

By virtue of Article 88 of the Constitution of Montenegro, I hereby pass the

DECISION

**ON THE PROMULGATION OF
THE LAW ON STRATEGIC ENVIRONMENTAL ASSESSMENT**

(Official Gazette of Montenegro, no. 80/05 as of 28.12.2005)

I hereby promulgate the Law on Strategic Impact Assessment, passed by the Parliament of the Republic of Montenegro at its third sitting of the second regular session in 2005, on 22nd December 2005.

Number: 01-1320/2
Podgorica, 26th December 2005

President of the Republic of Montenegro,
Filip Vujanovic, signed

LAW

ON STRATEGIC ENVIRONMENTAL ASSESSMENT

I. BASIC PROVISIONS

**Scope
Article 1**

This Law shall stipulate the conditions, methods and procedures for undertaking of strategic environmental assessment of certain plans or programmes (hereinafter referred to as: the SEA) through the integration of environmental protection principles into the procedures of preparation, adoption and implementation of plans or programmes that have significant impact on the environment.

**Objectives of SEA Elaboration
Article 2**

The objectives of SEA are as follows:

- 1) ensure that environmental and public health issues are fully taken into consideration in the development of plans or programmes;
- 2) set clear, transparent and efficient procedures for SEA;
- 3) provide for public participation;
- 4) provide for sustainable development;
- 5) enhance the level of protection of human health and the environment.

SEA Principles

Article 3

The basic principles of SEA are as follows:

- 1) Sustainable Development Principle – The consideration and inclusion of significant environmental aspects into the preparation and adoption of certain plans and programmes and setting the conditions for preservation of values of natural resources and assets, landscapes, biological diversity, wildlife and autochthonous eco-systems, that is the rational use of natural resources, contribute to the fulfilment of sustainable development objectives.
- 2) Integrity Principle - The environmental protection policy that is implemented through the adoption of plans or programmes is based on inclusion of environmental protection conditions, that is the preservation and sustainable use of natural resources and biological diversity into the appropriate sectoral and inter-sectoral programmes or plans;
- 3) Precaution Principle - Each activity has to be carried out in the way preventing or mitigating negative impacts of certain plans and programmes on the environment before their adoption, providing for rational use of natural resources and minimising the risk to human health, the environment and material assets.
- 4) Hierarchy and Co-ordination Principle - The assessment of impacts of plans and programmes shall be carried out for plans or programmes of different order. The increased level of transparency in decision making within the procedure of strategic assessment of plans or programmes is provided through mutual co-ordination of the competent and authorities and organisations concerned in the procedure of granting the approval for the strategic assessment, through consultations, i.e. providing information opinions relating to plans or programmes.
- 5) Publicity Principle - Aims at informing the public about certain plans or programmes and their potential impact on the environment, as well as at providing complete openness of the procedure of preparation, enactment and adoption of plans or programmes, the public must have access, before any decision is passed, as well as after the adoption of the plan or programme, to information relating to such plans or programmes or amendments thereto.

Competent Authority

Article 4

Within the competences set forth by this Law, the competent authority in charge of preparation of plans or programmes shall be responsible for the implementation of the SEA procedure as follows:

- 1) The competent state authority responsible for preparation of plans or programmes - for plans and programmes that are to be adopted by the authority at the Republic level;
- 2) The competent local authority responsible for preparation of plans or programmes - for plans and programmes that are to be adopted by the authority at the local level.

Scope of Implementation

Article 5

The strategic assessment shall be carried out for plans or programmes when there is a possibility that their implementation shall cause significant impacts on the environment.

The strategic assessment elaboration is mandatory for all plans and programmes in the area of agriculture, forestry, fishery, hunting, energy, industry, including mining, transport, tourism, regional development, telecommunications, waste management, water management, coastal zone management, urban and spatial planning or land use planning, laying down the framework for future development of projects that are subject to environmental impact assessment elaboration in accordance with the special act, as well as for plans and programmes which, considering the area within which they are carried out, could affect the protected areas, natural habitats and preservation of wildlife.

In the case of plans or programmes referred to in Paragraph 2 of this Article, which envisage the use of smaller areas at the local level, or in cases of minor modifications to plans or programmes that do not require the formal prescribed adoption procedure, as well as for the plans or programmes that are not listed in Par. 2 of this Article, the decision on the need for strategic impact assessment shall be made by the competent authority responsible for preparation of plans or programmes if, according to the criteria set forth by this Law it determines that there is a possibility of significant impacts on the environment.

