



Round table on results of national legal review on “Legal Implementation of the Protocol on SEA in Azerbaijan”

28th of August in 2014, Baku,

st. J.Jabbarli 43, Caspian Plaza, Conference hall

Round-table is organized by the Ministry of Ecology and Natural Resources of Azerbaijan, the United Nations Economic Commission for Europe and the Regional Environmental Center Caucasus Branch Office in Azerbaijan in the framework of the EU program “Greening Economies in the Eastern Neighborhood” (EaP GREEN).

The event was the first tier of the Workplan activities of Espoo Convention for 2014-2017 which was agreed during the 6th session of Meeting of the Parties on 2-5 June 2014 in Geneva, Switzerland.

The aims of the event were:

- to discuss the Draft Report ‘Review of national legislative and institutional structures vis-a-vis the Protocol on Strategic Environmental Assessment (SEA) in Azerbaijan’
- develop recommendations to further support Azerbaijan in its efforts to strengthen national legislative framework and capacities for application of SEA.

The Report was prepared by the UNECE consultant **Mr. Andriy Andrushevich**, with the support of **Mr. Jerj Jendroska**, the member of the Espoo Convention Implementation Committee.

The report briefly presents the requirements of the Protocol on SEA, summarizes national strategic planning system, environmental assessment system, and provides stakeholders’ analysis. It further reviews the Draft Law on EIA vis-a-vis the SEA Protocol and presents recommendations on how to better align the Draft Law with the requirements of the Protocol and relevant EU legislation. Report was distributed among the governmental authorities and some stakeholders for comments.

Representatives of sectoral Ministries, local authorities, members of the Parliament and other stakeholders, such as NGOs, consultants, private sector representatives took part at the event (see the list of participants. Annex 1) and provided comments to the Draft Report. Meeting was also attended by **Mr Jeroen Willams**, the Head of Operations Section of the EU Delegation and **Mr. Parviz Rustamov**, the manager of environmental projects portfolio. **Mr. Tomas Pallo**, international consultant on Integrated Environmental Permitting system for Eastern Europe, Caucasus, and Central Asia by the Organization for Economic Co-operation and Development (OECD) was also invited to take part in the round table.

First round of discussions began with the speeches. Mr. Teymur Shakaraliyev, the Head of Law Department of Ministry of Ecology and Natural Resources, Ms. Aysel Babayeva,

senior advisor of State Ecological Expertise Department of MENR and a focal point under the Espoo Convention and **Ms. Elena Santer**, EaP GREEN Project Manager at the UNECE Espoo Convention Secretariat welcomed the participants. They emphasized the importance of the strategic environmental assessment as a tool incorporation of environmental considerations into economic development of the country.

Mr Jeroen Willams, the Head of Operations Section, from European Commission also greeted the participants and outlined EU activities to support Azerbaijan in development of environmental policy as well as EIA and SEA. He further highlighted the benefits of such activities for Azerbaijan.

Ms. Elena Santer presented the **UNECE Protocol on Strategic Environmental Assessment to the Espoo Convention**. She provided general information about the Protocol, its aims, outlined SEA procedure and SEA benefits. She further presented **technical advice and capacity-building activities carried out by the secretariat within EU Programme ‘Greening Economies in Eastern Neighbourhood’ (EaP GREEN) to facilitate accession of Azerbaijan to the Protocol**. The EaP GREEN activities include: Legislative review of SEA (June – October, 2014), Legislative review of EIA (May, 2014), possible assistance to legal drafting for SEA and EIA (autumn 2014), implementation of a pilot project in renewable energy sector (November 2014 – June 2014), series of SEA training events throughout 2014-2016, development of national guidelines on EIA and SEA in 2015-2016 and participation of the national experts at the subregional experience sharing events in Czech Republic (2014), Georgia (2015) and Ukraine (2016).

