

Questionnaire for the report of Estonia on the implementation of the Protocol on Strategic Environmental Assessment in the period 2013–2015

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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 3

General provisions

I.1. Please provide the main legislative, regulatory and other measures you have adopted in your country to implement the Protocol (art. 3, para. 1) (more than one option may apply):

- (a) Law on SEA (please indicate number/year/name): Environmental Impact Assessment and Environmental Management System Act
- (b) SEA provisions are transposed into another law(s) (please specify):
- (c) Regulation (please indicate number/year/name):
- (d) Administrative rule (please indicate number/year/name):
- (e) Other (please specify):

Your comments:

Article 4

Field of application concerning plans and programmes

I.2. List the types of plans and programmes that require SEA in your legislation:

SEA is mandatory in the following cases:

- strategic planning document which is prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications or tourism and depending on the particular proposed activities (annex I and annex II of the Protocol);
- national, county and comprehensive plan;
- detailed plan (depending on the particular proposed activities);
- strategic planning document which is the basis for activities which are likely to significantly affect a Natura 2000 site.

Screening: environmental impact resulting from implementation of a strategic planning document must be assessed, where necessary, if:

- 1) amendments are made to the strategic planning document specified in the previous list;
- 2) an activity for which development consent is required is proposed in the strategic planning document not specified in previous list.

Comment: In the national legislation the general term "strategic planning document" is used as the equivalent for the Protocol's term "plans and programmes". It can be added that the list of strategic planning documents (mandatory SEA/screening) has been updated to a small extent (the amendments to the legislation entered into force in the second half of 2015).

I.3. Explain how you define whether a plan or programme “set the framework for future development consent” (art. 4, para. 2):

This is interpreted as the strategic planning document being the basis (or precondition) for future development consent(s) which is required for the particular proposed activities, i.e. the degree to which the strategic planning document sets the framework for the proposed activity (containing measures either with regard to the location, nature and operating conditions or by allocating resources).

I.4. 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:

This is interpreted in a general way by defining possible strategic planning documents in the legislation. Here mainly detailed spatial plans can be brought out which SEA depends on the particular proposed activities (mandatory SEA or screening).

I.5. Explain how you identify in your legislation a “minor modification” to a plan or programme (art. 4, para. 4):

This is interpreted as all modifications of strategic planning documents (which require SEA) being subject to screening if they might result in significant environmental impact (see also answer to question I.2).

Article 5 Screening

I.6. How do you determine which other plans and programmes should be subject to a SEA as set out in article 4, paragraphs 3 and 4, in accordance with article 5, paragraph 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:

I.7. 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)?:

No

Yes (please specify (more than one option may apply)):

- (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) By sending written comments to the consultants/SEA experts or persons preparing the plans and programmes
- (f) Other (please specify):

Your comments: The method of answering to questionnaires is not the general practice.

Article 6 Scoping

I.8. How do you determine what is the relevant information to be included in the environmental report, in accordance with article 7, paragraph 2 (art. 6, para. 1)?:

According to the national legislation an expert shall prepare the SEA programme (i.e. scoping document) and SEA report in cooperation with a person preparing the strategic planning document. Minimum requirements are stipulated for the content of the SEA programme and SEA report. So generally the first input comes from these parties (i.e. their expertise).

The organization of public display and public hearing is an obligation both in the SEA programme and SEA report stage. So of course the comments of the authorities and the public are also an important input in this regard.

In conclusion the relevant information to be included in the SEA report depend on the particular strategic planning document and its characteristics (e.g. the proposed activities). In practice also the experiences of previous relevant and analogous SEAs are widely used.

Article 7 Environmental report

I.9. 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):
- (c) By using a combination of (a) and (b)
- (d) Other (please specify):

Your comments:

I.10. 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 checklists
- (c) There are no specific procedures or mechanisms
- (d) Other (please specify):

As already described in question I.8., an expert shall prepare the SEA documentation in cooperation with a person preparing the strategic planning document. In the national legislation specific criteria (competence requirements) are stipulated for the SEA experts. Thorough public participation is also regarded as a general, but important element of quality control.

The supervisor of SEA (the Environmental Board or the Ministry of the Environment) is also an important institution in the SEA process which deals with quality issues (i.e. the verification of the compliance of the SEA documentation and the SEA procedure with the

requirements of the legislation). The SEA documentation is submitted to the supervisor after the public consultation stage when it has been amended accordingly. It can be added that since the second half of 2015 the supervision system has been changed (amendments to the legislation entered into force).

