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**ACCEPTANCE AND IMPLEMENTATION OF UNECE MULTILATERAL  
ENVIRONMENTAL AGREEMENTS IN SOUTH-EASTERN EUROPE**

submitted by

Serbia and the Regional Environmental Center for Central and Eastern Europe

through the Ad Hoc Working Group of Senior Officials

BACKGROUND DOCUMENT



UNITED NATIONS



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# 1. Introduction

## a) Status of ratification and implementation of UNECE MEAs

The countries of South Eastern Europe (Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Turkey) acknowledge the importance of adhering to multilateral environmental agreements (MEAs). Nevertheless, there are discernable gaps in the record of acceptance of United Nations Economic Commission for Europe (UNECE) MEAs and the relevant protocols (see Status of UNECE MEAs ratification in SEE countries).

Whereas Albania and Croatia are party to all UNECE conventions, the other countries have some way to go in accepting the UNECE MEAs. The acceptance of the protocols on Water and Health, Strategic Environmental Assessment (SEA), Pollutant Release and Transfer Registers (PRTR) and Civil Liability, and of the protocols under the Convention on Long-Range Transboundary Air Pollution (LRTAP) do not appear to be high priorities at the present time in South Eastern Europe (SEE) countries.

Studies such as those prepared by the United Nations Environment Programme (UNEP)<sup>1</sup> and EU implementation reports<sup>2</sup> show major gaps in the implementation of MEAs in the SEE region. For those MEAs in force in SEE countries, significant progress has been achieved in implementation in recent years, but additional strengthening and improvement are required.

## b) Opportunities and challenges

The ratification, implementation, compliance with, and enforcement of MEAs give rise to important environmental benefits and an improvement in the economic, socio-political and administrative situation of the parties through the application of international norms and standards, increased transparency, participatory decision making and conflict resolution. Moreover, states party to an MEA are able to access technical and financial assistance from the MEA Secretariats, multilateral sources, such as the Global Environment Facility (GEF), and certain bilateral sources, in areas such as assistance for reporting, capacity building, and the exchange of experience.

Furthermore, neighbouring countries with particular experience and available resources can assist SEE countries in meeting their obligations under MEAs. In particular, the new EU member states can provide expertise and play a role in the transfer of experience.

SEE countries have had to face a range of complex challenges relevant to MEA acceptance and implementation. There is a need for further improvement and enhancement of administrative capacity to address environmental problems in the SEE region. In the face of competition with other priorities on the agendas of the SEE governments, the benefits of adhering to MEAs have often not been fully appreciated.

## c) Relationship between EU environmental legislation and MEAs

Within the EU approximation process, to which all SEE countries are committed, pre-existing environmental legislation is being replaced, amended and developed with the aim of aligning it with the relevant EU requirements. Most UNECE MEAs and EU legislation together form a consistent regime. As a result, many of the SEE countries which have recently drafted laws

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<sup>1</sup> EC Environmental Law and Multilateral Environmental Agreements for Europe, UNEP and UNITAR, 2004)

<sup>2</sup> Sixth Annual Survey on the Implementation and Enforcement of Community Environmental Law 2004

transposing the requirements of EC directives have new legislation that is relevant to the UNECE conventions within the scope of this study. Relevant environmental drafting efforts include those aimed at approximation to the SEVESO II Directive, the IPPC Directive, the EIA and SEA directives, the Access to Information Directive, the Water Framework Directive and others.

As MEAs form the basis for significant parts of the EU environmental acquis, MEA implementation is particularly relevant to countries seeking EU membership. The new EU member states have acceded to and ratified all UNECE conventions as part of their EU membership preparations, and future accession countries will be expected to do the same.

In addition, EU membership presents opportunities as well as challenges for MEA acceptance and implementation in the SEE region. While there is general accord between the EU acquis communautaire and obligations under MEAs, the differences that do exist may lead to difficult choices with respect to the allocation of scarce resources. Often EU legislation introduces stringent requirements and higher standards than the relevant MEAs. Meeting the requirements of EU legislation thus ultimately guarantees the implementation of the less exigent obligations under MEAs. Nevertheless, where the scope of application or obligations differs, the issue of allocating resources remains.

#### **d) Regional diversity**

In the SEE region, countries share a common economic and geopolitical background, most of them having previously been part of the former Yugoslavia. Thus they are obliged to cope with similar legal and institutional legacies and certain common standards inherited from the past. These countries are still in transition and they have all experienced increasing environmental pressures linked with important economic growth. However, since the major political changes and the abolition of the old regimes, the SEE countries have followed different developmental paths.

Influenced by the presence and the support of the international community in the region, enormous efforts have been made to achieve economic growth based on the principles of sustainable development. Countries have made substantial progress in developing legal and policy reforms in the area of environmental protection, most of them linked with EU accession.

Among the SEE countries, Croatia has taken great strides in the implementation of environmental agreements and commitments. The country has ratified numerous MEAs and succeeded in building up a network for international environmental cooperation. Furthermore, driven by the prospect of EU accession, Croatia has made substantial progress in complying with the EU environmental acquis.

The establishment of appropriate institutions often remains a challenge. In Bosnia and Herzegovina, the complex multitude of authorities leads to difficulties in coordination. The country has had to develop special institutions for this purpose. In Serbia and in Montenegro, after the split of the state union, the institutional framework was modified to reorganise the setting for international environmental cooperation. Serbia has strengthened its institutions, while Montenegro has had to begin building its institutional structures, in many cases from the ground up.

Albania and Turkey have less in common with the other SEE countries. After democratic changes and fundamental reforms, Albania is committed to taking part in international environmental cooperation. Goals for the improvement of the country's environmental condition have been defined, and legislative developments, including the signature and ratification of international conventions, have been made. However, significant issues remain to be addressed, such as regional destabilisation, which make it challenging for the country to meet its international obligations.

Turkey has been undergoing major changes, including rapid overall economic growth and structural modifications. The road towards environmental progress is marked by challenges, such as the backlog in regard to international environmental commitments. The development of international environmental cooperation is at an early stage: numerous initiatives to increase transboundary cooperation have been undertaken, and limited assistance has been received.

## **e) Objectives, scope and methodological approach**

The present background report aims to assess and report upon the implementation of and compliance with MEAs in South Eastern Europe since the Kiev Ministerial Conference (2003), with a focus on UNECE conventions and protocols. It is based on desk research and SEE ministries' input and takes into account existing regional programmes related to the implementation of MEAs in SEE (AIMS, the Regional Partnership, Bridging the Gaps) and consolidates and incorporates the results of those initiatives.

The report provides a survey and analysis of results of activities aimed at improving the implementation of and compliance with specific UNECE conventions and protocols, where available, such as assessments, country implementation reports, synthesis reports, reports of compliance committees, clearinghouse activities, and other results of relevant assistance projects.

Furthermore, three documents are annexed to this paper, the Regional Assessment on Acceptance and Implementation of MEAs in SEE (Annex 1), the SEE Commentary on UNEP and UNECE Guidelines on Compliance with and Enforcement of MEAs (Annex 2), and the Use of National Implementation Plans in South Eastern Europe (Annex 3), which are outputs from the AIMS project. Further references are made to other outputs on MEA implementation with relevance to UNECE conventions.

The report is a companion to, and has been coordinated with, the UNECE Category 1 paper *Implementation of UNECE Multilateral Environmental Agreements* prepared by the UNECE Secretariat.

South Eastern Europe is a sub-region of the UNECE region.

## **2. International and Regional Cooperation on Implementation of MEAs**

MEA implementation requires various forms of cooperation between states. On one level, international cooperation is focused on providing assistance or transferring expertise and resources from states with experience to share, aimed at helping beneficiary countries to overcome the challenges and create the necessary preconditions for the acceptance and implementation of MEAs. As UNECE MEAs in particular deal with transboundary issues, regional or sub-regional cooperation is also an important aspect of implementation. In a transboundary context, the integrated management of resources cannot be achieved by one country alone and requires cooperation among the countries in the region. A sub-regional approach is thus necessary to protect and manage in a sustainable way the shared natural resources of South Eastern Europe. Regional forums or platforms for experience sharing, outreach and problem solving are therefore key factors in the level of acceptance and implementation, and such cooperation can help to identify and mobilise resources and to ensure efficient use of available funding.

Cooperation at a sub-regional level gives the SEE countries the opportunity to face common problems, to develop institutional capacity and experience, and to comply with MEA obligations:<sup>3</sup>

- Through regional cooperation and the establishment of networks, the countries can establish dialogue, share information, exchange experiences, and benefit from the experience of advanced countries.
- Thanks to the coordination of actions and common goals, cooperation between countries plays an essential role in the effective and concrete implementation of conventions.

Different types of cooperation established in the region deliberately targeted the implementation of UNECE convention requirements or indirectly contribute to their implementation. A few examples are given below.

An example of the sub-regional implementation of a UNECE MEA is the International Framework Agreement for the Sava River Basin, adopted in 2002. The scope of this framework agreement covered the following areas of sustainable water resources management:

- utilisation and exploitation of water;
- water quality and quantity protection;
- protection from the harmful impacts of water; and
- water eco-system protection.

This sub-regional MEA in part aimed at enhancing implementation of the UNECE Water Convention. A key feature of this agreement was the creation of the International Sava River Basin Commission, established in 2004. The success of this initiative is widely recognised, and it is a model for other sub-regional efforts at cooperation.

An example of a bilateral agreement involving an SEE country relevant to the TEIA Convention is the agreement between the governments of Slovenia and Croatia with respect to cooperation in the event of natural and technological catastrophes. This agreement covers the planning and implementation of protection measures for natural and technological catastrophes; mutual notification about hazards and the harmful effects of catastrophes; mutual assistance in the event of an emergency; cooperation in the education and training of experts for response and restoration; and exchange of information about scientific activities and technical measures related to preparedness and response.

Several joint projects<sup>4</sup> and initiatives are aimed at facilitating the acceptance and implementation of MEAs in SEE countries. The major regional efforts in this regard are the AIMS Project, Bridging the Gaps and the Regional Partnership.

Since 2001, the Support for Acceptance and Implementation of Multilateral Environmental Agreements in South and Eastern Europe (AIMS) project<sup>5</sup> has supported the countries of SEE in the acceptance and implementation of international environmental norms and in enhancing interstate dialogue. The project is implemented by the REC with the financial support of the Netherlands, and project partners include UNEP, UNECE, the World Conservation Union

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<sup>3</sup> *Bridging the Gaps: Background Report on Biodiversity and Chemicals/Waste MEAs in South Eastern Europe*, 2006.

<sup>4</sup> Conventions' specific cooperation initiatives and projects are presented under the chapter "Highlights of the implementation of UNECE MEAs"

<sup>5</sup> The beneficiary countries are: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Romania and Serbia. The main project donors are the Ministries of Foreign Affairs and of Housing, Spatial Planning and Environment of the Netherlands.

(IUCN) and numerous MEA secretariats. The AIMS Network, a joint network of senior officials and legal experts, was established in 2001 and has ensured cooperation and coordination of relevant MEA activities among the relevant officials and legal experts from the region. As of 2007, the AIMS network includes 46 members in eight countries. It serves as the regional hub for global efforts to build capacity for the implementation of MEAs, such as UNEP's Bridging the Gaps initiative.

#### **BOX 1. AIMS Project**

Thirteen capacity-building activities took place under the project, including regional and national workshops, seminars and training on specific MEAs with special focus on the Basel Convention.

The main outputs were the production of seven country assessments on acceptance and the *Implementation of MEAs in Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Romania, and Serbia and Montenegro* (2004); a *Regional Assessment on Acceptance and Implementation of MEAs in SEE* (2004); an *SEE Commentary on the UNEP and UNECE Guidelines on Compliance with and Enforcement of MEAs* (2007); and a paper on the *Use of National Implementation Plans in South Eastern Europe* (2007). (Available at [www.rec.org/REC/Programs/REReP/AIMS/Events-Reports.html](http://www.rec.org/REC/Programs/REReP/AIMS/Events-Reports.html); see also the annexes to this paper).

The AIMS project had major impacts, including:

- additional ratifications/acceptance of MEAs in SEE countries;
- improved implementation of MEAs in force through, inter alia, the production of implementing legislation and progressive policy tools;
- a working regional network as a focal point for international assistance efforts;
- major reference works assessing MEAs in SEE;
- the setting of MEA priorities by governments;
- working national/local committees with the participation of domestic experts and stakeholders;
- the Basel Convention raising funds for a new, concrete programme of assistance for SEE;
- the CITES secretariat increasing assistance efforts in the region following the successful country workshop in the former Yugoslav Republic of Macedonia; and
- working national/local committees with the participation of domestic experts and stakeholders.

The AIMS network is given as an example of a successful regional network for cooperation and dialogue in the UNEP *Bridging the Gaps* report. The AIMS project is featured as a case study for coordinated technical and financial assistance for the implementation of MEAs in the UNEP's *Manual on Compliance with and Enforcement of MEAs* (UN, 2006). In addition, AIMS is acknowledged by the Basel and CITES secretariats and the UNECE as a major force in overcoming obstacles towards improved MEA implementation in SEE.

UNEP is currently working on projects to enhance the coherent and synergistic implementation of obligations and expectations arising from multiple global and regional agreements. Bridging the Gaps: Enhancing MEA Implementation in the Balkans — a project for the enhanced implementation of key global and regional multilateral environmental agreements (MEAs) in the Balkans, including the development of national legislation and policies in light of the EU environmental acquis — is implemented by UNEP with financial support from the Austrian government. The project aims to build and significantly strengthen national capacities for an enhanced and more effective implementation of key global and regional MEAs, as well as integrating the EU environmental acquis by utilising the synergies of MEAs and addressing their implementation. It aims at the integration of MEA requirements and other related domestic priorities into the general developmental and environmental management capabilities and approaches of the target countries, rather than seeking merely to achieve implementation of the MEAs in isolation from the national development plans and environmental management efforts of the countries. Because the UNEP project is based on the clusters or thematic areas of chemicals/waste and biodiversity, where mainly global MEAs are involved, the relationship to the implementation of UNECE MEAs in SEE is indirect.

UNEP, through the Regional Office for Europe and often in partnership with the REC, has in recent years assisted countries in Eastern Europe, upon request, to develop and conclude environmental agreements, and to improve enforcement of and compliance with the provisions of MEAs. UNEP provides support for the national implementation and enforcement of MEAs, particularly aspects related to information management and reporting, based on an analysis of the current institutional and legal situation in the countries.

Under the Regional Partnership,<sup>6</sup> the participating countries (Austria, the Czech Republic, Hungary, Poland, Slovakia and Slovenia) have offered to assist the countries designated as the Western Balkans (Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia) mainly in terms of sharing experience gathered in the process of economic and social transformation and European integration, taking into account the specific circumstances of each country in the region. The participating foreign ministers identified six specific fields of cooperation, with respective joint initiatives to be coordinated by one of the Regional Partnership countries. Austria leads the partnership initiative on environmental protection (focusing on waste management, sewage cleaning and sanitation, the quality of drinking water, and air pollution).

A project under the Regional Environmental Reconstruction Programme for South Eastern Europe (REReP) on Capacity Building for Environmental Impact Assessment — supported by the EC EuropAid Cooperation Office, funded by the European Union, and implemented by the REC under the leadership of Croatia — addressed an urgent need for the development of basic EIA know-how in SEE countries (excluding Turkey). The key project outcomes were the EIA Guidelines for SEE, accompanied by an EIA/SEA Overview in SEE, country-specific EIA training manuals for the beneficiary countries (Internet-based), two “train the trainer” workshops, six high-level EIA meetings and other outputs in response to ad hoc requests for consultancy support.

Capacity building and regional cooperation efforts to support ratification/accession have also been carried out in several projects related to the Aarhus Convention and the PRTR Protocol, including assessments on needs and priorities for ratification/accession, developing strategies and action plans, trainings, workshops, study tours and manuals and other guidance materials prepared within the Danube Regional Project funded by UNDP/GEF on public access to information, public practice and access to justice in Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia.<sup>7</sup>

### **3. Common Features of the Implementation of the UNECE Conventions**

#### **a) Major regional challenges**

SEE countries have made substantial efforts towards the implementation of MEAs, and the environment is becoming a priority in governments’ strategies. Their commitment to comply with their international obligations and to cooperate at regional and sub-regional levels is steadily increasing. However, there is still room to improve, strengthen and intensify cooperation on the implementation of MEAs in the SEE region.

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<sup>6</sup> *Perspective of Co-operation between Central Europe and the Western Balkans*, joint statement issued in Budapest, October 11, 2005. See:

[www.mfa.gov.hu/kum/en/bal/foreign\\_policy/visegradeng/visegraddeclarations/051011joint.htm](http://www.mfa.gov.hu/kum/en/bal/foreign_policy/visegradeng/visegraddeclarations/051011joint.htm)

<sup>7</sup> Additional examples specific to separate UNECE MEAs can be found in the chapter “Highlights of the implementation of UNECE MEAS.”

Although each country faces specific challenges in implementing MEAs, common challenges can be identified on a regional level.

As identified in the *Bridging the Gaps* report,<sup>8</sup> the availability of resources is crucial to meeting the obligations of MEA regimes, yet there is a general insufficiency of resources in the subject countries. This paper confirms that the need for strengthening administrative capacity and institutions, in particular those related to implementation and enforcement, is most obvious where there are unclear areas of responsibility, sometimes overlapping responsibilities and, in the case of some countries, multiple levels of authority with often unclear jurisdictions. While much progress has been made in the adoption of legislation, there remains a question concerning the quality of the legislation adopted. Much of it is, especially in certain countries, of too general and declaratory a nature, and it is doubtful whether it establishes a clear regulatory framework with the necessary specificity to be enforceable. Moreover, there is a general lack of specific, secondary legislation aimed at implementation, even though the general legislation has come into force.

New forms of enforcement mechanisms are being adopted at a slower pace. This is partly due to the fact that the real application of such tools is encumbered by the general need for additional structural reforms in societies. Authorities and stakeholders have exhibited increasing knowledge and experience relevant to applicable international standards, mechanisms and tools, which represents a major step towards achieving real implementation.

The main regional findings of relevance to the acceptance and implementation of UNECE MEAs in SEE emerging from this paper are summarised below. This paper acknowledges that some countries are more advanced in terms of the implementation of MEAs. Some of the findings are relevant only to a few of the target countries. The purpose of this listing is to identify features common to most of the SEE countries.

### **Institutional and financial capacity**

- There is often insufficient awareness of the benefits of adopting certain MEAs. Knowledge of the requirements of some MEAs is limited to certain specialised units within ministries.
- The allocation of sufficient quantitative and qualitative human and technical resources for the implementation of MEA-related legislation is still a challenge faced by most institutions. A proactive approach, such as increased participation in MEA-related programmes, would help to alleviate national institutional deficiencies.
- Government authorities often have overlapping and conflicting responsibilities (e.g. between certain ministries). Structural reforms may be needed to ensure coordination between the relevant public authorities for the (joint) implementation of international obligations.
- The need for training the staff of the governing bodies at all relevant administrative levels to implement and enforce environmental legislation, including trainings on the management of multi-stakeholder processes, needs to be further addressed.
- The transfer of responsibilities and continuity should be better ensured in the case of changes in staff, and retention policies should be introduced.
- Relevant authorities need to increase their efforts in seeking financial assistance from international organisations and to increase their participation in internationally-funded initiatives in support of their environmental protection activities.

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<sup>8</sup> *Bridging the Gaps: Background Report on Biodiversity and Chemicals/Waste MEAs in South Eastern Europe*, 2006.

## **Legislative, implementation and enforcement capacity**

- Policies adopted for the implementation of MEAs are to be realistic and commensurate with the resources of the country in order to guarantee adequate enforcement.
- Laws, rules to implement them and the mechanisms to enforce them, need to be consistent, which is not always the case. In this respect, inter-sectoral consultation procedures may prevent conflicts in legislation and ensure conformity.
- An accessible and consistent system for the monitoring of outstanding legal obligations under MEAs is essential, as is good reporting capacity, and further efforts should be devoted to these ends.
- The level of exchange of experience on the implementation of MEAs, particularly between countries in the region and neighbouring countries, needs to be substantially increased.
- Better education and information dissemination, as well as enhanced mechanisms for cooperation with the public and awareness raising, are necessary.
- The active participation of the public in the process of environmental decision making and protection needs to be guaranteed.
- Environmental inspection controls need to be further developed, especially regarding control over illegal activities and pre-emptive control over industrial activities. Although the basic legal regulatory framework exists in this respect, the level of enforcement is still insufficient.

## **b) Key regional recommendations**

These recommendations are derived from the review of the implementation of UNECE MEAs in the Highlights of the Implementation of UNECE MEAs chapter of this paper and other relevant recent studies. These recommendations are applicable to the countries which are still facing relevant problems. They are addressed mainly to governmental authorities but can provide guidance to civil society organisations, donors and the secretariats of international conventions with regards to activities that can be undertaken to support the process of ensuring compliance with MEAs.

The ministries of environment (MoEs) and other relevant authorities should identify specific priorities for each MEA and should assess the costs and benefits of becoming a party to an MEA. Furthermore, responsibility, cooperation and information exchange among the competent institutions should be further clearly defined and enhanced. In addition, the MoEs should seek the improvement of relevant legislation and implementation practices and, where appropriate, should develop strategies or national implementation plans (NIPs). The MoEs should also participate more actively in the activities of MEAs, MOPs/COPs and subsidiary bodies, seeking timely financial support from MEA mechanisms and domestic resources. The MoEs should take steps to raise public awareness on MEAs and MEA-related issues.

Specific recommendations follow and are grouped according to eight major areas. Detailed recommendations related to specific UNECE MEAs may be found in section 4.

### **Identification of gaps, needs and priorities**

- Avoid ratification without implementation.

- A systematic approach/methodology to the acceptance, ratification and implementation of MEAs should be adopted, including financial, institutional, and legal assessment aspects. To this end, the main legislative and institutional requirements for compliance and the financial implications of the acceptance of MEAs should be identified.
- A clear knowledge of the obligations under specific MEAs is crucial at the beginning phase of ratification for all relevant stakeholders.
- The MoEs and other bodies should ensure discussions about the obstacles and practical solutions to the implementation of MEAs and should list specific priorities for each MEA.
- The use of advisory documents such as the UNECE and UNEP Guidelines can help countries to comply with their obligations.

### **Financial aspects**

- Coordination among SEE countries in their approach towards financial assistance (donations, grants, etc.) needs to be improved through, for example, joint applications to donors. At the same time, international donors should coordinate their actions and international projects need to contribute systematically to the needs of the region.
- Stable and reliable funding is necessary for maintaining regional cooperation. To be sustainable, cooperation cannot depend only on external sources; therefore governments should secure the funds from the national budgets.
- Attention should be paid to the development of cost/benefit analyses for the implementation of conventions and to the elaboration of economic incentive systems.
- Resources should be sought and allocated to the updating/phasing out of obsolete, polluting or hazardous technologies.

### **Development of implementation and enforcement tools**

- Governments should develop better reporting capacities. In this respect, countries and donors should actively work together to establish good environmental information systems and effective monitoring frameworks, including indicators, which are needed for collecting data for MEA reports on national measures for implementation.
- The adoption of national strategies for implementation, national action plans, etc. should be undertaken as early as possible after ratification, and greater use should be made of the technical assistance mechanisms available under the conventions.
- NIPs, which are useful tools for ensuring a strategic approach to compliance with MEAs, should be developed where relevant and appropriate.
- The process of developing implementation strategies or NIPs should be based on a transparent, inclusive and participatory approach involving all stakeholders, ranging from central level public authorities to NGOs, research institutes and local governments.

### **Legislative review and the adoption of implementing legislation**

- Countries should verify legislation in the drafting process for consistency with all MEAs, including those that are not yet accepted but the acceptance of which is planned.
- The move towards the adoption of framework legislation in line with the EU will assist in meeting MEA obligations. MEAs should not be seen as conflicting with EU requirements.
- The scope of input for the establishment of strategies for legislative reform should be broadened, including the use of expert assistance (e.g. foreign expertise).

- Good practices from other countries should be taken into account when developing the domestic legal framework for the implementation of the convention.

### **Institutional mechanisms**

- For some of the conventions, governments still need to identify all the relevant institutions and other stakeholders to be involved. Responsibility, cooperation and information exchange among the competent ministries have to be further improved.
- National coordinating committees involving not only governmental authorities but also research institutes, representatives of local governments and civil society, should be established or strengthened.
- MoEs should develop an information management system to ensure continuity when staff positions change and should introduce retaining policies for trained staff.
- The relevant staff should be given the minimum technical equipment necessary to implement their tasks under the requirements of the MEAs.

### **Sharing of experience and information**

- SEE countries should share their experience and benefit from the experience of neighbouring countries, especially new EU member states.
- The establishment of joint working groups at the expert level to exchange information and, if needed, at a higher, political level should be considered to ensure regular networking and cooperation.
- The establishment of a harmonised data collection and monitoring system, and the exchange of information and reporting are crucial.

### **Public participation and stakeholder involvement**

- MoEs should take steps to raise the public awareness of MEAs and MEA-related issues and establish regular dialogue with the relevant stakeholders. This can be achieved through the creation and maintenance of websites on the pertinent MEAs linked to the ministries' websites, providing up to date information on the MEAs and ensuring regular consultation forums or working groups where the relevant issues can be discussed.
- Public participation and stakeholder involvement should be included during the ratification procedure in order to ensure acceptance by the target groups of the obligations deriving from MEAs as well as during the implementation.
- Pilot projects to test both intervention strategies and stakeholder involvement methodologies need to be developed.

### **Training**

- Specific training courses on MEA-related topics (e.g. implementation, enforcement mechanisms, assessment of costs and benefits) should be organised.
- Training efforts in the region should be focused on various target groups that play a role in the implementation and enforcement of MEAs.
- Training programmes for MoE staff need to include clear targets for achievement and objective performance assessment, especially in the enforcement of the relevant legislation.

## 4. Highlights of the Implementation of UNECE MEAs

### a) Status of UNECE MEAs ratification in SEE countries

SEE country	LRTAP	EMEP	Sulphur	Espoo	SEA	TEIA	Civil Liability	Water	Water and Health	Aarhus	PRTR
Albania	●	-	-	●	●	●	-	●	●	●	-
Bosnia and Herzegovina	●	●	-	-	-	-	-	-	-	-	-
Croatia	●	●	●	●	-	●	-	●	●	●	-
Montenegro	●	●	-	-	-	-	-	-	-	-	-
Serbia	●	●	-	-	-	-	-	-	-	-	-
Former Yugoslav Republic of Macedonia	●	-	-	●	-	-	-	-	-	●	-
Turkey	●	●	-	-	-	-	-	-	-	-	-

Convention on Long-Range Transboundary Air Pollution (LRTAP);  
 Protocol to the 1979 Convention on LRTAP on Long-Term Financing of the Cooperative Programme for Monitoring and Evaluation of the Long-range Transmission of Air Pollutants in Europe (EMEP);  
 Protocol to the 1979 Convention on LRTAP on Further Reduction of Sulphur Emissions;  
 Note: None of the SEE countries has ratified the six other protocols under the LRTAP  
 Convention on Environmental Impact Assessment in a Transboundary Context (Espoo);  
 Protocol on Strategic Environmental Assessment (SEA);

Convention on the Transboundary Effects of Industrial Accidents (TEIA);  
 Protocol on Civil Liability (Civil Liability);  
 Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water);  
 Protocol on Water and Health (Water and Health);  
 Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus);  
 Protocol on Pollutant Release and Transfer Register (PRTR);

## b) Convention on Long-Range Transboundary Air Pollution

### Status of ratification and implementation

To date, all SEE countries have ratified, acceded to or succeeded to the LRTAP Convention.<sup>9</sup> Turkey was the first subject country to ratify the convention in 1983. The most recent SEE country to have ratified the convention by succession is Montenegro, since becoming independent in November 2006. Following the split of the state union, the institutions dealing with environmental protection in Montenegro have been modified and a newly established Ministry of Tourism and Environment (MTE) has become responsible for environmental matters. Since 2002, Montenegro has made significant progress in developing strategic documents and plans, most of them linked with EU accession, and a specific environmental law on air quality is under development. Thus, the laws on EIA, SEA and IPPC relating to general environmental management issues are still crucial to addressing air pollution.<sup>10</sup>

#### BOX 2.

In the framework of the Memorandum of Understanding signed on June 28, 2004 by the Italian Ministry for the Environment, Land and Sea (IMELS) and the Montenegrin Ministry for the Environment and Territorial Planning, a work plan was prepared concerning technical assistance to the Republic of Montenegro in the field of the environment. In particular, assistance will be given regarding the adoption of the *acquis communautaire* and the implementation of MEAs.

One of the activities is focused on capacity planning in the field of air-quality management at the national level.

The general goal of this project is to support Montenegro in activities connected to the realisation of emission inventories on a national scale in relation to the implementation of the Convention on Long-Range Transboundary Air Pollution (LRTAP). The support will be conducted by identifying interactions with the inventories of greenhouse gas emissions carried out in accordance with the United Nations Framework Convention on Climate Change (UNFCCC), and providing for the transfer of the necessary capacities and technical know-how through a training phase. Serbia and Montenegro became a party to the convention and the EMEP protocol on March 12, 2001. Additional protocols need ratification, in particular the four most recent protocols, which reflect the most advanced stage of air-quality management. The EMEP programme relies on three main elements: the collection of emission data, measurements of air and precipitation quality, and the modelling of atmospheric transport and deposition of air pollution.

