

3 Policies supporting SCP

Facts and figures

- Framework SCP strategies or policies specifically targeting SCP have not yet been developed in SEE and EECCA countries. However, in most countries covered in this report there are examples of SCP-relevant topics being tackled, albeit in an isolated fashion and lacking any overall coordination.
- Many countries have adopted ambitious environmental legislation and some seek to comply with EU directives. However, it is often the case that environmental legislation is incomplete or inconsistent. Coordination between various environmental bodies, notably central and local authorities, also remains a challenge.
- SCP-relevant policy instruments in use throughout the region include laws and regulations, economic instruments and, increasingly, information campaigns aimed at consumers (e.g. eco-labels).
- Considering that public procurement accounts for 5–15 % of GDP, or between 50 and 150 billion Euro annually across the SEE and EECCA regions, Green Public Procurement could provide a strong impulse for implementing SCP. Nevertheless, there has been very little progress so far in implementing GPP, which remains a new concept for the authorities in most SEE and EECCA countries.

3.1 Introduction

This chapter reviews policies and policy instruments which can support implementation of sustainable consumption and production.

The chapter first provides a brief overview of the evolution of the environmental protection framework and then presents examples of policies and initiatives which can support implementation of sustainable consumption and production in SEE and EECCA countries. The information is based on the survey carried out by UNEP, requesting governments of all 18 countries to provide the most recent information on implementation of SCP. A summary of the responses is presented in Annex 1 to this report. A detailed discussion of environmental policies and instruments related to industry, food, buildings, transport and waste takes place in Chapters 4 to 8.

While a comprehensive analysis of all available policy instruments to support SCP was beyond

the scope of this report, this chapter does give a more detailed insight into the current status and future potential for the implementation of Green Public Procurement (GPP). Considering that public procurement accounts for 5–15 % of GDP, which would roughly translate into EUR 50 to 150 billion per annum for the region, the implementation of GPP could provide a strong impulse for implementing SCP. Information about this is based on a GPP survey carried out by the authors.

3.2 Evolution of the environmental protection framework

One of the main effects of the political and socio-economic transformation in SEE and EECCA countries was a fundamental change in the system for environmental protection. Governments made efforts to establish a national regulatory framework, to create a decentralised environmental administration, to provide funding for strategic programmes and financial incentives for private

enterprises, and to ensure more effective enforcement. Many countries have now built up, or strengthened, institutions responsible for environmental protection, established environmental laws and regulations, and streamlined environmental responsibilities.

Most countries have developed basic laws and national strategies or plans for sustainable development or environmental protection. In the 1990s most EECCA countries drew up National Environmental Action Plans, often with the assistance of international experts and support from donors. The agreed priorities tended to focus on air pollution control and protection of water quality, especially in those areas where there were international obligations from international treaties (OECD, 1999). Problems more local in nature (e.g. waste management or mining activities) or less clearly defined (e.g. sustainable management of natural resources or protection of biodiversity) were, and remain, less of a priority. Furthermore, only a small percentage of the activities listed in the NEAPs have been achieved (UNECE, 2003).

In SEE, Sustainable Development Strategies are under preparation in four countries (Croatia, former Yugoslav Republic of Macedonia, Montenegro and Serbia). Montenegro set up a government office supporting the National Council on Sustainable Development and Bosnia and Herzegovina established a National Steering Committee for Environment and Sustainable Development (UNDP, 2007).

Implementation mechanisms in use throughout the regions include environmental laws and regulations, economic instruments, environmental permitting systems, environmental impact assessment requirements and, increasingly, information campaigns targeted at consumers (e.g. eco-labels). Many governments have adopted ambitious environmental legislation (OECD, 2007) and quite a few countries are currently attempting to comply with EU directives.

However, as is often the case, environmental legislation is incomplete or inconsistent, or sometimes even contradictory. Complicated permitting systems, inconsistent enforcement, and the low level of pollution fines do not provide strong incentives for more proactive environmental management. Moreover, many existing environmental institutions suffer from a weak mandate, overlapping or poorly defined responsibilities, frequent restructuring, and inadequate budgets, particularly at the local level (OECD, 2007; EBRD, 2005; UNECE, 2006). For

example, environmental authorities in Moldova and the Russian Federation have significantly reduced their staff since 2003 (EAP Task Force Secretariat, 2006). Ukraine has reorganised its key environmental authority four times since 1998, and the fifth major restructuring was approved in January 2006 (UNECE, 2006).

Coordination between various environmental bodies, including central and local authorities, remains a major challenge, as demonstrated in Bosnia and Herzegovina (UNECE, 2004).

Environmental policy-making is also negatively affected by limited systems for collecting and processing pollution and environmental data. In many cases information that has been collected locally is not compiled at the national level to support policy-making. Concerning consumption patterns and their environmental impacts, little data of relevance have been collected at all, although this is not a phenomenon limited to the SEE and EECCA regions.

3.3 Examples of SCP-relevant policy instruments used in SEE and EECCA

Cross-cutting in nature, sustainable consumption and production bring under its umbrella the environment, consumption and consumers, and a supply of products and services. A number of horizontal policies, strategies and instruments under development or already existing in the SEE and EECCA countries are illustrated in this report, including the following:

- Strategic policy framework and sectoral plans to support implementation of SCP;
- Integrated product policies which seek to minimise environmental impacts from manufacturing, use or disposal of products over their life cycle;
- Economic instruments (e.g. pollution fees and charges, energy taxation, differential taxation, preferential tariffs etc.);
- Consumer information (e.g. eco-labels, awareness-raising and public information, food labels, pollutant emission register, etc).

