

Environment and Climate Regional Accession Network (ECRAN)

Report on Regional Workshop on Appropriate Assessment on Serbian Pilot Site (Natura 2000)

24 – 26 September 2014, Novi Sad





ENVIRONMENT AND CLIMATE REGIONAL NETWORK FOR ACCESSION - ECRAN

WORKSHOP REPORT

Activity 2.7.2A

REPORT ON THE REGIONAL WORKSHOP APPROPRIATE ASSESSMENT PART I: THEORY OF AA AND THE SCREENING STAGE

24 - 26 September 2014, Novi Sad, Serbia





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LIST OF ABR	LIST OF ABREVIATIONS				
AA	Appropriate Assessment				
EIA	Environmental Impact Assessment				
EU	European Union				
FCS	Favourable Conservation Status				
IPA	IPA Instrument for Pre-accession Assistance, EU funding instrument for Pre-accession aid				
IROPI	Imperative Reasons of Overriding Public Interests				
MS	Member State				
PHARE Poland and Hungary: Assistance for Restructuring their Economies, EU funding instrument for pre-accession aid					
pSCI	Proposed Site of Community Importance				
SAC	Special Area of Conservation				
SCI	Site of Community Importance				
SDF	Standard Data Form				
SEA	Strategic Environmental Assessment				
SINP	State Institute for Nature Protection (Croatia)				
SPA	Special Protection Area				





I. Background/Rationale

The key EU instrument on nature protection across the EU MS is the network of sites dedicated to conservation of birds (SPAs) and to selected fauna, flora and habitat types (SCIs) established pursuant to the EU Nature Directives – Birds Directive (2009/147/EU) and Habitats Directive (92/43/EEC) – named Natura 2000. Once this network has been established, the Member States are obliged to develop management measures for particular sites, to actively apply them, and prevent the sites from any deterioration or even destruction. For the latter purpose, addressing especially implementation of various development plans and projects (but in principle *any* activity likely to put the sites at risk), all EU MS have to put into both legislation and practice so-called Appropriate Assessment (AA) – a procedure aimed at revealing if the activities under scrutiny may be harmless or harmful to Natura 2000 sites.

AA is governed by Art. 6 of the Habitats Directive and almost 40 rulings of the Court of Justice of the EU which are binding for the EU MS, too. Understanding and proper implementation of the AA procedure is rather difficult and belongs to major challenges of the pre-accession process. AA is often envisaged to be carried out within the framework of EIA/SEA. It has many advantages but there are some peculiarities of AA compared to the latter procedures which have always to be respected.

In the ECRAN region¹, the large proportion of the territory of particular countries is still covered by unspoiled and relatively undisturbed nature; as a consequence, relatively larger proportion of their territories will become part of Natura 2000 network, which may lead to conflicts with various developments. Then, improperly carried out AA may contribute not only to irreversible loss of unique natural assets but also to failure of many (useful) development projects. Therefore, early training on AA may be highly beneficial not only for EU Candidate Countries but also for those that have not acquired that status yet.

The objective of the series of sub-regional workshops planned under ECRAN Nature WG (Activity 2.7) is to provide ECRAN Beneficiaries with the complete picture of the AA from its very beginning (screening) up to the final decision on the acceptability of the project, as well as to introduce to them the derogation procedure according to Art. 6(4) of the Habitats Directive applicable to projects needed in public interest overriding the interest on protection of Natura 2000 network. The whole process is divided into three workshops implemented at the selected pilot sites, each of the workshops corresponding to relevant stage of the AA according to the Habitats Directive (screening; main assessment; Art. 6(4) derogation procedure).

The second pilot AA site is intended mainly for the participants from Bosnia and Hercegovina, Montenegro and Serbia. Participants from other ECRAN countries can take part if they are specifically interested in this pilot or for some objective reason cannot participate at the other series of workshops organised on other pilot sites closer to their country of origin.

What is the "best model" for AA?

As mentioned above, AA is governed by the Habitats Directive – an EU legislative tool which provides a lot of flexibility to the EU MS as to the way in which AA can be carried out. Currently within the EU, AA is carried out in around 90 different ways (as many countries have decentralised administration systems and

¹ Under the ECRAN region, successor countries of former Yugoslavia, Albania and Turkey are meant for the purpose of ECRAN Project (<u>www.ecranetwork.org</u>).





approaches of their particular provinces differ considerably). It is impossible to say which of these approaches are more suitable than the others for a specific country: the choice of particular approach always depends on cultural and legislative circumstances and traditions as well as on human capacities, administrative system, but also on the extent and shape of Natura 2000 sites in a given country or province. However, the Habitats Directive and the relevant CJEU rulings provide a framework demonstrating the unavoidable steps and qualitative requirements for the AA regardless of national administrative arrangements and legislation. All workshops under the task 2.7.2A will aim at showing all these steps and their specificities in the light of the best EU practices, providing also recommendations of countries from the region recently joining the EU.

II. Objectives of the training

General objectives

To present the objective of Natura 2000 network and how the AA is linked with meeting this objective and to explain real pilot site (future Natura 2000 site) and pilot project used for demonstration of the Appropriate Assessment (AA).

Specific objectives

- Explanation of the place of AA among Member States' obligations regarding management of Natura 2000 network;
- To explain the differences and similarities between AA and EIA;
- To demonstrate what kind of data is needed for AA and what administrative procedures are recommended to be introduced;
- To explain the purpose of the 1st stage of AA screening, what forms it may have and what data it requires;
- To conduct real screening exercise for the pilot site and project;
- To show experience of a new EU MS with both AA and screening;
- Outline of the upcoming procedure of the main assessment (subject of the 2nd workshop).
- An intrinsic part of the workshop is a visit to the pilot site to demonstrate the situation in the field on the possible future Natura 2000 site and helping the participants to understand all the circumstances of the particular pilot AA.

Results/outputs

The expected results are:

- Improved understanding of the objectives of Natura 2000 network and the role of AA as one of its protective tools in its maintenance;
- Familiarization with particular requirements of AA in light of CJEU rulings;
- Understanding the differences from and similarities with EIA;
- Familiarization with the pilot site and pilot project;
- Learning about the 1st stage of AA (screening) and undertaking the screening for the pilot site;
- Sharing experience with a new EU MS relevant for the region with AA implementation.

