

SEA seminar and EIA workshop

*Organised by the European Environmental Bureau
5-6 September, 2003*

Summary

Strategic Environmental Assessment

SEA and the obligations from the Directive on the assessments of the effects of certain plans and programmes on the environment

(based on the Directive text and the speech of Mr David Aspinwall, DG Environment)
<http://europa.eu.int/comm/environment/eia/home.htm>

- adopted in spring 2001 (Official Journal L197/30 of 27.07.01)
- 3 years for national transposition (before 21 July 2004, the same for accession countries!)

In the European Commission's expectations the SEA should:

- contribute to environmental policy integration,
- investigate alternatives,
- be carried out in an interactive way,
- contribute to sustainable development.

The Directive applies to plans and programmes, including those co-financed by the European Community, as well as any modifications to them that fulfil two conditions:

- are subject to preparation/adoption by a Member State authority or through a legislative procedure, and
- are required by legislative, regulatory or administrative provisions.

SEA is mandatory for plans and programmes:

- in 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 EIA projects,
- with likely significant effects on Natura 2000 sites.

Screening: Member States have to determine the need for SEA for plans/programmes that:

- set the framework for future non-EIA projects,
- determine the use of small areas at local level and minor modifications to p/ps.

Thus the Member States determine if they are likely to have significant environmental effects.

Screening can be carried out by:

- case by case examination,
- specifying types of p/ps,
- combining both approaches.

Member States shall in all cases take into account relevant Annex II criteria of the SEA Directive.

Member States shall ensure that their conclusions including the reasons for not requiring an environmental assessment are made available to the public.

Exemptions under the Directive:

- national defence or civil emergency p/ps,
- financial or budget plans and programmes,
- p/ps co-financed under the current respective programming periods for Council Regulations on Structural Funds (2000-2006/2007).

Preparation of the environmental report:

- determination of the appropriate level of detail (scoping),
- determination of methodology,
- the quality of the environmental report must be ensured by the Member States.

The environmental report identifies, describes and evaluates:

- the likely significant effects on the environment of implementing the p/p
- reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.

Annex I of the Directive contains detailed requirements on the contents, while the authorities with specific environmental responsibilities shall be also consulted when deciding on the scope and level of detail of the information which must be included in the environmental report.

Consultations

The draft p/p and the environmental report shall be made available to environmental authorities and the public.

The environmental authorities and the public shall be given **an early and effective opportunity** within appropriate time frames to express their opinion on the draft p/p and the accompanying environmental report before the adoption of the p/p or its submission to the legislative procedure.

Environmental authorities are consulted:

- in screening,
- in scoping,
- on the draft p/p and the environmental report.

Member States shall identify the public, including the public affected or likely to be affected by, or having an interest in the decision-making including relevant NGOs, such as those promoting environmental protection and other organisations concerned. The public is consulted on the draft p/p and the environmental report.

The detailed arrangements for the information and consultation of the authorities and the public shall be determined by the Member States.

Transboundary consultations on the same information take place in line with the principles of the Espoo Convention.

Decision makers have to:

- take account of:
 - the environment report,
 - the opinions expressed pursuant to the consultations, including transboundary ones, if relevant
- make available to the public, environmental authorities, other consulted EU countries:
 - the p/p as adopted
 - a statement summarising how environmental considerations have been integrated into the p/p and how the environmental report, the opinions and the results of consultations have been taken into account and the reasons for choosing the p/p as adopted, in the light of the other reasonable alternatives.
 - the measures decided concerning monitoring of implementation.

Monitoring

Member States have to monitor the significant environmental effects of the implementation of the p/p with a view to:

- the early identification of unforeseen adverse effects,
- the appropriate remedial action.

Member States may use existing monitoring arrangements with a view to avoid duplication of monitoring.

Relationship with other EC legislation:

- The SEA Directive shall be without prejudice to the EIA Directive.
- In case other EC legislation requires also environmental assessments for p/ps, Member States may provide for coordinated /joint procedures.

