

Terms of Reference

for

The Modernization and Restructuring of the Road Sector ENVIRONMENTAL AND SOCIAL COMPLIANCE REPORT of the Implementing Companies' (HC and HAC, HAC-ONC, ARZ) management systems and operations

(the Environmental Compliance Report will be produced and finalized by HC and HAC, HAC-ONC, ARZ and approved by the WB within the first year of the project implementation)

(I) The Environmental Compliance Report (ESCR), commonly carried out by four companies: HC, HAC, HAC-ONC and ARZ, will be focused on environmental and social management systems performance and general compliance with national environmental legislation. The report will be structured around four major themes : **(a)** organization and operability of established environmental management systems of the Implementing Companies for overall environmental protection; **(b)** environmental performance and assurance of environmental regulations compliance for planning and construction activities; **(c)** compliance with environmental regulation and standards of (road) infrastructure maintenance and other regular operational activities; and **(d)** practices in land acquisition and involuntary resettlement for overall Companies' activities and its compliance with national and EU legislation. The report will be issued in Croatian and English language. The overviews, analyses, assessments and recommendation will be presented separately for each company. Based on the conclusions of the report, areas for improvement and related recommended measures for each of the companies will be identified and Action Plan for their implementation agreed with the Implementing Companies.

ESCR is an outcome of initial environmental and social analysis performed during MARS project preparation phase which concluded that majority of Implementing Agencies would benefit from additional soft measures such as (a) capacity building to strengthen environmental and social performance and integration to business processes; as well as (b) building a platform for comprehensive voluntary EMS, where needed. During the project preparation as part of the social system analysis practices of labor restructuring were examined. In a separate form / document more detailed investigation of these practices, their implementation and compliance with the good international practices will be assessed and discussed with the Implementing Companies, during project implementation.

(II) Environmental and Social Compliance Report content

1 PROJECT DESCRIPTION AND SCOPE OF THE REPORT

1.1 Overview of the Project – The chapter introduces the overall project starting, but not limiting itself to, the project background, thematic, temporal and geographical scope of the project. Lists the stakeholders, identifies beneficiaries, users of funds, elaborates project management organization. Explains Project Development Objective, describes project components and puts the ESCR in relation to the overall project. Explains the mission and purpose of the ESCR. Defines thematic, temporal and geographical scope of the ESCR report. Defines environmental (and social) management systems and compliance assessment methodology, methodology reporting

methodology, data and information sources, defines responsibilities within ESCR production, timelines, tasks and procedures.

2 KEY AGENCIES

- 2.1 Project Implementing Companies – Overview of the Implementing Companies (HAC, ARZ, HAC-ONC, HC) including the mission, founding purpose, basic historical data, number of employees, organizational structure, position of environmental protection within the organizational structures as well as land acquisition. Distinguishes between environmental issues covered internally and externally (e.g. by contracting environmental services). Identifies responsibility for environmental information dissemination and the dissemination paths and mechanisms.
- 2.2 Interorganizational relationships – Describes interorganizational relations, communication and coordination, dependencies, common bodies and work/tasks, decision-making processes and procedures in common affairs/work and similar related to environmental issues amongst the four companies. Provides overview of subsidiary organizations and concessioners organized by type of service (list of the concessioners organized geographically can be provided in the ESCR annex). Defines the type of covenant/contract for a particular service and if they contain environmental requirements/clauses/obligations. Type of environmental reporting, if any, of the concessioner to the road managing company (Implementing Agency).
- 2.3 Strategic Documents related to environmental and social management – Provides list and short summary of content of the companies' strategic documents in the field of environment, including Environmental Policy, Environmental or Sustainability Reports (content overview, main goals and achievements), Waste Management Plan, Energy Efficiency Strategies and Plans, Development Plans and other in the part related to the environmental and nature protection and/or enhancement. Presents list and short summary of social policies.
- 2.4 Environmental management systems (EMSs) and corporate company policies (EP, ISO or other EMSs, norms, volunteer standards, etc.) – Provides an overview of existing (certified and noncertified applied EMSs) and assess its functionality. Lists environmentally relevant policies and awarded certificates of Implementing Companies including geographical scopes, validity dates, number of staff involved, long and short term goals, dates of last external audits with identified improvement areas, short description of audit schemes (frequency, etc.), achieved goals/improvements. Description of environmental trainings and used funds for regular and random in the defined past period of time (2000-2017). Copy of certificates are given in the annex.
- 2.5 Human Resources/Staff in environmental management – Positions and describes environment/nature protection related working positions within the organizational scheme (graphic schemes are welcomed). Describes briefly the scope of work and responsibilities for the identified positions. Gives overview of human resources pool of employees and main characteristics (No. of employees in environmental protection, distribution through departments, education level and backgrounds, gender distribution, etc.).
- 2.6 Human Resources/Staff in social management (land acquisition and involuntary resettlement) - Positions and describes land acquisition and involuntary resettlement working positions within

the organizational scheme (graphic schemes are welcomed). Describes briefly the scope of work and responsibilities for the identified positions. Gives overview of human resources pool of employees and main characteristics (No. of employees in management of land acquisition and involuntary resettlement, distribution through departments, education level and backgrounds, gender distribution, etc.).