III. EU policy and legislation covered by the training





Environmental Impact Assessment (EIA) Directive 85/337/EEC has been in force since 1985 and applies to a wide range of public as well as private projects which are defined in Annexes I and II. All projects listed in Annex I are considered as being likely to have significant effects on the environment and require an EIA. For projects listed in Annex II, the national authorities have to decide whether an EIA is needed. This is done by a "screening procedure" which determines the effects of projects on the basis of thresholds/criteria or a case by case examination.

The EIA Directive of 1985 has been amended three times, in 1997, in 2003 and in 2009. The initial Directive of 1985 and its three amendments have been codified by Directive 2011/92/EU of 13 December 2011. Directive 2011/92/EU has been amended in 2014 by Directive 2014/52/EU.

Strategic Environmental Assessment (SEA) Directive 2001/42/EC of the European Parliament and of the Council on the Assessment of the effects on certain plans and programmes on the environment. Plans and programmes in the sense of the SEA Directive must be prepared or adopted by an authority (at national, regional or local level) and be required by legislative, regulatory or administrative provisions.

SEA is mandatory for plans/programmes which are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste/ water management, telecommunications, tourism, town & country planning or land use and which set the framework for future development consent of projects listed in the EIA Directive and/or have been determined to require an assessment under the Habitats Directive. For the plans and programmes not included above, the Member States have to carry out a screening procedure to determine whether the plans/programmes are likely to have significant environmental effects. If there are significant effects, SEA is needed. The screening procedure is based on criteria set out in Annex II of the Directive.

Habitats Directive 92/43/EEC of 21 May 1992 of the European Parliament and of the Council on the conservation of natural habitats and of wild fauna and flora. The Habitats Directive protects around 1200 European species other than birds which are considered to be endangered, vulnerable, rare and/or endemic. Included in the Directive are mammals, reptiles, fish, crustaceans, insects, molluscs, bivalves and plants. The protection provisions for these species are similar to those in the Birds Directive. They are designed to ensure that the species listed in the Habitats Directive reach a favourable conservation status within the EU.

In addition to the species protection, Habitats Directive includes also another "pillar" dealing with site protection. It demands EU MS to establish the Natura 2000 network of sites dedicated to conservation of selected species listed in Annex II and so-called "natural habitat types", more than 200 important habitat types listed in Annex I. This network encompasses also the sites classified according to the Birds Directive. Member States are obliged to establish, manage and protect Natura 2000 sites at their territories. The most important reactive protection tool is the Appropriate Assessment carried out following the requirements of Art. 6(3) and 6(4) of the directive.

Birds Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (this is the codified version of Directive 79/409/EEC as amended) is the EU's oldest piece of nature legislation and one of the most important, creating a comprehensive scheme of protection for all wild bird species naturally occurring in the Union. The Directive provides a framework for the conservation and management of, and human interactions with, wild birds in Europe. It sets broad objectives for a wide range of activities, although the precise legal mechanisms for their achievement are at the discretion of each Member State. The Birds Directive bans activities that directly threaten birds, such as the deliberate killing or capture of birds, the destruction of their nests and taking of their eggs, and associated activities such as trading in live or dead birds, with a few exceptions listed in Annex III. In addition to these provisions, Birds Directive



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asks Member States to establish and actively manage Special Protection Areas for selected bird species and assemblages; these SPAs become part of the Natura 2000 network. The same protective measures (including AA) apply to these sites like to those established under the Habitats Directive.

IV. Highlights from the training workshop

Day 1 – Wednesday, 24th September 2014, Novi Sad and reserves Okanj Bara and Rusanda

Introduction to the workshop – Petr Roth

An introduction to ECRAN Project was presented by Petr Roth, ECRAN expert and Nature WG Coordinator. ECRAN is strengthening regional cooperation among the EU candidate countries and potential candidates in the fields of environment and climate action and assists their progress in the transposition and implementation of the EU environmental and climate acquis.

ECRAN builds on experience gained and results achieved by the RENA (Regional Environmental Network for Accession), in particular those related to environmental and climate investments, transposition and implementation of environmental and climate law, compliance and enforcement, local and regional initiatives, climate action, water management, waste management, air quality, industrial emissions, nature protection, EIA/SEA, NGO support and public participation.

ECRAN includes an environment component, a climate action component as well as the NGOs Environment Forum. The activities under each component are implemented through a system of Working Groups (WGs).

Nature WG focuses on the following main topics related to the implementation of the nature legislation: Appropriate Assessments as per Art. 6(3) of the Habitats Directive, training on designation of potential Natura 2000 sites and assessment of readiness for Natura 2000 establishment, raising public awareness on the opportunities and benefits offered by Natura 2000, development of participatory pilot management plan and establishment of a Regional Network of Protected Areas.

Introduction to the pilot site and pilot project – Vlastimil Kostkan

Prior to the field excursion, pilot site and pilot projects were briefly introduced by Vlastimil Kostkan, ECRAN AA expert.

Pilot site:

<u>Okanj bara Special Nature Reserve</u> (SRP - specijalni rezervat prirode). Area: 5480,93 ha, declared 2013; <u>Rusanda Nature Park</u> (PP - park prirode). Area: 1159.97 ha, declared 2014.







Fig. 1 Location of Okanj bara and Rusanda reserves within the Autonomous Province of Vojvodina, Republic of Serbia



Fig. 2 Delineation of Okanj bara (left) and Rusanda (right)

Both areas represent rare remnants of typical salt steppes and marshes of the Pannonian plain developed along ancient riverbed of the Tisa River. Most of these habitats were lost during last centuries due to intense agriculture. Drainage of the landscape and changes of land use damaged and fragmented natural habitats and caused decrease of their plant and animal populations.

One of the rarest habitat types of both Okanj bara and Rusanda protected areas is Habitats Directive Annex I priority habitat type 1530 - Pannonic salt steppes and salt marshes. This habitat type in both protected areas represents 10.45 % of its total area within all protected areas of Vojvodina and at the same time it represent 8.59 % of total area of this habitat within the whole Europe. This habitat occurs actually in Serbia, Hungary, Austria and Slovakia only but outside Serbia its occurrences are small and/or degraded.

Both protected areas represent important refuges for endangered species of plants and animals, especially for birds as nesting area as well as staging post and wintering area.





