

# **ASSESSING THE IMPACTS ON CLIMATIC FACTORS**

**Recommendations for improving  
Strategic Environmental Assessments**



**Comparative Study**  
**Justice and Environment 2020**

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## Introduction

“Mainstreaming” climate (mitigation, adaptation) through all national plans, programmes and legislative is one of the imperatives for directing the whole society towards carbon neutrality. Strategic environmental assessment (SEA) under the *Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (SEA Directive)* is an already existing and useful tool for climate proofing. The aim of our research was to reveal to what extent “climatic factors” are taken into consideration in the SEA, especially in the screening phase and how the procedure is organised - we wanted to see how climate is mainstreamed through national strategic plans and programmes via SEA.

The following findings and conclusions are based on the research of Justice and Environment in Austria, Bulgaria, Croatia, Estonia, Hungary, Romania, Slovenia, and Spain. A detailed summary of all national answers is enclosed as Annex to this study.

This paper aims to sum up our results and issue recommendations for a better implementation of the EU legislation to meet the EU’s energy and climate targets for 2030.



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## Overall observations

The SEA directive refers to climatic factors only in its Annex I (f) as obligatory part of the environmental report (Article 5). Although there is *Guidance on Integrating Climate Change and Biodiversity into Strategic Environmental Assessment*<sup>1</sup> available on the official SEA Directive webpage since 2013, the climate theme in the SEA procedure is still somehow vague and hard “to grasp”. The international and EU community struggling to define clearer stipulations necessary to achieve the Paris Agreement goals does not help towards better strategic assessments of impact on climatic factors, i.e. climate change mitigation and adaptation.

The EU Member States are now in the process of setting the national goals and measures in national energy and climate plans (NECP) and long-term strategies. Regarding the NECP SEA was carried out in Slovenia; in Spain the process is still ongoing in summer 2020. In Romania the Ministry of Environment, Waters and Forests informed the Ministry of Economy, Energy and Business Environment about the need to carry out the SEA procedure for this plan. Other countries did not carry out an SEA on their NECP. In Slovenia the preparation of environmental report was paid by the European Commission - this fact ensured more independent reporting due to financial independency from the body which prepared the plan.

There are warnings in the 5<sup>th</sup> IPPC report and PCC special report on the impacts of global warming of 1.5 °C, but no clear tools how to align the plans and programs to reach the effect necessary to prevent global heating over the IPPC “point of no return”.

The outcomes of our research show the following:

- Some plans have very general strategic content and offer few details for the future projects. It is difficult in estimating the impact, so estimations are rather qualitative than quantitative. There is lack of common assessment methodologies that provide clear and practical guidance on how to take climate factors into account, given the high level of strategic decision-making, scope, degree of generalization, etc.
- As consequence, there are no strong bodies to have an opinion on environmental reporting regarding impact on climate, such as e.g. state body for “protecting the climate change /reducing GHG interests”. Mostly they are as organisational part of the

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<sup>1</sup> <https://ec.europa.eu/environment/eia/pdf/SEA%20Guidance.pdf>.

ministry responsible for the environment. But there is one positive exception: Spain established an Office for Climate Change subordinated to the Secretariat of the State for the Environment - it advises any body of the State General Administration on climate change issues. The ombudsman can have a certain role in the SEA procedure (Hungary, Austria). In Hungary there is also a National Environmental Council that follows the preparation of major plans and programs and can have an opinion on the environmental report which has to be taken into consideration in the SEA procedure.

- The **pools of climate experts** are still in the process of formation, mostly inside some expert institutes or ministries.
- There are **no webpages on national level** containing all the plans and programmes that could or should be subject of the SEA. Webpages only exist for SEA procedures that were carried out, e.g. in Slovenia<sup>2</sup>; The Czech Republic has an official SEA website for the exchange of SEA information.<sup>3</sup> In Spain the official webpage compiles those plans and programmes which are under the SEA public consultation phase at all levels - national, regional and municipal<sup>4</sup> - as well as information on plans and programmes including those already adopted at all levels.<sup>5</sup> This visibility is important also for the public concerned to retrace which plan should be subject to SEA, which decisions are made in the screening process and to follow the SEA process.<sup>6</sup>
- There is also a question of challenging the SEA decision. In most countries there are **no legal remedies for NGOs** provided, but the SEA decision can be challenged by the NGO in Bulgaria, Slovenia, Spain and Estonia under certain circumstances - mostly based on Administrative procedure or dispute acts. But not all SEA decision are challengeable, for example in the Czech Republic, the final decision is in the form of “binding opinion”.
- According to Article 12 (2) of the SEA Directive, Member States are obliged to ensure that environmental reports are of sufficient quality. Overall, the country evaluation shows that most **SEA regulations do not provide for specific systems of ensuring quality**. This, however, is broadly not regarded as a problem, due to the fact that

<sup>2</sup> <https://www.gov.si teme/celovita-presoja-vplivov-na-okolje/>

<sup>3</sup> [https://portal.cenia.cz/eiasea/view/SEA100\\_koncepce](https://portal.cenia.cz/eiasea/view/SEA100_koncepce)

<sup>4</sup> <https://sede.miteco.gob.es//portal/site/seMITECO/navSabiaDestacados>

<sup>5</sup> <https://sede.miteco.gob.es//portal/site/seMITECO/navSabiaPlanes>

<sup>6</sup> *Note:* for climate “mainstreaming” it is not sufficient that public is informed only in the last phase of the preparing the plan and environmental report.

authorities and project applicants have long-term experience with SEA and professional requirements are set by law.

- Most countries report about necessary requirements for experts preparing the environmental reports, opinions expressed by the authorities from different areas, public participation and verification of the competent authority as main tools for ensuring the quality of the report.
- In Croatia, the environmental report is reviewed by an Expert Committee made up of scientists, experts, representatives of institutions competent for different areas and local/regional authority as competent body for SEA final decision. In Hungary, the National Environmental Policy Institute - an auxiliary body for the ministry responsible for environmental protection - was originally supposed to prepare methodological guidance and to design training programs for the authorities in SEA cases, but this regulation was abolished in 2015.
- In Slovenia, some seminars about different aspects of SEA and environmental reports were carried out in the last five years. In Romania, quality checklists are available in the General guidelines for the environmental assessment for plans and programmes.
- In Austria, a specific website provides practical information and good practice examples.<sup>7</sup>
- Finally, guidance exists: Most important is the European Commission's Guidance on Integrating Climate Change and Biodiversity into Strategic Environmental Assessment from 2013, which experts are aware of. It has been translated into Romanian. Some countries, i.e. Austria, Romania, Czech Republic, have their own SEA general guidance.<sup>8</sup>
- **Structured and transparent overviews of SEA decisions are not available** in most countries. SEA decisions are published collectively on one webpage in Bulgaria<sup>9</sup>, Romania, Slovenia and Spain. In Estonia, SEA decisions for a specific strategic planning document are on one subpage. In Austria, a list of open and closed SEA procedures is only annually published online on the website of the Federal Ministry for

<sup>7</sup> <https://www.strategischeumweltpruefung.at/>

<sup>8</sup> [https://www.mzp.cz/cz/posuzovani\\_vlivu\\_koncepci\\_sea](https://www.mzp.cz/cz/posuzovani_vlivu_koncepci_sea)

<sup>9</sup> <http://registers.moew.government.bg/eo/>

Agriculture, Regions and Tourism (BMLRT).<sup>10</sup> The only countries, where statistics can be accessed in a structured and transparent way are Romania, Slovenia and Czech Republic. From this example we can see that some countries, such as Romania or Slovenia, cover a large number of plans and programmes under the SEA and the others, such as the Czech Republic, only few. In Slovenia and Romania, most SEAs are carried out for spatial plans (4 to 10 times higher), but in Czech Republic the situation is reversed. Screening decisions are positive only in about 20 % of spatial plans and only around 12 % of other plans. Final SEA decisions are mostly positive, in Czech Republic there is no negative final decision at all.