Information in this section is based on government responses to the questionnaire-based survey carried out in the first half of 2007 by UNEP. This survey, building on earlier work by the European

Commission (EC, 2004) and UNEP (UNEP, 2004a), was conducted in all 18 SEE and EECCA countries. Sixteen governments responded to the questionnaire, either partially or in full. A survey of governments was chosen as the most effective way to collect most up-to-date and comprehensive information on the existing policies, instruments and activities in the field of SCP.

The questionnaire addressed both general and sectoral SCP-related policies and strategies. Please note that most of the collected information on various policy instruments, initiatives, campaigns and projects is presented in the five thematic chapters of this report: industry, food, buildings, transport, and waste.

Strategic framework to support SCP

National strategies or programmes specifically focusing on SCP have not yet been developed in any EECCA or SEE country. However, some sporadic SCP initiatives have already taken place on regional or national levels, i.e. SCP stakeholder conferences in the SEE region and in the Russian Federation. This limited progress indicates that in reality, despite political declarations, SCP has yet to reach a high priority on the policy agenda.

Nevertheless, in several countries existing strategies for sustainable development or specific sector-oriented plans address some aspects of SCP, as reported by Armenia, Belarus, Croatia, Georgia, Kazakhstan, Moldova, Serbia, Tajikistan, and Ukraine (see Box 3.1)

Integrated product policy

So far no policies in SEE and EECCA countries address the question of minimizing the

environmental impacts of products at the various stages of their life cycles. In some countries, there are general references to the principle of sustainable development in regard to products, and to the minimisation of economic impacts on environment (Moldova), and to sound management of natural resources (Uzbekistan). Responding to the questionnaire, Armenia reported adopting some measures relevant to integrated product policy. Since 1999, pollution fees have been applied to the production and import of environmentally harmful goods, such as asbestos, slate, thermo-asbestos machinery, vehicle brakes, goods and paints containing lead, fluorescent lamps, and products containing mercury. Similar initiatives have been implemented in some SEE countries, especially those which aim to align their environmental legislation with the EU.

Economic instruments

Various economic instruments are in use in EECCA and SEE countries which provide financial incentives for SCP. Pollution fees and charges are commonly used, continuing the pre-transition system where fees and fines were charged for the use of natural resources and adverse impacts on the environment. The level of fees rose in the late 1990s, although they are generally still too low to provide a strong incentive for making production processes cleaner (see Chapter 4).

The examples of instruments used, reported by countries, range widely. Moldova, for example, charges fees on environmentally harmful products (petrol, diesel, packaging materials, tires and batteries). Some governments encourage more environment-friendly products by applying differential taxation. In Uzbekistan companies that implement environmental activities are eligible

Box 3.1 SCP components in national strategies

- The principle of cleaner production in Croatia is addressed both in the *National Environmental Action Plan and National Environmental Protection Strategy*. The latter sets the priorities for strengthening environmental protection and the implementation of cleaner production projects.
- In Kazakhstan, some elements of SCP are included in the *Strategy on Sustainable Development for 2007–2024*. The objectives of the strategy include, among other things, achieving balanced levels of natural resources extraction, introducing sustainable production and consumption initiatives (including a cleaner production strategy), developing sustainable transport; establishing sustainable development targets for large industrial and energy facilities, setting up requirements and deadlines for transition to best available technologies; and developing alternative energy sources.
- In 2004, Armenia adopted a *Strategy on Sustainable Development for Agriculture* with the objectives to promote sustainable agricultural production and sound use of natural resources (i.e. soil and water), achieving better quality and safety standards in agricultural activities, increasing the wealth of the rural population, and improving their living standards.

Box 3.2 Environmental loans and targeted distribution of pollution fees.

- Georgia established a revolving fund with low-interest loans to promote private sector activities in renewable energy.
- In 2005 Ukraine adopted a new budget programme on financial support for environmental activities, operating within the framework of the state fund of environmental protection.
- An Environmental Protection and Energy Efficiency Fund was established in Croatia to support waste management activities, including those related to landfills.
- Armenia adopted measures on the direct return of environmental fees to support local environmental projects. Pollution payments collected from 14 companies are given to the local communities where the polluting companies operate to support local environmental projects. In 2005 several projects were financed through this system, including the renovation of the sewage system, improvement of solid waste collection, and development of the health system in three communities.

for the 30 % VAT exemption on their products. Ukraine introduced in 2002 a tax exemption to support resource- and energy-efficient equipment and low-waste technologies. Another objective was to encourage setting up facilities for waste recycling and processing. This latter initiative has been evaluated as quite successful in encouraging entrepreneurs to start collecting materials and recycling businesses. This resulted in a significant increase in the amount of collected paper, glass, plastic, and used oils, and Ukraine has now reached the 1990–1991 levels of recycling, when the collection of these materials was at its highest.

Other reported examples of economic incentives include preferential loan systems, and the use of pollution fees to support environmental protection projects (Box 3.2).

Consumer information tools

To educate consumers and to increase their awareness of sustainable consumption and production, EECCA and SEE countries have initiated a variety of policies and campaigns, but they tend to focus on other aspects and the SCP angle is a side benefit. The area of food safety and consumer protection is a good example.

