Assistance in Environmental Law Drafting in South Eastern Europe
For the past two years, the Regional Environmental Center for Central and Eastern Europe has been working to align the environmental legislation in South Eastern Europe with that of the European Union. This project has helped to ensure the strategic regional development of environmental laws as part of an EU effort to stabilise a region recently embroiled in conflict.

The REC’s Environmental Law Programme carried out the work with the REC’s country and field offices as part of the Regional Environmental Reconstruction Programme for South Eastern Europe (REReP). The project, entitled “Assistance in Environmental Law Drafting in South Eastern Europe,” was financed by the European Union as part of the Stabilisation and Association process.

The project targeted senior officials and legal experts of environmental ministries in Albania, Bosnia and Herzegovina (Federation of Bosnia and Herzegovina, Republika Srpska, District of Brcko), Croatia, FYR Macedonia and Serbia and Montenegro [Republic of Serbia, Republic of Montenegro, Kosovo (territory under UN interim administration)].

This initiative, which ran from August 2001 to August 2003, covered four major areas:

• the establishment and facilitation of a network of senior officials and legal experts;
• the assessment of environmental law drafting needs in the SEE region;
• legal assistance to countries and entities; and
• topic-oriented regional workshops on environmental law.

Work in these same areas will form the bedrock of a successful second phase of this vital project.
The Regional Environmental Legislative Drafting Network of Senior Officials and Legal Experts

The Regional Environmental Legislative Drafting Network formed in 2002 with the involvement of key senior officials and legal experts of South Eastern Europe (SEE). Regular meetings and continuous cooperation among members and international experts led to:

- a strategic regional approach to current and upcoming legal drafting;
- mutual assistance with major country-based projects concerning EU law approximation;
- a common regional platform with EC Delegations.

Assessing Environmental Law Drafting Needs in South Eastern Europe

As part of the project, participants evaluated environmental law drafting needs to help determine priorities. With the help of the first report on this work, an international team of experts facilitated with the drafting process and the targeting of assistance.

The first report presented drafting needs in each of the countries and entities where specific legislation is under preparation or is expected to be drafted. The report furnished regional and country/entity information on:

- the current environmental legal setup in the countries and entities;
- environmental law drafting already process;
- achievements and needs; and
- priorities for legislation to be drafted.

A matrix of international assistance projects in SEE, which made up an important annex to the report, gives an overview of the EU directives which are covered or will be addressed in the targeted countries.

Key findings of the report helped senior officials of the environmental ministries to identify regional and country/entity priorities and opportunities for bilateral cooperation and further international support.
Activities in Countries and Entities

International legal experts provided concrete legal assistance in each beneficiary country and entity concerning environmental law drafting.

ALBANIA The team reviewed the environmental protection law of September 2002 with respect to its compliance with EC principles and general legal requirements. The analysis found gaps that require legislative action and recommended further amendments toward full compliance with EU requirements.

BOSNIA AND HERZEGOVINA A workshop on the EC’s IPPC Directive resulted in a comprehensive overview of its framework, principles and requirements. A list of recommendations called for transposition of the directive and exchange of experiences.

CROATIA Comments on the waste law included recommendations for amendments in the form of a detailed table of concordance and a review concerning consistency and compliance with EU waste legislation.

FYR MACEDONIA An analysis of the article on eco-labelling from the latest version of a draft environmental protection law provided concrete amendments and suggestions to clear the way for adoption of needed subsidiary legislation and also ensure compliance with pertinent EU requirements.

KOSOVO (territory under UN interim administration) The expert conducted a detailed review of development permitting procedures and identified gaps in domestic legislation by checking it against EU environmental impact assessment (EIA) requirements and drafting a table of concordance. The expert made recommendations for a full transposition of EU requirements and prepared a draft EIA law.

REPUBLIC OF MONTENEGRO Experts checked a draft law on air protection for consistency and compliance with relevant EU legislation and helped ministry representatives create a new draft through a table of concordance. The experts proposed concrete text amendments.

