

APPLICATION OF EIA/SEA SYSTEM IN LAND USE PLANNING – EXPERIENCE FROM SERBIA –

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This paper discusses the experience and current status of EIA/SEA procedures and assessment methodologies in Serbia, aiming to propose strategies that can lead to effective integration of the SEA in spatial planning. Institutional and practical problems with regard to the regulations of EIA/SEA were considered. Experience from the past decade shows that implementation of EIA system in Serbia has not been effective as expected. New legislation on EIA and SEA is harmonized with corresponding EU Directives. First steps in the application of the SEA show that the main issues are screening, scoping and decision making. According to the research results, it is suggested that extra evaluation processes should be incorporated into current assessment procedures to improve their scientific validity and integrity.

Key words: strategic environmental assessment, spatial planning

INTRODUCTION

The main aims of Strategic Environmental Assessment (SEA) are: (1) to overcome limitations of the project-level EIA by considering key environmental issues earlier in the planning process and addressing cumulative and synergistic impacts, (2) to introduce environmental and sustainability considerations in the formulation of strategic actions, and (3) to contribute to policy appraisal, thus, making strategic decision more structured and transparent.⁶ SEA is especially relevant in the context of countries with transitional economies where numerous strategic choices with significant environmental implications are being made and where changing institutions present opportunities for introducing innovative procedures of environmental decision-making.

Currently, SEA systems are in place in more than 25 countries, and the number is likely to increase now that EC Directive 2001/42/EC has come into force in member states. The suggested EIA process is modeled on the EIA Directive 97/11/EC and applies its procedural

elements. The SEA Directive will have international scope, because the transitional European countries will be required to comply with the EC Directive. The Directive has also strongly influenced the SEA Protocol to the UNECE Convention on EIA in a Transboundary Context.

Most of the countries of Central and South-Eastern Europe have adopted legal provisions for some form of SEA within the framework of their Environmental Assessment legislation. In addition to adopting these formal provisions, many countries have acquired some practical experience of using SEA during the last decade. The question is whether these developments have met the expectations of the societies, which have simultaneously been trying to achieve economic, environmental and democratic improvements?

In Serbia, the Environmental Impact Assessment (EIA) has been implemented over the past 15 years and contributed promoting the consideration of environmental factors in certain types of spatial and urban plans, but not as effectively as expected. On the other hand

implementation of a new approach in the EIA and SEA practice has been evolving since transposition of corresponding EU Directives.

This paper provides a brief review of impact assessment practice in Serbia, based on experience with implementation of the EIA and SEA legislation in the land use planning during 1992-2005. Particular attention was paid to the key issues identified in the early stage of implementation of new Law on SEA.

LEGISLATIVE BACKGROUND

The Environmental Law of the Republic of Serbia (as amended and published in the *Official Gazette of RS*, No. 66/91 and 53/95) mandates an EIA for certain types of projects and activities, particularly those that may have significant negative impacts on the environment. The aim of an EIA is to establish necessary conditions and measures to prevent and mitigate environmental threats.

The Regulation on environmental impact assessment of facilities and activities (*Official Gazette of RS* No. 61/92) stipulated that an EIA

is carried out in two stages: 1) preliminary EIA, based on the concept of project and alternative locations; and 2) detailed EIA, requiring further investigation and preparation of an environmental mitigation and monitoring plan. The content of a detailed EIA report was fairly consistent with the EU Directive 85/337/EEC.

An EIA has been carried out for projects in the industry, agriculture, energy, mining, transport, etc., including activities in protected areas and cultural heritage sites. A list of 12 broad sectoral and 58 project activities that are subject to mandatory EIA, with some threshold values, has been attached to this regulation.

In its first years EIA was applied mainly to the development projects. But since 1995, when the new Law on spatial planning and the Law on building (*Official Gazette of RS*, No. 44/95) were adopted and published, EIA became closely connected to the processes of planning, building and permitting (see: Figure 1). The Spatial planning Law required preparation of an environmental impact assessment of proposed land use in the plans of industrial zones, energetic facilities, main infrastructure corridors, water supply reservoirs, etc.

