



Charting a Course

The Distance Covered and the Way Ahead
for Environmental Law Drafting
in South Eastern Europe





Introduction

Since 2001, the REC has carried out activities to help the countries of South Eastern Europe to re-establish and develop their environmental legal systems in accordance with EU requirements.

These activities have resulted in reinforced regional cooperation as a crucial element in approximating laws with EU environmental legislation within the Stabilisation and Association Process (SAP). They have also provided targeted assistance at the country level according to demand. The activities and services varied greatly and involved many different policy makers, legislation writers and national and international experts. The work included checking draft legislation for compliance with EU law and assistance in revamping legislation in targeted environmental sectors, such as the chemicals industry. Links and synergies were fostered with other projects focusing on EU environmental legislation.

The beneficiaries have mainly been the ministries responsible for environmental law drafting in Albania, Bosnia and Herzegovina, Croatia, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo*. Turkey, Bulgaria and Romania have had observer status and have participated in several events.

The main objectives of the activities in the beneficiary countries have been:

- promoting the efficient development of comprehensive legislative frameworks in compliance with the EU environmental acquis by applying a regional strategic approach that encourages the sharing of outputs and solutions and joint implementation of activities;
- facilitating cooperation in environmental law within the SEE region via the operation of the Environmental Law Approximation Network (ELAN);
- updating a comprehensive, detailed, publicly accessible database of environmental legislative drafting processes in SEE (the “Interactive Projects Database”) on the basis of substantive, region-based knowledge;
- enhancing the capacities of the beneficiary ministries to draft environmental legislation by providing a critical review of draft documents;
- assisting in progress monitoring of EC environmental legislation at the country level.

* Kosovo as defined by UNSCR 1244

Activities have been implemented in three consecutive periods:

August 2001 – August 2003

Regional Environmental Reconstruction Programme (REReP) project 1.3, Assistance in Environmental Law Drafting in South Eastern Europe, consisted of targeted assistance at the regional and country levels for developing capacity for legal drafting within the approximation process. REReP project 1.3 played a key role in strengthening regional cooperation for the development of environmental law aiming at a strategic regional approach in the approximation of EU environmental legislation as well as in exchanging experience and good practices within the SEE region.

September 2003 – January 2006

The continuation of REReP project 1.3 focused on support at the regional and country levels. It built on the experience of regional projects supported under the Phare programme, the Development of Implementation Strategies for Approximation in Environment programme (DISAE), and the Technical Assistance and Information Exchange Unit (TAIEX), among others, as well as bilateral assistance. It was implemented in close collaboration with in-country environmental law assistance projects, European Commission delegations and the European Agency for Reconstruction (EAR) in the SEE region.

May 2007 – August 2009

During the third period, activities were a component of the REReP project CARDS Task II Environmental Law Drafting in SEE. At the regional level, they focused on capacity-building assistance to the SEE region on EU environmental law through topical workshops and study visits. This includes support for the operation of the Environmental Law Approximation Network (ELAN), including the organisation of the seventh and eighth meetings of ELAN. At the national level, the main activity was progress monitoring of the transposition and implementation of EU environmental legislation in the potential candidates (i.e. Albania, Bosnia and Herzegovina, Montenegro, Serbia and Kosovo*) as well as one candidate country – the former Yugoslav Republic of Macedonia. The progress monitoring activity covered year 2 and was implemented between October 2007 and October 2008.

Environmental Law Approximation Network (ELAN)

ELAN (previously the Regional Environmental Legislative Drafting Network of Senior Officials) was formally launched at the Regional Conference on the Prioritisation of Environmental Law Drafting Needs in South Eastern Europe, held in Celebici, Bosnia and Herzegovina from July 11 to 13, 2002. The network was initially established to assist SEE governments in needs assessment and prioritisation in environmental law drafting and to facilitate capacity building and institutional support through periodic coordination meetings. It was one of the first networks of senior officials to rebuild bridges for collaboration in the SEE region. ELAN proved to be an excellent forum for the exchange of regional expertise, good practices and updates on legal developments in the countries, and a platform for discussions on the development of a strategic approach to environmental law approximation in the SEE region. The members of ELAN had ownership of the activities and streamlined and defined their direction and priorities. REReP project 1.3 was initially designed to be demand driven and to respond to countries' needs in a short time.



ELAN was extended to include 26 members from SEE countries, two from Bulgaria and Romania as well as 14 senior REC experts. Members of ELAN are directly involved in law drafting and/or the approximation process and comprise mainly senior officials and legal advisors from environmental ministries. The main objective of the meetings has been to exchange information on approximation strategies, share best practices, highlight problems and ensure ongoing informal information exchange throughout the approximation process. These meetings have also been forums for deciding on short-term and medium-term priority activities such as thematic workshops and study visits.

