



Deciding over nature Corruption and environmental impact assessments

Aled Williams
and Kendra Dupuy

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Aled Williams

U4/CMI

Kendra Dupuy

U4/CMI

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Abstract

Environmental impact assessments (EIAs) are a core aspect of environmental decision-making in most countries. Despite massive potential for public harms resulting from corrupt decision-making linked to EIAs, research on this topic is still very limited. We consider the main generic corruption risks in carrying out EIAs and provide suggestions for what public agencies, including development aid donors, might do to mitigate them. Our analysis provides a systematic literature review of the topic, supplemented by fieldwork-based case analysis of the EIA process in Albania. We find that a range of poor practice currently afflicts Albania's EIA system and that the present accountability and monitoring framework for EIAs does little to mitigate various corruption risks.

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About the authors

Kendra Dupuy is a political economist focusing on community-company relations in the extractive industries, with a PhD from the University of Washington, Seattle. Aled Williams is a political ecologist focused on corruption in the extractive and forestry sectors, and is a PhD candidate at SOAS University of London. Both are advisors at the U4 Anti-Corruption Resource Centre at the Chr. Michelsen Institute, Bergen.

Introduction

Economic development models in most countries involve some form of public sector decision-making for new projects. Public agencies must regularly make decisions about whether and how to support a new road, airport, rail network, hospital, mine or university. Utilitarian reasoning pervades such decision-making, and project benefits (e.g. new jobs, improved journey times, increased educational opportunities, or happier constituents) are usually weighed against potential costs (e.g. increased pollution, disruption to other economic activities, or unhappier constituents) to inform public decisions. Present good practice involves establishing detailed technical data and analyses, and consulting with informed citizens (particularly those likely to be affected by the project), in determining such costs and benefits. During implementation, credible public oversight, complaints and sanctions procedures are required to ensure projects adhere to planned specifications and risk mitigation measures. As part of this decision-making, implementation and monitoring process, environmental impact assessments (EIAs) are typically deployed as an analytical tool to identify and mitigate a particular project's risks to the environment and to society, including to habitats for particular species, to ecosystem and carbon sequestration services, to levels of biodiversity, and to water catchment regulation. Yet emerging formal empirical, as well as anecdotal, case evidence suggests that EIAs in many different countries are being undermined by various corrupt practices, including bribery, collusion, and conflicts of interest.

Although EIAs are a core aspect of environmental decision-making for new projects in most countries, and despite the massive potential for public harms resulting from corrupt decision-making linked to EIAs, there is still very limited research on corruption and EIAs. This is surprising for at least two reasons. First, environmental issues have recently significantly advanced up the list of priority agenda items in global public discourse, coalescing in particular around new funding mechanisms, policy measures and practical programs for adapting to and mitigating the effects of climate change (Bulkeley and Newell 2015). Second, there is convincing existing empirical evidence for the prevalence of corruption in many countries' construction, procurement and natural resource sectors: all areas of particular relevance to EIAs (Wells 2015, Neu et al 2015, Kolstad and Søreide 2009). In light of the dearth of studies, this paper considers the main corruption risks in carrying out EIAs and asks what may be done to mitigate these risks on the part of public agencies interested in reducing them, including development aid donors. Following a systematic review of existing literature on corruption and EIAs, we refer to our own recent fieldwork on the EIA process in Albania: a context understudied on this topic. We conclude with suggestions for improving the EIA system in Albania from an anti-corruption perspective.

A note on motivation and methods

Given the lack of studies, many country contexts could likely benefit from analysis of this topical area, and cross-country data would be beneficial. During 2015 we were approached by German Development Cooperation Albania (GDCA) to develop a study on the EIA process there given recent anecdotal evidence, media publicity and civil society concerns regarding the dubious nature of environmental decision-making, and in particular the EIA process. Recent cross-country corruption perceptions data (Transparency International 2014) and a European Commission report (2015) confirm Albania experiences serious contemporary corruption challenges and, despite improvements in some policy and legislative areas, is still among the worst European performers on various governance indicators. GDCA's interest in the topic provided an opportunity to undertake a systematic literature review of the existing academic evidence on corruption and EIAs (the results of which can be found in Part 1), coupled with case study analysis of the EIA process in Albania. Keyword search terms guided the literature review (see Annex 1), which was supplemented by semi-structured qualitative interviews, each lasting around one hour, with 16 key EIA stakeholders in Tirana during November 2015 (see Annex 2, and as presented in Part 2). Our overall findings were then refined and validated through a workshop with EIA stakeholders held in Tirana in February 2016.

