



# CHILD RIGHTS IMPACT ASSESSMENT OF ENVIRONMENTAL POLICIES AND LAWS



Save the Children



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THROUGH THE CHILD RIGHTS IMPACT  
ASSESSMENT TOOL



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ASSESSMENT TOOL**

Tirana, 2020

Expert and report author

**Zyhrada Kongoli**

Tirana, 2020

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Save the Children is the world's leading independent organization for children. Save the Children believes every child deserves a future. Around the world and in Albania, we give children a healthy start in life, the opportunity to learn and protection from harm. We do whatever it takes for children – every day and in times of crisis – transforming their lives and the future we share.

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# CONTENTS

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Abbreviations.....	4
Introduction .....	5
Comprehension and Importance of the Child Rights	
Impact Assessment Tool .....	6
CRIA Implementation from the perspective of the Convention on the Rights of the Child .....	8
CRIA Implementation from the perspective of the Convention on the Rights of the Child .....	9
CRIA in the European context.....	10
Current Assessment Tools in the Albanian Legislation .....	11
Environmental legislation and CRIA.....	15
Law on Environment Protection.....	15
Legislation on environmental policies and laws consultation.....	17
CRIA practices and models .....	19
The CRIA model in Albania .....	20
ANNEX 1 .....	22
CRIA Model .....	22
ANNEX 2 .....	24
CRIA report template.....	24
CRIA Report “on the Environment Protection” draft-law.....	25

# ABBREVIATIONS

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<b>EU</b>	European Union
<b>CRIA</b>	Child Rights Impact Assessment
<b>CRC</b>	Convention on the Rights of the Child
<b>RIA</b>	Regulatory Impact Assessment
<b>DCM</b>	Decision of the Council of Ministers

# INTRODUCTION

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The issue of protecting child rights and interests has increasingly become a priority due to its special relevance. Therefore, child rights protection is considered not only in regard to laws and policies which focus on the child, but also in regard to acts that either directly or indirectly affect them. This is precisely why acts in the field of child rights target the child as an individual and not as a group, so that they can emphasize the importance of protecting the child's best interest, an already established standard in the Albanian background.

In this context, this document aims to introduce for the first time a tool designated to assess the impact of policies and laws on children's rights. This assessment tool focuses on environmental policies and laws, but it is easily applicable to other legal areas as well.

The drafting of this document was initiated by the Institution of the Ombudsperson's Office and the work for its development was supported by Save the Children, which thereupon assigned the expert Zyhrada Kongoli. This document relies heavily on the consultation with the Section of Protection and Promotion of the Rights of Children at the Ombudsperson's Office with the engagement and under the auspices of Commissioner Nejla Peka.

This tool will be initially used by the Ombudsperson's Office, with the hope that it will be beneficial and will be widely used by other lawmaking and law enforcement institutions. It refers to the best international practices and complies with the legal and regulatory framework in Albania.

# COMPREHENSION AND IMPORTANCE OF THE CHILD RIGHTS IMPACT ASSESSMENT TOOL

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The Child Rights Impact Assessment Tool, internationally known as CRIA, which herein will be used with the same abbreviation for ease of reading, is an assessment tool.

This regulatory tool is used in an assessment process whose outcome is a report that analyses the impact of a policy or legal act on child rights. CRIA is not just an assessment tool, but it is also a communication tool regarding the impact of a proposal on the rights, needs and interests of children and youth.

Based on CRIA objectives, the practice of impact assessment usually goes through several stages, which include initial assessment, collection and analysis of relevant data, stakeholder consultation, and impact assessment including recommendations for mitigation of adverse impacts as well as monitoring and review. Thus, this tool is used for the preliminary assessment (*ex-ante*) of policies and laws to assess the impact that each policy or law will have based on potential outcomes, but CRIA elements can also be adapted for subsequent assessment (*ex-post*), which is conducted when a policy or law is adopted and is intended to assess its real impact.

The reason why the Ombudsperson' Office took initiative for the development of this tool is closely related to the fact that CRIA is in a way a human rights impact assessment. From this point of view, the CRIA implementation process should be undertaken based on the principles of universally accepted human rights and as such it should be comprehensive, non-discriminatory; it should engage rights-holders and take into consideration the rights of directly or indirectly affected individuals and social groups.

