

ROMANIA - UKRAINE JOINT OPERATIONAL PROGRAMME 2014 ÷ 2020

STRATEGIC ENVIRONMENTAL ASSESSMENT PROCEDURE

INTRODUCTION

The ENI Implementing Regulation requires that “*information on fulfilment of regulatory requirements laid down in Directive 2011/42/EC of the European Parliament and of the Council*” shall be included in the Programme as part of the programme implementation description.

As the SEA Directive does not specifically address the issue of cross-border cooperation with countries that are not members of the EU, a “*Guidance Note on Strategic Environment Assessment in the context of ENI CBC*” has been developed by INTERACT ENPI and validated by the relevant directorates of the EC. The note provides MAs with an interpretation of the SEA Directive in the context of ENI CBC, including the necessary legal steps to conduct the SEA process and the actors to be involved. It states that the Member State hosting the MA is responsible for determining whether a SEA is required or not, according to its legislation, and also to involve and consult the partner countries concerned at the appropriate level.

In order to comply with the requirements of the ENI Implementing Regulation, the Romania - Ukraine Programme has gone through the necessary steps in compliance with Directive 2011/42/EC of the European Parliament and of the Council.

In Romania the regulations in force for the development of SEA for the cross-border cooperation Programmes are Directive 2001/42/EC (SEA Directive) and SEA Protocol.

In Ukraine there is no specific legislation for SEA in force yet, the *Law regarding the strategic environmental assessment* is currently in public debate. There are regulations for assessment of the environmental impact of activities.

An ***Inception Report*** was made in order to identify the environmental relevant legislation and the Environmental Authorities from partner countries and to describe the methodology proposed by the Commission. The report included also an indicative calendar on how to develop the SEA procedure. The relevant environmental authorities were identified: for Romania, the Ministry of Environment, Waters and Forests (MEWF) and for Ukraine, the Ministry of Ecology and Natural Resources (MENR).

On February 2nd, 2015 the Management Authority (MRDPA) from Romania submitted the ***Inception Report*** to the Joint Programming Committee.

This ***Inception Report*** was approved by Joint Programming Committee (JPC).

SEA PROCEDURE

The SEA procedure for the Romania-Ukraine Programme was guided by the **Ministry of Environment, Waters and Forests** from Romania (MEWF) based on the SEA Directive and the Romanian Government Decision on the environmental assessment of plans and Programmes.

Assessment Procedure Initiation

The **Ministry of Regional Development and Public Administration** (MRDPA) from Romania, the Managing Authority for the Programme, notified the **Ministry of Environment, Water and Forest** (MEWF) on February 11th, 2015 about the first draft of the Programme Ro-Ua and requested the starting of the environmental assessment according to the Directive 2001/42/EC. The current practice in Romania for the environmental assessment of such Programmes is to publish twice an announcement in mass-media. This was made in a newspaper of national level, ***Evenimentul zilei***, first time on February 11th, 2015 and the second time after 3 days on February 14th, 2015.

The MEWF Romania communicated its decision regarding the SEA procedure for the Programme to the MA on March 5th: a fully SEA procedure has to be developed because as the Programme defines the framework for the implementation of projects that are mentioned in Annex I and II of the Directive 2001/42/EC (EIA) and there is no need to do a ***Screening Report***. Following this decision, according to the SEA Directive the procedure should have two phases:

- The completion of the Programme draft and the drafting of the Environmental Report;
- The analysis of the quality of the Environmental Report.

Setting up the working group

The MEWF decided, based on Article 6 (3) of the Directive, that a Working Group should be established in Romania in order to analyse and finalize the Environmental Report. The MEWF Romania communicated to the MA the composition of the Working Group set in accordance to the specific activities of the Programme as follows: *Ministry of Health, Ministry of Internal Affairs, General Inspectorate for Emergency Situations, Ministry of European Funds, Ministry of Agriculture and Rural Development, Ministry of Transport, Ministry of Culture, Ministry of Education and Scientific Research, Ministry for Information Society, Ministry of Environment, Water and Forest (through General Directorate of Impact Assessment and Pollution Control – Service of Air Protection and Pollution Control, General Directorate of Climate Change, Directorate of Biodiversity, General Directorate of Waste, Contamination Sites and Hazardous Substances, General Directorate of Water and General Directorate of Forest, National Administration of Romanian Waters), County Councils from Programme area.*

Working Group Meetings

The **Working Group** was organised in Romania in order to discuss the impact of each indicative activity of the thematic objectives proposed by the Programme on the relevant environmental aspects and how this impact should be monitored during the implementation period. There were three meetings of WG on: 30th March of 2015, 21st April of 2015 and 11th May of 2015.

