



Albania, April 2019; revised January 2020/ June 2020

Terms of Reference

Consultancy Service – Consultancy service on Environmental Impact of the Extractive Industries

Approved by the [MSG EITI Albania](#) on date 26.04.2019

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1. Background

EITI-The Extractive Industries Transparency Initiative

The Extractive Industries Transparency Initiative (EITI) is a Global standard for improving Transparency and accountability in the oil, gas and mining sectors.

EITI implementation has two core components:

- **Transparency:** oil, gas and mining companies disclose information about their operations, including payments to the government, and the government discloses its receipts and other relevant information on the industry. The figures are reconciled by an Independent Administrator, and published annually alongside other information about the extractive industries in accordance with the EITI Standard.
- **Accountability:** a Multi-stakeholder group (MSG) with representatives from Government, Companies and Civil society is established to oversee the process and communicate the findings of the EITI reporting, and promote the integration of EITI into broader transparency efforts in that country.

The EITI Standard encourages MSGs to explore innovative approaches to extending EITI implementation to increase the comprehensiveness of EITI reporting and public understanding of revenues and encourage high standards of transparency and accountability in public life, government operations and in business. The requirements for implementing countries are set out in the EITI Standard¹.

Additional information is available via www.eiti.org.

Most activities involving the use of natural resources have potential Environmental impacts. Minimizing the damage due to Extractive industries sector operations depends on sound environmental practices in a framework of balanced environmental legislation.

The potential adverse effects of Extractive sector activities include air pollution, surface and groundwater pollution, noise and vibration, damage to local ecology, natural topography and drainage, depletion of water resources etc. All these Environmental components are required to be considered while selecting a proper methodology, mitigation measures to reduce pollution load, conservation of natural resources etc., in order to assess potentials for both positive and negative impacts to

¹ <http://eiti.org/document/standard>

the Environment and to use the produced results to mitigate the negatives and optimize the positives.

This assignment objective is to ensure that Extractive industries sector operations are managed efficiently in an environmentally sustainable framework within the internationally accepted standards of occupational health and environmental protection as well as options for mitigating and/or optimizing the environment impacts.

EITI Implementation in Albania

The Albanian Government supported this initiative and engaged for EITI implementation on March 2009. Albania became an **EITI Candidate Country** on May, 2009.

The International EITI Board, declared Albania as an **EITI Compliant Country** according to EITI standard on May 2013. Compliance with EITI Standard means that the country has an effective process for annual declaration and the reconciliation of all revenues from the extractive industries. This process gives possibility to the citizens to see the revenues from the companies of oil & gas, mining and those hydro power sectors.

Albania has published EITI reports for 8 fiscal years so far. In April 2011, Albania published its first EITI Report of the payments and revenues from extractive industries (oil & gas and mining), for the fiscal year 2009. In August 2011, it is published the Validation Report about the EITI implementation in Albania. In June 2012, Albania published the second EITI Report for the fiscal year 2010.

During 2014, Albania published 2 EITI reports under the new EITI standard, EITI report 2011 and EITI report 2012. In December 2015, Albania published the EITI report for the fiscal years 2013 and 2014 including for the first time in an EITI report the Hydro energy sector.

In February 2017, Albania published the EITI Report, for the fiscal year 2015 and in February 2018 Albania published the EITI report for the fiscal year 2016.

During 2017, it was conducted a Validation process regarding the EITI implementation in Albania in compliance with EITI Standard 2016 and the

Validation Decision was taken in February 2018 indicating that Albania has made a Meaningful Progress.

Following the second Validation Process conducted in March 2019, the EITI Board agreed on 17 June 2019 that Albania has made meaningful progress overall in implementing the 2016 EITI Standard, with considerable improvements across several individual requirements.

On October 2014 and March 2015 there have been revisions to the Mining Law and Hydrocarbons Law adding clauses for the EITI reporting.

EITI disclosure mandatory in Mining Code (October 2014)

In the framework of the Global initiative for Transparency in extractive industries, EITI Albania, has the right to ask and receive information from the mining operators, as well as from the Tax, Customs and Local Administration. EITI Albania has the obligation to publish to its annual EITI reports the data on the payments of fiscal obligations by the mining operators.

EITI disclosure mandatory in Hydro-carbons law nr. 7746, date 28.7.1993 (Exploration and Exploration), (March 2015)

In the framework of the Global initiative for Transparency in extractive industries, EITI Albania, the licensed operators, as well as Tax, Customs Directorates and Central and Local Administration have the obligation to report according to the EITI standard and in accordance with the regulations issued based on EITI standard. EITI Albania has the duty to publish these data to its annual EITI reports according to the EITI standard.

To ensure that the objective is achieved, as agreed by the MSG, it is elaborated in the EITI Workplan:

<http://www.albeiti.org/wp-content/uploads/2014/03/Plani-i-Pun%C3%ABs-2018-2019-EITI-Albania-Final-1.pdf>

Environmental legislation in Albania

The Government of Albania approved for the first time on February 2013, the first Law ever into force on Strategic Environmental Assessment (Law No.91, dated 28.02.2013).

