



Netherlands Commission for
Environmental Assessment

SEA capacity building in Montenegro within a broader context of sustainable coastal zone management along the Adriatic coast

Memorandum by the NCEA

11 November 2005



Advice of the Secretariat

To World Bank
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Subject SEA capacity building in Montenegro
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1. INTRODUCTION

1.1 Relevance of SEA

Strategic Environmental Assessment (SEA) is an internationally recognized tool for the accounting of environmental aspects and sustainability considerations within proposed plans, programs and policies. SEA may be applied at all decision making levels (national and local), but is widely used to improve spatial planning as well as sector plans and programs. Evidence obtained from the application of SEA so far proves that this instrument assists decision makers to:

- achieve environmentally sound and sustainable development;
- prevent environmental obstacles for economic development;
- strengthen policy, plan and programme making processes;
- save time and money by avoiding costly mistakes;
- improve good governance and build public trust and confidence in decision making.

1.2 Role of the Netherlands Commission for Environmental Impact Assessment

With the assistance of the Netherlands Government under the Bank Netherlands Partnership Programme, the World Bank will support the Government of Albania and Montenegro with capacity building in the area of Strategic Environmental Assessment (SEA). The World Bank has approached the Netherlands Commission for Environmental Impact Assessment (NCEIA) to provide its expertise and services in SEA. The Terms of Reference for the expected assistance of the NCEIA are provided in appendix 1 (September 2005).

The objective of the NCEIAs intervention can be summarized as designing and initiating the implementation of a coherent medium term (up to five years) programme for SEA capacity building in Albania and Montenegro with specific emphasis on processes/activities that contribute to sustainable coastal zone management of their Adriatic coast.

Specific activities within this overall objective can be summarized as:

- Carry out a SEA capacity gap assessment and assist the government in drafting a multi year SEA capacity building programme.
- Design and provide an SEA training course to the government and other stakeholders.
- Provide independent guidance on the implementation of a pilot SEA.
- Develop a dissemination strategy and materials, including the technical support for the organization of a regional SEA workshop.

To initiate these activities and establish first contacts with relevant stakeholders, the NCEIA visited Albania and Montenegro from 31 October till 4 November 2005 (see appendix 2 for working programme). This report reflects the findings of the visit to Montenegro only. A separate report is available for Albania.

1.3 Approach for effective introduction of SEA

The approach to drafting a multi-year SEA introductory programme should be such as to raise ownership for SEA by the respective governments. The implementation of specific pilot SEA to familiarise both government and other stakeholders with SEA is further expected to contribute to this process. As part of the dissemination strategy and based upon practical experiences with the pilot SEAs, the respective governments could be assisted with the drafting of country specific SEA procedures and guidelines. If there is sufficient government buy-in, inter-ministerial SEA taskforces could become the driving force responsible for the implementation of the programmes. Finally, the program for introduction of SEA will include a coherent program for training of key stakeholders, aimed at ensuring that SEA processes are well understood, transparent and participatory.

2. FINDINGS

2.1 SEA capacity needs assessment

In accordance with the ToR, the capacity assessment started with an analysis of existing studies undertaken and discussions with representatives of the government, public institutes, donor agencies, consultants and non governmental organizations. This assessment was limited to national level only. In follow-up missions the regional and local levels will be included as well to complement this first assessment.

2.1.1 Studies undertaken so far on SEA

None.

2.1.2 Available staff and institutional capacity in relation to SEA

The Ministry of Environmental Protection and Physical Planning (MEPPP) works in 5 sectors, with 90 employees: physical planning, urban construction, legal department, environment and communal services. For environment there are 15 people at national level ('doing everything') and at municipal level there is very little staff. The bigger municipalities (out of a total of 21) have a secretariat for environmental protection.

Since "97 some 200-300 EIAs have been executed, by professionals or institutes with some EIA experience (although not exclusively working in this field). EIAs are now very much 'copy-paste'-like. There is no experience on SEA.

Technical institutes related to environment are: Institute for the protection of Nature, Institute of Marine Biology, Institute for Hydrology and Meteorology, Centre for Eco-toxicological research, Morsko dobro (public enterprise for public maritime domain) and some others. They are more aware on SEA, however not through training, but mainly through internet (SEA directive).

