

## Module 2: Current legal and institutional arrangements for SEA in SEE

- 2.1. General SEA trends and developments in CEE
- 2.2. Current legal and institutional frameworks for SEA in SEE

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## 2.1. General SEA trends and developments in CEE and SEE



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## Evolution of SEA in CEE

- Before 1990: Partial env. analyses
- land-use planning - sectoral and territorial planning
- provisions for consultations and partial env. evaluations
- 1990ies: Experimentation
- „EA“ of spatial plans (Poland, Slovakia, Bulgaria, the Czech Republic, Slovenia, Lithuania)
- „EA“ of strategies outside of spatial planning (the Czech Republic, Slovakia)
- Since 2000: EU Accession
- SEA of Development Plans for EU Structural Funds
- EC SEA Directive and UN ECE SEA Protocol

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### SEA in CEE before SEA Directive and SEA Protocol (1)

| SEA  | Legal Frameworks  | Application   |
|--|---|---|
| Plans and programs within spatial planning           | Partial env. analyses required in most CEE countries since early 1980-ies<br>New EIA requirements for spatial plans in PL, CR, BG, SLO, LIT since early 1990ies | Most extensive practice in PL.<br>Some practice in BG, CR and SLO before 2003 |
| Sectoral plans and programs outside spatial planning | CR (1992),<br>SK (1994),<br>PL (2000),<br>EST (2000),<br>BG (2001)  | Wide practice in CR and some practice in SK before 2003                       |

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### SEA in CEE before SEA Directive and SEA Protocol (2)

| SEA  | Legal Frameworks   | Application  |
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| Plans and Programs for EU Structural Funds | 1269/99/EC + EC guidance SEA of Regional Development Plans | Systematically applied only in CR. Large-scale SEA pilot projects in PL, EST, HU and LAT. Preliminary SEAs in SLO and BG in 2001-2003. |
| Policies                                   | CR (1992),<br>SK (1994),<br>PL (2000)<br>EST (2000)        | Some practice in CR and SK, pilot projects in EST and PL before 2003.  |
| Legislative proposals                      | SK (1994),<br>HU (1995)                                    | Limited application before 2003  |

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## 2.2. Current legal and institutional arrangements for SEA in SEE



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## Legal and institutional framework for SEA in Albania



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### Albania: legal framework

- SEA legal framework in Albania consists of the Law on Environmental Protection (No. 8934, 2002) and the EIA Law (No. 8990, 2003).
- The EIA Law is being applied to both EIA and SEA process.
- SEA process is a copy of the EIA procedure according to the current regulations, and SEA is specified by prescribing minimum procedural requirements (Chapter 5)
- The EIA Law (Art. 7.4) mandates MoE to prepare and a Council of Ministers to approve EA guidelines that define specific methodologies and detailed requirements for elaboration of EIA reports.

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### Albania: institutional framework

- MoE is the responsible authority for SEA
- Regional Inspectorates advise, but do not decide themselves on EIA and SEA
- Review commission for the quality of the EIA/SEA Report advises the MoE
- Certified experts prepare the EIA/SEA report

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### Albania: field of application

- The EIA Law (Art. 5.1) requires SEA for strategies, action plans and for a variety of national and regional plans for territorial adjustment
- Key sectors for which SEA has to be performed are: energy, mines, industry, transport, agriculture, forests, on natural resources and mining properties management and on waste management
- National and regional territorial plans for which SEA are to be carried out are for urban and rural centres, industrial areas, coastal areas, tourism areas, protected areas and highly pollution and damage sensible areas



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### Albania: screening procedure

- The competent authority for screening is the MoE and its Regional Environmental Agencies (REA).
- No screening procedure is prescribed in Albania.
- MoE and REA are consulted only after the proposed strategies and action plans are submitted to them with (or without) the EIA/SEA report



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### Albania: scoping

- No scoping provisions in the Law: only the content of the EIA/SEA Report
- It is understood that certified experts will know how to scope the EIA and SEA reports
- Lack of scoping procedure is recognized by the practitioners and the MoE as a weakness



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### Albania: EIA/SEA report (i)

SEA report should have the same structure as the detailed EIA report.

The content of the detailed EIA/SEA report is outlined in the Art. 8 and 9. The key requirements applicable for EIA/SEA Report include (abridged):

- Objective and detailed description of the proposal;
- Present state of the environment in the area of the proposal and its vicinity;
- Detailed description of all installations that are part of the proposal or will be used during its implementation;
- Construction plan and the deadlines for implementation;
- Description of engineered values that are constructed or enlarged;



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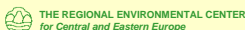
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### Albania: EIA/SEA report (ii)

The key requirements (continued):

- Procedures and reasons of selection of site and description of at least two additional location alternatives;
- Conformity of the proposal with territory adjustment plan and with economic development plan of the area;
- Direct and indirect environmental and health impacts of the proposal and options;
- Risks of accidents with significant impact on health and environment and measures against negative impacts;
- Transboundary impact on the environment, if any;



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### Albania: EIA/SEA report (iii)

The key requirements (continued):

- Technical measures to prevent and mitigate negative impacts on environment;
- Rehabilitative measures in case of environmental pollution and damage as well as their cost;
- Detailed descriptions of sustainable use of energy, and natural and mining resources;
- Monitoring program for environmental impact;
- Summary of consultations and opinions of local government organs, the public and environmental NGOs;
- A copy of the license of natural or juridical person which has prepared the report of impact assessment on environment.



