Avosetta Questionnaire: The SEA Directive

Cork, 28-29 May 2021

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

Answers: Rajko Knez (Slovenia)

[1] National legislative context

Identify and summarise the relevant national legislation transposing Directive 2001/42/EC. In 2017, the Commission concluded that all Member States have transposed the Directive (COM(2017) 234 final, 5 May 2017), but some have transposed it by means of specific national legislation while others have integrated its requirements into existing laws.

The main transposition rules are included in the **Environmental Protection Act (EPA[1])** *for the environment, and especially for nature in the* **Law on Nature Conservation (NCA[2]).** *Further on, more detailed and specific provisions are included in the* **Decree laying down the content of the environmental report** (**ER,** Slovene: Okoljsko poročilo) **and on a detailed procedure for assessing the effects of certain plans and programmes on the environment.** *The latter is an act of the executive branch.*

The distinction between environment and nature is essential. Intervention in nature is stricter, and in addition to the Ministry for the Environment (Ministry), the Office for Nature Conservation is also responsible for the conservation of nature, which issues a special opinion. The Ministry takes this opinion into account in the SEA procedure. This means that already in the preparation of SEA, a special emphasis is placed on the Habitats and Birds Directives (Natura 2000). The assessment is prepared for general spatial acts (i.e. SEA is not foreseen for individual acts, like different environmental permits, consents etc. Individual acts, like later mentioned environmental protection consent, are based on the EIA procedure. This is another topic).

In many cases, projects are known in advance or are even a trigger for preparing a general spatial act that would be the first step. Namely, a general spatial act needs first to define a certain area, a territory, as a one on which certain activities are possible, i.e. whether the land is an agricultural or a building land and for what kind of buildings (industrial, economic) activities etc.).

How do we know that SEA is needed for a particular spatial act? The easiest way to find out is EIA rules. The EIA is namely closely linked to SEA. Namely, if according to the EIA regulations (which are very precise, defining all possible activities, industry etc.), the EIA is needed, then SEA is also required. It is a backward approach – not from SEA to EIA, but backwards. This is defined in the second paragraph of Art 40 EPA. However, this is not the only way to determine when the SEA is needed. The Ministry and its bodies shall also decide whether SEA is necessary, even if the EIA is not at stake. It shall issue a special decision to that effect. This is also the basis for the preparation of ER. And ER is the essential starting point on which the assessment is made.

The ER is a responsibility of a planning authority; however, the SEA procedure is in hand and in the competence of the environmental authorities (as mentioned above, the Ministry together with its bodies and other

[1] Official Journal RS, Nr 39/06, 49/06 – ZMetD, 66/06 – odl. US, 33/07 – ZPNačrt, 57/08 – ZFO-1A, 70/08, 108/09, 108/09 – ZPNačrt-A, 48/12, 57/12, 92/13, 56/15, 102/15, 30/16, 61/17 – GZ, 21/18 – ZNOrg, 84/18 – ZIURKOE in 158/20).
[2] Official Journal RS, Nr 96/04, 61/06 – ZDru-1, 8/10 – ZSKZ-B, 46/14, 21/18 – ZNOrg, 31/18 in 82/20).

independent state bodies like the Office for Nature Conservation or other Governmental bodies).[3] *Therefore, they are giving written opinions to the Ministry shall, within 30 days, inform the planning authority whether the ER conforms or is to be supplemented with more detailed information.*

It is worth mentioning that the main body within the Ministry responsible for conducting procedures for SEA, EIA and different environmental permits is Agency for the Environment (AE, Slovene: ARSO – Agencija Republike Slovenije za okolje). Since there is a division between the environment on the one hand and nature on the other, this further corresponds to the competence of another body being in charge for nature conservation. This is already mentioned Office for Nature Conservation. AE issues decisions de iure imperii, and the Ministry holds the competence to review its decisions. Office for Nature conservation, differently, prepares opinions for the SEA (also EIA) procedures where nature (not only the environment) is at stake. The AE is the one that will take these opinions into account when deciding on the SEA procedures.

The AE is a significant agency. In essence, it is responsible for all procedures regarding environmental protection. This is true, for instance, also for monitoring and other procedures. The Ministry is its supervisor, also responsible for reviews of its decisions.[4]

[2] EU infringement proceedings?

