

4. The management framework

Institutional framework

The institutional framework for environmental and natural resources management varies across the three countries. In all cases though, there is a ministry which is the primary body for the development and implementation of policies in the area of its competence and the

preparation of the relevant legislation. Nevertheless, competences in each area are spread among different institutions and authorities.

Box 5. National co-ordination body for sustainable development

In an effort to integrate environmental considerations in the overall development policies, the countries have assigned specific bodies the overall coordination of sustainable development planning.

| Country / territory | National institution responsible for integration of sustainable development |
|---------------------|--|
| Albania | Ministry of Environment, Forestry and Water Administration |
| Macedonia FYR | Ministry of Environment and Physical Planning |
| Montenegro | National Council for Sustainable Development supported by Office for Sustainable Development |

Source: UNDP, 2007

The same general trend applies for the water resources management. The competent ministry shares responsibilities with a range of institutions and authorities with competences that touch upon natural resources management and environment in general³⁸. Table 15 presents the

authorities which are responsible for legal drafting activities in the respective themes³⁹.

Table 15. Ministries in charge of legal drafting on different sectors of environmental / natural resources management

| Theme | Albania | FYR Macedonia | Montenegro |
|---------------------------------|-------------------------------|---------------|------------|
| Horizontal legislation* | MEFWA | MEPP | MTE |
| Water Management and Protection | MEFWA, MH, MAFCP, METE, MTCYS | MEPP, MAFWE | MTE, MAFWM |
| Nature Protection | MEFWA, MAFCP | MEPP | MTE, MAFWM |
| Waste management | MEFWA, MPWTT | MEPP | MTE |
| Industrial Activities and risks | MEFWA, MI, MH | MEPP | MTE, MIA |

*When referring to Horizontal Legislation we mean the body of law that is not focused on a single aspect of the environment but instead apply to all environmental fields e.g. Environmental Impact Assessment (EIA), Strategic Environmental Assessment (SEA), Access to environmental information etc.

Note: The allocation of legal competencies as they are illustrated in the table must be treated with caution. Taking into account the on-going restructuring of the institutional framework in the three countries, recent developments may not be reflected in the table above.

Albania: MEFWA = Ministry of Environment, Forests and Water Administration, MH = Ministry of Health, MAFCP = Ministry of Agriculture and Food and Consumer Protection, MTCYS = Ministry of Tourism, Culture, Youth and Sports, METE = Ministry of Economy, Trade and Energy, MI = Ministry of Interior. MPWTT = Ministry of Public Works Transport and Telecommunications

FYR Macedonia: MEPP = Ministry of Environment and Physical Planning, MAFWE = Ministry of Agriculture, Forestry and Water Economy.

³⁸ A detailed description of the range of competences in the different ministries and bodies in regard to the environmental management can be found in REC, 2006 (see Reference at the end of the document).

³⁹ Being in charge of legal drafting most often implies that those ministries are the line bodies responsible for the implementation of the regulations in force. In these one must add the local authorities in which environmental related competences have been delegated through the decentralization process.

Montenegro: MTE = Ministry of Tourism and Environment, MAFWM = Ministry of Agriculture, Forestry and Water Management, MIA = Ministry of Internal Affairs.

Source: (Adopted from) REC, 2005, World Bank, 2003b, National Strategy for Development and Integration 2007-2013, Republic of Albania, March 2008

The Council of Ministers is the highest body in the administrative system of Albania responsible for the approval of national strategies and plans. The bodies with competences on water resources management in Albania is shown on Box 5. The National Water Council (NCW) is the central decision making body for water resources management in the country⁴⁰ integrating the activities of the different institutions toward supporting a common policy for the water sector as a whole. It formulates water strategies, decides national water policies and has the power to endorse international agreements on cross-border water bodies. The Technical Secretariat for Water supports the NCW and has a number of responsibilities such as the implementation of the national policy on waters.

Figure 12. Division of water basins in Albania



Source: Hoxha, Hasa, 2008

The ministry with overall competences on water resources management is the Ministry of Environment, Forestry and Water Administration (MEFWA) which is a relatively new institution. Six “Watershed Councils” (having a multistakeholder synthesis) exist - one for each of the basins in the country- headed by the prefects of the regions. The councils have juridical status and are subordinates of the Technical Secretariat.

A Water Agency in each watershed exists, being the technical body of the respective Watershed Council, are executive units and part of the MEFWA structure. They are responsible for the implementation of the water relevant legislation and the respective regulations, the decisions of the NCW etc. in the basin of their competence etc⁴¹.

“Basin Councils” may be established covering one or a group of watersheds. According to the Law on Water Reserves, the composition, rights and duties of the Basin Councils should be determined by the NCW.

The NWC Technical Secretariat and the Water Agencies will most probably be subject of restructuring when the

new law on waters is prepared and adopted (the current Law on Water Reserves is under revision).

Further to water, the MEFWA is the central institution for environmental issues in the country and the national coordination body for sustainable development. Its responsibilities cover also the management of protected areas and national parks, forests and fisheries and the control and regulation of hunting. The Council of Territorial Regulation of the Republic of Albania is responsible for the approval of urban studies/plans concerning development in National Parks,

⁴⁰ The NCW is headed by the Prime Minister and its members include the Ministers of Environment, Interior, Economy, Public Works, Health and, Agriculture.

⁴¹ They are also responsible for the preparation of the meetings of Watershed councils; preparation of the water inventories; collection of the water tariffs; reviewing of plans, programs and projects on irrigation and drainage protection of the rivers and submitting them to the watershed council for approval; the proclamation of the sanitary areas around the water resources etc. They also, in collaboration with research and scientific institutions, undertake studies and surveys on water pollution.

development of tourism, ports and physical infrastructures, mostly at the national level. The Inspectorate of Environment represents a structure within the MEFWA responsible for decentralised environmental protection. A number of other ministries⁴² and institutions⁴³ have competences over environment and natural resources management and much authority is delegated in the regional offices of the different ministries. The Ministry of Agriculture, Food and Consumer Protection (MAFCP) controls and monitors water used for irrigation⁴⁴. The Ministry of Public Works, Transport and Telecommunications⁴⁵ is responsible among others for spatial planning, water supply and sanitation and waste management infrastructure. Through a recent reform of the water supply and sanitation sector the ownership, thus full management of the related utilities/infrastructure, has passed to the local authorities. Regional, municipal and communal authorities and institutions have competences on environmental management (e.g. local environmental action plans, urban planning, nature conservation, and enforcement of provisions of the environmental protection law) within the area of their responsibility. Academic institutes carry out research and monitoring programmes.

