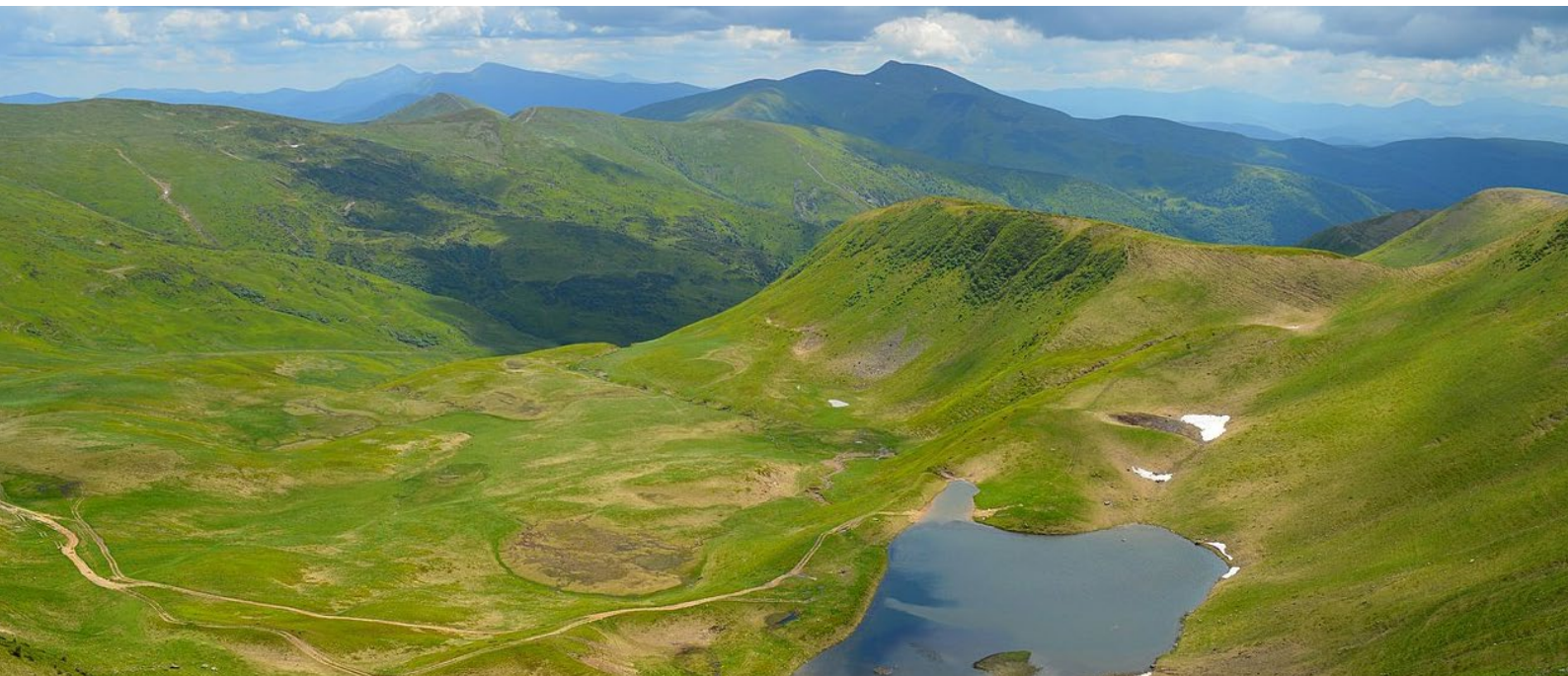




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Public monitoring of the environmental assessment procedures implementation

Part 2. Practice

Kyiv, 2019

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Part 2. Practice

The practical guide for the methodology use was developed by partner organisations and experts in the frame of the project **Environmental Assessment Watch** (Implementation of SEA and EIA: civil society monitoring):

