



## **COUNTRY REVIEW**

# **Capacity Building Needs Assessment for the Implementation of the UN/ECE Strategic Environmental Assessment Protocol**

**Ukraine**

**2004 (Version 1)**

#### DISCLAIMER

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## **I. Identification of plans and programs that fall under the scope of the SEA Protocol**

### ***I.1. The notion of program or plan in Ukrainian legislation***

The term “plan” as such is not included in the national legislation of Ukraine. National legislation specifies the term ‘target programme’. Term is defined in the Article 1 of the *Law on the State Target Programmes*. “State target programme is a complex of coordinated tasks and actions, which are directed to address relevant problems related to the state development, the economy sectors and administrative territorial units. Tasks and actions are financed from the state budget of Ukraine funds and are coordinated in terms of implementation plans, implementing entities and available resources.

State target programmes are categorized as follow: (a) national programmes of economic, research, social, and cultural development, national programmes of environmental protection, and other programs aimed to solve specific economic and social development problems, as well as to finance administrative territorial units that require state support, and (b) national programmes that cover the whole country territory or several of its regions, have a long-term character are implemented by central or local authorities.

## 1.2. Strategies, plans and programs that fall under the scope of the SEA Protocol

**Table 1. Ukraine's national and regional strategic documents, which fall under the scope of the SEA Protocol**

Sectors	Title of the strategic document	Date of approval /adoption of the strategic document	The aim of the strategic document	Current and planned changes
Agriculture	Strategy and policy of the post-reform farms development	Order # 192 dated July 15, 2002	The strategy's aim is to encourage and provide incentives for farms development, agricultural output growth and consolidation of private ownership in the agricultural sector	<u>Planned changes:</u> Preparation of a number of new drafts of national laws on agriculture.
	Measures to implement the tasks set forth by All-Ukrainian Conference on post-reform development of agricultural sector. March 11, 2002	Approved by Ukraine Ministry of agricultural policy order # 119 dated April 24, 2002	The aim of the document is the development of the agricultural sector.	
	Strategy of post -reform rural development in Ivano-Frankovsk Oblast	Decree of Ivano-Frankovsk Oblast government # 717/134 dated September 25, 2002	The strategy pursues the goal of rural development in the Oblast.	
	Comprehensive program of the agricultural market development in 2003 through 2004.	Approved by Ukraine Cabinet of Ministers decree # 271 dated March 1, 2003	The strategy's aim is to provide conditions for the formation and development of a sustainable agricultural market	
Forestry	The state program for the formation of the national environmental network of Ukraine, for 2000 through 2015	Approved by Ukraine law # 1989-III dated September 21, 2000	The aim is to increase the share of natural scenery lands	<u>Implemented changes:</u> Agreement on maintaining biodiversity in the Azov – Black Sea corridor was signed. A draft of Ukraine law to ratify the agreement was developed. The Ukraine law on “The national environmental network” was adopted.
	The “Ukraine’s forests” state program for 2002 through 2015	Approved by decree of Ukraine cabinet of ministers # 581 dated April 29, 2002	The program identifies the main directions and sources of the balanced and sustainable development of the country’s forestry.	
	The program for long term development of nature reserves sector in Ukraine	Approved by Ukraine Supreme Rada decree # 177/94-BP dated September 22, 1994.	The program sets the goal of developing the nature reserves sector with view to overall improvement of the environmental situation.	
Fishery	A comprehensive program for 2002 through 2006 to stop unlawful fishing by foreign vessels in the territorial sea and the exclusive (sea) economic zone of Ukraine.	Approved by Ukraine Cabinet of Ministers decree # 1353 dated September 12, 2002.	The program aims at strengthening the national economic interests by counteracting the unlawful fishing.	<u>Planned changes:</u> Development of a draft of national law to amend the national law “On exclusive (sea) economic zone of Ukraine”; Improvement of the regulatory framework of the sector.
	The national fishery development program of Ukraine till 2010.	Approved by Ukraine law #1516-IV of February 19, 2004.	Pursues the major aim of creating favourable environment for fishery development.	
Energy	Comprehensive state program of energy conservation in Ukraine in 1996 through 2010.	Approved by Ukraine Cabinet of Ministers decree # 148 dated February 5, 1997.	The aim of the program is to implement the state of the art energy efficient technologies.	<u>Planned changes:</u> Preparation of a draft program “The development of zirconium-based fuel technologies”
	A program of state support to non-traditional and renewable energy sources and small-scale hydro and thermal power.	Decree # 1505 dated December 31, 1997.	The aim of the program is to ensure the national energy safety by means of development and use of the alternative energy sources.	

