

## Netherlands (The)

### EIA profile

**Updated to:** 01 August 2019

#### Overview ESIA procedure

The **simplified procedure** contains the following steps:

- EIA registration and screening
- Scoping
- Assessment
- Review ( incl. publication of EIA report and public consultation)
- Decision
- Evaluation

The **full procedure** for EIA for complex projects and SEA contains the following steps:

- EIA registration and screening
- Public announcement, public consultation and consultation of designated authorities
- Scoping
- Assessment
- Review ( incl. publication of EIA report, public consultation, consultation of designated authorities and mandatory review advice of NCEA)
- Decision
- Evaluation

Important documents resulting from the EIA process are the following: Starting document (screening), scoping document, EIA report, advisory report by the NCEA, monitoring report.

source

<http://www.commissiemer.nl/english/legislation/Procedures>

### Screening

#### Screening process

Screening is a required step in the EIA Act. The competent authority decides on the applicability of an EIA in cooperation with relevant administrative bodies. If the competent authority is also the initiator, then external advisers are required in the decision making process about the need to carry out an EIA.

To determine whether an EIA is applicable, there are two lists :

- Part C contains activities, plans and projects for which an EIA is mandatory.
- Part D contains activities, plans and projects for which a judgement on whether an EIA is required is needed. This judgement depends on the seriousness of the negative consequences for the environment.

In the Netherlands, there is a positive list of activities subject to the EIA requirement, which means that only the activities included in the list are subject to the EIA requirement.

#### *Sensitive areas*

In the D-list activities, the 'sensitive area' concept is included as a criterion in the *judgement* on whether an EIA is required.

### **Contents of the starting document**

Contents of any starting document:

1. Name and address of the initiator (natural person or legal entity);
2. A general description of the purpose of the activity;
3. A general description of the nature and scope of the proposed activity;
4. A general description of the intended location or locations of the proposed activity;
5. A statement of the project/projects for which the EIA is being drawn as a preparatory step;
6. A summary of prior decisions taken by government bodies relating to the activity as referred to under point c, and which could have an impact on the project/projects for which the EIA is being drawn up as a preparatory step; and
7. A general description of the expected consequences for the environment in the Netherlands and, as far as applicable, outside the country.

### **Timeline Screening**

There is no legally binding timeline for screening.

### **Scoping**

#### **Scoping process**

There are no *legal* requirements for the way in which scoping is carried out.

However, there are 'required' steps in both the limited and extensive procedures.

1. The official go-ahead: a written communication from the initiator to the competent authority
  2. Possible recommendation from the competent authority on the scope and detail level. •The initiator requests a recommendation: the competent authority must provide a recommendation within six weeks (or, with extension, within 12 weeks).
- The initiator does not request a recommendation: the competent authority, by virtue of its office, may

decide to issue a recommendation, but this is not required. If the competent authority decides to issue a recommendation, the government bodies and legal advisors involved must be consulted about the content of this recommendation. It is not required to consult the NCEA, but this is possible on a voluntary basis.

In the case that an extensive EIA procedure applies for a plan or project for which a government agency is **both the initiator and the competent authority**, the required steps are as follows:

1. Public notification (the official go-ahead);
2. Possibility of submitting views on the proposal and the scope and detail level of the investigation to be performed;
3. Consulting advisers and administrative bodies about the scope and detail level of the investigation to be performed.

### Contents of the scoping document

In general, the statement must contain at least three elements:

- The rationale for the plan or project
- Alternatives
- Environmental aspects.

Whether these elements are elaborated briefly or extensively depends on various factors. The main factor is probably the history of the plan or project prior to the start of the procedure.

## Assessment

### Assessment process

The EIA report is carried out under the responsibility of the initiator.

### Contents of the EIA report

1. Objective: a description of the intent of the proposed activity.
2. Proposed activity & alternatives: a description of the proposed activity and the reasonable alternatives to be taken into consideration, including an explanation of the selection of the alternatives to be taken into consideration. In the event of a project subject to the EIA requirements, there must also be a description of how the proposed activity will be performed.
3. Relevant plans & projects: in the case of a plan subject to the EIA requirement, there must be a summary of prior plans adopted that relate to the proposed activity and the alternatives described. In the case of a project subject to the EIA requirement, there must be an indication of this project (or these projects) and a summary of the administrative bodies' prior projects that relate to the proposed activity and the alternatives described.
4. Current situation & autonomous development: a description of the existing state of the environment, insofar as the proposed activity or the alternatives described can have consequences for this, and of the expected development of that environment, if neither that activity nor the alternatives are

undertaken.

