



REGIONAL ENVIRONMENTAL CENTER



**Proposed subregional initiatives
to support national strategies
for implementation of the SEA Protocol in
Eastern Europe, Caucasus and Central Asia**

DRAFT FOR CONSULTATION

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The views expressed in this document are those of the authors and do not necessarily represent those of the United Nations, its Member States, UNDP or the REC.

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Abbreviations

EECCA	Eastern Europe, Caucasus and Central Asia
EIA	Environmental Impact Assessment
Espoo Convention	Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991)
IAIA	International Association for Impact Assessment
National strategies	National strategies for implementation of the SEA Protocol
NGO	Non-Governmental Organisation
OVOS	Russian abbreviation meaning Assessment of Environmental Impacts
PER	Public environmental review
REC	Regional Environmental Center for Central and Eastern Europe
SEA	Strategic Environmental Assessment
SEA Protocol	Protocol on Strategic Environmental Assessment to the UNECE Convention on Environmental Impact Assessment in a Transboundary Context
SER	State environmental review
UNDP/RBEC	UNDP Regional Centre for Europe and the CIS
UNECE	United National Economic Commission for Europe

1. Background

This document presents possible subregional initiatives to support national strategies for the implementation of the United National Economic Commission for Europe (UNECE) Protocol on Strategic Environmental Assessment (hereafter SEA Protocol) in Eastern Europe, Caucasus and Central Asia (hereafter EECCA). It was elaborated within the activity *SEA capacity building needs analysis in EECCA* in the workplan appended to decision III/9 of the third meeting of the Parties to the UNECE Convention on Environmental Impact Assessment in a Transboundary Context (hereafter Espoo Convention).

The initiatives build on two sets of documents:

- *National needs assessments for the implementation of the SEA Protocol* in Armenia, Belarus, Georgia, the Republic of Moldova and Ukraine (hereafter the target countries) elaborated by the UNDP and the REC within a project *SEA Promotion and Capacity Development*.¹ These assessments were prepared in 2004 and updated in 2006 to identify the main capacity-development needs for the future implementation of the SEA Protocol. They systematically mapped the legal framework of and practices in SEA in the target countries and reviewed the system, institutional and human capacities for the future implementation of the SEA Protocol. The main outputs and lessons of this project are summarised in a brochure *SEA Protocol: Initial Capacity Development in Selected Countries of the Former Soviet Union*.²
- *National strategies for implementation of the SEA Protocol* in Armenia, Belarus, the Republic of Moldova and Ukraine. These documents were elaborated within an activity *SEA capacity building needs analysis in EECCA* in the workplan appended to decision III/9 of the third meeting of the Parties to the Espoo Convention. No strategy on implementation of the SEA Protocol in Georgia was elaborated within this project, as Georgia instead adopted a *Programme for the period 2005-2009: a framework for future SEA activities*, prepared with the assistance of the Netherlands. The national strategies established capacity-development objectives for implementation of the SEA Protocol, a proposed framework for future donor support for the development of national SEA systems and descriptions of projects suggested for priority funding. At the time of production of this document (August 2006), they were obtaining the necessary national endorsements for their formal submission to the next meeting of the Signatories to the SEA Protocol.

This document is intended to complement and support the national strategies (and Georgia's programme). It aims to facilitate their implementation through an exchange between the target countries of lessons learned in the implementation of the SEA Protocol. The initiatives focus on the five target countries, but the initiatives suggested might be extended to other EECCA countries that are seriously considering accession to the Protocol.

This document also uses experience gained from a subregional EIA/SEA capacity-development programme in South Eastern Europe implemented by Croatia and the REC within the framework of

¹ Sponsored by UNDP and the Environment and Security Initiative (originally established by OSCE, UNDP and UNEP)

² Dusik J., Cherp A., Jurkeviciute A., Martonakova H., and N. Bonvoisin (2006) *SEA Protocol - Initial Capacity Development in Selected Countries of the Former Soviet Union*, UNDP, the REC and UNECE Secretariat to the Protocol on Strategic Environmental Assessment.

the Sofia EIA Initiative in 1996-2003. It is supplemented by a comparative analysis *Capacity Development Needs for Implementation of the SEA Protocol: Regional Overview of Armenia, Belarus, Georgia, Republic of Moldova and Ukraine*³ which was drafted in 2004 and finalised in 2006.