All EECCA and SEE countries have a broad range of programmes, laws and regulations to protect consumers' health and safety. Kyrgyzstan reported that consumer protection legislation includes the law on Sanitary and Epidemiological Welfare of the Population and a government regulation on Procedures for Sanitary and Epidemiological Production Assessment based on Human Health Safety Indicators. In Ukraine, the relevant regulations include laws on Consumer Rights Protection, Safety and Quality of Food Products, State Regulation of Agricultural Production Imports, Sanitary and Epidemiological Welfare; the resolution on State Control over Standards and Rules Compliance and on Liability Rules for its Violation. It is interesting to note that responses to the questionnaire indicated that such policies and legislation were usually developed with little or no inputs from the public.

Most EECCA and SEE countries use obligatory labels that provide information on the content of foods and their nutritional values. Exceptions here are Georgia, Montenegro and Tajikistan. In Croatia, the National Institute of Public Health is responsible for educational campaigns for consumers on how to use this information in food-related matters. Serbia initiated educational programmes in agricultural universities and adult education centres. In some countries initiatives are undertaken by NGOs. In Tajikistan awareness raising on consumer protection is mainly carried out by NGOs although the activities are sporadic. In Montenegro, in the absence of a law on consumer protection, NGOs began an educational campaign supported by USAID to inform and educate civil society about consumers' rights and the need to adopt appropriate legislation on consumer protection.

Ecolabels

Ecolabels (see Box 3.3) are less widely used in the SEE and EECCA regions, and have been reported only by Croatia, Serbia and Uzbekistan. In Croatia, the national Eco-label scheme had already been established in 1994. In Kazakhstan there are some preliminary initiatives, (including relevant provisions in the draft Environmental Code) for applying eco-labelling on a voluntary basis. Ecological labelling in Kazakhstan will be applied to products that have a potentially harmful effect on the environment, human health and biological resources. In Moldova the system of eco-labelling is under preparation.

Some countries participate in voluntary international initiatives run by non-governmental organizations. For example in 2007 in Croatia 117 beaches and

Box 3.3 What are Eco-labels?

Eco-label is a voluntary scheme that generally has a dual purpose: 1) to promote the design, production, marketing and use of consumer products and services that have a reduced environmental impact during their entire life-cycle; and 2) to provide consumers with better information on the environmental quality of products and services, to help them make informed environmental choices in their purchases.

Products that meet defined ecological and performance criteria are awarded the eco-label logo.

Note: For more information on eco-labels, see also: http://ec.europa.eu/environment/ecolabel/index_en.htm.

20 marinas were awarded a Blue Flag eco-label, in Montenegro 20 beaches, in Romania seven beaches and one marina, and in the Russian Federation – one marina. The ecolabel is awarded for compliance with 29 criteria covering water quality, environmental management activities, various aspects of environmental education and information, and for safety and services provided.

Box 3.4 Pollutant emission registers

- In Kyrgyzstan, certain industrial facilities (large mining facilities, thermal power stations, the water authority) are required to report on their environmental activities in a format approved by the National Statistical Committee.
- In Moldova the government collects statistical data on emissions and releases of pollutants into air and water, including hazardous pollutants. Authorities define which enterprises must report information related to environmental protection and the use of natural resources.
- The Ukraine Ministry of Environment has developed a draft regulation on informing the public through the mass media about major polluters. Regional authorities of this Ministry are responsible for collecting statistical data on key indicators of water use and discharges and air emissions, and reporting these data to the state agencies of statistics.

Romania is not strictly within the scope of the SEE region as defined in this report, but the country provides an interesting example of eco-labelling in the energy sector. According to the 2005 Energy Labelling Regulation, a supplier of electric energy has an obligation once a year to provide every customer with an 'energy label' which should include the following information: 1) the contribution of each primary energy source to the total amount procured by the provider; 2) the level of specific CO₂ emissions and radioactive waste for the energy provided; 3) a comparison of these data with national average figures.

Pollution release and transfer registers

In some western countries citizens can obtain information on environmental pollution through pollutant emission registers, which are publicly accessible through the Internet and free of charge. Even though many EECCA countries have reporting systems that include some elements of the full-scale register (Box 3.4), the data collected are generally not available online. In fact, as discussed in Chapter 4, there are no indications that data are even compiled or used at the nation-wide level.

Life-cycle assessment and costs

LCA and LCC are important methods for helping to determine the overall environmental impacts of goods or products, and their lifetime cost. This is especially important in procurement (Box 3.5). A life-cycle based approach is increasingly being adopted in environmental policy-making in the EU. However, at the present time no SEE and EECCA country has adopted policies introducing LCA and LCC.

3.4 Green Public Procurement

This section reviews experiences with Green Public Procurement (GPP) in EECCA and SEE countries in the period 2003–2006. This is the first comprehensive effort to review GPP implementation in these regions. The information presented is based on an extensive literature review and on two surveys, the UNEP policy questionnaire on SCP distributed to the national authorities in SEE and EECCA countries, and a GPP questionnaire addressed to public procurement offices in the countries.

Box 3.5 Life-cycle assessment and life-cycle costing

Life-cycle assessment (LCA)

The life-cycle of a product includes all the phases of its 'life' ranging from the extraction of natural resources necessary to manufacture it, through the design phase, manufacturing, assembly, marketing, distribution, sale and use to their eventual disposal as waste. LCA analysis is often long and complicated. LCA is an internationally standardised methodology (ISO 14040 and 14044), which helps to quantify the environmental pressures related to goods and services, the environmental benefits, the trade-offs and areas for achieving improvements taking into account the full life-cycle of the product.

Source: Adapted from CEC, 2003.