Until that moment all the SEAs required from the Law No. 10431, dated 09.06.2011 “On Environmental Protection” (Article 24 “Strategic Environmental Assessment “) for some urban development plans in the country, followed the EIA procedure just to satisfy the fact that a SEA report was needed.

After the new Law entered into force, other by- laws that fulfil the frame of the SEA legislation came into force:

1. DCM No. 2019, dated 11.03.2015 “On defining rules and procedures consultation with the group of interest and the public, and the public hearing during the Strategic Environmental Assessment process”;
2. DCM No. 507, dated 10.06.2015 “On approval of the detailed list of plans and programs with negative impacts to the environment, the at need to undergo a SEA process;
3. DCM No. 620, dated 07.07.2015 “On approval of the rules, responsibilities and detailed procedures for the strategic environmental assessment in a transboundary context”;
4. Common guideline of the Minister of Environment and the Minister of Finance, No.5, dated 06.06.2016 “On defining the service tariff for the process of Strategic Environmental Assessment”.

The Law set the framework for the process that all the plans and programs under the above DCM No.507 should go under the SEA process. The aim of the Law is to ensure high environmental protection and sustainable development, through involving environmental issues during the drafting, approval, review, changes and modification of the plans and programs that have potential negative impacts to the environment.

The law defines institutions and their rights and responsibilities and the procedures to develop the Strategic Environmental Assessment.

The other DCM on public consultations and SEA process on cross-border context explain in details these two processes, which are mentioned as one of the phases of the SEA process.

The plans and programs that should go under the process of SEA follow under these thematic:

1) Mining sector; 2) Energy resources; iii) Treatment, transport, trade of oil and gas and under gas product; iv) Natural Gas sector; v) Research and treatment of hydrocarbons; vi) Integrated waste management; vii) Forestry and pasture; viii) Environmental protection; ix) Hunting; x) Construction, legalization, urbanization and integration; xi) Planning and territorial development; xii) Administration and land protection; xiii) Agriculture and farming; xiv) Fishery; xv) Rural Development; xvii) Cultural heritage; xvii) Integrated water resources management; xviii) Tourism; xix) Other plans that have an impact on environment and human health.

From the other side, the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context² was ratified by Albania in 2005, requiring all parties to evaluate the consequences of their draft policies and programs.

2. Objectives of the assignment

On behalf of the Government of Albania and the Albanian MSG, the EITI Albania seeks a competent and credible Consultant on Extracting Industry Planning and Environmental Impact, free from conflicts of interest, to provide Consultancy Services in accordance with the Albanian Legislation and this Terms of Reference.

The objective of the assignment is to assess the Environment impact of the Extractive industries in the communities living in areas where Extractive companies operates. The assignment will:

a) Provide analysis of the current environment impact in communities, the likely impact on each of the identified environmental component: Land environment, Air

² The text of the Protocol is available at and sites selected

https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-4-b&chapter=27&lang=en

environment, Water Environment (surface and groundwater), Noise Environment, Biological Environment, etc., and where the Extractive industry impacts the most;

b) Identify what components of Environmental impact are included in the mining and hydrocarbon activities licenses, and asses what environmental and rehabilitation obligations the extractive companies have according to the contract/license;

c) Analyze what obligations the companies have according to the license and what is really done and provide recommendations and suggest which aspects of the contracts and permits on this regard can be improved;

d) Provide for a Case Study (mining activity related) comparing generic environmental and economic implications associated with different industrial development options in Albania and provide recommendations, taking into consideration also the local revenues from the sector, trade and foreign investment, economic impacts and poverty alleviation of the cumulative impacts of the activity: mining zone/activity to be chosen by prior agreement with the MSG and the EITI Albania National Secretariat;

e) Present the findings of the Scoping Study in a Workshop to be organized by EITI Albania with the presence of MSG and other stakeholders on the Scoping Study;

f) Provide the Final Report for the needs of the MSG, the EITI Albania National Secretariat and other stakeholders involved on the process.

3. Scope of service and tasks

The Consultant will be expected to undertake the following tasks:

- ❖ Undertake Legal and Regulatory Review with regard to Environmental Impact of the Extractive Industries with a focus on:
 - a) Reviewing local legal and regulatory framework to help identify the set of laws and regulations that are already in place regarding the Environmental Impact of the Extractive Industries,
 - b) Reviewing the existing contracts, permits and license of companies already operating in the extractive sector in Albania, identify and consider the requirements regarding the Environmental Impact of the Extractive Industries,

- c) Reviewing national practice with regard to Environmental Impact of the Extractive Industries,
 - d) Asses what environmental and rehabilitation obligations the extractive companies have according to the contract/ license,
 - e) Identify gaps and advise on better practices to be followed in the future.
- ❖ Conduct desktop research to identify all major corporate responsibility/ environmental Standards, in use by the Extracting Industry (mining and hydrocarbons), and identify those which contain/ target the Environmental Impact.
- ❖ Provide for a Case Study (mining activity related) comparing generic environmental and economic implications associated with different industrial development options in Albania and provide recommendations, taking into consideration also the local revenues from the sector, trade and foreign investment, economic impacts and poverty alleviation of the cumulative impacts of the activity: mining zone/ activity to be chosen by prior agreement with the MSG and the EITI Albania National Secretariat.