Readers interested in the full set of materials produced by the REC, UNDP and UNECE within their capacity-development activities for SEA in EECCA are referred to www.unece.org/env/sea/eecca_capacity.htm where the following reports are available:

Subregional overviews and briefing papers:

- Capacity Development Needs for Implementation of the SEA Protocol: Subregional Overview of Armenia, Belarus, Georgia, Republic of Moldova and Ukraine
- SEA Protocol: Initial Capacity Development in Selected Countries of the Former Soviet Union
- Proposed subregional initiatives to support national strategies for implementation of the SEA Protocol in Eastern Europe, Caucasus and Central Asia (this document)

National capacity-development assessments for the implementation of the SEA Protocol:

- Country review: Capacity Building Needs Assessment for the UNECE Strategic Environmental Assessment Protocol Implementation in Armenia
- Country review: Current State in the Field of Strategic Environmental Assessment in Belarus
- Country review: Capacity Building Needs Assessment for the Implementation of the UN/ECE Strategic Environmental Assessment Protocol in Georgia
- Country review: Capacity building needs assessment and National strategy for introduction of SEA and implementation of the UNECE SEA Protocol requirements in Republic of Moldova
- Country review: Capacity Building Needs Assessment for the Implementation of the UN/ECE Strategic Environmental Assessment (SEA) Protocol in Ukraine

National capacity-development strategies for implementation of the SEA Protocol:

- National Strategy for Implementation of the UNECE Protocol on Strategic Environmental Assessment in Armenia
- Capacity Development Strategy for Strategic Environmental Assessment in the Republic of Belarus for the Period to 2012
- National Strategy for Implementation of the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context in the Republic of Moldova
- National Strategy for Introduction of SEA and Implementation of the UNECE SEA Protocol requirements in Ukraine

Introduction of SEA in Georgia: Draft Program for the period 2005-2009 and a framework for future SEA activities⁴

³ Jurkeviciute A., Dusik J. and H. Martonakova (2006) Capacity Development Needs for Implementation of the SEA Protocol: Regional Overview of Armenia, Belarus, Georgia, Republic of Moldova and Ukraine, UNDP and the REC.

⁴ Ministry of Environment, Georgia, in cooperation with the Netherlands Commission on Environmental Assessment.

2. Overview of SEA needs assessments in the subregion

2.1. Short overview of the key environmental assessment procedures

Capacity-development needs assessments in the target countries were carried out by in-country consultants in 2004 and 2006 under terms of reference jointly prepared by the REC, UNDP and UNECE. They confirmed that, though national legislation and procedures developed independently after the break-up of the Soviet Union at the beginning of the 1990s, the target countries have similar legislation for environmental assessment. This legislation has changed little over the past 15 years. Environmental Assessment procedures inherited from the USSR have not been reformed as fast or as effectively as in Central and Eastern Europe.

In their legislation, the target countries generally do not distinguish between plans, programmes and projects. By law, all these activities require environmental permitting prior to adoption or approval by legislature or executive authorities. The approval is by a positive conclusion of the State Environmental Review⁵ (SER) committee. Strategic documents have rarely if ever been subject to SER. The requirement to get an environmental permit for strategic documents (mostly regional and local territorial plans and programmes) is satisfied by the preparation of a chapter on environmental protection in the supporting documentation, which may or may not consider the environmental implications of the planned activities. The chapter or the assessment should provide a description of impacts on a prescribed list of environmental objects, though in some countries this assessment is limited to demonstrating compliance with the planning and construction rules and norms.

In all target countries, an Environmental Impact Assessment (EIA) report - referred to as OVOS⁶ - was introduced. An OVOS report has to be submitted to SER together with the project design or planning documentation for approval by the responsible environmental authorities. Since there is no distinction between project and strategic planning in EECCA, the OVOS report is also required for strategic documents. However, the reports for strategic activities are not being produced in practice, even if required by law, due to the lack of methodological guidance.

