

*IS MACEDONIA READY TO START NEGOTIATIONS FOR EU MEMBERSHIP REGARDING
CHAPTER 27?*



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INTRODUCTION

Macedonia as Western Balkan country is a challenging “bite” for the European Union (EU). This policy brief examines the integration efforts of Macedonia in the sphere of environment. Our aim is to bring different perspective in the public perceptions of the Chapter 27 as part of the EU integration processes. In times of global recession, environmental policy is often neglected as it is seen as a big spender of budget resources. Therefore, this paper aims to bring environment to the fore and focus public attention on Macedonia’s performance in the environmental sector, because of its noted substantial changes and progress. By doing this, we propose to propel a brighter view of both the state of the Macedonian environment and the progress with EU approximation.

Through a comparative analysis, the brief also lays out the challenges and obstacles of the reform process in the environmental protection of the pre-accession period of Slovakia and Croatia. As a new EU member state Slovakia was chosen in order to better identify the ways the country has dealt with the environmental barriers on the way to integration with the EU. Croatia is a current candidate state and as such shares many of the challenges Macedonia faces in the area of environment acquis approximation. Having advanced further on the road to EU membership, Croatia is a useful model for Macedonia.

SLOVAKIA¹

The situation in the area of environment in Slovakia at the beginning and during the 1990’s was shaped by the decline of economic activities such as industry and agriculture and the changes in its energy supply, which had led to substantially reducing pressures on Slovakia's environment. Nevertheless, due to environmental policies based on the 1993 strategy, which defined short, medium, and long-term objectives and key policy principles in environmental management, during the 1990s, Slovakia succeeded in decoupling a number of environmental pressures from economic growth.

During the transition period the country underwent a process of major legislative changes concerning the environment. The goal was to reduce the accumulated contamination from the past and to prepare the country for EU accession by approaching the Slovak legislation to the EU environmental acquis.

Slovakia has opened the Chapter Environment (formerly Chapter 22) on March 2001. The chapter was closed on December 2002 (the provisional closing of the chapter was in December 2001), when the negotiations with the European Commission on all chapters were concluded.

¹ *OECD Environment Programme, Environmental Performance Review of the Slovak Republic*

Legal reforms

Slovak citizens have a constitutional right to a healthy environment. Accordingly, the environmental legislation was drafted in the constitutional spirit, reinforced through the 1990s with new legal acts. The existing legislation was reformed with the acts on air protection, waste management, nature and landscape protection, environmental impact assessment, and access to environmental information. The main effort of the legal system was to transpose EU environmental legislation in the Slovak law.

Major changes in legislation were done in the areas of water supply and waste water related infrastructure and for the control of major risks involving dangerous substances. The intensity of the reforms enhanced greatly at the end of the 1990s, when the Slovak economy and society recovered from the transition years. The environmental policies were founded on solid environmental information, like the State of the Environment reports. A National Programme for the adoption of the "Acquis Communautaire" for the period 2000-2008 was adopted. In the environment part, this Programme envisaged more than a doubling of investment for the period 2000-08 compared to the late 1990s level.

Besides the progress with the legal reforms, the path to the development of the environmental sector in Slovakia has seen obstacles of different type, mostly in the implementation and enforcement of the environmental laws by different ministries. Here the issue concerns the overlap of the topics and responsibilities between several ministries. Another barrier was the funding for the projects, because of the high cost of creating a new environmental infrastructure and of the social constraints that come along. Thus, the process of implementation of EU environmental legislation has taken longer time in Slovakia, with requested transition periods for a number of EU environmental directives.

Institutional reforms

The institutional reforms in the environmental institutional capacities of Slovakia during the 1990's were undertaken as a part of the wider EU accession and the challenge to accommodate the EU environmental acquis into Slovakia's environmental policy.

Most of these economic and sectoral changes have contributed to the strong decoupling achievements of Slovakia. A Sustainable Development Council was established in 1999, as an advisory body. Strategic Environmental Assessment of policies and programmes was usefully applied for the review and revision of energy policy in 1998. A Sustainable Development Strategy was approved by the government in October 2001.

