



Assessing environmental impacts on water bodies

A brief analysis on application of art 4(7)
assessments in selected EU MS

Comparative Legal Study

Justice and Environment 2018

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I Introduction

The EU Directive 2000/60/EC establishing a framework for the Community action in the field of water policy or, in short, the EU Water Framework Directive (WFD) was adopted in October 2000. This Directive forms a cornerstone for the EU action in this field. In autumn 2017 the European Commission published an evaluation and fitness check roadmap for WFD and the Floods Directive.

This current study, which was compiled during the fitness check according to the roadmap before the public consultation aims to feed into the exercise by providing evidence of the application of a particular mechanism enshrined in the WFD, in its Art 4(7) in different Member States. The so-called applicability assessment is one of the ex-ante environmental impact assessments required under the EU law and aims at identifying the impacts of human activity on the status of water bodies and achievement of Union aims regarding such status.

This provision, as many others, has been subject to crucial interpretations by the Court of Justice of EU. Most importantly, the court has ruled that the aims of the WFD regarding the status of water bodies must be taken into account (and impacts assessed) also at the level of specific projects¹ and that environmental NGOs must be granted the right to challenge decisions taken under the art 4(7) of the WFD². In cases, where participation in administrative proceedings is a prerequisite to access to justice, right to participate at the administrative proceedings must also be granted.

This study is based on the questionnaire filled in by J&E experts in 7 EU countries: Austria, Bulgaria, Croatia, Estonia, Hungary, Slovakia and Slovenia. The questionnaire and replies from experts can be found in Annex 1 and Chapter III of this document. The study forms a package of documents that are compiled by J&E in 2018 as part of its input to the fitness check of the WFD.

¹ Case C-461/13, *River Weser*.

² Case C-664/15, *Protect*.

II Summary of findings

1. EIA obligation thresholds for projects that may be subject to the applicability assessment

Activities that are most commonly listed as projects for which the EIA is obligatory in the surveyed countries are dams, hydropower plants, groundwater abstraction, depth drilling, transfer of water resources, water drainage and water irrigation systems. The thresholds are same or similar in some areas of activities, e.g. the EIA is required for groundwater abstraction if the annual volume of water abstracted is at least 10.000.000 m³ (Bulgaria, Estonia, Austria, Slovakia) and for constructing dams with a capacity exceeding 10.000.000 m³ of water (Bulgaria, Austria).

Nevertheless, in other areas the differences in thresholds for carrying out an EIA without a case-by-case assessment are greater. For example, in Estonia, the EIA is required for the construction of a new draining system in forest land or wetland with a total area of more than 100 ha, yet in Austria the EIA is required for a water draining project with an area exceeding 300 ha. To give another example, in Bulgaria the EIA is required when conducting a drilling for exploration and production of unconventional hydrocarbons, including shale gas, however in Austria the threshold is drilling with depth over 1.000 m in sensitive areas.

2. Activities and thresholds for water permits

In some countries (Hungary, Bulgaria), there is a list of activities, but no specific thresholds from which the water permit is required. The activities that are subject to water permits vary greatly, from snow production for skiing (Slovenia) and floating structures in dams (Bulgaria) to sewage networks (Slovakia) and sinking or discharging solid substances into a water body (Estonia, Croatia). Croatia and Estonia have almost identical list of activities and thresholds. While lists in other countries are long and specific, Hungary has opted for providing only 4 abstract activities: carrying out, construction, operation and the termination of operation of water projects.

In one country (Austria), water permit is needed for all uses of water which are not considered public use of water such as drinking, swimming, skating, etc. Water permit is also not required for water use on one's own land for farming or the household in Austria.

3. Authorities in charge of issuing water permits

In four of the responded countries (Estonia, Croatia, Slovenia, Hungary), there is one central authority that can issue water permits, however this authority may have many regional units (Hungary). In two countries (Austria, Bulgaria), there are several authorities that can issue water permits, depending on the nature and scope of the project. In one country (Slovakia), the authority is not unequivocally determined as water permits are issued by competent local district office.

4. Public participation in proceedings for issuing water permits

In one country (Estonia) the public participation is provided for all water permits. However, there are some limitations as a written public consultation is ensured, but a public hearing is not necessarily carried out (it is a discretionary decision). In one country (Bulgaria), the public is notified but the right

of participation is ensured only to “parties concerned”, therefore the participation for general public is not provided. In the other 5 countries (Austria, Slovakia, Slovenia, Hungary, Croatia), the public participation is not provided for water permits, except when the water permit is given in the course of an EIA procedure.

5. Access to justice regarding water permits

In all countries, access to justice is provided for those whose rights are affected by it (e.g neighbours, other holders of water permits). However, in most countries access to justice is not completely provided for the members of public to challenge water permits, with one exception - Slovakia. In two countries (Slovenia, Estonia), access to justice is limited to NGOs only (with or without additional conditions for the NGOs field of activity etc).

6. Obligation for applicability assessment in national laws

In three countries (Austria, Bulgaria, Estonia) the applicability assessment is not clearly regulated in the national legislation, in three others (Croatia, Hungary, Slovenia) this obligation exists in the framework of the EIA procedure (in Hungary, the applicability assessment is only carried out in those cases an EIA is carried out). The obligation for “applicability assessment” as a separate assessment procedure is provided in a national law in only Slovakia.

However, in all countries where there is no explicit regulation on “applicability assessment” (Austria, Bulgaria, Croatia, Estonia, Hungary, Slovenia), an assessment of impacts of a project on water bodies may be carried out at the discretion of the authority.

7. Procedural rules for applicability assessments in national laws

In many countries (Estonia, Croatia, Hungary, Austria) there are no specific provisions on this issue and general procedural rules or guidance on EU law may apply. The procedural rules that have been introduced in other countries include, for example, consultations with other administrative authorities (Bulgaria, in some cases) and requirements for experts (Slovakia, Slovenia).

8. Relationship between the applicability assessment and other types of environmental assessments (EIA, SEA, appropriate assessment)

In two countries (Slovakia, Estonia), there are no clear provisions on the relationship between the “applicability assessment” and other types of environmental assessments. In two countries (Slovenia, Hungary), the relationship between “applicability assessment” and EIA is clear, however there is no clear relationship with SEA or appropriate assessment provided in national laws. Only in two countries (Austria, Bulgaria), the relationship between the “applicability assessment” and other types of environmental assessments is clear.