Okanj bara Strict Nature Reserve

Okanj bara represents one of very old natural lagoons of Tisa River with rising salts from deeper sea sediments. Shallow lake, litorals and meadows forms well preserved example of the natural habitats' continuum from water lake to dry pastures and meadows. As the most interesting features have been recorded over there:

- 39 natural habitat types
- 6 priority habitat types (Annex I of the Habitats Directive)
- 400 plant species
- 8 amphibian species (seven from Annex IV, one from Annex II, respectively)
- 6 reptilian species (six from Annex IV, one from both Annex II and IV)
- 186 bird species
 - o 156 protected bird species
 - o 7 bird species from IUCN World red list
 - o important staging post along bird migration route

Most important habitats

1530 *Pannonic salt steppes and salt marshes
1340 * Inland salt meadows
The sign '*' indicates priority habitat types.

Rusanda Nature Park

Rusanda Lake, the centre of the Nature Park, is the saltiest lake in Serbia. Nature Park represents a unique complex of the lake, marshland habitats and historical park of the spa "Rusanda" with high diversity of nesting bird species, especially highly dense population of Red-footed falcon (*Falco vespertinus*). The fragile ecosystem provides not only space for plenty of species but the lake bottom is a renewable source of salty mud, a substance used for traditional medicinal procedures in the Rusanda Spa.

Salty meadows surrounding the lake have been used for hundreds of years as stock pastures. This represents optimum management for these periodically flooded grasslands with closed chain of nutrients enabling natural restoration of plant communities and bird nesting sites.

Within the Rusanda Nature Park it has been described more than one thousand plant and animal species. From this biological richness are, for Emerald network and future Natura 2000 network, the most important habitats and species of Community interest. There has specifically been recognized:

- 21 habitat types from Annex I of the Habitats Directive
- 15 priority habitat types
- 10 rare and endangered habitat types
- 6 typical and representative habitat types according to Serbian national classification from #1530 Pannonic salt steppes and salt marshes (priority habitat type)
- 211 bird species recorded since 1950
 - o 171 protected bird species
 - o 82 nesting bird species
 - o important staging post along bird migration route

Project description





- <u>Name of the project:</u> CO₂ pipeline from HiPACT CO₂ Separation and Capture Technology Plant in Elemir to Melenci
- Developer:NTC NIS-Gazpromneft d.o.o. Novi Sad, Sektor za inženjering, Ul. Narodnog fronta br.12, Novi Sad
- <u>Project description:</u> in connection with building of a new CO₂ separation plant in Elemir, a pipeline transporting CO₂ to the site to the old wells (to be pumped to the ground) has to be constructed. This pipeline has to cover a distance of approx. 11 km between the separation plant and pumping station.
- <u>Project variants:</u> project of pipeline exists in two variants:
- <u>Var. 1:</u> 12.86 km long, it passes close to the Okanj bara protected area (in its buffer zone) on the eastern bank of the lake. This pipeline crosses Rusanda protected area in two places. As this reserve has a shape of a horseshoe, this line is crossing both northern branches of the wetland between villages Melenci and Kumane.
- <u>Var. 2:</u> 11.83 km long. This pipeline is heading from Elemir toward north-east. In its whole passage it is situated on the arable land only; the closest distance from the reserves is 0.8 km (from western border of Okanj bara) and 0.46 km (from small inlet north from Spa Rusanda), respectively.
- <u>Project principles:</u> Separation of CO₂ from natural gas helps to rise quality of purified gas, avoids CO₂ emissions to atmosphere, decreases global increase of CO₂ and thus helps to reduce global greenhouse effect. At the same time, increase in the pressure in old oil wells by pumping in the resulting CO₂ leads to increase in effectiveness of oil and gas extraction.
- Environmental benefit: The technology used is a very modern and worldwide unique method of separation of CO₂ from natural gas without air pollution.









Pilot Project Site Visit

Pilot project is located within the perimeters of protected areas Okanj Bara and Rusanda. Participants to the workshop visited these protected areas as well as another PA Slano Kopovo ; they were provided with information on halophytic habitat types which are the main target features of these sites and their importance both for national nature protection as well as for future Natura 2000. The main objective – to provide participants with a flavor of the area, its conservation values, as well as character of the project to be assessed – was fully met.

Natura 2000 as an object of Appropriate Assessment – Petr Roth

Presentation on the Natura 2000 network was held, starting with its beginnings. Recognition of inefficiency of separated national nature policies occurred worldwide in 1970s, with the statement that "nature does not recognize borders". However, this idea could have been implemented only under certain political conditions. Such conditions were created within the European Union covering sufficiently large area to implement transboundary nature protection and conservation.,

Therefore, EU Birds Directive was adopted in 1979 as the first piece of EU legislation in the field of nature protection. All nine the than EU MS had to establish their SPAs. However, since there were no strict rules and instructions, by 2000 there was almost no implementation in the field. In 1992, EU Habitats Directives was adopted (92/43/EEC) introducing an obligation to establish "non-birds" sites (SCIs) across EU 12. Those sites





were to create a network, together with SPAs, called Natura 2000. Natura 2000 network sites must always have particular target features comprised of:

- bird species;
- non-bird animal species;
- plant species;
- "natural habitat types".

These target features listed in the Birds and Habitats Directives were selected according to following criteria:

- Habitat type in danger of disappearance; endangered species;
- Habitat type having a small natural range; vulnerable species;
- Habitat type presenting outstanding examples of typical characteristics of biogeographical region; rare species.
- Endemic species and species requiring particular attention.

According to Article 3(1) of the Habitats Directive, "this network, composed of sites hosting the natural habitat types [...] and habitats of the species ... shall enable the natural habitat types and the species' habitats concerned to be maintained or, where appropriate, restored at a favourable conservation status in their natural range." Overall, Natura 2000 aims at contributing to Favorable Conservation Status (FCS) in the country, but FCS does not refer to individual sites, unlike Appropriate Assessment which only focuses on particular sites.

Rules of establishment of Natura 2000 were presented, stating that each Natura site must have their target features, and in addition, it should have conservation objectives set. Two terms crucial for Natura 2000 AA are "site integrity" and "ecological coherence of the network". Site integrity refers to all those factors that contribute to the maintenance of the target features of a site, including structural and functional aspects. Coherence of Natura 2000 Network means that the network comprises all the sites which should be included, according to the criteria in the Directives. Emphasis was put on the difference between integrity and coherence: integrity refers to individual site while coherence refers to the whole Natura 2000 network. This is important due to different requirements of Article 6(3) and 6(4) of the Habitats Directive.

