

**Review of national legislative framework of Uzbekistan
vis-à-vis the Protocol on SEA**

DISCLAIMER

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Abbreviations

RU - Republic of Uzbekistan

EA - Environmental expertise

SEA - State environmental expertise

EIA - Environmental impact assessment

Espoo Convention - Convention on Environmental Impact Assessment in a Trans-boundary Context (1991)

Protocol on SEA - Protocol on Strategic Environmental Assessment (2003)

Aarhus Convention - Convention on Access to Information, Public Participation in Decision-making process as well as on Access to Justice in Environmental Matters (1998)

DSEI - Draft Statement on Environmental Impact

EISA - Environmental Impact Statement

SEC - Statement on Ecological Consequences

SEA - Strategic environmental assessment

Introduction

1. This review aims at assessing the current system of strategic environmental assessment (SEA) in the Republic of Uzbekistan in light of and regarding compliance with international standards (the Protocol on Strategic Environmental Assessment and the Aarhus Convention).

2. This review was carried out in accordance with the guidance document «Guidance for preparation of the reviews of the national legislation and institutional structures for the implementation of the Protocol on SEA» and contains seven sections:

PART I. Analysis of the current situation;

PART II. Strategic documents at the national level in general (not only relating to the environment);

PART III. Strategic documents at the national level that will require SEA under the Protocol on SEA

PART IV. The current system of environmental assessment in the Republic of Uzbekistan

PART V. Stakeholders in environmental assessment

PART VI. Analysis of the current environmental assessment system in the Republic of Uzbekistan

PART VII. Recommendations for the required amendments to align the existing legislative framework to the provisions of the Protocol on SEA

3. This review was prepared in the framework of the work program 2017-2020 of the Convention on Environmental Impact Assessment in a Trans-boundary Context (Espoo Convention) and the Protocol on Strategic Environmental Assessment (Protocol on SEA), with financial support from the German Environment Agency under the program “Advisory Assistance Program”. The review was prepared by international experts: Andriy Andrusevych in cooperation and under the leadership of Jerzy Jendroska.

PART I. Analysis of the current situation

General aspects

4. At the moment, the Republic of Uzbekistan (RUz) is not a party to the **Espoo Convention, neither to the Protocol on SEA or the Aarhus Convention**, but is considering the feasibility of joining these international instruments.

5. Since 1995, the RU is a party to the **UN Framework Convention on Biological Diversity**. The laws of the Republic of Uzbekistan “On Nature Protection”, “On Protected Natural Territories”, “On Protection and Use of Plant World (Flora)”, “On Protection and Use of Animal World (Fauna)” are the legislative basis in the field of biodiversity protection. The main program document is the “National Strategy and Action Plan on Biodiversity Conservation” (1998).¹

6. **Relations of the Republic of Uzbekistan with the European Union** is based on the Agreement on Partnership and Cooperation (1996). In addition, a number of sectoral agreements were signed between the EU and the Republic of Uzbekistan, including Memorandum of Understanding on cooperation in the field of energy.²

7. **Accession to the international treaties takes place in the order prescribed by the Constitution of the Republic of Uzbekistan and the Law of the Republic of Uzbekistan “On international treaties of the Republic of Uzbekistan”³.**

8. Proposals for the conclusion of international treaties on behalf of the Republic of Uzbekistan are submitted to the President of the Republic of Uzbekistan, and proposals for the conclusion of international treaties on behalf of the Republic of Uzbekistan on issues under the jurisdiction of the Government of the Republic of Uzbekistan are submitted to the Government of the Republic of Uzbekistan. Proposals for the conclusion of international treaties on behalf of the Republic of Uzbekistan are submitted to the President of the Republic of Uzbekistan by the Ministry of Foreign Affairs. Other ministries and agencies submit their proposals to the President of the Republic of Uzbekistan on the conclusion of international treaties on behalf of the Republic of Uzbekistan on issues within their competence together with the Ministry of Foreign Affairs or in consultation with the MFA.

9. Proposals for the conclusion of international treaties of the Republic of Uzbekistan on behalf of the Government of the Republic of Uzbekistan are submitted to the Government of the Republic of Uzbekistan by the Ministry of Foreign Affairs. Proposals for the conclusion of international treaties of the Republic of Uzbekistan prior to their submission to the President of the Republic of Uzbekistan or to the Government of the Republic of Uzbekistan are coordinated with the Ministry of Justice, as well as with other concerned ministries and agencies. Proposal on conclusion of an international agreement

¹ For details, see the Fifth National Report of the Republic of Uzbekistan on the conservation of biological diversity. (2015).

² https://eeas.europa.eu/delegations/uzbekistan/1927/uzbekistan-and-eu_en

³ <http://lex.uz/getwordfile/122232#122287>

must contain a draft agreement or its main provisions, a feasibility for the expediency of its conclusion, and, if necessary, an assessment of the possible financial and economic consequences of concluding of such an agreement. When necessary, a commission, consisting of representatives of interested ministries and agencies, specialists and independent experts shall be formed to draw up or review a draft international treaty.

10. In accordance with the Constitution of the Republic of Uzbekistan, *the ratification of international treaties* of the Republic of Uzbekistan is carried out by the Oliy Majlis. The following documents shall be subject to ratification: international treaties of the Republic of Uzbekistan on cooperation and mutual assistance; treaties on the foundations of interstate relations; treaties on issues affecting the defense capability of the Republic of Uzbekistan; treaties on mutual renunciation of the use of force or the threat of force; peace treaties and treaties on collective security; treaties on the territorial delimitation of the Republic of Uzbekistan with other states; agreements on the participation of the Republic of Uzbekistan in interstate unions, international organizations and other associations; contracts, the execution of which requires changes in existing or adoption of new laws, as well as establishing other rules other than those, contained in legislative acts of the Republic of Uzbekistan. Similarly, international treaties of the Republic of Uzbekistan are subject to ratification, at the conclusion of which the parties agreed on subsequent ratification. Oliy Majlis can also ratify other international treaties of the Republic of Uzbekistan.