The success and effectiveness of CRIA implementation depend on several elements related to the support provided by law enforcement agencies, clarity and ease of use, ongoing training and capacity building on child rights, drawing on appropriate local and international expertise, availability and use of quality data and mainly the significant involvement of children and youths themselves.

There is no one-size-fits-all CRIA model, but different countries develop different models that fit to their country's legal and institutional framework. The model presented in this document is in line not only with Albanian legislation, but also with national objectives in the field of child rights and protection, as it also prioritizes the implementation of the best interest of the child.

Considering that CRIA is a relatively new tool, there are not yet any studies on its relevance. However, impact assessment of laws and policies from the perspective of child rights is an additional guarantee of ensuring an adequate level of child rights protection and safeguarding.

Regarding the implementation of CRIA in the Albanian legal background, the implementation of RIA since 2018<sup>1</sup>, which is a similar tool but of a more general scope, serves as a prerequisite for the effective implementation of CRIA.

However, unlike RIA, which is a tool adopted by means of a sub-legal act, CRIA is not legally mandated and, thus it is conditioned by the willingness and support it will receive from public institutions. It would be advisable that this tool also be legally mandated as a separate tool or as a section to the current RIA tool.

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1. Decision of the Council of Ministers No. 197, dated 11.04.2018 "on Some Addenda and Amendments to Decision No. 584 , dated 28. 08. 2003, of the Council of Ministers "On the Approval of the Council of Ministers Regulation, as amended"

# CRIA IMPLEMENTATION FROM THE PERSPECTIVE OF THE CONVENTION ON THE RIGHTS OF THE CHILD

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The legal and institutional framework in the field of child rights and protection is under a continuous process of completion and improvement for the implementation of the Constitution of the Republic of Albania and the United Nations Convention on the Rights of the Child (CRC).

According to Article 4 of the CRC<sup>2</sup> “*States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. ...*”, regulation which is further elaborated in the General Comment no. 5 (2003) of the Committee on the Rights of the Child. CRIA is precisely a tool that ensures compliance with the Convention and contributes to advancing its implementation.

This tool best serves the development of the child rights perspective by the government and the parliament in the context of the effective implementation of the Convention, and especially in terms of the principle of the best interest of the child as a primary consideration for all actions and decisions affecting children.

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2. Law No. 7531, dated 11.12.1991 “On the ratification of the Convention on the Rights of Child”

# CRIA IMPLEMENTATION FROM THE PERSPECTIVE OF THE CONVENTION ON THE RIGHTS OF THE CHILD

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One of the scopes of the law on the rights and protection of the child<sup>3</sup> is to provide basic principles underpinning national policies on child rights. In this context, participation, active listening and respecting the opinion of the children in accordance to his/her age and ability to comprehend is the principle that should be taken into account in the process of drafting and consultation related to environmental policies and legislation.

The law provides for an integrated protection system which is the set of legal acts, policies and services in all areas, especially as far as social welfare, education, health, security and justice are concerned. Environmental laws and policies have a significant impact on children's health and life quality.

From the participatory perspective, the law on the rights and protection of the child defines the concept of "child participation" as a continuous process of active involvement of the child and enjoyment of their right for freedom of expression and being heard at all levels of decision-making on issues related to him/her. Environmental policies and regulations are closely related to the life and health of the child.

Based on these provisions of the law on the rights and protection of the child, this document will analyze the impact of policies and legislation in the field of environment on children both from the perspective of the impact on the child's life and health and from the perspective of their involvement in the environmental acts consultation process.

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3. Law No. 18/2017 "on the Rights and Protection of the Child"

# CRIA IN THE EUROPEAN CONTEXT

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European integration is the main development strategy of Albania and other countries in the region. In this context, human rights protection is one of the key priorities, the complete fulfillment of which conditions the continuation of the integration process.

Article 3 of the Lisbon Treaty addresses the protection and promotion of child rights. In this spirit, the EU Charter of Fundamental Rights states that children have the right to such protection and care as it is necessary for their well-being. They can freely express their opinions and their views, which will be taken into consideration on issues concerning them, but according to their age and maturity.

According to Article 24 of the Charter, the best interest of the child shall be the primary consideration in all actions concerning children, undertaken by both public and private institutions.

The EU Agenda for the Rights of the Child (2011) established a new standard related to the requirement that *“..in the future, EU policies that directly or indirectly affect children should be designed, implemented, and monitored taking into account the principle of the best interest of the child enshrined in the EU Charter of Fundamental Rights and in the UNCRC...”*.