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### Albania: certification of EIA/SEA experts

- The EIA/SEA Report can be prepared only by certified natural and juridical persons (experts) (Art. 7.2).
- The MoE is the authority to endorse the certificate in the fields of EIA and environmental audits.
- Public or private physical and legal entities, the qualification and professional experiences of which are closely linked with the environmental protection, such as research institutes, laboratories, university departments, environmental NGOs and other specialists can apply for the certificate
- The requests are reviewed and endorsed by the MoE. Certificate can be invalidated based on established criteria and procedure
- The MoE establishes the national register of certified experts, which is accessible to the public and publishes data of the register annually



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### Albania: public information and consultations

- The proposal and the EIA/SEA Report is a subject to a public debate among representatives of the Ministry, which approves the proposal, territorial adjustment and tourism authorities, local governments, specialized institutions, interested persons, environmental NGOs and the developer (Art. 20).
- The debate is organized and managed by the local government, where the proposal will be implemented.
- The local government has to notify the public and environmental NGOs and provide them with the EIA/SEA report.
- The local government sets timing of the public debate (in collaboration with the MoE and the developer), notifies the participants and organizes the open debate with all the interested parties.



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### Albania: formal review of the EIA report

Formal review of the EIA/SEA report is organized in 2 stages:

- initial review by the REA
- review by the MoE and its review commission.



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### Albania: initial review of EIA/SEA report by REA

- The REA carries out the initial review of the proposal for completion of documentation (Art. 10):
  - Accepts the request for review if the EIA Report addresses key issues stipulated by the EIA Law.
  - Rejects the request for review if SEA Report is not sufficiently addressing key issues and notifies the developer about changes and adjustments to be made in the documents;
  - Rejects initial review if the developer does not submit SEA Report.
- If the review proceeds, the REA has to (Art. 14) review the data presented in the EIA/SEA Report, to consult with local government units, urban and tourism development authorities, and to prepare a justified opinion with proposed conditions to be placed in the approval documentation, which is forwarded to the MoE.

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### Albania: review of the EIA/SEA report by MoE

- The MoE reviews the proposal through the review commission (Art. 16), who's meetings are open to interested the public, NGOs, the developer and the media.
- The review commission verifies (Art. 17):
  - Level of impact on the environment;
  - Conformity of the proposal with national and regional plans of social and economic development and with territory adjustment plans;
  - Ability of the developer to bear rehabilitation costs of damaged and polluted environment by its activity;
  - Technical and technological characteristics of the proposal to apply requirements for prevention of pollution and damage to the environment.

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### Albania: decision making

- The review commission (Art. 21) issues the final report, which contains the proposal for approval or rejection of the proposal.
- The MoE has to (Art. 22) issue an environmental declaration about acceptance or rejection of the proposed SEA
- Environmental declaration is not binding for decision-making on the proposal.

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### Albania: monitoring

- Monitoring programme of environmental impacts is a part of the environmental report
- No other provisions are specified in the EIA Law

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### Legal and institutional framework for SEA in

### Bosnia and Herzegovina (BiH)



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### BiH: legal framework

- Basic legal framework for SEA differently defined in all entities
- In Republic of Srpska (RS), SEA is generally defined in the Art 60-61 of the Law on Environmental Protection (adopted in August 2002)
- In Federation of BiH (FBiH), basic provisions of the SEA defined SEA is generally defined in the Art 51- 52 of the Law on Environmental Protection (adopted in July 2003).
- Breko District does not have environmental legislation yet
- These framework obligations for SEA are not operational yet due to lack of implementing secondary legislation .

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### BiH: field of application in RS

SEA required for:

- regulations and decisions, that are passed by the Entity Government
- that may influence the environment and its components, quality of environment and human health in connection with the environment.

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### BiH: field of application in FBiH

SEA is required for:

- all **physical planning documents** (all which include projects with negative impact on environment: e.g. Physical plan of Federation and Cantons, regulation plans),
- **economic regulations**, which could have negative impact on the environment (customs, taxes, etc.) and
- **planning documents** that provide development consent to the projects for which EIA is needed.

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### BiH: Common institutional framework

- Ministry of the Environment (MoE) is the responsible authority for SEA
- Environmental Advisory Council is an advisory body to review the quality of the SEA Report and to advise the MoE. It may ask opinion expert assistance.
- The SEA is to be obtained by the developer of a regulation or decision
- Certified professionals prepare the SEA report

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### BiH: certified SEA experts

- SEA is arranged by the developer of the given regulation or decision.
- It should be prepared by a legal or private person from the list of professionals authorised for preparation of environmental studies.
- The list will be defined by the Minister.

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### BiH: SEA report

SEA should cover:

- the extent to which the proposal may have negative or positive influence on the state of the environment
- consequences for the environment of the population in case the proposal is not implemented,
- the extent to which conditions are adequate for the introduction of the proposal
- the extent to which public administration is prepared for the implementation of the planned measure
- whether the financial, organizational and procedural conditions are available for the implementation of the proposal
- the extent to which the proposal represents deviation from the solutions generally adopted in relevant international plans.

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### BiH: review of the SEA

- The SEA and the proposal is forwarded to the Environmental Advisory Council (EAC)
- EAC is an advisory body to the Ministry of the Environment and is composed of experts selected by governments in each entity.
- EAC will state its opinion on the proposal and accompanying SEA. When doing so the Council may ask for expert assistance.

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### BiH: decision making

- Once the review by the EAC is completed, the developer forwards the proposal, SEA report and EAC's opinion of the to the body that is to decide upon the proposal
- Outcomes of the SEA need to be considered – they are however not binding for decision-making
- The detailed arrangements on consideration of SEA in the decision-making process are to be defined.