In particular, the activities will help Montenegro to:

- define the legal framework for the ratification of additional protocols;
- define the responsibilities for preparing a national emission inventory of pollutants included in LRTAP;
- define the interactions with the UNFCCC greenhouse gas emission inventory;
- realise an emission inventory; and
- submit the emission inventory to the LRTAP Convention body.

Serbia has been party to the convention since 2001 and provides annual emissions data as required by the convention. Since 2002, Serbia has made significant progress in developing environmental legislation. In May 2006 the government adopted the Law on Air Protection, which is harmonised with relevant EU directives and contains provisions related to LRTAP.<sup>11</sup> Its adoption, along with necessary bylaws, may speed up the process of ratification of the protocols.

Albania became a party to the convention on December 2, 2005. Before the ratification, air monitoring data in main urban areas showed that air pollution had not been controlled or

<sup>9</sup> [www.unece.org/env/lrtap/status/lrtap\\_st.html](http://www.unece.org/env/lrtap/status/lrtap_st.html)

<sup>10</sup> [www.unece.org/env/epr/studies/Montenegro\\_2/welcome.htm](http://www.unece.org/env/epr/studies/Montenegro_2/welcome.htm)

<sup>11</sup> [www.unece.org/env/epr/studies/Serbia\\_2/welcome.htm](http://www.unece.org/env/epr/studies/Serbia_2/welcome.htm)

reduced. The new Albanian air legislation is in line with EU directives, but an assessment should be carried out regarding its compatibility with LRTAP.<sup>12</sup>

Croatia has been party to the convention since 1992 and the legislation for the implementation of the convention has been adopted. The legislative framework relevant for the convention is well developed, and laws and subordinate regulations are in force. The Law on Air Quality Protection (NN No. 48/95) is in force, as are subordinate regulations. The Decree on Recommended and Limit Air Quality Values (NN No. 101/96, 2/97) prescribes recommended and limit values, used as the basis of air-quality assessments, categorising areas in accordance with their air pollution levels and air quality management. The Decree on Limit Values of Pollutant Emissions from Stationary Sources into the Air (NN No. 140/97) prescribes emission monitoring (first, periodical, continuous and special measurements), general emission limit values (emission limit values for total dust substances, inorganic dust substances, inorganic compounds in the form of vapour or gas, organic and carcinogenic substances), emission limit values referring to specific production processes (production of non-metallic mineral raw materials, metal production and processing), emission limit values for combustion installations (very small, small, medium and large combustion installations), emission limit values for gas turbines, emission limit values for internal combustion engines and emission limit values for processes for the thermal treatment of waste and penalty clauses.<sup>13</sup> The Meteorological and Hydrological Service of Croatia and the State Bureau for Standardization and Metrology are the competent authorities for the convention.<sup>14</sup> Furthermore, Croatia has participated regularly in the meetings of the Conference of the Parties and the Executive Body.

Cooperation in the programmes for the monitoring and evaluation of the long-range transmission of air pollutants in Europe through participation in the working groups under the convention and through the exchange of data within the framework of the relevant international cooperative programmes (ICP) has been established.<sup>15</sup> The Working Group on Effects (WGE) provides information on the degree and geographic extent of the impacts of major air pollutants on human health and on the environment. Its six ICPs and the Task Force on Health identify the most endangered areas, ecosystems and other receptors by considering damage to human health, terrestrial and aquatic ecosystems and materials. Croatia participates regularly in the meetings and activities of this working group and also in the ICP established under it. The country also participates regularly in the meetings and provides data to the ICP for Assessment and Monitoring of Air Pollution Effects on Forests, the ICP on Effects of Air Pollution on Natural Vegetation and Crops (Croatia is the only SEE country to participate in this ICP), the ICP for Assessment and Monitoring of Acidification of Rivers and Lakes, and the ICP on Modelling and Mapping Critical Levels and Loads and Air Pollution Effects, Risks and Trends.<sup>16</sup> Most of the SEE countries participate in the ICP for Assessment and Monitoring of Air Pollution Effects on Forests, while none of them participate in the ICP for Effects on Materials, including Historic and Cultural Monuments, or in the ICP on Integrated Monitoring of Air Pollution Effects on Ecosystems. In general, the level of participation of the SEE countries in ICPs and in the Task Force on Health is very low.

Concerning measures to encourage the parties to meet their obligations, the LRTAP Convention has developed options through its formal decisions on non-compliance. An initial option has been to invite a party in non-compliance to provide information to assist the Implementation Committee in its work, while the most stringent option used so far has been to request a party in non-compliance to make a presentation to the Executive Body (Meeting of the Parties) to explain what it is doing to achieve compliance.

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<sup>12</sup> [www.rec.org/REC/Programs/REReP/AIMS/PDF/Tirana-Outputs.pdf](http://www.rec.org/REC/Programs/REReP/AIMS/PDF/Tirana-Outputs.pdf)

<sup>13</sup> [www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf](http://www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf)

<sup>14</sup> [www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf](http://www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf)

<sup>15</sup> [www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf](http://www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf)

<sup>16</sup> [www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf](http://www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf)

Finally, the LRTAP Convention has a mandatory funding instrument (for its EMEP4 programme). Parties to the EMEP Protocol contribute to financing the EMEP centres, which coordinate data collection and modelling, according to the UN scale of assessment.

### **Status of ratification and implementation of the eight protocols to the convention**

The SEE countries more readily acceded to the convention than to the protocols, which have more specific obligations. Albania and the former Yugoslav Republic of Macedonia are not parties to any protocol. Bosnia and Herzegovina, Croatia, Serbia, Montenegro and Turkey are parties to the EMEP Protocol. The only country that is party to a protocol other than the EMEP funding protocol is Croatia (to the second [1994] Sulphur Protocol), which it ratified in 1999.

Although the legislation for the implementation of the ratified protocol has been adopted, Croatia still has problems complying with its obligations. Croatia has not reported the required emission data for 2004 and 2005, or the required “gridded” emission data for 2005 nor has it replied to the 2006 questionnaire on strategies and policies — an action that would satisfy strategies and policies reporting requirements under the Sulphur Protocol. Croatia does not currently meet the reporting requirements of the Sulphur Protocol and, without reports, information on implementation is lacking. The ninth Implementation Committee report to the Executive Body recommends that Croatia comply with its obligations to report on strategies and policies for 2006 under the Protocol.<sup>17</sup>

Croatia signed the Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, the Protocol on Persistent Organic Pollutants (POPs) and the Protocol on Heavy Metals<sup>18</sup> in 1998, but has not yet ratified them. In Serbia, all LRTAP protocols are listed in the National Environment Strategy as MEAs in the preparation process for ratification, but there is no clear indication when ratification might take place. The ratification and implementation of international agreements dealing with air protection, ozone layer protection and climate change are among the ongoing policy objectives for 2006–2015.<sup>19</sup>

It is evident that the convention’s more complex protocols, which have technical obligations and may involve several government departments (e.g. the 1999 Protocol to Abate Acidification, Eutrophication and Ground-level Ozone, or the Gothenburg Protocol) are proving a challenge for countries with economies in transition.<sup>20</sup> Emissions from agriculture, transport, industry and energy must be considered together in meeting the obligations under this protocol. This presents major challenges for the countries, although bringing the various sectors together has shown that a strongly integrated approach is a powerful way of dealing with such complex problems.

### **Major challenges in implementation**

Obsolete technology in the industries of the SEE countries is an obstacle to the implementation of the LRTAP Convention. Many industrial facilities in these countries have not been modernised and still use obsolete and polluting technologies, sometimes in poorly maintained installations. The level of risk at such installations is already high and will probably grow with any increased use of capacity.<sup>21</sup>

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<sup>17</sup> [www.unece.org/env/lrtap/ic/reports.htm](http://www.unece.org/env/lrtap/ic/reports.htm)

<sup>18</sup> [www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf](http://www.rec.org/REC/Programs/REReP/AIMS/PDF/CountryReportCroatia.pdf)

<sup>19</sup> [www.unece.org/env/epr/studies/Serbia\\_2/welcome.htm](http://www.unece.org/env/epr/studies/Serbia_2/welcome.htm)

<sup>20</sup> United Nations, Economic and Social Council, Economic Commission for Europe, Committee on Environmental Policy, Implementation of UNECE Multilateral Environmental Agreements, May 29, 2007

<sup>21</sup> United Nations, Economic and Social Council, Economic Commission for Europe, Committee on Environmental Policy, Implementation of UNECE Multilateral Environmental Agreements, May 29, 2007

## **Key recommendations**

Although few of the countries have achieved significant progress in the implementation of the convention, other countries of the SEE region still need to devote efforts in order to:

- assess existing gaps and seek technical assistance from the LRTAP Convention Secretariat;
- establish a legal and institutional framework for cooperation among governmental bodies, local and self-government units and the public;
- adopt and revise legislation to ensure adequate enforcement of the convention;
- make it a priority to ratify, implement and enforce the protocols that have not yet been ratified;
- establish cooperation between the institutions and bodies mentioned above, as well as between the courts and prosecutors, in the area of violation and criminal proceedings;
- train judges, attorneys, lawyers and prosecutors, as well as ministerial staff;
- include representatives of NGOs and the business sector in the implementation of the convention;
- strengthen cooperation at international and regional levels through, for instance, participation in the different ICPs;
- establish a system for the financing of environmental needs as part of a system of financing needs in general;
- technically equip the personnel of the competent authorities and other bodies and institutions responsible for the monitoring and implementation of the convention;
- improve data collection and monitoring systems;
- modernise industrial technologies and infrastructure;
- request financial and technical support for the establishment of the guidelines, methodologies and criteria necessary for the further implementation of the LRTAP Convention; and
- establish reporting systems, which could make use of the reporting regimes of the EU and the United Nations Framework Convention on Climate Change.

## **c) Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Protocol on Strategic Environmental Assessment (SEA Protocol)**

### **Status of ratification and implementation of the Espoo Convention**

To date, only Albania, Croatia and the former Yugoslav Republic of Macedonia have ratified or acceded to the Espoo Convention (see the Status of UNECE MEAs ratification in SEE countries). Bosnia and Herzegovina, and Turkey have made some progress towards the implementation of the convention, although their current regulatory frameworks are not fully aligned with the requirements of the Convention on EIA in the Transboundary Context. In 2004 and 2005 Serbia and Montenegro elaborated EIA and SEA laws which are in line with the EIA Directive and therefore should be close to, or fully in line with, the requirements of the convention.

It should be noted the ministries of the environment of nine countries (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Greece, the former Yugoslav Republic of Macedonia, Montenegro, Romania and Serbia) plan to sign a multilateral agreement to support implementation of the Espoo Convention in SEE during the 4th Meeting of the Parties to the Espoo Convention in Bucharest in May 2008. The agreement was negotiated during three workshops that took place in December 2004 (Serbia), June/July 2005 (former Yugoslav Republic of Macedonia) and November 2005 (Bulgaria).<sup>22</sup>

A rapid assessment of the implementation of the Espoo Convention in SEE reveals the following findings regarding the progress of transposition and implementation:

- stagnation in the process of ratification of the Espoo Convention for almost 10 years, regardless of progress in the development of regulatory and technical capacities in the field of impact assessment in four (out of seven) countries of the region;
- need for stronger political commitment to the implementation of the Espoo Convention requirements as a sign of good partnership and international/cross-border cooperation; and
- need for more intensive dialogue among the countries of SEE related to the implementation of the Espoo Convention, which can help to prepare for transposition (legally and technically).

### **Major challenges in implementation**

Although ratification of the Espoo Convention is significantly lagging behind in the region as a whole, the work carried out in the implementation of the requirements of the Espoo Convention, as well as capacity development on EIA, has been significant in the region during recent years. Since 2003 the development in the EIA national regulatory framework in the region is of particular note.

The progress made by the countries of the SEE region can be attributed largely to commitments and efforts dedicated to transposition or aspirations to align national legislation with the requirements of the EU directives, and in particular with the EC EIA Directive (Directive 85/337/EEC as amended by Directive 97/11/EC). The development of EIA legislation in the region has meant a step towards higher environmental standards in the countries as well as towards environmental compliance in the region. However, the importance of the Espoo Convention lies in its potential to increase transnational environmental compliance and cooperation.

Albania issued the Law on Environmental Impact Assessment in 2003 (No. 8990). In Bosnia and Herzegovina, both the Federation and Republika Srpska have adopted a set of legal acts regulating the EIA procedure. Basic provisions related to EIA are contained in the entity Laws on Environmental Protection (OG of Federation No. 33/03, OG of Republika Srpska No. 53/2002). In the Republika Srpska, apart from the existing law, the Parliament has adopted the Law on Amendments to the Law on Environmental Protection (OG of Republika Srpska 109/2005) and the consolidated text of the same law, published in the Official Gazette of RS No. 28/2007. The aforementioned amendments relate mainly to the provisions related to EIA procedure, in order to achieve full harmonisation with those in the Law of the Federation of Bosnia and Herzegovina.

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<sup>22</sup> See the text of the agreement at [www.unece.org/env/eia/documents/april2006/SE%20Europe%20draft%20agreement%20v.3.pdf](http://www.unece.org/env/eia/documents/april2006/SE%20Europe%20draft%20agreement%20v.3.pdf)

**BOX 3.**

In Bosnia and Herzegovina, specific provisions related to EIA are set out in the regulations and governmental decrees issued by both entity ministries. These regulations determine the following:

- projects and installations for which EIA is mandatory, and the criteria for determining the obligation and extent of EIA (OG RS 7/06);
- installations and facilities whose operation may be commenced only if the environmental permit has been granted (OG RS 7/06, OG FBH 19/04);
- specific requirements for submitting an environmental permit application for installations and sections for which environmental permits were issued prior to enacting the Laws on Environmental Protection (OG RS 24/06, OG FBH 68/05); and
- a timeframe for applying for an environmental permit for installations issued with an environmental permit before the Law on Environmental Protection entered into force (OG RS 24/06, OG 68/05).

In addition, regulations on the mandatory requirements and criteria for enterprises and institutions entitled to perform professional activities in environmental protection, such as compiling EIA studies, have been passed in both entities. (OG RS 15/07 and OG FBH 68/05).

In Croatia, the Environmental Protection Act, completed by the Ordinance on the Environmental Impact Assessment adopted in 1999, requires that environmental impact assessments include the precautionary principle, as well as all effects on land, water, sea, air, forest, human health, plants, animals, landscape, spatial and cultural values and their interrelations. A new Environmental Protection Law aimed at transposing the EIA and SEA directives is in preparation.

The former Yugoslav Republic of Macedonia has developed an integral system for implementing the EIA/SEA system. The new Law on Environment (No. 53/2005) stipulates all stages of the EIA/SEA processes. Additionally, the government of the former Yugoslav Republic of Macedonia adopted a decree determining the projects for which, and the criteria on the basis of which, screening an EIA must be carried out (No. 74/2005), and the supplementary acts: ordinance on the content of the requirements that need to be fulfilled by the study on the EIA (No. 33/2005); ordinance on the content of the announcement of the notification of intention to implement project, of the decision on the necessity of an EIA, of the study on project EIA, of the report on the adequacy of the study EIA, and of the decision for approval or rejection of project realisation, and the manner of public consultation (No. 33/2005); ordinance on the information contained in the notification of intent to undertake a project and the procedure for establishing the need for EIA (No. 33/2005); ordinance on the form, content, procedure and manner of delivering a report on the adequacy of the study on EIA and the procedure for authorisation of persons from the List of Experts of EIA responsible for the preparation of the report (No. 33/2005).

Montenegro has fully harmonised its legislation on environmental impact assessment with the relevant EU directive by adopting the Law on Environmental Impact Assessment (OJ No. 80/05) as well as a decree on projects that are subject to the elaboration of an EIA study with a new list of objects and activities (OJ No. 20/07). The EIA Law regulates the procedure for impact assessment for projects that may have a significant impact on the environment, the contents of the impact assessment study, the participation of authorities, organisations and the public concerned, the evaluation and procedure for issuing authorisations, the exchange of information on projects that may have a significant impact on the environment in another state, supervision, and other issues of relevance for the EIA.

Regarding the Espoo Convention, Serbia has made significant progress. The Draft Law on Ratification of the Espoo Convention is in parliamentary procedure. Serbia is participating in Meetings of the Parties and other relevant events. The country has also developed laws on EIA and SEA, and these laws are fully in accordance with the relevant EU directives. The Serbian

EIA regulations resulted in a new *Book of Regulations on EIA*, including a new List of Objects and Activities. Technical Assistance Within the Environmental Capacity-Building Program, supported by the European Agency for Reconstruction (EAR), guidelines for the implementation of EIA and SEA, have been developed to support the implementation of the laws on EIA and SEA.

EIA in Turkey is regulated by a decree brought into force on the basis of the relevant provision of the Environmental Law. In Turkey, the EIA Regulation was applied by the Ministry of Environment in 1993 and was most recently revised in 2003. The Council Decision of 23 January 2006 on the Principles, Priorities and Conditions Contained in the Accession Partnership with Turkey (2006/35/EC) sets the short-term priorities for Turkey to “continue to transpose and implement the acquis related to the framework legislation, international environmental conventions, and to implement and enforce the amended environmental impact assessment directive.” A number of thematic seminars on SEA and EIA procedures were organised for interested counterparts at the national and local levels by the Ministry for Environmental Protection.

### **Capacity development activities**

There have been a number of activities in the field of capacity development on EIA in the sub-region. REReP project 1.4, Capacity Building for Environmental Impact Assessment, which finished in August 2003 and was coordinated by the REC, addressed an urgent need for the development of basic EIA know-how in SEE countries (excluding Turkey) under the leadership of Croatia. The key project outcomes were the EIA Guidelines for SEE accompanied by an EIA/SEA Overview in SEE, country-specific EIA training manuals for the beneficiary countries (Internet-based), two “train the trainer” workshops; six high-level EIA meetings and other outputs in response to ad hoc requests for consultancy support.<sup>23</sup>

A number of international forums took place during the last reporting period on EIA in SEE. In 2004, during the Meeting of Senior Officials on Cross-Border Cooperation in Stabilization and Association Process Countries in Belgrade, one of the targets adopted was the consolidation of efforts promoting the implementation of the EU’s EIA and SEA directives, including the Espoo Convention. The issues highlighted then were environmental data development and availability; the development of service providers in the area of EIA; and a strong need for institutional capacity building to address delegated competencies on SEA and EIA.

#### **BOX 4.**

In 2006, the Ministry of Environment and Forestry of Turkey established the EIA Training and Information Centre <[www.cevreorman.gov.tr/cedbim/Index\\_e.htm](http://www.cevreorman.gov.tr/cedbim/Index_e.htm)>. The mission of this centre is “to support the key stakeholders in the Turkish EIA system by means of coherent activities and services in the field of training, research and information, thus providing added value through linking available knowledge and expertise throughout Turkey, and in the international EIA community.”

### **Key recommendations**

The recommendations on EIA in SEE are:

- to strengthen the observance of the Espoo Convention as well as related conventions in conducting the EIA of projects that may have significant transboundary effects (e.g. the case of the Ilisu Dam in Turkey);

<sup>23</sup>See also: SEA Capacity Building in Albania within a Broader Context of Sustainable Coastal Zone Management along the Adriatic coast (2005), Secretariat of the Netherlands Commission for EIA, advisory memo

- to further strengthen information exchange on environmental data and the quality of EIAs;
- to develop the general as well as specific sectoral EIA capacity of local experts to conduct EIAs; and
- to coordinate and foster the networking of EIA experts on a regional level to enable better information exchange and capacity development.

### **Status of ratification and implementation of the SEA Protocol**

Since 2003, when the SEA Protocol was presented for signature in Kiev, 38 countries of the UNECE region have signed the document (see the Status of UNECE MEAs ratification in SEE countries of ratification). All SEE countries have signed the SEA Protocol, although to date only one country (Albania) has ratified it.

A rapid assessment of the implementation of the SEA Protocol in SEE reveals the following findings regarding progress in the transposition of the SEA Protocol:

- a slow rate of ratification of the SEA Protocol in SEE;
- a different pace of transposition of the requirements of the SEA Protocol into the national legislation, with the exception of countries which applied for membership in the European Union and where the transposition of the SEA Directive has been a priority;
- the need for political support for the process of transposition and enforcement of the requirements of the SEA Protocol in the region, in parallel with the requirements of the EC SEA Directive, which are similar (as identified in the note of the Secretariat on Implementation of UNECE Multilateral Environmental Agreements, Background, §5);
- the need for capacity development to deal with the SEA Protocol at national and sub-national levels;
- the need for increased attention and allocation of resources for environmental protection in general in SEE; and
- the need for more and coordinated support by international organisations and donors.

### **Major challenges in implementation**

Albania, the first and so far only country to have ratified the SEA Protocol, has had the legal basis for SEA since January 2003. The SEA legal framework in Albania is comprised of the Law on Environmental Protection (No. 8934, 2002) and the EIA Law (No. 8990, 2003). However, SEA regulation is not yet fully in line with the SEA Protocol. The EIA Law treats SEA as an extension of EIA and uses the same requirements for scoping and SEA reports as for EIA. Other obstacles to successful implementation are linked to the lack of guidelines, checklists and other enabling tools.

The basic legal framework for SEA is differently defined in each entity of Bosnia and Herzegovina. In the Federation of Bosnia and Herzegovina, the basic provisions of the SEA are generally defined in Articles 51–52 of the Law on Environmental Protection, which was adopted in July 2003. In Republika Srpska, SEA is generally defined in Articles 60–61 of the Law on Environmental Protection (adopted in 2002). Brcko District does not yet have environmental legislation. These framework obligations for SEA are not yet operational due to the lack of implementing secondary legislation.

The environmental assessment of physical plans is carried out under the Croatian Environmental Protection Act (EPA; Art. 34), which requires the Ministry of Environmental Protection, Physical Planning and Construction to give its consent to such plans prior to their passing. The EIA

procedure is used for the assessment of physical plans (i.e. preliminary study for projects not specified in physical planning documentation, upon proposals for the amending of a plan) as required for projects under the EIA regulation.

SEA basic requirements and framework obligations are laid out in the Macedonian Framework Environmental Law (MFEL; 2005). The detailed procedures have to be set out in the bylaws. The MFEL requires SEA for strategies, plans and programmes (planning documents in the MFEL), 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 (more widely than is required by the EC Directive) and which set the framework for future development consent.

In 2005 SEA was introduced through the SEA Law, which was largely elaborated through the Yugolex project, which developed EIA and SEA regulations for the then Serbia and Montenegro (2002–2005). The first SEA pilot for the National Spatial Plan has been prepared in Montenegro and the second one for the Energy Development Strategy is ongoing. The 2005 Law on SEA in Montenegro was prepared transposing the requirements of Directive 2001/42/EC on the Assessment of the Effects of Certain Plans and Programmes on the Environment, the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context (2003) and other sources, especially EU Guidance on SEA Directive implementation. The Montenegrin Law on SEA defines the complete SEA procedure, from screening to SEA approval, including public participation and transboundary effects.

Adopted in 2004, the Law on Strategic Environmental Impact Assessment of Serbia (SEIA Law) sets out the basic conditions, methods and procedures for carrying out strategic assessment. The SEIA Law requires strategic assessment for certain plans and programmes, which means all development and other plans and programmes 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 Serbia's assembly or government, or the assembly or the executive authority of the autonomous province or self-government units, as well as plans and programmes adopted pursuant to legislation.

Interest in SEA is beginning to grow in Turkey. In 2001, the first pilot of a land-use plan was carried out in Çanakkale. This was the first local initiative in conducting an SEA pilot project study carried out and publicised by the Ministry of Environment in Turkey (2001).<sup>24</sup> In 2005, REC Turkey carried out training on SEA in Structural Funds Programming in Ankara, in the framework of its EU accession-related capacity-building activities.

The key conclusions are:

- insufficient political support to the process of the transposition and ratification of the Espoo Convention and SEA Protocol (for the latter, as identified in the note of the Secretariat on Implementation of UNECE Multilateral Environmental Agreements, Background, §5)
- the low rate of ratification (only one of the SEE countries has ratified it, although all of them are signatories, as identified in the note of the Secretariat on Implementation of UNECE Multilateral Environmental Agreements, §17, whereas Turkey has neither signed nor ratified it yet);
- slow transposition of the requirements of the SEA Protocol into the national legislation;

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<sup>24</sup> [www.turkishweekly.net/articles.php?id=162](http://www.turkishweekly.net/articles.php?id=162)

- lack of capacity (human resources and skills) to deal with the SEA Protocol at national and local levels;
- sporadic and uncoordinated support (financial and technical) from international stakeholders: a regional approach is not enabled by any of the existing financial and technical assistance structures; and
- inadequate capacity development of local experts in conducting SEAs and low quality SEAs in the sub-region.

## SEA capacity development in SEE

The key international actors in capacity development on SEA are the EC, the World Bank, the Dutch government (i.e. the Ministry of Housing, Physical Planning and the Environment of the Netherlands), the Swedish International Development Cooperation Agency (Sida) and UNDP (national offices in SEE) as donors, as well as the REC and the Dutch Commission on Impact Assessment as implementing institutions. Pilot SEA activities (studies, project) have enabled the transfer of lessons learned from European Union countries to the region. SEA, often referred to as a challenge in the context of the SEA Protocol as well as the accession process to the EU, should rather be seen as an opportunity enabling sustainable development and economic investments in the region.

Within the 1999 Sofia EIA Initiative, a number of specialised resources on EIA and SEA, following international requirements and good practices, were prepared by the REC. In 2003, an *EIA Training Resource Manual for South Eastern Europe* was elaborated by the REC within the REReP 1.4 project EIA Capacity Building in South Eastern Europe<sup>25</sup> supported by the Dutch government. This resource was made available through a series of trainings as well as in CD-ROM format, including national-language slide versions to enable straightforward capacity-development activities and to provide a nationally accessible learning resource in the region. It also offers an expanded set of comprehensive background materials for EIA that include relevant documents produced by the European Commission, the EBRD, the World Bank and UNECE. In addition to training activities, the project supported the pilot SEA of proposed mariculture activities in Croatia.

In 2005 the REC prepared an SEA manual for South Eastern Europe, with financial support from the Ministry of Housing, Physical Planning and the Environment of the Netherlands. This provides a flexible framework for trainings on SEA in SEE using the SEA Protocol to the UNECE Espoo Convention as the main source of reference. The printed version of this resource is being prepared by the REC. At the same time, the REC has contributed to the development of a far more comprehensive, and UNECE region-wide, *Resource Manual to Support Application of the UNECE Protocol on SEA*.<sup>26</sup> This resource manual, now in its draft final version following consultation with UNECE member states, awaits adoption by the Meeting of the Signatories to the Protocol.

In 2005–2006, the World Bank supported the governments of Albania and Montenegro in capacity building in the area of SEA through the assistance of the Dutch Commission on Impact Assessment. The objectives of the project were to carry out an SEA capacity gap assessment and to assist the governments in drafting a multi-year SEA capacity-building programme, an SEA training course for various stakeholders, a pilot SEA, and a dissemination strategy. The strategies outlined the main priorities for SEA and how different stakeholders can cooperate to implement SEA, and identified a number of priority activities, such as training and SEA pilots.<sup>27</sup>

<sup>25</sup> Available in the PDF format at: [www.rec.org/REC/Programs/EnvironmentalAssessment/International-Projects.html](http://www.rec.org/REC/Programs/EnvironmentalAssessment/International-Projects.html)

<sup>26</sup> Available at: [www.unece.org/env/eia/sea\\_manual/](http://www.unece.org/env/eia/sea_manual/)

<sup>27</sup> [www.eia.nl/ncea/news/activities.htm](http://www.eia.nl/ncea/news/activities.htm)

In November 2005, the Ministry of Tourism and Environmental Protection of Montenegro started a strategic assessment development programme. The programme is being realised with the World Bank and Dutch Commission on Impact Assessment as key partners. The expected outcomes of this project are:

- realisation of the SEA training programme;
- preparation of the long-term SEA Capacity Development Strategy (2007–2010); and
- realisation of the first pilot strategic assessment in Montenegro.

#### **BOX 5.**

The first pilot SEA is being implemented for the Spatial Plan of the Republic of Montenegro. Although the realisation of the SEA was not legally binding (the SEA Law will come into force on January 1, 2008) in the case of the Spatial Plan, the Ministry of Tourism and Environment was of the opinion that the implementation of strategic assessment on this important process and document would be very useful. The aim was to contribute to the improvement of the information quality and to the strategic methodical decision-making process through SEA, and, simultaneously, through concrete activities, to the development of capacity and knowledge related to the implementation of this instrument. The idea behind it was to adapt the dynamics of the SEA process to the dynamics of the Spatial Plan preparation process, as well as to make the additional information on the impact of the suggested planning solutions on the environment available to both professionals and the general public before the plan determination.

In Serbia, the Environmental Capacity Building Program (ECBP) is aimed at supporting the authorities in carrying out SEA, learning and improving the SEA system in the country using case studies, and assisting local authorities to carry out screening and scoping procedures and to manage potential difficulties. In this framework, a guidance document on the application of the Law on Strategic Environmental Assessment (LSEA) was developed.