Part 1: Systematic review of literature on corruption and EIAs

Corruption: Definitions, causes, and environmental consequences

Corruption is defined by the World Bank as the abuse of public power for private benefit, while Transparency International defines it more broadly as the abuse of entrusted power for private gain. In this paper, we focus largely on corruption and the public sphere, because the state sets the rules regarding the way that the environment is used – that is, under what conditions certain individuals or social groups can access and use particular resources. In other words, the state is the largest arena of decision-making power over use of the environment. For instance, governments are responsible for designating certain areas as protected, for providing permits for certain types of land use such as mining, and for developing and enforcing legislation that regulates the use of natural resources.

There are several competing theoretical perspectives for why corruption occurs.¹ The currently still dominant theoretical perspective (widely known as the “principal-agent theory”) suggests corruption is particularly likely to occur in contexts where some individuals have too much power over decision-making, where there is not enough publicly available information about how those decisions are made, and where there is no way to hold decision-makers accountable for their actions (Klitgaard 1988). In terms of the environment, public authorities often have many opportunities to engage in corrupt behavior given their monopoly and discretionary authority in decisions about how environmental resources are used, and who can use them. Public officials also have incentives or motivations to be corrupt for a number of reasons. The high value of some natural resources like oil, minerals, or timber can directly provide individuals with personal financial benefits or resources to distribute in their networks to shore up political support. Alternatively, kickbacks, bribes, and extortion can be used to make arrangements that lead to personal benefit from resource concessions – for instance, if contracts contain provisions that are favorable to certain people or groups, or if such arrangements influence the bidding process for access to resources.

Corruption is a particularly serious problem for the environment. Evidence shows that corruption leads to, for instance, faster rates of depletion of natural resources and higher rates of pollution, creating the classic tragedy of the commons (Management Systems International 2002, Cole 2007). Corruption also reduces the stringency and enforcement of environmental regulations (Welsch 2004, Pellegrini and Gerlagh 2006). Countries considered to be more corrupt are likely to have fewer government environmental guidelines in place, to have lower amounts of land protected, to participate in fewer international environmental agreements, and to have a lower number of ISO 140001-certified firms operating within their borders than less corrupt countries (Morse 2006).

Environmental decision-making and impact assessments

Environmental decision-making entails the processes by which choices are made about activities that use natural resources or alter the landscape in some way. These choices have consequences for the environment and for society. Inherent in any decision-making process, to include in relation to the environment, are questions about the rules by which choices are made, which individuals are granted the authority to make

1 See Marquette and Pfeiffer (2015) for a recent overview.

choices, the trade-offs inherent in various choices, and distributional questions of who will bear the costs and reap the benefits of decisions (Gregory and McDaniels 2005).

Environmental impact assessments (EIAs) are a foundational part of the environmental decision-making process. They are defined as tools that identify, predict, estimate, mitigate, minimize, and communicate to the public the biophysical (environmental) and social consequences of proposed projects. They are undertaken prior to the implementation of those projects (Ebisemiju 1993, International Association for Impact Assessment 2016). EIAs are critical for making informed decisions regarding the environment, as they determine whether a proposed project complies with legislative and other standards and thus whether, and how, that project should proceed.

EIAs emerged in the United States with the adoption of the National Environmental Policy Act in 1969 and their use has since spread globally as many countries have adopted EIA requirements into their environmental legislation (Glasson, Therivel, and Chadwick 2013). International financial institutions like the World Bank and the International Finance Corporation (IFC) also require EIAs for funding allocations to major projects (see Box 1). EIAs have evolved over time since the late 1960s and there are now several terms associated with the process of identifying environmental impacts in environmental decision-making, as defined in Box 2. While we recognize the existence of these other assessment types, the focus of this paper remains on EIAs.

Box 1: Examples of environmental assessment policies, guidelines and frameworks

- **The World Bank's Environmental Assessment Operational Policy:** Environmental assessment is one of ten safeguard policies used by the World Bank to examine the potential risks and benefits associated with its operations;
- **The International Finance Corporation's Environmental and Social Performance Standards:** These define IFC clients' responsibilities for managing environmental and social risks;
- **The European Commission's Directives on Environmental Assessment:** All projects and programmes co-financed by the EU must comply with these directives to receive approval for financial assistance;
- **The Asian Development Bank's Environmental Assessment Guidelines:** Describe how to fulfill the requirements outlined in the ADB's Environment Policy and Operations Manual on Environmental Considerations in its operations;
- **OECD good practice guidelines for applying strategic environmental assessment in development cooperation:** Points to ways to support the application of SEAs in the formulation and assessment of development policies, plans and programmes.