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<sup>10</sup> [https://www.bmlrt.gv.at/umwelt/betriebl\\_umweltschutz\\_uvp/sup/supoesterreich.html](https://www.bmlrt.gv.at/umwelt/betriebl_umweltschutz_uvp/sup/supoesterreich.html)

## Findings concerning the screening phase of SEA procedures

The SEA screening procedure is in our opinion the most crucial part of the SEA procedure regarding climatic factors: The opportunity to assess if the plan or programme could have a significant impact on the climate. Therefore the national regulation and organisation of competent bodies are important.

- Most countries do not introduce **reference to climatic factors in their regulation** that determines the likely significance of effects (referring to Annex II of the SEA Directive).
- In some countries, i.e. Austria, Croatia and Hungary, the **body competent for the screening procedure is the same as the body that prepares the plan or programme**. In other countries the competent body differs. In these cases it is important how the notification of competent body is carried out. Usually the body which prepares the plan informs the body competent for the screening procedure. In Czech Republic the information is exchanged through the official SEA website, in Romania there is already at this stage public consultation and consultation a with special committee carried out.
- We cannot have a clear picture **whether all plans that should go through SEA procedures are notified** - especially in case of “other plans” where possible significant impact could be assessed. The controlling mechanisms or protocols for notifications are laid down in national law, but we cannot estimate how strictly they are followed. For local level the awareness on SEA in general might exist among local communities or municipalities to a certain extent, however, in most cases, a lack of awareness regarding significant impact on environment and/or climate could be noted.
- Screening is mostly done on a **case-by-case basis**; it may also depend on the competence and SEA experience of the decision-maker in charge. At the level of ministries, requirements are mostly clearer compared to e.g. spatial planning.
- **How much the climatic factors are taken into account differs from county to country**. Mostly climatic factors are elaborated in the environmental report, supported by national regulations on environmental reports. Difficulties by determination of significant impact on climate in the screening phase are the following:



- Impact on climatic factors can hardly be addressed directly. Indirectly, climatic factors are addressed within different issues such as forestry, air quality, recreation facilities, transport and traffic emissions, flood control, soil sealing, etc.
- The climate adaptation can and should be an issue, but it is still in its “infancy”.
- In some countries, such as Hungary, climate is not taken into consideration at all.
- Climate can be taken into consideration in the frame of “relevance of the plan or programme for the implementation of EU legislation on the environment”.
- It is highly questionable if the SEA would be carried out only because of the significance of plans’ or programs’ effects for climate.

## Findings concerning the assessment phase of SEA procedures

The assessment of climatic effects in SEA procedures is not sufficient according to our research:

- Separate chapters on climate are included in larger SEAs, but considering mostly as indirect effects, without clear calculations. E.g., assessing only GHG effects is too narrow and mutual relationships of other areas with climate change are usually above the scope of examination.
- A baseline for climate is hard to establish because climate models are usually produced at a regional scale (RCM's) which is hardly applicable to local level planning.
- There is not enough data on meteorological stations coverage and long enough sets of data to be used are hardly available.
- A lack of holistic approach from the side of the designers of plans and programs subject to SEA can also be noticed (narrow-minded designers of plans cannot “hear” the climate experts).
- Climate mitigation goals (targets and parameters) are not presented clear enough on national level, one must combine different sources on international, EU and national level to get a clear picture;
- There is no clear guidance on *what* must be evaluated and *how*, nor information and data to make any estimations or forecasts.
- In any case it is hard to measure the impacts; the scope of possible climate impacts is too broad.
- Conducting SEA on a lower level of planning is difficult if this was not done on the higher level (if there were not evaluated different variations). On lower level it can be then the case that impact on climatic factors is rather considered as irrelevant or insignificant.
- Methodological guidelines are generally hardly applicable, especially for local level plans and programs, due to unsatisfying accessibility of data on climate and climate change.

- Regarding spatial plans, especially local level, there is a lack of detailed enough spatial models on climate change which could be used at a local level. Furthermore, there are no clear methodologies to assess impact of different land use.

All experts involved into our research expressed the opinion **that SEA should be done on the highest level of strategic plans** and doing it only on lower level could be “useless” or missing the purpose.

There are general “SEA circumstances”:

- SEA reports have to accommodate in great part to the basic planning procedure the environmental evaluators take part in. Once the basic plan or program pays little attention to climate mitigation or adaptation programs, they usually are not in the position to push for dramatic or just significant transformation of the plans.
- Additionally, the problem of the economic dependency upon the investors - and subsequent pressure from their part - persists.

## Conclusions

Based on our research it can be concluded that climate change is overlooked or not sufficiently considered within SEA. “Mainstreaming” climate in plans is weak, but in the process of building up. There are not any changes after Paris Agreement noticed in environmental reports regarding climate, only the general politics are more concerned about climate.

- Climate in the SEA procedure as a topic is still somehow vague and abstract, the impact considered mostly as indirect effects, without clear calculations.
- Since only the plans and programs determined by the law, i.e. acts or regulations, have to undergo SEA, there are many high level strategic plans or politics not evaluated regarding their impact on climate. On the lower level, it is then harder for “climate assessments” to have a real impact.
- In the screening phase we have two systems:
  1. the screening decision authority differs from the authority that prepares the plan and
  2. the authority preparing a plan or program is also responsible for the screening decision.

Even though the notification processes are defined, we do not know if all plans that should go through strategic environmental assessment are in reality proposed for SEA.

- There is a lack of guidance and methodologies regarding climate useful for SEA for all levels of plans and programs on *what* must be evaluated and *how*, with information and data to make estimations and forecasts.
- Generally, the awareness on climate “mainstreaming” in strategic plans is increasing. Since the current policy in the EU is focused on the Green Deal and climate change mitigation, the pool of climate experts is growing. Yet, this general intention is hard to fulfil in SEA practice without clear guidance.

## Recommendations

As a result of our research, Justice & Environment recommends the following:

### 1. *Take into account climate mitigation and climate resilience during the screening phase.*

The Directive should

- ✓ not only require SEA for plans and programmes which are at the basis of national laws. All strategies and framework programmes on the highest level should be included in screening phase as well (everything should be covered which falls under the categories “strategy”, “concept” or “plan”);
- ✓ be clear that climate mitigation and climate resilience should be taken into consideration in the screening phase.

### 2. *Provide up to date the guidance on EU translated into national languages.*

The Guidance on Integrating Climate Change and Biodiversity into Strategic Environmental Assessment from 2013 should be renewed including:

- ✓ methodologies for all levels of plans and programs on *what* must be evaluated and *how*, with information and data (on EU and national level) to make estimates and forecasts;
- ✓ comprehensive models with better resolution;
- ✓ clear and concise objectives, on sectoral as well as regional (provincial) level;
- ✓ climate impact assessments should be evaluated (also in the screening phase) based not only on the harmful impact but also on the plan's contribution to the climate objectives (national/EU/international) as a necessary contribution to achieve Paris agreement goals. The effects of climate change on the project during the project - vulnerability and adaptation;
- ✓ clear and comprehensible cause-effect-chains should be established - they should be credible and suitable for spatial and land-use planning

### 3. *Ensure more transparency and consultation in the SEA procedures.*

- ✓ The highest strategic plans are those which determine further direction of the whole society, therefore they are the place where sustainability and ground for necessary acting towards the carbon neutrality have to be strongly incorporated into the plan. They are the object of concern of the whole society.
- ✓ On national level, the database and the process of preparation of all highest strategic plans should be established in a transparent manner.
- ✓ The information about SEA in the early (screening) phase should be accessible to the broader public and consultation open from the beginning of the process - in the last stage of a plan or an environmental report, it is usually hard to change anything.
- ✓ Organizations, which are independent from the administrative branch of the government, such as the ombudsmen, public prosecutors, state auditors and others, might also play an important role in raising the environmental quality of the SEA reports.
- ✓ Procedural mechanisms to facilitate broader publicity for the major, national level SEA screening decisions and reports should be promoted.
- ✓ There should be funded continuous watchdog activity by NGOs concerning the relevant websites and they should be allowed to participate in the entire SEA procedure and have access to legal remedies in accordance to the Aarhus Convention.

