

# What you should know about the Environmental Impact Study in Panama

Law 41 of 1998 “General Environmental Law of the Republic of Panama”, governed by Executive Decree No. 123 of 2009, which regulates the Environmental Impact Study in Panama.

To quantify and mitigate the impacts that could be generated during a project, the Environmental Impact Study (hereinafter EIS) is the most effective method to evaluate repercussions, as determine what must be done to protect human health, preserve biodiversity and conserve the ecosystem.

In addition, the EIS allows civil society to get involved to avoid, correct or mitigate the negative impacts of works, projects or activities that can affect communities and the environment.

In Panama, the EIS is duly regulated through [Law 41 of 1998 “General Environmental Law of the Republic of Panama” \(currently in Chapter III of Title II - Unique Text\)](#), regulated by Executive Decree No. 123 of 2009 and its amendments (hereinafter Decree No. 123), concerning the Environmental Impact Assessment Process, in connection with the environmental risks associated to the implementation of activities, works or projects, whether public or private.

In this sense, as part of the Environmental Impact Assessment Process, it is established that, to before the beginning of any activities, works, or projects listed in article 16 of Decree No. 123, or when it is considered that a project’s activities may affect environmental

protection or generate environmental risks (arts. 17, 22 and 23 of Decree No. 123), an EIS will be required, understanding it as a “Document that results from the integration of environmental variables in the design, formulation, and execution of works, activities, and projects. It describes their characteristics and provides founded background for the identification, interpretation, and projection of environmental impacts. In addition, it describes the measures to avoid, reduce, correct, compensate and control significant adverse impacts.” (Numeral 41 of Article 2 of Law 41 of 1998 -Unique Text-).

The Promoter, who undertakes the activities, works, or projects that could generate an environmental risk, must request the preparation of the EIS to a qualified, independent, and authorized Environmental Consultant, duly registered in the Registry of Environmental Consultants of the National Environmental Authority -now Ministry of the Environment (hereinafter Mi-Ambiente)- being, both, the Promoter and the Environmental Consultant jointly and severally liable for the content of the EIA.

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## Classification of EIAs

Depending on the level of elimination, mitigation, and/or compensation of potential negative environmental impacts, the EIS may be classified as Category I, II, or III (Article 24 of Decree No. 123).

Category I EIAs may generate non-significant negative environmental impacts and do not entail significant environmental risks.

Category II EIAs may generate significant negative environmental impacts that partially affect the environment, which can be eliminated or mitigated with known and easily applicable measures.

Category III EIAs may generate indirect, cumulative, and/or synergistic negative environmental impacts of quantitative and/or cumulative significance, which require more in-depth analysis for their evaluation and the identification and application of the corresponding mitigation measures.

## EIAs and citizen participation

Citizen participation is a fundamental aspect in the elaboration and approval of an EIA. According to Article 30 of Decree No. 123, it is mandatory to involve citizens in the process of elaborating an EIA, which implies the preparation and execution of a Citizen Participation Plan that identifies the key actors within the area of influence of the project, work or activity, the participation techniques used, the contributions of the community, the form of resolution of possible conflicts that may arise, among others.

To ensure effective citizen participation in the EIA preparation process, the Promoter must publish and disseminate an excerpt of the EIA in a national newspaper, television, or radio media, among others.

Different participation mechanisms or techniques are also established depending on the categorization of

the EIA.

Thus, in Category I EIAs, participation techniques such as interviews and surveys must be used.

In Category II EIAs, in addition to the presentation of the corresponding Citizen Participation Plan, a formal citizen consultation is required so that any observations or objections deemed necessary can be raised during the EIA review stage and with the procedure outlined in Decree No. 123.

In Category III EIAs, it is established that, in addition to the provisions of the previous paragraph, a public forum must be held during the evaluation phase and before the EIA decision phase. The public forum may be attended by all persons who wish to learn about or provide comments on the EIA and must be held mainly in the community or district where the project, work, or activity is located unless the Promoter



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justifies holding it elsewhere, and this is accepted by MiAmbiente. It should be noted that the public forum may also be implemented for Category II EIAs, at the request of the community, organized civil society, or when required by MiAmbiente.

MiAmbiente will also have the power to request information from organized civil society, scientific and academic entities, as well as individuals, to obtain their observations on the possible environmental impacts included in the EIA.

## Procedure for the evaluation of EIAs

The administrative procedure for the evaluation of EIAs comprises the following phases (Articles 41-43 of Decree No. 123 and Article 9 of Law 41 of 1998 - Unique Text -):

**Admission Phase:** It begins with the electronic (via web) and formal submission of the EIA in MiAmbiente. During this phase, it will be received and verified according to its category, if the EIA complies with the minimum contents established in Article 26 of Decree No. 123.

**Evaluation and Analysis Phase:** During this phase, MiAmbiente, together with the competent environmental units created within the governmental and municipal entities, will review the EIA according to its category, evaluating its technical, environmental, and environmental sustainability aspects, in connection with the compliance with the formal and substantive contents required by Decree No. 123.

In this regard, it will be verified whether the project, work, or activity that is the subject of the EIA does not significantly affect the environmental protection criteria, or whether adequate mitigation, compensation or remediation measures are presented.

**Decision Phase:** During this phase, the decision to approve or reject the EIA will be formalized through an Environmental Resolution. If approved, Mi-



Ambiente will be responsible for monitoring, controlling, supervising, and evaluating the execution of the Environmental Management Plan and the content of the approved EIA, in conjunction with the competent environmental units created within the governmental and municipal entities for such purposes.

In summary, it is important to know the formal, procedural, and substantive requirements to correctly determine the EIA category that corresponds to the activity or work to be executed, in connection with the Citizen Participation Plan to be implemented, all to comply and have an approved EIA as an indispensable requirement before being able to initiate activities or works. The above is a determining factor to execute and complete a project that considers the protection of human health, biodiversity, and the ecosystem within the foreseen time frame.

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