Strategic assessment shall not be carried out for plans and programmes serving to national defence purposes, mitigation and elimination of consequences of natural disasters and for financial and budget plans.

General Obligations

Article 6

The Strategic Assessment Report is mandatory for plans or programmes that are subject to strategic impact assessment elaboration, in accordance with Article 5, Par. 2 and 3 of this Law.

The competent authority responsible for preparation of plans or programmes cannot submit a plan or programme for further adoption procedure without having previously obtained approval for the SEA Report from the authority responsible for environmental protection issues.

The authority responsible for environmental protection issues in the sense of Par. 2 of this Article shall be:

- 1) state authority responsible for environmental protection issues;
- 2) local authority responsible for environmental protection issues.

Definitions

Article 7

Certain terms used in this Law shall have the following meaning:

- 1) Plans or programmes shall denote all plans and programmes and documents, including the amendments thereto, which are prepared and/or adopted by the authority at the Republic or local level, or which are prepared by the competent authority for the purpose of adoption in the appropriate procedure by the Parliament or the Government of the Republic of Montenegro, or the local

assembly or local executive authority, as well as plans or programmes whose enactment is mandatory pursuant to regulations;

- 2) Strategic Impact Assessment of plans or programmes implies the assessment of potential impacts on the environment, including human health, that consists of the preparation of the SEA Report, conducting public participation and consultation procedures and taking into account the SEA Report and results of public participation and consultations in the decision making procedure and procedure of enactment or adoption of certain plans and programmes;
- 3) Strategic Assessment Report (SEA Report) shall mean a part of documentation that is attached to plans or programmes and that includes the identification, description and assessment of potential significant impacts on the environment, including the transboundary impacts caused by implementation of plans or programmes, as well as alternatives considered and adopted, taking care of the plan or programme objectives and geographic area and measures for mitigating negative impacts on the environment;
- 4) Public includes one or several physical or legal persons, their associations and organisations;
- 5) Public concerned shall mean the public affected by or public likely to be affected by the plan or programme, including the non-governmental organisations dealing with the environment and registered with the competent state environmental protection authority in accordance with the law;
- 6) Authorities and organisations concerned shall mean the state authorities and organisations and local authorities having the obligation or interest, in accordance with their responsibilities, in making the decisions related to environmental protection.

II STRATEGIC ASSESSMENT PROCEDURE

Stages in the SEA Procedure

Article 8

The SEA procedure shall be carried out in the procedure of preparation of plans or programmes that may have significant impacts on the environment prior to their enactment or submission to the competent authority for adoption.

The SEA procedure shall be composed of the following stages:

- 1) Decision on the need for strategic assessment elaboration,
- 2) Defining the scope and contents of SEA Report,
- 3) Decision on granting the approval for the SEA Report.

The competent authority shall carry out SEA simultaneously with the elaboration of plans or programmes and obtain the approval for the SEA Report from the competent environmental protection authority referred to in Article 6, Par. 3.

1. Decision on the Need for Strategic Assessment Elaboration

Criteria

Article 9

The need for the elaboration of SEA for plans and programmes referred to in Article 5, Par. 3 of this Law shall be determined through investigation of each case individually on the basis of criteria for determining significant impacts on the environment:

1) Criteria related to plans and programmes:

- significance of the plan or programme for environmental protection and sustainable development;
- environmental protection issues related to the plan or programme and the possibility of impacts on: air, water and the sea, land, climate, ionising and non-ionising radiation, noise and vibration, flora and fauna, habitats and bio-diversity, protected natural assets, population and human health, cities and other settlements, cultural-historic heritage, infrastructure, industrial and other structures, other man-made values;
- the degree to which the plan or programme affects other plans or programmes, including those of different order;
- the degree to which the plan or programme sets a framework for the implementation of projects, either with regard to the site, nature, size and operating conditions or with regard to the location of resources.