UNDP carried out a number of workshops focusing on SEA in Montenegro in 2006, aimed at various stakeholders under the Capacity Development Programme.<sup>28</sup>

### **Key recommendations**

SEE countries need to put greater effort into compliance with the international standards provided by the Espoo Convention and SEA Protocol. Faced with many priorities in the field of the environment, SEA has been pushed off the priority list, although activities in the field supported and guided by international efforts do take place and continue to lead the process from outside.

The following recommendations are suggested for SEA in SEE:

- Strengthen the resources of the authority responsible for SEA to enable information sharing and capacity development of other stakeholders. This tool will enhance the overall attempts of the country to move towards sustainable development and should not be viewed as an administrative burden.
- Focus SEA on a limited number of priority spatial plans and economic sectors first, where the greatest added-value of SEA is expected.
- Start developing screening and scoping requirements to ensure that the stakeholders are informed in a timely manner about the need for processes and are not overwhelmed with the requirement due to its complexity.

<sup>28</sup> [www2.undp.org.yu/montenegro/files/events/CDP\\_Workshops-Environment/CDP\\_WS1.html](http://www2.undp.org.yu/montenegro/files/events/CDP_Workshops-Environment/CDP_WS1.html)

- Start elaborating the national capacity development strategies (in cooperation with other countries in the region and with input from international stakeholders) as has been done in Albania and Montenegro, which would include a review on a regular basis through the network of SEA experts.

The Sofia Initiative on EIA ended in 2003. Since then there has been no regional platform to coordinate activities. The REC has proposed the following future steps to fill this gap:

- setting up a REReP Working Group on EIA/SEA (enabling the regional approach and networking);
- a comparative analysis of the implementation of the EIA directives and SEA Directive in SEE countries, including pilot studies on SEA regulations and procedures in REReP countries/territories;
- workshops on strengthening EIA procedures in SEE, and on developments of SEA procedures in SEE; and
- a workshop on the implementation of the Espoo Convention.

## **d) Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention)**

### **Status of ratification and implementation**

To date, only two SEE countries, Albania and Croatia, have ratified the Water Convention and Protocol on Water and Health (see the Status of UNECE MEAs ratification in SEE countries).

One-third of the hydrographical basins of Albania's waters are located outside the country.<sup>29</sup> Albania ratified the UNECE Convention on the Protection and Use of Transboundary Watercourses and International Lakes on January 5, 1994, and the Protocol on Water and Health on March 8, 2002. Several projects on international lakes — Ohrid, Prespa and Shkodra — that aim to establish sound environmental management of the lakes and the monitoring of their quality provide important input for the implementation of the Water Convention. So far, no bilateral agreements on transboundary river regimes or on their protection have been concluded with neighbouring countries. A project proposal, the Drini River Watershed and Erosion Masterplan, to be implemented by Albania and the former Yugoslav Republic of Macedonia, is now being prepared within REReP.

The lack of coordination between state-level and entity-level institutions in relation to water protection issues makes it quite difficult for Bosnia and Herzegovina to achieve significant progress in MEA ratification.<sup>30</sup> The result is that Bosnia and Herzegovina has not yet signed any major multilateral environment and water protection treaties, except the Convention on Cooperation for the Protection and Sustainable Use of the Danube River. It is an observer to the Water Convention and has expressed its eagerness to ratify it by the next meeting of the parties (November 2009).

To increase cooperation on transboundary waters, Bosnia and Herzegovina is also a party to the Framework Agreement on the Sava River Basin, along with Croatia, Serbia and Slovenia. The agreement, which covers all surface water and groundwater of the Sava catchment, aims to establish an international regime of navigation and sustainable water management. It foresees the drafting of specific protocols to further regulate cooperation on such issues as protection against floods; control of excessive groundwater use; erosion; ice hazards; drought and water shortages

<sup>29</sup> UNECE, Environmental Performance Review of Albania for the Eighth Session of the Committee on Environment Policy, November 2002

<sup>30</sup> UNECE, Environmental Performance Review — Bosnia and Herzegovina, 2004

and accidental water pollution; protection and improvement of water quality and quantity; and protection of aquatic ecosystems.

Bosnia and Herzegovina has also established a bilateral agreement on the protection and sustainable use of water resources with Croatia.

Transboundary water issues are very important to Croatia.<sup>31</sup> Many of its borders either follow the course of rivers or are located on major aquifers, and all of its major rivers (the Sava, Drava, Danube, Mura, Neretva, with the exception of the Kupa River) either rise abroad or flow downstream across its borders, or both. Most of Croatia is part of the Black Sea watershed, with most rivers flowing into the Danube or its tributaries. Ten percent of Croatian river basins drain to the Adriatic Sea.

Croatia ratified the Water Convention in 1996. The Ministry of Agriculture, Forestry and Water Management, which is competent for Croatian water and related issues, is the focal point for this convention, and Croatia participates in the convention's implementation within the following working groups: sustainable development in the management of waters; point and non-point pollution sources; monitoring and laboratory practice; and regulations. Croatia has financial resources allocated in the state budget for water management and for maintaining cooperation in the area of transboundary water resources.

In 1993, an agreement between the government of Croatia and the governments of Austria, Italy, Hungary, Poland and Slovenia was concluded on Mutual Cooperation in Predicting, Preventing and Mitigating Natural and Technical Incidents.

Croatia has also established bilateral agreements on the protection and sustainable use of water resources with Bosnia and Herzegovina and Hungary.

Montenegro<sup>32</sup> has not yet ratified the Water Convention and its protocols, but has stated its intention to do so. In Montenegro accession to the Convention on Cooperation for the Protection and Sustainable Use of the Danube River and the International Commission for the Protection of the Danube River (ICPDR), as well as the Framework Agreement on the Sava River Basin, are under consideration.

The bilateral agreement between Montenegro and Croatia on the protection and sustainable use of water resources has been prepared and is under procedure of approval.

Although Serbia<sup>33</sup> has not yet ratified the Water Convention, there are ongoing preparations for ratification, currently considered a high priority, therefore ratification can be expected in the short term. In the meantime, several activities are ongoing or planned, and the responsible ministries have started regular cooperation with different international bodies.

The Convention on Cooperation for the Protection and Sustainable Use of the Danube River has been ratified and Serbia has been a fully fledged member of the International Commission for the Protection of the Danube River (ICPDR) since August 2003.

Even though most of the watercourses in Serbia are boundary and transboundary (e.g. Danube, Sava, or Tisza), the bilateral agreements on the protection and sustainable use of these resources are either out of date or non-existent, but there are ongoing preparations for their signature with Albania, Bosnia and Herzegovina, Bulgaria, Croatia, Hungary, the former Yugoslav Republic of Macedonia, Montenegro and Romania.

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<sup>31</sup> UNECE, Environmental Performance Review of Croatia, as discussed and approved by the sixth session of the Committee on Environment Policy, September 1999

<sup>32</sup> UNECE, Environmental Performance Review – Montenegro, First and Second Review, 2002 and 2007

<sup>33</sup> UNECE, Environmental Performance Review – Serbia, First and Second Review, 2002 and 2007

The Water Convention and its protocols have not yet been ratified by the former Yugoslav Republic of Macedonia.<sup>34</sup> Because of economic difficulties, the country has not been in a position to carry out most of the large projects that were started or envisaged in the development plan. However, the former Yugoslav Republic of Macedonia expressed its commitment to ratify the convention and requested assistance to prepare for this. The UNECE secretariat is working in this direction.

The future water management plan is currently being prepared by the Ministry of Agriculture, Forestry and Water Economy, and does not involve any other key stakeholders. There is a strong need for better cooperation among the water managing institutions, in particular the five principal ones: the Ministry of Agriculture, Forestry and Water Economy, the Ministry of Environment and Physical Planning, the Ministry of Health, the Ministry of Transport and Communications and the Ministry of the Economy. Together, they should set up an inter-ministerial working group to participate in the current preparation of the integrated water management plan. The plan should cover water use and supply, water quality protection and conservation, and water flow management.

The Council Decision of 23 January 2006 on the Principles, Priorities and Conditions Contained in the Accession Partnership with Turkey (2006/35/EC) sets out the short-term priorities for Turkey to pursue the development of transboundary water cooperation, in line with the water framework directive and international conventions to which the EC is a party.

## **Multilateral cooperation in the field of waters**

### **The International Commission for the Protection of the Danube River**

The International Commission for the Protection of the Danube River (ICPDR) comprises 13 contracting parties who have committed themselves to implement the Danube River Protection Convention (DRPC). Among them are Bosnia and Herzegovina, Croatia and Serbia. The final goals are to cooperate on fundamental water management issues and to take all appropriate legal, administrative and technical measures to maintain and improve the quality of the River Danube and its environment.

The legal basis for this international cooperation is the DRPC, which applies to countries with territories of more than 2,000 square kilometres within the Danube Basin. Discussions about the ratification of the DRPC are under way with Montenegro. In addition, Albania and the former Yugoslav Republic of Macedonia also cooperate with the ICPDR under the EU Water Framework Directive.

To achieve good water status in the water bodies of the Danube region by 2015, and to ensure a sufficient supply of clean water for future generations, the contracting parties to the DRPC nominated the ICPDR as the coordination body for the development of a comprehensive management plan for the entire Danube River Basin using the principles of the EU Water Framework Directive. At the same time, the ICPDR serves as a platform to facilitate and assist countries to accomplish the EU Water Framework Directive requirements and to prepare reports.

### **The International Sava River Basin Commission**

The International Sava River Basin Commission (ISRBC) — the Sava Commission — was established by the Framework Agreement on the Sava River Basin signed by the riparian countries, Bosnia and Herzegovina, Croatia, Serbia (successor of the former Republic of Yugoslavia) and Slovenia. Montenegro has also been invited to ratify the framework agreement and to become a fully fledged member of the Sava Commission.

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<sup>34</sup> UNECE, Environmental Performance Review of the former Yugoslav Republic of Macedonia for the Eighth Session of the Committee on Environment Policy, November 2002

The cooperation of the parties is mainly focused on the establishment of an international navigation regime on the Sava River and its navigable tributaries, on sustainable water management and on measures to prevent/limit hazards, such as floods, ice, droughts, or accidents, as well as to eliminate/reduce the consequences. The parties will prepare joint plans for the water resources management on the proposal of the International Sava River Basin Commission.

#### **Memorandum of Understanding between the Tisza countries: Towards a River Basin Management Plan for the Tisza River Supporting Sustainable Development of the Region**

On the basis of the related activities outlined earlier and the objectives indicated and encouraged by a dialogue initiated by the EU Presidency of the International Commission for the Protection of the River Danube (ICPDR), the countries sharing the Tisza River Basin — Hungary, Romania, Serbia, Slovakia and Ukraine — signed a Memorandum of Understanding and committed themselves to international integrated Tisza River Basin cooperation.

The main objective is to cooperate more closely in the framework of the ICPDR in order to produce a Tisza River Basin Management Plan by 2009, aiming at the objectives set out by the EU Water Framework Directive as implemented through the DRPC and the ICPDR Flood Action Programme, and thereby complementing the efforts of the ICPDR, bilateral coordination and development at the national levels.

#### **Memorandum of Understanding between the International Commission for the Protection of the Black Sea (ICPBS) and the International Commission for the Protection of the Danube River (ICPDR) on common strategic goals**

The Memorandum of Understanding between the International Commission for the Protection of the Black Sea (ICPBS) and the International Commission for the Protection of the Danube River (ICPDR) constitutes a framework for implementing common strategic goals. Representatives of the ICPBS and the ICPDR, with the assistance of UNDP/GEF and UNEP, set up a Joint Ad Hoc Technical Working Group with the common goals of reducing the loads of nutrients and hazardous substances discharged into the Black Sea, of preventing further deterioration and of assisting in the protection of the Black Sea and the Sea of Azov ecosystems.

#### **BOX 6.**

Bosnia and Herzegovina and Serbia are involved in the project Cross-border Municipal Environmental Cooperation in the Drina River Basin. The project, funded by Norway, is implemented by the REC. The main goal of the project is to develop a sustainable solution to the problem of the accumulation of solid waste in the water bodies shared by the two countries — the Drina River and Lake Perucac — and to prevent future waste accumulation. An important feature of the project has been the involvement of stakeholders from both countries, including local authorities, NGOs, utility companies, national parks and other institutions.

#### **Major challenges in implementation**

Major challenges in ratification and implementation are more or less the same in all countries, apart from Croatia. Since the start of the accession process, the water sector has made greater efforts to comply with international standards. With international and national support, it has acquired a high position on the list of priorities.

- The national legal and institutional basis for water management is weak in many countries, which contributes to difficulties in developing transboundary water cooperation. The lack of human and financial resources in the water sector is also a common problem for the region.

- The political situation in the region has significant implications for transboundary water cooperation.
- The development of cooperation in the Sava River Basin and a number of projects facilitating transboundary water activities are examples of progress, but for the majority of transboundary watercourses cooperation and joint management is either insufficient or completely lacking.
- Water quality protection is a key issue and is not properly addressed in the region. Dealing with pollution from agriculture, industry, municipalities and irregular dumping sites along the water bodies is a priority also in transboundary water management.

### **Key recommendations<sup>35</sup>**

Although most of the countries have made good progress in implementing the convention, some SEE countries are still facing difficulties which can be addressed by implementing some of the following recommendations:

- The political will to develop transboundary water cooperation in the region needs to be strengthened.
- Awareness of the importance of an integrated approach to water management and of cooperation on transboundary waters needs to be enhanced.
- The progress that has been achieved in the area of transboundary flood prevention, protection and mitigation should be consolidated.
- For the promotion of progress in transboundary water cooperation, a number of ongoing processes and existing actors (e.g. the joint Petersburg and Athens Declaration Process, the EU and the UNECE Water Convention) are of benefit. Their willingness to cooperate is a positive feature for future developments in the SEE region.
- The EU Water Framework Directive and the UNECE Water Convention are key tools for cooperation and the management of transboundary waters in the region. Their implementation should be promoted in a step-wise approach at the national and transboundary levels.
- A legal framework for the management of transboundary waters creating the basis for proper cooperation mechanisms and joint institutions should be established in all shared water basins. The UNECE Water Convention should serve as a reference for the development of such a framework. The positive experience of the establishment of transboundary cooperation in the Sava River Basin should be used and built upon elsewhere in the region.
- Stable and reliable funding is necessary for maintaining cooperation in the area of transboundary water resources. To be sustainable, cooperation cannot depend only on external sources, and therefore, governments should secure the necessary funds from the national budgets. At the same time, international donors should coordinate their action and international projects need to contribute systematically to the sustainable development of transboundary water cooperation.
- The capacity of water managers at all levels, from local to transboundary, should be strengthened.
- The establishment of harmonised monitoring and information systems as well as the involvement of stakeholders are important primary objectives in the development of transboundary water management.

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<sup>35</sup> UNECE, Environmental Performance Review — Montenegro, First and Second Review, 2002 and 2007

- Pilot projects to test both intervention strategies and stakeholder involvement methodologies need to be developed.
- It is essential to finalise protocols and implement the Sava Framework Agreement.
- The Tisa Framework Agreement should be further developed.

## **e) Convention on the Transboundary Effects of Industrial Accidents**

### **Status of ratification and implementation**

The Convention on the Transboundary Effects of Industrial Accidents (TEIA Convention) was adopted on March 18, 1992, but of all the SEE countries only Albania has signed it. Albania became a party to the convention on January 5, 1994, followed by Croatia on January 20, 2000.<sup>36</sup> Serbia is currently making preparations for the ratification of the convention.

The convention has not been acknowledged as a high priority in the SEE region, despite the number of industrial installations in operation that make extensive use of high-risk obsolete technologies that are capable of causing severe transboundary impacts in the event of an industrial accident.

Progress was made in this respect when representatives of Bosnia and Herzegovina, Croatia, then Serbia and Montenegro and the former Yugoslav Republic of Macedonia, together with a further 13 countries of Eastern Europe, the Caucasus and Central Asia (EECCA), adopted a declaration committing their governments to implementing the convention at a high-level commitment meeting held in Geneva on December 14–15, 2005. The meeting can be seen as one example of the efforts being made to prioritise the acceptance and ratification of the convention on the political agendas of the countries and to promote its implementation at the earliest possible date. Nevertheless, it should be noted that, in spite of the high level of commitment achieved in most of the SEE countries, advances with respect to the implementation of the convention remain rather limited and targeted assistance from the international community is required.

By adopting the above-mentioned declaration at the high-level commitment meeting the participating governments expressed their interest in participating in the Assistance Programme for the Countries of Eastern Europe, the Caucasus and Central Asia and South Eastern Europe, which was adopted by the Conference of the Parties during its third meeting in Budapest on October 27–30, 2004. The programme comprises a preparatory phase and an implementation phase. The preparatory phase was designed to prepare the countries of EECCA and SEE for receiving assistance towards the implementation of the convention within the programme's implementation phase. It is intended to ensure that assistance is given to those EECCA and SEE countries that are committed to implement the convention and have implemented the basic tasks under the convention as defined in the assistance programme (document CP.TEIA/2004/2, chap. IV).<sup>37</sup> To date, of the four countries that have adopted the commitment declaration, the former Yugoslav Republic of Macedonia and Serbia have hosted fact-finding missions, and Bosnia and Herzegovina a pre-mission, the findings of which are reflected in the paper. Croatia is due to host fact-finding missions before October 2007 and envisages organising them by the end of August.

<sup>36</sup> For reference, TEIA convention website: [www.unece.org/env/teia/parties.htm](http://www.unece.org/env/teia/parties.htm)

<sup>37</sup> ECE/CP.TEIA/2006/3, October 9, 2006, Report on the results of the preparatory phase of the Assistance Programme

The Conference of the Parties (governing body to the TEIA) decided at its meeting in Rome, November 15–17, 2006, that the former Yugoslav Republic of Macedonia and Bosnia and Herzegovina, which do not have capacities at the moment to implement the basic tasks, as indicated by the results of the mission and pre-mission, shall be given need-driven guidance to strengthen their capacities to enable them to implement the basic tasks. To this end, awareness should be raised among the authorities of the tasks under the convention and the authorities should be helped to draw up a plan of action to lead them through the implementation of the basic requirements. Needs-driven assistance activities to the other SEE countries will be provided under the assistance programme only after the basic tasks have been implemented, since they constitute the basic requirement for further assistance under this programme.

Under the TEIA and Water convention a special protocol was adopted on Civil Liability and Compensation for Damages caused by Transboundary Effects of Industrial Accidents on Transboundary Waters (Civil Liability Protocol) at the Kiev EfE Conference in 2003. Since then, none of the SEE countries has proceeded towards the ratification of the protocol. The protocol has only one ratification and is not yet in force. A recent workshop looked into potential mechanisms for accelerating ratification of the Civil Liability Protocol (See box 7).

#### **BOX 7.**

The following are extracts of the key findings, concerns and conclusions identified at a workshop on Transboundary Accidental Water Pollution, Liability and Compensation: Challenges and Opportunities, held in Budapest, May 21–22, 2007.

- It was acknowledged that countries would benefit from establishing a national dialogue with all stakeholders concerned with the implementation of the protocol.
- In order to address the matter of financial guarantees, countries should involve their national and regional insurance and financial sectors to assess the existing possibilities and limits, and future options to cover the risks addressed by the protocol.
- There is a need to increase capacity-building activities to assist authorities and administrative bodies in various countries, in particular in countries with economies in transition, to develop good administrative and legislative practice and encourage them to take the necessary steps to introduce appropriate liability regimes, including the ratification of the protocol.
- Four years after the Kiev Ministerial Conference, the lack of appropriate legal mechanisms that triggered the elaboration of the protocol is still there and in the case of a transboundary accident there would be no suitable pan-European legal regime in place to cope with civil liability and compensation issues. In this regard, a much more active approach by UNECE members is needed to impose the efficient legal framework to address these issues.

#### **The convention in the national legal framework**

The 96/82/EC Seveso II Directive has been proposed as Europe’s “legal and technical instrument” to fulfil the requirements of the TEIA Convention. The introduction and implementation of the TEIA Convention’s requirements are closely linked to, and often dependent on, the process of approximation to the EU and in particular the transposition of the Seveso II Directives, the IPPC Directive relevant to the integral environmental permitting system, and the EIA Directive. In this respect, in most of the countries the TEIA provisions not covered by these and other relevant directives are not present in the national legislation. For example, control of industrial risks and accidents is regulated by the Macedonian Law on the Environment, chapter XV, “Prevention and Control of Major Hazards Involving Hazardous Substances,” into which the Seveso II Directive has been transposed. However, the TEIA Convention has not been considered until now. This system, in combination with secondary legislation based on the above-mentioned chapter XV, will enable the authorities to oblige operators to undertake all the necessary measures to prevent major accidents.

In Croatia, the environmental protection measures in case of emergencies and disasters are provisioned in the national legal system, including the Environmental Protection Act (EPA) amended in 1999 and relevant regulations.

The IPPC Directive has been transposed in the legislation in Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia, which generally introduce a set of preventive and control measures. For instance, the Montenegrin Law on Integrated Pollution Prevention Control (2005) regulates environmental pollution prevention and control by issuing integrated permits for installations and activities that may have a negative impact on human health, the environment or material resources. It lays down measures designed to prevent or to reduce emissions in the air, water and land from activities to be defined by sub-regulations, including measures concerning waste, efficient energy consumption, reduction of noise and vibrations, use of raw materials, prevention of accidents, and risk assessment. As concerns Serbia, while it is not yet a party to the convention it claims to have introduced most of the provisions of the convention in its legislation and is encountering certain difficulties in their implementation in practice.<sup>38</sup>

#### **Identification of hazardous activities**

The countries have not as yet undertaken comprehensive studies to assess the existing activities as compared to the requirements of Annex I of the TEIA Convention. Furthermore, inventories of industrial activities potentially capable of causing major accidents are not always available in all the countries in question, thus the risks remain to be defined and appropriate measures on the SEE level have yet to be undertaken.

In Serbia, the first draft of the Law on the Ratification of the Convention is under way (the first draft is expected to be finalised by July). The provisional draft of the inventory of installations with hazardous activities has been completed. It is currently estimated that about 42 industrial sites will be included in the final Seveso II list. The number of around 11 sites to be included by the convention is extracted from the Seveso list but should be checked against the convention criteria. Therefore, Serbia will need technical assistance to finalise the list. The Law on the Ratification of the convention proposed the nomination of the Ministry of the Environment as the point of contact for the notification of neighbouring countries about potential danger from industrial accidents.

No identification and assessment of activities as defined in Annex I of the convention have been carried out in Albania. Nevertheless, judging by the nature of the existing and former (already closed) industries, Albania has defined certain facilities as representing a higher potential risk of industrial accidents. However, these are located in central Albania rather than in the vicinity of any transboundary territories and are not capable of resulting in transboundary pollution.

In terms of Albania's geographical position, the possibility of an industrial accident resulting in transboundary impact is present at the three international lakes on Albania's borders with the former Yugoslav Republic of Macedonia (Lakes Ohrid and Prespa), Greece (Lake Prespa) and Montenegro (Lake Shkodra). However, there are no significant potentially hazardous industries in these locations. As for the potential hazard with respect to rivers, it can be stated that, due to Albania's downstream location, it cannot affect any transboundary territories. However, neighbouring countries are able to pollute Albanian transboundary territories.<sup>39</sup>

The former Yugoslav Republic of Macedonia is currently drawing up an inventory of all facilities that fall under the IPPC Directive. The inventory should be available by mid-2007. It is expected that about 270 facilities will require an IPPC permit. Half a dozen of these facilities may be capable of causing transboundary effects in the event of an accident. An inventory of SEVESO II installations is also under way and will be available soon.

#### **Notification of neighbouring countries regarding hazardous activities**

Since the identification of hazardous activities has not yet been completed, no formal notification regarding hazardous activities has been possible following the requirements of the convention.

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<sup>38</sup> CP.TEIA/2005/4 Report on the Implementation Reporting Format 2004–2005, Serbia

<sup>39</sup> CP.TEIA/2005/4 Report on the Implementation Reporting Format 2004–2005, Albania

However, article 70 of the Macedonian Law on the Environment prescribes that in the event of an environmental impact assessment indicating that a planned activity may have a transboundary impact on the environment, the potentially affected neighbouring country shall be informed of this activity and shall be invited to participate in the consultation procedures. In the same spirit, article 32 of the Croatian Environmental Protection Act prescribes that if the proposed development or activity could have a significant impact on the environment of a neighbouring country, the Ministry for Environmental Protection, Physical Planning and Construction shall inform the respective state body accordingly.

### **Industrial Accidents Notification**

Only Croatia has so far designated a point of contact for the purposes of accident notification and mutual assistance within the UNECE Industrial Accident Notification (IAN) system. Representatives from Croatia and what was then Serbia and Montenegro took part in the consultation for points of contact, which took place in Rome on October 19–21, 2005. Croatia also participated in the test carried out prior to the consultation as well as in two tests performed in 2006, its correct response proving the proper functioning of the IAN system in Croatia. Other SEE countries still need to officially introduce the IAN system.

### **Prevention and emergency preparedness**

The SEE countries have provisioned requirements in the national legislation ensuring the development of on-site and off-site emergency plans in response to industrial accidents. For instance, following the adoption of the Environmental Protection Act, amended in 1999, the Croatian government has developed an Environmental Contingency Plan harmonised with the TEIA Convention and the EU Directive Seveso II. The plan identifies types of risks, procedures to mitigate and remediate consequences damaging to the environment, institutions for the implementation of specific measures, responsibility and authorisation regarding implementation, as well as the manner of harmonising with contingency measures which are implemented pursuant to other acts. The plan regulates the obligation to draw up the country's contingency plans according to the APELL programme, on the basis of which contingency plans at the local level are elaborated and prepared.

#### **BOX 8. Relevant Croatian institutions involved in TEIA Contingency Plan implementation**

The institutions which participate in the implementation of the TEIA Contingency Plan are:

- a communication unit, consisting of the State Directorate for Protection and Rescue and the operational duty desk of the Ministry of the Interior;
- emergency response teams comprising fire-fighting formations of the State Directorate for Protection and Rescue, professional fire-fighting formations in the economic sector, atomic-biological-chemical defence formations of the Armed Forces of the Republic of Croatia, civil protection formations, ambulance and specialised units of the authorised legal entities, and private persons; and
- an expert team comprising experts from the Operative Information Centre of the state oil company (INA), the Croatian Toxicology Institute, the Hydrometeorological Institute, Croatian Waters, the Special Waste Agency (APO) and the Ministry of Environmental Protection, Physical Planning and Construction.

The Environmental Protection Agency operates with the register of dangerous installations on the basis of records from the Contingency Plan.

The existing relevant legislation in SEE is not necessarily connected to the requirements of the convention but is rather derived from other obligations of the country, including internal legislation and EU approximation requirements. Nevertheless, although it guarantees certain contingency plan development, it is hard to draw any conclusions regarding their appropriateness and efficiency since information is rather scarce and incomplete.

No systematic mutual cooperation with neighbouring states within the framework of developing off-site emergency plans has taken place. All countries have in place a system for regular inspection and monitoring activities, while Serbia mentions further measures, including guidelines

and guidance issued by the national authorities at various levels. Moreover, operators of installations are required to provide for accident prevention measures ensuring the involvement of technical experts and relevant stakeholders.

The South Eastern Europe Simulation Management (SEESIM) initiative, launched in 2000, aims to support countries in the area of civil emergencies by establishing databases and training officials involved in civil emergency planning and management.

### **Bilateral and multilateral cooperation**

Bilateral and multilateral cooperation on major issues within the scope of the convention is inadequate and very sporadic. The countries are encouraged to exchange information and to ensure collaboration with respect to the notification of hazardous activities, the setting up of accident notification systems, emergency preparedness and response measures, and support and technical cooperation.

One example of a bilateral agreement involving an SEE country is the agreement between the governments of Slovenia and Croatia with respect to cooperation in the event of natural and technological catastrophes. The competent authority is the Ministry of the Interior. This agreement covers: the planning and implementation of protection measures for natural and technological catastrophes; mutual notification about hazards and the harmful effects of catastrophes; mutual assistance in the event of an emergency; cooperation in the education and training of experts for response and restoration; and exchange of information about scientific activities and technical measures related to preparedness and response.

### **Major challenges in implementation**

The ratification and implementation of TEIA is still marked in most of the SEE countries by insufficient awareness of the obligations and a lack of comprehensive assessments of the implications of ratification in the SEE countries. It should be noted that the parties to the convention have taken successful steps towards full implementation of the convention, but in some of the countries the existing laws still often do not provide for the requirements of the convention in a systemised way — rather the development of legislation on industrial accidents is defined by the transposition of relevant EU directives. A few additional deficiencies are present in most of the countries, including:

- insufficient expertise at the central and local level on emergency prevention, preparedness and response;
- often unclear and overlapping competencies between the Ministry of Environment, Ministry of Industry, and Civil Emergencies, Ministry of Internal Affairs, and others;
- permanent staff is not always dedicated to the convention's implementation and especially to information exchange and the IAN system;
- difficulties in the identification of activities capable of causing transboundary effects in the event of industrial accidents, mainly due to a lack of up-to-date data, and lack of expertise in the field of risk assessment, analysis methods and criteria for acceptable risk;
- inadequate financial resources and expertise to collect and exchange the information required under the convention; and
- lack of facilities for emergency services and communication equipment.