At EU level, impact assessment is undertaken in the better regulation strategy, which aims to assess the impact of policies on society, the economy and the environment by considering a wide range of stakeholders. The European Commission has published practical guidelines to support the impact assessment of an initiative on human rights, including child rights.

The Council of Europe has also recruited and supported member states to ensure the implementation of the European Social Charter

by addressing the improvement of the quality and effectiveness of the impact assessment on children in the framework of guaranteeing child social rights in the Strategy for the Rights of the Child 2016-2021.

## CURRENT ASSESSMENT TOOLS IN THE ALBANIAN LEGISLATION

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The Council of Ministers exercises its activity based on a regulation that defines the rules and procedures related to the submission of draft-acts and their review. This regulation was adopted in 2003<sup>4</sup> and over the years changes and additions have been made to better adapt to the dynamics of time.

The amendments adopted in 2018<sup>5</sup> introduced the concept of impact assessment, RIA. Thus, in the chapter revolving around the “initiative for the draft-act”, since the stage of designing the detailed draft program of the draft-act, which is written for each field of activity and covers four months, and besides the list of drafts to be proposed, presentation and report with the necessary rationale regarding the main reasons for the proposal, the most important issues that are provided to be regulated and the compliance with the sectorial and national development programs of the country, the possible

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4. Decision of the Council of Ministers No. 584 dated 28. 08. 2008, “On the Approval of the Council of Ministers Regulation, as amended”
  5. Decision of the Council of Ministers No. 197, dated 11.04.2018 “on Some Addenda and Amendments to Decision No. 584, dated 28. 08. 2003, of the Council of Ministers “On the Approval of the Council of Ministers Regulation, as amended”

economic, financial, social and environmental effects should be also described<sup>6</sup>.

Even during the preparation phase for the draft-act, the technical structures of the initiating institution, in collaboration with the legal structure, should conduct a preliminary assessment of the initiative for the proposal of the draft-act which must include the rationale regarding the scope and objectives of the draft-act; its compliance to relevant policies, provisions and measures related to applicability, budget expenditures and expected financial effects as well as expected economic, financial, social and environmental effects<sup>7</sup>

Moreover, the regulation<sup>8</sup> includes an impact assessment report of the draft-act which should be filled out according to the form and in compliance with the requirement as shown in the Annex of the DCM. The completed report should be attached to the draft when sending it for review<sup>9</sup>.

Regarding the report, the template of the report, in the first part of the tabular form, aims to collect data of a general nature regarding the content of the draft-act, such as “source of policy proposal”,

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6. Article 8 letter “ç” of the Decision of the Council of Ministers No. 197, dated 11.04.2018 “on Some Addenda and Amendments to Decision No. 584, dated 28. 08. 2003, of the Council of Ministers “On the Approval of the Council of Ministers Regulation, as amended”
  7. Article 12 letter ”dh” of the Decision of the Council of Ministers No. 197, dated 11.04.2018 “on Some Addenda and Amendments to Decision No. 584, dated 28. 08. 2003, of the Council of Ministers “On the Approval of the Council of Ministers Regulation, as amended”
  8. Article 16 of the Decision of the Council of Ministers No. 197, dated 11.04.2018 “on Some Addenda and Amendments to Decision No. 584, dated 28. 08. 2003, of the Council of Ministers “On the Approval of the Council of Ministers Regulation, as amended”
  9. Article 16 of the Decision of the Council of Ministers No. 197, dated 11.04.2018 “on Some Addenda and Amendments to Decision No. 584, dated 28. 08. 2003, of the Council of Ministers “On the Approval of the Council of Ministers Regulation, as amended”

“related strategies”, but also specific data regarding the process, such as “lead ministry”, “impact assessment stage”, “date of public consultation”, “impact assessment date”, “contact details”.

After the executive summary section, which should provide in two pages clear and concise rationale on the most important information about the draft-act, whereas a second descriptive part will provide information about the issue that will be addressed in the draft-act, set objectives, analysis of options comparing the benefits versus associated costs, impact analysis, reasoning for the most favorable option, input from consultations as well as how the implementation and monitoring of the project under evaluation will be administered.

The second part of the impact assessment form lists issues/prompting questions, which will be answered to throughout the completion process, they will receive an answer while filling out each of the sections, aim to guide the individuals filling it in. The section with most questions is the “option assessment / impact analysis” section. It is also the section most relevant to the CRIA.