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ART OK

Cover photo: Mountain Amphitheater. Lake Dogyaska. View from mountain Gerishaska. The author — **Caira Fedir** (photo is created in the framework of photo competition for protection of mountains Svydovets and Borzhava, license CC BY-SA 4.0unchanged). The Carpathian massif Svydovets is under the public watching because of the plans of building a huge ski resort. In particular, the public is monitoring the process of environmental impact assessment here. More information — in the publications of the project. This publication was produced with the financial support of the European Union. Its contents are the sole responsibility of the partners of the project Environmental Assessment Watch (Implementation of SEA and EIA: civil society monitoring) and do not necessarily reflect the views of the European Union.



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■ The purpose of this publication is to provide the public concerned with a practical tool for monitoring environmental assessments. The publication contains a full pack of questionnaires to watch both IEA and SEA. The questionnaires are developed in accordance with the Methodology (see Part 1), contain the maximum number of questions that public observers can give a simple answer (yes / no / not applicable); thus, assessing the whole process and the requirements for its acceptance or rejection, improvement or stop.

Such an assessment can be applied to any project or country, to take into account the existing legislative framework or terms of a particular project in the country. Issues that are not relevant to this project or country are not reflected in the current legislation, are marked "not applicable"; it does not affect the overall result of a specific observation, but provides an opportunity for further improvement of the process, including at the official, legislative level. The questionnaires may be also adopted for a specific country situation.

These materials can be applied to any EaP countries that implement environmental assessments in accordance with their obligations under the Association Agreements or international conventions.

Content

5

Monitoring sheet (evaluation checklist) of EIA procedure application

14 Overall appraisal of the EIA process

14

Monitoring sheet (evaluation checklist) of SEA procedure application

14 Section 1. Screening

15 Section 2. Scoping

16 Section 3. Consultation

17 Section 4. Plan description

17 Section 5. Consideration of alternatives

18 Section 6. Mitigation measures

19 Section 7. Monitoring programme

20 Section 8. Environmental report and non-technical summary

21 Overall appraisal of the SEA process

21

Some publications

Monitoring sheet (evaluation checklist) of EIA procedure application

Monitoring stages of the EIA procedure	Criteria	Questions	Adequately covered/ Inadequately covered	Comments
1. Announcement of the planned activity	1.1. Quality of the announcement	1.1.1 Clear description of the planned activity 1.1.2 Information on alternatives 1.1.3 Data on the planned activity (place, capacity, connection to other planned activities, need for additional infrastructure, transboundary impact, impact on nature protected areas, etc.) 1.1.4 Information on the locations with access to the project-related documents and time-frames of such access 1.1.5 Information on the ways to participate in the decision-making process 1.1.6 Information on authority responsible for the final decision		
	1.2. Quality of the publication	1.2.1 National mass media 1.2.2 Regional mass media 1.2.3 Local mass media that operate on the affected areas 1.2.4 Placing physical adds in public places of the affected areas		
	1.3. Potential conflicts/ manipulations	1.3.1 Existence of previous entries for the same planned activities 1.3.2 Existence of connected developing or planned projects subjects to EIA 1.3.3 Unannounced transboundary impact 1.3.4 Unannounced nature protected or sensitive areas in proximity to the project's site		
	1.4. Other			

Monitoring stages of the EIA procedure	Criteria	Questions	Adequately covered/ Inadequately covered	Comments
2. Announcement of the public consultations	2.1. Informing all stakeholders	2.1.1 Announcement in national mass media		
		2.1.2 Announcement in regional mass media		
		2.1.3 Announcement in local mass media that operate on the affected areas		
		2.1.4 Informing stakeholders in the neighbouring countries (in case of transboundary impact)		
		2.1.5 Placing physical adds in public places of the affected areas		
	2.2 Quality of the announcement	2.2.1 Information on locations with access to the project-related documents		
		2.2.2 Information on the ways and terms to submit comments on the project		
	2.3. Publishing comments from the public	2.3.1 Information on the authority responsible for the final decision		
		2.3.2 Timely adding the comments to the EIA open registry		
	2.4. Potential conflicts	2.4.1 Local protests against the planned activity		
		2.4.2 Existing investigations/ charges against the developer		
		2.4.3 Affiliation of the developer with the corruption cases		
	2.5. Other	2.4.4 Other		
3. EIA report	3.1. Purpose and need of the proposed project	3.1.1 Clear description of need 3.1.2 Clear description of purpose 3.1.3 Adequate description of the project		