However the low capacity of the state institutions for reform implementation, like in many other transition countries from Central and Eastern Europe, has been identified as

one of the weaknesses in the enforcement of and compliance with environmental regulations and major obstacle for timely implementation of the reforms.

The improvements in the institutional sphere in Slovakia have been undertaken on several levels:

- Strengthening of the State Environmental Inspection (SEI);
- Increasing of the fines;
- Improving of the collection rate of the environmental charges and fines ;
- Inspection fees contributing to cover inspection costs and self-monitoring;
- Clarified responsibilities between the SEI, regional, and district offices;
- Enforced administrative procedures;
- Prosecutors specialised in environmental matters.

CROATIA

Since independence, Croatian environmental policy has gone through several stages: development of national environmental institutions, ratification of key international legislation, drafting and adoption of national legislation, transposition of EU legislation and of course increase in public participation. The EU aspirations have been the leading force for the undertaken reforms in the environmental sector that have allowed for structural and sustainable development of the later. The conservation of nature and the human environment are also one of the highest constitutional values in Croatia.

Croatia has went trough the first few steps in the Negotiation Process on the negotiation chapters starting from the Screening process-Phase I to Meeting the opening benchmarks (if any). Back in April 2007, the COREPER (permanent representatives of the member states or the Council of the EU) decided on the setting of opening benchmarks for Chapter 27 for Croatia. Croatia had only one benchmark in the chapter to fulfill. The country in July 2008 submitted to the EU the Negotiating Position on the Chapter Environment. They are anticipating the Draft Common Position (DCP) of the European Commission for recommendations for closing benchmarks or for provisional closing of the chapter. Thus currently this chapter is technically ready for opening/closing, but it's not yet formally opened.

EU environmental acquis was set as a long-term task in Croatia.² This followed from the financial requirements of this sector, large investments and complex technological

² Croatian Parliament. Resolution on the strategic guidelines for negotiations between the Republic of Croatia and the European Union. 14 October 2005. Full text available at: http://www.eu-pregovori.hr/DOWNLOAD/2005/10/28/Resolution_ENG.pdf

solutions needed if this field is to reach the European standards as required. Further on, the transposition of the *acquis* adopted by the Croatian Parliament, in the field of environment, compared to the other countries of the region of South East Europe, is relatively well managed and more advanced.

The first documents in this long process date from the early 1990s when the Declaration on Environmental Protection in the Republic of Croatia was adopted by the Croatian Parliament.³ This legal document contained guidelines for a strong commitment to the development of a legal system, pursuant to treaties and standards of the European and world community.

The Declaration from 1992 presented the basis for the adoption of the Environmental Protection Act in 1994⁴, as the first environmental law in the Republic of Croatia. This act has set the fundamentals of the Croatian legal system in the field of environmental protection. It stipulates that environmental protection in Croatia should be in compliance with the principles of international environmental law; these generally accepted principles acknowledge scientific achievements and the best global environmental practice.

The regulation of the specific areas of the environment sector are left to separate legal acts, laws and sub-laws, which have derived also from the Environmental Protection Act.⁵ The sustainable development of the environmental sector in Croatia was grounded at the beginning of 2000 in the National Environmental Strategy⁶, which includes general and long-term national objectives and short-term operational objectives. The strategy is based on the principles of sustainable development and discusses the existing situation, obstacles and directions to respond to environmental loads.

For better implementation of the strategy and in accordance with the 5th and 6th EU Action Plan, a National Environmental Action Plan for Croatia was adopted in 2002. The Plan was drafted with the technical and financial assistance of the World Bank. It contains detailed action plans for thematic areas of environmental protection, i.e. industry and mining, energy, agriculture and forestry, tourism, transport, hunting and fisheries. It also contains detailed action plans for the following thematic units: air quality management; water management; soil and forest management; waste management; protection against noise; biodiversity and landscape conservation and geological heritage; coastal and island zone management; urban areas and rural areas; risk and accident management; civil protection, and the environment and health. This

³ On June 5, 1992.

