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Guidance for assessing climate impacts in EIA and SEA
Additional recommendations
by the Estonian Environmental Law Center

Justice and Environment 2023

Guidance for assessing climate impacts in EIA and SEA, and taking climate considerations into account when making environmental decisions

Guidance for local governments, decision-makers, impact assessors, NGOs, and other stakeholders involved in environmental impact assessment

[Original document in Estonian](#)

Summary:

Compiled by Triin Jäädmaa and Kaie Kriiska. Published by the [Estonian Environmental Law Center](#), 2023.

- Climate change affects all areas of life, so it should be integrated into decision-making processes at various levels, including the development of national strategies, development plans, and action plans, as well as local-level development activities. Good practices for assessing climate impacts are still emerging in Estonia.
- The regulations for environmental impact assessment (EIA) indicate that assessing climate impacts is a legal requirement in the EIA process; that significant environmental impact, in the context of EIA regulation, may include both a project's impact on the climate and the project's vulnerability to climate change; and that climate considerations must be central to environmental decision-making. Similarly, the regulation for strategic environmental assessment (SEA) also requires the assessment of climate impacts.
- Climate impact assessments should address both the mitigation of climate change, i.e. reducing greenhouse gas emissions, and adaptation, i.e. reducing risks associated with climate change.

Key questions to be addressed in a climate impact assessment:

1. How does the planned activity affect domestic climate targets, and is the activity in line with international, European Union, and domestic climate policy principles?
 2. Where are the significant direct and indirect greenhouse gas emissions generated by the planned activity, and how large are they estimated to be? In the absence of detailed data, a qualitative assessment may be presented.
 3. Is it possible to reduce the climate impact of the planned activity, i.e. greenhouse gas emissions? What are the real alternatives for mitigating the effects of climate change associated with the planned activity?
 4. What are the possible positive and negative effects of climate change on the planned activity? What adaptation measures should be taken to minimise risks?
 5. Does the planned activity have a significant environmental impact on mitigating or adapting to climate change?
- Climate impact (greenhouse gas emissions) should be analysed (primarily in EIA) at all stages of the planned activity: during construction, use, and decommissioning. However, the goal of climate impact assessment is not to conduct a comprehensive life cycle analysis, but to identify the most significant activities with the highest potential emissions and assess them as accurately as possible. This should also include the consideration of significant indirect impacts associated with the planned activity. For example, if the use of the end-product of the planned project (including exported end-products) generates a significant greenhouse gas emission or positive climate impact, that impact should also be quantified, unless this demands an excessive effort.
 - During the impact assessment, the environmental and climate objectives applicable to the planned activity must be identified, and it should be clearly stated in the EIA report whether and to what extent the planned activity facilitates or hinders the achievement of these objectives. The purpose of assessing compliance with climate objectives is to provide the decision-maker with context on the importance of greenhouse gas emissions in their decision-making. When conducting an impact assessment, both legally binding and guiding climate objectives should be taken into account. The latest climate targets

should be followed, and any relevant policies and regulations that may have fallen short of the necessary levels of greenhouse gas emission reduction to follow the science-based trajectory of the Paris Climate Agreement's 1.5-degree goal, should be highlighted.

- Special attention must be paid to the relationship between climate change and biodiversity conservation both during the planning of activities and in the impact assessment process. Measures taken to mitigate or adapt to climate change must not exacerbate the decline in biodiversity. On the contrary, nature-based climate change mitigation and adaptation measures are synergistically aligned with the goals of climate change mitigation and biodiversity conservation.
- According to the requirements of environmental impact assessment, the direct and indirect significant environmental impact of the planned activity must be identified, including its impact on climate, taking into account the nature and scope of greenhouse gas emissions and the vulnerability of the planned activity and its real alternatives to climate change. As there are currently no greenhouse gas emission limits in the applicable legislation in Estonia that would allow the impact assessor and/or decision-maker to determine whether it constitutes a significant environmental impact in the legal sense, and there are no corresponding national guidelines, the significance of climate impacts should be determined on a case-by-case basis based on expert assessment. Thresholds provided in other relevant guidelines may be helpful.