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Sectors	Title of the strategic document	Date of approval /adoption of the strategic document	The aim of the strategic document	Current and planned changes
Industry	The national policy concept for the sector of crude oil transit and supply	Approved by Ukraine Cabinet of Ministers order # 187-p dated April 5, 2002.	The concept pursues the major goal of identifying the state policy with view to crude oil transit and supply.	<u>Planned changes:</u> Bring the laws and regulations in line with the provisions of the Contract to Energy Charter; improve legislation with due consideration for EC Directive.
	Action plan to restore the production operations and stabilize the financial and economic situation of VATT "Makeyevsky Metallurgichesky Kombinat/ Metallurgical works of Makeyevka".	Approved by Ukraine Cabinet of Ministers order # 619-p dated October 28, 2002.	The plan set the goal of restoring the production operations and stabilizing the financial and economic position of VATT "Makeyevsky Metallurgichesky Kombinat/ Metallurgical works of Makeyevka.	
	A comprehensive medical industry development for 1997 through 2003.	Approved by Ukraine Cabinet of Ministers decree # 1538 dated December 18, 1996.	The program was developed with view to increasing output of products for medical, veterinary and microbiological application.	
	The national program for 2005 through 2014 for making the hazardous facilities of «Pridneprosky khimichesky zavod /Pridneprovsky chemical works environmentally safe and for providing protection of the population against the dangerous ionizing radiation.	Approved by Ukraine Cabinet of Ministers decreed # 1846 dated November 26, 2003.	The aim is to make the uranium facilities of Pridneprovsky chemical works environmentally safe.	
Mining industry	The program for improving working conditions safety of coal mines	Approved by Ukraine Cabinet of Ministers decree # 939 dated July 6, 2002.	The program sets the aim of reducing the rate of accidents with grave consequences, work-related injuries at coal mines and job-related illnesses of miners.	<u>Planned changes:</u> Improvement of the legal environment and regulatory framework of coal industry and the social network in coal mining regions.
	The program of coal industry development and improvement of social network in coal mining regions to 2005 (Program "Ugol"/ "Coal").	Approved by Ukraine Cabinet of Ministers decree #141 dated July 15, 2003.	The program "Ugol"/ "Coal" sets forth the actions for coal industry stabilization.	
Transport	"On the implementation plan for the program of Ukraine integration with EU in the transport sector till 2004".	Approved by Ukraine Ministry of transport order # 534 of July 15, 2003.	Development of the transport infrastructure of the international corridors network in the territory of Ukraine and upgrading the national network of international corridors in line with EU norms and standards.	<u>Planned changes:</u> Complete the development of the legal and regulatory framework of the transport sector.
	A comprehensive program for Ukraine consolidation as a transit state in 2003 through 2010.	Approved by Ukraine law # 3022-III dated February 7, 2002.	The aim is to use and develop the transit capacity of Ukraine.	
	"The major directions of the development of marine economic system enterprises of the Danube region till 2005" program.	Approved by Ukraine Ministry of transport order # 209 dated March 17, 2003.	The program seeks to implement Ukraine's transport policy with view to developing the marine area in the Danube region.	
	Program of safeguarding railroad safety in the "Ukrzhelezprom" company for 2001 through 2005.	Approved by Ministry of transport order # 329 dated May 28, 2001.	The program was developed with view to ensuring accident-free operation of the "Ukrzhelezprom" company.	

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Sectors	Title of the strategic document	Date of approval /adoption of the strategic document	The aim of the strategic document	Current and planned changes
	Plan for the Implementation of the major national policies of environment protection, use of natural resources and environmental safety in the transport and road system for 2002 through 2006.	Approved by Ukraine Ministry of transport order # 291 dated April 29, 2002.	The plan pursues the goal of reducing the negative effect of transport and road system operation on the environment. .	
Regional development	Decree “On approving the regulation on the national competition of local government development projects and programs”.	# 64 dated January 18, 2003 changed and amended by Ukraine Cabinet of Ministers decrees # 1106 of July 17, 2003 and # 1894 of December 10, 2003.	The aim of the decree is selection of local government development programs and projects.	<u>Planned changes:</u> Improvement of legal and regulatory framework of regional development in Ukraine.
	A comprehensive program of environmental, economic and social development of Rakhov mountainous district for 1998 through 2005.	The program was developed and approved by Zakarpatska Oblast government and Rakhov District Council.	The aim of the program is to support the development of Mountainous Rakhov district of Zakarpatska Oblast.	
	“On measures of state support of the comprehensive program of environmental, economic and social development of Rakhov mountainous district for 1998-2005”.	Approved by Ukraine Cabinet of Ministers decree # 292 of March 16, 1998.	The aim of the measures is to provide state support of the implementation of the comprehensive program of environmental, economic and social development of Rakhov mountainous district.	
	The state program of rural social sector development till 2005.	Approved by Presidential decree # 640/2002 of July 15, 2002.	The program’s aim is to put an end to the negative developments in rural social sector.	
	The program of social and economic development of Lugansk Oblast for 1999 through 2010.	Decree # 1024 of June 11, 1999.	The Program identifies the priorities of the region’s stabilization and development till 2010..	
	The program of comprehensive development of the Danube region of Ukraine for 2004 through 2010.	Approved by Ukraine Cabinet of Ministers decree # 428 of March 31, 2004.	The goal is to provide conditions for the region’s continuous development. .	
	Program of industrial and household waste utilization till 2005.	Approved by Ukraine Cabinet of Ministers decree # 668 dated June 28 1997.	The program’s goal is t find an efficient decision of waste utilization in Ukraine. .	