Ms. Aysel Babayeva, the national focal point to the Espoo Convention from Azerbaijan, introduced on **Legal and Institutional Framework for application of SEA Protocol in Azerbaijan**. She also highlighted existing problems and the ways to address them. Ms. Babayeva presented the requirements of the Protocol on SEA in the great detail. She outlined SEA steps and the key legal and institutional requirements for implementation of SEA procedure at the national level and existing gaps in the national legal and institutional frameworks. She described opportunities for public participations within SEA system and needs for developing national experience in application of SEA in Azerbaijan. She noted that despite absence of legal base for application of SEA in national level, several pilot projects created national good practice. For example, in 2014 **SEA Report on “Regional Development plan of Great Baku” was prepared by State Committee on Architecture and City Planning**. The Report submitted to the State Environmental Expertise Department (SEED) of Ministry of Ecology and Natural Resources. SEED considered the Report as the first good experience.

Ms. Elena Santer provided a presentation **“Transposition of the requirements of the Protocol on SEA and the SEA EU Directive into the national legislation - European experience and good practice”** on behalf of Mr. Jerzy Jendroska who could not attend the meeting for some personal reasons. She stressed that the role of the national authorities is crucial for (a) ensuring the quality of the SEA report, (b) providing opportunities for public participation, and (c) for ensuring that SEA recommendations are taken into account during final decision.

Mr. Amin Mammadov, from the State Committee of Architecture and City Planning presented practical experience in application of SEA during development of the Regional Development Plan of Great Baku. He highlighted that the SEA process carried out within this pilot project was based on the World Bank guidelines and requirements and presented the results of the SEA, including identified and mapped environmental impacts. He noted that the Regional Development plan for the Great Baku was a great attempts to assess the development priorities in

a holistic and systematic manner. The proposed alternatives were considered and taken into account.

Mr. Andriy Andrusevych presented Draft Report on review **of the legislative and institutional frameworks for application of the SEA Protocol in Azerbaijan**, introduced results of the gap analysis of the national legislation vis-à-vis the Protocol on SEA and key **conclusions and recommendations**. The participants were invited to provide inputs to the gap analysis and comment on the findings and recommendations of the Draft Report.

During the following discussion Mr. Andriy Abdrusevych addressed current status of the strategic planning system, which is based on the Constitutional Law on Normative Legal Acts. He also raised the issue of ecological expertise of strategic documents by MENR (on the basis of Environmental Protection Law, VIII item, Article 54). The Article 54 refers to plans and programmes as the subject of State Ecological Expertise and suggested that perhaps it would be appropriate to apply state ecological expertise process not to plan and programs as such, but to the SEA reports of these strategic documents. To this end, MENR should consider to make some amendments to the existing legislation and improve the Draft Law on EIA.

The participants also discussed the level of detail that should be covered by the Law on EIA. The legislative technique of Azerbaijan provides that the main laws have only a framework nature. Detailed procedures are described in bylaws or legal acts that have similar legal power as the main laws.

Mr. Shamil Huseynov, representative of Parliament who was engaged to the preparation of Draft EIA Law, welcomed the work of the UNECE experts and commented on the Review Report. He requested the UNECE to assist Azerbaijan in preparing concrete text proposals for amending the draft law based on the recommendations of the Review. Further, **Mr. Shamil Huseynov** advocated for developing by laws on detailed EIA (including in atransboundary context), SEA, SEE and public participation procedures. He stressed that according to the Constitution of Azerbaijan and in absence of the detailed national procedures the Espoo Convention has to be directly applied.

In conclusion, **Ms. Elena Santer informed that** the UNECE experts will take the obtained comments into account and finalize the report by the end of September 2014. She confirmed that the UNECE will organize a meeting between the authors of the Draft Law and the UNECE consultant to clarify the requirements of the Espoo Convention, the Protocol on SEA and develop text proposals to the Draft Law EIA to ensure its full compliance with the two treaties.

Mr.Teymur Shakaraliyev expressed gratitude to the UNECE Espoo Convention Secretariat and the EU EaP Green Program for supporting Azerbaijan in developing the EIA legislation and acknowledged the useful contributions from the UNECE staff and consultants. .