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### Legal and institutional framework for SEA in Bulgaria



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### Bulgaria: legal framework

EC SEA Directive transposed into:

- The Bulgarian Environmental Protection Act (EPA; State Gazette No. 91/25 September 2002), Section I - the regulations concerning SEA and the whole Section II of Chapter 6 became effective as of 1 July 2004)
- Regulation on the Conditions, Procedure and Methods for Environmental Assessment of Plans and Programs (PPs) (Regulation), adopted with Letter of the Council of Ministers No 139 of 24.06.2004, promulgated in SG No 57/ 2.07.2004, effective as of 1.07.2004

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### Bulgaria: institutional framework

- The Ministry of the Environment and Water (MOEW) or the relevant Regional Inspectorate for the Environment and Waters (RIEW) are the competent authorities to issue a statement on carrying out the SEA (SEA decision) and to review the SEA report
- The executive bodies are the Interdepartmental Commission, (a special board of the Supreme Expert Ecological Council (SEEC) to the MOEW and an Ecological Expert Council (EEC) to the RIEW.
- developer/assigner of a PP is the person or the authority initiating the said PP
- Only certified experts can prepare the environmental report



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### Bulgaria: field of application

- The SEA is required for PPs in the following areas: agriculture, forestry, fisheries, transport, energy, waste management, water resource management and industry, including extraction of underground resources, telecommunication, tourism, spatial planning and land use
- The Regulation determines the types of PPs for which SEA is mandatory (Annex I) and types of PPs for which the need of SEA shall be determined/assessed (Annex II).



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### Bulgaria: screening procedure

- Screening is done for projects in the Annex II of the Regulation.
- The MOEW or the relevant RIEW issues a statement with SEA decision, which includes the screening decision.
- In case when SEA is needed, the competent authority is issuing a decision that includes instructions on the content of the SEA Report and the methods for SEA depending on the specific features of the PP
- Ministry of Health is consulted during the screening, or if necessary the municipal authorities and other specialized bodies



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### Bulgaria: scoping procedure

- MOEW or the RIEW is the competent authority for specification of the SEA report contents.
- The competent authority informs the PP developer/assigner through formal letter including description of the obligatory report content depending on the specific features of the plan or program.
- The results of the determination/assessment and the reasons for elaboration of the report are declared to the public through the MOEW/RIEW and developer/assigner's web site and/or publication in Bulletin, media, information campaign, etc.
- It is compulsory to analyze the PP alternatives as a part of the environmental assessment report pointing out the reasons for selecting the alternatives



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### Bulgaria: environmental report (i)

Mandatory content of the Environmental Report (abridged):

- the main objectives of the PP and relationship with other relevant PPs;
- the current state of the environmental media and factors and the likely evolution without implementation of the PP;
- the environmental characteristics of areas likely to be significantly affected;
- the existing environmental problems ascertained at different levels which are relevant to the PP;
- the environmental protection objectives, established at national and international level, which are relevant to the PP and the way those objectives and any environmental considerations have been taken into account during preparation of the PP;



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### Bulgaria: environmental report (ii)

Content (continued):

- the likely significant effects on the environment, including the environmental media and factors and the interrelationship between them;
- the measures envisaged to prevent, reduce and offset any significant adverse effects on the environment resulting from implementation of the PP;
- the reasons for selecting the alternatives dealt with, and a description of the assessment process, including any difficulties encountered in compiling the required information;
- the measures envisaged in connection with monitoring during the implementation of the PP;
- a non-technical summary of the environmental assessment



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### Bulgaria: environmental report (iii)

Content (continued):

- A list of information sources for the methods used for assessment and forecast of the impact on the environment and reference to the source whether the above have been published;
- A list of the experts and the head of the experts who have prepared the EIA report; where every person shall certify the item(s) he/she has developed by placing his/her signature;
- Copies of the certificates for entering the registry of the MEW under Article 83, paragraph 4 of the LPE;
- Declarations under Article 16, paragraph 2 hereof;
- References for the carried out consultations and the opinions and suggestions obtained thereafter as well as the way they have been indicated.



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### Bulgaria: certification procedure for the SEA experts

- The developer/assigner shall assign the elaboration of the SEA Report in compliance with the approved terms of reference and the requirements of the EPA, to registered experts on EIA/SEA.
- The MOEW keeps a public register of the certified independent experts



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### Bulgaria: public information and consultations (i)

- The announcement shall include information about the developer/assigner; the public place and announced time for seeing the PP draft, the SEA report; ways of communicating the statement on the draft and report (mandatory on the developer's web site and/or via other publicly accessible manner)
- The consultations shall ensure adequate access to the SEA report, the draft PP, each evaluated alternatives, and the evaluation statements
- The developer/assigner organizes consultations with the Ministry of Health, the public, the interested bodies and persons who can be affected by the PP implementation.



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**Bulgaria: public information and consultations (ii)**

- The public discussion of the SEA report is mandatory when it is required under the provisions of a special law for the draft PP or there are more than two motivated negative statements/suggestions for the alternatives, indicated in the SEA report or during the consultations
- The developer/assigner shall assign an amendment to the EIA report and shall assess the need of continuing the consultations if as a result of the consultations it becomes necessary to consider and evaluate other alternatives, opinions or suggestions to the PP

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**Bulgaria: consultation format**

The consultations may be performed in one or more of the following manners:

- sending announcements to the central and territorial authorities of the executive power and to the municipal councils;
- preparing and distributing a leaflet or a brochure with brief information on the plan/program;
- organizing expert or public groups under the assessment scope;
- sending opinions, suggestions, statements and recommendation to the SEA report team and the assigner via regular mail or email;
- public discussions.

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**Bulgaria: transboundary consultations**

- The competent body for the SEA procedure in transboundary context is the MOEW
- If a PP proposed for SEA is likely to have a substantial impact on the environment of the territory of another country/-ies, the MOEW should notify the affected country/-ies and should set a deadline for the respective country to announce its participation in the procedure
- If the affected country, agrees to participate in the procedure, the transboundary aspects should be taken into account and bilateral or multilateral consultations should be held for reaching an agreement
- Procedure of the SEA of the PPs with transboundary impact, implemented on the territory of other countries, to which Bulgaria is the affected country, is prescribed by the Regulation too.

