

Report

15-16 November, 2007
Skopje,

The former Yugoslav Republic of Macedonia

Assistance in Environmental Law Drafting in South Eastern Europe¹

TASK II

Scope and Objectives

- To present the major outcomes of the project and the activities planned for the upcoming period under Task II
- To reactivate the Environmental Law Approximation Network (ELAN) and ensure its efficient operation
- To discuss and agree upon topics for the regional workshop and the study visits under Task II
- To familiarise ELAN members with major achievements in environmental law transposition since the beginning of 2006
- To promote the electronic tools developed or updated under Task II
- To present the Progress Monitoring activity and discuss common challenges in this process

November 15

Opening remarks

Jadranka Ivanova, Head of Department for EU, Macedonian Ministry of Environment and Physical Planning, welcomed the participation of ELAN members in the 7th ELAN meeting. She expressed her satisfaction that there are a number of major achievements to share and commented that the ELAN meeting is a very suitable forum for this regional exchange. She reaffirmed that it is crucial that countries in the region cooperate and support each other in environmental law transposition on the way towards EU accession, therefore the assistance tools available under this project should continue serving this common goal. Additionally, she mentioned that countries should learn from each other and that the former Yugoslav Republic of Macedonia is ready to offer bilateral assistance in terms of expertise and experience sharing with any states that require it. She acknowledged the support of the European Union, implemented through the REC, to environmental law drafting in SEE.

¹ Support for Implementation of the Regional Environmental Reconstruction Program for South Eastern Europe: TASK II implemented with funding by the European Union

Stephen Stec, Head of Environmental Law Programme, REC, noted that the project has greatly evolved since 2001, when it was first launched within the REReP program. It has managed to keep pace with environmental law development and with the progress made in the region and has continued to design assistance to match the current needs of the region. Mr. Stec mentioned that REReP itself was created in this same hotel back in 1999 and he emphasised the progress made since then and the positive developments in the region.

Slavitza Dobрева, Policy Officer, DG Environment European Commission, communicated that the EC is giving special attention to this project task since transposition is one of the first tasks to be accomplished, followed by the challenge of implementation. She noted that there is a chance that ELAN will continue to be supported under the upcoming RENA programme – the successor to REReP – if the Network fits appropriately into the restructured programme. At the upcoming REReP Task Force meeting, the scope of the new programme will be discussed and the countries' opinions regarding the continuation of ELAN will be of importance in this respect.

She then clarified that the Progress Monitoring (PM) work covers all the SEE countries except Croatia and Turkey, since the PM work for these two countries will be carried out by REC under a separate contract and will start very soon under another funding mechanism. She noted that soon all SEE countries will be eligible for funding under the IPA instrument, thus there will be a single funding source.

Katarina Stojkovska, Director REC CO Macedonia, greeted participants and wished them fruitful work.

Tsvetelina Filipova, REC, presented the **objectives and expected outcomes** and the agenda of the meeting (see presentation attached). The meeting agenda was adopted. Participants then introduced themselves and new members of ELAN were welcomed.

Stephen Stec reviewed the **project background and major achievements** to date, providing an overview of Task II of the project and presenting the major impacts, outcomes and outputs (see presentation attached).

Tsvetelina Filipova presented **ELAN - present and future**, focusing on e-mail list maintenance; the operation of ELAN; ELAN activities; the criteria and method for accepting new members; and the expansion of the Network. Discussion took place on the future of the Network. The idea emerged of exploring ways to ensure better, easier and cheaper regular Internet communication between ELAN members in the form of e-conferences. REC will explore the available technical options in this respect.

A special discussion was devoted to the **value of ELAN**.

Jadranka Ivanova shared the fact that, in her experience, the national workshops previously supported under the project were greatly appreciated since they provided a forum for the discussion of new draft laws among a wide range of stakeholders for the first time in the former Yugoslav Republic of Macedonia. Additionally, she noted that the resource people possessed very valuable expertise and experience and were able to offer possible solutions to problems, which were of great help to the ministry. The regional ELAN activities greatly assisted the ministries in terms of learning from the experience of neighbours and avoiding their mistakes. She stated that in the SEE region countries very often build upon similar legal legacies, therefore it is indispensable to look at the experiences of countries from the region. ELAN has provided an opportunity for SEE officials to meet in person and to get to know their counterparts in other Ministries of the Environment. The Network spread beyond the legal drafters and sometimes involved others dealing with environmental law approximation, allowing them to profit from its operation.

Biljana Djurovic, Senior Adviser, Ministry of Tourism and Environment of Montenegro, confirmed the points made by Jadranka Ivanova and added that the laws drafted within the

country-specific legal assistance under the previous ELAN project were highly appreciated in Montenegro (air law and chemicals law). Montenegro also benefitted from the multi-stakeholder approach on legal drafting.

Gordana Petkovic, Legal Adviser, Serbian Ministry of Environmental Protection, sharing the opinions of the speakers above, stated that since legal drafting is a creative process, the exchange of experience and the sharing of information are of major importance. Taking into account the accelerated process of approximation towards EU legislation, such exchanges of experience and information contribute to the avoidance of dilemmas and possible mistakes in legal drafting.

1. With respect to ELAN e-mail list operation, Jadranka Ivanova proposed that REC collects brief information on major legal drafting achievements from countries to share with the Network on a three-monthly basis (e.g. the names of acts drafted/adopted and the relevant directives these acts transpose). The participants agreed that a three-monthly update might place too great an additional burden on officials and therefore considered and proposed a six-month reporting period.

