



2018

GUIDE

*for Carrying out Strategic
Environment Assessment
Procedures*

CONTENT

INTRODUCTION	3
1. GENERAL CLAUSES	4
1.1. General provisions	4
<i>Table No.1: Notions applied in the implementation of strategic environmental assessment.....</i>	4
1.2. Goals of Strategic Environment Assessment.....	5
<i>Textbox No.1: Goals of Strategic Environment Assessment</i>	5
1.3. Institutional competences in the given area.....	6
1.4. Difference between Strategic Environment Assessment (SEA) and Environmental Impact Assessment (EIA)	6
<i>Table No.2. Difference between SEA and EIA</i>	7
1.5. Scope of Strategic Environment Assessment	8
<i>Table 3 Criteria for preliminary assessment</i>	10
<i>Figure No.1. The correlation between the plans or program development processes and the strategic environmental assessment</i>	13
<i>Textbox No.2: Essential clauses of a SEA service contract</i>	15
<i>Textbox No.3: Key elements of a Task Order developed for performing Strategic Environment Assessment</i>	16
<i>Textbox No.4: List of stakeholders</i>	18
2.1. Generalities regarding the Strategic Environment Assessment phases	19
2.2. Preliminary assessment procedure.....	19
<i>Table No.4. Content of the information on screening the need for performing the Strategic Environment Assessment.....</i>	20
<i>Table No. 4: Types of questions recommended in the screening phase to determine the need for carrying out environmental impact assessment.</i>	24
2.3. Scoping procedure	26
<i>Textbox No.5 Template structure of the list of information for the SEA scoping phase.....</i>	28
2.4. Drafting of SEA Report	34
<i>Figure No. 2. Grouping the alternatives for consideration</i>	36
2.5. Consultation on SEA Report with public authorities, interested public and conducting transboundary consultations, if needed	40
<i>Textbox No.6 Template structure of environmental opinion.....</i>	43
<i>Textbox No.7 Template Registry for recording SEA related information</i>	44
<i>Textbox No.8 Template Information Plan</i>	46
<i>Textbox No.9 Template environmental opinion issued in case of transboundary consultations.....</i>	53
2.6. Issuance of environmental permit.....	54
3. MONITORING	56
4. LIABILITY AND CONTESTATION OF DECISIONS	58
Table No. 5. Phases of SEA implementation	58

INTRODUCTION

1. The Republic of Moldova is part to the Convention on Environment Impact Assessment in Transboundary Context (Espoo Convention), ratified by Parliament Resolution No. 1546-XII of 23.06.93, and signatory of the Protocol on Strategic Environment Assessment to Espoo Convention, adopted in Kiev (Ukraine) on 21 May 2003. Proceeding from the commitments assumed under above-mentioned treaties and from *Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on Assessing the Effects of Certain Plans and Programs on Environment*, the Government approved Law No. 11 On Strategic Environment Assessment on 02.03.2017, in effect as of 07.04.2018.
2. Strategic Environment Assessment is *a systematic anticipatory process carried out for analyzing the effects on environment of plans, programs, and other strategic actions undertaken, and integrating the findings in the decision-making process.*
3. The goal of Strategic Environment Assessment (SEA) is to insure the recording and integration of environmental aspects in the strategic decision making process, in supporting sustainable and environmentally grounded development. Along with this, SEA is an important factor for maintaining sustainability in the management of natural resources, by planning relevant approaches in the initial phases of drafting plans and programs at national and local levels. These plans and programs will subsequently serve as a basis for launching projects and planned economic activities.
4. This Guide is designed for central and local public authorities involved in the drafting of plans and programs and in carrying out strategic environment assessment of the latter. This Guide provides practical advice on how to carry out some provisions. The recommendations provided in this Guide should be taken into consideration upon integrating environmental aspects in plans and programs. This Guide can be also used as teaching material in higher education institutions specialized in environment and law, as well by NGOs who get publicly involved in this process.

1. GENERAL CLAUSES

1.1. General provisions

5. Article 2 of the Law on Strategic Environment Assessment provides that *Strategic Environment Assessment* shall mean assessing the possible effects on environment, including on the *health of the population*, which involves drafting of a strategic environment report, carrying out consultations with public authorities and the public interested in the effects of a plan or program implementation, and transboundary consultations, if needed, and taking the Strategic Environment Assessment Report conclusions and the results of consultations into account in the decision making process;

6. The Law stipulates a number of terms as follows in **Table No. 1**.

Table No. 1: Notions applied in the implementation of strategic environmental assessment

Term	Definition
<i>Competent authority</i>	Central body of public administration on environment which consults the initiator of a draft plan or program in the preliminary assessment phase, examines the draft plan or program, and the SEA report, and approves a decision on issuing an environmental opinion/endorsement or rejecting the issuance of the latter at different levels: a) Central body of public administration on environment – for national plans and programs, including sector or cross-sector plans and programs approved by Government or Parliament; b) Territorial unit of the central body of public administration on environment – for local plans and programs approved by local public administration;
<i>Preliminary assessment approval (consent)</i>	A document issued by the competent authority in the stage of preliminary assessment of a plan or program, which states the need for carrying out a strategic environment assessment for respective plan or program;
<i>Environmental approval (consent)</i>	A technical-legal document issued by the competent authority, which confirms that the Strategic Environment Assessment Report is in line with the provisions of the current law, whilst environment protection related aspects are integrated in the plan or program submitted for approval and have no negative impact on environment, including on human health;
<i>Impact on environment, including on human health</i>	Any effect on environment, including on human health, flora, fauna, biodiversity, soil, climate, air, water, landscape, natural objects, physical assets, cultural heritage, as well as interaction between these factors;
<i>Initiator</i>	Central or local public administration authority which initiates a plan or a program and is responsible for its drafting;
<i>Affected party</i>	A party or parties to the Protocol on Strategic Environment Assessment which can be affected by the impact of a plan or program implementation on environment, including on human health in transboundary context;
<i>Party of origin</i>	A party or parties to the Protocol on Strategic Environment Assessment under the jurisdiction of which a plan or program is proposed for implementation;

<i>Plans and programs</i>	Plans and programs, including strategies containing action plans for their implementation, which: - are developed in compliance with the provisions of legislative, regulatory or administrative acts; - are to be drafted by a public authority and approved by Government or through a legislative procedure by Parliament; - are to be drafted and approved by a local public administration authority of level II;
<i>Strategic Environment Assessment Report</i>	Part of the documentation on a plan or program which identifies, describes, and assesses the possible significant effects on environment as a result of implementing the latter, as well as reasonable alternatives, taking into account the objective and geographic area covered by the plan or program, as per Annex 2.

1.2. Goals of Strategic Environment Assessment

(Article 1, paragraph (1)) The goal of the **Law on Strategic Environment Assessment** is to establish a legal framework for carrying out strategic environment assessment with the view to insure a high level of environment protection, prevent or diminish the negative effects of plans and programs on environment, including on human health.

7. The legal framework in the given area includes the Law on Strategic Environment Assessment and this Guides for Carrying out Strategic Environment Assessment Procedures. Strategic Environment Assessment is a process designed for analyzing and highlighting the potential negative impacts of planned programs and plans on environment and human health. This process can be applied in the initial stage of decision making process, at both local and national levels.
8. Paragraph 1 provides two objectives for carrying out the Strategic Environment Assessment:
 - Insuring a high level of environment protection;
 - Preventing or diminishing the negative impacts of some plans and programs on environment, including on human health.

(Article 1, paragraph (2)) The scope of Strategic Environment Assessment shall cover draft plans and programs developed at national and local levels, which can have a significant impact on environment in the Republic of Moldova or in other states.

9. When carried out systematically for each plan or program, the Strategic Environment Assessment helps the representatives of central or local public authorities involved in the decision making process to achieve environmental objectives, as well as sustainable development goals, as provided in *Textbox No.1*.

Textbox No.1: Goals of Strategic Environment Assessment

Strategic Environment Assessment helps central and local public administration authorities **in the decision making process**

- to incorporate environmental and sustainable development goals in the drafting of plans and programs,
- to collect and analyze the necessary information, including the opinions of other relevant stakeholders, for making a grounded decision,
- to assess possible significant effects on environment and human health of the strategic options and actions proposed in the plans and programs,

• to establish a set of conditions that would insure a justified implementation of strategic decisions in terms of environment protection.

10. Plans or programs may have a significant impact on environment in terms of both their character, and area of implementation. The significant impact of a plan or program is determined only as a result of an analysis carried out for each separate case.
11. Environmental goals are provided for in the current policy documents developed in environmental area. Sustainable development goals of the Republic of Moldova are set in the National Development Strategy “Moldova 2020”.

1.3. Institutional competences in the given area

12. This paragraph sets who applies the procedures of this Law, the competences of environment endorsement issuance, as well as the procedure of public participation in the procedure.
13. The national legislation provides for the development of plans and programs in different areas of activity, required for the social-economic development of the state. Such plans and programs are **„initiated” by different authorities**, for example, by those involved in spatial planning, regional development, constructions, energy, etc. Due to the impact that these plans and programs could have on environment, it is necessary to apply the strategic environment assessment procedure during the development of the plan or program. In addition to the initiator of the plan or program, the procedure envisions the involvement of both environmental authorities and other authorities, such as those with responsibilities in health, industry, agriculture, etc., or local public administration authorities (if these are not already involved as initiator of the plan or program). These authorities are established in the initial phase by the initiator.
14. The competences for the issuance of environmental endorsement for plans or programs are just for one level: For national, regional, and local plans, the Environmental Endorsement is issued by the Ministry of Agriculture, Regional Development, and Environment (MARDE). The competence for the issuance of environmental endorsement cannot be delegated.
15. Unlike the issuance of environmental opinion/endorsement, the strategic environment assessment procedure in itself, can be unfolded at any level, be it central, regional or local, as the possibility to delegate competences in this context is accepted. Thus, the Ministry of Agriculture, Regional Development, and Environment can delegate the coverage of certain phases of the procedure to the National Agency for Environment Protection, while the latter can delegate such competences to subordinated agencies

1.4. Difference between Strategic Environment Assessment (SEA) and Environmental Impact Assessment (EIA)

16. The SEA methodology is based on EIA instruments and techniques. While SEA is focused on detailed assessment of programs and plans, which are planning documents, EIA applies to economic activity projects planned, the majority of which derive from the planning documents falling within the scope of SEA. The significant impact on environment is an essential element in both cases: programs and plans that may have a significant impact on environment (Article 1 (2) of the Law on Strategic Environment Assessment) and planned economic activities with

significant impact on environment (Article 1, paragraph (2) of the Law on Environmental Impact Assessment).

17. The difference between SEA and EIA is provided in Table No.2. It shows how SEA and EIA procedures complement each other, in a system of environment assessment by levels

Table No. 2. *Difference between SEA and EIA*

	Strategic Environment Assessment (plans/programs)	Environment Impact Assessment (projects)
Objectives/ goal of the impact	Plans and programs at regional, national, and local levels	Economic projects in most of cases at local level
Legal bases	Law on Strategic Environment Assessment, No. 11 of 2 March 2017	Law on Environmental Impact Assessment, No. 86 of 29 May 2014
Level	At higher and more complex level, the content of SEA Report is not detailed in technical terms	EIA documentation is detailed, precise, and contains technical data
Data	A combination of descriptive and quantitative data	Mostly quantitative data
Goal	To assess broad (positive or negative) environmental and sustainable development implications of a big number of initiatives (programs and plans) that may vary in terms of area involved.	To identify, if possible, the specific impact on environment in quantitative terms. This is a tool which helps the authorities determine if an economic project will have or not a negative impact on environment.
Identified solutions	These are frequently discussed at the level of overall policy alternatives.	The solutions for compensation and diminishing of negative impacts gain importance and are taken into account upon issuance of the environmental opinion Endorsement of Environmental Impact Permit
Alternatives	<i>E.g. a more efficient use of the current infrastructure, fiscal measures, spatial balance of the location, etc..</i>	<i>E.g. location, technical options, design options, etc.</i>
Impact prevention methods	Simple (frequently based on matrices and using expert opinions) with a high degree of inaccuracy	Complex (and frequently based on quantitative data)
Results	General	Detailed
Extensive problems	On large geographic areas, focused on strategic impact	Focused to a large extent on a certain economic project in a specific locality
Chronology	Strategic Environment Assessment is first carried out for plans and programs	Then the environmental impact assessment of economic projects is carried out

1.5. Scope of Strategic Environment Assessment

(Article 3, paragraph (1)) Strategic Environment Assessment shall be applied on plans and programs developed in agriculture, forestry, fishery, energy, industry, transports, waste management, water resource management, electronic communications, tourism, land use, urban and rural planning (urban and spatial planning documentation, including on national, regional, and district spatial planning plans and programs and general urban development plans), which set framework for issuing permits for the implementation of programs and activities provided for in Annexes No. 1 and No. 2 of Law No. 86/2014 on Environmental Impact Assessment.

18. For the purpose of SEA Law implementation, the term "*plans and program*" shall mean plans and programs or any amendments to the latter, which:

- a) are required by legislative provisions, regulations or administrative dispositions, and
- b) constitute a subject matter of development and/or approval by a competent authority or development by one authority, and approval via a forma procedure, by Moldovan Government or Level I Local Councils or District Councils.

19. The legal framework in the given area includes:

- a) *Law on Legislative Acts No.780-XV of 27.12.2001 (in force as of 14.06.2002), Official Gazette of the Republic of Moldova N.36-38, Article 210, of 14.03.2002; before the enforcement of legislative act indicated under item b)*
- b) *Law on Regulatory Acts No.100 of 22 December 2017 (in force as of 12.07.2018, Official Gazette No. 7-17, Article No.34, of 12.01.2018)*
- c) *Law on Transparency in the Decision Making Process No.239-XVI of 13.11.2008, Official Gazette No.215-217, Article 798, of 05.12.2008;*
- d) *Government Resolution on Drafting Rules and Unified Requirements for Policy Documents, No.33 of 11.01.2007 (Official Gazette No.6-9, Article 44, or 19.01.2007).*

20. The document title (plan or program) and origin ***is not*** a sufficient indicator for the selection of the latter in order to be subject to SEA and then submitted to competent authority.