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Sectors	Title of the strategic document	Date of approval /adoption of the strategic document	The aim of the strategic document	Current and planned changes
Waste management	A comprehensive program of state sanitary supervision of Ukraine's radiation safety, radiation monitoring and survey and personal monitoring by the State sanitary and epidemiological service of Ukraine Ministry of health and the research institutions of Ukraine's Academy of sciences for 2001 through 2005.	Approved by Ukraine's Ministry of health order # 418 of October 22, 2001.	The program provides for organizational and methodological actions to implement radiation monitoring and survey of environment.	<u>Planned changes:</u> Amendment of a number of Ukraine laws.
	A comprehensive program of radioactive waste management.	Approved by Ukraine Cabinet of Ministers decree # 480 of April 29, 1996 (in the version of Cabinet of Ministers decree # 542 of April 5, 1999).	The goal is to ensure the implementation of state policy of radioactive waste management.	
	A procedure for the implementation of action plan at the "Ukrytie"/"Shelter" installation.	Approved by Cabinet of Ministers decree # 421 of March 31, 2003.	The document identifies a planning, reporting, designing, expert evaluation and assessment, coordination and approval procedure for construction installation and the clearance procedure in the context of the implementation of international technical assistance program i.e., implementation of action plan at the "Ukrytie"/"Shelter" installation.	
	The national program of environmental rehabilitation of the Dnepr river basin and improvement of drinking water quality. Tentative deadline for the implementation till 2010.	Approved by Ukraine Cabinet of Ministers decree.	The major goal is rehabilitation and sustainable functioning of the Dnepr ecosystem, good quality water supply, safe environment for living and economic activity and protection of the water resources from pollution and depletion.	
Water management	A plan of top priority actions for improving water supply in Lugansk Oblast towns and villages for 2002 through 2005.	Approved by Cabinet of Ministers decree # 280 of March 13, 2002.	The aim of the plan is improved water supply in Lugansk Oblast towns and villages.	<u>Planned changes:</u> Develop and adopt laws and regulations in the context of adoption of Ukraine law "On potable water and potable water supply".
	A schedule of preparation of laws and regulations that should be developed in connection with the adopted of Ukraine law "Potable water and potable water supply".	Supplement to Ukraine Construction Board order # 44 of March 22, 2002.	The schedule's aim is to set order of the development of laws and regulations for water utilization systems sector.	
	The national IT program.	February 4, 1998 # 74/98-BP. Changed and amended by Ukraine law # 2684-III of September 13, 2001.	The national program sets forth a strategy for addressing the information needs and IT support in the areas of the national importance.	
Telecommunications	A procedure for expert assessment of the national IT program and of the program's individual projects.	Approved by the Cabinet of Ministers decree # 1048 of July 25, 2002.	The main aim of the national program's assessment is a comprehensive impartial assessment of the program and its projects with view to assessing their consistency with the priority directions of the government IT policy.	<u>Planned changes:</u> Adopt laws and regulations to enforce the implementation of the national law "On the national

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Sectors	Title of the strategic document	Date of approval /adoption of the strategic document	The aim of the strategic document	Current and planned changes
	The program for development, re-equipment and upgrading of the transmitting terminals of the Broadcasting, Radio- Communication and TV Concern till 2012.	Approved by Ukraine Cabinet of Ministers decree # 40 dated January 16, 2003.	The aim of the program is to maintain the broadcasting network of the state TV and radio programs..	IT program”.
	The state program of tourism development for 2002 through 2010.	Approved by Ukraine Cabinet of Ministers decree # 583 dated April 29, 2002.	The major goal is to create national tourism product that is competitive in the international market.	
Tourism	Skhidnytsya resort development program. The program shall be implemented in two stages i.e., stage one from 1999 to 2001, and stage two from 2002 to 2007.	Approved by Ukraine Cabinet of Ministers decree # 141 dated February 4, 1999.	The program pursues the goal of maintaining, reproducing and efficient use of Skhynytsya balneological resort. .	<u>Planned changes:</u> Adoption of a number of regulations with view to supporting and developing tourism in Ukraine.
	The comprehensive program of social and economic development of greater Yalta national resort.	Approved by Ukraine Cabinet of Ministers decree # 9 dated January 5, 1998.	The aim of the program is to create conditions conducive of stabilization and improvement of greater Yalta social and economic situation, better environmental safety, the region’s consolidation and operation.	
Territorial and land-use planning	The program of state support of the city of Lvov comprehensive development in 1998 through 2002.	Approved by Ukraine Cabinet of Ministers decree # 1406 dated September 7, 1998.	The aim of the program is to provide comprehensive support by the state of the city’s comprehensive development.	<u>Planned changes:</u> Adoption of laws and regulations supportive of territorial planning development and the relevant programs.
	The comprehensive program of further development of the infrastructure and economic activities on the Zmeiny island and on the continental shelf. The actions of the program shall be implemented in 2002 through 2006.	Approved by Ukraine Cabinet of Ministers decree # 713 dated May31, 2002.	The aim of the program is to provide adequate conditions for living and economic and other operations on the island.	
	The program of research and survey of state and local government and governance issues till 2004.	Approved by Ukraine Cabinet of Ministers decree # 492 dated April 7, 2003.	The e aim of the program is to carry out research and survey of state and local government and governance issues.	
	The program of state support of the local government development in Ukraine.	Approved by Presidential decree # 749/2001 of August 30, 2001.	The aims of the program are democratic development, consolidation of local government finances, and improved conditions for vital activity and social protection of the population.	
	The national program of small towns development.	Approved by Ukraine law # 1580-IV of March 4, 2004.	The aim of the program is to provide institutional, legal and regulatory mechanisms for progress of small towns development.	
	“The nation’s health” Comprehensive inter-sector program for 2002 through 2011.	Approved by Ukraine Cabinet of Ministers decree # 14 dated January 10, 2002.	The program aims are to improve the demographic situation, maintain and strengthen the population’s health, improve the quality of healthcare services, ensure social equity and the citizens’ rights to healthcare.	
Other national or regional documents	The “Reproductive health” national program for 1999 through 2005.	Approved by Presidential decree # 203/2001 of March 26, 2001.	The aim of the program is to improve the demographic and socio-economic situation in the nation and to improve the population’s reproductive health.	<u>Planned changes:</u> Improve the legislative and regulatory framework of

