

# Questionnaire for the report of AUSTRIA on the implementation of the Protocol on Strategic Environmental Assessment in the period 2016–2018

## Information on the focal point for the Protocol

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## Information on the point of contact for the Protocol

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11. Date on which report was completed: 28 March 2019

# 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

General information given by Austria:

In Austria the requirements of the SEA Protocol (and SEA Directive) have been implemented by integrating them into existing Acts or into newly established Acts both at federal and provincial level. Due to the Austrian constitution, the legislative and executive competencies are shared between the federal and the provincial level (in all there are nine provinces in Austria). For example legislation on mining and forestry matters are federal competences, whereas spatial planning and nature conservation matters are legislative responsibilities of the provinces. Thus, there are SEA relevant plans and programmes both at federal level (e.g., the Federal Waste Management Plan) and provincial level (e.g., the regional waste management plans). That is why no sole SEA Act has been passed in order to transpose the SEA Protocol (and SEA Directive), whereas many existing Acts were amended or revised accordingly and some new Acts have been passed. In total, there are about 38 implementation Acts plus several ordinances. The various implementation Acts may fairly differ from each other depending on the existing (or not existing) planning Acts. The following answers try to cover all these different implementation Acts. A list regarding the different implementation Acts including the existing guidance is enclosed. The list also contains the types of plans and programmes which are covered by the different implementation Acts. This list is publicly available.

[www.strategischeumweltpruefung.at](http://www.strategischeumweltpruefung.at)

[https://www.bmnt.gv.at/umwelt/betriebl\\_umweltschutz\\_uvp/sup.html](https://www.bmnt.gv.at/umwelt/betriebl_umweltschutz_uvp/sup.html)

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):
- (d) Administrative rule (please indicate number/year/name):
- (e) Other (please specify):

Your comments: [see above](#)

### Article 4 Field of application concerning plans and programmes

I.2. List the types of plans and programmes that require SEA in your legislation: [see above](#).

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

No explicit definition is foreseen. The wording is interpreted as plans and programmes containing criteria or conditions which guide the way the consenting authority decides an application for development consent.

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:

In general the type of plans and programmes which may determine the use of small areas or to which minor modifications are possible are specified. For some of these identified plans and programmes for example thresholds in combination with other criteria like specific determinations of land use are laid down. The criteria for defining small areas at local level or minor modifications are determined in the relevant implementation Acts or in additional ordinances.

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

Usually the respective Act specifies the plan or programme type to which minor modifications are possible. In addition, for some of these identified plans or programmes the specific regulations define different thresholds depending on the determination of land use. Some provinces provide explanations in guidances.

## 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:

In most of the cases the legislation determines the types of pp according to Art. 4 para 3 and 4. In addition, criteria or thresholds in relation to certain determinations of land use were laid down in specific ordinances. Some of the ordinances contain also checklists, tables, etc.

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:

Some provinces have foreseen the possibility to comment the outcome of the screening and scoping.

## 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)?

The scoping report is either carried out by the planning/SEA authority or by a commissioned consultant. There is usually a scoping report. The scoping report includes as a minimum an outline of the information which will be included in the environmental report. The outline of the information follows the requirements of annex IV SEA Protocol. Different guidances are available to support the determination of the relevant information to be included in the environmental report. The guidances are listed on websites.

## 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:

There is neither a definition of reasonable alternatives nor a requirement regarding the number. It is decided on a case by case basis. Some guidelines recommend the elaboration of certain alternatives. Alternatives can cover different sites, technologies, design of measures/activities or various combinations of measures. The zero alternative has to be elaborated in addition to the reasonable alternatives.

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:

Different guidances aim to ensure the quality of the reports. In addition, SEA examples are being collected. For this collection quality check lists are sent out to the SEA authorities. The

## 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):

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):

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):  (see below)
- (d) Other (please specify):

Your comments:

Most of the implementation Acts define for each PP type the time frame (e.g. number of weeks or number of days) for the commenting period. The authorities responsible may prolong the time period.

## 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:

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:

I.17. Does your national legislation call for consultations with environmental and health authorities?

- (a) Yes
- (b) No

I.18. 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:

[In some cases in addition to sending comments informal meetings take place.](#)

## Article 10 Transboundary consultations

I.19. 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 Art. 10 SEA Protocol the notification has to include the environmental report and the draft plan or programme. In some cases the possibly affected party is informed before the official notification is sent.](#)

I.20. 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:

Usually the information required by Art. 10 para 2 is sent, sometimes, if available, additional information is included.

I.21. 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:

I.22. If the affected Party has indicated that it wishes to enter into consultations, how do the Parties agree on detailed arrangements to ensure that the public concerned and the authorities in the affected Party are informed and given an opportunity to forward their opinion on the draft plan or programme and the environmental report within a reasonable time frame (art. 10, paras. 3 and 4)?

(a) Following those of the Party of origin

(b) Following those of the affected Party

(c) Other (please specify):

Your comments:

Austria follows the principle laid down in Art. 2 para 6 Espoo Convention, which determines that the public and authorities in the affected Parties shall be given equal opportunities provided to the public and authorities in the Party of origin.

## Article 11 Decision

I.23. 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:

The different legal implementations of the SEA Protocol oblige the authorities concerned to take the outcome of the SEA into account. The authority has to describe in a written summary how the SEA (environmental report, comments, mitigation measures, monitoring measures and the reasons for adopting the plan or programme in the light of the alternatives) has been taken into account.

I.24. How and when do you inform your own public and authorities (art. 11, para. 2)?

