

Questionnaire for the report of the CZECH REPUBLIC 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):
- (b) SEA provisions are transposed into another law(s) (please specify):
 - 1) *Act No. 100/2001 Coll., Act on environmental impact assessment and amending some related laws (the EIA Act)*
 - 2) *Act No. 183/2006 Coll., Act on Zoning and the Building code (the Building Act)*
- (c) Regulation (please indicate number/year/name):
- (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 area of agriculture, forest management, gamekeeping, fishing, management of surface waters or groundwater, energy production, industry, transport, waste management, telecommunications, tourism, spatial planning, regional development and the environment, including nature conservation; plans and programmes that need to be assessed, given their potential environmental impact, based on a special regulation (NATURA 2000); and plans and programmes co-financed from the funds of the European Communities (§ 10a para. 1, letter a) of the EIA Act).

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

The exact phrase "provide a framework for future development consent of projects" is not define (more in detail) in CZ law – the same broad definition as SEA Protocol does is used in CZ law – § 10a, para. 1, letter b) of the EIA Act.

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:

Interpretation in our legislation is as follows (§ 10a para. 1, letter b) of the EIA Act):

Plans and programmes pursuant to subparagraph a) where the affected territory consists of the areas formed by a territory of only one municipality. Prospective need for undergoing SEA assessment of the respective P/P in the territory of one municipality is determined on the basis of the screening procedure. The newly drafted amendment to EIA Act is designed word for word according to the text of the SEA Directive, ie. “P/P, which provides the use of small areas at local level”. It is proposed that this option can be seen as “smaller areas at the local level” covering the territory of one or several municipalities.

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

The phrase “minor modifications of plans and programs” is not defined in the EIA Act. Basically, for every change in the P/P, the screening procedure is conducted regardless of whether the change is small or not.

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):

Your comments: *In general the public has the above-standard opportunity to participate in all phases of the SEA procedure. In phase of screening and scoping*

procedure the public have the right to send their comments in all 20 days of the publication of plan's or programme's notification.

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)?:

By using annex 9 of the EIA Act and by using the comments from the concerned authorities, from the public, and as determined by the competent authority based on its own expertise.

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 definition of "reasonable alternatives" is not established in the Czech law. According to § 10d of the EIA Act the competent authority may place in its conclusion of the screening and scoping procedure requirements for assessing the conceivable alternatives of P/P. In the cases of assessing alternative(s) the submitted alternative is always confronted with a zero alternative ("current state" or "do nothing") at least.

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): By using qualified experts

Your comments: *In the past Ministry of the Environment of the Czech Republic (hereinafter also referred to as MoE) has also prepared some methodologies how to handle the evaluation of environmental impacts. The most recent methodologies were issued last year - The Methodology of environmental impact assessment of spatial development plans for region (so called spatial development principles) - already published and The Methodology of environmental impact assessment of land use plans of municipalities – hasn't been issued yet.*

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): according to the currently valid law also through the press, radio, etc.

Your comments:

All crucial documents of all SEA processes in the Czech Republic (CZ), including the transboundary plans or programmes, are also available in Information system of SEA (http://portal.cenia.cz/eiasea/view/sea100_koncepce). In the case of transboundary process the Czech Republic as affected Party usually publishes all the received documents. The documents are published at each level of the SEA process.

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: *In general everyone may submit comments, no one is denied the opportunity to submit their comments. All statements/comments received in all phases of the SEA procedure are taken into account by the competent authority. The competent authority transmits the documents for publication on the official boards to municipalities concerned based on the geographical location and envisaged impacts of the plan or programme.*

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 very used method is public hearing. It's being conducted not before 30 days after the submission of the draft P/P and the environmental report to the Competent Authority and its publication on the official board and on the internet. In addition to that, there is another option for submitting the comments – it is within 5 days from the date of the public hearing of draft P/P (§ 10f para. 3, 4 and 5 of the EIA Act).*

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: *There is no exact definition of “within a reasonable time frame” in the EIA Act. But it is always at least 30 days for commenting before public hearing and another 5 days after public hearing – as set out in § 10f, para. 4 of the EIA Act.*

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: *Pursuant to the general definition in § 3 letter e) of the EIA Act the authorities with specific environmental responsibilities are the administrative authorities, that protect the interests protected by special legal regulations and whose jurisdiction at least partly corresponds to the affected territory, and (always) the Czech Environmental Inspectorate.*

Which specific authorities are concerned depends on the size of the territory for which the P/P is being processed. For example, for the P/P for the territory of one region there are the following authorities: the regional health authorities, district mining offices, environmental departments of regional authorities, the regional department of nature conservation authorities, the management of protected landscape areas within a given region, the regional inspectorates of the Czech Environmental Inspectorate, etc.

