

Questionnaire for the report of Denmark on the implementation of the Protocol on Strategic Environmental Assessment in the period 2019–2021

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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 its experience in the application of, the Protocol.

Please do not reproduce the text of the legislation itself but summarize and explicitly refer to the relevant provisions transposing the text of the Protocol (for example, Strategic Environmental Assessment Law of the Republic of ..., article 5 (3) of Government Resolution No. ..., para. ... item...)

The preparation of the SEA-Directive was done within the scope of the later SEA Protocol, cf. European Parliament and Council Directive 2001/42/EC of 27 June 2001, recital 7. There are not – to our knowledge – any misconceptions in the transposition or interpretation of SEA-Protocol in the SEADirective and the rulings of the ECJ.

Given the fact that Denmark is a Member of the EU, Denmark is obliged to transpose the SEA-Directive. The transposition is adopted in the Environmental Assessment Act (EAA no. 1976 of 25. October 2021), which also transposes the EIA-Directive.

Article 3

General provisions

I.3. According to article 3 (1) of the Protocol: “Each Party shall take the necessary legislative, regulatory and other appropriate measures to implement the provisions of this Protocol within a clear, transparent framework.” Please provide the main legislative, regulatory and other measures your country has adopted to implement the Protocol (art. 3, (1)) (more than one option may apply):

(a) Environmental Assessment Act (EAA)

Link: <https://www.retsinformation.dk/eli/ta/2021/1976>

(b) Strategic environmental assessment provisions are transposed into another law/other laws (please specify, providing title/reference number/year/access link, if any):

(c) Regulation (please indicate title/reference number/year/access link, if any): no. 1376 of 21 June 2021 pursuant to EAA: <https://www.retsinformation.dk/eli/ta/2021/1376>

(d) Administrative rule (please indicate title/reference number/year/access link, if any):

(e) Other (please specify): Guidance document under revision

Please explain:

Article 4

Field of application concerning plans and programmes

I.4.1 Which plans and programmes referred to in article 4 (2)–(4) of the Protocol are set out in your country's legislation?

The SEA-Protocol article 1(5), and the SEA-Directive article 2(a), alike presuppose a generic concept of plans and programmes and any modification to plans and programmes, which operates on the basis of three formal criteria:

· Required by legislative, regulatory or administrative provisions,

· Subject to preparation and/or adoption by an authority or prepared by an authority for adoption, through a formal procedure, by a parliament or a government, and

· Sets the framework for future development consent of projects.

In addition, the concept of plans and programmes presupposes a substantial delimitation, which involves sectors and types of projects listed in annex I and II, cf. SEA-Protocol article 4, para 2, and the SEADirective article 3(2).

When drafting the new EEA in Denmark in 2016 the formal part of the SEA-Directive (and the SEAProtocol) definition was transposed in § 2(1)(1) with an update on the terminology concerning administrative decisions was updated.

The definition of plans and programs was placed under the heading ‘The scope of the Act’ to avoid duplication of the definition under the heading ‘Definitions’. Furthermore, a generic reference to ‘the framework of future construction permits’ was added to EAA article 2(1)(1).

In order to ensure that the definition of plans and programs would be interpreted with the full legal value as the ECJ has laid down in several rulings a reference in the preparatory work was made to the C-473/14, paragraph 50, which reads:

‘Given the objective of Directive 2001/42, which consists in providing for a high level of protection of the environment, the provisions which delimit the directive’s scope, in particular those setting out the definitions of the measures envisaged by the directive, must be interpreted broadly (judgment in Inter-Environment Bruxelles and Others, C-567/10, EU:C:2012:159, paragraph 37). Any exceptions to or limitations of those provisions must, consequently, be interpreted strictly.’

The substantial part of the concept in the SEA-Directive (and SEA-Protocol) was transposed in EAA article 8(1) and article 8(2). The latter concerns screening.

In conclusion, the EEA neither exclude or nor narrow down the concept of plans and programs by listing specific plans and programmes. Anyway, it would be in conflict with the use of a generic definition in order to ensure that specific plans and programmes will undergo an environmental impact assessment.

However, in the existing Guidance-document and the draft version of the amended guidance examples of plans and programmes, which may be a plan or a programme under the scope of the EEA such as local, regional and national plans and programmes and to certain extend draft legislation and ministerial orders.

In accordance with the SEA-Directive this provision states that the plans and programmes prepared for within the scope of one or more of the following sectors or with an impact on one or more of the following sectors has to undergo an environmental impact assessment.

Agriculture

Forestry

Fisheries

Energy

Industry including mining

Transport

Regional development

Waste management

Water management

Telecommunications

Tourism

Town and country planning

Land use

Other (including those falling under article 4 (3)–(4)), please list

Please explain:

I.4.2. Explain how you define whether a plan or programme “set the framework for future development consent” (art. 4 (2)):

The ECJ has in a more recent ruling of 25 June 2020 confirmed its interpretation of the concept of setting the framework for future development consents (A and others, C-24/19, ECLI:EU:C:2020:503)

'75 The phrase ‘which set the framework for future development consent’, in Article 3(2)(a) of Directive 2001/42, does not include any reference to national laws and therefore constitutes an autonomous concept of European Union law that must be interpreted uniformly throughout the territory thereof.'

'65 Article 3 of Directive 2001/42 makes the obligation to subject a specific plan or programme to an environmental assessment conditional upon the plan or programme covered by that provision being likely to have significant environmental effects (judgment of 7 June 2018, Inter-Environnement Bruxelles and Others, C-671/16, EU:C:2018:403, paragraph 30). More specifically, Article 3(2)(a) of that directive provides that a systematic environmental assessment is to be carried out for all plans and programmes that are prepared for certain sectors and set the framework for future development consent of projects listed in Annexes I and II to Directive 2011/92 (judgment of 8 May 2019, ‘Verdi Ambiente e Società (VAS) — Aps Onlus’ and Others, C-305/18, EU:C:2019:384, paragraph 47).'