Have EU infringement proceedings been brought against your Member State for alleged failure to comply with the SEA Directive? If yes, please provide brief details.

According to the publicly available information, one procedure was initiated years ago by the European Commission (EC) by one civil initiative claiming that the directive was not implemented properly. However, the EC stopped the procedure in 2018 since changes to the Slovene legislation shall expand a circle of possible litigants seeking annulments of spatial plans. This was later, in fact, true. However, the changes relate to EIA procedures, not to SEA procedure (see below Nr. 17).

[3] Objectives (Art. 1)

The CJEU has frequently referred to Art. 1 as a starting point for its rather expansive interpretation of various provisions of the Directive.

(i) Is the Objective of the Directive reflected in your Member State's national legislation?

Definition of SEA in Art. 40 of the EPA is rather comprehensive. It reads: "To implement the principles of sustainable development, integrity and prevention, in the process of preparation of a plan, program, or other general act and its amendments, the implementation of which may have a significant impact on the environment, a strategic environmental assessment shall be performed, that will identify and assess environmental impacts and the inclusion of requirements for environmental protection, nature conservation, protection of human health and cultural heritage."

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

[3] *Art. 42 EPA sets forth that a planning authority shall submit the plan, the environmental report and its revision to the ministry. The ministry shall then forward documents to the ministries and other organisations that are with regard to the content of the plan responsible for particular environmental protection matters or for the protection or use of natural assets or protection of cultural heritage and invites them to give, within 21 days, their written opinions on whether the environmental report enables them to assess environmental impacts of the implementation of the plan from the position of their competencies or whether the environmental report is to be supplemented by additional or more detailed information to enable the environmental impact assessment to be carried out, otherwise it shall be deemed that the environmental report conforms.*

[4] *There no other independent commission or similar bodies. The public on the other hand has a direct access to these procedures (however, only public concerned can be the intervenient, i.e. NGO, oweners of the land being confronted with the impacts of the plan).*

Administrative courts[5] apply EU environmental rules directly. This can be also said for the Constitutional Court. Both courts are competent to adjudicate in annulment actions headed towards the general spatial planning acts. The courts, however, review the legality of the procedures and the application of EU rules, not the suitability of the administrative decisions.

[4] "Plans and Programmes" subject to SEA

(i) Art. 2 (a) (Definition of "plans and programmes"): How has this definition been transposed into national law and, in particular, how is the concept "required by legislative, regulatory or administrative provisions" understood – either in national legislation and / or in national jurisprudence?
Keep in mind here that the CJEU has interpreted this concept to include not only "plans and programmes" which the planning authorities are *legally obliged* to prepare, but also those "plans and programmes" which the authorities *may draw up at their discretion* (Case C-567/10). Note that this was quite a controversial ruling. How was it received in your country?
The CJEU has also recently interpreted the concept of "plans and programmes" as including an "order and circular" adopted by the Flemish Government concerning the installation and operation of wind turbines (Case C-24/19).

The notion is broadly understood also by the Administrative courts. For instance, in case I U 1960/2018[6] the court based its judgement also on the decision in C-567/10 and also in Case C-160/17, took the same view as the CJEU, that an environmental assessment under Directive 2001/42 must be carried out as soon as possible, e.i. already at a stage, in which it is possible to analyse various options and make strategic decisions. Furthermore, it stated that SEA must be carried out in such a way as to contain comprehensive, accurate and definitive findings and conclusions that can dispel any reasonable scientific doubt as to the effects of works envisaged in the protected area concerned. The assessment carried out in this way does not preclude implementing a (re)assessment procedure for plans at lower levels, insofar as new or more detailed implementation conditions are specified in them or if they contain new interventions or cover new areas. In this case, the Action plan for the environment (on a state level), which is not a spatial planning act, but rather a soft law defining certain future possible actions, was understood by the Administrative court as a plan according to the SEA directive and Slovene legislation. It means programme/plan is also an act that is not mandatory in its legal nature.

(ii) Art. 3 (Scope): How has this provision been transposed into national legislation, and, in particular, has your country added any additional categories of "plans and programmes", either in legislation or on a case by case basis (see Art. 3(4) and (5))? Note here Case C-300/20, a reference for a preliminary ruling pending before the CJEU concerning the application of Art. 3(2)(a) to a regulation on nature conservation and landscape management.

