

Questionnaire for the

REPORT OF **CZECH REPUBLIC** 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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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:**

Plans and programmes means strategies, policies, plans or programmes drawn up or commissioned by a public authority and subsequently approved or submitted for approval by a public authority.

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:**

The scope of assessment covers the impact on public health and impact on the environment, including impact on fauna and flora, ecosystems, soil, geological environment, water, air, climate and landscape, natural resources, tangible property and cultural monuments defined by the special legal regulations, and their mutual interactions and relationships.

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): *In our Act we use a term “everybody”*

d) There is no definition of the public in the legislation ☐

Your comments: *The term „everybody“ includes every possible person or organization (private or state)*

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: *We don't have any conditions for non-governmental organizations, everybody may participate in the assessment procedure.*

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):

- Act No. 100/2001 Coll., Act on environmental impact assessment and amending some related laws (the EIA Act),

b) **SEA provisions are transposed into another law(s)** (please specify):

- Act No 183/2006 Coll., Act on town and country planning and building code (Building Act)

c) **Regulation** (please indicate number/year/name):

- Ordinance No. 457/2001 Coll., on qualification and adjustment of some other matters regarding the environmental impact assessment authorization

d) Administrative (please indicate number/year/name):

e) Other (please specify):

Your comments: *To a point a) – it is a common law for EIA and SEA.*

To a point b) – the SEA procedure of a Spatial development policy, Development principles and land use plans pursuant to section 10i of the Act No. 100/2001 Coll. shall be governed by the Building Act.

To a point c) - it is common for EIA and SEA.

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):

Act No. 106/1999 Coll., Act on Free Access to Information,

Act No. 123/1998 Coll., Act on Access to Information on the Environment, etc.

(note.: In practice, we work with these two laws.)

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).

Plans and programmes that stipulate the framework for future approval of projects set out in Annex No. 1 drawn up in the area of agriculture, forest management, gamekeeping, fishing, management of surface waters or groundwater, energy production, industry, transport, waste management, telecommunications, tourism, spatial planning, regional development and the environment, including nature conservation; plans and programmes that need to be assessed, given their potential environmental impact, based on a special regulation; and plans and programmes co-financed from the funds of the European Communities; the latter are always subject to assessment if the affected territory consists of the territory of more than one municipality;

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

We explain it so that it is a plan or programme that stipulate the framework for future approval of projects set out in Annex No. 1 of Act No. 100/2001 Coll. on environmental impact assessment and amending some related laws (the EIA Act).

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.

Interpretation in our legislation is as follows:

Plans and programmes pursuant to subparagraph a) (see section 8. of this questionnaire) where the affected territory consists of the territory of a single municipality if so determined in a scoping and screening procedure (pursuant to Section 10d of Act No. 100/2001 Coll.)

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

We do not use a term „minor modification“. For every plan or programme, which is defined above in section 7, 8 and 9 of this questionnaire and every change of that plan or programme, screening should be carried out. It does not depend on whether the modification is minority or not.

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.

*Competent authority (the Ministry of Environment or the Regional Authority) consults the environmental and health authorities in every stage of SEA procedure.
Based on the geographical location, content and focus of the plan or programme and according to relevant laws, competent authority shall specify the affected administrative 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:

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. 10d para. 6 Act No. 100/2001 Coll. competent authority shall send a written conclusion of scoping and screening procedure without delay to the submitting party, the affected administrative authorities and the affected local government and it shall publish. Competent authority shall send this conclusion after conducting the scoping and screening procedure on the basis of the notification, comments received on the notification and pursuant to the criteria set out in Annex No. 8 to the Act No. 100/2001 Coll. (= criteria set out in annex III. of Protocol on SEA) and shall conclude the proceedings not later than within 35 days of the date of publication of the notification of the plan or programme.

In screening decision (conclusion) competent authority provides the following:

- *If a plan or programme is subject to assessment then we in conclusion determine:*
 - o *the contents and scope of the evaluation, including the requirement for drawing up possible variants of the plan or programme*
 - o *the number of counterparts of the draft plan or programme that are to be submitted to the competent authority*
 - o *proposal of the procedure in assessing the plan or programme, including the holding of a public hearing*
 - o *in cases where the plan or programme isn't subject to assessment, competent authority shall be obliged to state the reason why assessment is not required.*

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: *There is no definition of “reasonable alternatives” in our legislation. Pursuant to the Act No. 100/2001 Coll, in the scoping conclusion, requirements on the preparation potential alternatives of concept are defined. We evaluate reasonable alternatives case-by-case, the scoping conclusion and its requirements is one of the guides.*

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: *We also have some Methodologies and Guidelines.*

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): *for example in the press, on radio, etc.*

Your comments: *Pursuant to the Act No. 100/2001 Coll, the competent authority shall provide for publication of draft plan or programme with the environmental report on official board(s) of the affected local governments, on the internet, and at least in one other manner usual in the affected territory (e.g. in the press, on radio etc.). All crucial documents of all SEA processes in Czech Republic, including the transboundary plans or programmes, are available at the official webpage of CENIA – Czech Environmental information agency (<http://www.cenia.cz/sea>). In the case of transboundary process the Czech Republic, as affected Party, usually publishes all the received documents, does not exclude any part of it. The documents are published at each level of the SEA process.*

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: *The common procedure is to inform the affected Party when the environmental report have been prepared and haven't excluded a significant influence on the territory of a neighboring state. But there are some case, especially important national plans or programmes on energy, transport, when the Ministry of Environment notifies a neighboring country during scoping. Then the neighboring country may comment plan or programme at this stage of assessing.*

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: *We send the information which the Protocol requires. In certain cases (see question nr. 22) we also send a notification in the phase of screening and scoping.*

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): *it is the same time frame as for our administrative authorities and public (30 days after publication on the official notice board of the affected regional authority/authorities)*
- b) No ☐

Your comments: *The Czech Republic sends the notification to the affected Party for publication and for comment, requesting to submit the received viewpoints within 30 days*

after publication on the official notice board of the affected regional authority/authorities in the Czech Republic. The deadline can be prolonged by 30 days, if the affected Party requests to.