PART II. Strategic documents at the national level in general (not only relating to the environment)

11. At the national level, strategic documents (documents in the field of strategic planning) in the Republic of Uzbekistan have an extremely **wide range of names**: «strategy»⁴, «program»⁵, «measures»⁶, «action plan» or «plan»⁷, as well as a number of special clearly defined terms that are used in territorial planning.⁸

12. **In dealing with external partners**, relevant documents often use terms such as «policy», «strategy», «plan», «measures». etc.⁹

⁴ For example, “Action strategy in five priority directions of development of Uzbekistan in 2017–2021” (2017)

⁵ For example, the Decree of the President of the Republic of Uzbekistan “On the State Program for the implementation of the Action Strategy in the five priority areas of development of the Republic of Uzbekistan in 2017–2021 in the “Year of Support for Active Entrepreneurship, Innovative Ideas and Technologies”

⁶ For example, the Decree of the President of the Republic of Uzbekistan “On measures to radically improve the investment climate in the Republic of Uzbekistan” (2018).

⁷ For example, the National Action Plan for the Implementation of the Convention on Minimum Age for Admission to Work and the Convention for the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (2008), the National Environmental Action Plan (NEAP) (1998).

⁸ See Urban Development Code of RU.

⁹ See, for example, the Memorandum of Understanding on cooperation in the field of energy between the Republic of Uzbekistan and the EU, https://ec.europa.eu/energy/sites/ener/files/documents/20110124_mou_caucasus.zip and Uzbekistans’ Reforms for a Sustainable Transformation toward a Market Economy DPO (2018).

13. From the point of view of **definitions and the procedure for developing strategic documents** in the Republic of Uzbekistan, two main categories of such documents should be distinguished:

- a) Strategic documents in the field of sector or regional development and
- b) Strategic documents in the field of territorial planning.

14. At the moment, the development of the first category of documents is carried out mainly in accordance with the recently adopted Resolution of the President of the Republic of Uzbekistan «On introduction of a new procedure for the developing and financing of state development programs of the Republic of Uzbekistan»¹⁰ (of December 18, 2017.). The development of documents of the second category is carried out in accordance with the Urban Construction Code of the Republic of Uzbekistan.¹¹ The following is a brief analysis of the definitions and the procedure for developing such strategic documents.

15. The development of other strategic documents («measures», «plans»), as a rule, is not regulated by law, or they are drafted on the basis of special acts in a specifically defined narrow sphere¹²; such other documents are not subject to analysis below.

16. *The state development program* is a set of interrelated measures, that has been formed on the basis of sectoral, regional and targeted development concepts which are approved for the long term perspectives and aimed at achieving sustainable and dynamic development of the country's economy, the implementation of key priorities and objectives for the structural transformation of individual sectors of the economy and regions of the Republic by rational use of available natural, mineral, raw materials, financial, material, labor and other resources.

17. State development programs are drafted for a three-year period in order to ensure the implementation of nation-wide programs for the socio-economic development of the country on the basis of the approved development concepts, taking into account the implementation dates of investment and infrastructure projects and funding sources, with annual clarifications of their main indicators and renovations.

18. State development programs consist of: an analytical part with summary tables, including targets to be achieved through the implementation of the program and a targeted program with a list of projects included in projects' portfolios.

19. The process of developing state development programs is carried out via: drafting, coordinating and approving long-term development concepts; creating project portfolios; developing of state development programs based on approved projects' portfolios. The development concepts, that has been agreed upon with the authorized bodies, as well as other interested ministries and departments shall be coordinated with the National Project

¹⁰ <http://lex.uz/docs/3463492>

¹¹ <http://lex.uz/docs/45494>

¹² For example, the Regulation on the drafting and financing of state targeted programs for the development of livestock breeding (Resolution of the Cabinet of Ministers of RUZ №354 dated from 29.12.2014).

Management Agency under the President of the Republic of Uzbekistan, and then submitted by the State Investment Committee for approval to the President of the Republic of Uzbekistan. Coordination of all work on the development, formation and implementation of development concepts is carried out by the State Committee of the Republic of Uzbekistan

20. The following types of documents (urban construction documentation) are used in the field of *territorial planning*:

1) Documentation on planning the development of the territory and parts of the territory of the Republic of Uzbekistan:

- General scheme of settlement in the territory of the Republic of Uzbekistan;
- Planning schemes for the development of regions of the territory of the Republic of Uzbekistan, including the territories of two or more regions and other territories (consolidated schemes of urban planning);
- Scheme of planning of the territory of the Republic of Uzbekistan;
- Sector development schemes for the territory of the Republic of Uzbekistan;

2) Documentation on planning the development of the territories of the regions of the Republic of Uzbekistan:

- layouts for planning the territories of the Republic of Karakalpakstan and regions;
- project of district planning (groups of districts);

3) Documentation on the development of territories of settlements:

- master plans of settlements;
- projects of urban and village outlines;
- sector development schemes of the territories of settlements;

4) Documentation on the development of territories of settlements:

- detailed planning projects;
- development projects.