Monitoring stages of the EIA procedure	Criteria	Questions	Adequately covered/ Inadequately covered	Comments
		<i>Please, note that all alternatives are valid only if satisfy the stated purpose and need for the project and include a description of all alternative actions or projects that were, or are, being considered – size, location, land and operation requirements, auxiliary structures and construction terms!</i>		
	3.2. Alternatives considered for the proposed project	3.2.1 Zero-alternative 3.2.2 Alternative site 3.2.3 Alternative design 3.2.4 Alternative control 3.2.5 Structural alternatives 3.2.6 Non-structural alternatives 3.2.7 Initial environmental impact assessment for the alternatives		
	3.3. Description of the present quality of the environment in the area	3.3.1 Climate (meteorological data, e.g. temperature, wind, etc.) 3.3.2 Ambient air quality: stationary and mobile sources of emissions 3.3.2 Water resources (both surface and ground): location and types, water quality information, pollutant sources, actual and future use, flooding events 3.3.3 Soils and geology (topography, soil structure, ground water movement, erosion potential, subsidence, seismic activity, mineral resources deposits and exploration) 3.3.4 Biodiversity: aquatic, wetland, and terrestrial flora and fauna, native species, invasive exotic species, rare and protected species		

Monitoring stages of the EIA procedure	Criteria	Questions	Adequately covered/ Inadequately covered	Comments
		<p>3.3.5 Environmental sensitivity of the area: ecological functions of the area (e.g. nutrient source through flooding, stormwater retention, etc.)</p> <p>3.3.6 Waste management and pollution prevention: waste types, amounts and disposal/discharge and waste management plans</p> <p>3.3.7 Socioeconomic environment: communities found in and around the project site, present and historic land use, population, housing and economic activity on the affected area, existing public facilities and services in vicinity, traffic and transport</p> <p>3.3.8 Public health and safety: present health and safety issues</p> <p>3.3.9 Cultural heritage: archaeological/ paleontological/ historic/ educational/religious/ scientific/ cultural sites in relation to the project</p>		
	<p>3.4. Assessment of potential environmental impact (including primary, secondary, and cumulative impacts during all stages, including initial site preparation and construction; facility operation, and post-facility or site closure)</p>	<p>3.4.1 Air pollution: emission sources and rates, comparison of predicted pollution with national and local levels, mitigation measures to minimize adverse impacts</p> <p>3.4.2 Water quality: pollutant sources, rates and concentrations in water bodies, mitigation measures to minimize adverse impacts</p>		

Monitoring stages of the EIA procedure	Criteria	Questions	Adequately covered/ Inadequately covered	Comments
		<p>3.4.3 Geology: potential soil loss/contamination, and mitigation activities</p> <p>3.4.4 Biodiversity: potential losses, effect from potential emission levels, bioaccumulate effects, mitigation measures to minimize adverse impacts</p> <p>3.4.5 Habitat alteration: effect of construction and site preparation on critical habitats, potential for secondary changes in habitats, possible permanent loss or displacement of vegetation habitat, changes in local species composition, diversity, and abundances, mitigation measures to minimize adverse impacts</p> <p>3.4.6 Waste management: waste types, generation and management plan with procedures for treatment, handling</p> <p>3.4.7 Land use impact: areas lost due to site preparation/ construction, conflicting zoning, anticipated changes in nearby land use, mitigation measures to minimize adverse impacts</p> <p>3.4.8 Economic activity impact: changes in employment patterns, availability of local labour pool for the project, potential change in overall economic activity in the region, mitigation measures to minimize adverse impacts</p> <p>3.4.9 Population and housing impact: employment increase, mitigation measures to minimize adverse impacts</p>		