### 4. *Raise awareness of the climate issue among all stakeholders involved in SEA implementation and procedures.*

- ✓ As a lack of awareness is one of the key issues, this must be tackled at multiple levels.

## ANNEX – SUMMARY OF THE QUESTIONNAIRE

### CONTEXT

The questionnaire was divided into two parts:

- Sections I. and II. focus on national regulation of specific aspects of the SEA procedure for national legal experts to answer - these are the experts from Justice & Environment member organisations;
- Sections III., IV. and V. are concentrated on the praxis of the SEA procedure. National experts prepared the answers on the basis of interviews with SEA decision-makers and experts who prepare environmental reports (questions under section IV. only for the interview with SEA decision - makers). At least one decision-maker and one expert should be selected for the interview, but due to the corona virus situation, all planned interviews could not be carried out.

The names and contact data of the national legal experts and decision-makers or experts for environmental reports for each county can be provided on the request upon approval of the person concerned. The same stands for the national answers on the questionnaire.

Countries involved: Austria, Bulgaria, Croatia, Estonia, Hungary, Romania, Slovenia, and Spain.

#### I. General (for national legal expert)

##### 1. Which act(s) regulate(s) the SEA procedure (if there are more, please add a short description)?

In most countries, there is a main act regulating the SEA procedure (Environment Protection Act in **Bulgaria**, **Croatia** and **Slovenia**, Law on Environmental Assessment in **Spain**, Environmental Code in **Hungary** and Act NO. 100/2001 Coll. on Environmental Impact

Assessment in **Czech Republic**). **Bulgaria, Croatia, Hungary**<sup>11</sup> and Slovenia additionally passed a Government Regulation / Ordinance / Decree on SEA.

In **Estonia**, the EIA and Environmental Management System Act stipulates the requirements to the content of the strategic environmental assessment report and general conditions for SEA procedure, whereas the Planning Act stipulates procedural requirements for SEA in the course of preparing a spatial plan.

In **Romania** the legislative act for transposing the SEA Directive is the Governmental Decision no. 1076/2004 for setting up the environmental assessment procedure of certain plans and programmes. Additionally, SEA is regulated in an Order of the Romanian Minister of Environment and Water Management for approving certain SEA Handbook as well as a Law on the ratification of the SEA Protocol and the Espoo Convention.

In **Austria**, there is no specific act implementing SEA legislation for it is split among many different acts on federal and provincial level. Most SEA procedures are regulated on provincial level in the nine different acts on spatial or land use planning, the provincial waste management acts, or the roads acts of the different provinces.<sup>12</sup>

## 2. Which Act or Decree regulates the criteria for determining the likely significance of effects (referring to Annex II of SEA Directive) - is there any reference to climatic factors?

The likely significance of effects is mostly, determined in the general SEA legislation, i.e. the **Croatian** SEA Regulation, the **Bulgarian** Environment Protection Act, the **Hungarian** SEA Decree, the **Estonian** Environmental Impact Assessment and Environmental Management System Act, the **Romanian** Governmental Decision no. 1076/2004, the **Czech** Act No 100/2001 Coll., on Environmental Impact Assessment, Annex 2 and the **Spanish** Law on Environmental Assessments. Slovenia passed a specific Decree on criteria for defining the likely significance of environmental effects of certain plans, programmes or other acts and its modifications in the environmental assessment procedure. In Austria, there is no official legal determination by act or decree of “likely significant effects” according to Annex II SEA Directive.

<sup>11</sup> Note: In Hungary, the system of strategic assessments in the Environmental Code has a broader, generally included scope than the SEA Decree, including certain legislative drafts and assigning tasks on the National Environmental Council.

<sup>12</sup> For further information see overview on the Austrian implementation of Strategic Environmental Assessment, online available at [https://www.strategischeumweltpruefung.at/fileadmin/inhalte/sup/Umsetzung/List\\_of\\_SEA\\_Implementation\\_2018\\_AT.pdf](https://www.strategischeumweltpruefung.at/fileadmin/inhalte/sup/Umsetzung/List_of_SEA_Implementation_2018_AT.pdf)



Most countries do not introduce reference to climatic factors. In Hungary, there is an indirect reference to climate, through the requirements of sustainable development<sup>13</sup> and in **Spain** certain provisions of the Law itself contain reference to those factors.

### 3. Competent authority for SEA procedure:

- a. Which is the competent body for carrying out the SEA procedure (screening decision, decision about acceptability of plan)?

In **Austria, Bulgaria, Croatia, Czech Republic, Hungary** and **Romania** there are different competent bodies, depending on the legal area and level (national/federal, provincial/regional or local/municipal). In **Estonia**, the coordinator of preparation of the strategic planning is responsible for carrying out SEA. In **Slovenia**, the SEA authority is the Ministry for the Environment and Spatial Planning. In **Spain**, the competent body on national level is the Under Directorate General for Environmental Assessment dependent on the Directorate General for Environmental Quality and Assessment.

- b. Does the authority responsible for the SEA screening differ from the authority responsible for preparing the plan/programme?

In **Bulgaria**, the SEA competent authority performing the screening is different than the authority preparing the plan or programme; however, there are plans/programmes which are prepared within the same administration, e.g., the river basin management plans. In **Estonia**, the authority responsible for the SEA screening is the coordinator for preparation of the strategic planning document, but the authority responsible for preparing plans/programmes is the leading expert. In **Romania, Spain, Czech Republic** and **Slovenia**, there are also different authorities.

In the other countries (**Austria, Croatia, Hungary**), the authority responsible for SEA screening mostly does not differ from the authority preparing the plan or programme.

- c. If yes - how is the exchange of information between the authority responsible for preparing the plan or programme the authority responsible for the screening regulated?

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<sup>13</sup> Point 1c SEA Decree.

In **Bulgaria**, within the screening procedure the developer asks the SEA competent authority to determine the applicable SEA procedure and submits to the competent authority a notification about the PP. The SEA competent authority then determines the applicability of the SEA procedure, gives instructions on the need to carry out a full SEA and on the actions to be taken.

In **Estonia**, the coordinator checks the compliance of the information with the requirements, gives confirmation and further guidance on steps to be taken at each SEA procedure stage.

In **Czech Republic** in cases where the authority differs, the exchange of information is regulated by the Act No. 100/2001 Coll., and in practice, it is carried out through the official SEA website<sup>14</sup>.

In **Romania**, the authority responsible for preparing the plan or programme notifies the environmental competent authority about the first draft. The competent environmental authority informs the beneficiary in writing about the need to carry out the environmental assessment. The screening decision is taken by the environmental authority, taking into consideration the consultations within a special committee and the public's comments.

In **Slovenia**, the body which is preparing the plan notifies the Ministry for the environment and spatial planning about its intention and provides relevant information. For spatial planning, the phase of notification is determined by the Spatial Planning Act<sup>15</sup>.

**d. Is there a state body that “advocates” the climate change mitigation/adaptation in SEA procedure (e.g. prepares the comments to environmental report)?**

In **Austria, Estonia, Slovenia, Czech Republic and Romania** there is no state body explicitly advocating for climate issues. In **Bulgaria and Croatia**, the relevant Ministries (of Environment, Environment and Waters) are responsible for climate advocacy and climate change considerations. In Hungary, the deputy Parliamentary Ombudsman responsible for future generations might step up in SEA cases, like in **Austria** the Environmental Ombudsman of each province can submit statements and input. However, all these options seem to be more theoretical than practically applied. In **Spain**, the Office for Climate Change is subordinated to the Secretariat of State for the Environment. Among its competences are to advice any body of the State General Administration on climate change related issues. In

<sup>14</sup> [https://portal.cenia.cz/eiasea/view/sea100\\_koncepce](https://portal.cenia.cz/eiasea/view/sea100_koncepce).