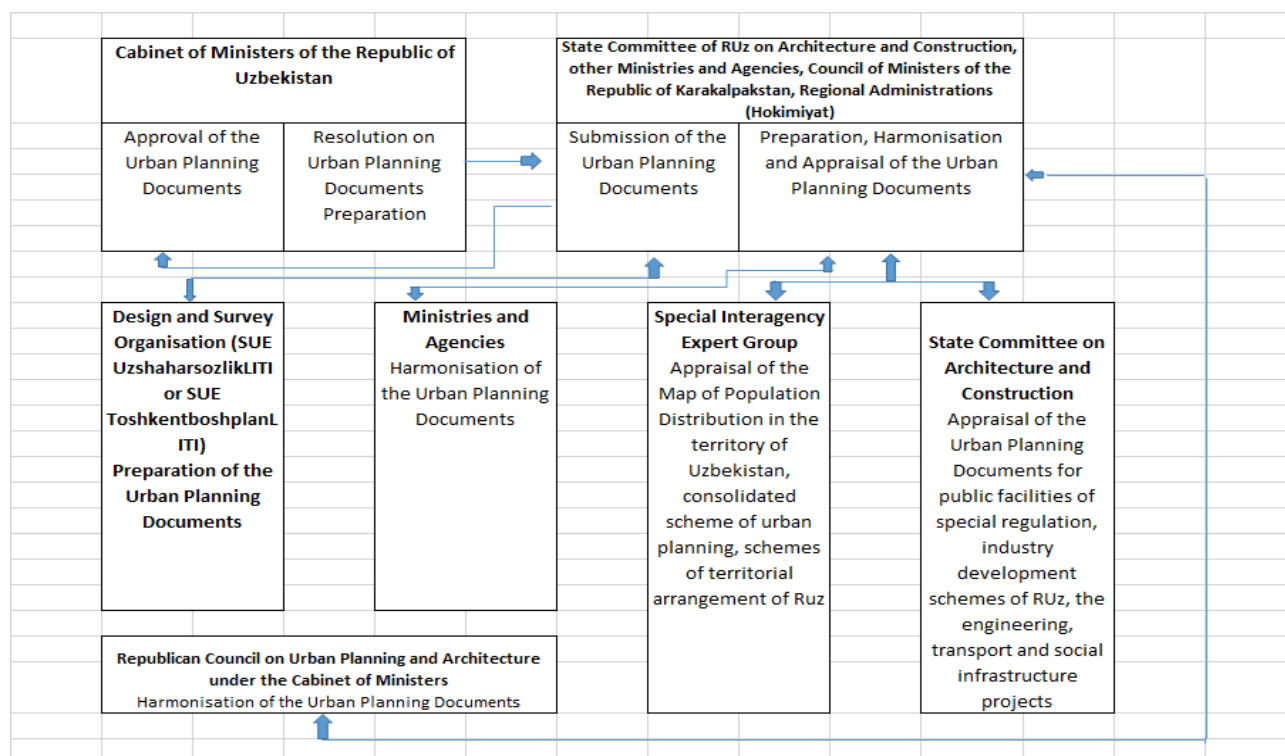
21. Out of these documents, the Urban Construction Code defines following: «General scheme of settlement in the territory of the Republic of Uzbekistan», «master plan of settlement», «scheme of territory planning» and «sector scheme of development of the territory».

22. The order of development, coordination and approval of documentation on planning the development of the territory and parts of the territory of the Republic of Uzbekistan is established by a special resolution of the Cabinet of Ministers of the Republic of Uzbekistan.¹³ The order of development of urban planning documentation on the development and construction of the territories of cities and urban settlements is governed by a special provision approved by the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan «On measures to further improve the procedure for developing urban planning documentation on the development and construction of urban territories and

¹³ Resolution of the Cabinet of Ministers of RUZ №140 as of 3.06.2014.

urban settlements»¹⁴. In addition, in the Republic of Uzbekistan there are special urban construction norms and rules regarding the development of such documentation: Planning Rules and Regulations (PRR) 1.03.02 – 04 «Instructions on the composition, procedure for the development, coordination and approval of urban construction documentation on development planning and constructions on the territories» (2009), which is under amendments process¹⁵.

23. The general scheme for the development, coordination and approval of documentation on planning the development of the territory and parts of the territory of the Republic of Uzbekistan is given below in Figure-1.



PART III. Strategic documents at the national level that will require SEA under the Protocol on SEA.

24. **During the last years**, a number of sector strategies and / or development programs were adopted in the Republic of Uzbekistan, including in the areas of employment, animal husbandry, regional development, environmental protection, etc. Big changes are taking place in the Republic of Uzbekistan nowadays in the field of development planning due to the adoption of a number of new strategic documents, in particular, the Action Strategy for the five priority directions of development of Uzbekistan in 2017-2021.

25. Thus, a number of strategic documents **are currently developed** in the Republic of Uzbekistan in the field of industry, agriculture and infrastructure. For example, a program is

¹⁴ Resolution of the Cabinet of Ministers of RUz №3 as of 5.01.2016 r., <http://lex.uz/ru/docs/2861300>

¹⁵ Decree of the President of the Republic of Uzbekistan "On measures to ensure in 2018 - 2022 the general plans of settlements, to improve the activities of design organizations, as well as to improve the quality of training in the field of urban planning», <http://www.lex.uz/acts/3546751>.

being drafted for the development of the chemical industry for 2017–2021, measures are taken to organize the sowing of soybeans and increase the cultivation of soybeans in the country for 2017–2021, the state program is drafted to improve the ameliorative state of irrigated land and the rational use of water resources, etc.¹⁶ The development of these programs was started before the adoption of a resolution of the President of the Republic of Uzbekistan “On the implementation of a new procedure for the formation and financing of state development programs of the Republic of Uzbekistan” dated from December 18, 2017.

26. Therefore, it can be concluded that the adoption of new policy documents is expected in most areas of development, including in investment activities and individual sectors of the economy. Moreover, as mentioned above in 2017 the Republic of Uzbekistan adopted a new procedure for the development and financing of state development programs. In this regard, past experience in the development and adoption of such documents can only be taken into account to a limited extent, considering new conditions and legislative framework for the development of documents in the field of strategic planning.