The Consultant should deliver the following capacity building activities:

- ❖ Half day Workshop to present the findings of the Scoping Study and introduce the exercise and the methodology. Participants should include the MSG, Government representatives, local government representatives, Extractive companies' representatives, as well as other relevant stakeholders.
- ❖ One-day Event presentation for all the stakeholders on presenting the findings and the Final Study. Advise on better practices to be followed in the future. A statement on the findings from the research, gaps and best practices.

It is expected that the number of attendees will not exceed 60 participants.

4. Deliverables

The assignment is expected to commence in August 2020 culminating in the finalization of the assignment by September 30, 2020.

The Consultant will have a period of 40 calendar days to prepare the assignment.

The Study will be prepared in both English and Albanian language.

- The Consultant will prepare and present the Inception Report describing the methodologies to be used and the work to be conducted including detailed workplan to the EITI Albania Secretariat for review and comment within 3 days from the date of the assignment;
- The Consultant will prepare and present the draft Scoping Study on Environmental Assessment of the Extractive Industries, to the EITI Albania Secretariat for review and comment within 20 days from the date of the assignment;
- EITI Albania Secretariat will deliver comments to the Consultant within the next 7 calendar days.
- The Consultant will prepare the presentation of the Final Study, within 10 calendar days from delivery of comments.

The proposed schedule is set out below:

Signing of Contract	August 2020
Submission of Inception Study	3 calendar days after contract signing
Submission of Draft Scoping Study	20 calendar days after contract signing
Workshop for Draft Scoping Study	22 calendar days after contract signing
Submission of Final Study	37 calendar days after contract signing
Event Presentation for stakeholders	40 calendar days after contract signing

** The Signing of the Contract date will be set according to the deadlines of WB procurement procedures, at the end of the selection process.*

5. Consultant Qualifications requirements

The Consultant Firm will need to demonstrate:

- Experience in planning and Environmental impact assessment of Industry, infrastructure and energy projects;
- Excellent knowledge of EU directives of Environmental impact assessment and strategic environmental impact assessment;

- Availability of key staff to perform the assignment;
- Practical experience in preparing assessments, methodologies and guidelines.

The firm should have the following staff available for this assignment:

a) One team leader / Legal Expert with the following qualifications:

- University education in Law;
- Have at least 5-years experience in practicing law in Albania;
- Specific knowledge on the Environmental legislation in Albania, EU directives etc.
- Experience with conducting training would be an asset;
- Very good knowledge of English language.

b) One Environmentalist / Trainer with the following qualifications:

- University education in Environmental Engineering or similar;
- At least five years of experience in environmental field. Professional experience in the extractive industries would be an asset;
- Excellent knowledge of EU directives of Environmental impact assessment and strategic environmental impact assessment;
- At least three years of experience in conducting training in the environmental sector.
- Very good knowledge of English language.

6. Schedule of payments

The schedule of payments will finally be agreed during contract negotiations and shall have the following structure:

40 % following delivery of the Draft Scoping study

60 % following the EITI Albania National Secretariat approval of the Final Study and completion of Event Presentation for stakeholders.

7. Contract Duration

The contract is lump sum and the services should be performed within 40 calendar days. The maximum estimated input of Key Experts' time input is 60 person/calendar days. The consultant is expected to complete it by September 30, 2020.

8. Selection Method:

The consultant will be selected in accordance with Consultant Qualification method with the procedures set out in World Bank's Procurement Regulations for IPF Borrowers (July 2016, revised November 2017) (Procurement Regulations).

9. Administrative arrangements

The EITI Albania Secretariat will assist the consultant with the following:

1. Liaison with the relevant Ministries and Government agencies, LGUs, extractive operators to facilitate consultant's work.
2. Weekly co-ordination on the work of the Consultant with relevant government agencies, MSG and stakeholders.

10. Reference materials

- Relevant reference documents are available from the current Legislation on Mining Sector;

<http://infrastruktura.gov.al/minerar-2/>

- The current Legislation on environmental protection;

<http://akm.gov.al/assets/ligji-nr.-10431%2C-dat%C3%AB-9.6.2011--p%C3%ABr-mbrojtjen-e-mjedisit.pdf>

<http://akm.gov.al/assets/ligji-nr.-10448%2C-dat%C3%AB-14.7.2011-p%C3%ABr-lejet-e-mjedisit.pdf>

- Other legislation or regulations regarding the assigned contract.