Your comments:

Article 8

Public participation

I.11. How do you ensure the “timely public availability” of draft plans and programmes and the environmental report (art. 8, para. 2)? Please specify (more than one option may apply):

- (a) Through public notices
- (b) Through electronic media
- (c) Through other means (please specify): Official publication *Ametlikud Teadaanded* (i.e. electronic journal *The Official Announcements*), newspapers, webpages, letters.

Your comments:

I.12. How do you identify the public concerned (art. 8, para. 3)? Please specify (more than one option may apply):

- (a) Based on the geographical location of the plans and programmes
- (b) Based on the environmental effects (significance, extent, accumulation, etc.) of the plans and programmes
- (c) By making the information available to all members of the public and letting them identify themselves as the public concerned
- (d) By other means (please specify):

Your comments:

I.13. How can the public concerned express its opinion on the draft plans and programmes and the environmental report (art. 8, para. 4)? Please specify (more than one option may apply):

- (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): By sending written comments also to the consultants/SEA experts or persons preparing the strategic planning document.

Your comments: Opinions are expressed orally in the public hearing. The method of answering to questionnaires is not the general practice.

I.14. Do you have a definition in your legislation of the term “within a reasonable time frame” (art. 8, para. 4)? Please specify:

- (a) No, the time frame is determined by the number of days fixed for each commenting period
- (b) No, it is defined case by case

(c) Yes (please provide the definition):

(d) Other (please specify): The duration of the public display of the SEA documentation is stipulated in the national legislation.

Your comments:

There is no separate definition of the term, but according to the national legislation the general rule is that the public display of the SEA report must last as long as the public display of the draft strategic planning document, but not less than 21 days. So the term “reasonable time frame” is defined as a minimum of 21 days.

Article 9

Consultation with environmental and health authorities

I.15. How are the environmental and health authorities identified (art. 9, para. 1):

(a) On a case-by-case basis:

(b) As defined in the national legislation:

(c) Other (please specify)

Your comments:

According to the national legislation the person who prepares a strategic planning document will give notice of the public display of and the public hearing regarding the SEA programme and the SEA report. Inter alia the persons and authorities which may be affected or which may have a reasoned interest in the strategic planning document must be notified.

The national legislation includes a comprehensive indicative list of different authorities likely to be concerned. But of course the concrete authorities to be notified/consulted depend on the particular case.

I.16. How are the arrangements for informing and consulting the environmental and health authorities determined (art. 9, para. 4):

(a) On a case-by-case basis:

(b) As defined in the national legislation:

(c) Other (please specify)

Your comments:

The national legislation includes the minimum requirements and arrangements for informing and consulting the authorities concerned (see also answer to the previous question).

I.17. How can the environmental and health authorities express their opinion (art. 5, para. 2, art. 6, para. 2, and art. 9, para. 3):

(a) By sending comments

(b) By providing answers to a questionnaire

(c) In a meeting

(d) By other means (please specify)

Your comments: Comments can be sent to the competent authority, the persons preparing the strategic planning document and also consultants/SEA experts. Of course the representatives of the authorities can take part in the public hearing.

Article 10 Transboundary consultations

I.18. 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:

According to the national legislation if it becomes evident upon preparation of a SEA programme that the implementation of a strategic planning document is likely to have significant transboundary impact, the affected Party shall be notified as soon as possible or at least at the same time when the publication of the SEA programme is organized in Estonia.

From a practical viewpoint it is purposeful and constructive that the affected Party can also participate in the scoping stage, especially as scoping is mandatory according to the Protocol. Nevertheless it has to be taken into account that significant transboundary impacts may become evident only at the draft strategic planning document/SEA report stage.

I.19. 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):

Also the following information is included:

- the name and description of the strategic planning document;
- information on the person who prepares and adopts the strategic planning document;
- a schedule for preparation of the strategic planning document and carrying out the SEA and a short description of the likely environmental impacts resulting from the implementation of the document;
- the term for responding to the notification and submission of comments.

Your comments:

I.20. 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) No
- (b) Yes (please indicate how long):

Your comments:

The national legislation does not refer to an explicit time frame, but it is stipulated that the competent authorities of the concerned Parties shall ensure that the public and the authorities of the Party which is likely to be significantly affected are notified and allow them sufficient time for the submission of opinions. The necessary procedures and actual schedule for relevant consultations shall be agreed.

It can be added that at least 30 days should be given, but in practice a longer time frame is provided. For instance regarding transboundary cases with Latvia and Finland it is agreed that the respective time frame is two months.