Box 2: Types of environmental assessment related to EIAs

- **Strategic environmental assessment:** Expands the EIA's focus to policies, plans, and programs; also labeled Strategic Impact Assessment
- **Integrated Environmental Assessment:** Integrates analysis of social impacts into the EIA; also labeled Environmental and Social Impact Assessment

The typical steps involved in carrying out an EIA are as follows, though the actual steps vary according to context and legislative requirements (Glasson, Therivel, and Chadwick 2013). Ideally, public participation occurs in each step.

1. **Screening:** Determines whether a project will have adverse environmental impacts, and thus whether an EIA is needed;
2. **Scoping:** Determines the extent of the EIA – which impacts and issues should be considered in the assessment and drafting of the assessment's Terms of Reference;
3. **Report preparation:** Data collected to identify impacts, evaluate alternatives, and propose or design mitigation measures;
4. **Report submission and review:** Report is submitted to the project proponent and relevant government authorities for review.

Corruption risks in EIAs

While EIAs can be a useful tool to identify and mitigate project risks and negative impacts, this depends entirely on how EIAs are implemented. In theory, EIAs should be transparent, accountable, and participatory in order to correctly identify impacts and mitigation measures and thus reduce the social and environmental costs that individuals must bear. Yet in many countries, corruption poses a serious challenge to carrying out EIAs due to the monopoly and discretionary power exercised by governments in the EIA process, the high-stakes nature of the EIA and uncertainty of its outcomes, and the conflicts of interest inherent in the EIA process. EIAs can be financially costly and time-consuming to undertake, raising the overall costs of a potential project. There is also a risk that an EIA may lead to the rejection or serious delay of a proposed project if its impacts are deemed to be too serious. The key actors involved in conducting EIAs – project proponents, government authorities, and the individuals who actually carry out EIAs (“experts”) – have incentives to undermine EIA processes for personal and company gain. Table 1 presents possible corruption risks across the four stages of the EIA; the existing evidence base for these risks is discussed in more detail below.

Table 1: Corruption risks in the stages of the EIA process

Stage	Risks
Screening	<ul style="list-style-type: none"> • Project proponent may bribe government officials to determine that a proposed project does not need an EIA, or government officials may solicit bribes from project proponents for the same reason; this is aided by unclear environmental legislation • Experts or project proponents bribe government officials to be granted the right to carry out an EIA • Conflicts of interest between project proponent and expert selected to conduct the EIA
Scoping	<ul style="list-style-type: none"> • Project proponent may bribe the individuals responsible for carrying out an EIA to consider or ignore certain issues and impacts, or experts may bribe or extort project proponents for the same reason • Conflicts of interest between project proponent and expert selected to conduct the EIA
Report preparation	<ul style="list-style-type: none"> • Conflicts of interest between project proponent and expert selected to conduct the EIA • Fraudulent and falsified data collection • Manipulated data collection and presentation (fraud) • Bribes, extortion, or kickbacks in order to collect needed data • Bribes, extortion, or kickbacks in order to include particular types of data or interpret it favorably • Fraud, kickbacks, and embezzlement in procurement, contracting, billing, wages • Public (i.e. local communities) are bribed to give their consent to projects, or to provide false data
Report submission and review	<ul style="list-style-type: none"> • Project proponent may bribe government officials to authorize an EIA and thus a project, or government officials may bribe project proponent for the same reason

In the screening stage, the decision as to whether an EIA is actually required can be unduly influenced by either project proponents or government officials. Unclear environmental legislation grants significant discretionary power in applying and enforcing the law since governments have a monopoly over legal enforcement. For instance, some reports suggest that corruption has resulted in the Nigerian environmental ministry openly disregarding the country's EIA regulations (Kakonge 2013).

Risks arise with the role of experts in the scoping and report preparation stage. In a number of countries, including Guatemala, Bangladesh, Sri Lanka, Czech Republic, and India, private expert consultants are hired by mining companies to conduct EIAs, creating a direct conflict of interest (Dougherty 2015, Paliwal 2006, Branis 1994, HRW 2012, Momtaz 2002, Transparency International 2011). In Guatemala, payment for these expert consultants is divided into an initial, up-front payment to cover the costs of conducting the EIA, and then a second payment upon conclusion of the report for wages. Companies often delay or omit the second payment, and as a result, exert considerable leverage over consultants in terms of the findings that are presented in the EIA report. This means that EIAs are more likely to

represent the interests of the company and to highlight the benefits of the project, rather than to provide an objective assessment of the costs and benefits or recommend against project approval (Dougherty 2015).

