

Questionnaire for the

REPORT OF **BULGARIA** 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

It has already been decided at the 5 MOP/1MOP, June 2011, decision I/2, see ECE/MP.EIA/Report/SEA/2, to use the Espoo contact points for notifications under the SEA Protocol. Based on it The focal points for the Protocol for Bulgaria are the same for the Espoo Convention, as follow:

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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: **The definition of plans and programmes is transposed in para 1, item 22 of Supplementary Provisions of Environmental Protection Act (State Gazette No 91/2002, last amendment State Gazete No 27/2013)**

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: **The definition of „effects“ is given in para 1, item 18 of Supplementary Provisions of Environmental Protection Actq as follows: „effects“ shall be any direct effect on the environment that may be caused by the implementation of a development proposal for construction, activity or technology, including the effect on human health and safety, flora, fauna, soil, air, water, climate, landscape, historical monuments and other physical structures or the interaction among these factors”.**

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: **The definition of „the public“ is transposed in para 1, item 24 of Supplementary Provisions of Environmental Protection Act.**

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): NGOs are able to take part in the assessment procedure as they are specified as part of the public concerned according to the**

definition in para 1, point 25 of Supplementary Provisions of Environmental Protection Act (the public referred to in Item 24, which is affected or is likely to be affected by, or which has an interest in, the procedures for approval of plans, programmes, development proposals, and in the decision-making process on the granting or updating of permits according to the procedure established by this Act, or in the conditions set in the permits, including the non-governmental organizations promoting environmental protection which are established in accordance with national legislation

- b) No
- c) 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 Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context is ratified with Law, adopted by National Assembly of the Republic of Bulgaria on 17 of November, 2006 (State Gazette 97/2006). The Protocol is promulgated at State Gazette 13/2012.**
 - **SEA provisions of the Protocol are transposed in Chapter 6, Sections 1 and 3 of Environmental Protection Act (State Gazette No 91/2002, last amendment State Gazette No 27/2013).**
- c) **Regulation (please indicate number/year/name): Regulation on the conditions and procedures for environmental assessment for plans and programmes (State Gazette No 57/2004, last amendment State Gazette No 94/2012) (EA Regulation)**
- 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):
 - **Law for ratification of Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context;**
 - **Chapter 4 of the EA Regulation;**

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):

- **The Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters is ratified with Law, adopted by National Assembly of the Republic of Bulgaria on 2 of October, 2003;**
- **Chapter 2 of Environmental Protection Act „Information relating to the environment“.**

f) Other (please, specify):

Your comments:

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 art. 85, para 1 of Environmental Protection Act, Environmental Assessment (SEA) shall be carried out for plans and programmes in the areas of agriculture, forestry, fisheries, transport, energy, waste management, water resources management, and industry, including extraction of subsurface resources, electronic communications, tourism, spatial planning and land use, where the said plans and programmes set the framework for future development of any development proposals listed in Annexes 1 and 2 hereto.
8. Explain how you define whether a plan or programme “set the framework for future development consent” (art. 4, para. 2).
According to art. 85, para 1 of Environmental Protection Act – plans and programmes....which set the framework for future development of any development proposals listed in Annexes 1 and 2 of Environmental Protection Act.
Setting the framework is considered as plan or programme has direct connection/ relation for issuing this future development consent for proposals included in this 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.
According to art .2, para 2, item 2 of EA Regulation, plans and programmes and their amendments under art. 85, para 1 of Environmental Protection Act which determine the use of small areas at local level are subject to EA screening procedure.
10. Explain how you identify in your legislation a “minor modification” to a plan or programme (art. 4, para. 4).
Environmental Protection Act and EA Regulation do not identify „minor modifications“. EA Regulation (art .2, para 2) identifies that „modifications“ of plans and programmes which falls in the scope of EA procedure are subject to EA screening procedure.
According to art .2, para 2

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: **The requirements for plans and programmes and their modifications to be subject to EA screening procedure are defined in art 2, para 2 of EA Regulation.**

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.

