

Questionnaire for the

REPORT OF **ALBANIA** ON THE IMPLEMENTATION OF THE PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT TO THE CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT

in the period 2010-2012

Information on the focal point for the Protocol

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Date on which report was completed: 28.03.2013

PART ONE – CURRENT LEGAL AND ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE PROTOCOL

In this part, please describe the legal, administrative and other measures taken in your country to implement the provisions of the Protocol. This part should describe the framework for your country's implementation, and not experience in the application of the Protocol.

Article 2 - Definitions:

1. Is the definition of plans and programmes for the purpose of the Protocol the same in your legislation as in article 2, paragraph 5? Please specify.

- a) Yes ☒
- b) Yes, with some differences:
- c) No (please provide the definition):
- d) There are no definitions of plans and programmes in the legislation ☐

Your comments:

2. Is the definition of “environmental, including health effect” in your legislation the same as in article 2, paragraph 7? Please specify.

- a) Yes ☒
- b) Yes, with some differences:
- c) No (please provide the definition):
- d) There is no definition of “environmental, including health effect” in the legislation ☐

Your comments:

3. Is the definition of “the public” according to article 2, paragraph 8, in your legislation the same as in the Protocol? Please specify.

- a) Yes ☒
- b) Yes, with some differences:
- c) No (please provide the definition):
- d) There is no definition of the public in the legislation ☐

Your comments:

4. Are there any conditions for non-governmental organizations to be able to take part in the assessment procedure? Please specify.

- a) Yes (please provide the conditions): ☒ The procedure is envisaged in the planning legislation and SEA law nr.91 date 28.2.2013
- b) No ☐

Your comments:

Article 3 – General provisions:

5. Provide legislative, regulatory and other measures you have adopted in your country to implement the Protocol (art. 3, para. 1) (you can choose more than one option).

- a) Law on SEA (please indicate number/year/name): ☒ Law No. 91, dated 28.2.2012 „On the strategic environmental assessment“
- b) SEA provisions are transposed into another law(s) (please specify):
- c) Regulation (please indicate number/year/name):
- d) Administrative (please indicate number/year/name):
- e) Other (please specify):

Your comments:

6. Indicate the specific legislation in your country, if any, that assures that the requirements of article 3, paragraphs 6 and 7, are met, and that these rights of the public are observed (you can choose more than one option).

- a) Constitution ☐
- b) Law on public participation (please indicate number/year/name): DCM no 994/2008 „on public participation in the environmental decision making“
- c) Law on SEA ☒
- d) Legislation which transposes the Protocol on SEA (please indicate number/year/name): Law No. 9424, date 06.10.2005 „On the ratification of the Protocol on the Strategic Environment Assessment“
- e) Legislation which transposes the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (please indicate number/year/name):
- f) Other (please, specify): The ESPOO convention was ratified in 4 October 1991 from Albania. Also Albania has approved the Law No. 9478, date 16.02.2006 „On the accession of the Republic of Albania in the decisions II/14 and III/7 of the ESPOO Convention - the environmental impact assessment in a transboundary context“

Your comments:

Article 4 – Field of application

7. List the types of plans and programs that require SEA in your legislation (art. 4, para. 2).

Plans or programs prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in listed in annex I and any other project listed in annex II that requires an environmental impact assessment under national legislation.

8. Explain how you define whether a plan or programme “set the framework for future development consent” (art. 4, para. 2).

Based on the annex I and any other project listed in annex II that requires an environmental impact assessment under national legislation.

9. Explain how the terms “plans and programs . . . which determine the use of small areas at local level” (art. 4, para. 4) are interpreted in your legislation.

Based on (article 8 of SEA law) a screening procedure it is assessed the scale of the PP and the possible effects into the environment. Annex I of the law on SE is used to as criteria for determining of the likely significant environmental, including health.