Figure 1: Rules on the applicability assessment

	Austria	Bulgaria	Croatia	Estonia	Hungary	Slovakia	Slovenia
Authorities in charge of water permits	several different	several different	central authority	central authority	regional units	regional authorities	central authority
Public participation ensured for water permits (outside EIA)	No ³	No*	No	Yes	No	No	No
Access to justice for the members of public regarding all water permits	No	No	No	NGOs	No	the public	NGOs
Clear obligation for applicability assessments outside EIA	No	No	No	No	No	Yes	No
Case-by-case applicability assessments possible	Yes	Yes	Yes	Yes	Yes	NA	Yes
Procedural rules established for stand-alone applicability assessments	No	Yes	No	No	No	Yes	Yes

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³ Not required according to the laws, but due to ruling of the CJEU in the case C-664/15 this will have to change in practice.

III Responses to the questionnaire

1. Austria

Section 1 – EIA and permitting rules

1. Please list the thresholds established in national law for obligatory EIA for projects which may require the “applicability assessment”

When it comes to water protection, the EIA thresholds are as follows:

- Hydropower:
 - 15 Megawatts capacity overall
 - 10 MW capacity, if the backwater is more than 20 times the width of the river
 - A chain of hydropower plants, if each of the plants has at least 2 MW capacity and the plants are no further apart than 1-10 km, depending on the river basin
 - Those rules are not applicable for the upgrading of existing plants with no significant changes to the water quality and for the construction of fish ladders
- Dams with a capacity exceeding 10.000.000 m³ of water
 - Dams with a capacity exceeding 2.000.000 m³ of water if built in a sensitive area
- Projects taking ground water or adding to it, moving at least 10.000.000 m³ of water per year
 - Projects taking ground water or adding to it, moving at least 5.000.000 m³ of water per year if in a sensitive area
- Depth drilling with depth over 1.000m in sensitive areas
- Water Drainage Projects with an area exceeding 300ha
- Water irrigation systems exceeding 2.500 ha
- Taking minerals out of rivers in sensitive areas by taking over 400.000 m³ in total or 100.000 m² per year

2. Please list the activities and thresholds (if applicable) in national law which are subject to water permits.

There is the need for a permit for all “uses” of water exceeding public use like drinking, swimming, skating, etc. For water uses on your own land you also don’t need permission to use it for your farm or house.

Therefore the activities requiring a permit are many, but mainly include the taking of water, building structures in the water, putting discharge in the water and using the power of the water. There are no real thresholds for water permits, aside from the type of usage. For some smaller changes to existing hydropower plants you only need to notify the authorities but not to file for a permission.

3. Which authority(ies) are in charge of issuing water permits?

Usually, the public authority in charge is the county administration (“Bezirksverwaltungsbehörde”), but for larger hydropower plants exceeding a capacity of 500 kW, the regional governor (“Landeshauptmann”) is in charge. If the project requires an EIA, it is dealt with by the regional government (“Landesregierung”). For the largest hydropower plants and plants in/on the Danube river, the minister for the environment is in charge.

4. Is public participation provided for water permits? Please describe limitations, if there are any.

Only in EIA procedures, public participation is required by law. Following the ECJ ruling C-664/15 from late December 2017, one regional court recently ruled legal standing for NGOs to be required with water permits. The law itself does not yet state so, however.

5. Is access to justice provided for the members of public to challenge water permits? Please describe limitations, if there are any.

As in Austria, legal standing in administrative proceedings is a prerequisite of challenging permits, there is no access to justice outside of EIA procedures currently mandated by law. Again, following the ECJ ruling C-664/15 this in practice might change now.

Section 2 – impact assessment outside EIA

6. Does the national law provide clear obligation for “applicability assessment”?

Not really. It does provide for a definition of deterioration, but the applicability is done on a case-by-case basis.

7. If the answer to the previous question was “no”, can impacts of projects listed above to water bodies be assessed on case-to-case basis?

Yes.

8. If the answer to either Q6 or Q7 was “yes”, then please describe shortly the procedural rules for such assessments (if any). In particular, are there any rules on experts, publication of the study, consulting other administrative authorities and public etc.?

When a project application reaches the public authority, it already has to state, whether a potentially significant deterioration is to be expected. The authority then can either follow that or call for an expert statement to verify that claim. The expert is usually part of the authority. While the proceedings are on the way, only parties to the proceeding have full access to the studies done. On the question of public participation and access to justice, see question 4 above.

9. If the answer to either Q6 or Q7 was “yes”, then are there clear provisions on the relationship between the “applicability assessment” and other types of environmental assessments (EIA, SEA, appropriate assessment)? If yes, then please describe them briefly.

The applicability of the EIA regime is clear with certain thresholds. If the authority is unsure whether an EIA is necessary, it can start a scoping procedure. The questions of nature protection under the habitats directive are usually dealt with in a separate proceeding, except when there is an EIA.

2. Bulgaria

Section 1 – EIA and permitting rules

1. Please list the thresholds established in national law for obligatory EIA for projects which may require the “applicability assessment”.

The framework environmental law – Environmental Protection Act – defines in Annex 1 project and thresholds to undergo obligatory EIAs also with relevance to the “applicability assessment”.

1. Groundwater abstraction or artificial groundwater recharge schemes, where the annual volume of water abstracted or recharged is equal to or exceeds 10 million cubic metres.
2. Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year.
3. In all other cases, works for the transfer of water resources between river basins, where the average annual (multi-annual average) flow of the basin of abstraction exceeds 2,000 million cubic metres per year and the amount of the transferred water exceeds 5 % of that flow.
4. In the cases referred to in Points 2 and 3, transfers of piped drinking water are excluded.
5. Wastewater treatment plants with a capacity exceeding 150,000 population equivalent.
6. Drilling for exploration and production of unconventional hydrocarbons, including shale gas.
7. Dams and other installations designed for the permanent holding back or storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

It should be mentioned that in Annex 2 there are other investment proposals with relevance to the “applicability assessment” which after screening could undergo an EIA like inland-waterway construction, canalization and flood-relief works; dams and other installations designed to hold water or store it on a long-term basis (not included in Annex 1); long-distance aqueducts; groundwater abstraction and artificial groundwater recharge schemes (not included in Annex 1); works for the transfer of water resources between river basins (not included in Annex 1).