After the plan or programme has been adopted the public is informed by public notices and/or electronic media. Some provinces also foresee public events to inform the public.

I.25. How do you inform the public and authorities of the affected Party (art. 11, para.

(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:

If the affected Party has nominated a contact person for the transboundary SEA, this contact person will be informed. It will be the Espoo Point of contact which receives the information if no contact person for transboundary SEA procedures has been nominated.

I.26. How do you ensure that, when a plan or programme is adopted, the public, the authorities and the Parties consulted are informed and that the information mentioned in article 11, paragraph 2, is made available to them?

(a) Pursuant to national legislation (please refer to specific provisions and provide citations in order to clarify the procedure followed):

(b) Other (please specify):

Your comments:

## Article 12 Monitoring

I.27. 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 legal requirements for monitoring follow the requirements of Art. 12 SEA Protocol. Usually the planning authorities are responsible for monitoring. The responsibility may also be influenced by the type of monitoring measure or monitoring regime. Depending on the type of plan or programme some implementation Acts determine in which existing monitoring framework the monitoring has to be carried out. General guidance is available and is supposed to support the monitoring.



## Part two

### Practical application during the period 2016–2018

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

In the scoping phase the environmental including health effects as defined in art 2 para 7 are examined and the relevant information to be included in the environmental report is determined. In the scoping possible health issues as all the other aspects are checked. Based on the outcome of the scoping phase the environmental documentation is established. Nevertheless, the drafting of the environmental documentation follows a flexible approach taking up issues which have not been relevant at the scoping phase due to new developments or new information.

#### 2. Domestic and transboundary implementation in the period 2016–2018

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 2016–2018

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:

Transboundary SEAs: approx. 11 (8 nuclear waste management programmes, 3 transport, 2 energy, 1 nuclear policy).

#### 4. Experience with the strategic impact assessment procedure in 2016–2018

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):

The requirements of the Protocol have been implemented. At the moment some difficulties may occur in the practical application of the Protocol, e.g. the determination of contents and level of detail for the environmental report, also finding reasonable alternatives.

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:

Guidances, collection of SEA examples, fact sheets and information exchange within the authorities

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)?

There is some experience available, for example for waste management plans for the city of Vienna.

(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):

Due to lack of resources additional information can't be provided but as mentioned before examples including documentation can be found in German on the website [www.strategischeumweltpruefung.at](http://www.strategischeumweltpruefung.at)

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 and what solutions has it found?

Translation is in many cases a problem e.g. no translation in German is provided or bad translation

- (i) Translation and interpretation
- (ii) Other issues

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

Party of origin: Usually Austria translates the draft pp and the environmental report or parts of the environmental report into the language of the affected Party.

Affected Party: Austria requests the documents in German; if it doesn't receive any translation Austria arranges for it itself. Sometimes Austria accepts documents in English.

(c) As an affected Party, has your country ensured the participation of the public concerned and the authorities pursuant to article 10, paragraph 4?

(i) No

(ii) Yes  (please indicate how):

Austria follows the principle laid down in Art. 2 para 6 Espoo Convention, which determines that the public and authorities in the affected Parties shall be given equal opportunities provided to the public and authorities in the Party of origin.

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

The participation of the public depends on its interest in the specific transboundary procedure. In many cases the interest of the public at the plan or programme level is less than at the project level.

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

(i) No

(ii) Yes  (please describe): [The Espoo Contact Point has no information.](#)

(f) As an affected Party, how do you ensure that the public concerned and the authorities are informed and given an opportunity to forward their opinion on the draft plan or programme and the environmental report within a reasonable time frame (art. 10, para. 4)?

## 5. Experience regarding guidance in 2016–2018

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:

The Austrian authorities have been informed during the annual SEA working group which consists of members of SEA authorities from both the federal and provincial administration including the environmental Ombudsmänner. The group meetings take place regularly in order to exchange SEA related information and experience. The Manual is also made available on the website [www.strategischeumweltpruefung.at](http://www.strategischeumweltpruefung.at)

There is no information available on the actual use of the Manual. Probably it has not been used too much since it seems to be quite extensive and doesn't take the Austrian planning situation into account.

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<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).

## 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:  
The requirements of the SEA Protocol (and SEA Directive) have been implemented within the Austrian legislation. The authorities concerned are fully aware of all the requirements. In the last years a more positive attitude towards SEA has developed. In order to enhance this development it is useful to show the positive effects and advantages of SEAs.

Several instruments support the application of the Protocol. There are various guidelines on federal and provincial level. They are listed in the enclosed table. There is also an electronic tool kit (website, see below) available. Once a year the federal ministry for sustainability and tourism invites the SEA authorities of the federal and provincial level. During the meeting the latest developments and practical problems are discussed. In addition, a so called SEA practise group was installed which meets also once a year and discusses special practical problems. The discussion of the practise group is documented in so called "Praxisblätter". Also SEA examples are collected every year and made public available. Relevant SEA information (including legal implementation, guidance, information on methods and public participation, SEA examples and the Praxisblätter) can be found on the website [www.strategischeumweltpruefung.at](http://www.strategischeumweltpruefung.at) and on the website of the ministry [https://www.bmnt.gv.at/umwelt/betriebl\\_umweltschutz\\_uvp/sup.html](https://www.bmnt.gv.at/umwelt/betriebl_umweltschutz_uvp/sup.html)

The provinces also provide relevant SEA information on their websites (see enclosed list).

## 7. Suggested improvements to the report

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

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