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 arrangements for informing and consulting the environmental and health authorities are similar to the arrangements for informing and consulting the public. There are the same opportunities to express their opinion.*

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: *The arrangements for expressing opinions are the same as in the case of public. In phase of screening and scoping procedure the authorities have the right to send their comments in all 20 days of the publication of plan or programme notification. Another method of involving authorities in the whole process is public hearing. It's being done not before 30 days after the date of submission of the draft plan or programme and the environmental report to the Competent Authority and its publication on the official board and on the internet. In addition to that, there is another option for submitting the comments – it is within 5 days from the date of the public hearing of draft plan or programme. Beyond the statutory time frames for submitting the opinions another non-compulsory public hearings, discussions, etc. may be held - it always depends on the nature of the plan or programme and on the attitude of the submitter of the plan or programme.*

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 common procedure is to inform the affected Party when the environmental report has been prepared, not excluding a significant effect on the territory of a neighboring country (§ 14a para. 1). But there are some cases, especially important national plans or programmes on energy or transport, when the Ministry of Environment notifies a neighboring country during scoping. Then the neighboring country may comment on plan or programme at this stage of assessment.*

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: *In general we send the information which the Protocol requires. In certain cases (see question nr. I.18) we also send a notification in the phase of screening and scoping.*

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: *In general MoE provides the same time frame as for our (CZ) concerned authorities and public (30 days after publication on the official notice board of the affected regional authority/authorities). In particular cases, CZ is compliant with prolongation the time frame for submitting the comments of the neighbouring country.*

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: *It depends on the individual case and according to the requirements of a particular country. In general the Ministry of Environment sends the invitation to the transboundary consultation to the affected Party and in this invitation it offers the date and venue of the consultation.*

Article 11 Decision

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: *These requirements are set out in the § 10g of the EIA Act. It sets out that the decision-making authority shall be obliged to take into consideration the requirements and conditions arising from the so called "SEA statement on the plan or programme". In this SEA statement all the received comments are considered and conclusions of the environmental report and mitigation measures contained. If the SEA statement contains such (mitigation) requirements and conditions and the latter have not been included in the plan or programme or have been included only partly, the approving authority shall be obliged to state the reason for its procedure.*

The approving authority shall be obliged to publish the approved plan or programme, the reasons pursuant to previous paragraph and the measures to ensure monitoring and analysis of the impact of the plan or programme on the environment and public health. It shall be obliged to inform the competent authority, affected administrative authorities and affected local governments of this publication within 7 business days.

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

Please see the answer nr. I.22.

When the competent authority receives the approved plan or programme and information about incorporation of the final statement's requirements into the plan or programme (within 7 business days after approval), it publishes it on the internet in Information system of SEA: http://portal.cenia.cz/eiasea/view/sea100_koncepce. The approving authority shall be also obliged to publish it, usually on its official website (§ 10g para. 5 of the EIA Act).

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: *The approving authority shall be obliged to inform the public and the authorities about approved plan or programme and about including the final SEA statement's requirements into the plan or programme. In the case of transboundary SEA procedure, the Ministry of Environment shall be obliged to send the approved plan or programme and this information to the affected country within 7 business days (§ 14a para. 5).*

Article 12 Monitoring

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):

It is set out in the § 10h of the EIA Act: If the submitting party ascertains that implementation of the plan or programme has an unpredicted significant adverse impact on the environment or public health, it shall be obliged to provide for the adoption of measures to prevent or mitigate such impact, inform the competent authority, and the affected administrative authorities thereof and, simultaneously, make a decision on a change to the plan or programme.

Within their competence pursuant to the special legal regulations, the affected administrative authorities shall monitor the impact of the approved plan or programme on the environment and public health, and shall be authorized to submit an instigation for a change to the plan or programme if an unpredicted significant adverse impact pursuant to paragraph 1 above cannot be prevented or mitigated otherwise in agreement with the approving authority.

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.