The environmental assessment systems in EECCA countries have a unique provision for the Public Environmental Review⁷ (PER), which is a voluntary procedure for the public to present their own findings about environmental implications of the planned activities and to appeal against activities during a planning process. Very few PERs have been initiated in the target countries so far, and those conducted have served as a last possibility to stop or modify developments perceived by the public as very harmful to the environment and people. This record of very few PERs has shown the procedure to be ineffective and sporadic. There are even fewer case of PER applied to strategic activities, primarily urban master plans.

The consultation process with relevant governmental (environmental, health and other) authorities in SEA also has its counterpart in the post-Soviet environmental assessment system. Each strategic document has to undergo coordination or consultation with relevant authorities. This process is organised by the developer with short deadlines and is very formal.

⁵ SER is known as *государственная экологическая оценка* (Russian)

⁶ OVOS stands for *оценка воздействия на окружающую среду* (Russian)

⁷ PER is known as *общественная экологическая оценка* (Russian)

All of the previously mentioned procedures (SER, OVOS, PER and consent of governmental authorities) show linkages between environmental assessment in the target countries and the SEA Protocol requirements. However, existing procedures in the target countries are still far from being compliant with the SEA Protocol.

One of the differences that causes the greatest difficulty in understanding the SEA Protocol requirements in the EECCA context is that the clustering of assessment requirements for strategic and project level documentation, and the forced application of environmental permitting to strategic documents, remain in the legislation of many EECCA countries. This negatively influences the development and introduction of SEA procedures that would enable environmental assessment of strategic documents.

A more detailed review of the environmental assessment systems in selected EECCA countries is available in *Capacity Development Needs for Implementation of the SEA Protocol: Regional Overview of Armenia, Belarus, Georgia, Republic of Moldova and Ukraine*.⁸

2.2. Main opportunities and challenges for the implementation of the SEA Protocol in the target countries

The main strengths of the environmental assessment systems in EECCA that can be used in developing SEA systems include:

- elements of SEA in the national environmental laws (laws on nature protection, laws and regulations on environmental reviews, etc.) in the form of state environmental reviews and laws on environmental assessment;
- requirements to assess the impacts of a proposal on the environment, environmental components, and historical and cultural monuments; and
- requirements to ensure sustainable use of natural resources.

The following major weaknesses have been identified within environmental assessment systems in the respective EECCA countries:

Institutional set-up

- Limited capacity of the responsible national environmental authorities to work on Protocol transposition;
- The use of existing environmental assessments as regulatory instruments that are directly managed by environmental authorities and do not presume an active role for proponents of the respective plans and programmes. Such use of environmental assessment contrasts with the “good SEA practice” that presents SEA as an instrument that should be used by the proponents to integrate environmental concerns during the development of plans and programmes;
- Limited openness of planning systems for carrying out assessments and consulting relevant authorities and the public already during the development of plans and programmes.

Procedural and methodological issues

- Uniform environmental assessment procedure for project and strategic-level decision making;

⁸ Jurkeviciute A., Dusik J. and H. Martonakova (2006) Capacity Development Needs for Implementation of the SEA Protocol: Regional Overview of Armenia, Belarus, Georgia, Republic of Moldova and Ukraine, UNDP and the REC

- The lack of methodological guidelines that would support the practical application of SEA by outlining effective procedures and analytical approaches that would meet the requirements of the SEA Protocol;
- The lack of procedures for screening that would trigger an SEA for a proposal with significant environmental effects, and the absence of scoping procedures;
- Limited consideration of alternatives in environmental assessments;
- Limited or no experience in the assessment of impacts on human health (checking only compliance with the sanitary regulations).

Transparency and participation

- Limited awareness of the benefits of public participation in the development of plans and programmes and limited implementation of Aarhus Convention requirements in strategic planning;
- Limited public participation in the OVOS/SER systems and the general weakness of the PER procedure.

