

## Part A

### **I. How is the SEA-directive (Directive 2001/42/EC) implemented in your country? What is the scope of its implementation?**

Directive 2001/42/EC has been implemented in Hungary through the enactment of *Act 53 of 1995, General Rules of Environmental Protection*, and also through *Governmental Decree 2 of 2005*, which monitors the effects of plans and programmes on the Hungarian environment.

These laws cover those plans and programmes, and any modifications to them, including those co-financed by the European Community, which are likely to have significant effects on the environment. Additionally they cover

- directives required by law, or by the orders of Parliament, the national government, or local governments;
- directives subject to preparation and/or adoption by an authority, by a body with administrative duties, or by local governmental bodies; and
- environmental directives introduced by the national government for adoption by Parliament.

### **II. What types of public plans and programmes are subject to a strategic environmental assessment in accordance with the SEA-directive?**

Category A: Assessments must occur on

- regional plans
- settlement-construction plans, local building regulations, and regulation plans which are prepared for entire settlements
- national development plans
- operative programmes of national development plans
- national, county, and local waste-management plans, and common waste-management plans of small areas
- medium-term plans of agricultural policy
- national plans of water management and national programmes
- catchment management plan
- national and local development plans for road networks

Category B: Assessments must also occur for plans and programmes not listed above, but

- which are created for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism or regional development and set a framework for future development consent of projects listed in the annex to the *Government Decree on Environmental Impact Assessment*, but which are independent from the currently-set thresholds and territorial limits, or
- likely to have harmful effects on *Natura 2000* territories.

The necessity of environmental assessment is measured by defining the probable environmental effects of

- regulation plans and local building regulations not prepared for an entire settlement
- smaller modifications of plans and programmes listed in Category B
- plans and programmes not listed in Category B, but which set framework for future development consent of activities or projects with environmental impacts.

### **III. What kind of authority (local, regional, central) is responsible for performing the duties arising from the SEA-directive?**

Plans and programmes overseen by authorities of national competence

- regarding protection of environment and nature conservation: National Inspectorate for Environment, Nature and Water
- regarding environmental health and hygiene of settlements: Office of the Chief Medical Officer
- regarding forestry, soil-protection, quantitative protection of arable lands and agricultural environment: Minister of Agriculture and Rural Development.

Plans and programmes overseen by authorities without national competence

- regarding protection of environment: inspectorate for environment, nature and water,

- regarding nature and landscape conservation: national park directorate
- regarding environmental health and hygiene of settlements: Policy Administration Services of Public Health (county-based government offices)

**IV. Does the competent authority normally ask other authorities on different administrative levels in the process of a strategic environmental assessment for their opinion or consultation?**

Yes, the competent authority asks the opinion of the bellow mentioned authorities.

If concerned by plans and programmes, elaborated by authorities of national competence takes part:

- regarding protection of geology and mineral properties: Minister of National Resources,
- regarding the protection of natural characteristics of natural curative factors and health resorts: Minister of National Resources
- regarding protection of historical monuments: Minister of National Resources
- regarding protection of built environment: Minister of National Development
- regarding chemical safety: Minister of National Resources
- regarding the prevention of industrial accidents: National Directorate of Disaster Recovery

If concerned by plans and programmes, elaborated by authorities of not national competence takes part:

- regarding local environmental protection and nature conservation: notary of the affected municipality
- regarding the protection of built environment: local main-architecture office
- regarding quantitative protection of water: Inspectorate of the Environment, Nature, and Water
- regarding forest protection: the local agricultural office
- regarding soil protection: local agricultural office
- regarding quantitative protection of arable lands: local office of land administration
- regarding the protection of geology and mial properties: mining district authority
- regarding the protection of natural characteristics of natural curative factors and health resorts: Office of the Chief Medical Officer
- regarding protection of historical monuments: the regional office of cultural heritage
- regarding chemical safety: National Institute of Chemical Safety of József Fodor National Public Health Centre
- regarding prevention of industrial accidents: local directorates of disaster recovery

**V. What types of decision are resulting from a strategic environmental assessment proceedings?**

The draft plan or programme and the environmental assessment, together with the summary of opinions and remarks of the environmental assessment may be submitted to the accepting authority, or in case the accepting authority is the national Parliament, then to the Government. The draft can be accepted or refused by the authority.

