**SEA in Spatial/Land Use Planning in the 25 EU Member States – a July 2006 Update**

**SUP in der Raumplanung in den 25 EU-Mitgliedstaaten – Stand Juli 2006**

Thomas B. Fischer

**Introduction**

In mid-2006, two years after European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (i.e., the strategic environmental assessment – SEA Directive) became operational, our knowledge of the full extent of its transposition and implementation status has remained sketchy. The most recent publication on national transposition and application of the SEA Directive identified 14 member states that had final SEA laws in place and another two that had released draft laws. However, it neither provided any legal/guidance references, nor did it further investigate the situation in the other nine member states. Furthermore, whilst national legal implementation measures for the SEA Directive are listed at the Eur-Lex website, the information provided is not always up-to-date, as the research underlying this paper was able to show. Furthermore, the various measures are not explained, i.e., it is unclear what legal requirements cover and whether the Directive has been fully or only partly transposed.

This paper provides an overview of the SEA Directive transposition and implementation status in all 25 EU member states in mid-2006, focusing on spatial/land use planning. A questionnaire survey with national experts was conducted in July 2006. In this context, national experts from 20 member states contributed to the survey. Information on the five member states for which no survey data were obtained (Sweden, Belgium, Slovenia, Hungary and Luxembourg) was generated, based on a review of the professional SEA literature and national government/other websites. Information was obtained on six aspects of emerging SEA practice, as follows:

1. Legislation transposing the SEA Directive (fully or partly),
2. Coverage of spatial/land use planning in the legislation transposing the SEA Directive,
3. Guidance (general and, if available, spatial/land use specific) released to support authorities conducting SEA, following the SEA Directive,
4. Extent of SEA application,
5. The existence of any other (statutory, formal, informal) management instrument/method that aims at ensuring the environment is given due consideration in spatial/land use planning,
6. The existence of pre-Directive SEA practice.

**SEA in the 25 EU member states: an overview**

Table 1 shows the results of the questionnaire survey and the literature review. Subsequently, a written summary of the six main aspects is provided.

**Transposition status**

Most EU member states had transposed the SEA Directive by mid-2006. Only three states were identified that had no SEA legislation in place, including Portugal, Greece and Luxembourg. References to all the main pieces of legislation are provided in the references to this paper (see next section). Two states, Germany and Italy, had national SEA framework legislation in place – however, with Germany being a federal state and with Italy having strong regional powers in place, legislation still needed to be released for most of the 16 German Länder and the Italian 20 regions and 2 autonomous provinces. Austria is another federal state, which by mid-2006 had transposed partly, with national legislation in place for certain sectors and with all Länder having transposed the Directive, apart from Burgenland. According to the only publication available on practice in Slovenia, only draft legislation on SEA was available here. In the Netherlands, legislation transposing the SEA Directive had only been released in 2006. However, in spatial/land use and other sector planning, formal SEAs had been conducted for many years, based on the national EIA Act.

**Coverage of spatial/land use planning**

Generally speaking, spatial/land use planning was covered by the SEA legislation in those states that had transposed the Directive. In Spain, this had only happened partly, as spatial/land use planning legislation still needed to be released in certain regions. Requirements for SEA in spatial/land use planning were formulated through:

- explicit SEA (framework) laws (UK, Denmark, Spain, Ireland, Malta, Cyprus, Finland and Hungary; the latter two in combination with land use planning regulations/environment codes),
- amendments to existing EIA regulation (Belgium, Estonia, Latvia, Czech Republic, Slovakia, Poland and Germany; the latter two in combination with amendments to land use acts/environment codes),
- amendments to an Environment Code (The Netherlands, Slovenia, Italy, Sweden, Lithuania and France; the latter three in combination with amendments to land use planning legislation),
- amendments to land use planning/sector legislation (Austria).

References to laws and acts are provided in the references (next section).

**SEA Guidance**

In total, over 40 guidelines/guidance documents were identified through the questionnaire survey and literature review (see references in the next section). Only five
states had no guidelines at all, namely Greece, Luxembourg, Slovakia, Slovenia and Malta (even though the expert from the last state referred to guidance documents from other states). In two states, SEAGuidance was said to be released shortly, namely Latvia and Lithuania. Four states had general or land use planning specific guidelines in place that mentioned SEA, namely Estonia, Italy, Cyprus and Portugal (the latter on strategic scales). Furthermore, a number of states had released guidelines that were only covering certain sectors or regions. These included Germany, Spain, Austria and France. Comprehensive guidance for spatial/land use planning were also in place in the Czech Republic, the national expert said that these needed up-dating. Furthermore, in Flanders (Belgium), a website provided for some SEAGuidance. In the Netherlands, whilst SEAGuidance based Directive guidelines were said to be released shortly, comprehensive guidance had been available since the end of the 1980s for EIA based SEA by the national EIA Commission. Finally, it should be added here that the EC had also released general guidelines on SEA.5