[5] *Since SEA (and also EIA, env. permits etc) demand decision of the authorities, the competence is given to the Administrative courts (to adjudicate on individual acts, but also to spatial general acts. Since the Constitutional Court is also competent to review the legality of the general acts the clash of the competence is present at the moment. There is a pending case at the Constitutional Court to rule on this issue.*
One more explanation; there are no specific environmental courts in Slovenia, however the Admnistrative courts can use (in does in fact) internal specialization of judges.
[6] *(ECLI:SI:UPRS:2020:I.U.1960.2018.34; available here in Slovene language: https://www.sodnapraksa.si/?q=%22C-567/10%22&database[SOVS]=SOVS&database[IESP]=IESP&database[UPRS]=UPRS&_submit=i%C5%A1%C4%8Di&rowsPerPage=20&page=0&id=2015081111441665)*

It is outlined in the second paragraph of Art. 40 EPA that SAE is carried out for a plan adopted by the competent authority (of the state or municipality level) in the field of spatial planning, water management, forest management, fisheries, mining, agriculture, energy, industry, transport, waste management and wastewater supply, drinking water supply, telecommunications and tourism, etc., if it determines or foresees an intervention in the environment for which an EIA must be carried out or if it requires an assessment of acceptability under nature conservation regulations.

Plans and programmes can only be adopted on the state or municipal level. Acts regarding spatial planning are also explicitly defined in the Spatial Management Act.[7] *This regulative framework, although rather precise, is still open to an additional interpretation, i.e. which exactly are general acts that would include spatial planning solutions. Namely, planning authorities might also use other acts, not only those mentioned in the law, especially different soft laws, like action plans, guidelines etc. One such case is discussed above; a case of the Action plan for the environment (at the state level) that is not a spatial act but was found by the Administrative court being a plan or programme. There are also some other cases: for instance, a strategy for spatial regulation of municipalities is also an act that is a plan according to EPA and the Directive.*

(iii) "likely to have significant environmental effects" – is this concept elaborated on in national legislation? Is there official guidance and / or national jurisprudence on the meaning of the phrase "likely to have significant environmental effects"? Who determines whether a particular plan or programme is "likely to have significant environmental effects"?

One important act of the executive power helps define this; "The Decree laying down the content of the environmental report and the detailed procedure for assessing the effects of certain plans and programmes on the environment"*. It regulates: 1) determining the effects of the implementation of the plan on the environment 2) evaluation of the consequences of the implementation of the plan 3) assessment of the impacts of the implementation of the plan on the environmental objectives of the plan and 4) the evaluation of the impacts in the following size classes:*

- *Class A: no impact or positive impact;*
- *Class B: impact is insignificant;*
- *Class C: the impact is insignificant due to the implementation of mitigation measures;*
- *Class D: impact is significant;*
- *Class E: the impact is destructive;*
- *Class X: Impact cannot be determined.*

The final determination on whether a particular plan/programme is likely to have significant env. effects lie at the Ministry and its offices.

*When it comes to protected areas in nature, a special regulation is in place. The law on nature conservation foresees a special opinion prepared by the independent office, specialised for assessing nature. "*Rules on the assessment of the acceptability of effects caused by the execution of plans and activities affecting nature in protected areas"[8] *outline the content and conditions for assessments. The mentioned opinion considers the Habitat and Birds directives (Natura 2000) is then given into the SEA procedure.*

(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?

[7] *Offcial Journal Nr. 61/17.*
[8] *Offcial Journal Nr. 130/04, 53/06, 38/10 in 3/11.*

The planning authority (i.e. particular governmental body, like certain ministries, also municipalities[9]) must send a notification of his intention to the Ministry before the beginning of its preparation. The notification must contain information on the type, content and level of accuracy with which the plan will be drawn up, including an appropriate cartographic representation of the specific or planned interventions or the area covered by the plan. Within 30 days, the Ministry shall adopt information on whether a SEA is required for the plan. With a public announcement on the www, the mentioned Ministry also informs the public whether a SEA will be carried out for the plan. As noted above, this approach is supplemented by the rule of the EPA (Art. 40.2) that the SEA is always necessary in case the EIA is prescribed. This helps many projects, i.e. answering in advance that the SEA is to be performed or not. Namely, provisions on EIA are very detailed, listing in the appendices industry, activities, etc., for which the EIA is necessary.