10. Explain how you identify in your legislation a “minor modification” to a plan or programme (art. 4, para. 4).

Based on (article 8 of SEA law) a screening procedure it is assessed the scale of the PP and the possible effects into the environment. Annex I of the law on SE is used to as criteria for determining of the likely significant environmental, including health.

Article 5 – Screening

11. How do you determine which other plans and programs should be subject to a SEA according to article 4, paragraphs 3 and 4 (art. 5, para. 1)? Please specify.

- a) On a case-by-case basis ☐
- b) By specifying types of plans and programs ☒
- c) By using a combination of (a) and (b) ☐
- d) Other (please specify):

Your comments:

12. Describe the procedures required in your legislation for consulting the environmental and health authorities (art. 5, para. 2, art. 6, para. 2, and art. 9, para. 1). If different in screening, scoping and on the draft plans and programmes and the environmental report, please specify.

Based on the SEA law during scoping procedure (beside the approval of the list of PP will be in coordination with the interested parties, authorities and public)

13. Do you provide opportunities for the public concerned to participate in screening and/or scoping of plans and programmes in your legislation (art. 5, para. 3, and art. 6, para. 3)? If yes, please specify (you can choose more than one option).

- a) By sending written comments to the competent authority ☒
- b) By sending written comments to the local municipality ☐
- c) By providing answers to a questionnaire ☐
- d) By taking part in a public hearing ☒
- e) There are no opportunities for public participation in screening and/or scoping ☐
- f) Other (please specify):

Your comments:

14. At what stage of the procedure for a plan or programme does your legislation require you to make the screening decision publicly available? What information do you provide in the screening decision (art. 5, para. 4)?

At the conceptual/initial phase, when the initiative is notified by the planning authorities.

Article 6 – Scoping

15. How do you determine what is relevant information to be included in the environmental report in accordance with article 7, paragraph 2 (art. 6, para. 1)? Please specify (you can choose more than one option).

- a) By using annex IV ☒
- b) By using the comments from the concerned authorities ☒
- c) By using the comments from the public concerned, if it has been consulted ☒
- d) As determined by the competent authority based on its own expertise ☒
- e) By using other means (please specify):

Your comments:

Beside the Annex IV it is a combination of all other letters of above paragraph.

Article 7 – Environmental report

16. How do you determine “reasonable alternatives” in the context of the environmental report (art. 7, para. 2)? Please specify.

- a) On a case-by-case basis ☒
- b) As defined in the national legislation (please specify):

Your comments:

17. How do you ensure sufficient quality of the reports? Please specify.

- a) The competent authority checks the information provided and ensures it includes all information required under annex IV as a minimum before making it available for comments ☒
- b) By using quality check lists ☐
- c) There are no specific procedures or mechanisms ☒
- d) Other (please specify):

Your comments:

Article 8 – Public participation

18. How do you ensure the “timely public availability” of draft plans and programmes and the environmental report (art. 8, para. 2)? Please specify (you can choose more than one option).

- a) Through public notices ☒
- b) Through electronic media ☒
- c) Through other means (please specify):

Your comments:

19. How do you identify the public concerned (art. 8, para. 3)? Please specify (you can choose more than one option).

- a) Based on the geographical location of the plans and programs ☐
- b) By making the information available to all public and letting them identify themselves as public concerned ☒
- c) By other means (please specify):
- d) Your comments:

20. How can the public concerned express its opinion on the draft plans and programmes and the environmental report (art. 8, para. 4)? Please specify (you can choose more than one option).

- a) By sending comments to the relevant authority/focal point ☒
- b) By providing answers to a questionnaire ☐
- c) Orally ☐
- d) By taking part in a public hearing ☒
- e) Other (please specify):

Your comments:

21. Do you have a definition in your legislation of the term “within a reasonable time frame” (art. 8, para. 4)? Please specify.