'67 In the second place, as regards the question whether such instruments set the framework for future development consent for projects, it must be noted that the concept of ‘plans and programmes’ relates to any measure which establishes, by defining rules and procedures for scrutiny applicable to the sector concerned, a significant body of criteria and detailed rules for the grant and implementation of one or more projects that are likely to have significant effects on the environment (judgments of 27 October 2016, D’Oultremont and Others, C-290/15, EU:C:2016:816, paragraph 49; of 7 June 2018, Inter-Environnement Bruxelles and Others, C-671/16, EU:C:2018:403, paragraph 53; and of 12 June 2019, CFE, C-43/18, EU:C:2019:483, paragraph 61).'

The Danish interpretation is in line with this ECJ precedens.

I.4.3. Explain how the term “plans and programmes ... which determine the use of small areas at local level” (art. 4 (4)) is interpreted in your country’s legislation:

The ECJ has more recently taken a position on the term the use of small areas at local level (identical wording in the SEA-Directive article 3, para 3) (judgment of 21 December 2016, Associazione Italia Nostra Onlus, C-444/15, EU:C:2016:978, paragraph 69-74):

'69 As regards, the term ‘local level’, it must be pointed out that the expression ‘local level’ is also used in the first indent of Article 2(a) of Directive 2001/42. Under that provision, ‘plans and programmes’ means plans and programmes, including those cofinanced by the European Union, as well as any modifications to them which are subject to preparation and/or adoption by an authority at national, regional or local level, or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and which are required by legislative, regulatory or administrative provisions.

70 Thus, as the Advocate General stated in point 56 of her Opinion, it is evident from the similarity of the terms used in the first indent of Article 2(a) and in Article 3(3) of Directive 2001/42, and from the broad logic of the directive that the expression ‘local level’ has the same meaning for both those provisions, that is to say, it refers to an administrative level within the Member State concerned.

71 Consequently, in order for a plan or programme to be qualified as a measure which determines the use of a small area ‘at local level’, for the purposes of Article 3(3) of

Directive 2001/42, that plan or programme must be prepared and/or adopted by a local authority, as opposed to a regional or national authority.

72 As regards the term ‘small area’, the qualifier ‘small’, in accordance with its usual meaning in everyday language, refers to the size of the area. Thus, as the Advocate General stated in point 59 of her Opinion, that criterion of the size of the area may be understood only as referring to a purely quantitative factor, that is to say, the size of the area concerned by the plan or programme referred to in Article 3(3) of Directive 2001/42, irrespective of the effects on the environment.

73 In those circumstances, it must be held, that, through the use of the term ‘small areas at local level’, first, the EU legislature intended to take as a reference the territorial jurisdiction of the local authority which prepared and/or adopted the plan or programme concerned. Secondly, since the criterion of the use of ‘small areas’ must be met in addition to the criterion of determination at local level, the area concerned must be small in size relative to that territorial jurisdiction.

74 Having regard to the foregoing considerations, the answer to the second and third questions referred is that Article 3(3) of Directive 2001/42, read in conjunction with recital 10 of that directive, must be interpreted to the effect that the term ‘small areas at local level’ in paragraph 3 must be defined with reference to the size of the area concerned where the following conditions are fulfilled:

- The plan or programme is prepared and/or adopted by a local authority, as opposed to a regional or national authority, and
- that area inside the territorial jurisdiction of the local authority is small in size relative to that territorial jurisdiction.’

I.4.4. Explain how you identify in your legislation a “minor modification” to a plan or programme (art. 4 (4)): First of all – the use of ‘minor modification’ presupposes that the plan/programme meets the preconditions in the definition and has been assessed in accordance with the SEA regulation. Secondly, only the minor modification will be screened and depending on the result the modification may be subject to a SEA. The screening will be conducted on a case to case basis taking into account all the criteria in Annex II in the SEA-Protocol, which very similar to the Annex II in the SEA-Directive.

Article 5 Screening

I.5.1 According to article 5 (1): “Each Party shall determine whether plans and programmes referred to in article 4, paragraphs 3 and 4, are likely to have significant environmental, including health, effects either through a case-by-case examination or by specifying types of plans and programmes or by combining both approaches.”

How do you determine which plans and programmes referred to in article 4 (3)–(4) should be subject to a strategic environmental assessment? 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) above
- (d) Other (please specify):

Please explain:

I.5.2. According to article 5 (2), each Party shall ensure that the environmental and health authorities are consulted during screening.

Please explain whether your legislation provides for consultation with environmental and health authorities at the screening stage and, if so, how.

- (a) On a case-by-case basis:
- (b) As defined in the national legislation:
- (c) Other (please specify)

Please explain: In accordance with the SEA Directive annex II the EAA annex 3 states that risks to human health or the environment (e.g. due to accidents) must be addressed in a screening. The authorities conducting the screening is obliged to consult affected authorities (EAA art. 31 and 32) but the scope is done on a case-by-case basis.

I.5.3. According to article 5 (3): “To the extent appropriate, each Party shall endeavour to provide opportunities for the participation of the public concerned in the screening of plans and programmes under this article.”

Please indicate whether you provide opportunities for the public concerned to participate in screening of plans and programmes in your legislation and, if so, how.

- No
- Yes

Please specify (more than one option may apply):

- (a) By sending written comments to the relevant authority
- (b) By completing a questionnaire
- (c) By taking part in a public hearing
- (d) Other (please specify):

Please explain: The screening of the draft plan/programme concerns not the plan/programme itself but the question of possible significant environmental impacts/the scope of the environmental impact assessment report. The extent to which the public may provide comments on the draft plan/programme is governed by the nature of the plan/programme but they are not excluded from providing comments to the draft. For example a draft municipal or local plan will undergo a public hearing and the screening draft decision/the SEA-report is part of the drafted plan/programme.

