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Concept and role of SEA and roles of various actors

*National environmental assessment systems and requirements of the Espoo Convention and its Protocol on Strategic Environmental Assessment
Training Workshop to support legal drafting process in Uzbekistan*

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Concept of SEA

- Internationally recognised tool for integrating environmental and health concerns into strategic planning and decision-making.

Promotes

- sustainable development
- transition to a green economy
- accountability of planning and decision-making
- transparency

Concept of „tiering”

- Transport policy (SEA)
 - highways or railroads
- National highway program (SEA)
 - locational alternatives (general routes)
- Regional/local land use plan (SEA)
 - locational alternatives (precise routing)
- Sections of highway (EIA)
 - technological and mitigation alternatives

SEA and EIA

- Procedural similarities
- Scope of assessment
 - Physical impact in EIA vs achievement of environmental objectives in SEA
 - Larger scale and less precise data
- Role in the procedure: developers in EIA vs planning agencies in SEA (see General Guidance..)
- Applies to
 - Public authorities
 - Developers (both private and publicly owned)

SEA Protocol

- Adopted in 2003 in Kiev to cover strategic decisions (plans, programs and policies)
- Content
 - mostly about national framework
 - transboundary procedure in Article 10
- Status
 - Parties - 26 (including EU)
 - in force since July 2010

SEA and traditional OVOS/expertiza system: key issues

- What is SEA
- Who is responsible for SEA
- Role of SEA Report
- Scoping
- Who must take „due account” of the results of SEA
- SEA and expertiza

Definition of SEA in SEA Protocol

- “Strategic environmental assessment” means
- the evaluation of the likely environmental, including health, effects,
- which comprises
 - the determination of the scope of an environmental report and its preparation,
 - the carrying out of public participation and consultations, and
 - the taking into account of the environmental report and the results of the public participation and consultations in a plan or programme.

Definition of SEA in Belarus

Expertiza Law of 2016

- Стратегическая экологическая оценка — определение при разработке проектов государственных, региональных и отраслевых стратегий, программ (далее — программы), градостроительных проектов возможных воздействий на окружающую среду (в том числе трансграничных) и изменений окружающей среды, которые могут наступить при реализации программ, градостроительных проектов с учетом внесения в них изменений и (или)

Definition of SEA in the Code of Environmental Assessment in Georgia

- Strategic Environmental Assessment (SEA) – a procedure to examine, on the basis of appropriate studies and research, a potential impact of strategic documents envisaged by this Code, on the environmental and human health. SEA process includes scoping, preparation of a strategic environmental assessment report, carrying out of public participation and consultations and making a reasoned conclusion from examination of their results, taking them and any other information into account during adoption/approval of strategic documents.

Definition of SEA Report

- Defined in SEA Directive but not defined in SEA Protocol
- Relation to definition of SEA
- Concept of SEA
- Relation to
 - Public participation
 - Transboundary procedure (Case under IC Espoo Lithuania vs Belarus)

Definition of SEA Report in SEA Directive

- 'environmental report' shall mean the part of the plan or programme documentation containing the information required in Article 5 and Annex I;

Definition of SEA Report in Belarus Expertiza Law of 2016

- 12. Экологический доклад по стратегической экологической оценке — документ, содержащий сведения о результатах проведенной стратегической экологической оценки, необходимых мероприятиях по уменьшению и (или) предотвращению возможных воздействий на окружающую среду (в том числе трансграничных) и об изменениях окружающей среды, которые могут наступить при реализации программ

Definition of SEA Report in the Code of Environmental Assessment in Georgia

- Strategic environmental assessment report (SEA Report) – a document prepared by the planning authority and/or the consultant during the strategic environmental assessment process containing the information required by this Code.

SEA Directive - procedure

- Screening –art. 3.5-7
- Scoping – art.5.4
- Environmental report – art.5 and Annex III
- Consultation with environmental authorities – art.6
- Public participation – art. 6
- Transboundary procedure (if applicable) – art.7
- Decision-making and informing thereof– art. 8 and 9
- Monitoring – art. 10

Roles in SEA – practice in EU

- Competent authorities for decision-making = planning authorities
- Competent authorities for transboundary procedure – usually central environmental authorities
- Environmental/health authorities
- Authorities from potentially affected countries
- SEA Consultants
- Public

Definition of authorities

- Not defined in SEA Protocol and SEA Directive
- Public authorities
 - Definition in Aarhus Convention
 - Environmental and health authorities
 - Planning authorities
- Definition of planning authorities

Public authority – art. 2.2 of the Aarhus Convention

- “Public authority” means:
- (a) Government at national, regional and other level;
- (b) Natural or legal persons performing public administrative functions under national law, including specific duties, activities or services in relation to the environment;
- (c) Any other natural or legal persons having public responsibilities or functions, or providing public services, in relation to the environment, under the control of a body or person falling within subparagraphs (a) or (b) above;
- (d) The institutions of any regional economic integration organization referred to in article 17 which is a Party to this Convention.
- This definition does not include bodies or institutions acting in a judicial or legislative capacity;

Competent authority - Art.1 (v) of the Espoo Convention

„competent authority” means:

- *„national authority or authorities designated by a Party as responsible for performing the tasks covered by this Convention*
- *and/or*
- *the authority or authorities entrusted by a Party with decision-making powers*

Environmental and health authorities – art. 9.1 of SEA

Protocol

- Each Party shall designate the authorities to be consulted which, by reason of their specific environmental or health responsibilities, are likely to be concerned by the environmental, including health, effects of the implementation of the plan or programme.

Environmental authorities

- Role in
 - Screening (their opinion often binding)
 - Scoping (their opinion often binding)
 - Consultation (their opinion usually not binding – unless negative impact on Natura 2000 sites)
- Central authorities for plans and programs at central level and regional authorities for all other plans and programs
- In some countries environmental authorities determined by law, in some countries – ad hoc

The public and public concerned in Aarhus Convention

- “The public” means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups;
- 5. “The public concerned” means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest

Number of SEA procedures yearly

- Full SEA procedures
 - about 1500 yearly in Finland
 - about 400-500 yearly in UK and France
 - about 270 yearly in Austria
- Screening procedures
 - in Salzburg region (Austria) - about 300 yearly!

EU guidance and reports

- <http://ec.europa.eu/environment/eia/sea-support.htm>
- **REPORT FROM THE COMMISSION**
- **On the application and effectiveness of the Directive on Strategic Environmental Assessment (Directive 2001/42/EC)**

Brussels, 14.9.2009 COM(2009) 469 final