⁴ Environmental Protection Act. Official Gazette No. 82/94 and 128/99.

⁵ The Parliament of the Republic of Croatia adopted 4 umbrella laws and 15 by-laws that regulate the mechanisms for the operation and monitoring of the state of the environment and 2 acts and 16 by-laws that relate to Water Protection.

⁶ National Environmental Strategy. Official Gazette 46/2002.

legal act also represents one of the first sectoral documents in the Republic of Croatia for rapprochement to the EU.

The most recent document that regulates the environment and its protection is the Environment Impact Assessment (2004) and the legal acts in the field of access to information. Until now Croatia has made only partial achievements in the fields of strategic environmental assessment, public participation and environmental liability.⁷ The National Assembly adopted the National Sustainable Development Strategy in February 2009, six years after the gathering of the National Council in 2003 when the thematic papers necessary for the development of the Strategy were considered. The Strategy embeds the basic principles and measures for defining goals and priorities in the promulgation of long-term reforms, transformations towards sustainable development of Croatia.⁸

Institutional reforms

When it comes to the national environmental institutions in Croatia, the three most important ones are the Environment Agency, the State Institute for Nature Protection and the Fund for Environmental Protection and Energy Efficiency. Their establishment is seen as one of the key moments in environment protection development in the country.

The role of the Environment Agency⁹ is to promote the collection, processing, and reporting of data on the environment, as well as the monitoring of the implementation of the National Plan. The establishment of the State Institute for Nature Protection, formerly as a Nature Protection Department within the Ministry of Environmental Protection and Physical Planning (MEPPP), strengthened the institutional set-up in the country regarding nature protection. Expertise work in a coordinated manner is performed by this institution in order to fulfill the requirements out of the National Strategy and Action Plan for the Protection of Biological and Landscape Diversity (NSAP) and the Plan for Implementation of the Stabilization and Association Agreement.¹⁰

The Environmental Protection and the Energy Efficiency Fund was established in 2003 with the Act Environmental Protection and the Energy Efficiency Fund and presents an important novelty in the country's environmental protection policy related to economic

⁷ UNDP report, 2007.

⁸ National Strategy on Sustainable Development of Republic of Croatia. *Strategiju održivog razvitka Republike Hrvatske*. <http://narodne-novine.nn.hr/clanci/sluzbeni/2009_03_30_658.html> (Accessed on April 1, 2009).

⁹ Official Gazette No. 75/02.

¹⁰ The official web page of the State Institute for Nature Protection of Republic of Croatia: http://www.dzsp.hr/eng_about_establishment.htm# (accessed on April 1, 2009).

instruments.¹¹ The Fund is an extra-budgetary fund and a legal entity with public authority, performing activities relating to the financing of the preparation, implementation and development of programmes, projects and related activities in the sector of conservation, sustainable use, protection and promotion of the environment and energy efficiency and the utilisation of renewable energy sources. The revenues of the Fund come from different types of environmental charges and are used for the co-financing of programmes and projects in the sector of environmental protection, energy efficiency and the use of renewable energy sources.

The overall policy in the environment sector in Croatia is created by the MEPPP, established in 2000. The MEPPP is a central body of the state administration, performing administrative and other activities relating to the general environmental policy in meeting the requirements for sustainable development. A separate Department and an Information Centre (Info Centre) was established within the MEPPP, the technical equipment of the environmental inspection has been improved and the building up and training of personnel for inspection services throughout the Republic of Croatia is gradually taking place.

The weakness in the implementation of the environmental policies in Croatia is due to the high financial costs for implementation of the projects and the lack of capacity on local, regional and country level. The lack of coordination, regulatory mechanisms and monitoring, accompanied by the previously discussed problems in the implementation are the main source of generally low effectiveness of the environmental policy.

