

**ASSESSMENT OF THE IMPACT OF THE  
FUTURE S.E.A DIRECTIVE  
ON INTEGRATED COASTAL ZONE MANAGEMENT**

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## **Objectives**

The purpose of the proposal for a Council Directive on the assessment of the effects of certain plans and programmes on the environment (SEA Directive) is to integrate environmental issues in drawing up and deciding on plans and programmes. Plans and programmes under Integrated Coastal Zone Management (ICZM) are obviously within this scope. Consequently, it is necessary to evaluate the proposed Directive's impact on future ICZM strategy so as to be able to take account of its provisions when drafting final recommendations. Moreover, as the Directive has still not been adopted, it is useful to examine whether any proposals for amendments can or should be made if particular aspects highlighted by the ICZM demonstration programme could be of benefit to it.

Taking account of the original context for implementing such a Directive (I), the report seeks to identify any provisions of the future Directive that have an impact on coastal zone plans and programmes (II) and highlight synergies between the SEA Directive and the ICZM process (III).

## **I. Presentation of the SEA Directive**

### Definition

Strategic Environmental Assessment (SEA) is a procedure integrated in the political decision-making process that is intended to ensure that the environmental consequences of various plans and programmes are identified, described and assessed before being adopted.

To this end, the parties involved may give their views, the results are taken into account in a document, and transparency is thus assured in drafting decisions.

The SEA procedure should contribute to sustainable development.

### Proposal for a Directive on environmental assessment of plans and programmes

Original text: COM(96)511 - 4/12/96

#### 1. Context

- Directive 85/337/EEC on the assessment of effects of certain projects on the environment. The important decisions are taken at the level of plans and programmes. The aim is therefore to fill this gap by applying the Directive 85/337/EEC process at strategic level. The Directive requires the Member States to ensure that environmental assessment is undertaken in major projects.
- As there is no requirement for general Community legislation, it is clearly necessary to adopt a Directive providing for environmental assessment of plans and programmes.
- Such a Directive formed part of the Commission's legislative programme of 1994, carried forward to that of 1995.

#### 2. Position of the Member States in 1995

- All Member States have land use planning systems but there is considerable variation in the utilisation of sectorial plans and programmes (e.g. mineral plan or energy plan).
- Methods and tools exist for the assessment of plans and programmes at the beginning of the decision-making process. A directive for the assessment of plans and programmes can therefore be adopted without delay.

#### 3. Opinion of the Member States on the proposal for a directive

- The Member States are in favour, but not all to the same extent.
- Many Member States pursue a policy of deregulation and are not minded to accept new administrative requirements.
- Some Member States prefer a recommendation, but a non-binding recommendation would in practice probably be ignored.

#### 4. Solutions

The directive should apply to plans and programmes which:

- clearly have an important impact on the environment;
- are easily susceptible to environmental requirements.

The directive will be reviewed after five years so as to extend it to other plans and programmes

#### Findings during the ICZM demonstration programme

One of the findings of the ICZM demonstration programme was that the environmental impact assessment required for certain projects under Directive 85/337 (EIA) is in general carried out after projects have been worked out and is basically intended to attenuate their impact. It was therefore necessary to carry out strategic environmental assessment to evaluate the effects of projects on the environment right from the preparatory stage of projects and programmes. It was noted that the main limitation of the current proposal was that only public projects were covered.

Current criticism springs from the fear that the problems encountered in the application of Directive 85/337 will re-emerge in the SEA Directive. These problems, in particular those concerning coastal zones, include the following:

- variations in application by Member States
- assessment pays no attention to maritime aspects
- insufficient reliability.

## **II. Environmental assessment of ICZM plans and programmes**

A precise analysis of the provisions of the proposal for a Council Directive on the assessment of the effects of certain plans and programmes on the environment (SEA Directive) makes it possible to estimate the extent to which ICZM plans and programmes are involved.

The Directive makes provision for the assessment of plans and programmes which are likely to have environmental impact (Article 1). Plans and programmes established under an ICZM procedure are covered as ICZM is an overall planning plan comprising the various activities.

The plans and programmes are not confined only to town and country planning (Article 2a):

- they are those drawn up by a competent authority; they may be adopted by the same authority or by a legislative act;
- they are also plans and programmes setting a framework for future development consent of projects (reference to their location, nature, size or operating conditions).