2) Criteria related to impacts:

- Probability, intensity, complexity, reversibility;
- Time dimension (duration, frequency, repetition);
- Spatial dimension: location; geographical area; size of the population affected; transboundary nature of impact;
- Cumulative and synergistic nature of impact;
- Risks to human health and the environment;
- Impacts on areas of natural, cultural and other significance: special natural characteristics; areas and natural landscapes with national or international designation; cultural-historic heritage; densely populated areas; areas with different protection regimes;
- Threatened areas: transboundary environmental quality standards or limit values; intensive land use; existing risks; reduced capacities of the environment; rare and areas of extreme sensitivity; eco-systems; plant and animal species.

Decision on the SEA Elaboration

Article 10

The competent authority responsible for preparation of plans or programmes shall make the decision on the elaboration of SEA based on the previously obtained opinion of the competent environmental protection authority, competent health care authority and other authorities and organisations concerned.

The competent authority responsible for preparation of plans or programmes shall make the decision on the elaboration of SEA simultaneously with the decision on preparation of plans or programmes.

Contents of the Draft Decision

Article 11

The Draft Decision on the SEA elaboration referred to in Article 10 of this Law shall

include the following data:

- 1) General information relating to the proposed plan or programme;
- 2) Basis for the development of the plan or programme in accordance with Article 7, bullet point 1 of this Law;
- 3) Area or territorial unit (national, regional, local, smaller surfaces) for which the plan or programme shall be elaborated;
- 4) Reasons for SEA elaboration in accordance with the criteria referred to in Article 9 of this Law;
- 5) Types of plans or programmes that the SEA Report is elaborated for;
- 6) Outline of issues and problems related to the environment in the plan or programme that shall be considered;
- 7) Selection and obligations of the SEA Report developer (proposed methodology, composition of the expert team, deadline for elaboration etc.);
- 8) Method of participation of authorities and organisations and the public concerned in the procedure of elaboration and consideration of the SEA Report;
- 9) Other data relevant for the elaboration of the SEA Report.

The decision on non-elaboration of the SEA shall be made by the competent authority responsible for preparation of plans or programmes for which the SEA elaboration is not necessary and it shall contain the data on:

- 1) Types of plans or programmes that the SEA Report shall not be elaborated for;
- 2) Reasons for non-elaboration of the SEA;
- 3) Criteria based on which it has been found that there is no possibility for significant impacts on the environment;
- 4) Other relevant data based on which it has been decided not to proceed with the elaboration of the SEA Report.

Participation of Authorities and Organisations Concerned **Article 12**

The competent authority responsible for preparation of plans or programmes shall submit to the competent environmental protection authority, competent health care authority and other authorities and organisations concerned the Draft Decision referred to in Article 11 of this Law requesting their opinion.

The deadline for submission of opinions referred to in Par. 1 of this Article is 15 days from the date of receipt of the request.

In case that the opinion is not submitted within the period set in Par. 2 of this Article it shall be considered that there are no comments to the Draft Decision, i.e. the Draft Decision not to proceed with the SEA elaboration.

Decision-making **Article 13**

The competent authority responsible for preparation of plans or programmes shall decide whether there is a need or not for the SEA elaboration within 15 days from the expiry of the deadline for submission of opinions referred to in Article 12, Par. 2 of this Law.

In decision-making the competent authority responsible for preparation of plans or programmes shall take into consideration the submitted opinions referred to in Article

12 of this Law.

The Decision referred to in Par. 1 of this Article makes an integral part of the Decision on preparation of plans or programmes and it is published in the Official Gazette of the Republic of Montenegro, or in the gazette of the local government.

2. Decision on the Scope and Contents of the SEA Report

Scope of the Report

Article 14

SEA Reports for plans and programmes of different order have to be mutually harmonised and harmonised with assessments of impacts of projects and the environment, as well as with plans and programmes of environmental protection.

The basis of the SEA Report shall be the plan or programme defining the framework for the development of a certain sector, its characteristics, objectives and spatial scope.

Contents of the SEA Report

Article 15

The SEA Report shall contain data describing and assessing the potential significant impacts on the environment that could be caused by the implementation of plans or programmes and alternatives that have been considered taking into account the objectives and geographical scope of plans or programmes.