21. SEA should be carried out for plans and programs developed in sectors, such as:

- agriculture, forestry, fishery, energy, industry, including mining;
- transports, regional development, waste management;
- water resource management;
- electronic communications, tourism;
- urban and rural planning, and land use (urban development and spatial planning documentation, including national, regional, and district spatial planning programs and plans, and general urban development plans);
- which set the framework for issuing permits for the implementation of projects and activities provided for in Annexes No. 1 and 2 of Law No. 86/2014 on Environmental Impact Assessment.

22. It should be specified that plans or programs falling under the above 12 areas are subject to Strategic Environment Assessment. Respectively, the authority responsible for drafting the plan or program is not obligated to determine the need for SEA by carrying out preliminary

assessment. This fact is provided for in Article 5, paragraph (1), which defines two types of plans and programs with significant effects on environment. To fall under this paragraph, a plan or program should fulfill **one of the requirements mentioned in the paragraph**: the plan or program should be part of one of the sectors (agriculture, forestry, fishery, etc.) or setting the framework for issuing the future permits for the implementation of projects and activities provided for in Annexes 1 or 2 of the Law on Environment Impact Assessment, No.86/2014.

23. The phrase „...which setting the framework for issuing permits for the implementation of projects and activities provided for...”, means that respective plan or program contains criteria or conditions that guide the authority issuing environmental endorsements through their decision over a request for such endorsement. Such criteria can limit the types of activities allowed in a certain area, set limits for the activities to be unfolded in an area, provide certain conditions which are to be met in order to obtain the environment agreement, or may impose to preserve the characteristics of a certain area. Spatial management plans contain criteria determining which type of development can be applied in certain areas and represent a typical example of a plan that establishes the framework for issuing environmental agreements in the future.
24. This also refers to sector plans and programs, which identify, in broader terms, the location of subsequent projects in the given sector. In each case, it is necessary to take into consideration the extent to which the future decisions on projects are conditioned by the plan or program.

(Article 3, paragraph (2)) Plans and programs provided for in paragraph (1) of this article, which envision the use of small surface areas at local level, as well as those involving minor changes of plans and programs provided for in paragraph (1) shall be subject to strategic environment assessment only if in the preliminary assessment stage the competent authority determines based on the criteria set in Annex 1 of this Law that the latter may produce significant effects on environment, including on human health.

25. The expression „small surface areas at local level” cannot be strictly defined, rather than through a case-by-case assessment. An example of such plan or program can be the General Urban Development Plan (Masterplan), which establishes the construction details of buildings, determining their height, width or appearance, for a limited area (zone).
26. The term „local” does not establish a clear link with local authorities, just making a difference between national or regional levels. However, the key criterion to be taken into consideration is the possibility for the given plan or program to have significant effects on environment, not the area covered by the latter. A plan or program considered to have significant effects on environment should be subject to environmental assessment even if it envisions the use of a small land area at local level.
27. If the plan or program is part of a hierarchic system of documents in the same area (for e.g. the National Waste Management Program and the Regional Waste Management Program), the initiator should guide by the strategic environment assessment procedure at different levels, as well as by the specifics of each locality. Also, when conducting the strategic environment assessment of a plan or program, the SEA for the plan or program carried out in the same area at national level shall be taken into account.

(Article 3, paragraph (3)) Plans and programs other than those provided in paragraph (1) of this article, based on which projects and activities listed in Annexes 1 and 2 of the Law on Environmental Assessment, No. 86/2014 are implemented, and which require obtaining a permit, shall be subject to SEA only if in the preliminary assessment stage the competent authority determines based on criteria set in Annex No.1 to this Law that the latter can produce significant impacts on environment, including on human health.

28. An important criterion is determining based on Annex No.1 to Law 11/2017 of the need to carry out SEA on a plan or program. **Table 3** provides the criteria by which a preliminary assessment is done.

Table 3 Criteria for preliminary assessment

Criterion	Provisions in Annex 1	Applicability
1	a) extent to which the plan or program sets a framework for projects or other activities in terms of location, type of activity, dimension, operation or resource allocation conditions;	
1	b) the degree to which the plan or programme influences other plans and programmes including those in a hierarchy;	
1	c) importance of the plan or program in terms of integrating environmental considerations, including those related to human health, taking into account the promotion of sustainable development;	
1	d) environmental issues, including human health issues that are relevant for the plan or program;	
1	e) relevance of the plan or program for the application of environmental legislation (for e.g., waste management, water protection, and water management plans or programs).	
2	a) probability, duration, frequency, and reversibility of effects/impacts;	
2	b) cumulative nature of effects/impacts;	
2	c) magnitude and spatial coverage of effects/impacts (geographic area and number of the population that can be affected);	
2	d) risks for environment, including for human health;	
2	e) transboundary character of the effects of plan or program implementation;	
2	f) values and vulnerability of the area that can be affected due to: – natural characteristics or special cultural heritage; – exceeding the environment quality standards or limit values; – intensive land use;	
2	g) impacts on areas or landscapes with protection statute at national, community, or international level.	

(Article 3, paragraph (4)) The provisions of this Law shall not apply to plans and programs:

- a) the sole goal of which is to insure the national defense needs or liquidation of emergency situations in civil area;
- b) in financial or budgetary sector.

29. An exception shall only be plans and programs the sole goal of which is to insure the national defense needs or liquidation of the consequences of emergency situations in civil area. In other words, if a plan or program contains some objectives in national defense or civil protections areas in addition to other objectives, it shall not be excluded, a priori, from the strategic environment assessment. This means that, for instance, if talk about a regional land use plan which contains provisions for a national defense project in a certain region, such plan should be subject to strategic environment assessment (if the other criteria set in Law 11-2017 are met), because the project is not designed exclusively for national defense. As such, in order for this exception to be applied, it is the goal of the plan or program, and not its effects that should be considered.

30. As regards the term „civil area”, it refers to the protection insured to persons in case of natural or man-made disasters (for e.g., earthquake, terrorist activities, etc.). The same goal related criterion is applied in case of a plan or program.

31. The exception provided under item b) refers to budgetary and financial plans or programs. The first (budgetary plans or programs) have as subject matter the annual budgets of national, regional or local authorities, including the budget rectification. Financial plans or programs can have as subject matter the procedure by which certain projects or activities will be financed, and how donations and aid/funding will be distributed.

32. Plans and programs in financial or budgetary area developed at any national, district or local level are exempted from carrying out a SEA.

(Article 3, paragraph (5)) If the plans and programs are part of a hierarchy, the fact that the assessment shall be carried out at different hierarchic levels, in compliance with this law, shall be taken into account in order to avoid SEA overlapping. To avoid overlapping, the provisions of Article 8, paragraphs (2) and (3) shall be applied.

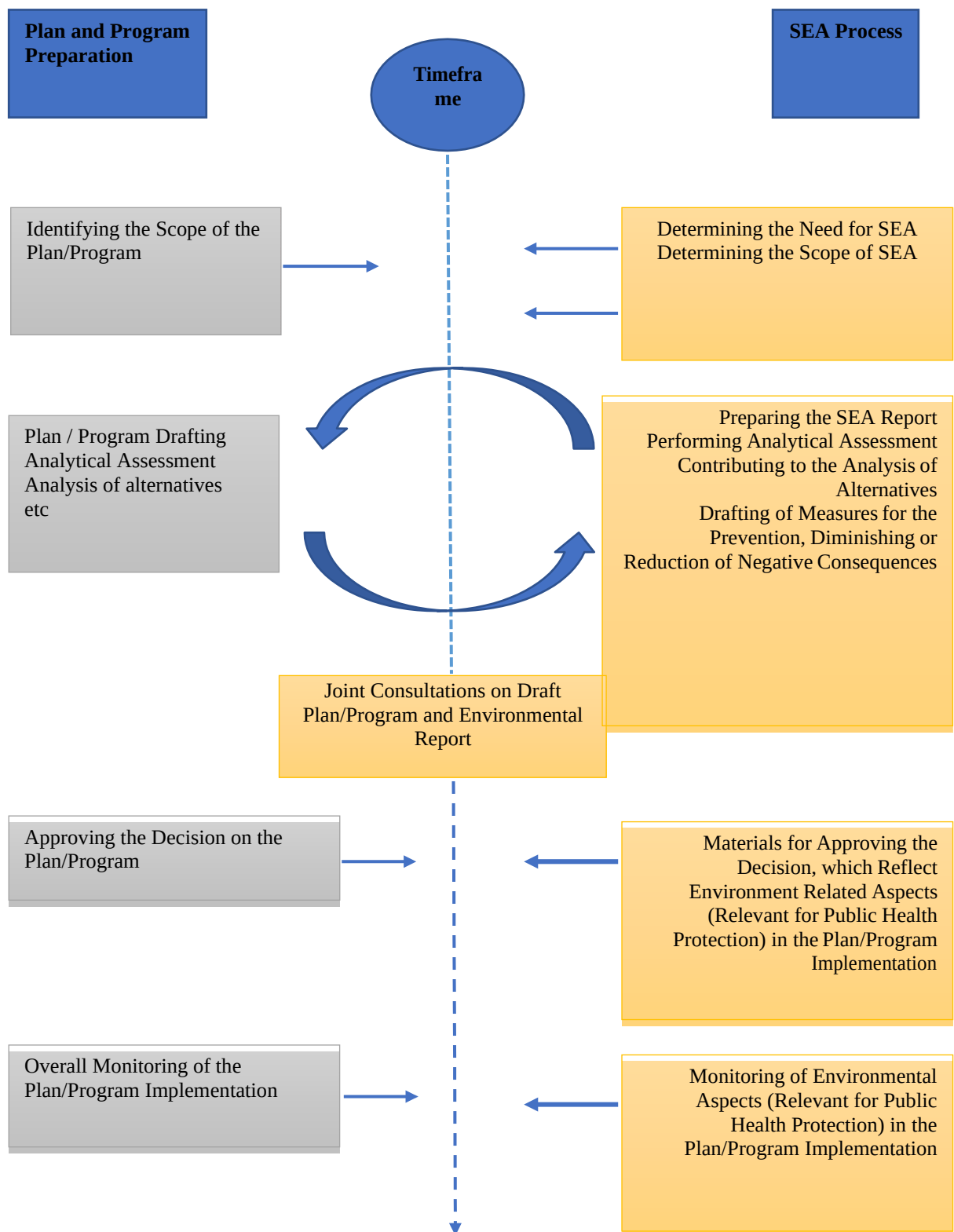
33. There is a possibility that several plans or programs may provide for a certain issue, however having a different geographic coverage (national, district, and local). As such, when there is a hierarchy of plans and programs, environmental information contained in a general document should be used in developing subsequent plans or programs, thus avoiding the overlapping of efforts and excessive time and financial resources spent. Law 11/2017 specifies that the SEA for plans and programs developed at local and district level should take into account the results of assessment at higher level, i.e. regional or even national level, respectively.

(Article 4, paragraph (1)) Strategic environment assessment shall be carried out in the process of a plan or program drafting, and shall be finished before the approval of the latter by competent authority at national or local level.

34. Strategic environment assessment for plans and programs should influence the way of their development. In other words, the plan or program content should include the results of environmental report, while the final version of the plan or program should represent the best alternative for accomplishing the goals pursued, in terms of environment protection.

35. This provision sets a condition by which SEA is developed within the same period or in parallel with the plan or program drafting, the partial or final results of such assessment being included in the final text of the plan or program, respectively, which means that the initiator should observe the same phases for SEA as for the plans and programs. *Figure No.1* shows the correlation between the process of drafting a plan or program and the strategic environment assessment process.

Figure No.1. The correlation between the plans or program development processes and the strategic environmental assessment



36. The plan or program is approved only after the completion of strategic environment assessment.

(Article 4, paragraph (2)) The initiator developing plans and programs upon own initiative or upon request from Parliament or Government shall be responsible for carrying out SEA in compliance with the provisions of this Law.

37. This provision sets that the plan or program can be developed upon own initiative of the initiator (central or local public authority). These authorities have the right to approve the plans and programs, respectively. In the second situation the initiator develops a plan or program upon a request of the Parliament or Government forwarded directly or deriving from the already approved political or legislative framework.
38. Initiator can be any authority of central or local public administration initiating the drafting of a plan or program.
39. This provision also regulates the initiator's responsibility for carrying out strategic environment assessment of plans and programs initiated. The combination of procedures can be found in *Figure No.1*. The initiator can perform the SEA either based on own (human and financial) resources or procure/contract these services. In the second case, the provision of the Law on Public Procurement, No. 131, of 03.07.2015 shall be applied.

(Article 4, paragraph (3)) If several authorities of central public administration have been given the task to develop the plan or program, then the strategic environment assessment shall be insured by the authority assigned by Government or by the authority mentioned first in the list of authorities assigned by Government as being responsible for drafting respective plan or program.

40. The fact that the plan or program is developed by a group of authorities even if one of them operates in environment does not spare the initiators from the responsibility of performing SEA. This responsibility will be attributed to a single authority, either the one designated by Government or the one that comes first in the list of responsible authorities.
41. Through such lists can be understood the list provided in the table of the „Action Plan” attached to plans and programs in the „Responsible Institutions” column. Respectively, if an issued government resolution determines the direct task for one of the authority to develop the plan or program, the delegated authority is also responsible for launching the strategic environment assessment, and to subsequently submit it to the competent authority for consideration. If the plan or program development is provided for as one of an action in a different strategic document, then the structure indicated as „responsible institution” would be responsible for the launching of SEA”.

