

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

DISCLAIMER

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Abbreviations

RT – the Republic of Tajikistan

EE – ecological expertise

SEE – State Ecological Expertise

EIA – environmental impact assessment

Espoo Convention – the Convention on Environmental Impact Assessment in a Transboundary Context (1991)

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

Aarhus Convention – the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (1998)

Introduction

1. The review aims to assess the current system of strategic environmental assessment (SEA) in the Republic of Tajikistan in light of and regarding compliance with international standards (the Protocol on Strategic Environmental Assessment and the Aarhus Convention), taking into account *the Overview of legislative and administrative reforms for implementing strategic environmental assessment in Eastern Europe and the Caucasus (2015)*¹ and *the Practical Guidance on reforming legal and institutional structures with regard to the application of the Protocol on Strategic Environmental Assessment (2016)*².

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

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 environmental assessment system in RT

PART V. Key stakeholders in environmental assessment reforms

PART VI. Analysis of the current environmental assessment system in the RT

¹ ECE/MP.EIA/WG.2/2016/5/INF.6,

https://www.unece.org/fileadmin/DAM/env/eia/documents/EaP_GREEN/Sub-regional_conference__Training_of_trainers_workshop/Review_SEA_ENG.pdf

² ECE/MP.EIA/WG.2/2016/5/INF.7,

http://www.unece.org/fileadmin/DAM/env/eia/documents/WG2.5_April2016/ece.mp.eia.wg.2.2016.INF.7_EN_draft_practical_guidance_on_reforms.pdf

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

3. The review was prepared as part of the work program 2017-2020 of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Protocol on Strategic Environmental Assessment (SEA Protocol). The review was prepared by international experts: Andriy Andrushevych in cooperation with and under the guidance by Jerzy Jendrośka.

PART I. Analysis of the current situation

General aspects

4. Currently, the Republic of Tajikistan (RT) is not a party to **the Espoo Convention, the Protocol on SEA or the Aarhus Convention**, but is considering joining these international instruments.

5. Since 1998, RT is a party to **the UN Convention on Biological Diversity**. The legal framework in the field of biodiversity protection is based on the laws of the Republic of Tajikistan “On nature protection”, “On fauna”, “On Protection and Use of flora”, “On Specially Protected Natural Areas”. The main programming document is “The National Environmental Program of the Republic of Tajikistan for 2009 – 2019” (2009) and “The National Strategy and Action Plan on the Conservation and Sustainable Use of Biodiversity of the Republic of Tajikistan until 2020” (2016).

6. **Relations of the Republic of Tajikistan with the European Union** are based on the Partnership and Cooperation Agreement (2004). EU-Tajikistan relations today are developing within the framework of the EU Central Asia Strategy 2014-2020³.

7. **Accession to international treaties takes place in the order prescribed by the Constitution of the Republic of Tajikistan and the Law of RT “On international treaties of the Republic of Tajikistan”**⁴.

8. Proposals for the conclusion of international treaties of the Republic of Tajikistan are submitted:

- a) to the President of the Republic of Tajikistan regarding signature, approval of international treaties and accession to them on behalf of the Republic of Tajikistan;
- b) to the Government of the Republic of Tajikistan regarding signing, ratifying, approving international treaties and acceding to them on behalf of the Government of the Republic of Tajikistan, and interdepartmental agreements⁵.

9. Such proposals should also contain additional information, including the draft act, the rationale for the expediency of a contract conclusion, etc., and are pre-approved by the Ministry of Foreign Affairs and the Ministry of Justice of the Republic of Tajikistan.

10. Ratification of international treaties is made by the Majlisi Namoyandagon of the Majlisi Oli of the Republic of Tajikistan.

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 RT have a clearly defined range of names: “forecast”, “concept”, “strategy”, “program”, “action plan” or “plan”, and a number of special terms used in territorial (spatial) planning⁶.

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

³ https://ec.europa.eu/development/development-cooperation/development-cooperation-homepage/35336/node/35336_ru

⁴ http://base.mmk.tj/view_sanadhoview.php?showdetail=&sanadID=329

⁵ Art. 5 of the Law of RT “About international treaties of the Republic of Tajikistan”

⁶ Urban Construction Code of RT

- a) strategic documents in the field of socio-economic development of the Republic of Tajikistan,
- b) strategic documents in the field of territorial planning.