Article 6 Scoping

I.6.1 According to article 6 (1): “Each Party shall establish arrangements for the determination of the relevant information to be included in the environmental report in accordance with article 7, paragraph 2.”

Please explain how you determine the relevant information to be included in the environmental report. The point of departure is the specific plan or programme and the draft guidance recommends the use of Annex 4 in the EAA as a check list to ensure that all relevant information to the specific plan or programme is covered. Annex 4 is a transposition of the SEA-Directive (2001/42/EU) Annex 1, which describes the content of the SEA-report.

I.6.2. According to article 6 (2), each Party shall ensure that the environmental and health authorities are consulted during scoping.

Please explain whether your country’s legislation provides for consultation with environmental and health authorities at the scoping stage and, if so, how.

- (a) On a case-by-case basis:
- (b) As defined in the national legislation:
- (c) Other (please specify)

Please explain: In accordance with the SEA Directive annex I the EAA annex 4 states that the likely significant effects on the environment and human health, must be described in the

environmental impact assessment report. The authorities conducting the screening is obliged to consult affected authorities (EAA article 31 and 32) but the scope is done on a case-by-case basis.

I.6.3 According to article 6 (3): “To the extent appropriate, each Party shall endeavour to provide opportunities for the participation of the public concerned when determining the relevant information to be included in the environmental report.”

Please indicate whether your country’s legislation provides opportunities for the public concerned to participate in scoping of plans and programmes and, if so, how.

No

Yes

Please specify (more than one option may apply):

(a) By sending written comments to the relevant authority

(b) By completing a questionnaire

(c) By taking part in a public hearing

(d) Other (please specify):

Please explain: The way the question is posed makes it difficult to answer in a Danish context. The scoping of the draft plan/programme concerns not the plan/programme itself but the question of possible significant environmental impacts/the scope of the environmental impact assessment report. The extent to which the public may provide comments on the draft plan/programme is governed by the nature of the plan/programme but they are not excluded. For example a draft municipal or local plan will undergo a public hearing and the screening draft decision/the SEA-report is part of the drafted plan/programme.

Article 7 Environmental report

I.7.1. According to article 7 (2): “The environmental report shall, in accordance with the determination under article 6, identify, describe and evaluate the likely significant environmental, including health, effects of implementing the plan or programme and its reasonable alternatives.”

How do you determine “reasonable alternatives”? Please specify (more than one option may apply):

(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) above

(d) Other (please specify):

Please explain: EAA article 12 transposes the SEA-Directive article 5(1). The scope of ‘reasonable alternatives’ is determined by looking at the objectives and the geographical scope of the plan/programme. The alternatives must be realistic in order to assess the possibility of reducing or avoiding the significant adverse environmental effects of the proposed plan or programme.

For further guidance to the Danish interpretation please consult the EU-Commissions Guidance to Implementation of Directive 2001/42 on the assessment of the effects of certain plans and programmes on the environment point 5.12-5.14.

I.7.2. According to article 7 (3): “Each Party shall ensure that environmental reports are of sufficient quality to meet the requirements of this Protocol.”

How do you ensure that quality of the reports is sufficient? Please specify:

- (a) The competent authority checks the information provided and ensures that 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):

Please explain: Quite often will the authorities have external help (consultants) to ensure the quality of the report.

Article 8 Public participation

I.8.1. According to article 8 (2): “Each Party, using electronic media or other appropriate means, shall ensure the timely public availability of the draft plan or programme and the environmental report.”

How do you notify the public and make the draft plans and programmes and the environmental report available? Please specify (more than one option may apply):

- (a) Through public notices in printed media
- (b) Through electronic media
- (c) Placing copies in public offices for the public
- (d) Through other means:

Please explain:

I.8.2. According to article 8 (3): “Each Party shall ensure that the public concerned, including relevant non-governmental organizations, is identified for the purposes of paragraphs 1 and 4.”

How do you identify the public concerned? 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 explain: The concept of the public in the SEA-Directives article 2(2)(d), and the definition is transposed in the EAA article 5,(no.1). However, the concept of the public concerned serves two purposes: 1) who to consult when the environmental assessment procedure is conducted and 2) who are eligible to bring action before the Environment and Food Appeal Board or the Court. The EAA article 50(1), states ‘location’ and ‘legal interest’ as two of several selection criteria and thereby transposes the Aarhus Convention.

I.8.3. According to article 8 (4): “Each Party shall ensure that the public referred to in paragraph 3 has the opportunity to express its opinion on the draft plan or programme and the environmental report within a reasonable time frame.”

How can the public concerned express its opinion on the draft plan and programme and the environmental report? Please specify (more than one option may apply):

- (a) By sending comments to the relevant authority/focal point
- (b) By completing a questionnaire

(c) By taking part in a public hearing

(d) Other (please specify):

Please explain: The EAA sets the framework for public consultations concerning the environmental impact assessment, not for the plan or program itself.

Specific legislation may set the provisions for public consultations concerning the plans and programs like municipal plans and local plans. In such cases, it will be the planning legislation that sets the framework for public consultation and not the EAA.

Apart from that it is the EAA or the specific planning legislation that specify the formalities. However, it constitutes good administrative practice to take into account unsolicited comments that might have been received from other sources, such as members of the public or public authorities, even though no formal consultation is required at the screening stage.

I.8.4. According to article 8 (4): “The public [concerned, including relevant non-governmental organizations] has the opportunity to express its opinion ... within a reasonable time frame.”