Box 6. Authorities with competences on water resources management in Albania

- National Water Council chaired by the Prime Minister (central decision body for water resources management);
- Ministry of Environment, Forests and Water Administration (overall responsibilities over water resources management, water quality monitoring, emission monitoring, setting quality standards and water emission standards);
- Watershed management authority for each river basin of the country - six in total (plans for watershed management, water abstraction and discharges permits);
- Ministry of Health (monitoring quality of drinking water);
- Ministry of Agriculture, Food and Consumer Protection (administration, maintenance and use the irrigation and drainage system);
- Ministry of Public Works, Transport and Telecommunications
- Ministry of Tourism, Culture, Youth and Sports
- Local authorities (responsible for proper operation and maintenance of water/wastewater facilities under their jurisdictions);
- Regional Environmental Agencies;
- Regional Directorates of Public Health;
- Regional inspectorates of the Ministry of Agriculture and Food.

Source: (Adopted from) Konomi, 2006

In FYR Macedonia, the Ministry of Environment and Physical Planning (MEPP) is in charge of formulating and implementing environmental policy and is the coordinating body for sustainable development issues. It has overall responsibility for waste (solid and liquid) management. Water management is undertaken at basin level but responsibilities are still fragmented. The new Law on Waters (2008) provides for the transfer of competencies on

⁴² The Ministry of Tourism, Culture, Youth and Sports is responsible for the policy and planning of activities related to the development of tourism in areas along water bodies such as lakes, water related tourist activities in the water bodies' basins; the Ministry of Economy, Trade and Energy is responsible for the energy sector.

⁴³ Fisheries Inspectorates, Forestry Service, Institute for Forest and Pastures Research, Regional Environmental Agencies etc.

⁴⁴ It is also charged with administration of the majority of Albania's productive resources, e.g. agricultural land, pastures and livestock as well as rural development.

⁴⁵ The Ministry's responsibilities (relevant to environmental protection) are: Protection of the environment and health from pollution and damage caused by solid and inert waste (household, commercial, construction, demolition) by setting rules and establishing techniques, and methods for their treatment, resulting in the reduction of waste generated and related impacts; Improvement of water supply services and wastewater collection and treatment through the development of water and sewerage infrastructure and the implementation of policies for public investments in this area; Implementation of investment policies for securing the 24-hour water supply for tourist areas; Decentralization of water supply services in local government units; Prevention, facilitation and rehabilitation of population, livestock, property, cultural heritage, and environment after civil emergencies; Prevention of environmental pollution from activities in the public works and transport; and Implementation of the national environmental strategy in the related sectors.

water resources management from the Ministry of Agriculture, Forestry and Water Economy (MAFWE) to MEPP as of 1 January 2010. After this date the MEPP will assume full responsibility for water resources management in the country. In the time between, the two Ministries -with the assistance of GTZ- are working jointly for the establishment of the required administrative capacities in water management at the river basin level. Basin management authorities are expected to be in place in 2009. The State Environment Inspectorate and other bodies under the MEPP are responsible for law enforcement as well as the generation and management of information in support of policies, preparation and the monitoring of law enforcement. Other ministries⁴⁶ and bodies have also direct or indirect competences on water resources as well as natural resources and environmental management. The Ministry of Transport and Communications performs activities related to inland waterways, housing and public works and is responsible for the establishment of primary infrastructure in the fields of water supply and sanitation. Local authorities have competences on environment and nature protection⁴⁷. Academic institutes carry out research and monitoring programmes.

Table 16. River basin management and nature conservation institutions

| Country / territory | River basin management institutions | River basin management plans |
|---------------------|--|--|
| Albania | Watershed management authorities, under the authority of Ministry of Environment, Forests and Water Administration | Regional Environmental Action Plan for Drini River Delta |
| Macedonia FYR | Not assigned according to the WFD (expected in 2009) | No |
| Montenegro | Not operational yet | No |

Source: (adapted from) UNDP, 2007

In Montenegro, the National Council for Sustainable Development (NCSD) was established to provide the government of Montenegro with advice on policy issues related to the achievement of the country being an “ecological state” as outlined in the Constitution of 1991 and coordinate sustainable development planning. The Ministry of Agriculture, Forestry and Water

Management (MAFWM) is responsible for the management of water resources including their protection from pollution. The new Law on Water (May 2007) has designated the Ministry as the competent authority for the adoption and implementation of the EU Water Framework Directive (EU WFD); the Water Administration Agency will have a lead role in implementing integrated water resources management in line with the EU WFD. Two Water Basin Districts have been established: the Black Sea and the Adriatic Sea (includes the Shkoder and Buna/Bojana watersheds along with their tributaries). The Water Basin Districts authorities have not been established yet. The Ministry is also responsible for agricultural land, forests, hunting and fishing.

The Ministry of Tourism and Environment (MTE; established in November 2006) has competences related to the overall policy of environmental protection with authority among others in the fields of protection of nature, management of protected areas and strategic integration and strategic processes in the field of the environment⁴⁸. The Inspectorate Department, a body within the MTE, is responsible for the supervision of implementation of legislation in the area of environmental protection. An Environmental Protection Agency is in

⁴⁶ The list includes the Ministry of Economy (exploitation of mineral resources and energy and geological surveys); the Ministry of Agriculture Forestry and Water Economy (responsibilities related to agriculture, forestry; use of agricultural land, forests and other natural resources; hunting and fishing; protection of livestock and plants against disease and pests; hydro-melioration systems; study and research of meteorological, hydrological and bio-meteorological phenomena and processes); the Ministry of Health (performs activities concerning human health through air, water and soil pollution monitoring).