**VI. How does the authority ensure the public's access to environmental information in the proceedings based on the SEA-directive?**

To make comments on environmental assessments or to the drafts of plans and programmes, the elaborator publishes the following:

- the aim of the plan or programme
- the place and time where the compliance documentation of plan and programme—including the environmental assesment—can be checked
- the possibilities of making comments

Opinions and comments must be submitted within thirty days. The elaborator only has to consider those opinions and comments submitted within this thirty-day period. The draft of the assessment must be published by the elaborator in at least one national or local daily newspaper. If the elaborator has a homepage, the information must be published here, as well.

**VII. Who is authorized to take part in a strategic environmental assessment proceedings? What about for example people living in the neighbourhood, NGO's and authorities on different**

**administrative levels (local, regional, national)? What legal rights do participants of the proceedings have?**

The *concerned public* may take part in a strategic environmental assessment. *Concerned public* is defined as a natural person, legal person or organisation without legal personality

- that is affected or could be affected by a decision which may be subject to an environmental report; or
- that is otherwise interested in the decision, especially environmental or other non-governmental organisations, whose scope of activity is affected by the decision that may be subject to an environmental report; or
- that is qualified as such by other laws or by the elaborator

The *concerned public* may submit comments and ask questions, which must be considered by the elaborators as long as they are submitted within the thirty-day deadline.

**VIII. To what extent are the SEA and EIA procedures were integrated in your country? If a new industrial project also needs a change of the building plan, can the same documentation be used for the assessment of both the project and the plan? Are there problems related to the integration or the lack of integration for different actors (such as the public, the operator of the project, the municipality or authorities)? Can you give examples?**

There is no relationship between the two governmental decrees which have implemented the SEA and EIA procedures in Hungary, and there is no reference to the use of documents.

## Part B

### **I. How is the EIA-directive implemented in your country? What is the scope of its implementation?**

The EIA directive has been implemented in Hungary through the enactment of *Governmental Decree 314/2005*. The scope of the decree covers activities and installations listed in Annex 1-3, and its significant modifications or amendments.

### **II. What types of public and private projects are subject to an environmental impact assessment in accordance with EIA-directive?**

1. Projects listed in Annex 1 of the *Governmental Decree* can be started with an environmental permit issued after an environmental impact assessment process.
2. Projects included in both Annex 1 and 2 can be started with an integrated environmental usage permit issued after an environmental impact assessment and an integrated environmental usage permitting process.
3. Projects, included only in Annex 2, can be started with an integrated environmental usage permit issued after a integrated environmental usage permitting process.
4. Projects included only in Annex 3 and the expected environmental effects of the activity are significant, can be started with an environmental permit issued after an environmental impact assessment process.
5. Projects included in both Annex 2 and 3 and the expected environmental effects of the activity are significant can be started with a integrated environmental usage permit issued after an environmental impact assessment and a integrated environmental usage permitting process.
6. Projects included in both Annex 2 and 3 and the expected environmental effects of the activity are not significant can be started with an integrated environmental usage permit issued after a integrated environmental usage permitting process.

In the cases of Paragraph Point 2. and 5 the environmental impact assessment and the integrated environmental usage permitting procedures can be merged upon the decision of the environmental, nature protection and water management Inspectorate with authority based on the process of the preliminary examination.

### **III. What are selection criteria that should be applied by the developer or the competent authority to identify projects requiring an EIA because of their potentially significant environmental effects?**

#### **Criteria for deciding upon the necessity of an environmental impact study**

1. Characteristics of the project, in particular,
  - a) the size of area use, including the area demand of connected activities and facilities;
  - b) extent of the use of other natural resources and of the limitation on their use;
  - c) extent of its capacity or of its other size characteristics;
  - d) amount, hazardous nature and mode of disposing of waste produced during its siting, realization and abandonment;
  - e) size and significance of its burdening of the environment;
  - f) extent of risk of an accident or of a break-down, having regard in particular to substances or technologies used;
  - g) its attractive force for the realization, in the neighborhood of siting, of other activities and facilities having significant environmental impact;
  - h)
2. The environmental sensitivity of the area of siting and of the impact areas likely to be affected by the project, in particular,
  - a) sensitivity of the landscape, having regard to the existing land use, landscape use and landscape image;
  - b) the relative scarcity, quality and regenerative capacity of the affected natural resources;
  - c) its absorption capacity (including the capacity to be burdened, to regenerate, to adsorb pollution and to buffer of the affected environmental elements and systems), in particular in the following areas:
    - ca) wetlands, mountain and forest areas;
    - cb) protected nature reserves, Nature 2000 areas, nature areas, sensitive nature areas and elements of the ecological

network;

cc) areas in which an environmental quality standard has already been exceeded;

cd) densely populated areas;

ce) landscapes of historical significance, areas of architectural and archaeological heritage, settlements or settlement districts with characteristics to be preserved.