- a) Yes ☒ (please provide the definition): Article 10, point 5 of SEA Law no 91 dated 28/1/2013 stipulates 30 days available for the public to comment the environmental report of PP.
- b) No, the time frame is given by a number of days for each commenting period ☐
- c) No, it is defined case by case ☐
- d) Other (please, specify):

Your comments:

Article 10 – Transboundary consultations

22. As a Party of origin, when do you notify the affected Party (art. 10, para. 1)? Please specify.

- a) During scoping ☒
- b) When the draft plan or programme and the environmental report have been prepared ☐
- c) At other times (please specify):

Your comments:

23. As a Party of origin, what information, do you include in the notification (art. 10, para. 2)? Please specify.

- a) The information required by article 10, paragraph 2 ☒
- b) The information required by article 10, paragraph 2, plus additional information (please specify):

Your comments:

24. As a Party of origin, does your legislation indicate a reasonable time frame for the transmission of comments from the affected Party (art. 10, para. 2)? Please specify.

- a) Yes ☒ (please, indicate how long): at least 30 days.
- b) No ☐

Your comments:

25. If the affected Party has indicated that it wishes to enter into consultations, how are the detailed arrangements, including the time frame for consultations, agreed (art. 10, paras. 3 and 4)? Please specify.

- a) Following those of the Party of origin ☒
- b) Following those of the affected Party ☐
- c) Other (please specify):

Your comments:

Article 11 – Decision

26. When a plan or programme is adopted, explain how your country ensures that due account is taken of the (art. 11, para. 1).

- a) Conclusions of the environmental report ☒
- b) Mitigation measures ☒
- c) Comments received in accordance with articles 8 to 10 ☒

Your comments:

27. How and when do you inform your own public and authorities (art. 11, para. 2)?
Immediately when the decision is made it is being published at the decision making authority webpage and official gazette.

28. How do you inform the public and authorities of the affected Party (art. 11, para. 2)?
Immediately when the decision is made it is being published at the decision making authority webpage and official gazette.

- a) By informing the point of contact ☐
- b) By informing the contact person of the ministry responsible for SEA, who then follows the national procedure and informs his/her own authorities and public ☐
- c) By informing all the authorities involved in the assessment and letting them inform their own public ☒
- d) Other (please, specify):

Your comments:

Article 12 – Monitoring

29. Describe the legal requirements for monitoring the significant environmental, including health, effects of the implementation of the plans and programmes adopted under article 11 (art. 12, paras. 1 and 2).

Article 15 of the SEA law requires the monitoring to be conducted during the implementation of the PP.

Article 13 – Policies and legislation

30. Do you have national legislation on the application of principles and elements of the Protocol as regards policies and legislation (art. 13, paras. 1–3)? Please specify.

- a) Yes (please specify which articles of the Protocol apply):
- b) No ☒

Your comments:

PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2010 -2012

In this part, please report on your country's practical experiences in applying the Protocol (and not your country's procedures, which were described in part one). The focus of this section should be on identifying good practices as well as difficulties encountered in applying the Protocol in practice. The goal is to enable Parties to share solutions. Please therefore provide appropriate examples highlighting

application of the Protocol in your country and innovative approaches to improve its application.

31. Does your country object to the information on SEA procedures provided in this section being compiled and made available on the website of the Protocol? Please specify (indicate "yes" if you object).

- a) Yes ☐
b) No ☒

DOMESTIC AND TRANSBOUNDARY IMPLEMENTATION IN THE PERIOD 2010–2012

32. Which competent authority/authorities are responsible for carrying out the SEA procedure in your country? Please specify.

The Ministry of Environment, Forestry and Water Administration.

- a) If they are different for different types of plans and programs ☐
b) If they are different at different levels (national, regional, local) ☐
c) If they are different for domestic and transboundary procedures ☐
d) Please name the responsible authority/authorities:

33. Does your SEA documentation always include a specific (sub)chapter on information on potential transboundary effects? Please specify.