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:

Domestic SEA initiated procedures: 406 (in total)

- *Country planning (Land use plans) – 317*
- *Regional development – 37*
- *Transport – 2*
- *Tourism – 6*
- *Water management – 8*
- *Fisheries - 1*
- *Energy - 1*
- *Mining – 1*
- *Waste management - 16*
- *Other - air protection – 14*
-nature protection - 2

- *Transboundary SEA initiated procedures: 31 (in total)*

a) *The Czech Republic is affected party – 25*

- *Country planning/land use – 6*
- *Regional development – 8*
- *Water management - 7*
- *Transport – 1*
- *Energy - 3*

b) *The Czech Republic is party of origin – 6*

- *Regional development – 3 (Operational Programme of cross-border cooperation between the Czech Republic and Poland, Update no. 1 of the Spatial Development Policy of the Czech Republic, the Development Principles of the South-Moravian Region)*
- *Energy – 1 (Updating of the State Energy Policy)*
- *Transport – 1 (Transport Sector Strategy II. Phase)*

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)?:

This requirement is set out in § 10g para. 5 and § 10h para. 1 of the EIA Act, but the application is from our point of view rather problematic. In most cases the competent authority does not receive feedback on how this monitoring is carried out. Currently the amendment to Act no. 100/2001 Coll. is being prepared which places clear obligation to inform the competent authority about how it took into account the SEA and how the monitoring of the effects of the implementation of the P/P on the environment was set up. Last year, the ministry issued a methodical guidance in this case, which should help to raise awareness of the submitters of the P/Ps. In general the monitoring of the significant environmental effects of the plan or programme shall be the part of the regular evaluation of the implementation of the plan or programme.

(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?:

We do not have any substantial difficulties with this issues. The only drawback is the need to translate the majority of the received documents and associated time and financial demands.

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

In the case of plans or programmes that are likely to have potential significant effects on neighbouring country, the submitter of the plan or programme shall translate the most relevant parts of the programme and of the environmental report (a non-technical summary, parts which deals with transboundary impacts). But in some cases, we do not translate any part of the documents, since the mandatory translation isn't laid down by the CZ law.

(c) Has your country carried out transboundary public participation according to article 10, paragraph 4?:

(i) No

(ii) Yes (please indicate how): *Yes, for example in the case of the Update nr. 1 of the Spatial Development Policy of the Czech Republic, CZ agreed with the Austria on the terms for submitting the comments (both by the Austrian authorities and by the public). Austria requested the same time frame as for the Czech public, but based on the arrangement with Austria the time frame for Austria was prolonged.*

In the case of the Updating of the State Energy Policy oral transboundary consultations with Austria and Poland were held. Subsequently both countries sent us their final comments, which also included the opinions of the public. The transboundary consultation with Slovakia and Germany were held in written form. Also in this case we received their final comments containing the opinion of the public.

In cases when the Czech Republic is a Party concerned – we send the information pursuant the § 10 para. 1 of the SEA Protocol (respectively § 14b para. 1 of the EIA Act) to the concerned municipalities for publishing the notification of neighbouring country on the official boards and there are 30 days for submitting the opinions (of everybody) to this notification. MoE collects these opinions and send them to the Party of origin and if there are transboundary consultations (in oral or written form) then we send the results of this consultation or only the reaction of the neighbouring country to our comments to municipalities for publication on the official boards. Then the public can again express their opinion by written form. MoE collect this opinions again and send them to the Party of origin as a part of final statement of CZ.

(c) What has been your country's experience of the effectiveness of public participation?:

In general the inspiring comments come from environmental and health authorities.

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

(i) No

(ii) Yes (please describe): *Our country organized the transboundary SEA procedure for Operational Programme of cross-border cooperation between the Czech Republic and Poland. The meeting of the Czech and Polish authorities including the Espoo contacts was held to agree on the details of the SEA procedure – time frame, translation of the documents etc. The official Minutes of the Meeting was drawn up and approved by both sides. The Czech-Polish working group was also founded for this purpose. The whole programme and the whole environmental report was translated into the Polish language. There were two official public hearings, one in the Czech Republic and one in the Poland (both of them were held near to the state border), including the presence of interpreter and drafting of the Minutes of the public hearing. After this hearings the Czech Republic received final statement of the Poland. The final SEA statement also included the relevant comments of the Poland.*

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): *As a clear and brief information resource for MoE for application of the SEA procedure in line with the Protocol/Directive.*

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

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

We do not have any suggestions.

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