Avosetta Questionnaire: The SEA Directive

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Report for Ireland

Áine Ryall[1]

Centre for Law & the Environment

University College Cork

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 [2001] OJ L 197/30

[1] National legislative context

Ireland transposed the SEA Directive by way of the following regulations (secondary legislation):

European Communities (Environmental Assessment of Certain Plans and Programmes) Regulations 2004 (SI No. 435 of 2004) as amended by (European Communities (Environmental Assessment of Certain Plans and Programmes) (Amendment) Regulations 2011 (SI No. 200 of 2011).

Planning and Development (Strategic Environmental Assessment) Regulations 2004 (SI No. 436 of 2004) as amended by (Planning and Development (Strategic Environmental Assessment) (Amendment) Regulations 2011 (SI No 201 of 2011). These regulations made the necessary amendments to the Planning and Development Act 2000 (as amended) to take account of SEA obligations in the land-use planning context.

[2] EU infringement proceedings?

In September 2007, Ireland received a letter of formal notice from the Commission drawing attention to the absence of SEA for the National Development Plan 2007-2013. It appears this case was subsequently closed, with no application to the CJEU.

[1] I thank Tadhg O'Mahony, Senior Scientific Officer, SEA Section, Office of Evidence and Assessment, Environmental Protection Agency, for invaluable assistance while I was compiling this report. The content of the report is my responsibility.

[3] Objectives (Art. 1)

(i) **Is the Objective of the Directive reflected in your Member State's national legislation?** No.

(ii) **Has the Objective been used by your national courts to assist them in the interpretation of relevant provisions of national law?**

In *Heather Hill Management v An Bord Pleanála* [2019] IEHC 186 para 100, Simons J referred to the objective of the SEA Directive. Citing Case C-160/17 *Thybaut* paras [61] to [63], Simons J recalled that:

> The entire rationale of the SEA Directive, and, in particular, the purpose of introducing a requirement to carry out a strategic assessment in respect of plans and programmes, is to ensure that an environmental assessment is carried out at the earliest possible stage of decision-making. In circumstances where the content of plans or programmes influence subsequent decision-making in respect of *individual* development projects, it is essential that an assessment should be carried out at the earlier stage of the making of the plan or programme which sets the framework for development consent.

He concluded at para 101:

> It would negate the purpose of the SEA Directive if - following the completion of an environmental assessment of the development plan - a competent authority was, thereafter, free to disregard such plans and programs. Section 9 [of the Planning and Development (Housing) and Residential Tenancies Act 2016] ensures that the objectives of the SEA Directive are achieved by requiring An Bord Pleanála [the Planning Board], as the competent authority for the purposes of granting an application for development consent for strategic housing development, to have regard to the development plan.

[4] "Plans and Programmes" subject to SEA

(i) **Art. 2 (a) (Definition of "plans and programmes"):**

The concept of "plans and programmes" is defined as follows in SI 435 of 2004:

"Plans and programmes" means plans and programmes, as well as any modifications to them

(a) which are subject to preparation and / or adoption by an authority at national, regional or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government, and
(b) which are required by legislative, regulatory or administrative provisions.

In *Kerins and Stedman v An Bord Pleanála* [2021] IEHC 369, the High Court decided to make a reference for a preliminary ruling to the CJEU on the following question: whether the definition in Article 2(a) of the SEA directive includes "a plan or programme that is jointly prepared and/or adopted by an authority at local level and a private sector developer as owner of adjacent lands to those owned by a local authority"?

The concept "required by legislative, regulatory or administrative provisions" is transposed using the language found in Article 2(a) of the SEA Directive – see above.

(ii) **Art. 3 (Scope):**

The SEA Regulations listed under "National legislative context", above, transpose the requirements set down in Article 3 of the SEA Directive and follow the wording found in the Directive closely. The regulations cover plans and programmes for all of the sectors listed in Article 3(2) of the Directive.

(iii) "likely to have significant environmental effects"

The national legislation does not elaborate on this concept. The authority responsible for developing the particular plan/programme determines whether it is "likely to have significant environmental effects", in consultation with the relevant statutory environmental authorities.

