

TAP

Trans Adriatic Pipeline



ESIA Albania Section 3 – Legal Framework

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3 LEGAL FRAMEWORK

3.1 Introduction

This section discusses the legal framework within which the Project will be conducted and the environmental regulatory requirements that will apply to Project activities. The applicable international requirements and Albanian legal framework are addressed below, as are various international agreements to which Albania is a party.

To enhance consistency and uniformity across the TAP Project, all potential impacts along the pipeline route (extending from Greece to southern Italy) will be assessed against national legislation or the European Union (EU) framework, whichever is more stringent. As best practice, TAP AG will use the EU framework as a benchmark in Albania, although it currently is not a part of the EU.

This ESIA has been prepared to comply with Albanian national legislation and international environmental and socioeconomic requirements, with specific regard to the European Union Legislative Framework and alignment with the European Bank for Reconstruction and Development (EBRD). In addition, high importance is given to the transboundary context of the TAP Project (Espoo Convention).

Section 3.4 is a description of the ESIA Approval Process in Albania, and *Section 3.3* presents a summary of the key regulations and standards applicable to the TAP Project in Albania.

3.2 International Requirements

In its commitment to the environment and the community, TAP AG has adopted the EBRD Performance Requirements (PR) and standards as the main international standards for compliance during the execution of Project activities. The EBRD PR make reference to other international best practice guidelines such as those of the International Finance Corporation (IFC) and World Bank. In summary, the Project will address, where appropriate, the following policies:

- EBRD Environmental and Social Policy 2008 (including Performance Requirements [PRs] 1-10);
- EBRD Public Information Policy 2008;
- IFC Performance Standard 1 Social and Environmental Assessment and Management Systems, April 2006; and
- IFC Environmental, Health and Safety General Guidelines 2007.

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The EBRD is bound by its founding agreement to adhere to sound banking principles and “promote in the full range of its activities environmentally sound and sustainable development.” The various ways in which the EBRD promotes such development are described in the EBRD’s Environmental Policy document (the Policy). One specific step taken by the EBRD to address this mandate and the General Principles and Objectives set out in the Policy is to ensure that all of its investment and technical cooperation projects undergo environmental and socioeconomic appraisal along with the financial, economic, legal and technical due diligence that is carried out and to ensure that appropriate monitoring is undertaken following approval of projects by the Board of Directors.

Projects are classified as Category A when the defined use of proceeds of the EBRD funding would involve greenfield developments or major expansion or transformation-conversion that could result in potentially significant adverse future environmental and socioeconomic impacts which cannot readily be identified or assessed at the time of screening. An ESIA is therefore required to identify and assess the future environmental and socioeconomic impacts associated with the TAP Project, identify potential environmental and socioeconomic improvement opportunities, and recommend any measures needed to prevent, minimise and mitigate adverse impacts.

3.2.1 EBRD Environmental and Social Policy Review

The EBRD adopted its first Environmental Policy in 1991 and has since been updated. In May 2008 it was reviewed to become an Environmental and Social Policy, reaffirming EBRD’s commitment to ensure that the projects it finances are socially and environmentally sustainable.

The Policy specifies a set of 10 Performance Requirements (PRs) that projects are expected to meet in order to obtain financial support from the EBRD. *Table 3.2-1* below summarizes the requirements posed by EBRD on TAP AG and the specific measures adopted by the Project to ensure their compliance.

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Table 3.2-1 Performance against EBRD Performance Requirements

<i>Requirement</i>	<i>Measures adopted by TAP AG to ensure compliance</i>
PR 1: Environmental and Social Appraisal and Management	TAP AG has established a robust corporate governance to guide the preparation of ESIA's in a consistent and transparent manner and the development and implementation of Environmental and Social Management Plans (ESMPs) in each of the three countries, in accordance with the requirements of host country legislation, EU legislation, and EBRD PRs.
PR 2: Labour and Working Conditions	<p>TAP AG has established clear governance through a series of comprehensive guidance documents. It is recognised that detailed plans are to emerge, some of which are included in the ESMP (Section 9 of this ESIA Report) or which are recommended to be developed as stand-alone documents, to ensure consistency with the requirements of this PR 2. These plans are important in providing the delivery detail and ensuring adherence to the stated TAP AG guidance and EBRD requirements.</p> <p>Additional documentation or measures are highlighted as being advisable on the topic of worker-relationship management and wages and benefit packages, and provisions are already made for many of these measures (in particular as part of Social Compliance Monitoring).</p>
PR3: Pollution Prevention and Abatement	TAP AG has made a commitment to avoiding, wherever possible, adverse impacts to human health, communities and the environment. The ESIA has been developed in accordance with this philosophy. The list of mitigation and enhancement measures (ESMP) will provide the mechanism through which such commitment can be fully realised. Measures will be recommended for consideration at the appropriate stage to ensure there is consistency with the requirements of PR3.
PR 4: Community Health, Safety and Security	TAP AG has made a commitment to avoiding, where possible, or minimising and mitigating adverse impact to human health. The ESIA and ESMP outline specific mitigation and enhancement measures to ensure consistency of delivery against this commitment. Additional measures have been highlighted as providing a clear governance approach consistent with the requirements of PR4, but it is recognised that such measures may already be provided later in developing the Project, in particular, through the ESMP.
PR 5: Land Acquisition, Involuntary Resettlement and Economic Displacement	TAP AG has made a commitment to ensure avoidance or minimisation and mitigation of economic and physical displacement arising from Project construction and operation. During the route refinement process the objective of avoiding involuntary resettlement was sought and has successfully been achieved. Involuntary resettlement is not currently envisaged, and detailed governance exists to guide land acquisition on the basis of free and informed consent.
PR 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources	TAP AG has established governance to align with the requirements of PR6. It is critical that there is a determination of the overall impact on biodiversity within the respective country and local habitats once mitigation has been drafted to assure 'no net loss' to biodiversity within each country and all along the pipeline consistent with TAP AG's commitment. This has been undertaken at the stage of ESIA ecological assessment. The Biodiversity Action Plan (BAP)s and ESMP, provide a mechanism to ensure this occurs. Procurement Guidelines clearly stipulate that all contracted parties must adhere to TAP AG's environmental governance; therefore, it is anticipated that any measures included within the BAPs or ESMP, will be fully adhered to by any contractor, as appropriate.

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Requirement	Measures adopted by TAP AG to ensure compliance
PR 7: Indigenous Peoples	<p>PR10 details a robust governance approach to stakeholder engagement. Whilst there is a systematic process for engaging with stakeholders of all types, no specific governance mechanisms or Project-specific measures have been identified as necessary to comply with PR 7. During the extensive stakeholder identification and mapping process at the scoping stage, it was determined that there were no indigenous peoples predicted to be impacted during the course of Project construction or operation.</p> <p>It should be noted is that Roma communities, present in the project area, are not considered as “indigenous” as per the Bank’s PR as they do not meet the second and third of the five criteria defining Indigenous Peoples¹. However, these communities have been considered as a vulnerable group in the context of the way in which a project may affect them. Therefore, specific mitigations and consultation measures have been taken into consideration when necessary.</p>
PR 8: Cultural Heritage	<p>Clear and robust governance exists for managing cultural heritage assets for the life of the pipeline, consistent with the requirements of PR8. The 5-phase approach outlined by TAP AG, should ensure that foreseeable impacts are either avoided or minimised and mitigated, and provision is clearly made for chance or late finds to ensure adequate and effective management of such asset findings. Further detail can be elaborated upon once the Cultural Heritage Management Plan (CHMP) is produced. It is envisaged that this will provide a robust management system and detailed measures to ensure compliance with the requirements of PR 8 for the life of the pipeline.</p>
PR 9: Financial Intermediaries	<p>PR9 is not considered applicable in the context of the TAP as no financial intermediaries will be appointed or operational in this Project.</p>
PR 10: Information Disclosure and Stakeholder Engagement	<p>TAP AG places a clear and strong emphasis on open and inclusive stakeholder engagement throughout the duration of the Project, its development, construction and operation. Strong governance mechanisms exist to guide such engagement, and TAP AG has made explicit commitment to free, prior and informed engagement consistent with PR10 and consistent with the approach to all PRs. The ESIA Scoping Reports and Stakeholder Engagement Reports detail both the engagement process undertaken to date and forthcoming engagement scheduled for the duration of the ESIA and Project.</p>

Source: ERM (2011)

3.3 European Union Legislation

Although not a part of the European Union, Albania applied for EU membership in 2009, and therefore its legal framework is largely and progressively being harmonised with EU legislation. Nevertheless, TAP AG shall respect the main guidelines provided by the European Directives since each Directive must be implemented by each Member State.

