



Lesson Learned from Turkish EIA Regulation Implementation

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Turkish EIA Regulatory Evolution

- ❑ EIA Regulations adopted by the Turkish Legislation under Article 10 of the 1983 Environmental Law (Law no: 2872) are in line with the EU Directives (from 2003 onwards). Implementing authority: Ministry of Environment and Urban Affairs (MEU)
- ❑ 1st EIA Regulation enacted in 1993, approximately 10 years after the Environmental Law had been brought into effect
- ❑ 2nd – 9th EIA Regulations were enacted in 1997, 2002, 2003, 2008, 2009, 2011, 2013, 2014
- ❑ Each version was enacted with the purpose of improving upon the previous one. Amendments were made in the provisions that led to problems in legal aspects, implementation or that had negative implications on the protection of the natural environment.

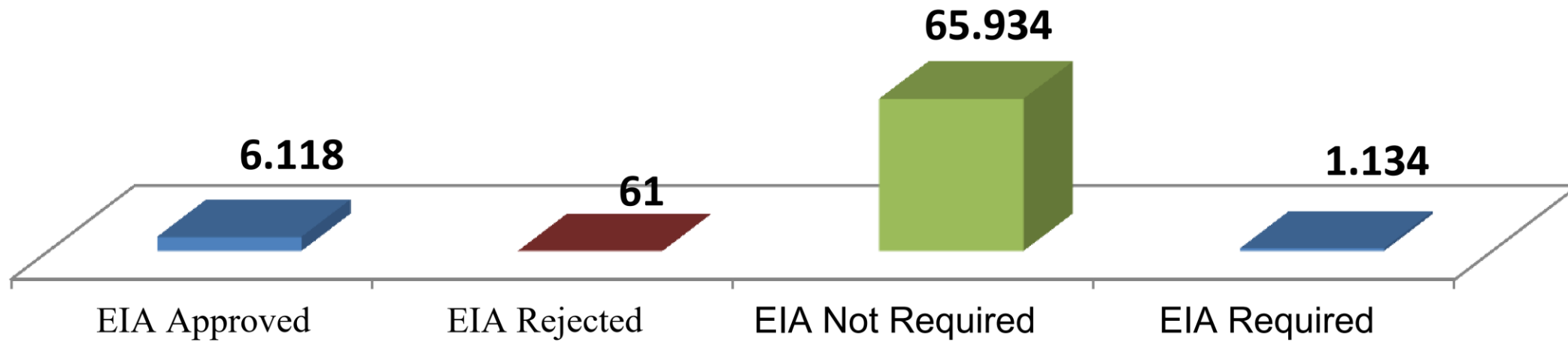
Turkish EIA Regulation: Key Legal Challenges

- ❑ Turkey's EIA application process was providing partial waivers for facilities that were not implementing the requirements of the EIA regulations.
- ❑ Exemptions were present for some activities from EIA regulatory framework. According to Clause 3, Article 10 of Environmental Law exploration activities for petroleum, geothermal resources and minerals were exempted from Environmental Impact Assessment.
- ❑ Site selection for project development can sometimes be subject to legal controversy, e.g. RSM round 1.

Source: Alica, S.S; Çevresel Etki Değerlendirmesi Yargı Kararları Çerçevesinde İrdelenmesi, Gazi Üniversitesi Hukuk Fakültesi Dergisi, C. XV, Y. 2012,