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Meetings have been held once or twice per year. In total, eight ELAN meetings have been organised during the three implementation periods.

The eighth ELAN meeting was held on June 24-25, 2009 in Budapest, Hungary. The main aim was to focus on the outputs, the tangible benefits for the countries and SEE region as a whole, and the future of the Regional Environmental Network for Accession (RENA), launched in June 2009.



Chemicals legislation success story

The wide and comprehensive range of activities addressed existing country needs in terms of legal drafting. A very good example of this was the work on chemicals legislation. Synergies and interlinkages between the regional and country/entity activities were enhanced through improved coordination and the complementarity of the various study visits and targeted workshops.

- Workshop on chemicals (Skopje, former Yugoslav Republic of Macedonia, 2004). This workshop was the first step in the harmonisation of EU chemicals legislation and aimed at giving an overview of EU legislation, providing experience and lessons learnt from EU member states and candidate countries in chemicals management.
- Study on the legislative framework of the chemicals regulation for the former Yugoslav Republic of Macedonia (January 2005).
- Study visit to the Slovenian Chemicals Bureau and the Krka Pharmaceutical Company (January 24-28, 2005).
- Visit to the Research Centre for European Environmental Law (Bremen, Germany, March 21-23, 2005).
- Workshop on the new law on chemicals management in Serbia (Belgrade, April 22, 2005).
- Workshop on EU and globally harmonised system (GHS) criteria for the classification and labelling of chemicals (Belgrade, November 24-25, 2005).
- Gap analysis and recommendations on the chemical regulations of Albania (December 2005).
- Review of the draft law on chemicals (Serbia, March 2005; Montenegro, December 2005).
- REACH conference (Belgium, December 5, 2005).
- Workshop "Towards a Legal Framework on Chemicals in Albania Harmonised with the EU Acquis," (December 9, 2005).
- European Chemicals Bureau (ECB) study visit (Italy, December 12-13, 2005).

Highlights: Main achievements and outputs

- **Establishment and facilitation of ELAN**, currently the main facilitation network for regional cooperation and the exchange of good and bad practices on environmental law development throughout the SEE region, in operation for more than seven years. Efforts of the network are devoted to ensuring its continuation beyond the implementation period.
- **Publications, reports and brochures**, including *Progress in Environmental Law Drafting in South Eastern Europe* (2005) and *Assessing Environmental Law Drafting Needs in South Eastern Europe* (2003).
- **Progress monitoring of legal reforms**, specifically the transposition and implementation of EU environmental legislation in the potential candidates (i.e. Albania, Bosnia and Herzegovina, Montenegro, Serbia and Kosovo*) as well as one candidate country (the former Yugoslav Republic of Macedonia).
- **Capacity-building activities**, mainly at the regional level, comprising conferences, regional workshops and study visits to EU member states.
- **Research and continuous sharing of information** through several tools and channels. The main instruments developed and maintained include the biannual newsletter focusing on legislative and policy developments in the beneficiary countries, and the activities website on the REC portal where all outputs and materials relating to the activities are available.
- **Assistance in the drafting of 19 pieces of legislation** that are aligned to the EU environmental acquis. One noteworthy example was work on the chemicals legislation. See the previous page for a list of activities at the regional and country/entity levels in relation to chemicals legislation.

Regional Capacity-Building Activities

Conferences and workshops

Regional workshops and conferences were carried out to facilitate cooperation on specific topics between ELAN members, other key line ministry staff involved in the transposition and implementation of EU environmental legislation, and experts from EU member states, candidate and potential candidate countries.

Events included the conference “Strategy towards EU Environmental Law Approximation in the SEE Region” (Dubrovnik, Croatia, 2003). This was the first regional conference: it received strong political support at a high level and provided the foundation for determining the future priorities and activities. In the conference’s aftermath, five workshops were organised between 2003 and 2008:

- Workshop on drafting EIA legislation in South Eastern Europe in compliance with EU requirements (Ohrid Lake, former Yugoslav Republic of Macedonia, 2003). This workshop, the first following the regional conference, helped improve understanding of the concept and key requirements of the EU Environmental Impact Assessment (EIA) Directive.
- Workshop on approximation to the Integrated Pollution Prevention and Control (IPPC) Directive in SEE countries (Pula, Croatia, 2004). The event’s main aims were to facilitate approximation with EU legislation on industrial pollution control; exchange experience on national approximation to the IPPC Directive; provide lessons learnt from EU countries and new member states; benchmark transposition in the SEE countries; identify common weaknesses and ways to address them; and provide recommendations for further IPPC approximation.



