

Questionnaire for the report of Romania 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): Romania has ratified the SEA Protocol by Law no. 349/2009. The text of the Protocol, translated in Romanian has become part of the Romanian legal system.

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

Romania has transposed the Directive 2001/42/EC on the assessment of the effects of

certain plans and programmes on the environment by Governmental Decision no.1076/2004 (GD 1076/2004). This GD is a procedural piece of legislation that implements also the SEA Protocol.

(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:

Art.4 para 2 of the SEA Protocol, including annex I and annex II are included into Law no. 349/2009 for ratification of the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context.

The scope of the assessment required for plans and programmes is identical to the scope provided for by Directive 2001/42/EC and transposed exactly by GD 1076/2004.

MO no. 995/2006 provides a list of plans and programmes which are subject to the screening procedure under national SEA.

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

A p/ p set the framework for future development consent if they are listed in Annex I or Annex II of the EIA Directive.

Setting the framework for future development consent of projects: can be interpreted to refer to plans or programmes which include in the plan actions/ measures/priorities, future projects to be implemented, and which are found in Appendix I or II of the EIA Directive. Such plans are subject to an SEA.

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:

Such plans are those which are drawn up for the domains listed in art.4 para 2, at local level, and which, by application of the screening criteria within the screening stage of the SEA procedure are found that may produce significant effects on the environment (or have doubts about such effects).

The terms "small areas at local level" and "minor modifications to the plans and programmes" are explained in the Manual on implementation of the procedure of environmental assessment for plans and programs approved by Order No. 117/2006, points 3.22 and 3.23:

□ "small areas at local level" can be defined by an assessment on a case by case. An example of such a plan or programme could be a detailed urban plan (DUP) which establishes, for a limited area, the details of construction of the building, determining the height, width or appearance.

□ " minor modifications to the plans and programmes", the plan or program is modified and there is the likelihood appearance

□ of significant environmental effects on the environment. If a modification of to the plan or programme may have a significant effect on the environment, then an environmental assessment should be carried out, indifferently of the size of the change.

Also, the Guidelines on environmental assessment for plans and programs development for land use planning and urban planning elaborated by the project PHARE 2004/016 “Strengthening Institutional Capacity for Implementing and Enforcing SEA and Reporting Directives”, define plans and programs for small local areas

- "small areas at local level" - clarifies that a local administrative units cannot be excluded from SEA than unless it is itself small. The administrative territorial units can be very large and entirely exclude such a zone would be a major gap in the scope of the SEA Directive and respectively GD 1076/2004.

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

Any modification is notified to the competent environmental authority and the effects of such modification (minor or not) are determined through a case by case examination and by application of the screening criteria during the screening stage of the SEA procedure.

The terms "small areas at local level" and "minor modifications to the plans and programmes" are explained in the Manual on implementation of the procedure of environmental assessment for plans and programs approved by Order No. 117/2006, points 3.22 and 3.23:

"small areas at local level" can be defined by an assessment on a case by case. An example of such a plan or programme could be a detailed urban plan (DUP) which establishes, for a limited area, the details of construction of the building, determining the height, width or appearance.

"minor modifications to the plans and programmes", the plan or program is modified and there is the likelihood appearance

of significant environmental effects on the environment. If a modification of to the plan or programme may have a significant effect on the environment, then an environmental assessment should be carried out, indifferently of the size of the change.

Minor modifications to the plans and programmes: as explained in the SEA Manual, this phrase can be defined to mean modified plans or programmes, with the likelihood of significant environmental effects on the environment. If a modification may have such effects, an SEA should be carried out regardless of size.

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:

A case by case examination is compulsory made during the screening stage, after notification received by the environmental competent authority.

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:

During the screening, the beneficiary shall inform the public about the first draft plan or programme, by repeatedly announcing it in mass-media and by publishing it on his

web page and on the page of MEWF. The public can send written comments and proposals to the competent environmental authority within 15 days from the last announcement. The screening decision is also made available to the public for 10 days and the comments and opinions expressed by the public must be taken into account for reconsidering the screening decision.

There are opportunities for public participation to a public hearing organized for the draft plan and draft environmental report and any justified opinion is taken into account and can lead to the modification of the plan and of the environmental report.

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 decision on what is relevant information to be included in the environmental report is taken by the working group, based on the provisions of annex IV/annex 2 of the GD 1076/2004; the group is formed of representatives of the beneficiary, the competent environmental authorities, health authorities, and other authorities interested in the effects of the plans and programs and the natural or legal persons certified to elaborate the environmental reports.