If we refer to the issues/ prompting questions listed in the “option assessment / impact analysis” section, firstly we identify who is impacted and the types of impact for each group, while trying to distinguish direct versus indirect impacts during the analysis. Regarding indirect impacts, the RIA form requires analyses and descriptions both from a qualitative point of view and from the quantitative point of view on the impact on the affected groups. The same analysis is required for indirect impacts.

In the meanwhile, the issues listed are of a general nature and relevant for each nature of the draft-act, regardless of the sector it regulates, there are only 2 aspects, which are expressly addressed; impact analysis on small and medium enterprises and competition impact analysis.

This assessment form is valid for all policies and laws that address child rights and protection, but in the case of environmental policies and laws, the child impact assessment cannot be realized through this impact assessment report. However, its current use serves as a prerequisite for the successful implementation of CRIA and this report template has also served for the proposed form of CRIA.

While the current requirement for assessing potential social effects is very general and is unlikely to reach child impact in case of environmental policy and law analysis in the future, when the CRIA implementation practice will be in place, CRIA may be included as a section of the Regulatory Impact Assessment (RIA) that applies to all policies and laws, including environmental ones.

## ENVIRONMENTAL LEGISLATION AND CRIA

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Despite the fact that environmental legislation does not explicitly refer to children, assessing its impact on them would be an added value in terms of achieving the objectives of this legislation and, in particular, in terms of protecting the life and health and the sustainable use of the environment and its constituents.

Regardless of the impression that the environmental legislation does not have to be assessed for its impact on children as a separate group, the thesis presented by the EU and UNICEF is very convincing in terms of the implementation of CRIA in every case of legislation drafting, in every field of law, including environmental legislation. The Child Impact Assessment Manual developed by the EU and UNICEF states that “...there are no neutral policies for children, whether or not they are a target group. “Every policy positively or negatively affects

the lives of children and governments should consider the possible effects of policies on children as a key element in determining the principle of the best interest of the child being applied "... Also in this context, environmental policies and legislation impact assessment on children is of great importance for ensuring the well-being of the children and the safeguarding of their life and health.

Environmental legislation is very voluminous and for this reason it is intended that this document briefly analyze the law on environmental protection as well as the law on the public right to information and participation in environmental issues. The law on environmental protection was chosen due to the significance this issue carries as a practice of conservation of natural resources and sustainable use of nature and its components. Nature and the environment play a crucial role in the well-being of man and the country's sustainable development.

The Law on the Public Right to Information and Participation in Environmental Issues has been selected in terms of analyzing the participation and consultation of children in the process of drafting environmental policies and legislation.

## **LAW ON ENVIRONMENT PROTECTION**

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Environment protection and sustainable use of its components are not isolated issues but rather issues from which many situations of economic and social nature that affect children stem, in areas such as air and water quality, waste management, protection of biodiversity, etc. Moreover, Albania is one of the countries that is most vulnerable to climate change, compared to other countries in the region. Hence,

promoting environmental sustainability and adaptation to climate change are issues of utmost importance and are proclaimed by law as national priority.

The Law on Environment Protection<sup>10</sup> aims to provide a high level of protection. It aims to ensure not only the conservation but also the continuous improvement of the environment in order to reduce the risks to human life and health.

The law defines the principles, requirements, general rules and procedures related to guaranteeing environmental protection and which aim to improve life quality and provide the proper conditions for the sustainable development of the country, looking after present and future generations.

Among the main objectives of environmental protection is the improvement of environmental sustainability, not only through conservation and protection of environmental elements and natural elements, but also through public participation.

Environmental protection and safeguarding is related to the 2030 Agenda and serves as a prerequisite to achieve most of the objectives for sustainable development. It is related in particular to realizing goal 3 “healthy life and well-being”, goal 6 “clean water and sewage systems”, goal 7 “clean and affordable energy” goal 11 “sustainable cities and communities”, goal 13 “climate actions”, goal 14 “life under water”, goal 15 “life without land” as well as completing goal 1 “no poverty”, goal 2 “zero hunger”, goal 3 “gender equality” and goal 12 “responsible consumption and production” Achieving all these goals directly affects child rights and protection.