13. Currently, the development of the first category of documents is carried out mainly in accordance with the Law of the Republic of Tajikistan “On the state forecasts, concepts, strategies and programs of social and economic development of the Republic of Tajikistan” (2003, with changes of 2009 and 2011)⁷. The development of the second category of documents is carried out in accordance with the Urban Construction Code of the Republic of Tajikistan⁸. The following is a brief analysis of the definitions and the procedure for developing such strategic documents.

14. Strategic planning of socio-economic development of the Republic of Tajikistan involves the development of:

- a) forecast of the socio-economic development of the Republic of Tajikistan
- b) the strategy of socio-economic development of the Republic of Tajikistan (for 10 years with a revision in 5 years after adoption)
- c) the program of socio-economic development of the Republic of Tajikistan for the medium term (5 or 3 years)
- d) state targeted programs (sectoral)⁹.

15. In addition, for the purposes of regional development, forecasts and programs for the socio-economic development of regions are developed.

16. The strategic planning process involves consideration of environmental factors at different stages, in particular, state targeted programs should include a forecast of the expected socio-economic and environmental results of the program if it is implemented (Article 8 of the Law “On the state forecasts, concepts, strategies and programs of social and economic development of the Republic of Tajikistan”).

17. In the field of *territorial planning*, the following types of strategic documents (urban construction documentation) are used:

(1) Documentation on planning development of the entire territory of the Republic of Tajikistan, including:

- general scheme of settlements on the territory of the Republic of Tajikistan;
- schemes for planning development of the territory of the Republic of Tajikistan that include the territories of two or more regions and other territories (consolidated urban construction planning schemes);
- the Republic of Tajikistan territory planning scheme;
- sectoral schemes for development of the territory of the Republic of Tajikistan.

(2) Documentation on planning development of the territories of the Gorno-Badakhshan Autonomous Region, regions, and districts:

- the Gorno-Badakhshan Autonomous Region, regions, Dushanbe, cities and districts territorial planning schemes;
- district planning project (groups of districts).

(3) Documentation on settlements territories development:

⁷ http://base.mmk.tj/view_sanadhoview.php?showdetail=&sanadID=110

⁸ http://base.mmk.tj/view_sanadhoview.php?showdetail=&sanadID=346

⁹ The relevant law contains a definition of the terms specified in clauses a) -c) (forecast, strategy, program).

- settlements master plans;
- urban and village outline projects;
- settlements sector development schemes.

(4) Documentation on settlements development:

- detailed city planning project;
- development project;
- project documentation for construction.

18. Many of the terms indicated in these categories (planning scheme, settlements master plans, etc.) are defined by Article 2 of the Urban Construction Code of the Republic of Tajikistan.

19. During the evaluation, it was not possible to review secondary legislation in the field of strategic planning.

20. It should be noted that international standards require the changes to strategic documents to be also subject to strategic environmental assessment if they (such changes) may have significant environmental impact. Based on the provision of paragraph 4 of Article 43 of the Urban Construction Code, it can be concluded that the changes to the urban construction documentation in the field of territorial planning follows a simplified procedure, in particular, they are not subject to expertise. The Law “On the state forecasts, concepts, strategies and programs of social and economic development of the Republic of Tajikistan” does not specify the procedure for amending relevant development strategies or programs.

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

21. **In past years**, a number of strategies and/or programs were adopted in the Republic of Tajikistan, including the “National Development Strategy of the Republic of Tajikistan for the Period till 2030”, and the priority measures of its initial phase are included in the “Medium-Term Development Program of the Republic of Tajikistan for the Period of 2016- 2020”.

22. Based on the content of the Address by the President of the Republic of Tajikistan in 2017, the adoption of new strategic documents, as well as the improvement of the planning process in general should be expected (in particular, the transition to modern methods for assessing adopted strategies and programs, while future program investments will be subject to their results and effectiveness)¹⁰.

23. In general, **the following types of strategic documents by their nature should be subject to SEA in the RT:**

- a) In the field of general socio-economic planning:
 - i. National and regional strategies and programs for socio-economic development
 - ii. State targeted programs
- b) In the field of territorial planning:
 - i. Documentation on planning development of the entire territory of the Republic of Tajikistan
 - ii. Documentation on planning development of the territories of the Gorno-Badakhshan Autonomous Region, regions, districts
 - iii. Documentation on the settlements territories development .

