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**SOFIA INITIATIVE: ENVIRONMENTAL IMPACT ASSESSMENT
POLICY RECOMMENDATIONS ON THE USE OF STRATEGIC
ENVIRONMENTAL ASSESSMENT IN CENTRAL AND EASTERN
EUROPE AND IN NEWLY INDEPENDENT STATES**

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

BACKGROUND DOCUMENT



UNITED NATIONS
ECONOMIC COMMISSION FOR EUROPE

Executive Summary

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. Main features of SEA in the CEE/NIS region include:

- SEA is clearly relevant for integration of environmental concerns into broad national sectoral policies (especially energy, transport, agriculture, forestry, tourism, etc.) and regional and local development plans (i.e. land-use plans, urban development plans, etc.).
- Introduction of SEA relates to implementation of the Article 7 of the proposed Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.
- Most countries in the CEE/NIS region have already established elementary legal grounds to deal with SEA Application and substantive improvements can be achieved by capacity building and expert assistance to SEA experts during the pilot SEA applications.

Pilot SEA applications in the CEE/NIS region should be undertaken as a matter of priority for national policies in the field of energy, transport and agriculture. Pilot applications will be instrumental for development of national SEA systems in the CEE and can be effectively supported within the Environmental Action Program for CEE or the National Environmental Health Action Programs. Practical means of assistance include:

- facilitation of cooperation among governmental administrations responsible for environment and health issues to jointly request pilot SEA applications on national level,
- gradual development of legal frameworks for SEA taking into account lessons learned during pilot SEA applications,
- development of basic procedural as well as methodological resource guides to SEA on national as well as regional basis.

There is a consensus within SEA practitioners in the CEE/NIS region that the governments of the CEE/NIS region should focus on East-East exchanges of expertise to further develop SEA applications. Regional co-operation under Sofia Initiative on EIA to date has resulted in transfer of very practical experience in SEA application, highlighted success stories; and promoted the systematic development of SEA in the CEE/NIS region. Further informal cooperation among EIA policy-makers and EIA practitioners should continue under the Sofia Initiative on EIA.

Background

Introduction to Strategic Environmental Assessment

Strategic environmental assessment (SEA) is a process that facilitates systematic analysis of environmental impacts of proposed development policies, plans and programs. SEA enables policy-makers to facilitate early public participation and societal dialogue, identify cumulative impacts of broad governmental programs that may not be apparent from project-level Environmental impact assessment (EIA) and take this information early into account in policy-making.

SEA application responds to what the World Commission on Environment and Development (1987) called a chief institutional challenge in the 1990s, namely considering “the ecological dimensions of policy at the same time as economic and other dimensions”. Specifically, SEA of policies, plans and programmes focuses on the source of environmental degradation rather than addressing symptoms or impacts at the project level. By doing so, this approach helps society to move toward the “sustainability” agenda for environmental protection. Generally speaking, SEA has the following benefits to decision-making:

- SEA promotes integrated environmental decision-making and public participation in environmental policy making.
- SEA facilitates design of environmental sustainable policies and plans.
- SEA provides for consideration of a larger range of alternative than is normally possible in project EIA.
- SEA takes account, where possible, of cumulative effects and global change.
- SEA strengthens and streamlines project EIA by:
 - prior identification of impacts and information requirements,
 - clearance of strategic issues and concerns,
 - reducing time and effort to conduct EIA reviews.

Development of Legal Frameworks for SEA Applications in the CEE/NIS Region

The international development of SEA, including the release of the EU draft Directive on SEA, has stimulated many CEE/NIS countries to consider strengthening their own procedures for environmental evaluation of proposed governmental policies and apply more thorough approach to assessment of national policies, programmes, and plans.

