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# SEA elements in light of practical experience in UNECE Region

Major legislative dilemmas for Implementing  
the Espoo Convention and its Protocol on SEA in  
the UNECE region and ways to address them in  
national legislation

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# Content

- SEA Protocol and its implementation
- List of activities
- Approaches to screening
- Scoping methods
- SEA Report

# UNECE SEA Protocol and EU SEA Directive

- Health issues in SEA Protocol
  - Substantive part of assessment
  - Role of health authorities
- Natura 2000 in SEA Directive
  - Not mentioned in the SEA Protocol
  - Impact on biodiversity required by art. 14 CBD
- Relation to projects subject to EIA

# SEA Protocol – field of application

- Policies and Legislation – art. 13
- Plans and programs (names irrelevant)
- 1) In certain areas
  - if set the framework for future development consent of projects listed in Annexes I and II
- 3) Any other plans and programs with significant environmental effect – to be determined by Parties

# Number of SEA procedures yearly

- Full SEA procedures
  - about 1500 yearly in Finland
  - about 400-500 yearly in UK and France
  - about 270 yearly in Austria
- Screening procedures
  - in Salzburg region (Austria) - about 300 yearly!

# National legal framework

- Always in the act of Parliament (law) and not in secondary legislation
- Role of definitions!
- Legal techniques
  - Only „main” act - not effective
  - „Main” act and cross-references in sectoral acts (SEA procedure added to sectoral procedure) - sufficient
  - Procedural details also in sectoral acts (SEA procedure build into the sectoral procedure) – most effective

# Legislative technique: possible approaches

- SEA procedure only in one law (special SEA law or general environmental law) - NO
- SEA procedure in one law and references to SEA procedure in all laws envisaging preparation of plans, programs etc – YES
- SEA procedure build in into all laws envisaging preparation of plans, programs etc – YES (but difficult)
- Pros and cons of the above approaches

# Types of SEA law and sectoral laws

- Types of the „main” act
  - General environmental protection law
  - Special EIA/SEA law
  - Special SEA law
- Types of sectoral legislation
  - Land use planning law, energy law, highway law, regional development law, forrest law, waste law



# Field of application – sectors of economy covered

- Agriculture, forestry, fisheries, energy, industry including mining, transport, regional development, waste management, water management, telecommunications, tourism, town and country planning, land use
- other sectors – for example: recultivation of former military basis, nature protection

# Field of application: documents covered

- Name in domestic law is irrelevant!
- SEA required for documents which could be called differently (plans, programs, policies, strategies, concepts, conditions etc)
- Could be called collectively „strategic documents” unless in domestic law
  - already some documents are called as such (example of Moldova)
  - there is another collective term to capture all

# Field of application – „set the framework”

- „which set the framework for future development consent for projects”
  - with regard to location, nature, size, operating conditions, or allocating resources (Annex III.2)
- Directly or indirectly (by influencing other plans - Annex III.3)
- Development consent - „final decision” Espoo
- Lists of projects - those which require EIA
  - Annex I (based on Espoo)
  - Annex II (based on EIA Directive)

# Field of application: setting the framework for projects

- Setting the framework
  - directly: for example binding requirements regarding location, seize, nature etc of projects
  - indirectly: binding requirements for lower level strategic documents
- Projects
  - Different approach in SEA Directive and SEA Protocol
  - Relation to screening in EIA scheme

# Field of application: examples

- Yearly investment plan of the Transport Ministry - DK
- Forrest management plans (including private forrests) - FR
- Plans for encouraging investments (Hungary)
- Urban renovation programs (Poland)

# Field of application: exemptions

- National defence and civil emergencies
  - „sole purpose”
  - Examples
- Financial or budget
  - Strict sense
    - exemption can be used only for those subject to special rules regarding budget
    - Exemption can not be used for documents providing financial means for planned therein activities

# Screening

- Caution: definition of SEA does not include screening!
- Categorical vs case-by-case screening: pros and cons
- Procedure – role of environmental and health authorities
- Methods
  - positive
  - negative

# Scoping

- Early at planning proces (at the stage of blueprint or outline/concept for strategic document)
- Role of
  - environmental and health authorities
  - planning authorities
  - SEA consultants
  - the public
- Procedure – scoping meeting
- Scoping „decision”



# Environmental report

- Requirements in Art. 7 and annex IV
- Key elements
- Specificity of SEA report
  - 5. The environmental, including health, objectives established at international, national and other levels which are relevant to the plan or programme, and the ways in which these objectives and other environmental, including health, considerations have been taken into account during its preparation.
- Streamlining the report following the concept of tiering