Amendments to plans and programmes are also covered.

The areas provided for in the Directive are as follows:

- transport
- energy
- waste management
- water resource management
- industry (including extraction of mineral resources)
- telecommunications
- tourism
- town and country planning
- land use.

All these sectors are taken into account in ICZM. The Directive seeks to integrate the environmental dimension. The ICZM procedure also takes account of interaction among these various sectors. A strategic view should measure environmental impact for each sector but also for the overall result of the activities in these sectors and their interaction.

The SEA procedure makes no specific mention of the agricultural and fisheries sectors. They can nevertheless also be covered by environmental assessment. The assessment could in this case concern plans and programmes but would be particularly effective if applied to policies.

The ICZM procedure has emphasised the impact which some policies may have on the environment, in particular European policies (CAP, common fisheries policy, structural funds, etc.). The strategic view of environmental assessment should, in order to be complete and fully effective, probably also assess the environmental impact of these policies.

The competent authorities responsible are designated by the Member States (Article 2(b)).

Environmental assessment means:

- the preparation of an environmental statement
- the carrying out of consultations
- the taking into account of these statements and consultations.

Like the ICZM procedure, environmental assessment requires consultation of the public and provision of information in an appropriate form (Article 2(e)).

Environmental assessment must be carried out before the adoption of plans or programmes (Article 4(1)). This should ensure that the objective of integrating considerations concerning environmental protection is attained.

In the implementation of the Directive account must be taken of the periods laid down. The Directive applies to new plans and programmes from 2000 (Article 4(2)).

Minor amendments and sufficiently localised plans and programmes require environmental assessment if the Member States deem this necessary (Article 4(3) and (4)). As the ICZM procedure is cyclical, there are frequent amendments to improve it. The public authorities must ensure that the environment is always properly taken into account.

If the plan or programme is exempted from environmental assessment, the public authorities must explain the reasons for this to the public concerned (Article 4(4)a). This provision emphasises the wish to inform the public.

The environmental statement contains the types of information referred to in the annex concerning the following points (Article 5(1)):

- (a) The contents of the plan or programme and its main objectives. Many projects have *a priori* an impact on the coastal environment; these types of information make it possible to measure its scope at a very early stage.
- (b) The environmental characteristics of any area likely to be affected by the plans and programmes. In coastal zones, interaction between various activities and natural environments is quite complex, and it is therefore absolutely necessary to have accurate knowledge of these characteristics.
- (c) Any existing environmental problems, in particular zones specially designated under the Birds Directive (Directive 79/409/EEC) and the Habitats Directive (Directive 92/43/EEC). These areas are strongly represented in coastal zones and therefore merit special attention.
- (e) and (f) The effects of implementing plans and programmes and any reasonable alternatives.
- (g) Measures to prevent, reduce and offset any adverse affects on the environment.
- (h) Any difficulties encountered in collecting information.
- (ha) The reasons for not adopting the alternatives considered. It is necessary to ensure that the solution adopted is the best one from an environmental viewpoint. This requires consultation of the public which should lead to consensus. ICZM ensures this type of debate through participatory collaboration which is an excellent way of obtaining a final decision accepted across the board. To attain this objective, a non-technical summary of the information provided concerning the plan or programme is required (hb).

In the environmental statement, the direct and indirect effects of the plan or programme are evaluated on human beings, fauna, flora, soil, water, air, climate, landscape, material assets and the cultural heritage, as well as the interaction between these factors (Article 5(2)).

The underlying concern is to take all possible effects into account. The Directive thus meets the objective of integrating environmental problems and all the parameters in evaluating the impact of plans and programmes, thus ensuring an overall grasp of what is at stake. These objectives coincide with those of ICZM.

The competent consults the authorities and bodies responsible for the environment concerned on the choice of the level of information details contained in the statement (Article 5(3)).

This provision must be applied very strictly for any plan or programme in the coastal areas where, as the demonstration programme emphasises, incomplete and inadequate information is one of the main causes of poor management and coastal decline.

The statement must include a non-technical summary of the information contained in it (Article 5(4)).

