

# Niger

## EIA profile

**Updated to:** 15 February 2021

### Overview ESIA procedure

The stages of the ESIA procedure are found in the decree determining the principles of environmental assessment (EA) (2019-027). The National Environmental Assessment Office (BNEE) is responsible for ensuring the implementation of the EA in Niger.

The EA procedure is described on the BNEE website:

<https://www.bnee.ne/procedure-administrative-devaluation-environnementale/>

The steps of the procedure for the Environmental Impact Assessment are:

- Screening- categorization of the project;
- Scoping, elaboration of the terms of reference;
- Carrying out the study;
- The examination of the report;
- Decision making;
- Implementation;
- Monitoring and control.

Each project is classified in one of four categories. Category A projects are subject to a detailed ESIA, those in B are subject to a simplified ESIA or Environmental and Social Impact Notice. Projects in categories C and D are not subject to an ESIA or Notice.

### Screening

#### Screening process

The BNEE reviews the project brief, to ensure project categorization, and to determine which study (detailed or simplified ESIA) the project is submitted to.

#### Contents of the starting document

For projects in category A or B, it is necessary to submit a request for completion of the ESIA, together with the ToR of the study.

For non-categorized projects, the application must be accompanied by the project brief, including a description of the project and anticipated impacts. The BNEE proposes a categorization of the project to the Ministry in charge of environment (MESU / DD).

## Timeline Screening

The BNEE has 5 days before the screening should be submitted to the Ministry. The Ministry subsequently has 5 days to share this with the project promotor.

## Scoping

### Scoping process

For projects subject to an ESIA, the proponent develops Terms of Reference (ToR). The content of the ToR is not defined in the law.

### Timeline scoping

The BNEE has 21 days to review the ToR and give its opinion on the ToRs the Ministry. The Ministry responds to these assessments to the proponent within seven days.

## Assessment

### Contents of the EIA report

According to Decree no. 2000-397, the minimum content of a detailed ESIA report is:

- An appreciative / non-technical summary;
- An introduction that outlines the report;  
A complete description of the project, including the planned activities, developments and works, as well as a description of the releases, an estimate of the project costs and the schedule of completion;
- An analysis of the initial state of the site and its environment;
- A sketch of the project's political, legal and institutional framework;
- A presentation of the different possible variants of project realization (geographical location, technological availability, operational techniques), as well as a comparison of these variants and the selection of the preferable variant;
- Climate change adaptation and resilience planning and mitigation, and effects on threatened or declining migratory species and their habitats;
- Effects on Gender and Vulnerable People  
An assessment of the environmental risks and impacts (positive or negative, direct, indirect or cumulative in the short, medium and long term) related to the implementation of the project;
- Identification and description of preventive measures, control, suppression, mitigation and compensation of negative impacts;
- An Environmental and Social Management Plan that includes a mitigation and / or impact improvement program, an environmental monitoring program and a stakeholder capacity building program, an estimate of the costs of the various programs;
- A general conclusion that focuses on the main measures to be taken to limit and / or eliminate the most significant negative impacts;

- Annexes.

A simplified ESIA or Impact Notice has the same content but without the presentation of possible variants of the project.

### **Accreditation of consultants**

The promoter uses a consultant approved by the MESU / DD. When the consultant is not under Nigerien law, he is required to enlist the services of a Nigerien consultant.

The BNEE is responsible for issuing approvals to environmental assessment consultants. The BNEE's website lists approved consultants.

## **Review**

### **Review process**

The analysis of the EA report to verify the validity of the content is organized by the BNEE.

This analysis includes a verification and public hearing mission as well as the examination of the report during a session of the ad hoc committee.

### **Review expertise**

The ad hoc committee is made up of representatives of ministries, MESUDD and local governments. In total, the ad hoc committee can consist of more than 30 people (see source for an example).

The ad hoc committee meets for two or three days to discuss the elements of the ESIA and request explanations from the promoter, who must be present during the procedures.

### **Timeline Review**

Analysis is conducted in 30 days, maximum.

## **Decision making**

### **Integration of ESIA into decision-making**

The environmental assessment report is required to obtain the Certificate of Environmental Conformity (CCE).

The CCE is the authorization issued by MESUDD at the end of an administrative environmental assessment procedure to notify the environmental and social compliance of the project.

