

Central Information Flows and Decision-Making Requirements

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ABSTRACT

Information needs of government for SEA, EIA and other aspects of biodiversity conservation and sustainable development were studied. This included needs related to biodiversity for land use planning, for operation of the EU Common Agricultural Policy, for agricultural policy more generally and for Biodiversity Action Plans. Legislation and its implementation were considered at European Union and member state level by direct enquiries and a preliminary questionnaire survey in project partner countries. Preliminary conclusions were drawn and lessons learned for a Pan-European survey which followed.

INTRODUCTION

Work on the “Central Policy Environment” topic, had as its objectives

- To identify information needs of government for SEA, SIA and other aspects of biodiversity conservation and sustainable development.
- To determine how that information is obtained.
- To produce a report detailing the information flows from local and regional to central.

The main Task was for the TESS consortium to gather information on how data for these processes is managed in 4 to 5 states, if possible with different types of environmental governance. After preliminary analysis it was decided (i) to focus on SEA and EIA at high level, since these techniques are embodied in EU law as explained below, (ii) to ignore SIA (sustainability impact assessment) because this is not generally embodied in legislation, and (iii) to include information needs related to biodiversity also for land use planning, for operation of the EU Common Agricultural Policy (CAP), for agricultural policy generally, and for Biodiversity Action Plans (BAPs) under Article 6 of the Convention on Biological Diversity (CBD).

Procedure and timetable

European Sustainable Use Specialist Group (ESUSG), the lead partner, first investigated (a) EU policy and legislation on EIA and SEA and (b) arrangements in the UK (England) for EIA, SEA, land use planning (LUP) and administration of the CAP, because these all had requirements for environmental, especially biodiversity, information to be collected and used in their decision making systems. This study, together with a draft questionnaire designed to elicit similar information in the other partner countries, was discussed with partners and a

revised questionnaire was circulated at the end of March 2009 together with a completed return for the UK as an example to provide guidance.

Returns for this enquiry were received from a partner in each of nine countries (Table 1).

Table 1. Responses were received for nine countries from the partners listed below.

Country	Organization
United Kingdom	ESUSG of IUCN/SSC
Turkey	WWF-Turkey
Romania	Danube Delta National Institute for R&D
Portugal	ERENA
Poland	Pro-Biodiversity Service
Hungary	Szent Istvan Univ, Inst for Wildlife Conservation
Estonia	IST, Tallin Univ of Technology
Greece	TERO Ltd
Slovenia	Centre for Cartography of Fauna and Flora

Partners were asked to complete the returns by 31 May 2009: the first was received in mid-May and the last in mid-October. Analysis was carried out by the Game & Wildlife Conservation Trust (GWCT) by mid-August.

EIA AND SEA IN THE CONTEXT OF BIODIVERSITY/ENVIRONMENTAL INFORMATION REQUIREMENTS AT GOVERNMENTAL LEVEL: EU ASPECTS

Policy and legislation at the EU level

TESS was not designed as a general review of formal environmental assessment legislation which is already carried out on a regular basis (European Commission, 2003; COWI, 2009a; COWI, 2009b). Nevertheless it can throw some light on the strengths and weaknesses of existing arrangements, especially in relation to impacts on biodiversity and the availability or otherwise of information needed for the appropriate assessments.

The fundamental rationale for environmental assessment is that a coherent environmental policy, to which the European Union is committed through its Treaties and various international obligations (e.g. World Summit on Sustainable Development (WSSD) 2002), requires that people who take decisions about proposals that will significantly affect the environment need to assess the impact of these proposals on the environment before they are carried out. By contrast, much environmental policy is concerned with addressing damage that has already occurred.

The EU has given this *ex ante* assessment policy legislative effect through 2 main instruments. They are the EIA and SEA Directives. For completeness we should mention that the Habitats, IPPC and Water Framework Directives also require similar assessments. However, this report focuses on the EIA and SEA instruments.

EIA and SEA are closely related instruments of EU law and policy. EIA is concerned with assessing the environmental impact of certain projects which are put forward by developers before they can proceed. SEA applies similar requirements to certain plans and programmes

proposed by authorities. Originally the intention was to have one directive incorporating both levels, with SEA providing the broad framework and EIA the application of the policy to individual projects. Moreover, logically SEA should have come first: politics, however, dictated the reverse, with some undesirable consequences (Partidário, 2007)

The EIA Directive and its amendments

Member states are required to ensure that EIA is carried out in appropriate cases by virtue of “Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain projects on the environment.” (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CONSLEG:1985L0337:20090625:EN:PDF>).

The original version was substantially amended by “Council Directive 97/11/EC of 3 March 1997” (<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:1997:073:0005:0015:EN:PDF>).

This means that both documents have to be read together to understand the provisions. Further amendments were made in 2003 by virtue of Directive 2003/35/EC in order to incorporate the provisions of the Århus Convention on public participation. A consolidated version can be downloaded (<http://ec.europa.eu/environment/eia/sea-support.htm>). In English this is referred to as the EIA Directive although there is no reference to “environmental impact” in the official title.

Provisions of the EIA Directive

Under the Directive, member states have to ensure that consent is not given to projects expected to have a significant effect on the environment without an assessment of their impact. Most of the provisions are procedural. However of special interest in the context of biodiversity conservation is Annex II, which inter alia, requires assessment for:

“1. Agriculture, silviculture and aquaculture

- (a) Projects for the restructuring of rural land holdings;
- (b) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;
- (c) Water management projects for agriculture, including irrigation and land drainage projects;
- (d) Initial afforestation and deforestation for the purposes of conversion to another type of land use;
- (e) Intensive livestock installations (projects not included in Annex I);
- (f) Intensive fish farming;
- (g) Reclamation of land from the sea,”

where these fall above certain thresholds.

Commission Review of the EIA Directive in 2003

The third 5-year review of the EIA Directive by the Commission was published in 2003 (EC, 2003). This document reveals a great deal about the state of implementation in these member states, especially the wide variations in practice at those points in the Directive where discretion is permitted. Overall the Commission found that not all new requirements arising from the amendments adopted in 1997 had been implemented fully, but they did not consider that any new amendments were called for.

The main points relevant to TESS to emerge from the Commission’s summary and recommendations were:

- Where thresholds are set for Annex II projects there are very wide variations in these thresholds between member states, some taking the view that EIA should be applied quite widely.
- There is considerable variation in the extent to which member states keep statistics of the

number of EIA's carried out and even where they do it is usually not possible to break them down by category (such as Annex I and Annex II). (NB The main report shows even larger variations in actual numbers recorded: for example 10-20 per annum in Austria compared with 6,000-7,000 in France, 3,000-4,000 in Sweden and up to 20,000 to 30,000 at regional level in Spain).

- Arrangements, if any, to ensure the quality of environmental information also vary a great deal: some states provide for independent review of information supplied by the developer while others leave it to the competent authority.
- Without formal monitoring, which is not required, or research it is not possible to assess the impact of the EIA process on decisions.
- There is great variation in the emphasis member states put on the consideration of alternative proposals within an EIA submission: some allow other organizations and the general public to contribute to the selection of alternatives.
- The impacts of the Directive upon flora and fauna appear to be met, though it is unclear how far biodiversity is addressed. CBD guidelines are mentioned.

COWI EIA Report to the Commission of 2009

The consultants' report for the subsequent fourth Commission-led 5-year review of the EIA directive (COWI, 2009a), became available shortly before this part of the project was finalised. It covers all 27 EU member states, thus including 12 new member states that joined the Union after the previous review. It is longer than the 2003 report but not in all respects more informative. The report of the Commission containing their own assessment and recommendations to the Council and Parliament was issued in September 2009 (European Commission, 2009).

COWI (2009a) point out that most if not all of the new member states had their own EIA legislation in force well before coming into membership and had aligned it to adopt the *Acquis* in good time. Thus they were no strangers to the requirements and generally made a smooth formal adaptation to the Directive. Their overall conclusion is that the Directive has come of age and is playing a valuable part in the application of environmental policy within the member states. Interactions with the Habitats and Birds Directives and Biodiversity Action Plans were not considered to present major problems, though the issue of cumulative proposals and the Directive's weak application to agricultural biodiversity was noted (presumably meaning 'wild biodiversity found in land managed for agriculture').