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10. Law No. 10431 dated 28. 08. 2011, “On the Environment Protection”

# LEGISLATION ON ENVIRONMENTAL POLICIES AND LAWS CONSULTATION

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The right to information and public participation is one of the main principles regulated explicitly by the law on environment protection, in addition to the general regulation by the specific law on the right to information<sup>11</sup> as well as the law on notification and public consultation<sup>12</sup>. The latter regulates the notification and public consultation process about draft-laws, draft national and local strategic documents as well as policies of high public interest based on the principles of transparency, effective decision-making and accountability of public bodies.

Furthermore, the Law on Environment Protection charges relevant public authorities with the responsibility to make sure that the public and stakeholders have real opportunities to be part of the procedures for the drafting and approval of strategies, regulations and acts of a general nature related to environmental protection and its components. The ministry responsible for the environment is the main institution in charge of drafting environmental strategies and plans as well as reviewing and updating them, as need be.

Other important environmental protection documents at the local level are local environmental action plans, which are drafted, approved and updated by the local self-government authorities, at which child involvement and consultation is both very important and more feasible.

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11. Law No. 8503, date 30.06.1999 “On the right to information about official documents”;

12. Law No. 146/2014 “On notification and public consultation”;

The Law on Environment Protection also regulates the functioning of the environmental information system to ensure public information, also as a means of monitoring the environmental policies implementation.

Public information and consultation is also provided by the law on environmental impact assessment<sup>13</sup>. Due to its scope to prevent, minimize and compensate the damage to the environment, the law is intended to guarantee an open process with the involvement of all stakeholders during the assessment of their potential impact on the environment ahead of the approval of the proposed projects. In the framework of consultation, besides public information activities, the responsible institution shall hold a hearing with the public and stakeholders to attract and reflect their opinion in the final decision-making for the project.

Regarding public participation in environmental decision-making, Albania has ratified the Aarhus Convention<sup>14</sup>, on the public right to information, to participate in decision-making and to have access to justice in environmental matters. This Convention aims further to develop and regulate the right to information and public participation, in addition to the provisions that these rights have in specific laws or ad-hoc laws of an environmental nature. This Convention defines public and public concerned. The 'public concerned' is defined as 'the public affected or likely to be affected by, or having an interest in, the environmental decision-making',

Each Party to this Convention is required to take the necessary legislative, regulatory and other measures to meet the requirements of the public right to information, participation and access to justice in environmental matters. The public should be assisted and guided by public officials and authorities in exercising these rights.

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13. Law No. 10 440 dated 07.07.2011 "On environmental impact assessment";

14. Law No. 8672, dated 26.10.2000 "On the Aarhus Convention Ratification on public right to information, to participate in decision-making and to have access to justice in environmental matters";

# CRIA PRACTICES AND MODELS

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CRIA is a novel assessment tool and as such it does not yet found massive use. Currently, CRIA is recognized and implemented in few European countries. However, in many other countries it is under advocacy, presentation and discussion phase.

Despite the CRIA models developed and implemented in different countries, what they all have in common is the objective of assessing, and specifically assessing whether legal or policy proposals are in line with the Convention on the Rights of the Child.

In the case of countries such as Belgium and Wales, the CRIA assessment is integrated into the Regulatory Impact Assessment (RIA), whereas in others it is a separate assessment. In the case of the CRIA model applied in Scotland, in addition to child rights, the component of their well-being is also included in the assessment.

In some countries, the CRIA implementation legally mandated the form of an act that approves the relevant form, whereas in some other countries, CRIA is not implemented on the basis of any legal or sub-legal requirements. It is preferable for CRIA to be implemented in the early stages of drafting a policy or law, however currently in some states, it is being implemented after the law or policy has been drafted and is being consulted prior to adoption.

The scope of CRIA implementation in different countries is also different; in some, it is applied only to national policies while in others it also covers domestic policies. Another element that appears different in different countries is the degree of involvement of the youth and children themselves in the implementation of CRIA, which is related to the requirements and models used.

# THE CRIA MODEL IN ALBANIA

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The model proposed in this section is based on the applicable legal framework and on the EU Impact Assessment Guidelines (2009). Its implementation should be guided by the four main pillars of the Convention on the Rights of the Child; equality and non-discrimination, the best interest of the child, the right to survival, the right to protection, the right to development and the right to participation.