Number of EIA applications

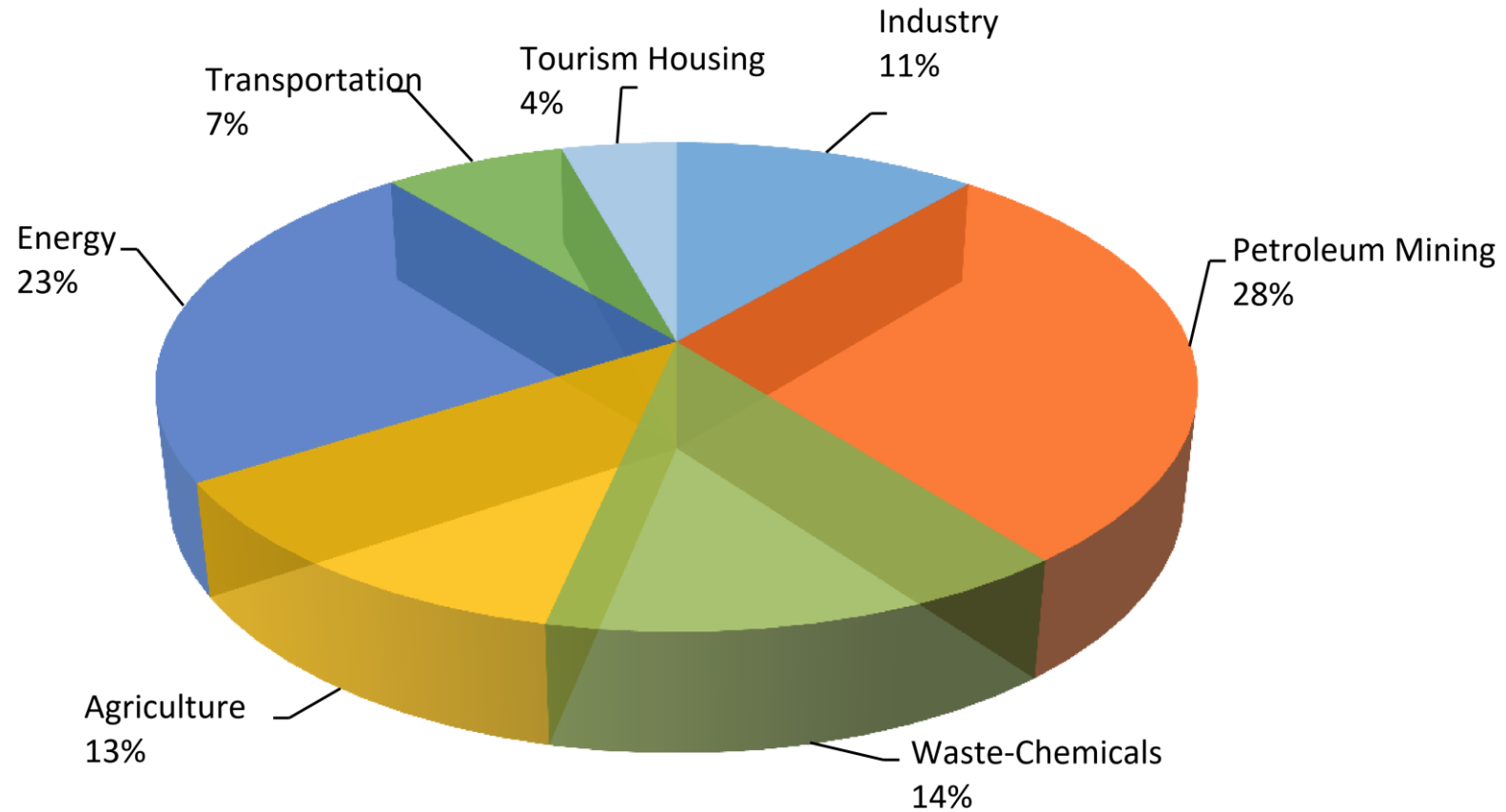
EIA DISTRIBUTION