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Sectors	Title of the strategic document	Date of approval /adoption of the strategic document	The aim of the strategic document	Current and planned changes
	The comprehensive program of genetic monitoring in Ukraine for 1999 through 2003.	Approved by Presidential decree # 118/99 of February 4, 1999.	The aim of the program is to develop a comprehensive characterization of the Ukrainian people's genetic fund, the dynamic monitoring of the environment effect on population's health and develop the system of primary and secondary prevention of congenital pathology.	healthcare in line with the international standards and European Union requirements.
	The concept of healthcare development in Ukraine	Approved by Presidential decree # 1313/2000 of December 7, 2000.	The concept's aim is to implement the relevant provisions of Ukraine's Constitution and the national laws on health.	
	The program of the National Service of disaster healthcare development in 2002 through 2005.	Approved by Ukraine Cabinet of Ministers decree # 174 dated February 15, 2002.	The major aim is to improve the operations of the National Service of disaster healthcare.	
	The program of regional studies development till 2010.	Approved by Ukraine Cabinet of Ministers decree # 789 dated June 10, 2002.	The aim of the program is to encourage regional studies research, promote regional studies and increase broad public awareness of and interest in the national cultural heritage.	
	The fire safety provision program till 2010.	Approved by Ukraine Cabinet of Ministers decree # 870 dated July 1, 2002.	The program aim is to address the issue of protection of the population, national heritage and the environment from fires and consequences thereof.	
	"Development of methodological and technological framework for the system of projecting genetic risks of implementation of new technologies and environmental pollution" research and technological program.	Approved by Presidential decree # 53/95 of January 17, 1995.	The program's aim is to develop a methodological and technological framework for a system of projecting genetic risks of implementation of new technologies and environmental pollution.	
	The program of Ukraine and the Russian Federation economic cooperation for 1998 though 2007.	Date on signing: January 27, 1998 Date of ratification: June 30, 1999.	The program was developed with view to improving and developing the economic cooperation of Ukraine and the Russian Federation.	
	"Priority areas of innovation effort in the natural environment protection, rational use of natural resources, environmental safety, hydrometeorology, topography, geodesy and cartography in medium term".	Approved at the meeting of Scientific-technical Council of the Ministry of environment and natural resources on June 3, 2003, #2.	The aim of the document is to develop a strategy for improving Ukraine's natural environment quality.	

## **II. Analysis of current environmental assessment provisions in Ukraine**

### ***II.1. Overview of existing environmental assessment procedures in the country***

The state ecological review (SER) and assessment of impact on environment (OVOS) are the basic mechanisms in Ukraine regulating the process of consideration of environmental consequences of a planned activity in the decision making process.

Assessment of impact on the environment (OVOS) is officially defined in Ukraine as determination of the scale and levels of impacts of a proposed activity on the environment, development of preventive or mitigation measures for impacts elimination, and an acceptance of measures suggested in the project from the environment protection point of view. In practice, OVOS in Ukraine plays the role of pollution control procedure and, in the first place, since it evaluates the possible consequences of a planned activity in terms of compliance with and enforcement of ecological and environmental standards, norms and regulations. Therefore, OVOS is not a decision-making instrument as such but a mandatory process of preparation of one part of project design or project documentations. OVOS is conducted according to strict regulations and is included firmly into the design process. Design process starts when a decision on realization of economic activity has been already approved. In that way, OVOS neither antedates the decision-making process nor it serves as its constituent, and is being performed mostly *post factum*. In this way the potential of OVOS significantly loses its economic meaning but simultaneously retains its environmental essence. So, OVOS in Ukraine does not reflect the procedure of Strategic Environmental Assessment as it is described in the SEA Protocol.

State ecological review (SER) is officially defined as a type of scientific and practical action of specially authorized state authorities, environmental expert associations and public unions based on interdisciplinary environmental investigation, analysis and assessment of pre-project, projects and other type of documentation, implementation of which can have negative impact on environment. SER process results in conclusions based on compliance of designed or accomplished activity with the norms and requirements of environmental legislation, and provision of environmental safety. In practice, SER often consists of examination of OVOS quality. According to the Ukrainian *Law on State Ecological Review*, the following are the subjects to SER: pre-project and project documents, documentation related to introduction of new techniques, technologies, materials, and production processes, but also draft legislative and regulation acts, which are envisaged to have a negative impact on environment. Taking this into consideration, assessment of strategic initiatives should be ensured within the SER process.

