

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

### **Information on the focal point for the Protocol**

1. Name and contact information:

SEA Focal Point  
MSDEC Offices  
Qormi Road  
Santa Venera  
SVR 1031  
Malta

### **Information on the point of contact for the Protocol**

2. Name and contact information (if different from above): same as above

### **Information on the person responsible for preparing the report**

3. Country: Malta
4. Surname: Chircop
5. Forename: Kenneth
6. Institution: SEA Focal Point
7. Postal address: MSDEC Offices, Qormi Road, Santa Venera, SVR 1031, Malta
8. E-mail address: kenneth.chircop@gov.mt
9. Telephone number: +356 22926241
10. Fax number:
11. Date on which report was completed: 28/3/2016

## 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):
- (b) SEA provisions are transposed into another law(s) (please specify):
- (c) Regulation (please indicate number/year/name): *Strategic Environmental Assessment Regulations (hereinafter the 'Regulations') issued under the Environment Protection Act (Chapter 435 of the Laws of Malta) and brought into force by Legal Notice 497 in 2010.*
- (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:

*An SEA is carried out for all plans and programmes which –*

*(a) are prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and which set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC, or*

*(b) in view of the likely effect on sites, have been determined to require an assessment pursuant to Article 6 or 7 of Directive 92/43/EEC.*

*However plans and programmes referred to in paragraphs (a) and (b) above which determine the use of small areas at local level, and minor modifications to plans and programmes also referred to in paragraphs (a) and (b) above, require an SEA only where the responsible authority determines that they are likely to have significant environmental effects.*

*In addition, the responsible authority must determine whether its plans and programmes, other than those referred to in paragraphs (a) and (b) above, which set the framework for future development consent of projects, are likely to have significant environmental effects, in which case the strategic environmental assessment procedure also applies.*

*The responsible authority must determine whether plans or programmes referred to in the last two paragraphs are likely to have significant environmental effects either through case by case examination or by specifying types of plans and programmes or by combining both approaches. For this purpose the responsible authority must in all cases take into account relevant criteria set out in a schedule incorporated in the Regulations (reflecting the criteria in Directive 2001/42/EC), in order to ensure that plans and programmes with likely significant effects on the environment fall within the scope of the Regulations.*

I.3. Explain how you define whether a plan or programme “set the framework for future development consent” (art. 4, para. 2): *The Regulations do not contain such definition. Hence every case is assessed on its own merits.*

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: *The Regulations do not contain any definition to this. Hence every case is assessed on its own merits by taking into account the specific circumstances surrounding it, such as its objectives and the geographical scope thereof. It is worth pointing out that Malta is a very small territory. It covers just over 316km<sup>2</sup> with a population of about 450,000 and that therefore the interpretation given is in relation to these particular circumstances of the country.*

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

*The National Regulation points out that the Responsible Authority shall determine whether an SEA is necessary in respect to plans and programmes which involve minor modifications.*

## **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):

*The public does not participate in the screening of plans and programmes. However the responsible authority must ensure that its conclusions of the screening stage, including the reasons for not requiring an SEA, are made available also to the public.*

*The public participates in the scoping of plans and programmes. At that stage where it is determined that an SEA is required the responsible authority must make the plan or programme and its environmental report available to the public electronically and in published form for viewing at its offices. In order to reach out to the public affected or likely to be affected by, or having an interest in, the decision making subject to the Regulations, including relevant non-governmental organisations, such as those promoting environmental protection and other organisations concerned, the notice of availability of the plan or programme and the environmental report must be published in at least the Government Gazette together with specific details of where the documentation is available and how comments can be submitted and by which date.*

*The responsible authority must ensure that the public is given an early and effective opportunity within an adequate time-frame, to express its opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission to the legislative procedure. Such time-frames cannot exceed sixteen (16) weeks from the publication of the plan or programme and its environmental report.*

Your comments:

## **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)?: *Schedule I to the Regulations lists the information that has to be included in the environmental report., which include:*

*an outline of the contents, main objectives of the plan or programme and relationship with other relevant plans and programmes; the state of the environment (characteristics) with or without the implementation of the plan or programme and its effects. Moreover, it requires any existing environmental problems which are relevant to the plan or programme; the environmental protection objectives, established at international, European or national level and how these have been taken into account during its preparation; the likely significant effects on the environment, including on issues enlisted in the EU Directive 2001/42/EC (Annex 1)*

*It also includes the measures envisaged to prevent, reduce and as fully as possible offset any significant adverse effects on the environment of implementing the plan or programme; an outline of the reasons for selecting the alternatives dealt with, which includes description of how the assessment was undertaken including any difficulties (technical, lack of know encountered in compiling the required information); a*