⁴⁷ Responsible for regulating and performing activities of public interest and local importance, especially in the domains of water supply, waste management, integrated environmental permitting, compliance permitting, and inspection supervision.

⁴⁸ Among others, waste and wastewater management, control of industrial pollution, environmental impact assessment (EIA), strategic environmental assessment (SEA) and IPPC, nature protection, biodiversity etc.

the process of being established⁴⁹. The Public Enterprise National Parks of Montenegro being under the competence of MTE, is responsible for the management bodies of National Parks. A number of bodies⁵⁰, some supervised by the MTE, are responsible for monitoring of surface and ground water, drinking water, soil contamination and biodiversity. The MTE shares some of its competences with a number of other Ministries⁵¹. Much authority regarding environmental policy is vested in the regional offices of the different ministries. Public enterprises (such as the “Regional Waterworks Montenegro” which is an enterprise for water supply, wastewater drainage and treatment, and solid waste disposal for the coastal region of Montenegro and the municipality of Cetinje) and municipalities have certain responsibilities that touch upon natural resources management⁵².

Policies

National policies are essential for establishing the foundation of good natural resources and environmental governance.

In the three countries of focus –as it is the case in the rest of the Western Balkans countries–, the national development policies in the post-conflict era have been formulated in an evolving environment at national and regional levels, guided mainly by challenging political and socio-economic factors. The initial period, dedicated to the establishment of the institutional infrastructure for democracy and market economy, was followed by a period of establishment and maintenance of the rule of law and macroeconomic stability, improvement of living standards and acceleration of economic growth. The preservation of the latter in combination to the effort to address several pressing needs and social problems (e.g. poverty and unemployment), has dictated strategic choices and decisions in terms of both formulation of policies and setting of priorities for their implementation. Efforts have been made initially to deal with the environmental dimensions of sustainability mainly in the form of preparation and adoption of environmental-related strategies and action plans. Nevertheless, efficiently incorporating sustainable development goals in the overall development policies has been a challenge difficult to be addressed during that period.

Unsustainable development patterns are a real concern in trying to achieve rapid economic growth. In coping with this challenge, a country can either integrate environmental and social objectives into economic development or delay investment into social and environmental development until higher levels of GDP are achieved. In making this (implicit or explicit) choice the key issues are:

- Whether the currently most frequent policy approach of mechanically copying development patterns and regulatory framework from more advanced countries is economically, environmentally and socially sustainable?
- Whether Sustainable Development is truly recognised as the main strategic goal by the government, society and business sector at all levels?

This choice is reflected in the level of integration of sustainable development goals in the overall development policies and in the distribution of responsibilities for sustainable development among the government institutions.

“Environmental Policy in South-Eastern Europe” (UNDP, 2007)

⁴⁹ With the assistance of EC.

⁵⁰ Public Enterprise Center for Ecotoxicological Research, Hydro-Meteorological Institute, Institute for Public Health, Nature Protection Institute.

⁵¹ E.g. the Ministry of Economic Development (energy policy, supply and mineral resources, spatial planning etc.), the Ministry of Health (chemicals, drinking water), the Ministry of Agriculture, Forestry and Water Resources (except for water resources also land and forestry).

⁵² Among others they are responsible for: developmental plans and programmes, spatial and urban plans, the programmes for environmental protection, preservation and protection of natural assets, use and protection of construction land, management and operation of public utility services such as solid waste, water supply and sanitation.

Sustainable management of natural resources and environment had been low in the agenda. The need, for instance, to maximize the agricultural production, support the tourist “industry” and the income of the inhabitants, produce hydroelectric energy etc. has led in the implementation of non-integrated and often unsustainable sectoral policies that resulted in the deterioration of natural resources including water.

Integrating sustainable development as central part of the policy making system has only recently been initiated. The adoption of the EU accession as their main strategic goal, including recognition of the EU Sustainable Development Strategy as a guiding framework for their future development, was the key driving force.

Box 7. EU Accession prospect and the EU environmental *acquis*

- The FYR Macedonia was granted candidate status in December 2005. The Accession Partnership adopted by the EC on 18 February 2008 identifies the key priorities for progress in the accession process of the country. Albania and Montenegro were granted the status of potential candidate countries.

The Stabilisation and Association process (SAP) launched in 1999 by the European Commission between the countries of the Western Balkans and the EU Member States, is crucial. The SAP defines the direction for the countries towards closer cooperation with the EU, with a view to future EU membership. The SAP is a framework of different instruments including bilateral Stabilisation and Association Agreements (SAA)⁵³ between the EU and the countries in the region that explicitly include provisions for future EU membership of the country, preferential trade agreements and extensive financial support⁵⁴ aimed at speeding up EU integration. It also includes economic and political conditionality requirements, including an annual review mechanism that monitors compliance with conditionality, and requirements for regional cooperation. The SAA foresees the establishment of bilateral agreements with neighboring countries in the region, covering environmental and transboundary water issues. Furthermore, EU provides assistance in different forms (building up capacities, institutional and finance assistance) through the EU accession process while in return the countries have to take steps to meet the political, institutional and economic requirements which have to be fulfilled by all EU candidate countries.

- EU environment policy aims to promote sustainable development and protect the environment for present and future generations. It is based on preventive action, the polluter pays principle, fighting environmental damage at source, shared responsibility, and the integration of environmental protection into other EU policies. The **environmental *acquis*** comprises over 200 major legal acts covering horizontal legislation, water and air quality, waste management, nature protection, industrial pollution control and risk management, chemicals and genetically modified organisms, noise and forestry. Ensuring compliance with the *acquis* requires significant investment, but also brings significant benefits for public health and reduces costly damage to forests, buildings, landscapes and fisheries. A strong and well-equipped administration at national and local level is imperative for the application and enforcement of the environment *acquis*.

Hence, novel notions are gradually adopted with regard to the development philosophy. The plans, strategies and laws being reviewed or developed reflect – at least on paper - this trend. Strategic documents governing sustainable development in the three countries are provided in

⁵³ Stabilisation Association Agreements (SAAs) are the contractual basis for relations between each individual country and EU while the European Partnerships identify short and media term priorities. The countries drafted National Programmes to meet these priorities. The SAA with FYR Macedonia was signed on 12 April 2001 and came into force in April 2004. The SAA with Albania was signed on 12 June 2006. The SAA with Montenegro was signed on 15 October 2007.