<sup>15</sup> Zakon o urejanju prostora, Official Gazette, 61/17.

**Czech Republic** the public interest in the protection of the environment is represented by an independent evaluator who prepares an assessment of the proposed plan or strategy.

#### 4. According to national regulation, are impacts on climate taken into account for SEA screening decisions/stage?

In **Romania**, the competent authorities take into account the climatic factors as part of environmental impacts with respect to the location (e.g., for plans that create the framework for projects located near water bodies, the risk of floods is taken into account), nature (e.g., for plans developed for the development of human settlements, aspects like GHG releases, energy or transport efficiency, or changes in land use are analysed) etc.

In **Hungary**, the examination points in the SEA Governmental Decree shall include an evaluation of the type and extent of the effects for climate protection and adaptation provided for the phase of examination of the foreseeable environmental effects of the plan or program.

In **Spain**, a strategic environmental report in the simplified procedure must include the foreseen measures to prevent, reduce and, as far as possible, correct any negative relevant effect on the environment, taking into consideration climate change, when implementing the plan or programme.

In **Czech Republic** impact on climate is taken into consideration (Act No 100/2001 Coll Environmental Impact Assessment, Annex 4, part D) - the section "Comprehensive characteristics and assessment of possible significant effects of the plan on the environment and public health" includes, amongst other characteristics, the section "Impacts on air and climate.

In **Austria, Croatia, Bulgaria, Estonia, and Slovenia**, the only reference to impacts on climate can be found in the regulations on content of environmental reports. In **Croatia**, there are no explicit provisions which would mandate that the impacts on climate be taken into account when deciding whether to conduct the SEA or not.

#### 5. Is there a unified official webpage that offers review of all adopted national (and local?) strategic plans and programmes that could be subject to SEA Directive?

In **Slovenia, Hungary, Romania, and Estonia**, there is no unified official webpage.<sup>16</sup> In other countries, lists of conducted SEA procedures are published online on the website of the relevant Ministries.<sup>17</sup> However, in **Austria or Croatia**, there usually no webpage listing adopted strategic plans and programmes that *could* be subject to the SEA Directive and information like time of conducting the SEA or reaching the decision is not clear/visible. In **Spain and Czech Republic** there is official webpage with more information. In Czech Republic there is SEA website<sup>18</sup>. In Spain the existing official webpage compiles those plans and programmes which are under the SEA public consultation phase at all levels national, regional and municipal<sup>19</sup> and other compiles information on plans and programmes which includes those that have been already adopted at all levels<sup>20</sup>.

## 6. Who can challenge the SEA final decision? Can NGOs challenge it?

The situation differs as follows - from binding opinions to challengeable administrative SEA decisions:

In **Croatia**, the final SEA decision cannot be challenged. In **Austria**, only a certain right to review before the Constitutional Court exists, which is limited to a small number of cases, if the plan/Programme was issued in form of an ordinance and interferes with an individual's constitutionally granted rights. This right does not include NGOs. In Hungary, the courts are also still reluctant to accept any cases concerning such "general decisions" of the "State's discretionary policy making", but, some recent developments might bring shifts in a better direction.

In **Bulgaria**, access to justice is ensured regarding the screening statement and the final SEA decision for the public, the affected and the interested parties and each state in case of transboundary effects to be affected by the application of the plan or the programme following

<sup>16</sup> In Estonia, however, all SEA reports can either be found on the website of the Ministry of the Environment (<https://www.envir.ee/et/kmh-teated>) or of the Environmental Board ([https://eteenus.keskkonnaamet.ee/?page=eklis\\_list&desktop=1017&act=avalik\\_info&tid=60510](https://eteenus.keskkonnaamet.ee/?page=eklis_list&desktop=1017&act=avalik_info&tid=60510)).

<sup>17</sup> Austria: [https://www.bmlrt.gv.at/umwelt/betriebl\\_umweltschutz\\_uvp/sup/supoesterreich.html](https://www.bmlrt.gv.at/umwelt/betriebl_umweltschutz_uvp/sup/supoesterreich.html); Bulgaria: <http://registers.moew.government.bg/eo/>; Croatia: <https://mzoe.gov.hr/puo-spuo-4012/spuo-4015/4015>; Spain: <https://sede.miteco.gob.es//portal/site/seMITECO/> and for Slovenia as it is evident under question II.2 on <https://www.gov.si/teme/celovita-presoja-vplivov-na-okolje/> for 2019, for previous years on the archive webpage <http://www.arhiv-spletisc.gov.si/> (in 2019 there were new government webpages put on).

<sup>18</sup> [https://portal.cenia.cz/eiasea/view/SEA100\\_koncepce](https://portal.cenia.cz/eiasea/view/SEA100_koncepce)

<sup>19</sup> <https://sede.miteco.gob.es//portal/site/seMITECO/navSabiaDestacados>

<sup>20</sup> <https://sede.miteco.gob.es//portal/site/seMITECO/navSabiaPlanes>

the rules stipulated in SEA Ordinance. The interested parties may appeal the statement or the decision under the Administrative Procedural Code (APC) within 14 days from its announcement. Environmental NGOs that meet the criteria of national law, namely registered under the relevant procedure, have standing in the judicial proceedings before a court.

In **Estonia**, the SEA final decision can be challenged together with the strategic planning document by anyone whose rights have been violated by it. NGOs can challenge the strategic planning document if it is related to the environmental protection goals or the current environmental protection activities of the organization. *Actio popularis* is accepted for detailed plans.

In Romania, the SEA final decision can be challenged by any person including NGO's that consider themselves to be affected by the decision.

In **Slovenia**, there is a possibility to appeal the final SEA decision to the government, if the maker of the plan is a state body. If the maker of the plan is the competent body of the municipality, an appeal against the SEA final decision is not allowed, but an administrative dispute may be initiated. Besides these provisions, the NGOs with a status in public interest for nature conservation<sup>21</sup> succeeded to be the party in the procedure in one case<sup>22</sup>. Afterwards the ministry allowed more NGOs with a status in public interest for environmental protection and nature conservation to participate in the SEA procedure.<sup>23</sup>

In **Spain** legal and natural persons having a right or legitimate interest have standing to appear before the administrative judicial courts and judges. This also applies in the case of challenging an environmental administrative decision as it is a SEA final decision. Nevertheless, it has been stated that legitimate interest is something more than the simple interest any citizen may have in enforcing legality.<sup>24</sup> Land plans and programmes and coastal plans and programmes can be subject to general public action. Non-for-profit legal persons must have among their objectives the protection of the environment in general or of one of its elements, be legally established for at least two years and have been active during that period and develop their activity within the territorial scope affected by the administrative act or omission to be a plaintiff in a judicial review to a SEA final decision.

<sup>21</sup> According to the Article 137(3) of the Nature Conservation Act these NGOs can represent the nature conservation interests in all administrative and court procedures.

<sup>22</sup> Birdlife Slovenia succeeded at the Administrative court to become a party (case number [II U 145/2016](#))

<sup>23</sup> This was the SEA procedure of National Energy and Climate Plan in 2019.

<sup>24</sup> Supreme Court Judgement of 28 December 1999.

In **Czech Republic** SEA process is completed by issuing a “binding opinion” of the responsible authority. The public can participate during the process, but the opinion cannot be challenged.

#### 7. Was there a SEA carried out for National Energy and Climate Plan (NECP)<sup>25</sup>?

**Slovenia** conducted an SEA on the NECP. The SEA procedure for the **Spanish** NECP is still ongoing. In **Bulgaria**, an SEA took place on two related strategic documents developed on the basis of European policy and priorities in the field of energy and climate, which set common energy policies, priorities, goals and measures for their implementation.