The use of expert consultants is a problem in South Asia. As in Guatemala, project proponents hire private expert consultants to carry out EIAs in India. A lack of certification for consultants means that the quality of EIA reporting is often low, a problem made worse by government's failure to implement its own EIA guidelines. Paliwal (2006) argues that this lack of certification results in a lack of data interpretation and analysis in EIA reports. Experts write what companies want to hear, and since there is no government or independent verification of the data presented in reports, there is no way to hold experts accountable for the content of those reports (HRW 2012).

Yet expert certification is no guarantee for success, as Branis (1994) argued in the case of the Czech Republic in its immediate post-independence days. Rather, authorizing and relying on state-certified individuals (rather than on certified firms or organizations) to carry out and assess EIA reports can create opportunities for companies to, for example, pay off experts in order to use their good name. And while codes of conduct are a potential solution to corrupt behavior by EIA experts – which Momtaz (2002) argues in the case of Bangladesh would help to improve governance over consultants there – like most voluntary governance mechanisms, enforcement can often be problematic.

Other risks arise in the preparation phase, for instance with public engagement. Consulting the public on environmental impacts is important for correctly identifying impacts as well as ensuring local support for a project, particularly for projects with very adverse impacts. But if public consultation and review procedures are not adhered to by government officials responsible for EIA approval, or if they are not carried out transparently, this opens the EIA “to capture by powerful government interests if there are no opportunities to review or challenge the analysis and assessment” (Horberry 1984, quoted in Ebisemiju 1993).

Finally, in the submission and review stage, undue influence can be exerted in order to receive a favorable EIA review, and thus project approval. In China, companies have reportedly provided kickbacks to local government environmental agencies in exchange for positive recommendations of EIAs (Huang and Liu 2014). Companies also use other means to favorably influence EIA approval; reportedly in Peru, “mining companies routinely sneaked into the ministry with flash drives and helped government workers edit environmental impact studies” (Dougherty 2015). A Human Rights Watch Report highlights yet another way in which high levels of government monopoly and discretionary power over the EIA creates opportunities for corrupt behavior in India (HRW 2012). Expert committees set up by the environmental ministry review and approve EIAs and grant environmental clearances. Although the environmental impact assessment regulations state that committee members should carry out site visits to confirm data presented in EIA reports, this is rarely or never done. As a result, instances have been reported of EIAs that included false data as well as text and data that were copied and pasted from EIA reports for completely different projects.

Box 3: Corruption in Guatemala's EIA submission and review stage

Dougherty's 2015 study of the EIA in Guatemala's mining sector illustrates the corruption risks posed by heavy government involvement in the EIA process and the high-stakes nature of the EIA process for companies. Government is responsible for approving EIAs, which is often transformed into an opportunity to distribute or withhold political favor. In some instances, the mining ministry has stalled the approval of an EIA for political reasons. Furthermore, EIA approval is required in order to secure a mining license to start operations, making the EIA a very high-stakes moment for companies. It also marks the only moment in time when the environmental ministry has influence over the authorization of a mining project. Such a situation creates incentives for mining companies to bribe government officials responsible for EIA approval and compliance inspection.

Corruption mitigation measures in existing EIA processes

Transparency, accountability, and participation are key pillars of anti-corruption work, to include in the conduct of EIAs (Morrison-Saunders and Bailey 2000). There are a number of transparency and accountability mechanisms built into the EIA processes in many countries. Two of these have been mentioned already: expert certification and codes of conduct, which can be complemented with training of experts in anti-corruption. Other mechanisms include the publication of EIA reports as well as other documentation and data. For instance, the legislative framework of the United States requires EIA reports to be published and made publicly available, including reports of citizen input. The Dutch government has gone even further and required documentation of response to major concerns about a project (Transparency and Accountability Initiative 2011). The Philippines provides an example of yet another way of ensuring greater transparency in the process through a publicly accessible online system for EIA management that shows the progress of EIA applications, and also provides a registry database of experts.²

Other solutions that emerge from the literature reviewed above include removing the conflicts of interest between companies and consultants in commissioning EIAs; creating clear legal requirements for EIAs and standard procedures for their conduct; independent commissioning and evaluation of EIA reports; regular monitoring of experts and government officials involved in the EIA process, as well as periodic auditing of EIA reports; and ensuring robust and genuine public participation in the EIA process, to include in monitoring efforts.