27. Based on the above, it can be concluded that the **following types of strategic documents should be subject to SEA by its nature** in RU:

- a) State development programs
- b) Certain types of urban construction documentation in the field of territorial development:
 - i. documentation on planning the development of the territory and parts of the territory of the Republic of Uzbekistan (general settlement scheme in the territory of the Republic of Uzbekistan; development planning schemes for parts of the territory of the Republic of Uzbekistan including the territories of two or more regions and other territories (consolidated urban planning schemes); a territory planning scheme of the Republic of Uzbekistan; development schemes of the territory of the Republic of Uzbekistan);
 - ii. documentation on planning of the development of the territories of the regions of the Republic of Uzbekistan (planning schemes for the territories of the Republic of Karakalpakstan and regions; district planning projects (groups of districts);
 - iii. documentation on the development of territories of settlements (master plans of settlements; projects of urban and village features; sector schemes for the development of territories of settlements);
- c) Some other strategic documents (action plans, measures, etc.), which by content shall be considered as programs or plans.¹⁷

¹⁶ <https://mineconomy.uz/ru/node/1694>

¹⁷ It is not possible to accurately determine the names and types of such documents. As an example, we can show the Program of measures for the further development of hydropower for 2017–2021 (2017), the Program of measures for the

28. It should also be noted that no significant changes have taken place in the area of territorial planning. Therefore, previous experience in developing such documents can be taken into account today (for example, master plans for cities).
29. With regard to other strategic documents (see paragraph c) above), it should be noted that not all such documents can be considered as plans or programs in the sense of the Protocol on SEA. As an example, the Presidential Decree on Measures for the Development of Nuclear Energy in the Republic of Uzbekistan by its nature cannot be attributed to a plan or program in the understanding of the Protocol on SEA, but rather it could be referred to “policies” under Article 13 of the Protocol. Many previous similar documents (“on measures”) generally cannot be attributed to plans, programs or policies in the meaning of the Protocol on SEA.
30. In addition, by its nature, documentations on the development of territories of human settlements (in particular, *detailed planning projects*), where there is a direct link with a specific type of planned activity can be considered as a part of planned activity and, accordingly, shall be subject to EIA, not SEA. This issue requires further discussion.
31. During the discussion of the draft of this report, it was also noted that some documents in the field of local development planning (in particular, city / district / gas or heat supply schemes) are co-approved by the State Ecology Committee (although they do not undergo state environmental expertise).

PART IV. The current system of environmental assessment in the Republic of Uzbekistan.

EE Model

32. In general, the environmental assessment system in the Republic of Uzbekistan is built according to the well-known model of EIA-EE. In this model, the environmental assessment system provides for the following distribution of duties and rights between developers and government agencies:

- *The developer* is responsible for the organization of the environmental impact assessment for the completeness, accuracy and quality of environmental impact assessment materials submitted for the state environmental impact assessment;
- *A specially authorized body* organizes and conducts state environmental expertise. According to the results of the state environmental expertise, a conclusion is drawn up containing conclusions whether to permit or not implementation of proposed activity, which was subject to the state environmental expertise. The conclusions of the state environmental expertise are mandatory for legal entities and individuals regarding financing and implementations of the object of state environmental expertise.

33. **Laws that regulate the EIA/EE in the Republic of Uzbekistan** include:

- Law of the Republic of Uzbekistan «On Nature Protection» dated from December 9, 1992. № 754-XII¹⁸
- Law of the Republic of Uzbekistan «On environmental expertise» dated from May 25, 2000. № 73-II¹⁹.

34. In addition, certain issues are regulated by sectoral legislation, as well as administrative and criminal codes of the Republic of Uzbekistan.

35. It should be noted that the special legislation in the field of EIA / EE establishes that if an international treaty of the Republic of Uzbekistan establishes other rules than those provided for by the legislation of the Republic of Uzbekistan on environmental impact assessment, the rules of the international treaty shall be applied.

36. **Bylaws.** The main secondary legislative act in the field of EIA / EE is the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 491 “On approval of the state environmental expertise in the Republic of Uzbekistan” dated from December 31, 2001. In particular, that Resolution includes the List of activities which are subject to state environmental expertise.

37. **The objects of environmental expertise include a number of documents having a strategic nature (state planning)**²⁰:

- a) drafts of state programs, concepts, schemes of distribution and development of productive forces, branches of the economy and social sphere;
- b) all types of urban construction documentation, incl. indicated above.

38. Unlike specific types of planned activities (projects), the legislation in the field of EIA / EE does not provide for any requirements for the submission or content of special documentation on environmental impact assessment while conducting SEA of draft state programs, concepts, etc.

Screening and scoping

39. Individual screening or scoping in the meaning of the Protocol on SEA is not conducted during the process of SEE of the above strategic documents. As noted above, in practice draft state programs and other similar documents are not subject to mandatory submission for SEE.

Public participation

¹⁸ Due to the changes for 1.09.2018 in compliance with the laws № LAW of RUZ-476, № LAW OF RUZ-446, № LAW OF RUZ-436, № LAW OF RUZ-373, № LAW OF RUZ-352, № LAW OF RUZ-294, № LAW OF RUZ-278, № LAW OF RUZ-59, № 714-II, № 621-II, № 535-II, № 405-II, № 125-II, № 82-II, № 729-I, № 421-I, № 70-I.

¹⁹ Due to the changes for 1.09.2018, in compliance with the laws № LAW OF RUZ-446 от 14.09.2017 и № LAW OF RUZ-278 от 04.01.2011.

²⁰ An exhaustive list of the objects of the EEA is defined in Article 11 of the Law of the Republic of Uzbekistan “On Ecological Expertise”.

40. **The legislation of the Republic of Uzbekistan in the field of EE indirectly provides for the possibility of public participation.** At the same time, these requirements cannot be characterized as a full-fledged system for taking account of public opinion. In practice, public participation is almost absent in the SEE process.

41. Article 6 of the Law of the Republic of Uzbekistan “On Environmental Expertise” provides that developers during environmental expertise may publish an announcement in the mass media about it. In this case, information on its results is also to be published within one month from the date of completion of the state environmental expertise.