(Article 4, paragraph (4)) To carry out the SEA, the initiator shall have the right to engage as developers of SEA report specialized institutions, as well as experts and specialists, including international experts, on competitive basis. When selecting the experts, the initiator shall take into account the level of their education, sector competences and at least 3 years of work experience in environmental assessment.

42. As mentioned above, in Article 4, paragraph (2), the initiator shall apply the provisions of the *Law on Public Procurement* (No. 131 of 03.07.2015, currently in force) when contracting the SEA developer. The latter can be both a natural person (experts and specialists), and a legal person. In both cases, the developers can be resident and non-resident persons. As to the legal person, it can be a commercial and non-commercial entity, the only condition

being that it should be a specialized institution the Charter of which stipulates the implementation of environmental activities, consultations on environment related issues, and performance of strategic environment assessment among its activities. The Law on Strategic Environment Assessment does not establish any certification systems which would confirm the statute of SEA developer. The essential clauses of a SEA service contract are provided in Textbox No.2

Textbox No.2: Essential clauses of a SEA service contract

Generalities – organizational context and reasons for which a SEA is necessary and which decisions it is expected to influence;

Subject - identification, description and assessment of significant impacts on environment in terms of the implementation of (titles of the strategic sector document), most important constraints related to environment, natural resources and climate changes which influence the sector performance; Possibilities for improving the environment status.

Result – carrying out a study for determining the need for conducting SEA and developing SEA report for a given plan or program

Tasks:

- Study to determine the need for performing SEA – general analysis of the legislative and institutional frameworks, planning of the latter and description of strategic documents, if such exist, description of beneficiaries, key aspects, environmental objective which is to be developed in the SEA report, recommendations on identified impact and methodology for assessing the strategic sector, setting of deadlines for SEA report drafting.
- Strategic Environment Assessment Report – is based on the results of the study for determining the need, identifying constraints related to environment and climate changes, assessing the potential impact on environment, analyzing performance indicators and evaluating institutional capacities, preparation of conclusions and recommendations, key aspects of environment analysis, identification and assessment of risks, constraints and opportunities of environmental factors and climate changes with positive or negative impact on the efficiency and sustainability of the strategic sector documents, as well as in terms of vulnerability of climate risks, analysis of performance indicators, approaching regulatory institutions regarding the identified environmental issues and stipulating the latter in the strategic documents, support and commitments of beneficiaries set in the scoping phase, conclusions and recommendations.

Work Plan

**Expertize
Reporting**

- Submission of proposal (the proposal should include the Terms of Reference and a description of the overall approach to SEA, in compliance with these clauses, highlighting the following: proposed methodology for the participation of stakeholders; proposed approaches for identifying the baseline regarding the environment; methodology for

identifying and assessing the impacts, risks, and opportunities.)

- Reporting period / Report template(form)

Implementation period and allocation of resources for planned activities

Payment for the service provided

43. We would like to draw attention on the fact that the tasks of developers can also include responsibilities for insuring consultations with the competent authorities and the public, as required by the Law on Strategic Environment Assessment. However, during the SEA process the developer organizes other meetings as well (workshops, consultations, focus groups, round table discussions, etc.) with the stakeholders to identify problems, collect data, and collect alternatives or positions. These meetings are not identified with the consultation activities provided for in Articles 9-11 of the above-mentioned Law.

44. The Law provides that, when selecting the SEA developer, the initiator should take into account the level of their training, sector related competences and at least 3 years work experience. Please note that SEA is usually carried out by a group of experts /specialists, who are united under the name of a legal entity or by a common goal. And as mentioned above, respective experts/specialists are hired on basis of an open and transparent competition, which will require in both cases to draft Terms of References (ToR) for performing the SEA. The key elements that should be included in a ToR for performing the SEA are included in TextboxNo.3.

TextboxNo.3: Key elements of a Task Order developed for performing Strategic Environment Assessment

Task 1: Analysis of the situation and evaluation of environmental priorities.

The Consultant shall identify the SEA priorities by analyzing the environmental aspects and priority environmental concerns of the stakeholders.

Task 2: Analysis of stakeholders

The Consultant shall identify stakeholders from the public and private sectors who will analyze their interests and incentives for the development, planning and revision of their role, mandate and links between various interested parties (institutions).

Task 3: Assessment of potential environmental impacts of the plan and evaluation of available alternatives, as well development of mitigation measures of negative effects.

Task 4: Evaluation of institutional governance weaknesses

The Consultant for SEA shall assess the institutional and governance capacity for managing the priority environmental risks.

Task 5: Institutional, financial, governance, and monitoring plan

The Consultant for SEA shall formulate specific short, medium, and long-term proposals. These shall include quantification of resources required for applying respective recommendations and formulation of a monitoring and evaluation plan which will involve the participation of several stakeholder's top prevent the risks that could eventually emerge.

Task 6: Dissemination

The draft SEA report and recommendations shall be validated in a workshop convening the stakeholders at sector and regional stakeholders.

Other work activities:

- **Contribution** to the collection of information for the phase of identifying the

need for performing the EIA, i.e. supplying the initial information on environment/public health status of the area that could be affected, and environmental/public health issues relevant for the plan or program

- **Preparation** of the information for SEA report scoping, i.e.:
 - identification of key environmental and public health issues that should be addressed further in the SEA, as well as aspect that are not relevant for a certain plan or program, and therefore should not be included in the subsequent analysis,
 - provision of possible alternatives or options that should be addressed within the SEA,
 - identification of the territorial dimension of possible effects,
 - performance of analyses and surveys to be performed in continuation, as well as methods and tools to be used,
 - Identification of stakeholders to be involved in subsequent steps (including environmental and public health authorities, as well as public authorities).
- **Preparation** of the SEA Report which includes all the necessary analyses, i.e.:
 - Analysis of baseline/initial situation for environmental and public health issues relevant for the plan or program;
 - Assessment of probable significant impacts on environment;
 - Formulation of relevant mitigation actions
 - Proposal of monitoring schemes
- **Coordination** of stakeholder involvement, including of public participation in the strategic environment assessment process, including taking into consideration of comments and suggestions received in the scoping reports and/or strategic environment assessment reports.
- **Communication and coordination** with the planning team in order to correctly integrate SEA inputs in the strategic document.
- **Communication and coordination** of activities with the competent authority regarding the consultation process on the scoping report and SEA report.

(Article 4, paragraph (5)) The initiator shall insure the information and participation of the competent authority, the authority in health protection area, as well as other interested authorities, depending on the character of the plan or program, at all stages of Strategic Environment Assessment.

45. This article provides for the authority which applies the procedures of Law 11/2017, and competences for insuring the information and involvement of the public and authorities, including the competent authority in the strategic environment assessment procedure.

46. National legislation provides for the development of plans and programs in different areas of activity, required for the social-economic development of the state. Such plans and programs are under the „tutelage” of different authorities, for example, of those involved in spatial planning, infrastructure, transports, constructions, energy, etc. Due to the impacts that these plans and programs may have on environment, it is necessary to apply the SEA

procedure throughout the plan and program development. The procedure provides that, in addition to the plan and program initiator, both environmental authorities and authorities with responsibilities in public health, industry, agriculture, etc., or local public administration authorities (in other words – other than the plan or program initiator). These authorities are identified by the initiator in the preliminary assessment stage.

47. In order to know who should be informed and who will be involved in the consultation process related to the draft plans or programs, the initiator should identify these categories. The identification is done in several ways. As a result, such identification provides information about stakeholders during the scoping phase of the SEA process for the plan or program. Identified institutions will be approached and invited to participate in the stakeholder consultation activities and comment on the results produced by the SEA developer. Textbox No.4 provides a template table that should be developed and used in the information and consultation process, and then included as a component part of the scoping documentation for SEA report, and directly in the SEA report. The table lists the key stakeholders for the strategic environmental assessment of the plan or program. The table should also include vulnerable groups and public authorities affected, identifying the main interests and concerns of the stakeholders (based on the desk analysis by experts/specialists on scoping).

Textbox No.4: List of stakeholders.

Stakeholder (institution/representative)	Interest/concern	Contact information

(Article 4, paragraph (6)) The initiator shall cover the costs for performing the Strategic Environment Assessment.

48. This provision sets that both the costs for drafting the plan or program, and for carrying out the Strategic Environment Assessment should be incurred by the initiator. This provision does not include any exception, which would mean that the given obligation is attributed to central and local public authorities. The lack of expenditure planning for performing the SEA does not exempt from the obligation for carrying out such assessment, and nor does it allow for shrinking the phases or consultations. The SEA costs can be covered from public finances or foreign technical assistance. The Law does not provide for any prohibition to combine the support: covering the plan or program development from one source, and the strategic environment assessment from another source(s).

2. PHASES OF STRATEGIC ENVIRONMENT ASSESSMENT

2.1. Generalities regarding the Strategic Environment Assessment phases

(Article 6) The Strategic Environment Assessment process shall be unfolded according to the following phases:

- a) scoping of SEA report;
- b) development of SEA report;
- c) consultation on SEA report with public authorities, interested public, and transboundary consultations, if needed;
- d) issuance of the environment endorsement.

49. The Strategic Environment Assessment procedure is divided into 5 (five) phases:

- a) Phase 1 – determining the need (preliminary assessment of the plan or program, also called *screening*) (Article 5 of Law No.11/2017);
- b) Phase 2. Scoping (Article 7 of Law No.11/2017);
- c) Phase 3. Identification, projection, assessment, and mitigation of potential impact; this phase corresponds to the process of drafting the Strategic Environment Assessment Report (Article 8 of Law No.11/2017);
- d) Phase 4. Consultation, revision, and post-approval activities. (Articles 9-12, 14-15 of Law No.11/2017);
- e) Phase 5. – Issuance of the environment endorsement (Article 9 of Law No.11/2017);

2.2. Preliminary assessment procedure

(Article 5, paragraph (1)) A preliminary assessment shall be carried out for the purpose of determining the need of SEA for the draft plans and programs specified in Article 3, paragraphs (2) and (3), based on criteria specified in Annex 1.

- 50. For a preliminary assessment, the initiator files an **official request** accompanied by the preliminary assessment results carried out on basis of criteria specified in Annex No.1 to this Law. A template request is included in Table No.4.
- 51. The request shall be submitted in hard copy, and upon request, shall be provided in electronic version as well. The request shall be submitted to the Ministry of Agriculture, Regional Development, and Environment.
- 52. Strategic environmental assessment is carried out for plans and programmes referred to in paragraphs 2, 3 and 4 of 4th article of SEA Protocol, which are likely to have significant environmental, including health, effects.
- 53. Determining the need for performing the strategic environment assessment requires a systemic approach which cannot be always limited to a positive list of mandatory strategic environment assessment actions. The importance of this phase is due to its selection function, which will constitute the basis of a good quality strategic environment assessment, saving financial resources and time.
- 54. The goal of determining the need for performing the strategic environment assessment is to identify the main environmental issues that could affect the decision making framework and define the assessment methods.

55. The process of determining the need for performing SEA for plans and programs is the first phase of SEA process and it is much more complex than the process of an economic activity project. The complexity is caused by the fact that the plan and program include a number of actions with a broader area of influence. They are adjusted to different regulatory acts and provide a possibility for the existence of a bigger number of alternatives.
56. Determining the the need implies a number of questions that should be examined during the assessment, likewise the „depth” or the level of detail of the information during the examination of each separate question. The screening is oriented towards insuring that the SEA report be focused and contain sufficient information on essential aspects considered in the plan or program. Along with this, it helps preserve a balance and avoid overloading the report with data and information, particularly on less essential aspects in the plan or program.
57. Preliminary assessment is carried out only for the plans and programs provided for in Article 3, paragraphs (2) and (3). See detailed comments to this article and respective paragraphs on the page 9 and 10 of this Guide.

(Article 5, paragraph (2)) To carry out preliminary assessment, the initiator shall submit to the competent authority during the plan or program formulation phase the following information:

a) information about the initiator:

- name and address of the institution;
- last name, first name, address and contact data of the representative authorized by the initiator;

b) information about the plan or program:

- title of the plan or program;
- justification of the need for developing the plan or program;
- main aspects related to environment protection included in the draft plan or program;
- key areas and implementation timeframe;
- existence of a framework for projects and activities listed in Annexes No. 1 and 2 to Law No. 86/2014 on Environmental Impact Assessment, which require a permit;
- possible significant impact on environment, including on human health, as a result of plan or program implementation;
- timeframe for development and method for approving the plan or program;

c) information about affected territory:

- establishing the affected territory;
- main characteristics and environmental issues in the affected territory.