(v) " … which set the framework for future development consent of projects" specified in the EIA Directive. Has national legislation / official guidance and / or jurisprudence further elaborated on the meaning of this concept?

It is relatively common in the environmental field that rules are rather very detailed. Therefore, statutes, especially the EPA and the NCA (and others), define rules horizontally (widely applicable in different areas) and in more general terms, whereby the executive branch further elaborates and defines rules more technically to explain and gives more detailed guidance.

(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?

General spatial planning acts can be adopted on the state and the local level. That is all. These are two levels, and the Spatial Management Act divides competences. When it comes to the requirement of an environmental assessment, the sole criteria is the impact on the environment. The size of the area is also an element that conditions the EIA and indirectly also the SEA. Namely, if the EIA is not necessary in a particular case due to the "size" of a project (for instance, a plan for a garage house for no more than 100 vehicles or a net floor area of no more than 10,000 m^2), the EIA is not necessary. And according to Art. 40.2 EPA, SEA is necessary when EIA is to be carried out.

(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?

Indeed, denominatio non nocet is a general rule, a principle. Although the Spatial Management Act defines so-called "spatial acts", it might be that also other acts can have impacts on the environment. As also noted above, an action plan can also be regarded as a plan or programme. Another example is the Slovene strategic energy and climate plan (a decision on SEA was rendered 21.2.2020).

[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?

The SEA is a condition for any procedure aiming to adopt a general spatial act, whether by the legislator or the executive branch. However, the SEA shall not be carried out for a plan drawn up based on a plan for which the SEA has already been carried out (unless new or more detailed implementation conditions are laid down unless

[9] I do not recall a case where the environmental and planning authorities would be the same.

there are additional interventions or does not cover new areas according to the plan based on which it is prepared). This is regulated in Art. 40.4 of the EPA. A practical example is a case mentioned above I U 1960/2018 indicating that SEA for an action plan can still be newly made if spatial acts define new additional information.

[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? (ii) Who makes the scoping determination? (iii) Is the scoping determination available to the public? (iv) How is the concept "reasonable alternatives" considered in practice – either in national legislation, official guidance and / or national jurisprudence?

The ER is defined as a document in which the important impacts of the implementation of the plan on the environment, nature conservation, protection of human health and cultural heritage and possible alternatives that take into account the environmental objectives and characteristics of the area to which the plan relates are defined, described and evaluated. The ER is a legal requirement stipulated in the EPA and more detailed regulated in the "Decree laying down the content of the environmental report and on a detailed procedure for the assessment of the effects on certain plans and programmes on the environment". The planning authority (certain Ministry, municipality) shall notify his intention to the Ministry before the start of its preparation. The Ministry shall inform the planning authority in writing whether a SEA is required for the plan and the necessary content of the ER. The Ministry also confirms the scoping, but the planning authority gives the proposal in the ER.[10] Thus, the public is given the ER, not only a scoping.

After establishing the adequacy of the ER (also by the previously mentioned Ministry), the public shall become acquainted with it within a public disclosure lasting at least 30 days and ensure their public hearing.

[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?

If available, please provide one example of an SEA with regional or national implications (not just local) to illustrate how consultation is carried out.

The plan and the ER shall be forwarded to the Ministry, which shall immediately send it to other ministries and organisations responsible for individual environmental protection matters, inviting them to send a written opinion within 21 days on the acceptability of the environmental impact of the plan or to communicate in writing that the ER does not allow an assessment and that the ER should therefore be supplemented by additional or more detailed information. Next, the Ministry informs the planning authority within 30 days that the ER is appropriate or requires amendments. This is a stage in which the planning authority has a (first) chance to give the decision-making authority additional information, facts, etc. Finally, the Ministry examines the acceptability of the plan's effects on the environment based on the plan itself and the ER. Then, it issues a written opinion on the acceptability of a plan.