Besides the investment proposals in the water sector there are many other projects listed in Annex 1 and 2 of EPA which are likely to have such impacts on the status of the water bodies like farms for the intensive rearing of poultry and pigs and ski-runs (Annex 1) which require substantive water extraction for the production processes or making artificial snow respectively.

2. Please list the activities and thresholds (if applicable) in national law which are subject to water permits.

A permit shall be issued for water abstraction and for water site use. (Art.50, para.1 of the Water Act (WA)).

A water abstraction permit is required in all cases, except:

1. in the cases when natural persons who own or use a property located within the limits of the settlements and are entitled to gratuitous abstraction of surface waters and groundwaters

located within, or beneath the surface of, the said property for their own needs in a quantity not exceeding 10 cubic metres diurnally, as well as in cases of using individual systems for heating and/or cooling with total installed capacity of up to 50 kW, using as a primary energy source the energy from dry zones in the bowels of the earth and of groundwaters with a temperature of up to 20° C, with the exception of mineral waters.;

2. for activities involving protection of the population in case a state of disaster is declared according to the procedure established by the Disaster Protection Act;

3. for performance of any of the following activities:

3.1. development, modernization or technological updating of existing installations and technological processes leading to an insignificant change in the used water quantity and quality as determined by a permit as issued;

3.2. use of surface waters by means of placing temporary diversion structures as may be necessary for construction of a certain construction project, provided that the water quantity withdrawn is less than 10 litres per second and the resulting outflow after the use has an insignificant effect on water quality.

4. when according to the procedure established by Water Act for transformation of water power, without diverting water from the natural course of a water stream, into electric energy by means of turbines of a capacity not exceeding 20 kilowatts.

5. for construction of a well for individual free abstraction of groundwaters, subject to the condition that the owner has given advance notice to the competent Basin Directorate Director.

A water site use permit shall be required for:

1. construction of new, remodelling or modernization of existing systems and facilities for:

(a) streamflow regulation;

(b) linear infrastructure, traversing water sites: aqueducts, bridges, transmission networks and lines;

(c) groundwater investigations in connection with the activities referred to in (h);

(d) protection against water-related damage and loss;

(e) hydraulic-engineering port facilities;

(f) floating structures in dams;

(g) abstraction of surface waters or of groundwaters.

(h) reinjection and injection of waters, artificial recharge of groundwaters and for input of pollutants into groundwaters in the cases referred to in Article 118a, para. 2 of the WA;

2. aquaculture and activities related thereto;

3. wastewater discharge into surface waters for:

(a) design of sites, including sewerage systems of nucleated settlements, dispersed settlements and resort settlements;

(b) operation of existing sites, including sewerage systems of nucleated settlements, dispersed settlements and resort settlements;

4. extraction of alluvium deposits from surface water sites;

5. reinjection or injection of waters into groundwater sites;

6. artificial recharge of groundwaters;

7. input of pollutants into groundwaters in the cases referred to in Article 118a, para. 2 of WA;

8. injection of natural gas or liquefied petroleum gas into groundwater sites;

9. maintenance of the hydraulic conductivity of unchannelized river beds for the purpose of clearing the said beds from bushes, tree vegetation and waste in the zones referred to in Item 5 of Article 119a, para.1 of the WA designated for the protection of habitats and biological species.

3. Which authority(ies) are in charge of issuing water permits?

The permits are issued by the following authorities:

1. the Minister of Environment and Water for:
 - 1.1. water abstraction from the dams covered under Annex 1 to the WA
 - 1.2. transfer of waters between different basin management districts;
 - 1.3. use of a water site:
 - 1.3.1. the dams covered under Annex 1 hereto, including for wastewater discharge;
 - 1.3.2. input of pollutants into groundwaters in the cases referred to in Article 118a (2) herein;
 - 1.3.3. injection of carbon dioxide, natural gas or liquefied petroleum gas into groundwater sites;
 - 1.3.4. the purposes of defence and national security;
2. the Executive Director of the Agency for Exploration and Maintenance of the River Danube for use of a water site for extraction of alluvium deposits from the River Danube;
3. the municipality mayor after a resolution of the Municipal Council:
 - 3.1. for abstraction of waters, including from dam lakes and micro-dam lakes constituting public municipal property, as well as from occurrences of mineral waters constituting exclusive state property, which have been allocated gratuitously to the municipalities for management and use;
 - (b) for use of water sites constituting public municipal property, with the exception of the permits under Item 3 of Article 46, para.1;
4. the [competent] Basin Directorate Director: in all other cases of water abstraction and water site use.

Permits for use of water sites constituting parts of the River Danube, the internal marine waters or the territorial sea shall be issued by the competent Basin Directorate Director with the advance consent of the Minister of Defence and of the Minister of Transport, Information Technology and Communications.

A permit for abstraction from the occurrences of mineral waters constituting exclusive state property, which have been allocated gratuitously to the municipalities for management and use, shall be issued by the municipality mayor after consultation with the competent Basin Directorate Director in respect of the parameters of the water abstraction.

4. Is public participation provided for water permits? Please describe limitations, if there are any.

In general, the Water Act provides only for a limited form of public participation – e.g. in the two sections of the law – the first related to producing, reviewing and updating flood risk management plans, and the second related to production, review and updating of the river basin management plans. There is no explicit mentioning of public participation in the water permits procedures.

However, the notice on the water permit procedure is sent to the mayor of the municipality concerned for public announcement and shall be posted on the Internet site of the authority competent for issuing of water permits. Within three days after receipt of the notice, the mayor is obligated to make the public announcement, posting the notice at the places designated to that end and to notify in writing competent authority as regards the exact date of the public announcement.

Within fourteen days after the public announcement, the parties concerned may object to the issuance of the permit and/or propose conditions where under the permit be issued with a view to guaranteeing personal or public interests. The law does not define the “parties concerned” but by interpreting the texts of the WA they refer to the Administrative Procedure Code which says that any individual or organization where of the rights, freedoms or legitimate interests are or would be affected by the administrative act or by the judgment of court, or in respect of whom the said act or judgment would give rise to rights or obligations, may be parties to the administrative process.

5. Is access to justice provided for the members of public to challenge water permits? Please describe limitations, if there are any.

The WA does not provide explicitly for standing of the members of public. The decisions on the water permits, including the refusals, could be appealed pursuant the Administrative Procedure Code. In this case the court decides whether the rights, freedoms or legitimate interests of individuals or organizations are or would be affected by the administrative act – the water permit, so it is closer to a stricter “rights-based” tradition and approach.