CRIA will commence to be implemented as a separate form of assessment, which RIA refers to, but it will not part of it. Its implementation isn't legally mandated yet, in the hope that an appropriate form of approval that best suits its purpose will be found.

The proposed CRIA model will be administered by the Ombudsperson's Office, which will be charged with the responsibility to ensure high-level reporting and provide positive outcomes.

The segment of acts to be covered by CRIA at this stage will include draft-laws and draft decisions of the Council of Ministers related to the field of environment as well as local environmental action plans. CRIA will be implemented at the earliest possible stage of the discussion of an act or policy and naturally, in every case, prior to its approval.

CRIA will be implemented through a process involving other stakeholders such as non-profit organizations working on child rights or environmental issues, specialized expertise and most importantly, with the participation of children and the youth themselves.

Annex 1 attached to this document presents the CRIA model which will be used by the Office of the Ombudsperson and Annex 2 descriptively demonstrates how to fill out the CRIA assessment to better guide readers and users.

## ANNEX 1

# CRIA MODEL

CHILD RIGHTS IMPACT ASSESSMENT REPORT	
<b>PROJECT NAME</b>	Draft-law/DCM draft/Local Plan Project “ ... ”
<b>RESPONSIBLE INSTITUTION</b>	Ministry of Tourism and Environment/ Local Self-Government Unit
<b>PROPOSAL PHASE</b>	Initial / Project / Under consultation
<b>PROPOSAL SOURCE</b>	Internal/ Legal Requirement/ Approximation/ International Transposition
<b>DIRECTIVE/ EU REGULATION</b>	Number
<b>LEGAL DOCUMENTS AND INTERRELATED POLICIES</b>	[Provide the title of the strategy or law under which the draft-act was prepared]
<b>ASSESSMENT DATE</b>	[The date the Impact Assessment was filled out]
<b>INSTITUTION TO WHICH THE CRIA WAS SENT TO</b>	Ministry / Council of Ministers / Local Self-Government Unit
<b>CRIA NUMBER</b>	Year- No. of the CRIA
<b>CONTACT DETAILS</b>	Name, Last Name, e-mail and telephone number of the contact person:
<b>EXECUTIVE SUMMARY OF THE CRIA REPORT (approximately 2 pages)</b>	

## GENERAL REVIEW OF THE DRAFT-ACT

Indicative issues: What is the general scope of the draft-act? Which of its aspects can impact children? Is the impact direct or indirect? Is there a possibility that a particular group of children will be more

impacted? Are there other stakeholders that should be included in this assessment, whether public or non-public, institutions or individuals?

## **CRIA ASSESSMENT**

Indicative issues: What are the objectives of this assessment? Which articles of the CRC may be related to the draft-act? What impact can the draft-act have on child rights? Is any group of children particularly affected by the draft-act? If any potential negative impact has been identified, what is proposed for its mitigation or elimination? Is the adoption of this act likely to contribute to the rights, protection and well-being of the child? What data did you use in your analysis and what information did you draw from that data? Were children involved in the discussion process for the draft-act and were they included in the CRIA report?

## **CRIA REPORT**

Indicative issues: Which groups were consulted in the framework of this assessment? Were children themselves involved in this process and how? Which were the main findings of the assessment and how did they impact child rights and protection? Was the potential impact assessed as positive or negative? What proposal has been made to mitigate or avoid potential negative impact, if any? What impact will the approval of that draft-act have on the child rights and protection situation and on the fulfillment of the country's obligations under the CRC? How can we assess and monitor the impact of the draft-act following its approval?

## **COMMUNICATION AND NOTIFICATION METHOD OF THE CRIA REPORT**

By means of which communication channels will the CRIA Report be notified? Which are the target groups?

## ANNEX 2

# CRIA REPORT TEMPLATE

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In this section of the document, the CRIA form will be filled out illustratively to precisely guide the readers and users of this document. Given that CRIA is a preliminary assessment tool, just as an example it will be assumed that the law on environmental protection is at the draft stage and is being consulted with stakeholders.

The law on environmental protection<sup>15</sup> is a law of general nature that defines environmental protection objectives and basic components, and the basic principles on which the protection is based. In this context, the impact of this law on child rights can be minor compared to the impact on other environmental legislations related to air quality, waste, water quality, protection of biodiversity, protection of forests, chemicals, radiation, genetically modified organisms or even national environmental plans or local environmental action plans.