In addition to data referred to in Par. 1 of this Article, the SEA Report shall also contain the following data:

- 1) Short outline of the contents and main objectives of the plan or programme and their relation with other plans and programmes,
- 2) Description of the existing environmental status and its possible development in case that the plan or programme is not realised,
- 3) Identification of areas likely to be exposed to significant risk and characteristics of the environment in such areas,
- 4) The existing environment-related problems in connection with the plan or programme, including in particular those relating to areas of special significance for the environment, such as wildlife habitats from the aspect of their conservation, in particular protected areas, national parks or coastal zone;
- 5) General and specific objectives of environmental protection set either at the national or at the international level that are of relevance for the plan or programme and ways in which these objectives as well as all other aspects of relevance for the environment shall be taken into consideration in the preparation process,
- 6) Potential significant impacts on public health and the environment, including factors such as biological diversity, population, fauna, flora, land, water, air, climatic aspects, material resources, cultural heritage, including architectural and archaeological heritage, landscape and relations between these factors,
- 7) Measures envisaged to prevent, mitigate or eliminate, to the highest extent possible, any significant negative impacts on the environment that can be caused by the implementation of the plan or programme,
- 8) Outline of reasons used as the basis for selection of alternatives that have been taken into account and the description of methods of assessment, including potential difficulties that have occurred during the formulation of the required data (such as

- technical data or absence of know-how),
- 9) Outline of potential significant transboundary impacts on the environment;
 - 10) Description of the environmental status monitoring programmes, including human health, during the implementation of the plan or programme (monitoring);
 - 11) Conclusions that have been reached during the elaboration of the SEA Report presented in the way understandable to public.

Report Developer Article 16

The competent authority responsible for preparation of plans or programmes shall elaborate the SEA Report alone or it can entrust with that task some other legal person or entrepreneur entered in the appropriate court register as entitled to execute the activities related to planning, elaboration of studies and analyses of impacts on the environment.

Legal persons or entrepreneurs referred to in Par. 1 of this Article must set up a multi-disciplinary team composed of persons qualified for analyses of each of the strategic assessment elements for the SEA Report elaboration.

Experts referred to in Par. 2 of this Article are considered qualified for the elaboration of the strategic impact assessment, or the SEA Report if they are persons with a university degree of the appropriate profile and at least 5 years of work experience in the relevant field, professional achievements, or participation in the elaboration of at least 2 reports on impacts of plans or programmes on the environment that have already been realised.

3. Decision on Granting the Approval for the SEA Report

Participation of Authorities and Organisations Concerned Article 17

The competent authority responsible for preparation of plans or programmes shall submit the SEA Report referred to in Article 15 of this Law to the authorities and organisations concerned requesting their opinion.

The authorities and organisations concerned shall submit their opinions within 30 days from the receipt of the request referred to in Par. 1 of this Article.

In case that the opinion is not submitted within the period set in Par. 2 of this Article it shall be considered that there are no comments to the submitted SEA Report.

Transboundary Impacts Article 18

When there is the possibility of transboundary impacts, the competent state environmental protection authority shall initiate the procedure of exchange of information on transboundary impacts set forth by Article 23 of this Law.

Public Debate Article 19

The competent authority responsible for preparation of plans or programmes shall inform the public and the public concerned about the methods and deadlines for public inspection into the contents of the SEA Report and method of submission of opinions, as well as about the time and venue of public debate holding.

Public debate referred to in Par. 1 of this Article cannot be held sooner than 30 days from the date of announcement to the public and the public concerned.

Public debate shall be carried out by the competent authority responsible for preparation of plans or programmes.

Report on Participation of Authorities and Organisations Concerned and the Public Debate Article 20

The competent authority responsible for preparation of plans or programmes shall compile the report on participation of authorities and organisations concerned and about the public debate. The report shall contain the opinions referred to in Article 17, Par. 2 of this Law as well as the opinions submitted during the public inspection and public debate on the Strategic Assessment Report referred to in Article 19 of this Law. The Report referred to in Par. 1 of this Article shall be compiled within 30 days from the date of the public debate completion and it shall include the rationale for all the accepted or rejected opinions.

Evaluation of the SEA Report Article 21

The competent authority responsible for preparation of plans or programmes shall submit the SEA Report to the competent environmental protection authority for approval, along with the report on participation of authorities and organisations concerned and the public debate referred to in Article 20, Par. 1 of this Law.

The competent environmental protection authority is entitled to obtain the opinions of other authorised organisations or experts in certain fields or it can establish the Evaluation Committee that shall evaluate the SEA Report.