COWI (2009a) asked member states for statistics on the number of EIA's carried out annually for each of the years 2002 to 2006, including a breakdown between Annex I and Annex II cases where available, and presented the results in tabular form. The figures are not easy to interpret, partly because of incompleteness. Nor is there any attempt to relate them to those produced in the previous 5-yearly review (EC, 2003). Austria remains at the bottom end of the number of annual cases reporting 25-30 annually as compared with 15-20 in 2003; Sweden has 1,600 as compared with 3-4,000 reported previously and France reports 5,000 annually compared with 6-7,000 in 2003 (see paragraph 4.3 above). These numbers scarcely support COWI's comment that the general trend in the number of cases is upward. Moreover the position in Spain is rather obscure. In their table 6.2 COWI (2009a) present the overall Annex I numbers for the years 2002-6 as being 73, whereas the sum of the number for each year shown in the following columns is 585 or an average of 117 per year. No figures were available for regional cases between 2002 and 2006 but in the 2003 review (EC, 2003) an estimate of 20-30,000 was given for these cases. In relation to some countries a distinction is made between full EIA's and simplified cases. In Greece 1,100 cases annually are decided at central government level, while at regional level there are estimated to be 2,000 cases annually.

While one reason for different numbers of cases between countries of roughly equal population is that the thresholds for application to cases under Annex II may be set higher or

lower, this can hardly account for the huge variations implied by the figures given. It seems surprising that after four 5-yearly Commission reviews of the operation of the Directive by the member states, we are still no nearer to having a satisfactory explanation for this situation or any assessment of its implications for the fulfilment of the objectives of the legislation. No-one would imagine that Greece is seeing around one hundred times as many projects needing EIA put forward annually as Austria, so it would seem to follow that the objectives of environmental assessment are being achieved in rather different ways in the two countries.

Notwithstanding their generally positive endorsement of the operation of the Directive the consultants noted some outstanding problem areas affecting its contents. In considering quality control the consultants say that the lack of a requirement in the Directive to undertake reviews of the quality of EIA reports means that their quality is uneven and may lead in some cases to development consent being given on the basis of inadequate information. They add: "Many Member States point to the fact that lack of sufficient quality in data employed in EIA reports is a problem." They recommend that member states should be required to undertake continuous quality control of EIA reports and suggest that this could be done either by vetting the authorities or consultants who provide the reports or by having independent reviews.

The lack of a requirement for monitoring EIA projects once approved is a further weakness of the Directive noted by the COWI (2009a), a view also shared by the present authors. Since the SEA Directive has such a provision in Article 10 the omission is all the more glaring.

COWI (2009a) consider the aspect of regulatory simplification by saying "One way of achieving regulatory simplification would be to consider consolidating the EIA and SEA Directives for the purpose of clarifying their inter-relationship, to ensure more consistency between both pieces of legislation and to harmonise the key stages and elements of EIA and SEA. Key stages and elements would include the examination of reasonable alternatives as mandatory; establishing of monitoring measures as part of the environmental information; and efficient integration of quality management elements and reviews of the environmental information." There is much to be commended in this approach.

Although COWI (2009a) have no specific recommendations about the links between EIA on the one hand and the Habitats and Birds Directives and the EU Biodiversity Action Plan on the other, it is of interest that they were asked to look at this topic by the Commission and to consider their findings. While there is no formal link between the provisions of Article 6 of the Habitats Directive and the EIA Directive some member states have enacted such a link. In either case it is clear that Article 6 requires an appropriate assessment where a project is likely to have a significant negative effect on a Natura 2000 site (this includes sites designated under the Birds Directive) with regard to the conservation objectives of the site, while the EIA Directive requires an environmental assessment of any project (as defined) which will affect the environment (as defined). In their report to the Council and the Parliament, the Commission generally endorse the findings and recommendations of COWI (2009a). Opinions seem to diverge when general proposals for simplification of legislation are considered. The possibility of merging the EIA and SEA Directives is ruled out.

The SEA Directive

We can deal more briefly with the parallel regime, SEA. The relevant legislation is "Directive 2001/42/EC of the European Parliament and the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment". (http://www.central2013.eu/fileadmin/user_upload/Downloads/Document_Centre/OP_Resources/04_SEA_directive_2001_42_EC.pdf).

The objective is "to provide for a high level of protection of the environment and to contribute to the integration of environmental considerations into the adoption of plans and programmes with a view to promoting sustainable development, by ensuring that an environmental assessment is carried out of certain plans and programmes which are likely to have significant effects on the environment." Article 2 defines 'plans and programmes' as

those prepared by a national, regional or local authority or through a legislative procedure or which are required by legislative, regulatory or administrative provisions. Thus an important difference between the SEA and the EIA Directives is that the former only applies to plans and programmes of public authorities, not the private sector.

COWI SEA Report to European Commission of 2009

In parallel to their report to the Commission for the fourth 5-yearly review of the EIA Directive COWI consultants carried out a similar review of the operation of the SEA Directive, this being the first such review since the Directive came into force in 2002 (COWI 2009b). The methodology was also similar to that used for the EIA review.

On the overall effectiveness of the Directive, COWI's (2009b) findings were broadly similar to those in their EIA report, i.e. that it was providing a structured contribution to decision making in the planning process from an environmental perspective and increasing the transparency and participatory character of such decision making processes.

On matters of more direct relevance to TESS COWI (2009b) pointed out that, when it comes to scoping, there is a significant lack of good quality environmental information in the member states, as well as uncertainty about the level of detail needed for baseline data in strategic documents. They were also concerned at the absence of a standard set of environmental and sustainability criteria and of guidance on impact forecasting.

The Commission's questionnaire produced a varied and somewhat patchy response relating to the volume of SEA's being conducted in each member state. Some countries reported cases completed, others cases in progress and yet others gave details of screening applications which in many cases presumably did not lead to actual SEA's. Generally there was better reporting of the use of SEA in the land use planning system than in other sectoral planning regimes, while the majority of SEA's also appear to relate to land use planning.

Finland had the highest number of SEA's, with around 1500 for land use plans and 10 for other sectors. Austria reported an estimated 200 SEA's in 2007, though different figures were reported to the "SEA Working Group": this contrasts with Austria's very small number of EIA's annually. At the same time there were 300 SEA screening procedures in the Austrian province of Salzburg, compared with only 20 in Vorarlberg. France had an estimated 400 cases of SEA for land use plans in 2007 and was aware of 40 cases in other sectors, though this information was not complete. No statistics are kept in the UK, but officials supplied an estimate of 400-500 cases in process to the Commission's enquiry – compared to a figure of 600-700 given to one of the author's of this report. Some countries with fewer SEA's have precise statistics, e.g. Bulgaria 109, Czech Republic 12, Spain 10 at national level, Estonia 165 (of which 16 at government level). In a number of federal countries statistics, if there are any, are kept federally, making a national picture hard to obtain. All that can be deduced from this rather sporadic information is that there are likely to be wide differences in the application of the Directive between member states. While it is easy to understand why member states might be granted a lot of flexibility in applying the Directive, the lack of a requirement to keep accessible records is a substantial hindrance to analysis of the strengths and weaknesses of this instrument of environmental policy and thus to potential improvements of its effectiveness.

General considerations arising from the EIA and SEA Directives

The SEA Directive has some interesting features. One is a requirement for mitigation if the likelihood of damage is assessed (and compensation if mitigation is not feasible) and a second is monitoring as the plan is implemented. The reference to sustainable development in Article 1 appears to reflect the timing of the Directive after the Rio Earth Summit. However the impact report required is strictly environmental. There is no suggestion that it can be tempered by social and economic considerations, even though in reaching a decision the

competent authority can consider these essential components of sustainable development.

We can say that EIA applies mainly to one-off infrastructure projects, which generally affect fairly small areas of land. What is not clear is how the number of EIA's can vary so much between member states of similar population size. One explanation is the level of the thresholds for application set by different member states under Annex II but this does not seem sufficient to explain the variation and it seems surprising that this has not been investigated further by the Commission. Moreover different orders of figures for the same countries in the 5-year Reviews add to the uncertainty. It was stated in the Commission's 2003 Review (EC, 2003) that there were up to 30,000 EIA's per year in Spanish regions which would suggest that EIA was being applied to cases well beyond what is strictly required by the Directive. However the 2009 Review (EC, 2009) puts France at the top of the EU league with some 5-6,000 cases per year, with Spain only reporting 320. It may be that where there are relatively large numbers of cases these would in some other member states be part of the normal land use planning system and would require the consideration of relevant environmental impacts but without the full and formal procedures required by the Directive. This seems to be the position in the UK, for example. SEA on the other hand applies to a wide range of plans, including very big ones such as regional spatial or land use plans covering millions of people and thousands of square kilometres of countryside. Obviously such a plan and the SEA which is required will be wide rather than deep. However SEA's can be applied to quite small areas such as urban neighbourhood renewal plans and to waste disposal or transport plans which are as much about types of activity as about land use changes.

Current arrangements at EC level

DG Environment is responsible within the Commission for EIA and SEA, while within the DG responsibility falls to Unit D.3, Cohesion policy and Environmental Impact Assessments. An important resource on EIA/SEA is the relevant part of the DG Environment website: <http://ec.europa.eu/environment/eia/home.htm>. This contains separate pages for EIA and SEA, each containing introductions, relevant guidance documents from the Commission, legal texts, research and other reports. These include all previous EIA 5-year Review reports including the latest and the first SEA report published. A list of government contact points and research centres is included, though it may not always be up to date.