Status of transposition of environmental legislation in SEE by sector: Tsvetelina Filipova gave a brief overview of the results of the first year of progress monitoring, demonstrating that in May/June 2007 the situation in many sectors in terms of transposition differed significantly in several of the countries/entities but at the same time there are a few sectors, including horizontal, which are scoring high percentages with respect to transposition.

Major achievements in environmental law drafting since the beginning of 2006

ELAN members from Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia made short presentations of the key achievements and major progress in environmental law development within the EU approximation process. A significant amount of valuable information was communicated to the Network with respect to new laws adopted, new relevant institutions created, new strategic documents approved, and major milestones achieved with respect to EU approximation. Major progress in the transposition of EU environmental legislation was demonstrated in many environmental sectors. (Please see the attached presentations for further details.)

The meeting provided a forum for exchanging recent experience and information related to the development of environmental law in the SEE region and triggered specific interest in bilateral cooperation on concrete pieces of legislation developed or to be developed (see presentations attached).

Identification of common SEE priority environmental sectors (directives) – contributions from participants This session was merged with the discussion on priorities for regional activities under Activity 1.

Tsvetelina Filipova presented the **regional activities** planned under Activities 1 and 2 (see presentation attached).

The **Draft Newsletter** was presented to participants, who agreed that this current draft will be amended with information taken from the relevant country presentations and will be sent to ELAN participants for their final look. The newsletter will be distributed widely and will reach many relevant stakeholders. Contact info for ELAN Focal Points will be included in the newsletter as agreed by ELAN Focal Points.

Tsvetelina Filipova reminded the participants that the newsletter is a very good tool for the

wide sharing of progress briefs on environmental law transposition.

The **Matrix** of environmental law drafting projects from the region is being developed and is undergoing technical updating and upgrading in order to be made more user friendly. Input, in the form of reviews of projects collected from each country/entity, will be required from the ELAN FPs. It will be of great help if information on relevant projects is forwarded to elp@rec.org.

The **website** has been updated and will be further updated with the import of the relevant documents and presentations from the 7th ELAN meeting.

The SEE ministries' **priorities for regional activities** (workshop, study visits) were presented and discussed. The ELAN participants agreed to confirm the initially proposed topics for the regional events, which are still of major interest in the region. Thus the programme for capacity-building regional activities was adopted. The regional activities will include representatives of all country/entities and will focus on the process of legal transposition.

The **confirmed proposals** are:

- Regional workshop: Approximation with EU Nature Protection Legislation in South Eastern Europe (April 2008, Belgrade).
 - Sub-topics proposed at the 7th ELAN meeting include:
 - Habitat and Birds directives with focus on, for example, Article 4 of the Birds directive and Article 6 of the Habitats directive, which are posing major difficulties
 - Legal status and management of protected areas
 - Relationship with other sectors
 - Joint management of shared resources
 - Relevant obligations arising from the European Energy Act
 - Presentation of different experiences in the region.
 - Financial opportunities for nature protection (Slavitza Dobрева shared her readiness to communicate this interest and ensure speakers from EU on these aspects.)
- Note: The priority for capacity building for the Croatian Ministry for Environmental Protection Physical Planning and Construction is the Air Framework Directive and daughter directives and their implementation. This topic will be covered under the study visits.
- Study visit: Industrial Accident Prevention, Preparedness and Response–Seveso II Directive
 - Study visit:: Air Framework and daughter directives

November 16

Tsvetelina Filipova provided an **overview and update on development under Progress Monitoring** (Activity 3) (see presentation attached).

Progress Monitoring work – common challenges

Five out of seven Progress Monitoring start-up meetings have been completed by the beginning of the ELAN meeting. At each of the meetings a set of challenges faced during the first year of Progress Monitoring have been/will be identified. At these meetings, common challenges were defined and are listed in the attached presentation. A few options for addressing these challenges were discussed and countries shared their experiences in

this respect

The common challenges identified at the completed start-up meetings are summarised below:

- There are sectors or directives for which the **primary competent authority** has not yet been defined, therefore it is hard to define the institutions responsible for filling out the ToCs and IQs.
- **Coordination between the ministries** is a common challenge – a lack of commitment to the process from other relevant ministries is often the reason.
- Ministries are generally **lacking human resources** and did not include in their annual programmes the allocation of resources for PM work.
- Some senior managers in the ministries **do not give priority to the PM** work and do not allow for the allocation of sufficient time and resources to PM, which has an impact on quality.
- Often there is no **transfer of responsibilities** and it is hard to guarantee that the new person will be up to date with progress in the field – continuity.
- In a few ministries, the lack of staff competent in **English** is causing problems:
 - there are no official translations of the directives yet
 - some of the relevant experts cannot fill in ToCs and IQs in English
 - the PM reports needed to be translated in order to be commented on by the ministry
- The **scoring of transposition** should also reflect provisions which are partially transposed. Thus the actual situation will be more adequately presented.
- The assessment of the transposition and implementation of directives where **responsibilities are shared** is problematic.
- **Overlapping and conflicting** responsibilities are still an issue.
- Not only the **technical experts** but **also lawyers** should be involved – this was not often the case during year 1.

Recommendations and comments on Task II implementation from participants

Participants agreed with all comments provided during the meeting and concluded that the meeting had achieved its expected outcomes.