### **Key recommendations**

The recommendations are mainly directed to recent parties experiencing difficulties and to countries intending to become parties to the convention:

- It is necessary to increase awareness of the tasks under the convention and to build the capacity needed to establish an institutional framework conducive to performing these tasks.
- International experts should help the authorities to prepare a plan of action for implementing the convention, starting with the basic tasks.<sup>40</sup>
- The institutional capacity for the implementation of the convention should be assessed and further developed, starting with the identification of relevant competent institutions and the definition of their responsibilities to ensure efficient cooperation.
- Capacity-building activities should take place at the national level, involving local authorities and all relevant institutions and stakeholders.
- Each country should assess existing legislation and identify gaps with regard to the requirements of the convention. Furthermore, the legal framework should be amended to provide for, as a minimum, the basic tasks of the convention to allow for the allocation of assistance under the assistance programme of the convention.
- Examples of laws and regulations from other countries can be used as good references.
- Guidelines should be developed to facilitate the prevention of, preparedness for and response to industrial accidents, including: guidelines on the monitoring and inspecting regime in hazardous activities; guidelines on measures to be taken in order to respond to industrial accidents; and examples or templates of on-site and off-site emergency plans.
- Good practices from other countries should be taken into account when developing the domestic legal framework for the implementation of the convention.
- Industrial risk and accidents management should be integrated into other instruments and policies, such as the EIA and land-use planning policies.
- The countries should develop specific guidelines according to the criteria in Annex I of the convention and should use guidelines available in other countries in identifying the hazardous activities that fall under the convention.
- The capacity building of the personnel of the competent authorities is needed in order to improve their ability to apply Annex I to the convention and the substance and location criteria.
- A database of such activities should be created and neighbouring countries should be notified of these activities.
- Capacity building on risk assessment methods, safety management systems and safety standards is crucial.
- The exchange of information and experience between countries is strongly encouraged and should take place on a permanent basis. The UNECE IAN system should be introduced in all countries, as well as operating contact points. The relevant staff should be trained in applying the UNECE IAN system on the national level.
- Cross-border cooperation should be further strengthened. In this respect it would be beneficial to organise transboundary pilot projects for establishing bilateral cooperation and to exchange information on drawing up and implementing effective preventive measures through joint cross-border off-site contingency plans.

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<sup>40</sup> Report of the fact-finding team on its mission to the former Yugoslav Republic of Macedonia ECE/CP.TEIA/AP.5, 6 November 2006

- Training on best practice in developing emergency plans is needed, in particular concerning compatible off-site emergency plans in border areas.
- Countries need to improve their capacity for mutual assistance through, for example, multilateral training, and for familiarisation with best practice in mitigating the effects of emergency situations in border areas.

## **f) Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) and the Protocol on Pollutant Release and Transfer Registers (PRTR Protocol)**

### **Status of ratification and implementation**

#### **Aarhus Convention**

The Aarhus Convention was adopted in June 1998 and entered into force in October 2001. It was ratified in 1999 by three SEE countries, Albania, Croatia, and the former Yugoslav Republic of Macedonia, the latter acceding to it. Bosnia and Herzegovina, Montenegro, Serbia and Turkey have not yet signed or ratified the convention, although all except Turkey have declared several times their intention to accede to or accept the convention. Turkey participated in the negotiation of the Aarhus Convention, but has so far not shown interest in signing and ratifying/acceding to it or the PRTR Protocol, and has not participated in any of the UNECE working groups/meetings related to them.

In Bosnia and Herzegovina, within a recent project (and with the assistance of the REC) an assessment was prepared on compliance with the convention and a Draft Explanatory Memorandum, a document related to the official procedure for the acceptance of the convention, was prepared at the request of the Ministry of Foreign Trade and Economic Relations (MOFTER). The MOFTER intends to use this for officially initiating the acceptance of the convention. In Serbia, the ratification/accession document has not yet been prepared and submitted to Parliament, but a national profile for assessing capacity for the implementation of the Aarhus Convention has been developed.<sup>41</sup> Since Montenegro became an independent country, no major steps have been made towards achieving accession.

In all of the mentioned countries, however, significant efforts have been made to bring their legislation in line and to implement the convention, both in countries which are or have recently become parties and in those which intend to ratify/accede to the convention. The process of the harmonisation of the national legislation is strengthened by the EU accession process and the transposition of the directives related to the Aarhus Convention implementation within the EU. Most countries have general freedom of information laws providing for public access to information and have transposed the EU directives on EIA, SEA and IPPC, or are planning to do so in the near future. In Croatia, as part of the ratification process, a new Environment Protection Law was passed which regulates all issues related to the Aarhus Convention. While the major legal obligations regarding the Aarhus Convention are part of the national legislation in most of the SEE countries, the legislative framework still needs to be further developed, especially with regards to detailed administrative regulations and procedures, the lack of which hinders implementation in practice.

#### **PRTR Protocol**

Most SEE countries signed the PRTR Protocol in Kiev in 2003, with the exception of Albania. Montenegro also signed in 2006 after gaining independence. There are indications that the Albanian Parliament ratified the protocol in June 2006, but the ratification instrument has not been deposited and therefore has not entered into force. All of the countries indicated interest in

<sup>41</sup> See the document at: [www.ekoserb.sr.gov.yu](http://www.ekoserb.sr.gov.yu)

the preparations for ratification and implementation of the protocol, and this process has been supported by EU integration and the need to transpose/implement related EU legislation and the EPER system in the near future. Some of the SEE countries, especially Serbia and Montenegro and Albania, actively participate in the UNECE PRTR Working Group meetings.

In several SEE countries, efforts have been made to transpose and implement the IPPC Directive and, through this, to take steps towards the establishment of the EPER and PRTR systems. The IPPC Directive has been transposed in the legislation in Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia, and implementation has also started except in Montenegro, which will implement the related legislation in 2008. Albania and Bosnia and Herzegovina have ongoing or planned projects and activities to complete transposition in the next few years.

Within a PRTR-related specific component of the project Improving the Practices of Public Participation: Next Steps in Implementing the Aarhus Convention in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia and Montenegro and Kosovo under Interim UN Administration, funded by the Netherlands Ministry for Foreign Affairs and implemented by the REC between 2004 and 2006, pilot projects were carried out in Albania, Bosnia and Herzegovina, Montenegro and Serbia examining and supporting the establishment and future development of pollutant release and transfer registers (PRTR) in line with the PRTR Protocol.

All four countries have shown interest in further cooperation, based on a concrete work plan for the years ahead, to develop and submit proposals for funding for support. These efforts were linked with the joint ENVSEC PRTR framework proposal for capacity building submitted by UNECE, the REC and other partners to ENVSEC. Within the capacity-building framework programme, country proposals are being developed for funding in cooperation with the REC.

## **Major challenges in implementation**

### **Aarhus Convention**

#### **Major gaps in implementation**

Regarding the first pillar of the convention, the major problems seem to be identifying which information should be kept confidential and which information should be made available actively, without request. Officials need more guidance and legal support to be able to decide on the issues of confidentiality and how to carry out a public interest test. Another frequent problem is the lack of availability of specific information such as pollution data, or information needed for effective participation regarding decision making on specific projects such as permits or draft permits, EIA documentation, and draft documents on policies, programmes, plans and draft laws. Information access is also hindered by the lack of availability of information or data, the lack of well-organised, publicly accessible integrated information systems, or the lack of information about what information is held by which authority and where and how it can be accessed. Obstacles on the side of the public include the lack of expertise/knowledge on how to formulate a request and of where to access information, as well as the lack of such practices. Submitting an official information request is still not a common practice in many of the SEE countries.

The first pillar of the convention is regulated in Croatia through the Law on the Right on Access to Information. This law regulates access to information possessed by, at the disposal of, or supervised by governmental public authorities and prescribes the principles of the right to access to public information and procedures for the achievement and protection of the right to access to information. Pursuant to article 22 of the mentioned act, the public authority is obliged to designate an official for information to ensure access to information. Accordingly, the Ministry of Environmental Protection, Physical Planning and Construction has designated an official for information and has created a catalogue of information, also in electronic form, to which the public has access.

Regarding the public participation pillar, although the legislation includes a similar level of obligations as the Aarhus Convention and even the procedures are included in most countries, there is no detailed guidance to help implementation. It is a common complaint that procedures are not at all or not fully implemented in the case of project-level decision making, although the general legal framework is provided. There is a lack of effective and early notification, a lack of provision of information about and throughout the procedure; public hearings are not (or are not properly) organised; comments are not collected or taken into due account; no information is provided about the decision, etc.

In several countries there are no specific mechanisms, practices or traditions of involving the public and NGOs in strategic-level decision making and participation often depends on the good will of officials and personal contacts. For example, in Croatia the Law on Spatial Planning includes public participation requirements and the procedure for conducting a public hearing is prescribed in the Decree on Public Hearing in the Procedure of Adoption of Physical Plans. In Montenegro, the new law on EIA, IPPC and SEA will include public participation requirements but will only enter into force in 2008. In Albania, the law on IPPC is planned to be drafted in the coming years. Obstacles on the side of the public/NGOs include, among others: lack of awareness, knowledge, experience and know-how regarding participation in a decision-making procedure, as well as the absence of a proactive attitude. The NGOs are often unable to organise themselves to cooperate or exert pressure on the authorities and achieve the observation of their rights.

The implementation of the access to justice pillar lags farthest behind in all countries. There are significant gaps in the legal system regarding access to justice, and, although the access to court and administrative appeal procedures is provided for in many countries in national legislation, citizens do not use this as a common practice. Although judicial reform is under way, the independent judiciary in some countries still does not exist, resulting in lack of confidence on the part of the public. The judiciary is not aware of, and does not apply, environmental and Aarhus Convention-related legislation.

There are numerous barriers to access to justice, including financial (high court fees, lawyers and expert fees) and other barriers (lack of free legal assistance, legal advice, public interest lawyers, and funding for covering lawyers' and experts' fees, support for activities of public interest lawyers). The lack of tradition, awareness of rights, expertise, experience and practice are other obstacles resulting in almost no examples of court cases in most SEE countries. Croatia, where the Law on Right on Access to Information establishes the procedure for administrative and court appeals, has the most examples in the region. This pillar needs significant joint efforts of the judiciary and different relevant ministries in order to improve the legal system and remove the existing barriers.

### **Aarhus Convention**

#### **Introduction of a systematic approach to assess the implications of acceptance of the convention**

In several SEE countries initiatives have been taken in past years to introduce a more systematic approach towards the implementation and acceptance of the Aarhus Convention. These efforts have been supported by projects funded by the UNECE, the Netherlands and Denmark. These have included the following activities:

- The UNECE has funded the preparation of a national profile on the Aarhus Convention in Serbia and Montenegro in the past two years. A draft national profile has been prepared.<sup>42</sup>

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<sup>42</sup> [www.unitar.org/cwg/aarhus/aarhus3.html](http://www.unitar.org/cwg/aarhus/aarhus3.html)

- The Netherlands supported projects within the REReP process and in the past two years projects targeted at the assessment of gaps and needs, developing and implementing strategies and action plans to address these priority needs. In several SEE countries (Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia and then Serbia and Montenegro) such implementation strategies and action plans were prepared in 2004 and, based on these documents, several activities and measures were implemented by the ministries and the mentioned project.<sup>43</sup> These included developing recommendations and/or harmonising legislation with the convention, improving the institutional mechanisms and implementation practices, providing technical assistance and capacity building, such as preparing manuals and guidance materials for officials to support the practical implementation of the national legislation and the convention, capacity-building workshops and trainings for officials building skills and expertise to enable them to carry out their obligations and/or improve implementation practices.
- Denmark supported a project in Croatia between 2002 and 2004 on assessing gaps and needs and improving the legislative and institutional framework regarding the first two pillars.

The national activities, coupled with a regional-level network involving the Aarhus focal points, providing capacity building, experience sharing and exchange of experience, in addition to the similar approach followed regarding country activities, has promoted the approximation of implementation practices of the Aarhus Convention in SEE countries. The discussions and capacity-building workshops, trainings dealing with issues identified as priorities, common problems and obstacles to all participating SEE countries and entities and good practices regarding these issues have influenced the thinking, approaches and practices of the network of officials and NGOs at national, regional and municipal levels, as well as the representatives of the judiciary.

### **PRTR Protocol**

There have been systematic efforts regarding the assessment of gaps and needs and concrete steps have been taken towards progress in the preparation for ratification and implementation of the protocol. These efforts have been closely linked to the ongoing and planned programmes within these countries to transpose the related EU legislation.

As mentioned above, within a project implemented by the REC, Albania, Bosnia and Herzegovina, Montenegro and Serbia participated in the PRTR-related specific component of the project Improving the Practices of Public Participation: Next Steps in Implementing the Aarhus Convention in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Serbia and Montenegro and Kosovo under Interim UN Administration, funded by the Netherlands Ministry for Foreign Affairs between 2004 and 2006. Within this project, pilot projects were carried out at the national level, examining and supporting the establishment and future development of pollutant release and transfer registers (PRTR) in line with the PRTR Protocol. The pilot activities included the assessment of gaps and needs regarding the preparation for the ratification and implementation of the protocol and the establishment of a PRTR register, multi-stakeholder roundtable meetings discussing the assessment and recommendations regarding legislative and institutional gaps, needs and the next steps in order to implement the requirements of the PRTR Protocol.

These four countries as well as others in SEE have shown interest in further cooperation, developing and submitting proposals for funding for continued support of PRTR Protocol–

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<sup>43</sup>The project Support Developing Strategies for the Implementation of the Aarhus Convention in Southern and Eastern Europe funded by the Netherlands Ministry for Foreign Affairs, 2002–2004 and the project Improving the Practices of Public Participation: Next Steps in Implementing the AC in Albania, BiH, Former Yugoslav Republic of Macedonia, Serbia and Montenegro and Kosovo under Interim UN Administration, funded by the Netherlands Ministry for Foreign Affairs between 2004–2006, were implemented by the REC.

related activities in Building Capacity for Environmental Monitoring and Reporting by Enterprises and Public Authorities in EECCA and SEE countries.

### **Securing resources for implementing MEA-related legislation**

So far, the most successful efforts supporting the implementation of or preparation for the implementation of the Aarhus Convention and the PRTR Protocol resulted from joint initiatives between the ministries, donors, and other partners, such as the Aarhus Convention Secretariat and/or organisations supporting and implementing projects involving technical assistance and capacity building. The involvement of the Secretariat as a donor or partner supporting the implementation with advice or through the facilitation of capacity-building initiatives has also proved to be useful.

The advantage of such an approach includes:

- securing long-term and systematic support;
- implementation of targeted programmes and assistance in the fields where it is most needed;
- country ownership through participation and own contribution;
- harmonisation and synergies among the different projects achieving more efficient impact; and
- leverage of funding for different efforts, channelling resources to the areas needed and avoiding overlaps.

Due this approach support has been secured in several SEE countries for the last five to six years.

### **Improvement of national implementation planning and national reporting**

Reporting under the Aarhus Convention has been a requirement for parties. These draft reports prepared by the responsible focal points should be placed under public commenting procedure according to the convention reporting requirements prior to their finalisation. This commenting procedure can be implemented through collecting comments via a website, in writing, or at meetings. Both SEE parties before the previous MOP in 2005 circulated the drafts for comments.

For the PRTR Protocol, the compliance and reporting mechanism is still being developed. The first Meeting of Parties may take place in Latvia in June 2008 at the earliest, after the protocol has entered into force.

### **Promotion of transparency and better involvement of key stakeholders**

During the implementation of the Aarhus Convention, country authorities accepted and implemented the principle of transparency and the involvement of key stakeholders. Efforts have been made to establish structures which ensure the regular involvement of the key stakeholder representatives (primarily NGOs and local governments). The following mechanisms and tools have been used:

- In some SEE countries, inter-ministerial Aarhus Convention working groups or similar bodies have been established where representatives of NGOs and key stakeholder groups have been invited to participate.
- Other means of securing such involvement include regular meetings and consultations with key representatives of NGOs on a regular basis on the key draft documents, draft laws, draft strategy, and action plan regarding the implementation of the convention.

- Another tool to ensure transparency is the provision of information about the plans, draft documents, and documents related to the implementation of the convention for the broader public and NGOs, making these available through the web or other means. The involvement of key stakeholders in the preparation of national implementation reports (in the case of parties) is also a tool for promoting openness and transparency (see section above).

In some countries, NGOs complained that there has not been enough information and proper involvement of stakeholders in the preparation and discussions of the national profile on the Aarhus Convention. A good practice example took place in Bosnia and Herzegovina, where NGOs initiated accession to the convention and the MOFTER officially took the initiative, asking the REC field office there to prepare the necessary documentation.

Regarding the PRTR Protocol, in the project activities implemented with the involvement of the REC to date, the participatory approach has been promoted in discussions on the assessments and recommendations for the next steps through stakeholder meetings.

**BOX 9. Aarhus Information Centre in Tirana funded by an ENVSEC-OSCE project**

On December 13, 2006, an Aarhus Information Centre (AIC) was officially opened at the premises of the Ministry of Environment, Forestry and Water Administration (MEFWA) in Tirana. The AIC is a component of a package of measures supported under an ENVSEC grant to the OSCE presence in Albania aimed at supporting implementation of the Aarhus Convention. An advisory board comprising of three civil society members and three senior MEFWA officials was subsequently formed to oversee the AIC's programme of activities. This included a joint training event in March 2007 for state officials and civil society representatives on their rights and responsibilities under the convention. At the time of writing, development of an Aarhus portal website is in progress and discussions are underway for opening a second AIC facility outside of the capital.

**Capacity building for MEA implementation and creation of retention policies for trained staff**

Capacity building has been carried out in several projects related to the Aarhus Convention following the assessment of needs and the setting of priorities. Capacity-building efforts are most efficient if they are based on a systematic strategic approach, are planned as part of implementation strategies and action plans and carried out regularly, addressing the existing priority needs. The capacity-building efforts have included a combination of different means: workshops, interactive trainings oriented towards practice, developing and implementing guidance materials, handbooks, guidelines, study tours, carrying out and testing knowledge through pilot projects, etc. Examples include the trainings, capacity-building workshops, study tours, manuals and other guidance materials on the Aarhus Convention prepared in the above-mentioned projects for officials in Croatia, funded by Denmark and the Netherlands. Similar materials on public access to information, public practice and access to justice in Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro and Serbia were made available as part of the Danube Regional Project funded by the UNDP/GEF.

Despite the series of trainings for a large number of key ministry and agency officials, it is still necessary to create mechanisms for sharing knowledge and expertise within the agencies among the trained and other staff responsible for Aarhus issues. Handbooks and guidance materials also help in orienting and building the capacities of officials. Such materials need to be developed in cooperation with the responsible and relevant officials so they can be as practical and useful as possible for them in their work, as happened in the case of the manuals developed in the above-mentioned Danube Regional Project. These guidance materials in some countries have been recommended and endorsed by the minister or the relevant high officials in their work, so they would be used in daily practice.

The other remaining problem is the frequent change in the position of focal points in some countries, which greatly hinders the coordination of Aarhus Convention-related activities. Regarding the PRTR Protocol, specific technical expertise is also lacking.

### **Enhancement of cooperation between relevant institutions**

The Aarhus Convention places obligations on public authorities at all levels “performing public administrative functions under national law, including specific duties, activities or services in relation to the environment,” or “having public responsibilities or functions, or providing public services in relation to the environment.” This implies that different authorities at national, regional and local levels have obligations under the convention, all of whom need to be targeted during the implementation efforts.

One of the most successful means to secure involvement of all relevant institutions has been the establishment and operation of inter-ministerial working groups, which can serve as useful forums for information, the discussion of draft documents, relevant issues and implementation approaches. These working groups can also serve as bodies preparing materials for decision making or even taking certain decisions themselves. Such groups should include, in addition to the Aarhus focal point, all of the relevant departments within the responsible ministry, and representatives of all other ministries and agencies having responsibilities for the implementation of the convention. Most of the SEE countries have established such working groups but, as a result of government changes, these groups have not been operational in all countries to date. According to the best practices, these working groups also include representatives of NGOs and may involve key partner organisations supporting convention implementation (the former Yugoslav Republic of Macedonia provides a good example).

Regarding the PRTR Protocol, one part of the tasks for preparation for ratification and implementation is related to drafting or amending legislation, while other tasks are related to the setting up and implementation of reporting systems regarding the IPPC facilities, chemical safety, and health issues, as well as information technology and the establishment of integrated easily accessible databases, etc. As the number of different ministries and agencies which need to be involved is large and complex, coordination may seem to be even more difficult, but is therefore all the more necessary. In the projects related to preparation for the ratification and implementation of the PRTR Protocol, it was suggested that an agreement on the lead agency should be achieved and specific legal, institutional, and financial and other support should be given to this agency. The coordination, involvement and cooperation between different authorities should be based on internal agreements or working groups which define and clarify the responsibilities and necessary contribution of all players. At the moment, the agreement and implementation of such coordination and cooperation, as well as the establishment of such bodies, is still in process in most SEE countries.

### **Key recommendations**

Regarding the Aarhus Convention:

- Efforts should be made to accelerate accession/ratification in those countries which have declared their intention and have undertaken related activities to achieve accession/ratification within the next year.
- It is necessary to address the still existing gaps in the legislative and institutional framework, especially with regards to the development, adoption and implementation of detailed administrative regulations and procedures, the lack of which hinders implementation in practice.
- Efficient and targeted capacity-building programmes are also needed, which are related to improving practical implementation by governmental authorities and enabling also NGOs and other stakeholders to use the available opportunities in an effective way.

- Further support and resources should be secured for the practical implementation of the convention in coming years. To this end it is necessary to continue the support in a strategic and systematic way, to address the emerging and still existing priority needs, to establish a regular dialogue between country partners, donors, the convention secretariat and supporting organisations with the involvement of the representatives of main stakeholders, to assess achievements and remaining priority needs to be addressed, to discuss the proposals and the possible availability of funds, and to provide continued political and financial support in the most useful and targeted way.
- National implementation planning should be improved through a systematic and strategic approach; developing and/or following the strategy and action plan for implementation built on the assessment of gaps and needs; regularly evaluating the progress, achievements and the remaining priority needs/tasks; and updating and revising these action plans on a yearly basis, as well as strategies on a longer-term basis (at least every four years).
- Transparency, stakeholder involvement and reporting on national implementation should follow the Aarhus Convention guidance and, where it is based on an ad hoc approach, should be improved.
- The capacity-building needs should be regularly evaluated and the plans/programmes revised and updated regularly, focusing on the priority needs.
- Trainings and preparation are needed in order for officials to carry out their obligations and tasks in the agency. These trainings should be part of the internal agency trainings, and all those working in such positions should be included in the trainings, and participation should be made a condition for filling certain positions.
- In order to ensure the continuity of focal points responsible for the Aarhus Convention and the PRTR Protocol, the involvement and knowledge of more than one key person regarding these issues could help in bridging the interval while a focal point leaves and the new focal point gains experience.
- For the improvement of inter-agency coordination regarding the preparation for the ratification/accession and/or implementation of the Aarhus Convention, mechanisms which allow the involvement and cooperation of the different ministries and agencies which may have responsibilities under the convention should be established and used. In this coordination, the Ministry of the Environment should play the major role.

#### Regarding the PRTR Protocol:

- Efforts to prepare for ratification/accession should be continued and should build on the progress made so far, in line with the EU requirements and using the framework of UNECE PRTR Working Group's capacity-building initiatives.
- Proposals for funding and funding support should be shaped to address the priority needs, to address legislative and institutional gaps, and towards practical implementation and capacity-building needs.
- The same approach should be followed for ensuring transparency and stakeholder involvement in the preparation of official reports, on preparations for ratification of the PRTR Protocol, on implementation efforts, as well as about major projects or activities by the countries, as for the Aarhus Convention.
- It is also important that, in addition to civil society, the representatives of businesses should be involved in stakeholder meetings and consultations.

- Support for capacity-building programmes should be provided to gain PRTR expertise, which includes exchange visits and the exchange of experience, study tours to countries with more advanced systems and hands-on practically-oriented trainings which can support the setting up and operation of the PRTR systems.
- In addition to the capacity building of officials/governmental experts, special programmes should be designed for the capacity building of reporters (facilities/businesses under obligation to report) to build their awareness and understanding of the benefits of such reporting, the ways and methods of reporting, as well as for civil society regarding the uses and benefits of registers as right-to-know systems.
- In order to ensure inter-agency coordination, an agreement should be reached on the lead agency, and specific legal, institutional, financial and other support should be ensured for this agency, and the involvement and cooperation between different authorities should be based on internal agreements or working groups which define and clarify the responsibilities and necessary contribution of all players.

# **ANNEX I.**

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## **Support for Acceptance and Implementation of Multilateral Environmental Agreements in South Eastern Europe (AIMS)**

### **Regional Assessment on Acceptance and Implementation of MEAs in SEE**

2004

The project Support for Acceptance and Implementation of Multilateral Environmental Agreements in South Eastern Europe is funded by the Ministry of Foreign Affairs of the Netherlands within the Regional Environmental Reconstruction Programme for South Eastern Europe (REReP).

***Disclaimer:*** This regional report is based on seven Country Assessments on Acceptance and Implementation of MEAs, prepared by independent national experts in 2003 for each project's beneficiary countries (Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Romania, and Serbia and Montenegro).

# 1. Introduction

## a) Project background

The Support for Acceptance and Implementation of Multilateral Environmental Agreements in South Eastern Europe (AIMS) project is administered by the Regional Environmental Reconstruction Programme for South Eastern Europe (REReP) and funded by the Netherlands Ministry of Foreign Affairs.

The major objectives of the AIMS project are to increase the acceptance rates of multilateral environmental agreements (MEAs) in the South Eastern European (SEE) region, to build capacity for related interstate dialogue, and to provide assistance in solving environmental problems in SEE on both a regional and country-by-country basis. During its inception, the project targeted seven countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Romania and what was then Serbia and Montenegro,<sup>44</sup> of which Albania, Bulgaria and Romania were the lead countries. Their active participation and cooperation in policy definition helped achieve the project's goals.

A steering committee responsible for supervising and guiding the project implementation is composed of representatives of the lead countries, relevant international organisations — the United Nations Environment Programme (UNEP) and the World Conservation Union (IUCN) — donor representatives and a project manager.

The AIMS project entered its first phase in April 2001 and the main activity included individual assessments of the applicability and level of implementation of particular MEAs in each SEE country produced by independent legal experts. The present report is intended to provide an overview of the results of the assessment phase as of June 2002 and comments made at the 4<sup>th</sup> AIMS Network Meeting held in Tsarsko Selo, Bulgaria, in November 2003. Any mention of the participating countries' status regarding their acceptance or ratification of any MEA is valid as of January 2004, unless specifically noted otherwise.

This report was prepared by Stephen Stec, Tsvetelina Borissova Filipova, Dana Carmen Romanescu and Hanh Diep of the Regional Environmental Center for Central and Eastern Europe (REC) under the AIMS project.

## b) Legal experts and national focal points

A network of legal experts was established under the auspices of the AIMS project. The REC head office selected these legal experts from a number of nominations provided by the ministries of the environment (MoE) of each SEE country and REC country offices. The involvement of MoE officials in this selection process was purposely intended to encourage cooperation between the officials and the selected legal experts. This dialogue between MoE officials and the REC allowed for a selection of legal experts to be made to ensure both objective and professional national assessments. The selected legal experts include: Auron Cecaj (Albania), Djordje Stefanovic (Bosnia and Herzegovina), Gergana Blagieva and Yordanka Minkova (Bulgaria), Jasna Matic-Butkovic (Croatia), Snezana Velkovska (former Yugoslav Republic of Macedonia), Dana Carmen Romanescu (Romania), and Dragoljub Todic (Serbia and Montenegro). The legal experts have been working in collaboration with each other since November 2001.

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<sup>44</sup> The United Nations administration in Kosovo was invited to participate in the project to the extent possible, but declined.

A core list of selected global, regional and sub-regional MEAs most relevant to the SEE region was drawn up. This core list defined the MEAs which the experts were expected to address in the country assessment. A common template was drafted to ensure uniformity and comparability of all country assessments and was included in each country's terms of reference (ToR).

Furthermore, national focal points (NFPs) were nominated by the respective REReP task force representatives. NFPs ensure multi-stakeholder participation in order to set priorities regarding MEA implementation. In addition to this, the NFPs established a National MEA Advisory Committee consisting of representatives from various sectors: non-governmental organisations (NGOs), academia, businesses and the public. Although the Network of Legal Experts and the National MEA Advisory Committee initially functioned separately, they worked together in close collaboration in order to discuss the status, value, and implications of national assessment reports and results.

The regional assessment report provides an overview of the major current activities of the SEE countries and the global, regional, and sub-regional MEAs they have undertaken to implement. The report also looks at the progress and short-comings of the specific countries to help determine which methods are effective in the region. Further on the report examines the major obstacles faced by the countries, their needs and priorities, and recommendations to help the countries continue along the paths already taken.

## **2. Acceptance of MEAs**

While SEE countries are working towards ratifying, accepting, approving, acceding or succeeding to a wider array of relevant MEAs, there have been discrepancies among these countries in terms of the progress each is making. Countries have at times misunderstood the requirements of the MEA acceptance procedure, resulting in an ineffective acceptance of the MEA in question. Even once the MEA has been accepted, different countries have sometimes interpreted their obligations differently under the same MEA. Moreover, reporting discrepancies have occurred due to information/communication breakdowns among the relevant parties. Bosnia and Herzegovina provides an example of reporting discrepancies because of the lack of collaboration across the internal political divisions. In addition, the countries are at different stages of building up their governmental infrastructure and developing their legislative processes, which leads to a variety of inconsistencies.

