

Report from

Sub-regional workshop under the Espoo Convention

Key Elements of Strategic Environmental Assessment: Priorities in Countries of Central and Eastern Europe

22-23 October, 2001
Warsaw, Poland

Background

The workshop was implemented within the item “Subregional Cooperation” of the Workplan of the Espoo Convention for 2001-2003 (Decision II/11, at MoP in Sofia, February 2001, MP.EIA/2001/11, item 6 of the Workplan).

The workshop, in particular, focused on the key issues that were addressed in the elaboration of the Directive no. 2001/42/EC “on the assessment of the effects of certain plans and programmes on the environment” (hereinafter SEA Directive) and facilitated informal discussion on specific issues that can be addressed in the negotiations of the SEA Protocol to the Espoo Convention (hereinafter SEA Protocol).

The workshop was attended by national experts from Albania, Austria, Croatia, Czech Republic, Estonia, Finland, FYR of Macedonia, Germany, Hungary, Lithuania, Poland, Slovenia, Turkey and by representatives of the UN/ECE and the REC.

Workshop Findings

Scope of application

1. SEA Directive covers many types of strategic decisions (irrespective of their name) that meet certain requirements, i.e. those defined by the Art. 2.a of the Directive. The SEA Protocol could build on this and further develop it.
2. The term “the framework for future development consent” used within the SEA Directive may be interpreted in different ways. Here, a reference was made to Annex II, para 1, 1st indent where one of the criteria is allocating resources. The Protocol could build on this interpretation.

Screening

3. Some participants found the option of negative screening (as stipulated in the draft elements for the SEA Protocol) interesting since it may be an effective means for early application of SEA and its integration into decision-making. Some others saw “the burden of proof” too heavy for such an approach. The workshop in general doubted that such system is feasible, in particular on the local level, because of the existing positive screening systems in EIA.

Contents of the SEA Documentation

4. The workshop noted that transboundary effects are not explicitly mentioned in the Annex 1 of the SEA Directive as it is obvious that they will be treated where appropriate. The workshop welcomed the approach to treatment of transboundary effects in the elements for the SEA Protocol.
5. SEA Directive includes in the Annex 1 para (f), a broad definition of health effects (effects on population and human health). The Directive does not require mandatory consultation with the health authorities - the actual health impacts are to be defined and reviewed by environmental authorities which are in some countries also responsible for issues related to environmental health.

Role of health authorities

6. Some participants considered that health authorities should be included on the same footing as environmental authorities, while others indicated that the health impacts could be effectively dealt with by the environmental authorities only. In order to accommodate these concerns, the workshop suggested that the negotiations on the SEA Protocol may consider the suggested wording of the Art. 10.3. in the draft elements for the SEA Protocol as follows:
“Each Party shall designate the public authorities to be consulted which, by reason of their specific environmental and/or health responsibilities, are likely to be concerned by the environmental and health effects of implementing the strategic decision.”
7. The workshop also concluded that the same environmental and health authorities should be consulted in all stages of the SEA process. This might be properly addressed in the SEA Protocol.
8. The SEA Protocol could encourage contracting parties to strengthen cooperation between environmental and health authorities, e.g. by arranging joint training courses and by establishing inter-departmental/ministerial bodies to address the practical problems in assessing health effects within SEA.

Public Participation

9. The SEA Directive does not require public participation in the scoping but stresses in its Art. 6.2. an early and effective opportunity to express opinions. The SEA Protocol could ensure that Art. 6.4. of the Aarhus Convention is properly included in the final text of the Protocol.
10. The SEA Protocol could provide for a flexible public participation system based on the general principles established by the Aarhus Convention as proposed in the Art. 4 of the draft elements for the Protocol. This system might be flexible enough to allow for adaptation to various types of strategic decisions. Contracting parties could have a duty to actively identify the public concerned in order to allow for a broad social dialogue.
11. The practical application of this flexible public participation system will require adequate
 - quality of notification and SEA Documentation (content of information, language)
 - means of participation (to enable interactive process)

Quality Assurance of SEA

12. Quality assurance within SEA should be established to ensure:
 - ensuring sufficient quality of SEA reports as required by the Art. 12.2. of the SEA Directive (e.g. through provisions of guidance or accreditation systems),
 - proper application of the SEA process (e.g. through proper participation of environmental authorities or independent review bodies within the entire SEA procedure, or through access to justice provisions).