2 See <http://www.emb.gov.ph/portal/eia/Home.aspx>

Part 2: Case study of the EIA process in Albania

In the following, we provide a short case study of the EIA process in Albania based on 16 key stakeholder interviews conducted in Tirana during November 2015 (see Annex 2). We begin by outlining the formal EIA process in Albania, including the main institutional actors involved, the types of assessments produced, and the system for their review, approval and monitoring. We go on to discuss the role of private sector experts producing EIAs, the accreditation system for these experts, and accountability procedures. We then focus on various poor practices in Albania's EIA system and their reported causes. Finally, we discuss the potential for corruption, collusion and conflicts of interest in the EIA process.

Overview of the formal EIA process

Since 2015, project proponents must submit an environmental impact assessment (EIA) application to the Ministry of Environment. The project proponent, from the initial planning stages of the project (i.e. the project idea), must submit a written application to the Ministry of Environment and, among other documents prescribed by law, submit a preliminary report, which includes:

- A description of flora where the project is proposed to be implemented, accompanied by pictures;
- Information about the presence of water resources, related to the surface area required by the project and its vicinity;
- Information regarding the identification of potential negative impacts on the project environment, including impacts on biodiversity, water, land and air;
- A description of the potential environmental emissions, such as wastewater, gases and dust, noise, vibrations, as well as waste production;
- Information about the likely duration of identified negative impacts;
- Data on the possible spatial extent of negative impacts on the environment, including the physical distance from the location of the project, and the influenced values involved;
- The possibility of remediation of the negative influences on the environment and the possibility of returning the affected area to its previous state, as well as financial costs related to rehabilitation;
- Possible measures to avoid and mitigate negative impacts on the environment;
- Possible impacts on cross-border environments.

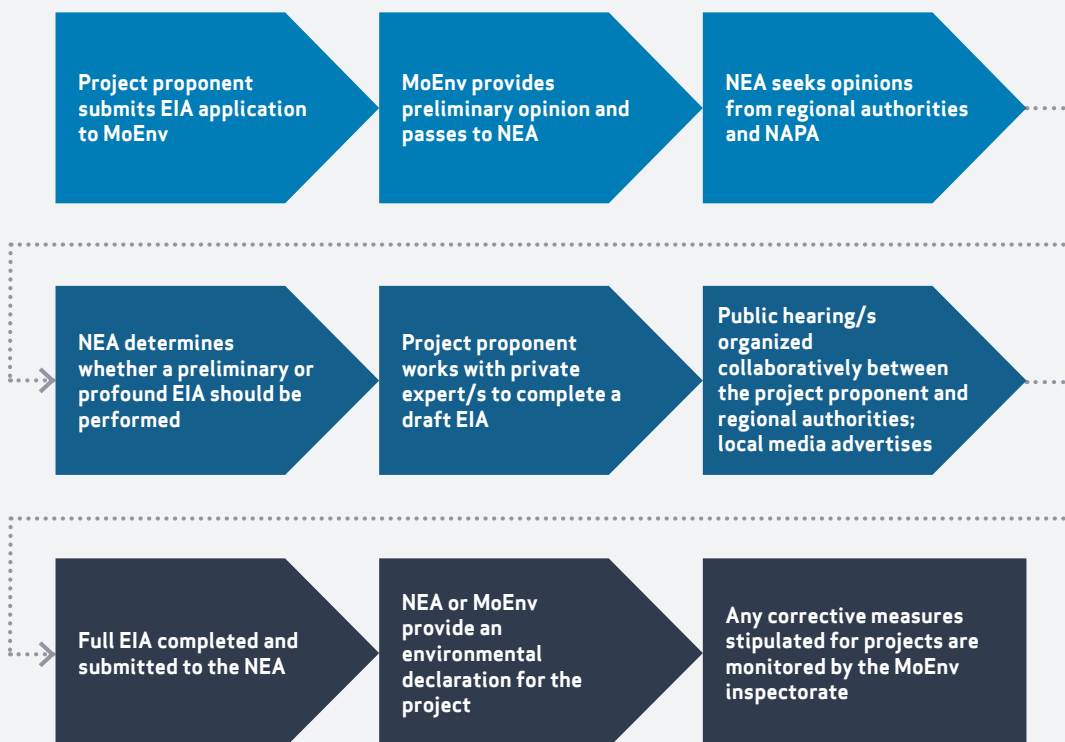
The Ministry of Environment first checks the application for completeness and provides a preliminary legal-technical opinion that it passes on to the National Environment Agency (NEA).³ The EIA application then goes to relevant regional environment authorities and national sectoral ministries who give their opinion on the project. This includes advice from the National Authority for Protected Areas (NAPA) should the project potentially involve such areas. Based on this advice, the NEA determines whether the project should be the subject of a "preliminary" or a "profound" EIA, informs the project proponent of this decision and, in the case of profound EIAs, provides a list of items to be included in the EIA itself.