5. Effects: a description of the consequences for the environment that the proposed activity and the alternatives described could have, including an explanation of how these consequences were determined and described.
6. Comparison: how the expected development of the environment described (point 4) compares to the possible consequences for the environment described as a result of the proposed activity and each of the alternatives taken into consideration (point 5).
7. Mitigating & compensating measures: a description of the measures to prevent, limit and offset as far as possible major consequences for the environment resulting from the activity.
8. Gaps in information: a summary of the gaps in the descriptions of the existing state of the environment and the consequences for the environment (points 4 and 5) as a result of the necessary data not being available.
9. Summary: a summary that gives the general public sufficient understanding to evaluate an EIA and the possible consequences for the environment resulting from the proposed activity and the alternatives described as set out in the report.

### Accreditation of consultants

There is no accreditation system for consultants.

## Review

### Review process

In the **simplified procedure**, the competent authority reviews whether the quality of the assessment is sufficient. It may request the NCEA for a voluntary advice.

The **full fledged procedure** contains the legal requirement to ask the NCEA to review the EIA report. The NCEA composes a working group of experts for each EIA report. This working group contains specialists with expertise in the specific fields relevant to the plan or project in question. They assess whether the quality of the environmental information is sufficient for decision taking. If not, the NCEA recommends to remedy the shortcomings in the report. The reports may be resubmitted for review.

### Review expertise

In the **full fledged procedure** the EIA report has to be reviewed by the NCEA. To ensure that the NCEA's decisions are unaffected by any administrative responsibilities or political considerations, the NCEA acts totally independent from the Government. On the NCEA's website, all advisory reports (in Dutch) are made public and accessible to everyone.

In the **simplified procedure**, the review by the NCEA is optional.

source

Handreiking m.e.r. <http://www.infomil.nl/onderwerpen/ruimte/mer/handreiking-0/>  
<http://docs1.eia.nl/cms/FS%2016%20Advisory%20procedure%20NCEA%20ENG%20Final.pdf>

## Timeline Review

The NCEA must publish its advisory report in general within six weeks. If views by the public are included in the NCEA's recommendation, an additional period of three weeks is applicable.

## Decision making

### Integration of ESIA into decision-making

The EIA procedure is connected to the procedure that must be followed for the project in question. This means that projects must primarily comply with the requirements of the 'master procedure'. These requirements are set down in very diverse laws and regulations. This depends on the type of project and the relevant competent authority.

### Decision justification

The decision on the project includes an explanation of how account was taken of:

- The possible consequences for the environment described in the EIA;
- The alternatives described in the EIA;
- The views submitted with respect to the EIA;
- The recommendations issued by the NCEA (if asked for advice);
- Any major negative cross-border environmental consequences and the outcome of the consultations on this with the administrative bodies in the other country concerned.

### Timeline decision-making

There is no time frame set for the decision-making.

### Possibilities for appeal

The possibilities for appeal follow from the law of which the EIA decision is part. It is not possible to appeal an EIA decision alone. You can only appeal the decision on the planned activity. Only stakeholders - directly affected by the activity - may appeal.

## Follow-up

### Compliance monitoring

After taking on a project subject to the EIA requirement, the competent authority must investigate the actual environmental consequences resulting from the activity. The time periods for the start of the investigation and the way in which this will be performed will have already been determined for the project.

The competent authority and the environmental inspectorate are responsible for monitoring projects and plans and their impact on the environment. If the initiator is a private party, it is required to cooperate fully in providing information when requested.

## Report

The competent authority draws up a report of the investigation into the environmental consequences. No form or content requirements are set out for this.

## Publication

At the same time the report is submitted, a notice of the report is published in one or more daily newspapers or free local papers.

## Measures to limit or prevent environmental consequences

The investigation into the environmental consequences may reveal that the proposed activity has "more unfavourable consequences for the environment to a major extent" than expected. If deemed necessary, the competent authority will take measures to limit or prevent the environmental consequences as much as possible.

source

Art. 7.39, 7.41, 7.42

## Non-compliance penalties

There are no direct financial penalties, but the project can be suspended.

## Stakeholder engagement

### Public participation requirements for ESIA process stages

There is a difference in public participation concerning the simplified procedure and the extensive procedure.

Concerning the **simplified procedure**, public participation is legally required only after publication of the EIA report. The public can provide comments on the information in the report.

Concerning the **full fledged procedure**, the statutory regulation for the extensive EIA procedure provides for two moments in time when views can be submitted:

- In the preliminary stages: after the publication of the public notification
- After the completion of the EIA

Comments from the public can be submitted in writing. If the competent authority organises a hearing, which is not an obligation, public comments can also be provided verbally.

In its decision, the competent authority provides an explanation for how it has taken the public's views on the EIA report into account.

There are no costs for the public for their participation.

### Timeline for public comments

In general 6 weeks, but it may vary, following the master procedure for the project.

## Access to information

A starting document for the planned project or plan must be published by the competent authority. The public can submit their views on the starting document. The authority decides who may submit the views, and when and where this can be done.