The evaluation of the Report referred to in Par. 1 of this Article shall be carried out based on the following criteria:

1) Plan and programme

- The plan and programme objectives and contents are presented, as well as the area for which the plan or programme is prepared, spatial scope and timeframe;
- The environmental protection issues that have been included in the preparation of objectives of plans and programmes;
- The connections with other relevant plans and programmes have been presented.

2) Status of the environment

- The existing and future status of the environment have been presented;
- The environmental status description has been harmonised with the strategic assessment objectives and indicators;
- Sources of data on the environmental status have been presented and the methodology used has been harmonised with the degree of the strategic

assessment complexity.

3) Alternative solutions

- Method of preparation and consideration of alternative solutions for issues and problems related to certain environmental aspects has been presented;
- The non-execution alternative solution (“zero alternative”) for the plan and programme and alternative solution that is most favourable from the aspect of environmental protection have been prepared;
- Impacts of alternative solutions on the environment have been evaluated and comparisons have been made;
- The reasons for selection of the alternative solution that is the most favourable from the aspect of environmental protection have been justified.

4) Environmental impact assessment

- Method of identification and evaluation of significant impacts of plans and programmes on the environment has been presented;
- The following elements have been included in the environmental impact assessment: air; water; land; climate; flora and fauna; habitats; bio-diversity; landscape (natural beauties); natural assets; population and health; cities and other settlements; cultural-historic heritage; infrastructure, industrial and other structures; other man-made values;
- The following impact characteristics have been taken into consideration in impact assessment: probability; intensity; complexity/reversibility; time dimensions (duration, frequency, repetition); spatial dimension (location, geographical area, size of the affected population, transboundary nature of impact); cumulative and synergistic nature of impact; other impact characteristics;
- Identification and evaluation of significant impacts have been harmonised with the valid standards, regulations and limit values;
- The applied methodology has been described.

5) Measures and environmental impact monitoring programme

- Measures of prevention and mitigating adverse impacts, or the increase of positive impacts on the environment for each of the evaluated impacts have been planned;
- Method of developing the guidelines for elaboration of environmental impact assessments and other strategic assessments has been presented;
- Environmental status monitoring programme during the plan or programme implementation has been prepared.

6) SEA Report

- The role of competent authorities in the SEA elaboration has been clearly defined;
- The report has been prepared in a clear and precise way;
- All the elements of the report set forth in Article 15 of this Law have been considered and sources of information have been identified, including expert opinions;
- The way in which environmental issues have been included in plans and programmes has been outlined as well as the way in which the decision making process has been carried out and the reasons have been described that have been decisive in selection of the given plan and programme from the aspect of alternative solutions that have been considered;
- Conclusions on the elaborated SEA Report have been presented in the way understandable to the public.

7) Participation of authorities and organisations and the public concerned

- Participation of authorities and organisations and the public concerned in the procedure of SEA elaboration has been provided;
- The opinions of authorities and organisations and public concerned related to the strategic assessment have been submitted and the decision making process with respect of the submitted opinions has been presented.

Approval for the SEA Report Article 22

The competent environmental protection authority shall grant the authorisation or refuse to grant the approval for the SEA Report on the basis of evaluation referred to in Article 21 of this Law.

The deadline for decision on approval granting referred to in Par. 1 of this Article is 30 days from the receipt of the application submitted by the competent authority responsible for preparation of plans and programmes.

Exchange of Information on Transboundary Impacts Article 23

The competent state environmental protection authority shall be responsible for the exchange of information on transboundary impacts of plans or programmes on the environment.

When implementation of plans or programmes may have significant negative impacts on the environment in another state, or when another state whose environment could be significantly threatened requests so, the competent state environmental protection authority shall submit to another state, in the procedure of informing the authorities and organisations and public concerned, within the shortest time possible and at the latest when informing own public, the following information requesting its opinion:

- 1) Description of plans and programmes, together with all available information on their possible impacts;
- 2) Nature of the decision that may be adopted;
- 3) Period within which another state can announce its intention to participate in the decision-making procedure.

