EFFECTIVENESS CRITERIA FOR EIA FOLLOW-UP GOVERNANCE AT THE MACRO LEVEL

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Abstract

This paper explores how EIA follow-up governance (i.e., the processes and structures required for ensuring commitment to implement the principles of EIA follow-up), influences EIA effectiveness through the identification of best practice principles and criteria. Stakeholders' perceptions, gathered through qualitative research methods, most notably a policy Delphi, were evaluated against these best practice principles and criteria in order to assess EIA follow-up governance effectiveness at the jurisdiction (macro) level.

Background

EIA follow-up governance incorporates all the processes, mechanisms and arrangements required to enable the implementation of EIA follow-up (Arts & Morrison-Saunders, 2022). Governance, together with monitoring, evaluation, management and participation (i.e., engagement and communication), are the follow-up elements essential to understanding the outcomes of development projects which are subject to EIA (Arts & Morrison-Saunders, 2022; Morrison-Saunders et al., 2021).

Noting how regrettably, EIA follow-up is overlooked in terms of implementation, this paper aims to (i) identify best practice principles and criteria for effective EIA follow-up governance, and (ii) understand what would constitute effective EIA follow-up governance at the jurisdiction (macro) level, while utilising Malta[1] as a case study.

Formulating the best practice principles

The formulation of the EIA follow-up governance best practice principles is mainly influenced by the following works: (i) Hanna and Noble (2015) who utilise a Delphi study to identify effectiveness criteria for environmental assessment, (ii) Pope et al. (2018) who propose an EIA effectiveness framework with four dimensions – procedural, substantive, transactive and legitimacy, (iii) Pinto et al. (2019) who distil the EIA follow-up best practice principles into 24 criteria aimed to aid qualitative assessment of EIA follow-up performance of a project, (iv) Arts and Morrison-Saunders (2022) who define the five key elements of impact assessment (IA) follow-up and subsequently the 15 IA best practice principles, and (v) Morrison-Saunders et al. (2023) who reflect on the 12 best practice principles for public participation in IA follow-up proposed by Morrison-Saunders and Arts (2023). These served as the foundations for the EIA follow-up governance best practice principles and criteria, as follows:

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[1] Malta (i.e., the islands of Malta, Gozo and Comino) has a total geographical area of 316km², and a total population of 519,562 in 2021 (NSO, 2022), with the highest population density in the European Union (1320 persons per square kilometre).

Box 1: Best practice EIA follow-up governance principles

Applying the best practice principles and criteria

The policy Delphi

The best practice principles and criteria for effective EIA follow-up governance were tested against the results of a policy Delphi, which highlighted stakeholders' perceptions of EIA follow-up, EIA follow-up governance and EIA effectiveness. The policy Delphi was carried out with a group of stakeholders actively involved in EIA, as a sample of policy-specific experts (Beiderback et al., 2021; Franklin & Hart, 2007; Turoff, 1970), including project proponents, architects, EIA consultants, local council associations, government entities and eNGOs. Whilst a total of approximately 50 invites were distributed, 18 participants agreed to participate. A total of 12 and 10 complete responses were received for the first and second rounds of the policy Delphi, respectively. The questions, sent via electronic mail, consisted of two rounds of open-ended questions, with the responses analysed and utilised to test the best practice EIA follow-up principles and criteria.