After determining the ER's adequacy in adopting the plan, the planning authority must enable the public to become acquainted with the plan, and the environmental report within a public disclosure lasting at least 30 days and ensure their public hearing. In the context of public disclosure, the public has the right to give opinions and comments on the plan and the ER. The planning authority publishes the public announcement in the usual local

[10] *The planning authority shall provide in the ER the impacts of the implementation of the plan on the environment and possible alternatives, having regard of the objectives and geographical characteristics of the area to which the plan pertains. The initial activities of defining, describing and evaluating the impacts are therefore made by the planning authorities but under the later scrunity of the Ministry and other authorities, above all the AE.*

manner and on the World Wide Web (a particular site of the Ministry). The right to give opinions and participate in the procedure has a natural or legal person who has a permanent residence or registered office in the area to which the plan relates or owns real estate and non-governmental organisations acting in the public interest of environmental protection.

EPA defines public participation in the process of SEA. Of course, the public may give opinions and comments on the plan and the ER as part of the public disclosure. Still, in the case plans refer to nature (not the environment), the Law on Nature Conservation (LNC) defines the rights of associations acting in the public interest more broadly. Namely, these associations have the right to represent nature conservation interests in administrative and judicial proceedings, which means the legal interest in participating in administrative proceedings defined by law.

Practical example: plans for a highway that should have been located in rather varied relief and agricultural land were prepared for years. Six different options for the road were discussed in public consultation. By also recalling the Aarhus convention, broad discussions were initiated. Interesting, not only individuals but also municipalities were given a right to be heard and to participate. Concerning the state decision-making process, the municipalities were given the same position as the public concerned, although they acted as local authorities. However, in relation to the state, they were considered a public.[11]

As far as possible, the planning authority must consider the written opinion and comments referred above and the views and comments of the public. A plan, drafted with all the opinions taken into account shall then be sent to the Ministry, which assesses it in line with the ER, revised ER and the opinions. If the plan has changed significantly, the bodies that issued mentioned opinions are requested to give another written opinion expressing their consent. Finally, the Ministry issues a decision approving the acceptability of a plan if it considers that the effects of the implementation of the plan are acceptable or refuse confirmation if it believes that the impact of the plan is not acceptable to the environment/nature.

If the planning authority disagrees with the (unfavourable) decision, an appeal is possible, and after the appeal, the lawsuit at the Administrative Court is also potential.

[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?

Actually, this is part of the EPA, although it is not necessary to be implemented. To my knowledge, this provision was invoked by the Republic of Slovenia in case of plans to build gas terminals in the Gulf of Trieste. Slovenia claimed that the project would have a transboundary effect and that it was not informed in time. A claim was prepared to be filed against Italy at the CJEU in this respect.

[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?

Opinions and remarks given by the general public is information provided to the authorities. Therefore, they can benefit from the information. This is a significant step for the public concerned/affected (or likely to be affected) and the NGO. Namely, their remarks and opinions can be later used in the administrative and possible court proceedings.

[11] *Decision of the Constitutional Court, Nr. U-I-313/18, Official Gazette RS, No. 36/2019 and OdlUS XXIV, 4, 25.04.2019*

[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?

(Note: The REFIT examination suggests that monitoring is poorly executed in many countries).

A part of certain decisions on SEA (i.e. SEA is concluded with a decision) is also an obligation to perform monitoring, especially for the adopted mitigation measures. Such obligation is defined by the decree mentioned above, more precisely: In the decision approving the plan, it shall also be decided, based on the ER, on the monitoring to implement the plan. Furthermore, the decision determinates also environmental indicators or other evaluation criteria, the short-term or temporary impact on the environment during the implementation of the plan in the medium and long term and the permanent impact after the implementation of the plan are determined, monitoring bodies for the implementation of the plan and methods of reporting on the results of monitoring the implementation of the plan.

[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? (Note here Case C-24/19 paras 80-95 concerning the legal consequences, and the role of the national court, where there has been a breach of EU law).**

The SEA is concluded by a decision (Art. 46.2 EPA), not by a general act. The SEA process is aimed at a general spatial act; however, an individual decision is issued before adopting the plan. This decision can be attacked (action for annulment) at the Administrative court.[12] This is one way to challenge the SEA procedure. Another one, if the general spatial act does not respect the SAE decision, is to challenge the latter act itself. For this action both, the Administrative Court and the Constitutional Court are competent. The consequence of successful action is that the spatial act is annulled.

