

Questionnaire for the report of Montenegro on the implementation of the Protocol on Strategic Environmental Assessment in the period 2013–2015

Information on the focal point for the Protocol

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Part one

Current legal and administrative framework for the implementation of the Protocol

In this part, please describe the legal, administrative and other measures taken in your country to implement the provisions of the Protocol. This part should describe the framework for your country's implementation, and not experience in the application of the Protocol.

Article 3

General provisions

I.1. Please provide the main legislative, regulatory and other measures you have adopted in your country to implement the Protocol (art. 3, para. 1) (more than one option may apply):

- (a) Law on SEA (please indicate number/year/name): The Law on Strategic environmental assessment (Official Gazette of Republic of Montenegro 80/05, Official Gazette of Montenegro 73/10, 40/11, 59/11, 52/16).
- (b) SEA provisions are transposed into another law(s) (please specify):
- (c) Regulation (please indicate number/year/name):
- (d) Administrative rule (please indicate number/year/name):
- (e) Other (please specify):

Your comments: Also, The Law ratifying the Protocol on Strategic Environmental Assessment ("Official Gazette of Montenegro - International Treaties", No 03/09).

Article 4

Field of application concerning plans and programmes

I.2. List the types of plans and programmes that require SEA in your legislation:

The definition of plans and programs in Montenegrin legislation has a wider scope than defined by Protocol. According to the Law on Strategic Environmental Assessment (Official Journal of Montenegro No 59/11), plans or programs shall mean all development plans and programs and documents, including the plans and programs co-financed by the European Union and amendments thereto, which are prepared and/or adopted by the state administration bodies or local authorities, or which are passed by the Parliament of Montenegro or the Government of Montenegro, i.e. the Municipal Parliament of the local government unit, in addition to the plans or programs enacted pursuant to regulations.

The SEA shall be carried out for plans or programs when their implementation may cause some significant impacts on the environment.

1) Shall be mandatory for all plans and programs in the area of agriculture, forestry, fishery, hunting, energy, industry, including mining, transport, telecommunications, tourism, regional development, town and spatial planning or land use, coastal zone management, water management, and waste management,

- laying down the framework for future development of projects that are subject to environmental impact assessment in accordance with the special act,
- which, considering the area within which they are carried out, may have an impact on the protected areas, natural habitats and conservation of wild flora and fauna.

2) May be required for the plans or programs

- providing for the use of smaller areas at the local level;
- providing for minor amendments to the plans or programs;
- that are not listed above, providing a framework for developing projects that are subject to EIA;

I.3. Explain how you define whether a plan or programme “set the framework for future development consent” (art. 4, para. 2):

SEA may be required for the plans or programs set a framework for developing projects that are subject to EIA.

I.4. Explain how the terms “plans and programmes ... which determine the use of small areas at local level” (art. 4, para. 4) are interpreted in your legislation:

SEA may be required for the plans or programs providing for the use of smaller areas at the local level.

I.5. Explain how you identify in your legislation a “minor modification” to a plan or programme (art. 4, para. 4):

SEA may be required for the plans or programs providing for minor amendments to the plans or programs. Minor modifications mean any modification that affects or changes the plan or programme.

Article 5 Screening

I.6. How do you determine which other plans and programmes should be subject to a SEA as set out in article 4, paragraphs 3 and 4, in accordance with article 5, paragraph 1? Please specify:

- (a) On a case-by-case basis
- (b) By specifying types of plans and programmes
- (c) By using a combination of (a) and (b)
- (d) Other (please specify):

Your comments:

It is determined for each case individually through analysis by the authority responsible for preparing the plan or program, on the basis of the criteria for determining significant impacts on the environment.

I.7. Do you provide opportunities for the public concerned to participate in screening and/or scoping of plans and programmes in your legislation (art. 5, para. 3, and art. 6, para. 3)?:

No

Yes (please specify (more than one option may apply)):

- (a) By sending written comments to the competent authority

- (b) By sending written comments to the local municipality
- (c) By providing answers to a questionnaire
- (d) By taking part in a public hearing
- (e) By sending written comments to the consultants/SEA experts or persons preparing the plans and programmes
- (f) Other (please specify):

Your comments: Within the competences set forth by the SEA Law, the competent authority in charge of preparation of plans or programs shall be responsible for the implementation of the SEA procedure (the state administration body responsible for preparing the plan or program - for the plans and programs to be adopted by the authorities at the national level and the local administration body responsible for preparing the plan or program - for the plans and programs to be adopted by the authorities at the local level). The public concerned has the opportunity to participate in screening/scoping procedure and public hearing (granting or rejecting SEA approval). According to the SEA Law, public/public concerned is given opportunity to participate in each phase of SEA procedure.