SEA is being introduced as a new procedure in the CEE/NIS region, but the philosophy behind this process is not new. Former socialist countries had traditionally strong central planning that allowed minor environmental evaluation of proposed policies. Since 1989 the Newly Independent States have built important SEA elements into their systems of State Environmental Review (the State Ecological Expertise) and also many CEE countries have included certain SEA provisions in their first national EIA laws (Bulgaria, Czech Republic, Hungary, Poland, Slovakia). Further to this Central European Countries have since 70ies developed traditionally strong land-use planning systems that incorporated many SEA elements. In both respects, governments of the CEE/NIS region have good reasons to include SEA as a priority area for the reform of their environmental decision processes.

The quality of the current governmental practices in evaluating governmental policies was unclear in the CEE/NIS since no systematic attention was paid to these processes. Due to the lack of comprehensive background information on this subject, the Sofia Initiative on EIA

raised at its Second Regional EIA Workshop for CEECs and NIS (Szentendre, September 1997) a number of questions to whether the existing SEA practice in the region:

- are actually based on the well established formal provisions for SEA application,
- require proper assessment of alternatives of proposed policies, programs and plans,
- require proper assessment of impacts on ecosystems,
- require proper assessment of health impacts,
- require proper assessment of socio-economic impacts,
- stimulate public participation,
- provide adequate procedural checks to ensure quality of SEA documents,
- properly relate to decision process,
- properly relate to project-level EIA,
- provide opportunity for post-SEA monitoring.

In order to provide sufficient answer to these questions, the Sofia Initiative on EIA January-April 1998 undertook a project "Promotion of SEA Application in the CEE/NIS Region" with the aim to:

- map the legal provisions for SEA application under the EIA laws and land-use planning laws in the CEE/NIS region,
- describe available best practices of SEA application within the existing legal frameworks in the region,
- facilitate exchange of experience among practitioners responsible for practical SEA application in the region,
- identify common regional principles in SEA application for plans, programs and policies in the region,
- develop an action plan for strengthening the SEA in the region, and
- provide recommendations SEA-related activities under the "Environment for Europe" Process.

This project, funded by the Danish Environmental Protection Agency, United Nations Environment Program with contribution of the United States Environmental Protection Agency, was implemented through preparation of case studies on SEA Application in 10 CEE/NIS countries (Belarus, Bulgaria, Croatia, Czech Republic, Estonia, Latvia, Lithuania, Russian Federation, Slovakia and Slovenia) and an expert regional workshop on the SEA Practices in the CEE/NIS Region (Prague, February 4-7, 1998). The project participants included officially designated EIA experts from Bulgaria, Croatia, Czech Republic, Latvia, Lithuania, FYR of Macedonia, Russian Federation, Slovakia and Slovenia. The study also involved NGO representatives from Russian Federation (Ecologia) and Belarus (Ecoline) as well as representatives of the U. K. Institute of Environmental Assessment, the United Nations Environment Programme, the United Nations Economic Commission for Europe, the U.S. Environmental Law Institute, and the Regional Environmental Center for Central and Eastern Europe. The World Health Organisation Europe has externally participated in the project.

State of SEA Application in the CEE/NIS Region

Environmental Assessment of Proposed National Policies

The CEE/NIS countries provide two quite distinct approaches to SEA - one based on assessment of national policies, programmes and plans, and second based on environmental assessment of proposed land-use plans. The status of SEA in the CEE/NIS region is summarised in Table 1. In the NIS region, the national systems of State Ecological Review (SER) and Assessment of Ecological Impacts (OVOS) generally provide opportunities for environmental assessment of policies, programs and plans. In the CEE region, the actual legislative base for SEA of national policies is limited to three countries:

