

**Stakeholder Workshop**  
**Legislation on Costal Zone Management**  
March 16, 2009, Ministry of Environmental Protection of Ukraine, Aarhus Centre, Kyiv  
**Minutes**

**Welcoming remarks:**

**Mr. Bon`** opened the Stakeholder Workshop on Legislation on Costal Zone Management. He explained to the participants the main objective of the workshop which was to discuss the draft Law of Ukraine developed by the ECBSea national legal expert in collaboration with other national experts of the Legal and ICZM Working Group (WG) lead by the ECBSea key legal expert in order to receive comments and recommendations on the next steps in the legislative process. He evaluated the draft law as a very professional advanced document and thanked the Project team for their job. He suggested building the meeting in accordance with agenda: first listen to theoretical information and then discuss in details the draft law. He suggested that the participants should introduce themselves which was done.

**Ms. Panina** welcomed the participants on behalf of the ECBSea Project and thanked them for their willingness to participate in the meeting. She briefed the audience on the project objectives, beneficiaries and partners, activities and accomplishments. The Project's overall objective is to contribute to the sustainable development of the Black Sea Basin by: prevention and reduction of pollution to the Black Sea (from river discharges or direct discharges); sustainable management of natural resources; and protection of the biodiversity of the Black Sea basin. The beneficiary countries are: Georgia, Ukraine (Black Sea coastal states), and Moldova which belong to the Black Sea basin and is the nearest country to the Black Sea coast. Another beneficiary of the Project is the Permanent Secretariat of the Black Sea Commission. Project Partners are Ministry of Environment Protection and Natural Resources in Georgia, Ministry of Environment and Natural Resources in Moldova, Ministry of Environmental Protection in Ukraine and the Permanent Secretariat of the Black Sea Commission. Ms Panina outlined the project activities in countries-beneficiaries. She pointed out that in Georgia, the ICZM pilot projects were implemented in the local coastal community of Tskaltsminda village and that the Project also assisted Georgia in developing a National ICZM Strategy. The IZCM Working Group was established to facilitate this process. The Draft ICZM Strategy was discussed at a public hearing in September 2008 and its public presentation was made in February, 2009 in Tbilisi. In Moldova the ECBSea international and national experts worked on the improvement of water legislation through its convergence with the EU legal requirements, in particular with the EU Water Framework Directive and other water related EU Directives. The draft regulations and convergence plans as well as regulatory impact assessment of developed regulations were discussed at a multi-stakeholder workshop in Chisinau on October 30, 2008. As for the project products in Ukraine, Guidelines for the Establishment of the Marine Protected Areas in the Black Sea were developed through a stakeholder consultation process. They were also discussed and approved by the CBD Advisory Group of the Black Sea Commission. Some activities under the pilot projects on the establishment of the first marine protected area in the Black Sea (Small Phyllophora Field) in Karkinitsky Bay are already completed and the results achieved, the rest of the assignments are being finalized. Then Ms Panina drew special attention of the audience to the legal component in Ukraine. The Project set up a working group (WG) of local experts lead by the key legal expert for drafting the Law of Ukraine on Coastal Zone as was requested by the Ministry at the initial stage of the Project implementation. More than ten WG meetings took place since then including joint meetings and consultations with the Ministry representatives for discussion and improvement of the draft Law which was submitted to the Ministry and sent to the members of the Project Steering Committee (SC). At the 3<sup>rd</sup> SC meeting (November, 2008) it was confirmed that the work had been completed and the project product submitted to the beneficiary. But later following the meeting of the ECBSea Project experts with the Ministry representatives it was decided to continue the work on the draft Law improvement in order to come up with the draft document which could to the utmost meet the expectations of the

beneficiary partner. It was also decided to convene the meeting in order to present the draft document, discuss it and get comments of the stakeholders from the central and local governmental bodies of Ukraine, state administrations and local authorities in the Black Sea oblasts, as well as researchers and NGOs.

Finally, Ms. Panina introduced the members of the ECBSea national legal and ICZM WG lead by Claire Dupont, Key Legal Expert; Natalia Malysheva, National Legal Expert; Tamara Panchenko, National Expert on Territorial Planning in Coastal Zone; Viktor Karamushka, National Expert on Sustainable Development and Institutional Policy and Natalia Chyzhmakova, BSC AG-ICZM representative from Ukraine. She also expressed hope that it would be an efficient discussion.