Further, it is necessary to analyze the structure of Ukrainian SER/OVOS process in detail.

Ukrainian *Law on State Ecological Review* sets the requirements on the content of OVOS documentation (Article 36 of the Law), as well as of the content of conclusions of state ecological review (Article 43). The requirements on the structure, composition and content of OVOS parts are also set in the state construction norms of Ukraine (DBN) A.2.2-1-95. The requirements on the content of documentations applied to the state ecological review are set in the *Instruction on Accomplishment of State Ecological Review* (Annex 4).

As for the responsibility of different actors, specialists and heads of the institutions, which has prepared working materials of preliminary assessment of the project documentations or draft conclusions sign those materials. State ecological review takes into account those preliminary conclusions and its own conclusions are signed by the responsible specialists and heads of the environmental expert subdivisions and approved by the authorized officials of the Ministry of Environmental Protection (MoE) of Ukraine or its corresponding authorities at the local level (deputy minister, Head of the State Committee of Environmental Protection and Nature Resources of the Autonomy Republic of Crimea or its deputy, heads or deputies of the state administrations of environmental protection in the regions, Kyiv and Sevastopol cities, the state inspections for the Black and Azov seas protection, etc.). Signing the state ecological review conclusions by competent official means approval of the proposed activity or initiative. SER conclusions are mandatory in terms of activity/initiative implementation.

As for public participation, the right to participate and procedures are stated in a few national legal acts: Constitutions of Ukraine, Law on the Environmental Protection, Law on Ecological Review, Law in Access to Information, and a number of regulations. According to DBN A.2.2-1-95, local public opinion and comments to the proposed activity and related potential problems should be a part of OVOS documentation, particularly of its sub-section, "Basis for the OVOS accomplishment". However, it is not determined in what way the developer has to collect, analyse and take into account public opinion. As a result, public is often informed only about the approval of implementation of project, which may lead to an increased environmental risk. Public participation in OVOS is restrained by the fact that national legislation does not address the issue of financing public involvement in OVOS. The requirement on public participation in the state ecological review is set in the Article 11 of the Ukrainian *Law on State Ecological Review*.

The OVOS/SER practice in Ukraine shows some efforts to review professionally public comments, especially when performing SER of significant and complicated projects. However, though experience in registering public opinion exists, there is no practice in taking it into account. It means that SER findings are not really being modified based on the public comments and suggestions, which, if considered, could lead to constructive solutions of potential problems related to a planned activity implementation and to avoidance of strong opposition of the public to the proponent.

As understood from the text above, the legislative basis (SER law requirements) and some methodological basis for the Strategic Environmental Assessment implementation does exist in Ukraine, though the required ecological review of legislative and regulation acts is in practice extremely limited. In many respects it connected to the fact that a differential approach to the initiatives of various complexity and various scales of environmental impact is absent in Ukrainian system of ecological review. The list of the subjects falling under ecological review is very long, starting from the plans, programs and law drafts to economic activity/project. Such approach creates serious difficulties. Establishment of the common methodological and procedural base is complicated, considering the fact that it should support facilitate efficient review of plans, programs, draft laws (strategic environmental assessment) on one hand, and assessment of economic activities/projects of different level of complexity (environmental impact assessment) on the other hand.

At the same time, significant positive experience of carrying out the public ecological review of the legislative documents and projects is accumulated in Ukraine. Non-governmental environmental organization MAMA-86 has organized and carried out the nation-wide discussion of the governmental programme on protection of human health. The network of non-governmental environmental organizations EcoPravo has carried out the public hearings on the draft *Law on Handling Genetically Modified Organisms* in the largest cities of Ukraine. In spite of insufficient

efficiency of the mechanism for utilizing the results of public hearings in the decision making process, these precedents have a valuable methodological meaning and testify readiness of the Ukrainian public to use the Strategic Environmental Assessment procedure effectively.

## ***II.2. Possible future changes in the existing legal framework***

In order to fulfil the requirements of the SEA Protocol, it is necessary to determine the relation among the OVOS, SER and SEA processes, and to embody this relation in the legislative and regulatory structures. It will enable SEA to bring significant added value in terms of increased efficiency of the ecological review procedure. SEA has its own well developed methodological base, which is necessary to adapt to the Ukrainian realities; the main goals of ecological review and SEA are congruent. These procedures under no circumstances contradict each other, and, on the contrary, should be synergetic. Moreover, there isn't necessity to radically change existing environmental legislation that goes back to 1997. Based on the assumptions mentioned above, the real basis for SEA application in Ukraine exists. Introduction of SEA does not have to lead to the radical restructuring of the current system and mechanisms of environmental regulation.

Practice of ecological review application justifies the necessity for certain changes in the national *Law on State Ecological Review*. There are plans to realize these changes, but at the same time significant modifications of regulations on OVOS and SER procedures should not be expected within a short time period. The draft of updated state construction norms (DBN), changing the existing DBN A.2.2-1-95, has been already prepared. These norms contain a number of new regulations reflecting the requirements of the international conventions ratified by Ukraine. There are for example regulations requiring public involvement in development of construction projects, requiring development of alternatives of a proposed activity or its location, as well as environmental assessment in a transboundary context.