- a) Yes ☒
b) No, only when potential transboundary effects are identified ☐

CASES DURING THE PERIOD 2010-2012

34. If possible, provide the (approximate) number of domestic and transboundary SEA procedures initiated during the given period and list them by referring to the sectors in article 4, paragraph 2.

Domestic only, about 30 cases.

EXPERIENCE WITH THE STRATEGIC IMPACT ASSESSMENT PROCEDURE IN 2010-2012

35. If your country has had practical experience in implementing the Protocol, has this supported the integration of environmental, including health, concerns into the development of plans and programmes? Have the conclusions included in the environmental report influenced the drafting and resulted in altering of a plan or programme? Please, provide examples, if you have this information.

Yes. Mainly the environmental declaration which is issued as the environmental opinion of the plan or program as had certain influence on the final decision.

36. If your country has experienced substantial difficulties interpreting particular terms (or particular articles) in the Protocol, please indicate them. Does your country work together with other Parties to find solutions? If not, how does your country overcome the(se) problem(s)? Please, provide examples, if available.

We have little experience in SEA Protocol.

37. Please share with other Parties your country's experience of applying the Protocol in practice, if such information is available. In response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of lessons learned in order to help others. Please detail:

a) Your country's experience with domestic procedures:

- i. Has your country carried out monitoring according to article 12 and, if so, for what kinds of plans or programmes?

No.

- ii. Please provide examples of good practice cases, whether complete cases or good practice elements (e.g., consultation or public participation) within cases. Would your country like to present a case to be published on the website of the Convention and its Protocol as a "case study fact sheet"?

No

b) Your country's experience with transboundary procedures:

- i. Translation is not addressed in the Protocol. How has your country addressed the question of translation? What difficulties has your country experienced in relation to translation and interpretation, and what solutions has your country applied?

We do not have experience with the Protocol therefore we have no such cases or situations

- ii. What does your country usually translate as a Party of origin?

We do not have experience with the Protocol therefore we have no such cases or situations

- iii. Has your country carried out transboundary public participation according to article 10, paragraph 4? If so, how? Was your country the Party of origin or the affected Party? What has been your country's experience of the effectiveness of public participation? Has your country experienced difficulties with the participation of its public or the public of another Party? (E.g., have there been complaints from the public about the procedure?)

We do not have experience with the Protocol therefore we have no such cases or situations

- iv. Does your country have examples of organizing transboundary SEA procedures for joint cross-border plans and programmes? If yes, describe such examples, if possible.

We do not have experience with the Protocol therefore we have no such cases or situations

- v. Please provide examples of good practice cases, whether complete cases or good practice elements (e.g., consultation or public participation) within cases. Would your country like to present a case within a “case study fact sheet” to be published on the website of the Convention and its Protocol?

We do not have experience with the Protocol therefore we have no such cases or situations

COOPERATION BETWEEN PARTIES IN 2010–2012

38. Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries?

We do not have experience with the Protocol therefore we have no such cases or situations

EXPERIENCE REGARDING GUIDANCE IN 2010–2012

39. Are you aware of any use in your country of the Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment available online¹? If yes, please describe any experience with using this guidance document and how it might be improved or supplemented.

We do not have experience with the Protocol therefore we have no such cases or situations

40. Do you provide any assistance and guidance to the public? If yes, please specify.

We do not have experience with the Protocol therefore we have no such cases or situations

41. Do you support associations, organizations or other groups that promote the Protocol? If yes, please specify which and how.

We do not have experience with the Protocol therefore we have no such cases or situations

42. Has your country had difficulties implementing the procedure defined in the Protocol?

Yes. Poor planning system especially in coordination between authorities.

AWARENESS OF THE PROTOCOL

43. Does your country see a need to improve the application of the Protocol in your country and, if so, how does it intend to do so?

Yes. We plan to develop capacity building programs with the stakeholders.

SUGGESTED IMPROVEMENTS TO THE REPORT

44. Please provide suggestions for how this report may be improved.

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¹ http://www.unece.org/env/eia/pubs/sea_manual.html