There are ideas to have an Environmental Protection Agency (EPA), of which the above mentioned public institutes could be part. The tender procedure is just finished and the project will now be executed by consultant from Spain and Ireland, with funding from EAR (European Agency for Reconstruction). This could be interesting because a multi-year SEA program would need an institutional rooting (SEA task force being part of EPA?).

2.1.3 Legal background of SEA

Montenegro has signed the Kiev protocol on SEA but has not yet ratified.

SEA legislation is now in place (enactment only as of 1-1-2008), in line with EU legislation. However, the main problem is implementation, so SEA capacity building is very much needed and now is the right time to start. Aslo by-laws still have to be developed.

Three new laws have been developed with Finnish support: EIA, SEA and IPPC. These are all adopted by government but not yet by parliament. The

main incentive to have these new laws was to be in harmonization with EU standards and directives. The three documents will be presented on the 23rd of November in an international conference. All documents are available in English (SEA law 18p.)

UNDP has been involved in the reform of the Law of physical planning and development. This law has been approved in May '05. UNDP is now providing assistance in the implementation of the law, with main focus on municipality level. They have to have their spatial and urban plans ready within 3 years. They anticipated EU standards/requirements and that is why SEA requirements have been put in this new law. See details in 'Law on physical planning and development' (19 p. in English).

2.1.4 Other actors/initiatives in the field of SEA and donor activities

UNDP does not have substantial work in environment. They are involved in the strategy on mini hydropower (with Ministry of Economy and Min. of Water Supply, Forestry and Agriculture) and sustainable tourism in the North. And some GEF work on management of national parks. They have been involved in the Law on Physical Planning and Development (see under 2.1.3). There is another project called 'Strengthening capacities of the MEPPP to deal with problems of environmental management (June 2005, with funding from Dutch government, through UNDP with Slovenian consultant??, no further details known).

GTZ is funding the National Coastal Management Strategy, which is being prepared with 6 Ministries, 6 municipalities, expert institutions, universities and NGOs. An Institutional and Legal Analysis Study on Coastal Management in Montenegro was prepared in October 2004, by a consultant (available in English, 90 p.). The document National Coastal Management Strategy - Diagnosis shall be finalized by the end of November. The strategy will be finalized in 2006 and implementation projects are expected to be derived from it. Environment is cross-cutting issue.

In relation to the National spatial plan, GTZ found budget for the University to carry out baseline studies, which were handed over to the MEPPP on 1 August and approved by MEPPP, review commission and GTZ. GTZ has now no official involvement anymore, but the Minister asked them to be part of the review commission (status: not a member, but an observer entitled to give comments).

EU gave funds for drafting a waste water master plan (KfW did also part) for the coastal zone (5 out of 7 municipalities on board). It is approved in 2005 and sets out investments requirements (for EIB, EBRD and WB). A similar plan has been made for the rest of Montenegro and also been approved in 2005. Also a strategic master plan for solid waste was recently drafted.

EU is also providing support to the MEPPP in the establishment of an Environmental Protection Agency (see also 2.1.2). Plans are to have a separate EPA, a PIU to manage and implement investment projects in waste and waste water and assistance in reviewing and developing legislation. Terms of reference for this project are available in English (22p.)

Other donors: USAID (mainly involved in economic reform) and SNV (recently opened office, interested in capacity building on environment at local level).

2.1.5 Preliminary conclusions and proposed next steps

As a result of this first assessment, a few conclusions can be drawn already:

- There is no general documentation on SEA in Montenegro.
- The governmental institutional capacity on SEA is non-existent. One person at the MEPPP has some theoretical knowledge on SEA through her involvement in the preparation of the new SEA law, but no practical experience in Albania so far. SEA capacity in other ministries is zero. The same applies to decentralized government structures. For any SEA capacity building programme, a realistic assessment of the resources that the governments can be expected to provide for implementation, including their own budgetary resources and external assistance is of utmost importance. Successful SEA introduction requires a careful design of the institutional framework. The project on establishment of a separate EPA should therefore be closely followed. Institutional capacity will need to be a priority part of the design of a multi-year program, including how this can be financed.
- SEA has a legal basis, but lacks instruments for implementation. This can therefore also be identified as a priority need. As the SEA law will be enacted as from 1-1-08, the timing to develop by-laws seems to be perfect.
- Although the SEA law is not yet in force, the Law on physical planning and development requires SEA for a number of spatial plans.