Related Impact Assessment Tools

It should be noted that Sustainability Impact Assessment (SIA), which was considered in the context of TESS, is not a formal legal concept within EU environmental policy. However it was being developed as a policy instrument relating to land use by the FP6 Project SENSOR (<http://www.sensor-ip.org/>). Note that it, like TESS, is a decision-support tool. SIA has been applied to other EU policy areas such as trade relationships with developing countries. Sustainability Appraisals in the UK are tools for examining the impact of plans etc on sustainable development. The acronym SIA is also used within the International Association for Impact Assessment (IAIA) to denote Social Impact Assessment, among a family of environmental assessment/impact assessment tools to include Technological IA, Cumulative IA, Health IA and Ecological IA, as well as EIA, SEA and SIA (Partidário, 2009).

EIA, SEA AND LAND USE PLANNING IN THE CONTEXT OF BIODIVERSITY/ ENVIRONMENTAL INFORMATION REQUIREMENTS AT GOVERNMENTAL LEVEL: UK ASPECTS, AS AN EXAMPLE.

Regulations in the UK implementing EIA and SEA Directives

The EIA and SEA Directives are implemented in the UK through separate sets of regulations within each of the devolved administrations (England, Wales, Scotland and Northern Ireland).

These regulations apply the Directives in full and deal with those aspects of the Directives where the member states have discretion.

In the case of EIA, as well as separate general regulations for the four administrations, there are regulations for a number of specialized regimes such as those dealing with harbours, highways, transport schemes, pipelines, decommissioning of nuclear power stations and so on. It was not possible to examine all of these regimes, but for EIA the focus here will be on the application of EIA to proposals for development under the Land Use Planning (LUP) system (officially called Town and Country Planning in the UK) and to one specialized regime that is especially relevant to biodiversity: restructuring of agricultural holdings and conversion of semi-natural habitat to intensive agriculture (see Annex II paragraph 1 of the EIA Directive).

An important aspect is the naming of the mandatory consultation authorities– these differ from one devolved administration to another but in England they are currently the Environment Agency (pollution and water quality), Natural England (biodiversity and access to countryside) and English Heritage (built environment). The regulations applying to England deal with any cases involving UK-wide or international aspects. In Scotland the SEA regulations extend the application of SEA beyond the requirements of the Directive by bringing ‘strategies’ within its scope, as well as plans and programmes.

For convenience we will not describe further differences in the various devolved arrangements but will use the arrangements for England or the UK as a whole as examples for the purposes of TESS. The general effect of the regulations is that where projects or plans require environmental assessment in terms of the Directives, they cannot receive development consent under the land use planning system unless the assessment has been properly carried out.

It was noted earlier that paragraph 1 of Annex II to the EIA Directive lists as projects to which EIA may apply the restructuring of rural landholdings and the conversion of uncultivated land and semi-natural habitats into more intensive farming regimes. This provision has given the UK authorities some difficulty since such activity would not be caught by the normal LUP system but originally no steps were taken to implement it. The first regulations were made in 2001, but apparently not considered adequate, and so further regulations were made in 2006. These are called “EIA (England) (No.2) Regulations 2006” ” and is available at: (<http://www.legislation.gov.uk/ukxi/2006/2522/contents/made>) and Guidance about how they work has been issued by Natural England (2007), who also administers them as the competent authority. The Guidance explains that consent is needed in two cases:

- a) projects which increase the productivity for agriculture of land not cultivated for the previous 15 years; or
- b) projects which restructure rural landholdings, e.g. by removing more than 4km of hedges or other field boundaries or recontouring the land by moving of over 10,000 cubic metres of earth or affecting over 100 hectares (NB lower thresholds apply in designated landscape areas).

If such work is done without consent the farmer can be required to carry out restoration and may lose some (or all) of the CAP subsidy he or she is due under the “cross-compliance” rules (see below). In 2009 no consents had been given under these regulations.

Controls apply to farmers more generally when they wish to change the use of their land for agriculture within the CAP payment regime, now known as Single Farm Payments. Almost all farmers receive such Payments and thus subscribe to rules which require consent from the relevant government agency, Natural England, if they make significant changes in the management of their land. Consent will involve consideration of the environmental impact of the changes, including the impact on biodiversity. In addition receipt of a Single Payment in the first place will require what is called “cross-compliance” with a series of environmental rules.

UK official guidance on the SEA Directive

A number of official publications in the form of Departmental Circulars and guides provide valuable insights on how the various parties involved in environmental assessments are meant to go about their business. The Natural England Guidance on the EIA regulations for agriculture just mentioned is one special example. One of the most informative (Office of the Deputy Prime Minister (ODPM), 2005), is available at:

<http://www.communities.gov.uk/publications/planningandbuilding/practicalguidesea>. This represents official guidance on the SEA Directive at UK level.

The “Practical Guide” (ODPM, 2005) contains sections on background and context, consultation, SEA and sustainable development and the stages of SEA, backed up by 10 appendices offering more detail and useful figures and diagrams and a comprehensive list of references and documents for further reading. Among the examples given in Appendix 5 of the Guide are some SEA topic objectives, targets and indicators relating to biodiversity. For example:

<i>Objective</i>	<i>Indicator/target</i>
Maintain biodiversity, avoiding irreversible losses	achievement of Biodiversity Action Plan targets
Ensure sustainable management of key wildlife sites, SSSI's.	reported condition of nationally important sites.

Therivel (2004) is an influential book describing SEA in practice with many examples.

The UK land use planning system and biodiversity/environmental information

Whether or not EIA or SEA are required in particular cases, all significant development (i.e. construction or changes of use of land, except changes in agricultural or forestry practice, horticulture or gardening) requires consent of the relevant local or national authority, unless a general exemption, e.g. for small additions to buildings, has been given. This consent is usually referred to as “planning permission”. In addition authorities are required to prepare planning frameworks at regional and local levels, currently called Regional Spatial Strategies and Local Development Frameworks in England. Both the individual planning decisions and the frameworks are required to take account of national guidelines set out by the Department of Communities and Local Government in the form of Planning Policy Statements (PPS). However it should be noted that in mid-2011 the Government was consulting on radical proposals to simplify the planning system, including condensing the whole series of PPS's into one much shorter document.

PPS9, Biodiversity and Geology Conservation (Office of the Deputy Prime Minister, 2009), included some key principles:

- (i) Development plan policies and planning decisions should be based upon up-to-date information about the environmental characteristics of their areas. These characteristics should include the relevant biodiversity and geological resources of the area.
- (ii) Plan policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests, as well as preventing harm to them.
- (iii) Plan policies on the form and location of development should take a strategic approach to the conservation, enhancement and restoration of biodiversity and geology.

It will be seen from these principles that information about biodiversity is regarded as integral to the operation of the planning system. The rules favour plans and projects which enhance biodiversity and the principles are very close to those embodied in the EIA and SEA Directives.

Official guidance on the operation of PPS9 relevant both to the general planning system and

to formal environmental assessment describes possible sources of biodiversity and geological information under the following headings:

1. Natural Areas and Joint Character Areas: these are map-based classifications of areas according to their main characteristics relevant to biodiversity and countryside/landscape issues. They were devised by the former English Nature and Countryside Agency, bodies which have recently been merged into a new agency, Natural England.
2. Information on natural systems – data for which might be captured in river catchment and flood management plans, coastal management plans etc.
3. Hierarchy of designated sites – ranging from Natura 2000 and Ramsar sites to National Nature Reserves (NNR's), Sites of Special Scientific Interest (SSSI's) and Local Nature Reserves.
4. National Geographic Information Systems (GIS) – these are being developed by government and adopted by local authorities to assist the planning process. For example, in July 2002 a partnership of Government departments and agencies launched MAGIC, a web-based interactive system which allows users to view and query area maps displaying key environmental designations via a standard GIS (www.magic.gov.uk).
5. The National Biodiversity Network (NBN) – the NBN Gateway is a computer system providing a single point of access to a wide range of biodiversity information relating to species and habitats and held by different owners in various formats and with varying degrees of coverage, mostly based on records compiled by volunteers (www.searchnbn.net).
6. Information on the effects of climate change – for example the MONARCH project, run by Oxford University's Environmental Change Institute, is modelling predicted movements of species and future locations of biodiversity in the UK.
7. Information on ancient woodlands – inventories of ancient woodlands can be downloaded from MAGIC or the Natural England websites.
8. Mapping networks of natural habitats – these are described as “opportunity maps” to show where priority habitat could be restored or re-created. Some examples are the East of England Regional Biodiversity Map (<http://www.eoebiodiversity.org/>) using land use data sets (LDU), the OWLS map of land of biodiversity interest for the county of Oxfordshire (<http://owls.oxfordshire.gov.uk/wps/wcm/connect/occ/OWLS/Home/>) and the RSPB project “Making Space for Wildlife” (<http://www.rspb.org.uk/ourwork/conservation/biodiversity/index.aspx>).
9. Biodiversity Action Plans – the basis is the UK Biodiversity Action Plan (Anon. 1994) published as a national response to the Convention on Biological Diversity signed at the Earth Summit in 1992 (www.ukbap.gov.uk). Under the Plan some 400 species action plans, 45 habitat action plans and 160 local biodiversity action plans have been developed. They are key sources for information on priorities and any action being taken to implement them. Regional and local BAP's are usually run by partnerships of statutory and voluntary bodies and stakeholders and have created their own dynamism.
10. Local record centres – where these exist and are operational they are valuable in providing a single port of call for information which would otherwise be held separately and they can provide a link to the NBN Gateway mentioned above.
11. Local authority ecologists – where these are employed they are a focal point for meeting information needs.
12. Community knowledge – as an example, the Dartmoor Nature for Real project provides an example of good practice in finding out not just what people know about their natural environment but which aspects they value and wish to see supported through the planning process.