3. Characteristics of the potential environmental impacts, in particular,

a) the extent of their geographical area and the size of the population living on the area, expected to be affected;

b) possibility of their transboundary nature;

c) their complexity and complication (having regard, in particular, to the possibility of inducing impact processes covering more environmental elements, and to the synergies of the impacts);

d) possibility of accumulation of the impacts of other activities exercised or planned elsewhere in the region;

e) their magnitude and intensity;

f) probability of their occurrence;

g) their duration, frequency and reversibility (taking into account the possible preventive and mitigation measures);

h) extent of damaging or disturbing impacts on the final receivers of impacts (human beings, natural systems);

i) other characteristics, which can be significant from the viewpoint of environmental effects.

**IV. What kind of authority (local, regional, central) is responsible for performing the duties arising from the EIA-directive?**

On the first instance level: regional inspectorates for environment, nature and water, on the second instance level National Inspectorate for Environment, Nature and Water.

**V. When should an environmental impact assessment take place during the investment procedure?**

At the very beginning of the investment procedure.

**VI. Does the decision resulting from an environmental impact assessment grant the final development consent?**

No, the request for the final development consent has to be lodged with the EIA consent.

**VII. How does the authority ensure the public access to environmental information in the proceedings based on the EIA-directive?**

After receiving the request, unless the activity is subject to military secret protection, the Inspectorate shall publish an announcement in at least one local or national daily newspaper and on its home page that contains:

a) the name, seat and availability of the Inspectorate with authority;

b) the fact of initiation of environmental impact assessment;

c) an information if transboundary environmental impact assessment procedure is initiated;

d) the way of information of the public and the possibilities of making comments and asking questions;

e) the types of the possible decisions.

In the same time as publishing the announcement, the Inspectorate shall mail the announcement and

a) the request and its attachments to the locality according to the clerk of the municipality of the site of the activity,

b) the request and the non-technical summary from the attachments to the clerks of the municipalities supposedly concerned. The clerks shall immediately but not later than five days arrange for publishing the announcement on public places and also in another way usual at the locality. The announcement shall contain a reference to the possibility of access to the request and its attachments. The term of public announcement and of the possibility of access to the materials shall be at least thirty days.

After receiving the request, insofar the activity is not subject to military secret protection, the Inspectorate shall arrange public hearing on the territory of the municipality of the site of construction unless it rejected the request after its submittal. In the case of an activity subject to military secret protection the Inspectorate shall inform the clerks of the municipality of the locality of construction and of localities concerned. In the case when more than one locality is concerned or it is reasonable because of the number of concerned persons, the public hearing might be organised in several

localities.

**VIII. Who is authorized to take part in an environmental impact assessment proceedings? What about for example people living in the neighbourhood, NGO's and authorities on different administrative levels (local, regional, national)? What legal rights do participants of the proceedings have?**

The so called **concerned public**: is a natural person, legal person or organisation without legal personality

- a) that is affected or could be affected by the decision brought in the process determined by this Decree, or
- b) that is otherwise interested in the decision brought in the process determined by this Decree.

The environmental organisation according to Article 98, Paragraph (1) of Act 53 of 1995 on general rules of environmental protection shall always be considered concerned.

Concerned public can make comments, ask question, has the right to appeal.

**IX. In what way are questions concerning the application of the EIA-directive brought to court? Please give one example of the proceeding and the judgement.**

There has not yet been a decision issued on an EIA directive in a Hungarian court.

**X. What are the specific characteristics of the transboundary environmental impact assessment of certain public and private projects?**

In the case of activities and facilities listed in Appendix I of the Convention on environmental impact assessment in a transboundary context, done at Espoo (Finland) on 25 February 1991 (hereinafter: Convention) and proclaimed by Gov. Decree No. 148 of 1999 (13<sup>th</sup> of October), that have size limit indicators such as "large" or "major" instead of numeric values, conditions and size limits given at the obligation for a environmental impact assessment of the respective activities and facilities of Annex 1 shall be applied.