3.3.1 EU Environmental Impact Assessment (EIA) Legislation

The Environmental Impact Assessment (EIA) was introduced for the first time in Europe in 1985 by the EIA Directive (85/337/EEC) and represents a key instrument for European Union environmental policy. The EIA Directive of 1985 has been amended three times:

- Directive 97/11/EC brought the EIA Directive in line with the UN ECE Espoo Convention on EIAs in a Transboundary Context. The 1997 Directive widened the scope of the EIA Directive by increasing the types of projects covered and the number of projects requiring mandatory environmental impact assessment (Annex I). It also provided for new screening

¹ Indigenous People are defined by EBRD as compliant with five set of criteria (<http://www.ebrd.com/downloads/research/guides/indp.pdf>)

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arrangements, including new screening criteria (included in Annex III) for Annex II projects, and established minimum information requirements;

- Directive 2003/35/EC sought to align EIA Directive provisions with the Aarhus Convention on public participation in decision-making and access to justice in environmental matters; and
- Directive 2009/31/EC amended Annexes I and II of the EIA Directive, adding projects related to the transport, capture and storage of carbon dioxide (CO₂).

On 28 January 2012, Directive 2011/92/EU on the effects of public and private projects on the environment was published in the Official Journal. Directive 2011/92/EU codifies Council Directive 85/337/EEC on the assessment of the effects of certain public and private projects on the environment (EIA Directive) and its associated amendments. Directive 2011/92/EU fully preserves the content of the acts being codified and does no more than bring them together with only such formal amendments as are required by the codification exercise itself.

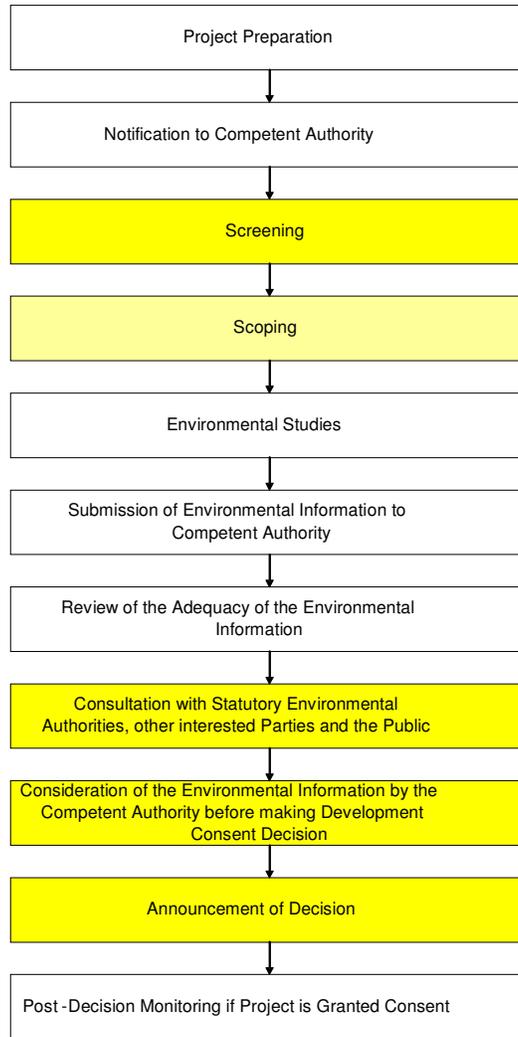
The scope of this Directive is to ensure that plans, programmes and projects likely to have significant effects on the environment undergo an Environmental Assessment prior to their approval or authorisation. While Annex I contains a list of projects for which the EIA is mandatory, Annex II defines those categories of projects whose ESIA is optional and at the discretion of the community member states.

The TAP Project falls under Annex I, clause 16 (Pipelines for the transport of gas, oil or chemicals with a diameter of more than 800 mm and a length of more than 40 km) of the EIA Directive and is therefore required to submit a Mandatory (in-depth) EIA. Therefore, also under EU Legislation, the Project must be evaluated by an EIA study prior to authorisation.

Although specific procedures may vary significantly among different member states, the principal phases of the EIA process are common to the European Community. The following *Figure 3.3-1* presents a flow chart of the EIA process phases, distinguishing the compulsory phases (highlighted in yellow) from the optional EIA procedures (not highlighted).

Although it is not required by the Albanian EIA Approval Process, TAP AG has taken into account the EU EIA Approval Process and delivered a Scoping Report to the Authorities. The objective of this Report was to present the Project to Albanian Authorities and provide an initial screening of the key impacts expected from the TAP Project.

Figure 3.3-1 EU Environmental Impact Assessment Process



Source: ERM based on current EU Legal Framework (2011)

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3.4 National Albanian Legislation

The Albanian legal framework regarding environmental and socioeconomic issues is based on the Constitution of the Republic of Albania and consists of laws and regulatory acts, such as Decisions of the Council of Ministers (DCM), ministerial acts, regulations, guidelines and standards.

The key pieces of legislation that apply to the Project are listed below:

- Law No. 8990, dated 23.01.2003 “On environmental impact assessment,” amended by Law No. 10050, dated 24.12.2008;
- Law No. 9424, dated 06.10.2005 “On the ratification of strategic environmental assessment protocol;”
- Law No. 9478, dated 16.02.2006 “On the accession of the Republic of Albania to decisions II/14 and III/7, amendments of Espoo for Environmental Impact Assessment in the transboundary context;” and
- Law No. 9700, dated 26.03.2007 “On environmental protection from transboundary impacts.”

Law No. 8990 will be repealed by Law No. 10440, dated 07.07.2011 “On Environmental Impact Assessment” (once it enters into force in January 2013, 18 months after it was officially published on 01.08.2011 in the Official Gazette) 18 months after being officially published. According to the current schedule, it is expected that the TAP Project will follow the current ESIA Approval Process and will not be affected by the new legislation for environmental impact assessment.

The following subsections provide additional information on the Albanian environmental, socioeconomic and cultural legal framework, as well as on the current and future ESIA approval process.

3.4.1 Environmental and Cultural Legal Framework

In general terms, the Constitution that was adopted by Parliament in 1998 requires institutions to maintain a healthy environment, ecologically suitable for present and future generations. In the last decade and especially since 2001, a number of laws and other legal acts on the environment have been drafted and approved.