The foregoing examples set out in the Guide show that a large amount of biodiversity information is potentially available to influence decisions under the planning system. However in spite of major efforts over the last two decades to co-ordinate it and to make it accessible to the non-specialist, there is a long way to go if these objectives are to be achieved. Moreover there are still very large areas of land not covered by designations where

biodiversity data is virtually non-existent and many land use decisions not controlled by the planning system where even if there was data there is no requirement to apply it. These are issues that TESS has sought to address.

Governmental contact points and UK overall statistics for EIA's

The national focal point for EIA and SEA policy and implementation as well as for the operation of the systems in England is the Department of Communities and Local Government (DCLG) (www.communities.gov.uk), while the contacts for EIA and SEA are within its Planning Directorate. The Department of the Environment, Food and Rural Affairs, Defra, (www.defra.gov.uk) are responsible both for biodiversity and for agricultural, fisheries and forestry policy. Defra has a contact point for the EIA regulations for agriculture, while Natural England has a contact point for its role as a statutory consultee on SEA.

DCLG supplied overall UK statistics for EIA under the various consent regimes, going back to 1991 where available. A summary of these is in Table 2 and shows that while the number of cases varies from year to year it has recently been around 300 to 550. In relation to SEA's an official reported (pers.comm.) "We have not compiled figures for SEAs. Annual figures are difficult here as SEAs are carried out in parallel with the preparation of plans/programmes, and hence tend to spread over more than one year, but our information is that currently between 600 and 700 are under way across the UK."

Table 2: Environmental Statements (ESs) in the UK

ENVIRONMENTAL IMPACT ASSESSMENT IN THE UK TO 31/12/2005				
Year	GB planning consent system	GB other consent systems	DOE(NI)	Total
1991	214	90	11	315
1992	225	83	11	319
1993	226	114	29	369
1994	229	119	27	375
1995	208	91	23	322
1996	174	88	12	274
1997	185	91	25	301
1998	190	64	21	275
1999	303	89	13	405
2000	459	102	39	600
2001	448	126	44	618
2002	485	165	50	700
2003	437	98	62	597
2004	475	88	64	627
2005	555	109	35	699
2006	363	0	0	363
2007	313	0	0	313

ENQUIRY ON 'FORMAL' OR NATIONAL LEVEL INFORMATION CARRIED OUT BY TESS PARTNERS

Partners taking part in the study were given introductory guidance. For TESS purposes at this stage it was not necessary to understand or compile data about all the sub-national variations of laws, guidance, databases etc in any one country but information was sought on:

- at what governmental level the laws/regulations are made;
- for that level, how the system works in one reasonably typical case; and
- sources of biodiversity information and research/analysis related to EIA's or SEA's which is relevant to TESS and which may cover wider areas of the country.

Therefore if a country makes the relevant laws, regulations or rules at national level then the national level was the one about which information was sought. On the other hand, if a country has devolved EIA, SEA, LUP and CAP administration to its regions or provinces and has 10 such areas, then information was wanted about the formal systems for just one of them – but information about databases, unofficial guidance and research/analysis could relate to wider areas.

National Enquiry Template: analysis of returns

Preliminary comments on governance systems

Among the group of countries studied, the UK and Turkey stand out from the rest for different reasons. Turkey is not yet a member of the EU and has not therefore adopted all existing EU environmental legislation, though it is a candidate state and is moving towards adaptation. In the context of this study it should be noted that Turkey has not legally implemented either the SEA Directive or any parallel system, though the decision to adopt the Directive was taken in 2002 by the Ministry of the Environment and implementation is foreseen for 2010 (Unalan & Cowell, 2009). Secondly although agriculture is very important to Turkey, providing some 30% of jobs and 8% of GDP, and a host of measures are in train to align agricultural policy with the EU's CAP, the overall target for such alignment is around 2013-2014. Thirdly Turkey's administration is considerably more centralised than that of other countries in the study or the rest of the EU. Provincial governors and regional divisions of national ministries play an important role and often exercise powers which elsewhere belong to elected local government bodies. This is not dissimilar to the 'old' arrangements in France where prefects appointed by central government had major responsibilities.

The UK is different from the others because it has a national UK-wide elected parliament in Westminster which controls foreign, economic and immigration policy for the UK as well as domestic policy for England, while 'devolved' governments in Scotland, Northern Ireland and Wales answer to elected parliaments or assemblies for their area which legislate on different ranges of domestic affairs, including the environment. These devolved administrations are not strictly countries or regions, nor can the UK system be classified as federal, but significant differences are beginning to emerge in the legislation they enact on similar topics, not least those which are the subject of this present study. It would be too complicated to describe all the variations and so, for convenience, most of the governmental material relates to the position in England. It should not be assumed that the position in Scotland, Northern Ireland and Wales is the same. "England" is not shorthand for the UK in this study. However NGO's and databases are often organised at UK level, though with country, regional or even local groupings.

Capabilities for assessments and planning

The first group of questions was designed to discover (a) the governance level at which EU requirements for EIA and SEA were transposed into national law as required by the Directives and at which land use planning laws were made and the CAP administered; (b) the governance level for case by case approvals under these systems and whether in relevant cases national laws extended the application of EIA and SEA beyond strict EU requirements; and (c) mitigation and monitoring requirements flowing from environmental decisions.

Governance levels for law making

Noting the absence of a formal SEA system in Turkey, it was otherwise not surprising to find that all the countries make laws for EIA and SEA at national level (Figure 1), except for the UK where they are made at sub-national level, e.g. England.

The same arrangements apply to the administration of the CAP, or in the case of Turkey, alignment with the CAP. In other words national or sub-national ministries with responsibility for agriculture administer agricultural policies and funds.

All the countries have a land use planning system, though this is not formally the subject of EU legislation. In all cases laws are made at national level, except for the UK where the level is sub-national. Additionally in Hungary some planning regulations are made by local municipalities.

Governance levels for law making

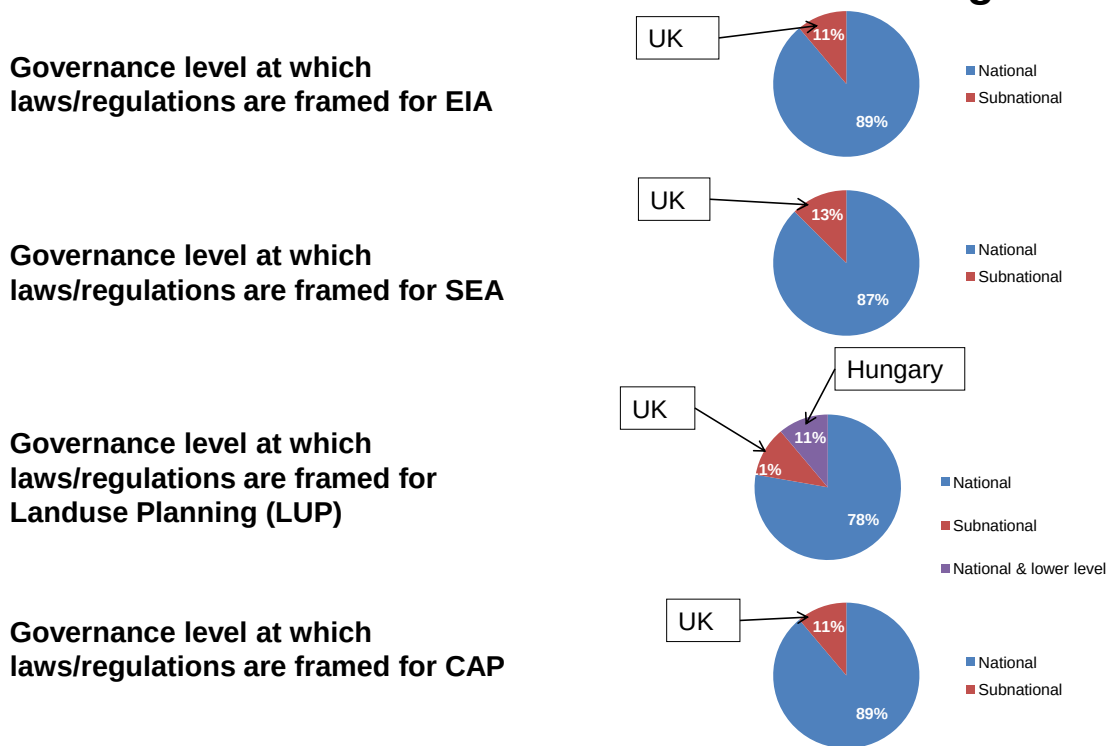


Figure 1. Governance levels at which laws/regulations are framed for environmental regulations, land-use planning and agricultural policy.