Nonetheless, the SEE countries have made great strides in acknowledging that a proper legal framework is essential for the achievement of sustainable environmental development goals at national, regional and global levels.

### **a) Overview of global, regional, and sub-regional agreements**

#### **Global MEAs**

Generally speaking, the SEE region has a high level of acceptance of global MEAs. Two of the seven countries, Bulgaria and Romania, have accepted all relevant global agreements from the core list. Albania has accepted all but one, this being the recent Rotterdam Convention. Croatia and the former Yugoslav Republic of Macedonia have also accepted nearly all global MEAs, with the common exception of the most recent conventions (e.g. the Rotterdam and POPs conventions). Bosnia and Herzegovina and Serbia and Montenegro are lagging behind all other SEE countries in terms of acceptance of these MEAs, but they are undertaking steps toward acceding to those that still remain.

## **Regional MEAs**

In terms of regional MEAs in the SEE region, there are various levels of acceptance. Five of the seven countries have accepted all or nearly all of the regional United Nations Economic Commission for Europe (UNECE) conventions. The Convention on Long-Range Transboundary Air Pollution (LRTAP) is the only convention to be unanimously accepted by all SEE countries. The Espoo Convention and the Convention on the Transboundary Effects of Industrial Accidents (TEIA) follow closely behind with only two countries that have not yet accepted. The Aarhus Convention has shown a remarkable acceptance rate considering the fact that this convention has only recently been adopted; only three countries have yet to accept.

## **Sub-regional MEAs**

Each of the relevant sub-regional MEAs is applicable only to certain countries within the SEE region. The level of acceptance of these MEAs is just as varied as in the case of regional MEAs. However, the Bern Convention and the Danube River Protection Convention have been accepted by all relevant parties. The unanimous acceptance of the Bern Convention is particularly significant as it demonstrates the importance placed on biodiversity-related issues by SEE countries. The Barcelona Convention and the Bucharest Convention have had less success, with acceptance by only two parties.

In addition to those MEAs mentioned above, SEE countries also participate in a variety of global and regional conventions, agreements, protocols and initiatives that are not reflected in the core list. It is important to note that the value of these MEAs is in no way diminished because of their exclusion from the core list. An example of such an MEA is the Montreal Protocol on Substances that Deplete the Ozone Layer (Montreal Protocol), which in fact has been accepted by all SEE countries. Two other such examples of MEAs to which Albania, Croatia and the former Yugoslav Republic of Macedonia are all parties are the Agreement on the Conservation of Populations of European Bats (European Bat Agreement) and the Agreement on the Conservation of African-Eurasian Migratory Waterbirds (AEWA).

Tables 1 and 2 show the current status of SEE country acceptance of global, regional, and sub-regional MEAs included on the core list, determined by the legal experts and MoEs.

<b>Table 1. GLOBAL AGREEMENTS</b>							
	<b>Albania</b>	<b>Bosnia and Herzegovina</b>	<b>Bulgaria</b>	<b>Croatia</b>	<b>Serbia and Montenegro</b>	<b>Former Yugoslav Republic of Macedonia</b>	<b>Romania</b>
Convention on Wetlands of International Importance, Especially as Waterfowl Habitat ( <b>Ramsar Convention</b> )	R	R (new)	R	R	R (new)	R	R
Convention on International Trade in Endangered Species of Wild Fauna and Flora ( <b>CITES</b> )	A		A	A	A	A	A
Convention on the Conservation of Migratory Species of Wild Animals ( <b>CMS</b> )	R		R	R		R	R
Vienna Convention for the Protection of the Ozone Layer ( <b>Ozone Convention</b> )	R	R	R	R	R	R	R
Basel Convention on the Transboundary Movements of Hazardous Wastes and their Disposal ( <b>Basel Convention</b> )	A	A	A	A	A	A	A
United Nations Framework Convention on Climate Change ( <b>UNFCCC</b> )	R	R	R	A	R	R (new)	R
Convention on Biological Diversity ( <b>CBD</b> )	A	A	R	R	R	R	R
Cartagena Protocol on Biosafety ( <b>Cartegena Protocol</b> )	A		R	R	R	R	R
United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa ( <b>UNCCD</b> )	R	A	R	R		R	R
Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade ( <b>PIC Convention</b> )			A				A
Stockholm Convention on Persistent Organic Pollutants ( <b>POPs Convention</b> )	R	Signed but not ratified	R	Signed but not ratified	R	R	R

<b>Table 2. REGIONAL AND SUB-REGIONAL AGREEMENTS</b>							
	Albania	Bosnia and Herzegovina	Bulgaria	Croatia	Serbia and Montenegro	Former Yugoslav Republic of Macedonia	Romania
<b>REGIONAL CONVENTIONS</b>							
<b>UNECE</b>							
Convention on Long-Range Transboundary Air Pollution ( <b>LRTAP</b> )	A	R	R	R	R	R	R
Convention on Environmental Impact Assessment in a Transboundary Context ( <b>Espoo</b> )	R		R	R		R	R
Convention on the Protection and Use of Transboundary Watercourses and International Lakes ( <b>Water Convention</b> )	R		R	R			R
Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters ( <b>Aarhus Convention</b> )	R		R	Signed but not ratified		R	R
Convention on the Transboundary Effects of Industrial Accidents ( <b>TEIA</b> )	R		R	R		R	R
<b>Other conventions</b>							
Convention on the Conservation of European Wildlife and Natural Habitats ( <b>Bern Convention</b> )	R		R	R			R
Convention on Civil Liability for Damage Resulting from Activities Dangerous to the Environment ( <b>Lugano Convention</b> )							
<b>SUB-REGIONAL CONVENTIONS</b>							
Convention on the Protection of the Black Sea against Pollution ( <b>Bucharest Convention</b> )	(n/a)	(n/a)	R	(n/a)	(n/a)	(n/a)	R
Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean ( <b>Barcelona Convention</b> )	R		(n/a)	R		(n/a)	(n/a)
Convention on Cooperation for the Protection and Sustainable Use of the Danube River ( <b>Danube River Protection Convention</b> )	(n/a)	R	R	R	(n/a)	(n/a)	R

**Legend to Table 1 and Table 2:**

R – Ratification, acceptance, approval, or succession

A – Accession

(n/a) – Not applicable

## **b) Factors influencing MEA acceptance**

Among the different factors that influence a country's decision to accept an MEA are the regional and national environmental conditions affecting that country. The respective state of structural and legislative development of a country also play a role in determining which MEAs should be prioritised and accepted over others. It is important to note that while the assessment phase of the AIMS project is now over, there are still MEAs being added to the core list and SEE countries are still looking for ways to increase capacity in order to be able to accede to those MEAs to which they are not yet parties.

From the inception of the AIMS project, three MEAs stood out as being of utmost interest to SEE countries. These were the global Cartagena Protocol on Biosafety (Cartagena Protocol), the regional Convention on the Transboundary Effects of Industrial Accidents (TEIA), and the Aarhus Convention. As the AIMS project developed, chemical-related MEAs dealing with prior informed consent and persistent organic pollutants (Rotterdam and Stockholm Conventions) were added to the core list.

The Baia Mare incident in Romania is an example of a change in environmental conditions that pushed the entire SEE region to prioritise and adopt the TEIA. Baia Mare was a warning to the international community that legal and institutional regimes responsible for preventing and responding to industrial accidents had not yet been sufficiently developed, particularly in countries in transition. As a result, a greater importance was placed on the implementation of integrated pollution prevention and control mechanisms. A renewed attention was directed to the issue of civil liability as demonstrated by the new UNECE Protocol on Civil Liability and Compensation for Damage Caused by the Transboundary Effects of Industrial Accidents on Transboundary Waters (Protocol on Civil Liability).

The increased awareness of the importance of civil liability in the context of transboundary environmental harm led the SEE region to rapidly accept the Cartagena Protocol on Biosafety. Bosnia and Herzegovina is the only country that is not yet a party to this MEA but it is in the process of accession. The next few years will reveal how the interest of the SEE countries regarding issues of biosafety will develop in light of the new efforts in the field of civil liability.

The Aarhus Convention is particularly significant to the SEE region as issues of access to information, public participation and access to justice in environmental decision-making processes are crucial in any country's infrastructural and legislative development. This is especially true for those countries still in stages of nation-building. However, these countries remain focused on more basic MEAs. In the case of Bosnia and Herzegovina, for example, their priorities for accession include the Convention on Biological Diversity and the Danube Convention. Similarly, Albania has prioritised LRTAP, the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and the Rotterdam Convention. On the other hand, countries that already have a long history of involvement in the international arena are able to go beyond simply accepting such MEAs to developing national implementation legislation and strategies.

## **3. Implementation of MEAs**

The SEE region has not seen any uniformity with regard to the implementation of MEAs. Indeed, variations from one country to another are quite pronounced and are due to a variety of factors, including political and economic background, specific institutional set-up and administrative traditions, together with human resource capacity.

Nevertheless, there is some scope for regionally-based programmes to assist in the implementation of MEAs in SEE. Although the economic welfare of all SEE countries varies considerably and there are general discrepancies in the region, similarities in terms of problems and capacities can be identified between some countries. This is especially true when taking into account transboundary issues, such as shared natural resources in border regions. Furthermore, several national reports have identified deep structural problems in authorities' organisation for carrying out international obligations, which leads to the diminishment of the MEAs' enforcement levels.

Such low level of enforcement has been repeatedly observed throughout the whole SEE region.

## **a) Essential elements of MEA implementation**

There are certain elements of proper implementation that are necessary for an MEA to be effective.

### **Adoption of implementing legislation**

Certain SEE countries are undertaking an intensive course on legislative drafting and are thereby making rapid progress with the help and support of the international community. Other countries, however, are struggling to gain momentum in this endeavour. The countries that are still relatively new in their participation in the international arena are trying to bring their legislation into conformity with international standards in order to be recognised as parties to various MEAs and/or as part of the international community itself.

Romania and Bulgaria have well developed legislative frameworks that encompass administrative regulations necessary for effective implementation. New social conditions and the need to promote EU integration processes have resulted not only in the drafting and adoption of a large number of legislative acts and regulations in specific environmental sectors, but also in the fulfilment of MEA requirements. Furthermore, the implementation and enforcement of MEAs are taken into account when new national domestic legislation is drafted. This approach has been recognised as a way to solve environmental problems. Bulgaria is a prime example of investment in MEAs as a means of facing administrative, financial and environmental problems within the country. This is apparent from the laws on biodiversity, hunting and wildlife conservation, and fishing, and their respective implementing regulations, the adoption of which is currently pending. This approach towards MEA implementation has led to several opportunities in Romania and Bulgaria to implement the relevant domestic legislation before the MEA is officially accepted.

While this approach has proven successful it is not widely applied, which means that in most cases accepted MEAs are in force without the adoption of the necessary national legislation and as a result, implementation of the MEA lags greatly behind its entry into force. In the case of biodiversity-related conventions in Romania, for example, though the relevant MEAs have been accepted, there has only been some framework legislation adopted within the country without more specific subsidiary regulations providing concrete elements of procedure for the protection of species and habitats.

In Albania, there is still a great need to adopt relevant implementation legislation. Though a legislative framework existed prior to the ratification of MEAs, little effort has been made to tailor the legislation to support the implementation of these MEAs. However, the former National Agency for Environmental Protection (now the Ministry of the Environment) has been taking steps in drafting various environmental laws, and this initiative should be further supported.

Bosnia and Herzegovina has recognised that simply transferring legislation from other countries does not allow for quality environmental protection. Rather, it is necessary to create a new

regulatory system in order to provide pre-conditions for effective fulfilment of the obligations inherent in accepting the international agreements. Although Bosnia and Herzegovina should be congratulated for recognising this flaw in the former approach, the country still lacks a legal framework to support such a new regulatory system.

The former Yugoslav Republic of Macedonia has several important laws currently being drafted, including a Law on Air Quality, Law on Special Natural Heritage, Law on Environmental Impact Assessment, as well as amendments to the basic laws dating from the period of the former Federal Republic of Yugoslavia, which are rather outdated and complex. These laws must be verified and updated in order to become consistent with those MEAs that have already been accepted or that are planned to be accepted.

Serbia and Montenegro is currently operating under a legislative framework that dates back to the time of the former Yugoslavia. Current laws are complex and coordinating within the legislative framework proves to be a challenge. Consequently, Serbia and Montenegro continues to struggle with adopting legislation for MEA implementation purposes.

### **Designation of responsible management**

Where responsible persons are designated, there is difficulty in ensuring proper coordination and allocation of responsibilities within the ministry and among other authorities. Bulgaria and Romania have successfully taken steps to resolve this problem through the establishment of coordination committees dealing with different issues, such as climate change and ozone-depleting substances. This practice has already been applied within the context of the Aarhus Convention under a REReP project. Coordinating committees allow all of the relevant stakeholders to better communicate through consultations and, ultimately, to engage and delegate their efforts more effectively. This approach can serve as a model for proper designation of responsible management.

The majority of countries, however, typically rely on the ministry of environment as the responsible organ for the implementation of MEAs without taking further steps to designate particular responsible persons. This can result in unclear and overlapping responsibilities. An additional challenge is the fact that certain SEE countries designate authorities through an internal process that is not made accessible to the public. This lack of transparency makes it difficult to hold any one governing body responsible for the relevant environmental issues.

Proper designation of management authorities is especially critical in the areas of biodiversity and nature protection. Several countries reported that only a small proportion of protected areas are managed by designated central authorities, and the rest is left rather to the attention of local actors, including forestry inspectorates, local councils, city halls and prefectures. In Romania, for example, only four of the 18 important protected areas have an established central administrative structure. While local control may have positive and practical results, it is not an adequate means of ensuring environmental protection, thus designated central authorities are clearly needed.

While the main environmental authorities of a country may often be designated as the central authority, it is also useful to consider the possibility or the need to call upon cooperating authorities from different ministries or agencies. The Espoo Convention and the CITES are prime examples of MEAs in which cooperation with non-environmental authorities is critical to successful implementation. Several countries, however, reported that such cooperation has not yet been established. Romania is an exception to this trend insofar as the Ministry of Water and Environmental Protection has established effective cooperation with the General Customs Directorates for the Vienna Convention on Ozone Depletion Substances, for CITES and for the Basel Convention.

Finally, in some countries the basic enforcement mechanism for international environmental obligations is reduced to national legislation. Where they exist, environmental inspectorates are

still in the earliest stages of development. The process of establishing these inspectorates is a good opportunity to ensure that the highest standards possible are applied in addressing the international commitments of the subject country.

### **Definition of the regulated community's responsibilities**

This element of proper implementation is rather case-specific. First of all, responsibilities of a regulated community are generally not clearly defined. As a result, there is no "legal roadmap" to assist these countries. The only defined responsibilities exist in the form of prohibitions (i.e. licenses with conditions, environmental impact assessments, economic incentives, etc.) and cannot be used as guidelines. Second, the diversity and complexity of regulations make it difficult for the regulated community to have a comprehensive understanding of the imposed legal obligations. Third, obligations, such as placing limits on particular emissions, are not transposed into enforceable obligations at the national level. Finally, there is a great problem in defining the roles and responsibilities of relevant communities or sectors in MEA implementation.

### **Participation in international bodies**

Cooperation with international organisations such as the United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), the European Environment Information and Observation Network (EIONET), the REC, the European Environment Agency (EEA) and the Commission for Sustainable Development, has been a highly positive element of MEA implementation. Although the participation in international bodies seems to be high, SEE countries do not frequently participate in the relevant MEAs' conference of the parties (COPs) or meetings of the parties (MOPs). This absence may be attributed to a general lack of human resources. Financial resources are another limitation for participation in MEA-related events, even though there is usually some financial assistance that may be provided to representatives of countries in transition. In some cases, MoE authorities are simply not responsive to communications regarding these convention bodies.

Despite the fact that SEE countries do not always take advantage of participating in such meetings and events, access to trips abroad is seen as an enviable privilege or prospect. As such, MoE officials possessing political power as opposed to specific expertise tend more often to occupy the positions of national focal points. This may negatively influence the communication and relations among state representatives. In addition to this, the entire process surrounding such MEA activities or meetings tends to be rather informal and ineffective. This is not likely to change unless funds are made available to allow for a more active participation in these events.

Serbia and Montenegro and Bosnia and Herzegovina have been particularly inactive in terms of their cooperation with international bodies due to specific sets of circumstances. Serbia and Montenegro, for example, has suffered from the country's 10-year exclusion from the international community. The challenge faced by Bosnia and Herzegovina, on the other hand, relates to its instability and its process of state-building. This has complicated the designation of MEA contact persons or representatives, which are necessary for maintaining relations and cooperation with the international community. While the situation in Bosnia and Herzegovina has been marginally improved through the establishment of an Environmental Steering Committee, further work is still needed.

### **Procurement and allocation of resources**

In the past, ministries often sought simple budgetary appropriations or foreign aid without taking into account the value of in-kind and non-budgetary resources, such as cooperative arrangements. Hence it was commonly said that the MoEs do not have sufficient resources to meet their obligations. Slowly, however, more modern approaches are being undertaken in light of the procurement and the allocation of resources.

Bulgaria is an example of a country demonstrating the value of in-kind and non-budgetary resources through their lawmaking initiatives and multiple strategies and programmes aimed at ensuring effective law enforcement by establishing institutional coordination, planning, mobilisation of financial and human resources, and the exploration of potential support from the academic, NGO, and business communities. For example, the country has established an Environmental Fund, an independent body whose chair of the managing council is the Ministry of Environment and Water (MEW).

In addition, Bulgaria is the second country in Central Eastern Europe (CEE) after Poland to have successfully completed a “debt-for-environment” swap deal, thus reducing by 20 percent its foreign debt to Switzerland. Pursuant to this agreement, the National Trust Eco-Fund was established to manage funds provided under the debt-for-environment and debt-for-nature agreements, as well as funds provided under other types of agreements by international, foreign and Bulgarian sources aimed at financing projects and activities for the protection of the environment in Bulgaria.

The former Yugoslav Republic of Macedonia has also established a Fund for Protection and Promotion of the Environment and Nature within the Ministry of Environment and Physical Planning. This fund targets preventative measures for environmental protection while focusing on financial operations, sources of funding and financial awards, such as the Ohrid Lake Conservation Project. The former Yugoslav Republic of Macedonia demonstrates, as does Bulgaria, how countries with limited financial resources can nonetheless adhere to their MEA obligations by coming up with innovative funding structures.

Exploring and taking advantage of financial and human resources reflects the concept of principle 10 of the Rio Declaration and Agenda 21 and is a key element of effective MEA implementation. The Global Environment Facility (GEF), the World Bank (WB), and the EU Phare programme are main sources of external funding for developing countries and countries in transition. However, often due to the weak institutional capacity of MoEs, the countries are not able to attract much bi-lateral funding, except through frameworks of multi-country programmes such as REReP. Although SEE countries have made recognisable progress, further work is still needed, especially in the creation of stronger institutional structures for MEA implementation, which would assist countries in obtaining more funding.

### **Use of penalties and other enforcement tools**

Theoretically, enforcement authorities have a wide range of available tools, such as fines and issue orders, to eliminate conduct that causes environmental pollution or degradation. Enforcement officers may also prohibit the environmentally harmful operations of public and private entities. They may also put an end to the work and use of the operation facilities, such as closing down, sealing and/or seizing the working premises, equipment, machinery and devices that are causing adverse environmental effects or that fail to comply with the prescribed requirements. It is then the responsibility of the judicial authority to decide on a period of rehabilitation.

In Serbia and Montenegro these tools are made available, but they are not practically applied. This situation seems to be the case throughout the SEE region. Further work should be done to determine which of the particular enforcement tools are actually used in practice, such as criminalisation of environmental violations.

### **Use of available international technical and financial assistance**

Surprisingly, several SEE countries claim they must have access to international technical and financial assistance to reform their functioning process of MEA implementation. Those countries that do not currently have access to such assistance await future opportunities in this regard. Another related issue, however, relates to the absorption capacity of the SEE countries to make

full use of international technical and financial assistance. Indeed, communication problems including language and technical barriers, lack of coordination among authorities, especially in the case of countries where MEA implementation takes place at the republican level (i.e. Bosnia and Herzegovina, Serbia and Montenegro), and institutional deficiencies when “accepting” international technical and financial assistance have been identified. The providers of technical and financial assistance should not only consider the absorption capacity of recipient countries, they should also tailor their programmes to the existing administrative structure within the recipient country. This may include recommendations with regards to restructuring. Romania is a good example of a country that has focused on developing absorption capacity and hence has successfully increased its international assistance from USD 2 million to USD 9 million in just a few years.

### **Cooperation with the public**

In many cases, legal provisions consistent with the Aarhus Convention were put in place in the early 1990s, especially with respect to access to information and public participation in environmental decision making. A few countries have successfully involved the public in environmental matters. Bulgaria in particular has had extensive experience in public involvement in public debates throughout the EIA procedure.

In Romania, it appears that cooperation and consultation with the public is more efficient at the local level than at the national level. Public awareness activities in the area of biodiversity, water quality, and waste management are quite well developed. However, the public does not seem very concerned with issues of desertification, climate change, and depletion of the ozone layer. This situation offers an opportunity to further develop public awareness on these environmental issues.

The former Yugoslav Republic of Macedonia offers a unique example in the area of cooperation with the public. The Environmental Information Centre was established, acting as an instrument of communication between the public and the government, thus more effectively raising awareness of relevant environmental issues. The staff is considered to be highly professional and effective, and the centre’s success can be presumably attributed to its good working relationship with the public authorities. Though this centre does not provide the public with direct access to the MoE officials, it is still a worthy model for other countries of the SEE region to follow or take into consideration.

### **Regional cooperation**

SEE countries have the option of solving problems common to the entire region or to several countries within the region. For example, the SEE region countries that are in transition may jointly apply for funding or other resources made available for the purpose of proper MEA implementation. MEA partnerships can more easily build capacity and further transboundary cooperation. The Orhid Lake Conservation project, mentioned above, is a good example of how the World Bank has funded the bilateral cooperation between the former Yugoslav Republic of Macedonia and Albania, since one of the requirements of the MEA is to create bilateral agreements. Another good example of countries working together is the five-year plan between Bosnia and Herzegovina and Romania, particularly in the area of air pollution in the lower Danube.

The SEE region should be further encouraged to form such partnerships in order to alleviate regional or sub-regional problems while finding ways to implement the necessary mechanisms for environmental legislation. National implementation plans (NIPs) can serve as a basis for cooperation. These documents are useful and effective means of mainstreaming efforts to comply with MEAs, through preparation of assessments, identification of national strengths and weaknesses, and increase of institutional capacity.

## **b) Challenges and obstacles to effective MEA implementation**

As with the rate of acceptance, SEE countries are implementing MEAs very inconsistently. This lack of uniformity can be attributed to a variety of factors, including each country's different political and economic background, institutional set-ups and administrative traditions, as well as each country's varied capacity for human resources.

A large number of obstacles and barriers to MEA implementation have been identified in the national assessments. They are presented below according to each country's circumstances.

### **Albania:**

- A weak legal system which does not allow for the necessary institutional capacity for drafting effective policies with successful implementation schemes of international agreements.
- Overall unclear national strategy with regards to environmental issues.
- Insufficient institutional weight of the MoE since being upgraded from its status as a national agency.
- Lack of intra-institutional coordination regarding environmental issues.
- Limited internal funding for environmental protection.
- Understaffing of the public administration structures for environmental protection.
- Lack of proper training of officials.
- Lack of specific legislation providing detailed guidelines or procedures regarding the implementation of MEA obligations, such as for the Aarhus Convention.
- Lack of awareness of non-sustainable exploitation practices of natural resources.
- Low level of consideration of environmental issues compared to other key sectors.

### **Bosnia and Herzegovina:**

- Lack of international environmental legislation uniformity at the national level.
- Overall lack of an environmental protection system, including, but not limited to:
  - lack of domestic environmental legislation, strategy, plans, and programmes;
  - lack of harmonisation between the environmental provisions of the state and entity-level authorities;
  - unclear situation of legal position on international legal acts;
  - weak institutional structures and capacity building; and
  - lack of awareness of stakeholders that play a role in the MEA implementation.
- Lack of commitment to reach the same level of environmental protection as other progressive European countries.
- Late beginning of transition in Bosnia and Herzegovina as a direct consequence of the war.
- Current economic situation.
- Quite weak inspectorates, which are an important link in the chain of implementation-compliance-enforcement mechanisms.
- Unclear environmental priorities.

**Bulgaria:**

- Weak institutional structure and capacity building, especially with regards to structures at the local and regional levels, necessary to carry out reporting, monitoring, and control requirements.
- Legislative acts adopted without ensuring all necessary financial and human resources for their implementation, including insufficient funds for research and infrastructure projects at both the national and municipal levels.
- Lack of guidelines (manuals, instructions, guides, etc.) that address simultaneously all stakeholders in the EIA process.
- Legislation system lacking injunctive relief in environmental cases (courts seem to be more favourable to the state and municipal authorities than to citizens demonstrating a presence of unfair legal procedures).
- “Rather pay fines than comply” attitude to MEAs.

**Croatia:**

- No existing system regulating the financing of MEA obligations or reallocating collected budgetary and extra-budgetary appropriations.
- Lack of resources for training and equipment.
- Insufficient cooperation and coordination between bodies of the state, local administration units, and the public.
- Insufficient horizontal cooperation between the departments of the governing bodies (for example, Ministry of Maritime Affairs, Transport and Communications is in charge of the protection of the sea against pollution from ships, the State Water Directorates is in charge of the protection of waters and the sea against pollution from the land, the Ministry of Environmental Protection and Physical Planning is in charge of the protection of the sea and the coastal region).
- Low priority given to environmental protection by the state administration.
- Inadequately organised activities for supporting the policy implementation.
- Inadequately developed systems for cooperation with stakeholders outside of the governing body for the creation of environmental organisations.

**Former Yugoslav Republic of Macedonia:**

- Insufficient coordination and exchange of information within and between the ministry and the external bodies.
- Lack of guidelines for the governing bodies regarding the development of legislation.
- Outdated legislation that needs to be reformed and updated.
- Unclear strategies for drafting new laws or updating old legislation and undefined responsibilities of relevant authorities.
- Lack of legal grounds (including penalty policies) and financial resources for the enforcement of MEAs.
- Incomplete environmental quality monitoring system, which is a problem for reporting requirements.
- Insufficient staff to handle the workload and a lack of adequate staff training.

**Romania:**

- Lack of coordination among the different actors.
- Inadequate staff, particularly because accepting an MEA increases the tasks and activities of the staff.
- Insufficient capacity to enforce environmental laws.
- In spite of many strategies and action plans, the implementation of environmental actions is weak and often suffers from a lack of human resources and financing.
- Weakness of the actions and implementation structures of some conventions.
- Lack of financial resources and therefore investments in environmental protection.<sup>45</sup>
- Low priority given to environmental protection.
- Lack of proper information system and database allowing for information compilation or storage. Furthermore, the relevant information is possessed by many different authorities and therefore difficult to collect and maintain in one place.

**Serbia and Montenegro:**

- Negative consequences of its 10-year isolation from international cooperation.
- Low level of economic development.
- Lack of institutional capacity (financial, professional, technical, etc.) to handle environmental problems and further lack of financial resources make it difficult to comply with international standards and obligations.
- Weak and deficient institutions that are authorised to address environmental issues.
- Discordance of the legal regulations dealing with environmental issues.
- Unclear designations of managing authorities.
- Trouble in coordinating MEA implementation activities, particularly with regards to monitoring systems.
- Frequent change in governmental structure particularly the distribution of environmental responsibilities between federal and republican levels of government.
- Lack of coordination horizontally (at the federal and republic levels) and vertically. Since their implementation is under the competence of the republic, MEAs may be accepted at the republic level, while there may not be the capacity for implementation at the federal level.
- Confusion over the legal procedure of succession from the former Yugoslavia.

Although each country faces different challenges in MEA implementation, some of these challenges are common among all or most countries in the SEE region. The following can be regarded as regional issues:

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<sup>45</sup> Environmental protection is seen to have huge investment costs, with little economic incentive, and lacks the necessary administrative infrastructure and a system of proper enforcement. For example, the water-related conventions have a legislative framework, but there is no implementation of water-related infrastructure because of the required economic investment. Compliance with MEA requirements dealing with climate change and air quality of ozone-depleting substances are other examples of environmental issues that offer little economic incentive. Such requirements would include replacing current technology with clean technology.

- Lack of quantitative and qualitative resources to address environmental issues and implement measures needed to ensure compliance with MEAs.
- Overlapping and conflicting responsibilities between authorities within the government.
- Lack of training for staff in charge of the enforcement of the environmental legislation.
- Limited funding, especially for scientific research.
- Conflicts in legislation between the different areas.
- Limited regulatory control over illegal activities, such as hunting and fishing, and even pre-emptive control of industrial activities.
- Although the basic legal regulatory framework exists in this respect, the level of enforcement remains insufficient.
- Insufficient capacity building at the local level.
- Limited experience of the public in reviewing environmental policies as well as in assessing private development projects.

## 4. Country Priorities for MEA Acceptance and Implementation

According to the Network of Legal Experts and the National Focal Point meetings, SEE countries have identified certain priorities regarding environmental issues and MEA implementation. Table 3 indicates the level of priority placed on each of the conventions.