Do you have a definition (for example, a number of days) in your legislation of the term “within a reasonable time frame”? Please specify:

(a) No, it is defined on a case-by-case basis

(b) Yes (please provide the definition):

(c) Other (please specify):

Please explain your selection: If a plan or a programme is required or drafted in accordance with national legislation e.g. municipal or a local plan, and the specific national legislation states time frames for consultation of authorities and the public, then the time frame will also be applicable to the SEA. In other cases the time frame will be determined case by case involving difficulty, geographical scope and objectives of the plan/programme.

Article 9 Consultation with environmental and health authorities

I.9.1. According to article 9 (1): “Each Party shall designate the authorities to be consulted which, by reason of their specific environmental or health responsibilities, are likely to be concerned by the environmental, including health, effects of the implementation of the plan or programme.”

How are the environmental and health authorities identified? Please specify:

(a) On a case-by-case basis:

(b) As defined in the national legislation:

(c) Other (please specify)

Please explain: The objectives of EAA article 1, is to provide for a high level of protection of the environment and by conducting the SEA-procedure to assess the likely significant effects on the environment and the human health. The scope of competent environmental and health authorities is determined case by case, cf. EAA article 31.

I.9.2. According to article 9 (4): “Each Party shall determine the detailed arrangements for informing and consulting the environmental and health authorities referred to in paragraph 1.”

How are the arrangements for informing and consulting the environmental and health authorities determined? Please specify:

(a) On a case-by-case basis:

(b) As defined in the national legislation:

(c) Other (please specify)

Please explain: The extent to which the authorities may provide comments on the draft plan/programme is governed by the nature of the plan/programme.

I.9.3. According to article 9 (3): “Each Party shall ensure that the authorities referred to in paragraph 1 are given, in an early, timely and effective manner, the opportunity to express their opinion on the draft plan or programme and the environmental report.”

Does your national legislation call for consultations with environmental and health authorities?

(a) Yes. EAA article 5 (2) defines the authorities likely to be concerned in accordance with the EIA-Directive and the SEA-Directive and EAA article 31 lays down the obligation to consult the above mentioned authorities.

(b) No

Please explain:

I.9.4. How can the environmental and health authorities express their opinion?

(a) By sending comments

(b) By completing a questionnaire

(c) In a meeting

(d) By other means (please specify)

Please explain: Initially, it is only possible for the authorities to make comments during the periods when there is consultation. However, it constitutes good administrative practice to take into account unsolicited comments that might have been received from other sources, such as authorities, even though no formal consultation is required at the screening stage.

Article 10

Transboundary consultations

I.10.1. According to article 10 (1): “Where a Party of origin considers that the implementation of a plan or programme is likely to have significant transboundary environmental, including health, effects or where a Party likely to be significantly affected so requests, the Party of origin shall as early as possible before the adoption of the plan or programme notify the affected Party.”

As a Party of origin, when do you notify the affected Party?

(a) During scoping

(b) When the draft plan or programme and the environmental report have been prepared

(c) At other times (please specify):

Please explain: Possible affected countries are consulted whether they want to participate and whether they have comments on the plan, including the content of the environmental assessment. The notification, including appendices, is sent to potential affected countries no later than one week before the Danish public and the authorities concerned are heard. All contact with possible affected countries is always via the Danish Environmental Protection Agency, which is the Point of Contact.

I.10.2. According to article 10 (2): “[The] notification shall contain, inter alia:

- (a) **The draft plan or programme and the environmental report including information on its possible transboundary environmental, including health, effects; and**
- (b) **Information regarding the decision-making procedure, including an indication of a reasonable time schedule for the transmission of comments.”**

As a Party of origin, what information do you include in the notification? Please specify:

- (a) The information required by article 10 (2)
- (b) The information required by article 10 (2), plus additional information (please specify):

Please explain: The EAA article 32 (1) and (2) transposes article 6 (1) and (2) and article 7 in the SEA Directive, so the possible affected countries are informed at the earliest possible time of:

- 1) Indication of to which remarks or questions may be addressed.
- 2) Details of the deadlines for submitting comments or questions.
- 3) Information on whether the plan or program will involve a consultation pursuant to section 38.
- 4) Legal basis of the plan or program.
- 5) Whether the environmental information obtained by the authorities for the purpose of processing the case is available to the public, the authorities concerned and the States concerned.
- 6) Any additional information, including the most important reports and recommendations, etc., received by the Authority.
- 7) Where and how the information is made available.
- 8) What measures have been or will be taken with a view to the participation of the public, the relevant authorities and the States concerned in the environmental assessment process.

Possible affected countries are consulted whether they want to participate (notification) and whether they have comments on the plan, including the content of the environmental assessment. The notification, including appendices, is sent to potential affected countries no later than one week before the Danish public and the authorities concerned are heard. All contact with possible affected countries is always via the Danish Environmental Protection Agency, which is the Point of Contact.

I.10.3. According to article 10 (2): “The notification shall contain, inter alia: ... an indication of a reasonable time schedule for the transmission of comments.”

As a Party of origin, does your legislation indicate a reasonable time schedule (in days, weeks, months) for the affected Party? Please specify:

- (a) No and Yes

However, specific legislation may set the framework and timeframes for public consultations concerning the plan in question. If no such specific legislation is applicable the timeframe for consultations concerning the environmental impact assessment and the plan or program must be reasonable taking into account the complexity and geographical extension of the plan, the environmental issues involved etc.

- (b) Yes (please indicate how long):

If “Yes”, please explain whether that schedule contains individual time frames for a response to the notification and for provision of comments and specify those in days, weeks, months, as relevant:

I.10.4. According to article 10 (3)–(4), when the affected Party expresses its wish to enter into consultations before the adoption of the plan or programme, the Parties concerned shall enter into consultations further to detailed arrangements agreed by them with a view to ensuring that the public concerned and the authorities in the affected Party are informed and given an opportunity to forward their opinion within a reasonable time frame.

