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Strategic environmental assessment and its benefits

Seminar for sectoral planning and management authorities

EaP GREEN Programme

(Greening Economies in the Eastern Neighbourhood)

10 June 2015, Kyiv, Ukraine

Report

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1. Background

Strategic Environmental Assessment (SEA) promotes sustainable development by mainstreaming environment into economic development at national and local levels. SEA is a well-established, practical and efficient planning and environmental governance tool/system set out in the United Nations Economic Commission for Europe (UNECE) Protocol on SEA to the Convention on Environmental Impact Assessment (EIA) in a Transboundary Context (Espoo Convention). It ensures that development plans in key sectors such as energy, water and waste management with likely significant adverse environmental impacts are prepared taking into account environmental (and health) considerations. SEA, in particular, allows for the identification of the most sustainable and cost-effective strategic development alternatives for attracting new investments and for improving its environment. SEA can also help strengthening the country's environmental governance through fostering transparency and consultation with relevant stakeholders and the public prior to the approval of plans and programmes. SEA in a transboundary context can also facilitate regional cooperation on environmental matters.

Ukraine has been preparing to become a Party to the Protocol on SEA by developing its national legal framework on SEA since early 2009. To this end, the UNECE assisted Ukraine in building capacities and promoting the draft legal framework on SEA within the framework of the EU Funded programme 'Greening Economies in the Eastern Partnership' (EaP GREEN) project. However, to facilitate efficient implementation of the legal framework a number of practical obstacles remain unaddressed, including:

- (a) Low level of awareness about SEA and its benefits among national planning authorities;
- (b) Lack of understanding of the roles and responsibilities of the various stakeholders in the SEA procedure;
- (c) Weak national capacities and absence of specific guiding documents on practical application of SEA.

To address these obstacles the Ministry of Ecology and Natural Resources of Ukraine requested UNECE Secretariat to support organise three back-to-back events to raise awareness on SEA among the key governmental authorities, including:

- Event 1: Seminar for sectoral planning and management authorities (10 June 2015);
- Event 2: High level round-table on benefits of introducing SEA in Ukraine (11 June 2015);
and
- Event 3: Workshop on practical application of SEA for environmental authorities (12 June 2015) to discuss the need for national guidance documents.

This Report summarizes proceeding and the conclusions of the first event for the sectoral planning and management authorities.

The seminar was organized by the Ministry of Ecology and Natural Resources of Ukraine in cooperation with the UNECE in Kyiv on the June 10, 2015. The event was open for the representatives of sectoral ministries and authorities, in particular those responsible for economy, industry, energy, transport, agriculture, tourism, mining, forestry, and health, as well as the representatives and specialists from civil society organizations, donor agencies/international financial institutions, and environmental authorities.



2. Workshop proceedings

Ms. Natalya Trofimenko, the head of the strategic planning department of the Ministry of Ecology and Natural Resources of Ukraine opened the workshop emphasising the SEA legislative developments in Ukraine. Ms. Elena Santer, UNECE Secretariat to the Espoo Convention and its Protocol on SEA, welcomed participants on behalf of the UNECE secretariat to the Espoo Convention and its Protocol on SEA. She emphasised that the aims of the workshop included: (a) raising awareness among the sectoral planning and management authorities about SEA as a tool for incorporating environmental considerations into the economic and sectoral planning practices, (b) discussing roles of sectoral authorities in the SEA process, and (c) providing a platform to discuss the new draft Law “On strategic environmental assessment”, which has been prepared to transpose provisions of the Protocol on SEA to the Espoo Convention and the EU SEA Directive (2001/42/EC) in the legal system in Ukraine. Ms. Santer pointed that the workshop was designed as a series of the presentations to be followed by facilitated discussions and invited the participants to prepare questions for the discussion part.

After introduction of the participants, Ms. Santer presented the history and the provisions of SEA Protocol and provided information about the EaP GREEN programme and its activities.