A brief overview of the laws currently in force is presented below:

- Law No. 8934, dated 05.09.2002 “On environmental protection;” this law will be repealed once Law 10431 dated 09.06.2011 enters into force in November 2013;
- Law No. 8990, dated 23.01.2003 “On environmental impact assessment,” amended by Law No. 10050, dated 24.12.2008 (and Law No.10440/11 which enters into force in January 2013). This law is further described in Section 3.5;

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- Law No. 9700, dated 26.03.2007 “On environmental protection from transboundary impacts;”
- Law No. 9478, dated 16.02.2006 “On the accession of the Republic of Albania to decisions II/14 and III/7, amendments of Espoo for Environmental Impact Assessment in the transboundary context;”
- Law No. 8897, dated 16.05.2002 “On air protection” as amended by Law No. 10266, dated 15.04.2010;
- Law No. 9424, dated 06.10.2005 “On the ratification of the strategic environmental assessment protocol;”
- Law No. 9010, dated 13.2.2003 “For environmental administration of solid wastes” as amended by Law No. 10137, dated 11.05.2009 “On Some Changes in Legislation in Force for Licences, Permits and Authorisations in the Republic of Albania;”
- Law No. 9115, dated 24.07.2003 “On the administration of polluted waters” (amended by Law No. 10448/11 “On Environmental Permits” which will enter into force in January 2013);
- Law No. 8906, dated 06.06.2002 “On protected areas” as amended by Law No. 9868, dated 04.02.2008;
- Law No. 9048, dated 07.04.2003 “On Cultural Heritage;” as amended by Law No. 9592, dated 27.07.2006; Law No. 9882, dated 28.02.2008; and Law No. 10137, dated 11.05.2009 “On Some Changes in Legislation in Force for Licences, Permits and Authorisations in the Republic of Albania;”
- DCM No. 676, dated 20.12.2002 “On declaring the Albanian Nature Monuments as Protection Zones;”
- Law No. 8756, dated 26.03.2001 “On civil emergencies” as amended by Law No. 10137, dated 11.05.2009 “On Some Changes in Legislation in Force for Licenses, Permits and Authorisations in the Republic of Albania;”
- Law No. 8093, dated 21.03.1996 “On water reserves” as amended by Law No.8375 dated 15.07.1998; Law No. 8605, dated 20.04.2000; Law No. 8736, dated 01.02.2001; Law No. 9837, dated 03.12.2007; Law No. 10137, dated 11.05.2009 “On Some Changes in Legislation in Force for Licences, Permits and Authorisations in the Republic of Albania”; (and Law No. 10448/11 which will enter into force in January 2013);
- Law No. 8905, dated 06.06.2002 “On protection of marine environment from pollution and harm” as amended by Law No. 10137, dated 11.05.2009 “On Some Changes in Legislation in Force for Licenses, Permits and Authorisations in the Republic of Albania;”

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- Law No. 9115, dated 24.07.2003 “On Environmental Treatment of Waste Waters” as amended by Law No. 10448, dated 14.07.2011 “On Environmental Permits” (which will enter into force in January 2013),
- Law No. 9251, dated 08.07.2004 “Marine Code of the Republic of Albania;”
- Law No. 9055, dated 24.04.2003 "On the accession of the Republic of Albania to the United Nations Convention on the Law of the Sea (UNCLOS);”
- Law No. 9537, dated 18.5.2006 “On the Management of Hazardous Waste” as amended by Law No. 10137, dated 11.05.2009; and Law No. 9890, dated 20.03.2008;
- Law No. 9385, dated 04.05.2005 "On forests and forest service" as amended by Law No. 9533, dated 15.05.2006; Law No. 9791, dated 23.07.2007; Law No. 9989, dated 15.09.2008 and Law No. 10137, dated 11.05.2009 “On Some Changes in Legislation in Force for Licences, Permits and Authorisations in the Republic of Albania.” This framework is expected to be amended by a new law currently in draft;
- Law No. 9548, dated 01.06.2006 “For the accession of the Republic of Albania to the protocol ‘On the records of discharge and transfer of contaminants’
- Law No. 8672, dated 26.10 2000 “On ratification of Aarhus convention.” “On the public right for environmental information, its participation in decision making and to address the court on environmental issues;”
- Law No. 9774, dated 12.07.2007 “On the evaluation and management of environmental noise;”
- Law No. 9587, dated 20.07. 2006 “On Biodiversity Protection;”
- Law No. 9379, dated 28.04.2005 “On Energy Efficiency;”
- Law No. 9244, dated 17.06.2004 “On Protection of Agricultural Land;” and
- Law No.10062, dated 29.01.2009 “On the accession of the Republic of Albania to the protocol on the control of emissions of nitrogen oxides or their transboundary flows, of 1979 Convention on transboundary air pollution in long distance.”

A full list of the Albanian Legal Framework is presented in *Annex 2*. A full description of the Procedure for consenting ESIA is shown in *Section 3.5*.

3.4.1.1 New Environmental Legal Framework

The Ministry of Environment, Forests and Water Administration (MEFWA), with technical assistance from the EU and under the CARDS 2006 project, has recently drafted four environmental laws.

- Law No. 10448, dated 14.07.2011 “On Environmental Permits” (will enter into force in January 2013, 18 months after being officially published on 05.08.2011 in the Official

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Gazette). This law applies the regulatory provisions of Directive 2008/1/EC, “On integrated pollution prevention and control” and the provisions of Directive No. 80/2001 “On some restrictions on air emissions of certain pollutants from large combustion plants.” Once in force, it will have a profound impact on most of the current national environmental laws across a wide spectrum.

- Law No. 10431, dated 09.06.2011 “On Environmental Protection” (will enter into force in November 2013, 18 months after being officially published on 30.06.2011 in the Official Gazette). Once this law enters into force, Law No. 8934, dated 05.09.2002 will be repealed. This draft sets out principles, requirements, responsibilities, rules and procedures to ensure a higher level of environmental protection and includes dispositions for environmental impact assessment as a tool for environmental protection, aiming to identify and define the possible direct and indirect effects on the environment mainly to prevent these effects and to make changes to the National Environmental Agency (former Environmental and Forest Agency);
- Law No. 10440, dated 07.07.2011 “On Environmental Impact Assessment” (will enter into force in January 2013, 18 months after being officially published on 01.08.2011 in the Official Gazette). This law aims to protect the environment through prevention, minimisation and compensation of damages from proposed projects which may cause direct or indirect significant adverse impacts on the environment due to their size, nature or location before the projects are approved. Further, the draft law defines the guidelines for the environmental impact assessment, the parties that must be involved and the obligation of environmental authorities to make all existing information for the compilation of EIA reports available to project developers. A special provision has been anticipated for Specially Protected Areas where development of projects will not be allowed, with exemptions for some particular cases. Provisions for transboundary impacts are also part of this new law.; and
- Law No. 10463, dated 22.09.2011 “On Integrated Waste Management.” This law provides classification of wastes, waste management procedures including monitoring and control measures. It also describes the conditions that shall be included in environmental permits.

The first three laws set out the legal framework for the environment that will enter into force 18 months after the date of their official publication. Once in force and according to article 7, point 5 of Law No.10440/2011, the responsibilities and deadlines for ESIA approval will be decided through a DCM. The rules, requirements and procedures for informing the public and its involvement in ESIA will also be decided then.

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Generally, MEFWA, NCL and the National Environmental Agency will be the key actors in ESIA approval, in addition to all other ministries, local authorities, REAs and communities. Law No. 10440 provides a transition period for the restructuring and consolidation of the National Environmental Agency.

According to the current schedule, it is expected that the TAP Project will follow the current ESIA approval process and will not be affected by the new legislation for environmental impact assessment. However, it should be noted that no transition norms are included at this stage to regulate the transition from “current law” to the “new law” in the case the ESIA process has been started.

If the new laws enter into force during the period in which the TAP Project ESIA process has already commenced, TAP AG will liaise with MEFWA to agree on the next necessary steps.

Section 3.5 provides an overview of the ESIA approval process according to the current legal framework, which is expected to be applicable to the TAP Project.

3.4.2 Forestry and Agriculture Legal Framework

Albanian legislation safeguards forestry through dedicated legislation, and in reality, the protection of forestry is one of the key responsibilities of MEFWA. This Ministry is executing a protection policy for forestry, and any forest area impacted by the Project should be clearly specified in the ESIA report. Agricultural land is one of the key responsibilities of the Ministry of Agriculture, Food and Consumer Protection.