42. In accordance with part 2 of this article, the list of activities for which a notice about state environmental expertise and about its results in the media is mandatory shall be established by the law. As of August 2018, such a list has not been established.

43. In general, the requirements for public participation in the SEA process do not meet international standards and require radical changes.

44. It should also be noted that urban construction legislation, including that regulating territorial planning, provides for special requirements ensuring the participation of citizens, self-government bodies of citizens and public associations in discussing and decision-making in the field of urban planning.

45. Article 5 of the Urban Construction Code of the Republic of Uzbekistan establishes the right of citizens to a favorable living environment. This right is to be ensured in the implementation of urban planning activities, in accordance with Part 2 of Article 5, including through the participation of citizens in the implementation of urban planning activities. In turn, ensuring conditions for the participation of citizens, public associations in the discussion and decision-making in the field of urban planning is one of the main requirements of urban planning activities (Article 6 of the Urban Construction Code of the Republic of Uzbekistan).

46. Article 10 of the Urban Construction Code of the Republic of Uzbekistan details the requirements for ensuring such right of citizens. Citizens, self-government bodies of citizens and public associations have the right to reliable, complete and prompt information about the state of the living environment, its intended changes, master plans of settlements, construction, reconstruction of housing and civil objects, landscaping, the laying of engineering and transport communications and other information about town planning activities. Informing citizens, self-government bodies of citizens and public associations about urban development activities is carried out by state bodies through the media, as well as through public discussions, the organization of expositions and exhibitions. Citizens, citizens' self-government bodies and public associations have the right to discuss, make proposals and participate in the preparation of decisions in the field of urban planning until the approval of town planning documentation. State bodies within their competence consider appeals affecting the interests of citizens, self-governing bodies of citizens and public associations relating to issues of urban planning, and provide them with reasonable answers in a timely manner.

47. It should be noted that the Regulation on the procedure for developing, coordinating and approving documentation on planning the development of a territory and parts of the territory of the Republic of Uzbekistan²¹ does not contain requirements for ensuring public participation in this process. At the same time, the Council of Ministers of the Republic of Karakalpakstan, regional authorities and authority of Tashkent city are responsible for holding public consultations of urban planning documentation by territorial departments of the state (paragraph 22 of the Resolution of CM №3).

48. In practice, public discussion of urban planning documentation is conducted extremely rarely.²²

Trans-boundary procedures

49. Current decision-making procedures in the process of SEE and strategic planning **do not involve the application** of cross-border procedures (consultations, notifications, etc.) neither in the process of developing sector development documents, nor in the process of developing documents in the field of territorial planning.

Environmental Assessment Report (Environmental Report)

50. National requirements and practices for the preparation of an environmental assessment report (an “environmental report” in the terminology of the Protocol on SEA) during the development of strategic documents in the RU should be analyzed separately for the two categories of such documents mentioned above (sectoral development programs/strategies and territorial planning) due to fundamental differences in the processes of their preparation, coordination and adoption (approval).

51. Based on the information gathered during the preparation of this review, *sectoral strategies, development plans and programs* in the past did not contain documentation assessing their environmental impact and are not provided for SEE. Analysis of the current legislation in the preparation of *state development programs* suggests that development of such programs does not include requirements for the assessment their environmental impact and / or their provision for SEE.

52. Thus, it can be concluded that in relation to sectoral (state) strategic documents (plans, programs, strategies, etc.), the SEA system, in the meaning of international standards, is not applied in the Republic of Uzbekistan, while the provisions of the national legislation in the field of EE / SEE are not applied in practice to drafts of such documents.

53. In the field of territorial planning, legislation and practice differs significantly from sectoral; or general planning in the Republic of Uzbekistan in terms of environmental assessment of the impact of the implementation of such strategic documents.

²¹ Resolution of CM №140 dated from 3.06.2014., <http://lex.uz/docs/3463492>

²² Results of interviews with experts.

54. In contrast to sectoral strategic documents, draft documents in the field of territorial planning are subject to mandatory SEE, and is happening in practice (at least in relation to master plans for human settlements²³).

55. In the area of territorial planning, first of all, we should note some differences in the legal framework for the preparation of documentation on the development of the territory (parts of the territory) of the Republic of Uzbekistan and documentation on the development of human settlements (for example, master plans of cities). Legal regulation of the preparation of the first subcategory of territorial planning documents is less detailed than the preparation of documents on the development of human settlements.

56. The relevant Procedure for the development, coordination and approval of documentation on planning the development of the territory (parts of the territory) of the Republic of Uzbekistan only indirectly requires that the drafts of such documentation shall be subject to SEE (clause 15) and sets forth general requirements for the content of the relevant documents in terms of the environmental component. For example, *the approximate composition of materials of sector development schemes for the territory of the Republic of Uzbekistan, the Republic of Karakalpakstan and regions*, engineering, transport and social infrastructures development projects provides the following specific requirements for the inclusion of environmental information: Scheme of the existing environmental state of the territory, Scheme of the predicted environmental condition of the territory with the inclusion of likely man-made and environmental disasters and the Scheme of location of protected natural territories and objects of cultural heritage (cartographic materials).

57. At the same time, the Procedure for the development of urban planning documentation on the development and construction of urban areas and human settlements has much more detailed provisions regarding the content of environmental information and the SEE applicability to such documentation. In particular, paragraphs 10 and 25 of this Procedure explicitly provides for the developer's responsibility to submit such documentation for the SEE, to make changes in that document based on the substantiated comments of the SEE authorities. The procedure also establishes special functions of the SEE authority in this area: to co-approve the master plan at the stage of conducting state environmental expertise in terms of its compliance with the requirements of the laws of the Republic of Uzbekistan "On Nature Protection", "On Protected Natural Territories", "On Waste", as well as forecasts and long-term action programs for environmental protection in the Republic of Uzbekistan.