Life-cycle costing (LCC)

In public procurement the price offered is always one of the most influential factors. However, the purchase price represents just one of the cost elements in the whole life-cycle. Other costs occur in the use and disposal phase. More energy-efficient products tend to be more expensive to buy, but less expensive to use, and LCC is sometimes used in a procurement procedure to factor this in. According to the life-cycle costing approach, all the costs that will occur during the lifetime of the product or service should be taken into account. For example, life-cycle costing should cover:

- the purchase cost, including associated costs such as delivery, installation, commissioning, staff training, etc.;
- operating costs, including energy, spares, maintenance;
- 'spending to save', for example, a higher initial expenditure for additional insulation that leads to energy cost savings over time;
- cost savings, for example, the creation of self-run recycling markets (e.g. printer cartridges) and the sale of used goods to recycling companies;
- end of life costs, such as decommissioning, removal and disposal.

LCC discloses the costs of resource use, e.g. energy and water use, as well as disposal costs. LCC is therefore an effective tool to back up not only more fiscally responsible procurement decisions, but reduced environmental impacts as well.

Source: Adapted from CEC, 2004; OECD, 2003.

3.4.1 Introduction to Sustainable Public Procurement

Governments exercise great influence as major consumers of goods and services, spending large amounts of money every year on public procurement. The concept of Sustainable Public Procurement takes into account economic, environmental and social criteria in the tender process, where the fairly well established Green Public Procurement addresses the environmental component of SPP (Box 3.7). This chapter focuses on Green Public Procurement (GPP) since GPP is often the first step in the implementation of the SPP, as demonstrated by on-going international practice (Box 3.8).

The procured goods produce environmental impacts during their entire life cycle, that is, production, use or consumption, and disposal. When governments choose to buy goods and services that are environmentally preferable, they support sustainable production and consumption. Application of GPP can benefit the environment by:

- reducing GHG emissions and air contaminants;
- improving energy and water efficiency;
- reducing ozone-depleting substances;
- reducing waste and supporting reuse and recycling;

Box 3.6 Key requirements of public procurement processes

Procurement should seek first and foremost value for money. Procurement systems should be driven by the principle that an open, fair and transparent procurement process will allow for competition, and that competition will result in the most competitive prices. Practices should be built-in throughout procurement processes to discourage corrupt practices (e.g. favouritism, collusion, fraud) and to safeguard competition. Key requirements of public procurement processes include:

- *economy*: value for money;
- *administrative efficiency*: the process should involve minimum time and cost;
- *equal opportunity*: business opportunity should be open to all competent suppliers and contractors;
- *transparency*: process should be open and procurement authorities accountable;
- *dispute resolution*: possibility to challenge an award and seek remedies from a court or other independent body.

Source: Adapted from OECD, 2003. See also OECD, 2005; OECD, 2006.

Box 3.7 What are Sustainable Public Procurement and Green Public Procurement?

According to UN Environment Programme (UNEP, 2004b), Sustainable Public Procurement (SPP) is a process in which organisations buy supplies or services by taking into account:

- the best value for money (price, quality, availability, usefulness);
- environmental aspects over the entire life-cycle of products;
- social aspects (including poverty eradication, labour conditions, human rights).

Environmental aspects in SPP are often referred to as Green Public Procurement (GPP). GPP is an approach whereby public authorities integrate environmental criteria into all stages of their procurement process. This encourages the dissemination of environmental technologies and the development of environmentally sound products by seeking and choosing outcomes and solutions that have the least possible impact on the environment throughout their whole life-cycle.

Source of GPP definition: Adapted from Bouwer *et al.*, 2005.

- reducing hazardous waste generation; and
- reducing toxic and hazardous substances.

Additional benefits of GPP include:

- applying GPP in public sector procurement can help achieve economies of scale in the acquisition of environmentally preferable goods and services. This reduces the cost for government and strengthens green markets and industries;
- GPP can result in more environmentally responsible planning, acquisition, use and

disposal practices in governmental and other public institutions;

- GPP can support a healthier working and living environment for employees and for citizens.

GPP promotes the development and adoption of environmental technologies, particularly in those areas where public authorities are important consumers. This can also help to create new markets and jobs in the eco-industry sector. For example, the EU eco-industries sector ⁽¹⁾ already accounts for one-third of the global eco-industry market, estimated at EUR 550 billion per year, and with an average annual growth rate of around 5 % since the mid-1990s. Many governments and public

⁽¹⁾ Source: 'The Power of Green Procurement' published on <http://ec.europa.eu/comm/environment/gpp/media.htm>. For more information on the EU eco-industry sector, see CEC, DG Environment, 2006.

institutions in OECD countries have started to implement GPP in recent years. In SEE and EECCA, however, SPP and GPP are new subjects which have received very little attention so far.

Implementation of GPP has been supported by heads of government and environment ministers in all important environment-related political processes relevant to EECCA and SEE:

- **Agenda 21, adopted in 1992 at UNCED:** 'Governments themselves also play a role in consumption, particularly in countries where the public sector plays a large role in the economy and can have a considerable influence on both corporate decisions and public perceptions. They should therefore review the purchasing policies of their agencies and departments so that they may improve, where possible, the environmental content of government procurement policies, without prejudice to international trade principles.'
- **Plan of Implementation adopted in 2002 at WSSD:** 'Encourage relevant authorities at all levels to take sustainable development considerations into account in decision-making,

including on national and local development planning, investment in infrastructure, business development and public procurement. This would include actions at all levels to: (...) (c) Promote public procurement policies that encourage development and diffusion of environmentally sound goods and services; (...)'.