Governance levels for case by case approvals

When we turn to the systems for approval of applications for permission or CAP funds the situation is slightly more complicated, although fairly clear patterns emerge.

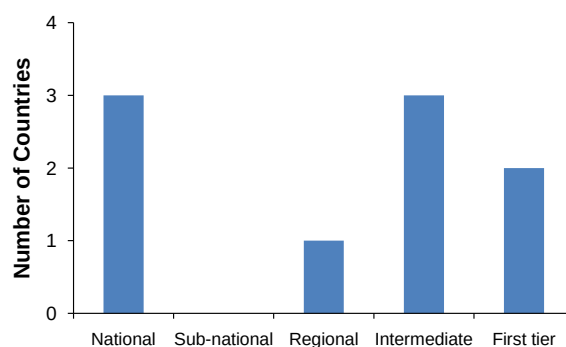
In general project approval in cases where EIA is required is given at a governance level below national or sub-national. One partial exception to this generalisation is Portugal (Figure 2). Although the EIA Directive does not require that environmental assessments given under the Directive should themselves be approved, in Portugal this is the case and the approval is given by national authorities (such as the Secretary of State for the Environment), after which the project itself is usually approved at local government level unless it is a large infrastructure development. In Estonia, approval of the EIA itself is at national level and is given by the Environmental Board.

Turkey also approves some cases at national level. In England (UK) approval in all cases is at district or equivalent council level, which is the level at which land use planning applications are approved, though on appeal cases are decided by or on the recommendation of inspectors appointed by a government department. In future the position in England may be complicated by very recent legislation which takes decisions on major projects, such as airports and power stations, out of the hands of local authorities and remits them to a nationally-appointed planning commission. In the remainder of the countries studied, approvals for projects where EIA is required are given variously by municipalities (1st tier), districts, counties, prefectures, voivodships or regions, or provincial departments of ministries in the case of Turkey.

Governance levels for approval

Lowest level for:

EIA



SEA

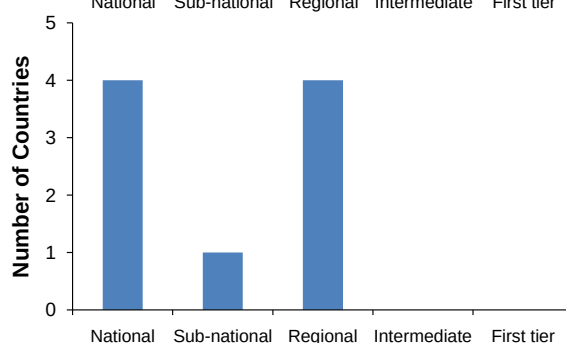


Figure 2. Lowest level for approvals of EIA's and SEA's in the eight (9 case studies) countries for which returns were received.

Plans or programmes requiring SEA are mostly approved at higher levels than is the case with EIA. An obvious reason for this is that the plans or programmes concerned often cover the areas of several local or regional authorities or deal with issues in which local authorities lack specific expertise. In this study only Portugal and Estonia approve SEA's or SEA cases exclusively at national level, but all the other countries do so through sub-national or regional authorities or voivodships in the case of Poland.

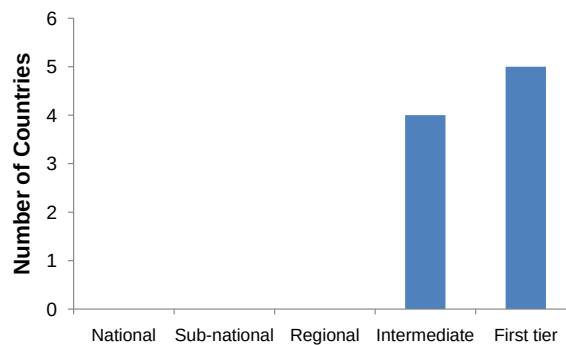
Approval of land use planning applications is generally at local authority level, such as the district or equivalent authority in England or municipalities elsewhere (Figure 3). Minor exceptions to this rule are that in Romania counties give approval, in Hungary regions or counties deal with certain cases and in Greece prefectures take the decisions, while in Turkey either ministries or provincial departments retain responsibility.

CAP project approval and support is almost universally a function retained by central government, whether national or sub-national, but an exception is Romania where counties have responsibility, while in England the agency responsible for both nature conservation and the countryside, Natural England, deals with applications from and payments to farmers. In Turkey decisions on agricultural support are taken at national government level.

Governance levels for approval

Lowest level for:

Landuse Planning



CAP

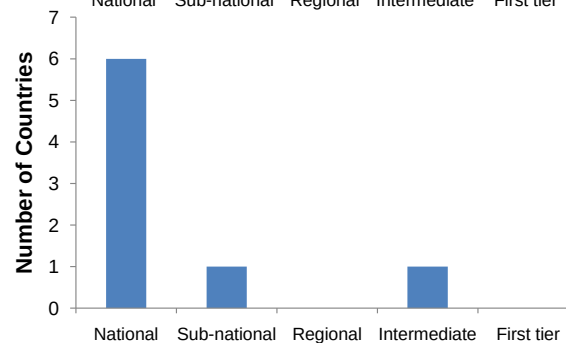


Figure 3. Lowest level for approvals of land-use planning and CAP applications in the countries for which returns were received

Extension of EIA & SEA Directives by national laws

As regards extension of the application of EIA to more cases than the Directive requires there is a roughly even split between the countries. In Poland, Hungary, Estonia, Slovenia and Greece application is extended, while in Portugal, Romania, Turkey and England it is not.

Partners were asked whether SEA is applied to ‘plans and programmes’ in their countries, as required by the Directive and to give examples of these. In all countries except Turkey, where SEA is not in force, the response was positive. The examples given covered the expected regional land use and urban spatial strategies or frameworks, as well as a good range of sectoral plans such as those for transport, energy, water management, hazardous waste disposal, rural development and National Parks and protected areas (Figure 4).

However some countries go further than strictly obliged in their application of the SEA Directive and require appropriate assessments to be applied to ‘policies and/or strategies’, though it needs to be acknowledged that the distinction between ‘plans’ and ‘strategies’ is a fine one. When partners were asked **if their countries had extended SEA** beyond plans and programmes, only Poland and Hungary had done so. In Poland SEA has been applied to energy policy to 2030 and to the National Development Strategy 2007-2015. Hungary has subjected its National Climate Change Strategy and the National Strategy for Sustainable Development to SEA.

Plans and programmes that SEA applied to

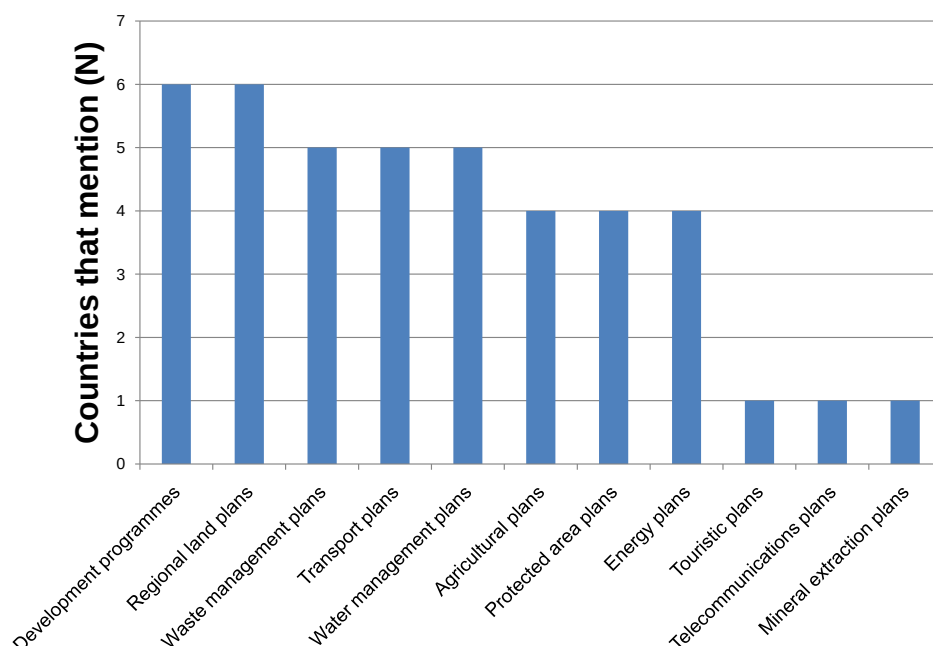


Figure 4. Examples of the types of plans and programmes that SEA was applied to in the seven countries where it is in force.