How do the Parties agree on detailed arrangements?

- (a) Following those of the Party of origin
- (b) Following those of the affected Party

- (c) On a case-by-case basis
- (d) In accordance with existing arrangements (for example, bilateral agreement)
- (e) Other (please specify):

Please explain:

Article 11 Decision

I.11.1. According to article 11 (1): “Each Party shall ensure that when a plan or programme is adopted due account is taken of: (a) [t]he conclusions of the environmental report; (b) [t]he measures to prevent, reduce or mitigate the adverse effects identified in the environmental report; and (c) [t]he comments received in accordance with articles 8 to 10.”

Please specify how your country ensures that due account is taken of:

- (a) The conclusions of the environmental report
- (b) Mitigation measures
- (c) Comments received in accordance with articles 8–10

Please explain: In accordance to the EAA article 13(1) the authority shall include the environmental report prepared in accordance with article 12, including environmental impacts, which are not otherwise addressed in accordance with the environmental legislation under which the plan or program is provided, the results of any consultation of other states pursuant to article 38 and opinions of other authorities and the public pursuant to article 32 in the final adoption of the plan or program.

I.11.2. According to article 11 (2): “Each Party shall ensure that, when a plan or programme is adopted, the public, the authorities ... and the Parties consulted ... are informed, and that the plan or programme is made available to them together with a statement summarizing how the environmental, including health, considerations have been integrated into it, how the comments received ... have been taken into account and the reasons for adopting it in the light of the reasonable alternatives considered.”

How and when do you inform your own public and authorities?

- (a) Pursuant to national legislation (please refer to specific provisions and provide citations in order to clarify the procedure followed):
- (b) Other (please specify):

Please explain:

In accordance with EAA § 13(2) the Authority must prepare a summary report 42 for,
 1) how environmental considerations are integrated into the plan or program,
 2) how the environmental report and the statements received during the public phase have been taken into account,
 3) why the approved or adopted plan or program has been selected on the basis of the reasonable alternatives that have been dealt with, and
 4) how the authority will monitor the significant environmental impacts of the plan or program.

In accordance with EAA § 34(1) the Authority shall publish the final approved or adopted plan or the finally approved or adopted program, the environmental report and the summary statement pursuant to § 13(1) and forward them to the authorities concerned. The publication must include information on whether the decision can be appealed and the deadline for this.

I.11.3. Does the information provided to the public and authorities include?

- (a) Plan or programme:

(b) Statement summarizing how the environmental, including health, considerations have been integrated into the plan or programme, and how the comments received have been taken into account:

(c) The reasons for adopting the plan or programme in the light of the reasonable alternatives considered:

I.11.4. How do you inform the Parties consulted (art. 11 (2))?

(a) By informing the point of contact

(b) By informing the contact person of the ministry responsible for strategic environmental assessment, 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: When a transboundary consultation has been conducted pursuant to EAA § 38, the authority shall in accordance with EAA § 34, para 2, send the approved or adopted plan or approved or adopted program annexed to the summary report to the Environmental Agency, which shall ensure that these are transmitted to the States concerned.

Article 12

Monitoring

According to article 12 (1)–(2): “1. Each Party shall monitor the significant environmental, including health, effects of the implementation of the plans and programmes.

...

2. The results of the monitoring ... shall be made available ... to the authorities ... and to the public.”

I.12. Describe the legal requirements for monitoring the significant environmental, including health, effects of the implementation of the plans and programmes:

EAA article 12(4): The environmental report must contain a description of the intended measures regarding monitoring of the significant impacts on the environment in the implementation of the plan or program. The environmental report's monitoring program is prepared in order to identify unforeseen adverse effects on an early steps and take any appropriate remedial action. Existing monitoring schemes may be used to the extent appropriate.

EAA article 13(2): The Authority shall draw up a summary statement,

...

4) how the authority will monitor the significant impacts on the environment of the plan or program.

Article 13

Policies and legislation

According to article 13 (1): “Each Party shall endeavour to ensure that environmental, including health, concerns are considered and integrated to the extent appropriate in the preparation of its proposals for policies and legislation that are likely to have significant effects on the environment, including health.”

I.13. Does your country have national legislation on the application of principles and elements of the Protocol as regards policies and legislation? Please specify.

(a) Yes (please specify which articles of the Protocol apply):

(b) No

Please explain: In accordance with the ECJ praxis the SEA Directive is applicable on proposals for policies and legislation; hence the EAA applies on such proposals provided that the specific proposal meets the conditions of the plan and program concept of the SEA Directive, which is transposed in the EAA.

Part two

Practical application during the period 2019–2021¹

Please report on your country's practical experiences in applying the Protocol (not your country's procedures, as described in part one). The focus here is on identifying good practices as well as difficulties Parties have 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 and innovative approaches to improving its application. Parties' reporting also provides useful information to other countries within and beyond the United Nations Economic Commission for Europe (ECE) region that facilitates their efforts to implement and accede to the Protocol.

Part two also focuses on issues identified in the third review of implementation^a by Parties and those issues that have been identified as priorities by Parties in the 2021–2023 workplan.^b It also addresses the objectives of the Long-term strategy and the action plan for the Convention and the Protocol related to: "Adapting the reviews [of implementation] to maximize their usefulness as a source of information, highlight progress achieved, draw attention to areas that need improvement, disseminate best practice...".^c

^a United Nations publication, ECE/MP.EIA/SEA/14.

^b ECE/MP.EIA/30/Add.1–ECE/MP.EIA/SEA/13/Add.1, decision VIII/2–IV/2.

^c Ibid., decision VIII/3–IV/3, annex, item II.A. 9.

