

# Questionnaire for the report of Ukraine 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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# 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): #2354 20.03.2018 On Strategic Environmental Assessment, take into force 12.10.2018

(b) SEA provisions are transposed into another law(s) (please specify): Decrees of the Cabinet of Ministers

dated December 18, 2018, No. 1131 "On Amending Certain Decrees of the Cabinet of Ministers of Ukraine"

dated January 23, 2019 No. 45 "On Amendments to certain Resolutions of the Cabinet of Ministers of Ukraine";

dated January 23, 2019, No. 128 "On Amendments and Recognition as Decrees of the Cabinet of Ministers of Ukraine"

(c) Regulation (please indicate number/year/name): The Order of the Ministry of Ecology and Natural Resources of Ukraine of August 10, 2018, No. 296 approved the Methodological Recommendations for the Strategic Environmental Assessment of State Planning Documents.

By order of the Ministry of Ecology and Natural Resources of Ukraine dated December 29, 2018, No. 465, amendments were made to the Methodological Recommendations for the Strategic Environmental Assessment of State Planning Documents as regards the detailed territorial plans.

(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: The Law regulates relations in the field of assessment of effects of the implementation of the public planning documents on the environment, including human health, and shall cover the

public planning documents in the field of agriculture, forestry, fisheries, energy, industry, transport, waste management, water use, environmental protection, telecommunications, tourism, urban planning and land management (schemes) and implementation of which set the framework for types of activity (or which contain types of activity and projects) that under legislation require an environmental impact assessment, as well as those public planning documents which require an assessment in view of the likely effects on sites and objects of the nature-reserve fund or ecological network (hereinafter – nature conservation areas), except for those which concern the establishment or expansion of sites and objects of the nature-reserve fund..

I.3. Explain how you define whether a plan or programme “set the framework for future development consent” (art. 4, para. 2): for types of activity (or which contain types of activity and projects) that under legislation require an environmental impact assessment (art. 3 of EIA Law)

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: public planning documents – strategies, plans, schemes, urban planning documentation, national programmes, state target programmes and other programmes and program documents, including any modifications to them, developed and/or subject to adoption by public authority, local self-governance authority

I.5. Explain how you identify in your legislation a “minor modification” to a plan or programme (art. 4, para. 4): The basis for the decision on the need for the strategic environmental assessment of insignificant changes to the public planning document, which has earlier underwent the strategic environmental assessment, shall be the criteria for determining the effects on the environment, including human health, approved by the authority referred to in Article 6 of the SEA Law

## **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: the public planning documents, implementation of which set the framework for types of activity (or which contain types of activity and projects) that under legislation require an environmental impact assessment

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): By sending written comments to the planner

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)?

Para 2 Article 11 of the SEA Law:

The strategic environmental assessment report shall be prepared before the adoption of the public planning document and shall contain, taking into account content and level of detail of the public planning document, modern knowledge and assessment methods, the following information:

- 1) the contents and the main objectives of the public planning document, its relationship with other public planning documents;
- 2) characteristics of the current state of the environment, including human health, and the likely evolution thereof without implementation of the public planning document (pursuant to administrative data, statistical information and research results);
- 3) the environmental characteristics, livelihood conditions of the population and the state of human health of areas likely to be affected (pursuant to administrative data, statistical information and research results);
- 4) environmental problems, including risks of impact on human health, which are relevant to the public planning document, in particular, relating to nature conservation areas (pursuant to administrative data, statistical information and research results);
- 5) the environmental protection obligations, including those related to preventing adverse impact on human health, established at international, national or other levels, which are relevant to the public planning document and the way those obligations have been taken into account during preparation of the public planning document;
- 6) an outline of effects on the environment, including human health, including secondary, cumulative, synergistic, short, medium and long-term (1, 3-5 and 10-15 years respectively, as well as 50-100 years, as appropriate), permanent and temporary, positive and negative effects;
- 7) the measures envisaged to prevent, reduce and mitigate adverse effects of implementing the public planning document;
- 8) justification for selecting the reasonable alternatives dealt with, a description of the method by which the strategic environmental assessment was undertaken including any challenges (lack of information and technical means at the time of such assessment);
- 9) measures envisaged for monitoring effects of the implementation of the public planning document on the environment, including human health;

- 10) an outline of likely transboundary effects on the environment, including human health (as appropriate);
- 11) a non-technical summary of the information provided under points 1-10 of this paragraph, intended for a wide audience.

## **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: justification for selecting the reasonable alternatives dealt with, a description of the method by which the strategic environmental assessment was undertaken including any challenges (lack of information and technical means at the time of such assessment) (para 2 Article 11 of the SEA Law)

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 the result of consultations the planner shall prepare a statement of consultations, summarizing comments and suggestions received and indicating how comments and suggestions expressed pursuant to this Article have been taken into account in the public planning document and the strategic environmental assessment report, as well as the reasons for choosing the public planning document as proposed for adoption in the light of the reasonable alternatives put forward for consideration. The statement shall be supplemented by the written comments and suggestions received. The statement of consultations shall be considered public information.” (Para 6 Article 13 of the SEA Law)

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):

Your comments: The notification of the disclosure of the draft public planning document and the strategic environmental assessment report shall be published in the printed mass media (at least two) determined by the planner and posted on the official website of the planner. The planner shall ensure the dissemination of the notification and access to the draft public planning document and the strategic environmental assessment report during the entire period of public consultations

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:

The public, within the time frames of public consultations, shall have the right to submit to the planner in a written form (including in an electronic form) comments and suggestions to the draft public planning document and the strategic environmental assessment report.