The financial frame for meeting the EU requirements and adjusting to the EU standards in the environment sector is estimated to 10 Billion Euros by the year 2025. Out of this amount 4.8 billion will be spent for water management, 2 billion for air protection and 3.25 billion for waste management. This is one reason for the prolonging of the reforms and the EU negotiations in the Chapter 27: Environment in Croatia in 11 transitional periods.

MACEDONIA

Alongside positive visa liberalization marks, Macedonia should be optimistic when it comes to the assessing the status of the environmental reforms in the country. As it is important for Macedonia to continue and accelerate the political and economic reforms, the environmental policy is well advancing and is well in sight and not out of mind.

The EU path for Macedonia was laid down with the signing of the Stabilization and Association Agreement in April 2001. With the entry of the agreement into force in April 2004, Macedonia embarked on the journey of reaching environmental sustainability for

¹¹ Act on Environmental Protection and the Energy Efficiency Fund, Official Gazette No. 107/03.

present and future generations. Measures for limiting the mismanagement of the environment of the Yugoslav era were introduced. New approaches towards handling the environmental pressures use to be and still remain a must. The merits in the environment sector that can lead to joining the EU are intensifying.

But in reality how far have we come in our efforts to align the EU environmental acquis with the national legislation?

Are there priorities set for implementation of the environmental acquis?

The poor knowledge on proper interactions with the environment contributed to the environmental problems we are facing now as a society. The past perception of Macedonia's natural resources as free goods with no value is gradually being abandoned. The citizens, the public sector and the industry and the agriculture sector are becoming aware of the environmental implications of their actions. The approximation processes certainly contributed to the shift in the mindset of the policymakers. Environmental governance may be a slow process; nevertheless it is present and continually increasing.

Legal reforms

Environmental policymaking is enshrined in the Constitution of the Republic of Macedonia, guaranteeing the right for a healthy environment and providing protection of all natural resources¹². Actions for limiting, preventing pollution, and monitoring of emissions have been framed in the new Law on Environment, which has been in force since September 2005. Harmonisation of the national legal framework with the European Community legislation is leading towards staggering number of laws being enacted and amended, and by-laws waiting to be adopted. Strengthening the entire legal system is becoming a catchphrase. Legal instruments in place for achieving environmental protection appear promising, although they are perceived by the industry and the public sector as complex and difficult to enforce.

| SECTOR | Waste manag. | Water Quality | Air Quality | Industrial Pollution Control (IPC) | Horizontal Legislation | Nature Protection | GMO | Chemicals | Noise |
|----------------------------|--------------|---------------|-------------|------------------------------------|------------------------|-------------------|-----|-----------|--------|
| Transposition | Yellow | Red | Yellow | Yellow | Green | Yellow | Red | Red | Red |
| Implement., Enforc. | Yellow | Red | Green | Green | Green | Red | Red | Yellow | Yellow |

¹² Chapter 43 of the Constitution of the Republic of Macedonia

Table 1. Summary of the current status of the environmental approximation of the Republic of Macedonia (Source: National Strategy for Approximation of the Environment of the Republic of Macedonia)

Agenda of Stages: rather early  early  little advanced 

The laws have to be fully supported through rulebooks and decrees. This has to be done by 2009 and for the water sector by 2010.

With the adoption of the Second NEAP, Macedonia has moved from passive to a proactive country in the environmental planning and policymaking processes. Changes in the environmental policy culture are noted in the Strategy for environmental pre-accession as well.¹³ Setting realistic goals should be at the forefront in the creation of the strategies for environmental progress.

The reforms in the legal system and the establishment of new institutions have led to improvement of the general situation regarding environmental protection in Macedonia.

- The Air Quality sector has been characterized with overall good progress. Investments in the air sector have led to the development of integrated system of air quality monitoring and analysis. However this national system is not yet fully operational and needs further improvement.¹⁴
- The progress in the Waste Management sector is quite satisfactory as resolving the waste management problem is one of the two environmental policy priorities of the country, the first being harmonization of legislation with the EU. A National Strategy on Waste Management was adopted in 2008, while amendments to the National Waste Management Plan for the period of 2006 – 2012¹⁵ are on-going.
- In the water sector, preparations are with limited progress. The new Law on waters has been adopted, however drafting National Water Management Strategy and new Water Plan for Macedonia is not planned yet.¹⁶ Sustainability of the investments in wastewater treatment plants are brought in question, because the operators do not have the financial capacity to meet maintenance costs.

