

Questionnaire for the

REPORT OF Norway 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: 6 March 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 **x**
- 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 **x**

Your comments: **but indirectly defined in criteria for deciding SEA/not SEA cf ANNEX III, and in requirements for the content of SEA. These include all elements in art 2 para 7 + aesthetics, risks and vulnerability, availability space for childrens play.**

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 **x**
- 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):
- b) No **x**

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): X (Planning and Building Act of 2009).**
- c) Regulation (please indicate number/year/name): **x (Regulation T-1478, 26 June 2009, Regulation on Impact assessments according to the Planning and building Act)**
- 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 **x**
- 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): **x Act no 31, 9 may 2003 relation to the right to environmental information and public participation in decision-making processes 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).

Same types as listed in art 4 par 2

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

Defined as „gives guidelines to be followed in further planning“

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.

Defined as a type of plan in our legislation called „detailed zoning plans“. these shall be screened after art 5 para 1

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

As minor in relation the totality of the P or P and must not alter the main characteristics of the P or P.

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) **x**
- d) Other (please specify):

Your comments: **specified types of P and P shall be screened according to criteria ,cf**

Annex III

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.

Both authorities are always hearing part in all stages.

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

Your comments: a and b normally the same for plans

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)?

Two times: 1) early, in the first stage of the planning procedure i.e. when the planning procedure is announced publicly for the first time the competent authority shall give a preliminary screening decision with a short reasoning. If the decision is no SEA, concerned authorities, the public or NGOs can raise a request for SEA. 2) If the competent authority continues its no to SEA this decision shall be reasoned more detailed when the P or P is on public consultation.

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 **x**
- b) By using the comments from the concerned authorities **x**
- c) By using the comments from the public concerned, if it has been consulted **x**
- 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 **x**
- 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 **X**
- b) By using quality check lists ☐
- c) There are no specific procedures or mechanisms ☐
- d) Other (please specify):

Your comments: **quality is mainly secured through the two hearing processes required of 1) the planning and SEA programme and 2) plan with SEA**

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 **x**
- b) Through electronic media **x**
- c) Through other means (please specify): **x (letter to concerned authorities, persons and NGOs)**

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 **x**
- b) By making the information available to all public and letting them identify themselves as public concerned **x**
- c) By other means (please specify):
- d) Your comments: **all P and P will be placed on internet for comments and thus all public can participate, but announcement in newspapers are limited to relevant geographical location**

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 **x**
- b) By providing answers to a questionnaire ☐
- c) Orally **x**
- d) By taking part in a public hearing **x**
- 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): **minimum six weeks for both hearing of planning programme and proposal with SEA**

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

Your comments: **notification is done at the first hearing stage i.e. planning programme.**

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): **same as domestically, 6 weeks.**
- 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 **x**
- b) Following those of the affected Party ☐
- c) Other (please specify):

Your comments: **but agreed from case to case if mismatch between a) and b)**

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: **In the documentation following the adoption the environmental report and the comments received, including need for mitigation measures, shall be described and evaluated in relation to the decision.**

27. How and when do you inform your own public and authorities (art. 11, para. 2)?
by announcement in two local papers and internet in reasonable time after decision.

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 **x**
- 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).

Our SEA regulation requires: An evaluation of the need for, and possibly, proposals for further studies before the project is carried out. An evaluation of the need for, and possibly, proposals for studies for the purpose of monitoring and elucidating the actual effects of the project.

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): **x**
- b) No ☐

Your comments: **policies and legislation is required to undergo a sustainability assessment covering any social, economic and environmental impacts of the proposal in question. The proposal with sustainability assessment shall be made publically available for comments before adoption.**

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 **x**

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 **x**
- b) If they are different at different levels (national, regional, local) **x**
- c) If they are different for domestic and transboundary procedures ☐
- d) Please name the responsible authority/authorities: municipality, county, directorates and ministries follows who are competent authority domestically.

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 **x**

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.

Total:

300 master land use plans on municipal level

20 county plans related to the different sectors in art 4 para 2 (not detailed knowledge)

Sector plans and programmes (no knowledge)

Of which transboundary:

Ca 5

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, yes. Assessments of alternative strategies/directions for land use in municipal and county masterplans has led to more concern being taken of the environment in the chosen strategy/direction.

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.

Harmonisation with other parties regarding what plans and programmes to be covered by the protocol and further, what shall be the criteria for likely significant transboundary environmental, including health, effects, requires discussions from

case to case with other parties to agree. Example: regional plans according to the water framework directive.

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?

For zoning plans for land use monitoring is required as part of the adoption, if relevant. Example: zoning plan for a natural gas plant with risk monitoring.

- 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 experience

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?

Adressed from case to case. Between nordic countries either native language of party of origin or english(for finland) is agreed. UK, GE and NL = english is ok. No difficulties.

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

If english translation is required, then normally summary of env report and general information of the P or P and procedure.

- 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, both as po and ap. The procedure is the same as domestically.

- 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 experience

- 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?

No experience

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?

No experience

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.

No experience

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

Guidance document on SEA from 2012 is available on MoE web page and presented regularly several conferences and seminars.

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

No experience

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

Se q 36, else no experience.

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, by especially by guidance to clarify competent authorities responsibilities. This is an ongoing task that is integrated in relevant guidance documents and seminars.

SUGGESTED IMPROVEMENTS TO THE REPORT

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

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

Regarding Part II: Some overlap in questions and little information to share regarding practical experience, suggests that this part can be shorter.

Regarding technicalities/for easier analysis of results: we should agree on what symbol to put in the multiple choice boxes, and what type of text/font to be used for the other answers – exemple bold.

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