A. Some specific questions related to domestic and transboundary implementation in the period 2019–2021

II.1. Does your country's strategic environmental assessment documentation always include specific information on health effects? Please specify:

- (a) Yes
- (b) No, only when potential health effects are identified

II.2. Does your country's strategic environmental assessment 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

¹ Part II of this questionnaire is not considered to be a reporting obligation according to the Protocol. Parties are encouraged to share examples of good practice, subject to their capabilities and the availability of relevant data.

B. Example of application of the Protocol in your country during the period 2019–2021

II.3. Please provide, using the table provided in annex I to this questionnaire, the (approximate) number of domestic strategic environmental assessment procedures initiated during the 2019–2021 period, list them grouped by the sectors listed in article 4 (2), and indicate their average duration and costs.

There is no complete process overview for all SEA cases in Denmark, so it is not possible to fill out the form

II.4. Please provide the (approximate) number of transboundary consultations referred to in article 10 of the Protocol that your country, during the reporting period, initiated, as a Party of origin, and participated in, as an affected Party. Please use the table in annex II to this questionnaire listing the transboundary procedures grouped by the sectors listed in article 4 (2), indicating their average duration.

There is no complete process overview for all transboundary consultations in Denmark, so it is not possible to fill out the form

II.5. Do you have a register of the domestic and transboundary strategic environmental assessment procedures (cases) that can be accessible for other Parties to consult, as needed?

<i>Domestic procedures</i>	<i>Transboundary procedures</i>
(a) Yes <input type="checkbox"/>	(a) Yes <input checked="" type="checkbox"/>
(b) No <input checked="" type="checkbox"/>	(b) No <input type="checkbox"/>
If so, please provide the access link to the register:	If so, please provide the access link to the register: https://mst.dk/service/annoncering/espo/

II.6. According to paragraph 10 of decision IV/5 on reporting and review of implementation of the Protocol,² the lists of domestic and transboundary strategic environmental assessment procedures included in the responses to questions II.3 and II.4 of the questionnaire are to be posted on the ECE website. Should your country object to this, however, please indicate “Yes” in the table below and explain, as relevant:

<i>Domestic procedures (list provided under question II.3 and link to register referred in question II.5, if provided)</i>	<i>Transboundary procedures (list provided under question II.4 and link to register referred in question II.5, if provided)</i>
(a) Yes (my country has an objection to the compilation and posting of this information) <input type="checkbox"/> Please explain: (b) No (no objection) <input checked="" type="checkbox"/>	(a) Yes (my country has an objection to the compilation and posting of this information) <input type="checkbox"/> Please explain: (b) No (no objection) <input checked="" type="checkbox"/>

² ECE/MP.EIA/30/Add.3–ECE/MP.EIA/SEA/13/Add.3.

C. Experience with the strategic impact assessment procedure in 2019–2021

II.7. Please list the benefits of strategic environmental assessment that are identified by your country:

- (a) Cost effectiveness
- (b) More focused and informed planning
- (c) Coordination with other sectors/i.e. avoiding overlaps or discrepancies
- (d) Environmental and health benefits
- (e) Other

Please provide your comments:

II.8. Has your country experienced substantial difficulties in interpreting particular terms contained in (or particular articles of) the Protocol?

- (a) No
- (b) Yes (please indicate which ones):

II.9. Please indicate how your country overcomes these difficulties, if any. Please provide examples that may include, among other things, working with other Parties to find solutions or using existing guidelines or fact sheets:

II.10. With regard your country's experience with domestic and/or transboundary procedures:

- (a) Please describe your country's procedures for ensuring that the health aspects are properly incorporated into the environmental report and that the health authorities are consulted as provided for in article 3:

According to the Environmental Assessment Act significant impacts on health aspects must be included in the environmental report. Health authorities are consulted on a case-by-case basis, when relevant due to significant impacts on health aspects.

- (b) To contribute to the sharing of knowledge and experience on themes outlined in the workplan for 2021–2023, please provide at least one example of your country's application of strategic environmental assessment in one or several of the following areas:

Biodiversity

Circular economy

Energy transition

Development cooperation

Smart and sustainable cities

Sustainable infrastructure

Maritime spatial planning

(When describing your experience, please indicate the name of the plan/programme subject to strategic environmental assessment, provide background information or describe the context in which the document has been developed, describe the stages of the procedure and other issues of interest for other Parties. Please flag good practice, and/or lessons learned, referring, as relevant, to the contribution of the above application of strategic environmental assessment towards the attainment of Sustainable Development Goals or climate objectives. When providing an example, you may also make use of the template in annex III to the present questionnaire.)

Please see description in annex III.

(c) Please indicate whether strategic environmental assessments implemented in your country can be considered to have contributed to the implementation of Sustainable Development Goals and their specific targets:

Yes, (certain) strategic environmental assessments significantly contributed to the attainment of Sustainable Development Goals

Yes, (certain) strategic environmental assessments somewhat contributed to the attainment of Sustainable Development Goals

No, there is no evidence that strategic environmental assessment contributes to the attainment of Sustainable Development Goals in practice

If “Yes”, please list the most relevant Sustainable Development Goals³ (and their targets) and provide an example(s) of how strategic environmental assessment has contributed to their achievement

II.11. Please indicate whether your country has been carrying out monitoring according to article 12.