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### Bulgaria: formal review of the environmental report

- The evaluation of the quality of the SEA Report is not obligatory.
- In compliance with the Regulation, the competent authority evaluates the quality of the Report upon request submitted by the developer/assigner.
- The MOEW and the relevant RIEW are the competent authorities responsible for the review of the SEA report.
- The competent authority is supported by the Supreme Environment Expert Council and the Environment Expert Council which consist of representatives of the MOEW, the Ministry of Health, the Ministry of Agriculture and the Ministry of Regional Development and Public Works.



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### Bulgaria: decision making

- The Supreme Environment Expert Council in the MOEW and the Environment Expert council in the RIEW take decision on the SEA
- The **mandatory decision/statement** includes justification of the selection of a particular/ the preferred alternative from an environmental point of view, measures for prevention, decreasing or possibly complete remedy of the presumable unfavourable consequences of the PP implementation for the environment and measures for supervision and control of the PP implementation
- The SEA decision/statement is mandatory to the PP developer/assigner, who is obliged to send to the competent authorities a summary with analyses of conformity of the PP with the general results and recommendations of the SEA report, with the results from the consultations and with the alternative pointed in the SEA statement



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### Bulgaria: monitoring

- The Regulation (Chapter 6) defines the requirements for monitoring and control during the PP implementation.
- The MOEW and/or the relevant RIEW or a duly authorised person are the competent authorities for review and control of implementation of the measures pointed out in the SEA report in the process of implementation of the PP
- The developer/assigner elaborates a report for the review and control in the implementation of the PP, including the reduction or elimination of the environment damages during the implementation of the PP
- The competent authority approves the SEA report or returns with requirements obligatory for elaboration. The developer/assigner provides public access to the SEA report.



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## Legal and institutional framework for SEA in Croatia



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### Croatia: current legal framework

- Environmental assessment of physical plans is carried out under the Environmental Protection Act (EPA; Art. 34), which requires MEPPPC to give consent to such plans prior to their passing.
- EIA procedure is used for assessment of physical plans (i.e. preliminary study for projects not specified in physical planning documentation, upon proposals for amending of a plan) as required for projects under the EIA Rule Book.

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### Croatia: future legal framework

- Croatia intends to introduce strategic impact assessment (for plans, programs, and policies) procedure into physical planning as well as into other sectors in the future as required by EPA, Art. 33.
- It is planned to include SEA as an amendment to the EIA Rule Book and also to the EPA, probably in a form that operates more through co-operation and advice rather than rigid requirements.
- The amendment proposal to EPA (Art. 33; a and b; Apr., 2002) will introduce the SEA legal framework (procedure) and will sets the legal basis for SEA in the Croatia.
- Detailed implementation arrangement are not designed yet

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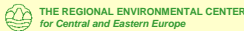
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### Croatia: field of application as proposed in the amendments to EPA

- SEA should ensure environmental assessment during drafting of **strategies, programs and plans** and before their adoption
- The strategies, programs and plans and that should be subject to SEA:
  - documents passed by the Parliament, Government and as well as the plans and programs passed by the County Assembly or Assembly of City of Zagreb,
  - documents in the following sectors: agriculture, forestry, fishery, energy, industry, traffic and telecommunications, waste management, water treatment and physical planning



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### Croatia: implementation procedures as proposed in the amendments to EPA

Responsible implementation agencies for SEA:

- SEA for the documents passed by the Parliament or Government, will be carried out by the MEPPPC in co-operation with the relevant authority that drafts the document.
- SEA for the documents passed by the County Assembly or Assembly of City of Zagreb, are carried out by the County/City of Zagreb office for the environmental activities,
- SEA procedure, data collecting, time frames for the procedure, public participation model, monitoring of the passed documents and the decision-making on the impact of the proposed execution in the document, will be prescribed by the Government.



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### Legal and institutional framework for SEA in

#### Former Yugoslav Republic of Macedonia



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### Macedonia: legal framework

- SEA basic requirements and framework obligations are laid out in the Macedonian Framework Environmental Law (FEL; 2005). The detailed procedures has to be set out in the bylaws.
- The FEL requires SEA for **strategies, plans and programmes**, (planning documents in the FEL) as well as amendments to such planning documents that are proposed by a body of the state administration and passed by the Government.
- SEA is to be required for planning documents and their amendments, which do not have to be required by legal regulatory or administrative provisions (wider than it is required by the EC Directive) and which set framework for future development consent



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### Macedonia: institutional framework

- The Government or the state environmental authority makes the final decision on the screening depending on the level of planning document being prepared
- The state environmental body prescribes the content of the environmental report and reviews the quality of the it.
- Only certified experts can prepare environmental report



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### Macedonia: Field of application

- SEA shall be carried out on the planning documents prepared in the area of:
- agriculture, forestry, fisheries, energy, industry, mining industry, transport, regional development, telecommunications, waste management, water management, tourism, spatial and urban planning and land use,
  - on the National Environmental Action Plan and local environmental action plans, as well as
  - on all strategic, planning and programme documents by which implementation of projects that are subject to environmental impact assessment are planned



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**Macedonia: screening**

No detailed screening procedure is defined in the FEL, however it has to be developed in the future together with the screening criteria. The screening decisions are taken if:

- The planning documents are not in the list (FEL), and they shall be subject to SEA only if they are likely to have significant impact on the environment, on human life and health.
- The state environmental authority makes the final screening decision in cases where the planning document is prepared by the municipalities, Councils of Municipalities and Skopje Municipal bodies.
- The Government makes the final decision on the screening in cases, where the planning document is adopted by a body of the state administration

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**Macedonia: scoping**

- Scoping procedure is not prescribed in the FEL, but it will be developed in the subsequent regulations
- Decision on the scoping is done by the body preparing the planning document and it should take into account the opinion of the bodies affected by the implementation of the planning document.
- The Macedonian Government shall prescribe the content of the Environmental Report upon proposal of the state environmental authority and at this stage it is not clear wherever the outline of the report is similar to the annex of the Directive. The law does not specify any scope.
- Detailed scope is to be determined in accordance with the Art. 67.3 and 67.4 of the FEL.