Section 2 – impact assessment outside EIA

6. Does the national law provide clear obligation for “applicability assessment”?

No. The only assessment provided for by the WA is on the preliminary flood risk assessment.

7. If the answer to the previous question was “no”, can impacts of projects listed above to water bodies be assessed on case-to-case basis?

The competent authorities while issuing water permits should take into consideration the status of the water body, the environmental objectives set for the water body concerned, and the measures for achievement of the said objectives as set out in the river basin management plans. However, this is a limited control of the impacts while the main impact assessment is carried out under the applicable EIA or AA procedure.

The projects could be accessed ex-post based on performance of the granted water rights. When the exercise of water permit rights constitutes pressure on the status of waters leading to deterioration of their status or not to achieving environmental objectives the director of river basin directorate shall plan amendments in the permit or when through amendment of the permit the objectives and conditions of the permit could not be achieved it could be terminated.

8. If the answer to either Q6 or Q7 was “yes”, then please describe shortly the procedural rules for such assessments (if any). In particular, are there any rules on experts, publication of the study, consulting other administrative authorities and public etc.?

In authorizing some special projects with impacts on water the procedural rules require consultations with other administrative authorities. For example, a works concession or a service concession for

water development systems and facilities and for related water sites, as well as for hydraulic-engineering, hydro-power, irrigation, water-supply and sewerage systems are granted according to the terms and procedure under Concessions Act. The decision for opening of such procedure and the reasoning for the concession are consulted with the Minister of Environment and Waters in accordance with river basin management plans and plans for flood risk management in force. Another example is when for performance of drilling and/or mining operations in areas possessing substantial groundwater resources is required consultation with the Ministry of Environment and Water in respect of the terms and conditions for use of the water sites containing groundwaters.

- 9. If the answer to either Q6 or Q7 was “yes”, then are there clear provisions on the relationship between the “applicability assessment” and other types of environmental assessments (EIA, SEA, appropriate assessment)? If yes, then please describe them briefly.**

The only reference to EIA and AA in the water permit procedure according to the WA is that for initiation of a procedure for the issuance of a water permit, each applicant shall submit an application completed in a standard form approved by the Minister of Environment and Water, which shall refer, among others, to the environmental impact assessment decision of the Minister of Environment and Water or of the Director of the competent Regional Inspectorate of Environment and Water, or of the decision determining that conduct of an environmental impact assessment is not needed, or to the decision on a appropriate assessment, where such are required according to the Environmental Protection Act and the Biological Diversity Act.

3. Croatia

Section 1 – EIA and permitting rules

1. Please list the thresholds established in national law for obligatory EIA for projects which may require the “applicability assessment”

There is no special threshold in Water Act on applicability assessment, but Art 54 a and 54b, determine that the applicability of the projects is assessed through the EIA, or through the issuing of water permits. So, the actual thresholds are the one from the EIA.

EIA is obligatory for (Annex I to the Regulation on EIA (Official Gazette No 3/2017 :

- Power plants with capacity larger than 100 MW (hydro power plants not listed separately as no other too)
- Groundwater abstraction, or artificial groundwater recharge schemes with capacity of 10,000,000 m³ per year or more
- Water transfer systems between river basins designed to prevent possible water shortage, with the amount of water transferred exceeding 100,000,000 m³ per year except in the case of transfer of drinking water through pipelines
- Water transfer systems between river basins not intended to prevent possible water shortage, with the perennial average water flow from which water translates to more than 2,000,000,000 m³ per year and the amount of water transferred is more than 5% of this flow, except in case of transfer of drinking water through pipeline
- Melioration systems with a surface area of 5,000 ha and greater, and in the Adriatic basin of 500 ha and above
- Dams and other installation intended for water retention and accumulation, with new or additional quantities of retained or accumulated water greater than 10,000,000 m³

In addition to this, Annex lists hydro-power plants (of any capacity) as subject of obligatory assessment of the need for EIA, conducted by the Ministry.

2. Please list the activities and thresholds (if applicable) in national law which are subject to water permits.

List of activities is the following:

- 1) water is abstracted in a volume more than 3,5 million m³;
- 2) mineral water is abstracted;
- 3) effluent or other pollutants are discharged into a recipient, including to groundwater;
- 4) a water body is dammed or hydro-electric energy is used;
- 5) a water body whose water mirror area is one hectare or more is constructed, liquidated, dredged, or if disposal of dredged soil onto the bottom of such water body takes place;
- 6) solid substances are sunk or discharged into a water body;
- 7) groundwater is amended, lowered, redirected or discharged back;
- 8) the physical or chemical characteristics of water or the biological properties of a water body are changed upon water use;
- 9) regular service or repair of ships relating to hazardous substances and regular loading or unloading of ships with hazardous substances or solid bulk cargo volatile with wind takes place;
- 10) chemicals are used for the maintenance of a water body;

- 11) fish are farmed with an annual increment of more than one ton or water is discharged from a fish farm into a recipient;
- 12) water is discharged into a recipient for the extraction of mineral resources.

3. Which authority(ies) are in charge of issuing water permits?

Croatian Waters – national water management agency.

4. Is public participation provided for water permits? Please describe limitations, if there are any.

No.

5. Is access to justice provided for the members of public to challenge water permits? Please describe limitations, if there are any.

Members of the public cannot challenge water permits at court. Actually, there is also limited access to information on water permits since there is no database of water permits or something like that. In principle, if one is not participating in the procedure as owner of the neighbouring property, one has to send a request for information to get information about specific water permit. We do not know for any case that Croatian NGO challenged water permit at court.

Section 2 – impact assessment outside EIA

6. Does the national law provide clear obligation for “applicability assessment”?

It is not clear but there is only obligation to carry such assessment through EIA or water permits.

7. If the answer to the previous question was “no”, can impacts of projects listed above to water bodies be assessed on case-to-case basis?

In principle, that works from case-to-case basis, through EIA or water permits.

8. If the answer to either Q6 or Q7 was “yes”, then please describe shortly the procedural rules for such assessments (if any). In particular, are there any rules on experts, publication of the study, consulting other administrative authorities and public etc.?

There are no specific provisions on this issue.

9. If the answer to either Q6 or Q7 was “yes”, then are there clear provisions on the relationship between the “applicability assessment” and other types of environmental assessments (EIA, SEA, appropriate assessment)? If yes, then please describe them briefly.