### **Decision justification**

When the ESIA Report is rejected, a reasoned notification is made to the promoter.

(The law does not include requirements on the justification and publication of decisions)

### **Timeline decision-making**

The final ESIA report is sent to MESUDD, which has 14 days to take a decision

### **Follow-up**

#### **Compliance monitoring**

The promoter is responsible for the implementation of the environmental and social specifications. It transmits to MESUDD the periodic reports on the implementation of the Environmental and Social Specifications. This Cahier enumerates the clauses, conditions and modalities of the implementation of the environmental and social obligations of the project.

The BNEE performs environmental monitoring / control of the Environmental and Social Specifications.

#### **Non-compliance penalties**

The CCE is suspended in the event of non-compliance with the provisions of the environmental and social specifications.

### **Stakeholder engagement**

#### **Public participation requirements for ESIA process stages**

The provisional ESIA report is made public by the BNEE.

The BNEE analysis includes a verification and public hearing mission.

The ESIA reports are kept by the BNEE in paper and digital versions. They are made public and can be consulted by any natural or legal person who expresses the need.

(An order from the Minister responsible for the environment will define the modalities for public participation, but has not yet been published.)

#### **Access to information**

The ESIA reports are kept by the BNEE in paper and digital versions. They are made public and can be consulted by any natural or legal person who expresses the need.

Certain technical details of the processes may be withheld from public information upon a motivated request from the promoter deemed acceptable by the BNEE.

### **ESIA practice**

#### **Central ESIA database**

The BNEE maintains a website where various completed ESIA and SEA are kept.

source

<https://www.bnee.ne/>

## Professional bodies

The Nigerien Association of Environmental Impact Assessment Professionals (ANPÉIE) aims to promote the taking into account of environmental concerns; bring together all professional and non-professional people interested in EE; improve the quality of ESIA; support grassroots communities; contribute to informing and sensitizing national authorities and populations on environmental impacts; and so on.

## Background information

### Legal framework

#### Enabling law

There are some significant laws for the Environmental Assessment (EA) system in Niger. In descending order:

- The Nigerien constitution, which ensures the evaluation and control of the impacts of any project and development program on the environment.
- Law no. 2018-28, determining the fundamental principles of the Environmental Assessment in Niger.
- Some legal decrees on: the attribution, organization and functioning of the BNEE; the administrative assessment procedure; activities subject to ESIA.

source

(Ordonnance 97-001 (1997) and Loi no. 98-56 (1998) are abrogated by the new environmental law loi 2018-28)

#### Sector specific procedures or regulations

A few specific procedures have been defined, including but not limited to:

- petroleum code, loi no. 2007-01.
- Planning Policy Guidance Act, no. 2001-032.

#### Scope of application

According to article 2 of law 2018-28, the environmental assessment applies to policies, strategies, plans, programs, projects or any other activities that may affect the biophysical and human environments, carried out in whole or in part in the territory national.

#### Exemptions from application

Projects in Category C or D are exempt from an ESIA. The law does not list other projects that are exempt from an ESIA, such as projects related to the military sector.

## Institutional setting

### Central ESIA authority

The BNEE, under the Ministry in charge of the Environment, has jurisdiction over all activities for which an ESIA is mandatory or necessary.

### (De)centralisation of mandates

The BNEE is represented at the regional, departmental and municipal levels by the Regional, Departmental and Communal Departments in charge of the Environment.

### Payment system

Article 26 of the 2018 ESIA Law in Niger opens an Environmental Evaluation Support Account (*Fonds d'Appui à l'Evaluation Environnementale*, FAEE), which aims to finance and promote ESIA in Niger. FAEE is available for pre-project review fees, ToR validation fees, and Environmental Certificate signing fees.

The costs of handling files subject to an ESIA are defined in the EA Procedure Decree.

source

Decree determining the principles of the Environmental Assessment, 2019.

### Contact

The National Office of Environmental Assessment (BNEE) under the authority of the Ministry of the Environment, Urban Sanitation and Sustainable Development (MESU / DD) is the focal point for ESIA in Niger.

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source

<https://www.sifree.org/static/uploaded/Files/repertoire-des-membres/pdf/BEEEI.pdf>