2.7 Financial Resources for environmental management– Description of financing mechanisms for overall environmental management systems as well as managing environmental issues of (a) investments, (b) maintenance, (c) accidental situations such as e.g. spillages remediation. Identifies sources and adequacy of funding for the aforementioned. Compare to EU average, internationally acceptable standards and/or best practices, if available.

2.8 Financial Resources for land acquisition and resettlement– Description of financing mechanisms for land acquisition and resettlement for (a) investments; and (b) maintenance. (Identifies sources and adequacy of funding for the aforementioned. Compare to EU average, internationally acceptable standards and/or best practices, if available.

3 REGULATORY FRAMEWORK

3.1 National regulatory framework – Overview of relevant national environmental, nature protection and sectoral legislation, both for infrastructural projects as well as maintenance of roads. Briefly discusses policies, legal and administrative frameworks within which environmental issues and assessments are managed and carried out for large investments as well as maintenance and regular operations (including long term development planning). Assigns responsibility for communication and integration of environmental legislation updates to policies and operations as well as timely information dissemination.

3.2 National regulatory framework for land acquisition and involuntary resettlement – Overview of relevant national legislation related to exportation, land acquisition and involuntary resettlement related to infrastructure projects as well as maintenance of roads. This overview should include issues such as expropriation procedure, determination of compensation and entitlements, and compensation to land users without legal title. Assigns responsibility for communication and integration of land acquisition and expropriation legislation updates to policies and operations as well as timely information dissemination.

- 3.3 Short description of roles and responsibilities of the key environmental agencies and partners. Description or monitoring, implementation, reporting and other obligations of Implementing Companies towards the environmental agencies and competent bodies, including frequency of reporting, communication and corrective mechanisms, and similar (e.g. waste generation reports, air monitoring reports).
- 3.4 Supranational environmental regulation and international agreements – Lists and provides short overview of environmentally relevant road transport EU regulation and international agreements. Key points are provided, such as requirements that are directly impacting environmental and nature protection activities and decisions of the four Companies.

4 IMPLEMENTATION

4.1. Infrastructure planning and construction

- 4.1.1 Internal organization for planning and construction – Provides overview of standard policies and procedures, internal organization and distribution of responsibilities for planning and construction of large and small investments (in separate sub-chapters). The chapter describes how is environmental protection addressed and incorporated into the project design, construction and monitoring. It also describes corrective mechanisms for incompliances in both types of investments. The chapter describes how is land acquisition and involuntary resettlement addressed and incorporated into the project design, construction and monitoring.
- 4.1.2 Environmental management of large projects (requiring EIA) – Through chosen representative investments, case studies will be developed elaborating the process of achieving environmental compliance of large infrastructure: this includes description of the EIA regulation requirements and ways of meeting them, detailed description of EIA procedures, procedural and institutional obstacles and constrains the companies came across (e.g. long revision periods), identification of competent authorities, significant and most frequent types of EIA requiring projects, significant and typical aspects and referent potential impacts on the environment. The assessment should be done on current or recent practices however a case of large investment carried out in the past should be included. Protected areas where the investments were carried out are identified and rated (according to the level of protection).
- 4.1.3 Environmental management of non-EIA project practices – Describes environmental protection practices and procedures related to investments where no EIA is required, yet there were potentially significant impacts, hence the environmental or nature protection requirements had to be met. The chapter discusses permitting process with the emphasis on environmental conditions for non-EIA types of projects (e.g. conditions of competent authorities such as Croatian Waters or Nature Protection Department within Counties). The

standard company practice (procedures, identification of expected impacts, permitting conditions and requirements met, description of how the environmental requirements were included to contracting of works and services and supervised, corrective mechanisms, etc.) will be confirmed through an example of a case study of relatively high complexity (again a case study per each company with relevant non-EIA investments).

- 4.1.4 Management of Land Acquisition and Involuntary Resettlement: Through chosen representative investments, case studies will be developed elaborating the process of achieving of social compliance of projects: this includes description of the land acquisition, expropriation and involuntary resettlement regulation requirements and how these requirements were met, procedural and institutional obstacles and constrains the companies came across, identification of competent authorities, significant and most frequent types of projects requiring land take and or/physical relocation, significant and typical aspects and referent potential social impacts. The assessment should be done on current or recent practices.
- 4.1.5 Control of the process – Positions and examines internal environmental compliance supervision mechanisms and practices including supervising departments and working positions, supervised operations, procedures, frequency, scopes, reporting mechanisms as well as external ones (inspection, reporting – e.g. as a part of permitting condition or EIA monitoring measures, ISO audits, etc.). The aforementioned is to be done for both types of investments. Monitoring results for endangered species are presented and interpreted.
- 4.1.6 Public consultation and grievance mechanisms – Reviews public consultation requirements in line with the national and supranational regulation as well as international agreements (e.g. Aarhus Convention) and explores practices in the companies through description of the established consultation practices and examples (for large investments, non-EIA investments, and including forms such as environmental or sustainability reporting, other proactive informational and consultation activities). Presents grievance mechanisms and procedures and discusses the most common/re-occurring reasons triggering grievances. Looks into public consultation requirements and grievance mechanism related to expropriation, land acquisition and involuntary resettlement.
- 4.1.7 Summary of findings/compliance – Compares the national environmental regulation requirements for EIA and non-EIA projects and above presented practices. Compares the national land acquisition legislation and above presented practices.