(iv) Is there screening? If yes, in what context(s) and how does it operate? Who makes the screening determination? Is the screening determination available to the public?

Pursuant to SI 435 of 2004 (as amended), which governs SEA for plans/programmes other than those relating to land-use planning, screening, when required, is carried out by the authority responsible for developing the particular plan/programme. The planning authority must take account of the relevant screening criteria (these replicate the screening criteria set down in Annex II to the SEA Directive). Prior to making a screening decision, the authority must give notice to certain environmental authorities (including the Environmental Protection Agency) and invite them to make a submission or observation in relation to whether the proposed plan/programme would or would not be likely to have significant effects on the environment. The screening determination, including the reasons for any negative screening decision, must be made available to the public.

SI 436 of 2004 (as amended) sets out the procedures that apply in the specific context of SEA under the Planning and Development Act 2000 (as amended) as regards e.g. Development Plans, Local Area Plans etc. Here, too, it is the authority responsible for developing the plan/programme that carries out screening, when required (i.e. in the case of a Development Plan, the relevant planning authority).

(v) " … which set the framework for future development consent of projects" specified in the EIA Directive.

In *Ballinasloe Chamber of Commerce Ltd v Ballinasloe Town Council* [2012] IEHC 273 the High Court found that the Ballinasloe Town Enhancement Scheme was not a "plan or programme" as it did not meet the definition set down in Article 2(a) of the SEA Directive. In particular, there was no basis for suggesting that it set the framework for future development consents. It was a "once-off operative project".

In *Friends of the Irish Environment v Minister for Communications, Climate Action and the Environment* [2019] IEHC 646 the High Court determined that regulations providing for a new consent regime governing the extraction of peat involving an area of greater than 30 hectares or more did not require SEA prior to their adoption. Simons J concluded that the regulations did not set the "framework" for future development consent of projects in respect of peat extraction. The amendments to the consent regime that were provided for under the regulations were confined to the procedural requirements for an application for development consent – there was "nothing concrete" in the regulations which could be the subject of a meaningful strategic assessment. The High Court granted the application for judicial review on other grounds, including inconsistency with the requirements of the EIA Directive and the Habitats Directive, and ordered that the regulations be set aside in their entirety.

In *Friends of the Irish Environment v Government of Ireland* [2020] IEHC 225 Barr J concluded that the National Development Plan (NDP) did not require SEA because it was not a plan or programme within the terms of the definition set down in the SEA Directive. In particular, the NDP did not "define the criteria and detailed rules for the development of land or for consents in relation to particular projects". The High Court was satisfied that the NDP is "a financial or budget plan" and that it fell within the exception set out in Article 3(8) of the Directive. (See also on this point the earlier decision in *Kavanagh v Ireland* [2007] IEHC 296).

In *Kerins and Stedman v An Bord Pleanála* [2021] IEHC 369, the High Court decided to make a reference for a preliminary ruling to the CJEU on the following question: whether Article 3(2)(a) includes "a plan or programme that is not in itself binding but which is expressly envisaged in a statutory development plan which is binding, or which proposes or envisages in effect a modification of a plan that was itself subject to SEA"?

(vi) "Plans and programmes" that "determine the use of small areas at local level" – how has this provision been transposed and how it is applied in practice?

SI No 435 of 2004 provides that such a plan or programme will be subject to SEA only where the competent authority determines that it is likely to have significant effects on the environment.

(vii) Does your national legislation and practice reflect the CJEU's conclusion that it is the "content" rather than the "form" of the planning or programming act that is decisive?

In *Kavanagh v Ireland* [2007] IEHC 296 the High Court referred to the European Commission Guidance on SEA which emphasised that "the name alone ("plan", "programme", "strategy", "guidelines" etc.) will not be a sufficiently reliable guide: Documents having all of the characteristics of a plan or programme as defined in the Directive may be found under a variety of names".

[5] General obligations (Art. 4): How has this provision been transposed? In particular, has the obligation to carry out the assessment "during the preparation of" the plan or programme been respected? Are there any practical examples demonstrating the avoidance of duplication of assessment where there is a hierarchy of plans and programmes?