At the end of the preparatory process, before EU accession, each EU MS should have completed coherent Natura 2000 network on its territory. Then, each EU MS has three types of obligations regarding the network - two proactive and one reactive:

- Proactive obligation No. 1: Establishment of conservation measures and applying them in all sites (Article 6(1));
- Proactive obligation No. 2: Prevention of any deterioration of habitat types and habitats of species, as well as disturbance of species – both man-caused and natural (Article 6(2));
- Reactive obligation: Ensure any plan and project likely to affect Natura 2000 network sites is subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.

The latter obligation is the reason for implementation of this task within the ECRAN Project.





Day 2 – Thursday, 25th September 2014, Novi Sad

Theory of Appropriate Assessment: Petr Roth

Theory of appropriate assessment (AA) was presented having biological assessments as a starting point. Assessments of impacts of plans and projects on natural phenomena are quite common at national level, occurring in various forms and for various purposes, but only two of them are codified by the EU law: Environmental Impact Assessment/ Strategic Environmental Assessment (EIA/SEA – EIA/SEA Directives), and AA (Habitats Directive). Differences between EIA/SEA and AA was clearly presented: EIA/SEA assesses impacts of plans and projects on natural phenomena, resulting in description and taking into account of likely impact, while AA, on the other hand, stands for combination of biological assessment and decision-making process resulting in binding decision on admissibility of plan or project. Thus, AA assessors have much bigger responsibility than EIA/SEA ones, and right execution of AA is very important. Articles 6(3) and 6(4) of the Habitats Directive were presented, stating that Article 6(3) deals with the assessment procedure, while Article 6(4) deals with derogations from that procedure. This workshop has only covered Article 6(3). - However, it must be stated that Article 6 is not the only source of instructions for AA. The other source is one of the types of EU secondary legislation - rulings of the Court of Justice of the European Union. CJ EU rulings interpret the Directives and are legally binding and must be taken into account both during the transposition as well as implementation.

As regards applicability of AA, there are two scenarios:

- for Special Protection Areas according to Birds Directive (SPA) which should be classified by the date of accession, AA is applicable immediately after such a classification;
- for sites proposed and designated pursuant to the Habitats Directive proposed Sites of Community Importance (pSCI), Sites of Community Importance (SCI), and Special Areas of Conservation (SAC) – the applicability differs. For these types of sites, timing of which is presented on Fig. 4, the following rules apply:



Fig. 4

a) pSCIs before accession (blue period): AA is not applicable;

b) pSCIs between accession and approval of the Community list by the EC (red period): only the first part of AA, i.e., Art. 6(3) is applicable; any plan/project must not adversely affect "ecological characteristics of a site"; derogation procedure of Art. 6(4) is not allowed to be applied;

c) once the Community list of SCI has been approved, during the period of their designation as SAC (black period) and beyond, AA is compulsory.

Interpretation of wording of Art. 6(3):

Sentence No 1 of Article 6(3) states that "any plan or project not directly connected with or necessary to the management of the site, but likely to have a significant effect thereon, either individually or in combination



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with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives."

However, the Article does not necessarily refer to management plans as a whole. An example of management plans for National Parks in the Czech Republic was mentioned. Each of the management plans contains a management section as well as a section on felling trees for income in the buffer zone. The latter part of the management plan does not serve to "site management" in the meaning of "conservation management" and, therefore, should be subject to AA.

Further on, each word and phrase of the Article 6(3) was in details explained to the participants.

AA refers to "site conservation objectives" and its outcomes differ based on these objectives: two situations were presented for identical site and identical project but with different conservation objectives, as shown on the following charts:

Site A, habitat XY



<u>Conservation objective</u>: just maintenance (Art. 6(2)) AA: new road destroying 0.01 % of the habitat XY <u>Conclusion</u>: impact not significant, road can go on



Site B, habitat XY

Conservation objective: increase by 75 % by 2019

AA: new road destroying 0.01 % of today's habitat XY which is expected to expand = conservation objective jeopardized (decrease instead of increase)

Conclusion: impact significant, road must stop

Sentence No 2 of Article 6(3) states that "in the light of conclusions of the assessment of the implications for the site and subject to the provision of paragraph 4, the competent national authorities shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the site concerned and, if appropriate, after having obtained the opinion of the general public."

As well as in the previous case, the sentence was interpreted in detail. Here it is important to remember that plan/project must not be permitted if any scientific doubt remains that it will adversely affect the site integrity, and also that opinion of the public is not obligatory.

Conclusion is that site integrity of all Natura 2000 sites should remain intact in long-term, meaning prevention of any impact from:

- abandonment of land or unsuitable management (Art. 6(1)
- unintentional man-made impacts as well as natural impacts (e.g., succession) (Art. 6(2))
- unintentional man-made impacts from plans and projects (Art. 6(3).

From the wording of Articles 6(3) and 6(4), four stages of AA can be derived:

- Art. 6(3)
 - I. Screening: question "Is there a likelihood of significant effect on a site"? If yes, then \rightarrow
 - II. Main assessment: question "Is the significant effect on site integrity of particular sites likely"? If yes, plan/project must be stopped.





- Art. 6(4) (when plans/projects stopped due to significant impacts)
 - III. Assessment of alternative solutions: if they exist, plan/project must not be implemented; if not:
 - IV. Test of Imperative Reasons of Overriding Public Interests (IROPI) test and compensatory measures.

This workshop deals with stage I only; the remaining ones will be the topic of the subsequent workshop in 2015.

Appropriate Assessment from Practical Perspective – Petr Roth and Vlastimil Kostkan

AA and EIA/SEA (Petr Roth)

Both AA and EIA/SEA are biological assessments. Objects of EIA/SEA assessment are listed in Annex I and II of the EIA Directive – these are particular types of project – and assessment of their impacts has to be taken into account only while AA presents combination of an environmental assessment and a decision–making process. If AA and EIA/SEA processes are merged it must be ensured that conclusion of AA within EIA/SEA is made binding.

Scope of AA and scope of EIA/SEA Directives were presented. Scope of AA differs from the latter one because it refers to *any* plan and project likely to have a significant effect on a particular site. On the other hand, EIA Directive relates only to projects defined in Annexes I and II of the Directive, and similarly SEA Directive have exactly defined fields of plans and programmes to which it has to apply.