Mr. Martin Smutny and Ms. Maia Gachechiladze-Bozhesku, UNECE international consultants on SEA, presented main principles of efficient SEA practice, its potential benefits and expected costs. Mr. Sergej Vyhrst, Key Expert of the EU project “Complementary support to the Ministry of Ecology and Natural Resources of Ukraine for the Sector budget support implementation”(SBS project), introduced the key requirements of the draft law of Ukraine on SEA.

The experts presented the key aspects of practical application of SEA in various economic sectors and provided illustrations of the SEA benefits. The discussion was focused on guiding principles for efficient SEA practice as well as on the role of planning agencies in SEA process (both generally and considering the provisions of the draft SEA Law of Ukraine).

After the coffee break, two best practice examples on application of SEA were presented: the SEA of the energy development program in Estonia until 2020 by Ms. Lyubov Gornaya, international expert in environment reporting and environmental economics, and the SEA in territorial development planning in the Czech Republic by Mr. Martin Smutny, international consultant on SEA.

The afternoon session of the agenda included an introduction to typical steps of the SEA procedure and a follow-up discussion on the role of national authorities in the SEA process (Mr. Martin Smutny and Ms. Maia Gachechiladze-Bozhesku, international consultants on SEA), the presentation of the strategic planning system in Ukraine and ways to integrate SEA into it (Ms. Natalya Trofimenko, Ministry of Ecology and Natural Resources of Ukraine). Mr. Gennadiy Marushevskiy and Ms. Oksana Aliyeva, Environment consultants of the project “Building Capacity in Evidence-Based Economic Development

Planning in Ukrainian Oblasts and Municipalities”, shared their experience in SEA implementation in Ukraine on the example of the SEA for the Dnipropetrovsk Oblast Development Strategy until 2020.

The concluding discussion was facilitated by Ms. Elena Santer. The notes from all discussions during the day are summarized in Section 3 of this Report, while the detailed agenda is provided in Annex I.



3. Summary of discussion and main conclusions

The participants demonstrated high interest in the subject of the seminar, asked numerous questions and actively engaged in the discussions after each presentation. In particular, the participants reflected on information provided regarding the SEA procedure according to the Protocol and lessons learned from the SEA application in the EU countries and the pilot SEA in the Dnipropetrovsk Oblast. Discussions addressed the practical aspects of implementing the draft Law of Ukraine on SEA. The following issues were raised and discussed:

- **Role of SEA**

The participants expressed their interest in understanding the role of SEA in different contexts. Based on the inputs by the UNECE international SEA experts and legal experts from the SBS project the participant debated about the extent to which SEA might influence decision-making in Ukraine. It was clarified that SEA is a tool for supporting informed decision-making, rather than a final decision *per se*. Thus, the participant understood that the planning authorities in Ukraine will hold the responsibility for making that final decision on the adoption of a certain strategic planning document using the results of SEA.

- **How to conduct SEA under the Law**

The participant expressed a need for a Guidance or another methodological document to be produced and adopted by the Ministry of Environment for a) the environmental authorities; and b) for the sectoral authorities involved in the preparation of plans and programmes. The guidelines should present the approaches to SEA, main principles of efficient practice as well as elaborate on methods and tools to be employed during the assessment. It was also suggested that a procedural 'Road-Map' for planning authorities should be developed either separately or within the guidance, which would clearly describe practical arrangements for SEA process.

- **Thresholds for adopting strategic documents**

The participants discussed if there were or would be any thresholds set in the legislation that would allow them to determine whether a certain plan or programme could be safely adopted and implemented without harming the environment. The international SEA experts and legal expert provided clarifications on determination of significance of environmental impacts. It was concluded that for some environmental aspects (e.g. air quality or noise levels) the thresholds and limits exist in the national regulations and standards, and can be relatively easily quantified and used in SEA (e.g. NO_x level should not exceed 50µg per m³); whereas other areas, such as social and biodiversity, would require a case-by-case consideration.