- Workshop on approximation to the Water Framework Directive in South Eastern Europe (Budapest, Hungary, 2004).
- Workshop on approximation to EU waste legislation in South Eastern Europe (Cetinje, Montenegro, 2005).
- Workshop on approximation to EU nature protection legislation in South Eastern Europe (Babe, Serbia, 2008).

The five workshops organised after the Dubrovnik conference focused on:

- presenting the legal framework and latest developments on the implementation of certain pieces of EU legislation;
- providing lessons learned from EU countries, in particular new member states;
- discussing particular implementation issues;
- developing recommendations to support legal drafting in SEE with an eye on particular problematic issues; and
- initiating a common, strategic approach for SEE towards approximation to specific EU waste legislation.

Measurable indicators: Approximately 140 officials participated and were trained. In addition, financial assistance was provided for the participation of 12 government officials in various regional and international conferences such as the Conference on International Experience and Perspectives in SEA, and the REACH conference, both in 2005.

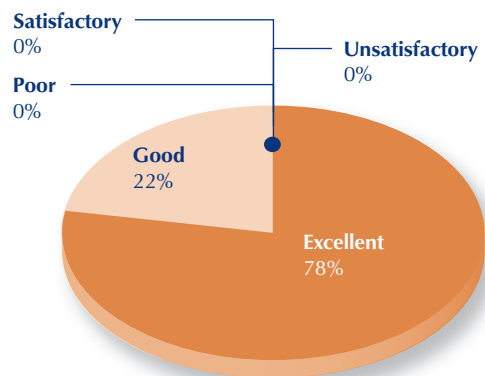
Study visits

Six study visits were undertaken in EU member states with the main objective of sharing acquired knowledge and experience in various environmental areas.

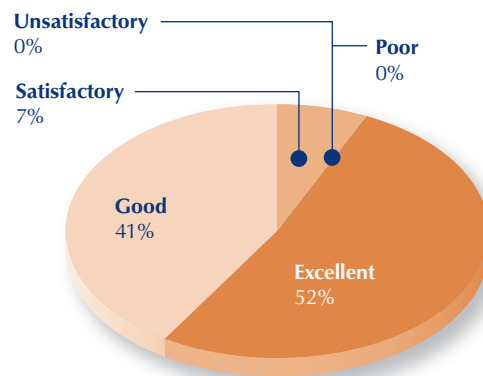
- Study visit to the European Chemicals Bureau (Italy, 2005).
- Study visit on approximation to the nature protection acquis (Poland, 2005).
- Study visit on hazardous waste legislation and management (Ireland), hosted by the Irish Environmental Protection Agency and the Department of Environment, Heritage and Local Government) (Ireland, 2005).
- Study visit to the National Chemicals Bureau of Slovenia (Slovenia, 2005).
- Study visit on ambient air legislation/policy, hosted by the Flemish environmental authorities (Belgium, 2009).
- Study visit on the prevention of major-accident hazards (Seveso II Directive), hosted by the Bulgarian Environmental Ministry (Bulgaria, 2009).

Measurable indicators: In total, 66 SEE officials, mainly from environmental ministries, have benefited from the study visits. These study visits were strongly supported and appreciated by both the beneficiary countries and the hosting organisations. Both parties learned from the exercise and it helped build informal information-exchange networks.

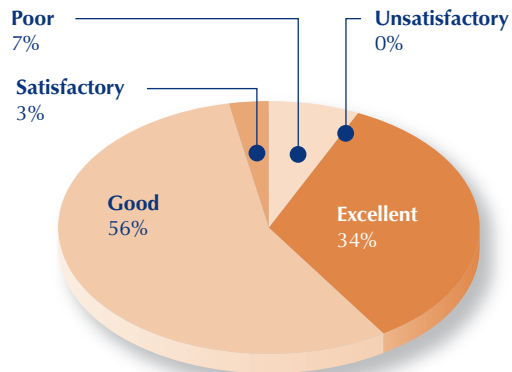
How do you rate the overall organisation and logistics of the Seveso II study visit?



How do you rate the quality of the field visit to the UMICORE industrial plant during the ambient air study visit?



How do you rate the quality of the presentations during the ambient air study visit?





Local Capacity-Building Activities

A combination of regional support and local activities helped optimise outcomes. Support given at the regional level enhanced the effectiveness of local activities, showing that priorities formulated at regional events are highly relevant at the national level. Assistance parameters were flexible enough to allow the beneficiary countries to formulate the themes and issues to be addressed.