**Ms. Dupont** in her welcoming remarks greeted the participants and highlighted the main objective of the workshop, which was to discuss the draft Law and collect comments from all the participants. She added that from her point of view the main problem in Ukraine lies in the field of law implementation.

**Mr. Bon`** made a remark about the urgent need for coastal zone regulation in Ukraine and then invited Mr Karamushka to take the floor.

**Mr. Karamushka** gave a **presentation “ICZM and territorial planning”** (see power point presentation)

**Mr. Karamushka** started his presentation with the definition of the Integrated Coastal Zone Management. He said that because of different definitions the problem is very difficult to resolve. This point was confirmed during the discussion that followed. He also admitted that the lack of systemic integrated coastal zone management is one of the main problems of both the Azov Sea and Black Sea environment. In his presentation Mr Karamushka suggested the following practical steps on ICZM to be taken: an inventory of coastal zone mapping and territory zoning; estimation of natural resources; inventory of economic players; inventory of objects of contamination of territory and aquatorium; estimation of demands and possible scenarios of the development; and the estimation of the institutional framework, legislative base and economic mechanisms.

**Mr. Karamushka** mentioned that there are many active projects that unfortunately are not successfully implemented in Ukraine because the partnership of authorities, nongovernmental and private sectors and coordinated approach to the problem has not yet been built. He presented different kinds of territory zoning according to different Ukrainian laws (Land Code, Law on resorts, Water Code etc.). **Mr. Karamushka** concluded that it is necessary to agree on the definition of coastal zone.

**Mr. Nikolenko** expressed his concern about illegal privatization of the sea coastal zone, which caused extensive pollution of the sea and coastal zone, restricted access to beaches. He pointed to the problem of uncoordinated activities of central, oblast and local authorities expressed his concern about the long-term leasing of the plots in coastal zone through permits issued by the Ministry of Environmental Protection. He also spoke about the problem of shipping of toxic matters in the Dnipro-Buhski liman, which destroys the flora and fauna in this area.

**Mr. Mukha** made a remark about inconsistency of the legislation, indicating the availability of three types of property: public, communal and private.

**Mr. Bon`** replied to this remark that law positions on differentiation of plenary powers have been working out. It was said that the coastal zone area is a very sensitive area, where the interests of authorities, business and public intersect. It is imperative that the strict legal accountability for infringement is exercised. The national legislation provides for the tools for regulating the relationships in the coastal zone though there are problems of law implementation. Mr Bon then gave the floor to Mrs. Panchenko.

## **Presentation “Territorial development and planning of coastal zone”**

(see notes of the presentation)

**Prof. Panchenko** started her report pointing out that many (about 20) different legislative acts, codes and provisions on coastal zone exist in different Ukrainian laws: on resorts, on tourism, on land, etc. Unfortunately there is no complex system of searching and reading all acts and codes related to coastal zone - they are independent and not coordinated.

She stressed that the coastal zone is a very special resourceful area. According to the scheme of the Research Institute “Dipromisto” the area of the Azov-Black Sea region is 59227, 6 square km, which constitutes 10% of the territory of administrative regions and cities of Ukraine. The length of the coast is 2759,2 km. This includes 1321 km of beaches. There are 2 national preservation areas, 6 natural preservation areas, 35 reserves, 10 park monuments and more than 30 resorts. 56 marine cities and villages and 74 other cities are situated in coastal zone. The resort-recreation capacity is about 455 thousand places at the beach. The beaches occupy about 47,9% of coastal zone, rocks - about 10,9% and 7,5% of coastal territories are suitable for artificial beaches. Many beaches and other territories of coastal zone are in lease. This means that only private interests are observed there. The coastal protected area has to be the most protected, but unfortunately it is the most urbanized area.

**Prof. Panchenko** concluded that all kinds of coastal territories must be counted in numbers and defined as administrative districts to ensure they are managed reasonably. It would be also useful to distinguish coastal zones of different kinds as resort-recreation, agricultural, industrial or nature protected areas. Tourist beach areas are special and most important. All details such as first-aid points, moorings and rental of beach equipment should be carefully considered and provided for legally. Acts and codes provisions on the use of all the above areas must include all the details.