The evaluation tables

The following tables provide an evaluation of the effectiveness of EIA follow-up governance in Malta:

EIA follow-up governance principles *Procedural*	Detailed criteria for effective EIA follow-up governance		Stakeholder Responses	Comments on Reponses
1. Have a *legislative* framework which specifies EIA follow-up requirements.	A. Is follow-up a requirement for all EIAs?		Partial	As acknowledged by most of the research participants, the current EIA regulations do include provisions specific to monitoring, surveillance and other post-permit analysis (Regulation 32b in the relevant legal notice – S.L. 549.46) and that references to EIA follow-up is vague. Whether EIA follow-up should be a requirement for all EIAs was considered debatable.
	B. Are processes in place for each component of EIA follow-up?		Partial	Research participants associate EIA follow-up to mostly monitoring arrangements; very limited number acknowledged the evaluation and auditing aspects. All acknowledged that there are no processes in place for management, communication and engagement.
		(i) Are processes in place for monitoring?	Yes	Research participants acknowledged that monitoring is an essential component of EIA follow-up and is being carried out.
		(ii) Are processes in place for evaluation?	Unable to judge	Limited number of research participants acknowledged that processes for evaluation and auditing are in place for EIA follow-up.
		(iii) Are processes in place for management?	No	None of the research participants acknowledged such processes being in place.
		(iv) Are processes in place for stakeholder communication and engagement?	No	None of the research participants acknowledged such processes being in place.
	C. Are the above processes implemented in practice?		Partial	Only for monitoring requirements.
	D. Have any guidance documents to aid the appropriate implementation of EIA follow-up processes been published?		No	None of the research participants were aware of any guidance documents related to EIA follow-up.
2. Establish clear identification of *responsibilities* in EIA follow-up.	A. Is there staff within the regulatory authority with specific responsibilities for EIA follow-up?		Partial	Research participants acknowledged that there are no staff members within the regulatory authority with specific responsibilities for EIA follow-up except those related to monitoring and compliance.
	B. Are the responsibilities of all stakeholders for follow-up, i.e., regulator/s, project proponent/s, eNGOs and the public clearly identified?		Unable to judge	Clear identification of responsibilities for follow-up is required.
3. Specify *compliance and enforcement* provisions.	A. Do the regulations include provisions for compliance and enforcement, in relation to EIA follow-up?		Unable to judge	Limited information regarding compliance and enforcement provided by research participants; proposed inclusions for specific provisions in regulations.
	B. If yes, is a penalty system related to enforcement and compliance in place?		Unable to judge	Limited information regarding compliance and enforcement provided by research participants; proposed inclusions for specific provisions in regulations.

Table 1: Stakeholders' perceptions of procedural effectiveness of EIA follow-up governance

EIA follow-up governance principles *Substantive*	Detailed criteria for effective EIA follow-up governance		Stakeholder Responses	Comments
4. Ensure *reporting* of EIA follow-up outcomes, to facilitate *adaptive management* and	A. Are EIA follow-up outcomes reported to all stakeholders, including the public?		Unable to judge	Very limited information available; organisation of an annual EIA forum to share EIA outcomes, including EIA follow-up outcomes with stakeholders has been suggested by the participants.

promote continuous *learning from experience* to improve future practice.	B.	Have all (significant) impacts of a project been addressed?	Unable to judge	Only the regulators would be aware of whether all significant impacts of a project would have been addressed.
	C.	Have all mitigation measures been implemented?	Unable to judge	Only the regulators would be aware of whether all significant impacts of a project would have been addressed.
	D.	Is there opportunity/evidence of learning within project/s?	Unable to judge	No such evidence/opportunity was traced.
	E.	Is there opportunity/evidence for adaptive management?	Unable to judge	No such evidence/opportunity was traced.
	F.	Is there opportunity/evidence for learning/sharing with other proponents and/or stakeholders?	Unable to judge	No such evidence/opportunity was traced.
5. Establish clear, pre-defined and well-justified *performance criteria* for EIA follow-up.	A.	Are clear EIA follow-up performance criteria pre-identified in order to appraise information, results and outcomes emerging from follow-up actions?	No	No such criteria are pre-identified in order to assess EIA follow-up performance. None of the stakeholders were aware of such.
6. Have a *clear understanding* of the purpose and importance of EIA follow-up.	A.	Are all stakeholders informed of the purpose of EIA follow-up?	Unable to judge	No; information regarding EIA follow-up is limited.
	B.	Are there provisions for communicating the importance of follow-up?	No	No; no evidence of such outreach or communication was identified.
	C.	Is there clear and ongoing collaboration between regulatory authorities who are responsible for EIA follow-up?	Unable to judge	More collaboration between the regulatory authorities, i.e., the PA and the ERA and other authorities was deemed necessary.