According to the Law No. 10257 dated 25 March 2010 "On some changes of Law No. 8752 dated 26 March 2001 'On the establishment and functioning of the structures for land administration and protection,'" it is provided that change of land use from agricultural (categories I, II, III and IV) to urban is done by the DCM for the cases specified by article 11/1 of this law. The change of land use from irrigated agricultural land (categories V and X) into urban land is done by the DCM for areas smaller than 30 ha and by law for areas greater than 30 ha.

According to Law No. 10119/09 "On territory planning," these issues are still assessed within the ESIA report as well. During the evaluation of the ESIA relevant to the TAP Project, the impact of the Project on the forestry fund will be considered very carefully; the Minister has the right to reject any application that has considerable impact on any forest area. Under legislation currently in force, permits for cutting forest and/or crossing the forest are released later (after EIA approval) during the application for the construction permit. Also it is important to highlight that the MEFWA is planning to draft a new law “On Forestry.”

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Nevertheless, the impact of the Project on forestry will be assessed in the ESIA report. In fact, although there is not a specific requirement to include this assessment within the ESIA report, the MEFWA, based on previous experience, could reject the application if this issue is not sufficiently analysed in the report. For this reason, it will include an assessment on the area of forest potentially affected (both temporarily and permanently).

3.4.3 Cultural Heritage Legal Framework

3.4.3.1 Overview of National Legislation

The protection of cultural heritage in Albania is addressed by the Ministry of Tourism, Culture, Youth and Sports and several specialized institutions within the Ministry of Education and Science. Within the former Ministry, the Department of Cultural Heritage oversees the Institute of Monuments, the nine National Museums, and the Centre of Registration of Cultural Property.

Law 9048 (“Cultural Heritage Act”) approved on April 7th, 2003 (as amended by Law No. 9592, dated 27.07.2006; Law No. 9882, dated 28.02.2008) is the primary legal framework governing the management of tangible and intangible cultural heritage in Albania.

Law 9048 represents the first effort to extend legal protection to material within the field of intangible cultural heritage. Its contents include: Categories of Albanian cultural heritage to be protected (*i.e.* tangible, intangible, movable, immovable); Definitions and examples of tangible and intangible heritage; Responsibilities of relevant institutions and government bodies; Penalties for those who damage cultural heritage; and Mitigation procedures.

Article 4 lists the tangible, immovable values that are to be protected, which include, but are not limited to: Archaeological sites; Historic structures (including places of worship); Historic towns and neighbourhoods; Cemeteries and graves; and Historic landscapes.

Law 9048 was amended by Law 9592 dated 27.07.2006. Amendments included 1) the introduction of the National Committee of National Heritage as an advisory body and 2) the creation of the National Committee for Intangible Heritage (NCIH).

Law 9048 was amended again by Law No. 9882, dated 28.02.2008. The 2008 amendments incorporated articles reconstructing the network of specialized cultural heritage institutions and articles dealing with the creation of the National Council of Archaeology and specialized institutions such as the Albanian Archaeological Service. This law must be viewed in light of implementation of the new Territorial Planning Law (Law No. 10119/09).

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3.4.4 Socioeconomic Legal Framework

At the current stage, there is no specific legislation on socioeconomic impact assessment, and there is no clear reference about the need to assess socioeconomic impacts within the environmental legal framework. Nevertheless, it is commonly accepted that the MEFWA also considers socioeconomic impact while assessing the environmental impacts on the basis of the following laws:

- Law No. 8934, dated 05.09.2002 “For the protection of environment.” In its amended version, it defines “activities affecting the environment” as any economic and social activity that uses the environment or part of it, or that discharges materials and energy by changing its characteristics;
- Law No. 8990, dated 23.01.2003 “For the evaluation of environmental impact” specifies the necessity for the ESIA to consider “the possible influence of variations in environment and health, the risks of accidents with significant impact on the environment and health and the respective measures to prevent them;”
- Instruction No. 6, dated 27.12.2006 “On the approval of the methodology of the preliminary evaluation of environmental impact assessment” requires the Proponent to specify whether there are socioeconomic impacts (*i.e.* on demography, traditional way of life or employment) and if there are risks of accidents that could impact human health or the environment; and
- Instruction No. 3, dated 19.11.2009 “On the methodology for evaluation of EIA reports.”

This approach is confirmed by Law 8990/03 “On environmental impact assessment” (amended by Law No. 10050/08) which clearly specifies the content of the in-depth ESIA report by emphasising the evaluation of direct and indirect impacts of the proposed project on humans, flora and fauna, soil, water, air, climate and landscape material assets and cultural heritage and interactions between the above mentioned factors.

3.4.5 Urban and Regional Planning Instruments

All buildings within the territory of the Republic of Albania are regulated by regional urban environmental studies, master plans and general regulatory plans, partial urban studies, the technical project and executive projects. Projects for all types of building above ground and underground and engineering infrastructure projects across the entire country are based on standards and technical requirements of legal acts in force.

Law No. 10119/09 “On Territory Planning,” amended by Law No. 10258, dated 21.04.2010 and Law No. 10315 dated 16.09.2010, is the main legislative tool in Albania relating to urban planning, and aims to integrate the urban planning legislative framework into a single law.

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Law No. 10119/09 entered into force on 30 September 2011. The main purpose of this law is to provide a sustainable development of the territory through the rational use of land and natural resources. This law includes the concepts of natural and cultural heritage protection and of the community's health and safety protection.

National territory planning authorities are the National Territory Council, headed by the Prime Minister, the National Territory Planning Agency, and any other central public body with planning or environmental control responsibilities. Local planning authorities are municipalities, communes, regions, and subsidiary bodies when territorial planning responsibilities have been delegated.

The General National Plan (GNP) is defined by this law as the planning instrument at the national level, establishing the general guidelines for planning and providing for national public infrastructure. Other planning instruments are defined at local and cross-local levels. Additionally, the law mentions integrated planning instruments to be designed for coastal areas, for cultural, natural and environmental heritage and landscapes, as well as for other areas of common importance or interest. A proper assessment of urban planning would require a review of the plans of the different districts crossed by the TAP once it is confirmed all of them have been approved.

A brief overview of the remaining relevant legislative framework on urban planning is presented below:

- DCM No.1190, dated 13.11.2009 "On the Ways of Organizing and Functioning of National Territorial Planning Agency;"
- DCM No.459, dated 16.6.2010 "On the Adoption of Common Surveying Standards and GIS;"
- DCM No.460, dated 16.6.2010 "On Organization and Functioning of the Territorial Planning Register;"
- DCM No.480, dated 22.06.2011 "On the Adoption of the Model Planning Regulation;"
- DCM No.481, dated 22.06.2011 "On the Adoption of Uniform Rules for Planning Instruments;" and
- DCM No.502, dated 13.07.2011 "On the Approval of the Regulation for Development Control of the Territory."

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3.4.6 Labour, Health and Safety Legislation in Albania

Based on Albania's legislative hierarchy, the rights and duties of employees are first included as general principles in the Constitution of the Republic, Article 49 "Everyone has the right to earn the means of living by lawful work that has chosen or accepted him. He is free to choose his profession, workplace, and system of professional qualification. Employees have the right to social protection of labour."