1993-2020

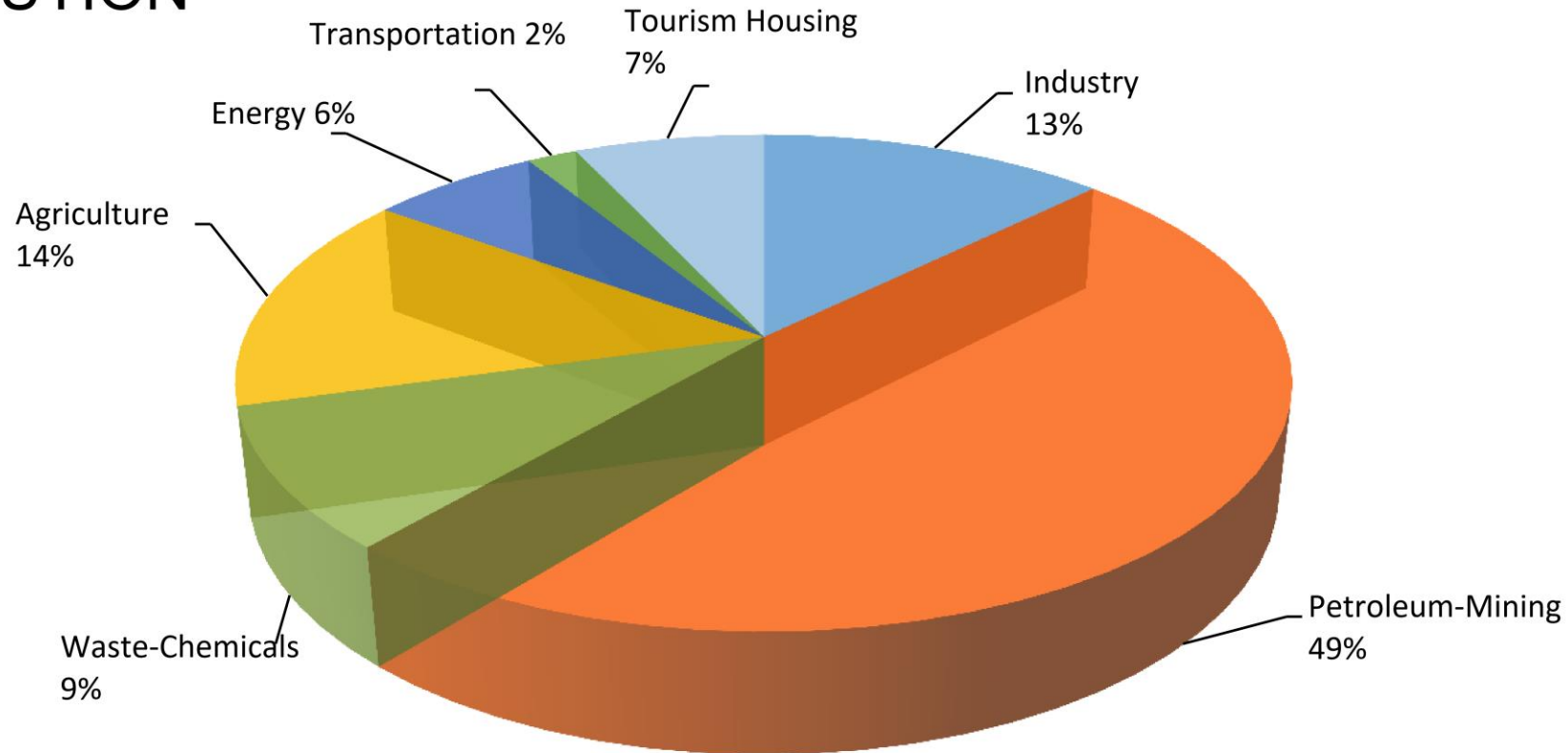
Distribution of "EIA positive" decisions