**Austria, Croatia and Estonia, Czech Republic, Hungary, and Romania** did not conduct an SEA for the National Energy and Climate Plan. In Romania, however, the Ministry of Environment, Waters and Forests informed Ministry of Economy, Energy and Business Environment about the need to carry out the SEA procedure for this plan.

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<sup>25</sup> Regulation (EU) 2018/1999, Article 3.

## II. Data and statistics of SEA decisions (for national legal experts)

### 1. What are the measures taken by the state to ensure that environmental reports are of a sufficient quality to meet the requirements of the SEA Directive (Article 12(2))?

The measures widely differ in the different countries. Apart from the public consultation phase there are the following main steps:

In **Bulgaria**, consultations with the public, the authorities concerned and third parties likely to be affected on the SEA report start after a ruling of the competent SEA authority giving a positive assessment of the quality of the report for assessing the degree of impacts of plan/programme.

In, **Estonia**, the measures include, that SEA leading experts must meet numerous requirements set by the law or the leading expert must involve specialists of the respective field. Furthermore, the coordinator is obliged to ask for an opinion from all the authorities concerned at all main stages of SEA procedure and, upon examination of the documentation, the authority must verify the sufficiency of the composition of the expert group. The SEA report must also be sent to the authorities concerned for approval. Finally, where the coordinator finds that the SEA report complies with the requirements, the coordinator makes a proposal on the monitoring measures. The purpose of the monitoring measures is to identify at an early stage whether significant environmental impact arises from the implementation of the strategic planning document and to take measures that prevent and mitigate adverse environmental impact.

In **Slovenia**, the Ministry for the Environment and Spatial planning ensures the quality of environmental reports (for SEA and EIA) inter alia by publishing the catalogue of expert knowledge and guidance for environmental reports preparation on the webpages, organising trainings for the experts who prepare environmental reports, if necessary.

In **Croatia**, environmental Reports are reviewed by the Expert Committee. The committee is made up of scientists, experts, representatives of institutions which are made competent based on a specific piece of legislation, and representatives of local/regional executive branch.

In **Romania**, the health authority and other competent authorities analyse the report and send detailed and justified points of view to the environmental authority. When reviewing a report, the environmental authority keeps in mind, inter alia, the way the report responds to the information specified by the SEA regulations, the encountered difficulties and the

presentation of the hypotheses or uncertainties, the presentation of the studied alternatives and the reasons for choosing one of them; the presentation of the manner in which the environmental considerations were integrated in the draft P/P and of the way the information risen from the environmental assessment was included in the report, the way the comments received from the public and other authorities were taken into account, and the existence of an adequate monitoring program of the environmental effects. Quality checklists are available in the General guidelines for the environmental assessment for plans and programmes.

In **Spain**, the Law on SEA includes a series of provisions to ensure that environmental reports are of sufficient quality. Relevant documents must be prepared by professionals having enough technical skills in accordance with the rules on professional qualifications and high education. Authors are accountable for the content and reliability of the reports and documents, except from data received from public administrations. One of the reasons for which an application might be rejected is when the initial documents are not of sufficient quality. The strategic environmental report in addition to the information required by the SEA Directive must also include any other information considered reasonable to ensure its quality.

In **Austria**, regulations regarding the quality of environmental reports are mostly held very general, e.g. providing that they must be drafted according to the current state of the art. Case-specific guidance and the “SEA Practice Sheet Number 5” (*SUP Praxisblatt 5*)<sup>26</sup> lays down minimum requirements for environmental reports. The relevant responsibility lies within the officially appointed experts (*Amtssachverständige*). If they note significant shortcomings of the environmental report, the report must be reviewed/adapted and re-published.

In **Hungary**, the National Environmental Policy Institute (an auxiliary body for the ministry responsible for environmental protection) was originally supposed to prepare methodological guidance and to design training programs for the authorities in SEA cases, but apparently this plan was again abolished later on.

In **Czech Republic** there are some measures which should help increase the quality of environmental reports in general such as an independent certified evaluator of the documentation, etc.

## 2. Are SEA decisions (screening and final decisions) published on the website of the decision making body (collected on one subpage)? Yes/No

<sup>26</sup> [https://www.strategischeumweltpruefung.at/fileadmin/inhalte/sup/SUP-Praxis/SUP\\_Praxisblatt\\_5.pdf](https://www.strategischeumweltpruefung.at/fileadmin/inhalte/sup/SUP-Praxis/SUP_Praxisblatt_5.pdf)



SEA decisions are published collectively on one webpage in Bulgaria<sup>27</sup>, Romania, Slovenia and Spain. In Estonia, SEA decisions for a specific strategic planning document are on one subpage.

In Austria, a list of open and closed SEA procedures is annually published online on the website of the Federal Ministry for Agriculture, Regions and Tourism (BMLRT).<sup>28</sup> However, the information whether the decisions are negative or positive are not easily accessible.

- a) If yes - what is statistics in the period 2016-2019 - after Paris period (*data should be available online, if not you can ask the competent authority for data via access to information*)

The only countries, where statistics can be accessed in a structured and transparent way are **Romania, Slovenia and Czech Republic**.

In Slovenia and Romania, the SEA decisions on spatial plans represent a multiple number compared to other plans (4 to 10 times higher). Around 20 % of SEA screening decisions on spatial plans are positive. Regarding other plans, the percentage of positive screening decisions is only around 12. Out of all final SEA decisions, around 80% are positive (in Romania) and 98% in Slovenia.

Romania	2016	2017	2018	2019
<b>Spatial plans</b>				
Screening decision (pos/neg)	354(+) 1397(-)	424(+) 1669(-)	583(+) 1737(-)	486(+) 1795(-)
Final - impact is acceptable (pos/neg)	148(+) 29(-)	166(+) 42(-)	174(+) 48(-)	127(+) 56(-)
<b>Other plans</b>				
Screening decision (pos/neg)	68(+) 395(-)	77(+) 448(-)	57(+) 489(-)	62(+) 472(-)
Final - impact is acceptable (pos/neg)	58(+) 10(-)	89(+) 25(-)	70(+) 20(-)	54(+) 4(-)

<sup>27</sup> <http://registers.moew.government.bg/eo/>

<sup>28</sup> [https://www.bmlrt.gv.at/umwelt/betriebl\\_umweltschutz\\_uvp/sup/supoesterreich.html](https://www.bmlrt.gv.at/umwelt/betriebl_umweltschutz_uvp/sup/supoesterreich.html)

Slovenia	2016	2017	2018	+
<b>Spatial plans</b>				
Screening decision (pos/neg)	24(+) 210(-)	37(+) 224(-)	39(+) 243(-)	32(+) 113(-)
Final - impact is acceptable (pos/neg)	34(+) 0(-)	21(+) 1(-)	40(+) 1(-)	15(+) 0(-)
<b>Other plans</b>				
Screening decision (pos/neg)	2(+) 39(-)	1(+) 40(-)	0(+) 29(-)	3(+) 9(-)
Final - impact is acceptable (pos/neg)	3(+) 0(-)	0(+) 0(-)	2(+) 0(-)	0(+) 0(-)

In the **Czech Republic** there is a webpage, where up to 10 proceedings on the subpage can be found.<sup>29</sup> The statistics for the period from 2016-2019 is as follows<sup>30</sup>:

Plans	2016	2017	2018	2019
<b>Spatial plans</b>				
Screening decision (pos/neg)	2(+) 1(-)	1(+) 0(-)	2(+) 1(-)	5(+) 1(-)
Final - impact is acceptable (pos/neg)	2(+) (-)	0(+) (-)	2(+) (-)	5(+) (-)
<b>Other plans</b>				
Screening decision (pos/neg)	27(+) 5(-)	18(+) 7(-)	14(+) 14(-)	14(+) 8(-)
Final - impact is acceptable (pos/neg)	27(+) (-)	11(+) (-)	14(+) (-)	12(+) (-)

It should be pointed out that there are no negative final SEA decisions - despite the relevant legislation enables the authorities to issue a negative decision. However, in practice, the documentation is usually returned back to the author to be re-done (sometimes even multiple

<sup>29</sup> [https://portal.cenia.cz/eiasea/view/sea100\\_koncepce](https://portal.cenia.cz/eiasea/view/sea100_koncepce)

<sup>30</sup> The Czech Republic was not a party to the Paris Agreement until November 2017.

times), until the SEA authority finds it acceptable. The Czech SEA database also includes the category “proceedings ended for other reasons than issuing a decision” (typically the request was taken back). In case there had been a positive screening decision before the proceedings ended, these cases were also included into the statistics on screening decisions.