- In case of a p/p co-financed by the EC, the environmental assessment in accordance with the SEA Directive has to be carried out in conformity with the relevant EC legislation.

What now? Implementation in Member States

- Transposition by 21.07.2004
- Need to support Member States/accession countries:
 - in developing guidance by the EC (by 2003),
 - regular information exchange meetings,
 - methodologically.
- Relationship with UN-ECE SEA Protocol
- Contribution of SEA to Sustainability and Territorial Impact Assessment (SIA and TIA)
- Relationship with Structural Funds Regulations

Other presentations at the SEA seminar

Paul Hamblin (Campaign to Protect Rural England (CPRE)) spoke about the requirements of the Directive and things NGOs should look out for in the regulations being developed by individual Member States. These include, for example, gaps which may exist between EIA and SEA, between the agenda for environmental integration and that of sustainability appraisal, and the interpretation of the Directive.

Simona Kosikova, (Director of Regional Environmental Center (REC) Country Office for the Czech Republic) gave an overview of REC activities to help accession countries to design SEA systems - the main projects and contacts. Comparison of different conceptual approaches to SEA and main lessons from REC-supported pilot SEA projects.

Sarah Blau (environment advisor to the Greens/ALE in the European Parliament Environment Committee) among others pointed out that the European Parliament tries to influence the European Commission through debates, (not legally binding) resolutions and political pressure, so that the EC promotes better environmental policy integration and enforcement in MSs. Besides she stressed that the focus will be rather on the enforcement of existing EU legislation instead of adopting new ones in the future.

Jan De Mulder (Ministerie van de Vlaamse Gemeenschap - department LIN) showed some experience of transposing the SEA Directive in the region of Flanders in Belgium.

Miroslav Martis (Institute of Applied Ecology of the Forestry Faculty, Czech University of Agriculture) presented some experience in an accession country in trying to introduce SEA and about the new legislation in the Czech Republic, which will be hopefully close the EU SEA Directive.

Kerstin Arbter (SEA consultant from Austria) introduced practical experiences with SEA in Austria in different sectors (land use, transport, waste management). Besides she presented the *SEA Round Table model* from Austria:

The Round Table consists of the SEA Team involving the authorities, external experts and other interest groups (environmental NGOs, Chamber of Commerce, Chamber of Industry, etc. and local politicians). They cooperate during the whole SEA procedure, they all have equal say (although some have more equal...) and share the responsibility. However if some members do not support the final outcomes, they can state that in the environmental report. In addition to the SEA Team the public participation is ensured through an established web site, through the involvement of media and public SEA forums. At the public forums representatives can be elected for the participation in the SEA Team.

About the role of the NGOs Ms Arbter said that their involvement brings innovative ideas and improves the credibility and transparency of the process. On one hand however it also brings disadvantages for the NGOs: involvement is very much time-consuming, their role may be regarded negative in the process and they may lose credibility if the results are not favourable enough for the environment. Due to the fact that the NGOs provide expertise in this time-consuming process, the government provides some funding for the NGO participants. On the other hand it has benefits for NGOs in the form of enhanced cooperation with the governmental and private sector and through their own improved acceptance. Still there is low

interest among NGOs for participation, while it is also difficult to decide whether to involve umbrella organisations having broad representation or specialised NGOs with the specific expertise.

According to the Austrian experiences even more consultations are needed and the monitoring of the environmental effects of the implementation of the p/ps and of how much they achieve their environmental objectives is crucial (as their implementation is very weak).