Source: <http://ec.europa.eu>.

⁵⁴ The Instrument for Pre-Accession Assistance (IPA) aims at providing targeted assistance to countries which are candidates and potential candidates for membership to the EU. The IPA Council Regulation (EC) No 1085/2006 was adopted on 17 July 2006. IPA supersedes the five previously existing pre-accession instruments, Phare, ISPA, SAPARD, Turkey instrument, and CARDS, thus uniting under a single legal basis all pre accession assistance. IPA has also been designed to better adapt to the different objectives and progresses of each beneficiary concerned, so as to provide a targeted and effective support according to their needs and evolution. In particular, IPA will help strengthen democratic institutions and the rule of law, reform public administration, carry out economic reforms, promote respect for human as well as minority rights and gender equality, support the development of civil society and advance regional co-operation, and contribute to sustainable development and poverty reduction. For candidate countries, the additional objective is the adoption and implementation of the full requirements for membership, whereas only approximation to these requirements will be requested from potential candidate countries.

Source: http://ec.europa.eu/enlargement/how-does-it-work/financial-assistance/ipa/index_en.htm

table 17. In table 18 selected policy papers are presented – these include also policy documents being the instruments for the adoption of/approximation to the environmental *acquis*.

Table 17. Strategic documents governing sustainable development

| Country | Sustainable Development Strategy | Other top level national policy documents setting sustainability objectives |
|---------------|--|---|
| Albania | National Strategy for Development and Integration (2008) | National Environmental Strategy |
| FYR Macedonia | Under preparation* | Second National Environmental Action Plan (2006) |
| Montenegro | National Strategy for Sustainable Development (2007) | |

*As for 2007

Source: UNDP, 2007

Box 8. Multilateral Environmental Agreements

The countries of the region have acceded, signed or ratified a series of very important Multilateral Environmental Agreements (MEA) - see Annex 3. These MEAs bring a variety of obligations in the fields of environmental legislation, enforcement, monitoring and reporting, with some requiring highly specialised expertise and effective inter-sectoral cooperation. Since each MEA also has its own national reporting mechanisms and its own arrangements for meetings of the parties, the cumulative technical and administrative burden is considerable. Developing countries, whose economies are in transition, encountering financial and capacity limitations, face special challenges in responding to these, sometimes overlapping or competing, demands. The three countries of focus are using available means to fulfil their obligations against these MEAs. Nevertheless this is not always adequate.

The process is also guided by the obligations stemming from numerous multilateral environmental agreements (MEA - see Annex 3).

Huge effort is needed though –with the economies still in transition period- for sustainability to get in practice and integrated in the mainstream economic and development policies. At the time being it is the actual

needs and constraints in each country at political, financial and socioeconomic level that drive the process with regard to the policies implemented.

As for the management of water resources, given also the sectoral organization of governments, integrated policies is difficult to be documented. The governments' intentions in this field are contained in water resources policies as well as the related policies such as for nature protection, land management, irrigation, wastes management, industry etc. The gradual incorporation of the EU WFD provisions in the national legal framework and their implementation are expected to provide the necessary elements that would assist towards integrated management of water resources.

The policy framework of the three countries on environment / natural resources management is outlined in the following pages.

In Albania, the National Strategy for Development and Integration (March 2008), prepared though consultation with the stakeholders, combines the priorities and perspectives of the Government of Albania in the areas of sustainable economic and social development and integration into, among others, the European Union for the first time in a single framework. It analyzes the strategic priorities in several areas including the economy, environment, water supply and sanitation, waste management, rural development and tourism for a period of 7 years. The National Environmental Action Plan (NEAP, 1993 updated in 2002) is the basic policy document in the area of environmental protection. Among other aims the NEAP seeks to design sectoral environmental policies and implementation of action plans; completion and approximation of the legal regulatory framework within the European framework and its enforcement and; active involvement of local government (REC, 2006). The National

Environmental Strategy⁵⁵ (2006) aims to improve sectoral integration, provide up-to-date analysis of the Albanian environment and proposals for future policy, and guide integration of Albania's environmental policies to meet EU obligations. The National Plan for the Implementation of the Stabilisation and Association Agreement that aims to align environmental legislation with European standards has been adopted (2007) and will be incorporated into the new National Strategy for Environment (NES). The elaboration of a National Plan of Water Reserves is in the plans of the government.

In terms of water resources management, the Water Supply and Sanitation Strategy in Albania (2004) aimed to reorganize the water and sanitation sector in consistency with the new developments in the economy and the legal and institutional framework. It analyses the decentralisation process and management practices on the ground. Among others attention is given on ways of enhancing the sector efficiency and sustainability (REC, 2006). The Strategy is being revised to reorganize the sector aiming to the sustainable provision of services: the ownership of the utilities has passed to the local authorities; it provides for a new tariff system incorporating social parameters aiming also the financing of the water basin authorities; it creates the conditions for the involvement of the private sector. The MPWTT is preparing a national study and recommendation for the aggregation (regionalization) of all water supply and sewerage systems across Albania, also as an accession measure to EU WFD, taking into account natural water basin boundaries.

Box 9. Water resources policy in Albania

In the field of water steps have been made for Albania to deal with the poor water quality and the inadequate water supply and waste water services. During 2005 some positive steps have been taken under the National Water and Sanitation Strategy to improve management of water resources. Despite the positive trends the targets have not been attained. A comprehensive water management strategy is still needed, including approximation with European legislative standards, determining investment needs, and improving the capacity to manage water and sewerage issues. The basis for the strategic planning in the field of water and sanitation and water resources management and protection is provided in the National Strategy for Development and Integration 2007-2013, adopted by the Council of Ministers in March 2008.