**b) If no - can you explain in one/two sentences why it would be difficult to get such statistics (dispersed on too many webpages, not published at all, ...)?**

In **Austria, Croatia, Estonia and Hungary**, no overall statistics on SEA decisions could be accessed. This is mostly due to the fact that information is dispersed on too many webpages of different authorities on federal/regional/local level and reporting is not unified.

### III. Praxis - general (based on the interview - decision-maker, expert for environmental report)

#### 1. What is the system of ensuring sufficient quality of environmental reports according to Article 12(2) SEA Directive?

Overall, the country evaluation shows that most SEA regulations do not provide for specific system of ensuring the quality. This, however, is broadly not regarded as a problem, due to the fact that authorities and project applicants have long-term experience with SEA and professional requirements are set by law. Especially in the course of larger tenders, usually renowned organisations/companies are employed. In some countries, a lack of transparency on ensuring sufficient quality could be noted.

In **Austria**, guidance on local planning and case-specific issues is provided. Here, a specific website provides practical information and good practice examples.<sup>31</sup>

Other experts referred to the measures taken by the state to ensure that environmental reports are of a sufficient quality, elaborated in Section II.1.

In **Slovenia**, the Ministry for Infrastructure offers a useful tool for assessing the quality of project documentation for state infrastructure investments - if the environment report is part of this documentation then it is subject to review.

In **Croatia** there is a SEA system based on local legislation, according to which in practice the strategic report is assessed at the meetings of committee for the strategic environmental assessment. The committee is made up of scientists, experts, representatives of institutions which are made competent based on a specific piece of legislation, and representatives of local/regional executive branch. After the committee passes a decision that the strategic report is complete and expertly drafted the report is, together with the strategy, plan and/or program put for public consultation.

Experts also named the consultations with relevant authorities who provide their input to draft SEA programme and draft SEA report and public display/hearing as the main mechanism to ensure the good quality of SEA Report.

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<sup>31</sup> <https://www.strategischeumweltpruefung.at/>

2. Are there any guidelines, instructions, other supporting materials regarding assessing impact on climatic factors published or seminars organised for experts who prepare environmental reports?

A good example in the regard is **Croatia**, where assessments are conducted based on the international climate protection and mitigation policy. Also, there are a number of guidelines for including climate change into environmental assessments and strategic assessments as well as guidelines for increasing project resilience to climate change.

In **Austria** the Federal Ministry also provides a list of guidelines<sup>32</sup> as overview on the different topic areas, like guidance on Strategic Assessment in the Transport Sector<sup>33</sup>, but climatic factors are generally not present in any guidance. Similarly in the other countries, there is no specific guidance on climatic factors. This leads to the fact that these issues might be treated in a “superfluous” manner. In **Hungary** there was attempt to prepare guidance and trainings for better SEA practice in 2015 but this regulation was later abolished.

On the other hand, European guidance plays a more important role. E.g. in **Romania**, the European Commission’s Guidance on Integrating Climate Change and Biodiversity into Strategic Environmental Assessment from 2013 were translated in Romanian and published on the website of the Ministry of Environment, Waters and Forests. There is also the General guidelines for the environmental assessment for plans and programs, resulted from the PHARE Project 2004/016 - 772.03.03, ‘Straightening institutional capacity for the implementation and application of the SEA Directive’, published. These guidelines are available on the website of the Ministry of Environment, Waters and Forests. In some countries, (privately organised or in **Slovenia** by the Ministry of the Environment and spatial Planning) seminars help to train experts on the issue.

In **Czech Republic** as part of the preparation of the "Methodological Recommendation for the Assessment of the Impacts of General Concepts on the Environment"<sup>34</sup>, attention was also paid to the topic of assessing the possible impacts of concepts on climate change. In Czech Republic in the SEA Information System, under the SEA Promotion tab, there is a video<sup>35</sup>, the

<sup>32</sup> [https://www.bmlrt.gv.at/dam/jcr:0677692d-100a-4d19-b4db-3fa47ec2838b/B2%20LISTE\\_SUP-Umsetzung\\_2019\\_Stand\\_2019\\_12\\_31.pdf](https://www.bmlrt.gv.at/dam/jcr:0677692d-100a-4d19-b4db-3fa47ec2838b/B2%20LISTE_SUP-Umsetzung_2019_Stand_2019_12_31.pdf)

<sup>33</sup> [https://www.bmvit.gv.at/themen/verkehrsplanung/strategische\\_pruefung/gesetz\\_leitfaden.html](https://www.bmvit.gv.at/themen/verkehrsplanung/strategische_pruefung/gesetz_leitfaden.html).

<sup>34</sup> <https://portal.cenia.cz/eiasea/dokumenty/dokumentSoubor/117/SOTPR-Vestnik leden 2019 priloha2-190206.pdf>

<sup>35</sup> [https://portal.cenia.cz/eiasea/dokumenty/sea\\_propagace](https://portal.cenia.cz/eiasea/dokumenty/sea_propagace)

aim of which is to increase awareness of the process of assessing the effects of the concept on the environment. Similar information is available on the MoE website<sup>36</sup>.

### 3. Is there a state body that “advocates” the climate change mitigation/adaptation in SEA procedure (e.g. prepare the comments to environmental report)?

Although, in some countries, respective bodies (environmental departments or ministries) are involved and can bring up climate change issues and provide opinions, in none of the countries there is a specific state body advocating in this respect. Even where bodies or Ombudsmen with an environmental focus exist, they do usually not bring up climate change issues in SEA procedure in practise.

There is the **Spanish** Office for Climate Change<sup>37</sup> - under the Secretariat of State for the Environment. It advises any body of the State General Administration on climate change issues. And in **Hungary** there is a special national level body, the National Environmental Council<sup>38</sup> (a tripartite consultation body for the government) has been dealing regularly with major SEA cases as a supervisor of their environmental content. In the last decades the Council has dealt with 11 SEA procedures (discussed it and in 6 instances issued an official statement), while in 7 cases the Council discussed climate related topics. The Council’s respect in SEA and similar cases was underlined by a 2012 decision of the Constitutional Court that has abolished a Governmental decision, where the opinion of the Environmental Council was not sought for<sup>39</sup>.

### 4. Is there a team/pool of climate experts on national level engaged in SEA? Explain!

In most countries, a specific pool of experts could not be identified. Some experts named institutes (Slovenia, Croatia, and Czech Republic) or consultancy firms (Hungary) as examples.

<sup>36</sup> [https://www.mzp.cz/cz/posuzovani\\_vlivu\\_koncepci\\_sea](https://www.mzp.cz/cz/posuzovani_vlivu_koncepci_sea)

<sup>37</sup> Under the question I. 3.

<sup>38</sup> <https://www.oktt.hu/>

<sup>39</sup> Decision of the Constitutional Court No. 44/2012. (XII. 20.) AB

#### IV. SEA screening phase (based on the interview - decision-maker)

**1. What is the controlling mechanism for the competent SEA authority to ensure that information on every relevant (national, local) programme or plan is presented for screening?**

The procedures differ, depending on each country and legal area/structural level. In some cases, a different department is responsible to draft the plan and there are controlling/supervisory bodies. In other cases, a plan or programme can only be forwarded to the decision-making body if it passes a preliminary evaluation (like in **Hungary** the National Environmental Council follows the preparation of major plans and programs). In **Romania** and **Estonia** the decision to initiate (or not) the SEA is made by the authority that prepares the plan. In **Slovenia** where screening authority is different from the authority that prepares the plan, the SEA authority is aware that it does not get information on all plans that should be submitted to SEA. Also in **Czech Republic** there is no such control mechanism.