What was very important for the participants to familiarize with, was the interrelation between EIA/SEA and AA. First, there is direct interrelation in the SEA Directive: plans and programmes determined to require AA must be subject to full SEA. It is not true in the opposite direction: if SEA is needed, AA is not necessarily obligatory unless the given plan/programme is not likely to affect Natura 2000 sites.

As regards the EIA Directive, no such causal interrelationship exists: it only says that Natura 2000 should be taken into account during the assessment.

However, generally it is advisable to merge EIA/SEA and AA processes due to saving time capacities and resources (common administration of both processes). Ideal solution is to merge AA and EIA/SEA in all cases where EIA or SEA re binding, and to establish separate AA procedure for plans and projects not subjected to EIA/SEA, but it must be ensured that the rules and conditions of AA are identical in both procedures and that the outcome of AA is always binding within the outcomes of the "leading" EIA/SEA procedures.

Who is to carry out AA? (Vlastimil Kostkan)

A person responsible for preparation of AA study can be a person with defined education, professional experience, and/or member of professional bodies. In some EU MS, special license is necessary for AA. Advantages and disadvantages of different approaches to the responsibility for AA preparation were presented, regarding education, experience and special licenses. For example, professional experience can be a guarantee for right conclusions, but on the other hand, there is a possibility for making stereotypes.

Persons and bodies that can be responsible for preparation of AA are the following:

- Commercial consultation companies
 - o Licensed;
 - o Non-licensed;
- Physical persons



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- o Licensed;
- o Non-licensed;
- Scientists or scientific institutions;
- State/public authorities;
- Special agencies.

For each type of person and/or body that conducts preparation for AA, there are pros and cons. For example, freelance experts are flexible, usually specialized for particular type of assessment, but freelancer tends to do everything, and can be overpaid.

Overview of "clients" of the AA who pay for it was presented: they are either developer or state/local authority. If developer is a big company, then there are bigger resources for this task. Also, outcome of AA study can easily be checked by state authority. However, if the developer is small, then financial resources for AA study are also small, sometimes insufficient. If state public authority pays for the study, there is no need for a state audit, and also there is an independence of developer. However, public authorities usually have limited resources, and there is always a possibility of political influence and pressure.

All three state (public) administration levels can carry out the Appropriate Assessment process, central, regional and local level. At the central level, there is better methodological supervision and coordination, as well as coherence in decision-making, but there is also a possibility of impact of political changes, and also familiarity with the sites in question is lacking. Regarding regional level, political influence is also an issue, but there is a better familiarity with the sites and coordination on regional level is better possible. Familiarity with the site(s) is even better on a local level, but in this case, there is a difficult access to information on cumulative impacts due to poor coordination among municipalities.

Geographical scoping of AA (Vlastimil Kostkan)

For the scope of AA it is important to decide which Natura 2000 sites can be affected by the plan/project. For this, the following questions should be taken into consideration:

- Is the project inside or outside a N2K site?
- Has the project any linked activities? Where?
- How is designed the infrastructure of the project?
- How is organized logistics relating to project preparation and operation?
- Are there any other projects not directly linked to assessed project which may have cumulative impacts?

It was also stated that project with likely significant effect could be situated far away – up to even hundreds of kilometers from the site, as well as abroad in which case trans-boundary assessment will be necessary.

Data needed for AA (Vlastimil Kostkan)

For AA preparation it is necessary to use reliable and "fresh" biological data concerning:

- habitats
- species

If there is a need for biological research to fill in gaps in data it should focus on target features and any other species and/or habitats which could probably influence target features (e.g. feeding sources, predators, competitors, alien species...).





For AA performance it is necessary to use data on possible impacts of the project:

- during construction
- during operation
- during dismantling (at temporary constructions)
- data concerning other projects likely to affect assessed site(s) (cumulative effects).

Appropriate Assessment should be carried out on the bases of a field research during (at least) one season. For most habitats and species it means spring and summer. Some species (lynx, wolf, otter, beaver, wintering and migrating birds) have specific demands for timing of research for autumn, winter or early spring as well.

There is good experience with databases maintained by state nature conservancy agencies gathering data on habitats and species in long-term. This data, if gathered systematically (including historical records from literature or local organisations) could show trends like ecological succession or long-term changes in population densities.

However, any database cannot substitute field research and recent field data. Similarly, Standard Data Form cannot provide data needed for AA because SDF describes the status of a Natura 2000 site only at the time of its designation and does not contain quantitative characteristics of target features which are indispensable for AA.

Direct and indirect effects, cumulative effects of projects and plans (Vlastimil Kostkan)

Direct effects of a project could be:

- Reduction of area of habitats, plant populations or animal territories (e.g., destruction of fishponds with rare species);
- Direct effects on some part of animal life cycle (e.g. migratory birds);
- Killing of individual animals (e.g. wind parks);
- Destruction of habitats or any of their components (e.g. wetland habitats);
- Pollution

Indirect effects of a project could be:

- Change of content of key nutrients of plants/habitats;
- Limitation of food source or changes in the food chain;
- No critical reduction of population size, but the population is fragmented (transportation across the sites);
- Project lies outside Natura 2000 site but causes increase in traffic within the site;
- Invasion of alien species;
- Change of traditional land use (farming, forestry, fishery...) within the site.

Cumulative effects of a project could be:

- Two or more different projects with subthreshold effects could cause significant effect
 - Projects implemented at the same time;
 - Projects implemented item-by-item ("salami slice method");
- Target features are under a stress already before project implementation starts.

In order to reveal cumulative effects, it is necessary to record all recent projects prepared within a Nature 2000 site and is neighbourhood, as well as record all projects assessed in the context of Natura 2000 site.





Experience from an EU Member State (*Tina Klemenčić, Institute of the Republic of Slovenia for Nature Conservation (IRSNC), Ljubljana*)

The Institute of the Republic of Slovenia for Nature Conservation (IRSNC) is a national expert institution with a mission to produce high quality expert work to protect and conserve the natural environment. The work of IRSNC is based on 7 regional units that cover entire country and a central unit as a support and integration element.

Linkages between SEA, EIA and AA in Slovenia were graphically presented:



Due to integration of AA into existing procedures of SEA and EIA there was no need for development of specific administrative procedures.