4.2 Infrastructure maintenance

- 4.2.1 Internal organization for maintenance – Identifies (i) maintenance operations, regular/periodical or singular (e.g. refurbish works required due to accident-caused damage, remediation, and similar), performed by the organizations and the geographical, temporal and other scopes related to the maintenance work as well as (ii) organizations and organizational units that perform maintenance operations. Includes description of

environmentally relevant maintenance equipment (e.g. fleet type and count), used chemicals and agents, related procedures. Describes communication paths, positions the decision-making and implementation within the organization relevant for the regular operations and maintenance.

- 4.2.2 Monitoring of environmental performance - Assesses important aspects and environmental impacts of the maintenance (grouped by the type of work). Nature protected areas where the companies operate are identified and rated (according to level of protection). For each type of service provided by the concessioner give an overview of the main environmental aspects and impacts. Names and describes environmental standards and limitations imposed by environmental regulation. Identifies positions/persons in charge of environmental aspects of maintenance as well as compliance control and corrective mechanisms. Limitations/measures and standards related to environmental and nature protection in the protected areas (including Natura 2000) are emphasized in the analysis. Describes activities, procedures (and related documents) and stakeholders in cases of environmental and other accidental situations (from spills, crashes to large animals wondering on the roads).
- 4.2.3 Social aspects of maintenance operations – Assesses how well are OHS regulation and standards integrated to planning, everyday management and decision-making processes. Compares the number and types of accidents, fatality rates, emergency preparedness and other safety indicators to adequate EU average.
- 4.2.4 Control of the process - Presents the organizational structure and systems/mechanisms for supervision of maintenance operations and environmental compliance. Identifies monitoring areas and environmental and nature protection and preservation monitoring elements. Describes communication paths, positions the supervision and monitoring reporting, decision-making and implementation within the organization. Current monitoring incompliances and those in recent years are shortly presented and interpreted.
- 4.2.5 Public consultation and grievance mechanisms - Reviews public consultation requirements in line with the national and supranational regulation as well as international agreements (e.g. Aarhus Convention) and explores consultation/communication practices in the companies through description of the established practices for maintenance operations, including typical examples, if any. Presents the most common/re-occurring reasons triggering grievances.
- 4.2.6 Summary of findings / compliance over the given period – Compares practice of the companies with the national environmental regulation requirements as well as best practices (in the EU).

5 CONCLUSION

- 5.1 Adequacy of existing environmental systems for achieving compliance for infrastructure planning and construction - Assesses compliance of practices and procedures related to planning, implementation and operation of EIA and non-EIA infrastructural investments with

- the national regulation. The chapter also identifies potential gaps and areas for improvements. It suggests further actions, if needed, to improve compliance, effectiveness and efficiency of environmental and nature protection for the future infrastructural investment plans, as well as integration and distribution of environmental protection in organizational structure.
- 5.1.1. Adequacy of existing social systems for achieving compliance for infrastructure planning and construction - Assesses compliance of practices and procedures related to land acquisition and involuntary resettlement planning and implementation with the national regulation. The chapter also identifies potential gaps and areas for improvements. It suggests further actions, if needed, to improve compliance of land acquisition and involuntary resettlement practices and procedures for the future infrastructural investment plans, as well as integration and distribution of social management in organizational structure.
- 5.2 Adequacy of environmental compliance for maintenance - Assesses adequacy of existing environmental systems for achieving compliance of practices and procedures, identifies potential gaps and areas for improvements related to maintenance operations (including regular as well as singular maintenance including small civil works).
- 5.3 Adequacy of institutional organization and capacity, labor division and funds and recommendations – Assesses complexity of the organizational and interorganisational relations and procedures and provides alternative options and recommendations. Assesses effectiveness of inter-agency coordination and supervision of the environmental compliance of concessioners. Assesses the HR pool of employees available and employed in the environmental protection, and land acquisition, investigates adequacy of educational levels and backgrounds and provides recommendations. Recommendations for improved institutional organization and capacity, labor division and funding (sources and unsustainability)
- 5.4 Recommendation for improving performance of existing management systems and environmental procedures/operations – Addresses chapters 4.1.6 and 4.2.6 and gaps identified in the chapters 5.1. and 5.2. Provides a short overview of identified areas for improvement and outlines the recommended sets of measures. Drafts Action Plan with the proposed timeline for implementation.