- 58.** To cover this phase appropriately and make informed decisions, it is necessary for the documentation submitted to the competent authority to be divided into two parts: the **descriptive part, and graphic part.**

59. The information specified in Table No.4 should be included in the **descriptive part**:

Table No.4. Content of the information on screening the need for performing the Strategic Environment Assessment

<i>Request</i>
a) information about the initiator:

– name and address of the institution;	Plan/program initiator – local or central public authority requesting the screening (determination of the need), specifying its name, legal address, mail and e-mail addresses, contact data (telephone and fax numbers, and e-mail address), etc.
– last name, first name, address and contact data of the representative authorized by the initiator;	Contact person – the last name, first name, position held, mail and e-mail addresses, telephone and fax numbers of the person who represents the initiator and insures any action in relation to plan or program development and SEA procedure.
b) information about the plan or program:	
– title of the plan or program;	Full title and acronym of the plan or program, if needed. Just to remind that the title is not a criterion that would determine the need for performing or non-performing SEA. Only plans and programs which meet the criteria provided for in Article 3 of Law No.11/2017 are subject to SEA.
– justification of the need for developing the plan or program;	A complex of studies and investigations carried out before the the plan or program drafting initiation process, which justify the need for initiating a national or local policy with the aim to describe and analyze identified/current problems, identify objectives associated with the given problems, define tools for settling respective problems, and expected impact on the state and the society. In addition, possible risks of the plan or program implementation should be identified; The justification should describe the goal and objectives, scope, key characteristics of the latter, new visions, activities/actions to be carried out for the implementation of the plan or program.
– key aspects of environment protection included in the draft plan or program;	The screening is a simple and structure method for identifying the key problems or risks associated with the implementation of the plan or program. In the context of identifying environmental aspects at this phase, the information formulated should reflect the following: • identification of stakeholders; • identification of proposals related to environment (or some aspects for orientation) which will guide a more detailed analysis in the SEA process.
– key areas and implementation timeframe;	Brief description of the scope provided for in Article 3, paragraph (1), and of the main characteristics of the latter. Here one should indicate if the action envisions amending the plan or program, or drafting a new document. The plan or program implementation period should also be indicated here.
– existence of a framework for projects and activities listed in Annexes No.1 and 2 to Law No. 86/2014 on Environmental Impact Assessment, which require obtaining a permit;	Here, the initiator should indicate the legislative and political base in place for the plan and program development; The initiator should also explain if the future plan or program will provide for the implementation of an activity falling under Annexes No.1 and 2 to Law No. 86/2014 on

	Environment Impact Assessment; (i.e. if as a consequence of the plan or program will be implemented projects requiring EIA);
– significant positive impact on environment, including on human health, as a result of plan or program implementation;	Plans and programs susceptible to have significant impacts on environments, including on human health are subject to strategic environment assessment. In the screening phase, only susceptible impact on environment is described. The phase of determining the need for strategic environment assessment includes a description of potential significant impacts of the plans and programs on environment. Following this phase, as the case may be, each plan or program is examined individually to determine if it can have significant effects on environment.
– timeframe for drafting and approval method of the plan or program;	The whole period is indicated here, i.e. from initiation up to approval, taking into account the period dedicated for consultations with the public and interested authorities. It should be indicated if the plan or program will be approved by Parliament, Government, or by District or Local Council.
c) information about affected territory:	
– establishing the affected territory;	In this section, the geographic territory for which the assessment is carried out should be defined from the preliminary assessment, i.e. one should include the description of: area, locality, and region covered by the plan or program implementation. The territory should be described from several points of view, including administrative, geographic, and environmental elements. It should be also indicated if the plan or program will have a transboundary impact. The inclusion of a map of the area with all elements required for the plan or program development/implementation is encouraged.
– main characteristics and environmental problems persisting on the affected territory.	This information, in the assessment part, should describe the biggest environmental problems persisting on the territory where the plan or program will be implemented. In the part on environmental problems reference should be made to environment elements (air, water, soil, subsoil, biological diversity), etc.

60. The **graphic part** should show the location in space of objects/projects desired to be developed in the future, as well as how they fit in relation to areas of special protection/protected areas/areas with special regime, etc.

61. In the preliminary phase, the initiator should provide to the competent authority information in a free form, observing the above indicated requirements. The recommendation is that the information compiled for the preliminary phase should not exceed 10 pages.

(Article 5, paragraph (3)) The competent authority shall examine the information provided within 10 working days, carry out consultations with the health authority, take into consideration the public opinion received in compliance with Article 10, paragraph (4), and issue the preliminary assessment endorsement, posting it on its official webpage within 5 working days from the date of issuance.

62. This paragraph establishes the procedure for examining the information developed by the initiator with the view to determine the need for carrying out the strategic environment assessment.
63. The competent authority should examine within 10 working days the received information, taking into consideration two essential aspects: the **administrative part** of information provided as required (item a) with all lines, and item b) with the first 5 (five) lines) in Article 5, paragraph (2), and the **part related to identification of the possible significant impact** – which is information required pursuant to (item b) the last two lines, and item c) both lines) of Article 5, paragraph 2.
64. In the **administrative part**, the competent authority will respectively establish if the information about the plan or program indicates the following:
- the plan or program is oriented towards the regulation of one of the 12 areas provided for in Article 3, paragraph 1, which sets the following:
 - use of small area,
 - implementation at local level,
 - envision minor changes in the plans and programs provided for in paragraph (1);
 - establish the implementation of projects and activities listed in Annexes No.1 and 2 to Law No.86 of 29.05.2014 on Environment Impact Assessment.
65. In the **part on identification of the possible significant impact**, the competent authority will check based on criteria set in Annex 1 to Law 11/2017 if there is a potential impact on environment and public health. With regard to potential effects and area that can be affected, these criteria include:
- a) probability, duration, frequency, and reversibility of effects;
 - b) cumulative nature of effects;
 - c) magnitude and spatial extent of effects (geographic area and number of the population that can be affected);
 - d) risks for environment, including for human health;
 - e) transboundary character of the effects of plan or program implementation;
 - f) value and vulnerability of the area that can be affected due to:
 - natural characteristics or special cultural heritage;
 - exceeded environment quality standards of limit values;
 - intensive land use;
 - g) effects on areas or landscapes with protection statute at national, community or international level.
66. While applying the criteria provided for in Annex No.1 to the Law on Strategic Environment Assessment, it is recommended that the competent authority ask specifically formulated questions in the context of respective plan or program. The types of recommended questions are included in Table No.4.

Table No. 4: Types of questions recommended in the screening phase to determine the need for carrying out environmental impact assessment.

QUESTIONS	YES	NO
1. Would the plan or program lead to significant changes in the actions, behavior or decisions of persons, enterprises, other non-government or government organizations, which could lead to: a) development of the infrastructure and buildings, land use or other changes at urban or rural area? b) land development in green areas or in nature conservation areas? c) a negative or beneficial impact on environment and/or natural resources? d) changes in the energy consumption of the society, particularly in the consumption of fossil fuels, and, therefore, in carbon dioxide emissions and other greenhouse gas emissions? e) changes in the consumption of natural resources of the society (e.g. water, soil, mineral substances or aggregated ones)? f) changes in the quantity or type of generated waste (solid, liquid, hazardous) or pollutants released in the water, soil or air? g) changes in the greenhouse gas emissions originating from other sources (e.g., methane released from animal breeding activity and landfills)? h) significant changes in the travelling behavior? i) impact on people and communities, for e.g. by increased noise, disturbances or inconveniences? 2. Have there been taken into consideration more detailed plans or programs from the same sector (when a vertical hierarchy is concerned) or plans and programs from other sectors at the same level (when a horizontal system is concerned) in the plan or program development process? 3. Does the local environment pose any constraint on the development of geographic area covered by the plan or program? 4. Does the plan or program fulfill the legal requirements that can be connected to the use of resources, waste generation		

and management or to other aspects associated with the promotion of sustainable development? 5. Is the goal of the plan or program to promote sustainable development? These questions can be adjusted to fit the context of the plan or program and the nature of certain administrative processes. The answer to these questions may require a short discussion with other specialists possessing knowledges in the above-mentioned areas, for e.g. waste, transport, and ecology. It is important for the verification to not be done by a single person who does not fully understand the potential interactions of the plan or program with a broad range of environmental data.		
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67. The competent authority consults with the other authorities (public health authority and other authorities concerned about subject matter addressed by the plan or program) having the task to analyze if the information covered in the need determination phase is complete.
68. By applying the provisions of Article 10, paragraph (4), the competent authority informs and consults the identified public. The procedure for applying Article 10, paragraph (4) is described in the chapter on public consultation (See page 49).
69. The Law on Strategic Environment Assessment provides for public involvement in the SEA procedure as soon as possible, as well as for sufficient timeframes so that the public have enough time to study the information regarding the plan or program and express their opinion.
70. The results of consultations with both the health authority and interested public should be documented (by compiling minutes and lists of participants), which are stored, and then archived later.
71. Following the examination of information submitted by the initiator, the results of consultation with the health authority (minutes of consultations or review) and results of public consultations (minutes of consultations or reviews), the competent authority may consider three possible results:
- The plan or program is not considered to have significant impacts on environment, and therefore there is not need to carry out strategic environment assessment. However, in such cases, the authority should keep some evidence of the results of examining the information regarding the determination of the need for carrying out strategic environment assessment.
 - The plan or program could have implications on environment, but these are not susceptible to be significant in terms of criteria set in Annex 1 to the Law on Strategic Environment Assessment, particularly in the **part on identification of possible significant impact**. In this case, the plan or program will constitute the subject matter of an "environmental inspection" to determine the need for carrying out strategic environment assessment during the future revisions/amendments of the plan or program.

- c) The plan or program could have significant implications on environment and the nature of the plan or program is so that the latter should be assessed in details and a full strategic assessment should be performed.

72. By the end of the assessment of possible results, based on the above mentioned, the competent authority issues the **"preliminary assessment endorsement"**. The endorsement should be posted on the web page of competent authority within 5 working days from the date of issuance. The issued endorsement is delivered to the initiator in electronic version, while the hard copy is kept by the competent authority for the process documentation.

(Article 5, paragraph (4)) The preliminary assessment endorsement shall be delivered in writing to the initiator, and be posted by the latter on their official web page within 5 working days from the date of reception

73. The preliminary assessment endorsement, which presents the results of above described tasks, include the following: 1. Introduction; 2. Goal of the plan or program; 3. Results of verification/ consultation of the information provided for preliminary assessment, and of the results of identifying the possible significant impact on environment, if needed. 4. The schedule and approach proposed for the strategic environment assessment process (if such a SEA is considered applicable). 5. Contact person for public comments.

74. If the evaluation carried out by the competent authority results in the fact that the plan or program does not fall under Law No.11/2017, the latter informs the initiator that they do not need to obtain an environment endorsement and may continue with the drafting of respective plan or program.

75. The endorsement should be posted on the webpage of the initiator within 5 working days from the date of reception prior notice regarding preliminary assessment.

(Article 5, paragraph (5)) If a decision is approved for carrying out strategic environment assessment, the initiator shall insure the latter according to the set phases, in compliance with this Law.

76. The responsibility to carry out the strategic environment assessment after the issuance of endorsement for strategic environment assessment is attributed to the initiator. The latter is obligated to observe the phases provided for in Article 6 of Law 11/2017.

2.3. Scoping procedure

(Article 7, paragraph (1)) For plans and programs specified in Article 3, paragraphs (1)–(3), with regard to which a decision is approved on carrying out strategic environment assessment, the initiator shall establish the proportion and detail level of information to be included in the SEA report in compliance with the requirements indicated in Annex No.2, taking into account the specifics of the plan or program.

77. To facilitate the SEA procedure, we should understand the environmental data/indicators that could be affected by the main actions proposed in the plan or program, establishment of a framework for the identification and assessment of the impact of such actions on the environment quality. Scoping will insure that the authority remains focused on important aspects and do not lose their resources on useless tasks.

78. It is important to note that within phases 2 and 3, researches/assessments are carried out on basis of requirements set for the SEA Report, the difference being set just in the proportions and detail level of information, which is determined by the initiator.
79. SEA scoping is a structured method for identifying the risks and key sustainability problems associated with the plan or program in process of development. The scoping will identify relevant environmental (and health) problems which will be further taken into consideration during the strategic environment assessment, and (if possible) also used to:
- define the territorial dimension of the assessment;
 - identify stakeholders who will be involved;
 - suggest methods or specific questions which will guide further analyses during the strategic environment assessment.
80. Scoping is important for the efficiency of SEA process, as it will insure the focusing of SEA only on significant effects which are relevant for the propose plan or program.
81. The provisions of Annex 2 to Law 11/2017 are for guidance, each piece of information about the plan/program should be adjusted to the specifics of the area it is a part of (spatial planning and urban development, agriculture, fishery, tourism, energy, etc.).

(Article 7, paragraph (2)) Upon SEA report scoping, the initiator shall consult with the competent authority and the healthcare authority. The consultation results shall be recorded in a minutes which will include a mutually agree **list of information** required for compiling the SEA Report, which is an integral part of the latter.

82. For the scoping phase, there shall be applied the criteria for determining the need of strategic environment assessment for plans and programs set in Annex No.1 to Law 11/2017, which contains criteria for determining potential significant impacts of the analyzed plan/program on environment.
83. Before completing the list of agreed information, required for compiling the SEA Report, the initiator organizes directly or through the services provided by the developer consultations with both the competent authority, and the healthcare authority.
84. The goal of such consultations is to identify data and information that should be reflected in the report, and to consult regarding the detail level of respective data and information.
85. The initiator and the authorities should meet within a reasonable time, before the meeting date, so that they have sufficient time to agree upon the following:
- organization of the consultation meeting(s) on possible impacts of the plan or program;
 - analysis of comments and suggestions received from the interested public;
 - approval of the decision on SEA Report scoping.
86. The list of mutually agreed information is an integral part of the minutes compiled as a result of consultations on scoping.

(Article 7, paragraph (3)) In the SEA Report drafting process, the competent authority consulting the initiator on the report scoping can request additional information from the initiator.

87. The initiator submits an official request in writing to the competent authority to examine the list of information on SEA Report scoping. The list of information is passed in one copy

to the competent authority for consideration. Another copy of the list is made available to the public for consultation at the initiator's office

88. The consultation process is on-going, while the examination of information provides the possibility to exchange data and information with the competent authority.

(Article 7, paragraph (4)) The initiator shall provide the possibility for public participation in the SEA Report scoping in compliance with Article 10, paragraph (4).

89. Law 11/2017 on Strategic Environment Assessment provides for the public involvement as early as possible in the strategic assessment procedure, as well as a sufficient timeframe so that the public have enough time to study the information about the plan or program and formulate an opinion. The public can formulate comments and suggestions on the list of mutually agreed information on report scoping in writing, pursuant to Article 10, paragraph (4), and deliver them to the address of the initiator and of the competent authority, within 10 calendar days. The comments provided by the public are taken into consideration in the scoping phase, for plans and programs subject to this phase.