58. The most informative part of such documentation is the "Explanatory Note", which contains a separate volume (section) "Environmental Impact Assessment".²⁴ The content of this volume (section) is mainly determined by the legislation on EIA / EE²⁵, in particular

²³ During the preparation of the review, experts were given only examples with regard to city master plans.

²⁴ This does not mean that the cartographic materials contained in the drafts of such documentation do not contain necessary or important environmental information.

²⁵ During the preparation of the review, no other legal acts were submitted or revealed containing specific requirements for the content of the explanatory note regarding environmental information.

Resolution of the Cabinet of Ministers (RCM) №491. It should be noted that neither RCM No. 491 nor special legislation in the field of urban planning, does not define specific requirements for the content of environmental documentation as part of draft documentation for planning the development of territories or settlements. It can be concluded that the requirements for the composition (content) of the EIA section provided for in RCM No. 491 for a specific planned activity (EFVO, EIA) are applied *by analogy* when developing the territory planning documentation.

59. Based on the materials provided during the review, it can be concluded that the section on environmental impact assessment in the territorial planning documentation in practice contains a large amount of information under the following categories:

- a) Description of the master plan and its tasks in general (introduction)
- b) the characteristic of the current state of the environment,
- c) functional zoning and architectural planning organization of the territory,
- d) existing sources of environmental impact,
- e) main proposed solutions;
- f) alternative design solutions,
- g) forecast of the expected consequences of the implementation of the master plan,
- h) measures to reduce negative effects,
- i) the forecast of the state of the environment after adoption of proposed solutions,
- k) sources used
- l) conclusions and appendices.

60. In general, in the examples provided, the information contained in the “EIA” section of the draft master plan of the settlement meets the requirements of Annex IV to the Protocol on SEA. Among the shortcomings, we should note the absence of special provisions on monitoring (paragraph 9 of Annex IV), on environmental objectives²⁶ (paragraph 5 of Annex IV) and on trans-boundary effects (paragraph 10 of Annex IV).

61. The legislation of the Republic of Uzbekistan clearly distributes the functions of relevant entities in the development, coordination and approval of strategic documents analyzed above. According to the stages of the SEA stipulated by the Protocol on SEA, such functions (powers) can be summarized as follows:

- a) Screening: for sector and general development programs - there is no such function due to the lack of environmental assessment in their development, for

²⁶ It should be noted that at the stage of the SEA, State Nature Protection Committee is authorized to coordinate master plans at the stage of conducting a state environmental review regarding its compliance with forecasts and long-term action programs for environmental protection in the Republic of Uzbekistan. But the requirements for the design of general plans do not provide for the responsibility of the developer to consider or analyze compliance with such forecasts or plans.

urban planning documentation - mandatory requirements for all documentation;

b) Scoping - by sector and general development programs - there is no such function due to the lack of environmental assessment in their development, according to urban planning documentation, the approval of the design assignment can be attributed to the scoping stage:

- i. The terms of reference for developing the General Settlement Scheme in the Republic of Uzbekistan and the customer's planning scheme for the territory of the Republic of Uzbekistan is endorsed by the Head of the State Architecture Department; the Deputy Chairman of the State Architecture Committee confirms it; then it will be coordinated with the Chairman of the State Architecture Committee and with the agreement of the the Deputy Prime Minister of Uzbekistan.
- ii. The terms of reference for developing the planning scheme of the territories of the Republic of Karakalpakstan and the regions from the customer shall be endorsed by the head of the secretariat of the deputy chairman of the Council of Ministers of the Republic of Karakalpakstan and the deputy hokim of the region, approved by the Chairman of the Council of Ministers of the Republic of Karakalpakstan and the hokim of the region then coordinated by the Chairman of the State Architecture and Construction department.
- iii. The terms of reference for developing development schemes for the territory of the Republic of Uzbekistan and engineering, transport and social infrastructure development projects from the customer shall be endorsed by the head of the department of the ministry and agency; then it will be approved by the deputy head of the ministry and agency, after which it will be coordinated by the chairman of the State Architecture and Construction department.
- iv. The terms of reference for developing project documentation of urban planning objects of special regulation of national importance from the customer shall be endorsed by the head of the State Architecture and Construction department, agreed by the vice-chairman of the State Architecture and Construction department and shall be approved by the chairman of the State Architecture and Construction department and coordinated by the head of the department of the Cabinet of Ministers of the Republic of Uzbekistan.
- v. The terms of reference for developing documentation on development and construction of cities and urban settlements are subject to approval by the customer in consultation with the State Architectural Committee of the Republic of Uzbekistan, as well as the Council of Ministers of the Republic of Karakalpakstan, regional hokimiyats and the city of

Tashkent, except when the coordinating authority shall be the customer itself.

- vi. The terms of reference for master plans for cities approved by the Cabinet of Ministers of the Republic of Uzbekistan are subject to coordination with the Ministry of Economy of the Republic of Uzbekistan.

c) Preparation of the EIA report: regarding sectoral and general development programs - there is no such function due to the lack of environmental assessment in their development, on urban planning documentation - consultants (in most cases consultants are predetermined by legislation on specific types of urban planning documentation);

d) Public participation:

- i. Regarding state development programs and other general strategic documents - not foreseen.
- ii. According to urban planning documentation for the development of territories - not foreseen.
- iii. On urban planning documentation on settlements planning: the Council of Ministers of the Republic of Karakalpakstan, regional khokimiyats and khokimiyat of Tashkent are responsible for organizing consideration and coordination of urban planning documentation by the territorial divisions of state bodies and other organizations, as well as conducting its public discussion.

e) In the environmental part, the final decision shall be associated with the conclusions of the SEE, which is issued for all types of city planning documentation and has binding nature. The final approval of the town planning documentation, depending on its type is the authority of the Cabinet of Ministers, of the State Architecture and Construction Committee, the Council of Ministers of the Republic of Karakalpakstan, regional hokimiyats and the hokimiyat of city of Tashkent. For industry and general development programs, SER is not carried out. The final approval of the majority of sector development programs is assigned to the authority of the President of the Republic of Uzbekistan, including state development programs.