In the first Working Group a presentation was made of the Programme draft, description of the SEA methodology, the key aspects of assessment and a proposal for the timetable for progress.

The environmental aspects that have to be considered for the impact assessment of the Programme were agreed during this first meeting. The following meetings included presentation of environmental report drafts and the integration of the working group comments into the report drafts and the programme, respectively, which were then released for public consultation.

The development of the Environmental Report

In order to develop the SEA procedure, the Preliminary Environmental Report was drafted and sent for consultation to the Working Group in Romania and to the National Authority and MENR in Ukraine. In Romania, according to the working procedures of the MEWF setting the scope of the SEA is part of the procedure of drafting the environmental report. As a request of the National Authority and with the scope of facilitating the SEA procedure in Ukraine, a Scoping Report was also drafted and sent, together with the Preliminary Environmental Report to the relevant authorities from Ukraine.

The framework content of the Environmental Report is as provided in Annex 2 of SEA Directive and includes:

- A description of the Programme and relationship with other relevant plans and programmes;
- The relevant aspects of the current state of the environment and the likely evolution thereof without implementation of the Programme;
- The environmental characteristics of areas likely to be significantly affected and any existing environmental problems, in particular, those relating to areas designated pursuant to Directives 79/409/EEC and 92/43/EEC;
- The environmental protection objectives, established at international, Community or Member State level, which are relevant to the Programme and the way in which they were taken into consideration;
- The likely significant effects on the environment;
- The measures envisaged to prevent, mitigate and compensate the significant environmental effects;
- The measures envisaged concerning monitoring in accordance with Article 10.

The Environmental Report identifies, describes and assesses the potentially significant environmental effects of implementing the Programme, considering its objectives and geographical scope, as well as the alternative of not implementing it.

In preparing the Environmental Report information and recommendations obtained in the Working Group were taken into consideration as is presented in Table 1 – *Comments and observations to the SEA Preliminary Environmental Report*.

The Working Group in Romania and the MENR in Ukraine analysed the ***Preliminary Environmental Report*** in order to point out the environmental aspects that can be influenced by the possible future projects financed by the Programme Ro-Ua together with the measures to be taken in order to minimise their impact.

On April 30th, 2015 MENR submitted its comments on the documents received. According to the official letter sent by the Ukrainian counterpart, Ukraine didn't ratify the SEA Protocol of 2003 and doesn't have national legislation for the environmental assessment of Programmes and plans as this legislation was still under public consultation at the time of the SEA procedure. The existing relevant legislation only refers to projects and is not applicable to plans and programmes. MENR Ukraine nominated a representative to participate in the consultation for SEA procedure.

The ***Final Environmental Report*** prepared in accordance with Annex I of the SEA Directive and including all the views of the relevant authorities was submitted to the MEWF from Romania and to National Authority from Ukraine on May 18th, 2015 and made available for the public on the websites of the Managing Authority, JTS, Ro-Ua-Md Programme and MEWF.

Monitoring indicators

According to Article 10 of SEA Directive the significant effects on the environment of the implementation of the Programme have to be monitored.

The monitoring indicators recommended for the indicative activities of the Programme, under which there can be a possibility to finance projects having an impact on the environment were established through the following steps:

- Some of these indicators are the same as those monitoring the implementation of the Programme, and as such they can also monitor the impact on the environment;
- For certain indicative activities under some priorities and LIPs, specific environmental indicators were recommended;
- Other Programme indicators were modified as to reflect also the impact on the environment.