3.4.6.1 International Labour Conventions

International Conventions ratified by the Republic of Albania are another legal instrument for the protection of the labour force. Albania has ratified 51 conventions, 44 of which are currently in force. The most important ones related to Occupational Health and Safety regarding the TAP Project are:

- Law No. 8921, dated 11.7.2002 for the ratification of Convention 174 of the International Labour Organization "On the prevention of serious accident in industry, 1993." The purpose of this Convention is to prevent serious accidents from hazardous substances and minimise the consequences of such accidents. This Convention applies to major hazardous installations, and stipulates that all employees must be notified of identified high risk at any particular time for existing installations and before beginning their employment for new installations;
- Law no. 9148, dated 30.10.2003 for the ratification of the protocol of the year 2002 to Convention No. 155 of the International Labour Organization "For safety, health and working environment, 1981." This law aims to reinforce the responsibility of employers on:
 - The registration of occupational accidents, occupational disease and, as appropriate, dangerous occurrences, commuting accidents and suspected cases of occupational disease;
 - Providing appropriate information to workers and their representatives in connection with the registration system;
 - Ensuring adequate maintenance of the data and use of preventive measures;
 - Refraining from retaliatory or disciplinary measures against a worker for reporting an accident at work, occupational disease, dangerous occurrences, commuting accident or suspected case of occupational disease;
 - Recording and keeping information during a holding period;
 - Implementing measures to ensure confidentiality of personal and medical data in the possession of the employer; and

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- Law No. 8185, dated 23.01.1997 “On the accession of the Republic of Albania to the Conventions of International Labour Organisation No. 81 'For the inspection work, in industry and commerce,' No. 135 'For the representatives of employees' and No. 142 'For rural workers' organizations.”

3.4.6.2 The Labour Code of the Republic of Albania

Law No. 7961, dated 12.07.1995, amended by Law No. 8085, dated 13.03.1996, Law No. 9125, dated 29.07.2003 and Law No. 10053, dated 29.12.2008 “Labour Code of the Republic of Albania” regulates relations between employers and employees. The law reflects Constitutional principles, as well as the basic principles of international conventions on labour, trade unions, prevention of discrimination, etc. The code is widely considered to be a fair and effective law.

The Labour Code provides for basic rights regarding the prohibition of compulsory labour, prohibition of discrimination, the freedom to join a trade union and collective bargaining. The Labour Code provides general rules for the employee’s obligations and responsibilities, as well as the prohibition of competition after the termination of labour relationship.

Also, the employer’s general obligations are specified in accordance with article 32-38 of this law. Safety and health protection are the responsibility of employers. These include:

- To prevent accidents and occupational disease, the employer must clearly set the rules of technical safety, must pay the difference between the damage and the benefit the employee receives from social insurance when the accident or the occupational disease is not a result of serious misconduct on the part of the employee;
- The employer commits himself/herself to be responsible for hygiene of the workplace and ensure the availability of a first aid kit;
- The employer must obtain a permit from the labour inspector before putting his/her enterprise or a part of it in motion, before creating new workplaces, as well as for any important change in the manner of work, exploitation of the raw materials used, machinery and equipment, excluding the permits required on the basis of other laws;
- The employer must inform employees of the hazards connected with work and train employees to respect the requirements relating to health, safety and hygiene;
- The work environment must have enough air and a system of ventilation to avoid temperatures harmful to the employee’s health;
- The intensity of noise and vibrations bearable for the employee must be kept at a level that suits his/her health through the absorption or reduction of noises and vibrations at their source and isolation of environment by appropriate measures;
- The employer must ensure the appropriate maintenance of all machinery, vehicles and equipment;

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- The employer must put all the necessary manual or mechanical means at the disposal of the employees to lighten the weight they carry; and
- When employees work in the open, construction sites, public works, agriculture or industry, they must be provided with an accessible shelter.

The Labour Code also stipulates the duration of work and breaks, including daily and night work and extra payment; the weekly working time and holidays, the maximum duration of extra hours and compensation. The Labour Code provides for special protection for juveniles and women, special provisions on payment and minimum wage. A separate chapter (XIV) provides rules for the termination of the work relationship. Also, general consideration is provided on the protection of the right to work and the right to strike.

3.4.6.3 Other Legislation Related to Labour and Health and Safety

Following is a list of the key additional Albanian legislation related to labour and HSE:

- Law No. 7995, dated 20.9.1995 “On employment promotion,” as amended by Law No. 8444/1999, Law No. 8862/2002, Law No. 9570/2006. This law sets a number of obligations, incentives, and fines with the objective of promoting the employment of disabled persons. Obligations are also established for employers to provide periodic reports on their performance, and regular inspections by the State Labour Inspectorate are defined;
- Law No. 9959, dated 17.07.2008 “On foreigners.” This law regulates the entrance, residence, employment, treatment and exit of foreigners to / from the Republic of Albania. The law defines the functions and powers of state authorities and other entities, public and private, Albanian or foreign, which have to do with foreigners;
- Law No. 9136, dated 11.09.2003 “On collection of compulsory social insurance and health insurance contributions in the Republic of Albania,” amended by Law No. 9457, dated 21.12.2005. This law regulates the collection of compulsory social and health insurance contributions;
- Law No. 7703, dated 11.5.1993 on “Social Insurance in the Republic of Albania,” amended by Law No. 9600, dated 27.07.2006; Law No. 9708, dated 05.04.2007; Law No. 9768, dated 09.07.2007; Law No. 10070, dated 05.02.2009; and Law No. 10447 “On Environmental Permits,” dated 14.07.2011 (not yet in force);

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- Law No. 10 383, dated 24.02.2011 “On Compulsory insurance for health care in the Republic of Albania.” Compulsory health insurance is based on the contributions of employees and employers of the state and from other sources for other persons, as provided for in this law, based on the principle of solidarity; Professional health care includes preventive measures and security, advising employers, employees and their representatives to demand the creation and preservation of a safe and healthy environment, in-service work and work adjustment skills of employees, taking into account their physical and mental state of health. It also includes the identification and evaluation of workplace hazards, monitoring of work environment factors and work practices that may affect employee health;
- Law No. 10237, dated 18.02.2010 “On safety and health at work.” This law ensures the security and protection of health through prevention of professional risks, eliminating the factors that constitute risk and accident, inform, advice, balanced participation in accordance with the law. The present law applies the following:
 - The Directive of the European Council 89/391/EEC, dated 12 July 1989 “On the introduction of measures to encourage improvements in the safety and health of workers at work” published in the Official Journal of the European Communities no. L 183/1989.16 par.1;
 - The Directive of the European Council 94/33 EEC, dated 22 July 1994 “On the protection of young people at work,” article 6; and
 - The Directive of the European Council 92/85 EEC “On the introduction of measures to encourage improvements in the safety and health at work of pregnant workers and workers who have recently given birth or are breastfeeding.”
- Law No. 7643, dated 2.12.1992 "On State Sanitary Inspectorate," as amended by Law No. 9635, dated 06.11.2006, and Law No. 9863, dated 28.01.2008. This law regarding the State Sanitary Inspectorate aims to protect workers from the impact of adverse working conditions, such as exposure to toxic substances, radiation, unworkable noise, vibrations, unfavourable microclimate, and controls the level of occupational diseases and accidents as a result of the mentioned adverse conditions;
- Law No. 9198, dated 26.02.2004 “On equal gender society,” as amended by Law No. 9534, dated 15.05.2006 and Law No 9970, dated 24.07.2008. The purpose of this law is:
 - To ensure equal rights to women and men as provided for in article 18 of the Constitution of the Republic of Albania;
 - To set out measures to promote equal opportunities for men and women aimed at eliminating direct and indirect discrimination on the grounds of gender in public life; and
 - To set out the responsibilities of central and local administration for drafting policies aimed at promoting an equal gender society.

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- Law No. 9779, dated 16.07.2007 “On general safety, essential requirements and conformity assessment of non-food products;”
- Law No. 8734, dated 1.02.2001 “For the guarantee of the safety of electrical equipment and installations,” as amended by Law No. 8962, dated 24.10.2002 and Law No.9595, dated 27.07.2006;
- Law No. 8739, dated 12.02.2001 “For the guarantee of the safety of equipment under pressure,” as amended by Law No. 8970, dated 14.11.2002 and Law No. 9595, dated 27.07.2006;
- Law No. 9595, dated 27.7.2006 “On establishment of the central technical inspectorate;” and
- Law No. 9875, dated 14.02.2008 “On Metrology,” amended by Law No. 10127, dated 21.01.2010.