- **Ministerial Declaration of the 2003 Kiev Environment for Europe Ministerial Conference:** 'We underline the importance of the shift towards sustainable production and consumption patterns and encourage regions, sub-regions and countries, as appropriate, to devise programmes to accelerate this shift. (...); the greening of government at all levels is imperative. We will continue to work on the adoption of public procurement policies that encourage the development and diffusion of environmentally sound goods and services.'

3.4.2 Green Public Procurement in SEE and EECCA countries

It proved a challenge to obtain data on overall volumes of public procurement in SEE and EECCA countries. Only two countries reported statistics

Box 3.8 GPP and SPP implementation at the EU and international level

- In 2006 an EU-funded survey (Bouwer, 2005) on the status of GPP in EU Member States found that currently 7 Member States (Austria, Denmark, Finland, Germany, the Netherlands, Sweden and the United Kingdom) practice a significant amount of green purchasing, i.e. more than 40 % of their tenders contained environmental criteria. The survey also revealed that GPP practice needs to be improved in all Member States, as many of the 'green' tenders were not formulated in a clear and non-discriminatory way.
- DG Environment is currently drafting a new EU Communication on GPP, and non-mandatory performance targets for GPP are being discussed with Member States. At the level of EU, 12 Member States have established or are in the process of establishing national GPP action plans. Five Member States have taken action at governmental level to implement GPP. Other Member States have reported decentralised GPP initiatives. The EU Handbook 'Buying Green', addressed to PP authorities, explains how to include environmental criteria in the various stages of a PP procedure, and presents a number of case studies from various EU Member States. The GPP website, <http://ec.europa.eu/environment/gpp/index.htm>, provides further background information on environmental criteria for products, and links to national GPP websites, to eco-label websites, etc.
- The OECD Council adopted in 2002 a Recommendation on Improving the Environmental Performance of Public Procurement. The Recommendation invites member countries to take greater account of environmental considerations in public procurement of products and services, and encourages them to develop greener public purchasing policies, as well as to take concrete steps to ensure the incorporation of environmental criteria into public procurement including environmental impacts throughout the life-cycle, while ensuring that transparency, non-discrimination and competition are preserved.
- A Marrakech Task Force on SPP was launched in 2006 with the main aim to promote and support the implementation of SPP by developing tools and capacity building in both developed and developing countries.
- The International Training Centre of ILO, in cooperation with UNEP, launched in 2007 a training programme on SPP, which will target PP officials and experts of international development institutions and national government entities.

on public procurement (PP) in 2005 as part of their reply to UNEP's SCP questionnaire. In Croatia, the estimated overall volume of procurement of governmental institutions on the national level in 2005 was EUR 4.5 billion, equivalent to about 14 % of GDP. About 80 % of this amount was awarded by public tender. In Armenia, the 2005 public procurement from the state budget was about 184 billion drams — approximately USD 0.4 billion — equivalent to about 8 % of GDP. About 26 % of this amount was procured by public tender.

Based on these limited data, it can be surmised that the yearly volume of public procurement in EECCA and SEE countries is probably in the range between 5 % and 15 % of the GDP, or equivalent of some EUR 50–150 billion across the SEE and EECCA regions. Using GPP for some of this procurement could bring significant environmental and economic benefits to every EECCA and SEE country.

Reform of public procurement systems in EECCA and SEE countries

GPP functions as a part of the overall public procurement system in a country, and when the overall system has deficiencies, the effectiveness of GPP is also negatively affected. Typical deficiencies include:

- corruption (e.g. favouritism, collusion, fraud);
- abuse of authority;
- political interference;
- low administrative capacity;
- insufficient, incomplete or unclear legal basis;
- inefficient, unfair and non-transparent tender procedures;
- lack of fair and effective dispute resolution mechanisms.

Table 3.1 Key findings of recent OECD/SIGMA country assessments of PP systems in selected countries (Country & Date Main findings (shortened original text cited directly from the respective assessment reports))

Croatia, 2004	'Croatia has implemented a new Public Procurement Law, largely modelled on the EC Directives, which introduces a number of changes and new procedures of a rather complex nature for the procurement community to consider. The quality of the Law is generally satisfactory, but a number of deficiencies still need to be addressed by the Government. The lack of adequate mechanisms for review of complaints and external audit remains a serious problem.'
Montenegro, 2004	'The Montenegrin public procurement law is incompatible with EU legislation in many crucial aspects. The law is not only stiff, costly, time-consuming, bureaucratic and inflexible, but it also allows for the application of non-competitive procedures too freely. Further substantial changes in the Law (including the development of a comprehensive set of implementing regulations) will be required in order to bring it into line with the EC Directives. Substantial work will be required to upgrade the administrative capacity and the systems for monitoring and controlling procurement activities (including the independent control and audit functions outside the procurement system itself). Continuing efforts to improve the efficiency of the public procurement system at the operational level are needed in order to ensure fair competition and professional handling of tenders, and to encourage the development of competition in the domestic market. The presence of corruption and fraud in the awarding of public contracts needs to be seriously addressed.'
Serbia, 2004	'The new PPL, largely modelled on the EC Directives (through the Slovene model), introduces changes and new procedures for the procurement community which are rather complex. The quality of the Law is generally good, but there are a number of deficiencies that need to be addressed by the Government. The Public Procurement Office established in 2003 has been able to both initiate and carry out a number of valuable activities, including the provision of training, preparation of supplementary regulations and model documents to support the implementation of the Public Procurement Law. The reform is still in its initial phase, and a lot of work remains to be done over the coming years. The lack of adequate mechanisms for review of complaints and external audit remains a serious problem.'
Ukraine, 2006	'The Sigma review concludes that the changes that have been introduced in the public procurement system during the past 12 months give rise to a number of serious concerns. Those changes will certainly not contribute to a strengthening of public procurement in Ukraine. On the contrary, the steps and actions taken as a result of recent developments will, in Sigma's view, most likely represent a significant deterioration of the system in a number of key aspects. The most important implications foreseen are that the system (i) will not promote efficient, transparent and cost-effective PP; (ii) may risk undermining the credibility and integrity of the entire public procurement system; and (iii) may not contribute to Ukraine's ambitions for closer integration with the EU and future membership of WTO.'