In brief, Article 5 stresses the need for sufficiently detailed information. This is of essential importance for a correct assessment and to be able to deliver a well-reasoned opinion in the decision making process, as consultation is required (see also the provisions of Article 6). A non-technical summary is required to facilitate this.

Article 6 specifies the conditions under which the public can express their opinion:

1. A copy of the plan or programme and of the statement must be made available to the authorities and bodies responsible for the environment and to the public concerned.
2. They must be given enough time to state their views.
3. and 4. The Member State designates the authorities and bodies responsible for the environment and indicates the public likely to be affected by the plans and programmes and to take part in the decision making process.

These requirements are more than sufficiently met by the ICZM procedure as consultation of the public concerned is the way in which the demonstration programme operates. This initiative should therefore be perpetuated.

It is necessary to inform and consult the Member States likely to be affected by plans and programmes (Article 7). This is of particular importance for coastal zones where a very wide range of transfrontier environmental effects may be measured: maritime pollution knows no borders.

Under Article 8 the authority responsible for adopting the plan or programme or for overseeing the adoption procedure must take account of the statement (Article 5), any opinions expressed (Article 6) and the results of consultations (Article 7). It will thus be in a position to make any amendments it deems necessary to the plans and programmes.

Following the adoption of a plan or programme, the authority informs the persons concerned and provides them with a copy of the adopted plan or programme and a statement on the way in which the procedures carried out in accordance with Article 8 have been taken into account (Article 9).

This means that transparency is necessary. The way in which information is to be provided is determined by the Member States. They must in this connection comply with the legislation in force on access to environmental information (specifically, the provisions adopted pursuant to Directive 90/313/EEC on access to information on the environment).

There are no legal remedies against the legislative act by which the plan or programme is adopted (Article 10). Such access to justice, however, is provided for in the Aarhus Convention, in particular in Article 9, allowing an appeal procedure if the provisions of Article 6 are not complied with. Its paragraphs 3, 4 and 8 apply to Article 7 (public participation concerning plans, programmes and policies relating to the environment). This means that an appeal would be possible if any of the following are not complied with:

- sufficient time for informing the public
- public participation from the start of the procedure

- the taking into account of the outcome of public participation.

### **III. Synergy**

Many provisions of the Directive are favourably received in the context of the ICZM procedure, as became apparent in the course of the demonstration programme.

The synergy between the two procedures may be emphasised with regard to existing variations, requisite information, consulting the public, financial aspects and overall assessment.

#### Variation

Formal decisional procedures exist for plans and programmes within the European Union. However, they differ from one Member State to another and vary according to the different sectors in each Member State.

Consequently, if an instrument for environmental assessment of plans and programmes is to be applied throughout the European Union, it must remain extremely adaptable. Such adaptability must apply to the various Member States where coastal zones are quite varied and the different sectors of activity since strategic environmental assessment varies according to the decisions and activities to which it applies (role, scope, form, etc.). It is found that differences between Member States are more significant in terms of the nature of plans and programmes than according to country of origin.

There are variations according to information available. The quality and quantity of information in practice depends on the means employed to collect information. Availability is complied with for information concerning the following:

- land use
- water management, pollution, transport, energy, agriculture
- industry, tourism.

The instruments for this assessment are likewise very diverse:

- laws and other legal instruments
- ministerial and government decisions
- circulars, notes.

The results may be incorporated in positive law or "soft law".

The SEA decision-making process applies to several administrative levels:

- national
- regional (in particular federal states)
- local (countries with decentralised government).

All these components are points in common with the difficulties raised by the demonstration programme. Application of a single text is problematic as there are significant variations within the European Union, both with regard to environmental assessment procedures and guidelines to be complied with for sound coastal zone management.

### Information required

The ICZM has shown that before any assessment can be made it is necessary to collect information and make it available for consultation. The following information is required for environmental assessment:

- overall description of the environment
- significant effects
- measures to minimise and/or manage impact
- alternatives
- non-technical summary.

In order to produce this information, in a useful and understandable format, it is necessary to survey the various sources of data available. The ICZM has also shown the importance of identifying potential actors, i.e. those responsible for implementing the integration process. Similarly, attention should be given to the officials responsible for environmental assessment and the resources available. In order to generate useful information, adequate data must be available and these must be transformed into understandable information for decision-makers and managers.

