

Questionnaire for the report of the Republic of Belarus on the implementation of the Protocol on Strategic Environmental Assessment in the period 2013–2015

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):

To date the Draft Law of the Republic of Belarus "On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment" has been adopted on first reading by the House of Representatives of the National Assembly of Belarus.

- b) SEA provisions are transposed into another law(s) (please specify):

The Draft Law "On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment" provides for inclusion of SEA provisions into this Law.

There have been set up definitions according to the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context and procedural issues regarding public participation in the preparation of the SEA report. Preparation of the Draft Law has benefited from the guidelines developed in the framework of the joint project of the European Union and the UN Development Programme "Building Capacity for Strategic Environmental Assessment and Environmental Conventions Implementation in Belarus" and other guidance materials. The requirements of the legislation in force were also met when compiling the definitions.

- c) Regulation (please indicate number/year/name):

After the enactment of the Law "On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment" regulations on procedures for conducting SEA will be prepared for various programme areas and urban development projects within the framework of the subsidiary legislation. In addition, in order to implement the Regulations relevant legal acts will be developed.

- d) Administrative rule (please indicate number/year/name)

- e) Other (please specify)

Your comments:

To date the Draft Law of the Republic of Belarus "On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment" has been developed in the Republic. Despite the fact that Belarus

has not yet ratified the Protocol on SEA, the SEA institution is being introduced by the Draft Law, thus creating the national legal framework that promote further ratification of the Protocol on SEA.

Article 4

Field of application concerning plans and programmes

I.2 List the types of plans and programmes that require SEA in your legislation:

- draft programmes, that contain laws governing relations in the use of natural resources (including subsoil usage), waste management, agriculture, industry, transport, energy, tourism, as well as projects aimed at introducing changes and (or) amendments to them;
- urban development projects, with the exception of master plans of urban settlements and rural settlements, as well as projects aimed at introducing changes and (or) amendments to them.

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

According to the Draft Law urban development projects are subject to SEA. Urban development of territories includes the following types:

- general urban planning (integrated urban planning in order to determine priorities, main directions of development strategy, creation of settlement scheme, land use and the introduction of restrictions on their use, as well as the development of social, industrial, transport, engineering infrastructure);
- special urban planning (urban planning in order to justify and implement urban development projects of general and detailed planning which is carried out through the development of schemes, forecasts, programmes, strategies, feasibility studies for the development and streamlining of settlement system, land use and the development of social, industrial, transport, engineering infrastructure);
- detailed urban planning (urban planning at the local level of built-up and unbuilt areas, their parts (districts, neighborhoods, and other elements of urban structure).

These documents establish the basis for future construction of various objects of economic and other activities, including the objects listed in Appendix I and II.

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:

According to the Law of the Republic of Belarus "On architectural, town-planning and building activity in the Republic of Belarus" "plans and programmes which determine the use of small areas at local level" should include urban development projects of general, special and detailed planning.

Urban development projects of detailed planning are the detailed plans of:

- Parts of settlements (land zones, blocks, neighborhoods, streets, areas of the intended investment);
- Other areas and groups of objects.

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

According to the Draft Law draft documents aimed at introducing changes and (or) amendments to programmes and urban development projects regardless of the

scale of impact on the environmental components, as well as social or economic aspects are the facilities subject to SEA.

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:

Article 6 of the Draft Law defines the list of facilities subject to SEA, including facilities for which SEA is carried out (listed above), and those for which SEA is not carried out:

Strategic environmental assessment is not carried out for:

- draft programmes related to national defense, emergencies and radiation safety of population;
- facilities referred to in the first part of this article in case of introduction of changes and (or) amendments which implementation would not result in increasing of the possible environmental impact.

The proposed version of the Law defines a wide range of programmes. If the implementation of the programme potentially affects the components of the environment, SEA becomes necessary. Existing practice of adoption of policy papers shows that there is a potential impact on air, land, forest and water resources. In most cases, the development of any industry provides for the construction of facilities as the final stage. Construction of facilities result in land withdrawal and impact on soil, use of water resources and wastewater discharge, emission of pollutants into the air, waste generation - basic and possible - the impact on flora, fauna, biodiversity, etc. In addition, according to the Draft Law urban development documentation which includes a potential decision on the possibility of construction of facilities is subject to SEA as well. In view of the above, "other plans and programmes set out in article 4, paragraphs 3 and 4 in accordance with article 5, paragraph 1" indirectly contain the mentioned facilities.

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

- 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:

There is provision for public participation. First of all the Draft Law introduces changes and amendments to the Law of the Republic of Belarus "On the Protection of the Environment", namely, it introduces the definition "public discussions on the environmental decision-making projects, the environmental impact assessment reports, strategic environmental assessment reports – a set of mandatory measures that provide information to citizens and legal entities on environmental decision-making projects, environmental impact assessment reports, strategic environmental assessment reports, and the ability for participants of public discussions to express their attitude on these projects and reports in order to take into account the public interest and the rights of citizens and legal persons;"

It should be noted that public participation is foreseen at the level of the two Laws only:

For policy documents:

1. Discussion of SEA reports
2. Discussion of policy documents based on SEA results.

For urban development documents:

1. Discussion of SEA reports;
2. Discussion of urban development documents based on SEA results.

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 Draft Law gives the following definition of the term "SEA report - a document containing information on the results of strategic environmental assessment, necessary measures to reduce and (or) prevent possible environmental impact (including transboundary) and environmental changes that may occur as a result of implementing the programs, urban development projects, also taking into account the introduction of amendments and (or) additions to them".