N/A

4. Estonia

Section 1 – EIA and permitting rules

1. Please list the thresholds established in national law for obligatory EIA for projects which may require the “applicability assessment”

Dredging/sinking of substances:

- marine dredging and the dredging of Lake Peipus, Lake Lämmijärv and Lake Pskov, starting from the soil volume of 10 000 cubic metres or the dredging of another water body starting from the soil volume of 500 cubic metres;
- sinking of solid substances into the seabed and into Lake Peipus, Lake Lämmijärv and Lake Pskov, starting from the soil volume of 10 000 cubic metres, or sinking of solid substances into a watercourse, starting from the substance mass of 2000 cubic metres, or sinking of solid substances in another water body, starting from the substance mass of 500 cubic metres;

Groundwater abstraction:

- groundwater abstraction where the annual volume of water abstracted is at least 10 million cubic metres;

Transfer of water resources:

- construction of works for the transfer of water resources where the average amount of water transferred exceeds 100 million cubic metres per year, or where the average flow of the basin of abstraction exceeds 2000 million cubic metres per year and where the amount of water transferred through such works exceeds five per cent of the average annual flow of the basin of abstraction;

Dams/hydropower:

- installation or reconstruction of hydro-electric stations, barrages, dams or reservoirs in a sensitive receiving water body;

Draining/irrigation:

- construction of a new draining system in forest land or wetland with a total area of more than 100 hectares;

2. Please list the activities and thresholds (if applicable) in national law which are subject to water permits.

List of activities is the following:

- 13) water is abstracted from a surface water body, including if ice is abstracted in a volume of more than 30 m³ per day;
- 14) groundwater is abstracted in a volume of more than 5 m³ per day;
- 15) mineral water is abstracted;
- 16) effluent or other pollutants are discharged into a recipient, including to groundwater;
- 17) a water body is dammed or hydro-electric energy is used;
- 18) a water body whose water mirror area is one hectare or more is constructed, liquidated, dredged, or if disposal of dredged soil onto the bottom of such water body takes place;

- 19) solid substances are sunk or discharged into a water body;
- 20) groundwater is amended, lowered, redirected or discharged back;
- 21) the physical or chemical characteristics of water or the biological properties of a water body are changed upon water use;
- 22) regular service or repair of ships relating to hazardous substances and regular loading or unloading of ships with hazardous substances or solid bulk cargo volatile with wind takes place;
- 23) chemicals are used for the maintenance of a water body;
- 24) fish are farmed with an annual increment of more than one ton or water is discharged from a fish farm into a recipient;
- 25) water is discharged into a recipient for the extraction of mineral resources.

There are, however two important exceptions to these:

- 1) For dams, which raise water level by up to one meter, unless the damming takes place in the water bodies that need protection as spawning areas or habitats of salmon, brown trout, salmon trout or grayling (a list of such water bodies and sections is issued by the Minister of Environment);
- 2) Maintenance of surface water bodies requires a permit only if chemicals are used.

3. Which authority(ies) are in charge of issuing water permits?

Environmental Board (environmental authority in charge of all environmental permits).

4. Is public participation provided for water permits? Please describe limitations, if there are any.

Yes, there is (written) public consultation for water permits, whereas organising a public hearing is a discretionary decision by the Environmental Board (they do not necessarily have to organise it).

5. Is access to justice provided for the members of public to challenge water permits? Please describe limitations, if there are any.

Environmental NGOs have right to access to justice in environmental matters, provided that the permit is related to their environmental goals or previous work in the field of environmental protection. Definition of environmental NGOs includes all non-profit organisations and foundations who have environmental protection as their statutory goal and which are promoting environmental protection in their activities. There are no obligatory thresholds to the number of members, previous experience or similar that would limit access to justice and in practice this provision has been interpreted very liberally by courts.

Section 2 – impact assessment outside EIA

6. Does the national law provide clear obligation for “applicability assessment”?

No, there is no clear obligation to carry such assessment.

7. If the answer to the previous question was “no”, can impacts of projects listed above to water bodies be assessed on case-to-case basis?

In principle, yes. The authority can carry out an assessment of impacts of a project on its own or ask for an expert assessment to be provided by the person applying for water permit as part of the application (Art 5(10) of the [MoE Regulation No 18 of 26 March 2002](#) on water permits).

- 8. If the answer to either Q6 or Q7 was “yes”, then please describe shortly the procedural rules for such assessments (if any). In particular, are there any rules on experts, publication of the study, consulting other administrative authorities and public etc.?**

There are no specific provisions on this issue. If the Environmental Board requires an expert assessment to be submitted as part of the application, this must be made available for the public consultation.

- 9. If the answer to either Q6 or Q7 was “yes”, then are there clear provisions on the relationship between the “applicability assessment” and other types of environmental assessments (EIA, SEA, appropriate assessment)? If yes, then please describe them briefly.**

There are no such provisions.

5. Hungary

Section 1 – EIA and permitting rules

1. Please list the thresholds established in national law for obligatory EIA for projects which may require the “applicability assessment”

Art. 4(7) of the WFD has been transposed by Art. 10 of Government Decree 221/2004 on certain rules of river basin management. As regards EIA procedures, the relevant national legislation is Government Decree 314/2005 (the ‘Khvr.’). In relation to activities affecting waters, Art. 1(6a) of the Khvr. stipulates that in the EIA procedure it shall be verified that the conditions set out by Art. 10 of Government Decree 221/2004 are met. The application of this provision does not depend on separate thresholds, thus, if the activity entails intervention to waters and it is subject to an EIA, the ‘applicability assessment’ is part of the EIA.

2. Please list the activities and thresholds (if applicable) in national law which are subject to water permits.

Based on Art. 28/A of Act LVII of 1995 on water management, the following activities are subject to obtaining water permit: carrying out/construction/operation and the termination of operation of water projects. Furthermore, according to the provisions of Government Decree 219/2004 on the protection of groundwater and Government Decree 220/2004 on the protection of the quality of surface waters, groundwater abstraction, discharges of polluting substances into waters shall be permitted. The national legislation does not establish specific thresholds in this respect.

