

ENVIRONMENT FOR EUROPE
UN ENVIRONNEMENT POUR L'EUROPE
ОКРУЖАЮЩАЯ СРЕДА ДЛЯ ЕВРОПЫ
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ENVIRONMENT FOR EUROPE

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SOFIA INITIATIVE: ENVIRONMENTAL IMPACT ASSESSMENT
SUMMARY REPORT FOR THE FOURTH MINISTERIAL
CONFERENCE "ENVIRONMENT FOR EUROPE"

prepared by

Croatia and the Regional Environmental Center for Central for Central
and Eastern Europe

BACKGROUND DOCUMENT



UNITED NATIONS
ECONOMIC COMMISSION FOR EUROPE

Summary Report to the Aarhus Ministerial Conference

Executive Summary

Most of the Central and Eastern European countries (with an exception of Albania, FYR of Macedonia, Yugoslav Republic of Serbia and Bosnia and Herzegovina) have till April 1998 adopted their national Environmental impact assessment (EIA) laws or decrees. As of April 1998, Albania and FYR of Macedonia have prepared final drafts of their first EIA decrees whose adoption can be expected by the end of 1998. The Czech Republic, Estonia, Latvia and Poland have as of April 1998 drafted amendments of their national EIA Acts that incorporate requirements of the amended EIA Directive of the European Union (97/11 EEC) and of the UN/ECE Convention on EIA in Transboundary Context.

The Sofia Initiative on EIA analyzed the state of the EIA application in the following areas:

- Use of Strategic Environmental Assessment in CEE/NIS;
- Use of Public Participation within the EIA systems in CEE/NIS;
- Use of Social Impact Assessment within the EIA systems in CEE/NIS;
- Accreditation of EIA Experts in CEE/NIS.

Having studied the EIA application in these areas, the Sofia Initiative identified the following priority needs for development of EIA systems in the CEE/NIS region:

- Countries in the CEE/NIS region are advised to undertake pilot SEA applications that comply with internationally agreed standards. National SEA frameworks should be gradually build on the practical experiences with pilot SEA applications. The Environmental Action Program for Central and Eastern Europe and the National Environmental Health Action Programs (EHAP) Processes can effectively provide incentives for pilot national SEA applications.
- The weakest aspect of the EIA-related public participation is the region-wide absence of adequate scoping. General absence of public scoping leads to inefficiency of public participation programs in EIA and is regarded as the weakest point of the EIA systems in the CEE region. EIA systems in the NIS Region that are based on the State Ecological Review and Evaluation of Environmental Impacts may need a major reform to achieve more transparency and accountability. UNEP is invited to undertake capacity building program on scoping practices in the region.
- EIA Systems in both CEE and NIS region suffer from poorly practice assessment of health impact. WHO Europe is invited to undertake major program to support environmental health impact assessment in CEE and NIS.

There is a consensus within EIA practitioners that the governments of the CEE/NIS region should focus on East-East exchanges of expertise to further develop EIA applications. Regional co-operation under Sofia Initiative on EIA to date has resulted in transfer of very practical experience and further informal cooperation among EIA policy-makers and EIA practitioners should continue under this programme.

Background

Role of the Sofia Initiatives within “Environment for Europe” Process

Since the second Ministerial “Environment for Europe” conference in 1993 in Lucerne, Switzerland, many countries of the region have made substantial progress in implementing the Environmental Action Program for Central and Eastern Europe (EAP). The EAP recommends that priority environmental problems be tackled through a mix of policy, institutional and investment measures.

Prior to the 1995 “Environment for Europe” conference in Sofia, high level CEE officials met in two Consultation Meetings to set up regional initiatives to accelerate implementation of EAP in CEE and NIS countries:

- Environmental Impact Assessment,
- Economic Instruments,
- Biodiversity, and
- Local Air Pollution.

The Sofia Conference in 1995 welcomed the above initiatives for acceleration of the EAP implementation. This act of Environmental Ministers established a new type of regional environmental activity which differs from other international programs by the fact that they:

- were independently initiated by CEE governments;
- are tailored on the very specific needs of CEE and NIS countries within the given focus of the initiative; and
- are almost solely implemented by CEE and NIS experts.

Implementation of the Sofia Initiative on Application of Environmental Impact Assessment

The Initiative on the Application of Environmental Impact Assessment (hereinafter Sofia Initiative on EIA) is led by the Republic of Croatia. The goal of the Initiative was to support development and upgrading of Environmental Impact Assessment (EIA) in CEE and NIS countries. The Initiative was jointly implemented by the State Directorate for the Protection of Nature and Environment of the Republic of Croatia (SDE) and the Regional Environmental Center for Central and Eastern Europe (REC) under assistance of the United Nations Environment Programme (UNEP), Danish Environmental Protection Agency (DEPA), United States Environmental Protection Agency (US EPA), World Health Organisation Europe (WHO Europe), UN Economic Commission for Europe (UN/ECE) and other international and donor organisations.