¹⁰ Address by the President of the Republic of Tajikistan on December 22, 2017

24. The grading (categories) approach to urban construction documentation is typical for many countries in Central Asia. Out of those documents, three groups can be unambiguously attributed to the potential objects of strategic environmental assessment. By their nature, documentation on settlements development (in particular, detailed city planning projects), where it has direct relation to specific type of a proposed activity can be considered as part of planning the proposed activity and, consequently, subject to EIA, not SEA. This issue requires further discussion.

PART IV. The current environmental assessment system in RT

Environmental Assessment Model

25. In general, the environmental assessment system in RT is built on the well-known model of EIA-EE. Under this model, the environmental assessment system provides for the following distribution of duties and rights between developers and public authorities:

- Developer¹¹: Organizing and conducting environmental impact assessment (OVOS) at all stages of planning and designing facilities and new activities, financing the development of the environmental impact assessment documentation, organizing public consultation regarding planned activities, submitting necessary environmental impact assessment documentation for public geological expertise¹².
- *Specially authorized body* organizes state ecological expertise (Article 6 (2) of the Law “On Ecological Expertise”). It should be noted that SEE is carried out by experts (expert commissions) (Article 10 of the Law “On Ecological Expertise”) and together with developers and consultants are “subjects” of SEE (Article 8 of the Law “On Ecological Expertise”).

26. **The laws regulating the EIA-EE system** in the Republic of Tajikistan are:

- Law of the RT “On Environmental Protection” dated July 18, 2017 No. 1449
- Law of RT “On Ecological Expertise” dated April 16, 2012 No. 818 (hereinafter – the Law on EE (2012));
- Law of RT “On Environmental Impact Assessment” dated July 18, 2017 No. 1448.

27. **By-laws.** The main bylaws in the field of EIA / EE are:

- Resolution of the Government of the Republic of Tajikistan No. 697 “On the procedure to conduct state ecological expertise” dated December 3, 2012 (hereinafter referred to as the SEE Procedure (2012));
- Order of the Government of the Republic of Tajikistan No. 532 dated November 1, 2018 “On the procedure to conduct environmental impact assessment, classification of objects of assessment by categories, depending on nature of their impact on the environment, and

¹¹ It should be noted that the relevant two laws in this area define the developer differently: “the state body, public and international organizations, individuals and legal entities who are interested in conducting environmental expertise” (Law of RT “On Ecological Expertise”) and “the developer of the planned economic and other activities - a natural or legal person responsible for the preparation of documentation for economic and other planned activities, including environmental impact assessment [documentation]” (Law of RT “On Environmental Impact Assessment”).

¹² Article 22 (2) of the Law of the Republic of Tajikistan “On Ecological Expertise”. Obviously, the text of the law provided is a typo and should be read as state ecological expertise.

also the criteria for determining categories of objects of the planned activities dangerous for the environment”¹³.

28. The objects of ecological expertise include a number of documents of strategic nature (state planning)¹⁴:

- a) republican and local projects, industry concepts, forecasts, programs and schemes, the implementation of which is associated with the use of natural resources and (or) may have an impact on the environment;
- b) urban construction projects;
- c) projects of water protection zones of water bodies and their protective coastal strips;
- d) hunting management projects;
- e) forest management projects¹⁵.

29. The SEE Procedure (2012) clarifies the concept of urban construction projects by classifying them as “project documentation” and detailing it: urban construction projects of general, special and detailed planning, architectural projects of territorial development.

30. It should be noted that the term “urban construction project” does not have a clear definition in special legislation, in contrast to “urban construction documentation”.

31. Unlike specific types of planned activities, legislation in the field of EIA / EE does not provide requirements for submitting or content of special materials on environmental impact assessment when conducting SEE draft state programs, concepts, etc. Such requirements may be provided for by-laws. Among the available and analyzed such by-laws¹⁶, the requirements for the inclusion of environmental issues are of a general nature.

32. It should also be noted that the environmental expertise concept has emerged within the framework of ensuring environmental safety during the design of industrial facilities, including its permitting nature. Its application to urban construction documentation of local territorial planning may be expedient and possible, but for the purposes of strategic planning documents for socio-economic (including sectoral) development, the EE model is not fit and has no practical application¹⁷.