- *Bulgaria*. The Bulgarian EIA system is based on Chapter 4 of the Environmental Protection Act (1991). The stipulations of the Act are elaborated and EIA procedures are defined by Regulation No. 1 (1995). The application of EIA is related to a final decision-making process, such as approval of a plan or programme, or a specific project. Under the law, EIA must be carried out for national development programmes, territorial development and urban development plans, as well as for specific projects.
- *Czech Republic*. The Czech Act on Environmental Impact Assessment (No. 244/1992) specifically refers to “development concepts and programs” as being subject to EIA regulation. The basic EIA procedures apply equally to concepts and programmes as to projects. Article 14 deals specifically with assessment of concepts. It defines a “concept” as one submitted and approved at the level of the central authorities of State Administration in the field of energy, transport, agriculture, waste treatment, mining and processing of minerals, recreation and tourism. Territorial planning documentation and the General Water Management Plan are also concepts under the law. The proponent of a concept proposal must ensure that environmental impact assessment is a part of the application. The concept proposal must be sent for public comment and to the competent authority for an opinion statement. Also the Czech Act on the Environment (Law No. 17/1992) also contains requirements for SEA. Under Article 20, plans to execute listed activities are subject to EIA and the principles of environmental protection and assessment of the environmental impact of activities shall also be adequately applied in the course of preparing development concepts, programmes, and drafts of legal norms.
- *Slovakia*. The Slovak Act on Environmental Impact Assessment (EIA Act, No. 127/1994) provides for a comprehensive approach to SEA. It contains the requirement to assess development policies and legislative proposals in relation to their assumed impact on the environment. Part 4 of the EIA Act (Article 35) presents a brief procedure for environmental assessment which is obligatory for proposed development policies in the areas of energy supply, mining, industry, transport, agriculture, forestry and water management, waste management, and tourism. In addition, the Act covers territorial planning documentation for regional and residential settlement in selected areas and any legislative proposal that may have an adverse impact on the environment. Slovakia is preparing draft regulations to implement SEA requirements.

Environmental Assessment of Proposed Regional and Local Land-use plans

In both CEE as well as NIS countries, there are considerable applications to the land use planning process. However only a few countries (such as Poland, Czech Republic, Hungary, Slovakia and Slovenia) require a process that meets most of the internationally accepted elements of environmental impact assessment. Examples of interest include:

- *Poland.* Law on Land Use Development (1994) requires preparation of an EIA for local land use plans. This obligation is set out in detail in the Ordinance defining requirements with which EIAs for local land use plan must comply, and constitute the first legally binding category of strategic environmental assessment in Poland.
- *Lithuania.* The Environmental Impact Assessment Law of 1996 requires initial environmental impact assessment of all territorial planning. The Law, together with the Territorial Planning Law of 1995, regulates the EIA process for development. The development process is defined as beginning with planning and continuing to a full EIA on technical projects, thereby establishing the basis for an integrated approach.
- *Slovenia.* Under Articles 53 and 54 of the Environmental Protection Act (No. 801-01/90-2/107, 1993), EIA is required for physical plans. Specific regulations for EIA of the physical plans have not yet been adopted but according to Article 54.2, a comprehensive EIA study must be prepared by the body responsible for the preparation of the physical planning document or sector plan. Under Article 51, planning, programming and designing of activities shall be based on an environmental vulnerability study. The vulnerability study also serves as the basis for physical planning documents and sector plans for the management of natural resources (pursuant to Article 53.1).

Box 2 Overview SEA Provisions in Central and Eastern Europe

Countries	EIA Law	EIA in Other Law	EIA Regulation, Decree or Ordinance	Environmental assessment of National Programs, Plans and Policies	Environmental assessment of Land Use Plans
Slovakia	Yes		Not Yet	Yes	Yes
Croatia	No	Yes	No	No	Partial
Bulgaria	No	Yes	Yes	Yes	Yes
Latvia	No*		No	No	Partial
Lithuania	Yes	Yes	No	No	Yes
Macedonia	Not Yet	No	No	No	Partial
Slovenia	No	Yes	No	No	Yes
Montenegro	No	Yes	No	No	Partial
Czech Republic	Yes	Yes	Yes	Yes	Yes
Estonia	No	No	Yes	No	Partial
Hungary	No	Yes	Yes	No	Yes
Poland	No	Yes	Yes	No	Yes
Russia	No*		Yes	Yes	Yes

* But does have Ecological Expertise Law

The Main Findings on SEA Application in the CEE/NIS Region

Use of SEA Processes in Land Use Planning

Land use planning requirements in the region have many elements in common with the SEA procedures. Both procedures require identification of the issues, public participation, review of the draft documents, and submission to a political decision-making process. The missing SEA element in the current land-use planning systems is proper identification of alternatives and thorough assessment of their environmental and social impacts. In that context the Sofia Initiative has concentrated upon whether SEA should be fully integrated into the land-use planning process or whether it should be conducted as a parallel, independent process.