There are still many lacunae, varying from one Member State to another. The provisions do exist but they are still incomplete. However, the areas where they are too limited are still the integration of environmental assessment and the consultation of data in the decision-making process.

### Public consultation and participation

There are various examples of consultation throughout Europe:

- legal provisions for public participation
- participation taking place without being legally required
- indirect consultation through associations.

The level of participation in the different stages of decision-making varies. However, the minimum consultation requirement is usually met. At national level, indirect consultation is a good alternative as direct consultation is impracticable.

Environmental assessment under the SEA procedure forms part of the wider framework of assessing the impact of projects on the environment, natural resources assessment, economic assessment, risk assessment, etc.

These assessments cover the requirements of the ICZM. The widest possible consideration of areas affecting the final decision of a plan or programme covered by environmental assessment can be secured through public participation. It is not insignificant that the demonstration programme stressed the importance of public involvement. Participation by the public ensures that an ICZM initiative covers all questions relating to the quality of life, the cultural and social heritage, and leisure. These issues also play a role in environmental assessment. Public participation enables the proper application of procedures, whether under ICZM or environmental assessment;

The key principles of SEA are that the conclusions of the environmental assessment of the plan and consultation relating to it must be taken into account in the decision-making process. As in ICZM decisions, these conclusions are the outcome of consultation.

## Financing

The introduction of environmental assessment in local and regional development plans may lead to a 5-10% cost increase, mainly because of the research and information necessary to carry out the assessment.

However, the advantages should be highlighted:

- providing a systematic review, improving strategic concepts, throwing light on effects on the environment
- improved balance between environmental, social and economic factors
- simplifying the research process in individual projects.

Such arguments are also valid for the ICZM procedure which aims to find economic partners by involving the private sector.

A wide range of information used by environmental assessments is also useful elsewhere, specifically in ICZM. The sectors covered and methods used coincide in the two procedures. Making double use of the same information in a coordinated manner would lead to substantial savings.

The economic evaluation of a project or of a public policy only too rarely takes account of benefits connected with protecting and improving the environment. In the calculations no account is taken of important aspects of the environment, such as long-term sustainability, irreversibility, uncertainties, irreplaceability, etc.

## Overall assessment

When existing practices are assessed in the light of the straightforward requirements of the SEA procedure, they are considered at various levels of stringency and detail.

However, the basic principles must be complied with, such as the need to:

- furnish (to the authorities and organisations concerned) an explanation and justification of SEA proposals
- undertake an in-depth study of the development and publicity of SEA methods
- prepare an SEA guide of good practice.

These requirements have also been highlighted in the demonstration programme to ensure the proper functioning of the ICZM process. Integration can be successful only through sound information, consultation among the parties involved and proper compliance with the main principles of ICZM.

## **Conclusions**

A complex problem for the SEA procedure is that it must be applied in a uniform manner in all the Member States of the European Union while nevertheless taking account of considerable variations.

The way in which the environment is described, cause and effect relationships are analysed, and the parties involved are consulted before a decision is taken on

implementing plans and programmes is virtually identical in the environmental assessment procedure under the SEA Directive and in the ICZM procedure.

It is clear, therefore, that there are synergies between the two procedures relating to the decision-making process, the information available and the assessment tools employed. However, in environmental assessment account must be taken of the special nature of coastal zones. This geographic differentiation in accordance with the specific nature of each zone must be considered at the level at which environmental assessment is undertaken so as to prevent the marine aspect from being disregarded;

The requirements of the two procedures overlap in many respects. Experience gained in the ICZM demonstration programme may be conducive to improving the SEA procedure.

Care should always be taken that the SEA procedure does not just separately focus on different sectors. The plans and programmes worked out under the ICZM cover several sectors simultaneously. Only through an integrative approach will it be possible to have a strategic overview in environmental assessment.

## **Reference documents**

- Council communication COM(96)511 of 4 December 1996 - document 96/0304(SYN)
- Proposal for a Council Directive on the assessment of the effects of certain plans and programmes on the environment - document 596PC0551
- Amended proposal for a Council Directive on the assessment of the effects of certain plans and programmes on the environment - OJ EC No C 83/1999, p. 13