2.2 SEA training

2.2.1 Training activities already undertaken in relation to SEA

In general SEA knowledge is absent or very low.

Any SEA training should include Ministers to create awareness.

There has been capacity building under the Finnish project (June 05 for some 70 participants) but this was limited to EIA and IPPC. SEA was not part.

There is no agency/consultant within Montenegro that could undertake an SEA.

The consultant preparing the National Spatial Plan, should definitively be part of any SEA training activity, as well as the specialized institutes for environmental protection. Also emphasis should be placed at municipal level, because the new law on physical planning also requires SEA at local level planning (for developing new plans or up-dating existing ones).

In planning, environment always has had a very prominent place since the 60th. Montenegro was a pioneer when comparing with plans from other countries. However, a weak point always has been implementation. Implementation therefore should be a specific point of attention in any SEA training.

REC has a field office in Montenegro (since 2004) with 3 staff members (Head office in Hungary, about 100-150 staff, Country Office in Belgrade) REC has also been involved in the Finnish project on SEA legislation. REC Montenegro has experience in training and capacity building for municipalities and government, mainly in relation to public participation in EIA (Aarhus

conventions). They are currently involved in capacity building of MEPPP and other environment related organizations through the organization of study tours Montenegro/Hungary and vv. SEA is mainly in charge of REC head office Hungary: maybe SEA could be included as a topic of one of the next study tours. REC is interested in providing assistance in training. A person from MEPPP has participated in the preparation of the REC manual for South Eastern Europe.

2.2.2 Preliminary conclusions and proposed next steps

Preliminary conclusions so far:

- There has not yet been any SEA training being done before in Montenegro.
- SEA knowledge is limited to some individuals. All interviewed persons expressed great interest and need for training.
- Within the framework of the above mentioned expected activities of the NCEIA, a one week training will be provided. This training has an introductory character and could have an amount of 30-40 participants, with representatives of the most relevant Ministries, the above mentioned Public Institutes, University of Montenegro (Urban studies, will probably start next year with topic on EA), NGOs (there are many active ones), private sector (EIA consultancy firms), relevant Municipal Environmental Secretariats/units.
- It is proposed to have this training planned in the first half of 2006, but after having gained the practical experience from the SEA pilot on the National Spatial Plan.
- MEPPP is the main counterpart in the organization of any SEA training. Possibly also some experts from Serbia or the region could be invited. REC could be involved as well providing assistance both because of their experience in capacity building in environment related issues in Montenegro, as well as because of their SEA knowledge (regional expertise, REC headquarters regional office).

2.3 SEA pilots

2.3.1 The SEA for the National Spatial Plan

The idea of the pilot would be to use this as a model to show how to do appropriate SEA.

Stakeholders:

The key Ministries involved in the SEA pilot for the National Spatial Plan is the MEPPP. The MEPPP has prepared the program for drafting the new spatial plan, and this has been approved by government and together with ToR sent for tendering.

The consortium preparing the National Spatial Plan is composed of Montenegro Inzinjering (leading) with consultants from Belgrade and Ljubljana.

There is an independent Review Commission which has around 20 members (experts for all relevant sectors). They are invited to provide comments on each relevant milestone in the process. The review Commission has a mandatory role and thus has a co-responsibility for the contents of the Plan.

According to law, other Ministries also have to approve before next steps are being taken. Besides MEPPP, these are Ministry of Agriculture, Water supply and Forestry, Min. of Economy, Min. of Transport and Min. of Culture. They have to check whether all documents are in line with their sector policies/strategies.

All stakeholders were informed and aware of the proposal to undertake an SEA for this plan.

Contents: described here quite extensively, as no English translation is available (yet).

This new plan will be the fifth plan: Regional plan for South Adriatic dates from '67, the plan after the big earthquake was from '87. Then there were 2 minor revisions or annexes in '97 the latest one (including 24 baseline studies) which ran until 2000. The previous ones were based on the existing principles for urban and spatial planning in the world.