3. Summary of national capacity development strategies and action plans for the implementation of the SEA Protocol

The national capacity-development strategies for the SEA Protocol offer a wide variety of capacity-development activities across the target countries. The key activities planned in most of the target countries are summarised in Table 1 below. This overview indicates that most countries opted for activities that cover all aspects of capacity development (system, institutional and human capacities):

- Armenia prioritises activities for improving the legal system and for undertaking pilot SEAs to test proposed approaches and to demonstrate the benefits of SEA.
- Belarus, where the first SEA pilot study provided sufficient lessons for dissemination, plans to focus on awareness raising and on the development of human and institutional capacities for conducting SEA.
- Georgia proposes capacity strengthening in responsible government agencies; implementation of pilot SEAs; establishing SEA legislation and procedures; and training of consultancy firms and knowledge institutions.
- The Republic of Moldova prioritised short-term activities for the implementation of an SEA pilot project, raising stakeholder awareness of SEA benefits and enhancing experts' capacity in SEA. These create a basis for medium-term activity creating a legal system for the implementation of SEA Protocol.
- The Ukrainian national strategy prioritises activities for human-resource development, professional networking of practitioners and pilot SEAs.

Table 1: Proposed national priority activities for implementation of the Protocol in target countries

Types of activities	Armenia	Belarus	Georgia⁹	Republic of Moldova	Ukraine
Development of legal and methodological framework for SEA	Development of SEA guidelines Development of a package of procedures to support implementation of the Law on State Environmental Review	—	Drafting of an SEA law or directive and legal procedure(s)	Creation of a legal system for implementation of SEA Protocol	Development of a legislative and regulatory basis for SEA implementation
Undertaking pilot SEAs	Implementation of 4-5 pilot SEAs in various fields, combined with on-the-job training	—	Carrying out pilot SEAs	Implementation of an SEA pilot project	Undertaking an SEA demonstration project
Training and networking of professionals	—	Enhancing the capacity of professionals for conducting SEA Improving the capacity of key organisations involved in SEA	Coaching an SEA team	—	Introducing SEA into the higher-education system Networking of SEA professionals
Awareness raising in SEA	—	Raising stakeholder awareness of the SEA process and benefits	Awareness raising and training	Raising stakeholder awareness of SEA benefits and enhancing experts' capacity in SEA	—

⁹ The long-term objective of Georgia's draft programme is to implement SEA and not necessarily the Protocol.

4. Proposed subregional initiatives to support implementation of the national capacity-development strategies

4.1. Objective and expected results

The overall objective of the proposed initiatives in this section is to facilitate the implementation of the national capacity-development strategies through sharing lessons learned in various activities to implement the SEA Protocol in the target countries. It aims to promote the open exchange of experience, mutual learning and self-help.

The proposed initiatives target the current signatories to the SEA Protocol in EECCA (Armenia, Georgia, the Republic of Moldova and Ukraine) and those EECCA countries that show a serious interest in accession to the SEA Protocol (e.g. Belarus; other countries may be added once they indicate and confirm strong interest).

This document proposes medium-term initiatives that can be implemented between the first and second meetings of the Parties to the SEA Protocol.¹⁰ However, long-term regional support may be needed to achieve lasting results in the subregion. This document should therefore be treated as a living proposal that can be changed in the future as practical implementation of the SEA Protocol in the EECCA proceeds.

This document proposes three subregional initiatives:

- Initiative 1: Networking of senior government officials responsible for SEA system development
- Initiative 2: Networking of EIA/SEA practitioners in EECCA
- Initiative 3: Subregional capacity-development projects supporting national activities

Implementation of the above initiatives should achieve the following results:

- Improved understanding of practical issues linked to the implementation of the SEA Protocol in EECCA
- Exchange of support materials (e.g. case examples, good practice guidance, research reports, training resource materials, etc.)
- Improved cooperation among target countries in SEA matters and an improved basis for future subregional projects (e.g. new subregional interventions, transboundary SEAs, etc.)

4.2. Outline of proposed initiatives

Initiative 1: Networking of government officials responsible for SEA system development

The aim of this initiative is to provide a platform for the open exchange of experience between government officials responsible for the development of SEA systems in the target countries. It

¹⁰ Strictly, the first and second meetings of the Parties to the Espoo Convention serving as the Meeting of the Parties to the Protocol.

primarily focuses on the exchange of experience gained during national activities supporting the development of legal and methodological frameworks for implementation of the SEA Protocol.

The networking activities in the sub-region will be greatly facilitated by the use of the common language and the similarities in the legal and institutional systems supporting Environmental Assessment of the target countries.