Screening is mostly done on a case-by-case basis; it may also depend on the competence and SEA experience of the decision maker in charge. At the level of Ministries, requirements are mostly clearer compared to e.g. spatial planning.

**2. Are local communities aware that their plans - other than spatial plans can be subject to SEA and have significant impact on environment/climate? Explain!**

The situation depends on the region or particularity of each area. Although awareness on SEA in general might exist among local communities / municipalities to a certain extent, in most cases, a lack of awareness regarding significant impact on environment/climate could be noted. Sometimes, communities are informed of the possibility at a stage when it is already too late. The more prevailing opinion seems to be that municipal (non-spatial) plans can also have an impact on the environment (e.g. local energy concepts, public lighting plans) but the local communities are seldom aware of this.

**3. Impact on climatic factors:**

- a. **How are possible significant impacts on climatic factors taken into consideration during the SEA screening phase?**

From a practical point of view, according to experts, direct impact on climatic factors can hardly be addressed directly. Indirectly, climatic factors are addressed within different issues such as forestry, air quality, recreation facilities, transport and traffic emissions, flood control, soil sealing, etc. With regard to microclimate, climate adaptation can be an issue. This however, is still “in its infancy”.

In **Hungary**, the developers of the programmes and their environmental experts are not obliged to take climate into consideration in the screening procedures, so they do not include climate viewpoints on the description of the antecedents of the screening decision. In **Slovenia**, they are taken into consideration if there is not enough reason in other areas for SEA to be carried out.

**b. How are possible impacts on climatic factors evaluated/assessed; what is taken into account?**

The expert assessment of indirect climatic factors is usually performed in the screening phase. In **Slovenia**, the significance of climatic factors is considered within the evaluation of “significance of the impact on other environmental politics of the EU”.

In Romania, the assessment is done for each p/p in particular, on a case-by-case basis. Checklists from the General guidelines for the environmental assessment for plans and programmes take aspects like emissions of CO<sub>2</sub> and other GHG, are taken into account.

In **Czech Republic** climate change should be part of the analytical part of the concept documentation, in particular in Part C “Data on the territory concerned”. In addition to the definition of the affected area, there should also be a description of the current state and trends of development of key components of the environment in the affected area with a focus on the subject of the concept solution, i.e. in justified cases, also on climate change, which should be addressed in the notification as well as in any further steps of the SEA. In **Romania** the authorities can use the checklists from the General guidelines for the environmental assessment for plans and programs, resulted from the PHARE Project 2004/016 - 772.03.03, ‘Straightening institutional capacity for the implementation and application of the SEA Directive’, Annex F.

**4. How would you evaluate current “climate mainstreaming” in plans and programmes in your country (1-5, where 1 is very weak and 5 is very good)?**



Overall evaluations ranged from 1 to 3. Some experts refrained from an overall evaluation as they considered the situation too heterogeneous.

**5. What are weaknesses/problems regarding assessing the possible significant impact on climatic factors in SEA screening phase? Explain!**

According to most experts, climate change is overlooked or not sufficiently considered within SEA. This is mostly due to the climate issue as such and the lack of common assessment methodologies that provide clear and practical guidance on how to take climate factors into account (given the high level of strategic decision-making, scope, degree of generalization, etc.). Therefore, in practice, the corresponding assessment and its thoroughness can vary to a relatively large extent. There is also a lack of awareness of the potential impact of strategic planning documents on climatic factors, as they may rather be considered as irrelevant or insignificant.

In some cases, the environmental assessment is done for plans/programmes with a rather general content and offer few details about the future projects. In these cases, there are difficulties in estimating the impact, and the estimations are rather qualitative than quantitative.

Other weaknesses defined included the poor notification of the preparation of the plans in early stages of process, a lack of capacity of the SEA department or a weak transposition of the SEA directive. There is also the lack of common assessment methodologies that provide clear and practical guidance on how to take climate factors into account (given the high level of strategic decision-making, scope, degree of generalization, etc.). Therefore, in practice, the corresponding assessment and its thoroughness can vary to a relatively large extent. There is also a lack of awareness of the potential impact of strategic planning documents on climatic factors, as they may rather be considered as irrelevant or insignificant.

**6. What are solutions / what could be improved (EU level / national level)? Explain!**

Possible solutions discussed with the experts include the following:

- Provide a clearer regulation and guidance on national level: Climate mitigation and climate resilience must be taken into account during the screening phase.

- A screening phase should be carried out only for exceptional cases: SEAs should, de facto, not only be conducted for spatial plans, but they should be necessary for all other (strategic) plans.
- Regarding spatial plans SEA should reach only a certain level of plans: For the more detailed local spatial plans, only a compliance control should be carried out.
- Clear and comprehensible cause-effect-chains should be established. They should be credible and suitable for spatial and land-use planning.
- Raise awareness of the climate issue among all stakeholders involved in SEA implementation and procedures.

## V. SEA assessment phase (based on the interview decision-maker, expert for environmental report)

### 1. How do you assess the quality of chapters about impact on climatic factors compared to other assessments of impacts of other parts of environment in environmental reports?

Different projects or strategies, plans and/or programs require different levels of processing of the climatic factors in the reports. The level of detail widely differs. The level at which climate assessments take place is mostly considered too low. However, if plans for projects are separated the SEA regarding climate is toothless.

Often, separate chapters on climate are only included in larger SEAs. Climatic factors are often only considered as indirect effects (e.g. traffic volume or land use). There are only few experts and usually no clear calculations, rather assumptions due to plausibility (classifications such as “favourable” - “adverse” - “no impact”). There is a problem with establishing baseline for climate because climate models are usually produced at a regional scale (RCM’s) which is hardly applicable to local level. Good meteorological stations coverage, or long enough sets of data to be used are hardly available. Therefore, promising estimations or assumptions are hard to make; regarding climate adaptations, really useful approaches cannot yet be observed. A lack of holistic approach from the side of the designers of plans and programs subject to SEA can also be noticed. For example, it is too narrow to assess only GHG emissions. Focus is sometimes rather limited to making projects “climate proof”, meaning that they should smoothly operate in the circumstances of changed climate (a growing consideration of corrosion or heat tolerance etc.). The system nature of mutual relationships with climate change is usually above the scope of examination. The SEA should be carried out on the highest level of strategic plans for impact on climate to be later properly assessed in the lower plans.

The Climate White Paper of the Commission and other EU sources can be capable to enhance the quality of major SEA reports.

### 2. Are the assessments of impacts on climatic factors after the Paris Agreement intensified/strengthened? If yes - how?

Most experts did not notice any changes, not regarding the SEA report on climate change. At most, Paris goals are addressed by motivated experts in environmental reports within larger SEAs as “relevant programme”, but only on an abstract level. Strengthening is more likely caused by increased EU standards, which are more concrete. Possibly there has been a slight general shift due to the increasing political relevance of climate issues.

In **Slovenia**, the formation of a separate department for climate at the Ministry for Environment and Spatial Planning lead to a significant improvement.

### 3. Are the national/EU/Paris Agreement climate goals about reducing GHG emissions published/presented clear enough to all stakeholders in the SEA procedure?

In **Austria, Hungary and Estonia**, and **Slovenia**, information and presentation must still be improved. GHG reduction goals are mentioned, but there is no hint that the issue is presented clear enough. In case of positive effects of a plan/project, GHG reduction is used as argument, but there is no clear presentation of reduction goals. This is possibly due to the fact that the issue is hard to grasp/intangible.