Article 15 of SI 435 of 2004 (as amended) which governs "decision-making" provides that the competent authority must take account of the environmental report, any submission or observation made to it by the specified environmental authorities "during the preparation of the plan or programme" and before it is adopted. The regulations governing SEA in the context of the Planning and Development Act (i.e. SI No 436 of 2004, as amended) set out specific provisions governing decision-making in the context of the preparation of draft plans/programmes under the planning legislation.

[6] Environmental Report (Art. 5, together with Art. 2 (b) and Annex I)

(i) Is there national jurisprudence and / or practical examples demonstrating significant problems with the range of data included in the Environmental Report and the evaluation presented?

A recent review of SEA practice published by the Environmental Protection Agency identified data gaps and limitations in the baseline data for use in the SEA process.[2] Data gaps were described in this report as "one of the key constraints to effective SEA" and are especially an issue for some SEA themes (i.e. human health, landscape and cultural heritage).

(ii) Who makes the scoping determination?

The authority responsible for preparing the plan/programme makes the scoping determination. Prior to making this determination, the authority must give notice to certain environmental authorities (including the Environmental Protection Agency) and invite them to make a submission or observation in relation to the scope and level of detail of the information to be included in the environmental report.

[2] A González et al, *Second Review of Strategic Environmental Assessment Effectiveness in Ireland* (Environmental Protection Agency, 2020) (Report No 306), chapter 6.

(iii) Is the scoping determination available to the public?

There is no requirement under national SEA legislation to publish the scoping determination. But it would be considered to be good practice to publish the scoping determination.

(iv) How is the concept "reasonable alternatives" considered in practice – either in national legislation, official guidance and / or national jurisprudence?

In *Friends of the Irish Environment v Government of Ireland* [2020] IEHC 225 Barr J in the High Court concluded that the wording of Article 5 of the SEA Directive did not require a comparable level of assessment of the "reasonable alternatives" and the preferred option. Looking at the legislation as a whole, it was clear, in the Court's view, that the obligation to carry out a full SEA related only to the plan which it is proposed to adopt. The Court was satisfied that the assessment carried out in the environmental report in this case was in compliance with the obligation imposed on the plan-maker under Article 5. The Court did note, however, that "at a lower planning level", where a particular project is under consideration, it may be appropriate to give a "more in-depth assessment" of the reasonable alternatives "so as to establish that the preferred option was in fact the better option and to give the public and stakeholders an opportunity to comment on those alternatives." Here, however, the National Planning Framework (NPF) was "a high level strategic plan". "Sufficient information" was given in relation to the reasonable alternatives and there was "sufficient assessment" of these alternatives "to enable members of the public and other stakeholders to comment in a meaningful way on the draft NPF and the environmental report accompanying it."

The recent review of SEA practice published by the EPA concluded that: "Plan-makers continue to struggle to identify reasonable alternatives for their plans and SEA practitioners struggle to elucidate alternatives in order to meaningfully consider them during the assessment."[3]

Revised EPA guidance on SEA alternatives was published in 2015.[4] However, the recent review concluded that "there is still a long way to go with regard to the consideration of alternatives".

[7] Consultations (Art. 6 together with Art. 2 (d)): How has this provision been transposed and is there national jurisprudence and / or practical examples demonstrating significant problems here?

Article 12 of SI No 435 of 2004 provides that the authority must notify the specified environmental authorities that a written submission or observation may be made with respect to the draft plan/programme and the associated environmental report. The period for comment is to be not less than four weeks from the date of the notice.

[3] ibid, p17.

[4] A González et al, *Developing and Assessing Alternatives in Strategic Environmental Assessment: Good Practice Guidelines* (Environmental Protection Agency, 2015) (Report No 157).

The authority must publish notice of the preparation of the draft plan/programme and the associated environmental report in at least one newspaper with a sufficiently large circulation in the area covered by the plan/programme. This notice must inform the public that a copy of the draft plan/programme and the environmental report are available for inspection at the authority's offices and on its website for a specified period of not less than four weeks from the date of the notice. The public may make a written submission or observation with respect to the draft plan/programme and the environmental report within this period. The authority is required to "take account of" any submissions or observations made to it.