¹³ In 2008 the MOEEP has issued the National Strategy for approximation in the Environment, setting priorities for approximation to the EU legislation and priorities for implementation for investments until 2015.

¹⁴ EC Communication, COM (2008) 674.

¹⁵ The later foresees setting up of a regional waste collection centers and transfer stations, thus providing for the possibility to reduce the illegal dumpsites and the large number of non-sanitary landfills.

¹⁶ EC Communication, COM (2008) 674.

Besides moderate to more advanced developments in the legislation regulating the waste management sector, air quality and water quality, there is still lack of primary and secondary legal acts. There is no National Strategy for Sustainable Development and National Strategy for Nature Protection. Considerable implementing legislation is also not drafted, like by-laws and ordinances in the area of nature protection, noise, chemicals.

Institutional reforms

Institutions are mainly imperfect, with insufficient administrative capacity, human and financial, to lead the environmental changes. There is also low level of coordination between the administrative bodies in charge of the environmental matters. They will be held accountable if this problem becomes a considerable obstacle to the approximation process of the environmental policy. Therefore it is desirable for the agencies to establish proper delegation of responsibilities concerning common environmental problems.

Equally important for implementation of sound environmental policies is the motivation of the government to enforce policies that promote and preserve the environmental welfare of the society. Knowing that compliance with the environmental acquis is financially a very demanding process, especially in the waste management and wastewater sectors¹⁷ the government has to arm itself with dedication and enthusiasm for achieving long- term sustainability of the country. Recruiting civil servants with understanding of the ecological, technical and economic relations when designing and conducting policy instruments should prevail over personal, political and economic interests. Finding and adjusting the policy instruments for optimal performance in the environment sector is a demanding task. Therefore, the employees (both at central and local level) have big responsibilities, being the engine of the state environmental stewardship. Proper motivation, mobilization and receiving know-how from the more experienced players in the environmental arena are a necessity for strengthening the institutional capacity.

CONCLUSION

Adopting the common environmental policy instruments of the EU, which has long tradition in nature conservation, is an umbrella goal both for Macedonia and Croatia. Both countries have made giant leaps towards achieving full alignment to the Chapter 27, and despite the high costs and difficulties in implementation, have done a great deal in the area of environment. From the brief presentations of the reforms in the

¹⁷ For instance according to the National Strategy for environmental investments, resources for implementation of capital infrastructure projects are estimated to reach €205 million. The National Strategy for environmental approximation envisaged total costs of EU environmental approximation by sectors amounting to € 2,292 million, with the industry bearing the heaviest burden of the compliance.

environmental sector in the pre-accession period, we see that on the reform path both of Macedonia and Croatia there are similar challenges to those of Slovakia before it joined the EU.

Macedonia is doing just as well as both Slovakia and Croatia were progressing with environmental reforms before the start of accession negotiations – a clear signal that the country is ready to commence membership negotiations.

In near future Macedonia will experience increased economical and technological growth. Because environmental treats increase with economic growth, it is even more important to fulfill EU's well established set of environmental policies. With negligent attitude further damage will be caused on the national and international environment. With reducing environmental pressures, by putting in place reliable instruments, we tend to produce better protection and increase the well-being of the people and the environment.



Environment, Agriculture and Rural Development Program

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Contact Information

ANALYTICA

Dame Gruev 7/8-3
1000 Skopje, Macedonia
tel: + 389 2 312 1948
web: www.analyticamk.org
info@analyticamk.org

Analytica is a non-profit independent institution dedicated to helping individuals and institutions with the aim to foster lasting improvement in the democracy and governance in Macedonia and elsewhere in the region of South Eastern Europe.

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