

Project Fiche –IPA centralised programmes
Horizontal Programme on Environment in the Western Balkans

1. Basic information

- 1.1 CRIS Number:** 2007/019-285
- 1.2 Title:** Monitoring transposition and implementation of the EU environmental acquis
- 1.3 ELARG Statistical code:** 06.27 - Environment
- 1.4 Location:** Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia including Kosovo (as defined by UNSCR 1244)

Implementing arrangements:

1.5 Contracting Authority:

European Community represented by the Commission of the European Communities for and on behalf of the beneficiary countries¹.

1.6 Implementing Agency:

N.A.

1.7 Beneficiary:

The main beneficiaries of the project are the Ministries of Environment in the candidate and potential candidate countries.

Financing:

- 1.8 Overall cost (VAT excluded):** €500,000
- 1.9 EU contribution:** €500,000
- 1.10 Final date for contracting:** 30/11/2008
- 1.11 Final date for execution of contracts:** 30/11/2010
- 1.12 Final date for disbursements:** 30/11/2011

2. Overall Objective and Project Purpose

2.1 Overall Objective:

The overall objective of the project is to assess to which degree EU environmental legislation has been transposed and implemented in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro and Serbia including Kosovo (as defined by UNSCR 1244) as an instrument for advancing the accession process in the beneficiary countries.

¹ In this document, the use of the expressions "beneficiary countries", "pre-candidate countries" and "national authorities", should be considered as including Kosovo as defined by UNSCR 1244.

2.2 Project purpose:

- To assist with compliance checking of environmental legislation being drafted and adopted in the target beneficiary countries and to update guidance material on the transposition and implementation of environmental legislation;
- To provide the tools and methodology for tracking and assessing progress in the target beneficiary countries in their preparation for integration into the EU, especially in terms of transposition and implementation of EU environmental legislation;
- To support the Commission in gathering and managing up-to-date information on the status of each potential-candidate country's preparedness in the environmental sector.

In general, the project should assess and process the results in such a way that each country can gauge its own process.

2.3 Link with AP/NPAA/EP/ SAA

Completing transposition of the environmental acquis is a priority in the Accession Partnership in the environment chapter.

The importance of effective implementation and enforcement of EU environmental law in the candidate countries is also a key theme in the AP/NPAA/EP/SAA and in the regular reports that come out for the candidate countries annually. Furthermore, the enlargement packages specifically refer to the need of effective implementation of the acquis as a precursor to accession.

2.4 Link with MIPD

The approximation, transposition and implementation checking activities appear as a priority in the Multi-Beneficiary MIPD 2007-2009 under Section 2.2.2 "Infrastructure".

The approximation to European standards in particular in sectoral policies including environment appears as a priority in the MIPDs 2007-2009 for Albania, Bosnia and Herzegovina and Serbia.

But, as transposition progresses the Commission will receive and try to reply to numerous requests from the pre-candidate countries to undertake preliminary compliance checks of pieces of their national legislation with the corresponding EU legislation. These unofficial checks will help countries avoid problems after accession that could occur due to incorrectly transposed legislation.

This project is therefore complementary to the work being undertaken by the national authorities in that while the National strategies are a planning document for harmonisation/alignment with the acquis, the current project on monitoring is focused on monitoring the progress achieved in alignment and implementation and provides information for the countries on how they are fulfilling their targets. In addition, it also provides for economies of scale and coherent methodology for such progress assessment in all the IPA countries.

3. Description of project

3.1 Background and justification:

All candidate and potential candidate countries are committed to full transposition of the EU environmental legislation by accession. Preparations for membership in the area of environment present three particular challenges:

- legal: the environment acquis consists of a large body of legislation most of which is in the form of directives requiring transposition into the national legal order;
- administrative: planning, permitting and monitoring require sufficiently staffed and well equipped environment administration at various levels;
- financial: substantial investment in infrastructure and technology in order to make up for lacking or insufficient investments.

Given these facts, enhanced efforts are still needed to complete transposition and implementation of the environmental acquis by the date of accession (for candidate countries) or in the course for their preparation for future membership in the EU.

Throughout the accession process the Commission has been monitoring progress towards adoption and implementation of environmental legislation in all the candidate countries. One tool to assist the monitoring was the Progress Monitoring Projects that have run since 1998 in cooperation with the environment ministries of the candidate countries. The projects include detailed analysis of the steps being taken to transpose and implement the environmental legislation using tables of concordance to track transposition and specific questionnaires on implementation. The successive project has included the development of a methodology for the monitoring and training of officials in the respective environment ministries in application of this methodology.