The regulations governing SEA in the context of the Planning and Development Act (i.e. SI No 436 of 2004, as amended) set out specific provisions governing consultation on the preparation of draft plans/programmes under the planning legislation.

[8] Transboundary consultations (Art. 7): Has this provision come into play in your country? Who decides about initiating transboundary consultations? At what stage are transboundary consultations usually initiated? Is there any significant national jurisprudence and / or practical examples? Does the UN ECE SEA Protocol play a role here?

Yes. Transboundary consultations are initiated on a fairly regular basis. The authority developing the plan/programme initiates the transboundary consultation. The authority must first consult with the relevant Government Minister. An example of a recent transboundary consultation is the *National Hazardous Waste Management Plan 2021-2027*.

[9] "Taken into account" (Art. 8): How is this provision understood? Is there any significant national jurisprudence? Are there any specific mechanisms in place to monitor compliance with this particular obligation?

This obligation is transposed in the relevant national legislation: "The competent authority shall take account of … ." In *Friends of the Irish Environment v Government of Ireland* [2020] IEHC 225 it was contended that the submissions made by members of the public, including Friends of the Irish Environment (an NGO), had not been adequately assessed or engaged with as part of the SEA process. Citing *O'Brien v An Bord Pleanála* [2017] IEHC 773 and *Sliabh Luachra Against Ballydesmond Windfarm Committee v An Bord Pleanála* [2019] IEHC 888, the High Court was satisfied that it was not necessary for the plan-maker (decision-maker) to give an individual response to every submission received, and especially so where a large number of submissions are received and where there may be a large element of overlap between various submissions. According to the High Court: "As long as these submissions are addressed in a comprehensive and fair manner, it is appropriate for the decision maker to group them thematically and address them on an issue by issue basis". This was appropriate when dealing with a plan "at a strategic level". More detailed consideration and reasoning may well be required at project level, but that was not the case here. In this case, the High

Court was satisfied from the content of the SEA Statement that the decision-maker had complied with its obligations under the SEA Directive and national law.

[10] Monitoring the significant environmental effects of implementation of plans / programmes (Art. 10): Is monitoring a legal requirement in your country? If so, how it is organised and who is responsible for monitoring? Is it effective in practice? Are there any specific mechanisms to address the results of monitoring?

Yes, monitoring is a legal requirement. The provisions transposing this requirement mirror the language found in Article 10 of the SEA Directive. The authority proposing the plan/programme is responsible for monitoring. In *Friends of the Irish Environment v Government of Ireland* [2020] IEHC 225 an argument to the effect that the respondents (plan-maker/decision-maker) had failed to comply with the requirements of SI No 435 of 2004 as regarding monitoring was unsuccessful.

A recent review of SEA practice published by the Environmental Protection Agency identified monitoring as one of the weakest areas of SEA practice.[5] National legislation does not set out specific reporting requirements. Nor does it assign oversight or enforcement functions in relation to SEA monitoring to any third-party (independent) authority. The EPA recently published guidance on SEA Statements and Monitoring.[6]

[11] Access to justice:

(i) How are alleged deficiencies in the SEA process dealt with by your national courts? In particular, is a plan or programme declared void if a court determines that the SEA process was deficient / unlawful?

Judicial review is the remedy available where it is alleged that a public authority has acted unlawfully, including any alleged breach of SEA requirements. Judicial review is a discretionary remedy. If a court finds that a plan is unlawful, then it *may* proceed to quash / annul the plan.

(ii) Are there any restrictions / limitations on access to justice as a result of national provisions concerning either legitimacy or jurisdiction of (administrative) courts (i.e. are plans / programmes excluded from judicial control on the basis of any rule on jurisdiction of courts or legitimacy)?