Monitoring stages of the EIA procedure	Criteria	Questions	Adequately covered/ Inadequately covered	Comments
		<p>3.4.10 Impact on community services and public finance: potential deficiencies in community services and infrastructure, shortfalls in transportation capacity, mitigation measures to minimize adverse impacts</p> <p>3.4.11 Impact on transport: consistency with local and/or regional transportation plans, the effect of heavy vehicle traffic, mitigation measures to offset adverse impacts</p> <p>3.4.12 Health and safety impact: potential health and safety hazards to humans working or living on or near the project site, effects of facility noise levels on workers, local communities, potential long-term contaminant bioaccumulation within the food chain, mitigation measures to minimize adverse impacts</p> <p>3.4.13 Impact on cultural heritage: effect on historical/ cultural heritage sites in close proximity following correspondence with appropriate authorities, mitigation measures necessary to preserve items of archaeological, historical, or cultural interest</p> <p>3.4.14 Cumulative environmental impact of the planned activity within actual, developing and planned economic activities in the area (according to the local and regional development plans)</p> <p>3.4.15 Potential transboundary impact</p>		

Monitoring stages of the EIA procedure	Criteria	Questions	Adequately covered/ Inadequately covered	Comments
	<p>3.5. Mitigation measures (description of mitigation activities for all significant impacts on both the natural and human environments)</p> <p>3.6. Accessibility of the report</p> <p>3.7. Other</p>	<p>3.5.1 Adequate information to evaluate environmental consequences and residual impacts</p> <p>3.5.2 Identification of best mitigation measures to minimize potential impacts of all stages of the project, including siting and design, facility operation, and post facility closure</p> <p>3.5.3 Support of the mitigation hierarchy (in order of preference): Avoidance or prevention — Minimization — Reduction or elimination over time Correction — Compensation</p> <p>3.5.4 Implementation plan and performance criteria for all mitigation measures</p> <p>3.5.5 The authority/entity responsible for carrying out each mitigation measure</p> <p>3.5.6 Acceptability of the measures (socially and culturally)</p> <p>3.5.7 Adequate financial and non-financial resources for implementation.</p> <p>3.6.1 Publishing in electronic format/placing to the EIA open registry</p> <p>3.6.2 Placing paper copies for local public access in the affected areas</p> <p>3.6.3 Providing adequate time for the public between publishing the report and holding public hearings</p> <p>3.6.4 Addressing the public comments submitted before publishing the report</p>		

Monitoring stages of the EIA procedure	Criteria	Questions	Adequately covered/ Inadequately covered	Comments
4.Public hearings	4.1. Involving stakeholders	4.1.1 Announcement in national mass media		
		4.1.2 Announcement in regional mass media		
		4.1.3 Announcement in local mass media that operate on the affected areas		
		4.1.4 Informing stakeholders in the neighbouring countries (in case of transboundary impact)		
		4.1.5 Placing physical adds in public places of the affected areas		
	4.2. Accessibility of the hearings	4.2.1 Accessibility of the location for dwellers from all affected areas		
		4.2.2 Accessibility of time of the hearings for the dwellers from all affected areas		
		4.2.3 Suitability of the location (adequate size, equipment, etc.)		
		4.2.4 Holding transboundary consultations (if transboundary impact detected)		
	4.3. Accessibility of the documents concerning the hearings	4.3.1 Accessibility of paper copies to the dwellers from all affected areas before the hearings		
		4.3.2 Clear agenda/list of issues put on the hearings		
		4.3.3 Clear information about the EIA procedure to the dwellers from all affected areas before the hearings		
	4.4. Quality of the hearings	4.4.1 Public attendance		
		4.4.2 Ability to submit comments from the public during the hearing		
	4.5. Other	4.4.3 Video and minutes recording		