**Mr. Bon`** thanked Mrs Panchenko for the report which included useful facts and figures. Next was the presentation by Ms Kovalchuk of the Crimean NGO.

## **Presentation “The example of Crimea: conflicts in coastal zone”** (see power point presentation)

**Ms. Kovalchuk** started with a definition of conflict. She defined the conflict as a sum of conflict situations, which often repeat. The basis of conflict in the coastal areas in Crimea is land. She pointed out the reasons for this: lack of unified system of monitoring and control; lack of motivation to change the law; chaotic and non-transparent activities in this area; repugnant law provisions; corruption of state authorities; and inactivity of the local community which does not protest against development activity in coastal areas. Ms Kovalchuk admitted that the most important problem connected with coastal development in Crimea is the lack of central sewerage system and sewage -pipe. That’s why the developers build local sewerage systems, which are most often deficient and as a result discharge sewage into sea. She made an example of the sewerage systems in Feodosia.

Further **Ms. Kovalchuk** said that the law provisions on sanitary areas are not observed. These areas are built-up with private hotels and houses. Sanitary areas are not yet marked off on the general development plan of coastal zone. She expressed the opinion that the delay in defining the boundaries of sanitary area is intentional to allow building to continue. One more very serious and dangerous problem was pointed out – a burial of military shells on the Black Sea bottom at the depth of 15 meters and at the distance of 800 meters from the sea shore. Each year shells are thrown out to the seashore.

At the end of her presentation **Ms. Kovalchuk** called to stop the development of protected areas. She also highlighted that all kinds of activities in coastal area must undergo a complex

environmental impact assessment with the public involvement. Sanitary zones in the coastal area must be marked off and any economic and other adverse activities there must be prohibited.

**Mr. Bon`** asked **Ms Kovalchuk** if she could provide the Ministry of Environmental Protection of Ukraine with the corresponding data on the situation in the coastal area including the infringements and pictures if available.

**Ms Sats** made a remark that mineral springs in Crimea are used not properly by sanatoriums because of the high level of tax rates for mineral water. It is necessary to distinguish tax rates for mineral, mineralized, balneological, bottled water taking into consideration medical recreational influence of different kinds of water to make them lower for these purposes. At the moment tax law is not clear about this and there is misinterpretation of notion “mineral water” there. There is a necessity to make an order and describe different kinds of mineral water and its influence to human health and in accordance to this establish lower level of tax rates. Unfortunately at the moment the recreational capacity of Crimea is not used properly and the reasonable use of natural resources available for medical and health purposes is not encouraged. **Ms Sats** suggested including in the Law on CZM the phrase: It is necessary to evaluate the supplies of mineral water, used within CZ in accordance with hydrogeological services conclusions.

**Mr. Bon`** recognized Ms Claire Dupont.

**Presentation “An example of national legislation in the EU: the French Law on Littoral”**  
(see power point presentation)

**Ms. Dupont** started her presentation with the fact that there is a complex approach to the legislation in France. First, all legislation is accessible to public on the web. Second, it is possible to search all articles, acts and codes related to problem. She made an example of Law on Coastal Development, Protection and Enhancement (Littoral Law), which introduces amendments and additions to a range of codes and laws, in particular: the Environmental Code, the Urbanism Code (new chapter – conditions of use of land and marine areas in coastal areas), the Tourism Code, the Public Health Code and the Municipalities Code. She admitted that French law on littoral is close to Ukrainian one that is why it is worth consideration. Further she pointed that there is no legal definition of the Coastal zone - ‘littoral’ is defined as a geographical entity which calls for a specific policy of development, protection and enhancement. The law defines what littoral municipalities are. List of the littoral municipalities is established by Decree, after consultation of interested municipal public bodies. Specific rules and requirements are applied in these municipalities.

Ms Dupont told about general requirements which should be executed. The carrying capacity is a key issue for coastal zones. However, this notion is not well understood and, hence, not applied correctly. It should not be limited to considering the whole territory and then simply taking out the areas listed in this provision. Other elements should be taken into account such as the landscape, transportation, ecosystems, etc. NB: economic activities cover maritime, forestry, grazing and agricultural activities. The objective is to cut the urbanization by areas with no or very little isolated buildings (only pre-existing buildings). Such zones would be classified as agricultural lands or natural areas in territorial planning documents. She paid special attention to the principle of free public access to the beaches.