3 Should the Ministry of Environment judge that a proposed project may have significant effects on the environment of one or more neighboring countries, or if it receives a request from another country, it follows special procedures for environmental impact assessments in a trans-boundary context. Likewise, should the NEA receive information from another country regarding a proposed project that may have significant effects on the environment in Albania, it will notify the Ministry to begin negotiations with the country concerned.

Within thirty calendar days from the date of receipt of the EIA application, the NEA will make a decision based on the preliminary EIA or decide that the project should undergo a profound EIA. This decision is forwarded to the Ministry that publishes it on its website. Different requirements apply for the two types of EIA: the profound EIA requires the involvement of three experts with relevant qualifications, while preliminary EIAs may involve just one expert. The project proponent works with an EIA expert, or group of experts, to complete the first draft of the EIA. When this first draft is prepared, the project proponent notifies the NEA and a process of public hearings begins, organized collaboratively between the project proponent, the regional environment authority (or authorities) and local government(s). The NEA informs the public, according to the legislation in force for informing and involving the public in decision-making. For these hearings, the project proponent must define the date and time, and makes copies of the draft EIA available to the public. The regional environment authority contacts other relevant stakeholders who vary according to the type of project (e.g. NGOs, universities). Local media must advertise public hearings for three days, according to the law.

Following the public consultation, the expert or experts complete a full EIA and submit this to the NEA. The NEA then provides an environmental declaration for the project, for which there are three options: (i) agreement that the project is environmentally friendly and can proceed, (ii) agreement that the project can proceed if certain environmental conditions are met, and (iii) disapproval of the project. The NEA sends its decision to the Ministry of Environment which then signs an environmental declaration, except in the case of profound EIAs where the project proponent must receive approval directly from the Ministry of Environment. The ministry inspectorate then monitors project implementation and the application of any corrective measures stipulated by the NEA or the Ministry itself. Table 2 illustrates the main components of this formal EIA approval process.

Table 2: Schematic of the formal EIA process in Albania



Private EIA experts' backgrounds, qualifications and accountability

Although the precise number is difficult to determine (because they are not tracked), there are thousands of private experts currently licensed to conduct EIAs in Albania. These experts work for project proponents and conduct the EIA process on their behalf, including technical-legal work and liaison with relevant public authorities. The Ministry of Environment certifies private experts for conducting EIAs and the 2015 EIA law sets requirements for experts' areas of expertise, professional qualifications, and the formation of teams of experts.

One main certified expert is typically responsible for an EIA, although they may work with others who will also sign the EIA document. Experts' backgrounds and qualifications vary, partly depending on when they first received their license. Experts licensed before 2015 were obliged only to provide an educational diploma in a relevant field, a copy of their Curriculum Vitae and proof of payment of a license fee (ALL 10,000, or around USD 75 at today's exchange rates). However, experts must now undergo a short training course at the University of Tirana focused on the legal framework for EIAs, on practical EIA procedures, and on how to find other experts to work with. If an EIA submitted to the NEA or Ministry of Environment is judged to be of poor quality it will not be immediately rejected. A set of remarks will first be provided to the expert to guide improvement of the EIA. The 2015 EIA law provides that, should an expert submit three poor EIAs in a row, they can have their license revoked by the Ministry of Environment. However, suspensions or revocations of private expert licenses reportedly occur infrequently, if at all.

“Copy-paste” and other poor EIA practices

The variable quality of EIAs was a concern for many (although not all) interviewees, and was raised separately by representatives of public authorities, environmental NGOs, and by experts themselves. Examples of poor EIA practices include “copy-pasting” (where sections of text from old EIAs are simply copied and pasted into “new” reports), the absence of key technical data (e.g. hydrological, habitat, and biodiversity data), the inclusion of irrelevant or false information, and poor technical and analytic work. There have also been examples of foreign terms being poorly translated into the Albanian language, so that their actual meaning becomes unclear. Some private experts use older EIAs as at least a partial basis for new studies, probably leading to inaccuracies: one example is the inclusion in one EIA of a particular bird species that could not be present at the project site. Interviewees cited the following reasons for poor quality EIAs:

1. A lack of adequate or appropriate expertise and qualifications among private experts;
2. A lack of awareness among experts of the formal requirements for EIAs (including methodologies);
3. The lack of a national strategy on EIAs;
4. Underdeveloped EIA methodologies;
5. Limited public participation in scrutinizing draft EIAs;
6. Inadequate human resources within public agencies to assess draft EIAs;
7. A lack of formal sanctions for private experts who consistently submit poor EIAs.