According to Articles 6(3) and 6(4), if a project has likely negative impact on Natura 2000 site, appropriate assessment must be taken and mitigation measures adopted. If the result of AA is negative and there are no alternatives, IROPI test is conducted with proposed compensatory measures. If priority habitat/species are affected, an opinion of the Commission is required.

Natura 2000 network and protected area network in Slovenia were shown.



Natura 2000 network in Slovenia



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Protected Areas network in Slovenia

AA in SEA is conducted for every plan or change of plan (or programme), national or local, that could have significant impacts on Natura 2000. Thus, Nature Conservation Guidelines must be elaborated for a proposed plan, and afterwards be integrated into the proposed plan. Nature conservancy opinion is basically a check if plan sufficiently includes Nature Conservation Guidelines. However, no plan can be approved without a positive nature conservation opinion, or a note from IRSNC that nature conservation guidelines are not required. Several examples of guidelines prescribed in Slovenia were given, such as:

- Natura 2000 Ljubljansko Barje works should be done outside the breeding, nesting or wintering periods for birds (from June to October);
- Protected Areas KP Ljubljansko Barje it is forbidden to change resting or breeding parts of habitats, and works should be located outside of breeding part of a habitat.

In order to prepare such guidelines, it is essential to have good knowledge of the area, planned activities and their consequences, present species and habitats, as well as of ecological demands of the latter. SEA procedure starts with consenting authority, the Ministry in charge for SEA, and the first phase in the procedure is screening. Here, expert opinion is provided by IRSCN, while the decision on introduction of SEA and AA procedure is done by the Ministry. The second phase includes scoping and assessment study. Environmental report and assessment study is conducted by private consultancies, institutes, NGOs, etc. Expert opinion on AA quality and acceptability of impact of the proposed plan is given by IRSNC, while final dsecision is given by the Ministry. The third and fourth phases include the IROPI test where expert opinion on alternative solutions and compensation measures should be given by the Ministry. However, there have been no cases in these phases so far in Slovenia. There are approximately 200 opinions per year regarding SEA procedures in the first and second phases.







Ms. Klemenčić provided one practical example of adverse approach to Natura 2000 AA – Škofljica bypass of Ljubljana. This case has become subject of an EU Pilot (EC, 2012) and has been given a lot of publicity.

Appropriate Assessment Stage I: Screening – Theoretical Basis (Petr Roth and Vlastimil Kostkan)

Article 6 of the Directive was mentioned again, putting emphasis on the sentence where projects are sought "likely to have a significant effect on the site". The first question to be asked is: "which sites could be influenced by the given project?" Several possibilities were given as an answer, such as:

- sites directly impacted by land take;
- sites directly impacted by emissions, including noise, water and air pollution, etc.;
- sites indirectly impacted, including transport of pollutants, underground water level change, noise, cutting of migration routes, disturbance by humans, etc.

There is no difference between direct and indirect impacts: important is if the effect is likely significant, nothing more.

Another question to be asked is whether the in-combination effect applies. Here, the rule "first come first serve" applies – particular projects with sub-threshold (insignificant) effects can be granted permission by the moment when the recent one exceeds the threshold of significance – then it must be stopped.

Natura 2000 sites may also have other target features than those listed in the Directives; if so, AA can apply to them, too, in the same manner as those from the directives, but this must be explicitly anchored in national law; if this is not the case then AA applies only to "Natura" target features.

When thinking about screening conclusion, prediction of the future main assessment must not harm the sites while it can harm the investor since this harm is negligible compared to the risk of site destruction.

The screening conclusion can only have two outcomes:

- In case of absolute certainty that project can not affect an Natura 2000 site: "Project XX cannot affect any Natura 2000 site";
- In case of doubt, lack of data, or clear impact: "Impact of project YY on any Natura 2000 site cannot be excluded and therefore the main assessment is needed".

We must never neglect the responsibility of screening-makers, since underestimating of likely impact may lead to site destruction, and it's overestimating to "killing" of often large infrastructural projects.

Screening can be very simple, very complicated, or appropriate.

General objective of screening is:

- To record all potentially harmful projects in the country;
- To enable investors and other authorities to get access to data.

It is important to mention that screening must be anchored in legislation as to procedure, authorities in charge, and form of the outcome. But as usual, that is not enough. It is recommended to have manual for the whole AA at national level, since it will be tailored to fit national legislation, use national terminology and represent an ancillary tool for both authorities and investors. On the other hand, there are general EU guidelines at the Commission's webpage.

Some countries are using screening templates, e.g. Austria and Germany. The template has a form easy to fill in, it automatically records and storages all the data and procedures and applicants can see the likely result in





advance. But the template also has some disadvantages. One of them is that there is no form that can fully cover all life situations, and officials using the forms tend to stop using their own brains.

Second part of the presentations was devoted to the screening approach. One of the first issues was data necessary for screening. Data must be reliable and concern assessed project, as well as data concerning other projects likely to affect assessed sites (cumulative effects). It is necessary to have actual data on the status of target features (habitats and species); older data can be relevant, too in a manner to show trends of target features likely to be affected. Appropriate data is best to take from focused field research and from local biologists, but data from publications and databases must not be neglected, too.

Screening data can be both essential and non-essential. Essential data includes area of habitats, density of populations and ecological relations of target features, while non-essential data are represented e.g. by the comprehensive information about biodiversity, information about species from Red lists, endemic species and protected species on a national level. Non-essential data are of little use for both screening and the subsequent main assessment.

Role of database was shown by Mr. Kostkan at an example of Snezka Mountain in the Czech Republic, and the river otter as representative of animal target features.

Screening exercise I (Vlastimil Kostkan)

In Czech Republic, Protected Landscape Area Poodří includes wetland and fishpond area with floodplain meadows and forests along the, remaining parts of non-regulated Odra River. This PLA is both SPA and SCI. For the SPA, there have been 400 species recorded. SCI is famous for its habitat types - alluvial forests that spread on almost 390 ha.

A project description was presented that served as a training exercise for the participants. The project was a reconstruction of an old military base for an airport for civil and cargo transportation. With the new project, there will be one new runway, 13,000 m2 of new storage capacity, increased frequency of landings, and eight-km-long motorway crossing the SPA/SCI. The participants were given adequate time to consult and present their view of the likelihood of an impact on Natura 2000 sites – screening conclusion and its justification. Basic map showing the situation can be seen below :



<u>Day 3 – Friday, 26th September 2014, Novi Sad</u>

Screening exercise from the previous day was continued in the morning session.