EIA POSITIVE DISTRIBUTION



Distribution of "EIA not required" decisions

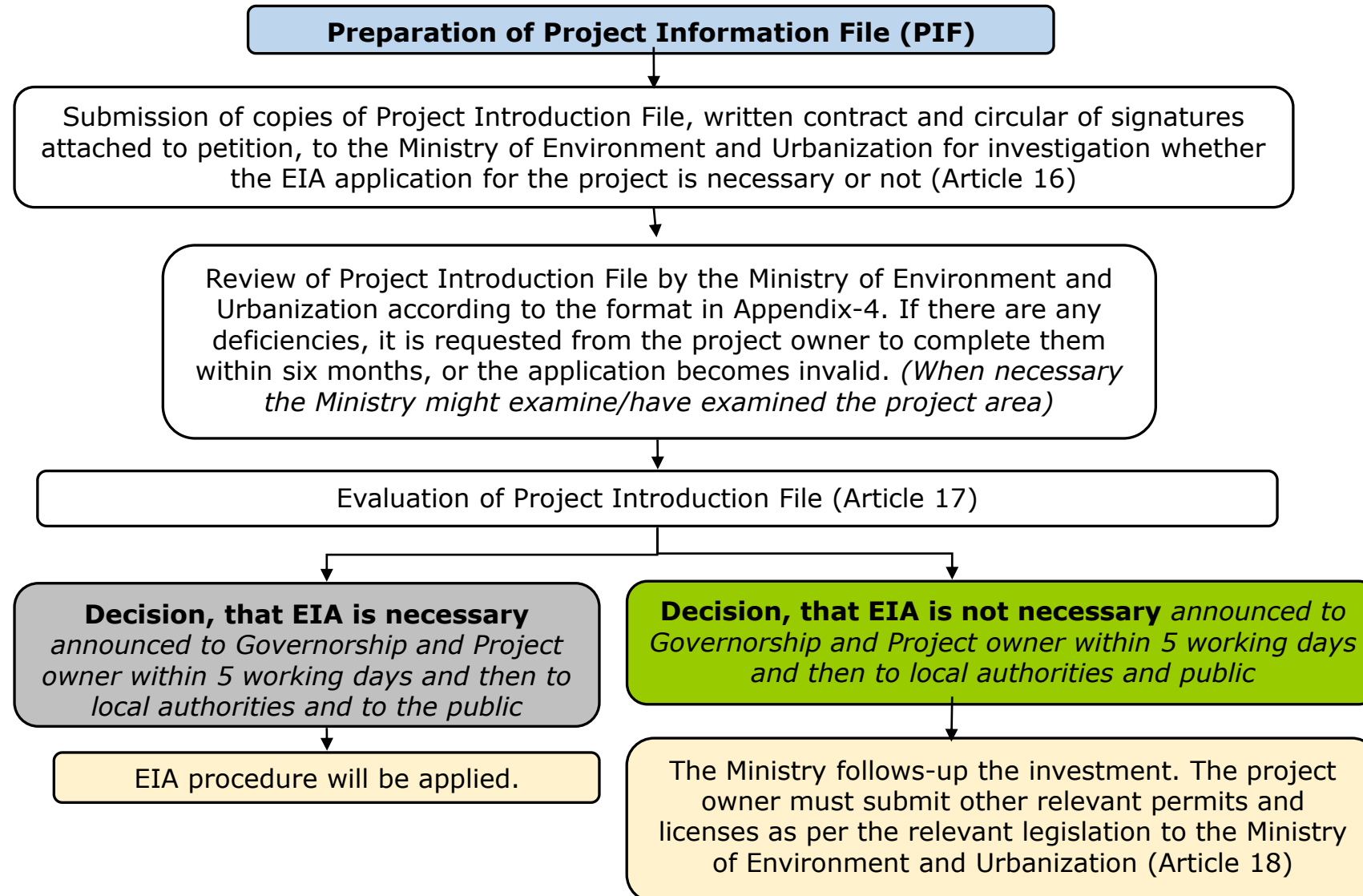
EIA NOT REQUIRED DISTRIBUTION



TURKISH EIA REGULATION GEOTHERMAL EXPLORATION

Geothermal exploration drilling projects are listed in Annex II of the national "EIA Regulation" which is subjected to a selection-elimination process. **"EIA Required"** or **"EIA Not Required"** decision is taken based on the submitted Project Information File (PIF) prepared considering Annex 4 of the EIA Regulation. This document represents the scoping-impact quantification and mitigation measures description. Ministry of Environmental and Urbanization (MEU) monitors and controls the projects based on the commitments stated in the EIA Report and PIF. If there is any update regarding a project within the scope of EIA Regulation, the investor is required to inform MEU and the relevant Provincial Directorate.

