

Questionnaire for the report of the Republic of Malta 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): n/a
- (b) SEA provisions are transposed into another law(s) (please specify): n/a
- (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 Regulation 497 in 2010.*
- (d) Administrative rule (please indicate number/year/name): n/a
- (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 National Regulation does 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 National Regulation does 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 316km² 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 Regulation points out that the Responsible Authority shall determine whether an SEA is necessary in respect to plans and programmes which involve minor modifications, in consultations with the Competent Authority.*

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 National Regulation 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 I)

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: *In accordance with the National Regulation (Art.6(1)) the environmental report shall be prepared in which reasonable alternatives are identified, described and evaluated, taking into account the objectives and the geographical scope of the plan or programme.*

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): *In accordance with the National Regulation*

(Art 6(2)), the environmental report shall include the information that may reasonably be required taking into account current knowledge and methods of assessment, the contents and level of detail in the plan or programme, its stage in the decision-making process and the extent to which certain matters are more appropriately assessed at different levels in that process in order to avoid duplication of the assessment.

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 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.*

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 accordance to National Regulation Art.7(5)), 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 these 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.*

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): *In accordance with the National Regulation (Art.7(2)), time-frames shall not exceed sixteen weeks from the publication of the plan or programme and its environmental report.*
- (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) *the Regulation indicates (Art.7(3)) that the Responsible Authority shall inform the authorities that are likely to be concerned by the environmental effects of implementing plans and programmes and any other authority, which may also include health effects.*

Your comments: *Given its recent accession to the Kiev Protocol, Malta is currently undertaking the necessary legal amendments in order to include Health Authorities specifically.*

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: *There is no specific reference in the Regulation 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.*

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:

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:

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): *Parties shall agree on the "reasonable timeframe" on a case by case, depending on the plan and programme.*

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): *Decisions are taken on a case by case. For the indicate reporting timeframe, Malta has not registered any case of transboundary consultations.*

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: *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.24. 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.25. How do you inform the public and authorities of the affected Party (art. 11, para.2)

- (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: *The publication of the information is effected through the respective Member State but the Regulation does not provide any specific details on how this is done. However, an administrative procedure will be considered in order to facilitate the process.*

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: *According to the SEA Regulation, para.10*

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 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 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: *No transboundary SEA procedures were initiated in the reporting period.*

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: *N/A*

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)? *According to the national Regulation, the Responsible Authority shall carry out the monitoring and keep informed the Competent Authority on each outcome being carried out.*

(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

(ii) Other issues *No transboundary case has been carried out in the reporting period.*

(b) What does your country usually translate as a Party of origin? *The State from which the plan and programme, being prepared and which is likely to have significant effects on the environment in another state, originates.*

(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):

(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):

(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)?

N/A

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)*?¹:

- (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: *Given its recent accession, Malta is currently in the process to amend its legislation ensuring closer adherence to the Protocol*

7. Suggested improvements to the report

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

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