¹³ Texts of all by-laws are not available on the only official website of the RT legislation (http://base.mmk.tj/view_sanadholist.php?language=ru) and were provided by national experts, unless otherwise specified in this document.

¹⁴ The list of SEE objects is defined by Article 9 of the Law of RT “On Ecological Expertise” and is not exhaustive.

¹⁵ The last three SEE objects are provided exclusively by the Order of SEE (2012). During this review, it was not possible to get acquainted with the content of such documents, therefore it is not possible to make an unequivocal conclusion about whether they fall under the scope of the Protocol on SEA.

¹⁶ Such by-laws included: The procedure for the settlement general scheme development; The procedure for sectoral schemes development for the territory of the Republic of Tajikistan; The procedure for the planning development of territories of the Republic of Tajikistan; The order of the consolidated schemes development of town-planning of individual parts of the Republic of Tajikistan.

¹⁷ As noted in *the Overview of legislative and administrative reforms for implementing strategic environmental assessment in Eastern Europe and the Caucasus (2015)*, “Combination of modern SEA scheme with state ecological expertise has proven very difficult. It seems to be successful only in countries that either do not envisage in fact any role for expertise in the SEA scheme (like Moldova) or treat state expertise as advisory expert advise (like Georgia). Maintaining within the proposed SEA scheme all the features of the traditional OVOS/expertise systems seems to be not contributing to compatibility of the SEA scheme with international standard ” (p.30).

Screening and scoping¹⁸

33. In the SEE process of the above strategic documents (or amendments to them) are not subject to individual screening or scoping in the sense of the Protocol on SEA. In addition, in practice draft national programs and other similar documents are not subject to mandatory submission to SEE.

Public participation

34. Citizens and public organizations have the right to submit “reasoned” proposals to the authorized body, to participate in the review and development only of EIA documentation and to receive information on the SEE results (Art.7 of the Law “On EE” (2012)). In turn, the Law on EIA (2017) does not apply to strategic documents, since the object of the EIA is exclusively projects of economic or other planned activities (Article 4), the definition of which does not include documents of strategic planning (Article 1). Thus, the said provision of the Law on EE (2012) cannot ensure public participation in the strategic documents SEE process.

35. The Law on EE (2012) and the SEE Procedure (2012) do not contain specific requirements for ensuring public participation in the SEE process. The corresponding general requirements are put on local authorities (Article 6) in the form of jurisdictions (and not functions, i.e. obligations) and the developer. The authorized body in the field of SEE is obliged to consider materials reflecting public opinion (Article 7 of the Law on EE (2012) and paragraph 10 of the SEE Procedure (2012)).

36. In addition, public participation in ecological expertise is partly provided by the institute of the so-called public ecological expertise (Article 4 of the Law on EE (2012), but this mechanism cannot by its nature comply with international standards¹⁹.

37. Thus, public participation in the preparation of strategic documents process cannot be ensured within the framework of the legislation of the Republic of Tajikistan in the field of ecological expertise or EIA.

38. In turn, the special legislation in the field of strategic and territorial planning contains only general requirements for public participation: the Law of the RT “On the state forecasts, concepts, strategies and programs of social and economic development of the Republic of Tajikistan” provides for the mandatory participation of the civil society in implementation of programs for the socio-economic development of regions (Art.91), and the Urban Construction Code of the RT contains only general provisions on the right of citizens to favorable environment (Art. 7) and the ensuring conditions for the participation of citizens and public organizations in the discussion and decision-making in the urban construction field (Art. 8)²⁰.

39. Thus, the requirements for public participation in the SEE process and strategic planning do not meet international standards and require profound changes.

Transboundary Procedures

¹⁸ Screening is a term used in international law to designate a decision on a specific proposal in order to determine whether a given proposal requires SEA or not (see, in particular, Article 5 of the Protocol on SEA). Scoping is a term used in international law to designate a decision on a specific proposal in order to determine the specific requirements for the content of an environmental report on a given proposal (see in particular Article 6 of the Protocol on SEA).

¹⁹ See paragraph 24 of the General guidance on enhancing consistency between the Convention and environmental impact assessment within State ecological expertise in countries of Eastern Europe, the Caucasus and Central Asia, ECE / MP.EIA / 2014/2

²⁰ The analyzed by-laws in the field of territorial planning do not contain provisions for public participation.