*description of the measures envisaged concerning monitoring; and a non-technical summary of the information provided under the above headings.*

## **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):

Your comments: *The responsible authority checks the information provided and ensures all information required under Annex IV as a minimum before making it available for comments. It does this on a case-by-case basis and moreover it has an obligation to consult with the competent authority when deciding on the scope and level of detail of the information to be included in the environmental report.*

## **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): *The responsible authority shall make available notices from where information may be viewed and acquired to the public through the Government Gazette and in at least one daily newspaper (both in English and Maltese languages) The timely public availability also for consultations shall not exceed 16 weeks.*

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): *In order to reach out to the public affected or likely to be affected by, or having an interest in, the decision making subject to the Regulations, including relevant non-governmental organisations, such as those promoting environmental protection and other organisations concerned, the notice of availability of the plan or programme and the environmental report must be published in at least the Gazette together with specific details of where the documentation is available and how comments can be submitted and by which date.*

Your comments:

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): *sixteen (16) weeks*
- (d) Other (please specify):

Your comments:

## 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: *The Regulations provide a list of designated authorities, which cover environmental responsibilities. Moreover, the Responsible Authority shall identify any other authority, including health, which shall contribute to an SEA process.*

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 responsible authority has an obligation to inform the relevant authorities and to make available to them the plan and programme. Moreover, the responsible authority must give an early and effective opportunity to the said authorities, within an adequate time-frame, to express their opinion on the draft plan or programme and the accompanying environmental report before the adoption of the plan or programme or its submission to the legislative procedure. Such time-frames cannot exceed sixteen (16) weeks from the publication of the plan or programme and its environmental report. Communication channels are established with the SEA FP in this regard which ensures smooth communication.*

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) *There is no specific reference in the Regulations in this respect. However, the approach is to inform the respective authorities in the same communication, whereby the plan and programme is made available by the responsible authority, about how comments can be submitted and by which date.*

Your comments:

**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:

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):

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 Regulation indicates that arrangements on a reasonable timeframe shall be agreed with the affected Party, at the beginning of the consultation,, depending on the plan /programme.*

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): *An agreement is reached at the beginning of the consultations in this respect, including amongst others, an agreement on a reasonable time-frame for the duration of the consultations.*

Your comments:

## **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 to10

Your comments: *The responsible authority is obliged to inform the relevant authorities, the competent authority, the public, and any Member State consulted in respect of a transboundary context about the adoption of the plan or programme, including the items referred to in paragraphs (a) to (c) above.*

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

*The responsible authority is obliged to make the adopted plan or programme and its environmental report available to the authorities and the public electronically and in published form for viewing at its offices.*

*There is no specific reference in the Regulations as to how the authorities are to be informed. However, the approach is to use the same means of communication used at that stage when the plan and programme is made available to them by the responsible authority at an earlier stage of the procedure.*

*In order to reach out to the public the notice of availability of the adopted plan or programme and the environmental report must be published in at least the*

*Government Gazette together with specific details of where the documentation is available.*

*There is no specific reference in the Regulations to the time-frame within which this information should be made available by the responsible authority and therefore the approach is to inform the public and authorities as soon as is reasonably practicable after the implementation of the plan or programme.*

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): *The publication of the information is effected through the respective Member State but the Regulations do not provide any specific details on how this is done.*

Your comments:

## **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): *The responsible authority has an obligation to monitor the significant environmental effects of the implementation of plans and programmes in order, among other things, to identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action. Existing monitoring arrangements may be used, if appropriate, with a view to avoiding duplication of monitoring. The competent authority must be kept informed on each outcome of the monitoring carried out.*

## **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:

No transboundary SEA procedures were initiated during this period.

### 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: Not applicable.

II.7. With regard to 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)?:

*As part of the SEA process, monitoring activities are integrated in the environmental report. The monitoring activities are determined on a case-by-case basis. It is the obligation of the responsible authority to carry out such monitoring activities after the implementation of the plan and to make this data available to the competent authority.*

(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 to 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?:

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

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

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

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

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

(i) No

(ii) Yes  (please describe):

Not applicable since Malta has not initiated Transboundary SEA during the mentioned period.

## 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)?<sup>1</sup>:

- (a) No:
- (b) Part of it (Please specify):
- (c) Yes  (please describe your experience):

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

## 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: A lot of work has been done in recent years to create awareness on the SEA protocol and its implications. This work will continue in the future to maintain the correct application of the Protocol.

## 7. Suggested improvements to the report

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

\_\_\_\_\_

---

<sup>1</sup> Available from [http://www.unece.org/env/eia/pubs/sea\\_manual.html](http://www.unece.org/env/eia/pubs/sea_manual.html).