The making publicly available of the draft public planning document and the strategic environmental assessment report aiming at collecting comments and suggestions shall not exclude the possibility of carrying out public hearings, any other forms of open public consultations concerning the draft public planning document and the strategic environmental assessment report pursuant to the procedure established by the legislation.

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): time frame is determined by the number of days for each commenting period, but no less than...days (in case by period)

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: Subjects of the strategic environmental assessment shall be central state executive authority, implementing state policy in the field of environmental protection, central state executive authority, implementing state policy in the field of healthcare, regional, Kyiv and Sevastopol city state administrations (relevant units on environmental protection and healthcare), state executive authority of the Autonomous Republic of the Crimea on environmental protection and state executive authority of the Autonomous Republic of the Crimea on healthcare.

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 draft public planning document, the strategic environmental assessment report and the notification of the disclosure of these documents shall be submitted by the planner (on paper and in an electronic form) to central state executive authority, implementing state policy in the field of environmental protection, central state executive authority, implementing state policy in the field of healthcare.

The draft public planning document of the local and regional level, the strategic environmental assessment report and the notification of the disclosure of these documents shall be submitted by the planner (on paper and in an electronic form) to regional, Kyiv and Sevastopol city state administrations (relevant units on environmental protection and healthcare), state executive authority of the Autonomous Republic of the Crimea on environmental protection and state executive authority of the Autonomous Republic of the Crimea on healthcare.

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: The mentioned authorities, upon the receipt of the draft public planning document and the strategic environmental assessment report shall within five



working days post the notification of the disclosure of the draft public planning document on official websites thereof indicating the planner and within the time frames not exceeding 30 days of the date of receipt shall submit to the planner in a written form comments and suggestions to the draft public planning document and the strategic environmental assessment report.

## **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: Where the competent authority considers that the implementation of the public planning document is likely to have effects on the environment, including human health in the affected state, or where the affected state so requests, the competent authority shall forward a copy of the draft public planning document together with the strategic environmental assessment report (or a part thereof, which does not contain the classified information) to the affected state and specify the time frame within which the affected state shall indicate whether it wishes to enter into transboundary consultations. Such the time frame shall not be less than 30 days from the date of notification of the affected state.

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: see I.19 comment

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): not be less than 30 days

Your comments: see I.19 comment

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): the competent authority together with the planner, and the affected state shall agree on the timeframe for the duration of the consultations,

arrangements for carrying them out, modalities for translating documents, and measures ensuring information and participation of the public of the affected state.

Your comments:

## **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:

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

Within five working days of the date of adoption of the public planning document the planner shall post on the official website thereof the public planning document as adopted, the measures envisaged for monitoring of effects of the implementation of the public planning document, the statements of consultations and of public consultations, and inform thereabout in writing the competent authority.

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: According para 6 Article 14 of the SEA Law : “When the public planning document is approved, the authority referred to in Article 6 of this Law shall ensure, on the submission of the planner, the informing of the affected state as regards the following:

- 1) the content of the adopted public planning document;
- 2) information on how environmental considerations have been taken into account in the public planning document and how the strategic environmental assessment report took into account the results of consultations and suggestions expressed pursuant to this Article, as well as the reasons for choosing the public planning document as adopted in the light of the reasonable alternatives put forward for consideration;
- 3) the measures decided concerning monitoring in accordance with Article 17 of this Law.”

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: see the previous comment

## **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 planner within its competence shall monitor the effects of the implementation of the public planning document on the environment, including human health, annually make publicly available the results thereof on its official website in the Internet, and, in case of identified adverse effects on the environment, including human health, unforeseen by the strategic environmental assessment report, undertake appropriate remedial action.

The procedure for monitoring the effects of the implementation of the public planning document on the environment, including human health, shall be approved by the Cabinet of Ministers of Ukraine.

## **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

## 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: 1

Romanian Danube Delta Integrated Sustainable Development Strategy (as affected party)

## 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):

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:

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)? no

(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 and what solutions has it found?

- (i) Translation and interpretation  
was asking Romanian Party for translate SEA report to Ukrainian
- (ii) Other issues

(b) What does your country usually translate as a Party of origin? We have no experience in this case but, according para 3 Article 14 of the SEA Law “Where the authority referred to in Article 6 of this Law considers that the implementation of the public planning document is likely to have effects on the environment, including human health in the affected state, or where the affected state so requests, the authority referred to in Article 6 of this Law shall forward a copy of the draft public planning document together with the strategic environmental assessment report (or a part thereof, which does not contain the classified information) to the affected state and specify the time frame within which the affected state shall indicate whether it wishes to enter into transboundary consultations.”

(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): the competent authority placed the documents on the web site, informed the public and local authorities, organized public hearings

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

To increase efficiency, additional sending of documents to interested public organizations by e-mail is used.

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

(i) No

(ii) Yes  (please describe):

(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)? the competent authority placed the documents on the web site

## 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:

## 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:

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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).

(b) Yes  Please describe how your country intends to improve application of the Protocol: plans to conduct training for government officials

**7. Suggested improvements to the report**

II.11. Please provide suggestions for how this report may be improved: have no suggestions

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