I.21. 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:

The most common practice is that the rules and procedures of the Party of origin are followed. If necessary, then also the rules of the affected Party are taken into account (e.g. if the timeframes for public consultation differ remarkably) – this should be agreed between the concerned Parties. See also the comment to the previous question.

Article 11 Decision

I.22. When a plan or programme is adopted, explain how your country ensures, in accordance with article 11, paragraph 1, that due account is taken of:

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

Your comments:

According to the national legislation upon preparation of a strategic planning document, the following must be taken account of:

- the results of the SEA and the approved monitoring measures;
- the opinions submitted by authorities and persons to the extent possible;
- the results of transboundary consultations.

I.23. How and when do you inform your own public and authorities (art. 11, para. 2)?:

According to the national legislation the person responsible for the preparation of a strategic planning document shall give notification of adoption of the strategic planning document by electronic means or sending a letter within fourteen days after the decision on the adoption is made to:

- the concerned authorities and persons;
- the supervisor of the SEA;
- the affected Party which participated in transboundary consultations.

The access to all relevant material and information (e.g. the adopted strategic planning document, an overview on how the results of SEA have been taken into account, etc) must be ensured. The specifics of informing about the adoption of strategic planning documents are also stipulated in the respective pieces of legislation.

I.24. 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:

As described in the previous question the person responsible for the preparation of a strategic planning document has to inform also the affected Party. As the transboundary SEA procedure (communication with other Parties) is coordinated by the Ministry of the Environment, then in practice also the Ministry can contribute in this regard (e.g. informing the point of contact).

Article 12 Monitoring

I.25. 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):

According to the national legislation the SEA report must include a description of the measures proposed for the monitoring of significant environmental impact resulting from implementation of the strategic planning document and of the measurable indicators.

Monitoring measures are approved by the supervisor of SEA. The objective of approval of the monitoring measures is to identify at an early stage the significant negative environmental impact resulting from the implementation of a strategic planning document, and to be able to apply measures for the prevention and mitigation of such effect.

The approved monitoring measures are mandatory to the person implementing a strategic planning document. Upon carrying out monitoring, the existing environmental monitoring system or monitoring proposed for monitoring the environmental impact arising from the implementation of the strategic planning document may be used. Monitoring may be carried out in the course of the activities proposed on the basis of one or several strategic planning documents.

It can be added that the specifics regarding the monitoring requirements of strategic planning documents are also stipulated in the respective pieces of legislation.

In addition according to the Public Information Act inter alia the existing information concerning the state of environment, environmental damage and dangerous environmental impact must be made publicly available by the holder of information.

Part two

Practical application during the period 2013–2015

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.

II.1. 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

Your comments:

1. Consideration of health effects

II.2. Does your SEA documentation always include specific information on health effects? Please specify:

(a) Yes

(b) No, only when potential health effects are identified

2. Domestic and transboundary implementation in the period 2013–2015

II.3. Does your SEA documentation always include specific information on potential transboundary environmental, including health, effects? Please specify:

(a) Yes

(b) No, only when potential transboundary effects are identified

3. Cases during the period 2013–2015

II.4. Please provide the (approximate) number of transboundary SEA procedures initiated during the period 2013–2015 and list them, grouped by the sectors listed in article 4, paragraph 2:

During the period 2013–2015 the following transboundary SEA procedures have been initiated (Estonia as Party of origin):

- SEA of the Pärnu County maritime spatial plan;
- SEA of the Rail Baltic 1435 mm railway county plans of the Harju, Rapla and Pärnu counties;
- SEA of Estonia-Latvia Cross-border Co-operation Programme 2014-2020;
- SEA of Estonian Marine Strategy's Programme of Measures to achieve and maintain Good Environmental Status of Estonian marine area.

The forementioned SEA cases cover several sectors of art. 4, para. 2 (e.g. transport, fisheries, water management, tourism, etc).

As an affected Party Estonia is participating in a few transboundary SEA procedures.

Comment: The approximate/estimated number of domestic (national) SEA procedures provided in the previous questionnaire of the Protocol (2010–2012) was too overestimated.

4. Experience with the strategic impact assessment procedure in 2013–2015

II.5. Has your country experienced substantial difficulties in interpreting particular terms (or particular articles) in the Protocol?:

- (a) No
- (b) Yes (please indicate which ones):

II.6. How does your country overcome the(se) problem(s), if any, for example by working with other Parties to find solutions? Please provide examples:

Generally it can be said that major difficulties have not been experienced. Nationally difficulties may arise in relation to specific strategic planning documents and SEA cases, particularly regarding the level of detail and the requirements to be fulfilled (e.g. documentation at national and local level). This also illustrates the different expectations of the various parties involved in this comprehensive assessment process.