Taking climate considerations into account when making environmental decisions

- According to Estonian law, taking into account merely environmental considerations when making environmental decisions is not sufficient. Instead, decision-makers must always take into account the considerations that ensure a high level of environmental protection (Environmental Impact Assessment and Environmental Management System Act § 9; Treaty on the Functioning of the European Union art 191 (2)). The preamble to the EIA Directive (2014/52/EU) emphasises separately that climate change must be a significant element both in assessment and in decision-making. Climate considerations are particularly important as efforts to slow climate change and adapt to climate impacts can directly or indirectly affect several of the individual rights and freedoms guaranteed by the (constitutional) law.

- When making a decision on the planned activity, the decision-maker must consider the final conclusions and environmental measures of the EIA/SIA report and justify in writing how they have been taken into account. The decision-maker may only depart from the results of the impact assessment or the environmental measures contained in the report if they have duly justified the reasons for doing so.
- The estimates of environmental impact assessments can't replace the considerations made when granting permits or establishing plans. Only the decision maker weighs the interests and does so when granting permits and establishing plans, not during the (strategic) environmental impact assessment process.
- If an environmental impact assessment reveals that the climate impact associated with the proposed activity cannot be considered a significant environmental disturbance under the law, but is still a climate impact that requires reduction, it constitutes an environmental risk under Estonian law (General Part of the Environmental Code Act § 4). Ignoring such disturbance and giving up efforts to reduce it is not justified. Proportional mitigation measures, such as setting conditions for environmental permits or planning, must be implemented to reduce environmental risks.
- If the climate impact resulting from the proposed activity can be considered a significant environmental disturbance, the decision-maker can only allow such an activity in the absence of alternatives and in cases where the overriding primary interest justifies it. Although the weighing of interests is inherently value-based, it must remain within the limits allowed by law, be fact-based and justified.

The full text of the guidance can be found [here](#) (in Estonian).

The preparation of the guidance was supported by Open Estonia Foundation and the Network of Estonian Nonprofit Organisations from the Active citizens fund under the project “Climate arguments in environmental impact assessment”.

Stakeholder engagement

The guidance was published in March 2023, but the preparatory work for compiling the document started already in May 2021. Over that time we engaged many stakeholders in the process, including the Ministry of the Environment, the Environmental Board, environmental impact assessors, NGOs, environmental lawyers etc.

In 2021, we had meetings with the Ministry of the Environment, the Environmental Board and the Estonian Association of Environmental Impact Assessors for the preparation of the guidance to identify key problems in the assessment of climate aspects in EIA/SEA. We also conducted a questionnaire among different practitioners to get information on how the climate impact assessments have so far been conducted, and what are their views on how to improve the practise. Later in 2022 and 2023 we had two follow up meetings with the Ministry of the Environment to get an update on their plans and views on the matter.

In spring 2022, the first draft of the guidance was shared with several stakeholders, to get their comments. There were many who used this opportunity, providing us valuable input. Few weeks later we also had a stakeholder meeting where we discussed the key problems. For some difficult legal questions that arose, we contacted a legal researcher from Germany and also discussed them with our colleagues.

In autumn 2022, we made two seminars to the public and two seminars to the local governments, where we introduced the work on the guidance we had done so far. There we also got some input that was useful to finalize our document. In January 2023 we shared the final draft with our environmental lawyers and the Ministry of the Environment, and got their comments.

The guidance was published on our website in March 2023, and sent directly to all stakeholders who participated at our events and also to all relevant practitioners. In March, we also had a final event with stakeholders (including eNGOs, university researchers, environmental impact assessors, officials from ministries and local governments), where we among others introduced our guidance.

Also, all the stakeholders engagement was supported by Open Estonia Foundation and the Network of Estonian Nonprofit Organisations from the Active citizens fund under the project “Climate arguments in environmental impact assessment”.



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