**Ms Dupont** also told about restrictions specific to certain areas: remarkable areas are determined in law and the list includes areas such as legally protected areas, dunes, forests located near the coast, small islands, natural parts of estuaries, wetlands, 100 meters strip, areas close to the shore. There are three levels of territorial planning:

1. Central State for large parts of the territory sets key directions of the State development policy.
2. Local level - Inter-municipalities sets broad development policy objectives.
3. Local level – Municipalities carries out planning, detailed urban planning.

She demonstrated the example of the territorial planning map, which is available in the Internet.

At the end of her presentation Ms Dupont listed public bodies responsible for the protection and enhancement of the coastal zone in France.

**Presentation “The draft law on Coastal Zone: key features”** (see power point presentation)

**Prof. Malysheva** expressed her opinion that an independent law on integrated coastal zone management is needed in Ukraine. The ECBSea Working Group developed the draft law on coastal zone based on the existing acts, codes and law provisions. Prof. Malysheva listed all of them. She also took into consideration international experience and laws of European marine countries such as France, Greece, United Kingdom, Portugal, etc. Then she proceeded to definition of the coastal zone - area of contact of dry land and sea, which passes along all coastline of sea and includes dry land natural and anthropogenic complexes, which are under act of sea, and adjoining marine aquatorium which is under act of bank, the sizes and the limits of which are determined in accordance with the requirements of this Law.

**Mr. Bon`** remarked that Ministry appreciates very much the developed draft law.

It is very important to agree on the definition of the coastal zone taking into account the concerns of all stakeholders.

**Prof. Malysheva** gave definitions of the water protective area, coastal protected strip and beach zone according to current legislation of Ukraine. She pointed out that the legal mode of use of coastal zone must be set and controlled by the authorities, as well as monitored by NGOs. It is logical to set the general mode for use of the whole territory of coastal zone and special modes for the territories within the coastal zone (coastal aquatorium, beach area, coastal protected area, bank-protection area, sanitary area, etc.)

In this version of the draft law Prof. Malysheva suggested the following p.2. article13.section 3: *New building in the distance of two km from water to establishment of off-shore defence zone and bank-protection area of sea is forbidden.* The features of the economic use within the limits of Law are set by the Development Plan of Coastal Zone. Special legal mode of use of coastal zone is provided by Ukrainian current law (land code, law on resorts, law on nature protected fund). She named the subjects of coastal zone management and coordination councils on ICZM issues.

**Mr. Karamushka** before opening the thematic discussion said that it was a hard and solid work that was done on the law drafting. He expressed his opinion that the work was very important and encouraged the participants to ask questions and make their comments.

The participants actively discussed articles of the draft law, definitions of the coastal zone and approaches to it.

**Mr. Molodan** pointed out to p.2, Art.13, Section 3 and to the President Degree about the development of national parks in Ukraine. There is a contradiction. He suggested taking this point away in a separate section about the building.

There was the clarification that building of national parks is a different building, not actually quite building but development of parks. It is described in the law on nature protected fund.

**Ms. Sats** remarked that there are many off-shore settlements, where building is already planned. The formulation in the point 2, article 13, section 3 is too strong and might cause unexpected feedback of developers. She suggested softening the wording “in case of general city plan absence”. She also added that it’s necessary to take into consideration the opening of opening of new natural sources of water. In case of opening of new natural sources of water and necessity of the development of recreational zone the building should be allowed as an exception.

**Mr. Bon`** added to **Ms Sats's** remark that the planned building is connected with financial matters which also very serious.

**Prof. Malysheva** marked that this point will be put in an operation in a year after acceptance. It's possible to agree on the time frame for reconsidering the plans.

**Mr. Mukha** remarked that all the issues on the building must be coordinated and solved within the legal field. In accordance with the practice the coastal zone is established within settlements. For example, in Odessa according to the general city plan 4 km of the coastal zone are port buildings, 10-15 km – beaches. He also announced principles of forming of coastal protective area according to the law: free access; territories within coastal protective area can be in a peculiar; vertical access or access on system of recreational buildings.