- **Consultations in EA screening stage are held pursuant to art 13, para 1 of EA Regulation as after submission of EA screening information by the developer of plan/programme, the competent environmental authority sends copy of it to the competent health authority – in all cases;**
- **Consultations in EA scoping stage are held pursuant to art 19a, para 1 (the draft of EA scoping report is submitted to the competent environmental authority) and para 2 (the draft of SEA scoping report is submitted to the competent health authority) of EA Regulation by the developer;**
- **Consultations in the stage of EA report and draft of the plan/programme with environmental and health authorities are held pursuant to art 20 para 3 of EA Regulation.**

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): the opportunities for public participation in screening stage are given by the provision of art 13, para 2 of EA Regulation - the competent environmental authority could send copy of the screening information to the municipal/regional authorities and other specialized authorities – depending of the specificity of plan/programme (Water Basin Directorates, Forestry management authorities, etc). In addition, the public has opportunity to appeal Screening decisions.**

In scoping stage the developer is obliged to consult with identified as concerned specialized authorities and public about the scope of EA Report..

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)?

According to art 15 of EA Regulation screening decision is made publicly available:

- **By developer - within 3 days from receiving the decision;**
- **By competent environmental authority – within 3 days from issuing of the decision.**

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: **The competent environmental authority gives the comments on the EA report during the public consultations, which are and on the quality of the report. Additionally there are Interinstitutional Committees consultative bodies of the competent environmental authorities one of the tasks of which is evaluation of the quality of the EA reports.**

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 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: and case by case depending on the plan or programme.**

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: According to art 20, para 1, point 1 „c“ of EA Regulation, the term for expressing and submitting of statements on EA report and draft of the plan/programme can not be less than 30 days.

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: **Bulgaria does not have such cases for the reported period.**

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: **Reasonable time for transmission of comments is defined case by case.**

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): Detailed arrangements are agreed between affected Party and Party of origin case by case.**

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: **According to art 29, para 1 of EA Regulation, the Initiator of the plan or programme is obliged to submit summary to the competent authority for the SEA procedure that includes information about:**

- **Compliance of the plan/programme with the main results and recommendations in EA report, with consultation results, with requirements and mitigation measures in the EA statement of the competent environmental authorities;**
- **Compliance with preferred in EA report alternative;**
- **The extent to which the mitigation and monitoring measures are considered in the plan/programme.**

Only after adoption of the above summary by the competent environmental authority, the plan/programme can be finally adopted.

27. How and when do you inform your own public and authorities (art. 11, para. 2)? **EA statement is made available by the competent environmental authority for the public by publishing it on the web site and noticing about it on the notice board in authority building within 3 days from issuing (art 27, para 1, item 2 of EA Regulation). The developer publishes EA Statement on his web site or announces it by other appropriate way.**

The summary under art 29, para 1 of EA Regulation is made available to the public by the developer.

The developer notifies the competent environmental authority within 14 days from final adoption of the plan/programme (art 29, para 3 of EA Regulation).

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: Based on the decision I/2 taken at the 5 MOP/1MOP to use the Espoo contact points for notifications under the SEA Protocol. Based on it.

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).

As part of EA Report and screening information, the developer is obliged to identify environmental monitoring measures and indicators. At the stage of consultation on EA report or the stage of submitting the screening information, the competent environmental authority propose to the developer other monitoring measures to be included if these proposed by the developer are not adequate or insufficient. After agreement between the competent environmental authority and the developer, these monitoring measures becomes part of the overall monitoring arrangements for the plan/programme. The developer is obliged to submit periodical monitoring reports to the competent environmental authority. After adoption these reports are made available for the public by the developer.

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.

- 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: Ministry of Environment and Water (for transboundary procedures and for plans and programmes ad)

Your comments: **According to para 4 of EA Regulation the competency of authorities is as follows:**

- **The Minister of Environment and Water is competent for SEA for plans and programmes , that will be adopted by central authorities and National Assembly;**
- **The Director of Regional Inspectorate of Environment and Water is competent for SEA for plans and programmes, that will be adopted by territorial authorities or municipality councils.**

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.

In the period 2010-2012 no transboundary SEA procedures was initiated by Bulgaria.

The total approximate number of domestic SEA procedures for 2010-2012 is 1406 (including screening procedures and the mandatory ones).