It is seen necessary to develop and adopt the by-law (e.g. instruction or order) regulating the SEA procedures (in analogy with the existing instruction for SER procedures. Adoption of such documents by the Cabinet of Ministers of Ukraine could be a complicated process therefore it is quite natural to anticipate promulgation of temporary regulative documents by the MoE of Ukraine. Furthermore, it is necessary to anticipate responsibility for non-compliance with SEA regulations, leading to necessity to introduce amendments to the code on administrative violation of the law and, possibly, to the Criminal Code. It will also be necessary to adopt measures to be applied in case of non-compliance with SEA regulations, as well as preventive measures (by analogy with the law on state ecological review that contains a regulation stating that the proposed activity/initiative can be implemented only after receiving approval from the ecological review authorities).

Considering the fact that the new environmental codex is planned to be adopted in Ukraine (draft of the Code has been introduced to Verkhovna Rada (the Parliament) of Ukraine, there is a realistic possibility to take into consideration the requirements of SEA Protocol on the legislative level. In this case, procedure of environmental assessment in Ukraine would be completely corresponding to the requirements and standards of the international environmental legislation.

### III. Analysis of the priority issues for the effective implementation of the UNECE SEA Protocol

**Table 2. Analysis of the priority issues for the effective implementation of the UNECE SEA Protocol**

<b>How to effectively:</b>	<b>2 - top priority 1 - important 0 - not relevant</b>	<b>Which are the specific issue where assistance would be helpful</b>
Undertake SEA in plan and program-making process in accordance with definition of SEA in Art. 2.6 (e.g. how to link SEA to the decision-making process, etc.)	2	The environmental impact assessment and assessment of impact on public health are separated in Ukrainian system – the problem of assessments integration.
Undertake SEA screening in accordance with Art. 4 and 5 (e.g. how to combine mandatory and exclusions lists and when to apply case-by-case examinations, etc.)	2	Development of national list;
Organize SEA scoping in accordance with Art. 6 (e.g. when to undertake scoping, how to select suitable methods for consultations with public and authorities, how to write terms of reference for SEA, etc.)	1	Non-existing; This correspond to the current needs in the country.
Elaborate environmental baseline studies in SEA (in accordance with Annex IV - items 2,3 and 4)	2	The methodology of the complex scenarios development.
Use environmental objectives in SEA (in accordance with Annex IV - item 5)	1	Non-existing;
Analyze the likely significant environmental, including health, effects (in accordance with Annex IV - item 6)	2	Absent, apart from the mentioned above integration of assessments related to the public health.
Compare alternatives of the plan or programme (in accordance with Annex IV - item 8)	1	Non-existing; This correspond to the current needs in the country.
Prepare post-SEA monitoring plans to meet requirement of the Art. 12 and Annex IV - item 9	1	Non-existing; This correspond to the current needs in the country.
Analyze transboundary effects (in accordance with Annex IV - item 10)	2	Methodological aspects of the transboundary effects analysis;
Organize public review of the SEA report in accordance with Art. 8 (e.g. how to identify public concerned; how to inform public and collect feedback, how to review public comments, etc.)	2	Methodological aspects: how to identify public concerned, how to inform public and collect the comments, how to analyze the results of public discussion, etc.;
Organize consultations with environmental and health authorities in accordance with Art. 9 (e.g. how to identify concerned authorities, how to effectively consult them during SEA, etc.)	2	The environmental impact assessment and assessment of impact on public health are separated in Ukrainian system –problem of assessments integration.
Undertake transboundary consultations in accordance with Art. 10 (e.g. when to notify, what level of document should be exchanges, how to organize effective transboundary consultations)	1	Coordination of transboundary consultations;
Explain costs and benefits of SEA to decision-makers	2	Availability of handouts, publications, bulletins, etc.;
Apply SEA to policies and legislation in accordance with Art. 13	2	Methodological support;
Draft the law and/or regulations to implement the SEA Protocol	2	To facilitate the review of the new regulative document by international SEA community

## IV. Key players in SEA reforms

### IV.1. Key institutions responsible for SEA process

The responsibility for the SER process, and, therefore, presumably, for SEA, lies within the Ministry of Environmental Protection (MoE) of Ukraine and its authorized bodies:

- State Ecological Review Committee;
- Environmental – expert subdivisions of the State Committee of Environmental Protection and Nature Resources of Autonomy Republic of Crimea;
- The State Administrations of Environmental Protection in the regions of Ukraine, and in cities of Kyiv and Sevastopol;
- The State Inspections for the Black and the Azov Seas Protection at the MoE.