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:

It depends on the individual case and according to the requirements of a particular state. Commonly the Ministry of Environment sends the invitation to the transboundary consultation to the affected Party and in this invitation it offers the date and venue of the consultation. The Ministry of Environment shall be obliged to publish this information on the consultation (when and where it will be held) pursuant to section 16 of the Act No. 100/2001 Coll.

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: *These requirements are set out in the section 10g of the Act No. 100/2001 Coll. It states that the approving authority shall be obliged to take into consideration the requirements and conditions following from the statement on the plan or programme. In the statement there are also considered all the received comments. If the statement contains such requirements and conditions and the latter have not been included in the plan or programme or have been included only partly, the approving authority shall be obliged to state the reason for its procedure.*

The approving authority shall be obliged to publish the approved plan or programme, the reasons pursuant to previous paragraph and the measures to ensure monitoring and analysis of the impact of the plan or programme on the environment and public health. It shall be obliged to inform the competent authority, affected administrative authorities and affected local governments of this publication within 7 business days.

27. How and when do you inform your own public and authorities (art. 11, para. 2)?

Please see the answer nr. 26.

When the competent authority receives the approved plan or programme and information about including the final statement's requirements into plan or programme (within 7 business days after approval), it provides it on the internet (at the official webpage of CENIA – Czech Environmental information agency (<http://www.cenia.cz/sea>)). The approving authority shall be obliged to publish it. Usually the approving authority provides it on its official website.

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): The approving authority is responsible for providing this information

Your comments: *As mentioned in the previous answers nr. 26 and 27, the approving authority shall be obliged to inform the public and the authorities about approved plan or programme and about including the final statement's requirements into the plan or programme. In the case of transboundary SEA procedure, the Ministry of Environment shall be obliged to send the approved plan or programme and this information to affected country within 7 business days.*

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).

It is set out in the section 10h of the Act No. 100/2001 Coll.: If the submitting party ascertains that implementation of the plan or programme has an unpredicted significant adverse impact on the environment or public health, it shall be obliged to provide for the adoption of measures to prevent or mitigate such impact, inform the competent authority, and the affected administrative authorities thereof and, simultaneously, make a decision on a change to the plan or programme.

Within their competence pursuant to the special legal regulations, the affected administrative authorities shall monitor the impact of the approved plan or programme on the environment and public health, and shall be authorized to submit an instigation for a change to the plan or programme if an unpredicted significant adverse impact pursuant to paragraph 1 above cannot be prevented or mitigated otherwise in agreement with the approving authority.

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): *to a certain extend art. 9, 11*
- 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 – provides for assessment of plans and programmes in those cases where the affected territory constitutes the entire territory of a region or extend to the territories of several regions or the territory of a national park or a protected landscape area, or if the affected territory constitutes the entire territory of the country.*
 - *Regional authorities – they provide for assessment of plans and programmes in those cases where the affected territory extends exclusively to the jurisdiction of a region unless the competence belongs to the Ministry (see above).*

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 SEA initiated procedures: **487** (in total)*
 - *Country planning (Land use plans) – 458*
 - *Regional development – 13*

- *Transport – 3*
- *Tourism – 3*
- *Water management – 2*
- *Mining – 2*
- *Other - air protection – 4*
- nature protection - 2*
- *Transboundary SEA initiated procedures: 6 (in total)*
 - a) *The Czech Republic is affected party – 5*
 - *Country planning – 3*
 - *Regional development – 1*
 - *Transport - 1*
 - b) *The Czech Republic is party of origin – 1 (“Energetic concept planning the Liberec Region – update” - the domestic SEA was initiated in 2006, the transboundary consultations were initiated in 2010)*

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, some changes of plans based on the conclusions included in the environmental report already taken place. In most cases it was the land use planning documentations (for example – some problematic areas weren't finally included in the plan).

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 do not have any substantial difficulties with interpreting particular items or articles in the 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?

In our legislation we have a provision, that authority, who submits an instigation for the preparation of the plan or programme (the submitting

party), is responsible for providing for monitoring and analysis of the impact of an approved plan or programme on the environment and public health (pursuant to section 10h of the Act No. 100/2001 Coll.). It is obliged for every plan or programme for which SEA procedure was held.

- 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”?

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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 weren't many difficulties with translation. In the case where the affected party is the Czech Republic, it sometimes happens, that documents are received in the language of the country of origin.

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

We always translate non-technical summary and a chapter of possible transboundary impact.

- 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?)

In the period 2010 – 2012 none of the transboundary SEA procedure came into the phase of transboundary consultations pursuant to art. 10, par. 4 of the Protocol.

- 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.

In the period 2010 – 2012 there were not initiated any transboundary SEA procedures for joint cross-border plans or programmes. But this year there may take place some transboundary SEA procedures due to new planning period for these programs.

- 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?

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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 are some differences in deadlines for submitting the comments. But with every neighboring country we allow each other to prolong the deadlines.

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.

Yes, but currently we have no suggestions for improvement.

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

We don't provide guidance directly, but if anyone asks us for information or needs help, then we are prepared to give him information and assistance.

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.

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