### a) Priorities applicable at the national level

#### Albania:

- Holding a national conference on MEAs.
- Increasing public access to information.
- Finding assistance in managing marine and transboundary resources.
- Creating greater capacity for the preparation of national reports to be presented to convention secretariats in order to better fulfil obligations.

#### Bosnia and Herzegovina:

- Ratifying the MEAs indicated in Table 3.
- Establishing a functional information system at the state level, for example on the movement of hazardous waste.

#### Croatia:

- Ratifying the Aarhus Convention.
- Ratifying relevant protocols, as well as global and regional MEAs.
- Adopting plans and strategies related to the implementation of CCD.

#### Bulgaria:

- Harmonising implementation of the Espoo Convention with other SEE countries.

- Strengthening institutions, drafting legislation and developing national systems under the FCCC.
- Establishing a national implementation plan with common methodology and indicators for implementation, and a regional monitoring network under CCD.

**Former Yugoslav Republic of Macedonia:**

- Developing a regional strategy for biodiversity and landscaping.
- Improving access to public information.
- Implementing air quality conventions such as LRTAP and the Ozone Convention.
- Adopting an integrated approach to anti-erosion programmes.

**Romania:**

- Adopting implementation legislation for the Aarhus and Biodiversity conventions.
- Exchanging practical examples of implementation of the Espoo with other SEE countries, such as Bulgaria and Serbia and Montenegro.
- Training customs officials under the Basel Convention.
- Updating legislation.
- Prioritising GMOs.
- Establishing a database of environmental permits.
- Drawing up hazardous waste management plans at the local level.
- Adopting the new automatic monitoring system.
- Realising an assessment of natural resources which represents natural funds for each country.
- Drawing up an inventory and promoting the protection of natural areas and natural monuments.

**Serbia and Montenegro:**

- Ratifying all of the UNECE conventions.
- Ratifying the biodiversity conventions and improving current policies.
- Strengthening institutions of public administration and making a long-term investment into the quality of public administration, as well as into the adoption of more realistic policies commensurate with the resources in the country.
- Ratifying and implementing the Danube River Protection Convention.

**b) Priorities applicable at the regional level**

SEE countries identified their priorities regarding a system of environmental protection. Some of the issues highlighted are common among more than one country. Such common interests and priorities offer an opportunity to strengthen bilateral and/or multilateral cooperation, which may then improve the quality of MEA implementation.

- Strengthening intersectorial consultation and coordination through, inter alia, technical working groups for individual MEAs. The Macedonian experience in doing so provides a reference.

- Improving public access to information, especially in the EIA/SEA process in order to create a transparent system of environmental protection.
- Developing training for the implementation and enforcement of environmental laws, especially with regards to the Basel, Vienna, and CITES conventions. This would include, inter alia, strengthening the enforcement system by finding a more effective sanction system and developing monitoring capacities.
- Institutional strengthening in general of the public administration and long-term investment in the quality of the public administration, as well as in the adoption of more realistic policies which are commensurate with the resources in the country.
- Becoming more active in regional networks (legal experts, national focal points) and in assisting the countries in implementing environmental protection systems. They should meet to discuss the common priority issues and exchange information.
- Finding a way for MEAs to contribute to creating a master plan or a set of guidelines for drafting the comprehensive environmental protection and management policies at the national level. This could also include the countries responsible for the management of environmental resources in a transboundary context.
- Establishing a process of implementing legislation which includes capacity-building, training and financing. This should include building and strengthening the capacity of the institutions and agencies, especially at the local level, building capacities to enforce and comply with relevant provisions, and maintaining systematic consultation with the public. Investments should be made in campaigns for raising public awareness.
- Drafting an appropriate strategy or well-planned step-by-step approach to the system of regulations in the field of environment and nature.
- Focus on the “acceptance” element of the Accidents Convention, Biosafety Protocol, chemicals-related MEAs, and the Aarhus Convention (coordinating with other initiatives under the Aarhus Convention).
- Making the Espoo Convention a priority for bilateral agreements between the neighbouring countries. Romania and Bulgaria have already created a five-year plan and are looking to exchange information in the common EIA procedures.
- Making deforestation a priority and one that is shared by many in the SEE region.
- Dealing with the problem of managing marine resources since many if not all the countries have little experience in this area.

**Table 3. MEAs IDENTIFIED BY COUNTRIES AS PRIORITIES TO BE ACCEPTED AND/OR IMPLEMENTED**

	Albania	Bosnia and Herzegovina	Bulgaria	Croatia	Serbia and Montenegro	FYR Macedonia	Romania
<b>GLOBAL CONVENTIONS</b>							
Ramsar Convention							
<b>CITES</b>							
Convention on Migratory Species					1		
Ozone Convention							
Basel Convention	1		1				1
Framework Convention on Climate Change			1			1	1
Convention on Biological Diversity		1					
Cartegena Protocol					1		
Convention to Combat Desertification	1	1	1				
Rotterdam Convention		3					1
Persistent Organic Pollutants		3					1
<b>REGIONAL</b>							
<b>UNECE:</b>							
Convention on Long-Range Transboundary Air Pollution					1		
Espoo Convention	1	2	1		1		1
Water Convention	2				1	1	
Aarhus Convention	2	2	1		1		
Convention on the Transboundary Effects of Industrial Accidents	2				1	1	1
Other conventions:							
Bern Convention							
Lugano Convention							
<b>SUB-REGIONAL</b>							
Bucharest Convention							
<b>MAP</b>							
Helsinki Convention							
Danube River Protection Convention		1			1		
Lugano Convention							

Legend:

1 = Top priority

2 = Secondary priority

3 = Tertiary priority

(Blank) = Unknown

## **5. General Recommendations for Further MEA Acceptance and Implementation**

In light of the current status of SEE countries regarding the acceptance and implementation of the MEAs, certain recommendations have been worked out at the country-specific, MEA-specific and regional levels. These recommendations aim to provide a clear view of what needs to be done in order to ensure that MEAs are properly accepted and effectively implemented.

### **a) Recommendations at the national level**

#### **General**

- By taking a pro-active approach, a country can express an environmental priority and then ask other countries about their level of interest and find a way to create working groups to solve the environmental problem or create a better environmental protection system. Romania is a good example, having done this under a REReP project.
- Establish a link between different conventions, as activities developed under one convention may be relevant for others.

#### **Institutional capacity**

- Increase participation in MEA-related programmes in order to alleviate national institutional deficiencies (e.g. Albania).
- Extensive programmes that build up the institutional capacity of public authorities are necessary steps that should be taken in parallel with every other effort to implement international legal norms on environmental protection.
- Structural reforms and institutional strengthening should be undertaken to prevent conflict of responsibilities and staff turnover within the ministry.
- The Ministry of Environment (or other authority) should be given competence to act as a coordinating authority for the joint implementation of international obligations by all relevant public authorities (especially central institutions, like the other ministries).
- The responsible branch of the executive responsible for environmental policy making and decision making should be defined.
- Develop extensive programmes for the purpose of building up the institutional capacity of the public authorities in parallel with the implementation of international legal norms on environmental protection. The issue of insufficient capacity building at the local level should also be addressed.
- Reinforce institutions dealing with environmental issues in order to ensure effective control bodies.
- The establishment of joint working groups at the expert level or political level should be considered to exchange information.

#### **Training capacity**

- Train the staff of governing bodies adequately for the purpose of implementing and enforcing environmental legislation. In particular, training on the management of multi-stakeholder processes is a crucial component for the success of the implementation efforts.

- Revise training programmes for MoE staff in order to include clear targets for achievement, and objective performance assessments, especially in the enforcement of relevant legislation.
- Specific training courses on MEA-related topics (e.g. implementation, enforcement mechanisms) should be organised.

### **Financial capacity**

- All possible sources of quantitative and qualitative resources should be explored. Efforts should focus on a well-coordinated strategy for the dedication of financial resources.
- National institutions need to step-up their efforts in seeking financial assistance from international organisations in support of their environmental protection activities.
- Participation in internationally-funded initiatives should continue to be pursued by the relevant authorities.
- Reform municipal financing rules to allow localities to raise funds for local environmental protection.

### **Economic capacity**

- A level of economic stability enough to make long-term investments in the quality of public administration should be striven for.
- Development of an economic incentive system would contribute to the investment made by budgetary resources for environmental capacity.
- A cost/benefit analysis for the implementation of MEAs should be developed.

### **Legislative capacity**

- Governing bodies should avoid “ratification without implementation.” An assessment of the obstacles and practical solutions to the problem of enforcement of legislative and other measures to implement MEAs should therefore be prepared.
- Policies adopted for the implementation of MEAs should be realistic and commensurate with the resources of the country.
- When drafting laws, rules to implement them and the mechanisms to enforce them, lawmakers should aim to achieve good coordination and consistency between them, and also with MEAs, including those that are not yet accepted but are planned for acceptance.
- EU law should be used as a guideline for developing MEA implementation legislation. Guidelines developed under the Danube Convention, Basel Convention or LRTAP should also be consulted.
- The scope of input should be broadened for establishing strategies for legislative reform, including the use of expert assistance (foreign expertise).

### **Public (including business) awareness and participation**

- Programmes that raise public awareness and interest in environmental decision making should be developed.
- Information should be increasingly disseminated, and enhanced mechanisms for cooperation with the public should be developed.
- The effectiveness of national education and science should be boosted in order to foster an environmentally-aware public. This education should offer knowledge and skills in the areas of environmental regulation.

## **Enforcement capacity**

- Updating the legal regulatory framework in terms of making enforcement more effective and including prevention measures would be beneficial.
- Transboundary enforcement of MEAs should be enhanced.
- An environmental liability system should be developed.
- Investment should be made in environmental infrastructure and a national monitoring system.
- Pollution fees should be coupled with water pricing policy to encourage the public to focus on the benefits of conservation and away from compliance solely under the threat of sanctions.

## **Monitoring systems**

- Reporting capacities should be further developed.
- A more structured system of monitoring of the outstanding legal obligations under MEAs should be set up.
- An EIA system, as a legal basis for implementation of EIA procedure in specific activities should be developed.

## **b) Recommendations at the regional level**

- Use of in-country experts may not work in some countries, where transparency and openness are not well developed. In those countries, undue pressure is exerted upon so-called “independent” experts. Where open, pluralistic societies are not yet developed, outside expertise (that is, from the international community) may be more effective than domestic expertise.
- MoEs of countries should participate more actively in the activities of MEAs, MOPs/COPs and subsidiary bodies, timely seeking financial support from MEAs, mechanisms and domestic resources.
- For proper use of the available institutional mechanisms of various conventions, the results of AIMS meetings and working groups should be widely disseminated to non-participating staff so that all relevant authorities are informed of available documentation developed in such a framework.
- National implementation plans should be developed for MEAs where relevant and appropriate.
- Relevant authorities should assess the costs of becoming party to MEAs to which they are not yet party.
- Development of indicators for implementation should involve stakeholders. The Ministry of Environment and other bodies should identify specific priorities for each MEA.
- Governments should identify which ministries and other stakeholders are involved in each convention.
- The responsibility, cooperation and information exchange among the competent ministries needs to be clearly defined and increased.
- MoEs should designate (and maintain) responsible bodies or positions (national focal points, etc.).

- An integrated environmental information system is needed at the regional level.
- Opportunities should be provided to exchange experiences regarding MEA implementation among countries from within and outside the region.
- Countries should be encouraged to develop and maintain websites with the pertinent MEAs.
- Coordination should be improved among SEE countries when seeking financial assistance (donations, grants, etc.) through, for example, REReP joint applications. Romania's national coordination units provide a good example.
- MoEs should seek the improvement of relevant legislation.
- Heavy assistance to SEE countries in the process of developing environmental inspectorates should be provided to ensure state-of-the-art methods and capabilities to address MEA obligations.
- Research institutions should be supported and NGOs and research institutions should be encouraged to formulate projects that can be funded by MEA bodies and others.

### **c) Recommendations regarding specific MEAs**

#### **Convention on Biological Diversity (CBD) and the Pan-European Biological and Landscape Diversity Strategy:**

- Increase participation in the COPs and meetings of the Subsidiary Body on Scientific, Technical and Technological Advice (SBSTTA), as well as in working groups and expert meetings of the convention.
- Improve relevant legislation and adopt biodiversity laws.
- Support the development of the clearing-house mechanism in order to make information available at the national and international levels, particularly in terms of the current work being carried out in Albania with scientific institutions and NGOs.
- Continue to work on the development of national indicators, and look for synergies in the work being done under the Pan-European Biological and Landscape Diversity Strategy (PEBLDS) with participation of the European Environmental Agency (EEA).
- Promote incentives (economic or other) and the development of economic instruments to encourage the conservation of biodiversity.
- Increase the awareness of the value of biodiversity, particularly of the services it provides, to encourage business enterprises to protect biodiversity.
- Increase the involvement of the private sector in biodiversity conservation through investments and financing of biodiversity-related activities.
- Prepare a budget with the costs associated with the implementation of the Albanian National Biodiversity Strategy and Action Plan.
- Identify activities in the National Biodiversity Strategy and Action Plan, which could be funded by the Global Environment Facility (GEF) and other financial mechanisms or donors.

#### **Cartagena Protocol on Biosafety:**

- Initiate the UNEP/GEF national biosafety framework development project as soon as possible to pave the way for acceptance of the Cartagena Protocol.

- As required by the project, provide opportunities to involve the relevant stakeholders and increase public awareness on biosafety and related issues.

#### **ECE Convention on Long-Range Transboundary Air Pollution (LRTAP):**

- After accession to the convention, the next priority is to deal with its Protocols on the European Monitoring of Emissions Programme, Heavy Metals and Persistent Organic Pollutants.
- Carry out an assessment of compatibility with LRTAP and relevant protocols (MoEs should seek assistance from the LRTAP Convention Secretariat), while making sure that legislation is consistent with EU directives.
- Assess the need for technical assistance related to LRTAP in relation to monitoring (MoEs should seek assistance from the LRTAP Convention Secretariat).

#### **Stockholm Convention on Persistent Organic Pollutants (POPs):**

- Identify ministries and other stakeholders involved in the POPs Convention.
- Develop the National Implementation Plan under the POPs Convention.
- Establish an inter-ministerial committee for the implementation of the NIP.
- In the process of preparation for ratification of the convention and in the development of the national implementation plan, the additional requirements of the POPs protocol should be taken into account.
- Assess what the Ministry of Agriculture and Food has done for the inventory of pesticides.
- Include in the project of the Institute of the Environment the inventory and identification of the hazardous substances in Albania, as well as the inventory of POPs.
- Raise awareness of stakeholders on POPs.
- Improve the legal framework on hazardous waste.

#### **Convention on International Trade of Endangered Species of Flora and Fauna (CITES):**

- The MoEs should designate management and scientific authorities.
- Appropriate legislation for implementing the convention should be developed.
- Raise public awareness at three levels: public, customs and government institutions.
- Train customs staff and border police to understand the basic requirements of CITES.
- Provide information to business and trade companies about the obligations in operating with species listed in CITES appendices.
- Establish an institutional network to ensure the enforcement of the convention.
- Publicise the materials related to the convention.

#### **Convention on the Conservation of Migratory Species of Wild Animals (CMS):**

- Adopt and implement new national biodiversity legislation (possibly a basis for soliciting funds).
- MoEs should recommend governments give a clearer priority to migratory species and related threats in national strategic action plans.

- Develop conservation and research project proposals for the CMS Small Grants Fund (the government can develop proposals directly or with NGOs and submit proposals to the CMS Scientific Council).
- Change the behaviour of the population through public-awareness campaigns to respect nature and increase the understanding of nature protection legislation among the public to increase compliance with the legislation at the national level.
- The ministry of the environment should prepare an action plan to provide the necessary capacity building and institutional strengthening to improve enforcement of existing regulations in support of the convention.
- Raise the profile of the environment, including biodiversity, at the governmental level (possibly through the National Council for Nature Conservation and Biodiversity), in development assistance programmes and projects to ensure sustainable development.
- The transfer of technology and experience from more advanced countries should be encouraged, e.g. through the exchange of scientists and students.
- Support and encourage research institutions and NGOs in formulating projects that can be funded not only by CMS, but also by other conventions.

#### **Basel Convention:**

- MoEs should prepare and adopt legislation for the sound management of hazardous waste and a related regulatory legal system (see the recommendation under the POPs Convention).
- MoEs should encourage acceptance of the Ban Amendment and the new Protocol on Liability and Compensation.
- There should be more active participation in the activities of the Basel Convention.
- All responsible ministries (including the Ministry of Health, Ministry of Agriculture and the Ministry of Environment) as well as other stakeholders (local authorities, NGOs, businesses, etc.) need to undertake activities to raise public awareness related to hazardous waste.
- Establish training programmes with the support of the Basel Convention Secretariat or Regional Convention Center for different target groups.
- Establish an inventory of hazardous waste in conformity with international methodology (see also the recommendation under the POPs Convention).
- Orient the profile of the new Institute of Environment towards the technical implementation of the Basel Convention and hazardous waste management.
- Clearly define and increase the responsibility, cooperation and information exchange among the competent ministries.
- Increase capacity to prevent the illegal import of hazardous waste.

#### **Rotterdam Convention:**

- MoEs should assess the feasibility of and the costs related to accession to the Rotterdam Convention.
- Establish offices for registration and inventory of chemicals at the ministry of environment, and strengthen the existing office for pesticides at the ministry of agriculture.
- Provide technical and financial assistance to these offices.

### **Transboundary Effects of Industrial Accidents Convention (TEIA):**

- Improve and complete legal framework according to the TEIA's requirements.
- Use opportunities for technical assistance offered by the convention, especially with respect to cooperation with neighbouring countries.
- Take concrete steps towards implementing the convention:
  - identification (adjournment) of a competent authority;
  - identification and information on hazardous activities (especially on cooperation with neighbouring countries);
  - establishment of a notification system (national focal point of the convention); and
  - drafting an action plan (information, including cooperation with neighbouring countries and the public).
- Disseminate information and progress concerning the convention to specialists and the public via all media and administrative sources.

### **Convention on Environmental Impact Assessment in a Transboundary Context and Protocol on Strategic Environmental Assessment (Espoo):**

- The MoE should ensure regular and active participation in meetings of the working bodies and other activities of the convention (e.g. upcoming MOPs).
- The MoE should comply with all obligations arising from the convention, including reporting obligations.
- Identify possible sources of funding for capacity building.
- Use bilateral projects to work in cooperation with the neighbouring countries, including the involvement of the public in a transboundary context, and to strengthen sub-regional cooperation. In this context, seek to use knowledge and experience of other, more experienced countries.
- MoEs should make efforts to raise awareness at the government level, including ministries of territorial planning, agriculture, health, and industry, as well as members of parliament and other politicians by, for example, holding a workshop on EIA and SEA issues with heads of parliamentary commissions and also at the local level.
- With regards to the SEA protocol, the MoE should take the initiative to strengthen cooperation with the ministry of health and others.
- Disseminate successful examples of public participation in EIA procedures, such as the EIA for the hydropower plant based on the water levels of Shkodra Lake, to encourage further public involvement.
- Ratify the amendment that opens the convention for accession to all UN member states.

### **UNECE Convention on the Protection and Use of Transboundary Waters and International Lakes (Water Convention):**

- Ratify both the amendment that opens access to the convention and the Protocol on Civil Liability to all UN member states.
- Participate in activities under the convention to take advantage of cooperation, particularly in the activities related to the EU Water Framework Directive, monitoring of groundwaters, flood management and the pilot project on lakes. The convention secretariat should be informed of such an intention so that funds can be raised for the participation of experts.
- Assure the right of the experts to participate in activities under the convention.

- Cooperate with neighbouring countries on transboundary waters by entering into bilateral or trilateral agreements, and taking steps to design joint water management plans and joint monitoring.
- MoEs, in cooperation with ministry of agriculture and national water institutions, should review the water legislation, as well as the sharing of responsibilities of water management, and strengthen the relevant institutions.

#### **Aarhus Convention:**

- Even if there are implementing regulations in place, the legislative framework still needs to be developed, especially in regards to administrative regulations. Some examples include reasonable charges for responding to a request for information, types of information that can be disclosed, and a specific contestation procedure for environmental issues.

#### **Ramsar Convention:**

- This convention is extremely vulnerable to economic collapse and state regime changes, especially as Ramsar sites often support species and other natural phenomena that can be valuable commodities in times of need.

## **6. Conclusion**

### **a) Overall evaluation of the effectiveness of MEA implementation**

The more MEAs that are in effect in a particular country, the more difficult it is to ensure that they are all properly and effectively implemented. Nevertheless, there does not always appear to be a correlation between a country's acceptance of MEAs and its willingness to undertake serious measures towards implementation. The first step is often the adoption of legislative measures.

However, even if the legislative measures are in place, there are still other hindrances — such as administrative barriers and enforcement systems — to the effectiveness of the MEAs in force. All of the countries covered by this project have demonstrated needs in practical implementation and in effective enforcement. In this regard, the countries need to develop a systematic approach to problem solving with regards to MEAs. As such, some national assessments pointed out the lack of a national strategy for environmental issues, leading to an absence of systematically outlined and unique plans for further activities regarding the realisation of MEAs. One assessment more precisely touches upon the question of internal responsibility (where there are multiple authorities at the entity or republican levels). This is a problem for a handful of countries resulting from external as well as internal factors. A major first step would be to redefine and fully equip environmental authorities at a practical level. Bosnia and Herzegovina and Serbia and Montenegro have taken steps in this regard.

### **b) Achievements**

Each SEE country is at a different stage of accepting and implementing the core list of MEAs, and as the achievements are relative to the starting point of each of these countries, the achievements have been significant if considered from a national perspective. The former Yugoslav Republic of Macedonia has made notable steps towards meeting its obligations under certain MEAs and in adopting a National Environmental Action Plan (NEAP). In addition to this, according to the EU evaluations, Bulgaria's National Biodiversity Strategy and Action Plan (NBSAP) was the first plan of its kind to be developed by a CEE country. A National

Biodiversity Conservation Plan has been prepared on the basis of the strategy, again in compliance with the requirements of the Convention on Biological Diversity. Hopefully other countries are about to follow suit as they can now see that a NBSAP is a valuable and useful instrument.

In some countries, such as Albania, current projects that are under implementation are serving as a training ground for the accumulation of necessary expertise and experience. These programmes, operating mainly in the framework of MEAs, have proven to be of great importance to the preparation of expert groups and specialists, for which there is a high demand. This also provides an opportunity for a cooperative exchange of information among the countries in the region. The Basel and CITES Conventions are examples of where public authorities have developed inter-agency cooperative mechanisms. The Aarhus and Espoo Conventions show how the public and other stakeholders involvements have further helped develop the practice of horizontal and vertical cooperation. These conventions have also begun to urge the authorities to seek a more pro-active methodology.

Bulgaria and Romania are excellent examples of bilateral cooperation in fulfilling the obligations under certain MEAs. An example is the development of the Joint Air Pollution Monitoring System in the Bulgarian and Romanian towns in the Lower Danube under the auspices of the LRTAP Convention and financed by the Phare-CBC programme. Their joint efforts allowed them to find funding and alleviate some of the financial constraints that usually face all of the SEE countries.

It is clear that there is still significant work that needs to be done on the part of SEE countries in order to establish a proper system of environmental protection for the welfare of all stakeholders. In addition to this, attention must be given to the role the SEE region should play in the international community. Nonetheless, the SEE countries have made great strides and progress in developing environmental legislation and should be further encouraged and supported in this regard.



# **ANNEX II.**

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## **Follow-up Support for the AIMS Network**

### **Commentary on UNECE and UNEP Guidelines on MEA Compliance and Implementation in South Eastern European (SEE) countries**

January 2007

The Follow-up Support for the AIMS Network project is funded by the State Secretary for Housing, Spatial Planning and the Environment, the Netherlands, within the Regional Environmental Reconstruction Programme (REReP).



## 1. Background

One of the key recommendations of the AIMS network meeting concluding the first phase of the implementation of the regional Assistance in Acceptance and Implementation of Multilateral Environmental Agreements (AIMS) in SEE project was to provide input to the process of reviewing the United Nations Economic Convention for Europe (UNECE) and the United Nations Environment Programme (UNEP) guidelines<sup>46</sup> in order to make them as relevant and applicable as possible to conditions in SEE and thus to facilitate their use in promoting better implementation of MEAs in the region. In response to this recommendation, one of the key elements of the project Follow-up Support for AIMS Network was a commentary undertaken by independent legal experts and AIMS network members, which aimed to provide a critical commentary on the application of **UNECE and UNEP Guidelines** on MEA compliance and implementation in the South Eastern European (SEE) countries.

## 2. Objectives

The aim was to provide a critical review consisting of a commentary on the applicability of the UNEP and UNECE guidelines. The target of the review was to identify challenges in putting the **guidelines** into practice in the respective countries, to provide recommendations for bridging the deficiencies of application and to furnish concrete examples to demonstrate the relevant challenges. The commentary aimed to provide concrete recommendations for amendments to the guidelines, which are specific to the SEE region, and to formulate SEE challenges with respect to the application of the guidelines.

## 3. Methodology

Several SEE legal experts carried out independent commentaries on the application of the guidelines in their country. The legal experts were required to familiarise themselves with the details of both sets of guidelines. They were asked to look into the application of each article of the guidelines and to provide comments only on those which present challenges in their application in the respective country. The legal experts were asked to support their comments with concrete examples. They were required to focus on defining the challenges in application and on providing recommendations in meeting these challenges. In addition, the legal experts were encouraged to propose concrete amendments to the text of the guidelines, if appropriate.

The legal experts based their work on the relevant existing legal instruments and the available legal studies, reports and assessments.

Four legal experts were contracted (Albania, Croatia, Serbia and Romania). Due to reasons beyond her control, the Romanian expert did not submit her input.

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<sup>46</sup> *UNEP Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements, and Guidelines for Strengthening Compliance with and Implementation of Multilateral Environmental Agreements (MEAS) in the ECE Region*

## 4. Key findings of the country commentaries

The reviewers emphasised that a critical analysis of the applicability of the UNECE Guidelines for Strengthening Compliance with and Implementation of Multilateral Environmental Agreements (MEAs) in the ECE Region, and the UNEP Guidelines on Compliance with and Enforcement of Multilateral Environmental Agreements must take account of the following: the country's existing legal framework and current regulations in the environment and other sectors; the economic conditions in the country; and the current competencies and capacities of the public administration.

- Since any ratified international treaty must be in accordance with the constitution of the country, the assessment of the **existing legal framework** undertaken during the negotiation phase should be carried out by means of detailed reports from state representatives. Such reports should include possible measures to be taken in order to amend or add to the legal framework, as well as other technical, economic or social issues that have an impact on the acceptance of a particular MEA and its harmonisation with domestic legislation. One obstacle to this, identified by the reviewers, is the potential absence of independent and objective reports. The Albanian reviewer mentioned, for example, that the government's eagerness to sign an international agreement might lead government experts to prepare reports that do not give an accurate reflection of reality. It is therefore recommended that independent experts collaborate in the preparation of such reports in order to ensure that the reports are objective. Independent sources also need to be involved in technical verification of compliance. Albania highlighted the anti-corruption war in this context, with reference to cases of deviation from the requirements of an MEA or the laws and sub-legal acts issued by domestic governmental bodies, as well as to cases of the enactment of evasive laws for their implementation, leaving the door open for varying interpretations. This occurrence might lead, for example, to the issuing of an environmental permit to a private legal entity as a result of personal interests, even though the requirements for obtaining the permit are not fulfilled. In another illustration from Albania, civil servants (engineers or chemists) supervising factory activities may be paid by factory shareholders or directors to produce positive reports on the factory's activities, even in cases of non-compliance, to deter the cancellation of the factory's environmental permit.
- It was pointed out by the Albanian reviewer that, for example, any domestic decision to ban the use of heavily polluting vehicles would have an **economic and social impact** in the country. Assessments of the economic and social effects of such requirements should therefore be taken into consideration. In addition, the economic background of the country and the economic standing of the government are of relevance where financial support is required in order to ensure the implementation of an MEA. Such financial support includes investments in technology, as well as investments in the form of financial motivation for the public officials overseeing the implementation of MEAs and their adequate training.
- Croatia and Albania both drew attention to the impact of the **current state of the public administration** on the implementation of MEAs. For example, if a particular MEA includes a requirement that certain figures be respected in the case of air pollution, and the respective country does not possess adequately equipped laboratories in that area, technical assistance would need to be requested in order to create the technical conditions necessary to secure the implementation of the MEA. Another obstacle highlighted was the absence of a highly qualified and motivated public sector, due to the low levels of remuneration and to the inadequate training of government officials, judges, attorneys, prosecutors, inspectors and experts with respect to environmental cases.

