

Environment: assessment of effects of certain plans and programmes

1996/0304(COD) - 15/05/2017 - Follow-up document

The Commission presented its second report on the implementation of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (SEA Directive).

The report presented the experience gained in applying the SEAD between 2007 and 2014. Its findings will feed into an evaluation of the SEAD that will be carried out as part of the Commission's Regulatory Fitness and Performance (REFIT) programme.

As a reminder, the SEAD is essentially a process directive, which establishes certain steps that Member States must follow when identifying and assessing environmental effects. The strategic environmental assessment (SEA) process is about helping policy makers take well-informed decisions, based on objective information and the results of consultation with the public/stakeholders and relevant authorities.

The report noted that in 2007-2014, Member **States did not raise major implementation concerns**.

The EU Court of Justice (CJEU) has delivered a comprehensive case-law relating to the SEAD, and thus **facilitated its application**. The CJEU has confirmed the broad interpretation of the terms and provisions of the Directive.

Where necessary, Member States amended their national legislation to ensure compliance with the Directive.

Effectiveness of the SEA Directive: all Member States have acknowledged that the SEA procedure has influenced the planning process and has **improved the quality of plans and programmes**. The process appears to be more effective when there is a political will to effectively influence the planning process.

Moreover, the SEA procedure would be more likely to influence **regional and small-scale plans and programmes** (e.g. land use planning) rather than national plans and programmes for which the strategic decisions are often taken at political level and for which there is little margin for these to be reviewed after the SEA procedure.

Main challenges: some of the challenges in the application of the Directive relate to the **different elements of the SEA procedure**. This is especially true for plans and programmes that address a broad scope of issues (e.g. national or sectoral).

Member States have encountered two types of **challenges in preparing the environmental report**: (i) the availability and quality of the data; (ii) the technical knowledge and experience of the experts preparing the report and the authorities in charge of its quality review.

In addition, there are still uncertainties about some key concepts such as '**reasonable alternatives**'.

In order to ensure compliance when implementing and applying the SEA Directive, the alternatives that are assessed have to be reasonable taking into account the objectives and the geographical scope of the plans and programmes before setting up their final content.

The SEAD does not define the term ‘reasonable alternatives’, nor does Member States’ transposing national legislation. There is no common approach to define the types and the number of alternatives to be assessed.

As Member States have also noted, due to the specifics when preparing plans and programmes, **identifying reasonable alternatives could be a challenge**. For example, it is challenging to identify and assess reasonable alternatives at the planning stage either because the plans and programmes strategically address a particular matter, or because of the general content of the plans and programmes.

Member States have considerable discretion in organising the process of informing and **consulting the public** and the relevant authorities in the different stages of the SEA procedure.

However, Member States have noted that the extent to which the results of the SEA procedure are considered in the final decision of plans and programmes often depends on the decision-making specifics, and can vary.

Relationship with other legislation: the report noted that the interplay between the procedures under the EIA Directive ([EIA Directive](#)) and SEA procedures seems to be a real challenge.

The CJEU confirmed that EIA and SEA procedures differ in several respects. It is therefore necessary to comply with the requirements of both Directives concurrently.

However, practice shows that the **boundaries between the two procedures are not always distinct** and tend to overlap, in particular as regards plans, programmes or projects related to land use and/or spatial planning.

In conclusion, the Commission called on all Member States to **pursue their implementation efforts** to ensure compliance with the SEAD. Where necessary, they should also take proactive initiatives, such as guidance documents, training, information sharing, and establishing environmental information databases.

Based on this report, the Commission will consider in the upcoming evaluation how to increase the positive impacts of the SEAD and better demonstrate its EU added value, effectiveness and efficiency.