Article 6

Scoping

I.8. How do you determine what is the relevant information to be included in the environmental report, in accordance with article 7, paragraph 2 (art. 6, para. 1)?:

Scope and Content of the SEA Report is also defined by the SEA Law (article 15). The SEA Report shall contain data describing and assessing the potential significant impacts on the environment that may result from the implementation of a plan or program, in addition to the alternatives considered, taking into account the objectives and geographical coverage of the plan or program, to the extent specified by the Decision referred to in Article 10 of this Law.

In addition to data referred to in paragraph 1 of this Article, the SEA Report shall also contain the following data:

- 1) A brief outline of the content and main objectives of the plan or program and their relation with other plans and programs;
- 2) Description of the existing state of the environment and its potential development if the plan or program is not implemented;
- 3) Identification of areas likely to be exposed to a significant risk and characteristics of the environment in such areas,
- 4) Current issues relating to the environment in connection with the plan or program, including in particular those relating to areas of special significance for the environment, such as wildlife and plant habitats from the aspect of their conservation, in particular protected areas, national parks or the coastal zone;
- 5) General and specific objectives of environmental protection set either at the national or at the international level that are of relevance for the plan or program and ways in which these objectives as well as all other aspects of relevance for the environment shall be taken into consideration in the process of preparation;
- 6) Potential significant impacts on public health and the environment, including factors such as biological diversity, population, fauna, flora, soil, water, air, climatic factors that have an impact on climate change, material resources, cultural heritage, including architectural and archaeological heritage, landscape and mutual relations between these factors,

- 7) Measures envisaged to prevent, mitigate or eliminate, to the highest extent possible, any significant negative impacts on human health and the environment resulting from the implementation of the plan or program,
- 8) Overview of reasons serving as the basis for the selection of a plan or program from the aspect of alternatives considered, in addition to the description of methods of assessment, including potential difficulties that occurred in the process of putting together the required data (such as technical data or absence of know-how),
- 9) Overview of potential significant transboundary impacts on the environment;
- 10) Description of the environmental status monitoring programs, including human health, both during and after the implementation of the plan or program (monitoring);
- 11) Conclusions drawn during the elaboration of the SEA Report presented in a way which is understandable to the public.
- 12) Brief summary (Non-technical summary).

Article 7

Environmental report

I.9. How do you determine “reasonable alternatives” in the context of the environmental report (art. 7, para. 2)? Please specify:

(a) On a case-by-case basis

(b) As defined in the national legislation (please specify): It is defined by the SEA Law. The scope and content of SEA Report includes an overview of reasons serving as the basis for the selection of a plan or program from the aspect of alternatives considered, in addition to the description of methods of assessment, including potential difficulties that occurred in the process of putting together the required data (such as technical data or absence of know-how).

(c) By using a combination of (a) and (b)

(d) Other (please specify):

Your comments:

I.10. How do you ensure sufficient quality of the reports? Please specify:

(a) The competent authority checks the information provided and ensures it includes all information required under annex IV as a minimum before making it available for comments

(b) By using quality checklists

(c) There are no specific procedures or mechanisms

(d) Other (please specify):

Your comments: The evaluation of the SEA Report shall be carried out based on criteria proscribed by the Law. The authority responsible for environmental protection (granting or rejecting SEA approval) may obtain the opinions of other authorized organizations or experts in particular fields or may establish the Evaluation Committee to evaluate the SEA Report.