### Extent of SEA application

In July 2006, there was a wealth of practical experiences with SEA in spatial/land use planning in many EU member states. Judging from the experts' replies, there were likely to be over a thousand SEAs/SEA type assessments that had been conducted by mid-2006. States with the most extensive SEA application included those that had some extensive pre-Directive SEA experiences, namely the UK, the Netherlands, Germany, Sweden, and Finland. Furthermore, and somewhat surprisingly, at least when considering the very limited information available in the professional literature, Poland and France also appeared to have some extensive SEA experiences. In all of these states, SEA had been routinely applied in more than a hundred several hundred cases. Other states with some substantial case study experiences included Austria, Denmark and, again somewhat surprisingly, Estonia, Spain, Latvia and the Czech Republic. Most of the other states were said to have had at least a few SEAs (either routinely prepared or pilot studies). Only the expert from Cyprus said that no SEA had been prepared at all by July 2006.

### Other environmental management instruments in spatial/land use planning

Regarding the existence of other management instruments in spatial/land use planning, most states had systems in place before the SEADirective had to be transposed, aiming at integrating environmental with other aspects. In this context, some states have had more limited informal SEA systems, including, for example...

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### Table 1: SEA Directive transposition status in the 25 EU member states

<table>
<thead>
<tr>
<th>(1) Transposition status of the SEA Directive</th>
<th>(2) Spatial/land use covered</th>
<th>(3) Guidance</th>
<th>(4) Extent of SEA application</th>
<th>(5) Other management instruments</th>
<th>(6) SEA started based on Directive</th>
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<tbody>
<tr>
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<td>(24) Greece</td>
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<td>(25) Cyprus</td>
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</table>

- = fully transposed
- = partly transposed
- = not covered
- = not yet transposed
- = transposed at national level, states/regions need to follow (have been given extended period by EC)
- = guidance available (may only mention SEA)
- = guidance partly available/ partly under preparation
- = regional/local
- = over 100
- = one or very few pilot studies
- = some
- = all currently under preparation
- = practice mainly coming from the level of small scale binding land use plans and local landscape plans in certain states
- = other instrument in place

5 according to http://www.legilux.public.lu, see also http://planett.difta.de/2002/reports/luxembourg.html
The existence of pre-Directive SEA practice

Most states had started working on SEA prior to Directive requirements coming into force. This was connected with the above mentioned need of most spatial/land use planning systems to duly consider environmental aspects. Only in very few states was the Directive the explicit trigger for applying SEA, including Italy, Portugal, Ireland, Latvia, Malta, Greece and Cyprus.

References

In this section, legal documents and guidelines for SEA in the 25 EU member states are presented. In this context, extensive web-based references are provided that allow the reader to access documentation for most of the 25 member states.

Table 2: transposition in Austria

<table>
<thead>
<tr>
<th>Federal level</th>
<th>Federal Act on Waste Management (waste management regarding federal competencies)</th>
<th>Federal Act on strategic assessment into the transport sector (transport regarding federal competencies)</th>
<th>Federal Act on Environmental Noise (noise issues regarding federal competencies)</th>
<th>Federal Act on Air Quality (air quality issues regarding federal competencies)</th>
<th>Federal Act on Water Management (water management issues regarding federal competencies)</th>
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</table>

|---------------|---------------------------------------------------------------------------|----------------------------------|----------------------------------|-----------------------------------------------------------------------------|-----------------------------------------------------------|---------------------------------|---------------------------------|--------------------------------|---------------------------------|

*italic: unknown when it will enter into force, yet italic and dates in brackets: will enter into force with that day*
Austria

In mid 2006, legal documents transposing the SEA Directive in Austria included (most of the information accessible via www.ani.dea.at/aktu.html): those listed in table 2.
There was also guidance on how to conduct SEA within local land-use planning, published by certain provincial governments, including Lower Austria and Styria:

- Leitfaden Lower Austria (www.raumordnung-noe.at/dynamisch/showInfostand.php?id=87)

Sweden

SEA Directive requirements were incorporated into the Environmental Code in July 2004 (http://www.sweeden.gov.se/sh/d/2023/a/22847). Various guidance documents for SEA in land-use planning had also been published, all by Boverket (The National Board of Housing Building and Planning). For documents on the detailed development plans, see:

- For guidance on SEA in general, see:

Finland


Land use specific guidance included:

- Public participation and impact assessment in regional land use planning (2000)
- Shoreline land use planning (2005)
- Social impact assessment in land use planning (2005)
- Assessment of the impacts of hypermarkets and shopping centres in land use planning (2001)

In addition, there was an ongoing development project “Impact assessment in land use planning, KASEVA project”, which was supposed to result in general guidelines concerning both, process and content of SEA.

Italy

The SEA Directive was transposed by the Act on Environmental Matters D. lgs. n. 152, April 3 2006 (http://www.parlamento.it/leggi/delge/be/06152dl.htm). There was also a Legislative decree framework in place (precursor to D. lgs. n. 152), the text of which was approved by the Council of Ministers on February 10th, 2006 (http://www.apgw.net/dellega%20ambiente/2006-02-10/delcret02006-02-10.pdf and annexes http://www.apgw.net/dellega %20ambiente/2006-02-10/delcreto2006-02-10_allegati.pdf).

