including at least one representative of the Ministry and at least one representative of the Institute and of members who are appointed, depending on the ecological network area and the project, from the ranks of relevant experts and representatives of non-governmental organisations.
- (3) Monetary assets for the purpose of compensation payment shall be allocated in the State budget, for the Ministry.

PUBLIC PARTICIPATION IN NATURE IMPACT ASSESSMENT PROCEDURE

Article 17

- (1) After finalizing each stage of the procedure referred to in Article 7 of this Ordinance, the Institute shall draft the Report and deliver it to the Ministry or competent state administration office.
- (2) The Ministry or competent state administration office shall inform the general public of the results of the Assessment procedure by publishing the Report on the Ministry's website and/or in the media or in its public bulletin.

Article 18

- (1) During the procedure for establishing overriding public interest and compensation terms, the Ministry shall collect written comments and suggestions from the public for a period of 15 days from the day of publishing the Report on carrying out the Assessment of other feasible options.
- (2) The Ministry shall provide for the possibility of electronic collection of written comments and suggestions.
- (3) The Ministry shall publish its opinion on the received comments and suggestions on its website within a period of 30 days.

COSTS

Article 19

- (1) The costs of collecting, processing and identifying information required for the Assessment procedure shall be born by the Holder.
- (2) The Holder shall also bear the costs of the procedure for establishing overriding public interest and compensation terms as well as the costs of carrying out mitigation measures and implementing compensation terms.

SECURITY

Article 20

- (1) The security amount in the case of issuing an authorisation referred to in Article 11 of this Ordinance shall be recommended by the Institute based on the cost estimate referred to in Article 10, paragraph 2, item 3 of this Ordinance. The authorisation shall establish the method of security payment and reimbursement.
- (2) The security amount in the case of issuing an authorisation referred to in Article 15, paragraph 1 of this Ordinance shall be recommended by the Committee based on the cost estimate referred to in Article 10, paragraph 2, item 3 of this Ordinance. The authorisation shall establish the method of security payment and reimbursement.
- (3) Security shall be paid to the Ministry by the Holder in the form of a bond.

Article 21

- (1) The Holder shall notify the Ministry of the date of undertaking all measures prescribed by the authorisation referred to in Article 11 and Article 15, paragraph 1 of this Ordinance.
- (2) The Ministry shall immediately request an expert opinion from the Institute on the measures undertaken.
- (3) The Ministry shall reimburse the security by returning the bond when, based on the expert opinion of the Institute, it establishes that the prescribed measures for mitigating harmful effects of a project have been successfully carried out or that compensation terms have been successfully implemented. The Ministry shall return the bond within a period of 60 days from the date of receiving the notice referred to in paragraph 1 of this Article.

DEADLINES

Article 22

- (1) The procedures of Screening, Main Assessment and Assessment of other feasible options shall not take longer than six months from the day of receiving an orderly submitted Request. The procedure may exceptionally last longer in case of establishment of overriding public interest and compensation terms for a planned project.
- (2) If the Holder is unable to supplement the Request for Assessment procedure within the deadline set by the Ministry, he/she shall submit to the Ministry a request for an extension.

FINAL PROVISION

Article 23

This Ordinance shall enter into force on the eighth day after the day of its publication in the Official Gazette.

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Zagreb, 20 August 2007

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