



Workshop on practical application of strategic environmental assessment (SEA): Role of the environmental authorities in the SEA process

EaP GREEN Programme (Greening Economies in the Eastern Neighbourhood)

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Report

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1. Background

Strategic Environmental Assessment (SEA) promotes sustainable development by mainstreaming environment into economic development at national and local levels. SEA is a well-established, practical and efficient planning and environmental governance tool/system set out in the United Nations Economic Commission for Europe (UNECE) Protocol on SEA to the Convention on Environmental Impact Assessment (EIA) in a Transboundary Context (Espoo Convention). It ensures that development plans in key sectors such as energy, water and waste management with likely significant adverse environmental impacts are efficiently developed taking into account environmental (and health) considerations. SEA, in particular, will allow for the identification of the most sustainable and cost-effective strategic development alternatives in Ukraine for attracting new investments and for improving its environment. SEA can also help strengthen the country's environmental governance through fostering transparency and consultation with relevant stakeholders and the public prior to the approval of plans and programmes. SEA in a transboundary context can also facilitate regional cooperation on environmental matters.

Ukraine has been preparing to become a Party to the Protocol on SEA by developing its national legal framework on SEA since early 2009. To this end, the UNECE assisted Ukraine in building capacities and promoting the draft legal framework on SEA within the framework of the EU Funded programme 'Greening Economies in the Eastern Partnership' (EaP GREEN). However, to facilitate efficient implementation of the legal framework a number of practical obstacles remain unaddressed, including:

- (a) Low level of awareness about SEA and its benefits among national planning authorities;
- (b) Lack of understanding of the roles and responsibilities of the various stakeholders in the SEA procedure;
- (c) Weak national capacities and absence of specific guiding documents on practical application of SEA.

To address these obstacles the Ministry of Ecology and Natural Resources of Ukraine requested UNECE Secretariat to support organise three back-to-back events to raise awareness on SEA among the key governmental authorities, including:

- Event 1: Seminar for sectoral planning and management authorities (10 June 2015);
- Event 2: High level round-table on benefits of introducing SEA in Ukraine (11 June 2015);
and
- Event 3: Workshop on practical application of SEA for environmental authorities 12 June 2015).

This Report summarizes the proceeding and the conclusions of the third event above on practical application of SEA for environmental authorities.

The seminar was organized by the Ministry of Ecology and Natural Resources of Ukraine together with the UNECE in Kyiv, June 12, 2015. The event was open for the representatives of the environmental authorities both at the national and regional levels, as well as the representatives and specialists from civil society organizations and other institutions (academia).

2. Workshop design

The aim of the seminar was to raise awareness on SEA among environmental authorities as one of the key actors in SEA system with special focus on functions and roles of the environmental authorities in the SEA process. The workshop was designed as a series of the presentations followed by facilitated discussions. The workshop also provided as platform to present and discuss the new draft Law “On strategic environmental assessment”, which has been prepared to transpose provisions of the Protocol on SEA to the Espoo Convention and the EU SEA Directive (2001/42/EC) into the legal system in Ukraine.

The participants of the seminar were familiarized with the SEA application in different economic sectors within EU illustrating the benefits of SEA. The discussions were focused on guiding principles for efficient SEA practice, as well as on the practical tasks to be performed by the environmental authorities in SEA process considering the provisions of the draft SEA Law of Ukraine.

The workshop was opened by Ms. Natalya Trofimenko, Ministry of Ecology and Natural Resources of Ukraine. Mr. George Kremlis, Head of Unit, DG ENV, "Legal implementation, Cohesion policy, European Semester and SEA/EIA", European Commission, and Ms. Elena Santer, UNECE Secretariat to the Espoo Convention and its Protocol on SEA, also welcomed participants on behalf of their institutions.



After introduction of the participants, Mr. Taras Tretyak, one of the authors of the draft Law of Ukraine on SEA, introduced the key requirements of the draft law of Ukraine on SEA. Subsequently, Mr. George Kremlis presented experience on the implementation and practical application of the SEA Directive and the SEA Protocol in the EU with a special focus on the main requirements of the EU SEA Directive.

Mr. Martin Smutny and Ms. Maia Gachechiladze-Bozhesku, international consultants on SEA, presented typical steps in SEA process, its potential benefits and expected costs, as well as the possible modes of integrating the SEA process into plan/programme-making and decision-making.

The concluding section was opened by Ms. Natalya Trofimenko, Ministry of Ecology and Natural Resources of Ukraine, who presented the strategic planning system in Ukraine and ways to integrate SEA into it. The expected tasks to be performed by the environmental authorities in the key steps of SEA procedure, i.e. scoping and commenting on the SEA report, were presented by Mr. Martin Smutny and Ms. Maia Gachechiladze-Bozhesku to facilitate the final discussion.

The notes from all discussions during the day are summarized in Section 3 of this Report, while detailed agenda is provided in Annex I.