Italy consists of 20 regions and 2 autonomous provinces, Trento and Bolzano, that all needed to release their own legislation. Guidance documents that were available in mid-2006 included:

- Italian translation of the EU Guidance (http://ec.europa.eu/environment/sea/030923_sea_guidance_it.pdf)
- Guidelines developed on the basis of the ENPLAN (http://www.interreg-enplan.org)

Denmark

The SEA Directive was transposed by the Act nr. 316 of 5th May 2004 – Act on environmental assessment of plans and programmes (http://www.skovognatur.dk/Lovgivning/Love/miljoevaluering.htm). Guidance was written in 2005 with support from two consultancies (Hedeselskabet A/S and Kornøv Consulting ApS) and published in June 2006, covering all plans and programmes.


Portugal

In Portugal, the legislation that would transpose the Directive was still under preparation in mid-2006. The only guidance available in mid-2006 was:

- (http://www.skovognatur.dk/Lovgivning/Love/miljoevaluering.htm).

Belgium

The SEA Directive was transposed, based on the EIA and SEA Decree (Decree of the Flemish Government of December 18th 2002), to complete the Decree of April 5th 1995, with a title concerning environmental safety reporting, Belgisch Staatsblad/Le Moniteur Belge – B.S. 13/02/2003. A website of the Flemish Environment Ministry provided guidance on how to do SEA; www.menvlaanderen.be.

Slovenia

The SEA Directive was to be transposed within the Environmental Protection Act; no guidance was available, yet.

Estonia

The SEA Directive was transposed by the Environmental Impact Assessment and Environmental Management System Act (SEA act) on April 3rd, 2005 http://www.envir.ee/92022. There was no SEA guidance published yet, by mid-2006.

Spain

The SEA Directive was transposed by the SEA Law of April 2006 (www.juridicas.com/base_datos/Admin/9-2006.html) or: (http://www.cocentin.info/evaluacion%20de%20planes%20y%20programas.pdf)

Regional laws included:

- Legal Decree 1/2000 of May 18, Castilla y Leon.
- Law 5/1999 of 8 April, Catalonia.

There were no guidelines at the national level, but the Basque Country had a couple. There were also the ENPLAN Guidelines, with case studies from Cataluna, Andalucia, Baleares and Murcia (http://www.carm.es/siga/europa/interreg-enplan.html).

Ireland

The SEA Directive was transposed through the European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (Statutory Instrument Number (SI No.) 435 of 2004), and the Planning and Development (Strategic Environmental Assessment) Regulations 2004
Directive requirements. They were likely to be update of the general guidance on SEA (ela-

land use plans (produced in 1995) and the 2nd amendment was expected to be adopted

through amendments to the new Czech EIA system (i.e. there was a slightly different pro-

plans had a special regime under this SEA Act (no. 100/2001 Coll.). SEA of land use

assessment was available, yet, in mid 2006.

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<thead>
<tr>
<th>Country</th>
<th>SEA Directive</th>
<th>Legislation</th>
<th>Acknowledgements</th>
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<tbody>
<tr>
<td>Malta</td>
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<td>Legislation</td>
<td>The article is based on information generated in the project ‘Environmental Policy Advisory Service and Environmental Management’, conducted for the Deutsche Gesellschaft für Technische Zusammenarbeit (GTZ) and the State Environmental Protection Agency (SEPA) of China. The author wishes to thank the following member states’ experts for their helpfulness in compiling the information presented in this article: Ulla Riitta Soveri (Finland), Veronika Vers (Estonia), Sandra Ruza (Latvia), Ruta Revoldiene (Lithuania), Joanna Mackowiak-Pandera (Poland), Lone Koenorø (Denmark), Frank Scholles (Germany), Ainhoa Gonzalez (Spain), Maria Partidario (Portugal), Connor Skehan (Ireland), Paola Gazzola (Italy), Ralf Aschemann (Austria), Jiri Dusik (Czech Republic), Ingrid Belcakova (Slovakia), Efthymis Zagorianakos (Greece), Christina Pantazi (Cyprus), Joe A Doublet (Malta).</td>
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<tr>
<td>Cyprus</td>
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<td>Greece</td>
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<td>Hungary</td>
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<td>Slovakia</td>
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Czech Republic

The SEA Directive was transposed in 2004 through amendments to the new Czech EIA Act (no. 100/2001 Coll.). SEA of land use plans had a special regime under this SEA system (i.e. there was a slightly different procedure for assessment of certain plans and programmes in 2005. Two guidance documents were available (both in Hungarian):


The booklet can be found on the web page of the Environment Service (www.moa.gov.cy, go to environment service – environmental impacts – SEA).

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Remarks

3 www.menvlaanderen.be
4 www.commissiere.nl

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