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**Macedonia: environmental report**

- The Environmental Report has to be prepared by the body preparing the planning document
- The body preparing the planning document shall engage at least one person from the List of experts for SEA referred to in Art. 68 of the FEL

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### Macedonia: certification procedure for the SEA experts

- The List of Experts to prepare the Environmental Report is maintained by the state environmental authority.
- The state environmental authority shall prescribe the manner, the procedure and the level of compensation for the expenditures related to enrolment and withdrawal from the List.
- Minimum criteria for enrolment of natural persons into the List of Experts are: university degree in the natural science, technical knowledge at an expert level in the field of the environment and a minimum of 5 years in the area to which the strategy, plan or programme refer.



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### Macedonia: public information and consultations

- Consultations with the bodies affected by the implementation of the planning document during the scoping are prescribed
- The developer of the planning document shall publish information concerning the draft planning document and the Environmental Report
- The developer shall consult the state environmental authority on the draft planning document and the Environmental Report too.
- The developer shall take into account the opinions received in the development of the planning document and prepare a special report thereon (Art. 69.4).
- The FEL will prescribe the information dissemination, public participation procedure and the manner of preparation of the consultation report in the future
- The body that adopts the planning document shall publish the decision on the adoption and notify of transboundary consultation



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### Macedonia: transboundary consultations

- The FEL prescribes the minimum requirements for transboundary consultations in case the national planning document is likely to have transboundary impact on the environment and human life and health
- The state environmental authority in consent with the body of the state authority for foreign affairs should prescribe the transboundary consultations' procedures.
- In case of notification from a competent authority of another country on a planning document which is likely to impact the environment and human life and health in Macedonia, the body of the state environmental authority shall immediately initiate a procedure for assessment of the impact status in Macedonia from the implementation of the said planning document.



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### Macedonia: formal review of the Environmental Report

- The state environmental authority evaluates the adequacy of the Environmental Report and issues a report
- The evaluation report as well as the Environmental Report has to be made public
- A person from the List of experts, who did not participated in the preparation of the report will be appointed to evaluate the Environmental Report too

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### Macedonia: decision making

- The authority that prepares the planning document or the amendment of the planning document shall take into consideration the findings of the Environmental Report, the opinions and the comments obtained from the bodies concerned with the implementation of the planning document, as well as the results from the transboundary consultations
- The authority that adopts the planning document shall also take into consideration the opinion of the body of the state environmental authority on the adequacy of the environmental report

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### Macedonia: monitoring

- The authority that prepares the planning document shall monitor the impact on the environment and human health caused by the implementation of the planning documents
- Detailed monitoring procedure and reporting are not prescribed by the FEL

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## Legal and institutional framework for SEA in Romania



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### Romania: legal framework

- The legal basis for SEA is established by the Governmental Decision No.1076/8.07.2004 (further as Decision), which sets the environmental assessment (EA) procedures of **certain plans and programmes (PPs)** adopted in 2004
- The PPs are specified as documents that are:
  - subject to preparation and/or adoption by an authority at national, regional, or local level
  - prepared by an authority for adoption, through a legislative procedure, by the Parliament or the Government,
  - required by legislative, regulatory or administrative provisions
  - PPs co-financed by the European Community
  - the modifications of all of the above
- Order No. 978/2003 (amended with No. 97/2004) draws the Certification Regulation of persons who can prepare the EIA, environmental audits and environmental assessments for PPs

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### Romania: institutional framework

- Central public authority for environmental protection is responsible for SEA of national and regional PPs
- Regional Environmental Protection Agencies are responsible for SEA of lower level PPs including regional, county, local and Bucharest level, in case of the “Danube Delta” Biosphere Reservation Administration.
- The SEA report must be prepared only by certified persons (GD no.1076/2004).

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### Romania: field of application

- The EA is carried out for PPs, which:
  - are prepared for agriculture, forestry, fishing and aquaculture, energy, industry including activity of mineral resources extraction, transport, waste management, water management, telecommunications, tourism, town and country planning or land use, regional development
  - set the framework for future development consent of projects (Annex 1 and 2 to GD No.918/2002),
  - may have an impact on the special established protection areas and special conservation areas approved with amendments by Law No. 462/2001;
- It does not require to be carried out an environmental assessment for any kind of policy

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### Romania: screening procedure (i)

- The competent environmental authorities make the final decision on screening
- The screening stage starts with a written notification of the competent environmental authority by the PP developer.
- Screening should be carried out with the consultations of the PP developer, the health authority and the authorities concerned by the effects of implementing PP (identified by the competent environmental authority) within a committee specially established for this purpose (screening committee).

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### Romania: screening procedure (ii)

- The screening committee is established by the central environmental authority and/or at regional, county, local and Bucharest level, including in case of the "Danube Delta" Biosphere Reservation Administration, by competent regional environmental authority.
- The PP developer must submit the first draft of the PP to the screening committee.
- The screening committee carries a case-by-case examination, taking into account the relevant criteria (Annex 1 of the Decision) and consultations with the public. It proposes the screening decision to the competent environmental authority.