Article 8

Public participation

I.11. How do you ensure the “timely public availability” of draft plans and programmes and the environmental report (art. 8, para. 2)? Please specify (more than one option may apply):

- (a) Through public notices
- (b) Through electronic media
- (c) Through other means (please specify):

Your comments: The authority responsible for preparing the plan or program shall notify the public and the public concerned of the procedure and deadlines for public review of the content of the SEA Report and for providing comments, in addition to the time and venue for the public hearing holding. Public hearing shall be carried out by the authority responsible for preparing the plan or program. In transboundary procedure the competent body responsible for transboundary procedure – Ministry of Sustainable Development and tourism notifies the relevant body to another country - potentially affected party (contact of point and focal point). The competent body of potentially affected party notifies its own public of received documentation (SEA Report and plan/program). Collected opinions of potentially affected party shall be delivered through a contact of point/focal point.

I.12. How do you identify the public concerned (art. 8, para. 3)? Please specify (more than one option may apply):

- (a) Based on the geographical location of the plans and programmes
- (b) Based on the environmental effects (significance, extent, accumulation, etc.) of the plans and programmes
- (c) By making the information available to all members of the public and letting them identify themselves as the public concerned
- (d) By other means (please specify):

Your comments: The public concerned is also defined by the Law. Public concerned shall mean the public affected or likely to be affected by the plan or program, including non-governmental organizations dealing with environmental issues which are registered by the state administration body responsible for environmental protection in accordance with the law.

I.13. How can the public concerned express its opinion on the draft plans and programmes and the environmental report (art. 8, para. 4)? Please specify (more than one option may apply):

- (a) By sending comments to the relevant authority/focal point
- (b) By providing answers to a questionnaire
- (c) Orally
- (d) By taking part in a public hearing
- (e) Other (please specify):

Your comments: According to the SEA Law domestic public/concerned public may express its opinion as it is mentioned above. In transboundary procedure the competent body responsible for transboundary procedure – Ministry of Sustainable Development and

tourism notifies the relevant body to another country - potentially affected party (contact of point and focal point). The competent body of potentially affected party notifies its own public of received documentation (SEA Report and plan/program). Collected opinions of potentially affected party shall be delivered through a contact of point/focal point.

I.14. Do you have a definition in your legislation of the term “within a reasonable time frame” (art. 8, para. 4)? Please specify:

(a) No, the time frame is determined by the number of days fixed for each commenting period

(b) No, it is defined case by case

(c) Yes (please provide the definition):

(d) Other (please specify):

Your comments: The time frame is defined by the Law (screening /scoping phase and phase of granting /rejecting approval). The competent authority responsible for preparing plan and program specifies a public hearing plan.

Article 9

Consultation with environmental and health authorities

I.15. How are the environmental and health authorities identified (art. 9, para. 1):

- (a) On a case-by-case basis:
- (b) As defined in the national legislation:
- (c) Other (please specify)

Your comments: The SEA of plans or programs shall mean an assessment of potential impacts on the environment, including human health, that includes the preparation of the SEA Report, conducting the procedure for public participation and consultation and taking into account the SEA Report and results of public participation and consultations in the decision making procedure and procedure of enactment or adoption of certain plans and programs. The draft Decision shall be submitted for comments to the authority referred to the state administration body responsible for health care, other authorities and organizations concerned and the public concerned by the authority responsible for preparing the plan or program.

The authorities and organizations concerned shall mean the state authorities and organizations and local authorities which, in accordance with their responsibilities, have an obligation or interest in making decisions related to the environmental protection.

I.16. How are the arrangements for informing and consulting the environmental and health authorities determined (art. 9, para. 4):

- (a) On a case-by-case basis:
- (b) As defined in the national legislation:
- (c) Other (please specify)

Your comments: The SEA of plans or programs shall mean an assessment of potential impacts on the environment, including human health, that includes the preparation of the SEA Report, conducting the procedure for public participation and consultation and taking into account the SEA Report and results of public participation and consultations in the decision making procedure and procedure of enactment or adoption of certain plans and programs. The draft Decision shall be submitted for comments to the authority referred to the state administration body responsible for health care, other authorities and organizations concerned and the public concerned by the authority responsible for preparing the plan or program.

The authorities and organizations concerned shall mean the state authorities and organizations and local authorities which, in accordance with their responsibilities, have an obligation or interest in making decisions related to the environmental protection.