### IV.2. Key stakeholders and networks promoting the SEA/EIA reforms in Ukraine

**Table 3. List of the key SEA/EIA promoting stakeholders and networks**

Name of organization	Address	Responsible person
The EIA-Centre in Kharkiv National Karazin University	Svobody Sq, 4, 61077 Kharkiv	Chervanyov I.G.
The Regional Environmental Centre “REC-Kyiv”		Tikhiy V.A.
The National Environmental Centre		Marushevskiy G.B.
The Institute «UkrNIINTIZ» (design consultancy)	Lenin avenue, 61077, Kharkov	Abramov I.B.
Kyiv Environmental-cultural Centre	Radugnaya str, 31-48, 02218, Kyiv	Boreyko V.E.
The Ukrainian Scientific Research Institute for Ecological Problems	Bakulina str.6, 61166, Kharkov	Anishenko L.Y.
The network of public environmental organizations “EcoPravo”	Krushelnitskoy str, 2, 79000, Lvov	Kravchenko S.N.
The network of public environmental organizations «MAMA-86»	Mikhaylovskaya str, 22, 01001, Kyiv	Golubovskaya-Onisimova E.N.
The Dnepropetrovskaya public environmental organization «The Green World»	Moskovskaya str, 6, 49600, Dnepropetrovsk	Kushinov N.V.
The youth society of geo-ecologists of Crimea	Yaltinskaya str,4, 95036, Simferopol	Bokov V.A.
The Ukrainian Ecological Academy of Science (Sumy regional branch)	Sumsko-Kyivskikh divisiy str, 12/225, 40024, Sumy	Lukyanikh V.A.
The environmental association «The Green Movement -Carpathian»	Nezavisimosti Sq. 4/80, 77300, Kalush	Dovbenchuk M.M.
The Committee of Preservation of the Dnipro river and small rivers of Ukraine	Uli Gromovoy str, 10, 03037, Kyiv	Maksimchuk V.L.

### IV.3. Existing and planned EIA/SEA related educational programs

OVOS and SER procedures are well covered within the curricula of the institutions of higher education in Ukraine. However, their contribution to the increased knowledge dissemination on SEA is rather limited. In spite of wide use of the terms ‘strategic assessment’, ‘strategic approach’,

and ‘strategic analysis’, the interpretation of these terms is does not always correspond with their meaning in the SEA Protocol.

OVOS and SER are currently taught from the point of view of regulative acts in technical institutions. OVOS and SER procedures are taught under the framework of *environmental management*, *environmental legislation* and other courses in academic institutions. List of specialties approved by the *Ministry of Education and Science of Ukraine* does not contain the degree corresponding to the western curricula of Bachelor or Master in the field of environmental assessment (BSc, MSc in Environmental Impact Assessment, Strategic Environmental Assessment). Therefore, this is the area with significant potential and need for the further development in Ukraine.

## **V. Past, ongoing and planned initiatives to build SEA capacity in the country**

### ***V.1. Key planned activities supporting the SEA implementation/ratification***

The government action will be based on the requirements of the *Law on International Agreements of Ukraine*. Article 18 of the Law states that in case that it is necessary to adopt laws, presidential orders, or decrees of ministerial cabinet in order to meet requirements of international agreement, respective ministers or other executive organs, have to, in accordance with the Ministry of Justice of Ukraine, submit the suggestions to adopt the corresponding act. Therefore the respective ministry, in our case the Ministry of Ecology and Natural Resources of Ukraine, is expected to:

- Prepare suggestion to adopt new regulative acts;
- Agree on them with the Ministry of Justice of Ukraine;
- Submit them to the Verkhovna Rada (Parliament) of Ukraine where they are subject of the approval procedure.

In case when regulative acts get approval by the profile committees, they are submitted for the consideration to Verkhovna Rada in order to be adopted simultaneously with ratification of an international agreement (the latter requirement is set in the item 8, Article 7 of the indicated Law). The scheme mentioned above is established by the Regulation on the Ministry of Environmental Protection of Ukraine and approved by the Order of the President from 10 February 2004. The item 23 sets that the ministry that is implementing requirements of international agreement in the field of environmental protection takes part in the preparation process and implementation of the international agreements in Ukraine, coordinates activities of central executive bodies, in order to facilitate the process of meeting the obligations set by international agreements in areas related to the jurisdiction of the ministry.

In order to comply with the SEA Protocol, thus to aim for environmental, as well as human health protection, MoEP of Ukraine has to coordinate the preparation of regulative acts with the Ministry of Health Protection, though human health protection does not fall currently under the jurisdiction of the MoEP of Ukraine.

Ukraine is a signatory to the *Aarhus Convention on Access Information and Public Participation in Decision Making and Access to Justice in Environmental Matters*. This creates a solid basis for public involvement into SEA process required by the SEA protocol, taking into account that several

internationally funded as well as local initiatives take currently place in Ukraine in the field of the Aarhus Convention implementation and capacity building.

