



## **Environmental Governance: Communication on the Application and Effectiveness of the SEA Directive Published**

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**Summary:** The Commission has published a Communication on the application and effectiveness of the Strategic Environmental Assessment (SEA) Directive. The Communication mentions the possibility of expanding the SEA Directive to cover policies and legislative proposals to better correspond to the scope of the SEA Protocol (which supplements the Espoo Convention on Environmental Impact Assessments in a transboundary context). The Communication also includes a section on the Commission's experience of SEAs of Cohesion Policy Operational Programmes (Ops). Encouragingly the Commission has found that the SEAs have clearly influenced the content of OPs and that environmental authorities have been involved in the decision making procedures.

### ***Background***

On 14 September, the European Commission published a Communication<sup>1</sup> on the application and effectiveness of the Strategic Environmental Assessment (SEA) Directive (COM(2009)469). The Communication is based in part on a review report<sup>2</sup> of the application and effectiveness of the SEA Directive published in January 2009. In July, the Commission published a similar Communication on the EIA Directive (COM(2009)378) (see IEEP Analysis Briefing: 31 July 2009) and as both Directives are closely linked, this analysis briefing examines how these Communications correspond to each other.

### ***SEA and biodiversity***

In a similar vein to the EIA Directive, Member States take the view that there are no major problems in integrating biodiversity considerations into the SEA process. However, whereas the EIA Communication, based on the Commission's implementation experience, recognises that the EU Biodiversity Action Plan (BAP) requires better integration of biodiversity into land-use planning and development, the SEA Communication only briefly touches on the issue. This is surprising, given that the focus of the SEA Directive is closely linked to development consent and land use planning, and hence would be better suited for integrating biodiversity into land use planning than the EIA Directive. Also, where the EIA Communication calls for a single assessment procedure for projects falling under the EIA Directive and habitats Directive, the SEA Communication does not recommend anything similar for plans and programmes under the SEA Directive.

### ***SEA and climate change***

The SEA Communication recognises that climate change issues are not sufficiently integrated into the SEA process and calls for further guidance on the issue. Also the suggestion of the EIA Communication to expand Annexes I and II through the

comitology procedure to better reflect climate change issues, would in itself expand the scope of the SEA Directive to also cover plans and programmes for these climate change projects.

### ***EIA and SEA***

The possibility of consolidating the SEA and EIA Directives into a single Directive in order to overcome overlaps (see IEEP Analysis Briefing: 2 December 2005) is rejected by the SEA Communication. As with the EIA Communication, the SEA Communication states that it is not appropriate at the present time to merge the two Directives. At this stage the SEA Communication recommends that better coordination and coherence can be achieved by covering the inconsistencies between the provisions of the two Directives and by clarifying the definitions of problematic project categories in the EIA Directive.

### ***SEA and SEA Protocol***

The Espoo Convention on EIA in a transboundary context has been supplemented by the SEA Protocol, although the Protocol has not yet been ratified. Unlike the SEA Directive, the SEA Protocol also covers policies and legislative proposals. As the EU has signed up to the SEA Protocol, the SEA Communication considers the possibility of expanding the SEA Directive to cover policies and legislative proposals.

### ***SEA and Operational Programmes***

Interestingly the Communication also includes a section on experiences from SEAs of Operational Programmes. The findings are not based on the SEA review report but on the 'Commission's experience of the implementation and enforcement of the SEA Directive and its application to the EU co-financed 2007-2013 Programmes'. So far the Commission has found that:

- the content of the programmes was clearly influenced by the SEA process;
- the level of participation by the public in a number of Member States was not as high as it might have been;
- environmental authorities were consulted and involved in the decision making process; and
- the quality of the environmental reports was uneven.

### ***References***

1. Commission of the European Communities, Communication on the application and effectiveness of the Strategic Environmental Assessment Directive, (COM(2009)469), 14.9.2009, <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2009:0469:FIN:EN:PDF>
2. European Commission, Study concerning the report on the application and effectiveness of the SEA Directive, January 2009, <http://ec.europa.eu/environment/eia/pdf/study0309.pdf>

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