The information collected during the 2002 to 2006 phases of the project has also served as the basis for an internal Commission database on implementation and transposition in the candidate countries. As the accession process is now continuing, the Commission will carry on monitoring of progress in the candidate and potential candidate countries. Therefore it is important to be able to continue to collect and analyse similar information in the environment field in the coming years.

As transposition is progressing, the Commission receives numerous requests from the countries to undertake compliance checks of pieces of their national legislation with the corresponding EU legislation. Before accession the Commission cannot make an official assessment of national drafts for compatibility and in addition does not have the resources to make unofficial assessments during the pre-accession period. However, unofficial checks help countries avoid problems after accession that could occur due to incorrectly transposed legislation. Earlier Phare multi-country environment programmes have allocated resources to such unofficial compliance checking for the EU10 and EU2.

Under Phare 2006 the Commission is funding a project aiming to assist Croatia and Turkey in monitoring their remaining transposition and implementation obligations for the environmental acquis and assessing to which degree EU environmental legislation has been transposed and implemented in the two countries.

Therefore the Commission proposes to make such a compliance checking facility available for the former Yugoslav Republic of Macedonia and the potential candidate countries, thus extending the monitoring exercise to the entire IPA region.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact:

This project should ensure that pre-candidate countries fully understand the entire EU environment ‘agenda’ and are helped to consider the legal, administrative and resource implications, whether or not all the aspects are able to be fully addressed during the period when assistance is available.

In addition, as this project will include training on the use of the methodology (e.g. filling of tables of concordance and implementation questionnaires) by the relevant officials in the respective environment ministries, it is expected that the project will contribute to strengthening of administrative capacity and will promote improved implementation and enforcement of the environmental acquis.

Finally, there will also be some catalytic effects in terms of the participation of the beneficiaries in the activities of the ECENA network (ECENA is a Balkan-wide informal network focusing on effective implementation and enforcement of environmental legislation – see linked activities), which will dovetail with their work in terms of monitoring of transposition, thus ultimately helping the beneficiaries to overcome the institutional challenges of implementation and enforcement.

3.3 Results and measurable indicators:

- Assessments of the Tables of Concordance and Implementation Questionnaires, after completion by the target countries;
- Updated list of Directives/Regulations covered by the Progress Monitoring in terms of reflecting all amendments since last progress monitoring year;
- Additional Tables of Concordance and Implementation Questionnaires developed;
- Regular reports on progress made and problems encountered in the target countries. As regards progress monitoring in these countries, the reports should take into account the assessment of the status of transposition and implementation made under the previous progress monitoring contract;
- Advice and support to the target countries;
- Updates on scoring and dates of actual/estimated transposition and implementation in the DG ENV progress monitoring database;
- Specific environmental legal acts checked for compliance;
- Updated guide on the activities required to undertake the effective transposition, implementation and enforcement of EU environmental legislation;
- Number of officials trained on project methodology.

3.4 Activities:

- Carry out progress monitoring on the basis of Tables of Concordance and Implementation Questionnaires that have already been developed in the framework of the previous progress monitoring projects, focusing mainly on the legislation pending for adoption and implementation;
- Review and update of Directives/Regulations covered by last Progress Monitoring in terms of reflecting all amendments since last progress monitoring year;
- Develop additional Tables of Concordance and Implementation Questionnaires for Directives, adopted within the period defined by the Commission;
- Report on progress made in terms of transposition and implementation; such a report shall include an analysis of any issues affecting accession of candidate countries;
- Offer guidance and assistance to Ministries of Environment in the target beneficiary countries in completing the Tables of Concordance and Implementation Questionnaires; this

assistance may include consulting through local experts, country visits to provide guidance on the methodology used and continuous support through other means of communication;

- Provide assistance in updating the internal progress monitoring database;
- Short term assessments of draft and adopted environmental legislation based on requests from beneficiary countries in comparison to the relevant EU environmental legislation;
- Update the existing step by step guide to activities required to undertake the effective transposition, implementation and enforcement of EU environmental legislation by including legislation adopted in 2007.

3.5 Conditionality and sequencing:

N.A.