- **Criteria for assessing significance**

Some of the participants argued that clear significance assessment criteria should be established that would allow them to assess which effects are in fact significant. Given the recommendatory nature of the SEA process in Ukraine, defining such criteria would be important to make SEA effective. During the debate it was concluded that taking into account the current edition of the draft SEA Law, the determination of strictly formulated criteria for identification of significance of environmental impacts might add limited value, as SEA is not a state permitting tool and the final decision is taken by planning authority.



- **Screening in SEA**

The participants compared the SEA process required by the SEA Protocol, SEA Directive and draft SEA Law of Ukraine. They observed the differences between the screening procedures. The legal experts explained that the SEA Law of Ukraine did not envision a screening *per se*, rather all strategic documents would be subject to SEA (with several legally determined exemptions), if they would comply with the conditions set out in the Law. It was argued that such an approach would minimize the dependency of the SEA process on subjective judgments and would not allow some strategic documents to avoid assessment. Some of the participants agreed with this stand, others advocated the screening approach specified in the international SEA treaties. It was also assumed that several pilot applications of SEA in Ukraine would help assessing the effectiveness of the approach proposed in the SEA Law, and further revisions can be made later, as needed. The international SEA experts pointed out that too many SEAs – especially for the local plans and amendments of plans and programmes – can be very demanding for entire governance system – and proposed further consideration of screening scheme in SEA procedure. They also suggested that a simple screening form can be employed, which would help to the planning authorities to decide if SEA is needed or not for a given plan (such approach is used e.g. in Croatia, the newest EU Member State).

- **Transboundary consultations**

The representative of the Republic of Moldova presented Moldova's experience with developing legal provisions on transboundary consultations in the SEA process. Participants discussed the timeframe needed by affected parties to collect and return their comments on the SEA report to the country of origin. In particular, they deliberated on what the sufficient time period for the transboundary consultations is and whether 30 days are enough. Drawing on the experience in implementing the Espoo Convention, the participant suggested that bilateral negotiations should be held between neighbouring countries to reach agreements on the procedural aspects of a transboundary SEA (time schedule, additional costs, language etc.).

- **Quality assurance of SEA report**

It appeared to be unclear who should be responsible for assuring and reviewing the quality of SEA reports. During the discussion it was assumed that the quality assurance should rest with the planning authority responsible for preparation of a plan or a programme. The participants debated about who should review the quality of the SEA report, but could not reach consensus. The developers of the draft SEA Law advocated for the planning authority to be responsible for preparing a strategic planning document and its quality assurance; whereas some of the participants from the environmental authorities believed that it should be the function of the Ministry of Ecology and Natural Resources (which again brought about the issue of capacities and funding). Overall, it was concluded that more discussion might be needed in this regard, despite the fact that public hearing and public consultations on the draft SEA Law were already completed.

- **Consideration of comments**

The participants expressed concerns about comments on the SEA report provided by environmental and health authorities, other stakeholders and the wider public were not considered in the SEA report and, more importantly, in the final strategic planning document. The authors of the draft SEA Law envisioned that the responsible planning authority would review the comments and prepare the explanation on how the comments are addressed and justifications for rejections. This explanation / justification note should be disclosed to the



public via dedicated Internet pages. The unjustified non-consideration of the comments would classify as the breach of the SEA Law.

- **Insufficient capacities of the local / regional planning authorities**

The participant of the workshop stressed that local and sub-national planning authorities have insufficient human and financial resources to carry out SEAs, while environmental and health authorities are also weak and yet unable to comment on SEAs conducted by others. The participants proposed to consider creating a regional body for managing those issues, envisioning a dedicated line in the state budget, launching a state procurement procedure to select a SEA consultants, etc.