(a) No

(b) Yes :

If so, please specify types of plans or programmes subject to the monitoring according to article 12, citing good practice examples or elements of good practice (for example, consultation or public participation), if available

³ In 2017, the Meetings of the Parties acknowledged that the Convention and, in particular, the Protocol, contribute to the achievement of the Sustainable Development Goals (ECE/MP.EIA/23/Add.1–ECE/MP.EIA/SEA/7/Add.1, decision VII/7–III/6, Minsk Declaration, para. 7). Selected examples of targets of the Sustainable Development Goals that strategic environmental assessment could help to implement include the following (see informal document to the fifth meeting of the Working Group (Geneva, 11–15 April 2016):

- (a) Sustainable Development Goal 3 – Ensure healthy lives and promote well-being for all at all ages (targets 3.9 and 3.d);
- (b) Sustainable Development Goal 6 – Ensure availability and sustainable management of water and sanitation for all (targets 6.3, 6.5–6.6 and 6.a–6.b);
- (c) Sustainable Development Goal 7 – Ensure access to affordable, reliable, sustainable and modern energy for all (targets 7.2 and 7.a);
- (d) Sustainable Development Goal 8 – Promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (target 8.4)
- (e) Sustainable Development Goal 9 – Build resilient infrastructure, promote inclusive and sustainable industrialization and foster innovation (targets 9.1 and 9.4);
- (f) Sustainable Development Goal 11 – Make cities and human settlements inclusive, safe, resilient and sustainable (targets 11.3–11.4, 11.6 and 11.a–11.b);
- (g) Sustainable Development Goal 12 – Ensure sustainable consumption and production patterns (targets 12.2 and 12.4–12.5);
- (h) Sustainable Development Goal 13 – Take urgent action to combat climate change and its impacts (targets 13.1–13.3);
- (i) Sustainable Development Goal 14 – Conserve and sustainably use the oceans, seas and marine resources for sustainable development (target 14.1);
- (j) Sustainable Development Goal 15 – Protect, restore and promote sustainable use of terrestrial ecosystems, sustainably manage forests, combat desertification, and halt and reverse land degradation and halt biodiversity loss (targets 15.1 and 15.4);
- (k) Sustainable Development Goal 16 – Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels (targets 16.6–16.7 and 16.10);
- (l) Sustainable Development Goal 17 – Strengthen the means of implementation and revitalize the global partnership for sustainable development (targets 17.13 and 17.16–17.17).

For more details see informal document ECE/MP.EIA/WG.2/2016/5/INF.16, available at http://staging2.unece.org/net4all.ch/fileadmin/DAM/env/eia/documents/WG2.5_April2016/Informal_document_16_ece.mp.eia.wg.2.2016.INF.16_SDG_Mapping.pdf.

II.12. With regards to your country's experience with transboundary procedures, in response to each of the questions below, please either provide one or two practical examples or describe your country's general experience. You might also want to include examples of lessons learned in order to help others. Please detail:

- (a) What difficulties has your country experienced and what solutions has it found?
- (i) Translation and interpretation: The terms in different countries regulation is not of similar meaning/definition, which can cause misunderstanding. Clear regulation about translation, language etc. would be helpful in order to avoid uncertainties and specific agreements in each case.
- (ii) Other issues
- (b) What elements of the environmental report and other documentation does your country usually translate as a Party of origin? The part of the report, where the transboundary impacts are assessed together with the non-technical-resume.
- (c) As an affected Party, please specify whether and how your country has ensured the participation of the public concerned and the authorities pursuant to article 10 (4):
- (i) No
- (ii) Yes (please indicate how): participation is ensured by mandatory hearings of the public and relevant authorities according to the Environmental Assessment Act. The hearings are conducted at a public website as well as direct e-mail correspondence to relevant authorities and in some cases also direct correspondence to citizens.
- (d) What has your country's experience been of the effectiveness of public participation? It ensures that relevant alternatives and environmental issues are addressed/assessed, but it would normally not change the plans significantly. It is a good way to ensure, that the citizens feels involved in the process.
- (e) Does your country have examples of organizing transboundary strategic environmental assessment procedures for joint cross-border plans and programmes?
- (i) No
- (ii) Yes (please describe): An overheadline project crossing the Danish-German border. The plan has not yet been adopted in Denmark.

D. Experience regarding guidance in 2019–2021

II.13. Has your country used in practice the following documents:

Good Practice Recommendations on Public Participation in Strategic Environmental Assessment (ECE/MP.EIA/SEA/2014/2)

Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment (ECE/MP.EIA/17)

Yes

Yes

No

No

Please specify reasons for not using the Good Practice Recommendations:

Please specify reasons for not using the Manual:

(i) Lack of awareness about the document

(i) Lack of awareness about the document

(ii) The document is not relevant

(ii) The Manual is not relevant

(iii) The document is outdated and needs revision

(iii) The Manual is outdated and needs revision

Your comments and/or suggestions for improving

Good Practice Recommendations on Public Participation in Strategic Environmental Assessment (ECE/MP.EIA/SEA/2014/2)

Resource Manual to Support Application of the Protocol on Strategic Environmental Assessment (ECE/MP.EIA/17)

or supplementing the Good Practice Recommendations:
Displaying the report website of the Danish Environmental Agency.

Your comments and/or suggestions for improving or supplementing the Resource Manual:
Displaying the report website of the Danish Environmental Agency

E. Contributions to the funding of the workplans

II.14. Please indicate whether the information regarding contributions to the trust fund was already provided by your country in the responses to the questionnaire concerning the Convention and covered both the Convention and the Protocol:

- (i) Yes
(ii) No

If your response is “No”, please provide the information regarding the contributions to the trust fund below.

II.15. Through paragraph 4 of decision VII/4–III/4 on budget, financial arrangements and financial assistance,⁴ applicable for the period 2017–2020, the Meetings of the Parties to the Convention and the Protocol jointly “Urge[d] all Parties to contribute to ensuring sustainable funding of activities and an equitable and proportionate sharing of the financial burden among the Parties.” For the period 2021–2023, by paragraph 1 of decision VIII/1–IV/1⁵, regarding funding of the adopted workplans, the Meeting of the Parties decided that: “All the Parties have a duty to contribute to the sharing of the costs that are not covered by the United Nations regular budget.”