I.17. How can the environmental and health authorities express their opinion (art. 5, para. 2, art. 6, para. 2, and art. 9, para. 3):

- (a) By sending comments
- (b) By providing answers to a questionnaire
- (c) In a meeting
- (d) By other means (please specify)

Your comments: By taking part in process of public consultation.

Article 10

Transboundary consultations

I.18. As a Party of origin, when do you notify the affected Party (art. 10, para. 1)? Please specify:

- (a) During scoping
- (b) When the draft plan or programme and the environmental report have been prepared
- (c) At other times (please specify):

Your comments: Depends from a stage of SEA. Usually at the earliest stage (scoping if –if sufficient quality information exists), at least when informing its own public /public consultation process starts -on a level of a draft plan/program and/together with SEA report before a public hearing is organized.

After received opinion of potentially affected Party and their expressed interest to take a part in transboundary consultation.

I.19. As a Party of origin, what information do you include in the notification (art. 10, para. 2)? Please specify:

- (a) The information required by article 10, paragraph 2
- (b) The information required by article 10, paragraph 2, plus additional information (please specify): The potentially affected party shall be notified for all relevant documentations (the all relevant documentations shall be available to the potentially affected party).

Your comments: The Law stipulates when the implementation of a plan or program may have some significant negative impacts on the environment in another state, or when so requested by another state whose environment is likely to be significantly threatened, the state administration body responsible for environmental protection shall, in the process of notifying the authorities and organizations and the public concerned, within the shortest time possible and at the latest when notifying own public, submit to another state the following information for comments:

- 1) Description of the plan or program, in addition to all available information on their possible impacts;
- 2) Nature of the decision that may be adopted;
- 3) Time period within which another State may announce its intention to participate in the decision-making procedure.

I.20. As a Party of origin, does your legislation indicate a reasonable time frame for the transmission of comments from the affected Party (art. 10, para. 2)? Please specify:

- (a) No
- (b) Yes (please indicate how long):

Your comments: That shall be indicated in Notification. Usually is it matter of mutual agreement.

I.21. If the affected Party has indicated that it wishes to enter into consultations, how are the detailed arrangements, including the time frame for consultations, agreed (art. 10, paras. 3 and 4)? Please specify:

- (a) Following those of the Party of origin
- (b) Following those of the affected Party
- (c) Other (please specify):

Your comments: The parties shall agree on detailed arrangements following the Notification.

Article 11 Decision

I.22. When a plan or programme is adopted, explain how your country ensures, in accordance with article 11, paragraph 1, that due account is taken of:

- (a) The conclusions of the environmental report
- (b) Mitigation measures
- (c) Comments received in accordance with articles 8 to 10

Your comments: All these requirements are met when a plan or programme is adopted.

I.23. How and when do you inform your own public and authorities (art. 11, para. 2)?:

It is proscribed by the SEA Law. In each phase (screenings/scoping and evaluation of the sea report public, concerned public, authorities and interested bodies have to be informed by written notification—officially (for institutions) and/or electronic means.

I.24. How do you inform the public and authorities of the affected Party (art. 11, para. 2)? Please specify:

- (a) By informing the point of contact
- (b) By informing the contact person of the ministry responsible for SEA, who then follows the national procedure and informs his/her own authorities and public
- (c) By informing all the authorities involved in the assessment and letting them inform their own public
- (d) Other (please specify):

Your comments: All above mentioned and in addition communication goes to diplomatic channels parallelly.

Article 12 Monitoring

I.25. Describe the legal requirements for monitoring the significant environmental, including health, effects of the implementation of the plans and programmes adopted under article 11 (art. 12, paras. 1 and 2):

According to the Law on strategic environmental assessment monitoring program makes an integral part of the SEA report (environmental report): description of the environmental status monitoring programs, including human health, both during and after the implementation of the plan or program (monitoring) (article 15, point 10).

Part two Practical application during the period 2013–2015

In this part, please report on your country's practical experiences in applying the Protocol (and not your country's procedures, which were described in part one). The focus of this section should be on identifying good practices as well as difficulties encountered in applying the Protocol in practice. The goal is to enable Parties to share solutions. Please therefore provide appropriate examples highlighting application of the Protocol in your country and innovative approaches to improve its application.