With respect to the simplified procedure, the EIA report (possibly in draft form) and the draft decision will be made available to the public. The public can then submit comments, usually during a six-week period after publication.

## ESIA practice

### Annual no. of ESIA's

Since there is no central database, it is unknown how many ESIA's are annually carried out.

### Central ESIA database

There is no central EIA database. However, the Netherlands Commission for Environmental Assessment (NCEA) maintains a database with EIAs (and SEAs) for which an NCEA recommendation was mandatory or voluntarily requested. Since the NCEA is not a mandatory party for all EIAs, the database does not cover all the EIAs performed in the Netherlands.

### Professional bodies

[Association of Environmental Professionals \(VVM\)](#)

## Background information

### History of ESIA

On 27 June 1985, the EIA was implemented for projects in Europe by means of a European Council Directive on the assessment of the effects of certain public and private projects on the environment (85/337/EEC). This directive was revised in 1997, 2003 and 2009. In 1987, the EIA tool was officially introduced in the Netherlands. The associated Environmental Impact Assessment Decree (EIA Decree) has since been modified a number of times.

In 2010, there was a 'modernisation' of the EIA decree, resulting in fewer requirements and more uniformity in EIA of plans and projects.

source

[http://wetten.overheid.nl/BWBR0003245/Hoofdstuk7/71/Artikel71/geldigheidsdatum\\_10-02-2012](http://wetten.overheid.nl/BWBR0003245/Hoofdstuk7/71/Artikel71/geldigheidsdatum_10-02-2012)

## Legal framework

### Enabling law

Dutch Environmental Management Act (EMA) 1979.

source

<https://wetten.overheid.nl/BWBR0003245/2019-07-01#Opschrift>

### **National detailed regulation**

Chapter 7 of the Environmental Act.

The paragraphs include the Modernisation Bill of 2010.

source

<https://wetten.overheid.nl/BWBR0003245/2019-07-01#Hoofdstuk7>

<https://zoek.officielebekendmakingen.nl/stb-2010-20.html>

### **Guidelines**

Guidance on carrying out an EIA in the Netherlands is described in the '[Handreiking MER](#)' (in Dutch)

source

[www.infomil.nl](http://www.infomil.nl)

### **Scope of application**

EIA is applied to projects initiated by the private sector as well as projects initiated by the government.

source

Manual on EIA/SEA legislation and regulations (in Dutch)

<https://www.infomil.nl/onderwerpen/ruimte/ruimtelijke/milieu/>

<http://www.infomil.nl/onderwerpen/ruimte/mer/handleiding/wanneer-beoordeling/besluit-0/#OnderdelenCenDvijfkolommen>

### **Exemptions from application**

An exemption is possible only if "the public interest necessitates the immediate execution of the activity to which the project relates". For example, in cases where public safety or public health are at issue if the activity is not urgently executed.

An exemption from the EIA requirement is only possible for projects. An exemption is not possible for plans.

Exemption from the competent authority is at the initiator's request. An exemption can be granted by the competent authority which is responsible for the preparation or adoption of the project subject to the EIA requirement.

In practice, the above situation rarely occurs.

## Institutional setting

### Central ESIA authority

Ministry of Infrastructure and Watermanagement

source

<https://www.government.nl/ministries/ministry-of-infrastructure-and-water-management>

### Other key (governmental) parties

The Netherlands Commission for Environmental Assessment is a legally appointed independent advisor in EIA procedures. It advises the government (the competent authority) about the content and the quality of environmental impact assessments.

The NCEA is not involved in the decision making with respect to a project or plan.

The NCEA does not draw up any EIA report itself, as this is the responsibility of the initiator of the activity subject to the EIA requirement.

The NCEA provides (non) mandatory advice:

- At the start of an EIA procedure: what information must be included in the EIA;
- After the EIA has been drawn up: does the EIA contain all the necessary information to fully consider the interests of the environment for a project.

The NCEA may also contribute ideas before the official start of the procedure or make interim recommendations if requested by the competent authorities.

### (De)centralisation of mandates

The EIA mandates are decentralised. Depending on the type of project and its EIA requirement, the party responsible can be either the local municipality (*gemeente*), the provincial authority (*provincie*) or the central government (*rijksoverheid*).

source

[Keysheet: the NCEA in the Netherlands](#)

### Payment system

There is no charge for applying for an EIA. For NCEA's (non) mandatory advisory services, the competent authority has to pay a fee. The fees are discussed and set down on a yearly basis.

source

[Tarifs 2019 \(in Dutch\)](#)

### Contact

The Ministry of Infrastructure and Watermanagement is the responsible authority for EIA.

The Dutch knowledge centre InfoMil, part of the ministry, is the primary source of information and best practices in matters of EIA/SEA and other environmental legislation and policies in The Netherlands.

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