Source: PP assessment reports available at the SIGMA web pages (www.oecd.org).

Public procurement offices or agencies have recently been established in most SEE and several EECCA countries. Typically, these public institutions are involved in developing or amending PP legislation and are responsible for providing training to operational PP offices on all levels, including central/regional/local government and other public institutions, which are subject to PP legislation.

OECD and the World Bank recently published a joint report which summarises international good practices on procurement capacity development (OECD, 2005). This report also provides information and advice on strengthening a public procurement framework and on measuring and monitoring procurement performance in a country. In addition, OECD recently published a Methodology for Assessment of National Procurement Systems (OECD, 2006). It is somewhat surprising that neither of these two documents includes guidance and information on SPP or GPP.

The OECD SIGMA program and a World Bank support program have focused on providing advice on improving PP systems in SEE and EECCA countries. The SIGMA program, carried out on behalf of the European Commission, assessed public procurement systems in some SEE countries and in Ukraine (Table 3.1). The World Bank PP assistance program has reviewed PP systems in Armenia, Azerbaijan, Georgia, Moldova and Uzbekistan. The SIGMA and World Bank reports concluded that in spite of considerable improvements which have taken place in recent years, PP systems in most SEE and EECCA countries still have major deficiencies when compared with good international practice or EU legislation.

Overall, Croatian and Serbian PP systems were evaluated as being closest to good international practice. Continued improvements in overall PP systems in the future should eventually facilitate more widespread adoption of GPP and SPP.

GPP in current public procurement legislation and policies

Adoption of GPP practices is facilitated when national public procurement legislation contains appropriate provisions. As part of the research conducted during the preparation of this chapter, national PP legislation currently in force in SEE

and EECCA countries has been screened for notions of sustainable development, environment, environmental protection, recycling, ecology, eco-labels, certification and ISO 14001. The result of this research is presented in Table 3.2. Bulgaria and Romania were also reviewed for comparison. In general, it appears that GPP is not practiced to any significant extent.

The provision in the Uzbek Decree on Procurement of Chemicals for Agricultural Purposes concerning the consideration of ecological factors for imported chemicals covers only a small part of the GPP concept. Environment-related provisions included in Bosnian, Bulgarian, Montenegrin and Romanian PP legislation do, however, lay a basis for applying environmental (and in case of the Bulgarian PP Law, also social) criteria in public procurement. Bosnia and Herzegovina reported that environmental criteria were used in the procurement of various types of products.

According to the Croatian National PP Office, the Croatian PP Law is currently being revised and there are plans to update it with GPP provisions in line with EU practice and recommendations. To facilitate the new provision, the Croatian National PP Office plans to organise training seminars for Croatian PP managers. As Bulgaria and Romania have now joined the EU, it should be expected that EU GPP practice will gradually be implemented in these two countries. Romania is planning to create a National Action Plan on GPP in 2007⁽²⁾.

As discussed in Box 3.5, LCA and LCC are important methods to help determine the overall environmental impacts and the true costs of a good or service to be procured and purchased. The research for this chapter identified no evidence that LCA or LCC have been used or referred to in any of the procurement policies in the region. Eco-labels (see Box 3.3) can be a useful tool for GPP for defining environmental criteria in tenders. Most SEE public procurement legislation, as well as that of a number of EECCA countries, provides for the use of labels in technical specifications. However, in none of these laws is the term 'eco-label' explicitly mentioned.

Lastly, some of the PP legislation of SEE countries provides for the possibility to require ISO 9000 certification in case of procurement of certain goods and services. However, no reference to ISO 14001 could be found in the PP laws. Taking as an example the new EU Member State Romania, its

(2) Source: Reply of the Romanian Ministry of Environment and Waster Management to the UNEP SCP questionnaire.

Table 3.2 References to Sustainable Public Procurement in PP legislation currently in force in EECCA and SEE countries (and in the reference countries of Bulgaria and Romania)