This initiative aims to support one or more of the following activities:

- Regular informal meetings that allow government officials from the target countries to discuss openly issues associated with implementation of the SEA Protocol and to share freely personal insights without limiting them to formal positions. Such meetings might advance much-needed debate about the challenging issues in the implementation of the SEA Protocol in EECCA. They might adhere to the Chatham House Rule¹¹ that is used widely as an aid to free discussion;
- Comparative studies (on lessons learned during pilot SEAs, costs and benefits of SEA, procedures and methodologies) commissioned within this initiative, either for its internal use or for wider dissemination;
- Briefing notes or policy recommendations on the development of SEA systems in the target countries, either for dissemination in the target countries or on an international level.

This initiative might use experience gained in implementation of the Sofia EIA Initiative in Central and Eastern Europe. It might be led by one or more target countries with support from appropriate intergovernmental and international organisations, such as UNECE, UNDP and the REC.

Initiative 2: Networking of EIA/SEA practitioners in EECCA

This initiative aims to facilitate networking of the emerging community of SEA (and EIA) practitioners in the target countries. It focuses on providing a common subregional networking platform for the exchange of experience between proposed activities for training and networking of environmental assessment practitioners in the target countries. Such a networking initiative should operate mainly in Russian with some activities also in English. It should focus mainly on practitioners from the target countries. However, in case of interest, its networking facilities might also be open to practitioners from other EECCA countries.

This initiative aims to support the following activities:

- periodic (annual or bi-annual) conferences for practitioners to enable them to present their work, debate principles of good SEA practice in EECCA (if different from generally defined principles established on the global level) and discuss issues of common interest;
- training events (preferably associated with the periodic conferences outlined above);
- a web page or pages with relevant documents and links;
- e-mail discussion list(s);
- a periodic newsletter or journal (optional, but desirable); and
- establishment of a standard membership organisation for environmental assessment practitioners in the target countries (optional).

This initiative may use the experience of the International Association for Impact Assessment (IAIA) and its local and regional branches. It might also use the networking and training facilities

¹¹ “When a meeting, or part thereof, is held under the Chatham House Rule, participants are free to use the information received, but neither the identity nor the affiliation of the speaker(s), nor that of any other participant, may be revealed.” See <http://www.chathamhouse.org.uk> for more information.

for environmental assessment practitioners in EECCA offered by the Central European University (CEU) and other relevant organisations. Implementation of this initiative could be coordinated by a practitioners' organisation such as IAIA and could be supported by appropriate regional capacity-development organisations with previous experience in networking of SEA/EIA professionals.

Initiative 3: Subregional projects supporting national capacity-development activities in the target countries and awareness raising of the SEA Protocol across the EECCA subregion

This initiative aims to support those subregional capacity development initiatives for the SEA Protocol (a) that take place in the target countries and would not fall under initiatives 1 and 2 above; and (b) awareness raising for the SEA Protocol in the entire EECCA region.

This initiative aims to support the following activities:

- subregional activities for pilot SEA projects that test or demonstrate locally appropriate approaches for conducting SEA in EECCA in accordance with the requirements of the SEA Protocol;
- awareness-raising brochures or events;
- knowledge-codification and knowledge-sharing products; e.g. a web-based “knowledge map” with all subregional and national activities on the implementation and practical application of the SEA Protocol, know-how guides and guidelines related to different elements of SEA process in the subregion, etc.;
- ad-hoc training workshops; and
- comparative studies on the development of SEA systems in the entire EECCA region (optional).

This initiative may use the experience of the UNDP *SEA Promotion and Capacity Development* project described earlier. Activities outlined above could be led by either UNDP or UNECE, and could be supported by the REC, Central European University or other relevant capacity-development organisations.

4.2. Proposed implementation arrangements

This document is prepared as an input for the next meeting of the Signatories to the SEA Protocol.

Implementation modalities for all three initiatives are briefly suggested within their description above. Detailed implementation arrangements will be the subject of further consultation among the target countries and interested organisations during the elaboration of detailed proposals.

The outcomes of the proposed initiatives and lessons learned should be reported by the UNECE and the respective lead countries or organisations to the Meeting of Parties to the SEA Protocol. They may also be communicated to other pan-European processes where SEA-related matters in the subregion might be discussed (e.g. Environment for Europe, Environment and Security, Environment and Health).