3.6 Linked activities

Progress Monitoring Projects have run since 1998 in cooperation with the environment ministries of the candidate countries. The projects have included detailed analysis of the steps being taken to transpose and implement the environmental legislation using tables of concordance to track transposition and specific questionnaires on implementation. The successive projects have included the development of a methodology for the monitoring and training of officials in the respective environment ministries in application of this methodology. The Phare 2006 project for Croatia and Turkey will assist the two countries in monitoring their remaining transposition and implementation obligations for the environmental acquis and in assessing to which degree EU environmental legislation has been transposed and implemented.

In parallel, DG ENV is also building and reinforcing enforcement capacity in the pre-candidate countries, through support to the Balkan Environmental Regulatory Compliance and Enforcement Network (ECENA). The ECENA Network brings together the authorities from the Balkan countries responsible for the implementation and enforcement of environmental law in order to exchange best practices, thus supporting regional cooperation. The training and exchange activities have supported the countries to make progress in the context of the Stabilisation and Association Process, in particular to work towards implementation and enforcement of EU environmental legislation

3.7 Lessons learned

Since 1998 the Commission has been running Progress Monitoring Projects. The approach has now been defined and adjusted to meet the needs of the Commission and the beneficiary countries. The present project will continue with this tested approach.

In the past, the Commission received requests from many candidate countries to review draft legislation. The Commission has no mandate (nor the staff) to do this prior to accession (doing so would jeopardize our rights to subsequent opening of infringement procedures), thus the decision was introduced in previous Phare projects to fund projects aiming to offer guidance and assistance to Ministries of Environment in the target beneficiary countries to give them a preliminary assessment of draft and adopted environmental legislation. This allowed beneficiary countries to have access to short-term specialist legal advice and facilitated reporting to the European Commission on progress made in terms of transposition and implementation. This approach has proved to be successful and meets the needs of both the beneficiary countries and the Commission.

Finally, the recent (2007) ex-post evaluation of the Phare multi-beneficiary programme has also recommended that the Commission put more emphasis on support to institution and capacity

building, as pre-conditions for successful investment. And this should include technical assistance for the preparation of legislation.

This evaluation has also singled out as one of the most valuable and practical tools produced by the Phare environment MBP, under the DISAE facility (a Phare-funded facility to support projects aiming at the approximation of environmental law in Central and Eastern Europe) the Handbook on the Implementation of EC Environmental Legislation (http://ec.europa.eu/environment/enlarg/pdf/handbook_impl_ec_envi_legisl.pdf), which this project will also update. Beneficiaries confirmed that this handbook was an extremely useful tool for them in the transposition and implementation of the environment acquis.

4. Indicative Budget (amounts in €)

	TOTAL COST	SOURCES OF FUNDING										
		EU CONTRIBUTION				NATIONAL PUBLIC CONTRIBUTION					PRIVATE	
		Total	% *	IB	INV	Total	% *	Central	Regional	IFIs	Total	% *
TOTAL	500.000	500.000	100	500.000	0	0	0	0	0	0	0	0

Amounts net of VAT

* expressed in % of the Total Cost

5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start of Tendering	Signature of contract	Project Completion
Contract 1	N.A.	Q2 2008	Q4 2009

6. Cross cutting issues (where applicable)

6.1 Equal Opportunity

The European Commission is fully committed to a policy of equal opportunity. In all activities during this project, but particularly in training, steps will be taken to ensure the equal participation of men and women.

6.2 Environment

Target sector.

6.3 Minorities

N.A.

ANNEXES

- 1- Log frame in Standard Format
- 2- Amounts contracted and Disbursed per Quarter over the full duration of Programme
- 3- Details per EU funded contract

ANNEX 1: Logical framework matrix in standard format

LOGFRAME PLANNING MATRIX FOR PROJECT FICHE	Programme name and number:	Horizontal Programme on Environment in the Western Balkans
MONITORING TRANSPOSITION AND IMPLEMENTATION OF THE EU ENVIRONMENTAL ACQUIS	Contracting period expires: 30/11/2008	Disbursement period expires: 30/11/2011
	Total budget: €0.5 million	IPA budget: €0.5 million