3. Which authority(ies) are in charge of issuing water permits?

In Hungary, the primary responsibility for protection of waters is delegated to the Ministry of the Interior. Within its competences related to water protection, the Ministry prepares the relevant legislation related to protection of waters and water management, carries out the tasks of coordination and control of water management entrusted to it by the Government. Under the control of the Ministry, the tasks and competences relating to water management and water protection have been divided among the General Directorate of Water Management (and its twelve, regional Water Management Directorates) and the National Directorate General for Disaster Management (BM OKF) operating with its twenty, County (and Budapest) Disaster Management Directorates. Water permits are issued by the Disaster Management Directorates.

4. Is public participation provided for water permits? Please describe limitations, if there are any.

Based on the general rules of administrative proceedings (Art. 10 of Act CL of 2016) client can be any natural or legal person, other entity whose rights or legitimate interests are directly affected by a case, who is the subject of any data contained in official records and registers, or who is subjected to regulatory inspection. In connection with certain specific types of cases, an act or government decree may define the persons and entities who can be treated as clients. Art 98(1) of Act on Environmental Protection (Act LIII of 1995) provides that associations formed to represent environmental interests, which are active in the impact area shall be entitled in their areas of operation to the legal status of being a client in the case in environmental protection state administration procedures. According to this Act, environmental protection state administration procedures are in particular (but not exclusively) those conducted by the environmental authority granting environmental permits. In

practice, competent authorities/and courts/ take the position that this does not cover the procedures of issuing water permits, therefore, Art. 98(1) of Act on Environmental Protection is not applicable.

It brings an additional perspective to this that if the water permit is issued as part of the environmental permit (in the course of an EIA proceeding conducted by the environmental authority), this practical restriction is not clearly applied. In EIA, public participation is ensured, and the public concerned is not prevented from making comments etc. in the questions related to water protection.

5. Is access to justice provided for the members of public to challenge water permits? Please describe limitations, if there are any.

Pursuant to Art. 114 of the general rules of administrative proceedings (Act CL of 2016), with the exception of rulings which cannot be appealed separately, clients may bring administrative action against definitive decisions. If the decision can be appealed, an administrative action may be brought if either of the entitled parties filed an appeal and the appeal has already been determined. Access to justice in water protection related matters depends primarily on whether the person had or could have had the legal status of the client in the previous administrative proceeding and whether the decision was appealed – if applicable.

The procedural rules pertaining to water permits establish the possibility to appeal against the first instance decision. In line with the explanation provided under the previous point, in water permitting proceedings client can be any natural or legal person, other entity whose rights or legitimate interests are directly affected by a case, however, environmental NGOs or persons not being ‘directly’ affected by the case are not entitled to participate in the proceeding, to appeal the decision and to bring action before the administrative court.

As mentioned above, the water permit can be provided in the environmental permit issued in the EIA proceeding, where the activity will have significant impact on the environment and it entails intervention to waters. The Khvr. does not provide that decisions adopted under its provisions (environmental permits issued in the course of an EIA and/or IPPC proceeding) can be appealed, therefore, the first instance environmental permit can be challenged only before the court. In this case, not only the clients under Art. 10 of Act CL of 2016, but also environmental NGOs can have the legal status of a client (legal standing).

Section 2 – impact assessment outside EIA

6. Does the national law provide clear obligation for “applicability assessment”?

As a main rule, the applicability assessment is carried out as part of an EIA procedure. According to the national guidance document, the applicability assessments are not carried out if the impacts to the water bodies are not “significant”. Therefore it is not clearly foreseen to carry out applicability assessment outside the EIA proceedings, as a separate assessment.

7. If the answer to the previous question was “no”, can impacts of projects listed above to water bodies be assessed on case-to-case basis?

See above (Q6).

8. If the answer to either Q6 or Q7 was “yes”, then please describe shortly the procedural rules for such assessments (if any). In particular, are there any rules on experts, publication of the study, consulting other administrative authorities and public etc.?

N/A

- 9. If the answer to either Q6 or Q7 was “yes”, then are there clear provisions on the relationship between the “applicability assessment” and other types of environmental assessments (EIA, SEA, appropriate assessment)? If yes, then please describe them briefly.**

Please see answer to Q6 – applicability assessment is carried out as part of the EIA, other links are not clearly spelled out in national legislation.

6. Slovakia

General remarks

First of all, it should be noted that until 1 February 2018, the process of applicability assessment in Slovakia according art. 4/7 of the WFD was not implemented. Although there were guidelines of the Ministry of Environment, this guidance was not binding and not enforceable.

Applicability assessment has been applied in practice very unsystematically and unpredictably so far by direct application of Art. 4/7 of WFD. There was no obvious process of its implementation, its binding nature, enforceability, or its review was not clear. Also, the procedural rules, as well as the participation of stakeholders (including public) in this assessment were not clear. It was also unclear at which stage of the project authorization phase this assessment should be carried out. In practice, it has often been the case that the assessment did not take place at all (even in relation to projects where it was clear that they are covered by the obligation under Article 4 (7) of the Waters Directive), or clearly in a misleading manner.

From 1 February 2018, a new legal status applies, where the applicability assessment process is already adjusted, including public participation. Applicability assessment is not part of the EIA process, it is a separate process carried out by state water authorities. The primary assessment must be made before issuing the land-use decision on the project.

As this is a new piece of legislation, no practical experience has been identified at the time of filling in the questionnaire with the application of the new legislation.

Section 1 – EIA and permitting rules

1. Please list the thresholds established in national law for obligatory EIA for projects which may require the “applicability assessment”

It is not easy to answer this question, because most of the activities that are subject to the EIA process, individually may or may not affect the status of the water, and therefore most of them cannot be flattened to determine that they will in any case affect the status of the water.

Therefore, only those activities that are subject to the EIA process and directly affect the water are selected for the purpose of this question.