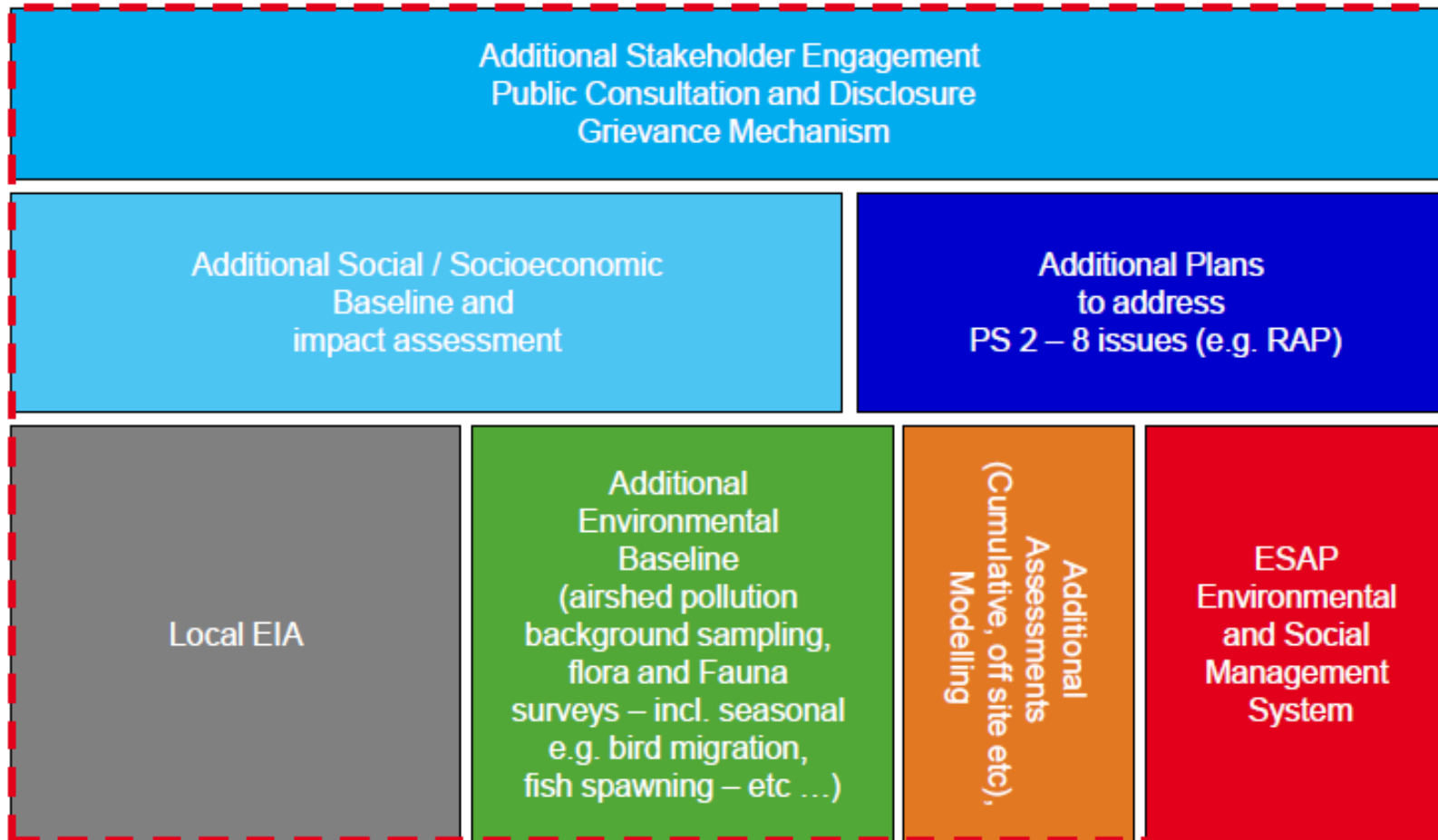
EIA process flow chart for projects under Annex II



Geothermal Well Drilling E&S Scoping

- Air quality
- Noise and vibration
- Soil and groundwater
- Wastewater
- Waste management
- Material resources
- Terrestrial ecology
- Surface water
- Traffic and transport
- Cultural heritage
- Socio-economic impacts
- Workers/healthcare personnel
- Community health, safety and security

Turkish EIA Gap Analysis – IFI Standards



Key gaps in Turkish EIA studies vs IFI standards

Issue	Gaps with respect to International Standards	Risks
Scoping & Impact assessment	<ul style="list-style-type: none"> • Scoping not conducted adequately • Impact assessment not structured and comprehensive • Lack of social impact assessment • Lack of cumulative impact assessment • Limited definition of project's area of influence • No discussion of alternatives • Associated facilities are not covered • Some projects (including large scale infrastructure projects) may be exempted from the EIA Regulation 	<ul style="list-style-type: none"> • Lawsuits by public and other organizations requesting re-assessment of impacts or cancellation of exemptions
Baseline Data	<ul style="list-style-type: none"> • Baseline data collected through desktop studies to a great extent • Insufficient baseline studies to assess biodiversity • Lack of baseline studies to assess cultural heritage 	<ul style="list-style-type: none"> • Significant damage to habitats, flora and fauna • Significant delays in the project schedule upon encountering archaeological finds during construction
Stakeholder Engagement	<ul style="list-style-type: none"> • Minimal stakeholder engagement with only selected governmental authorities and the nearby settlements, or no stakeholder engagement with the wider public 	<ul style="list-style-type: none"> • Potential public protests