62. As mentioned above, environmental and health authorities may be involved in the development of sector and general development programs, but no direct functions are provided for them in the order of their development. In terms of urban planning documentation, nature conservation agencies are involved in the SER and their decisions are mandatory, and the substantiated comments provided by them should be taken into account by finalizing the draft relevant documentation

63. At the time of the review, there is no comprehensive and sufficient information on the form of involvement of health authorities in these processes, but on the basis of the provisions of the relevant legal acts, such bodies should be involved at least to approve sanitary protection measures (zones). For example, the preparation of the documentation for the development of settlements requires the approval of the master plans of cities by the Ministry of Health of the Republic of Uzbekistan in terms of compliance with the sanitary rules, norms and hygienic standards for planning, building, protection of atmospheric air of settlements, as well as the placement of health facilities and medical institutions, including their number and design capacity, taking into account government programs to reform the health care system (Appendix No. 2 to the Regulations on the procedure for developing of urban planning documentation regarding the development and construction of the territories of cities and urban settlements).

64. As mentioned above, the opinion of nature conservation bodies (State Nature Protection Committee) and health care authorities are taken into account in the course of, respectively, conducting SEE and approval of projects for city planning documentation. This method of taking into account their opinions can be described as compulsory, rather than advisory. Legislative requirements for the development of state development programs do not directly provide a mechanism for taking into account the views of nature conservation or health authorities.²⁷

65. The EIA system applied to specific types of activity (projects) covers without fail almost all types of activities specified in annexes I and II to the Protocol on SEA.²⁸ Currently, the Republic of Uzbekistan has fully prepared a package of documents that make significant changes to all regulatory acts in the field of environmental expertise and EIA, including the new version of the Law on Environmental Expertise and amendments to the by-laws. In general, these changes codify the existing system and practice of EIA-EE in the Republic of Uzbekistan.

PART V. Key stakeholders in environmental assessment reforms

66. In the field of strategic planning, one can identify a number of potential stakeholders in the Republic of Uzbekistan. In principle, all government agencies, institutions, enterprises and organizations that are authorized to perform certain functions in the strategic planning process can be considered as interested parties. In particular, all bodies,

²⁷ As it was stated, deep changes in the field of strategic planning are undergoing in the Republic of Uzbekistan, therefore at this stage it is difficult to apply the practice of fairly new legislation in the development of state development programs in the new environment.

²⁸ See also a detailed analysis of the activities covered by the EIA / EE system in the review of the national EIA / EE system in the Republic of Uzbekistan.

institutions, enterprises and organizations directly mentioned in Resolution of the Cabinet of Ministers No. 3 dated January 5, 2016, Resolution of the Cabinet of Ministers No. 140 dated June 3, 2014 and Presidential Decree PP-3437 from 12/18/2017, should be considered as relevant stakeholders.

PART VI. Analysis of the current environmental assessment system in the Republic of Uzbekistan

67. In terms of *sectoral and general strategic documents*, in particular state development programs, there is no system of SEA in the Republic of Uzbekistan in the sense of the Protocol on SEA.²⁹ In this regard, there is no need to provide detailed step-by-step analysis of the compliance of the current national system for their preparation and adoption of international legal requirements.

68. In terms of *urban planning documentation* (territorial planning), the SEA function in the Republic of Uzbekistan is fulfilled by SEE. A summary analysis of compliance with the requirements of the Protocol on SEA is provided below (for documentation in the areas of planning of territories and settlements):

Requirements under the Protocol on SEA	Requirements under current environmental assessment system	no/ to some extent/ fully and why
Undertake SEA in plan- and programme-making processes in accordance with definition of SEA in article 2.6 of the Protocol (e.g., how to link SEA to the decision- making process, etc.)	Draft urban construction documentation (documentation on planning development of the territory and parts of the territory of the RY, general plans of human settlements) must be subject to SEE.	To some extent. National legislation does not use “SEA” term/defintion.
Undertake SEA screening in accordance with articles 4 and 5 (e.g., how to combine mandatory and exclusions lists and when to apply case-by-case examinations, etc.)	All drafts of spatial planning documents are subject to SEE.	Fully. There’s a need to clarify amendments practice. ³⁰

²⁹ In our opinion, this practice indicates that the relevant international obligations of the Republic of Uzbekistan under the Convention on the Protection of Biological Diversity have not been implemented.

³⁰ Relevant legislation does not provide directly for the procedure to amend urban construction documentation. In particular, Urban Construction Code has only a provision that amendments or additions to the approved urban construction documentation are introduced on the basis of the decision of the authority, which approved such documentation (art.28). No requirements are envisaged as to procedure for introducing such amendments though. In turn, relevant subordinate acts either duplicate this provision (p.33 of the Cabinet of Ministers Regulation No.3 of Jan 5, 2016) or have additional special provisions, which means the procedures for development and approval of amendments is different from the procedure for developing and approving urban construction document (p.26 of the the Cabinet of Ministers Regulation No.140 of June 6, 2014).