As for the coastal zone, according to the law if settlement is included in the coastal zone there must be a sanitary zone with full engineering network, greenery zone, etc, but in Odessa sewage system passes on a coastal area. It is breaking a technology.

In Donetsk Metallurgical plant is situated in the centre of the city. It was agreed and approved during the development of the building project that sanitary zone will be created around it.

It is necessary and very important to define a limit between coastal zone and protective area.

P 2.art.2, section1 should be added that: *the developers' actions must be coordinated (or must be based on) in accordance with the general city planning documentation.* General city plan defines the parameters of building.

Also coastal zone should include social aspect.

In recreation zones the number of places at beach is very important, because recreation loading is formed depending on that, then the proper infrastructure is built. It differs within settlement and out of settlement. It should be written in the law. It is necessary to set a dynamic constituent regarding prospective development of beaches.

**Ms. Gutsal** requested to give an argument for the benefit of the coastal zone definition provided in the draft Law which corresponds to the water protection zone without consideration of the administrative territories.

**Prof. Malysheva** replied that for administrative area it will be impossible to set the unified mode of use. But for water protective area the special mode of use was already set in the Ukrainian legislation and it is just a matter of executing the law.

**Ms .Gutsal** said that it was not expedient to consider the coastal zone only as a water protective area. It should be considered in broader terms.

**Ms. Chyzhmakova** suggested two approaches – water protective area and settlement area.

**Ms. Sats** commented that it is very good approach to take into account and refer to all current laws connected with coastal zone. The misinterpretation of terminology does exist and this draft law has to set a unified terminology. She suggested not taking term “coastal zone” just to the sea.

She marked that there is a contradictions in the law on the environment, law on land and law on water. It's necessary to revise all of them.

**Ms. Sats** suggested that it's better to take Code on Water, Environmental Law and Land Law as a basis for the Law on Coastal Zone Management. There are very well described articles, taken from international practice, in these laws and codes on what should be included in the coastal zone. They say that only industrial enterprises directly connected with the sea within 2 km coastal zone should be included in the CZ. Other enterprises and settlements should not.

She added that it's not described in the Ukrainian law on Resorts and it's not reasonable to take it as a basis.

**Mr. Bon`** encouraged participants to consider territories outside a settlement. For example, Crimea is built. We have to create the management system that allows planning preserves, parks and gardens. The definition of coastal zone should be considered wider than we do.

**Mr. Berezovsky** said that he liked French law. He raised the problem of management levels and planning. He pointed out that the planning and management of the coastal zone is carried out by oblasts, but not by central government.

**Mr. Karamushka** said that the planning of the coastal zone development is very important especially if it is a recreation centre. It's necessary to think out carefully about living conditions, meals, etc.

**Ms. Gutsal** informed the participants that the Ministry had prepared their own version of the draft Law on coastal zone which was passed to the Project expert group.

**Mr. Bilenky** said that there are general city planning documents. If this law is accepted then all the above documents should be revised and changed.

**Prof. Malysheva** pointed out that the draft Law under discussion was an attempt to integrate all Ukrainian legislation related to ICZM implementing the general city planning documents.

**Ms. Sats** noted that the Project developed a solid draft Law which would become a really solid and advanced draft document after some improvement.

The participants concluded that there were many issues which needed further discussion and consultation.

**Ms. Kovalchuk** suggested including in the definition of coastal zone the notion "functional".

**Prof. Malysheva** thanked participants for their comments.

**Ms. Panina** on behalf of the ECBSea Project thanked everybody for their participation and active discussion. She said that the draft Law was accessible on the Project web site, and that the work on it would be continued based on that discussion and comments from the stakeholders which could be sent to the Project mailbox. After the revision the updated draft Law would be posted on the ECBSea Project web site.

**Mr. Bon`** thanked the Project team for their efficient work and participants for their input into draft Law discussion pointing out that the meeting was convened to find solutions and if possible, consensus on approaches to some of the Law provisions as soon as there had been a difference of opinions between the actors. He said that the Ministry had been working on the draft Law on Coastal Zone for about 4 years and expressed the hope that the work would be finalized in the near future.