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15. Law No. 10431, dated 28.08.2011, “On the Environment Protection”

# CRIA REPORT “ON THE ENVIRONMENT PROTECTION” DRAFT-LAW

## CHILD RIGHTS IMPACT ASSESSMENT REPORT

<b>PROJECT NAME</b>	“Environmental Protection” Draft-law
<b>RESPONSIBLE INSTITUTION</b>	Ministry of Tourism and Environment
<b>PROPOSAL PHASE</b>	Draft / Under consultation
<b>PROPOSAL SOURCE</b>	Approximation / Review of domestic legislation
<b>DIRECTIVE/ EU REGULATION</b>	Directive 2004/35/CE of the European Parliament and of the Council of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage
<b>LEGAL DOCUMENTS AND INTERRELATED POLICIES</b>	NA
<b>ASSESSMENT DATE</b>	15.06.2020
<b>INSTITUTION TO WHICH THE CRIA WAS SENT TO</b>	Ministry of Tourism and Environment
<b>CRIA NUMBER</b>	2020- Ombudsperson- No. 1
<b>CONTACT DETAILS</b>	Nejla Peka E-mail <a href="mailto:nejla.peka@avokatipopullit.gov.al">nejla.peka@avokatipopullit.gov.al</a> and personal <a href="mailto:peka@avokatipopullit.gov.al">peka@avokatipopullit.gov.al</a> and personal phone number contact detail:

## **EXECUTIVE SUMMARY OF THE CRIA REPORT**

**(approximately 2 pages)**

The Convention on the Rights of the Child, with its comprehensive approach to child development, sets forth provisions on the basis of which child rights are interrelated and even interdependent to environment protection. The obligations of the states parties, as defined in Articles 24 and 29 of the CRC, link the guarantee of child rights to environment protection, both as a beneficiary and as a stakeholder. As interpreted by the CRC, health protection is closely related to child life and health protection, as well as child nutrition. On the other hand, in terms of child education, the CRC emphasizes developing the child's interest of the natural environment.

In all actions related to children, the child's best interest will be a primary consideration. This also includes actions in which the link with the interests of the child is not much discernible as in the case of environment protection that aims to protect human life and health as well as improve their quality of life. However, the UN Committee on the Rights of the Child states that<sup>16</sup> "Whenever states need to determine the degree of protection of the environment, the best interests of the child should be a guiding principle in decision-making." "States Parties shall ensure the full implementation of this right and shall take appropriate measures in particular: (c) To combat disease and malnutrition, even in the context of primary health care, through the use, inter alia, of easily accessible techniques as well as the provision of suitable food products and clean drinking water, having taken into account the risks of pollution of the natural environment".

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15. Law No. 10431, dated 28.08.2011, "On the Environment Protection"

On the other hand, the law on child rights and protection aims to protect the child by complementing the legal and institutional framework; to set forth basic principles underpinning national policies for child rights, effective mechanisms, as well as respective authorities at the national and local level; to guarantee the well-being and to improve the quality of life of the child, by promoting and enabling their development in society; to effectively assist and care for children whose health and well-being are at risk; to take measures to ensure that children are able exercise their rights, in accordance with the development of their personality, based on their best interest; to take measures to ensure their livelihood, survival and development.

Regarding the above mentioned legal framework, the draft-law “On Environment Protection” is in compliance with the legal framework on child rights and protection taking into account that it aims at protecting the environment at a high level, conservation and continuous improvement, prevention and reduction of risks to human life and health, including children, ensuring and improving the quality of life for the benefit of present and future generations. The draft-law impacts children directly considering that its objectives include the prevention, control and reduction of water, air, soil pollution and for any other type of pollution, conservation, protection and improvement of nature and biodiversity, rational exploitation of nature and resources, its protection and improvement of environmental conditions and consequently the protection and improvement of the quality of life and health of adults and children.

# GENERAL OVERVIEW OF THE DRAFT-ACT

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- What is the general scope of the draft-act?
- Which of its aspects can impact children?
- Is the impact direct or indirect?
- Is there a possibility that a particular group of children will be more impacted?
- Are there other stakeholders that should be included in this assessment, whether public or non-public, institutions or individuals?

The scope of the draft-law is the protection of the environment at a high level, its conservation and improvement, prevention and reduction of risks to human life and health, ensuring and improving the quality of life and providing conditions for sustainable development of the country.