Follow-up work

13. The workshop participants thanked the speakers from the EU member countries for their valuable contributions and the Dutch Ministry of Housing, Spatial Planning and the Environment for sponsoring the workshop through a REC project "Assistance to SEA Protocol". The workshop also thanked the Ministry of Environment of Poland, the REC and the UN/ECE for organising of the workshop.
14. The future SEA workshops implemented under the Workplan of the Espoo Convention - item "Subregional Cooperation" and REC/Sofia EIA Initiative program should focus on the following issues:
 - Access to justice and quality assurance in SEA (CEE-regional workshop to be held in Albania in April 2002 with assistance of the REC)
 - SEA of strategic decisions that are not elaborated through formal procedures (CEE-regional workshop to be held in September 2002 with assistance of the REC, tentatively scheduled to FYR of Macedonia).

Additional findings

Workshop participants came to the following additional findings that were not summarised, due to the time limits, at the end of the workshop.

15. When discussing the contents of the SEA Documentation, it was noted that the SEA Directive in Annex 1, item (e) requires evaluation of relationship between the proposed plan/programme and relevant environmental objectives. This might require undertaking of objective-led appraisal that differs from traditional "impact assessments".
16. The workshop felt that integration of SEA into planning/programming may, in some countries, require establishment of flexible framework SEA laws that will be complemented by administrative orders/regulations to interpret general SEA requirements for the most important planning and programming processes in each given country (e.g. land-use/spatial planning, preparation of waste management programmes, watershed management plans etc.).
17. Integration of SEA into planning/programming requires as early application of SEA as possible. Some participants saw that negative SEA screening systems can be quite effective in this respect, others again raised doubts about its practical feasibility. Early informal consultation among environmental and planning authorities before formal SEA screening also effectively promotes integration of SEA into planning/programming.
18. The workshop noted with interest the REC draft outline of relationships between substantive tasks in the planning/programming process and analyses required by international SEA standards (Annex 1 to the SEA Directive and draft SEA Protocol). The presented system builds on the conclusions of the April 2001 workshop of the Sofia EIA Initiative and is outlined in the Annex 1 to these conclusions.

Workshop report approved on 12 November 2001 by:

Mr. Zbigniew Kamienski
Ministry of Environment of Poland

Mr. Jiri Dusik
Regional Environmental Centre for CEE

Annex 1: Integration of SEA into planning/programming

Outline of substantive relationships between tasks of the planning/programming and SEA process (substantive requirements for contents of the SEA Documentation - Annex 1 of the SEA Directive used as an example)

Authority responsible for development of the plan or programme		Env. (Health) Author.	Public Part. Aarhus Conv.
<i>Usual substantive tasks in planning/programming</i>	<i>Substantive tasks in environmental assessment</i>		
Initiation of the P/P (decision on the aims and relationship to other P/Ps)	Position of the P/P in the planning system (a) an outline of the contents, main objectives of the P/P and relationship with other relevant P/Ps;		
Analysis of existing problems within the area/ sector for which the P/P is being elaborated	Analysis of environmental problems in the sector/region covered by the P/P (b) the relevant aspects of the current state of the environment and its likely evolution without implementation of the P/P; (c) the environmental characteristics of areas likely to be significantly affected; (d) any existing environmental problems which are relevant to the P/P including, those relating to any areas of a particular environmental importance.		
Determination of specific goals of the P/P	Determination of relevant environmental objectives (e1) the environmental protection objectives, established at international or national level, which are relevant to the P/P and		
Design and initial comparison of possible “strategic” alternatives of the P/P	Evaluation how “strategic” alternatives of the P/P relate to relevant environmental objectives (e2) the way the environmental objectives for the P/P and any environmental considerations have been taken into account during the preparation of the P/P; of Art. 5 para 1 and Annex I h (h1) an outline of the reasons for selecting the alternatives dealt with ...;		
Detailed elaboration of selected alternative of P/P	Evaluation of specific environmental impacts of final selected alternative of the P/P (f) the likely significant effects on the environment,		
Final proposal of P/P (detailed implementation and its monitoring)	Design of measures to mitigate and monitor specific environmental impacts of the P/P (g) the measures envisaged to prevent, reduce and offset any significant adverse effects on the environment of implementing the P/P; (i) a description of the measures envisaged concerning monitoring; (h2) ... a description of how the assessment was undertaken including any difficulties (such as technical deficiencies or lack of know-how) encountered in compiling the required information; (j) a non-technical summary of the information provided under the above headings.		
Decision on P/P	Justification and summary for the public		