Monitoring stages of the EIA procedure	Criteria	Questions	Adequately covered/ Inadequately covered	Comments
5.Report on the public consultations	5.1. Quality of the report	5.1.1 Including submitted comments on the project		
		5.1.2 Minutes of the public hearings		
		5.1.3 Including submitted comments on the minutes of the public hearing		
	5.2. Addressing the submitted comments	5.2.1 Adequate addressing all the submitted comments on the project		
	5.3. Accessibility of the report	5.3.1 Publishing in electronic format/placing to the EIA open registry		
		5.3.2 Publishing video recording of the public hearings		
		5.3.3 Public announcement of the report		
		5.3.4 Observing the legislatively defined time terms of the public hearing		
	6.EIA ruling	6.1. Addressing the public concerns	6.1.1 Addressing all the submitted comments on the project within the conclusion on acceptability of the planned activity	
6.2. Content of the ruling		6.2.1 Adequate addressing all submitted comments on the planned activity		
		6.2.2 Plans of the project implementation and post-project monitoring		
		6.2.3 Environmental restrictions on the implementation		
6.3. Other		6.2.4 Comments from corresponding experts/authorities (if needed)		
7.Access to justice		7.1. Protesting the EIA procedure results	7.1.1 Court appeal against the EIA ruling	
	7.1.2 Who has the right to appeal to court			
	7.1.3 Other			

Overall appraisal of the EIA process

Monitoring sheet (evaluation checklist) of SEA procedure application

This Checklist has been prepared with the purpose of ensuring compliance with Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (the SEA Directive).

The Checklist is designed to ensure compliance with the broad objective of the Directive set out in Article 1 by promoting full integration of SEA in the Plan/ Programme (P/P) making process, and to promote best practice in the application of SEA across various sectors covered by the scope of the Directive.

Section 1. Screening

Minimum Requirements

Question	Yes, No, Comment	Statutory Basis
1.1 In reaching a determination of the requirement for SEA, have the criteria set out in Annex 1 of the SEA Directive been taken into account?		SEA Directive Article 3(6)/6(3)
1.2 Has the relevant competent authority consulted the prescribed environmental authorities as required and notified them of its determination?		SEA Directive Article 3(6)/6(3)
1.3 Has the relevant statutory authority made available for public inspection a copy of its determination on the requirement for SEA?		

Additional Recommended Task

Question	Yes, No, Comment	Statutory Basis
1.4 Does the screening determination clearly state whether SEA is required or not, who has made the decision and when?		SEA Directive Article 3(6)/6(3)
1.5 If the P/P has been screened out of SEA, does it clearly demonstrate that it does not meet all/most of the criteria of Annex 1?		SEA Directive Article 3(6)/6(3)
1.6 Has informal preliminary scoping taken place with the designated authorities prior to the commencement of the P/P making process?		

Monitoring sheet (evaluation checklist) of SEA procedure application

Section 2. Scoping

Minimum Requirements

Question	Yes, No, Comment	Statutory Basis
2.1 Were the designated environmental authorities consulted when deciding on the scope of the information to be included in the Environmental Report?		SEA Directive Article 5 (4)

Additional Recommended Tasks

Question	Yes, No, Comment	Statutory Basis
2.2 Have scoping meetings/workshops been held with (a) any of the designated environmental authorities, (b) relevant internal departments within the organization and (c) other relevant statutory and non-statutory organizations?		
2.3 As part of the scoping exercise, have the designated authorities been given an outline of: a) the geographical area involved (including a referenced and scaled map of the area) b) the nature of the plan and its intended lifespan c) the likely scale, nature and location of development within the area during the life of the plan (in broad terms) d) the predicted significant effects of this development		
2.4 Does the scoping report provide the designated authorities with sufficient information to form a view on the likely significant effects of implementation of the P/P?		
2.5 Have the public and other interested bodies been identified and consulted at the scoping stage?		
2.6 Have the responses to the scoping research been included in the Scoping Report?		
2.7 Has the Scoping Report been made public?		