40. The current decision-making procedures in the process of SEE and strategic planning **do not involve the application of transboundary procedures**

(consultations, notifications, etc.); neither in the process of elaboration sectoral development documents, nor in the process of elaboration territorial planning documents.

41. The provisions of EE legislation governing issues related to transboundary impact do not apply to strategic documents (only to the proposed activity, i.e. the project level). The provisions of paragraph 11 of the SEE Procedure (2012) on taking into account the agreed materials on transboundary impact can hardly be applied to strategic documents due to the fact that the definition of transboundary impact (Art. 1 of the EE Law) provides only the impact of the proposed economic activity (and not other EE facilities).

Environmental Assessment Report (Environmental Report)

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

43. Based on the information gathered during the preparation of this review, in the past *sectoral strategies, development plans and programs* did not include documentation assessing their environmental impact and drafts are not provided for SEE. Analysis of the current legislation in the preparation of *national strategies and programs* testifies that the development of such programs does not provide for requirements to assess their environmental impact and / or their submission for SEE.

44. Thus, it can be concluded that in relation to sectoral (state) strategic documents (plans, programs, strategies, etc.), the Republic of Tajikistan does not apply the SEA system from the point of view of international standards, and the provisions of national EE/SEE legislation are not applied in practice to drafts of such documents.

45. In the field of territorial planning, legislation and practice differs from sectoral or general planning in the Republic of Tajikistan in terms of environmental impact assessment of the implementation of such planning documents.

46. Unlike sectoral strategic documents, draft documentation in the field of territorial planning is subject to SEE, that is what happens in practice (at least in relation to the master plans of settlements²¹).

47. In the field of territorial planning, first of all, it is necessary to note the absence of general access to texts of by-laws and technical acts that regulate the process of developing many categories of town-planning documentation, in particular master plans for settlements. Publicly available acts, as noted above, contain only general requirements regarding the content of environmental information in drafts of town-planning documentation. **The lack of necessary legal documents significantly limits the scope and reliability of the review conclusions.**

²¹ During the review preparation, only examples of city master plans were provided to the experts.

48. The examples provided, however, contain information on the preparation of EIA materials in the process of developing town master plans. Such materials along with the draft master plan are provided for SEE.

49. In the example provided, the draft master plan (its explanatory note) contained “Natural Resources” section in a total of 2 (two) pages, briefly disclosing the issues of atmospheric pollution, water resources and soils, etc.

50. In general, in the examples provided, the information included in the “Natural Resources” section of the settlement draft master plan does not meet the requirements of Annex IV to the Protocol on SEA.

PART V. Key stakeholders in environmental assessment reforms

51. In the field of strategic planning, a whole range of potential stakeholders in Tajikistan can be identified. Basically, all government authorities, institutions, enterprises and organizations that are authorized to perform certain functions in the strategic planning process can be considered as concerned stakeholders. In particular, all bodies, institutions, enterprises and organizations directly mentioned in the Law of the RT “On the state forecasts, concepts, strategies and programs of social and economic development of the Republic of Tajikistan” and Chapter 2 of the Urban Construction Code of the Republic of Tajikistan should be considered as relevant stakeholders.

PART VI. Analysis of the current environmental assessment system in the RT

52. Regarding sectoral and general strategic documents, in particular state programs of socio-economic development, the SEA system (in the SEA Protocol meaning) is absent in the RT. For this reason, there is no need to present a detailed (step-by-step) analysis of the compliance of existing procedures for development and adoption of such documents with international standards.

53. Regarding urban construction documentation (spatial planning), it is SEE which plays a SEA function in the RT. A summary analysis of the compliance with SEA Protocol provisions is presented below (for documentation in the areas of territories and human settlements planning):

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.)	Drafts of some urban construction documentation is subject to SEE.	To some extent. National legislation does not use the term “SEA”. It was possible to assess whether all types of urban construction documentation is submitted for SEE.
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.)	It was not possible to assess.	Likely absent. Amendments procedures need to be further clarified.