- **Ukrainian SEA consultants / approved SEA consultants**

The participants expressed the need to have a list of organizations in Ukraine that would be able to conduct SEA and thus could be contracted by planning authorities. The representative of the Spatial Planning Institute reported that spatial planning, especially urban planning documents, had always deployed an integrated approach to planning, where social and environmental factors had been considered. She expressed a need to assess a feasibility of providing the Institute with responsibility to conduct SEAs of spatial plans. The Ministry of Ecology and Natural Resources of Ukraine will consider this proposal. The international SEA consultants pointed out that it is really important to discuss 'share' of tasks between planning and SEA process in order to avoid duplication of analyses, consultations etc. Such integration of planning and SEA processes should be in general terms stipulated by the law and/or guidelines, while for specific SEA case it needs to be determined at the scoping stage.

- **Strategic planning system in Ukraine**

According to the discussion, there is no uniform strategic planning system in Ukraine. Strategic planning documents are developed and adopted as considered needed by various authorities. At the same time, two by-laws exist that align the planning system with the corresponding EC regulations (the Ministry of Economic Development is in charge of this issue). In practical terms, most strategic planning documents, especially at regional and municipal levels, are prepared with support of donors' funding. These strategic documents are adopted, but due to the limited budgets are, in the best case scenario, only partially implemented.

- **Lack of information for SEA**

The participants observed that there might be insufficient information and data to enable preparation of baseline analysis and impacts evaluation under SEAs. The international SEA consultants pointed out that although it may be a problem in particular cases, it can be partially solved by different levels of detail and approach to the assessment. In other words, for environmental aspects where data are available, the analyses can be quantitative and detailed, while for other issues the evaluation can be based mainly on qualitative description and expert judgment (however properly substantiated by explanation, examples from other countries etc.). They also proposed that consultations with relevant stakeholders can be used to get additional data and information and/or to verify that analyses performed within SEA are correct.

4. Next steps

During the final discussion, the participants concluded that practical application of SEA is one of the priority activities to support introduction of SEA in Ukraine. For example pilot projects is one of the most efficient ways to develop SEA practice in the country (as e.g. experience from Moldova shows). Therefore, the efforts should be made to identify a potential pilot i.e. strategic document, which could be a subject of SEA. Such a pilot SEA would serve both as a further capacity building (i.e. the workshops and trainings would be organized based on the real SEA analysis) as well as it would provide an opportunity to ‘test’ the draft SEA Law.

The energy, waste, agriculture and spatial planning sectors were mentioned at the workshop as potential ‘candidates’ for SEA pilot. The UNECE Secretariat will initiate communication with relevant authorities in Ukraine to elaborate on this issue further. The Secretariat concluded that the other EaP GREEN activities in Ukraine will be specified after the follow-up discussions regarding SEA pilot.

The representatives of the Ministry of Ecology and Natural Resources emphasised that Ukraine would appreciate to check the compliance of the draft SEA Law with the EU SEA Directive. The options for conducting this review within the EaP GREEN will be further investigated by the UNECE Secretariat.

5. Workshop evaluation

Workshop participants evaluated the quality of the workshop by filling in UNECE feedback forms. In total 14 questionnaires were completed and analysed. The summary of the results is presented below (for the complete overview of results see Annex 2). The overall evaluation of the event by the participants was positive, including the format of the meeting, presentations materials, discussions, venue and general organization of the event. See Figure 1 below for further details.