Discussion among the participants during the SEA seminar, lessons learned

Shortcomings of the SEA Directive

- It does not apply to policies
- It applies to the MSs, but not to the EU level (e.g. TENs, TINA)
- Contains some exclusions, which areas however have significant effects on the environment (especially financial and budget p/ps, or those connected to the Structural Funds)
- "Small areas at local level" and „minor modifications" are undefined in the Directive

Difficulties

- Lack of understanding of intersectoral relationships and cause-chain connections among decision makers
- The drafting of p/ps are generally politically sensitive issues, which makes even more difficult to advocate professional considerations
- Politicians usually build p/ps in a bottom-up approach: they use some ideas for projects as the starting point and elaborate programs and plans subsequently
- Generally no environmental objectives are incorporated into the p/ps, which make the assessment even more difficult
- The implementation of the p/ps are usually weak
- In general little environmental information is available in the p/ps; which makes the SEA more difficult, maybe minimum environmental information requirements should be set for the planners
- Because of the Environmental Impact Assessment to be obligatorily carried out later for the projects the SEA may be tried to narrow down
- MSs define the notions of public and environmental authorities for the carrying out the environmental assessment
- There is a great time pressure when executing the assessment

Opportunities that SEA provides

- SEA provides good opportunity for debate with the decision makers to change their views
- It helps to think strategically
- It enables to force environmental objectives into the p/ps

Within the framework of the seminar and the workshop there were discussions for future cooperation in order to fully exploit the possibilities that SEA can provide in the protection of biodiversity and environment.

Environmental Impact Assessment

At the beginning of the EIA workshop Ms Thisvi Ekmetzoglou from DG Environment presented the outcomes of the five-year report on the application of the EIA Directive in the current Member States.

The main shortcomings in the implementation proved to be following:

- Unsystematic screening of projects, some tricks to avoid the obligation of EIA (e.g. salami-slicing in Ireland: the greater projects are divided into smaller ones in order to be under certain thresholds used as criteria for obligatory EIAs)
- Scoping of the EIA is not satisfactory
- Lack of cumulating the facts
- Poor quality control, as there are no obligations for it
- No information on the EIAs carried out, there is no monitoring system or database in many countries

- The results of the EIAs are weakly reflected in the implemented projects
- In the framework of the transposition of the Directive some parts are not communicated in some countries

For reviewing the transposition of the Directive a conformity check will be carried out for each current Member States by external experts commissioned by the European Commission. In addition the EC would like to enhance the implementation through capacity building and a guidance book, and about two years later an amendment of the Directive can be also expected.

Some problems that were revealed during the discussions among the workshop participants:

- Public participation is weak during the EIA due to the proper means and time, and it is not required to explain how the public opinion was considered in the report (as opposite to the SEA)
- Alternatives for the projects are hardly considered (while for example the location of the project cannot not even be the subject of a debate within the EIA in the Netherlands, as it is not regarded officially as an environmental question, but as a spatial planning one)
- Poor quality of the carried out EIAs, especially in the case of smaller projects when one consultant has to deal with all aspects from biodiversity to air pollution, or in general when authority officials carry out the assessment instead of private experts. Another affecting factor is that in most cases the developer pays for the report.
- There is a big political pressure that the planned projects are implemented for the reasons of for instance job creation, against which it is more difficult to advocate biodiversity and environment

Good practices in EIAs

- In Poland there are EIA Commissions for quality control, which for instance check if there are enough information in the EIA reports, they hold regular press conferences and publish their own bulletin
- In Scotland an energy company approached the Royal Society for the Protection of Birds for some help in selecting the sites for a wind farm. With the involvement of RSPB the EIA was carried out in a better the quality, and subsequently RSPB initiated the cooperation with other energy companies, more than the half of which accepted their offer on average.

*The DG Environment expressed their interest in receiving information from NGOs concerning two practices in the MSs: how the **alternatives** are considered during EIAs, and how the **screening** is carried out, what criteria, thresholds, etc. are developed for selecting the projects for the assessment. For submitting national experiences through CEEWEB and the European Environmental Bureau please contact Klára Hajdu at hajdu@ceeweb.org.*

See more on the seminar and workshop in the report to be soon published by EEB.