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 beneficiary of the plan or programme drafts the reasonable alternatives, taking into account the environmental objectives and the geographical location of the plan or programme, and also the significant environmental problems, the current state of the environment and its evolution in the absence of the plan or programme implementation. The working group assesses whether the alternatives meet the environmental objectives relevant for the plan or programme. On the base of the working group’s recommendations, the beneficiary elaborates in detail the selected alternatives.

The persons certified to elaborate the environmental reports analyse the significant environmental effects of the alternatives drafted by the beneficiary and decide upon the measures for prevention, mitigation, compensation and monitoring of the effects for each alternative. These measures and recommendations are presented and discussed within the working group. Consequently, the beneficiary presents the final alternative to the working group.

“Reasonable alternatives” are mentioned in the above legislation, and the SEA national experts refer to the 2006 Manual on implementation of the procedure of

environmental assessment for plans and programs (SEA Manual). In this manual, the concept of “possible alternatives” takes into account two criteria:

- The objectives of the plan/programme and its geographic area
- “reality” of the alternatives.

The SEA Manual states that the objectives of the plan/programme and geographic area can be discussed regarding alternative possibilities for the plan/programme (overall plan objectives etc.) or in regard to different alternatives within a plan/programme. In practice alternatives within a plan/programme are discussed, and therefore an alternative constitutes a different way of achieving the objectives of the plan/programme.

“Reality” refers to the fact the proposed alternatives are not limited in number but instead must correspond to reality – taking into account the actual conditions on site, considering the facts. Alternatives must also be materially and territorially consistent with the plan/programme owner.

The number of alternatives considered is not limited, instead alternatives are limited by whether they fulfil the relevant environmental objectives of a plan/programme. According to the 2009 SEA report, usually three alternatives are assessed. National experts point out that the zero alternative is mandatory and must be analysed, and it forms one of the criteria on which the assessment of environmental effects of a plan/programme are assessed. The zero alternative therefore represents the starting point for any discussion on plan finalization both in debate and the development of the environmental report.

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:

For analysing the quality of the environmental report, the competent environmental authority takes into consideration the points of view sent by the other authorities and can also engage a consultant. The authority also analyses the results of the public consultation, the way the comments received from the public were integrated into the environmental report and the results of the consultation with other affected countries.

The review of the quality of the report takes into account the following elements:

- The way the report responds to the information specified in annex IV of the SEA Protocol (annex 2 of the GD 1076/2004)

- The technical, procedural difficulties and of other nature that were discovered and the explanation given to any hypotheses or uncertainties.

- The presentation of the alternatives, of the reasons for choosing one of them, the manner the environmental considerations were integrated in the draft plan and programme

and also the rounding off process of the draft considering the information risen from the environmental assessment

- The detailed explanation of the reasons for excluding some aspects from the evaluation

- The way the comments from the public and other authorities were taken into account

- The presentation of information through maps, schemes, diagrams

- The existence of an adequate monitoring program of the environmental effects.

If the report is incomplete or of a low quality, the competent authority asks for the rewriting of the report.

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 competent environmental authority is obliged to post information on its own web page; the beneficiary is obliged to publish announcements in mass-media.

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:

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:

For expressing comments regarding the first draft plan or programme, the public is given 15 days.

After the screening decision is made, the public can send comments during the next 10 days after the decision is published on the web page of the authority.

When the draft plans and programmes and the environmental reports are finalized , the public is provided with 45 days to express its opinion.

When finalizing the environmental report the public can submit written comments to the owner’s and to the competent authority for environmental protection headquarter in 45 calendar days from the last announcement.

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:

Art. 7 para (1) of GD 1076/2004 stipulates: “The environmental assessment procedure shall be applied by the plan or programme owner authorities in co-operation with competent authorities for environmental protection, with the consultation of the public central or local authorities, as appropriate, for health and those concerned by the effects of implementing plans and programmes, as well as with the public and is finalized by issuing the environmental approval for plans and programmes.”

Also, Art. 10 – (1) The competent authorities for environmental protection shall lead the screening stage for which they are notified by the owner of the plan or programme.

(2) The screening stage shall be carried out with the consultation of the owner of the plan or programme, the health authority and the authorities concerned by the effects of implementing plan or programme within a committee specially established for this purpose.

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 Ministry of Environment, Water and Forests inform the authorities concerned by the effects of implementing plan or programme, including health authority.

According to art.10 para.(2) of GD no.1076/2004 the screening stage shall be carried out with the consultation of the owner of the plan or programme, the health authority and the authorities concerned by the effects of implementing plan or programme within a committee specially established for this purpose.

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:

Finalizing the draft plan or programme, establishing the scope and detailed level of information that must be included in the environmental report, as well as the analyses of the significant effects of the plan or programme on the environment are carried out within a working group.

