

“Capacity Building and Strengthening Institutional Arrangement”

Workshop: “Environmental Impact Assessment (EIA)
(for Assessors)”

The Strategic Environmental Assessment following the EU Directive 2001/42/CE

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Strategic Environmental Assessment (SEA): an important tool for a sustainable development

Sustainable development is a fundamental objective of the world current policies. It requires a vision of progress that integrates immediate and long-term needs, local and global needs, and regards social, economic and environmental needs as inseparable and interdependent components of human progress.

Environmental protection, better management and use of natural resources are key priorities for a sustainable development strategy.

The adoption of environmental assessment procedures at the planning and programming level contributes to more sustainable decision making.

Main international agreements on SEA

ESPOO Convention and SEA Protocol

The UNECE Convention on Environmental Impact Assessment in a Transboundary Context, was adopted on 25 February 1991 at Espoo (Finland). It entered into force in 1997.

The Convention requires that Parties assess the environmental impact of certain activities that are likely to cause significant adverse transboundary impact.

It lays down an environmental impact assessment procedure that shall be undertaken at the project level of the proposed activity.

The procedure requires the public participation and the preparation of the environmental impact assessment documentation.

The Parties shall endeavour to apply the principles of environment impact assessment to policies, plans and programmes.

Main international agreements on SEA

ESPOO Convention and SEA Protocol

The Convention has been supplemented by the Protocol on Strategic Environmental Assessment (Kiev, 2003).

It requires that environmental, including health, concerns are taken into account in the development of plans and programmes and considered in the preparation of the proposals for policies and legislation that are likely to have significant effects on the environment.

The Protocol also provides for extensive public participation in government decision-making in numerous development sectors.

Main international agreements on SEA

The Convention on Biological Diversity

Signed by 150 government leaders at the 1992 Rio Earth Summit, the Convention promotes sustainable development.

Each Contracting Party, as far as possible and as appropriate, shall:

- Introduce appropriate procedures requiring environmental impact assessment of its proposed projects that are likely to have significant adverse effects on biological diversity;
- identify mitigation measures of such effects;
- allow, where appropriate, for public participation in such procedures (art.14)

Main international agreements on SEA

Aarhus Convention and Directive 35/2003/EC

The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was adopted on 25 June 1998 at Aarhus. It entered into force in 2001.

Convention requires that its Parties promote the participation of the public to the preparation of plans and programmes relating to the environment (art. 7).

Main international agreements on SEA

Aarhus Convention and Directive 35/2003/EC

The Directive 35/2003/EC of the European Parliament and of the Council of 26 May 2003 was adopted to contribute to the implementation of the obligations arising under the Aarhus Convention.

Member States shall ensure that the public is given early and effective opportunities to participate, in the preparation and modification or review of the plans or programmes relating to the environment (art.2).

Directive 2001/42/EC (the SEA Directive)

Why the SEA directive

Directive 2001/42/EC of the European Parliament and of the Council on the assessment of the effects of certain plans and programmes on the environment entered into force on July 2001.

It is referred to as the “Strategic Environmental Assessment” Directive (or SEA Directive) because it deals with environmental assessment at a higher, more strategic, level than that of projects.

Directive 2001/42/EC (the SEA Directive)

Why the SEA directive

The assessment for individual projects, under EIA Directive 85/337/EEC, takes place at a stage when options for significant change are often limited.

Decisions affecting for individual projects are taken in the context of plans and programmes. Then the SEA Directive requires that a broad range of plans and programmes to be assessed during their preparation and before their adoption to determine their environmental effects and those of viable alternatives.

The public and environmental authorities can give their opinion and all results are integrated and taken into account in the course of the planning procedure.

Directive 2001/42/EC (the SEA Directive)

Why the SEA directive

The Directive will greatly affect the work of many public authorities by obliging them to carry out a more structured planning in accordance with the procedure laid down in the Directive

The SEA Directive will contribute to more transparent planning by involving the public and by integrating environmental considerations. This will help to achieve the goal of sustainable development.

Directive 2001/42/EC (the SEA Directive)

Objectives of the Directive

Article 1 lays down two objectives of the Directive:

- to provide for a high level of protection of the environment.
- to contribute to the integration of environmental considerations into the preparation and adoption of certain plans and programmes to promote sustainable development.

Directive 2001/42/EC (the SEA Directive)

Scope of the Directive

An environmental assessment in accordance with the procedure laid down in the Directive shall be carried out for plans and programmes which are likely to have significant environmental effects.

Plans and programmes to be subject to the Directive must be both “subject to preparation and/or adoption by the prescribed authorities” and “required by legislative, regulatory or administrative provisions”.