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### Romania: scoping procedure

- Scoping is done by a working group, which comprises of the PP developer, the competent environmental and health authorities, other authorities concern by the effects of PP implementation, natural or legal persons certified according to the legal provisions, as well as employed experts (Art. 15-19).
- The working group is established for a respective PP only and should help the PP developer to:
  - determine the scope of the report
  - establish specific objectives of the PP
  - propose prevention, mitigation and monitoring measures of the significant environmental effects for each alternative and recommendations.
  - propose the final alternative of the PP,
  - set the monitoring programme of PP implementation.



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### Romania: Environmental Report (i)

The Environmental Report should contain information prescribed in the Annex II of the Decision:

- an outline of the content, main objectives of the PPs and relationship with other relevant PPs;
- the relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the PP;
- the environmental characteristics of areas likely to be significantly affected;
- any existing environmental problems which are relevant to the PP including those relating to any areas of a particular environmental importance;
- the environmental protection objectives, established at international, Community or national level, which are relevant to the PP and the way those objectives and any environmental considerations have been taken into account during its preparation



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### Romania: Environmental Report (ii)

The content (continued):

- the likely significant effects on the environment, including on issues such as biodiversity, population, human health, fauna, flora, soil, water, air, climatic factors, material assets, cultural heritage including architectural and archaeological heritage, landscape and the interrelationship between the above factors;
- the measures envisaged to prevent, reduce and offset any significant adverse effects on the environment of implementing the PP;
- an outline of the reasons for selecting the alternatives dealt with, and a description of how the assessment was undertaken including any difficulties encountered in compiling the required information;
- a description of monitoring measures;
- a non-technical summary.



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### Romania: certification procedure for the SEA experts

- The Certification Commission functions under the Ministry of Environment and Water Management and has 7 members.
- The natural persons are certified on 3 level of competence: low, medium and high. The level depends on training and experience in EIA field, technical and professional qualification/expertise and affiliation to professional organizations. The Certification Commission issues a certificate is valid for 2 years (renewable every 6 years).
- The legal persons are certified on 1 level of competence: high. The certification is based on training and experience in EIA field, technical and professional qualification/expertise of its members and the affiliation to professional organizations. The certificate is valid for 2 years (renewable).
- The foreign nationals can be certified persons (with conditions)



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### Romania: public information and consultations (i)

- Already during the screening stage, the PP developer should make available the first draft of the PP to the competent environmental authority and the public for the written comments and suggestions on its possible environmental effects.
- Public participation in the environmental assessment procedure should be carried out early, from the beginning of the PP (Art. 7.3).
- The PP developer must notify the competent environmental authority and the public on starting the elaboration of the PP and development of its first draft, by repeated announcements in newspaper (Art. 9.1 )



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### Romania: public information and consultations (ii)

- During the EA stage, the public concerned can express their comments on the draft PP and on the environmental report and transmit these comments to the PP developer and to the competent environmental authority
- The PP developer modifies the draft PP and/or the environmental report based on the justified observations received from the public.
- After submitting the draft PP and the environmental report to the competent environmental, health and other authorities concerned, the developer must organize the public debate.



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### Romania: transboundary consultations

- When a PP might have significant environmental impact on another country or when a potentially affected country requires information about the PP, the developer sends the draft PP and the environmental report, before the PP is adopted, to the central environmental authority of that country
- If the country receiving the documents notifies about its intention to start consultations before the adoption of the PP, the developer has to make the consultation arrangements with it within the framework of bilateral relations.
- The developer notifies any country that has been consulted about the final decision on environmental report



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### Romania: formal review of the environmental report

- The competent authority responsible for the review of the environmental report is the environmental authority.
- In order to review the quality of the environmental report and to ensure the compliance with the provisions of the present decision, it shall take into account the received points of view of all the others authorities and may employ consultancy (Art. 24).
- The competent environmental authority shall also analyze the results of the public consultations, their integration in the environmental report.
- In case when the environmental report is incomplete or does not have a sufficient quality, the competent environmental authority communicates, in writing, the necessary rectification of the environmental report.



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### Romania: criteria for review of environmental report quality (abridged)

- the compliance with the framework-content;
- the presentation of the technical, procedural or others difficulties, and the explanation of the uncertainties and hypotheses;
- the presentation of the studied alternatives, the reasons for choosing one of them, how the environmental consideration have been integrated into the draft PP;
- detailed justification of the reasons for not taking into consideration certain aspects within the assessment;
- taking into account the aspects encountered during the consultation process with the others authorities and the public;
- a graphical presentation of the information (maps, schemes, etc.);
- the existence of a monitoring program.



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### Romania: decision making

- The decision on the SEA is presented in the environmental approval, which includes issued by the competent environmental authority
- If the environmental report or the public comments underline a likely significant adverse environmental impact, the competent environmental authority decides, motivates and communicates in writing the necessary rectification of the PP, in order to prevent, reduce and offset the significant environmental adverse effects
- The PP developer must submit to the adoption procedure the PP and any modification to the PP as approved by the competent environmental authority



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### Romania: monitoring

- The monitoring program is attached to the documentation submitted to the competent environmental authority in order to obtain the environmental approval and is integrated in the environmental approval.
- The implementation of the monitoring program is the responsibility of the PP developer.
- The developer must submit annually the results of the monitoring programme to the competent environmental authority that released the environmental approval.
- The competent environmental authority reviews the monitoring program results received from the developer and informs the public through its web page.
- Monitoring foreseen may also be done, as appropriate, using the data, programs and existing monitoring equipments, with the view to avoid duplication.