An overview of numbers of EIA's and SEA's annually

The enquiry asked whether countries kept records of the number of EIA's completed annually and, if so, the actual or estimated numbers and any categories into which they might be broken down. It should be noted that although the Directive does not require central records to be kept the Commission urged Member States to do so in their 2003 progress report on the Directive (EC, 2003). The same questions were asked in relation to SEA's. A further question was whether a sample of EIA's and SEA's could be obtained if needed to examine how biodiversity information had been used in the particular cases. Table 3 compares the results country by country.

Table 3. Numbers of EIA & SEA cases annually where recorded with an indication of whether or not information is available on the categories of EIA or SEA considered. Information is coded as: Y=yes, N=no, U=uncertain, N/A=not applicable and N/R=not recorded.

	EIA		SEA		Samples
	Number	Cat.	Number	Cat.	
UK	313	Y	N/R (500-600 est.)	N/A	U
Turkey	110	Y	N/A	N/A	Y
Romania	822	N	105	N	Y
Portugal	100	Y	10	Y	Y

Poland	N/R	N/A	N/R	N/A	Y
Hungary	N/R	N/A	N/R	N/A	Y
Estonia	N/R	N/A	N/R	N/A	U
Greece	1600*	N	N/R	N/A	U
Slovenia	250	N	50	N	Y

* Estimate from EC(2003).

National compliance, sustainability and ecological infrastructure

The issue of whether partner countries had been found to be non-compliant with any aspects of the EIA and SEA Directives was addressed. Only Romania was reported to be currently in breach – in relation to interactions with Article 6(3) and (4) of the Habitats Directive. In the case of the UK and Greece previous criticisms by the Commission were mentioned: in the case of the UK this related to inadequate transposition of EIA requirements relating to the conversion of land for intensive agriculture and in the case of Greece the omission of some project types from national law, including those relating to such conversion.

Respondents were asked if any laws on EIA, SEA or LUP require sustainable development or social and economic issues to be taken into account in assessments. This was broadly the position in all countries. Comments from Romania indicated that economic and social considerations could figure in SEA environmental reports and this was also the case for Portugal, though formal sustainability reports were not required. In Hungary only certain socio-economic aspects could be considered while in Greece LUP law strongly incorporates the concept of sustainable development.

A related issue was whether these laws require ecological infrastructure such as connectivity between designated areas to be taken into account. In most countries this is required but England and Greece are exceptions. The comment was made that in Romania projects which directly or indirectly affect protected areas must be screened with ecological considerations in mind. However this could be regarded as a requirement of the Directive so should not be regarded as unique to this country. In England, biodiversity issues must be considered but not the connectivity of ecological networks or “green infrastructure” as such.

Operation of EIA Directive: Monitoring and Mitigation

Monitoring of environmental impacts of approved projects is carried out always in Turkey, Romania and Hungary and sometimes in the remaining countries (Figure 5). In England, Portugal, Poland, Romania, Hungary, Slovenia and Estonia the developer is responsible and must report to the relevant authority such as the Environment Protection Agency in Romania, the National Biodiversity Conservation Authority in Portugal or the National Inspectorate for Environment, Nature and Water in Hungary. In other countries monitoring is by authorities, e.g. General Directorate of Environmental Impact Assessment in Turkey, and regional authorities in Greece.

Who is responsible for EIA monitoring?

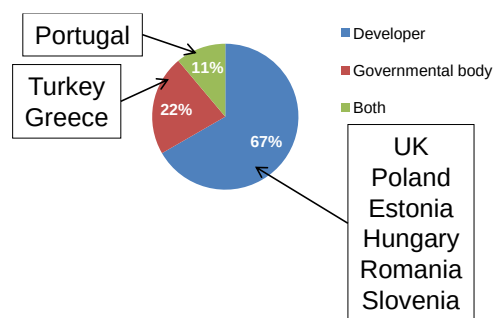


Figure 5. Responses to who is responsible for undertaking monitoring of the environmental effects of approved projects.

When the study examines whether mitigation in the form of restoration or habitat creation is required or encouraged in cases where significant damage to the environment occurs (through non-observance of EIA, SEA etc conditions or procedures) the findings are that in Poland, Slovenia and Hungary mitigation is mandatory; in Portugal it is mandatory in some cases; and elsewhere it is encouraged.

EIA and Agricultural Intensification

The EU EIA Directive requires assessment to be carried out on a case by case basis or above certain thresholds when uncultivated land or semi-natural areas are proposed to be converted into intensive agricultural use. After the original Directive was adopted in 1985 a number of Member States were slow to apply this provision, so partners were asked to discover whether it is now being applied in their countries and, if so, in relation to what thresholds or conditions. (N.B. removal of field boundaries such as hedges for the purpose of agricultural reconstruction is also covered but partners were not asked expressly to look into this.)

All countries in the study except Greece do require EIA in these ‘intensive agriculture’ cases. However the thresholds for application have generally been set very high as shown in Table 4 below.

Table 4. Thresholds for application of EIA to projects involving agricultural intensification.

	Area for EIA to be applied	Period of previous non-cultivation
England	100ha - less in designated areas	15 years
Turkey	500ha	-
Romania	No threshold	-
Portugal	100ha or 50ha in sensitive areas	5 years
Poland	300ha (re-parcelling)	-
Hungary	50ha but 1ha in designated areas; 30ha for deforestation	-
Estonia	100ha; also for forestation	-
Slovenia	no threshold	-

For England it was also reported that up to 4 km of field boundaries could be removed for restructuring of a holding before EIA is required. In Hungary the threshold for removal of

boundaries for restructuring is 300 ha in normal situations but 10 ha in designated areas. The 300 ha mentioned for Poland in Table 4 presumably also relates to restructuring.

In most countries where the rule applies re-instatement is required if the rules are infringed. Similarly CAP cross-compliance payments would probably be lost in England, Slovenia and Hungary but not in Portugal, Estonia and Poland. The questions on sanctions for infringement were not answered in the return from Romania because the relevant information could not be obtained. It should be noted that the rules on applying EIA to agricultural intensification cases are complicated in themselves, added to which member states have considerable flexibility in applying them. It seems likely that the questions on thresholds and sanctions were over-simplified and that the results should be treated with caution, though it is clear that a number of states set high thresholds.

The provisions of the EIA Directive on the conversion of uncultivated or semi-natural land into intensive agriculture and the related ones on the removal of field boundaries such as hedges are potentially valuable for biodiversity because such agricultural practices in Western Europe during the heyday of the CAP have been seriously damaging to wildlife, especially outside protected areas. It is unfortunate that, on the basis of anecdotal evidence (e.g. the Commission's 2003 report on the operation of the EIA Directive EC, 2009); they appear to have been very little used. There is more than one explanation for this. On the one hand there has, since 1985, been less of a general trend towards intensification under the CAP and even, in more recent years, the gradual application of more environmentally friendly policies. A less satisfactory reason is that, with the exception of Hungary, Estonia, Slovenia and Romania in the studied countries, the thresholds have been set so high that few if any cases are caught by them. Moreover it is possible that farmers considering conversions which could potentially be affected have been advised to break up their projects into smaller ones to avoid triggering off EIA procedures.

EIA's and NGO involvement

Partners were asked if certain environmental or biodiversity NGO's in their countries frequently comment on proposals where EIA is required and, if so, to provide names of some of the leading bodies, indicating if they were national, regional or local. Responses could only be opinions since in few, if any countries, are projects subject to EIA and all their attendant documents kept on a common database; nor was it practicable within the parameters of this preliminary enquiry to approach individual NGO's directly. However, partners in Greece and Turkey both commented that NGO's in their countries are only infrequently involved in EIA cases, whereas the opposite would be true for England. In Portugal NGO's do become involved in EIA's applying to large and potentially damaging developments such as airports and power stations. Table 5 provides an overall picture.

Table 5. Number of NGO's commenting on EIA's and at what level (i.e. national, regional or local – the same NGO can comment at more than one level).