The working group is composed by the representatives of the plan or programme owner, of the competent environmental and health authorities, of other authorities concern by the effects of implementing the plan or programme, one or more natural or legal persons certified according to the legal provisions, as well as employed experts, as appropriate.

The competent authority for health and the other authorities concerned by the effects of implementing plan or programme shall draw up and transmit a written detailed and motivated opinion on the proposed draft plan or programme and on the environmental report, to the competent authority for the environmental protection, within 45 calendar days from the date of receiving the draft plan or programme and environmental report.

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:

If the plan or programme is likely to have significant transboundary environmental, including health, effects, the central public environmental authority notifies both the environmental report and the plan/programme to the central environmental authority from the affected Party, within 20 days since these documents are ready.

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): Yes.

Your comments:

The Party of origin sends the draft plan/programme and the environmental report and the environmental effects monitoring program.

Also, arrangements are made for consulting the affected Party (informing the concerned authorities and public from the affected Party, the participation of the competent environmental authority from the affected Party and the time frame for the consultations).

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:

Based on the experience gained by application of the Espoo Convention we agree a time-frame with the affected Party of approx. 4-5 weeks.

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:

If the affected Party has indicated that it wishes to enter into consultations, the Party of origin shall make the consultation arrangements regarding the manner of informing the authorities and public from the affected Party, the participation of the central environmental authority from the Party of origin, and the time frame for consultations, that is mutually agreed by The Focal Point. The proposal is made by the Party of origin and it is negotiated with the affected Party.

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:

Conclusions of the environmental report, the mitigation measures and the justified comments of the public, including those received in a transboundary context are integrated within the environmental approval (administrative act) issued by the competent environmental authority. The beneficiary of the plan is obliged by GD no. 1076/2004 to approve/adopt by a formal procedure only the plan for which an environmental assessment procedure was followed.

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

By publication on the web page of the environmental competent authority (within 3 days since it is taken), by letters addressed to other authorities, by publication notices in newspapers (by the beneficiary, within 8 days since the decision is taken).

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

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):

The GD no. 1076/2004 provides that the beneficiary of the plan or programme has the responsibility to carry out the environmental effects monitoring program that was presented to the environmental competent authority that has carry out the SEA procedure.

The beneficiary shall supply the same authority with the monitoring results. This shall be done annually, by the end of the first trimester for the results corresponding to the previous year. The authority analyses the results and makes them available to the public on its web page.

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:

Romanian General Transport Master Plan for the period 2014-2030;

Strategic Environmental Assessment of the Water Management Strategy for the territory of the Republic of Serbia;

National Programme of Hungary on the management of spent fuel and radioactive waste, Hungary -2016;

Integrated Strategy for Sustainable Development of the Danube Delta (2030), Romania;

CBC programs 2014-2020:

CBC Programme Romania - Bulgaria 2014 -2020"

Joint Operational Programme Romania - Moldova 2014-2020

Joint Operational Programme Romania - Ukraine 2014-2020

2014-2020 Interregional Cooperation Programme, under the European Territorial Cooperation Objective (Interreg Europe)

Ex-ante evaluation and Strategic Environmental Assessment for the Co-operation Programme of the Danube Transnational Co-operation Programme 2014-2020;

Programme IPA CBC Romania- Serbia Republic program 2014-2020 ";

Black Sea Basin ENI CBC 2014-2020

Ex-ante Evaluation and Strategic Environmental Assessment for the Joint Operational Programme for the Huskroua ENI CBC Programme 2014-2020

CBC ENI Ungaria-Slovakia-România-Ucraina 2014-2020

Interreg Programme Romania-Hungary V-A

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 No relevant experience yet.

(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?:

Usually, we translate the documentation in English. If consultation is undertaken on the Romanian territory we ensure translation and interpretation, costs supported by the beneficiary/environmental authority.

We translate the environmental report and the plan by support of the beneficiary.

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

(i) No

(ii) Yes (please indicate how): for Romanian General Transport Master Plan we carried out transboundary consultation with potentially affected states: Bulgaria, Serbia, Ukraine and Hungary, including public participation.

Bulgaria took part in the SEA procedure and requested for completing environmental report with a series of strategic planning documents, and monitoring measures in order to prevent a risk to human health, which included transboundary public participation.

Serbia has requested information on environmental report.

Hungary did not want to participate in the SEA procedure, since it could not be directly affected by the implementation of the Master Plan at this stage, but asked to be notified to the EIA procedure.

Ukraine hasn't responded to the request to participate in the procedure of transboundary consultations.

(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): see above point 3.II.4

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:

We are aware of this document, and sometimes we consulted it when some difficulties have arisen.

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:

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