

Questionnaire for the report of Montenegro on the implementation of the Protocol on Strategic Environmental Assessment in the period 2016–2018

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: Beside the Law on Strategic Environmental Assessment (Law on SEA), there is 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 52/16), 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): The Law on SEA defines: SEA may be required for the plans or programs set a framework for developing projects that are subject to EIA. It means that plan or programme set for projects or activities that require EIA approval.

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: The Law on SEA defines: SEA may be required for the plans or programs providing for the use of smaller areas at the local level. It means that within the scope of plan or program use of all small areas may require the SEA.

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. Related to article 4, paragraph 2 of the SEA Protocol, domestic Law on SEA specifies types of plans and programmes (proscribed by the article 5 point 1).

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 for screening and scoping (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 are 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 the SEA Law).

In addition to data referred above, 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: According to the domestic Law on SEA, considered alternatives have to be considered for each plan or programme describing reasons serving as the basis for the selection of the alternative.

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 competent authority is responsible for the preparation and quality of the SEA Report, before submitting to the comments. After public consultation is completed, 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.

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.

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 public/concerned public may express its opinion as it is marked 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). 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, also may take part in public hearing or submit comments orally.

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 on SEA (screening /scoping phase and phase of granting /rejecting approval). The competent authority responsible for preparing plan and program specifies a public hearing plan, usually lasts 40 days. The reasonable time frame is agreed with affected Party.

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.

I.17 Does your national legislation call for consultations with environmental and health authorities?

- (a) Yes
- (b) No

I.18. 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 the process of public consultation, too.

Article 10

Transboundary consultations

I.19. 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 the stage of SEA. Usually at the earliest stage (scoping 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.

I.20. 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 affected, 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.21. 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: It is indicated in Notification and it is matter of consultation/mutual agreement.

I.22. If the affected Party has indicated that it wishes to enter into consultations, how do the Parties agree on detailed arrangements to ensure that the public concerned and the authorities in the affected Party are informed and given an opportunity to forward their

opinion on the draft plan or programme and the environmental report within a reasonable time frame (art. 10, paras. 3 and 4)?

- (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 sent by the Party of origin. After relevant documentation is submitted to the Affected Party, parties shall enter into consultations to precise detail arrangements, time frame and further steps. It means that Party of origin will kindly request the Affected Party to disseminate all received documentation to the public (in wider context), concerned public, NGOs and interested bodies and organisation. After comments are collected by Affected Party, Affected Party submits to the Party of origin. Reasonable time frame is agreed by parties. When

Article 11 Decision

I.23. 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: After SEA approval is granted, competent authority informs the parties consulted in transboundary procedure, sending SEA report together with plan/programme. All these requirements are met before a plan or programme is adopted.

I.24. How and when do you inform your own public and authorities (art. 11, para. 2)?

It is proscribed by the Law on SEA. 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, publicly available on website.

I.25. How do you inform the public and authorities of the affected Party (art. 11, para.

- (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: Above mentioned and in addition to this, communication goes through diplomatic channels, in parallel.

I.26. How do you ensure that, when a plan or programme is adopted, the public, the authorities and the Parties consulted are informed and that the information mentioned in article 11, paragraph 2, is made available to them?

(a) Pursuant to national legislation (please refer to specific provisions and provide citations in order to clarify the procedure followed):

(b) Other (please specify):

Your comments: Before the plan or program is adopted, the Affected Party is informed of all adopted comments on remarks received. The final SEA Report (SEA approval is granted) together with a plan or program are to be sent to the Contact of point of Affected Party.

Article 12 Monitoring

I.27. 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 2016–2018

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 2016–2018

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

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

3. Cases during the period 2016–2018

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:

2016.

- - Water management: River Basin Management Plan (2016 – 2021) Republic of Croatia; Draft Strategy on water management, Montenegro;
- - Transport: The Transport Development Strategy of Republic of Croatia;
- - Energy: The Program of Exploration and Production of Hydrocarbons Offshore Montenegro

2017.

Energy: The development of the Strategic Environmental Assessment of the Programme of Implementation of the Energy Development Strategy of the Republic of Serbia by 2015 with projections until 2030, for the period from 2017 to 2030;

Transport: Draft Transport Development Strategy of Montenegro 2018 – 2035

2018.

Continuation of the transboundary procedure for the Draft Transport Development Strategy of Montenegro 2018 – 2035

4. Experience with the strategic impact assessment procedure in 2016–2018

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

- (a) No
- (b) Yes (please indicate which ones): So far there were no substantial difficulties, but there was different interpretation of the provisions of the Protocol by parties.

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: In consultation process (i.e. translation, or different interpretation of the provisions of the Protocol had overcome by mutual agreement).

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)? So far Montenegro has had no carried out monitoring according to article 12.

(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 For the time being No, but in future it could be case.

(ii) Yes (please indicate which ones):

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 and what solutions has it found?

(i) Translation and interpretation: There was a case related to translation and interpretation, and it was agreed to have the summary on the language of the Affected Party (the official translation of the entire documentation was on English plus summary on the language of the affected Party).

(ii) Other issues: In consultation process (i.e. different interpretation of the provisions of the Protocol, an agreement was made by mutual agreement).

(b) What does your country usually translate as a Party of origin? The entire documentation (draft Plan and draft SEA Report on English language, and the summary on the language of the Affected Party if Affected party asks so. The most countries in the region understand Montenegrin language and there is no need for translation, the most common cases).

(c) As an affected Party, has your country ensured the participation of the public concerned and the authorities pursuant to article 10, paragraph 4?

(i) No

(ii) Yes (please indicate how): By publishing on the website –public announcement with relevant documentation and in writing.

(d) What has been your country's experience of the effectiveness of public participation? The effectiveness of public participation varies from plan/programme, usually depends from topic (the energy sector is the most interesting topic for the public, for the time being).

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

(i) No Montenegro has no joint cross-border plans and programmes, so far.

(ii) Yes (please describe):

(f) As an affected Party, how do you ensure that the public concerned and the authorities are informed and given an opportunity to forward their opinion on the draft plan or programme and the environmental report within a reasonable time frame (art. 10, para. 4)?

After the transboundary documentation is received, the Contact point sends an announcement to all relevant stakeholders (public, concerned public, interested bodies and institutions, NGOs) putting on the website of the Ministry and in writing. All relevant stakeholders may submit their opinion in writing to the Contact of point. In a case the public hearing is organized, relevant stakeholders may take part in public hearing. The time frame usually lasts 30 days.

5. Experience regarding guidance in 2016–2018

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): The document was used by National Focal and National Contact of Point, in order to improve the knowledge and practical application of the Sea Protocol.

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: Different types of workshops related to SEA were used to promote and improve the application of the SEA 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.