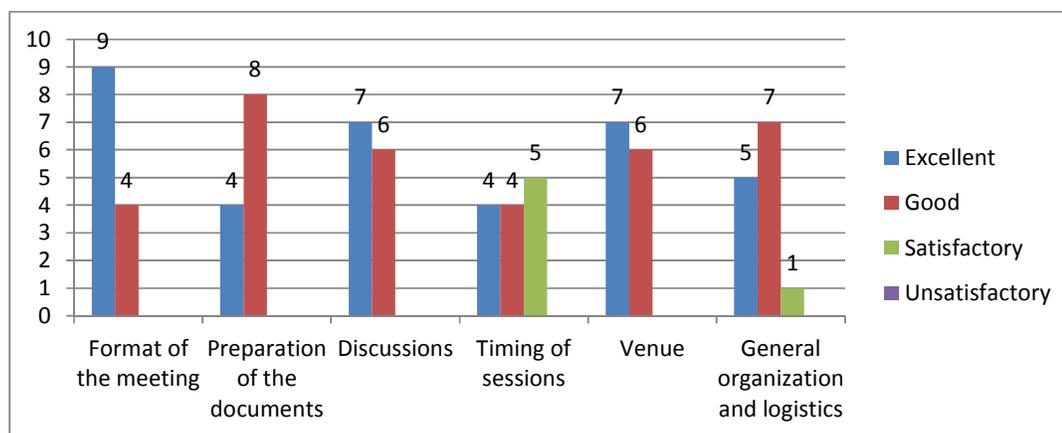


Figure 1 Overall Impression of the Seminar

The participants were invited to assess the usefulness of the Seminar. This assessment has brought about the following results:

- 12 out of 13 participants found the seminar to be useful to them in the professional context; 1 person reported that the seminar was partially useful;



- 10 out of 13 participants reported that they obtained new knowledge on the issues related to the Espoo Convention and its Protocol; the remaining 3 people gained partially useful information on the matter; and
- 11 out of 13 participants reported that the seminar allowed them to enhance their contacts or established new contacts with colleagues; the remaining two participants reported that the seminar was partially useful in this regard.

The detailed evaluation of the results is presented in the Annex 2.



Annex 1: Agenda of the seminar



Strategic environmental assessment and its benefits

Seminar for sectoral planning and management authorities

10 June 2015

Hotel Rus, 4 Hospitalna Str., Kyiv 01601, Ukraine

AGENDA

The aim of the seminar is to raise awareness among the sectoral planning and management authorities about the strategic environmental assessment (SEA) procedure, which is a tool for improving sectoral planning, as well as about their role in this process.

The participants of the seminar will be familiarized with the European cases of SEA application in different economic sectors and the benefits of SEA. They will discuss the roles of various stakeholders in the SEA process and the necessary measures for implementing SEA in Ukraine once the new draft Law "On strategic environmental assessment" has been adopted. The new law will require that SEA be conducted in compliance with the provisions of the Protocol on SEA to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the EU SEA Directive (2001/42/EC).

During the seminar, particular attention will be paid both to the concept of SEA and to the system of strategic planning in Ukraine. Therefore, sections devoted to the national system of strategic planning and examples from planning processes applied by sectoral ministries are important part of the seminar agenda. The event will gather up the representatives of sectoral ministries and authorities, in particular those responsible for economics, industry, energy, transport, agriculture, tourism, mining, forestry, and health, as well as the representatives and specialists from civil society organizations, donor agencies/international financial institutions, and environmental authorities.

The seminar is organized by the Ministry of Ecology and Natural Resources of Ukraine, together with the United Nations Economic Commission for Europe (UNECE) within the framework of the European Union (EU) funded Programme "Greening Economies in the Eastern Neighbourhood" (EaP GREEN).