The methodology used for this new plan: expert analysis in stead of baseline studies. They are not any longer producing new studies because environment does not change much. International obligations are taken into account, such as conventions, but also eg. Interreg 3 B, which provides guidance in South Eastern Europe for harmonizing approaches between countries in terms of unified environmental protection and land use. When a country complies with Interreg, it has easier access to structural funds from EU.

Another important guiding document is the '91 Declaration of Ecological State, based on high natural values in a small area (converted in 2001 into Development Directions of Montenegro as an ecological state).

The consultant has the right and liberty to integrate new proposals into the document. The decision on whether this is accepted is taken by the review commission.

Overview of work undertaken so far (80 experts of which 50 Phd):

- 1) working document, content of spatial plan, who is preparing, timeframe: approved.
- 2) analysis of existing documents and assessment of conditions. Based on the desire of Montenegro Government to keep continuity in spatial plans. Collection, systematization and assessment of value/usefulness of information: also approved.
- 3) 19 baseline studies for all sectors, undertaken by University of Montenegro, base on expert analysis:
 - a. conditions
 - b. achieved level of development
 - c. to which extent objectives have been achieved
 - d. potential
 - e. recommendations for development

There was no aim to integrate sector studies, because it would hamper to define potentials. However, a final synthesis is part of the document: also approved

- 4) These baseline studies, together with three other documents (Development directions of Montenegro as an Ecological state, 2001, Document on Economic Reform 2003-2007, Current spatial plan of Mont. valid until 2000) form the basis for the new spatial plan, together with other plans adopted by Gov. The fourth stage is the 'Assessment of conditions (9 chapters) and development perspectives (4 chapters)' document.

This has been evaluated by the Review Commission, who gave many useful suggestions, but also has substantial criticism. They are now working on improvement and will try to align it with sectoral goals. It

is very difficult however to plan economic development in space. The intention is to have a clear document (200p) with maps.

- 5) The draft plan is being developed meanwhile, eg. through the development of 3D electronic maps (based on update of old maps, with satellite images). This National Spatial Plan will be the most important one for economic development. The maps are ready to introduce development directives which will be determined and approved under 4)

Legal status:

The new National Spatial plan is now under preparation but carried out under the procedures for the preparation under the 'old' provisions, which at that time did not require SEA. So although it is formally not required, MEPPP is happy to integrate SEA and consider this as a pilot exercise.

The timeframe of the National Spatial Plan is '05-'20 and provides guidance and directions for all lower level plans. When the Plan is approved, it will have the status of a Law.

Planning

The first draft of 'Assessment of conditions and development perspectives' is now being supplemented and expected to be ready by the end of November. Then the first draft of the plan will be ready early next year and submitted to mandatory public participation (1 month) and then planned to be ready in Sept. '06. The idea of applying SEA for the Plan will be supported by the Minister, as long as it will not cause delays, so timing is important

2.3.2 Possibilities mentioned for other pilots

The National Coastal Management strategy is almost ready and therefore probably not very suitable for SEA, but it could be a good example of how participatory approaches have been conducted, who have been involved and what is their expertise/vision towards environment.

The same applies for the Plan for the Coastal Zone (Morsko Dobro), which is a spatial plan for a special purpose area under the new Law on physical planning and development. It will be approved quite soon. It has a long history of development already and started in '98. Now there is a final draft, consisting of a strategic plan and 7 more detailed plans. The plan is only for the coastal zone, but gives recommendations for the hinterland of the municipalities as well. It will be valid until 2020, but will probably be revised every 5 years. The big problem will be implementation, as there are strong conflict between investors and environment. For the preparation of the plan no SEA was required at that time. There is a summary in English (120p.), however of low quality. Also for the development of this plan, a Review Commission participated. When the plan for the coastal zone will be adopted, this will have the status of law. There is also a coastal zone law of '92.

Several other possibilities were mentioned for SEA pilots:

- SEA for the Shkodra lake, because at the Albanian side they proposed to have a Hydroelectric Power Plant, which would lower the water level by 4 m. Also Albania has plans to construct a harbour/dredging canal at the ... river, which flows from the lake to the sea. From the Montenegro side there are plans to have water supply from the lake

because of tourism development, which is now suffering water shortages. Could be an interesting pilot because of plans for interventions in a protected area.