Source: (Adapted from) EC progress reports for Albania 2006, 2007

The Constitution of the FYR Macedonia includes key principles of sustainable development and provides for specific protection for all natural resources, flora and fauna. The first National Environmental Action Plan⁵⁶ (NEAP - 1996) defined strategic directions in the area of environmental protection and improvement having as main principle the integration of the environment into other sectors. The second NEAP⁵⁷ (2006) is of special importance; it identifies issues and challenges and sets out short- and medium-term goals and actions up to 2011. The National Strategy for Sustainable Development was in preparation as for 2007. Terms of reference for the preparation of National Strategy for Nature Protection have been prepared in 2007. The National Strategy on Environmental Investments, provided in the NEAP, is in the final stages of preparation. It concerns among others water supply and sanitation projects.

⁵⁵ Prepared under CARDS 2002: Environmental Legislation and Planning in Albania (ELPA)

⁵⁶ Prepared with the financial support of the World Bank

⁵⁷ Prepared under CARDS – it was prepared observing the terms specified in the National Strategy for the Integration of the, the European Partnership Action Plan and the Programme for approximation of national legislation to the legislation of the European Union (REC, 2006).

Box 10. FYR Macedonia, Second National Environmental Action Plan (NEAP 2)

The NEAP clearly defines the environmental problems and the measures and activities required to resolve them in the course of six years, thus establishing a flexible framework for achievement of the main goals: continuation of the process of approximation with the EU environmental policy, implementation of an integrated policy as a way of overcoming the challenges, establishment of directions for environmentally sustainable approaches, enhancement of the extent of compliance with the obligation deriving from regional and global agreements and opening of new perspectives and involvement of the international system for environment protection. The NEAP Monitoring Body that is expected to be created will have a key role to report to the Government on the NEAP implementation on regular basis.

Source: UNDP, 2007

A Water Management Master Plan exists. Water resources management planning is expected to come in line with the relevant EU policies in the coming years; the new water law was adopted to transpose the EU WFD.

In Montenegro, the National Environmental Protection Program (NEPP) is one of the main environmental policy documents. Protection programmes focusing on specific areas of the environment prepared by other institutions or local authorities have to be harmonized with the NEPP. The National Strategy on Sustainable Development has been adopted and is expected to assist towards the integration of environmental concerns in the overall policy making. The Law on Water transposing some of the provisions of the EU WFD is expected to be the basis for water resources management planning.

Box 11. Montenegro: ecological state

The Montenegrin Parliament adopted a Declaration on Montenegro as an Ecological State in 1991. The 1992 Constitution reaffirmed the Declaration by determining that Montenegro is a “democratic, social and ecological state”. During the 1990s not enough was accomplished in terms of implementing the provisions of and the concept of “ecological state” due to the political and economic crisis. Since 2000, efforts are under way to make the concept operational and implement it through the development of strategic documents and more recently through the harmonisation of national legislation with EU environmental *acquis*. Sustainable development has gained prominence in policy making and in the public during recent years with the implementation of various initiatives on institutional strengthening for sustainable development. The National Strategy for Sustainable Development was prepared through a participatory process in 2005 – 2006, and was adopted at the beginning of 2007. The National Council on Sustainable Development was expanded to ensure wider stakeholder representation, and has taken a more prominent role in inter-sectoral co-ordination and the integration of environmental concerns into policy making. Some experiences have been gained with new tools for the integration of sustainability requirements into policy making, through, for example, Strategic Environmental Assessment pilots for the National Spatial Plan and Energy Strategy. There is still a large scope for improved application of market based instruments. Even though the “ecological state” concept and sustainable development are generally supported by a wide range of stakeholders and even though the number of sustainability instruments is growing, there are still a lot to be done.

Source: (adapted from) UNDP, 2007

More information at www.mturizma.vlada.cg.yu/vijesti.php?akcija=rubrika&rubrika=257

Table 18. Selected policy documents for Albania, FYR Macedonia and Montenegro

| Albania | FYR Macedonia | Montenegro |
|---|--|---|
| <ul style="list-style-type: none"> • National Biodiversity Strategy and Action Plan (2000) • Strategy and Action Plan for Protection of Land from Erosion • Strategy and Action Plan for Sewage Treatment in Urban Areas • Strategy and Action Plan for Water Supply, Sewerage and Waste Management in Rural Areas. • Strategic Action Plan for Sustainable Development of the Prespa Park • National Waste Management Plan (1998) • National Strategy for Tourist Development • National Environmental Action Plan (1993, updated in 2002) • Strategy for the Development of the Forestry and Pastures Sector in Albania (2003) • National Strategy of Energy and Action Plan (2003) • Water Supply and Wastewater Sector Strategy (2004) • Strategy for Hazardous Wastes • Aarhus Convention Implementation Strategy (2005) • Strategy and Action Plan for the Development of Tourism Sector Based on Cultural and Environmental Tourism (2005) • National Water Strategy (2004) • National Plan for the Implementation of the Stabilisation and Association Agreement (2007)³⁾ • National Strategy for Development and Integration 2007 – 2013 (2008)³⁾ • National Environmental Strategy (NES)³⁾ | <ul style="list-style-type: none"> • Water Economy Master Plan, 1974 (was expected to be replaced in 2004 by a new water master plan) • Physical Plan of FYR Macedonia, Spatial Planning Management (1998, revised in 2004) • National Environmental and Health Action Plan (1999) • Spatial Plan (2004) • Agriculture Development Strategy • National Strategy and Plan for Biodiversity Protection (2004) • National Strategy for Integration of the FYR Macedonia to the European Union (September 2004) • Strategy for Monitoring • Strategy for Public Awareness Raising • Action Plan for Elimination of Persistent Organic Pollutants (2005) • Strategy for Sustainable Forestry Development in Republic of Macedonia with Action Plan 2007-2009 (2006). • National Environment Action Plan, 2006^{1), 3)} • National Programme for the Adoption of <i>Acquis communautaire</i> (April 2007) • Waste Management Strategy 2008-2020 (2008) <p><i>Policy Documents Planned or Drafted</i></p> <ul style="list-style-type: none"> • National Strategy for Water • National Strategy for Nature Protection • National Strategy for Sustainable Development • National Strategy on Environmental Investments | <ul style="list-style-type: none"> • Declaration on the Ecological State of Montenegro (1991) • Directions for Development of the Ecological State of Montenegro /Strategy on Long – term Strategic Directions (2001) • Strategy of Implementation of Quality System in line with ISO 9000 and ISO 14000 • National waste strategy • National Policy on Waste Management (2004) • Wastewater Master Plan (2004) • Waste Master Plan (2004) • Strategic Framework for development of sustainable tourism in north and central part of Montenegro, (2004) • Master Plan for Waste Management (2005) • National Energy Policy (2005) • Coastal Area Spatial Plan for Montenegro (2005) • Strategy for Development of Food Production and Rural Areas (2006) • Strategic Framework for Development of Sustainable Tourism in Northern and Central Montenegro (2006) • Tourism Development Strategy until 2020 (2006) • Administrative capacity building action plan for implementation of the Stabilization and Association Agreement (2006) • National Action Plan for Montenegrin Coast (NAP) for Preventing Sea Pollution from Land-based Sources (2006) • Protected area physical plan • Forest management plan • Agenda of Economic Reforms • Water utility reform plan (July 2007) • National Strategy for Integrated Coastal Zone Management • National Strategy for Sustainable Development (2007) • Spatial Plan of Montenegro (2008) • National Environmental Approximation Policy^{2), 3)} |