First Regional Workshop on EIA Application in the CEE/NIS region. The first Meeting of the Sofia EIA Initiative was held in Split on September 26-28, 1996. The meeting was attended by qualified representatives of Croatia, Estonia, Hungary, Kyrgyz Republic, Latvia, Russian Federation. It provided fundamental recommendations for elaboration of the implementation plan of the Sofia Initiative on EIA. The recommendations obtained at the Split meeting led towards the following proposed projects within the framework of the Sofia EIA Initiative:

Project A: Use of Strategic Environmental Assessment in CEE and NIS.

Project B: Use of Public Participation within the EIA systems in CEE and NIS.

Project C: Use of Social Impact Assessment within the EIA systems in CEE and NIS.

Project D: Accreditation of EIA Experts in CEE and NIS.

Second Regional Workshop on EIA Application in the CEE/NIS region took place from September 29 to October 1, 1997 at the premises of the Regional Environmental Center, Szentendre, Hungary. The workshop was attended by officially designated ministerial EIA experts from: Albania, Armenia, Bulgaria, Croatia, Estonia, Hungary, Latvia, Lithuania, FYR of Macedonia, Moldova, Poland, Russian Federation, Slovakia, Slovenia, Yugoslavia and Yugoslav Republic Montenegro. Representatives of NGOs included: Ecologia (Belarus) and NGO Ecoline (Russian Federation), invited observes and speakers were from Institute for Environmental Assessment (UK), University of Manchester (UK), Institute of Environmental Protection (Poland), Slovak Technical University (Slovakia), Institute of Applied Ecology (Czech Republic). The workshop was attended by representatives of UNEP, WHO Europe,

US EPA, European Commission-DG XI, EBRD, World Bank, UN/ECE and REC.

The purpose of the workshop was to facilitate exchange of experience and development of regional projects in: the Use of Strategic EIA within EIA and Land-use Planning systems in CEE and NIS; the EIA Quality Control through Accreditation of EIA Experts in CEE and NIS, and the Use of Social Impact Assessment within EIA systems in CEE and NIS.

The workshop discussed in each of the above priority areas the state of art in CEE and NIS through series of Country Briefings. Country Briefings were followed by discussion of the regional priority needs to be addressed by the Sofia EIA Initiative and other international programs on EIA development in CEE and NIS.

Regional Workshop on Strategic Environmental Assessment Practices in CEE/NIS region constituted an expert working group meeting that followed the recommendations of the Szentendre workshop. The workshop took place from February 4 - 7, 1998 in Prague, Czech Republic under sponsorship by the Danish Environmental Protection Agency. The workshop participants included officially designated EIA experts from Bulgaria, Croatia, Czech Republic, Latvia, Lithuania, FYR of Macedonia, Russian Federation, Slovakia, and Slovenia. NGO representatives included from Russian Federation (Ecologia) and Belarus (Ecoline). International representatives participated from the Institute of Environmental Assessment (UK), UNEP, UN/ECE, the Environmental Law Institute (USA) and the REC. The purpose of the workshop was to facilitate the exchange of experience and the development of regional capacity for environmental assessment of plans, programs, and policies. The workshop focused on case studies prepared by the country experts analysing existing elements of SEA in land use planning processes and in the development of national sectoral policies. The workshop discussion focused on identifying common regional principles for SEA and developing an action plan for strengthening the understanding and application of environmental assessment in the development of plans, programs, and policies in the region.

Third Regional Workshop on EIA Application in the CEE/NIS region took place on May 14-15, 1998 in Oslo, prior to the First Meeting of the Parties to the UNECE Convention on EIA in Transboundary Context. The workshop was sponsored the DEPA US EPA. The workshop participants included officially designated EIA experts from Bulgaria, Croatia, Czech Republic, Hungary, Latvia, Macedonia, Poland, Russia, Slovakia, and Slovenia. NGO representatives participated from the CEE Bankwatch Network, Ecologia (Belarus) and Center for Environmental Projects (Russian Federation). International representatives participated from UNEP, UN/ECE, US EPA, the Environmental Law Institute (USA) and the REC. The workshop discussed findings of the Initiative's projects "Use of Strategic Environmental Assessment in CEE/NIS Region" and "Use of Public Participation Within the EIA Systems in CEE/NIS Region". The workshop also discussed implementation plan for the Sofia Initiative after the Aarhus Ministerial Conference.

Key Findings of the Sofia Initiative on EIA

Use of Strategic Environmental Assessment in CEE and NIS

Strategic environmental assessment (SEA) is a process that helps governments to assess environmental impacts of proposed development policies, plans and programs. SEA enables policy-makers to promote public participation in broad environmental policy-making, identify and predict cumulative impacts of broad governmental programs and take this information early into account in policy-making.