(a) Please indicate whether your Government contributed to the funding of the workplans during the reporting period, indicating also the currency and the amount of the contribution:

- (i) My Government made a multi-year contribution for the period 2017–2020

Please indicate when the contribution was provided (year), amount and currency:
20.000 USD

- (ii) Individual contribution in 2019

Yes Amount and currency:

No Please explain the reason:

- (iii) Individual contribution in 2020:

Yes Amount and currency:

No Please explain the reason:

- (iv) Individual contribution in 2021:

Yes Amount and currency:

No Please explain the reason:

- (v) Please indicate any plans of your country to contribute for the period 2021–2023

(b) Did your country make in-kind contributions in the reporting period?

⁴ ECE/MP.EIA/23/Add.1–ECE/MP.EIA/SEA/7/Add.1.

⁵ ECE/MP.EIA/30/Add.1–ECE/MP.EIA/SEA/13/Add.1.

Yes Please describe how:

No Please explain the reason

F. Suggested improvements to the report

II.16. Please provide suggestions for how this report could be improved:

Annex I**List and number of domestic strategic environmental assessment procedures initiated in the reporting period**

<i>Sector</i>	<i>Total number or an estimate*</i>	<i>Number of local-level procedures</i>	<i>Number of national-level procedures</i>	<i>Estimated average duration of the procedure,** months, if available</i>	<i>Average costs (also as percentage of the total costs for preparation of a plan/programme), euros and (percentage), if available</i>
Agriculture:					
Forestry:					
Fisheries:					
Energy:					
Industry including mining:					
Transport:					
Regional development:					
Waste management:					
Water management:					
Telecommunication:					
Tourism:					
Town and country planning:					
Land use:					
Other, including those falling under article 4 (3)–(4):					

* The information provided constitutes:

Statistical data

Estimates

** Once the need for strategic environmental assessment is determined

Your comments:

Annex II

List and number of transboundary strategic environmental assessments in the reporting period

<i>Sector</i>	<i>Total number or an estimate*</i>	<i>Number of local-level procedures</i>	<i>Number of national-level procedures</i>	<i>Estimated average duration of the procedure,** months, if available</i>	<i>Average costs (also as percentage of the total costs for preparation of a plan/programme), euros and (percentage), if available</i>
Agriculture:					
Forestry:					
Fisheries:					
Energy:					
Industry including mining:					
Transport:					
Regional development:					
Waste management:					
Water management:					
Telecommunication:					
Tourism:					
Town and country planning:					
Land use:					
Other, including those falling under article 4 (3)–(4):					

Annex III

Template for describing a good practice example of implementing a strategic environmental assessment at the national level or in a transboundary context

I. General information

1. Title of plan/programme: Danish Maritime Spatial Plan
2. Authority responsible for the plan's/programme's development: Danish Maritime Agency
3. Nature of the related strategic environmental assessment procedure: Transboundary
 - (a) Domestic
 - (b) Transboundary
4. Please indicate which stage(s)/step(s) of the strategic environmental assessment procedure is/are considered to represent good practice:

The entire procedure

Screening (art. 5)

Scoping (art. 6)

Environmental report (art. 7)

Public participation (art. 8)

Consultation with environmental and health authorities (art. 9)

Transboundary consultations (art. 10)

Decision (art. 11)

Monitoring (art. 12)

5. Please indicate to which topic(s) of the 2021–2023 workplan the example is related:

Biodiversity

Circular economy

Development cooperation

Energy transition

Smart and sustainable cities

Sustainable infrastructure

II. Background

Please provide a short description of the plan/programme, the context of its development and general information about the strategic environmental assessment:

Denmark's maritime spatial plan has been issued as a digital executive order. All relevant information about the content of the maritime spatial plan, the consultations and all historical versions of the maritime spatial is together with a digital map displayed at the following public website (available both in a Danish and English):

<https://havplan.dk/en/page/info>

An environmental assessment of the transboundary impacts of the maritime spatial plan conducted for consultations under the Espoo-convention is also displayed and available in English, German, Finnish and Polish.

III. Procedure under the protocol on strategic environmental assessment and elements of good practice

Please describe, in more detail, the procedural step/steps that is/are considered to represent good practice and then explain why that is:

III.1. Field of application (art. 4)

III. 2. Screening (art. 5)

III. 3. Scoping (art. 6)

III.4. Environmental report (art. 7)

III.5. Public participation (art. 8): The public participation in the process which took place during the covid pandemic was ensured by digital meetings with a large number of participants. The presentations are still available.

III.6. Consultation with environmental and health authorities (art. 9)

III.7. Transboundary consultations (art. 10)

III.8. Decision (art. 11)

III.9. Monitoring (art. 12)

IV. Lessons learned and advice to other parties:

IV.1. Please indicate:

- (a) Challenges in carrying out the procedure, if any, and how those were tackled
- (b) Lessons learned

IV.2. As relevant, please also refer to the contribution of the above application of strategic environmental assessment towards the attainment of Sustainable Development Goals¹ or climate objectives.

¹ In 2017, the Meetings of the Parties acknowledged that the Convention and, in particular, the Protocol, contribute to the achievement of the Sustainable Development Goals (ECE/MP.EIA/23/Add.1–ECE/MP.EIA/SEA/7/Add.1, decision VII/7–III/6, Minsk Declaration, para. 7). Selected examples of targets of the Sustainable Development Goals that strategic environmental assessment could help to implement include the following (see informal document to the fifth meeting of the Working Group (Geneva, 11–15 April 2016):

- (a) Sustainable Development Goal 3 – Ensure healthy lives and promote well-being for all at all ages (targets 3.9 and 3.d);
- (b) Sustainable Development Goal 6 – Ensure availability and sustainable management of water and sanitation for all (targets 6.3, 6.5–6.6 and 6.a–6.b);
- (c) Sustainable Development Goal 7 – Ensure access to affordable, reliable, sustainable and modern energy for all (targets 7.2 and 7.a);