Based on expert evaluations, the following lessons are drawn about SEA practice in land-use planning throughout the CEE/NIS region:

- SEA processes are still not 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.
- The 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 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.

With regard to procedure, the preliminary findings indicate that the land use planners in the region typically do not want to have “their” process to undergo a new procedure. However they are also reluctant to modify their existing practice in order to include independent environmental evaluation of the proposed plan. Experiences in the region therefore indicate a preference for integration of thorough environmental assessment in the land use planning process. This integration will require the development of clear procedural guidelines and SEA methodologies. It will also be necessary to build the capacity among land-use planners in order to enable them to undertake a standard SEA process within their planning work.

Use of SEA Processes in Preparation of National Policies and Programs

Interesting findings emerge from the analysis of three pilot SEA applications in preparation of the national policies in the CEE region - the SEA of Energy Policy in Slovak Republic (undertaken in 1997-98), the SEA of Energy Policy of Czech Republic (1998), and the SEA of Major Transport Routes in Slovenia (1994-95). The pilot cases indicate that it is possible to carry out SEA under basic and often incomplete legal frameworks and that SEA can be initiated by request of governmental institutions responsible for internal environmental appraisal of proposed policies. In such cases, the goal of SEA is to assist the environmental authority in issuing a well founded statement on the proposed development strategy.

When an incomplete basis exists, problems are encountered in undertaking SEA of “national and regional policies, plans and programmes”. Specifically, these terms are not well defined

in EIA laws. This deficiency often allows central authorities to escape most of the requirements for conducting an SEA. It points to a key area for further legal and instrumental strengthening.

For SEAs carried out at the instigation of ministries of environment, there was little or no consideration of practical alternatives to the proposed policy. Under these circumstances, the SEA process does not meet widely agreed international standards. Yet, the transparent and open SEA processes (incorporated in the assessments of the energy policies in Slovakia and in the Czech Republic) also provided a vehicle for mobilising public awareness and resulted in valuable inputs. These helped to formulate alternatives to the proposed policy. In practice, this 'backwards process' of assessing alternatives occurs in other countries more often than is commonly realised.

The overall quality of the environmental assessment process of national policies also pointed out lack of adequate financial support of the teams of teams responsible for preparation of SEA report. This situation posed important limitations for undertaking reasonably quick and yet thorough assessment process.

Based on evaluation of three pilot SEA applications, it appears that the key principles for SEA application in national policy making will remain the same as those for SEA application in land-use planning:

- the purpose of the assessment is to inform the decision,
- screening and scoping are crucial to identify priority issues,
- post-SEA monitoring is important to allow the assessment to follow further levels of policy implementation.

Policy Recommendations on SEA Development in the CEE/NIS region

Recommendations on Development of National SEA Frameworks

Countries should undertake pilot SEA applications that comply with internationally agreed standards. Development of national SEA frameworks should build on the indigenous practical experiences with pilot SEA applications.

Justification:

The Environmental Action Program for CEE (EAP) and the National Environmental Health Action Programs (EHAP) Processes can effectively provide incentives for pilot national SEA applications that will lead to further development of legislative SEA frameworks in the CEE/NIS region.

Findings of the Sofia Initiative clearly indicate that SEA is a necessary tool in environmental decisions-making in the CEE/NIS region since the project-level EIA is often undertaken too late to add relevant information to the decision-making process. The CEE/NIS region at the same time presents a special opportunity for the wider introduction and further strengthening of SEA applications. This is especially caused by the fact that CEE/NIS countries have formalised planning and policy-making processes; a high level of technical expertise; and economies in transition which are open to procedural and legislative changes.