In **Bulgaria, Romania, Czech Republic and Croatia**, experts were more optimistic, noting that enough documents have been published, mainly information on the European Adaptation Platform<sup>40</sup> and the website for the Covenant of Mayors of the municipalities<sup>41</sup> or national ministries. Also, climate and climate change analysis are mandatory as part of reports in different chapters and from different aspects. Apart from the analysis the relation between the proposed plans/programmes and other plans/programmes is examined, including the plans/programmes form climate and climate change domain - i.e. those that affect the climate and environment protection goals set by international environmental agreements such as the Kyoto Protocol and the Paris Agreement.

### 4. Are experts aware of methodologies for assessing the significant impacts on climatic factors (mitigation, adaptation) - for example as presented in Annex 3 of the [Guidance on Integrating Climate Change and Biodiversity into Strategic Environmental Assessment?](#)

<sup>40</sup> <https://www.eea.europa.eu/themes/climate/european-climate-adaptation-platform-climate-adapt>

<sup>41</sup> <https://climate-adapt.eea.europa.eu/eu-adaptation-policy/covenant-of-mayors>

Some experts had trouble answering this question to the positive. The conclusion can be drawn that there is no broad awareness. This might be due to the fact that the document is very long, too general and there are no official translations or summaries.

In **Croatia, Slovenia and Romania**, the guidance seems to be more broadly known and applied. In Romania, an official translation is available.

#### **5. What are weaknesses/problems regarding the assessment of significant impacts on climatic factors in the environmental report? Explain!**

There is no clear guidance on *what* must be evaluated and *how*, nor information and data to make any estimates and forecasts. Most SEAs are conducted on a level too low to reasonably assess climate impacts in the scoping phase. The issue is too abstract and there is a lack of concrete targets or parameters. Qualitative or plausibility assumptions do not help, as impacts are mostly hard to measure. At the point of SEA, no clear specifications are available, especially if the zoning does not occur for a specific cause. The scope of possible climate impacts is too broad, as long as the kind of installation/facility is not defined. In case of land-use or traffic, the future development is easier to determine. Methodologies still need to be established.

At the level of the implementing specific (low level) planning acts, the assessment on climatic factors is “too late”. It is necessary to evaluate the different variants at the highest strategic level, (e.g. which energetic infrastructure we want to support - nuclear, wind, coal - which path is the optimal way to go).

Sometimes the level of detail of the assessment of impact on climatic factors in the environmental report is rather low or it is treated in a rather general manner and this makes it difficult to envisage the impact of the plan/programme on climate change. At the level of spatial planning there are no direct impacts or a lack of detailed enough spatial models on climate change which could be used at a local level. The methodological guidelines are generally hardly applicable, especially for local level plans and programs, due to unsatisfying accessibility of data on climate and climate change. The SEA assessment phase is too vague to determine *what* can have effects *to which directions*.

Existing models contain scenarios for temperature, precipitation and floods. All other climate change scenarios are missing, including those concerning the change in sea water temperatures.

In Bulgaria, data collectors often have high tariffs, despite the fact that their activity is financed by the state and by European and international projects.

Also, SEA reports have to accommodate in great part to the basic planning procedure the environmental evaluators take part in. Once the basic plan or program pays little attention to climate mitigation or adaptation programs, they usually are not in the position to push for dramatic or just significant transformation of the plans. Additionally, the problem of the economic dependency upon the investors (and subsequent pressure from their part) persists.

The designer of the plan and the expert for the environmental report do not cooperate. The environmental report is many times understood as a review of the plan, which is not its purpose. There should also be guidelines for the evaluation of climate change according to Spatial Planning Act.

## 6. What are the solutions /what could be improved (EU level / national level). Explain!

The following potential for improvement was identified by experts:

- A table or checklist (in national language) of what needs to be considered: Comprehensive models with better resolution (level of detail)
- SEA REFIT process: The Directive should not only require SEA for plans and programmes which are at the basis of national laws. Strategies and framework programmes should be included as well.
- At national level, the obligatory applicability should be intensified for member states. In principle, everything should be covered which falls under the categories “strategy”, “concept” or “plan”.
- Assessment of the impact of certain variants and strategic state plans on the climate at the highest levels should be done. At the lower levels it is otherwise “too late” to correct this. Licensing of the experts or review of the environmental report could reduce the problem of economic dependence of the experts.
- Clear and concise objectives, on sectoral as well as regional (provincial) level.
- Climate impact assessments should be evaluated based not only on the harmful impact but also the plan's contribution to the climate objectives (national/EU/international). The effects of climate change on the project during the project - vulnerability and adaptation

(EU platforms are good in terms of adaptation) and DG climate data should also be taken into account.

- Free access to up-to-date guidance, information and data at national and European level, on a uniform scale for further processing and for comparisons should be provided.
- More transparency: There should be automatisms which trigger off broader publicity for the major, national level SEA screening decisions and reports. Funded continuous watchdog activity by NGOs concerning the relevant homepages.
- Organizations, which are independent from the administrative branch of the government, such as the ombudsman, public prosecutors, state auditors and others might also play an important role in raising the environmental quality of the SEA reports.
- The capacities of the SEA sector should be relocated/reorganised - the sector should be diverted from municipal spatial plans to state programs.

#### 7. Can you present a case, you think is an example of good impact assessment on climatic factors? What are its attributes?

Based on the EU Partnership Agreement, the Hungarian Government has developed its **Environmental and Energy Efficiency Operative Program (EEEEOP)** for the period ranging from 2014 to 2020. The SEA report was written by Eco Ltd. on 7<sup>th</sup> of June 2014 by the Eco Ltd. The report contains a detailed description of the preparation and screening procedure, as well as the procedure of the assessment phase. Also, there is a description of the internal logic and principles of the SEA procedure and its mutual connection with the main planning process, including an analysis of the effects of the SEA process on the substance of the plan. Apart from having a separate climate chapter, climate change mitigation and resilience viewpoints are woven into the tissue of the whole report, including its water management and water protection, energy efficiency, renewable energy sections, too. The report clarifies the interconnection with other relevant plans, such as national plan against aridity, national climate and forestry plans. In the evaluation of the EEEEEOP and the connected suggestion parts, the Report points out that there are missing or not well enough developed spots, such as climate and public health, heatwaves and vectors distributing new diseases and allergenic materials. In the water chapters, it calls the attention that it is not enough to plan water scarcity measures, in broader terms the planning of use of territories should keep in mind climate and water viewpoints. Also warns that while it is positive to support natural methods of waste management, designers should take into consideration the growing extremes in

temperature, while in nature protection plans, individual differences of several ecosystems in climate sensitivity should be an important starting point.

The national expert for **Slovenia** exposed the **SEA environmental report and process on NECP** as so far the best case of impact assessments on climatic factors. In this case, the favourable circumstances were also the financial “independency of experts that prepared the report, because it was paid by the technical aid of the European Commission and many NGOs and other stakeholders participated. Also, the Ministry of the Environment accepted 8 NGOs with status in public interest for the environmental protection and nature conservation as parties in the SEA procedure, although there is no direct legislative obligation to do so on Slovenia. The Ministry of the Environment accepted 8 NGOs with status in public interest for the environmental protection and nature conservation as parties in the SEA procedure, although there is no direct legislative obligation to do so. The environmental report showed assessments of both, positive impact of the NECP to reach net-zero GHG before 2050, but even more the assessment of impact necessary to achieve this goal as well as the Paris agreement goals.

Other national experts were not able to provide any explicit positive examples regarding climate.



**Contact information:****Association of Justice and Environment**

European Network of Environmental Law Organizations

33 Udolní, 602 00 Brno, Czech Republic

Zsuzsanna Berki, Priska Lueger & Senka Vrbica

Co-leaders / Climate Topic Team

e-mail: [info@justiceandenvironment.org](mailto:info@justiceandenvironment.org)

web: [www.justiceandenvironment.org](http://www.justiceandenvironment.org)



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