

Questionnaire for the

REPORT OF THE REPUBLIC OF ARMENIA 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

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Date on which report was completed:

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): *"The concepts related to the development of a number of areas are subject for the expertise. The documentation of territorial planning and integrated resources use schemes are also considered as the concepts".*

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): *The acting law was adopted in 1995, when the Protocol on SEA was not developed, and, respectively, the law lacks the definitions reflected in the Protocol. However, the new draft law on revision to the acting law stipulates for the relevant 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: *There is no definition of "the public" in the legislation in force; however the draft law "On the environmental impact assessment and expertise" contains the definition of "the public".*

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):

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):

b) SEA provisions are transposed into another law(s) (please specify): The SEA provisions are generally included into the Article 15 of the acting law, as well as were taken into consideration in the new draft law on revisions and additions to the acting law on the environmental impact expertise.

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):

c) Law on SEA ☐

d) Legislation which transposes the Protocol on SEA (please indicate number/year/name):

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):

Your comments:

Article 6 of the Constitution: International agreements shall enter into force after their ratification or approval only. International agreements are the constituent part of the legal system of the Republic of Armenia. If the ratified international agreements establish the norms other than those stipulated by the laws, then these norms are applied. International agreements that contradict the Constitution could not be ratified.

Article 33.2 of the Constitution: Everyone shall have the right to live in an environment favorable to his/her health and well-being and shall be obliged to protect and improve it in person or jointly with others.

The state within its abilities shall be obliged to take measures to implement the tasks set forth in this article

Article 4 – Field of application

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

According to the Article 15 of the Law of the Republic of Armenia “On the environmental impact expertise” (1995) these plans and programmes are related to the following areas:

- Socio-economic;
- Energy;
- Urban construction;
- Transport;
- Communication;
- Agriculture;
- Fisheries;
- Mining industry;
- Industrial sectors;
- Health-improvement;
- Social;
- Environmental;
- Sites of recreation, tourism, and servicing;
- As well as documentation of territorial planning and integrated resources use schemes.

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

After the environmental impact expertise is completed in case of the insignificant impact the permit shall be issued for the implementation of the plan or programme.

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

There is no relevant explanation in the acting legislation.

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

There is no similar definition in the acting law; however the draft law stipulates that the modifications of the plan or programme shall be subject for the SEA and expertise.

Article 5 – Screening

11. How do you determine which other plans and programmes 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 programmes ☐
- 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.

The consultations with the municipalities of the impacted areas and other concerned state authorities.

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: The SEA procedure is not regulated in detail by the acting law. This issue is included into the draft law.

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)?

The acting legislation does not provide for this. This issue is included into the draft law.

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:

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): The capacity of the Regional Environmental Information Centers – Aarhus centers – is used.

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 programmes ☒
- 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):
- 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: There is no practice with regards to the transboundary consultations. The acting law does not regulate the transboundary consultations. These issues are reflected in the draft law. These comments cover all questions under the Article 10.

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):
- 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)? According to the article 8 of the acting law the authorized body after the documentation is received shall directly provide its copies to the administration of the region or municipality, the relevant state body and affected municipality. The heads of affected municipality shall within 5 days inform through media on where and when one could familiarize with the documentation and get information about it (in written or orally).

28. How do you inform the public and authorities of the affected Party (art. 11, para. 2)? Please specify.

- 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: The transboundary procedure is not regulated by the acting law. This issue is included into the draft law.

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 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: The law in force does not regulate this. This issue is reflected in the draft law.

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.

Ministry of Nature Protection of the Republic of Armenia.

a) If they are different for different types of plans and programmes ☐

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.

During the period after the Protocol was ratified the country had initiated domestic EIA procedures (around 50 in total), part of which, based on the project nature and scale, is subject for the SEA (spheres of activity – mining industry, agriculture, large-scale construction etc.)

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.

There are no examples of the Protocol implementation in the reporting period.

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.

Currently Armenia is the only country of the Caucasus region ratified the Protocol on SEA. In case our neighbours would ratify the Protocol, Armenia would experience the same problems and difficulties with the neighbouring countries, with which there are no diplomatic relations, as were encountered under the implementation of the provisions of the Espoo Convention.

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?

There is no practice.

- 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, there is no practice.

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?

There is no practice.

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

There is no practice.

- 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?)

There is no practice.

- 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.

There is no practice.

- 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?

There is no practice.

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?

There was no information exchange on this issue at a regional scale.

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.

Currently the Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment is under the translation to the national language with the financial support from the OSCE.

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

The public is informed in the course of the workshops, trainings, public hearings.

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

All above groups will take part in the training workshop on SEA conducting planned jointly with the Secretariat for October 2013.

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

There are no examples with regards to the transboundary procedure.

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?

There are revisions related to the SEA process that are being made to the acting law on the environmental impact expertise in Armenia. Also, there is a need in the country in training workshops for the relevant experts.

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