	UK	Turkey	Romania	Portugal	Poland	Hungary	Estonia	Greece	Slovenia	Total
All NGO's	5	4	7	5	6	6	4	1	1	39
National	3	4	1	3	6	5	4	1	1	28
Regional	3	-	4	2	3	1	-	-	-	13
Local	3	-	2	-	-	-	-	-	-	5

It should be stressed that these samples of NGO's are not necessarily representative and that information about involvement by local NGO's will be harder for an individual research team to know about without conducting a formal survey. Nevertheless the preponderance of

involvement by national level NGO's is striking and doubtless reflects the resources and technical expertise considered necessary to become involved in EIA procedures. Examination of the names of the NGO's listed by partners (see Table 6) reveals quite a wide spread of interests.

Table 6. Similar types of NGO's that comment on EIA applications across the countries surveyed.

	National bird groups	WWF Associates	Friends of the Earth
UK/England	Royal Society for the Protection of Birds		Friends of the Earth
Turkey	Nature Society (Birdlife affiliate for Turkey)	WWF-Turkey	
Romania	Societatea Ornitologica Romana (Romanian Ornithological Society) (Partner of Birdlife International)	Salvati Dunarea si Delta (Save the Danube and Delta)	
Portugal		Liga para a Protecção da Natureza	
Poland	Polish Society for the Protection of Birds (OTOP) (Part of Birdlife International)		
Hungary	Birdlife Hungary (Hungarian Ornithological and Nature Society)	WWF Hungary	National Society of Conservationists Friends of the Earth
Estonia		Estonian Fund of Nature (ELF)	Estonian Green Movement Fo-E (ERL)
Greece		WWF Greece	
Slovenia	Birdlife Slovenia		

Interaction of EIA with LUP system

The question was asked as to whether the ‘development consent’ required by the EIA Directive is always, partly or never administered as part of the Land Use Planning. For all countries the answer was ‘partly’. Comments revealed that in all countries there are special arrangements for sectors such as agriculture, energy, harbours and forestry which are not fully covered by the LUP system. However information from elsewhere (EC, 2003) indicates that the great majority of EIA cases are dealt with under the LUP system.

In view of the very wide variations between the number of EIA cases annually in different EU Member States, partners were asked whether EIA is required in all cases where development proposals are made. If the response to this question was ‘no’ the consequent questions were whether in the other cases the LUP system or planning policy supports biodiversity conservation positively or requires negative effects on biodiversity to be taken into account. In cases where EIA is not required most countries include a requirement to support biodiversity conservation and to avoid negative effects in their LUP policies, though Hungary, Poland and Greece qualify this by responding “sometimes” (Figure 6).

In developments where EIA is not required, does the LUP system/planning policy support biodiversity or nature conservation in a positive way?

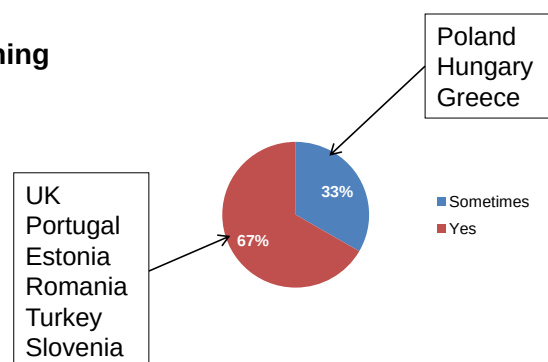


Figure 6. Where EIA is not required, does the land-use planning system support biodiversity?

Formal and informal guidance on the working of EIA, SEA and LUP

The enquiry sought information as to whether national or sub-national authorities had issued formal guidance to authorities who have the decision-making role in relation to EIA, SEA or the LUP system. For 7 countries the answer was ‘yes’, but in Estonia the guidance issued by the EC is relied upon, while in Slovenia workshops were organised. Respondents were asked to give the title of one such document, from which it was clear that most guidance documents were general in character. Hungary mentioned guidance on cross-compliance under the CAP. It was also asked if the authorities had issued practical guidance for developers and others who decided to become involved in EIA and similar processes. In 7 countries this was so, with Turkey and Slovenia as exceptions. Titles of practical guidance documents were supplied in the cases concerned.

Respondents were also asked if experts or NGO’s had issued practical guidance on EIA, SEA or LUP procedures and for titles. In 7 countries such guidance documents had been issued, but not in Estonia or Slovenia. Examples given ranged from full scale books by such experts as Therivel (2004) and Partidario (2007) to NGO publications and guidance on consultants’ websites.

Availability of biodiversity information for decision making

In 7 countries the guidance listed sources of environmental information, the exception being Greece. In 6 out of the 7 cases where sources are listed this includes biodiversity information, Hungary being the exception. A series of detailed questions was then asked about the accessibility and nature of the biodiversity information. With hindsight it was realised that responses on these details would have been useful even if the sources were not listed in guidance on EIA's etc. Efforts were made to overcome this problem after questionnaires had been returned. For the 8 countries able to respond to detailed queries on biodiversity information the picture is given in Table 7 below.

Table 7. The availability & nature of biodiversity information in the eight countries that responded to queries on biodiversity information.

	Yes	No
Accessible to all	7	1
Accessible via the internet	8	0
Fragmented	7	1
Payment needed	5	2
List of protected areas	8	0
List of protected species	8	0
Species population/habitat extent	6	2
Baseline plus trend data	4	4

Portugal commented that generally biodiversity information is very limited and sometimes of poor quality. Greece observed that "conservation of biodiversity is constantly mentioned but without species or habitat references." In England, where the volume of biological records is very large, much still is in paper form only, with baseline and trend information not easily available except in the case of birds, where the British Trust for Ornithology has maintained a number of national surveys over several decades. In so far as comments were made on the question of fees, they were to the effect that simple information is generally available without charge but more complicated requests attract fees.

Biodiversity websites

Partners were asked to name up to 4 websites where important biodiversity information for EIA/SEA/LUP could be found and to indicate if the websites were national, regional or specialised such as taxon specific or run by NGO's or private bodies. Table 8 shows the number and type of website by country, noting that individual websites could be of more than one type. The lists were not meant to be exhaustive, so that if the number listed is less than 4 it does not follow that no more websites could have been listed.

Table 8. The number and type of biodiversity information websites in the eight countries responding.

	National	Regional	Specialist	Total
UK	3	3	1	3
Turkey	5	-	-	5
Romania	4	1	-	5
Portugal	1	-	1	2
Poland	2	1	1	4
Hungary	3	-	1	4
Estonia	1	-	-	1
Greece	2	-	2*	4
Slovenia	3	-	1	4
Total	24	5	6	32

* one of these was run by an NGO and the other by a private entity.

Finally in this section partners were asked if they were aware of any research in their country on EIA/SEA/LUP relevant to the use of biodiversity information and, if so, to provide a reference. A positive answer was given in respect of 4 countries (Turkey, Romania, Portugal and Greece) but the titles cited did not refer specifically to biodiversity and may be general overviews, suggesting that the question was not clearly expressed. The Commission's 2003 EIA progress report (EC, 2003) devotes less than 2 pages out of 100 to impacts on biodiversity and it has not proved possible to access the one research report on biodiversity mentioned there.

Biodiversity Action Plans (BAP's)

Partners were asked to provide information about the availability of Biodiversity Action Plans at national and lower levels, who prepares them and whether they apply to species, habitats or both. All countries have Plans in operation or, in the case of Greece, in preparation. All Plans cover both species and habitats except those for Portugal and Slovenia which cover species only (Figure 7).

Among partner countries, only the UK has what might be termed a super-abundance of BAP's. There is an overall UK Plan, plans for England, Scotland, Wales and Northern Ireland and some 160 plans for areas related to lower governance levels, often for counties in England or boroughs in urban areas. Under the UK and individual 'country' Plans there are several hundred species plans and rather fewer habitat plans. Within the lower level area plans there are typically a considerable number of action plans for individual species and habitats, which help to support the 'country' and UK Plans. Most of these have targets and therefore rely on data collection for monitoring progress towards the targets. No country, apart from the UK, has BAP's at levels below the national. After the UK comes Hungary with 43 plans, all at national level. Portugal has more than 10.

Biodiversity Action Plans

Are there Biodiversity Action Plans with biodiversity information available at national or sub-national level?

Are there Biodiversity Action Plans with biodiversity information available at lower governance level?

160 - UK, only number given

Are Biodiversity Action Plans prepared for species and habitats?

Who prepares the Biodiversity Action Plans?