Notes: When relevant information is available, the year of preparation of the policy document is given.

¹⁾ This is the second NEAP adopted by the Government in March 2006. It upgrades the first NEAP prepared in 1997, ²⁾ It was to be completed in 2007, ³⁾ These documents constitute also the instruments of these countries for the approximation of the environmental *acquis*,

Sources: Konomi, 2006, UNDP, 2007, UNECE, 2002, World Bank, 2003b, REC, 2005, Ganoulis and Zinke, 2004, website of the Ministry of Environment and Physical Planning of FYR Macedonia (<http://www.moe.gov.mk/ang/start.htm> - accessed on 13/05/2006), EC Progress reports for Albania, FYR Macedonia, Montenegro 2005, 2006, 2007 (<http://ec.europa.eu/enlargement/>), APAWA, CETI, 2007

Nevertheless, not all of these plans and strategies have been fully adopted or properly implemented. The reasons for this are numerous and are presented later in the document. Socio-economic reasons are among them. The sectoral organization of governments, the limited coordination among different management agencies and their unclear or overlapping competencies are additional reasons. As a result, consistency of actions between sectors has been limited. Actions by one sector often undermine or compromise the actions of another.

Legal framework

Policies establish priorities, set strategies and provide long-term directives. For its effective implementation, a sound legislative base is essential. The legislative framework in the broad field of environment and natural resources management has been extensive in all three countries.

Important steps have been made towards the alignment with the EU environmental legislation in the recent past. A number of framework laws as well as secondary legislation have been prepared and adopted covering both horizontal and sectoral issues i.e. environment and natural resources, nature protection, pollution, waste management, SEA, EIA, Integrated Environmental Permit issuing system, public participation etc. A list of selected laws are presented in table 19. This legislation apart from being a significant effort to adopt/approximate to the EU *acquis* and incorporate sustainable management considerations in the overall environmental management framework, it sets also the framework and the rules –although still not in an integrated way- for the management of water resources and the water bodies and their basins.

In Albania, the Law on Environmental Protection (5 September, 2002) is considered as the cornerstone of environmental legislation; it is a framework law. The Law on Water Reserves (1996) is the main piece of legislation regarding water resources management regulating among others the relevant institutional structure. A number of framework laws as well as secondary legislation directly or indirectly covering water resources management issues have been also adopted. For instance, in 1999 the Law on Irrigation and Drainage was adopted determining the national policy and regulating relevant issues. In March 2005, Albania passed a Law on norms relating to effluent discharges, according to which no business which discharges wastewater effluents will be issued with a permit to operate unless it installs a water purification facility. A law on transboundary environmental protection, transposing some provisions of the Espoo and the Aarhus Conventions has been adopted in 2007. The Law on Water Reserves is being reviewed. The new Law is expected to transpose the EU WFD and be harmonized with relevant provisions included in different laws adopted recently, touching upon water resources management.

With regard to the official approximation to the EU *acquis*, FYR Macedonia is ahead from the rest of SEE being relatively advanced in law drafting and adoption. It has the advantage that the revision and further development of the environmental legal framework has commenced in the late 1990s. The Law on Environment (September 2005) is the basic piece of legislation for environmental protection. A substantial amount of implementing legislation has been adopted in a number of areas e.g. waste management and nature protection. The Law on Waters (1998) had provided the legal basis for water quality management and had introduced innovative tools for water resources management, although it was not based on the concept of integrated water resources management. Nevertheless, not all of its provisions were fully implemented and/or enforced. In addition, a wide range of laws, decrees and rulebooks have

regulated specific aspects of water management⁵⁸. The adoption of the new Law on Waters (2008) which aligns with the EU WFD, should provide a good basis for further progress in this area. The Law on Waters defines the management and control of water use, protection and prevention of water contamination, protection against floods, as well as financing of water management activities. This is a framework law⁵⁹; the preparation of secondary legislation for setting the specifications for the preparation of planning documents for water management in conformity with the Law on water is envisaged. In addition, several pieces of legislation have been adopted to transpose a number of water related Directives⁶⁰.

Montenegro adopted the Environmental Law (April 1996) in accordance with its constitution. The law sets up the first environmental protection system in Montenegro; the first obligations of entities performing activities potentially damaging to the environment to take prescribed measures for environmental protection; establishes environmental standards, and penalty provisions. A Law on Environmental Protection was adopted in 2008 including specific references on water resources; it also covers public participation issues. A new Law on water was adopted in May 2007, transposing in a certain extend (according to the EC) the EU WFD. It regulates issues of integrated water resources management at the basin level and provides for the preparation of a Water Master Plan of Montenegro and Water Management Plans for each of the two River Basin Districts including Programs of Measures. Economic valuation of waters towards full cost recovery and public participation are among its provisions. A number of secondary legislation has been adopted such as this concerning the “Classification of waters significant for Montenegro” (2008 - Shkoder and its tributaries are among these), “Classification and categorization of surface and ground waters” (2007) and the establishment and management of a Waters Information System (2008). A series of other Laws and Decrees are needed to implement the Law on Waters in the following years.