Section 3. Consultation

Consultation with Designated authorities, public, and, where applicable, international and national transboundary consultation.

Minimum Requirements

Question	Yes, No, Comment	Statutory Basis
3.1 Have the Draft P/P and accompanying ER been made available to the designated authorities and the public?		SEA Directive Article 6(1)/6(3)
3.2 Have the designated environmental authorities and the public been given an early and effective opportunity to express their opinion on the draft P/P and the accompanying ER?		SEA Directive Article 6(2)/6(4)
3.3 Have the ER and the opinions expressed by the designated authorities and the public during consultation been taken into account during the preparation of the P/P?		SEA Directive Article 8
3.4 Where relevant, has a copy of the Draft P/P and the ER been forwarded to other neighbouring states before its adoption?		SEA Directive Article 7
3.5 Where relevant, have neighbouring states been given a reasonable time frame to respond to the draft P/P and ER?		
3.6 Have the opinions expressed by other neighborhood States during transboundary consultation been taken into account?		SEA Directive Article 7

Additional Recommended Tasks

Question	Yes, No, Comment	Statutory Basis
3.7 Has a description of the outcome of all consultations (including transboundary) been documented in the ER?		SEA Directive Article 6(1)/6(3)
3.8 Where a consultation recommendation has not been taken on board, has an explanation been provided of why?		SEA Directive Article 6(2)/6(4)
3.9 If the zone of influence of the P/P extends beyond the P/P boundary, have relevant statutory bodies/authorities and adjoining local authorities been informed and consulted?		SEA Directive Article 8

Section 4. Plan description

Minimum Requirements

Question	Yes, No, Comment	Statutory Basis
4.1 Has an outline of the contents and the main objectives of the P/P been provided in the ER?		SEA Directive Article 5 Annex I (a)
4.2 Has information been provided on the relationship of the P/P with other relevant P/Ps?		SEA Directive Article 5 Annex I (a)
4.3 Has a referenced and scaled map illustrating the geographical extend of the P/P area been included in the ER?		SEA Directive Article 8
4.4 Has the zone of influence of the P/P been described appropriately?		

Section 5. Consideration of alternatives

Minimum Requirements

Question	Yes, No, Comment	Statutory Basis
5.1 Have 'reasonable alternatives' been identified and described?		SEA Directive Article 5 Annex 1 (h)
5.2 Have the reasons for selecting (a) the alternatives and (b) the preferred alternative been provided?		SEA Directive Article 5/ Article 9(1)b Annex 1 (h)
5.3 Has a description of how the assessment of alternatives was undertaken been provided?		SEA Directive Article 5 Annex 1 (h)

Additional Recommended Tasks

Question	Yes, No, Comment	Statutory Basis
5.4 Are the potential alternatives proposed assessed against the relevant environmental objectives and against each other?		
5.5 Has a clear explanation been given of the likely significant environmental effects of each alternative?		
5.6 Has clear written justification been given for the choice of the preferred alternative?		

5.7 Do the alternatives considered reflect the objectives and hierarchy of the P/P?

5.8 Are significant effects described in relation to:
- current environmental conditions relevant environmental standards and thresholds

5.9 Are appropriate impact prediction methods used, and, are impacts quantified where relevant?

5.10 Have the methods used for impact prediction been described?

Section 6. Mitigation measures

Minimum Requirements

Question	Yes, No, Comment	Statutory Basis
6.1 Have mitigation measures been proposed for all significant adverse effects on the environment of implementing the P/P		SEA Directive Article 5 Annex I (g)