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3. Summary of discussion and main conclusions

Many questions revolved around the practical aspects of implementing the draft Law of Ukraine on SEA. In particular, the following issues have been raised and discussed:

- **How to conduct SEA under the Law**

The Law is of procedural nature i.e. stipulated major steps in SEA process. To further support practical application of SEA, a Guidance or another sort of methodological document should be produced and adopted by the Ministry of Environment for a) the environmental authorities; and b) for the sectoral authorities.

- **Relationships between the environmental and planning authorities (considering the draft SEA Law)**



The possible modes of relationships between the environmental authorities and planning authorities were discussed. According to the participants, as those are not been detailed in the Law, the relations may develop in different directions, with the environmental authorities having very limited to no control over the plans and programmes and thus their possible adverse effects to the environment. The authors of the Law

explained that the draft SEA Law gives the major responsibility to the planning agencies, so those as 'allowed' to risk that the PP will have the adverse impacts and thus its implementation will be difficult and may result in a strong opposition. It was nonetheless suggested that relationships between the environmental and planning authorities should be clarified / written up in the law.

- **Co-existence of SEA and ecological expertise**

The participants were unclear how SEA will be coordinated with the institute of the ecological expertise. The representative of the Ministry of Ecology and Natural Resources explained that the new draft EIA Law will abolish the institute of state ecological expertise (this information evoked contradictory reactions from the part of the attendees).

- **Notification and Information Management**

The environmental authorities were concerned with how they should be made aware of the various strategic planning documents and SEAs being published on the websites of sectoral planning authorities. The participants suggested that there should be a proper notification mechanism. The lawyers presenting the draft law explained that the Ministry of Ecology and Natural Resources would establish a registry of PPs and SEAs. The notification issue should be discussed after the law is adopted and regulated by means of by-laws. The Ministry of Ecology might need additional

human and technical capacity to set up and maintain such a database/registry. Another option proposed by the lawyers was to create a special body responsible for managing the database. It was stressed that the Ministry of the Ecology would think through these questions and come up with the solutions.

- **Methods used in SEA**

The draft SEA Law sets the framework for SEA to be conducted without specifying methods to be used within SEAs. The environmental authorities have no expertise and experience to judge whether the methods used for data collection and analysis, impact assessment, etc. are reasonable and trustworthy. In order to make the environmental authorities able to comment on the SEA reports, it is essential to build their capacities across the administrative structures. Therefore it was proposed to prepare SEA Guidance or another sort of methodological document elaborating the substance of SEA (including overview of methods and tools, quality review etc.).

- **Quality review of SEA report**

It appeared to be unclear who should be responsible for assuring and reviewing the quality of SEA reports. During the discussion it was assumed that the quality assurance should rest with the planning authority responsible for PP making. The debate over who should review the quality of the SEA report did not result in any consensus. The developers of the draft SEA Law advocated the viewpoint that the planning authority responsible for preparing a strategic planning document should review its quality; whereas some of the participants from the environmental authorities believed that it should be the function of the Ministry of Ecology and Natural Resources (which again brought about the issue of capacities and funding). Overall, it was concluded that more discussion might be needed in this regard, despite the fact that public hearing and public consultations on the draft SEA Law were already completed.

- **Public consultations**

The participants believed that the Internet communication means were given an excessive role in informing and consulting local authorities and the public. It was proposed to explore other plausible means.

- **Insufficient capacities of the local / regional environmental authorities**

Local / regional environmental authorities have insufficient human and financial resources to be able to conduct SEAs, and even to comment on SEAs conducted by others. The discussion touched upon such possibilities as created a regional body for managing those issues, envisioning a dedicated line in the state budget, launching a state procurement procedure to select a SEA consultants, etc.

4. Next steps

As discussed at the workshop, one of the priority activities to support introduction of SEA in Ukraine is its practical application. Therefore, the effort will be made to identify a potential pilot, i.e. strategic document, which could be a subject of SEA. Such pilot SEA would serve not only as a further capacity building (i.e. the workshops and trainings would be organized based on the real SEA analysis), but it will also provide an opportunity to ‘test’ the draft SEA Law.

The energy, waste, agriculture and spatial planning sectors were mentioned at the workshop and discussion sessions as areas where potential ‘candidates’ for the SEA pilot can be identified. The UNECE Secretariat will initiate communication with relevant authorities in Ukraine to find out options for the SEA pilot. Thus, further EaP GREEN activities in Ukraine will be specified after having results of follow-up discussions regarding the SEA pilot.

5. Workshop evaluation

Based on the discussions with the participants after the workshop, it can be concluded that the event was considered by them as successful i.e. providing relevant information on SEA benefits and practical tasks related to SEA implementation. It was mentioned several times that organizing follow-up event(s) focusing on SEA procedure in detail would be appreciated. Oral evaluation of the event was carried out. The participants expressed their satisfaction with the quality of the information presented during the event. They particularly appreciated the practical exercises and the quality of the discussions.