3.4.7 Main Legislation on the Gas Sector

The main legislative tool in Albania is Law No. 9946, dated 30.06.2008, “On the Natural Gas Sector.” Known as the Gas Law, it regulates activities related to the gas sector in general terms and Law No. 8450, dated 24.02.1999 “On the Development, Transportation and Trade of Oil, Gas and their By-Products,” amended by Law 9218 dated 08.04.2004, Law 9574 dated 03.07.2006, Law 9595 dated 27.07.2006, Law 10137 dated 11.05.2009 which sets the regulatory framework in relation to transportation pipelines and associated infrastructure.

The Ministry of Economy, Trade and Energy (METE) defines policies in the gas sector jointly with the Energy Regulatory Entity (ERE), which is an independent public legal entity entitled to define gas tariffs.

Although not yet fully completed given the present lack of gas pipeline infrastructure in Albania, the current legal framework applicable to the construction and operation of natural gas pipeline facilities consists of the Gas Law and DCM No. 713 dated 25 August 2010 “On defining the rules on the terms and conditions for granting permits to construct and operate natural gas system pipeline and infrastructure.”

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This DCM sets out the rules, procedures and criteria for the application, assessment and granting of permits for the construction and use of pipelines and the respective infrastructure for the transmission and distribution of natural gas. The construction and operation of natural gas pipeline infrastructure for the transmission and distribution of natural gas, natural gas storage facilities, direct lines and interconnection lines with neighbouring systems is subject to a special permit approved by DCM. The special permit is granted for a period of thirty years, renewable upon agreement of the parties.

The temporary gas license (released by METE) is required in order to obtain ESIA approval from MEFWA. Once the environmental terms have been approved by MEFWA, the proponent has up to 2 years to get the construction permit.

Further relevant legislative tools are the following:

Code of Transmission Grid, approved by ERE with Decision No. 123, dated 24.10.2008; and Decision of ERE (Energy Regulatory Entity) No.9, dated 11.02.2011 "Natural Gas Sector Rules and Procedures on Licensing, Modification, Partial/Full Transfer, Revocation and Renewal of Licences."¹

3.4.8 Offshore Legal Framework

The Albanian legislative framework does not require a specific permit for the construction and operation of the offshore section of the pipeline. In fact, the environmental permit will be granted for both onshore and offshore activities.

Still, during the impact assessment carried out for the purpose of the ESIA report, the ratified conventions (Barcelona Convention on integrated coastal zone management in the Mediterranean [Law No. 10234, dated 18.02.2010], and UNCLOS [Law No. 9055, dated 24.04.2003]) should be taken into consideration, as well as the other laws on protection of the maritime environment from pollution and damages, marine fisheries, biodiversity, etc., as specified in the Environmental Legal Framework section in this Report.

Albania approved a Coastal Zone Management Plan in 2004. The World Bank is working to update the Coastal Zone Management Plan into an Integrated Coastal Zone Management (ICZM) and Clean-up Program, which aims to establish an ICZM institutional and policy framework, to strengthen the regulatory procedures, and to enforce the human capacities to protect coastal and maritime natural resources.

As there are no regulations in force for ESIA and construction permitting in offshore Albanian territory, nor precedents of such projects in Albania, TAP AG will apply best practice technology and EU standards on safety and on environmental pollution prevention in the maritime area.

¹ Regulation is issued in compliance with article 11 point 9, and article 14, point 7 of Law No. 9946, dated 30.06.2008 "On the Natural Gas Sector" as amended.

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3.4.9 Energy Efficiency

The Project's energy efficiency and related measures adopted must be described in the ESIA report. Energy efficiency is currently regulated by Law 9379 dated 28.04.2005 "On Energy Efficiency" which sets out plans to improve energy efficiency by significantly reducing transmission and system losses, enhanced enforcement of the energy provisions of the Building Code, greater use of solar hot water, improved insulation, use of decentralised heating and hot water systems, increased efficiency of boilers and use of new boilers, use of incandescent lighting and promotion of public transport and use of rail for freight are priorities for action.

There is a new draft law on energy efficiency being prepared by METE to establish the legislative framework on the promotion of energy efficiency so that it is consistent with relevant EU legislation. The new law is expected to introduce minimum energy efficiency standards and to regulate areas such as product labelling, services and infrastructures, and energy audits.

The draft law particularly implements the EU policy principles and legislative framework on energy efficiency as regulated by *EC Directives 2006/32, 2009/125, 2010/30 and 2010/31*.

TAP AG will apply best practice technology regarding energy efficiency to meet any potential future requirements.

3.5 Other Notable Legislation

Other notable regulations to be applied to the Albania ESIA include the Greek Technical Regulation 4303 on Safety Zones. Albanian Gas Law 9946 is out-dated and temporary Minister Order 666 requires the gas system to be developed in accordance with Greek design and safety standards.

3.6 ESIA Approval Process – Current Legal Framework

According to Law No. 8990, December 2008 "On environmental impact assessment" as amended by Law 10050 dated 24.12.2008, the ESIA consenting procedure in Albania begins when the project developer makes written notification to the Regional Environmental Agency (REA) in the district where the project will be implemented about the activities for which it intends to apply.

As indicated in Instruction No. 6, dated 27.12.2006 "On the approval of methodology for preliminary environmental impact assessment of an activity," within two working days (unless specified, "days" will refer to working days) of notification, the REA makes Instruction annexes available to the developer and provides guidance on how to complete the request.

After this is done, the procedure can be divided into the following three steps which are described in detail in the following sub-sections:

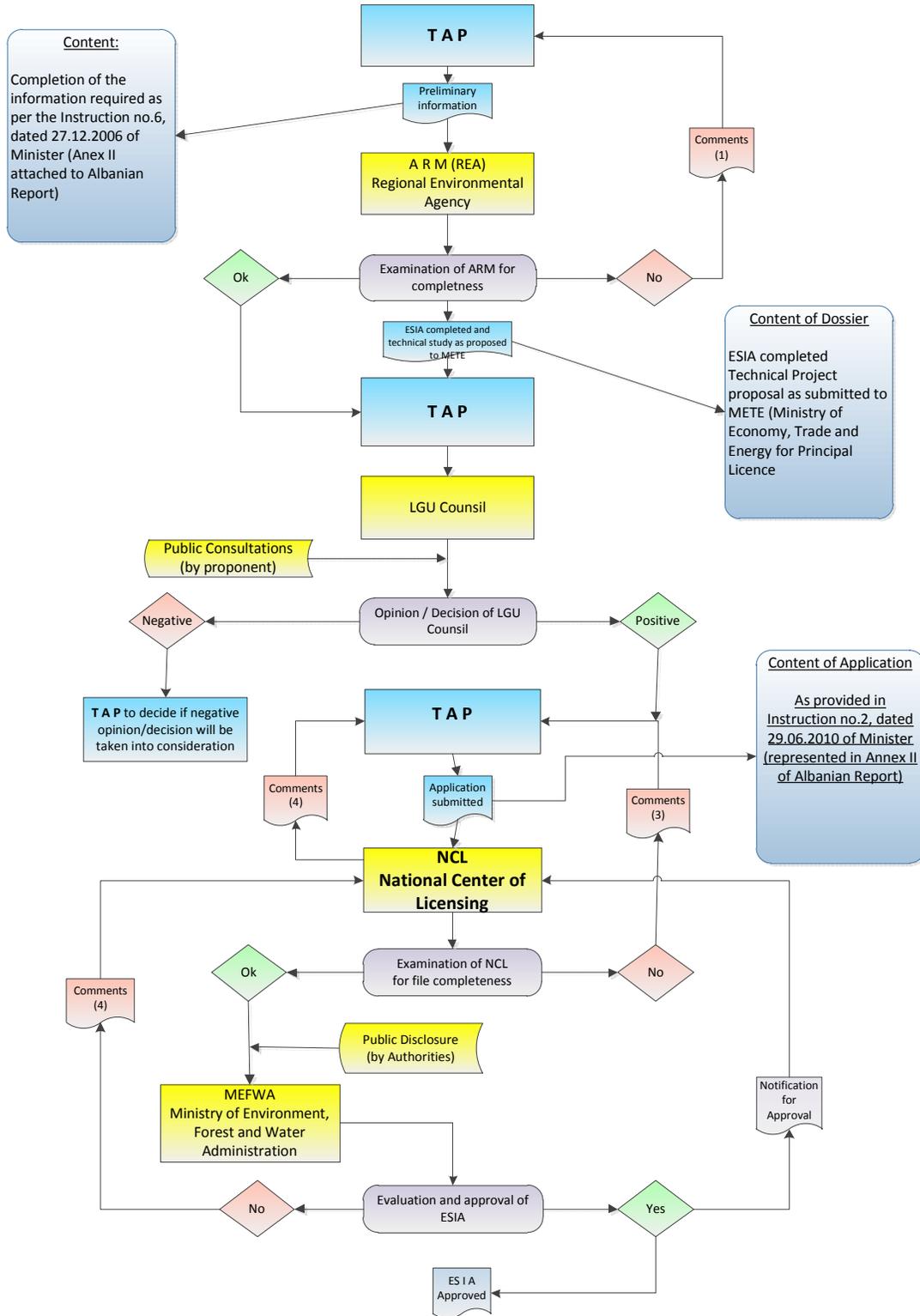
- Obtaining the REA's opinion;
- Public consultation and obtaining local government approval; and