The competent state environmental protection authority shall inform another state, which was consulted in the decision-making procedure, about the decision on granting the approval for the SEA Report by submission of the following information:

- 1) Contents of the decision on approval granting;
- 2) Method of elaboration of the SEA Report and the opinions obtained in the process of elaboration;
- 3) Results of consultations and reasons based on which the decision on approval granting was made;
- 4) Measures in the field of monitoring of plans or programmes.

The competent state environmental protection authority shall inform the authorities and organisations and the public concerned about the received information relating to transboundary impacts of the proposed plans or programmes of another state in the way set forth in Article 19, Par. 1 of this Law.

The competent state environmental protection authority shall take into account the results of consultations and obtained opinions of the authorities and organisations and

the public concerned when submitting the opinion to the competent authority of another state.

Access to Information Article 24

The SEA Report, results of participation of authorities and organisations and the public concerned and other states in cases of transboundary impacts shall make integral parts of the documentation basis of plans or programmes.

The competent authority responsible for preparation of plans and programmes shall also provide for the access to data referred to in Par. 1 of this Article after the adoption of plans and programmes, under the conditions set forth by the Law.

Financial Resources for Elaboration Article 25

The Republic of Montenegro, or the local government, shall provide financial resources necessary for strategic assessment elaboration, or the SEA Report elaboration.

Implementation of the Law on General Administrative Procedure Article 26

The provisions of the Law regulating general administrative procedure shall be applied in the decision-making procedure pursuant to this Law with respect to all the issues that have not been regulated precisely by the present Law.

III SUPERVISION

Supervision over the Law Enforcement Article 27

The competent state environmental protection authority and competent local environmental protection authorities shall carry out the inspection supervision over the enforcement of provisions of this Law in accordance with their responsibilities set forth by the present Law.

The Environmental Inspectorate shall carry out the inspection supervision within the responsibilities of the competent state environmental protection authority and in accordance with the law.

IV PENALTY PROVISIONS

Pecuniary Fines for Authorities and Responsible Persons Article 28

The state authority and local government authority shall be fined with the amount equal to one hundred to three hundred times the minimum wage in the Republic of Montenegro if they:

- 1) Fail to make the decision on the need for SEA elaboration (Art. 5, Par. 3);
- 2) Fail to prepare the SEA Report and fail to obtain the approval for the SEA Report (Art. 6, Par. 1 and 2);
- 3) Make the decision on the need for SEA elaboration contrary to the criteria set forth in Article 9;
- 4) Make the decision on the need for SEA elaboration without having previously obtained the opinion of the competent environmental protection authority, competent health care authority and other authorities concerned (Art. 10, Par. 1);
- 5) Fail to make the decision on SEA elaboration simultaneously with the decision on preparation of plans or programmes (Art. 10, Par. 2);
- 6) Make the Draft Decision on SEA elaboration contrary to the contents set forth in Article 11, Par. 1;
- 7) Make the decision on the need or the absence thereof for SEA elaboration without taking into consideration the submitted opinions or fail to publish the Decision in the Official Gazette of the Republic of Montenegro (Art. 13, Par. 2 and 3);
- 8) Elaborate the SEA Report that is not harmonised with assessments of impacts of plans and programmes on the environment as well as with the plans and programmes of environmental protection (Article 14, Par. 1);
- 9) Elaborate the SEA Report contrary to Article 15;
- 10) Fail to deliver the SEA Report to authorities and organisations concerned requesting their opinion (Art. 17, Par. 1);
- 11) Fail to inform the public and the public concerned about the method and deadlines for the inspection of the SEA Report, submitted opinions and the time and the venue for the public debate (Art. 19, Par. 1);
- 12) Fail to submit the SEA Report to the competent environmental protection authority for approval (Art. 12, Par. 1) or if the competent environmental protection authority fails to evaluate the SEA Report based on the set criteria (Art. 21, Par. 3);
- 13) If the competent environmental protection authority grants or refuses to grant the approval to the SEA Report (Art. 22, Par. 1) without having previously obtained the evaluation referred to in Article 21 of this Law.

The responsible person in the state or local authority shall also be fined with the amount equal to ten times the minimum wage in the Republic of Montenegro for the wrongdoing referred to in Par. 1 of this Article.

IV FINAL PROVISION

Entering into Force Article 29

This Law shall enter into force on the eighth day from the day of its publication in the Official Gazette of the Republic of Montenegro and it shall be enforced starting from January 1st, 2008.