Screening training II (Vlastimil Kostkan)





The sites chosen for the exercise were SPA/SCI Protected Landscape Area Beskydy, and SCI Olse, both in the Czech Republic. Beskydy with more than 1,200 km² is the second largest SCI in Czech Republic, while the area of SCI Olse is 1.69 km². These areas, together with the planned route of the project – motorway (red dashed line), can be seen on the following maps:



Main target features of the area were large carnivores (wolf, bear, lynx). Participants discussed likelihood of impact of the given project especially on these target features.

Experience with Screening in Slovenia (Tina Klemenčić)

In Slovenia, in case of screening procedures for SEA and EIA, from the proponent's application till IRSNC expert opinion on likelihood of significant impacts, 21 days pass. Afterwards, the opinion is sent back to the Ministry of Environment, SEA Department, in case of SEA screening, or to the Environmental Agency in case of EIA screening. For other procedures, a period from 15 to 30 days needs to pass in order to get IRSNC expert opinion.

Rules on the assessment of acceptability of impacts caused by the execution of plans and activities affecting nature in protected areas:

- main assessment plans with likely significant impact (impact alone or in combination, changes of land use, plans for use of natural resources, etc.);
- no assessment plans without significant impact (changes of land use outside of Natura 2000 sites and indirect impacts without reaching target features, etc.);
- no assessment plans directly connected with or necessary for the conservation of the site.

Categories of impact were presented, some of which include permanent or temporary habitat loss, change of special structure, reduced success of reproduction, permanent and temporary population size decline, etc.

Screening example was presented for the hydropower plant Brezice. Primary plan impact of the site was land take, due to the construction of dam assumed to serve as water reservoir and aginst flood protection. There would be also linked infrastructure - access roads and other. Also, noise during construction and future operation of the plant had to be taken into consideration, as well as change in water regime and water temperature, disturbance due tourism, eutrophication, and many more factors. Findings of the screening showed that there was a likely significant impact on the site:

- Fish species: change in water regime and temperature, destruction of spawning areas, cutting the migration paths;
- Habitat types (dry meadows): raise of underground water level, tourism and recreation;
- River habitat types: change of water regime, flooded area;
- Forest habitat types: land take, flooding;
- Otter, beaver: land take, changes in morphology of rivers, fragmentation.



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Pilot screening and conclusion of the workshop (Vlastimil Kostkan and Petr Roth)

At the very end of the workshop, all participants together were asked to respond the question: "Is the Elemir – Melenci pipeline project likely to significantly affect the future Natura 2000 sites Okanj Bara and Rusanda"? Based on all the information presented during the duration of the workshop, the final answer was unanimous "yes". Therefore, the pilot project will continue with Main Assessment undertaken by V. Kostkan in the field in spring 2015 and the second AA workshop aimed at theory of main AA, presentation of the field results of the main assessment, and explanation of the provisions of Art. 6(4) of the Habitats Directive. Tentative timing of the latter will be either late spring or, more probably, early autumn 2015.





ANNEX I – Evaluation

Workshop - participant Evaluation

Question		N°. Responses	Yes	No	Partially	Do not know	v
1. Was the workshop carri	ed out according to						
the agenda		21	21 (100)%	0 (0)%	0 (0)%	N/A	
2. Was the programme we	ell structured?	21	21 (100)%	0 (0)%	0 (0)%	N/A	
3. Were the key issues rela	ated to the topics						
addressed?		21	21 (100)%	0 (0)%	0 (0)%	N/A	
4. Did the workshop enab	le you to improve						
your knowledge?		21	20 (95)%	0 (0)%	1 (4)%	N/A	
5. Was enough time allow	ed for questions and						
discussions?		21	21 (100)%	0 (0)%	0 (0)%	N/A	
	Speaker/Expert	N°. Responses	Excellen	t Go	od Sati	sfactory Poo	or
	Ms Klemencic	20	17 (85)%	5 3 (1 5	5)% 0	(0)% 0 (0)%
6.How do you assess the	Mr Kostkan	21	17 (80)%	6 3 (14	1)% 1	(4)% 0 (0)%
quality of the speakers?	Mr Roth	20	19 (95)%	5 í ú)% 0	(0)% 0 (0)%
Question		N°. Responses	Yes	No	Partially	Do not know	v
7. Do you expect any follo	w-up based on the						
results of the workshop (n	ew legislation, new						
administrative approach,	etc.)?	21	20 (95)%	1 (4)%	N/A	N/A	
8. Do you think that furthe	er TAIEX assistance is						
needed (workshop, expert	t mission, study visit,						
assessment mission) on th	e topic of this						
workshop?	19	18 (94)%	1 (5)%	N/A	N/A		
9.Were you satisfied with							
the logistical Conference venue		21	19 (90)%	0 (0)%	2 (9)%	0 (0)%	
arrangements, if	Interpretation	20	20 (100)%	0 (0)%	0 (0)%	0 (0)%	
applicable?	Hotel	20	19 (95)%	1 (5)%	0 (0)%	0 (0)%	

Comment:

- I was highly satisfied with the workshop, organisation and especially lecturers! Thank you!
- Petr Roth is excellent speaker and teacher. He knows our language and situation in Balkan region. I had a great opportunity to ask everything related to Natura 2000 and I have got the best answers until now!
- This workshop is the one of the best workshop where I have been.