No. But it is notable here that when exercising their judicial review function the courts tend to defer to the expertise of the competent authorities. This is particularly the case as regards, for example, the competent authorities' determinations on matters such as screening and scoping. It is questionable whether this deferential standard of review (*O'Keeffe v An Bord Pleanála*

[5] A González et al, *Second Review of Strategic Environmental Assessment Effectiveness in Ireland* (Environmental Protection Agency, 2020) (Report No 306), Appendix 1.

[6] A González et al, *Guidance on Strategic Environmental Assessment (SEA) Statements and Monitoring* (Environmental Protection Agency, 2020).

[1993] 1 IR 39) is compatible with the principle of effective judicial protection under EU law and the requirements of the Aarhus Convention.[7]

(iii) Is it possible to challenge a negative screening determination?
Yes, by way of judicial review.

(iv) Is it possible to challenge the scoping determination?
Yes.

(v) **Is there any significant national jurisprudence on access to justice in the SEA context?** No.

[12] Direct effect: Are there any decisions of the national courts in your country where, because of alleged non-transposition, the direct effect of the Directive has been invoked? No.

[13] SEA for proposed policies and legislation: Have there been any developments in your country as regards SEA requirements for proposed policies and legislation that are likely to have significant effects on the environment, including health? (UN ECE SEA Protocol, Art. 13).

According to a report in the *Irish Times* on 2 April 2020, the High Court quashed the EU Environmental Objectives (Freshwater Peal Mussel) (Amendment) Regulations 2018 (SI No 355 of 2018), by way of a consent order, on the basis that the regulations (a statutory instrument) were made in breach of the SEA Directive.

A public consultation was undertaken on the Strategic Environmental Assessment Environmental Repot for the Climate Action and Low Carbon Development (Amendment) Bill 2021.

As noted earlier, above, in *Friends of the Irish Environment v Minister for Communications, Climate Action and the Environment* [2019] IEHC 646 the High Court concluded that the regulations (a statutory instrument) establishing a new consent procedure for peat extraction involving an area of greater than 30 hectares or more did not require SEA prior to their adoption as they did not set the framework for future development consent of projects in respect of peat extraction.

In *Friends of the Irish Environment v Government of Ireland* [2020] IEHC 225, also noted above, the High Court concluded that the National Development Plan (NDP) did not require SEA because it was not a plan or programme within the terms of the definition set down in the SEA Directive.

[7] On the standard of review in the context of EIA see Á Ryall, 'Enforcing the Environmental Impact Assessment Directive in Ireland: Evolution of the Standard of Review' (2018) 7 *Transnational Environmental Law* 515.

[14] National studies: Have any significant official (or unofficial) studies of the implementation of the Directive and its impact in your country been published? If yes, please provide brief details and the key findings.

A key recent study is the *Second Review of Strategic Environmental Assessment Effectiveness in Ireland* published by the EPA in 2020.[8] The main findings indicate that "broadly speaking" recent practice seems to be "more procedurally effective" than was the case in an earlier study of SEA undertaken in 2012. Overall, the new report concludes that SEA seems to be fulfilling its role. A greater openness to the process was reported, with more governmental bodies and sectors engaging with SEA. However, significant ongoing challenges were identified – the key procedural challenges being consideration of alternatives and monitoring. Monitoring is singled out as "the most significant gap" in the SEA procedure. The need for better public engagement in the plan-making and SEA process was also noted. The review proposed a number of "strategic recommendations" to further enhance SEA performance over time.

The *SEA Action Plan 2021-2025* has been developed to implement the strategic recommendations in the Second Review of SEA Effectiveness in Ireland.

[15] National databases:

(i) Is there any national database on the number and categories of SEAs carried out each year in your country? If there is, please provide summary data for the most recent year available.

There is no formal national database. The EPA hosts its own database (not publicly available) where it tracks plans and programmes received by it during the SEA process. (The EPA is one of the statutory environmental authorities that must be notified by the plan-maker during the SEA process).

The EPA publishes data on SEA activity annually, including breakdown by sector of the SEAs undertaken.

(ii) Is there any national database of SEA reports, Environmental Assessments and the relevant decisions made by the competent authority etc.? If yes, please summarise the position briefly and indicate if the database is available online.