According to the national procedure, within 6 months after the adoption of the Law of the Republic of Belarus "On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment" there will be developed regulations governing the procedure of strategic environmental assessment, as well as report requirements, including requirements for the composition of SEA report.

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:

The Draft Law of the Republic of Belarus "On State Indicative Planning of Socio-Economic Development of the Republic of Belarus" introduces the principle of multiple variants/alternatives indicative planning, providing the account of alternatives of possible changes of socio-economic development factors, including variants of management decisions in the process of elaboration of state indicative planning documents.

Examination and introduction of the requirements to the concept of "reasonable alternatives" will be implemented in the development of provisions for conducting SEA.

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:

The issue of the quality of environmental reports will be set in the SEA conducting provision by introducing a number of requirements for the composition of SEA report, as well as via technical normative acts.

At the same time the Draft Law stipulates that SEA shall be carried out by customers, project organizations with professional staff trained to conduct a strategic environmental assessment and meeting the requirements established by the Council of Ministers of the Republic of Belarus (at the moment this document is unavailable).

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:

It should be noted that public participation is foreseen at the level of the two Laws only:

For policy documents:

3. Discussion of SEA reports
4. Discussion of policy documents based on SEA results.

For urban development documents:

3. Discussion of SEA reports;
4. Discussion of urban development documents based on SEA results.

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 Draft Law stipulates that Strategic Environmental Assessment report is submitted for public discussion in accordance with the national law on Environmental Protection.

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):

Your comments:

Regarding SEA, the term “within a reasonable time frame” has not been defined yet.

National procedure for establishing the time frame for expressing public opinion on draft programmes is the following: notification on public debates contains information about the time frame of public discussions and comments on the EIA report. The time frame for public discussion shall not be less than 30 calendar days from the date of public discussions notice publication.

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:

Environmental authorities are the bodies of the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus with the competence to conduct the state environmental assessment of urban development projects and get approval for draft projects.

For urban development projects (subject to SEA) it is the delivery of information by submitting the projects for the relevant state environmental assessment, participation in public discussions of SEA reports.

For policy documents it is the approval of draft programmes designed with a view to SEA.

Health authorities are the bodies of the Ministry of Health of the Republic of Belarus.

For urban development projects (subject to SEA) it is the delivery of information by submitting the projects for the relevant state sanitary-hygienic examination, participation in public discussions of SEA reports.

For policy documents it is the approval of draft programmes designed with a view to SEA.

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 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:

Article 10

Transboundary consultations

I.18 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:

The issue of transboundary SEA consultations will be considered in the drafting of the Regulations on SEA procedure. Currently the practice of SEA application in the transboundary context does not exist in the Republic of Belarus.

I.19 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:

The issue of transboundary SEA consultations will be considered in the drafting of the Regulations on SEA procedure. Currently the practice of SEA application in the transboundary context does not exist in the Republic of Belarus.

I.20 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:

The issue of transboundary SEA consultations will be considered in the drafting of the Regulations on SEA procedure. Currently the practice of SEA application in the transboundary context does not exist in the Republic of Belarus.

I.21 If the affected Party has indicated that it wishes to enter into consultations, how are the detailed arrangements, including the time frame for consultations, agreed (art. 10, paras. 3 and 4)? Please specify:

a) Following those of the Party of origin

b) Following those of the affected Party

c) Other (please specify):

Your comments:

The issue of transboundary SEA consultations will be considered in the drafting of the Regulations on SEA procedure. Currently the practice of SEA application in the transboundary context does not exist in the Republic of Belarus.

Article 11 Decision

The Republic of Belarus has no experience in decision-making regarding the approval of programmes and urban development projects in the context of SEA.

I.22 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.23 How and when do you inform your own public and authorities (art. 11, para. 2)?:

I.24 How do you inform the public and authorities of the affected Party (art. 11, para. 2)? Please specify:

- 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:

Article 12 Monitoring

The Republic of Belarus has no experience in monitoring the significant environmental impacts of the implementation of approved programmes, urban development projects in the context of SEA.

I.25 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):

Part two

Practical application during the period 2013–2015

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.

The Republic of Belarus had no experience in SEA application during 2013 – 2015.

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 2013–2015

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 2013–2015

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:

4. Experience with the strategic impact assessment procedure in 2013–2015

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)?:

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 in relation to translation and interpretation, and what solutions has your country applied?:

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

c) Has your country carried out transboundary public participation according 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):

5. Experience regarding guidance in 2013–2015

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:

7. Suggested improvements to the report

¹Available from http://www.unece.org/env/eia/points_of_contact.htm.