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- Application to the National Licensing Centre (NLC).

Figure 3.6-1 summarises the ESIA Consenting Procedure TAP AG shall follow in line with current Albanian regulations.

Figure 3.6-1 Albanian ESIA Approval Process - Current Law (Law No. 8990)



Source: ERM based on current Albanian Legal Framework (2011)

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The following subsections provide a description of the three main steps mentioned for ESIA Permit Application in Albania.

3.6.1 Step One – Obtaining the REA's Opinion

After completing the Instruction's requirements, the developer submits the completed Instruction annexes and required information to the REA. Within three days from submission of the required documents, the REA reviews and communicates with the developer regarding any possible ambiguities.

After reviewing the documents within five days the REA decides whether:

- The activity does not need to undergo the EIA process;
- The activity is listed in Annexes I and II of Law No. 8990, dated 23.1.2003 "On environmental impact assessment" and shall undergo the EIA process;
- The activity shall undergo drafting of the in-depth EIA report;
- The activity shall undergo drafting of the summarised (preliminary) EIA report; or
- The activity shall undergo strategic environmental assessment, according to article 28 of Law No. 8934, dated 05.9.2002 "On environmental protection" and the Protocol on strategic environmental assessment.

The REA communicates the decision to the developer and then publishes it. An appeal to this decision may be made within 10 days from notification by the EIA and Permits Directorate at the MEFWA. The Minister is obliged to answer this request within ten days.

In the case of the TAP Project, relevant REA offices are those in Fier, Berat and Korca.

3.6.2 Step Two – Public Consultation and Obtaining Local Government Approval

Upon obtaining REA approval for the type of Environmental Report, the applicant must begin drafting the EIA report.

The applicable legal framework does not specify whether public consultation should necessarily be carried out during the ESIA process (EIA). Nevertheless, according to the laws, before applying to the NLC for the environmental permit, consultations with the local government must be carried out and letters containing the opinion/decisions of the LGU Councils on construction and operation of the TAP and its related infrastructure in the territory under jurisdiction of the respective LGU, must be obtained, which constitute part of the documentation to be included in the application file.

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For this reason, the applicant presents the EIA study and a technical summary of the technical project to local government offices before applying to the NLC in order to obtain their opinion and to organise public consultation meetings. Decision No. 994, dated 02.07.2008, “On the inclusion of public opinion in decision-making on environmental issues,” obliges the MEFWA to notify the public affected within five days from the date of receiving the documents. The notification is drafted in writing and must be published in the media and on the Project website for twenty consecutive days.

The local government notification also defines the location where the documentation is deposited; the deadline for giving opinions, which must be no less than one month from the last date of the notification announcement; location, date and time of discussions organised with the public affected.

The applicant, together with the certified experts who prepared the EIA report and experts from the ministries related to the activity, participates in the discussions with the public. Experts from the MEFWA shall prepare the records of the meeting where all suggestions, remarks and proposals made by the public are noted.

3.6.3 Step Three – Application to the National Licensing Centre (NLC)

In order to obtain the environmental permit for activities with environmental impact, natural and legal persons, domestic or foreign, must prepare the documents that are required by Law No. 8990, dated 23.01.2003 “On environmental impact assessment,” by DCM No. 249, dated 24.4.2003 “On the approval of documentation for environmental permits and elements of environmental permits,” and by Instruction No.2, dated 29.06.2010 “On the documentation necessary to request an environmental permit.”

The documents which make up the “dossier” required to obtain environmental permits consist of the following:

- Request for the Environmental Permit (EIA). The request is made by the applicant to the NLC and covers the project or activity to be carried out. The request includes information required on the respective NLC form and is completed at the time of application for the environmental permit legal documentation. This consists of a certified photocopy of the business registration of the applicant in the NLC;
- Technical documentation. It includes the following:
 - *Project characteristics*, including description of the technology, main processes, capacity, main consumptions and emissions; work program for construction and operation; other activities that might be required during the project (e.g. new roads, provision of drinking water, etc.); and
 - *Project location*, including map showing project location and spatial boundaries of the project; existing land use plans for the territory where the project will be developed.

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- EIA Report. Report of environmental impact assessment prepared by certified experts selected by the applicant for the environmental permit. EIA reports must be signed and stamped by the drafters, and data regarding the licence of the environmental experts certified by the MEFWA must be provided. The contents of the ESIA are included in Instruction No. 3, dated 19.11.2009 “On the methodology of ESIA evaluation.” Please refer to Appendix II (Instruction No. 3, dated 19.11.2009 “On the methodology of ESIA evaluation”) for the detailed ESIA ToC;
- Consultation documents. Accurate data from consultations with the public and interested parties prepared by the applicant. Records of the meetings, materials presented, attendance lists and images corroborating communication between the applicant and the public from the area must be attached to the information presented;
- Statement prepared by the applicant, including requests or claims raised by the public, local non-profit organisations (which operate at the national level for national projects) and local government representatives or other interested parties during the presentation of the activity;
- Rehabilitation plan. This plan is requested for activities that utilise mineral sources (river sand and quarry). The plan must be drafted according to the requirements of the Decision of National Water Council No. 3, dated 21.6.2006 “On the rehabilitation of river beds and coasts damaged by the utilisation of inert material” and Instruction No. 3, dated 17.5.2006 “On the rehabilitation plans for surfaces damaged by stone quarries;”
- Emergency Plan. The emergency plan is requested for activities that use, produce and store (deposit) substances hazardous to the environment and human health (e.g. fuels) or substances described in article 5 of Law No. 9108, dated 17.7.2003 “On chemical substances and preparations.” The emergency plan must be prepared according to the provisions of the law “On civil emergencies.” It can be either a stand-alone study or part of the ESIA;
- Non-technical summary (in easy-to-understand language and terminology) of the ESIA report, which includes summarised information for each issue discussed in the ESIA report;
- Decision/opinion of the Municipality Council or Commune Council for implementation of the activity in its territory; and
- Receipt of payment of the service fee for the environmental permit according to the definitions of the respective Instruction.