90. Initiator's announcements should be published on their own webpage. If the plan or program initiator doesn't have a webpage, the electronic version of the plan or program can be posted on the webpage of the competent authority involved in the SEA procedure. To insure broader public information about respective plan or program, it is recommended to make the announcement and the draft plan or program available to the public in hard copy at the initiator's office.

(Article 7, paragraph (5)) The framework-content of SEA Report, without taking into account the specifics of the plan or program, is provided for in Annex No. 2.

91. Annex No.2 of Law 11/2017 on Strategic Environment Assessment provided for the framework-content of SEA Report. Guiding by the approach to strategic assessment scoping phase, below we've included a template structure for information developed by the initiator in the SEA scoping phase. See Textbox No.5. The proposed template is not obligatory structure of the report, but rather a overview of required content, structure of which can be altered to fit the context of a specific SEA process.

Textbox No.5 Template structure of information needed for the SEA scoping phase

1. Goal of the list of information for scoping:

The goal of developing this list of information is to facilitate the SEA scoping phase for a plan or program.

The SEA scoping for a plan or program covers several activities:

Preliminary analysis of environmental status (initial situation) of the country/area/region

- Identification of environmental (and public health) policy objectives relevant for the plan or program development and implementation
- Identification of primary environmental (and public health) problems relevant for the plan or program development and implementation
- Consultations with stakeholders

2. Description of the content and main objectives of the plan or program and connection of the latter with other plans and programs:

The goal of this section is to describe the key components of the plan or program, provide information about its objectives, planning process, and main problems or alternative planning solutions considered.

The sections below provide important background information:

Plan or program initiator and planning organization

Details about the plan or program initiator, for e.g., who applies the plan or program, which unit is responsible for its implementation.

Details on how the planning is organized – name of the person responsible for the plan or program development process, official title of the project, etc.

Approximatively 0.5 pages

Content of the plan

Description of the argumentation of the need for plan or program development/updating, overview of the plan or program, content, description of the plan or program nature. Explanation of problems that the plan or program will address (main differences from the previous plan or program).

Overall picture of planning alternatives taken into consideration (if such have already been developed)

Approximately 2 pages + 1-2 graphic illustrations (for e.g. map of the delimited territory, most important planned changes in the use of the territory or new development areas taken into consideration)

Planning process

Description of key plan or program development phases, including specific schedule (timetable).

Information about the formal plan or program approval procedure – when, how, authority which will approve, etc.

Approximately 0.5 – 1 page

Other relevant plans or programs

Identification of information about other plans and programs that should be taken into consideration during the development and implementation of the plan or program in process of drafting (for e.g. regional plans, national/regional plans in transports, national plan in waste management, and others). Relevant documents are listed with a short description why respective document is important (for e.g., it imposes restrictions on territorial development, it describes the objectives of local planning, etc.)

Approximately 0.5-1 page

3. Status of environment components

This section provides an overall description of the baseline status of environment, i.e. sums up the results of the preliminary analyses of relevant aspects of the current status of environment, including of public health, and possible developments if the plan or program will not be implemented.

Based on the analysis of information available from open environmental data sources and preliminary consultations with the selected stakeholders, the baseline description is structured together with the main environment components.

- ***Air***

Main emission sources

Situation regarding the air quality – key pollutants, concentration volumes exceeding the legal limits ...

Approximately 2-5 pages

- ***Water***

Surface and ground water quality
Water supply
Wastewater production and treatment
Floods, etc.

Approximately 2-5 pages

- ***Land and soil***

Land use map and description, main problems and trends
Main problems relevant to land use (conflicts, lack of land for certain types of development, etc.);
Soil erosion;
Land slides;
Contamination, etc.

Approximately 2-5 pages

- ***Solid waste***

Waste generation from main resources (for e.g., mining waste, household waste, industrial waste, etc.), main trends in the past years;
Current waste treatment capacities and perspectives, etc.

Approximately 2-5 pages

- ***Nature and biodiversity***

Important biodiversity areas;
Protected areas;
Main species, etc.

Approximately 2-5 pages

- ***Public health***

Demographic and epidemiologic baseline and trends (in 7-10 years perspective);
Key factors influencing public health in the country;
Public health infrastructure and trends, etc.

Approximately 2-5 pages

- ***Social-economic situation and trends***

Employment opportunities, unemployment, labor migration;
Income and expenses;
Social infrastructure;

Approximately 2-5 pages

- ***Cultural heritage***

Tangible heritage;
Intangible heritage
Approximately 2-5 pages

- ***Other issues***

Other important issues that have not been described above

For each of the above components provide a brief description (2-5 pages) of the situation in the country/area/region. The analysis will be consolidated by using available data and visual data (graphs, maps, statistics), if needed. The latter will be prepared on basis of the following reference questions:

1. *What is the general trend (for e.g., over the last 5-10 year) for a certain factor (indicator, topic)?*
2. *Geographic coverage of the trend, areas affected by respective factor?*
3. *What territories could be affected in the future?*
4. *Can the given trend affect the areas of specific importance (for e.g., protected areas)?*

5. What is the relative importance of the trend in a determined territory (important, very important, critically important...)?
6. Are the effects caused by positive or negative trends?
7. Are the effects caused by reversible or irreversible trends?
8. Is there any factor (indicator, topic) established for the targeted policy or a limit value in the legislation, etc.?
9. What is the relation between the current trend and this target?

The analysis will be aimed at establishing the drivers behind each problematic trend identified in a determined territory (for e.g., what is the cause of high concentrations of particulate matter in air, or what are the factors responsible for the contamination of water in the wells from rural areas). It should be also underlined which of these drivers can be influenced by the plan or program development and implementation.

Recommendation: When preparing the analysis for individual environment component, organize strategic assessment scoping consultations/workshops. These can be included in a table (see below), where the problems identified by the participants in the consultation/workshop are filled in.

In conclusion, with regard to each of the above mentioned sections (e.g. air, water, etc.), the identification of the need for a subsequent analysis will be provided – i.e. it will specify if a certain problem/topic/issue must be analyzed in details (with more data) in the next phases of the strategic environment assessment and suggest additional consultations and data sources, if needed (for e.g., the need to consult with a specific institution or the need for data from a specific publication or database).

4. Environmental policy objectives

This section provides information on the current objectives relevant for environment, including for health, set at international, national or other levels, which are relevant for the plan or program.

Based on the preliminary analysis and consultations with the planners and other stakeholders, the following strategic documents relevant for the plan or program development and assessment have been identified:

- **Relevant strategic documents**

Main documents that should be observed by the plan or program are listed (for e.g., regional spatial planning documents, national waste management infrastructure plans) and briefly described (including the reason why they are important for the plan or program planning process).

- **Environmental and public health policy objectives**

For each key component (e.g. air, water, public health, etc.), objectives/tasks/targets from the official strategic documents on environmental/health policy are listed (e.g., Strategy for Environment Protection, Waste Management Strategy, Water Protection Policy, and others). See template Tables No.1 and 2

Template Table No.1.

Objective	Relevance for the plan or program	Notes
Water		
1.....	+	
2.....	-	
Air	-	
....	+	

....	-	
...		
Health		
	-	
Social-economic aspects		

Template Table No.2.

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5. Analysis of stakeholders

This section provides information about stakeholder identified during the phase of determining the SEA need for plans or programs.

The listed stakeholders will be addressed and invited to participate in stakeholder consultation activities and comment on the results produced by SEA experts.

Listed are the key stakeholders for the SEA of a specific plan or program – including affected vulnerable groups and public authorities;
The main interests and concerns of stakeholders are usually identified on basis of expert's desk analysis and SEA scoping consultations)
The developed list is used to compile a list of persons invited to the next workshop within the strategic environment assessment. See template Table No.3

Template Table No.3.

examples	
District Council	Insures final approval of the plan or program
NGO X.Y.	Opposes to the industrial area
National Health Institute	Holds data about the air quality in the area

6. Main environmental issues

The next section identifies the main environmental issues, including health issues, which are relevant for the plan or program, and which will be subsequently resolved during the next phases of SEA process.

The identification of primary issues is based on the preliminary assessment of the status of environment in a determined territory and on the contributions from previous consultations with the selected stakeholders. The current environmental policy objectives relevant for the context of plan or program development will be also taken into consideration.
The table below provides an overview of primary issues. See template Table No.4
(The table can be amended/improved during the scoping phase)

Template Table No.4.

Environmental and health aspects identified	Concerns and specific issues	Geographic areas of concern	Eventual links with the plan or program
Public health			
Biodiversity			
Air			
Water			
Waste management			
Soil/land			

Assessment of cumulative risks (*Based on the above-mentioned assessment results, prepare an analysis of the possible cumulative impact on identified environment components*). See template Table No.5 (a table should be prepared for each environment component identified).

Template Table No.5.

Environment components	Air quality	
Components identified in the plan or program with significant impact on environment	Possible cumulative impact	Alternative mitigation and improvement measures for consideration
Water		
Waste		
....		
Health		

7. Preliminary recommendations

This section addresses potential conflicts and negative impacts resulting from the plan or program implementation, as well as formulates recommendation for the prevention, reduction or mitigation of any significant adverse effects on environment.

8. Identification of the need for subsequent analysis and consultations

This chapter provides a summary of the identified needs for subsequent analyses and proposals formulated for further consultations. The missing information and gaps in the data are confirmed to facilitate subsequent analytical activity and the constitutional SEA process.

9. Identification of the significant trans-boundary impact on environment

State if no significant transboundary impacts are expected, or, if some are expected, what these impacts are.

10. Annexes and supporting materials (for e.g., maps)

Maps

Minutes of consultative meetings

(Article 7, paragraph (6)) The list of mutually agreed information which should be included in the SEA Report shall be taken into consideration by the initiator upon developing the Task Order for the report developer.

92. The official answer of competent authority on the scoping phase results is passed on to the initiator within a reasonable timeframe from the request reception date. When preparing such answer, the competent authority shall mandatorily take into consideration the results of public consultation and of consultations with the other authorities
93. All the information agreed upon by the authorities and the public opinion should be put down in the Task Order for SEA Report Development. See task order related requirements under item 44. If the Task Order was developed in the initial phases (in compliance with Article 6 of Law 11/2017), the initiator should adjust the respective Task Order as recommended/proposed in the letter of the competent authority issued in the SEA Report scoping phase.
94. The plan or program that does not require SEA as a result of the scoping phase can be subject to approval by the plan or program initiator without having to get an environmental opinion. In such cases, the competent authority notifies the initiator in writing about the fact that no environmental opinion will be issued for the plan or program, and the latter can forward the plan or program for approval, in compliance with the procedure set by the current legislation for the approval of such categories of policy documents. In such case, the authority provides reasons for making such a decision.

2.4. Drafting of SEA Report

(Article 8, paragraph (1)) SEA Report shall be drafted on basis of the mutually agreed upon information, identified during its scoping process. The SEA Report shall identify, describe, and assess the possible significant effects that the plan or program implementation may have on environment, including on public health, as well as reasonable alternatives, taking into account the objectives and geographic coverage of the plan or program.

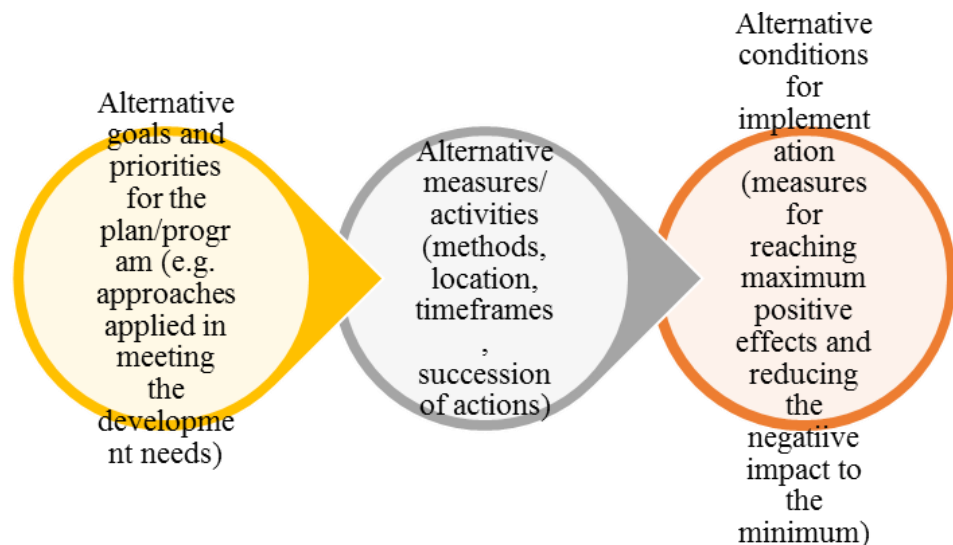
95. SEA Report is an important tool for integrating environmental considerations in the plan or program preparation and approval process, as it makes sure that the identified, described, and assessed significant effects on environment are taken into consideration upon the plan or program development. SEA Report drafting and integration of environmental considerations when preparing and approving the plan or program constitutes an iterative process that helps finding sustainable solutions in the decision-making process.
96. The SEA Report drafting phase is initiated only upon completion of the scoping phase, when the competent authority issues an official answer in this sense.
97. The SEA Report drafting phase mandatorily includes consultations with the stakeholders and civil society, and if needed, transboundary information and consultations.
98. The SEA Report should identify, describe, and assess the potential significant effects on environment, which may be produced during the plan or program implementation, incorporating reasonable alternatives as well. The drafted Report will be used in the plan or program approval process. The following takes place during this phase:
 - a) Finalization of the draft plan or program; and

b) SEA Report development;