The Sofia Initiative concentrated on two types of the SEA - environmental assessment of land-use plans in the CEE/NIS and environmental assessment of national policies in the CEE/NIS. Findings of the Sofia Initiative on EIA indicate that the national systems of State Ecological Review (SER) and Assessment of Ecological Impacts (OVOS) in the NIS region generally provide opportunities for environmental assessment of central governmental policies, programs and plans, yet these are yet to be properly implemented in the actual practice. Formal SEA application for national policies is in the CEE region limited to Bulgaria, Czech Republic and Slovakia. Poland, Hungary and Slovenia begun to apply SEA in informal ad hoc manner. In practice there is very limited practical application of SEA in the CEE region - the pilot of true SEA application occurred only in Slovakia (SEA of the Slovak Water Management Plan and SEA of Slovak Energy Policy up to 2005), Czech Republic (undergoing SEA of Energy Policy up to 2010 and SEA of Transport Infrastructure Development Plan) and Slovenia (SEA of Major Transport Routes in Slovenia).

In sharp contrast with limited application of SEA on national level, there is an extensive experience in the CEE and NIS region with SEAs of regional and local land-use plans. This practice reflects and builds on the traditionally well structured land-use planning systems that are in place in the region. Based on expert evaluations, the following lessons are drawn about SEA practice in land-use planning throughout the CEE/NIS region:

- SEA processes are to be fully integrated within land use planning processes, mainly because of the resistance of land-use planners;
- there is a lack of adequate procedural checks and balances on SEA quality;
- there is insufficient opportunity for public involvement, due to insufficient understanding of appropriate methods of consultation;
- environmental impacts are assessed superficially;
- particular concerns relate to quality of assessment of health and socio-economic impacts;
- little or no attention is given to cumulative effects;
- the quality of SEA practice is constrained by limited resources, lack of information and insufficient procedural and methodological guidance.

In spite of these problems the SEA process in land-use planning is reported to influence decision making, including the selection of the final alternative of the land-use plan. This trend is disturbing and careful attention will need to be given to this fact. The full information on this subject is provided in the following documents for Aarhus Ministerial Conference: "Policy Recommendations on the Use of Strategic Environmental Assessment in the CEE/NIS Region" (ARH.CONF/BD.17) and "Emerging Practices of Strategic Environmental Assessment in the CEE/NIS Region".

In order to remedy limited SEA application on national policies and poorly performed SEA undertaking in land-use planning, countries in the CEE/NIS region are advised to undertake pilot SEA applications that comply with internationally agreed standards. National SEA frameworks should be gradually build on the practical experiences with pilot SEA applications. The EAP and EHAP Processes can effectively provide incentives for pilot national SEA applications. Sofia Initiative on EIA will continue to facilitate SEA capacity building and informal exchange of experience with SEA in the CEE/NIS region.

Development of EIA-related Public Participation in the CEE Region

The Sofia Initiative on EIA undertook a joint comparative study with the REC project on Promoting Progress in Public Participation that came to a conclusion that current EIA systems in the CEE region are predominantly modeled after the EU directive on environmental

assessment of certain projects (85/337/EEC). This brings about certain uniform procedural features that unfortunately do not favor thorough public participation in EIA.

Screening in the CEE is usually based on the formally pre-defined screening lists (usually annexes to the EIA laws and regulations) that formally list activities that are subject to the EIA. Although in some EIA systems do provide opportunity for undertaking screening through initial environmental evaluation (Slovakia, Hungary) there is extremely limited public participation in this process - public is usually only notified about the results of screening without usually having right to appeal against the screening decision.

Neither of the 15 national EIA systems in the CEE region does not provide adequate opportunities for *public scoping* of the EIA documents. Certain form of formalized scoping is applied in Hungary, Lithuania, Romania and Slovakia, yet these do not allow proper public participation.

Formal expert review and public review in most CEE countries complies with the relevant requirements with EU directive (with exception of Latvia, Yugoslav Republic of Montenegro). The actual quality of the civic review is largely predetermined by the quality of public notification about the beginning of the review phase. Public participation in this stage of assessment is especially limited only by the lack of effective forms of public notification. Given the limited extend of public financial support for the NGO activities in the CEE (given by the absence of well developed taxation laws), NGOs community only seldom disposes with enough resources to undertake through review of the EIA documents. This has also indirect effect on quality and extend of NGO participation in the EIA reviews.

EIA system in the CEE tend to partially provide possibilities for thorough *legal review* of the quality of the EIA documents. In some countries (Bulgaria, Hungary, Romania, Slovakia, Croatia, Slovenia) EIA process results in administrative decision which is possible to appeal. Yet in other countries EIA process is conceived as only decision support process whose findings cannot be formally questioned in courts. In such systems, the quality of the EIA related operations deteriorates. Overall findings in this regard point out need for further elaboration of the "access to justice" components in the EIA systems more thorough the CEE region.