Numbers of domestic SEA procedures listed by referring to the sectors are:

- **Agriculture – 0;**
- **Forestry – 0;**
- **Fisheries – 0;**
- **Energy – 11;**
- **Industry including mining – 0;**
- **Transport - 5;**
- **Regional development - 8;**
- **Waste management - 70;**
- **Water management - 3;**
- **Telecommunications – 0;**

- Tourism – 0;
- Town and country planning or land use – 1309*;

(- Town and country planning or land use subject to SEA includes mainly Detailed plans for land use of small territories. It should be noted that these plans set the framework for developing of different investment proposals – production of electricity, roads, urban development projects, holiday villages and hotel complexes).*

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, it has. As Bulgaria had transposed the provisions of the Protocol on SEA and Directive 2001/42/EC in its national SEA legislation and implements these provisions, SEA procedure is very effective for integration of environmental and health concerns into the development of plans and programmes. The SEA report conclusions result in altering the plan or programme.

Example: As a result of SEA and Appropriate Assessment reports for the draft of National Renewable Energy Action Plan (2011-2020) in the plan were included restrictions and prohibitions for developing renewables projects in specific areas.

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.

There were no difficulties experienced.

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:

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

Yes. Bulgaria carried out monitoring for the following kinds of plans and programmes:

- Town and country planning and land use Plans /Municipality Master Territorial Plans and Detailed Spatial Plans/ (as almost SEA procedures are carried out for such plans);

- **National Operational Programmes for the period 2007-2013 (for transport, environment, competitiveness, regional development, fisheries, agriculture);**
 - **Programmes, Strategies and Plans on national and regional level for transport (including general plans for development of ports, airports), regional development, water management,**
- 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”?

As a good practice case for increasing the effectiveness of monitoring of significant effects of implementation of plan and programme we see the project for General Environmental Monitoring Plan (GEMP) prepared by the Ministry of Transport, Information technology and Communications, Bulgaria. GEMP aims to monitor the environmental and health effects from the implementation of both Operational Programme „Transport“ 2007-2013 and General Transport Master plan. The main activities according to this plan are:

- **Preparation of periodical monitoring reports of significant effects on national and project level;**
- **Periodical visits to the sites of the projects included in the Operational Programme „Transport“ 2007-2013 and General Transport Master plan;**
- **Evaluations, analysis, conclusions and recommendations for appropriate actions to be taken for prevention and remediation of significant effects;**
- **Recommendation to be taken in account for the next programming period 2014-2020.**

Bulgaria does not like to present a case to be published on the website of the Convention and its Protocol as a „case study fact sheet“.

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 SEA procedures for 2010-2012 with Bulgaria as a Party of origin, so there is no practice and experience in this issue.

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

There is no SEA procedures for 2010-2012 with Bulgaria as a Party of origin

- 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?)

Yes. Bulgaria was affected Party in transboundary SEA procedure for Master Plan „Protection and Rehabilitation of the Romanian Coastal zone“. The public participation in Bulgaria was carried out as follows:

- **After the receiving of Notification from Romanian Ministry of Environment and Forest (with attached SEA Report, Appropriate Assessment Report and Master Plan's draft in English) was received, according to statements submitted by concerned Directorates (responsible for water management and Natura 2000) of the Ministry of Environment and Water, the Ministry expressed interest to participate in the SEA procedure. Within the same letter, Bulgaria informed Romania that the materials provided by Romanian Ministry of Environment and Forest will be published on the web site of Ministry of Environment and Water, Bulgaria for public consultations for a period of 30 days.**
- **At the same time Ministry of Environment and Water, Bulgaria sent letter to the Ministry of Health, Regional Inspectorates of Environment and Water Burgas and Varna, River Basin Directorate for the Black Sea Region and Dobrich, Varna and Burgas Regional Governors, notifying them for the published materials on SEA, and for the consultation period.**

There was no difficulties met. There was no complaints received.

There was not complaints from the public.

- 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.

No.

- 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 was only one transboundary SEA procedure for 2010-2012, which is not enough to be accepted as a good practice.

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

As in 2010-2012 there was not difficulties met, Bulgaria does not have such examples.

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.

Resource Manual is presented to the experts on SEA in Regional Inspectorates of Environment and Water in Bulgaria.

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

No.

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

No.

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

No.

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?

No.

SUGGESTED IMPROVEMENTS TO THE REPORT

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

No suggestions.

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