- Strategic master plan for tourism (it was mentioned that Lahmeyer consultants applied EIA for this tourism master plan?), master plan for transport, energy strategy for Montenegro, water management plans and water supply plans.
- The LEAPs (local environmental action plans). REC is just now starting with a manual developed by REC: 1 for Albania, 1 for Montenegro. In one municipality there is a LEAP office (1 person). LEAP (first draft report is available) will be part of municipal strategic plan for development. In general, secretariats for environmental affairs at municipal level has very limited budget and powers.
- Although GTZ will not have funds in future for this region, there are ideas of tapping EU funds for general and detailed urban plans in Bar and Uzin (?): municipalities near Shkoder lake (2 municipalities, minister and director of national parks). This could be an interesting SEA pilot also because of trans boundary aspects with Albania. SEA for local level planning. This could also be an interesting possibility for Dutch Embassy funding (see Albania SEA mission report).

2.3.3

Preliminary conclusions and proposed next steps

- The identified 'National Spatial Plan' is suitable for an SEA pilot, because the report on 'Assessment of conditions and development perspectives' is now being updated and forms the basis for the actual plan. Therefore timing appears to be perfect.
- The NCEIA proposes to start with the formation of a working group of experts and plan a visit to Montenegro early January 2006. The pilot will be designed as a joint activity of the NCEIA and the relevant Montenegro authorities (MEPPP and consortium), mobilising their expertise and providing a possibility for 'training-on-the-job' in the practical application of SEA. This will then also serve as a case study/example for the training activity.
- In order to start the work, the NCEIA would need to know when the 'Assessment of conditions and development perspectives' report is publicly available in English. Also the already approved documents (mentioned under 1,2 and 3 in 2.3.1) would need to be available in English.
- Based on the experiences with this first pilot, specific opportunities for other SEA pilots can be identified as part of the multi-year SEA capacity building programme. Some suggestions have been mentioned already, but will be determined in relation to the most pressing capacity gaps/institutional obstacles and have to be in line with the priorities of the authorities in Montenegro.

2.4

Dissemination strategy and materials

This component has not yet been subject of this first visit, as it can only be designed based on the components mentioned under the preceding paragraphs.

2.5 Multi-year SEA program

The activities performed under 2.1 to 2.4 form the basis for a multi-year program on SEA, which will be drafted by the staff of the MEPPP in close co-operation with the NCEIA. It will need to (i) provide the framework for the planning and execution of all SEA activities in the period mid 2006-2008 (?) (ii) ensure effective resource allocation for donor supported SEA activities and (iii) assess how donor funded SEA activities can be executed most effectively. The approach that is generally used by the NCEIA is provided in Appendix 3 and can for the framework for developing such a multi-year program. The NCEIA will make use of comparable experiences in other countries.

Appendix 2: Working programme

Wednesday 2 november

13.00 Meeting with Ana Misorovic, Director of Centre for Ecotoxicological research in Montenegro

15.00 Meeting with Marina Banovic, programme manager UNDP

Thursday 3 November

10.00 Meeting with Biljana Djurovic, Senior Advisor to the Ministry of Environmental Protection and Physical Planning and Jelena Knezevic, Advisor to the MEPPP

11.30 Meeting at MEPPP with Vesna Rakcevic, Deputy Minister for physical planning and coordinator of preparing the Spatial Plan of the Republic of Montenegro and with Ana Jovetic

13.00 Meeting with Ratumir Mugosa, of Montenegro Inzinjering, and teamleader of the consortium preparing the spatial plan

14.30 Meeting with GTZ, Thomas Waldraff, Head of Office and Marija Markovic and Sanja Ljeskovic, associates on the project of preparing the ICZM strategy

16.00 Meeting with Neil Boland, European Agency for Reconstruction

Friday 4 November

8.30 Meeting with Snezana Dragojevic, Project officer Regional Environmental Centre

10.00 Meeting with Morsko Dobro Agency (Alexandra Ivanovic) and Montecep consultancy (Sasa Karajovic) in relation to spatial plan for the coastal zone