## 5. General remarks on the guidelines

With these points in mind, the reviewers made the following remarks about the guidelines:

- Several of the provisions of the guidelines are simply statements, and it is very hard to draw concrete conclusions on the possible implications with respect to “applicability” without wider interpretation and theoretical elaboration.
- While Croatia describes the guidelines as applicable in all phases of compliance with and implementation of relevant MEAs, starting with pre-negotiation through negotiation and signing to ratification and entry into force, and Albania refers to them as satisfactory from a legal and practical point of view, Serbia highlights some relevant issues that are not adequately covered:
  - environmental management instruments (environmental impact assessments and strategic environmental assessments) and voluntary instruments (like ISO standards);
  - the position of the business (i.e. private) sector;
  - the position of countries in transition;
  - instruments for the monitoring and supervision of implementation of and compliance with MEAs;
  - environmental damage; and
  - war and the use of force in international relations and relations with environmental issues, etc.
- Serbia highlighted the need for the harmonisation of terminology within the guidelines, and between the two sets of guidelines, and raised the question of the relationship between the two guidelines, with the suggestion that the UNECE guidelines have attempted to cover some gaps in the UNEP guidelines and to elaborate certain issues in greater detail.
- The position of local communities in particular, which are traditionally excluded from MEA issues, should be addressed in the guidelines. There is a need for local involvement, not just government and “high-level politics.” Serbia pointed out that local environmental action plans (LEAPs) are good examples of strategic documents: while some of the issues covered are relevant for certain MEAs, existing LEAPs do not contain provisions directly relating to MEAs.
- Available assistance mechanisms for countries with economies in transition could be especially elaborated in the guidelines.
- Certain provisions of the guidelines could (or should) be incorporated in new MEAs as obligatory elements, and several of them could (or should) be elaborated in greater detail by conferences of the parties (COPs) and other convention bodies.

## 6. General conclusions and recommendations

In addition, the following general conclusions/recommendations were made with respect to compliance with and implementation of multilateral environmental agreements (MEAs) in the SEE region:

- Adequate translations of MEAs could be an important first step towards the correct understanding of MEAs and thus towards their implementation and applicability.
- The Serbian reviewer referred to national implementation plans (NIPs) as good instruments for the implementation of MEAs and for monitoring compliance, but the elaboration of the NIP requires coordinated foreign support from the convention body, individual leading countries, international organisations, etc. For example, in Serbia an NIP for the POPs Convention will be finished by the middle of 2007. The project is being financed by the Global Environment Facility (GEF) and UNEP, and will help to determine the basic elements for future activities in the process of the ratification and implementation of this convention. Likewise, in Croatia the NIP for the POPs Convention has been prepared by the Croatian Center for Clean Production. The recommendation made by Serbia is that national implementation plans should become a component of every MEA in the future, and that for all existing MEAs this obligation could be agreed and defined by the decision of the COP.
- Monitoring should be carefully elaborated as a systematic instrument for the implementation and enforcement of MEAs, and should be regarded not only as a legally binding instrument according to domestic regulations. The verification of monitoring data for judicial procedures should be ensured. Croatia highlighted that monitoring and reporting on the state level requires adequately trained personnel and that inspectorates currently lack lawyers, chemists, biologists and technical staff suitably qualified in the field of enforcement practices and law implementation. Economic support from outside the country might be considered in order for the government to employ adequately qualified and experienced staff. Research and scientific institutions must become part of the system of implementation and enforcement of MEAs. This includes participation in the elaboration and adoption of strategic documents, regulations, monitoring verifications, etc. In Croatia, for example, it was pointed out that data storage and data retrieval systems are insufficient, and there is a lack of financial resources to develop them.
- All reviewers were in agreement that effective public participation must be strengthened. They highlighted the importance of public information, not just for raising the awareness of citizens and interest groups with respect to the obligations on them arising from MEAs but also in relation to their respective rights and their involvement in the decision-making process. Preliminary data (collected in the framework of the Environmental Capacity Building Program, 2003) shows that public participation in the EIA and SEA procedure in Serbia is at an extremely low level. Although Croatia has ratified the Aarhus Convention, not all the legal regulations exist for its implementation. With respect to several conventions ratified by Croatia, the public is not aware of the importance of access to information and of the right to public participation in decision making: there remains a lack of publicly accessible data and inadequate resources for gathering and disseminating information.

### BOX 1. The Aarhus Convention: Croatia's experience

The Aarhus Convention was ratified by Croatia on December 11, 2006 with the adoption of the Law on Acceptance of the Convention on Access to Information, Public Participation in Decision Making and Access to Justice. The Aarhus Convention regulations were transposed into existing and new laws related to special environmental areas. Prior to ratification, an independent legal expert wrote the report *Justification for the Ratification of the Aarhus Convention with Draft Implementing Measures*, which covered existing national regulations and institutions, gap analysis and the proposal of laws and institutions appropriate for the implementation of the Aarhus Convention. The convention text is available in Croatian on the website of the Ministry for Environmental Protection, Physical Planning and Construction. Since the date of signing, many government and NGO representatives have participated in Aarhus Convention events and many projects related to the early implementation of the Aarhus Convention have been implemented.

However, the existing environmental laws do not contain all the legal and institutional regulations necessary for the implementation of the Aarhus Convention. The current theoretical and practical knowledge of judges, administrative officials, NGO representatives and the public is very low. Some important issues have not yet been discussed on the national level, even though they are essential for the implementation of the Aarhus Convention (e.g. the type of assessment bodies that might be established; the type of bodies that might be authorised for jurisdiction conflict solving; whether or not it is necessary to prove sufficient interest or the violation of rights for members of the public to have access to justice; the criteria and conditions for defining the concerned public according to Article 9.2.1, etc.). Judges, attorneys, prosecutors, inspectors and experts have not been trained in relation to the procedures of the Aarhus Convention, and not enough events have been organised to educate the legal community on how to deal with environmental cases. No independent institution has been established on the national and/or regional level to solve legal issues related to the implementation of the Aarhus Convention. There are as yet no guidelines on managing procedures related to the Aarhus Convention. The public is not aware of the importance of access to information, and members of the public have no legal knowledge about access to information, public participation in decision making and access to justice procedures. There are either not enough spokespersons in institutions and bodies dealing with Aarhus Convention issues, or they are not trained for such a task. Websites are not updated with new information, and there is poor coordination among bodies authorised to gather and disseminate information to the public. Mechanisms for the implementation of access to public information have not been established. Media reporting is sensationalised, inadequate and non-professional, with a low level of environmental knowledge among journalists who report on environmental issues. NGOs lack the financial and human resources needed for gathering, processing and dissemination of information at the local level.

- The business (or “private”) sector needs greater incentives to participate in activities relating to MEA obligations and responsibilities.
- Coordination within relevant government institutions should be enhanced in order to harmonise the direct implementation of MEAs by the state. Coordination among national stakeholders and among national implementation bodies and relevant international, regional, sub-regional and global actors (international organisations, banks, funds, stakeholders) should also be improved. There should also be an exchange of information between states on practices and experiences, in order to improve individual countries’ capabilities for compliance with and implementation of MEAs.
- All countries identified the need for financial resources in order to secure the implementation of MEAs and to ensure adequate monitoring. Investments are essential in terms of both technical and human resources. This requires cooperation with financial funds and donors. MEAs should develop specific economic instruments in accordance with specific goals.
- Serbia proposed the elaboration and adoption of an international convention regulating environmental treaty law. Such an instrument could strengthen the level of functionality of existing MEAs in several key elements of the system. In addition, the introduction of such a convention could contribute to the high level of responsibility among the concerned subjects.

## 7. List of annexes

The following annexes have not been professionally edited or proofread. They are available on request from [elp@rec.org](mailto:elp@rec.org)

Commentaries on UNECE and UNEP Guidelines

- Albania
- Croatia
- Serbia

# **ANNEX III.**

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## **Follow up Support for the AIMS Network**

### **Background paper: Use of National Implementation Plans in South Eastern Europe**

January 2007

The project “Follow up Support for the AIMS Network” is funded by the State Secretary for Housing, Spatial Planning and the Environment, the Netherlands, within the Regional Environmental Reconstruction Programme (REReP)

## **Preface**

This background paper explains the concept of national implementation plans (NIPs) and examines the steps to be taken to successfully and effectively prepare them. It also provides an overview of the various multilateral environmental agreements (MEAs) which require the development of NIPs and the extent to which countries in South Eastern Europe (SEE) have already developed NIPs, either for ensuring compliance with specific MEAs or as a strategic planning exercise, even when this is not directly required by a convention.

This paper also defines a set of key questions that need to be addressed through further research and consultations with the Acceptance and Implementation of Multilateral Environmental Agreements in South Eastern Europe (AIMS) network. Two case studies are included that analyse the process of developing national biosafety frameworks under the Cartagena Protocol on Biosafety and national implementation plans under the Stockholm Convention on Persistent Organic Pollutants in SEE countries.

The present paper was produced under the project Follow-up Support for the AIMS Network funded by the Ministry of Housing, Spatial Planning and the Environment of the Netherlands.

# 1. Introduction to national implementation plans in South Eastern Europe

## a) Concept and definition

The recently published UNEP *Manual on Compliance with and Enforcement of Multilateral Environmental Agreements* defines a national implementation plan as “a plan which provides a framework for a country to design and implement, in a systematic and participatory way, the various measures necessary to meet the obligations of a convention.” National implementation plans (NIPs) seek to promote compliance in a deliberate and proactive manner. Generally, these plans set forth how a country will strive to reach its obligations under an MEA.

In addition to promoting the objectives of multilateral environmental agreements (MEAs), NIPs can assist countries in several other ways. National implementation plans can identify legal, policy, and institutional strengths and weaknesses.<sup>47</sup> The process can also assist countries in identifying and evaluating the costs of implementation. Strategic implementation documents may also exist in the form of action plans. A well-prepared action plan outlines, for the chosen priority topic, the specific goal and objectives to be achieved, related activities to be undertaken, associated responsibilities of the participants, timeframes, and resource and evaluation details.

National implementation plans are a useful and effective tool for mainstreaming efforts to implement national measures that ensure compliance with relevant MEAs. NIPs should be developed through a transparent and participatory process to ensure ownership of the process and also support for implementation from all stakeholders. National implementation plans should take into account the national legislative and institutional context, the national development priorities, the way they interact with the obligations deriving from the specific MEA and the changes that may be triggered to ensure compliance. NIPs should identify a need for and availability of resources for implementing measures and set up a monitoring mechanism to register progress in implementation. Components can include identifying sources of non-compliance (e.g. laws, institutions, lack of capacity, social norms, public and private sector considerations, etc.), methods for addressing these sources, monitoring implementation, and identifying funding resources. NIPs can also provide for the establishment of a national implementation agency or organisation that works with the MEA secretariat to promote implementation.<sup>48</sup>

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<sup>47</sup> UNEP, *Manual on Compliance with and Enforcement of Multilateral Environmental Agreements*, 2006, p. 70

<sup>48</sup> *Ibid.* p. 71

### **BOX 1.<sup>49</sup> Checklist for developing national implementation plans**

In developing a national implementation plan for a specific MEA, a state may wish to:

- Identify the relevant governmental and non-governmental stakeholders with an interest in the MEA. These stakeholders should include anyone who is affected by or is otherwise interested in the MEA or its implementation.
- In a broad, participatory, and transparent manner — with the relevant governmental agencies, ministries, and authorities, as well as the relevant stakeholders — discuss the requirements of the MEA and what measures may be necessary to implement it. These stakeholders should be engaged early on in the process, while options are still open, to identify and respond to potential challenges and to build broad ownership of the final plan.
- Identify the requirements, obligations and rights of an MEA. These may be specific or general, mandatory or advisory, and often include a combination of such requirements. Developing countries should pay attention to whether and to what extent the MEA recognises the particular needs and contexts of developing countries. They should determine whether developing countries can modify these obligations (including providing for longer timeframes to come into compliance) if necessary to account for economic, social and other needs.
- Identify the resources available to assist in implementing the MEA. These resources can relate to legal, policy, scientific, technical, educational, financial and other aspects of implementation. Personnel resources can include local and foreign experts in government, the private sector, NGOs, and universities, as well as experts in international organisations. In particular, states should identify the types of assistance (financial, technical, advisory, etc.) that might be available through the secretariat, COP, or other MEA-based body. This can include funding mechanisms, technology transfer, etc. After identifying these resources, it should be ensured that the state accesses (or tries to access) all the financial and technical resources that may be available.
- Assess the likely impacts of the MEA on economic growth, development, investment and international trade.
- Assess the likely impacts of the MEA in catalysing or strengthening domestic (national and local) environmental protection and management initiatives.
- Identify the existing national and sub-national legal, policy, and institutional frameworks that relate to the MEA. In addition to the obvious frameworks, a particular MEA may well touch on other sectors, such as transport, energy, land use, industries, etc.
- Identify potential barriers to effective implementation. These may be legal, policy and institutional, as well as cultural, religious or social.
- With reference to the potential barriers, identify potential mandatory (“command-and-control”) and voluntary (e.g. market-based) mechanisms that could facilitate implementation.
- Identify potential projects to build governmental, private sector, and civil society capacity for the state to come into compliance.

Source: UNEP, *Manual on Compliance with and Enforcement of Multilateral Environmental Agreements*, 2006.

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<sup>49</sup> Ibid. p. 115

## b) MEA requirements regarding NIPs

The specific process for developing NIPs and the contents of NIPs are usually set by the particular MEA or by decisions of the conference of the parties or meeting of the parties. Many MEAs require or specifically encourage the development of NIPs:

- The United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD) requires parties to develop a national action plan (NAP). The NAP is one of the essential implementation tools of the UNCCD, and its preparation is guided by principles provided in the convention. These principles stress the importance of consultation and participation in its implementation. The NAP preparation process begins with community and regional consultations to sharpen awareness among the various stakeholders. The second stage is the holding of a national forum to formulate priorities. The drafting of the NAP is, therefore, partly the product of a consultative, participatory, multi-stakeholder process;<sup>50</sup>
- The Convention on Biological Diversity (CBD) requires parties to develop national biodiversity planning through the development and adoption of a national biodiversity strategy. This is considered a key element in the implementation of the convention and various guidance documents and financial mechanisms have been set up to assist the parties with the preparation of such strategies. The national biodiversity strategies have, in this case, a much larger role, promoting not only compliance with the CBD but stimulating an overall debate at the national level on the strategy to protect biodiversity and the integration of conservation concerns into all sectors of the national economy. They assess the status and trends regarding biological diversity (including the laws, policies, institutions, and conservation initiatives); identify problems and constraints; and establish policies, strategies, and actions required to implement the Convention effectively and to enhance the conservation and sustainable use of biological diversity within specific timeframes. Such actions may include the integration of biodiversity concerns into other areas;
- The Stockholm Convention on Persistent Organic Pollutants, in article 7, requires the parties to “develop and endeavour to implement a plan for the implementation of its obligations under this Convention.” The parties should also transmit this plan to the Conference of the Parties (COP) and should regularly review and update it. National implementation plans, which must be kept up to date, set national priorities for initiating future activities to protect human health and the environment from persistent organic pollutants (POPs). They also provide a framework for the systematic and participatory development of priority policy and regulatory reforms, capacity building, and investment programmes. Intensive capacity-building programmes target the development of NIPs for the POPs Convention;
- The Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean requires the parties to adopt programmes and measures for the implementation of the Convention, including time limits where necessary (article 4.4).

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<sup>50</sup> Ibid. p 7

Several MEAs do not specifically require the preparation of NIPs, but in practice parties have chosen to prepare such plans as a tool to mainstream implementation and compliance measures. In some instances, these measures are also triggered by the conditions set up for receiving financial assistance for the implementation of the specific MEA:

- The Cartagena Protocol on Biosafety: UNEP and GEF launched a global programme providing assistance to over 100 countries to prepare national biosafety frameworks (NBFs). The NBF usually comprises five elements: governmental policy on biosafety; a regulatory regime for biosafety (usually this includes provisions from framework legislation, as well as implementing regulations and guidelines); a system for managing notifications or requests for authorisations for certain activities (e.g. releases of GMOs into the environment); enforcement and monitoring systems; and systems for collecting, exchanging and disseminating public information and for involving the public in decision-making processes;
- The Montreal Protocol to the Vienna Convention on the Protection of the Ozone Layer — under this agreement developing countries falling under the provisions of article 5 are entitled to receive support from the Multilateral Fund for the preparation of country programmes, which are flexible instruments setting out the framework for that country's action to meet the requirements of the protocol. The country programme is expected to contain, *inter alia*:
  - a review of the recent production, imports, applications and use of controlled substances by the main producers, users and consumers, and links to transnational producers or users (if information is available);
  - a description of the institutional framework governing controlled substances (government agencies, NGOs, consumer groups, industrial associations);
  - a description of the policy framework, regulatory and incentive systems;
  - a description of government and industry activities in response to the protocol;
  - a statement of the strategy for the implementation of the protocol, indicating the respective roles of government, multilateral and bilateral agencies;
  - an action plan encompassing investment and technical assistance projects, pre-investment studies and any policy analysis required;
  - a timetable for each activity and for action plan review; and
  - a budget and financing programme.<sup>51</sup>
- Other conventions which do not require the adoption of NIPs, but for which parties have prepared such implementation plans, are: the Rotterdam Convention on Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, etc.

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<sup>51</sup> Multilateral Fund for the Montreal Protocol, Policies, Procedures, Guidelines and Criteria

## **c) Preparation of NIPs in South Eastern Europe**

Several countries in the SEE region already have experience in the preparation, adoption and implementation of NIPs:

- Albania, Bulgaria, Croatia and Romania have adopted national biodiversity strategies and action plans for the Convention on Biological Diversity.
- Albania, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Romania and Serbia have developed, or are in the process of developing, national biosafety frameworks for the Cartagena Protocol.
- NIPs for the implementation of the POPs Convention have been widely adopted in the region and exist today in Romania, Croatia and the former Yugoslav Republic of Macedonia. Albania and Bulgaria have made a commitment to submit their NIPs in 2007. In the Republic of Serbia there is an ongoing project for developing the NIP.
- Romania has adopted a national action programme for the implementation of the UN Convention to Combat Desertification.
- Albania, Bulgaria and the former Yugoslav Republic of Macedonia have adopted national climate change action plans and Romania has adopted a national strategy on climate change to meet the requirements of both the UN Framework Convention on Climate Change and the Kyoto Protocol.
- Ramsar site management plans have been adopted by Albania and Bulgaria for the implementation of the Convention on Wetlands of International Importance especially as Waterfowl Habitat.

The development and implementation of national biodiversity strategies and action plans are regarded as the most valuable and widespread experience in the region, and since they have been developed since the early 1990s, they can provide a useful analysis of the effectiveness of such plans in ensuring compliance with a given MEA.

In order to investigate in more detail the actual use and benefits of NIPs in SEE countries, two cases studies have been prepared focusing on the preparation of National Biosafety Frameworks under the Cartagena Protocol and NIPs under the Stockholm Convention on Persistent Organic Pollutants (POPs). These case studies analyse the process for developing such plans as well as the outcomes of the process (see Annex II).

## **d) Key issues regarding the preparation and adoption of NIPs in SEE countries**

While the preparation of NIPs is a very challenging process, especially when accurate, scientific background data is needed to allow for the sound planning of implementing measures, the implementation of NIPs may prove even more difficult in practice. The main objective of this paper is to provide an initial mapping of the main MEAs that require NIPs, and the extent to which SEE countries comply with these obligations. In addition, this paper aims to define a set of key questions regarding the opportunities and challenges in the preparation and implementation of NIPs in the SEE region.

**BOX 2.****Challenges for preparing and implementing NIPs****Preparing NIPs**

- National legislative and policy framework and concrete practice;
- Methodology;
- Pre-requisites for successful NIPs;
- Usefulness of the process;
- MEAs for which NIPs are mostly prepared: regional overview;
- Technical assistance needs.

**Implementing NIPs**

- Main challenges and opportunities: financial, institutional and legislative obstacles;
- Lessons learned, good and bad practices.

Technical assistance needs for SEE countries: specific aspects of NIP process or assistance for specific MEAs.

## 2. Case studies on the use of NIPs in the SEE region

### a) Case study 1: National Biosafety Frameworks under the Cartagena Protocol on Biosafety to the Convention on Biological Diversity

UNEP's *Guide for the Implementation of National Biosafety Frameworks* defines National Biosafety Frameworks (NBFs) "a combination of policy, legal, administrative and technical instruments that are set in place to address safety for the environment and human health in relation to modern biotechnology." National biosafety frameworks often focus on genetically modified organisms (GMOs)<sup>52</sup> or living modified organisms (LMOs).

The concept of the NBF was enshrined in the GEF Initial Strategy on Biosafety, which aims to assist countries to prepare for the entry into force of the Cartagena Protocol on Biosafety. Comprehensive biosafety frameworks at the national level are considered to be a key element for the implementation of the Cartagena Protocol on Biosafety. Countries in SEE are also actively engaged in the development and/or implementation of NBFs.

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<sup>52</sup> Other terms that are often used in NBFs include: "living modified organisms," "transgenic organisms," and "recombinant DNA organisms."

## Developing NBFs — process

National biosafety frameworks may vary from country to country, but they include the following elements:

- a governmental policy on biosafety;
- a regulatory regime for biosafety, which usually includes provisions from framework legislation, as well as implementing regulations and guidelines;
- a system for managing notifications or requests for authorisations for certain activities (e.g. releases of GMOs into the environment);
- a monitoring and enforcement system; and
- a system for public information (to inform stakeholders about the development and implementation of the NBF), and for public participation in decision-making processes.

Extensive support has been provided by UNEP and GEF to the parties for the preparation and implementation of NBFs. Through a joint global project they have provided support to 123 countries for developing NBFs and to eight countries for the implementation of NBFs, as well as support for establishing a biosafety clearinghouse mechanism.

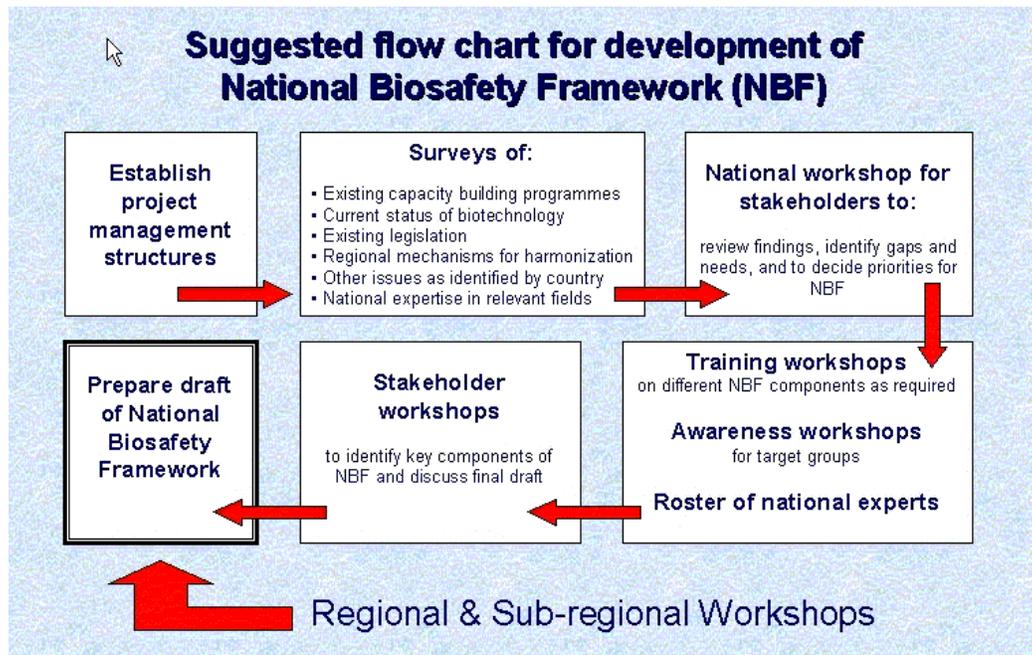
Based on the UNEP-GEF experience, the main steps in developing an NBF are:

- assessment/stocktaking to provide information on the status of existing biosafety practices;
- assessment of any existing legal instruments or guidelines that might impact on the use, import or export of living modified organisms (LMOs);
- identification and involvement of all stakeholders relevant to the implementation of the protocol, to the degree possible;
- identification of actions that need to be undertaken to enable countries to implement the protocol as well as options and priorities for filling such gaps;
- preparation of a legal framework and/or guidelines necessary for the implementation of the protocol, including strengthening capacity for risk assessments and risk management, monitoring and inspection services;
- establishment of a roster of experts in a transparent manner and modalities for including them in national, sub-regional and/or regional networks;
- assessment of options for the implementation of various elements of the biosafety frameworks, for example at the regional level;
- identification of sub-regional and regional opportunities for harmonising regulatory frameworks, identifying regional expertise, and exchanging information on initiatives, collaboration and priority areas for capacity building; and

- additional features that may be identified by the Intergovernmental Committee on the Cartagena Protocol (ICCP).<sup>53</sup>

Figure 1 illustrates the process for developing the NBF, as envisaged in the UNEP-GEF global project.

**Figure 1. Suggested flow chart for development of National Biosafety Framework**



In terms of the methodological approach to the process of developing such plans through UNEP-GEF assistance, the key aspects are as follows:

- official designation of a national executing agency which will coordinate the work on the national level; signing of a memorandum of understanding with the national executing agency, defining its responsibilities and obligations;
- commitment of the countries to the process by requiring a certain percentage of co-financing and also setting as an eligibility criteria the ratification of the protocol;
- flexibility of funding in terms of timing, adapted to each country's specific situation; in some cases procedures for the adoption of an NBF can be very lengthy and more time may be required to complete all the procedures according to the national legal system;
- stakeholder consultation and public participation: close coordination with relevant ministries, government departments, civil society organisations, the scientific community and the private sector; and
- reflection of regional cooperation requirements in the NBF.

## SEE overview

<sup>53</sup> GEF Initial Strategy for Assisting Countries to Prepare for the Entry into Force of the Cartagena Protocol on Biosafety

In the framework of the Cartagena Protocol on Biosafety, UNEP and GEF launched a global programme in 2001, providing assistance to over 100 countries in the preparation of NBFs.

Albania, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia, Montenegro,<sup>54</sup> Romania and Serbia<sup>55</sup> joined the UNEP/GEF Global Project and received support in strengthening their capacity for the development of NBFs.

To date, Bulgaria, Croatia, the former Yugoslav Republic of Macedonia and Romania have completed an NBF or draft NBF, which have been submitted to relevant stakeholders and experts and UNEP for review and comments. Bulgaria was among the first 18 countries to benefit from UNEP-GEF assistance and is now also one of the eight pilot countries to receive assistance for the implementation of its NBF.

### **Albania**

The UNEP/GEF project Development of a Biosafety Framework for Albania, financed by the GEF Trust Fund and co-financed by the Albanian government, has been implemented by the Ministry of Environment since September 2004, when the law on the accession of Albania to the Protocol of Biosafety was approved by Parliament.

The first stages of the process focused on collecting all the necessary data for preparing an accurate survey of the current status. One important step forward is that, through this process, a draft law on biosafety is being prepared, filling the current legislative gap. Assessments of capacities in biotechnology and biosafety are also being carried out and priority needs for assistance are being identified.

The Ministry of Environment, the Ministry of Agriculture and Food, the Ministry of Health, the Ministry of Economy, the Ministry of Education and Science, the General Directorate of Customs, the Institute of Biological Research, the Faculty of Natural Sciences, and several environmental NGOs are involved in the preparation of the NBF.

### **Bosnia and Herzegovina**

Bosnia and Herzegovina is not a party to the Cartagena Protocol but, in accordance with the new eligibility criteria for GEF capacity-building funding defined by COP 7, it has become eligible for assistance for developing an NBF.

### **Bulgaria**

Bulgaria ratified the Cartagena Protocol on Biosafety in 2000, and since 1997 has taken part in the UNEP/GEF pilot project Biosafety Enabling Activity, which aimed to set up NBFs in 18 countries and to develop systems for the cross-boundary movement of living modified organisms (LMOs). The project started in September 2002, with the AgroBioInstitute (ABI) as national executing agency.

The specific objectives of the project for Bulgaria were:

- to set up a regulatory and administrative basis to enable an adequate level of protection in the field of the safe transfer, handling and use of living modified organisms (LMOs), resulting from modern biotechnology, in Bulgaria — transboundary movements and meeting the obligations foreseen under the Cartagena Protocol are of particular importance;

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<sup>54</sup> At the time of joining the project, Serbia and Montenegro.

<sup>55</sup> At the time of joining the project, Serbia and Montenegro.

- to publish technical guidelines for risk assessment and monitoring in order to ensure the safe use of modern biotechnology, taking into account national, sub-regional and regional needs and decisions;
- to carry out pilot data collection from mini-field trials and various biochemistry and molecular approaches for the purpose of risk evaluation;
- to strengthen capacity building on risk assessment and risk management as identified in articles 15 and 16 and annexes I–III of the protocol, testing and monitoring in order to manage risk and ensure the safe use of living modified organisms, legal issues that relate to the implementation of the protocol to ensure the safe use, import and export of living modified organisms, identify and control the transboundary movement of LMOs (that might have an adverse effect on the conservation and sustainability of biodiversity) between Bulgaria and other countries;
- to set up a Biosafety Database System to be connected to the Biosafety Clearinghouse Mechanism;
- to enhance public awareness and promote dissemination among the relevant stakeholders in accordance with article 23 of the protocol; and
- to promote laboratories equipped for risk assessment and for testing LMO products as defined in the protocol, and to promote the information dissemination system in place, allowing for consultation and response by the authorities as required under article 23 of the protocol and relevant European Union directives.

The first year of the project was used for preparatory activities, including: the nomination of the project team; the establishment of a National Coordination Committee (NCC); and the organisation of a conference to raise public awareness on the topic of biosafety, and of the workshop Implementation of National Biosafety Frameworks.