Key gaps in Turkish EIA studies vs IFI standards

Issue	Gaps with respect to International Standards	Risks
Expropriation/ Resettlement	<ul style="list-style-type: none"> • Government-led expropriation/ resettlement process which does not include all affected people covered by international standards 	<ul style="list-style-type: none"> • Potential adverse impacts in livelihoods and life standards of affected people
Mitigation measures	<ul style="list-style-type: none"> • Pollution prevention and control techniques include basic mitigation measures and do not cover detailed measures 	<ul style="list-style-type: none"> • Lack of specific mitigation measures, i.e. at sensitive areas may lead to significant damages
Health and safety	<ul style="list-style-type: none"> • Lack of assessment of labor and working conditions, and occupational health and safety issues • Lack of determining community health, safety and security impacts 	<ul style="list-style-type: none"> • Potential accidents during construction and operation from poor management of occupational, health and safety issues • Grievances by nearby communities
Monitoring	<ul style="list-style-type: none"> • Lack of or limited monitoring during the construction and operation phases of a project 	<ul style="list-style-type: none"> • Potential non-conformities overlooked which result in adverse ES impacts and in potential fines

Example of issues raised in court

Issues Raised	Impact Description-Objection	Proposed Approach for PDF or EIA Improvements
<p>No detailed explanation about harmful effects of this work to human health and the environment and about the measures will be taken to prevent the effects (the effect of XXX drilling project areas subject to the “EIA Not Required” decision on agricultural areas, water resources, archaeological sites, natural sites, natural fauna in the region) of wastes, wastewater, noise and dust emissions that may arise within the scope of the project or to minimize them to the extent that they do not cause any damage.</p> <p>Besides, although measures to be taken not specified, the measures alleged to be taken are technically and scientifically insufficient.</p>	<p>General Description of topics:</p> <ul style="list-style-type: none"> • Scoping Not Provided Adequately • Quantification is not adequate • Mitigation Measures not clear and scientifically insufficient 	<ul style="list-style-type: none"> • Develop a scoping approach to cover all topics • Establish quantification mechanism • Establish risk mechanism • Establish impact level • Develop measures standards-Turkish and Industry Proactive-WB standards

Example of issues raised in court

Issues Raised	Impact Description-Objection	Proposed Approach for PDF or EIA Improvements
<p>It is possible to carry out all kinds of irrigated and dry agricultural activities in the areas to be drilled (geothermal resource exploration activity). the land is suitable for growing all kinds of fruits and vegetables. the immovable properties are in a very good location in terms of efficiency, place, transportation and environmental facilities, and also in terms of position. it is obvious that agricultural lands will be damaged due to the drilling works to be carried out. because, due to the drilling works, it is obvious that the value and quality of the lands within the immovable properties will decrease, and the products to be obtained will not yield as much as before. due to the geothermal drilling excavations to be carried out and the land to be excavated during these excavations, the related agricultural lands and vineyards will be damaged and such agricultural lands will not yield as before. in addition, due to the excavation to be excavated, there will be additional damage to the health of humans / animals due to a number of chemicals that will enter streams/watercourses / rivers, groundwaters and thus drinking/using waters indirectly. in addition, people breathing hazardous chemicals released to nature by air will suffer as well. however, assessment of these matters will only be possible if the EIA report, which leads to such assessment, is issued.</p>	<p>Specific Issues</p> <ul style="list-style-type: none"> • Agricultural impact on productive land • Land acquisition and income loss • Air Quality on Human Health • Impact on Water Resources • Waste Generation impact 	<ul style="list-style-type: none"> • Provide specific Impacts assessment to each scoping mechanism • Cumulative impact review-review developments at regional scale • Provide specific mitigation measures • Livelihood impact detailed analysis • Ensure time-frame is described well • ESMP items described herewith • Stakeholder Engagement Process implemented throughout • Water resources study involving baseline studies and specific potential impact to water resources • Air quality impact short term and quantified values • Land acquisition-specific loss to land owners and vicinity • Waste generation specific measures-descriptive • Description of stakeholders-grievance mechanisms

LESSONS LEARNED

- Inherent gaps exist between IFI and Turkish EIA Regulations
- IFI require more baseline studies, impact assessment and in-depth social impact and stakeholder engagement process
- Geothermal well exploration falls into Annex II which require less stakeholder engagement and baseline studies-inherent risk
- Challenges to Annex II EIA not required decision focus on the inherent gaps that exist between IFI and Turkish EIA regulations
- To minimize risk of legal challenges
 - **Upgrade Turkish EIA studies to meet IFI requirements**
 - **Develop robust Environmental and Social Monitoring Plans**
 - **Implement continuous and effective stakeholder engagement process**

Thank you!