Cooperation and exchange of experiences can be done with other Parties (e.g. regarding transboundary SEA).

II.7. With regard your country's experience with domestic procedures, 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) Has your country carried out monitoring according to article 12 and, if so, for what kinds of plans or programmes (cite good practice cases or good practice elements (e.g., consultation or public participation), if available)?:

Monitoring has been carried out (see also answer to question I.25).

Regarding sectoral (national) development plans the implementation of the strategic planning document (including the impacts resulting from the implementation) are monitored. In practice various indicator methods are used. For instance regarding the Estonian Rural Development plan for 2014-2020 a comprehensive monitoring system has been elaborated and the annual monitoring reports are also publicly available.

Regarding spatial planning there is also an obligation to review adopted spatial plans with the purpose to identify, inter alia, the significant economic, social, cultural and environmental impacts brought about by the implementation of the plan and the conditions for reducing significant negative impacts.

(b) 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"?:

- (i) No
- (ii) Yes (please indicate which ones):

II.8. With regard your country's experience with transboundary procedures, 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) What difficulties has your country experienced in relation to translation and interpretation, and what solutions has your country applied?:

As the number of transboundary SEAs is relatively little, then also the practical experiences are rather limited. Still it can be said that in general substantial difficulties have not been experienced. From the viewpoint of an affected Party, the Party of origin should assure the sufficient quality of the translation. The main documentation is usually sent in English, but at least an exhaustive summary in the official language of the affected Party should also be provided.

In any case in practice potential difficulties are overcome by early communication between the concerned Parties if necessary. Also the considerable experiences of the Parties which have been gathered with transboundary EIA can be taken as good practice examples if applicable. For instance regarding transboundary SEA with Latvia and Finland the relevant principles and arrangements of transboundary EIA (including translation) are applied (Estonia has two bilateral agreements on transboundary EIA).

- (b) What does your country usually translate as a Party of origin?:

The draft strategic planning document and the SEA report or the exhaustive summaries of these documents should be translated into English or into the official language of the affected Party.

The common practice is that the exhaustive summaries of these documents are sent in English together with the summaries in the official language of the affected Party.

- (c) Has your country carried out transboundary public participation according to article 10, paragraph 4?:

- (i) No
(ii) Yes (please indicate how):

The general principle (as in the Espoo Convention) is followed that the concerned Parties are responsible for ensuring that the public and the authorities are given the opportunities to participate in the procedure. Thereby the affected Party shall arrange the informing and distribution of materials in the country of the affected Party, also the transmittal of the comments of the authorities and the public. Additional details can be agreed between the concerned Parties if necessary. Estonia as an affected Party follows the same approach as described previously.

- (d) What has been your country's experience of the effectiveness of public participation?:

The general experience concerning the effectiveness of public participation is good. It could be argued that the interest of the public and authorities depend on the particular case (e.g. location, proposed activities, volume, etc).

- (e) Does your country have examples of organizing transboundary SEA procedures for joint cross-border plans and programmes?:

- (i) No
(ii) Yes (please describe): SEA of Estonia-Latvia Cross-border Co-operation Programme 2014-2020.

5. Experience regarding guidance in 2013–2015

II.9. Are you aware of any use in your country of the online *Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment (ECE/MP.EIA/17)*?¹:

- (a) No:
- (b) Part of it (Please specify): Certain parts of the manual have been used as source of information to have a wider insight regarding some concrete issues and aspects.
- (c) Yes (please describe your experience):

Your comments on how the Guidance might be improved or supplemented:

From the general viewpoint of the public and the authorities who may not be involved in SEA procedures frequently or who have a primary interest in the Protocol, it is reasonable that also the Simplified Resource Manual has been compiled. For instance the manual is also available on the webpage of the Ministry of the Environment.

6. Awareness of the protocol

II.10. Does your country see a need to improve the application of the Protocol in your country?:

- (a) No:
- (b) Yes Please describe how your country intends to improve application of the Protocol:

It can be argued that there is always room for improvements. For instance when the national legislation is being reviewed or updated, then the experiences gathered with the application of the Protocol should also be taken into account. In this context also these kind of questionnaires and reviews are helpful.

7. Suggested improvements to the report

II.11. Please provide suggestions for how this report may be improved:

The current questionnaire is shorter than the previous questionnaire, but the possibility to leave a comment should always be provided.

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