The potential for corruption, conflicts of interest and collusion in EIAs

Corrupt practices in relation to producing EIAs have been a concern for many years, with several interviewees noting EIAs were historically seen as “pieces of paper” to be obtained upon payment within one month. Under the current EIA system, conflicts of interest, bribery and collusion all appear possible, although providing empirical evidence of their existence is challenging. There are, however, widespread contemporary concerns about irregular EIA practices, focused on particular aspects of the current EIA system.

One area of concern is the potential for conflicts of interest in private experts’ contractual obligations to the project proponent, on the one hand, and, on the other, their role as providers of technical-legal information on proposed projects to the NEA and the Ministry of Environment. Given limited human resources within these public agencies, officials may be overly reliant on data provided by private EIA experts to inform their decision-making. This creates tensions between the aims of the project proponent and the role of public authorities in providing adequate regulatory oversight. The implication is that private EIA experts may be more accountable to project proponents than to relevant authorities, similar to the situation reported by Dougherty (2015) in Guatemala.

A second area of concern centers on public consultations for EIAs. Some interviewees claimed processes for public consultation on draft EIAs are often insufficiently transparent and that in practice it is difficult for members of the public to oppose particular projects, particularly when given false information. Some public consultations have reportedly been rigged by local officials, with only those friendly to a particular project invited to the consultation. Other interviewees disagreed that public consultations involve opaque processes, citing the posting of EIAs on the NEA’s website.

A third and final area of corruption concern revolves around the accountability and sanctions framework for private EIA experts and, connected to this, the approval process for EIAs. With around 70% of all proposed projects approved and few, if any, reported examples of EIA experts sanctioned for poor EIAs, regulatory oversight of the EIA process appears weak. Although a focus on improving draft EIAs, and monitoring the implementation of corrective measures, may aid projects by providing a pro-development framework, the apparent lack of application of existing sanctions (i.e. revocation of experts’ licenses for consistently poor work) points to the possibility of deep problems, including the potential for collusive practices between project proponents, private experts and public officials. Further political-economy research could determine whether and how collusion is affecting EIA outcomes, but close personal connections clearly exist among stakeholders on various sides of the table and a blurring of boundaries between the public and private spheres is a commonly noted feature of Albanian society. Some interviewees argued such perceptions might reduce through empowering the NEA (and not only the Ministry of Environment) to disaccredit private experts for consistently poor performance, possibly in combination with the introduction of a professional code of conduct for EIA experts.

Part 3: Suggested practice and policy solutions

If we adopt a principal-agent view on the causes of corruption, it is reasonable to couch practice and policy solutions to corruption challenges linked to EIAs in terms of reducing discretionary authority on the part of public officials, enhancing accountability and sanctions mechanisms, and improving data transparency. Doing so may be enough to reduce many cases of corruption in EIAs. At the same time, corruption may persist in EIA processes if bribery and collusion offer ways for stakeholders to navigate informal governance systems (Marquette and Pfeiffer 2015) and if incentives for corruption remain strong. Further political economy research would be beneficial for appreciating the actual impact of anti-corruption interventions applied to EIA processes in different contexts.

In Albania, interviewees offered a range of perspectives for both how to improve EIA practices overall and how to reduce specific opportunities for corruption.

We outline these proposed solutions below and provide additional reflections on their viability:

- i. Improve technical training of private EIA experts and provide them with specific anti-corruption training:** Improvement to the educational and vocational system for training private sector EIA experts is required and is likely to be generally beneficial. It has been proposed that all universities should be enabled to develop bachelor-, master- and doctoral-level programmes for training future EIA experts, and that a Centre for Continuing Education be enabled to provide vocational training and qualifications. A range of poor or unethical practices could be tackled via anti-corruption training, including clarification of definitions, good practice and preferred procedures. Those with strong incentives to continue to engage in corrupt practices are unlikely, however, to be deterred by improved training alone;
- ii. Improve the technical standard and consistency of methodologies applied to the different types of EIAs:** The methodologies applied for the different types of EIAs vary, with private sector experts themselves choosing which methodologies to apply for particular assessments. While some flexibility is probably required to accommodate different types of projects, setting clear technical standards and consistent methodologies for different types of projects is likely to reduce the scope for discretionary authority in judging the quality of EIAs. Interviewees noted recent progress in standardizing EIA frameworks, but noted some private sector experts were still not aware of or using the new standards;
- iii. Develop a professional code of conduct for private EIA experts:** Professional standards among private sector EIA experts appear to vary considerably and there is scope for introducing a professional code of conduct that outlines minimum expected standards of behavior and working methods, including anti-corruption elements. Such a code of conduct could form the basis for compulsory professional training as part of the private expert licensing system, and it is possible that this will increase adherence to anti-corruption measures within the EIA system. It is important to be aware, however, that codes of conduct are voluntary and their performance will largely depend on the broader incentives framework for private EIA experts;
- iv. Improve the accountability and sanctions regime for EIAs by enhancing public information provision:** Some information is publicly available within the current EIA system with the intention of enhancing public scrutiny of EIAs. At the same time, interviewees were aware of limitations in public information provision as well as limited awareness of the available information among relevant stakeholders. There is scope for improving both the public availability of key EIA