Workshop - speaker Evaluation



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Question		N°. Responses	Yes	No	Partially	Do not know	
 Did you receive all the infor necessary for the preparation contribution? 	3	3 (100)%	0 (0)%	0 (0)%	N/A		
2. Has the overall aim of the v achieved?	vorkshop been	3	3 (100)%	0 (0)%	0 (0)%	N/A	
3. Was the agenda well struct	ured?	3	3 (100)%	0 (0)%	0 (0)%	N/A	
4. Were the participants preset the scheduled workshop?	ent throughout	3	2 (66)%	0 (0)%	1 (33)%	N/A	
5. Was the beneficiary represe appropriate participants?	ented by the	3	3 (100)%	0 (0)%	0 (0)%	N/A	
6. Did the participants actively the discussions?	3	3 (100)%	0 (0)%	0 (0)%	N/A		
 Do you expect that the ben undertake follow-up based or the workshop (new legislatior administrative approach etc.) 	3	2 (66)%	0 (0)%	N/A	1 (33)%		
8. Do you think that the bene further TAIEX assistance (wor mission, study visit, assessme the topic of this workshop?	3	3 (100)%	0 (0)%	N/A	N/A		
9. Would you be ready to part future TAIEX workshops?	ticipate in	3	3 (100)%	0 (0)%	N/A	N/A	
			r	n			
10.If applicable, were you satisfied with the logistical	Conference venue	3	3 (100)%	0 (0)%	0 (0)%	0 (0)%	
arrangements?	Interpretation	3	3 (100)%	0 (0)%	0 (0)%	0 (0)%	
	Hotel	3	3 (100)%	0 (0)%	0 (0)%	0 (0)%	
57488 : Comment : Very good interpretation incl. many difficult technical terms. I recommend to use that firm by TAIEX in the future 57488 : Comment : In spite of workshop in Macedonia in Serbia everything run well							















Annex II - Agenda

Day 1 – Wednesday, 24 September 2014, Novi Sad

Venue: Novi Sad, Serbia							
Start	Finish	Торіс	Speaker	Sub topic/Content			
08.30	09.00	Registration	Registration				
09.00	09.30	Welcome, introduction to the workshop and the pilot site	Petr Roth, Vlastimil Kostkan, ECRAN	 Introduction to the workshop Aim and route of field trips 			
09.30	11.00	Bus trip to the pilot project location					
11.00	12.30	Elemir, Slano Kopovo – site visit with presentation on salt habitats, their management and threats	Vlastimil Kostkan, ECRAN; staff of Provincial Institute for Nature Protection (TBC)	 Familiarization with the pilot area Explanation of occurrence of target features Location of elements of the pilot project 			
12.30	13.00	Bus transfer to Melenci					
13.00	14.30	Lunch in Spa and Rehabilitation Hospital Rusanda (manager of Rusanda Nature Park)	Spa and Rehabilitation Hospital Rusanda staff (TBC)	 Familiarization with the pilot area (salt lake Rusanda) Display of ornithological assets of the site 			
14.30	16.00	Departure for Novi Sad,	, participants prepare for th	ne workshop			
		Start of the workshop					
17.00	18.30	Introduction to the topic: Natura 2000 network as an object of Appropriate Assessment (AA)	Petr Roth, ECRAN	 Natura 2000, its objective and place within EU biodiversity policy Interrelationship between the Nature Directives as regards Natura 2000; Natura 2000 and ecological network 			





	•	Natura 2000: target features, conservation objectives, site integrity, (ecological) coherence of the network Obligations referring to N2K: proactive and reactive
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Day 2 – Thursday, 25 September 2014, Novi Sad

Venue:	Venue: Novi Sad, Serbia								
Start	Finish	Торіс	Speaker	Sub topic/Content					
08.30	09.00	Registration							
09.00	10.30	Theory of Appropriate Assessment	Petr Roth, ECRAN	 AA: combination of biological assessment and decision-making process Art. 6 Habitats Directive: obligations regarding Natura 2000 in time, meaning of particular provisions Role of CJEU judgments AA: tool to maintain site integrity and network coherence Analysis of AA process: semantic analysis of the wording of Art. 6(3) Habitats Directive and its legal and factual interpretation, particular "stages" of AA and their objectives 					
10.30	10.50	Coffee							
10.50	12.30	Appropriate Assessment from practical perspective, linkages to and differences from EIA/SEA	Petr Roth & Vlastimil Kostkan, ECRAN	 AA vs. EIA/SEA: combination of environmental assessment and decision-making process; "scope" of AA vs.scope of EIA/SEA; administrative and procedural view: merging/keeping separate procedures (pros and cons) Who is to carry out AA? EU approaches, pros and cons "Scoping" of AA Data needed for AA (both on project and the sites), difference between data for SDF and data for AA AA: need for qualitatively new procedures and new or enforced administrative structure (role of 					





				AA in the approval of EU-funded projects)
12.30	14.00	Lunch		
14.00	14.30	Experience of a EU MS from the region	Tina Klemenčić, Institute of the Republic of Slovenia for Nature Conservation (IRSNC)	 "Bottom-up" view of a representative of the country from the region
14.30	15.30	Introduction to the pilot AA: pilot site and pilot projects	Vlastimil Kostkan, ECRAN; staff of Provincial Institute for Nature Protection (TBC)	 Familiarization with the pilot site and pilot project Preparation for screening exercises
15.30	16.30	AA stage I: Screening – theoretical basis	Petr Roth & Vlastimil Kostkan, ECRAN	 Objective of screening and its unambiguous outcome Weight of screening conclusion (big investments versus priceless and irreparable natural assets) Indirect and cumulative effects Data needed for screening Possible forms of screening Screening template – pros and cons Pre-screening
16.30	16.50	Coffee		
16.50	17.40	Screening exercise I	All	
17.40	18.00	Q & A, end of Day 2	Petr Roth & Vlastimil Kostkan, ECRAN	

Day 3 – Friday, 26 September 2014, Novi Sad

Venue:	Venue: Novi Sad, Serbia							
Start	Finish	Торіс	Speaker	Sub topic/Content				
08.30	09.00	Registration						
09.00	09.30	Screening exercise II	All					
09.30	10.00	Experience with screening: example of Slovenia	Tina Klemenčić, Institute of the Republic of Slovenia for Nature Conservation (IRSNC)	 Slovenian experience with screening 				





10.00	10.20	Coffee		
10.20	11.40	Pilot screening	Vlastimil Kostkan, ECRAN	 Data presentation Screening exercise in groups Screening conclusion Summary of needs for upcoming stage II: data, way of cooperation, support, resources
11.40	12.00	Follow-up, organisational matters, end of the workshop	Petr Roth & Vlastimil Kostkan, ECRAN	
12.00	13.00	Lunch		







ANNEX III – Participants

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ANNEX IV – Workshop materials (under separate cover)

Workshop materials including presentations, exercise materials and agenda, can be downloaded from:

http://www.ecranetwork.org/Files/Workshop_on_AA_Serbia_pilot_site, 4-26_September_2014.zip