Post EIA monitoring is designed mainly to provide remedy for potential oversights of the EIA process. Most of the EIA systems require preparation of post-EIA monitoring plans as a part of the EIA documents, yet there is quite limited application of these requirements. However the EIA laws in Bulgaria and Romania that enable state authorities to limit the permit resulting from the EIA process for certain period of time (e.g. 5 years) provide novel concepts to be followed worldwide.

Concluding Remarks : The weakest aspect of the EIA-related public participation is the almost region-wide absence of scoping that can be attributed especially to inadequate scoping requirements in the EU directives (85/337 and 97/11). General absence of public scoping leads to inefficiency of public participation programs in EIA and is regarded as the weakest point of the EIA systems in the CEE region. A positive feature of the current situation is the fact that this weakness is being properly recognized and that provisions for public scoping are incorporated in the development of the new EIA laws in the region.

EIA Quality Assurance through Accreditation of EIA Experts in CEE and NIS

Environmental Impact Assessment has been in its present form introduced to CEE region only recently. Having realised that the markets that ensure the proper work of EIA consultants have not yet been fully developed, many CEE countries are experimenting with various means of accreditation of EIA experts. Even though the system of EIA accreditation is widely discussed on national level throughout the CEE region, there has been little effort to facilitate regional exchange of experience on this topic.

The Sofia Initiative on EIA at it Second Regional EIA Workshop (September 1996, Szentendre) came up with the following widely supported conclusion that application of EIA Accreditation can easily become counter-productive. The procedure may easily turn into bureaucratic and symbolic element of the EIA system. Accreditation of EIA experts alone therefore cannot ensure adequate quality of the EIA Documents. This quality control can be properly exercised only through an EIA process that is transparent and accountable to all its participants (i.e. use of scoping, full public participation and independent EIA quality review). In light of these findings the Sofia Initiative on EIA recommends that the following priorities issues are tackled:

1. The focus should be on practices and methods used in CEE and NIS with particular reference to:
 - scoping (procedures and approaches used scoping the EIS);
 - public review of the EIS (citizens right to obtain information, right to participate and right to appeal);
 - expert EIS review (independence of the review body and basic criteria used in EIS review);
 - post-decision monitoring in EIA (procedures and institutions); and
 - accreditation of EIA experts. This is optional item since the issue has been discussed in detail and the workshop and the Sofia Initiative have already reached conclusions in this regard;
2. Regional and national capacity building programs are required in support of the issues mentioned above, with the highest priority to be given to national and regional training on scoping practices.

Use of Social Impact Assessment within EIA Systems in CEE and NIS

Social Impact Assessment (SIA) is a systematic analysis of social, economic and cultural impacts of the proposed development interventions, is increasingly becoming a standard part of the EIA practice world-wide. This development of EIA systems can be attributed to growing demand for full and effective public participation in EIA. Many EIA-related legislation in the CEE and NIS countries directly or indirectly require assessment of social and cultural impacts, yet these legal provisions are often not adequately reflected in the actual EIA practice. This fact may be primarily attributed to the lack of practical methodological know-how for SIA among EIA consultants in the CEE and NIS.

The findings of the Sofia Initiative on EIA indicate that:

- social impacts are within EIA usually addressed through:
 - assessment of direct social impacts caused by the development (e.g. division of a community by road, direct aesthetic effects, etc.),
 - risk assessment and assessment of health impacts,
 - direct local economic impacts (decrease of value of local property, etc.),
- there is no uniform approach to assessment of social impacts within EIA,
- identification of social impacts should be improved by better scoping and public review of the EIS,
- assessment of social impacts should be properly reviewed through public review of the EIS.

With respect to SIA, the Sofia Initiative on EIA endorses the need for improved scoping and public participation to better identify social impacts.

Conclusions

Participants of the projects of the Sofia Initiative welcomed the opportunity to meet and informally exchange their views and practical experiences on development of EIA systems. Specifically, several proposals and/or expressions of interest in capacity building were made:

- Sofia Initiative on EIA will continue to facilitate SEA capacity building and informal exchange of experience with SEA in the CEE/NIS region,
- a regional training project on scoping, drawing on practical experience in leading countries should be organized in cooperation with UNEP EIA Capacity Building Program,
- a workshop on environmental health impact assessment in CEE and NIS, should be organized in cooperation with the work undertaken by WHO Europe.

In order to effectively achieve its goals, the Sofia Initiative on EIA will closely coordinate its projects with both EAP and EHAP process. In order to insure proper treatment of potential transboundary aspects of national EIA/SEA applications, Sofia Initiative on EIA shall coordinate its projects with activities under the UN/ECE Convention on EIA in Transboundary Context.