⁵⁸ Among others water classification, water quality, drinking water, water protection, prevention of pollution at source, emissions control, water extraction, storage and handling of substances endangering or potentially endangering waters.

⁵⁹ It also provides the basis for the adoption of secondary legislation that will transpose other Directives as well (Information provided by the MEPP).

⁶⁰ Directive 2006/7/EC on bathing waters; Directive 91/676/EEC on nitrates; Directive 98/83/EC on drinking water; Directive 91/271/EEC on urban and wastewater treatment; Directive 2006/11/EC on hazardous substances and Directive 75/440/EEC on drinking water abstraction.

Table 19. Selected laws for natural resources management in Albania, FYR Macedonia and Montenegro

| Albania | FYR Macedonia | Montenegro |
|--|--|--|
| <p>Law on:</p> <ul style="list-style-type: none"> • Forestry and the Forestry Police Service (1992; amended in 1994) • Protection of Wild Fauna and Flora (1994) • Pastures and Meadows (1995) • Public Waste Disposal (1996) • Water Supply and Waste Water Management (1996) • Urban Planning (1996) • City Planning (1993, amended 1998) • Plant Protection Service (1993; amended in 1999) • Concerning the Right to of Access to Official Documents (1999) • Service of Control for chemical Fertilisers* (1999) • Organization and Functioning of Local Government* (2000) • Concerning the Creation and Operation of Land Protection and Administration Structures* (2001) • Establishment and Operation of Soil Administration and Protection Structures (2001) • Water Reserves* (1996, 2000, 2001) • Fishing and Aquaculture* (1995 amended in 2002) • Protected Areas* (2002) • Environmental Protection* (2002) • Protection of Marine Environment from Pollution and Damage* (2002) • Chemical Fertilizer Control Service • Environmental Treatment of Solid Waste* (2003) • Concerning the Environmental Treatment of Polluted Waters* (2003) • Chemical Substances and Preparations* (2003) • Protection of Transboundary Lakes* (2003) • Environmental Impact Assessment* (2003) • Environmental Treatment of Polluted Waters* (2003) • Protection of Arable Land* (2004) • Regulatory Framework of the Sector of Water Supply and Collection and Treatment of Waste Waters* (1996, 2005) • Service of Plant Protection* (2005) • Efficiency of Energy* (2005) • Forest and Forest Service* (2005) • Allowed norms of liquid releases and the zoning criteria of receiving water environments (2005) • Strategic Environmental Assessment* (2006) • Administration of Hazardous Waste* (2006) • Protection of Biodiversity* (2006) • Irrigation and Drainage (1999, 2008) | <p>Law on</p> <ul style="list-style-type: none"> • Natural Rarities Protection (1973) • Management and Use of Pastures (1974) • Hydro meteorological Matters (1992) • National Parks Protection (1980) • Protection of Lakes Ohrid, Prespa and Dojran (1978, revised in 1993) • Fisheries (1993) • Protection against Fires (1986, last amendment 1993) • Spatial and Urban Planning (1996) • Hunting (1996) • Forests (1997) • Communal Solid and Industrial Waste (1998) • Criminal Code (1996) • Agricultural Land (1998) • Public Hygiene, and the Collection and Transport of Municipal Solid and Industrial Waste (1998) • Protection of Plants (1998 and 6/2000) • Environment and Nature Protection and Promotion (revised in 2000) • Organization and Work of the State Administration (2000) • Local Self-Government (2002) • Concessions* (2002, 2003) • Hydro meteorological Matters, 1992 (revised in 2004) • Communal Works, 1997 (revised in 2004) • Protection of the Ohrid, Prespa and Dojran lakes • Water Communities • Water Management Enterprises • Drinking Water Supply and Urban Wastewater Drainage* (2004) • Organic Agriculture Production* (2004) • Physical and Urban Planning* (2005) • Waste Management* (2004, amended in 2007) • Nature Protection* (2004, 2006, amended in 2007) • Environment* (2005, amended in 2007) • Re-Proclaiming Part of Pelister Mountain as National Park • Free Access to Public Information* (2006) • Waters* (1998, 2008)¹ | <p>Law on:</p> <ul style="list-style-type: none"> • Nature Protection law (1989) • National Parks (1991) • Sea and internal shipping (1978, last amended on 1991) • Water supplying, removing of wastewater and depositing of solid waste in the territory of municipalities: Herceg Novi, Kotor, Tivat, Budva, Ulcinj, and Cetijne (1991) • Coastal zone (1992) • Environment Protection (1993) • Municipal Activities (1995) • Fauna Protection and Use (1996) • Protected Areas Act (1996) • Basic Principles of Environmental Protection (1998) • Non-Governmental Organizations (1999) • Freshwater Fishery • Tourism • Agricultural land • Forests* (2000) • Environment* (1996, 2000) • Inspection Control (2003) • Local Self-Government (2003) • EIA* (2005, expected to enter into force in August 2008) • SEA* (2005, expected to enter into force in August 2008) • IPPC* (2005, entered into force in January 2008) • Waste Management* (2005, will to enter into force in November 2008) • Free Access to Information* (2005) • Physical Planning* (2005) • Hunting and Wildlife* (2005) • Spatial Planning and Development (2005) • Waters* (1995, 2007)¹ • Law on Environmental Protection (2008) |

¹ Aiming to transpose the EU Water Framework Directive * These laws are adopted aiming to transpose

Sources: GEF, UNECE, 2002, World Bank, 2003b, Ganoulis and Zinke, 2004, REC, 2005, REC, 2006, Konomi, 2006, UNDP Prespa, UNDP 2007, APAWA, CETI, 2007, UNECE, 2007, Hoxha, Hasa, 2008, website of the Ministry of Environment and Physical Planning of FYR Macedonia <http://www.moe.gov.mk/ang/start.htm> accessed 13/10/2008

Summarizing - The way forward

Considerable effort has to be made in order for the countries of focus to succeed integration of environmental and water considerations in the sectoral policies. In Albania, steps have been made for the integration of environmental policies into other policy areas; the National Strategy for Development and Integration adopted in 2008 will greatly assist toward this direction. In FYR Macedonia there are mechanisms for the integration of environmental aspects in some sectoral policies, particularly at the level of strategic documents and in sectors where the link with the environment is clear, such as spatial planning, energy efficiency, health, agriculture and research. However, the actual use made of them appears to be still limited. Furthermore environmental protection requirements are not yet integrated in the definition and implementation of the other policies. In Montenegro, efforts have been made to take account of environmental considerations in other policies. The adoption of the National Strategy for Sustainable Development is expected to have positive impact in this regard. Overall, both policies and their implementation in the three countries are at varying stages and still weak.