09:00-09:30	Registration of the participants
09:30- 09:45	<p>Welcome addresses</p> <p><i>Mr. Sergej Kurykin, Deputy Minister of Ecology and Natural Resources of Ukraine</i></p> <p><i>Mr. Alexander Klitko, Delegation of the EU Commission in Ukraine</i></p>
09:45-10:00	<p>UNECE Protocol on SEA Technical assistance within the EU-funded EaP GREEN Programme</p> <p><i>Presentation (10 min)</i> <i>Ms. Elena Santer, UNECE Secretariat to the Espoo Convention and its Protocol on SEA</i></p> <p><i>Questions and answers (5 min)</i></p>
10:00-10:30	<p>SEA: main principles of efficient practice, role of sectoral authorities, and potential benefits of SEA</p> <p><i>Presentation (20 min)</i> <i>Mr. Martin Smutny and Ms. Maia Gachechiladze-Bozhesku, international consultants on SEA</i></p> <p><i>Discussion (10 min):</i></p>
10:30-11:00	<p>Key requirements of the draft law of Ukraine “On Strategic Environment Assessment” (with a focus on practical SEA aspects/steps)</p> <p><i>Presentation (20 min): Sergej Vyhrst, EU project “Complementary support to the Ministry of Ecology and Natural Resources of Ukraine for the Sector budget support implementation”</i></p> <p><i>Discussion (10 min)</i></p>
11:00-11:20	Break
11:20-13:00	<p>Examples of SEA application in EU countries</p> <p><i>Presentations up to 30 min and 15 min discussion per country</i></p> <p>Estonia: SEA of the energy development program in Estonia until 2020 <i>Ms. Lyubov Gornaya , international expert in environment reporting and environmental economics</i></p> <p>Czech Republic: SEA in territorial development planning <i>Mr. Martin Smutny, international consultants on SEA</i></p>
13:00-14:00	Lunch break
14:00-14:45	<p>Typical steps of the SEA process and the role of the environmental authorities in SEA systems in EU</p> <p><i>Presentation and discussion (45 min)</i> <i>Mr. Martin Smutny and Ms. Maia Gachechiladze-Bozhesku, international consultants on SEA</i></p>



14:45-15:00	<p>Strategic planning system in Ukraine and ways to integrate SEA into it</p> <p><i>Presentation (15 min)</i> <i>Ms. Natalya Trofimenko, Ministry of Ecology and Natural Resources of Ukraine</i></p>
15:00-15:30	<p>Experience in SEA implementation in Ukraine: the example of the SEA for the Dnipropetrovsk Oblast Development Strategy of until 2020</p> <p><i>Presentation (15 min)</i> <i>Mr. Volodymyr Perehudov, the Deputy Head of Dnipropetrovska Oblast Council for Executive Staff, the Head of the Strategic Planning and Investment Policy Department (tbc)</i></p> <p><i>Ms. Oksana Aliyeva, Environment consultant, Ukraine Municipal Local Economic Development</i> <i>Discussion (5 min)</i></p>
15:30-15:50	<p>Experience in applying SEA for the investment planning of the EBRD's renewable energy facility in Ukraine EBRD Ukraine (tbc)</p>
15:50-16:10	Break
16:10-17:30	<p>Application of SEA in the key sectors in Ukraine (including energy, agriculture, forestry, transport, mining, urban planning)</p> <p><i>The participants will be kindly asked to briefly describe the planning schemes in their respective sectors</i></p> <p><i>Discussion on how to integrate the SEA process into these existing schemes</i></p>
17:30-17:45	Wrap-up and conclusions

Annex 2: Workshop evaluation

The results obtained from the participants through the questionnaires are presented below in a structure that follows the format of the evaluation questionnaires. In total 13 evaluation forms were collected and analysed. Figures indicate the number of participants giving particular specific answers.

The participants graded the clarity of the presentations provided and discussions held during the key sessions. The results for the first session on SEA ‘Main principles of efficient practice, role of sectoral authorities, and potential benefits of SEA’ are presented in Figure 2. The figure shows that the presentations were clear (7) and absolutely clear (6). Most people found the discussion to be absolutely clear (9 out of 13); the remaining found it clear. Participants emphasised the important role of discussion, i.e., issues that were clear from the presentations became absolutely clear via discussions.