No. The EPA database noted above is not publicly available as yet. EPA is considering how SEA tracking data might be made publicly available via its website.

[8] A González et al, *Second Review of Strategic Environmental Assessment Effectiveness in Ireland* (Environmental Protection Agency, 2020) (EPA Research Report No 306). This detailed study examined SEA performance using seven "effectiveness dimensions" identified in the international literature: context, procedural, pluralist, normative, substantive, knowledge and learning and transactive.

Many competent authorities keep their SEA Environmental Reports on their websites between plan cycles.

The absence of a central depository for all SEAs and the associated plans/programmes is one of the issues highlighted in the recent review of SEA effectiveness. "A national integrated SEA portal" is included as an action point in the *SEA Action Plan 2021-2025*.

[16] Impact of SEA in practice: Are you aware of draft plans or programmes in your country which have been amended significantly – prior to their adoption or submission to the legislative procedure – as the result of SEA procedures?

The recent review of SEA effectiveness cites a number of examples, from those examined, of good practice in this regard e.g. *Clare County Development Plan 2017-2023*; *Wild Atlantic Way Operational Programme 2015-2019*, among others.

[17] Any other significant issues? Are there any other significant issues concerning the implementation of provisions of the Directive in your country which you consider are worth mentioning here?

As noted above, consideration of alternatives and monitoring are the two main challenges in the Irish context. Consideration of cumulative effects, transboundary consultation and tiering (i.e. links between EIA and SEA) are further areas of concern.[9] The *SEA Action Plan 2021-2025* provides a good account of the range of issues requiring attention.

[18] General assessment and / or any recommendations: Do you have any overall view of the effectiveness of SEA in Europe and / or any recommendations for improvement?

SEA performance has evolved significantly in Ireland in recent years.[10] This is confirmed by the findings of the SEA Effectiveness Review published by the EPA in 2020. The increased level of "buy-in" and openness to the SEA process among public authorities is particularly welcome here. The Review also identified a range of ongoing challenges that hinder the effectiveness of SEA in practice, including lack of monitoring of the effects of plans and programmes. The *SEA Action Plan 2021-2025* identifies the specific steps that need to be taken to address the challenges identified in the review. It provides a clear "blue-print" for the future development of SEA in Ireland. The EPA continues to play a vital leadership role in promoting SEA as a tool with the potential to deliver a higher level of environmental protection, in driving SEA-related

[9] See on this point, A González Del Campo et al, *Tiering of Environmental Assessment: The Influence of Strategic Environmental Assessment on Project-level Environmental Impact Assessment* (Environmental Protection Agency 2021) (EPA Research Report No 391) and its supporting guidance: *Guidance on Strategic Environmental Assessment: Environmental Impact Assessment Tiering* (Environmental Protection Agency 2021) (EPA Research Report No 392).

[10] By way of background see: Áine Ryall, "Strategic Environmental Assessment: The Irish Experience" in Gregory Jones & Eloise Scotford (eds) *The Strategic Environmental Assessment Directive: A Plan for Success?* (Oxford: Hart Publishing, 2017).

research and in developing new guidance on SEA practice. One area that merits great attention is public participation in the SEA process. The public is far more inclined to get involved in environmental decision-making at the project level stage rather than at the strategic, high-level planning stage. More needs to be done to inform and educate the public of the overarching significance of the plan-making stage in the grander scheme of things.

It is notable that there has been a sharp increase in the number of challenges to plans and programmes (and indeed other measures, including legislation and policies) based on alleged breach of SEA obligations. This litigation serves to concentrate the minds of plan-makers. It highlights the importance of ensuring that SEA obligations are met during the plan-making process if costly litigation and delay is to be avoided. It also highlights the significance of the right of access to justice in environmental matters so that SEA is taken seriously by public authorities.

The climate and biodiversity crisis confirms the importance of SEA as a regulatory tool to ensure that environmental considerations, including impacts on climate change and biodiversity, and their interrelationships with other environmental topics (e.g. water, human health etc.) are taken into account at the earliest stage of the planning process. It is very likely that we will continue to see more SEA-related litigation into the future as individuals and NGOs gradually come to appreciate the potential of SEA to deliver better environmental outcomes.