1. water reservoirs, tanks and other facilities for the retention or accumulation of water, including dry tank

- with the height of the dam above the terrain: mandatory EIA from 8 meters; screening procedure from 3 meters to 8 meters

or

- with a total new capacity or additionally retained capacity: mandatory EIA of 1 mil. m³; screening procedure from 0.5 million. m³ to 1 mil. m³

or

- with an area of: mandatory EIA of 100 ha, screening procedure from 5ha to 100ha

2. Devices for the transfer of surface and groundwater between river basins and such transmission is intended to prevent possible water shortages: mandatory EIA from 10 million. m³ / year; screening procedure up to 10 mil m³ / year of.
3. Installations for the transfer of water resources between the river basins where the long-term average flow of the transferred water of the flow from which the water is to be pumped exceeds 5% of the flow and when the amount exceeds: mandatory EIA from 300 mil. m³/year; screening procedure from 60 mil. m³ / year up to 300 mil. m³ / year.
4. Groundwater abstraction or artificial groundwater recharge systems: mandatory EIA 10 mil. m³/year; screening procedure from 3 mil. m³ / year up to 10 mil. m³ / year
5. Remote water mains: screening procedure from 20 km length
6. Sewage and sewage treatment plants: mandatory EIA from 100,000 inhabitants; screening procedure from 2000 to 100,000 inhabitants.
7. Flood protection objects: screening procedure (no thresholds) .
8. Drinking water supply pitches with expected excursion: screening procedure from 100 l / s detection.
9. Geothermal water sampling: screening procedure (no thresholds) .
10. Industrial plants for the production of hydroelectric power (hydropower plants): mandatory EIA with an output of 0.1 MW; screening procedure with an output up to 0.1 MW.

2. Please list the activities and thresholds (if applicable) in national law which are subject to water permits.

Implementation of a water building, its modification, change in use, removal or removal of a water building requires the permit of a state water administration.

Water buildings are buildings that allow separate use of water or other water management. In particular, water buildings are

- building modifying or establishing the watercourse trough, including related landscaping,
- flood protection buildings,
- reservoirs, water reservoirs, ponds, fishing facilities, hatches, dams, hydroelectric power plants, buildings necessary for hydroelectric potential of the watercourse and other buildings necessary for water management,
- wells, water piping, water supply and other water facilities built for the purpose of water supply,
- sewerage, sewerage networks including facilities on them, sewage treatment plants and other structures designed to dispose of waste water and special waters and to discharge them into surface water, groundwater or mine water and buildings intended for the prior treatment of waste water before discharge to the public sewer system
- hydromeliorative structures for irrigation and drainage of land and for the protection of land against water erosion,
- constructions for navigation purposes in watercourses or other water bodies,

- buildings enabling the use of water in particular for mass recreation and water sports,
- dredges created by a dyke system, to which the waste is deposited in a hydraulic manner,
- water supply connections,
- sewerage connections to the public sewer system,
- Buildings enabling the use of the groundwater energy potential.

In case of doubt, the state water administration decides, whether it is water building or not.

3. Which authority(ies) are in charge of issuing water permits?

Competent local district office.

4. Is public participation provided for water permits? Please describe limitations, if there are any.

In the case of a water permit where an EIA process preceded, and the public participated in the process, the public concerned is then also the party in the procedure for issuing a water building permit.

In the case of a water permit for operation, which is not subject to the EIA process (including the screening procedure), the legislation does not provide for the right of the public to be a party to such proceedings. The public would be able to claim this right on the basis of Art. 9/3 of the Aarhus Convention, in order to ensure access to the court and the meaning of current judicial practice in Slovakia.

5. Is access to justice provided for the members of public to challenge water permits? Please describe limitations, if there are any.

According to current legislation (Administrative Judiciary Procedure Code), the public should have access to justice for all permits for construction of water, if it meets the legal conditions for the grant locus standi to bring an action. But this new legislation is valid only for a short time (one and half year), so it is not yet been confirmed by the practice.

Section 2 – impact assessment outside EIA

6. Does the national law provide clear obligation for “applicability assessment”?

Yes, this duty is valid from 1.2.2018. However, it is not clear how it will be applied in practice.

7. If the answer to the previous question was “no”, can impacts of projects listed above to water bodies be assessed on case-to-case basis?

N/A

8. If the answer to either Q6 or Q7 was “yes”, then please describe shortly the procedural rules for such assessments (if any). In particular, are there any rules on experts, publication of the study, consulting other administrative authorities and public etc.?

Prior to submitting a permit for an activity that could affect the status of the water, the applicant is required to request the State Water Administration to issue a decision stating whether the activity is subject to the applicability assessment obligation. The decision is based on an expert opinion.

If the decision states that an activity is subject to an obligation to carry out an applicability assessment, next to it starts the procedure for granting an exemption within the meaning of Art. 4/7 of WFD. The issue of the exemption is decided on the basis of the processed applicability assessment.

In both cases, the public also has a standing position, which may, in those proceedings, gain the status of a party in the proceedings if he / she enters the proceedings.

Expert opinion and the applicability assessment processes may be carried out by an authorized person, which must be professionally qualified (eligibility requirements are adequate education, sufficient experience and enrollment in the list of professionally qualified persons).

The municipalities concerned are also parties to the proceedings. The other bodies involved in the state administration are also involved in the position of the authorities concerned.

In the proceedings, the project documentation, expert opinion as well as the report from an applicability assessment are published on the web site of the competent state administration body as well as on the website of the Ministry of the Environment.

9. If the answer to either Q6 or Q7 was “yes”, then are there clear provisions on the relationship between the “applicability assessment” and other types of environmental assessments (EIA, SEA, appropriate assessment)? If yes, then please describe them briefly.

No. The applicability assessment is developed outside the EIA process.

7. Slovenia

Section 1 – EIA and permitting rules

1. Please list the thresholds established in national law for obligatory EIA for projects which may require the “applicability assessment”

There is no list of projects for obligatory EIA which may require the “applicability assessment”. According to Waters Act⁴ there are two regimes connected with “applicability assessment” and/or EIA:

- Intervention (encroachments) that can affect the water regime (article 150-153a): Intervention that could have a permanent or temporary effect on the water regime or the status of waters can be carried out only on the basis of water consent/approval (Article 150). The article defines kinds of interventions, but according to paragraph 3 the minister should define them in detail. The rules should be adopted in three years, but in the official register of regulation this rules are still in preparation (they don't exist).
- Water permit (see answer under question 2).

EIA regulation that established thresholds is Decree on environmental encroachments that require environmental impact assessments. It defines sorts of industries and facilities and their extent or other characteristics for (obligatory) screening or EIA procedure. It also determines measures and criteria for EIA when it is not obligatory. There are no criteria that would apply to „applicability assessments“

2. Please list the activities and thresholds (if applicable) in national law which are subject to water permits.

Water permit is needed for usage of water (Article 125-135 of the Waters Act):

- own supply of drinking water or drinking water supply, which is performed as an economic public service,
- technological purposes,
- bathing activities,
- heat generation,
- irrigation of agricultural land or other areas,
- sport fishing in commercial ponds,
- drive a water mill, saws or similar device,
- cultivation of freshwater and marine organisms
- port and entry-exit point,

⁴ Official Gazette of RS, no. 67/02, 41/04 – ZVO-1, 57/08, 57/12, 100/13, 40/14, 56/15, an older English version (not official and not includes changes of Act)

http://www.mkgp.gov.si/fileadmin/mkgp.gov.si/pageuploads/zakonodaja/vode/vode_en.pdf, but Article 150 is the same.