PUBLIC CONSULTATION

Romania

Following the notification of the MA, the MEWF Romania published the draft of the Programme on its website: <http://www.mmediu.ro/categorie/evaluare-de-mediul-pentru-strategii-planuri-programme/60>). The Managing Authority also announced on their website www.mdrap.ro and on the Programme website www.ro-ua-md.net that the SEA procedure started.

Also, the **Working Group decided in its third meeting** to make available the ***Environmental Report*** for the public consultation for 30 days, starting on March 18th, 2015. The ***Environmental Report*** and the **Programme** were published on the websites of the Managing Authority, JTS, Ro-Ua-Md Programme and MEWF.

Ukraine

The ***Final Environmental Report*** was sent to the National Authority of Ukraine at the same time it was made available for the public in Romania in order to allow the Ukrainian side to carry on its own procedures. In order to facilitate the consultations in Ukraine the report was also translated and made available in Ukrainian language.

Moreover, on May 27th, 2015 a public consultation was organized in Chernivtsi, Ukraine where a presentation of the ***Final Environment Report*** was made in front of relevant local authorities from Ukraine.

No comments were received from the public during the public consultations.

Table 1 Comments and observation to the SEA Environmental Report

Item	AUTHORITY	COMMENT	SEA EVALUATORS COMMENTS	ACTIONS RECOMMENDED BY THE SEA EVALUATORS	MA REACTION
	1	2	3	4	5
ROMANIA					
1.	National Administration "Romanian Water"	<p>Proposals:</p> <p>a) In chapter 4 to be used the information and data related to the "water resources and quality" from the following sources:</p> <ul style="list-style-type: none"> - Somes - Tisa River Area Management Plan; - Prut - Barlad River Area Management Plan; Siret River Basin Management Plan; - Danube River Delta Danube River Area Dobrogea and coastal waters Management draft Plan. <p>These plans were published on the websites of the Romanian Waters National Administration and Somes – Tisa, Prut – Bârlad, Siret, and Dobrogea Costal Water Branch.</p> <p>b) To add in chapter 6 related to relevant plans/programmes the following:</p> <ul style="list-style-type: none"> - National Strategy for Risk management at medium and long term flood (period 2010 ÷ 2035) - Agreement between the Government of Romania and the Government of Ukraine regarding cooperation on border water management <p>c) In the case of projects relating to water resources, obtaining the relevant agreements according to national legislation in force (for Romania-agreement from the National Administration of Romanian Waters, or of the relevant Basin Administration from the area of the projects) and in the case of cross border waters also from the authorities in Romania/Ukraine;</p> <p>d) Modification of the impact assessment for the indicative activities that can be related to water status from Priorities 3.1 and 4.2 and LIPs</p> <p>e) Modification of the monitoring indicator proposed</p>	Proposals fully accepted	Appropriate changes to the report	Agreed with recommended action

Item	AUTHORITY	COMMENT	SEA EVALUATORS COMMENTS	ACTIONS RECOMMENDED BY THE SEA EVALUATORS	MA REACTION
	1	2	3	4	5
		for Priority 4.2 and LIP f) In chapter 8 related to the measures to reduce the impact on the environmental aspect water, to be completed with “aquatic ecosystems”			
2.	Ministry of Culture	Proposals: g) To introduce „archaeological sites” in the indicative activity with possible impact on the environment under Priority 2.1; h) Because of priority 2.1 to introduce a short description of the historical and cultural sites existing on the Programme Area	Proposals fully accepted.	Appropriate changes to the report.	Agreed with recommended action.
3.	Ministry of Environment, Water and Forest – Department for Climate Change	Proposal: i) To add in chapter 6 related to relevant plans/programmes the “National Strategy on Climate Change 2013-2020”	Proposals fully accepted.	Appropriate changes to the report.	Agreed with recommended action.
4.	Ministry of Health	Proposal: j) Modification of the expression related to public medical services – emergency room facilities and hospitals	Proposals fully accepted.	Appropriate changes to the report.	Agreed with recommended action.
5.	Ministry of European Funds	Proposal: k) To correct some inconsistencies in description of Partnership Agreement with EU and Danube Strategy	Proposals fully accepted.	Appropriate changes to the report.	Agreed with recommended action.
6.	Ministry of Environment, Water and Forest – Department of Waste, Contaminated Sites and Hazardous Substances	Proposals: l) To add in chapter 6 related to relevant plans/programmes the following: - National Waste Management Strategy; - National/Regional Waste Management Plan. m) To mention that the future projects financed by the Programme have to comply with the principles and directions regarding waste management from NWMS, NWMP, RWMP	Proposals fully accepted.	Appropriate changes to the report.	Agreed with recommended action.