## ***V.2. Description of past or ongoing donor assistance programs***

Several projects on environmental assessment with an application of western methodology have been implemented in Ukraine. The examples of such projects are given below:

- Ukrainian-American project on environmental impact assessment of the Pasichanskoe oil-gas condensate field development, located at the territory of Ivano – Frankovsk region. About 50 scientists and specialists in the field of environmental protection in Ukraine worked at this project during 1998-2000 years. The consulting group from the U.S. Environmental Protection Agency has been involved in the project realization.
- It has been suggested, upon completion of the demonstrating project of EIA of the Pasichanskoe oil-gas condensate field development, to carry out an analogical procedure for the construction of the new ash-and-sludge burrow of the Burshtinskaya heat power plant. This project has already been realized without U.S. EPA support.
- The project “Development of the National System of Environmental Assessment”, implemented by the EIA-Centre of the Kharkiv Karazin National University with support of the international “Renaissance” Foundation.
- The project on environmental impact assessment of the new landfill at Vyskochkovy valley in Kharkovskaya region; This project has been implemented by the Ukrainian Scientific Research Institute for Ecological Problems, and supported by the European Bank for Reconstruction and Development.
- The Global International Waters Assessment project; The strategic assessment of the territories around the Black, Caspian and Aral seas watershed, implemented by the Kharkiv National Academy of Municipal Economy under the support of United Nations Environmental Program (UNEP).
- Preparation of the publication “Relevant Issues of the International Environmental Law”, containing SEA chapter, as the part of the project of Partnership Program of the Universities and Colleges of the New Independent States (Bureau on Educational and Cultural Affairs of the US State Department), Oregon University in collaboration with Lvov State University and non-governmental organization EcoPravo-Lvov;

Though the projects mentioned above applied the methodologies for environmental impact assessment (EIA) utilized in whole Europe, they dealt only with assessment at the project level. However, they shall be considered as methodological and scientific base and a potential for the national capacity development in terms of SEA national system establishment.

## ***V.3. Description of NGO, consultancy and academic programs***

A number of SEA-related studies are being carried out in Ukraine but these studies do not correlate with each other and level of cooperation among stakeholders is quite low. The respective studies are listed below:

- Research on SEA application at the regional level, in the area of alternative energy development currently conducted at the Kharkov Karazin National University, the Department of Geographical Monitoring and Nature Protection.
- Project with the aim to amend the state constructive norms of Ukraine by the group consisting of town planning and environmental organizations representatives; the idea is to integrate SEA procedure into the norms.

- Preparation of the methodological manual “Recommendations for the Development of OVOS Materials according to A.2.2-1-95 (DBN A.2.2-1-2002), by the Regional Environmental Centre of Ukraine;
- Several sustainability appraisals, involving SEA elements, of regional development plans for administrative units of Ukraine carried out by MSc students from the Department of Environmental Science and Policy, Central European University (CEU; under supervision of Dr. Aleg Cherp);
- Research on the possibility of wide scale public involvement in the SEA procedure currently carried out by the network of environmental non-governmental organizations “EcoPravo”;

## **VI. Recommendations for the most effective focus of the UNDP and the REC project**

Considering the limited resources and available local potential, the following capacity building activities were identified and prioritised (listed in the descending order):

- ***Pilot projects*** - SEA of a specific plan or program; The pilot project is identified as a priority since it can serve as informational base, methodological test-bench and instrument for the development of national capacity needed for all other suggested types of activities. Plan/program for the pilot project has to be identified after consultations with central or regional authorities responsible for the SEA Protocol implementation. In particular, the program regulating development of a priority industry sector could be used as a testing case.
- ***Comprehensive study*** of a specific case: preparation of the accessory materials, workshops and trainings, manuals based on the international practice and knowledge but adapted to the national systems; Comprehensive analysis of the completed pilot project implemented in the previous stages the development of previous type of activity; It should be considered as the demonstration project;
- ***Development of national guidelines*** (specifying the SEA approach, the methods which can be applied, etc.); This type of activity is extremely needed but its efficiency would increase if it will be based on some national experience;
- ***Development of training material and training of trainers***; Some preliminary national experience would be beneficial;
- ***Promotional campaign*** (brochures, leaflets, website creation, etc.) to explain SEA to key policy and decision-makers and administrators.

## **VII. Level of consultations with environmental and health authorities and with the public during the planning and SEA process**

According to Ukrainian legislation, it is not required to cover health issues and to consult with health authorities within ecological review procedure. Human health protection issues are being addressed within the frame of sanitary-hygienically review in Ukraine.

**Table 4. Public participation in accordance with current norms of environmental assessment**

Public participation in the current environmental assessment provisions (OVOS or SER)					
SF planning + programming stages	SEA process steps	Consultations with environment and health authorities		Public access to information and consultations	
		<i>Legally required</i>	<i>Applied in practice</i>	<i>Legally required</i>	<i>Applied in practice</i>
Pre- investment studies	Preliminary assessment of impact on environment.	-	-	-	-
	Writing a statement of intentions	-	-	-	-
	Preparation of ToRs for OVOS as part of a feasibility study	-	-	-	-
	Preparation of OVOS materials as a component of feasibility study. Writing the environmental impact statement.	-	-	+	+
	Ecological evaluation of OVOS materials. Passing on the environmental impact statement.	-	-	+	+
Designing	Finalizing ToRs for OVOS as a component of project ToRs if feasibility study or town planning decisions were changed.	-	-	-	-
	Finalizing OVOS in accordance with changed ToRs.	-	-	-	-
	Ecological evaluation of finalized OVOS materials.	-	-	-	-
Construction	Adjustment of OVOS materials if manufacturing, construction and installation techniques are changed and are damaging to the environment.	-	-	-	-
	Implementation of measures identified by OVOS.	-	-	+	+
Operation	Assessment of the efficiency of environmental protection measures identified by OVOS. If required OVOS materials are finalized.	-	-	-	-