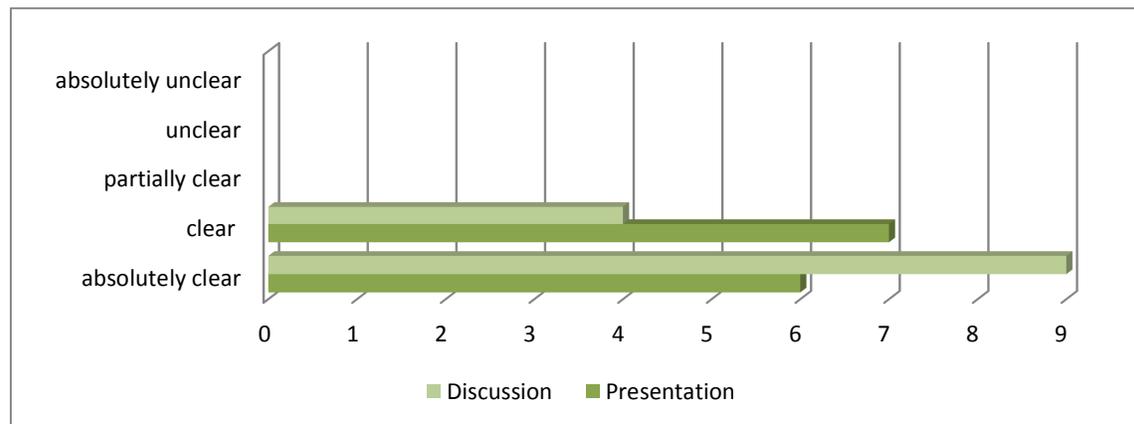


Figure 2 Grading of session “SEA: main principles of efficient practice, role of sectoral authorities, and potential benefits of SEA”

The grading of the session on the key requirements of the draft law of Ukraine “On Strategic Environment Assessment” (Figure 3) showed that 7 participants out of 13 found both the presentation and discussion clear, whereas 5 found both the presentation and discussion absolutely clear. 1 person considered the presentation to be unclear, and 1 person found the discussion to be partially clear.

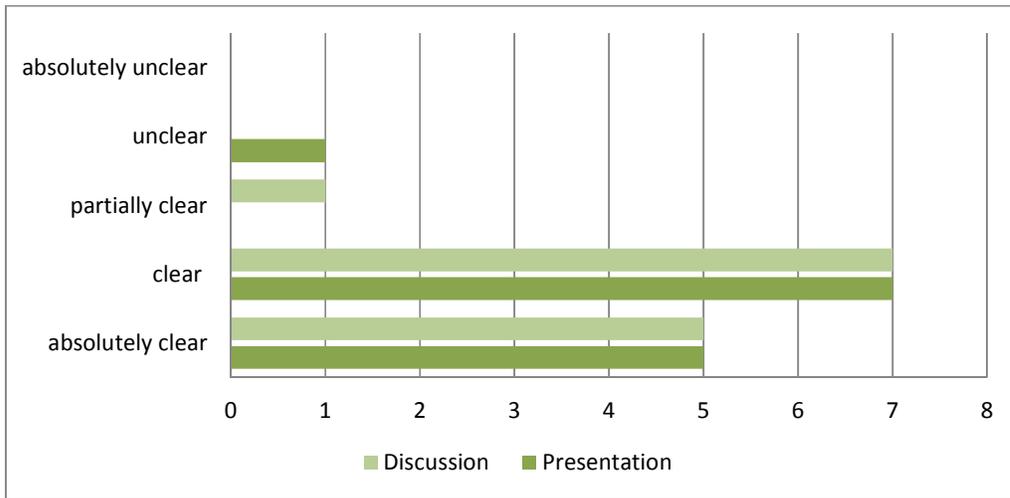


Figure 3 Grading of session “Key requirements of the Law of Ukraine on SEA”

The presentation and discussion within the session on Typical steps of the SEA process and the role of the environmental authorities in SEA systems in EU were found ‘absolutely clear’ by 7 out of 13 participants, and ‘clear’ by the remaining 6 attendees.

Most dispersed answers were obtained in relation to the session on Strategic planning system in Ukraine and ways to integrate SEA into it (Figure 4). About 60% of the participants found the presentation and discussion to be absolutely clear and clear, whereas the rest considered those components partially clear, unclear and absolutely unclear.