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### Legal and institutional framework for SEA in

### Serbia and Montenegro

### Serbian Law on SEIA



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### Serbia: legal framework

- The Law on Strategic Environmental Impact Assessment of Serbia (SEIA Law) adopted in 2004 sets basic conditions, methods and procedure for carrying out the strategic assessment (SA).
- The SEIA Law requires SA for **certain plans and programmes**, which mean all development and other plans and programmes (PPs) and sector master-plans, including their amendments, which are prepared and/or adopted by the national, provincial or local authority, or which are prepared by the competent authority for the purpose of adoption in the appropriate procedure by the Assembly or Government of the Republic of Serbia, or the assembly or the executive authority of the autonomous province or self-government units, as well as PPs adopted pursuant to legislation



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### Serbia: institutional framework

- The Ministry responsible for environmental protection is responsible authority for SEA in Serbia.
- It reviews the SA report and grants the approval or refuse of the application for the SA report. The decision is mandatory to the competent planning authority and it cannot continue further procedure of adoption of PPs without having obtained the approval of the report.
- The strategic assessment report can be elaborated by certified experts only



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### Serbia: principles of SA (i)

- **Sustainable development:** Consideration and inclusion of significant environmental aspects in preparation and adoption of certain PPs and setting of conditions for preservation of values of natural resources, landscapes, biological diversity, wildlife species and autochthonous eco-systems, and rational use of natural resources shall contribute to fulfilment of objectives of sustainable development.
- **Integration:** The environmental protection policy that is implemented through enactment and adoption of PPs shall be based on the inclusion of environmental protection conditions, and conditions of preservation and sustainable use of biological diversity into the appropriate sectoral and inter-sectoral PPs.
- **Precautionary principle:** Each activity has to be carried out in the way preventing or reducing adverse effects of certain PPs on the environment before their adoption, providing for rational use of natural resources and minimising the risk to human health, the environment and material resources.



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### Serbia: principles of SA (ii)

- **Hierarchy and co-ordination (tiering):** SA should be carried out at different hierarchy levels at which PPs are adopted. The increased level of transparency in decision making within the procedure of strategic assessment of PPs shall be provided through mutual co-ordination of the competent authorities and authorities concerned in the procedure of granting the approval for the strategic assessment, through consultations, and informing and submission of opinions relating to PPs.
- **Public character of work (transparency):** Aiming at informing public about certain PPs and their potential impact on the environment, as well as at providing complete transparency of the procedure of preparation and enactment or adoption of PPs, public has to have access to information relating to such PPs or their amendments prior to adoption of any decision and after the adoption of PPs.

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### Serbia: field of application

The SA shall be carried out for **all PPs**, including:

- sectoral master-plans in the fields of spatial and town planning or land use planning,
- planning in the fields of agriculture, forestry, fishing industry, hunting, energy, industry, transport, waste management, water management, telecommunications, tourism, preservation of natural habitats and wildlife (flora and fauna) and
- PPs that set the frameworks for granting the approval for future development projects defined by the EIA related legislations

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### Serbia: screening procedure (i)

- The developer, in consultation with the competent environmental authority and other authorities and organisations concerned, makes the screening decision as well as the screening decision on the use of smaller areas, minor modifications or the PPs that do not require formal adoption procedure
- The developer may decide not to request the SA based on the previously obtained opinion of the competent environmental protection authority and other authorities and organisations concerned, but screening decision has to be elaborated anyway.

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### Serbia: screening procedure (ii)

- Screening decision should include reasons based on which the screening has been carried out in accordance with the screening criteria (Annex 1 of the SEIA Law):
  - review of issues and problems related to the environment in the PP that are going to be considered within the SA,
  - reasons for omission of certain environmental issues and problems in the PP,
  - the elements of the SA report,
  - the selection and obligations of the SA report developer,
  - the consultation methods with the authorities, organizations and the public concerned in the SA report elaboration and consideration procedure and
  - other data of relevance for the SA elaboration.
- The screening decision is an integral part of the decision on preparation of PPs and it is to be officially published.

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### Serbia: scoping

- In the SEIA Law the Environmental Report is called strategic assessment report (SE report), the content of which is prescribed by the SEIA Law (Art. 12).
- The draft scope of the SA report is prepared by the planning authority and submitted together with the draft screening decision to the competent environmental protection authority and other authorities and organizations concerned for their opinion. If no opinions are received, the content of the SA report is considered approved.
- The developer shall provide for participation of authorities, organisations and the public concerned in the procedure of granting the approval for the content of the SA report.

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### Serbia: SA report (i)

The SEIA law prescribes the content of the SA report, which should include:

- The background information of the SA;
- The general and specific objectives of the strategic assessment and selection of indicators;
- The evaluation of likely impact with the description of measures planned for reduction of adverse effects on the environment;
- The guidelines for elaboration of lower level strategic assessments and assessments of environmental impact of projects;
- The programme of monitoring of environmental status during the execution of plans and programmes (monitoring);

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### Serbia: SA report (ii)

The content (continued):

- The outline of methodology applied and difficulties encountered during the strategic assessment elaboration;
- The outline of decision making methods, description of reasons vital for selection of the given PP from the aspect of alternative solutions considered and the outline of methods in which the environmental issues have been included in plans and programmes;
- The conclusions reached in the process of SA report elaboration presented in the way understandable for public;
- Other data of relevance for the strategic assessment.



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### Serbia: specific provision on key elements of the SA report

The SEIA Law specifies that each SA should contain the following parts:

- Background information (Article 13)
- General and specific objectives and selection of indicators (Article 14)
- Assessment of potential impacts (Article 15)
- Guidelines for lower hierarchy levels (Article 16)
- Environmental status monitoring programme (Article 17)



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### Serbia: Background information in the SA report (Article 13)

- The outline of the content and objectives of PPs and relationship with other PPs;
- The outline of the current status and quality of the environment in the area;
- The characteristics of the environment in areas likely to be exposed to significant impact;
- The environmental protection issues and problems that have been considered in PPs and the outline of reasons for omission of certain issues and problems out of the assessment procedure;
- The outline of the prepared alternatives relating to the environmental protection in PPs, including the zero alternative and the most environmentally favourable alternative;
- The results of previous consultations with authorities and organizations concerned.