99. It is very important to remember that both the plan or program finalization and the SEA drafting are carried out simultaneously, i.e. in parallel. Thus, SEA is carried out during the plan or program preparation, before its approval or subjecting it to approval, and is finalized by SEA Report. As such, conducting SEA concurrently with the plan or program finalization is one of the essential requirements of Law 11/2017.
100. For example, if the SEA identifies areas in the plan or program in which the impacts on environment are significant and do not fit in the environmental objectives of the area, the plan or program must be amended so as to fit with the environmental goals of the respective area. In other words, if the SEA reveals that the studied alternative of the plan or program can have significant impacts on the environment, then another alternative should be analyzed which would not interfere with the environment and fit in the identified environmental goals.
101. An essential thing that should be done during the SEA Report drafting is to carry out, starting with the current status of environment and human health in the area where the plan or program implementation is envisioned, a forecast of the status of environment and human health without respective plan or program implementation (so-called „doing nothing” alternative). We would like to highlight that the ”doing nothing” alternative is mandatory to carry out, as it represents one of the key criteria based on which the impacts of the proposed plan or program are assessed. It is important to note that this alternative represents a starting point for any discussion regarding the designed content of the plan or program discussed and regarding the drafting of SEA Report.
102. All the analyzed assumptions and conclusions drawn during the SEA Report scoping phase (Article 7 of Law 11/2017) should be included in the SEA Report.
103. To determine the best modality in terms of environment protection for achieving the specific objectives taken into consideration upon drafting the plan or program it is necessary for the initiator to design/develop several alternatives of the latter (including the ”o” alternative (”doing nothing option”). When developing the alternatives, the initiator is obligated to also take into consideration the way in which the environmental objectives are met and how environmental protection conditions are met.
104. When delimiting the „reasonable alternative”, the plan or program objectives and its geographical coverage constitutes the first criterion, while the “reality” of alternatives is the second criterion.
105. Under the first criterion – plan or program objectives and geographic area – the discussions should go around the plan or program alternatives or relate to different alternatives within the plan or program. As a rule, different alternatives within a plan or program are assessed in practice (for e.g., different ways of waste disposal within a waste management plan or different ways of developing an area within a land use plan). Thus, an alternative constitutes a different way of accomplishing the plan or program objectives.
106. The second criterion – „reality” of alternatives – means that the alternatives proposed for analysis should correspond to reality, i.e. they should take into account the real conditions persisting „on the site”, or de facto situation.

107. Alternative options that can be considered in the plan or program drafting process are provided in Figure No. 2

Figure No. 2. Grouping the alternatives for consideration



108. Also, the alternatives provided should be under the material and territorial competence of the plan or program initiator. The reason of studying alternatives is to find modalities for reducing or avoiding significant adverse effects on environment that can be generated by the plan or program implementation.
109. In continuation, the initiator tests the correlation between the plan or program objectives with SEA objectives with the view to identify the synergy potential. This information helps preparing the plan or program options, while in some cases, even improving the plan or program objectives. Thus, the goal of testing the plan or program objectives versus SEA objectives is to **insure compliance of the general plan or program objectives with the SEA objectives and provide an appropriate framework for formulating an opinion on the plan or program.**
110. The reason for studying the alternatives is to find ways to reduce or avoid significant adverse impacts on environment that can be generated by the plan or program implementation.
111. An important phase in the drafting of SEA Report is to **identify environmental effects**. The goal of this phase is to forecast and assess the effects of the proposal and the main alternatives. Frequently, the proposals for plans/programs and their effects on environment are difficult to identify in time and space, mediated by external factors. The following methods are used to identify the effects on environment:
- *indicator-based methods* can indicate the “movement direction” of an impact, for *e.g. aggravated diminishing of the habitat, reduction of hazardous waste volume.*
 - *projection-based methods* used for dealing with uncertainty includes the assessment of trends and the development of potential scenarios. For plans or programs initiating certain projects, environmental impacts are much easier to identify, and more accurate.

- *methods of environmental impact assessment* used for Strategic Environment Assessment, with respective adjustments, as needed, include: impact matrices, Geographic Information System (GIS), and risk assessment comparison.

112. In such cases, no method can be sufficiently efficient to cover the potential impact. The identification of potential impact or effect on environment includes:

- identification of changes in the initial status of environment which are expected to emerge in the plan or program implementation process, including alternatives as well. These can be compared with each other, with the “*doing nothing*” alternative (*without a plan or a program*), and with the SEA objectives.
- description of these changes in the importance of terms, their geographic scale, and period when these will occur, whether the effects are permanent or temporary, positive or negative, likely or unlikely, frequent or seldom, whether they are secondary, cumulative and/or synergetic.

113. The assessment of alternatives does not necessarily need to be expressed in exact or quantitative terms. These can be expressed in understandable terms, such as “*becoming better or worse*” or a scale from ++ (very positive) to -- (very negative). However, qualitative does not mean “*guessed*”. The judgements should be supported with evidence, such as references to researches, discussions or consultations, which will help carrying out the Strategic Environment Assessment in order to reach the necessary conclusions. The SEA Report should document any uncertainty or limitation of the basic information for qualitative and quantitative projections.

114. If EIA should be carried out for economic projects deriving from the plan or program, in compliance with Law 86/2014 on Environmental Impact Assessment, the Documentation on EIA can be wherever appropriate based on the information from researches carried out for the SEA of the given plan or program. However, for the EIA procedure for projects deriving from the plan or program often more detailed (e.g site-specific) information will be required and thus the EIA process will have to take place for every relevant project regardless of the previous SEA conducted for the hierarchically “higher” plan or program.

115. Impact assessment includes *formulating an opinion* on whether the projected effects are important or not for the environment. To determine the importance of a potential impact (that can be mitigated), the comparative assessment method of *environmental criteria and objectives (preset in the environmental policies)* is applied. Such an exercise allows those who decide upon the plan or program to take into consideration if the proposed draft document is in line with the environmental objectives. If possible, a *balance* of positive and negative impacts can be outlined (*in financial or narrative form*) by presenting different areas of interest. The given approach will allow illustrating the spectrum of uncertainties (*the best/worst case*). If the major options and key results for the plan/program are taken into consideration by the initiator, then the sensitivity analysis can be used. (Sensitivity analysis represents the starting point of the project risk analysis and of the major risks that should be taken into consideration by all stakeholders, whether beneficiaries, financiers, or even target groups). Such analysis will allow testing the consequences of projected changes and justifying the SEA performance. During the assessment of alternatives, the exercise can be done on basis of experts’ judgement or by comparing cases with similar actions.

116. The obligation to identify, describe, and assess the possible/viable alternatives should be viewed in the context of fulfilling the objective provided for in Article 1 of Law 11/2017 – insuring that the impacts of plan or program implementation on environment be taken into consideration upon preparation/drafting of the latter, **i.e. before its approval.**

(Article 8, paragraph (2)) SEA Report, developed in compliance with the provisions of paragraph (1) shall contain information correlated to the current knowledge and assessment methods, plan or program content and degree of detail, and its stage in the decision making process. To avoid SEA overlapping, the results of assessment for plans and programs developed at national level should be taken into consideration when carrying out the Strategic Environment Assessment of plans and programs developed at local level, and vice versa.

117. The expression „*content and level of detail of the plan or program*” means that, in case of a national plan or program, the SEA Report for the latter may not contain very detailed information or analyses, however a higher level of detail is required for the SEA Report of a hierarchically inferior plan or program, which contains more details, in itself. Thus, the SEA Report for a national plan or program may not analyze the impacts of the plan or program on each aquatic ecosystem from the country, for instance, while the SEA report for an urban development plan should cover the impacts of the plan on rivers and other water courses within or in the vicinity of respective locality.
118. The information on relationships with other relevant plans and programs put the plan or program in a broader context: for instance, the information can be linked to the stage of the plan or program in the decision making process or to its contribution, together with other plans or programs, to changing the environmental conditions in a certain area. Thus, the relevant plans or programs can be those situated at hierarchically higher levels (that the respective plan or program is a part of) or those developed for other sectors of activity, but which affect the same area or adjacent/neighboring areas.
119. This paragraph highlights the need for rationalizing the information collection and processing work in the sense that the relevant information **(that may include both analysis, and data)** already available from other sources can be used in compiling a SEA Report. This is obvious in the case of plans and programs that are part of a hierarchy, thus avoiding the overlapping of SEA.
120. Therefore, one can use the environmental information (analyses and data) contained in a SEA Report for a plan or program at regional level in drafting a SEA Report for a plan of local level.
121. The information obtained in the environmental assessment for a plan or program from one sector (e.g. from the implementation of a plan or program in the „water quality” sector”) can be used in the SEA for a plan or program from another sector (waste management, spatial planning).

(Article 8, paragraph (3)) The information available on the environmental impact of plans and programs that have been obtained at other decision making levels or from other regulatory acts can be used for delivering the information provided for in Annex No. 2.

122. Information collection and processing is important in the SEA Report drafting process. If the information is taken from other environment assessment documents, reference should be made to such documents, indicating the electronic address.

(Article 8, paragraph (4)) When compiling the SEA Report, the initiator shall establish the public administration authorities to be consulted over the report, as well as regarding the plan or program and who, due to their specific responsibilities, may be interested in the environmental impact that will be produced as a result of respective plan or program implementation.

123. The initiator establishes the public authorities that should be involved in the SEA Report drafting process. The list of authorities should include:

- Competent environmental authorities that have the following tasks:
 - to oversee the inclusion of environmental objectives in the SEA Report;
 - to provide environmental information held;
 - to draw attention on sensitive aspects that should be taken into consideration when drafting a plan or program, and alternatives of the latter, as well as on issues that should be assessed in the SEA Report;
- Health authorities that have the following tasks:
 - to follow the integration of human health aspects in the plan or program drafting so as to reduce the potential impact on human health;
 - to provide statistic data and other information on the health status of the population, relevant for the finalization of the discusses plan or program,
 - to substantially contribute to the implementation of this phase in terms of human health priorities;
- Other authorities interested in the effects of the plan or program implementation, such as: authorities involved in the transports, internal affairs, industry and energy sectors, etc.
- Identified authorities interested in the effects of the plan or program implementation;

124. The list of authorities established by the initiator, their name and contact data can be the same as the one established in the scoping phase (pursuant to Article 7, paragraph 2) or can be extended/adjusted

125. In addition to provision of information that they have and which is relevant for drafting the plan or program, all these authorities should actively collaborate in the drafting of the given plan or program, and of the alternatives of the latter.

126. The plan or program initiator is responsible for maintaining communication with the identified authorities, setting the date and venue of the first meeting of the latter (the dates of subsequent meetings are set jointly), providing the plan or program versions and following the finalization of the latter during all the reunions, taking into account the information/comments/opinions received from the other authorities, experts, and certified persons;

(Article 8, paragraph (5)) The initiator shall post the draft plan or program and the SEA Report on its official webpage and inform about the deadline for submitting objections and proposals on the mentioned documents, as well as about the organization of consultations, in

compliance with the requirements of Law No. 239/2008 on Transparency in the Decision Making Process.

127. This is the starting point for public consultations. Following the identification of the final alternative of the plan or program and development of the SEA Report, the initiator should make available to the public both the draft plan or program, and the SEA Report.

128. The public identified in compliance with the provisions of Article 4, paragraph 5 of Law 11/2017 has the right to express their opinion regarding these documents. The initiator is obligated to analyze the public comments (including in terms of environmental impacts of the proposals made), and if the latter are justified, to amend the plan or program and provide in the SEA report information about the procedure applied to identify, describe, and assess the impacts on environment, determined by the plan or program amendment.

2.5. Consultation on SEA Report with public authorities, interested public and conducting transboundary consultations, if needed

(Article 9, paragraph (1)) The initiator shall submit the draft plan or program and the SEA Report for examination by:

- a) competent authority and central public administration authority in health care sector, if the plan or program is approved by Government or Parliament;
- b) competent authority and territorial unit of the central public administration authority in health care sector, if the plan or program is approved by the local public administration;
- c) other interested authorities, in compliance with Article 8, paragraph (4).

129. The provisions of this paragraph establish two levels for the approval of plans or programs, those approved at central level (Parliament or Government), and those approved at locale level. By applying the provisions of Article 24, paragraph (2) of Law 100/2017 on Regulatory Acts, „*When justifying, drafting, reviewing, consulting, and approving policy documents, the rules and requirements for regulatory acts shall be applied*”. The initiator respectively submits for examination both drafts: the draft plan or program and the draft SEA Report, as well as an information note in addition to this set. The authorities receiving respective documents prepare an opinion, which is delivered in original form and electronic form to the initiator. The initiator submits respective documents for consultation to institutions included in the list established in the scoping phase, and completed (extended) in the SEA Report drafting phase. (See item 47)

130. The initiator decides on how consultations will be organized, but the mandatory condition is that the authorities mentioned in the given article should receive the draft documents in electronic form and have time to study them, form their opinion and forward comments. Organizing consultation events is not prohibited, provided that minutes are prepared and agreed upon by the participants by the end of such events. The participation in consultative events does not release the authorities from the obligation to prepare an opinion/endorsement.

(Article 9, paragraph (2)) Following the reception of the draft plan or program and of the SEA Report, the competent authority shall post them on their official webpage and submit them to

environmental non-government organizations, indicating the address where the latter may get familiarized with the mentioned documents.

131. Civil society representatives are informed by the competent authority, after posting the information on its webpage. The competent authority has a list of contact data of environmental NGOs and informs them electronically about the posting of documents for consultation, consultation timeframe, contact data of the initiator, and of the developer, if needed.

132. Environmental NGOs involved in the consultation process of the draft plan or program and SEA Report can prepare a single review, including their comments for both documents.

(Article 9, paragraph (3)) The authority in health care sector and other interested authorities shall provide their objections and proposals on the draft plan or program and SEA Report to the initiator, concurrently providing a copy of these to the competent authority, within 30 days from the reception date of the mentioned documents.

133. The opinion of consulted authorities includes comments, opinions and proposals on both the draft plan or program, and the draft SEA Report. The review is delivered to the initiator, as well as to the competent authority.