Country	References to GPP/SPP found in PP legislation
Bosnia and Herzegovina	Law on Public Procurement for Bosnia and Herzegovina (2004): Article 14 <i>Technical Specifications</i> (...) (2) (...) technical specifications shall make reference to: (...) c) (...) the desired functional characteristics or performance requirements, which shall also include those related to the protection of health and safety of citizens, as well as of the environment; these characteristics or requirements must be precise and clear so as to allow the suppliers to draw up their tenders and the contracting authority to acquire the supplies, services or works fulfilling the objective requirements set by the contracting authority. Article 34, <i>Contract Award Criteria</i> (1) (...) the criteria on which the contracting authority shall base the award of contracts shall be: a) either the most economically advantageous tender for the contracting authority, based on stipulated evaluation criteria identified according to the nature and scope of the subject matter of the public contract in question, for example: quality, price, technical merit, functional and environmental characteristics, running costs, cost-effectiveness, after-sales service and technical assistance, delivery date and delivery period or period of completion; or b) the lowest price of a technically compliant tender.
Bulgaria	Public Procurement Law (1999): <i>Section V. Decision for Initiation of a Public Procurement Procedure.</i> Article 22: (2) The contracting authority may also include in the decision additional requirements to contract performance, such as: 1) those relating to the solution of environmental issues, unemployment, job creation for disabled workers, and to local resources and raw materials; 2) those relating to preserving national security, defence, and public peace; 3) those relating to stimulating small and medium-sized enterprises as subcontractors.
Montenegro	Public Procurement Law, Republic of Montenegro (2001): <i>Chapter 5: Instructions to Bidders: (...) Article 20 (...) (2) Equipment requiring supplies or maintenance:</i> Equipment shall be procured on the basis of a calculation which makes possible the determination of the lowest calculated price per unit obtained from the operations of such equipment; this determination shall (...) include, where necessary, the spare parts for preventive maintenance, the after-sales services, the payment schedule, the operating costs, the efficiency, the training, the safety, the environmental benefits or any other relevant costs for tabulation; (...) <i>Chapter 7 (...) Article 34: Evaluation and comparison (...) (5) Methods and criteria for evaluation and comparison:</i> (...) (a) for goods, among others, costs of transportation and insurance, payment schedule, delivery time, operating costs, efficiency, compatibility of the equipment, availability of services and spare parts, related training, safety, environmental benefits or losses by damages.
Romania	Governmental Emergency Ordinance No. 34/2006, approved by the Law no. 337/2006, regarding the award of the public procurement contracts, public works concession contracts and services concession contracts: <i>Section 3, Rules for elaboration of the tender documentation (...) Article 39:</i> The contracting authority has the right to impose within the tender documentation, to the extent that these are compatible with Community law, special conditions relating to the performance of the contract with the goal to obtain certain social effects or related to environmental protection and promoting the sustainable development. <i>Note: the Law explicitly mentions in various paragraphs the possibility to use environmental management systems and national or international eco-labels as technical specification in tender documentation.</i>
Uzbekistan	Decree on Procurement of Chemical Substances for Agriculture Purposes: <i>Article 8:</i> The Commission shall (...) select the winner taking into account economical, ecological and social factors of utilization of chemicals to be imported (...)

Note: All other SEE and EECCA countries (except Turkmenistan, for which no PP legislation could be identified): No GPP/SPP references found in reviewed PP legislation.

PP legislation provides for the possibility of using ISO 14001 as a selection criterion. The GPP survey revealed, indeed, that ISO 14001 has been used in the city of Timisoara, Romania, as a selection criterion in the procurement of construction work.

Overall, however, based on the results of the research for this chapter, none of the SEE and EECCA countries at present has GPP provisions in its public procurement laws, and no specific GPP policies could be identified.

3.4.3 Survey of GPP practice in SEE and EECCA countries

The information presented in this section is based on a GPP questionnaire survey carried out by UNEP and the author of the chapter between November 2006 and February 2007. A questionnaire designed to identify current GPP practices in SEE and EECCA countries ⁽³⁾ was distributed to about 350 city governments and authorities in EECCA and SEE countries, including the largest cities in each country as well as to some procurement offices in EECCA. In addition, all national public procurement offices/agencies established in SEE and EECCA were contacted to complete or distribute the questionnaire. Consultants were also contracted to conduct on-the-ground research in three cities (Bishkek in Kyrgyzstan, Timisoara in Romania, and Yerevan in Armenia) through direct interviews with relevant PP offices.

However, the response rate to the survey was poor, and only about 20 completed surveys were received. Detailed information from the responses received is available online ⁽⁴⁾. The following discussion will identify some of its key results.

Environmental criteria have not been widely used in public procurement in the categories of food/beverages, textiles/clothing, wood/furniture and paper/print. The 'worst' result, which was surprising, because the price difference between alternatives is fairly small, concerned paper/print, where only three of 19 respondents said that they have tried to procure recycled paper. Seven of 19 respondents did not know whether recycled paper actually was available in their town. None of the respondents has procured biological or organic food, although most respondents said that biological/organic food is available in their cities.

Various environment-related criteria have been used in the procurement of vehicles. In Yerevan, three respondents have used the criterion 'vehicles should run on natural gas', which may reflect a growing awareness of the economical and environmental benefits of the use of natural gas (see Chapter). Energy-saving criteria have been widely used in the procurement of machinery. Only 4 out of 16 respondents indicated initiatives to procure energy-saving light bulbs.

ISO 14001 certification has been a requirement for construction-related tenders in Timisoara, Romania, but not elsewhere and not in the provision of cleaning and gardening services. Energy-saving criteria have been used quite widely in procuring construction work. There is a limited experience with environment-related criteria for cleaning products and chemical products used in public parks and green areas. Experience in buying eco-technologies also appears to be very limited.

As regards information sources used for defining environmental criteria, the survey showed that information from the internet is the most commonly used source. As for the obstacles to GPP, no clear trend could be detected from the replies. This shows that GPP is a new concept in SEE and EECCA, and that a wide range of activities will be necessary to overcome obstacles.