Organize SEA scoping in accordance with article 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.)	Development of all types of the urban construction documentation requires approval of the terms of reference for drafting them.	To some extent. Scoping is intrinsically present when terms of reference for developing (drafting) are approved. However, this process does not provide for any specific role (function) of environment and health authorities.
Prepare environmental report:		
<ul style="list-style-type: none"> Elaborate environmental (baseline) studies in SEA (in accordance with annex IV, paras. 2, 3 and 4) 	Relevant types of urban construction document foresee the need for such studies.	To some extent. In practice these requirements are complied with, but they need to be listed as requirements for the content of explanatory note accompanying urban construction documentation.
<ul style="list-style-type: none"> Use environmental objectives in SEA (in accordance with annex IV, para. 5) 	In the process of preliminary approval of some urban construction documentation (city general plans) as part of SEE.	To some extent. For planning the territories – no, for city general plans – partially (State Environmental Committee is pre-approving draft general city plans at the stage of SEE to the extent those draft general city plans comply with long-term forecasts and action plans in the area of environmental protection in the RU).
<ul style="list-style-type: none"> Compare alternatives of the plan or programme (in accordance with annex IV, para. 8) 	In practice this is part of developing general city plans.	To some extent. In practice, this requirement is complied with when general city plans are developed. No direct requirement to study alternatives is foreseen in the urban construction legislation.
<ul style="list-style-type: none"> Prepare post-SEA monitoring plans to meet requirements of article 12 and annex IV, paragraph 9 	Absent.	No. Neither legislation nor practice complies with this requirement.
<ul style="list-style-type: none"> Analyse transboundary effects (in accordance with annex IV, para. 10) 	Absent.	No. Neither legislation nor practice complies with this requirement.
Organize public review of the SEA report in accordance with article 8 (e.g., how to identify the public	There are only general provisions regarding public consultations.	No. This is applied very rarely in practice.

concerned; how to inform the public and collect feedback, how to review public comments, etc.)		
Organize consultations with environmental and health authorities in accordance with article 9 (e.g., how to identify relevant authorities, how to effectively consult them during SEA, etc.)	All documentation is subject to SEE.	Regarding environmental authorities – fully. Regarding health authorities there's insufficient information (we suppose – yes).
Undertake transboundary consultations in accordance with article 10 (e.g., when to notify, what level of document should be exchanged, how to organize effective transboundary consultations)	Absent.	No.
Take environmental report and comments from authorities and the public into account during the adoption of the plan or programme into account (art. 11)	Taking into account is ensured during SEE. The conclusions of SEE are mandatory. Public opinion is not taken into account.	To some extent. Regarding environmental authorities – fully. Regarding health authorities there's insufficient information (we suppose – yes), regarding public opinion – no.
Monitor significant environmental and health effects during implementation of plans and programmes (art. 12)	Absent.	No.

PART VII. Recommendations on the required amendments to align the existing legislative framework to the provisions of the Protocol on SEA

General recommendations

69. The system of development and approval of strategic documents in the field of sector or regional development in particular, and especially state development programs, requires the introduction of new special requirements for SEA. Such requirements can be implemented separately from other types of strategic planning. At the moment, we can witness the absence of a system of strategic environmental assessment in this area of planning.

70. The system of development and approval of the strategic documents in the area of spatial planning (documentation on territory planning, general city plans, etc) needs amendments in two main directions: (a) codification and clarification of the requirements on the procedure for developing and content of the environmental part of such urban construction documentation (for example, to clearly define the requirements on the content of the explanatory note) and (b) ensuring public participation.

71. Based on the assessment of existing capacity, the introduction of SEA hardly requires significant institutional changes. Perhaps a full-fledged SEA procedure, especially in those areas of planning, where it is now completely absent will require some increase in the staff of the State Nature Protection Committee and its local bodies.

72. If considering to access to SEA Protocol, relevant amendments will be needed on transboundary EIA (consultations).

Specific recommendations

73. First of all, it is necessary to make changes to the procedure for the development and approval of state development programs with a view to (a) introducing a procedure for assessing the environmental consequences of implementing such programs and (b) introducing a public consultation procedure. It is recommended to develop special provisions for such an assessment, different from the SEE procedure. The procedure of SEE, due to the mandatory nature of the conclusions of SEE, can hardly be applied in practice to such strategic documents. Such new procedures should reflect international legal standards in this area, in particular the Protocol on SEA, and may be of a consultative nature. To this end, it is recommended to consider the feasibility of amending the Regulations on the procedure for the development of state development programs of the Republic of Uzbekistan.

74. It is necessary to make changes to the Regulation on the procedure for developing, coordinating and approving documentation on planning the development of a territory and parts of the territory of the Republic of Uzbekistan and the Regulation on the procedure for developing urban planning documentation on the development and construction of urban territories and urban settlements³¹ in order to:

- a) Codify and clarify current practice of preparation of such documentation in terms of the environmental component of the explanatory note, clearly defining its content;
- b) Introducing mandatory public discussion of drafts of such documents.

75. With regard to public participation, it is advisable to consider two options for the implementation of this procedure: either in the framework of the procedure for developing/approving urban construction, or in the framework of SEE. In any case, public participation should include the possibility of providing comments on both the environmental part of the draft of urban construction documentation (currently the “EIA” section) and on the entire text of such documentation.

76. It is also recommended to consider the feasibility of amending Resolution of Cabinet of Ministers No. 491 in order to reflect the specific features of SEE for such objects, in particular, the content of relevant documentation. Moreover, the requirements for the content of the relevant section (s) of urban planning documentation can be implemented

³¹ Resolution of CM №3 dated from 01.2016 and RCM № 140 from 03.06.2014 accordingly.

through the Resolution of Cabinet of Ministers No. 491 (not through amending the Resolution of Cabinet of Ministers No. 3 and Resolution of the Cabinet of Ministers No. 140).

77. It is also recommended to consider the adoption of a framework law on SEA in the Republic of Uzbekistan. Such law could establish general rules for this process and, in fact, settle the simultaneous operation of different types of assessment for different types of strategic planning, in particular, SEE for urban construction (territorial planning) documentation and a special procedure for other types of strategic planning documents (state development programs, first of all).

78. As a final recommendation, we note that the introduction of SEA should not be accompanied by the abolition of existing mechanisms that effectively perform its function in the Republic of Uzbekistan for certain types of strategic documents. In particular, the application of SEE to territorial planning documentation may be preserved in the future, subject to the improvement of SEE.