- snow skiing,
- the production of electricity in a hydroelectric power plant with an installed capacity of less than 10 MW, and
- other uses that go beyond the general use and don't need concession.

3. Which authority(ies) are in charge of issuing water permits?

Slovenian Water Agency (body of the Ministry for Environment and spatial planning)

4. Is public participation provided for water permits? Please describe limitations, if there are any.

No. Only when water consent/approval is done inside the EIA procedure, there is usual public participation according to EIA directive.

5. Is access to justice provided for the members of public to challenge water permits? Please describe limitations, if there are any.

According to Waters Act - no. It could be challenged by NGO with status in public interest on nature conservation (according to Nature Conservation Act they can represent interests of nature conservation in all administrative and court procedures – Article 137). Members of public could use only general rules of General Administrative Procedure Act for being a party in procedures.

Section 2 – impact assessment outside EIA

6. Does the national law provide clear obligation for “applicability assessment”?

Not clear (see answer under question 1). If “applicability assessment” is not done inside EIA procedure, kind of procedure is determined for water consent/approval. This is in the case when building permit is not necessary for project (Article 151a, paragraph 2).

Whoever intends to carry out a project may request information from competent authority about conditions that must be fulfilled with regard to water protection, water regulation, balance of aquatic ecosystems and existing rights of other persons - project conditions for preparing the project (Article 151). For prepared project the promoter needs a water consent/approval. The detailed procedure is defined by Rules on construction in water protection zones that may be carried out only pursuant to the water consent and on the required documentation for obtaining water consent (Article 152).

7. If the answer to the previous question was “no”, can impacts of projects listed above to water bodies be assessed on case-to-case basis?

Yes, in this case the assessment of impacts is part of the procedure for building permit. It is up to the decision-maker to make a diligent decision to request for water consent and assess impacts.

8. If the answer to either Q6 or Q7 was “yes”, then please describe shortly the procedural rules for such assessments (if any). In particular, are there any rules on experts, publication of the study, consulting other administrative authorities and public etc.?

According to articles 150 – 153 of Waters Act:

- First the interested investor can ask Slovenian Water Agency for information regarding the prescribed conditions to be met by the intended project (Article 151);
- If Agency finds out that water consent is not needed or that the project is not possible it informs the investor (Article 151);
- If water consent/approval is needed the investor first asks the Agency to get the project conditions, if the environmental consent (EIA) is also needed, the conditions are part of environmental consent (article 151a);
- After project is prepared according to project conditions investor asks for water consent/approval – it determines the conditions for operating (if EIA is carried out, the environmental consent is considered to deliver conditions);
- The Slovenian Water Agency deliver the consent.

The project documentation which is necessary for water consent should be prepared by experts, defined in Construction Act (on 1st of June 2018 the new Construction Act will be enforced and under this regime the regulation about experts involved in construction (documentation and construction) will be regulated in separate law - Architectural and civil engineering activities Act – also new). Those experts are nominated by Engineering Chamber – should have suitable education, working experiences. But according to the definitions there are expert profiles connected only with architecture and construction.

As regards the content of the assessment – these are done according to different water regulations (regulation for specific rivers). These are very “open” so in practice there are different outcomes depending on the location. In practice this is a rather formal procedure – the authority checking if documentation is in order.

Other: in the administrative procedure for water consent/approval the only party is investor (the person who will carry out the project); there are no rules about experts, publication of possible study, consulting other administrative authorities or public.

9. If the answer to either Q6 or Q7 was “yes”, then are there clear provisions on the relationship between the “applicability assessment” and other types of environmental assessments (EIA, SEA, appropriate assessment)? If yes, then please describe them briefly.

The relationship between “applicability assessment” and EIA is clear. If there is need for EIA to be carried out, then water consent/approval is included in this procedure.

For questions relating to the procedure for determining project conditions and conditions for other projects, which are not regulated by Waters Act, the regulations governing the construction of buildings shall apply (Article 152). It is not clear what “other projects” could be.

Waters Act has no clear relationship with SEA or appropriate assessment. But SEA is done according to Environmental protection act on water management.

Annex 1 – Questionnaire sent to national experts

Questionnaire on implementation of the SEA Directive

5.03.2018

Introduction

Aim of the questionnaire: provide a quick overview of the most critical aspects of the application of the SEA Directive on the national level, with practical examples, where possible.

Background: The EC has initiated a REFIT of the SEA Directive, with the view of assessing the legal act and its implementation. Being “younger” than the EIA Directive, the SEA Directive is in many respects also more abstract/vague than EIA Directive, especially after latter’s’ latest amendments. This could lead to more uneven implementation on MS level.

Questions

Scope

1. What is the scope of SEA regulation in the national law (i.e. in which cases does the law require a plan or program to undergo an SEA, are SEAs mandatory for land-use plans and at which level, are there exemptions)? Please provide some short examples where this issue has been debated in the national context, what was the outcome?

Public participation

2. Please briefly describe the rules on public participation in the SEA process, including:
 - a. Who can participate?
 - b. At which stage of the procedure?
 - c. How is the public notified?
 - d. How are the opinions gathered/replied to (is there only written consultation or hearings too, is there an obligation to reply to opinions)?
 - e. What are the statutory deadlines for consulting the public?
3. Name any important obstacles to public participation in the SEA process you know of and provide some short examples, if possible.

Experts

4. Are there any statutory requirements regarding qualification and objectivity of the experts?
5. If you know of any issues regarding qualification and objectivity of the experts in practice, describe them in a few sentences.

Follow-up

6. Is there a statutory obligation to take the results of the SEA into account in the decision-making? Please shortly describe important good/bad practices you know of in your country.
7. Please briefly describe provisions on monitoring/ex-post evaluation of the SEAs.
8. Are there any provisions on which measures to take in case of unintended impacts or if impacts exceed the level assessed? If yes, please describe them in brief.

Access to Justice

9. Can the SEA Decisions or plans/programs for which they were carried out be challenged by members of the public? What are the key limitations to access to justice, if any?