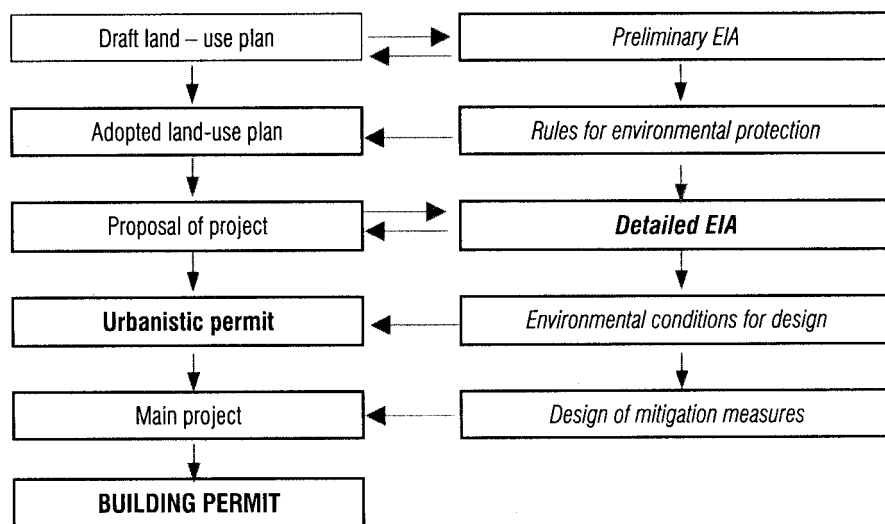
Since democratic changes in Serbia (2000) the process of approximation to the European Union started with the projects for transposition of EU legislation in Serbia. In this context a set of environmental protection laws were adopted in 2004, including the Law on strategic environmental impact assessment (*Official Gazette of RS*, No. 135/2004), which is in compliance with the EU "SEA" Directive 2001/42/EC.

The new Law on planning and building adopted in 2003 (*Official Gazette of RS*, 47/03) unfortunately did not recognize the importance of an environmental assessment of land use plans and did not explicitly include EIA or SEA procedures in the planning process. So there is need for revision of this Law and integration of SEA in the land use planning process.

CHARACTERISTICS OF THE EIA PROCESS 1992-2004

The environmental authority (MoE) has a dominant role in the EIA process, whereas the developer is responsible for the preparation of an EIA report. Quality and effectiveness of EIA

Figure 1 - Integration of the EIA in planning and building process



practice have not been monitored systematically, due to nontransparency of the EIA process and a lack of access to EIA reports for the experts, professional organizations and public. This brief review about characteristics of application of the EIA regulation in Serbia was produced on the basis of its contents and procedure and scarce information on the effectiveness of environmental assessment process in practice.

Administrative framework	Approval of EIA by Min. of Environment (MoE)
Screening	58 project categories
Scoping	Preliminary EIA defines the scope
Review of EIA reports	MoE officers; methods unknown
Public information & participation	Not stipulated by the Law ¹
Guidelines for EIA preparation	Not available
Number of prepared EIA reports	50-60 (1994), 1300 (2001) ²
Quality of EIA reports	50% unsatisfactory (1995) ³ ; 90% (2002) ⁴

Data from table shows that effectiveness of EIA practice in Serbia has not advanced beyond basic level. This reflects the lack of resources, procedural controls and methodological guidelines.

KEY ISSUES IN THE IMPLEMENTATION OF NEW SEA LEGISLATION

Although there is some experience in the integration of certain elements of SEA in the spatial planning⁵, new SEA Law represents a challenge for environmental and land use planning experts, as well as for competent state and local authorities. Many important issues in early application of new SEA system in the land use planning process have been recognized in all the phases of SEA procedure, which includes:

- *Screening*, i.e. determining plans and programs' (P/Ps) need to be screened for likely significant environmental effect and appropriate extent and type of SEA,
- *Scoping*, that determines a content of the SEA report which includes: identification of objectives of SEA and indicators, baseline data, assessment of the likely significant effect of P/Ps, mitigation measures, recommendations for preparation of SEA/EIAs on the lower hierarchical levels, monitoring program, description of methods applied, etc.
- *Decision-making process*, that include: participation of interested authorities and organizations, public participation, transboundary consultation, reviewing of SEA report, approval of the SEA by competent authority and access to the information.

Screening is the starting point for SEA application, and the most critical issues at this

moment of implementation of SEA are determination of the need for SEA of particular P/P, scope and type of SEA. As stipulated by the Law (Art.5), an environmental assessment (SEA) shall be carried out for plans and programmes (P/Ps) as follows:

- a) all P/Ps which are prepared for spatial and urban planning or land use, agriculture, forestry, fishery, energy, industry, transport, waste management, water management, telecommunications, tourism, conservation of natural habitats, which set the framework for future development consent of projects listed in the Law on (projects) environmental assessment,
- b) for P/Ps which determine the use of small areas at local level and minor modifications to plans and programmes, a need for SEA determines the authority responsible for P/P preparation, if identified that they were likely to have significant environmental effects.