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### Serbia: Objectives and indicators in the SA report (Article 14)

- requests and objectives related to environmental protection in other PPs,
- environmental protection objectives set at the Republic and international levels,
- data collected on the status of the environment and significant questions,
- problems and proposals related to environmental protection in PPs.

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### Serbia: Assessment of potential impacts in the SA report (Article 15)

- The outline of the assessed impact of alternative solutions of PPs with the description of measures aimed at preventing and limiting of adverse or increase of positive effects on the environment;
- The comparison of alternative solutions and the reasons for selection of the most favourable alternative solution;
- The description of environmental measures proposed;
- The way in which the environmental elements have been taken into consideration, e.g. the data on: air, water, soil, climate, ionising and non-ionising radiation, noise and vibrations, flora and fauna, etc.;
- The ways in which the following impact characteristics have been taken into account: probability, intensity, complexity/reversibility, time dimension, spatial dimension, cumulative and synergistic nature of impact.

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### Serbia: Guidelines for lower hierarchy levels in the SA report (Article 16)

- The SA report shall include the developed guidelines for PPs at lower hierarchy levels that include the determination of the need for the strategic assessment elaboration and elaboration of assessment of impact of projects on the environment. They also define the environmental protection aspects and other questions of relevance for assessment of impact of lower hierarchy level plans and programmes on the environment.

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### Serbia: Env. status monitoring programme in SA report (Article 17)

- The description of objectives of PPs;
- The environmental status monitoring indicators;
- The rights and obligations of the competent authorities;
- Acting in cases of unexpected adverse effects;
- Other elements depending on the type and scope of PPs.



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### Serbia: certification procedure for the SEA experts

- The SEIA Law sets the procedure of selection of the SA report developer by the developer.
- The SA report developer can be legal or natural person inscribed in the corresponding register as entitled to execute activities related to spatial planning and elaboration of plan documents, or town planning and elaboration of town plans.
- Legal or natural persons are entitled to establish the multi-disciplinary team composed of persons qualified for analyses of each of the SA elements that shall elaborate the SA report.
- Persons with University degree of the appropriate profile and with at least 5 years of work in the certain field, or with professional results, i.e. participation in at least two PPs that have already been realised are considered qualified for elaboration of the SA report.



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### Serbia: public information and consultations

- The developer shall submit the SA report to the authorities and organizations concerned, requesting their opinion.
- The developer shall provide for public participation in the SA report prior to submission of application for granting the approval for the SA report.
- The developer shall inform the public about the method and deadlines for insight into the content of the report and submission of opinions, as well as about the time and venue of public debate organised in accordance with the Law regulating the procedure of adoption of PPs.
- The developer shall compile the report on participation of authorities and organisations and the public concerned, which has to include the rationale for all the accepted or rejected opinions.



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### Serbia: transboundary consultations

- Carried out when implementation of plans and programmes may have significant adverse effects on the environment in another state, or when the state whose environment could be significantly threatened requests so.
- The Ministry responsible for environmental protection (Ministry) shall submit to another state the following information requesting its opinion:
  1. The within which another state can notify its intention to description of given plan or programme, together with all available information on their possible impact;
  2. The nature of the decision that may be adopted;
  3. The period participate in the decision-making procedure.
- These consultations take place during consulting the authorities and organisations and public concerned in Serbia

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### Serbia: formal review of the environmental report

- The developer shall submit the SA report to the competent environmental protection authority for the purpose of evaluation, along with the report on participation of authorities and organisations and the public concerned.
- The competent environmental protection authority may obtain the opinions of other authorised organisations or experts in certain field on the SA report and the report on participation of authorities and organization and the public concerned.
- Evaluate the report should be based on the criteria contained in Annex II of the SEIA Law.

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### Serbia: decision making

- The competent environmental protection authority shall grant the approval or refuse the application for the SA report on the basis of evaluation.
- The developer cannot continue further procedure of adoption of plans or programmes without having obtained the approval from the competent environmental protection authority for the SA report.

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### Serbia: monitoring

- The program of monitoring of the status of the environment during the implementation of PPs is a part of the SA report.
- The monitoring program shall highlight the environmental status monitoring indicators, the rights and obligations of the competent authorities, actions in cases of unexpected adverse effects and other elements depending on the type and scope of PPs.
- The environmental status monitoring program can make an integral part of the existing monitoring program provided by the competent environmental protection authority.



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### Legal and institutional framework for SEA in

### Kosovo/a territory currently under UN interim administration



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### Kosovo/a: legal framework

- Basic obligations are defined in the Environmental Protection Law (EPL), and Administrative Directive on EIA (No.9/2004)
- The Administrative Directive complies with the amended EC EIA Directive 97/11/EC.
- Certain plans and programs (defined by the EC SEA Directive) have to undergo through assessment but the SEA procedure is incomplete in relation to the EC Directive



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### Kosovo/a: institutional framework

- The Ministry of Environment and Spatial Planning of Kosovo (MESP) is the key actor in EIA/SEA system. It
  - undertakes screening,
  - provides comments on the EIA contents of the EIA report,
  - reviews EIA Report with assistance of the relevant bodies and
  - uses outcomes of EIA to issues environmental consent
- Kosovo Environmental Protection Agency (KEPA) has only an advisory role
- EIA report can be prepared only by certified experts



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### Kosovo/a: field of application

The EPL (Art 8) stipulates that:

- spatial plans (regional spatial plans, municipal spatial plans)
- plans for the management of natural resources,
- development plans and programs and other spatial planning and adjustment acts

...which affect the environment, must include:

- an assessment of planned activities and their impact on the environment and
- a detailed assessment of their potential positive economic impacts.



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