The National Coordination Committee consists of 15 members, representatives from ministries, the Bulgarian Academy of Sciences, NGOs, Sofia University, and ABI.

Several meetings and workshops were held:

- Meeting of the National Coordination Committee of the UNEP/GEF project on the Implementation of the Biosafety Framework;
- Biosafety Issues and the Regulations for the Implementation of the LMO Law, a two-day workshop for 50 representatives of governmental bodies and organisations and NGOs;
- National Biosafety Legislation and the Biosafety Protocol, a four-day conference for 80 experts in legislation and politics, including those expected to have to implement the law and guidelines;
- training workshops, notably Transboundary Movement of Living Modified Organisms and the Cartagena Protocol on Biosafety, and Safety of Biotechnology Trials and Applications, attended by representatives of government, media, NGOs and the scientific community, and involving interested members of the public; and
- a workshop for 100 government officials, journalists, scientists and NGO representatives on Information Exchange and Biosafety.

Outcomes of the project:

- The Living Modified Organisms Act was adopted by the Bulgarian Parliament and came into force on June 1, 2005.
- Two draft regulations on GMOs, for contained use and for deliberate release and placing on the market were drafted and revised.
- Revised checklists were drawn up for inspectors dealing with requests.
- Monitoring of the environmental impact on ecosystems of the release of four transgenic crops of national economic importance has progressed to small field trials.
- The first draft of the Bulgarian Botanical Files, a system used in monitoring and risk assessment for the estimation of the gene flow from cultivars to wild relatives, is being reviewed. Activities enhancing public awareness and participation continued with the establishment of the Bulgarian Biotechnology Information Centre, regular biosafety newsletters, and active participation in the media.
- Ecological, economic and sociological surveys were undertaken to guide the implementation of the NBF and integrated ecosystem management planning/implementation was carried out.
- A National Biosafety Database System was set up and linked to the Biosafety Clearinghouse Mechanism.
- Public awareness was raised through newsletters, videos, a brochure and a website. Efforts were made to ensure that the public are consulted and their views are heeded. Best practices and lessons learned were disseminated.

## **Croatia**

In April 2005 Croatia completed its project Development of the National Biosafety Framework in Croatia, which resulted in a draft NBF.

The project was designed, supervised and financially supported by UNEP and GEF. It started in February 2003 and was originally designed to run for 18 months. Because of unexpected operational delays, the project was extended for five months.

The Ministry of Environmental Protection and Physical Planning was the first national executing agency appointed by UNEP-GEF. Due to changes in the Croatian government, a new executing agency for this project was appointed in 2004: the State Institute for Nature Protection.

The national executing agency established a National Coordination Committee (NCC) whose members were selected from involved ministries, research institutions, universities, NGOs and industry. Its goal was to guide and give advice during the activities of the project. The NCC met 10 times during the whole process.

During the development of the NBF, six national workshops were held, with the aim of evaluating the gaps and the achievement of the objectives. The workshops were attended by NCC members, members of scientific committees and the media, as well as representatives from neighbouring countries (Slovenia, Bosnia and Herzegovina, Serbia and Montenegro, the former Yugoslav Republic of Macedonia, Hungary and Bulgaria).

During the project, experts were gathered in order to prepare the expert basis for the new legal act that will regulate GMO issues. As a result of that effort the new act was drafted and in June 2005 the Act on GMOs (OG 70/05) entered into force.

Pursuant to article 3 of the Act on GMOs, the following central state administrative bodies are responsible for the implementation of the act, performing expert, administrative and inspection activities, depending on the manner of using GMOs and products from GMOs:

- contained use in a closed system — the competent authority is the Ministry of Science, Education and Sports;
- deliberate release into the environment — the competent authority is the Ministry of Culture, Directorate for Nature Protection;
- for placing on the market:
  - as food: the competent authority is the Ministry of Agriculture, Forestry and Water Management;
  - as food for animals: the competent authority is the Ministry of Agriculture, Forestry and Water Management;
  - as reproductive material in agriculture, forestry and veterinary medicine: the competent authority is the Ministry of Agriculture, Forestry and Water Management;
  - as medicine in veterinary medicine and substances for the protection of plants: the competent authority is the Ministry of Agriculture, Forestry and Water Management;
- for using GMOs and/or products containing and/or consisting of, or originating from, GMOs in cosmetics, pharmacy and health services;
- for people: the competent authority is the Ministry of Health and Social Welfare; and
- the inspection supervision of the labelling of GMOs and/or products containing and/or consisting of, or originating from, GMOs is under the competence of the State Inspector's Office.

In handling cases relating to GMOs (contained use in a closed system, deliberate release into the environment, placing on the market as feed, as reproductive material in agriculture, forestry and veterinary medicine, and as medicine in veterinary medicine and substances for protection of plants), the competent authorities referred to in article 3.2 of the act have to obtain prior approval from the Ministry of Health and Social Welfare as the central state administration body responsible for health and as the central and coordinating body for the performance of expert work related to GMOs pursuant to article 3.4 of the said act.

### **The former Yugoslav Republic of Macedonia**

The UNEP/GEF project Development of a National Biosafety Framework for the Republic of Macedonia led to an initial NBF that reflects the current status of biotechnology, as well as the strategy for the establishment of the biosafety system in the country.

The process had three main phases:

- development of a national biosafety review: data collection and development of a national biosafety review on the national level with the involvement of different ministries and several stakeholders; during this phase the project website was also developed;

- analysis and consultations: workshops to present the biosafety system, gap analysis and key priorities in the biosafety system, risk assessment and mechanism for public information, public awareness raising and the inclusion of the public in the decision-making process; and
- development of NBFs with the involvement of all stakeholders; also as part of this phase a draft Law on GMOs was prepared taking into account relevant EU directives and the experience of countries which have biosafety systems that are closest to the institutional infrastructure of the country.

Other elements of the process included an assessment of the current level of public awareness on biosafety and GMOs with a view to improving the public participation mechanism.

The main challenge in the NBF process was the low level of local expertise to steer the process in the correct direction, and the insufficient national technical expertise to prepare the draft NBF and draft laws. In order to overcome this, Slovenian experts were involved as consultants. This experience illustrates how countries in the region can successfully use the expertise from neighbouring countries to complement national-level capacity-building activities.

## **Romania**

Romania joined the UNEP/GEF Global Project in 2004 and completed the NBF in February 2006.

The national executing agency (NEA), namely the Ministry of Environment and Water Management's Directorate for Nature Conservation, Biodiversity and Biosafety, established the National Coordination Committee (NCC). The NCC is composed of stakeholders such as: government authorities with mandates relevant to the Cartagena Protocol on Biosafety, research institutions, and representatives from the public and private sectors. The main actors involved in the process of developing the NBF were:

- public authorities: the Ministry of Environment and Water Management (MEWM), the National Environment Protection Agency, the regional environment protection agencies, the county environment protection agencies, and the National Environment Guard (NEG);
- a biosafety scientific advisory body: the Biosafety Commission (BC);
- academies, universities and institutes: the Romanian Academy, the Institute of Biology, Bucharest;
- international agencies and associations: the Environmental Experts Association (EEA), the Romanian Association of Grain Traders, the United States Agency for International Development (USAID), the United States Department of Agriculture (USDA), the Foreign Agriculture Service, REC Country Office Romania;
- mass media: business magazine Cotidianul, InterMedia Press, National Journal, Romanian Television, European Affairs Department;
- NGOs: ECOSENS, Greenpeace, the National Federation of Ecological Agriculture; and
- industry: Monsanto Europe SA, Pioneer Hi-Bred Seeds Agro SRL, SC Consens Import Export SRL.

Experts from EU member states (Austria, Belgium and the Netherlands) also provided technical assistance during project implementation.

As the outcome of this project the following results were achieved:

- regulatory framework evaluation regarding biosafety according to the Cartagena Protocol and EU regulations;
- authorisation procedure management evaluation;
- modern biotechnology research capacity evaluation; and
- evaluation of the level of education, information and awareness for public participation in decision-making processes.

The NBF is seen not only as a useful tool to ensure compliance with the Cartagena Protocol but also for aligning national legislation to EU requirements on GMOs. Romania is seeking to join the UNEP/GEF NBF implementation project and also to apply for additional new EU or bilateral funds required for NBF implementation.

In addition, Romania has to develop a specific, modern biotechnology strategy, following the example of other EU countries, and to include biosafety in this strategy. However, research in the field of modern biotechnology, which is a prerequisite for the development of a reliable NBF, has not been carried out adequately due to the lack of funds necessary for competitive research activities.

There are plans to establish a biosafety network between authorities at the national level. This network will include the MEWM, the Ministry of Agriculture, Forestry and Rural Development, the Ministry of Education and Research, the Ministry of Health, the National Sanitary Veterinary and Food Safety Authority, the National Consumer Protection Authority and the National Customs Authority. This biosafety network will contribute by sending relevant information according to the Cartagena Protocol to the MEWM.

New interfacing capacities — as national biosafety secondary focal points — will be developed, which will connect authorities, stakeholders and the National Competent Authority for Cartagena Protocol implementation.

### **Montenegro and Serbia**

Financial assistance was awarded by GEF for the development of an NBF by 2006. No further information is available with regard to the current status of the process.

### **Outcomes of the process**

On a general level, the main achievements resulting from the process of developing NBFs are the following:

- national commitments to the implementation of NBFs;
- raised awareness of all stakeholders with regard to the measures necessary for ensuring that “the development, handling, transport, use, transfer and release of any living modified organisms are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health;”
- development and adoption of new legislation, sometimes filling a gap in the existing legislative system;

- enhanced coordination at the national level through the establishment of national coordination committees;
- enhanced capacity of all institutions and stakeholders involved in the process, through trainings, conferences, technical guidelines, etc.;
- better planning capacity for implementing and enforcing measures — this is achieved through the preparation of various assessments/surveys and an improved information system (e.g. ecological, economic and sociological surveys, assessment of national technological capacity, data collection for risk assessment and risk management, biosafety databases, clearinghouse mechanisms etc.); and
- stimulation of regional cooperation — many of the SEE countries that developed NBFs coordinated with neighbouring countries and took into account the lessons learned by countries further along in the process.

## **b) Case study 2: National Implementation Plans for Persistent Organic Pollutants**

Article 7 of the Stockholm Convention on Persistent Organic Pollutants (POPs) requires each party to “develop and endeavour to implement a plan for the implementation of its obligations under this Convention” and to transmit its national implementation plan (NIP) to the Conference of the Parties within two years of the date on which the Convention enters into force for the Party. National Implementation Plans are considered to be the primary tool for ensuring compliance with the POPs Convention.

NIPs set national priorities for initiating future activities to protect human health and the environment from POPs. They also provide a framework for the systematic and participatory development of priority policy and regulatory reforms, capacity building and investment programmes.

### **General characteristics of the process**

National implementation plans may vary according to circumstances specific to a country, but their core elements are:

- commitments to addressing POP issues;
- in-depth assessment of the country’s situation relating to POPs (inventories, institutional capacity);
- intended actions in response to obligations set out in the Stockholm Convention; and
- institutional, regulatory and operational measures to be undertaken to reduce and ultimately eliminate the release of POPs (inclusive of estimated costs, time schedules, and financial mechanisms).<sup>56</sup>

The World Bank and UNEP have developed *Interim Guidance for Developing a NIP for the Stockholm Convention*.<sup>57</sup> The document also includes recommended elements for consideration in the outline of a NIP, namely:

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<sup>56</sup> <http://dgef.unep.org/publications/brochures/radA7AE9.pdf>

- an executive summary providing a concise overview of major points in the NIP;
- an introduction, outlining the purpose and structure of the NIP, methodology for preparation, etc.;
- a country baseline describing the current situation and state of knowledge in the country about POPs and the status of institutional, policy and regulatory frameworks;
- a strategy and action plan including a formal policy statement and an implementation strategy. This part should list specific activities to meet Convention obligations, focusing on institutional and regulatory measures; measures to reduce or eliminate releases from unintentional production and use; the production, import and export, use, identification, labelling, removal, storage and disposal of PCBs and equipment containing PCBs; the production, import and export, use, stockpiles and wastes of Annex A POP pesticides, of DDT, exemption register, etc. In addition, it should include proposals and priorities for development and capacity building. One important element of this part of the NIP is the timetable for implementation and resource allocation; and
- annexes that may include background information, government and key stakeholder endorsement documents, etc.

In accordance with the interim guidance, the process of developing NIPs includes five phases:

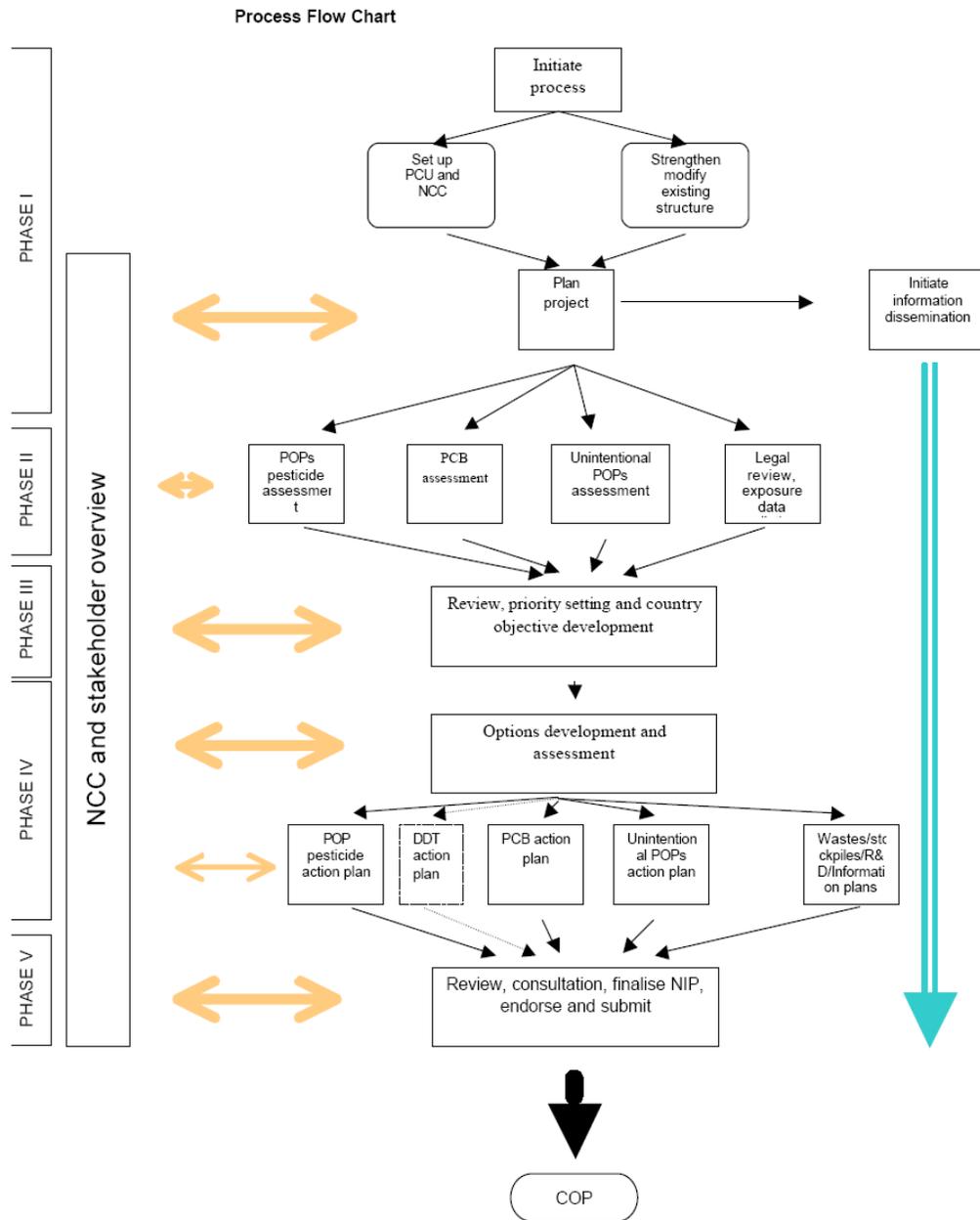
- Establishment of a coordinating mechanism and a process organisation. A national lead agency should be officially designated as the legal entity in charge of coordinating the NIP preparation. A key element of the process is the establishment of a multi-stakeholder national coordination committee to provide policy input and functional guidance. This would include main governmental actors, representatives of industry and civil society, research institutes, labour organisations etc.
- Establishment of POP inventories and assessment of national infrastructure and capacity. This includes preparing a national POP profile and preliminary inventories of production, distribution, use, import and export, stocks and contaminates sites and products, infrastructure capacity and institutions, social and economic assessment of planned measures, basic risk assessments, etc.
- Priority assessment and objective setting. This phase focuses on developing criteria for prioritisation and defining national objectives in relation to priority POPs or issues.
- Formulation of the NIP. This phase includes the identification of management options of POPs with an indication of the scope of application, limitations, costs and benefits of each option, and drawing up a draft NIP — which may include priorities and proposed sequencing of implementation, and estimated total cost of proposed activities, including incremental costs where applicable. During this phase it is also recommended to develop a national strategy for information exchange, education, communication and awareness raising, taking into account the risk perception of POPs by the public.
- Endorsement of the NIP by stakeholders and the submission of the NIP. The draft NIP will be submitted for review by stakeholders and finalised based on comments received through the consultation process. The NIP should also provide for mechanisms for periodic updating and review, as requested also by article 7 of the Convention. It is also important to secure political support for the NIP and its implementation. Once finalised the NIP should be submitted to the COP as required by the Convention.

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<sup>57</sup> [www.pops.int/documents/implementation/nips/guidance/guidances/docdirec\\_en.pdf](http://www.pops.int/documents/implementation/nips/guidance/guidances/docdirec_en.pdf)

The flow chart depicted in Figure 2 illustrates the process of developing a NIP in accordance with the interim guidance.

**Figure 2. Process flow chart**



**SEE overview**

Albania, Bulgaria, Romania and the former Yugoslav Republic of Macedonia ratified the Stockholm Convention in 2004 and benefited from GEF funding for developing NIPs. The latter two countries completed their NIPs in 2006 and 2005 respectively. Albania and Bulgaria are

in the process of developing NIPs, having made a commitment to submit them to the Conference of the Parties (COP) at the beginning of 2007.

### **Albania**

With GEF financial support, through UNDP and UNEP implementing agencies, Albania receives assistance for developing its NIP under the Stockholm Convention. The main activities undertaken are: compilation of an initial POP inventory, the setting of POP priority, the evaluation of management options and drafting the NIP, and the finalisation of the NIP.

### **Bosnia and Herzegovina**

Bosnia and Herzegovina signed the convention on May 23, 2005 but still has to ratify it. According to the UNECE *Environmental Performance Review*, Bosnia and Herzegovina is implementing a project focusing on the preparation of a NIP and the establishment of an operational unit to facilitate this process in order to prepare for ratification.

### **Bulgaria**

Bulgaria is one the 12 countries participating in the UNEP pilot project Development of National Implementation Plans for the Management of Persistent Organic Pollutants (POPs) approved in 2001.

The NIP was developed in the period 2002–2006 and adopted in March 2006. The national stakeholders involved in the process included ministries, scientific bodies and NGOs. They functioned as a network and several meetings were held. The main activities undertaken included, notably, preliminary inventories and assessment, and the preparation of the national chemicals management profile.

The NIP was finalised and submitted to the Convention Secretariat well in advance of the assigned deadline.

### **Croatia**

Croatia ratified the Convention in November 2006 (OG-IT 11/2006).

The National Implementation Plan for the Stockholm Convention was adopted in December 2004 as a result of the project Enabling Activities to Facilitate Early Action on the Implementation of the Stockholm Convention on Persistent Organic Pollutants (POPs). The NIP sets out a number of short-term and mid-term action plans and strategies, which include: the abatement or elimination of emissions of POPs in their production, usage and disposal; the identification and remedying of locations polluted with POPs; exchange of information; monitoring and reporting; and the education of the public.

### **The former Yugoslav Republic of Macedonia**

The National Implementation Plan on the Reduction and Elimination of Persistent Organic Pollutants in the Republic of Macedonia was prepared under the coordination of the national POPs office with assistance from GEF and the United Nations Industrial Development Organization (UNIDO).

The implementation of activities was conducted by the Ministry of Environment and Physical Planning, as an executing agency, in collaboration with the Ministry of Agriculture, Forestry and Water Resources Management, the Ministry of Health, the Faculty and the Institute of Agriculture, and representatives from NGOs, industry and trading companies.

The preparation of the NIP took two years and included the collection of data and findings from the inventories and assessment, the preparation of a National Chemicals Management Profile for POPs, and the development of specific action plans and strategies for the NIP. The NIP was submitted to the Conference of the Parties in September 2005, almost one year before the official deadline.

### **Romania**

In July 2001 Romania started the implementation of a GEF project aimed at the preparation of a NIP, strengthening national capacity and enhancing knowledge and understanding between decision makers, managers, industry, and the public on POPs. The implementing agency was UNIDO and the executive agency in Romania was the National Institute for Research and Development for Environmental Protection (ICIM).

All national stakeholders participated jointly and proactively in the process of NIP development. A formal system for the cooperative approach to tasks among governmental agencies, industries and NGOs was established. The stakeholders showed a strong commitment towards the implementation of the formulated priority needs and a readiness to continue the cooperation by implementing the crucial measures and actions of the NIP.

The NIP was submitted to the Conference of the Parties in April 2006, well in advance of the assigned deadline (January 2007).

### **Montenegro and Serbia**

The Stockholm Convention was signed by Serbia and Montenegro in 2002, and in November 2005 it was reported that the ratification process was ongoing. A GEF project, with UNEP as the implementing agency, started in 2003. Both the then Ministry for the Protection of Natural Resources and the Environment of the Republic of Serbia and the then Ministry of Environmental Protection and Physical Planning of the Republic of Montenegro were assigned as executive agencies. The two republics signed a cooperation agreement including implementation arrangements and a budget proportioning between them.

As of 2006, Serbia reported being in the second phase of developing the NIP, namely inventorying and assessments. This includes an inventory of pesticides, a legal gap analysis and the preparation of background documents for the public. A law for the ratification of the Stockholm Convention is also in preparation.

### **Outcomes of the process**

The purpose of the NIP is to establish and prioritise objectives, measures and actions to reach the obligations under the Stockholm Convention. All of these elements of the NIP have to be addressed while taking into consideration the opinion of the stakeholders involved in POP management.

From the experience of the SEE countries that have adopted, or are in the process of preparing, NIPs, the main benefits of the planning process are:

- an overview of the current situation in the country with regards to POPs, developing an accurate information system necessary for a good planning process;
- a strategic planning process leading to the identification of priorities and actions needed to address them;
- defining a detailed implementation strategy, including specific actions, timeframe and financial resources allocation;

- the commitment of all stakeholders involved in the process to the implementation of the NIP;
- greater awareness among all stakeholders;
- enhanced multi-stakeholder coordination through the national coordination committees; and
- enhanced regional cooperation through the exchange of experience, joint activities, etc.

NIPs are recognised globally as important and useful tools: they help to identify weaknesses and strengths, and to develop priorities and synergies at national and broader levels. Nevertheless, experience shows that, besides difficulties in evaluating the exact cost of NIPs, states face problems in collecting comprehensive data and in conducting inventories. The realisation of NIPs needs to be promoted and motivated, for example through capacity building.

## Appendix: NIP requirements and references<sup>58</sup>

### 1. Convention on Biological Diversity

#### Article 6: General Measures for Conservation and Sustainable Use

“Each contracting party shall, in accordance with its particular conditions and capabilities:  
(a) Develop national strategies, plans or programmes for the conservation and sustainable use of biological diversity or adapt for this purpose existing strategies, plans or programmes which shall reflect, inter alia, the measures set out in this convention relevant to the contracting party concerned.”

Albania: National Biodiversity Strategy and Action Plan 1999  
<http://www.biodiv.org/reports/list.aspx?type=nbsap>

Bulgaria: National Biodiversity Conservation Plan 2000–2006  
<http://chm.moew.government.bg/IndexDetailsE.cfm?vID=11&cvPage=1>

Croatia: National Biodiversity Strategy and Action Plan  
<http://www.biodiv.org/reports/list.aspx?type=nbsap&alpha=C>

Romania: National Biodiversity Strategy and Action Plan  
<http://www.biodiv.org/reports/list.aspx?type=nbsap&alpha=R>

### 2. Cartagena Protocol on Biosafety

A NIP is not required by the protocol but is considered as a key element for the implementation of the protocol. The Conference of the Parties requested GEF to provide assistance to developing countries for capacity building for biosafety. One key element of the capacity-building assistance is the development of national biosafety frameworks.

Albania: National Biosafety Framework for Albania  
<http://biosafety.moe.gov.al/eng/>

Croatia: National Biosafety Framework for Croatia  
[http://en.gmo.hr/zakonska\\_regulativa](http://en.gmo.hr/zakonska_regulativa)

Romania: Draft National Biosafety Framework  
<http://www.biosafety.ro/indexen.shtml>

The former Yugoslav Republic of Macedonia  
<http://www.unep.ch/biosafety/development/Countryreports/MKNBFrep.pdf>

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<sup>58</sup> This information was collected from the official websites of the conventions and from the websites of the ministries of environment of the countries in question as of September 2006. The review is focused on the text of the conventions.

### 3. United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa

#### BOX 3.

##### Article 10: National Action Programmes

The purpose of national action programmes is to identify the factors contributing to desertification and practical measures necessary to combat desertification and mitigate the effects of drought.

2. National action programmes shall specify the respective roles of government, local communities and land users and the resources available and needed. They shall, inter alia:

- (a) incorporate long-term strategies to combat desertification and mitigate the effects of drought, emphasize implementation and be integrated with national policies for sustainable development;
- (b) allow for modifications to be made in response to changing circumstances and be sufficiently flexible at the local level to cope with different socio-economic, biological and geo-physical conditions;
- (c) give particular attention to the implementation of preventive measures for lands that are not yet degraded or which are only slightly degraded;
- (d) enhance national climatological, meteorological and hydrological capabilities and the means to provide for drought early warning;
- (e) promote policies and strengthen institutional frameworks which develop cooperation and coordination, in a spirit of partnership, between the donor community, governments at all levels, local populations and community groups, and facilitate access by local populations to appropriate information and technology;
- (f) provide for effective participation at the local, national and regional levels of non-governmental organizations and local populations, both women and men, particularly resource users, including farmers and pastoralists and their representative organizations, in policy planning, decision making, and implementation and review of national action programmes; and
- (g) require regular review of, and progress reports on, their implementation.

3. National action programmes may include, inter alia, some or all of the following measures to prepare for and mitigate the effects of drought:

- (a) establishment and/or strengthening, as appropriate, of early warning systems, including local and national facilities and joint systems at the subregional and regional levels, and mechanisms for assisting environmentally displaced persons;
- (b) strengthening of drought preparedness and management, including drought contingency plans at the local, national, subregional and regional levels, which take into consideration seasonal to inter-annual climate predictions;
- (c) establishment and/or strengthening, as appropriate, of food security systems, including storage and marketing facilities, particularly in rural areas;
- (d) establishment of alternative livelihood projects that could provide incomes in drought prone areas; and
- (e) development of sustainable irrigation programmes for both crops and livestock.

Romania: National Action Programme

<http://www.unccd.int/actionprogrammes/centraleu/national/2000/romania-eng.pdf>

### 4. Stockholm Convention on Persistent Organic Pollutants

Article 7 of the Stockholm Convention states that each party shall “(a) Develop and endeavor to implement a plan for the implementation of its obligations under this Convention; (b) Transmit its implementation plan to the Conference of the Parties within two years of the date on which this Convention enters into force for it; and (c) Review and update, as appropriate, its implementation plan on a periodic basis and in a manner to be specified by a decision of the Conference of the Parties.”

Romania: NIP

<http://www.pops.int/documents/implementation/nips/submissions/NIP%20Romania%2011%20April%202006.pdf>

Croatia: NIP  
[http://www.cro-cpc.hr/projekti/pops/NIP\\_eng.pdf](http://www.cro-cpc.hr/projekti/pops/NIP_eng.pdf)

The former Yugoslav Republic of Macedonia: NIP  
<http://www.pops.int/documents/implementation/nips/submissions/macedonia.pdf>

Serbia: NIP  
<http://www.ekoserb.sr.gov.yu/projekti/pops/index.php>

## **5. Convention on Wetlands of International Importance especially as Waterfowl Habitat (Ramsar Convention)**

Article 3.1: “The Contracting Parties shall formulate and implement their planning so as to promote the conservation of the wetlands included in the List, and as far as possible the wise use of wetlands in their territory.”

Albania: Ramsar site management plans — Albania, Karavasta Lagoon  
[http://www.ramsar.org/wurc/wurc\\_mgtplan\\_albania\\_karavasta1.htm](http://www.ramsar.org/wurc/wurc_mgtplan_albania_karavasta1.htm)

Bulgaria: Ramsar site management plans — Bulgaria, Srebarna  
[http://www.ramsar.org/wurc/wurc\\_mgtplan\\_bulgaria1a.htm](http://www.ramsar.org/wurc/wurc_mgtplan_bulgaria1a.htm)

## **6. Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean**

Article 4.4: “In implementing the Convention and the related Protocols, the Contracting Parties shall: (a) adopt programmes and measures which contain, where appropriate, time limits for their completion.”