Article 3 defines classes of plans and programmes which require assessment, either automatically or on basis of determination by Member States and specifies how that determination should be made.

Directive 2001/42/EC (the SEA Directive)

General Obligations

Timing: the environmental assessment shall be carried out during the preparation of a plan or programme and before its adoption or submission to the legislative procedure.

Procedural arrangements for compliance: the requirements of the Directive shall either be integrated into existing procedures in Member States for the adoption of plans and programmes or incorporated in procedures established to comply with the Directive.

Avoidance of duplication of the assessments: where plans and programmes form part of a hierarchy, Member States shall avoid duplication of the assessment taking into account the fact that the assessment will be carried out in accordance with the Directive, at different levels of the hierarchy.

Directive 2001/42/EC (the SEA Directive)

The Environmental Report

The environmental report is the central part of the environmental assessment required by the Directive. It is an important tool for integrating environmental considerations into the preparation and adoption of plans and programmes.

The preparation of the report and the integration of the environmental considerations during the preparation of the plans and programmes form an iterative process that should contribute to more sustainable solutions in decision-making.

Directive 2001/42/EC (the SEA Directive)

Quality Of The Environmental Report

Member States shall ensure that environmental reports are of a sufficient quality to meet the requirements of the Directive.

It will contain information that is complete and reliable and will adequate for the purposes of the Directive.

The authorities responsible for the plan or program will need to pay close attention to the requirements of the Directive about SEA process and environmental report.

Directive 2001/42/EC (the SEA Directive)

Consultation

The consultation provisions of the Directive oblige Member States to grant an opportunity to certain authorities and members of the public to express their opinion on the environmental report and the draft plan or programme.

Consultation is an inseparable part of the assessment.

The results of the consultation have to be **taken into account** when the decision is being made.

If either element is missing, there is, by definition, no environmental assessment in conformity with Directive.

Directive 2001/42/EC (the SEA Directive)

Consultation

Authorities covers formal governmental or public authorities, defined by administrative or legal requirements.

The authorities to be consulted are which, by reason of their specific environmental responsibilities, are likely to be concerned by the environmental effects of implementing plans and programmes.

The authorities can be designated in a general way by including them in the legislation implementing the Directive and can also be designated case by case.

The public shall mean one or more natural or legal persons and, in accordance with national legislation or practice, their associations, organisations or groups.

Directive 2001/42/EC (the SEA Directive)

Consultation

Stage of SEA	Consultation requirements in Domestic situations	Consultation requirements in Transboundary situations
Determination if a plan or programme requires SEA	Consultation of authorities Information made available to the public	
Decision on scope and level of detail of the assessment	Consultation of authorities	
Environmental report and draft plan or programme	Information made available to the authorities and the public Consultation of authorities and of the public concerned	Consultation of authorities in the Member State likely to be affected Consultation of the public concerned in the Member State likely to be affected

Directive 2001/42/EC (the SEA Directive)

Consultation

Stage of SEA	Consultation requirements in Domestic situations	Consultation requirements in Transboundary situations
During preparation of plan or programme	Take account of environmental Report and opinions expressed by the authorities and the public	Take account of results of transboundary consultation
Adopted plan or programme; Statement summarising how the environmental report and the results of consultations have been taken into account; measures concerning monitoring	Information made available to authorities Information made available to the public	Information made available to the consulted Member State

Directive 2001/42/EC (the SEA Directive)

Monitoring

Member States shall monitor the significant environmental effects of the implementation of plans and programmes (art. 10).

One purpose of monitoring is to enable the planning authority to undertake appropriate remedial action if monitoring reveals adverse effects on the environment that have not been considered in the environmental assessment.

Existing monitoring arrangements may be used, avoiding duplication of monitoring.

Directive 2001/42/EC (the SEA Directive)

Relation with other EC legislation

An environmental assessment carried out under this Directive shall be without prejudice to any requirements under Directive 85/337/EEC and to any other Community law requirements.

For plans and programmes for which the obligation to carry out assessments of the effects on the environment arises simultaneously from this Directive and other Community legislation, Member States may provide for co-ordinated or joint procedures fulfilling the requirements of the relevant Community legislation in order, inter alia, to avoid duplication of assessment (Art. 11)

The relationship between the SEA and EIA Directives

Where EIA and SEA might both apply, States should determine how best to coordinate the content of the assessments.

For example, certain kinds of alternatives could be addressed by the SEA, allowing the EIA to be more focused on location specific and operational alternatives.

Broad cumulative effects could be addressed by the SEA so that EIAs can be focused on contribution of the specific projects to cumulative effects and how they can be avoided, reduced or mitigated.