134. The Strategic Environment Assessment covers two areas, environment and public health, so consultations with the health authority are respectively very important, and it is necessary to insure a review of documents by these institutions at both central, and local level.

(Article 9, paragraph (4)) Unfolding consultations with the competent authority shall not constitute an impediment for the submission of objections and proposals from other interested authorities within the timeframe indicated in paragraph (3).

135. Consultations can be carried out with other interested authorities, as well, by observing the requirements preset for the consultation with interested authorities identified by the initiator. The initiator or competent authority has no legal ground to refuse other institutions or reject access to the draft documents subject to consultations.

136. The initiator studies the objections and proposals submitted within the review and expertise process, and if needed, the recommendation received as a result of public consultations, and decides upon accepting or rejecting the latter on a grounded basis.

137. Accepted proposals and recommendations are taken into consideration in the draft plan or program and draft SEA completion process, as well as in preparing the final versions of the latter.

138. After the completion of SEA Report by including all comments and opinions, the initiator submits final version to the competent authority to analyze its quality.

(Article 9, paragraph (5)) The competent authority shall analyze the SEA Report quality, by considering the following aspects:

- a) observance of the framework-content of SEA Report provided for in Annex 2, taking into consideration the scope of the latter;
- b) presentation of technical, procedural and other difficulties and explanation of any uncertainties;
- c) presentation of the studied alternatives, reasons for choosing one of them, the extent to which the environmental considerations have been integrated in the draft plan or program, as well as the

draft finalization process as a result of information obtained during the Strategic Environment Assessment;

- d) detailed argumentation of the reasons based on which certain aspects were eliminated;
- e) extent to which the aspects pointed out in the process of consultation with other interested authority and with the public have been taken into consideration;
- f) presentation of graphic information: maps, schemes, sketches, diagrams;
- g) availability of a proper program for monitoring the impacts of the plan or program on environment.

139. The SEA Report can be incomplete, can contain wrong or inconclusive information, can be non-compliant with the framework content requirements or may have been drafted without applying the procedure correctly, failing to represent a basis for making an informed decision. This is why a SEA Report quality analysis mechanism is applied in the final phase of SEA Report examination.

140. The goal of this phase is to insure the drafting of a complete SEA Report, with reliable information allowing to achieve the objectives of Law 11/2017 on Strategic Environment Assessment.

141. In addition to the view points of the other authorities (national ones and those from potentially affected states) and of the public, the competent authority should take into consideration other elements, such as: whether the Report is structured according to the requirements set in Annex 2 and whether it includes data and information regarding the difficulties encountered and their nature, if the alternatives to the given draft are provided and the extent to which these have been analyzed, if the opinions expressed by the public and other stakeholders have been integrated, and if there is a program available for monitoring the impacts on environment.

142. The SEA Report quality is verified upon completion of the transboundary consultation phase, as the case maybe.

(Article 9, paragraph (6)) Depending on SEA Report quality, environment protection requirements contained in the plan or program, and the opinion of other interested authorities or of the public, the competent authority shall approve one of the following decisions:

- a) issue the environmental permit, if the SEA Report meets the requirements set in Annex No.2 and if environmental aspects are integrated in the plan or program and have no negative impact on environment, including on human health;
- b) return the SEA report and the draft plan or program for finalization, indicating the actions to be taken to finalize it;
- c) refuse issuing the environmental permit, providing grounded reasons.

143. The obligations provided for in this paragraph refer to the report quality analysis based on the consultations with the authorities and the public both at national and transboundary level. This Article also reflects the obligations of Article 7 of the Aarhus Convention, which provides, in corroboration with Article 6, paragraph (8) of the same Convention, that the decisions related to plans or programs shall take the results of public participation into consideration. So, we want to draw your attention once again that the public involvement in the plan or program development and SEA Report drafting are essential aspects of this process.

144. During the SEA Report quality verification, the competent authority establishes based on the texts (of the report itself, of the draft plan or program and of received reviews, taking into consideration those mentioned in paragraph (5)) if the environmental aspects have been integrated in the plan or program and have no negative impact on environment, including on human health, and if the opinions have been taken into consideration, then it issues the ***environmental permit***.

145. If the competent authority determines that the SEA Report is not compliant, incomplete or includes wrong information, as such, it can decide upon actions that should be taken by the initiator to eliminate the deficiencies. This may involve changing or detailing the SEA Report, and the draft plan or program, implicitly, or, in extreme cases – settling various problems, even if this leads to resuming part of the finalization phase, the competent authority will return the set of documents for finalization according to provided recommendations.

146. The refusal to issue the environmental opinion must be justified.

(Article 9, paragraph (7)) The timeframe for approving a decision on issuing the environmental opinion in compliance with paragraph (6) shall be 45 calendar days' maximum from the date of receiving the draft plan or program and SEA report by the competent authority.

147. The competent authority only has 45 working days to decide upon the action to be taken on basis of the SEA Report quality assessment and prepare justifications.

148. In case of a positive decision, the environmental opinion should include the following information:

- a) reasons for issuing the environmental opinion, in compliance with Article 9, paragraph (6), item a);
- b) measures decided with regard to monitoring the impacts on environment, in compliance with Article 15, including additional monitoring actions, if needed;
- c) measures for reducing or compensating the significant impacts on environment, including significant transboundary impacts, if needed.

The specified elements are a confirmation of the SEA application to respective plan or program. A template environmental opinion is provided in Textbox No. 6.

149. The issuance of environmental opinion is a prerogative of the Ministry. It is signed by the Minister and countersigned by the State Secretary responsible for environment protection and natural resources. The issuance of environmental opinion is impossible to delegate.

Textbox No.6 Template structure of environmental permit

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(Article 9, paragraph (8)) If the SEA Report and the draft plan or program have been returned for finalization in compliance with paragraph (6), item b), the timeframe for repeated examination and issuance of environmental opinion shall be 20 working days from the date of receiving the finalized documents by the competent authority.

150. Based on comments and recommendations received from the competent authority regarding the SEA Report quality assessment, the initiator decides independently how much time they would need to adjust the draft plan or program and the SEA Report to the requirements stated by the competent authority in its decision. However, the competent authority has only 20 working days from the moment of repeated submission of the documents for assessment to make a final decision.

(Article 9, paragraph (9)) The competent authority shall inform the public authorities and the public about the approved decision and shall post the environmental opinion on its official webpage.

151. The competent authority is obligated to submit to the initiator in writing the decision on issuing the environmental opinion (which is specified in the environmental opinion). To inform the public, the competent authority is obligated to post the environmental opinion on its official webpage in the Internet. In this way, the public is familiarized with the conditions and reasons for issuing the latter and has a possibility to find out about the procedure for monitoring the impacts of the plan or program on environment.

152. Also, in order to insure full transparency, it is necessary to make available to the public the endorsed copy of the plan or program. Thus, the endorsed copy can be consulted by the public any time at the office of the competent authority that has issued the legal opinion for the given plan or program.

153. We should specify here that no timeframe for consultation is determined just because this copy can be consulted any time later following the endorsement.

154. It is also worth specifying that, as the issuance decision specified in the environmental opinion is an administrative document, it can become the subject matter of an action in the justice system based on the Law on Administrative Court No. 793/2000. In other words, the environmental opinion can be attacked in the competent administrative court in compliance with the above-mentioned Law.

(Article 9, paragraph (10)) The competent authority shall create, develop and keep a registry for recording SEA related information.

155. The environmental opinion is recorded in the ***Registry for recording SEA related information***, which is created, developed, and kept by the Ministry of Agriculture, Regional Development, and Environment.

156. The Registry, compiled as shown in the template provided in Textbox No.7 of this Guide is kept in electronic form, in the state language, and posted on the webpage of the Ministry. The Registry also includes the addresses of documents approved by the competent authority for each SEA phase.

157. Entries are made in the Registry within maximum 3 (three) calendar days from the completion date of each SEA phase.

158. The Registry is kept by a staff member of the relevant/responsible Department/Unit of the Ministry, according to his/her job description.

Textbox No.7 Template Registry for recording SEA related information

No.	Date	Registration Number of Request	Plan or Program Title	Initiator (<i>contact data</i>)	Developer (<i>contact data</i>)	Phase	Status

(Article 10, paragraph (1)) The initiator, jointly with the competent authority, shall insure public information and participation in the Strategic Environment Assessment of the plan or program by the following actions:

- a) identifying the segments of the public that can be affected as a result of the plan or program implementation or who are interested in the decision making, including environmental non-government organizations;
- b) establishing the public information modalities, such as: public announcements in mass media, information posted on the official webpage;
- c) determining the public consultation modality: information in writing, public debates, etc.;
- d) establishing reasonable timeframes that would allow the public to efficiently and timely participate in all the SEA phases;
- e) informing about the possibility for public participation in consultations carried out in a transboundary context.

159. In the sense of this Guide, the following definitions provided for in Law 11/2017 on Strategic Environment Assessment are applied:

- a) *"public"* – one or several physical or legal entities, as well as associations, organizations or groups constituted by the latter in compliance with the national legislation or practice;
- b) *"interested public"* – affected public or public likely to be affected or interested in the procedures for making decisions in environmental area.

160. The process of public participation within plans or programs subject to SEA does not expressly request the participation of only those persons who possess knowledge in the given area and are directly involved in activities correlated to SEA area. Anybody can get involved in this process, regardless of the occupation they have: whether politician, businessman, teacher, engineer, driver or student. The key element uniting the citizens in the decision making dialogues is the concern for insuring sustainable development favorable for human health, determined by clean air, and non-polluted water in the lakes and rivers. In this context, the SEA procedure provides a real possibility to the public to actively participate in the drafting and development of plans and programs, particularly by efficiently, promptly and timely examining the plans or programs and SEA Report.

161. The term „jointly”, means that the initiator notifies the competent authority at each step made with regard to public information and involvement. As mentioned above, public information and participation must be insured even in the early phase of the process for drafting the plan or program and the SEA Report.

162. To encourage public participation in the SEA process, the authorities must develop a detailed plan (arrangement) for insuring the information and consultation of "interested public". Textbox No. 8 includes a list of information and consultation related details.

Textbox No.8 Template Information Plan

1. Proposed plan or draft program and their titles
2. Name of the authority responsible for their approval
3. Predictable procedures, which include:
a) start of the procedure;
b) opportunities provided to the public;
c) terms of reference and location (meeting venue) of planned public hearings;
d) authority that can provide probable information and where data for public examination is stored;
e) authority to whom comments can be provided and questions asked, and exact date of their collection;
f) importance of related information on environment and health topics, and the need to include it in the proposed plan or project;
4. Notification if the plan or program is an appropriate subject for SEA procedure.

163. Affected public or public likely to be affected or pursuing an interest in the approval of decisions falling under this law can be described as a segment of the general public. This provision requires from the competent authority and the initiator to identify respective segment and provide the opportunity to express their opinion on the proposed plan or program and SEA Report.

164. The identification of this segment is however limited by certain criteria: **it shall include the affected public or likely to be affected public or pursuing an interest in the plan or program. This segment shall also include relevant environmental non-government organizations and associations, and other interested organizations.**

165. Identified public can be different from one plan or program to another. In some situations, for instance, in case of a national plan or program, the interested public or potentially affected public may be confused (mistaken) with the general public, and this should be taken into account during identification.

166. When identifying relevant environmental non-government organizations/associations, the competent authority and the initiator can take into consideration the nature and content of respective plan or program and the activity area/areas of environmental NGOs. The competent authority and the initiator are also free to use other criteria that they consider useful in the identification of affected public, likely to be affected public or public pursuing an interest in the decision making.

167. For example, local NGOs must be identified even when discussing a plan or program referring to a distant locality, if it is obvious that their interests are affected by respective plan or program.

168. The consultation framework may specify the venue where the information can be consulted, public information modality (ensured by the initiator), and how can comments be made. The initiator also has the possibility to explore modern consultation models (for e.g., debates on the Internet), if these do not exclude certain categories of the public, by their nature.

169. The initiator must observe the time intervals established for each phase of the procedure, so as to allow the public to participate by being appropriately informed on aspects addressed by the plan or program, and submitting justified proposals and comments. The public should be informed within a timeframe that allows the latter to intervene and express their opinions before the final decision on issuing the environmental opinion/endorsement.

170. If the plan or program subject to approval is susceptible to produce a significant transboundary impact, the public should be informed regarding its assessment in a transboundary context.

(Article 10, paragraph (2)) The costs for public information and participation in the SEA process shall be covered by the Initiator.

171. All the costs, such as for: publication of the announcement, organization of hearings, consultations, insurance of translation/interpretation, etc. are covered by the initiator. These can be insured through the public budget of the initiator or based on technical assistance.

172. Costs incurred during the public information and participation shall constitute transparent public information.

173. The plan or program initiator is responsible for public information and shall incur the costs associated with the public information and participation in the procedure, and for providing evidence of public announcements (to the competent authority). This is done by submitting copies from newspapers where the announcements have been published to the competent authority.

(Article 10, paragraph (3)) The responsibility for public information and participation shall be attributed to the initiator and competent authority.

174. Article 16 of the Law sets the responsibility for involving the public in the respective phase (screening stage), the timeframe for information dissemination by the titleholder and for submitting the comments and suggestions of the public related to the draft plan or program, as well as the modalities for fulfilling such obligations.

(Article 10, paragraph (4)) The initiator shall inform the public during the preliminary phase and SEA Report scoping phase, in compliance with the requirements of Law No.239/2008 on Transparency in the Decision Making Process, about the performance of a preliminary assessment and SEA report scoping, about the plan or program drafting and about the information to be included in the SEA Report. The initiator shall insure the possibility for the public to express their opinion on the eventual impact of the plan or program on environment in the preliminary assessment phase, as well as on the information to be included in the SEA Report, in the Report scoping phase. The public shall submit their objections and proposals to the initiator and competent authority within maximum 10 calendar days from the date when the latter is informed.