Table 2: Stakeholders' perceptions of substantive effectiveness of EIA follow-up governance

EIA follow-up governance principles *Transactive*	Detailed criteria for effective EIA follow-up governance		Stakeholder Responses	*Comments*
7. Allocate adequate *resources* to ensure EIA follow-up.	A.	Do both the regulators and the project proponent/s have adequate human resources to ensure the carrying out of EIA follow-up?	Unable to judge	Information related to the allocation of human resources in relation to EIA follow-up is limited to not available.
	B.	Is appropriate time being allocated by both the regulators and the project proponent/s towards EIA follow-up?	Unable to judge	Information related to the allocation of time to EIA follow-up is limited to not available.
	C.	Are enough financial resources being allocated by both the regulators and the project proponent/s towards EIA follow-up?	Unable to judge	Information related to the allocation of financial resources and budgetary requirements to EIA follow-up is limited to not available.
8. Ensure that governance arrangements are *appropriately efficient and effective.*	A.	How did the environmental outcomes come about? (i.e., to what extent can the outcomes be attributed to EIA follow-up governance specifically?)	Unable to judge	Limited or unknown in view of the limited information available on EIA follow-up.
	B.	Was there evidence of redundancy or inefficiency in EIA follow-up processes by the regulator? (e.g., did the stakeholders identify ways these processes could be have been done more efficiently and effectively by regulators?)	Unable to judge	Limited or unknown in view of the limited information available on EIA follow-up.

Table 3: Stakeholders' perceptions of transactive effectiveness of EIA follow-up governance

EIA follow-up governance principles *Legitimacy*	Detailed criteria for effective EIA follow-up governance	Stakeholder Responses	Comments
9. Ensure *transparency* and *accessibility* of EIA follow-up to all stakeholders/parties involved	A. Have regulators and/or project proponents taken reasonable steps to make EIA follow-up accessible to all stakeholders, including the public? (e.g., provisions of non-technical summaries, printed material, dedicated websites, social media accounts?)	No	No such steps have been taken in terms of EIA follow-up; however, research participants made detailed proposals for addressing this issue.
	B. Are there appropriate feedback mechanisms in place where all stakeholders and the public can provide feedback in relation to EIA follow-up, ensuring transparency and legitimacy?	No	No such feedback mechanisms are in place; however, research participants made detailed proposals for addressing this issue.
10. Ensure *legitimacy* of EIA follow-up governance arrangements.	A. Were the existing governance arrangements upheld or delivered appropriately by regulators in the views of stakeholders?	Unable to judge	Not known as no mechanisms are in place to seek views of stakeholders.

Table 4: Stakeholders' perceptions of legitimacy of EIA follow-up governance

Reflections and Conclusions

This paper has presented how EIA follow-up governance best practice principles can be applied to evaluate its effectiveness at the jurisdiction (macro) level. The evaluation framework provided a focused assessment of EIA follow-up governance in Malta. Application of the principles proved to be relatively easy. This offered clear feedback in relation to the performance of EIA follow-up governance. It is evident, however, that the lack of information available on both EIA follow-up governance may hinder a robust judgement of its performance.

The best practice principles and criteria highlighted the current state of play in relation to EIA follow-up governance, but also identified deficiencies that would warrant improvements in their effectiveness. They are designed to enable any interested party to evaluate any jurisdiction worldwide implementing EIA follow-up, to provide guidance and enable best practice, rather than acting as a compliance check-box tool. In conclusion, understanding governance processes, arrangements and mechanisms is vital in making EIA follow-up happen.

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