Responsible authorities should determine whether plans or programmes are likely to have significant environmental effects, and hence whether SEA is required under the Law. Formal screening process can be divided in two groups. Mandatory application of full SEA of P/Ps from group (a), and by means of case-by-case examination of all P/Ps using criteria for determining the likely significance of the environmental effects of plans or programmes (Annex I of the Law).

The authority responsible for preparation of a particular plan or program makes a decision on the preparation of the SEA, taking into account a view of the environmental protection authority and other interested authorities and organizations. The content of document for decision-making, which represents some kind of preliminary SEA, should include the following:

- reasons for performing environmental assessment (based on criteria for impacts significance determination),
- scope of report,
- reasons for omitting particular environmental issues from SEA,
- basic content,
- methodology of assessment,
- method for involvement of interested parties and public in the consideration of SEA report, etc.

Article 7 of the Law takes into account hierarchical framework of planning, and stipulate that SEAs which are preparing for P/Ps at different levels of the hierarchy should be reciprocally adjusted, as well as with corresponding EIAs. It seems that this requirement has not been properly transposed from a requirement of EU Directive (Art. 4, para. 3), allowing conflicts between assessments at different hierarchical levels, and also allowing the duplication of the assessment at different levels of hierarchy. We found the examples of such cases while screening multiple plans within one authority, as well as in the cases of multiple plans under multiple authorities.

A typical problem with screening of multiple land use plans at different hierarchical level was ascertained in the area of Valjevo municipality. There are five land use plans currently being prepared: 1) Spatial plan of Valjevo municipality, 2) General urban plan of town Valjevo, 3) Detailed regulation plans of villages Petnica and Popucke, and 4) Spatial plan of water supply reservoir Rovni (see Figure 2). First four plans are within responsibility of local authority, while the fifth spatial plan is under responsibility of the Government of Serbia. Four approaches to the screening process of these land use plans have been considered:

- bureaucratic interpretation of the Law requiring mandatory application of SEA for each plan,
- preparation of two SEAs, taking into account levels of planning and decision-making,

- preparation of three SEAs, taking into account hierarchy of decision-making and the criteria for determination of the likely significance of effect, and
- case-by-case examination of all land use plans using criteria for determining the likely significance of the environmental effects.

The discussion on how to identify which of plans should be included/excluded has not been completely closed, due to the vague provisions of the SEA Law and weak horizontal and vertical coordination among responsible authorities.

In the first year of the SEA implementation in Serbia a number of additional procedural and methodological problems have been recognized to represent a barrier to effective application of SEA. These are: methods and techniques, relationships between public participation in SEA and public involvement in plan making, method of SEA report reviewing and access to the information. In this early stage of implementation of the SEA, principle methods in use can be described as an extension of the practice of a project's EIA. Based on the lessons learned from EIA practices, it is necessary to understand that SEA is a highly dynamic changing process that needs new different methods based on policy and planning evaluation techniques.

CONCLUSIONS

In Serbia, the integration of environmental policy in planning procedures is still largely

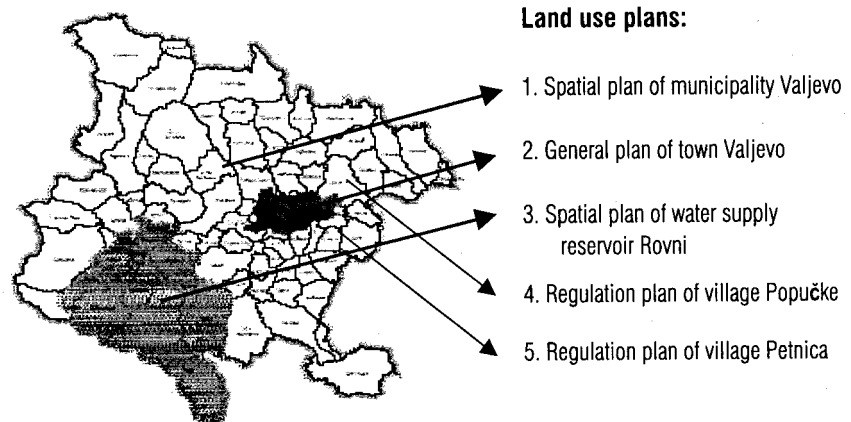


Figure 2 – Multiple land use plans in the area of municipality of Valjevo

being viewed as an appendage, in which remedial action is taken once economic priorities were implemented. Experience from the past decade shows that implementation of EIA system in Serbia has not been effective as expected. New legislation on EIA and SEA are harmonized with corresponding EU Directives and provides a good basis for improvement of the impact assessment practice in Serbia. The most difficult issues in the future will be on how SEA elements will be integrated in existing and new planning procedures.

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