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.)	It was not possible to assess.	It was not possible to assess.
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) 	Absent.	Absent.
<ul style="list-style-type: none"> Use environmental objectives in SEA (in accordance with annex IV, para. 5) 	It was not possible to assess.	It was not possible to assess.
<ul style="list-style-type: none"> Compare alternatives of the plan or programme (in accordance with annex IV, para. 8) 	Most likely – absent.	Urban construction code has no requirements on consideration of alternatives.
<ul style="list-style-type: none"> Prepare post-SEA monitoring plans to meet requirements of article 12 and annex IV, paragraph 9 	It was not possible to assess.	It was not possible to assess.
<ul style="list-style-type: none"> Analyse transboundary effects (in accordance with annex IV, para. 10) 	Absent	No. Neither legislative provisions 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 concerned; how to inform the public and collect feedback, how to review public comments, etc.)	There are only general provisions regarding public review.	No. In practice this is applied rarely.
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.)	The documentation in whole is subject to SEE.	Regarding environmental authorities – to some extent. ²² Regarding health authorities – insufficient information (probably – 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.

²² Other public authorities have no functions in the SEE process (Ministry of melioration and water resources, the Committee on emergencies and civil defense, Main geology board, Forestry company of the RT, etc.).

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 part of the SEE process, the conclusion of SEE has permitting nature.	To some extent. Separate report is not prepared.
Monitor significant environmental and health effects during implementation of plans and programmes (art. 12)	Absent.	No.

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

General recommendations

54. It is recommended to consider adoption of a framework law on strategic environmental assessment in the RT. Such law could set general requirements for the SEA process and conform different assessment regimes for different types of strategic planning. In particular, SEE as an assessment tool for urban construction documentation and a special procedure for other types of the strategic planning (state development programs, first of all).

55. The system of development and approval of the strategic documents **of socio-economic and regional development**, in particular state programs and strategies, needs introducing new special provisions on SEA. Such provisions can be provided by special relevant legislation (separately from other types of strategic planning, in particular from urban planning procedures). At the moment, we can witness the absence of the strategic environmental assessment system in this area of planning.

56. 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, provide details on amendments procedure, introduce scoping stage) and (b) ensuring public participation. For this type of strategic planning, SEE mechanism can be applied but is not recommended.²³

57. Based on the assessment of the current capacity, introducing SEA will require significant institutional changes (capacity building). 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 Environmental Protection Committee and its local bodies.

58. If acceding to the Protocol on SEA, relevant amendments should include provisions on transboundary impact assessment (consultations).

Specific Recommendations

²³ For countries with the traditional OVOS/expertiza systems, introduction of new modern EIA and SEA schemes does not necessarily involve abolishment of the system of expertiza as means to provide environmental control over development processes. Conceptually and technically it is perfectly possible to combine new modern EIA and SEA schemes with a slightly revised legal scheme for expertiza (Draft practical guidance on reforming legal and institutional structures with regard to the application of the Protocol on Strategic Environmental Assessment, Box 1, para.2).

59. First of all, it is necessary to make amendments to the Law of the RT “On the state forecasts, concepts, strategies and programs of social and economic development of the Republic of Tajikistan” in order to (a) introduce the procedure for assessing the environmental impact of such programs and (b) introduce public consultations procedure. It is recommended to develop special provisions for such an assessment, different from the SEE procedure. The procedure of SEE, due to the permitting nature of the conclusion of SEE, can hardly be applied in practice to such strategic documents. Such procedures should reflect international legal standards in this area, in particular the Protocol on SEA, and may be of a consultative nature.

60. It is necessary to make amendments to the Urban Construction Code of the Republic of Tajikistan with the aim of:

- a) Improving the procedures for developing urban construction documentation with regard to the environmental component of the explanatory note, clearly defining its content, the procedure for making amendments and scoping of materials on environmental assessment;
- b) Introducing mandatory public consultations on drafts of such documents.

61. With regard to public participation, it is recommended to consider two options for the introducing this procedure: either in the framework of the procedure for developing/co-approving urban construction documentation, or in the framework of SEE. In any case, public participation should provide for the possibility of providing comments on both the environmental part of the draft urban documentation and on the entire content of such documentation.

62. It is also recommended to consider the amending the RT Law on Ecological Expertise and the SEE Procedure (2012) in order to reflect the peculiarities of SEE of objects, in particular, regarding the content of relevant documentation. Moreover, the requirements for the content of the relevant section (s) of urban construction documentation can be implemented through the SEE Procedure (2012).