In regard to support for overcoming obstacles to GPP, access to information, experience exchange with similar organisations from abroad and training were the categories selected by most of the respondents. Only two of 18 respondents thought that work aimed at amending national procurement legislation would be useful.

The results presented above can serve as only an incomplete indication of current experience with GPP in SEE and EECCA countries. To draw more firm conclusions and recommendations, a comprehensive survey of the status of GPP in the EECCA and SEE regions would be needed. Such a survey should not only focus on self-assessments of PP offices. It ought also to include independent expert analyses of environmental criteria as required in actual tenders.

The notion that self-assessments might be too optimistic is based on a finding of a recent similar study for the EU (Bouwer, 2005). This study not only asked PP officers about their use of environmental criteria in procurement, but also included tender analysis by independent specialists. The investigation found that out of 865 questionnaire responses from all EU Member States, 67 % of respondents said that environmental criteria were used in purchasing. However, the analysis of about 1 100 tenders by independent experts revealed that only 37 % of all analysed tenders actually included sound environmental criteria. In addition, a large number of

⁽³⁾ For this purpose, a questionnaire used for a similar study on GPP practice in the EU (Bouwer, 2005) was adapted to SEE/EECCA circumstances.

⁽⁴⁾ Please see UNEP's website at: www.unep.ch/scoe for detailed results of the GPP survey.

analysed tenders did contain environmental criteria, but these criteria were not well defined and it was unlikely that the tenders would result in greener purchases ⁽⁵⁾.

3.4.4 Prospects for GPP in the SEE and EECCA countries

Given that public procurement in SEE and EECCA countries is estimated at between EUR 50 and 150 billion, Green Public Procurement offers a substantial potential for environmental and economic benefits, including reduced emissions and waste, an increase in energy efficiency, support for eco-technologies, development of eco-industry, and a contribution to economic growth and job creation. One of these benefits, the positive effect on the eco-industry sector, should be emphasised. A stronger eco-industry sector in SEE/EECCA countries would greatly facilitate the implementation of environmental policies and improve dissemination of environmental technologies in local markets.

So far, however, there has been very little progress in implementing GPP in EECCA and SEE countries. GPP is a new concept in the region and very few steps to adopt GPP have been taken. Only 4 out of 18 countries covered by this report have established some legal basis for GPP. None of the countries has a national GPP policy in place. Even where GPP-relevant provisions have been enacted in legislation in a few countries, operational policies are lacking. There appears to be little understanding of environmental and social aspects in procurement, in national public procurement institutions (regulatory, supervisory and supporting bodies), and on the operational level.

Procurement offices had limited knowledge about availability of greener goods and services. Except for Croatia, Serbia, and Uzbekistan, none of the countries in the EECCA and SEE regions has introduced eco-labels. Life-cycle assessment and costing have not been applied so far, and ISO 14001 is not yet widely used in public tendering. Despite considerable improvements in recent years, national public procurement systems in most EECCA and many SEE countries require additional efforts to live up to good international practice.

In spite of the absence of GPP policies, there are indications, nonetheless, that some public procurement offices in SEE and EECCA countries

have occasionally used certain environmental criteria in tender documentation. Such criteria were primarily used in cases where obvious and quick economic gains could be had (e.g. energy saving equipment, fuel efficient cars). Experience is very limited with more complex environmental criteria and with the purchase of environmentally sound products and services.

Several factors could facilitate future progress with Green Public Procurement in SEE and EECCA countries:

- A growing amount of information and literature on GPP is already available on the internet, and could be used to advance GPP and SPP. However, most of this information was elaborated in and for OECD countries, and would need to be adapted to EECCA and SEE conditions. Unfortunately, most of this documentation is available only in English.
- So far, no targeted international work related to SPP and GPP has been completed, or even started, in EECCA and SEE countries. Closer collaboration between EECCA and SEE countries and those regions and countries with experience and know-how of SPP and GPP practices could be beneficial.
- There is a broad range of possible support activities. On the national level, it would be desirable to strengthen public procurement systems, enact a legal basis for GPP/SPP, and develop national GPP/SPP strategies. On the operational level, training, information resources and other practical assistance will be required. Numerous projects facilitating GPP and SPP are already on-going in OECD countries.
- A nation-wide comprehensive effort would be necessary to realise the great potential for GPP in EECCA and SEE countries. Support and action would be required from national public procurement offices (regulatory, supervisory and supporting bodies), and closer cooperation between environmental authorities and national public procurement offices will be essential.
- A powerful signal could be given to the governments and the public in the region, if GPP were applied to procurement projects carried out under multilateral and bilateral assistance programmes in EECCA and SEE.

⁽⁵⁾ An example of such an unclear criteria, which likely will not result in greener purchases, would be the following criteria found in some of the analysed tenders: 'Environmental aspects are considered'.

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- UNEP SPP work; see <http://www.uneptie.org/pc/sustain/policies/green-proc.htm>.
- ITC ILO SPP training program; see http://www.itcilo.org/pub/page_calendar_list.php.
- Marrakech Task Force on SPP <http://www.un.org/esa/sustdev/sdissues/consumption/Marrakech/conprod10Y.htm>.
- SIGMA homepage at OECD (www.oecd.org) – Information and analysis on PP in OECD and SEE countries, many links.
- www.procuraplus.org, Procura+ is an ICLEI GPP initiative currently working with 30 municipalities/cities in nine countries.
- United Kingdom's SPP websites; see <http://www.sustainable-development.gov.uk/government/task-forces/procurement/index.htm>; and <http://www.defra.gov.uk/environment/business/scp/>.
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