SUPPLEMENTARY QUESTIONNAIRE ON "WHO DOES WHAT IN THE SEA PROCESS?"

In the light of your national (or more relevant) scheme for SEA, please describe briefly:

1. **Who has the overall responsibility for the SEA procedure: planning authority (i.e. authority responsible for the preparation of the plan/ programme) or environmental authority?**

   The authority responsible for the preparation of the particular plan/programme i.e. the planning authority (known as "the competent authority").

2. **What is the role of the planning authority in screening, scoping, public participation, consultation with other authorities, taking into account the results of SEA and in monitoring etc.)?**

   The planning authority (i.e. the authority responsible for the preparation of the plan/programme) is responsible for the matters mentioned in this question.

3. **What is the role of the authorities having "specific environmental responsibilities" in screening, scoping, public participation, consultation with other authorities, in taking into account the results of SEA in the plan / programme, and in monitoring?**

   A number of environmental authorities are designated as statutory consultees for the purposes of SEA. These include the Environmental Protection Agency (EPA). The plan-making authority must consult the relevant environmental authorities on screening (where required) and on scoping, by notifying them and inviting them to make a submission. It must also consult the environmental authorities on the draft plan / programme and the associated environmental report by notifying them and inviting them to make a submission. However, the making of a submission by the environmental authorities is not mandatory under national law. In practice, the EPA responds to all notifications, albeit on a priority basis. The EPA has no role in monitoring in the context of SEA.

4. **Are there any other bodies (independent commissions etc.) having a role in screening, scoping, public participation, consultation with other authorities, in taking into account the results of SEA in the plan/ programme, and in monitoring?**

   No independent commission, but the EPA plays a leading role as a statutory consultee providing input on screening and scoping and commenting on the draft plan / programme and environmental report.

5. **Is there only one or more authorities having "specific environmental responsibilities" involved in SEA procedure? If only one - which agency or body performs usually the role of the "environmental authority"?**

   National legislation specifies a number of "environmental authorities" for SEA purposes, but in practice it is the EPA which performs the lead role here.

6. **Which authority is responsible for the preparation of the "environmental report" provided for at art. 5 of the SEA Directive? What is the name given in your legislation to that "report" (original version and in English, if possible)?**

   The planning authority (i.e. the authority responsible for preparing the plan/programme) prepares the "environmental report".

7. **What is the legal form (binding or non-binding) of consultations with authorities having "specific environmental responsibilities" in screening (art.3.6), in scoping (art. 5.4) and in expressing "their opinion on the draft plan or programme and the accompanying environmental report" (art.6.2)?**

   The planning authority must notify the relevant environmental authorities and indicate that they may make a submission. Making a submission in response to a notification is not mandatory. In practice, the EPA will respond to all notifications, albeit on a priority basis.

8. **Is there any specific document serving as the "conclusions" derived from the SEA process and documenting due account taken of the results of SEA (art. 8)? If yes – please give its name (original version and in English, if possible). Who prepares it? What is its legal status?**

   This information would be included in the "SEA Statement" (Information on the Decision) which must be made available when the plan/programme is adopted formally. The planning authority (i.e. the authority preparing the plan/programme) prepares the "SEA Statement".

9. **If there is a separation of roles among the "planning" and the "environmental" agencies, what happens in case of a disagreement between them as to the conclusions (or conditions) derived from the SEA or about the way in which the proposed plan should be amended accordingly?**

   The EPA, in its role as an environmental authority in the SEA process, will usually make a submission on the draft plan / programme. It is up to the plan-making authority to consider the points made in the EPA submission and, where these points have not been taken on board, to provide a justification for this approach in the SEA Statement. However, EPA does not have a role to review the SEA Statement.

10. **Is it possible that the role of the "planning authority" and that of the "environmental authority" coincide in the same body or agency? Could you please provide a practical example thereof?**

    Yes, for example the *National Hazardous Waste Management Plan 2021-2027* where EPA was the planning authority and one of the specified environmental authorities.