Additional Recommended Tasks

Question	Yes, No, Comment	Statutory Basis
6.2 Have mitigation measures been proposed for all significant adverse effects on the environment of implementing the P/P		
6.3 Have the proposed mitigation measures been incorporated into the P/P?		
6.4 Have the proposed mitigation measures been linked, where appropriate, to specific relevant significant environmental effects?		
6.5 Has an explanation been provided where mitigation of significant adverse effects is not proposed?		
6.6 Are the mitigation measures proposed within the remit of the statutory authority? If not, is there reasonable certainty that they will be implemented?		
6.7 Do the proposed mitigation measures have potential to fully avoid or mitigate the relevant impact(s)? If not, have additional measures been considered?		
6.8 Is a description provided of any likely post mitigation residual impacts included?		

Section 7. Monitoring programme

Minimum Requirements

Question	Yes, No, Comment	Statutory Basis
7.1 Has a monitoring programme of significant environmental effects of implementing the P/P been described?		SEA Directive Article 10 Annex 1 (i)
7.2 Does the monitoring programme allow unforeseen adverse effects to be identified, for instance, where assumptions underpinning the ER's impact predictions may not come true in practice?		SEA Directive Article 10(1) Annex 1 (i)
7.3 Have thresholds / trigger levels been assigned which will determine the need for appropriate remedial action?		SEA Directive Article 10(1) Annex 1 (i)

Additional Recommended Tasks

Question	Yes, No, Comment	Statutory Basis
7.4 Are responsibilities for carrying out the monitoring programme clearly defined?		
7.5 Has the frequency of monitoring been specified in the monitoring programme?		
7.6 Has the frequency of reporting on the results of the monitoring programme been specified?		
7.7 Does the monitoring programme address significant gaps identified in the baseline data?		
7.8 Does the monitoring programme utilise existing monitoring arrangements where appropriate?		
7.9 Does the monitoring programme include provision for the ongoing review of environmental targets and indicators?		
7.10 Has provision been made to produce regular monitoring reports during the time period of the P/P?		
7.11 Does the monitoring programme address transboundary effects, if any?		
7.12 What provisions are there to make the results and interpretation of the monitoring programme available to the designated environmental authorities and the public?		

Section 8. Environmental report and non-technical summary

This section provides an overview of the compliance of the ER with the requirements of the SEA Directive and the SEA Regulations. Where a non-compliance has been highlighted in previous sections of the SEA Process Checklist, actions taken to resolve the non-compliance should be highlighted in the 'Comment' section.

Minimum Requirements

Question	Yes, No, Comment	Statutory Basis
8.1 Does the ER contain all of the aspects listed in Annex 1 of the SEA Directive?		SEA Directive Article 5 Annex 1
8.2 Does the ER include a non-technical summary?		SEA Directive Article 5 Annex I (j)

Additional Recommended Tasks

Question	Yes, No, Comment	Statutory Basis
8.3 Have the responses to the scoping exercises been included in the ER?		
8.4 Is the non-technical summary concise and easy to understand?		
8.5 Has a description of the outcome of all consultations (including transboundary) been documented in the ER?		
8.6 Have relevant references, glossary of terms and scaled maps (with the source identified) been included?		

Overall appraisal of the SEA process

Some publications

from *Justice and Environment* network
will be very suitable

■ **Justice and Environment. 2018. SEA Directive: fit for purpose — if you do it right!, available at:**

http://www.justiceandenvironment.org/fileadmin/user_upload/Publications/2018/SEAD_REFIT_position_paper.pdf

■ **Justice and Environment. 2018. Assessing environmental impacts of plans and programs Implementation of key requirements of the SEA Directive in selected EU MS, available at:**

http://www.justiceandenvironment.org/fileadmin/user_upload/Publications/2018/SEA_Directive_Implementation_Study_J_E_26.06.18.pdf

■ **Justice and Environment. 2016. Collection of Examples of Good Practice in EIA Procedures, available at:**

http://www.justiceandenvironment.org/fileadmin/user_upload/Publications/2016/EIA_good_practices_collection.pdf