The Convention shall be applied in the case of activities not included in the Convention but included in Annexes 1 or 3 of this Decree if a transboundary effect can be supposed and the party of origin or the affected party is a member of the EEC. Coordination necessary for the implementation of the Convention's provisions and correspondence with the concerned parties of Article 1 point (iv) of the Convention are to be performed by the Ministry of Environment and Water Management (hereafter: Ministry).

1. Acting as Party of Origin

The Inspectorate, if during the preliminary examination process, in case the occurrence of a significant transboundary environmental impact – especially according to the criteria set forth in Appendix III of the Convention – is presumable, shall inform the Ministry and the user of the environment. The Inspectorate attaches to the information:

- a) two copies of the request and of the documentation of the preliminary examination;
- b) the announcement;
- c) statements of the inspectorate and of the special authorities about
  - ca) upon what grounds can the significant transboundary impact be presumed,
  - cb) what data and environmental information have to be requested from the impact area of the affected party (Article 1 point (iii) of the Convention) in order to complete the environmental impact study.
- d) translation of the preliminary examination documentation (in English or in the language of the affected party), prepared by the user of the environment.

These information and the documentation shall be sent before finishing the preliminary examination process. The Ministry – defining a deadline for response conforming to the time frames of the environmental permitting process – shall prepare the notification defined by the Convention and send the notification to the affected party and to the Inspectorate that shall forward it to the user of the environment. The Ministry shall forwarding the response and comments given on the notification by the affected party, as well as data and environmental information sent of the impact area on the territory of the affected party, to the inspectorate that shall deliver them to the user of the environment. In case the affected party in its response for the notification announces its desire to participate in the environmental impact assessment process, this shall be published on the homepages of the Inspectorate and the Ministry

and the procedure shall be continued with taking the provisions of the Convention and of Articles 12-15 into account.

The user of the environment shall have the translation of the international chapter and the non-technical summary prepared, by a deadline defined by the inspectorate, in English or in the language of the affected party, and it shall be filed to the inspectorate. The translation will have to be prepared if the inspectorate does not reject the application directly after issuing the environmental impact study and its possibly required supplements.

The Inspectorate shall immediately send two copies of the environmental impact study, the translation and the information mentioned above to the Ministry that forward them to the affected party and initiate consultation based thereupon. The Ministry involves the Inspectorate and if necessary the special authorities in the consultation. The inspectorate, with the involvement of special authorities concerned, may order the supplementing of the environmental impact assessment study upon the consideration of comments received at the consultation with and given by the public of the affected party. The Inspectorate shall send its substantive resolution upon the environmental permit and the integrated environmental usage permit to the Ministry that shall forward it to the affected party. In case further decisions are being made in the case due to legal remedies, they shall be forwarded likewise.

## 2. Acting as Affected Party

The Ministry, upon the notification sent by the party of origin (Article 1 point (ii) of the Convention), after preparing the necessary translations

- a) shall request the statements of the Inspectorate and of the concerned authorities upon the planned activity, its presumable environmental impacts, the significance thereof, and the necessity of participating in the Environmental impact assessment process of the party of origin. The Ministry shall request either the regional organs or the superior organs thereof, depending upon the extension of the presumed impact area;
- b) shall organize information for and request comments from the public of the presumed impact area, with the involvement of local municipalities if necessary.

The Ministry shall indicate in its response for the notification whether – upon the significance of presumed environmental impacts – Hungary intends to participate in the environmental impact assessment process of the party of origin and sends the opinions collected.

In case no notification has taken place by the party of origin but significant environmental effects can be presumed on the territory of Hungary, the Ministry request statements in possession of the available information from the inspectorates and concerned authorities upon the planned activity. If occurrence of a significant environmental impact can be presumed on the territory of Hungary, the Ministry signal it to the party of origin and request to apply the Convention.

The Ministry, after having prepared the necessary translations of the environmental impact study documentation sent by the party of origin,

- a) request statements from inspectorates and concerned authorities;
- b) organize information for and request comments from the public of the presumed impact area, with the involvement of local municipalities if necessary;
- c) organize a public forum and invite the representative of the party of origin thereto.

The Ministry shall publish the information sent by the party of origin on the decision about permitting the activity – after the necessary translations – on its homepage and shall send the translation to the concerned inspectorates in order to publish it on their respective homepages.