Currently CEE/NIS governments tend to undertake SEA in an ad hoc fashion, reflecting the early stage of the process development. The findings from case studies indicate that the

priority obstacles to further development of SEA in the CEE/NIS region can be found in weak inter-sectoral cooperation and weak legislative requirements for SEA.

- The agency proposing the program, plan, or policy should undertake the assessment.
- There should be a well-grounded formal base for SEA requirements.
- The SEA procedures should require evaluation of alternatives.
- There should be early and adequate public participation; and
- The SEA procedures should always enable consideration of environmental and human health impacts as well as socio-economic implications.
- There should be clear reporting and documentation of the process and of commitments.
- There should be a clear and substantive relationship between the SEA and the decision-making process.
- The SEA process should have in-built checks and balances, both formal and informal.

Recommendations on the Use of the EAP and EHAP Processes

The EAP and EHAP Processes can effectively provide incentives for pilot national SEA applications that will lead to further development of legislative SEA frameworks in the CEE/NIS region.

Justification:

SEA assesses “environmental performance” of proposed development policies - it responds to proposed policies and suggests means for their environmentally cautious application. Important feature of this process is the fact that it reaches out to the policies that are normally outside clear jurisdiction of Ministries of Environment and Ministries of Health.

SEA applications can well compliment pro-active approach to elaboration of national environmental protection plans which is based on National and Regional Environmental Action Plans and National Environmental Health Action Plans. It is therefore recommended that SEA-support projects are included among work-plan under the EAP and EHAP processes. This inclusion is supported by following reasons:

- SEA is clearly relevant for integration of environmental concerns into broad national sectoral policies (especially energy, transport, agriculture, forestry, tourism, etc.).
- SEA is clearly relevant for integration of environmental concerns into regional and local development plans (i.e. land-use plans, urban development plans, etc.) - this function of the SEA is further enhanced by the fact that certain CEE countries will soon become eligible for the EU structural that should be assessed through SEA-type procedures.
- Introduction of SEA relates to implementation of the Article 7 of the proposed Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters.
- Most countries in the CEE/NIS region have already established elementary legal grounds to deal with this issue, yet these available legal provisions still need to be adequately applied.
- There is emerging local expert potential in the CEE/NIS region for SEA application that can be very effectively supported by capacity building and expert assistance during pilot SEAs.

The EAP and EHAP Processes can effectively provide incentives for pilot national SEA applications that will lead to further development of legislative SEA frameworks in the CEE/NIS region.

Recommendations on the Continuation of Sofia Initiative on EIA

Sofia Initiative on EIA will continue to facilitate SEA capacity building and informal exchange of experience with SEA in the CEE/NIS region.

Justification:

There is a consensus that the governments of the region should focus on East-East exchanges of expertise to develop SEA applications that suit region-specific decision-making processes.

Regional co-operation under Sofia Initiative on EIA to date has:

- resulted in transfer of very practical experience in SEA application;
- highlighted success stories; and
- promoted the systematic development of SEA, even in countries which radically reform their domestic economies.

The identified priority areas for development of SEA application in the CEE/NIS region include:

- weak inter-sectoral cooperation; and weak legislative requirements for SEA;
- a lack of clear standards for SEA;
- effective exchange of experience with SEA application in the CEE/NIS region.

In order to address the above priority needs, the Sofia Initiative on EIA has developed action plan for further development of SEA in the CEE/NIS region which includes the following action items:

- Development of basic resource aides for understanding SEA.
- Facilitation of national inter-sectoral regional workshops to discuss practical problems in SEA application.
- Gradual strengthening of SEA requirements in national legal frameworks.

It is recommended that the Initiative's SEA training and capacity building programme is based on the UNEP EIA Resource Training Manual and SEA methodological guidance developed by the European Commission. In order to insure proper treatment of potential transboundary aspects of national SEA applications, Sofia Initiative on EIA shall coordinate its projects with activities under the UN ECE Convention on EIA in Transboundary Context.

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