In regard to the legal framework, although the progress in the drafting of new legislation in accordance, mainly, with the EU *acquis communautaire* is considerable, the new laws do not transpose all the obligations stemming from the EU *acquis*. For instance the new water law in Montenegro transposes only some of the obligations imposed by the EU WFD. According to the EC Montenegro Progress Report 2007, the level of alignment with the European standards in this area is low. Further efforts are needed in the approximation to the EU *acquis* and in particular the implementation and enforcement of the legislation adopted. According to EC in Albania while efforts on adopting new legislation are being made, implementation of already transposed legislation is falling behind. In FYR Macedonia, a substantial amount of legislation has still to be enacted. Implementation of the legislation remains limited, especially in areas that require major investment.

The reasons for the deficiencies in the area of implementation of the policies and the laws as well as the enforcement of the latter are manifold. In some cases even new laws lack fundamental elements such as definitions -compliant with EC requirements-, precise rights and obligations for legal and natural persons, setting of standards to be achieved and thresholds to be complied with and they fall short to determine procedural stages. Many of the new horizontal laws are framework laws. These require a number of specific and detailed subsidiary laws and regulations in order to make them applicable and enforceable in practice. Some steps regarding the preparation and adoption of secondary legislation have been made; the FYR Macedonia is more advanced among the three countries in this regard. In Montenegro, much of the horizontal legislation has been enacted only recently, within 2008 (see table 19).

The overall administrative capacity of the institutional framework is another important reason despite the on-going reforms at the institutional level; the restructuring of the MEPP in FYR Macedonia and the delegation of overall responsibilities regarding water resources management to it, the creation of the MEFWA in Albania and the restructuring followed, as well as the reforming of the MEPP in Montenegro into MTE are indicative.

Overlapping competences or even lack of clear delegation and fragmentation of responsibilities among different institutions and management agencies is often the case. In FYR Macedonia, the most advanced country in this regard, although the adoption of new environmental laws providing for greater integration of environmental management has contributed to partially overcome this fragmentation (EC progress report, FYR Macedonia, 2005), there is still a need to streamline the management of responsibilities currently

fragmented between different ministries and bodies. This is causing lack of consistency in water management and frequent institutional conflicts regarding specific issues. As an outcome the existing legislation is not implemented in the most efficient and effective way hence, hampering the efforts for the sustainable management of the environment and the natural resources.

Effective communication and coordination among the different Ministries and bodies is an issue. According to EC, in Albania cooperation between the MEFWA and other ministries as well as governmental agencies needs to be improved and so is the coordination between the MAFWM and the Ministry of the Environment and Tourism in the area of water resources management in Montenegro. In FYR Macedonia monitoring of different environmental sectors is not coordinated between the competent institutions and the situation is similar with enforcement.

The situation gets more complicated while efforts are made for more decentralization. The delegation of powers and responsibilities to local authorities has been initiated and actual competences have been given out in certain areas. Several examples can be identified. In Albania, responsibility for the water supply has been granted to the municipalities through the Law on Organization and Functioning of Local Government. In Montenegro, the local authorities have a range of responsibilities (see above) and decentralization has been realised on the water supply and sanitation services. In FYR Macedonia, the Law of Local Self Government (2002) provides that municipalities have competencies among others on: the protection of the environment; nature and space regulation; measures for the protection and prevention of water, atmosphere and land pollution etc. A number of parameters constrain the ability of local authorities to assume responsibility for their competencies and address environmental and natural resources management issues. Limited financial resources and technical facilities, insufficient human resources and capacity are among them. Insufficient coordination among the ministries and the local authorities add to the picture.

Insufficient human, financial and technical resources to undertake the new competences in order for the new institutional settings to function in an effective way is also a challenge within the ministries in charge of environment and natural resources. In Albania, environmental inspectors lack adequate resources to carry out their duties. In Montenegro, both the MAFWM and the MTE suffers from lack of staff. Despite the efforts⁶¹ made until now competent authorities and bodies in the three countries need further capacity building.

Overall, the reforms at all levels are on-going. The countries of focus still stand at the beginning of a long process concerning sustainable development as a whole. Although progress has been accomplished the reality is still far from being satisfactory.

The environmental and natural resources administration in particular in the water sector will need to be significantly strengthened to implement the *acquis*. This is not surprising since the setting up of a properly functioning institutional and administrative framework at national and local level needs a lot of time. Reforms have started in the near past in an environment of transition, instability and limited resources. The previous conditions and the related human and technical capacities constitute an additional barrier.

In terms of alignment with the EU environmental standards, some progress has been achieved and harmonisation seems to be on track. Considerable and sustained efforts will have to be

⁶¹ For instance, in Montenegro training of the staff of the MAFWMt has been carried out. In FYR Macedonia training on enforcement of environmental law for inspectors and judges was carried out in 2005 and the relevant activities for the former were carried out also in 2007. In Albania capacity building in the MEFWA is on-going.

made to fully align their policies and legislation with the environmental *acquis*, and especially to implement and enforce it, in the medium term. However, effective compliance with EU standards requiring a high level of investment and considerable administrative effort (e.g. in the areas of water resources and waste treatment), could be achieved only in the long term.

The overall workload involved is enormous. There are concerns whether it is manageable within the timeframes set out, in spite of the considerable support available from the European Commission and the donors. Nevertheless, while making this analysis someone has to keep in mind that even countries members of the European Union (EU 15), although much ahead, are still struggling with similar issues.