Annex 1: Agenda of the workshop



Practical application of strategic environmental assessment (SEA): Role of the environmental authorities in the SEA process

12 June 2015

Hotel Rus, 4 Hospitalna Str., Kyiv 01601, Ukraine

The aim of the seminar is to raise awareness among the environmental authorities about the strategic environmental assessment (SEA) process, which as a tool for improving sectoral planning, as well as about their roles in this process.

The participants of the seminar will be familiarized with the European cases of SEA application in various economic sectors and the benefits of SEA. They will consider the existing experience of Ukraine in conducting a SEA and discuss roles of various stakeholders in the SEA process, as well as the necessary measures for implementing SEA in Ukraine once the new draft Law “On strategic environmental assessment” has been adopted. The new law will require that SEA be conducted in compliance with the provisions of the Protocol on SEA to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the EU SEA Directive (2001/42/EC).

During the seminar, particular attention will be paid to the consideration of diverse functions and roles of the environmental authorities in the SEA process and to the discussion of a potential pilot SEA project in Ukraine.

The event will gather the representatives of the environmental authorities, as well as the representatives and specialists from civil society organizations and donor agencies/international financial institutions.

The seminar is organized by the Ministry of Ecology and Natural Resources of Ukraine, together with the United Nations Economic Commission for Europe (UNECE) within the framework of the European Union (EU) funded Programme “Greening Economies in the Eastern Neighbourhood” (EaP GREEN).

AGENDA

08:00-09:00	Registration of the participants
09:00- 09:20	<p>Welcome addresses</p> <p><i>Mr. Sergej Kurykin, Deputy Minister of Ecology and Natural Resources of Ukraine</i></p> <p><i>Mr. Alexander Klitko, Delegation of the EU Commission in Ukraine</i></p> <p><i>Mr. George Kremlis, Head of Unit, DGENV, "Legal implementation, Cohesion policy, European Semester and SEA/EIA", European Commission</i></p>
09:20-09:30	Introduction of the participants
09:30-09:45	<p>UNECE Protocol on SEA</p> <p>Technical assistance within the EU-funded EaP GREEN Programme</p> <p><i>Ms. Elena Santer, UNECE secretariat to the Espoo Convention and its Protocol on SEA</i></p>
09:45-10:30	<p>SEA: key principles for effective application, role of environmental authorities, and potential benefits of SEA (illustrative examples of successful SEA cases in EU and worldwide for different economic sectors)</p> <p><i>Mr. George Kremlis, Head of Unit, DGENV, "Legal implementation, Cohesion policy, European Semester and SEA/EIA", European Commission with contributions from Ms. Maia Gachechiladze-Bozhesku and Mr. Martin Smutmy, international consultants on SEA</i></p>
10:30-10:50	Break
10:50-11:10	<p>Main requirements of the draft legislation of Ukraine “on Strategic Environment Assessment” (with the focus on practical aspects/steps of SEA)</p> <p><i>Mr. Sergej Vyhryst, expert at the EU project “Complimentary support to the Ministry of Ecology and Natural Resources of Ukraine for the sector budget support implementation”</i></p>

11:10-11:50	<p>Experience in SEA implementation in Ukraine on the example of the SEA for the Dnipropetrovsk Oblast Development Strategy till 2020</p> <p><i>Mr. Volodymyr Perehudov, the Deputy Head of Dnipropetrovska Oblast Council for Executive Staff, the Head of the Strategic Planning and Investment Policy Department (tbc)</i></p> <p><i>Mr. Hennadii Marushevskiy, the EBED Project Environmental Advisor (tbc)</i></p> <p><i>Ms. Oksana Aliyeva, Environment consultant, Ukraine Municipal Local Economic Development</i></p>
11:50-12:40	<p>Typical steps of SEA process and the role of environmental authorities in SEA systems in EU countries</p> <p><i>Mr. Martin Smutny, international consultant on SEA</i></p>
12:40-13:40	Lunch break
13:40 - 15:40-	<p>Expected role of the environmental authorities in SEA process in Ukraine in discussed in relation to the potential pilot SEA project for the State Waste Management Program till 2020</p> <p><i>Introductory presentation by Ms. Natalya Trofimenko, Ministry of Ecology and Natural Resources of Ukraine</i></p> <p>Detailed discussion regarding three main steps where inputs from the environmental authorities are expected i.e.</p> <ul style="list-style-type: none"> - When determining the need for SEA (screening) - Declaration of scoping - SEA report preparation. <p><i>Facilitated by Ms. Maia Gachechiladze-Bozhesku and Mr. Martin Smutny, international experts on SEA, with contributions from Mr. George Kremlis, Head of Unit, DGENV, "Legal implementation, Cohesion policy, European Semester and SEA/EIA", European Commission</i></p>
15:40 - 16:10	Summary and wrap-up