(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)?**

See the above answer. In addition: In an administrative dispute, the court shall decide on the legality of spatial implementation acts as general legal acts in the part of:

- *determination of the intended use of space or guidelines for the intended use of space,*
- *determination of spatial implementation conditions relating to the purpose of the interventions in space, their location, size and design, or the size of the construction plot, or*
- *the most appropriate variants in the regulation on the most appropriate variant.*

Action in an administrative dispute may be filed by:

- *a person concerned (like in Aarhus convention);*
- *a non-governmental organisation that has an active status of acting in the public interest in the field of spatial planning, environmental protection, nature conservation or protection of cultural heritage, or*
- *the State Attorney's Office at the request of the government for the protection of the public interest.*

(iii) Is it possible to challenge a negative screening determination? Is it possible to challenge the scoping determination?

[12] *For instance a judgement of the Administrative court I U 35/2018-18 (21.06.2018).*

Both questions can be answered together; I refer to jurisprudence. The ER can be verified, and the applicant could challenge the deficiencies of the environmental impact report with a report produced by a specialist.[13]

(iv) Is there any significant national jurisprudence on access to justice in the SEA context?

These actions are not so rare. Actually, NGOs are relatively active and also important cases (like plans for hydro-powers plans etc.) are being challenged at the Administrative court. The legislator adopted changes in 2020 that limit the standing of the NGOs.[14] *The Constitutional Court issued an interim order, and these changes are currently not applicable up to the court's final decision.*[15]

[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?

Not to my knowledge.

[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).

Not to my knowledge, at least not formally.

[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.

Not to my knowledge. There are individual articles but not advanced studies. SEA is also part of internal guidelines (from state to municipal level).

[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 a particular web page, a portal[16] *for all SEA procedures and notices. Also, if SEA is not necessary for a particular plan, this information is communicated to the public. However, it is not accessible in the EN language.* [17]

(ii) Is there any national database of SEA reports, Environmental Assessments and the relevant decisions made by the competent authority etc.? If yes,

[13] *A judgement of the Administrative Court III U 484/2010, dated 9.6.2011.*
[14] *Act Determining the Intervention Measures to Mitigate and Remedy the Consequences of the COVID-19 Epidemic, OJ of the RS, Nr 80/20 with latter changes).*
[15] *Case U-I-184/20 (OJ of the RS, Nr. 101/2020 of 2.7.2020).*
[16] *https://www.gov.si/podrocja/okolje-in-prostor/okolje/okoljske-presoje/drzavni-prostorski-nacrti-odlocitve-o-izvedbi-celovite-presoje-vplivov-na-okolje/*
[17] *Only general information: https://www.gov.si/en/policies/environment-and-spatial-planning/environment/environmental-assessment/*

please summarise the position briefly and indicate if the database is available online.

Currently, I cannot find a www page where ER would be published. But all administrative decisions are part of the public access information and (at least) must be accessible on a request.

[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?

Above is already mentioned the case of a project for a motorway, whose route also crosses agricultural land and which implementation would also demand demolitions of quite a high number of houses. Due to considerable opposition by the local residents, farmers and local authorities, the SEA procedure offered different options, six of them, together with a number of conditions for mitigation measures.

[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?

In 2018, the Construction Act introduced the so-called integration procedure that combines a procedure to award a building permit and the EIA process, but not the SEA process. The SEA procedure remains outside this integral procedure. Therefore, if the facility with environmental impacts, the procedure for issuing a building permit and the EIA procedure are combined (integrated procedure).

Participants in the integrated procedure may also be a civil initiative of 200 persons with permanent residence in the area of the place where the construction is intended. However, this does not affect the SEA procedure, and it is not allowed in the SEA procedure.

[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 was introduced two decades ago. It was something rather new but also something similar to EIA. I often noticed the confusion in this respect. To a certain extent, the investors comprehended SEA as another administrative procedure that duplicates EIA. Another element that needed certain time and experiences from practices is that SEA is more a process than a procedure involving more stakeholders. It takes time, and it lacks foreseeability. It demands consenzuablity. ER is a base for discussions, and later on, the decision on SEA both gained importance. I think, my subjective observation, that SEA needed some time to be accepted and understood in the MS. Also, for which acts (what is a plan was also a confusing element in Slovenia). Specific unclear points, like the mentioned one, definition and its boundaries of plans and programmes, are now mostly resolved and widely accepted.