II.1. Does your country object to the information on SEA procedures provided in this section being compiled and made available on the website of the Protocol? Please specify (indicate "yes" if you object):

- (a) Yes
(b) No

Your comments:

1. Consideration of health effects

II.2. Does your SEA documentation always include specific information on health effects? Please specify:

- (a) Yes
(b) No, only when potential health effects are identified

2. Domestic and transboundary implementation in the period 2013–2015

II.3. Does your SEA documentation always include specific information on potential transboundary environmental, including health, effects? Please specify:

- (a) Yes The article 15, point 9 stipulates the "Overview of potential significant transboundary impacts on the environment".
(b) No, only when potential transboundary effects are identified

3. Cases during the period 2013–2015

II.4. Please provide the (approximate) number of transboundary SEA procedures initiated during the period 2013–2015 and list them, grouped by the sectors listed in article 4, paragraph 2:

Montenegro as an affected Party:

1. Water management Plan, Republic of Croatia (2013)
2. Energy sector development strategy of the Republic of Serbia by 2025 with projections until 2030, Republic of Serbia (2013)
3. Transport Development Strategy of the Republic of Croatia (2014)

Montenegro asked a documentation as an Affected Party:

1. Program of exploration and production of hydrocarbons in Adriatic Sea of the Republic of Croatia (2015)

Montenegro as a Party of origin:

1. Energy development strategy of Montenegro (2013)

4. Experience with the strategic impact assessment procedure in 2013–2015

II.5. Has your country experienced substantial difficulties in interpreting particular terms (or particular articles) in the Protocol?:

(a) No So far, Montenegro has had no significant difficulties in interpreting particular terms.

(b) Yes (please indicate which ones):

II.6. How does your country overcome the(se) problem(s), if any, for example by working with other Parties to find solutions? Please provide examples:

It was a matter of mutual agreement in a longer consultation period.

II.7. With regard your country's experience with domestic procedures, in response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others. Please detail:

(a) Has your country carried out monitoring according to article 12 and, if so, for what kinds of plans or programmes (cite good practice cases or good practice elements (e.g., consultation or public participation), if available)?:

For the time being the monitoring was not carried out.

(b) Would your country like to present a case to be published on the website of the Convention and its Protocol as a "case study fact sheet"?:

(i) No

(ii) Yes (please indicate which ones): It could be case in future, after the entire procedure is completed, based on one good example.

II.8. With regard your country's experience with transboundary procedures, in response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others. Please detail:

(a) What difficulties has your country experienced in relation to translation and interpretation, and what solutions has your country applied?:

It was a matter of mutual agreement. But for sure, the translation could cause difficulties and slow down the procedure.

(b) What does your country usually translate as a Party of origin?:

Usually the entire documentation is on English language. In some cases, the Summary was translated on the language of the potentially affected Party.

(c) Has your country carried out transboundary public participation according to article 10, paragraph 4?:

(i) No

(ii) Yes (please indicate how): Described below. It was a matter of mutual agreement.

(c) What has been your country's experience of the effectiveness of public participation?:

A transboundary public participation was carried out by competent authority of the Affected Party, based on submitted documentation, so far. All relevant comments from this process were taken into account and integrated in SEA Report.

(e) Does your country have examples of organizing transboundary SEA procedures for joint cross-border plans and programmes?:

(i) No

(ii) Yes (please describe):

5. Experience regarding guidance in 2013–2015

II.9. Are you aware of any use in your country of the online *Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment (ECE/MP.EIA/17)*?¹:

- (a) No:
- (b) Part of it (Please specify):
- (c) Yes (please describe your experience): As an a informative tool.

Your comments on how the Guidance might be improved or supplemented:

6. Awareness of the protocol

II.10. Does your country see a need to improve the application of the Protocol in your country?:

- (a) No:
- (b) Yes Please describe how your country intends to improve application of the Protocol:

For the time being a lot of meetings, workshops were organized in order to promote and improve SEA Protocol and SEA Law implementation. Also, Montenegro's cases were used as a case studies during the RENA/ECRAN project –supported by European Commission. In a future, Montenegro will organize different meetings in order to promote and improve application of the Protocol.

7. Suggested improvements to the report

II.11. Please provide suggestions for how this report may be improved:

¹ Available from http://www.unece.org/env/eia/pubs/sea_manual.html.