Item	AUTHORITY	COMMENT	SEA EVALUATORS COMMENTS	ACTIONS RECOMMENDED BY THE SEA EVALUATORS	MA REACTION
	1	2	3	4	5
7.	Ministry of Agriculture and Rural Development	Proposals: n) To remove the expression “Direction for Agriculture and Rural Development” with “Direction for Agriculture of County.....” o) To introduce a specific environmental monitoring indicator “ <i>Land surface affected by the implementation of the measures</i> ” for the first indicative activity of Priority 4.2	Proposals fully accepted.	Appropriate changes to the report.	Agreed with recommended action.
8.	Ministry of Environment, Water and Forest – Department for Impact Assessment and Pollution Control	Requests: p) To modify the environmental aspects for the indicative activities to reflect more accurately their impact	Proposals fully accepted.	Appropriate changes to the report.	Agreed with recommended action.
9.	Ministry of Environment, Water and Forest – Department of Biodiversity Ministry of Environment, Water and Forest	Proposals: q) In chapter 3 to reformulate what can be the impact on biodiversity when the Programme is not implemented; r) The area of national and international interest should be mentioned and described, too; s) To make a more detailed description of the methodology used for the assessment of the impact of the indicative activities on each environmental aspect (table 7.2); t) To introduce a measure for keeping and preservation of the species and protected habitats that can be affected by the Programme; u) The selection of the alternative (chapter 9.1) of the Programme has to consider a criterion related to the minimum impact on biodiversity.	Proposals fully accepted, with the exception on point s) – the impact on biodiversity is negative according to the impact assessment presented in table no. 7.2 of the SEA Environmental Report. On the other environmental aspects that were taken into consideration the impact is neutral or positive.	Appropriate changes to the report	Agreed with recommended action

Item	AUTHORITY	COMMENT	SEA EVALUATORS COMMENTS	ACTIONS RECOMMENDED BY THE SEA EVALUATORS	MA REACTION
	1	2	3	4	5
10.	Council of Satu Mare County	Proposals: v) To introduce to TO2, priorities P1.1 and P1.2 and to TO3 priority P2.1 more specific indicative activities related to: - Organising trainings to learn the Romanian/Ukrainian language for the minority of both countries and for people that have no connection with Romanian/Ukrainian language; - Creating common research groups for Romanian/Ukrainian language; - Organising courses for dissemination of Romanian/Ukrainian culture and civilization	Proposal not accepted	No changes to the report	Not accepted because the activities proposed are included in the indicative activities of P1.1, P1.2 and P2.1. The proposals can be defined as projects idea financed by the Programme
11.	Council of Botosani County	Proposal: w) To introduce in chapter 2.2 – Programme Area the 7th border crossing with Ukraine, namely Racovăț - Diakivți.	Proposal not accepted	No changes to the report	Not accepted because this border crossing in present is not operated and there is no information that in future will be open.
UKRAINE					
12.	Ministry of Ecology and Natural Resources (MENR) and Ministry of Economic Development and Trading (MEDT)	Point of view (Letter no.5/3-6/4401/20 th of April 2015) x) There is specific legislation for the environmental impact assessment of the projects with economic activity, but not at all for plans or programs. SEA Protocol was not ratified. Currently a Law regarding SEA is in public debate y) Nominated a person from MENR to participate to the consultation on the evaluation of the environmental impact of the Programme	Taken into consideration	No changes to the report	Agreed and invited to participate to the public consultation held in Cernauti on 27 th of May 2015