Selected country workshops

- Workshop on approximation to the nature protection acquis in Bosnia and Herzegovina (Sarajevo, Bosnia and Herzegovina, 2005).
- Workshop on the globally harmonised system (GHS) for the classification and labelling of chemicals (Belgrade, Serbia, 2005).
- Workshop on approximation to the Environmental Liability Directive (Zagreb, Croatia, 2005).

Legal drafting assistance

The REC contributed with expertise to the drafting of 19 pieces of legislation in conformity with the EU environmental acquis. Three examples demonstrate the variety of topics covered in terms of legal drafting support: a review of and amendments to the draft waste register regulation for the former Yugoslav Republic of Macedonia; help in drafting two nature protection regulations for Bosnia and Herzegovina; and hands-on training on drafting the law on noise for Kosovo*.

Publications

With a view to supporting capacity-building activities and bringing increased attention to legal approximation efforts, a number of publications were produced.

Books

- *Assessing Environmental Law Drafting Needs in South Eastern Europe* (REC, 2003)
- *Progress in Environmental Law Drafting in South Eastern Europe* (REC, 2005)

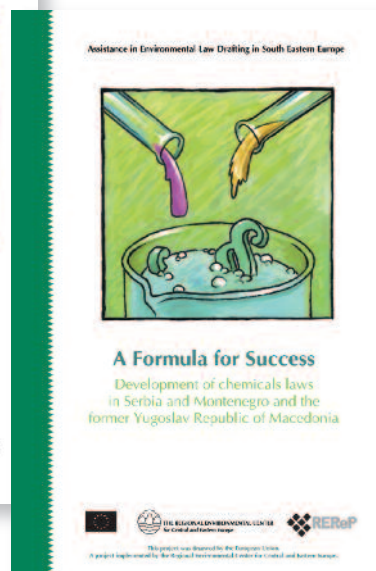
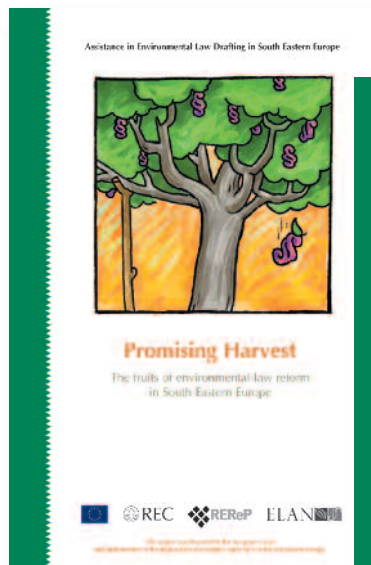
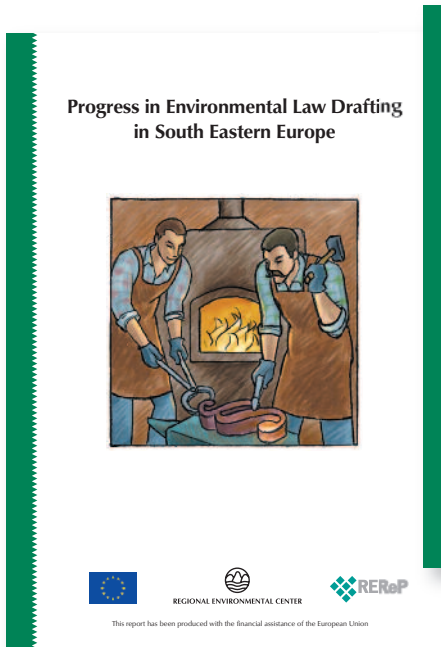
Brochures

- *A Formula for Success: Development of Chemicals Laws in Serbia and Montenegro and the former Yugoslav Republic of Macedonia* (REC, 2005)
- *Assistance in Environmental Law Drafting in South Eastern Europe* (REC, 2006)
- *Promising Harvest: The Fruits of Environmental Law Reform in South Eastern Europe* (REC, 2006)

Electronic information tools

To facilitate information exchange by efficient, environmentally friendly means, a number of electronic tools were developed:

- A biannual newsletter on progress on environmental law reforms and transposition projects. The newsletter, produced in consultation with the ELAN members, is posted at: http://www.rec.org/REC/Programs/REREP/LawDrafting/docs/newsletter/2008_1.pdf
- A matrix/database of projects on the transposition of EC legislation or capacity building in the beneficiary countries. It can be seen at: <http://www.rec.org/cardsmatrix/matrix.asp>
- A website, providing a summary of all activities carried out during the implementation period, including all deliverables such as books, brochures and newsletters. <http://www.rec.org/REC/Programs/REREP/LawDrafting/Default.html>



DISSEMINATION: Results were spread via publications such as *Progress in Environmental Law Drafting in South Eastern Europe* and the two brochures, *Promising Harvest* and *A Formula for Success*.