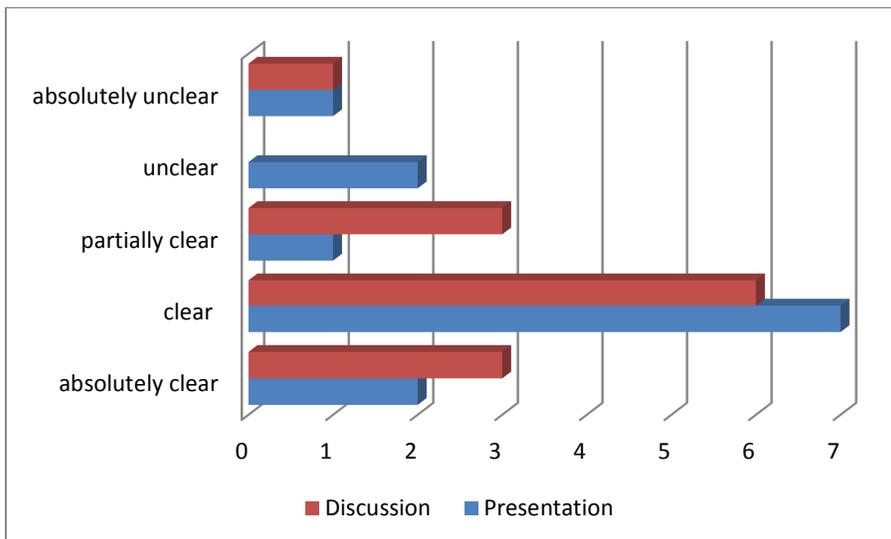


Figure 4 Grading of session “Strategic planning system in Ukraine and ways to integrate SEA into it”

The final session on Application of SEA in the key sectors in Ukraine was graded in terms of discussion and moderation, as there was no presentations envisioned (Figure 5). The discussion was found absolutely clear and clear by 92% of respondents (4 and 8 attendees, respectively); and partially



clear by the remaining 1 participant. The moderation and chairing were reported as absolutely clear by ca. 30% of the participants and the rest (ca. 70%) considered them clear.

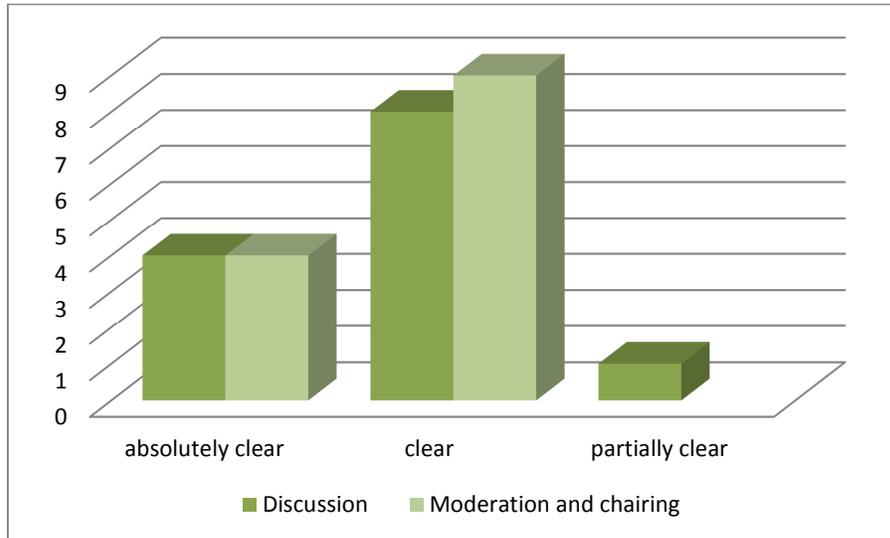


Figure 5 Grading of session “Strategic planning system in Ukraine and ways to integrate SEA into it”

Other comments with regard to the essence of the seminar and its quality included three comments received related to the SEA Law of Ukraine. One of the participants pointed out in the questionnaire that the current edition of the Law on Ukraine on SEA has some gaps that could lead to polysemantic reading and improper application; and therefore, the law needed to be revised and improved. Another comment also stressed that the draft SEA law of Ukraine should be reviewed and more thoroughly prepared. According to the last comment, the floor was given to everybody to participate and thus discussion was really interesting and productive.