The legal deadline for application and accompanying documentation screening, as defined in Instruction No. 429, dated 17.11.2009 “On the rules and procedures for granting environmental permits in the context of the National Licensing Centre” is four to five calendar weeks from submission to the NLC.

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3.6.4 ESIA Approval Process – New Legal Framework

A number of new laws related to the Albanian ESIA Approval Process have already been approved by the Albanian Parliament and will enter into force 18 months after being published in the Official Gazette.

According to the new law, the ESIA Approval Process is expected to include the following steps:

- Preliminary Opinion: the developer may request a preliminary opinion from the Ministry on the content determining whether the project falls under Annex I or Annex II of the Law;
- Submission of the in-depth ESIA Report: as stipulated in Article 21, the developer submits an electronic copy and 15 hard copies of the in-depth ESIA Report to the Ministry, together with an electronic copy of the non-technical summary of the ESIA Report and a hard copy of the application for Development Consent;
- Opinion of other Institutions on the in-depth ESIA Report: once the completeness of the dossier is confirmed, within five working days the Ministry sends a copy of the in-depth ESIA Report to all relevant authorities (e.g. National Environmental Agency, the Local Government Units, Offices of Urban and Tourism Development, river basin management authorities and other institutions), and their comments are received within thirty working days;
- Verification of the Information by the REA: the relevant REA, when charged by the National Environmental Agency, shall verify the accuracy of the information provided in the In-depth EIA Report and shall inform the Ministry; and
- Opinion of the Minister on the in-depth EIA Report: the Minister shall issue an Opinion on the proposed project, taking into account comments from all stakeholders. Further information can be requested within thirty days from the date of receipt of the in-depth EIA Report. The developer shall provide the required information to the Ministry within twenty-five days from receiving the request. Upon receipt of such further information, the Ministry shall immediately send it to the institutions mentioned above. Subject to the provisions of confidentiality, the Ministry shall place the electronic copy of the in-depth EIA Report, the Non-Technical Summary of this report and the additional information provided by the developer on its website.

The procedures for public notification and public hearings are not determined by the law. A new DCM is expected to be drafted for this reason.

According to the current schedule, it is not expected that the TAP Project will be affected by the new ESIA Approval Process and permitting framework.

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3.7 International Conventions

The main conventions and agreements which Albania has signed and/or ratified with reference to the scope of this ESIA are summarised in *Table 3.7-1*.

Table 3.7-1 Key International Conventions and Agreements Signed/Ratified by Albania

Convention name	Ratified by Albania
ILO Convention 29 Forced Labour Convention (1930) and ILO Convention 105 Abolition of Forced Labour Convention (1957)	25/06/1957 27/02/1997
ILO Convention 87 Freedom of Association and Protection of the Right to Organise (1948)	03/06/1957
ILO Convention 98 Right to Organise and Collective Bargaining (1949)	03/06/1957
ILO Convention 100 Equal Remuneration Convention (1951)	03/06/1957
UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage (2003)	10/07/1989
New York Convention on Economic, Social and Cultural Rights	04/09/1991
UN Framework Convention on Climate Change (UNFCCC)	01/12/1994
Bern Convention (1976): Conservation of European Wildlife and Natural Habitats	13/01/1999
Convention on Biodiversity (Biological Diversity) (1992)	Party to the convention since 1994; Party to the protocol since 2005
Ramsar Convention on Wetlands (1971)	29/02/1996
ILO Convention 105 Prohibition of Forced Labour	27/02/1997
ILO Convention 111 Discrimination Employment and Occupation (1958)	
ILO Convention 138 Minimum Age (1973)	16/02/1998
Aarhus Convention (Convention on Access to Information (1998), Public Participation in Decision making and Access to Justice in Environmental Matters)	27/06/2001
ILO Convention 182 Worst Forms of Child Labour (1999)	02/08/2001
Bonn Convention or CMS (1979); Convention on the Conservation of Migratory Species of Wild Animals	01/09/2001
CITES (1975): Convention on Trade in Endangered Species of Wild Flora and Fauna – Albania	25/09/2003
ILO Convention 155 Protecting Health and Safety at Work	09/02/2004
ILO Convention 131 On Determining the Minimum Salary particularly for Developing Countries	18/04/2004
Barcelona Convention (1976); Convention for the Protection of the Mediterranean Sea against Pollution	09/07/2004
Kyoto Protocol	01/04/2005
UNESCO Convention for Safeguarding the Intangible Cultural Heritage (2003)	04/04/2006
Espoo Convention (1991): Convention on Environmental Impact Assessment in a Transboundary Context together with amendment and Protocols	12/05/2006
ILO 122 Convention on Employment Policy	07/01/2009
Convention on the Protection of Underwater Cultural Heritage (2001)	19/03/2009

Collated by ERM (2011)

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It should be noted that the Albanian government has ratified most of the European conventions pertaining to cultural heritage. International heritage guidelines potentially applicable to the Project include IFC Performance Standard 8 (PS 8) promulgated in 2006, which recognises the importance of cultural heritage for present and future generations, and draws upon general principles established by UNESCO's *Convention on the Protection of Archaeological and Natural Heritage* and its *Convention for Safeguarding Intangible Heritage of 2003*.

Cultural heritage, as defined by the above guideline, includes: archaeological sites, historic buildings (isolated and in districts), graveyards and places invested with traditional meaning of a historical, cultural or religious nature. Traditional belief and practice, whether associated with physical cultural heritage or not, is also protected.

The most salient requirements of IFC PS 8 are:

- To avoid and minimize cultural heritage impacts through the ESIA process, in coordination with local authorities and with input of local and international stakeholders including scientists, historians and other scholars as well as study area residents;
- To use the “best available method” when rescue or removal of heritage is required to avoid impacts; and
- To employ a Chance Finds Protocol for projects that can expect to encounter archaeological resources during construction.

As noted above, IFC PS 8 requirements emphasise that cultural heritage impacts be identified and managed through an ESIA process that involves a robust and wide ranging public consultation. This implies an emphasis on traditional and non-technical local uses of and requirements for cultural heritage in addition to those in the academic and legal realms. This, more than any other aspect of the international cultural heritage requirements, is distinct and different from most national cultural heritage law, including Albanian heritage law.

3.7.1 Transboundary Notification and Consultation (Espoo Convention)

The UN Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention issued in 1991) stipulates the obligation of countries that ratified the Convention to assess the transboundary environmental impacts of a project at an early stage of planning.

The process of notification and consultation with the affected parties is driven by the competent authority. However, authorities can ask the developer to prepare notification and undertake public consultation above and beyond their normal EIA requirements. The developer may also be asked to undertake public consultation with affected parties.

The notification and consultation process according to the Espoo Convention comprises the following main elements:

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- Screening (by the Party of Origin) to assess whether a transboundary EIA is mandatory under the convention; the Scoping document prepared by TAP AG is expected to provide all information needed for the screening process;
- Notification by the Party of Origin to Affected Parties of the start of the Espoo Process;
- Exchange of information among all parties;
- Preparation of EIA documentation;
- Distribution of EIA documentation; and
- Consultation among the Parties.

The Espoo Convention was ratified by Albania with Law No. 9478/2006. Thus, the obligations of the Espoo Convention are directly binding on Albania. At present, a new Environmental Law is being prepared that also implements the Espoo convention requirements in Albanian legislation.

The gas pipeline scheme planned is listed in Appendix I of the Convention and accordingly requires that Albania (as Party of Origin) ensures that affected parties are notified of the proposed activity if it is likely to cause significant adverse transboundary impacts.

Trans Adriatic Pipeline AG – Albania (Branch Office)
Torre Drin, Rruga Abdi Toptani
Tirana, Albania
Tel.: + 355 44 306 937
Fax: + 355 42 265 685

esia-comments@tap-ag.com
www.tap-ag.com

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