“This study [*Progress in Environmental Law Drafting in South Eastern Europe*] is ... not only based on rigorous scholarship, but it has a practical aim and result. It helps identify specific problems and potential solutions.”

Professor Alexandre Kiss and Professor Dinah Shelton

Conclusions and the Way Forward

The activities and strengthened regional and bilateral cooperation within the REReP framework have given tangible results at both the national and regional levels. The REC's assistance in environmental law reform in SEE has contributed significantly in law drafting, improved regional cooperation and the establishment of networks. Participants in the various events have repeatedly cited the benefits of sharing experiences as a main reason for taking part. They say the exchange of ideas, best practices and case studies can trigger progress in the development of national environmental legislation/policy. ELAN has also been an important forum for this information exchange and has constituted the backbone of the other activities. Among the most tangible outcomes were enhanced competence at the regional and national levels, and hands-on support in legal drafting at the national level. This ensures continued support throughout the whole implementation period where activities build on existing experience and focus on new commonly agreed priorities.

For nearly eight years, continuity and a clear sense of direction have been provided for SEE countries. The achievements should be followed up with a focused second step concentrating on filling gaps; building capacities, particularly at the national level; and further strengthening cooperation networks in the SEE region. Future activities should also aim at reinforcing the coordination between various ministries and ministerial units and between neighbouring countries to ensure a long-term, consistent approach to the reform of legal, policy and institutional frameworks in the field of environmental protection.

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Future capacity-building activities and targeted expertise will fall under the Regional Environmental Network for Accession (RENA). As an instrument for pre-accession assistance, RENA will act as a unique platform for dialogue between the EU and the environmental authorities of SEE countries and Turkey to promote the progress required by the EU acquis. It will also serve as a mechanism for regional cooperation, attempting to bring together separated societies emerging from tension. It will therefore, to a certain extent, introduce stimulus and “competition” amongst partners in the adoption of EU environmental requirements.

Through its four working groups, RENA will:

- further improve regional cooperation between environmental authorities;
- enhance public participation in environmental planning;
- support the transposition and implementation of EU environmental legislation;
- identify priority environmental projects and investments;
- provide technical assistance for the establishment of greenhouse gas inventories, energy efficiency activities and the preparation of mitigation and adaptation strategies;
- establish groups and networks for experience exchange; and
- stimulate cross-border cooperation in relation to environmental policies, legislation and investments.





THE REGIONAL ENVIRONMENTAL CENTER FOR CENTRAL AND EASTERN EUROPE

(REC) is an international organisation with a mission to assist in solving environmental problems. The REC fulfils this mission by promoting cooperation among governments, non-governmental organisations, 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 29 countries and the European Commission. The REC has its head office in Szentendre, Hungary, and country offices and field offices in 17 beneficiary countries: Albania, Bosnia and Herzegovina, Bulgaria, Croatia, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, the former Yugoslav Republic of Macedonia, Montenegro, Poland, Romania, Serbia, Slovakia, Slovenia and Turkey.

The REC actively participates in key global, regional and local processes and contributes to environmental and sustainability solutions within and beyond its country office network, transferring transitional knowledge and experience to countries and regions.

Recent donors are the European Commission and the governments of Albania, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, the Czech Republic, Estonia, Finland, Germany, Hungary, Italy, Japan, Latvia, Lithuania, Luxembourg, the former Yugoslav Republic of Macedonia, Montenegro, the Netherlands, Norway, Poland, Romania, Serbia, Slovakia, Slovenia, Spain, Sweden, Switzerland, the United Kingdom and the United States, as well as other intergovernmental and private institutions.

THE REGIONAL ENVIRONMENTAL CENTER FOR CENTRAL AND EASTERN EUROPE

Ady Endre ut 9-11 ■ 2000 Szentendre ■ Hungary

Tel: (36-26) 504-000 ■ Fax: (36-26) 311-294 ■ Website: www.rec.org

Contacts: Mihail Dimovski, Senior Expert ■ Tel: (36-26) 504-000 ■ E-mail: mdimovski@rec.org

Miriam Markus-Johansson, Project Manager/Lawyer ■ Tel: (36-26) 504-000 ■ E-mail: mmjohansson@rec.org

For more information, reports and presentations from these activities, please visit:

www.rec.org/REC/Programs/REREP/LawDrafting/Activities.html