Overall objective	Objectively verifiable indicators	Sources of Verification	
To assess to which degree EU environmental legislation has been transposed and implemented in Albania, Bosnia and Herzegovina, the former Yugoslav Republic of Macedonia, Montenegro, Serbia and Kosovo under UNSCR 1244	<ul style="list-style-type: none"> Correctly transposed and implemented environmental legislation 	<ul style="list-style-type: none"> Progress Monitoring Reports Regular Reports 'Peer Reviews' 	
Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
<ul style="list-style-type: none"> To assist with compliance checking of environmental legislation being drafted and adopted in the target beneficiary countries and to update guidance material on the transposition and implementation of environmental legislation. To provide the tools and methodology for tracking and assessing progress in the target beneficiary countries in their preparation for integration into the EU, especially in terms of transposition and implementation of EU environmental legislation; To support the gathering and managing of up-to-date information on the status of each pre-candidate country's preparedness in the environmental sector. 	<ul style="list-style-type: none"> Number of legal acts checked for compliance Updated information on the progress towards implementation of the EU environmental acquis in the target countries. 	<ul style="list-style-type: none"> Reports from Consultants 	<ul style="list-style-type: none"> To be able to call on a highly qualified pool of environmental lawyers from Member States and Candidate and potential candidate countries
Results	Objectively verifiable indicators	Sources of Verification	Assumptions

<ul style="list-style-type: none"> • Assessments of the Tables of Concordance and Implementation Questionnaires, after completion by the target countries; • Updated list of Directives/Regulations covered by the Progress Monitoring in terms of reflecting all amendments since last progress monitoring year; • Additional Tables of Concordance and Implementation Questionnaires developed; • Regular reports on progress made and problems encountered in the target countries. As regards progress monitoring in these countries, the reports should take into account the assessment of the status of transposition and implementation made under the previous progress monitoring contract; • Advice and support to the target countries; • Updates on scoring and dates of actual/estimated transposition and implementation in the DG ENV progress monitoring database; • Specific environmental legal acts checked for compliance; • Updated guide on the activities required to undertake the effective transposition, implementation and enforcement of EU environmental legislation; • Number of officials trained on project methodology. 	<ul style="list-style-type: none"> • Detailed Country Progress Reports • Updated internal DG ENV database • Final Reports on the level of compliance of specific acts 	<ul style="list-style-type: none"> • Reports prepared for this project 	<ul style="list-style-type: none"> • Countries requesting assistance for compliance checking
Activities	Means	Costs	Assumptions
<ul style="list-style-type: none"> • Carry out progress monitoring on the basis of Tables of Concordance and Implementation Questionnaires that have already been developed in the framework of the previous progress monitoring projects, focusing mainly on the legislation pending for adoption and implementation; 	<ul style="list-style-type: none"> • Contract to manage a pool of environmental lawyers and experts on implementation of environmental legislation with experience of Member States and coverage of the relevant Candidate and potential candidate countries 	<p>€0,5 million</p>	<ul style="list-style-type: none"> • Availability of consultant able to cover the relevant candidate and potential candidate countries and the whole of the environmental acquis

<ul style="list-style-type: none"> • Review and update of Directives/Regulations covered by last Progress Monitoring in terms of reflecting all amendments since last progress monitoring year; • Develop additional Tables of Concordance and Implementation Questionnaires for Directives, adopted within the period defined by the Commission; • Report on progress made in terms of transposition and implementation; such a report shall include an analysis of any issues affecting accession of candidate countries; • Offer guidance and assistance to Ministries of Environment in the target beneficiary countries in completing the Tables of Concordance and Implementation Questionnaires; this assistance may include consulting through local experts, country visits to provide guidance on the methodology used and continuous support through other means of communication; • Provide assistance in updating the internal progress monitoring database. • Short term assessments of draft and adopted environmental legislation based on requests from beneficiary countries in comparison to the relevant EU environmental legislation; • Update the existing step by step guide to activities required to undertake the effective transposition, implementation and enforcement of EU environmental legislation by including legislation adopted in 2007. 			
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ANNEX II: Amounts (in €) contracted and disbursed by quarter for the project

Contracted	2nd 2008	3rd 2008	4th 2008	1st 2009	2nd 2009	3rd 2009	4th 2009
Cumulated	500.000	0.0	0.0	0.0	0.0	0.0	0.0
Disbursed	2nd 2008	3rd 2008	4th 2008	1st 2009	2nd 2009	3rd 2009	4th 2009
Cumulated	200.000	0.0	0.0	150.000	0.0	0.0	150.000

ANNEX III: Details per EU funded contract

A negotiated procedure according to Article 242 2 (b) of the Implementing Rules will be initiated with the contractor selected to implement the technical assistance for an identical project for Croatia, Turkey Bulgaria and Romania. The contractor will assist in monitoring and evaluating the results of the project.

The tasks are described under point 3.4 of the Project Fiche.