REPUBLIC OF SERBIA Experts reviewed regulations on chemicals and recommended the creation of a comprehensive legislative framework law complying with EU acquis. Their findings were based on a gap analysis focusing on the principles of EU legislation and those outlined in the EC White Paper “Strategy for a future Chemicals Policy.”
Topic-oriented Workshops

One of the project’s aims was to foster regular, intensive regional cooperation on EU environmental law approximation, including the sharing of experience. Workshops were developed based on the expressed interest of the recipient countries. The workshops showed that the project’s second phase should remain a forum for discussion and exchange of experience.

Workshop on
Strategy towards Approximation with EU Environmental Legislation in SEE

The workshop facilitated exchange of experience and best practices between EU member states and SEE neighbours.

Respected speakers from DG Environment, international consultancy firms and ministries of environment of candidate and SEE countries lectured and led discussions.

The discussions covered:
• the Stabilisation and Association process and how it could follow the model for EU integration;
• EU environmental law and approximation tools and instruments;
• an introduction to EU environmental law and the approximation process; and
• environmental approximation in candidate countries and SEE approximation process

Workshop on
Drafting EIA Legislation in South Eastern Europe in Compliance with EU Requirements

Participants reviewed the legal framework and latest developments of EIA at the EU level and lessons learned in the EU and elsewhere in Central and Eastern Europe. They considered recommendations concerning support for legal drafting and ways to cope with certain challenges. The workshop helped participants to understand EIA approximation efforts in SEE on the national level, with the hope of encouraging the exchange of good experiences and expertise.
Future Activities

The main achievement of the first phase of Assistance in Environmental Law Drafting in SEE was to stimulate cooperation among SEE experts and establish an international team to keep progress on the right track.

The core of all future activities will be the Regional Environmental Legislative Drafting Network of Senior Officials and Legal Experts. This central team can:

- assess and accelerate progress in environmental law drafting;
- facilitate transposition of EU legislation in SEE countries;
- maintain and upgrade tools such as the matrix;
- foster the exchange of experience, documents, laws and news through regional network meetings; and
- promote dialogue between regional and international stakeholders.

At the regional level, new project workshops and study visits can provide international training and assistance to environmental law professionals and ensure a running discussion and exchange of experience.

At the country and entity levels, the project can help local experts identify their own drafting needs. The ideal tools would be two-day country-specific or entity-specific training sessions for ministry staff.

Legal drafting assistance — including the writing of gap analyses and tables of concordance — could be provided on demand to help develop legislation in specific sectors of the environmental acquis. A team of international legal experts would provide short-term assistance to ministries, working closely with officials and local experts on:

- reviews of draft laws with respect to their consistency and compliance with EU legislation;
- the drafting of legislation;
- assessments of needs in institutional, legal and organisational frameworks; and
- translations of selected project outputs in local languages.
THE REGIONAL ENVIRONMENTAL CENTER FOR CENTRAL AND EASTERN EUROPE (REC) is a non-partisan, non-advocacy, not-for-profit international organisation with a mission to assist in solving environmental problems in Central and Eastern Europe (CEE). The center fulfils this mission by promoting cooperation among non-governmental organisations, governments, businesses and other environmental stakeholders, and by supporting the free exchange of information and public participation in environmental decision making.

The REC was established in 1990 by the United States, the European Commission and Hungary. Today, the REC is legally based on a charter signed by the governments of 28 countries and the European Commission, and on an international agreement with the government of Hungary. The REC has its head office in Szentendre, Hungary, and country offices and field offices in each of its 15 beneficiary countries, which are: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, FYR Macedonia, Poland, Romania, Serbia and Montenegro, Slovakia and Slovenia.

Recent donors are the European Commission and the governments of Albania, Austria, Belgium, Bosnia and Herzegovina, Canada, Croatia, the Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Italy, Japan, Latvia, Lithuania, FYR Macedonia, the Netherlands, Norway, Poland, Serbia and Montenegro, Slovenia, Sweden, Switzerland, the United Kingdom, and the United States, as well as other inter-governmental and private institutions.