Despite the fact that the draft-law does not refer specifically to children as a separate group, all its provisions directly impact them. The law aims to protect the environment to ensure the protection of human life, including that of children, and ensure a good quality of life. All children and adults are impacted equally by this draft-law and it is unlikely that a particular group will be impacted more or less.

The consultation should also involve children themselves as well as the organizations working in the field of child rights protection.

# CRIA ASSESSMENT

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- What are the objectives of this assessment?
- Which articles of the CRC may be relevant to the draft act?
- What impact can the draft-act have on child rights?
- Is any group of children particularly impacted by the draft-law?
- If any potential negative impact has been identified, what has been proposed to mitigate or eliminate it?
- Will the adoption of this act contribute to the rights, protection and well-being of the child?
- What data did you use in your analysis and what information did you get from that data?
- Were children involved in the discussion process for the draft-act and were they included in the CRIA report?

The objectives of this assessment are related to the importance of protecting the child and his/her rights. This assessment aims to analyze whether the draft-law guarantees the well-being and improvement of the child's life, whether it is based on the basic principles provided under the law on child rights and protection and whether this draft-law contributes to completing the legal and institutional framework in the field of child rights and protection.

The draft-law meets all the goals provided in the law on child rights and protection therefore completing the legal framework, taking into consideration child protection principles and aiming at improving child life quality.

Children are not a special group taken under protection by the draft-law and this act does not regulate issues related to the implementation and protection of child rights in particular, thus the application of the principle of the best interest of the child cannot be analyzed.

The draft-law specifically addresses the provisions under Article 24 of the CRC related to the protection of life and health as well as under Article 29 regarding the education of the child in view of the environment to benefit and serve the environment and its continuous improvement.

The draft-act directly impacts child rights and protection, considering it aims to reduce risks posed to the life of man and child. All children are impacted by this draft-act and there is no particular group that is impacted more.

The analysis did not identify any possible negative impacts; on the contrary, it is predicted to have positive impacts in many aspects of ensuring the well-being of all children, equally and without discrimination.

For drawing this analysis, reference was made to the principles of child rights and protection and the best international practices in the field of environmental protection and protection of the child and his rights. This draft-act also approximates the EU act on environmental responsibility, prevention and remedying of damage to the environment.

The children were invited through the website of the Ombudsperson to participate and contribute to this analysis as well as to the consultation about the content of the draft-law.

# CRIA REPORT

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- Which groups were consulted in the framework of this assessment?
- Were children themselves involved in this process and how?
- Which were the main findings of the assessment and how did they impact child rights and protection?
- Was the potential impact assessed as positive or negative?
- What proposal has been made to mitigate or avoid potential negative impact, if any?
- What impact will the approval of that draft-act have on the child rights and protection situation and on the fulfillment of the country's obligations under the CRC?
- How can we assess and monitor the impact of the draft-act after its approval?

In the framework of this assessment, child groups and organizations operating in the field of child protection were consulted. Organizations operating in the field of environmental protection were also consulted.

The assessment findings suggest a positive and direct impact on child rights and protection, be it as beneficiary of the draft-act as well as a group that should be consulted and heard in accordance to the development and comprehension level in regard to the issues addressed by the draft-act.

The approval of this draft-act will contribute to the situation of human rights and protection and especially to the protection of their life and health, also ensuring well-being and development in a healthy environment.

# COMMUNICATION METHOD AND NOTIFICATION OF THE CRIA REPORT

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- Through which communication channels will the CRIA Report be notified?
- Which are the target groups?

This report is submitted to the Ministry of Tourism and Environment along with the request to the line ministries and the public to be part of the consultation package on the draft-act.

It will also be available on the Office of the Ombudsperson's official website aiming to reach as many children, institutions and NGOs.

# CHILD RIGHTS IMPACT ASSESSMENT OF ENVIRONMENTAL POLICIES AND LAWS

THROUGH THE CHILD RIGHTS IMPACT  
ASSESSMENT TOOL



**Save the Children**

Rruga: Mihal Popi, Ndërtesa 7, ish Pallatet 1 Maji, (Vila Lami);  
PO Box 8185, Tiranë - Shqipëri; Tel: +355 4 2261840 / 4 2261929



[info.albania@savethechildren.org](mailto:info.albania@savethechildren.org)



[https:// albania.savethechildren.net](https://albania.savethechildren.net)



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SaveChildrenAlb



savethechildreninalbania