information and the awareness of important stakeholders of the information published. This means careful consideration is required of the options for publishing information and the means by which this information is actually communicated to stakeholders. It is important to note that public scrutiny of EIAs may do little to reduce corruption unless corrective actions are taken on the part of public bodies in response to complaints;

- v. **Improve transparency around EIA public consultations:** Public EIA consultations are required by law to be advertised in the media. However, interviewees noted cases where only friends of particular projects gave comments at public hearings. Improving the transparency of the public EIA consultation process may enable more stakeholders to engage and provide critical feedback. At the same time, transparency may not be the only reason why stakeholders do not engage, and limitations of time, money and interest may also play a role, meaning improving transparency of public consultations should not be viewed as a viable stand-alone anti-corruption measure;
- vi. **Improve the application of formal sanctions for private EIA experts in the case of submission of consistently poor EIAs:** A formal framework for sanctioning consistently poor EIAs does exist, but it appears it is hardly used. Although a preference for project development is understandable in an economy where new projects of many kinds are needed, non-application of existing sanctions for consistently poor EIA work sends the wrong message to project proponents and private EIA experts, and hints at the possibility of collusive practices. If private EIA experts surmise they will not be sanctioned by public agencies for consistently poor quality work, the EIA system will be almost entirely reliant on the individual professional practices of private experts. Given the variable quality of EIAs in Albania, this is not a viable alternative. Broadening the range of technical expertise brought to bear in evaluating draft EIAs could further enhance impartial decision-making behind sanctioning, but it appears the most important step is to begin applying the existing formal sanctions regime.

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Appendix 1: Systematic literature review search terms

- Corruption (anti-corruption, transparency, accountability, good governance) environmental impact assessment
- Corruption EIA
- EIA (bribes, bribery, fraud, fraudulent, extortion, kickbacks, patronage)
- (Bribes, bribery, fraud, extortion, kickbacks, patronage) environmental impact assessment
- Corruption (anti-corruption, transparency, accountability, good governance) strategic environmental assessment
- Corruption (anti-corruption, transparency, accountability, good governance) environmental impact assessment (specific sector – dams, hydropower, mining, oil, gas, infrastructure, buildings, land)
- Corruption (anti-corruption, transparency, accountability, good governance) (bribes, bribery, fraud, extortion, kickbacks, patronage) environmental impact assessment (specific country)
- Corruption (anti-corruption, transparency, accountability, good governance) environmental decision-making
- Corruption environmental regulation (governance, government)
- Environmental crime

Appendix 2: Number and type of EIA stakeholders interviewed in Tirana

- National public environmental/energy authority representatives: x 5
- Regional public environmental authority representatives: x 4
- National non-governmental organization representatives: x 2
- Nationally accredited EIA private sector experts: x 4
- Foreign public agency representatives: x 1

U4 Anti-Corruption Resource Centre
Chr. Michelsen Institute (CMI)
Phone: +47 47 93 80 00
Fax: +47 47 93 80 01
u4@u4.no
www.U4.no

P.O.Box 6033 Bedriftssenteret
N-5892 Bergen, Norway
Visiting address:
Jekteviksbakken 31, Bergen

This U4 Issue is also available at:
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INDEXING TERMS

Corruption
Anti-corruption
Environmental decision-making
Environmental impact assessment
Environmental crime
Environmental regulation
Albania

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Environmental impact assessments (EIAs) are a core aspect of environmental decision-making in most countries. Despite massive potential for public harms resulting from corrupt decision-making linked to EIAs, research on this topic is still very limited. We consider the main generic corruption risks in carrying out EIAs and provide suggestions for what public agencies, including development aid donors, might do to mitigate them.

Our analysis provides a systematic literature review of the topic, supplemented by fieldwork-based case analysis of the EIA process in Albania. We find that a range of poor practice currently afflicts Albania's EIA system and that the present accountability and monitoring framework for EIAs does little to mitigate various corruption risks.