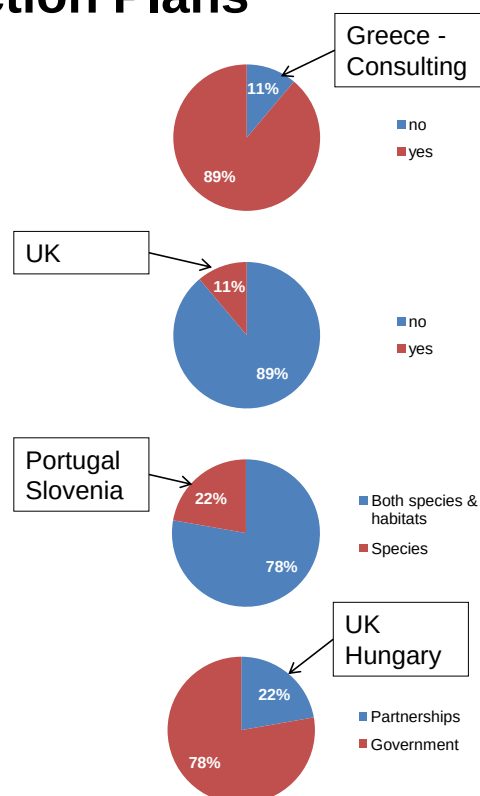


Figure 7. Information provided on the availability of Biodiversity Action Plans, whether they apply to species, habitats or both and who prepares them.

Governments prepare BAP's in 7 of the 9 countries (Figure 7), the exceptions being Hungary and the UK where they are prepared by partnerships. The latter involves NGO's and the academic sector in Hungary. These sectors plus local government and relevant commercial interests are involved in the UK. In Greece, where a draft National Strategy for Biodiversity has only recently been issued for public consultation, the Government takes the lead in preparing the plan but with some assistance from the academic world.

Common Agricultural Policy (CAP) and environmental information

Turning to the CAP, respondents were asked whether, in order to receive basic payments under the CAP, farmers are required to provide prior environmental information from an independent source. In Estonia such information is required to establish cross-compliance but in all 8 other countries there is no call for prior independent information (Figure 8). However in 8 of the countries there is subsequent independent checking by designated agencies, Turkey being the exception. In 3 cases the agencies appeared to have an environmental remit but in the other 5 the checking organisation was the agricultural payments agency. In England detailed environmental information (as opposed to ticking boxes) is not needed for the first level agri-environment scheme, called "Entry Level Stewardship" but it is required for the second "Higher Level Stewardship".

CAP & Agricultural Policy

Do basic payments to farmers under the Common Agricultural Policy subsidy rules require prior input of environmental information from an independent source?

Is there subsequent checking of compliance with environmental rules?

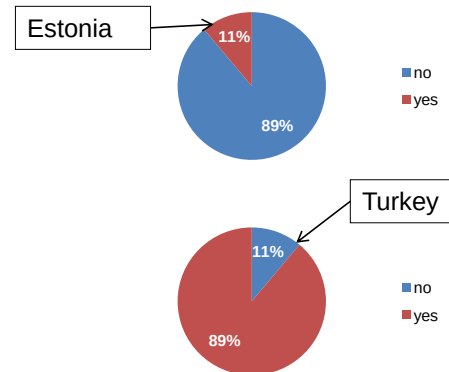


Figure 8. Agricultural policy and the environment.

Partners were asked about the existence of payments to farmers for planning agri-environment schemes. Initial responses for 3 countries were positive (England, Turkey and Romania) with the remainder being negative, but the responses for England and Romania were later modified to join the “no” responses. With hindsight it is clear that this question was not carefully worded, nor well-related to a subsequent more detailed question about the existence and scope of agri-environment schemes in partners’ countries. In fact all countries studied, except Greece, have agri-environment schemes. There is no scope for CAP funding for the planning of these schemes and it seems unlikely, though not impossible, that countries fund individual farmers’ agri-environment planning activities out of their own funds without joint-financing from the EU. What does occur is the use of EU structural funds for workshops and general training on such matters. The position in England is that the taxpayer does not fund the planning and application process for such schemes. It is interesting to note that an environmental charity, Farming and Wildlife Advisory Group (FWAG), was charging £400 (€452) per day for advising farmers on the schemes available and helping them to prepare applications related to conditions on their farms (see www.fwag.org.uk).

Respondents were asked if in their countries there was still support via government or EU funding for the planting of specific crops or to improve productivity generally. England, Estonia and Greece said there was not, with the other 6 countries saying there was. The position as expressed on the DG Agriculture website is that the 2003 reforms, implemented from 2005, have in principle, with minor exceptions for remote areas and the Aegean Islands, ended the system of direct payments for individual crops but in certain circumstances existing payments of this kind can be continued until 2012 subject to cross-compliance and to “degressivity” (reducing subsidies by increasing percentages annually). In practice a greater proportion of CAP funds are still going into production subsidies (Pillar 1 – products and markets) than into single farm payments under cross-compliance or agri-environment schemes (Pillar 2 – rural development). In addition Portugal commented that in a number of Mediterranean countries expenditure on infrastructure, such as dams to help increase agricultural production, is being funded from other EU sources such as the cohesion and structure funds.

It was then asked if countries had payments above the basic level for agri-environment schemes and, if so, whether these were restricted to (i) Natura 2000 sites, (ii) Natura 2000 and other special habitats or (ii) everywhere provided special conditions are met. All countries

except Turkey and Greece reported having such payments. In England, Poland and Hungary they were reported as being available everywhere, in Portugal, Slovenia, Estonia and Romania (from 2010) as available in Natura 2000 and other special sites (Figure 9). In Portugal payments are conditional on farmers complying with obligations designed at the national level or at the level of special landscape units, usually Natura 2000 sites, and there were no agri-environment schemes tailored to the level of individual farms.

Agri-environment schemes – where available?

Do countries have payments beyond the basic level for agri-environmental schemes?

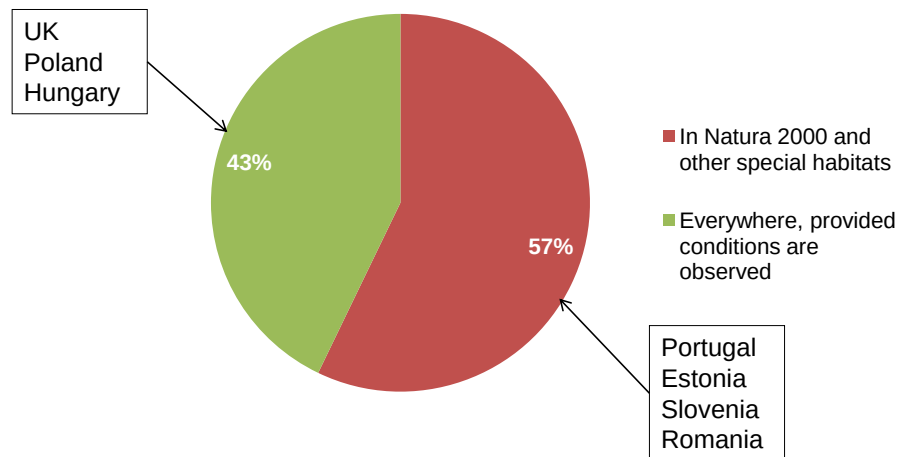


Figure 9. What countries have agri-environment schemes beyond the basic level?

The final question was whether farmers were required to provide maps to claim CAP payments and whether these could be submitted electronically. The response was that maps were required in 7 countries but not in Greece or Turkey, while they cannot be submitted electronically in Romania or Poland.

SOME PRELIMINARY CONCLUSIONS

The following are some conclusions relevant to the first part of the TESS project, based mostly on the information from the National Level Enquiry in 8 countries, but to some extent on information in the Commission's reviews of EIA and SEA and other literature. Later chapters show the extent to which the comprehensive survey of all 27 EU member states and 4 other countries in Europe support these conclusions.

- EIA & SEA Directives from EU level and national LUP laws are generally sound.
- They require input of biodiversity information where relevant.
- They encourage public involvement and transparency.
- But formal processes are often daunting, resulting in dominance by consultancies and NGO "experts".
- The wide variation in numbers of EIA's annually by country has not been explained – it must affect the quality of assessment & monitoring.

- There is no obligation on governments or anyone else to ensure the availability or quality of environmental data need for EIA, SEA or LUP, although the INSPIRE Directive (European Commission, 2007) is a major effort to fill this gap at European Union level.
- Where EIA's and SEA's have assembled data, including biodiversity data, there is no obligation on member states to store and make this available for wider environmental monitoring by organisations such as the European Environment Agency or nationally.
- There is plenty of biodiversity data on the internet but the geographical coverage and quality are generally poor for decision making.
- Main contents are lists of endangered species and habitats.
- There is an absence of policy responsibility for making it fit for use.
- BAP's are useful tools where they exist but the absence of regional or local Plan's in most countries limits their relevance for decision support.
- CAP is only at the beginning of using environmental and biodiversity information at farm level.
- We need a better idea by country of the extent of land still farmed under production subsidies compared with land under single farm payments and more specialised agri-environment schemes.
- Generally there is a lack of integration between biodiversity information providers and the decision making regimes we have been studying.

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KEY TERMS

Keywords

Agri-Environment Schemes, Biodiversity Action Plans, Common Agricultural Policy, Environmental Impact Assessment, Governance Levels, Information Needs, Land Use Planning, Strategic Environmental Assessment