175. Public information and participation is insured by applying the following acts: *Convention on Access to Information, Justice, and Public Participation in the Decision Making in Environmental Area, signed in Aarhus on 25 June 1998; the Law on Transparency in the Decision Making Process, No.239/2008; Government Resolution on the Mechanism for Public Consultation with the Civil Society in the Decision Making Process, No.967/2016; Government Resolution on Approval of the Regulation on Public Access to Environmental Information No. 1467 /2016, and other relevant documental in this area.*

176. The plan or program initiator has the obligation to inform the public during all the SEA phases, by indicating the actions, decisions, and information included in the drafted documents. The draft plan or program and the SEA Report can be consulted throughout the entire period; it is also required to specify the place and program where the documentation can be consulted.

177. Pursuant to Law No.239/2008 on Transparency in the Decision Making Process, Article 8, following the initiation of the decision drafting process, within maximum 15 working days, the public authority shall take the following actions:

- a) post respective announcement on the official webpage;
- b) deliver it instantly via e-mail to stakeholders;
- c) post it in their own office, in a space accessible to the public;
- d) and/or broadcast it in central or local mass media, as the case may be.

178. Article 9, paragraph (2) of Law No.239/2008 expressly provides what should an opinion contain. Thus, the announcement on the initiation of the decision drafting shall mandatorily contain the following:

- a) argumentation of the need for approving respective decision;
- b) deadline, venue, and modality for the stakeholders to submit or deliver recommendations;
- c) contact data of persons responsible for the reception and examination of recommendations (last name, first name, telephone number, e-mail address).

179. Public consultations on the draft plan or program and on the information related to SEA are conducted during all three phases, and namely during the (1) screening phase, (2) scoping phase and (3) SEA Report completion phase.

(Article 10, paragraph (5)) The initiator and competent authority shall post on their official webpages the draft plan or program, SEA Report, and information about the deadline for submitting objections and proposals on the draft plan or program and SEA Report, including the time and venue of conducting public debates. Following the examination of objections and proposals received from the public, the initiator shall prepare the Table of Divergences, including respective objections.

180. The plan or program initiator has the obligation to announce in their webpage that they organize a public debate, and during this entire period, the draft plan or program, as well as the SEA Report can be consulted. The announcement should also specify the venue and program where the documentation can be consulted.

181. The Legislator considered it necessary to insure participation in the public debates on the draft plan or program and SEA Report of healthcare authorities and authorities involved in the screening phase, in addition to environmental authorities, in order to allow these authorities to „take the pulse” of the public, to know the opinions of the latter. In this way, the mentioned authorities are provided a possibility to take into consideration the public comments and opinions in the point of view conveyed by them to the competent authority, particularly when such comments and opinions refer to their area of competence.

182. As such, the obligation of the Initiator to invite the above-mentioned authorities to public debates has been stipulated.

(Article 10, paragraph (6)) The deadline for submitting objections and proposals by the public, established by the initiator, shall be at least 15 working days from the publication date of the information specified in paragraph. (5).

183. Depending on the complexity of documents subject to public consultations or debates, the initiator can establish a deadline for submitting opinions of at least 15 working days. This period can be extended, depending on the need and upon request.

(Article 10, paragraph (7)) Access to information specified in paragraph (5) shall not exclude the possibility to use other forms of consultation on the draft plan or program, and on SEA Report, in compliance with Law No.239/2008 on Transparency in the Decision Making Process, such as, for e.g. public hearing at national and local levels, depending on the scope of respective plan or program.

184. The procedure for public involvement in the Strategic Environment Assessment includes: **information, joining the SEA team with participation in the plan or program improvement process, formulation of implementation actions and actions for monitoring the accomplishment of its goals.**
185. During the SEA procedure, the initiator adopts concrete schemes on how the public will be involved. The initiator can recommend a varied public participation plan for each strategic assessment phase. In such case, the elements taken into consideration include the scope of decisions, their character and „stakeholders” who are to be involved. For example, a transnational transport development plan will differ from a local action plan for environment protection by public participation degree and details.
186. The draft plan or program initiator insures consultation with the citizens, NGOs, and other stakeholders. Following techniques can be employed to facilitate such consultation (*initiator can choose those consultations that mostly fit their plan/program*): public debates, public hearings, opinion polls, and referenda, requesting the opinion of experts in the given area, creation of standing or ad hock working groups with the participation of NGO representatives.

(Article 11, paragraph (1)) If during the SEA Report scoping process it is found out that the plan or program implementation on the territory of the Republic of Moldova can generate significant impacts on the environment of another state, then the competent authority, jointly with the initiator shall submit through diplomatic channels a notification, attaching the draft plan or program and SEA Report, to the affected party, as well as to other parties to the Protocol on Strategic Environment Assessment that have requested respective documents. The competent authority shall submit the information regarding the examination deadlines of mentioned documents, transboundary consultation methods and period, and shall set a deadline of maximum 15 calendar days, during which the affected party is to inform about its participation or non-participation in the SEA procedure in transboundary context.

187. It is possible that during the scoping (Article 7 of this Law) it will be found out that the plan or program implementation can have transboundary impacts. The possibility of transboundary impacts is determined by expressing opinions regarding the potential effects of the draft plan or program, and of its alternatives, **taking into consideration the nature, dimension, and location of such effects (proximity to the border), as well as the criteria provided for in Annex No.1** to Law 11/2017.

188. When drafting the SEA Report, potential transboundary effects will be analyzed and if relevant, the SEA Report should contain information about possible significant impacts on environment, including on human health in transboundary context.
189. If the plan or program has a significant impact on the environment of a neighboring state or if the latter has additional questions regarding the plan or program, the transboundary consultation procedure shall be applied. The authority responsible for environment protection (Initiator) will be responsible for organizing transboundary consultations.
190. To observe the international obligations assumed by the Republic of Moldova (*Protocol on Strategic Environment Assessment to the Convention on Environment Impact Assessment in Transboundary Context, adopted in Kiev (Ukraine) on 21 May 2003*), and in the spirit of good vicinity, the draft plan or program and SEA Report should be conveyed through a **notification** to central environmental authorities of potentially affected states, through diplomatic channels.
191. Such responsibility is attributed to both the initiator and the competent authority, which shall act jointly. The goal of the notification is to inform about the deadlines for examining the delivered documents, method and period of conducting consultations in transboundary context. The notification and draft plan or program, and the SEA Report should be delivered to the potentially affected party before their approval.
192. During the official discussions with the affected state, the focus is put on:
- (1) subject matter of consultations** (the following aspects should be basically discussed during the consultations:
- a) substantive aspects:
 - possible impacts of the plan or program implementation on transboundary environment;
 - actions meant to reduce or compensate such impacts.
 - b) procedural aspects:
 - the procedure for exchanging information between the national authorities and the authorities of potentially affected states;
 - modalities of informing the interested public from potentially affected states;
 - setting acceptable timeframes for consultations; such timeframes should be sufficiently long to identify and consult the interested public and environmental authorities from the affected state, as well as for taking their comments into consideration.
- (2) Participants in consultations:**
- a) state of origin:
 - plan or program initiator;
 - central public authority promoting the plan or program;
 - environment protection authorities from the state of origin - mandatorily.
 - b) affected state(s):
 - environmental authorities from affected state(s) - minimum.
193. The competent authority establishes a deadline of 15 calendar days for the affected party to communicate about the **intention to participate or not in consultations**.
194. All the correspondence during consultations is insured through diplomatic channels, with the involvement of the competent authority and the initiator and/or developer.

(Article 11, paragraph (2)) If the affected party expressed within the set timeframe its willingness to participate in the SEA procedure, the parties shall coordinate the deadline for submitting the opinion of the affected party on the draft plan or program and on SEA Report, as well as the timeframe for conducting consultations, which shall not exceed 45 calendar days.

195. Once an answer is received from the affected state party regarding the interest to participate in transboundary consultations, the latter has 45 calendar days to submit its opinion as affected party. Consultations will be conducted only with the states notifying about their intention to participate in the transboundary procedure.

196. To allow for an active public participation in the case when the plan or program can have transboundary impacts, the initiator, jointly with the competent authority are obligated to invite to public debates, via diplomatic channel, the competent authorities for environment protection and health authorities of potentially affected states and to request from them to notify the public potentially affected or interested in the decision making process about respective public debate. The notification is insured through the environmental authorities of the potentially affected state and if there are persons interested in public debate, their participation is allowed. The costs of travel for participation in public debates are covered by the participants of the affected state.

(Article 11, paragraph (3)) The initiator shall make available to the competent authority of the party of origin the information required for applying the provisions of this Article, including the translation of the draft plan or program, and of SEA Report in one of the UN official languages.

197. Law 11/2017 provides *expressis verbis* the language in which documents are submitted, the latter being one of the 6 official languages of the United National Organization (English, Russian, Spanish, French, Chinese, and Arab). As the states that can be affected by the actions set in the plans or program of the Republic of Moldova include Romania and Ukraine, the languages for communication are Romanian, English or Russian, as the case may be. The translation of documents is insured by the initiator.

(Article 11, paragraph (4)) Empowered authority of the affected party shall insure public information and information of other stakeholders of the affected party, providing the possibility to express their opinion on the plan or program and SEA Report, and shall submit a general opinion to the party of origin, unless otherwise provided for in the agreement between the parties.

198. On the territory of the affected party, the responsibility to collect and summarize the opinions as a result of consultations is attributed to the empowered authority that reacted to the notification and keeps communication with the competent authority and the initiator.

(Article 11, paragraph (5)) The competent authority, the initiator and/or SEA Report developer shall carry out consultations with the representatives of empowered authority of the affected party regarding the eventual impact in transboundary context of the plan or program and regarding the measures for preventing, reducing or mitigating the negative consequences of the plan or program.

199. During the finalization of the plan or program, and of the SEA Report, the competent authority, the initiator and/or the developer conduct consultations with representatives of the empowered authority of the affected party.

200. Consultations can be organized by mutual visits, in writing or by applying modern methods of communication via Internet, by observing the diplomatic communication procedures.
201. The minutes of the meetings/consultations, summarized adjustments, the draft plan or program and the SEA report with amendments are collected and stored in folders that are kept by the initiator and competent authority.

(Article 11, paragraph (6)) Approval of the plan or program before the completion of consultation procedure in transboundary context with the affected party shall be prohibited.

202. Only upon completion of the transboundary consultation procedure, after adjusting all the comments and opinions, the initiator prepares the plan or program for approval, supported by the environmental opinion/endorsement.
203. The transboundary consultation procedure is considered as finalized at the moment of receiving through diplomatic channels the summarized opinions on the draft plan or program and on SEA Report.

(Article 11, paragraph (7)) After the plan or program approval, the competent authority of the party of origin shall submit to the affected party within 15 calendar days a copy of the approved plan or program, and information that shall include the following:

- a) rationale for the integration of environmental problems in the plan or program content;
- b) results of consultations in transboundary context;
- c) monitoring program.

204. Following the plan or program approval at national level, the competent authorities of the other affected states should be informed within 15 calendar days about the following aspects;

- rationale for the integration of environmental problems in the plan or program content (*identifying environmental aspects that have been included in the plan or program as a result of carrying out the Strategic Environment Assessment*)
- results of consultation with the authorities and organizations/institutions concerned;
- monitoring measures;

(Article 12, paragraph (1)) If the Republic of Moldova is an affected party and received from the party of origin a notification with a draft plan or program and the SEA Report attached to it in the language agreed by the parties, the competent authority shall communicate within 15 calendar days about its participation or non-participation in the SEA procedure in transboundary context.

205. The competent authority has 15 calendar days to issue an official statement on its participation or non-participation in the transboundary strategic assessment procedure. Before issuing the statement, the competent authority will organize formal consultations with relevant authorities and representatives of environmental NGOs.

206. The official statement on participation or non-participation in the transboundary strategic assessment issued by the competent authority is based on the consultations organized with the public and relevant national authorities. The official statement is submitted to the designated authority of the state of origin through diplomatic channels.

(Article 12, paragraph (2)) The competent authority shall insure the information and consideration of the opinions of other stakeholders and interested public regarding the plan or program and SEA Report submitted by the party of origin.

207. Consultations with relevant authorities and environmental NGOs take place by applying the same rules preset in Articles 8-9 of Law 11/2017. It is important for the competent authority, as well as for the consulted authorities and the public to have a clear picture about possible alternatives and reasons for which these are considered the best option or not, which are the actions for diminishing the risks and planned activities with a potential impact on environment and public health.

(Article 12, paragraph (3)) The competent authority shall submit within the established deadline, which shall not exceed 45 calendar days, the environmental opinion to the party of origin, taking into account the opinions of other interested authorities and public, and shall carry out joint consultations with the empowered authorities of the party of origin.

208. Based on the consultations, the competent authority must prepare within 45 calendar days the environmental opinion and submit it to the party of origin. The structure of environmental opinion is provided in Textbox No.9

209. Consultations with the public and relevant national authorities are organized in partnership with the representatives of designated authority of the state of origin. The participation in consultations is insured at the expense of the state of origin.

Textbox No.9 Template environmental permit issued in case of transboundary consultations

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(Article 12, paragraph (4)) Following the reception of a copy of the plan or program approved and of the information provided for in Article 11, paragraph (7) from the party of origin, the competent authority shall post them within 5 working days on its official webpage and shall inform the interested authorities and public in this regard.

210. Upon reception from the party of origin of the following documents:

- a) rationale for the integration of environmental problems in the plan or program content;
- b) results of consultations in transboundary context; and
- c) monitoring program,

the competent authority informs the authorities involved in the consultation and posts the information on its webpage.

(Article 13) If the provisions of international agreements that the Republic of Moldova is a party to establish other regulations that those set in the legislation on environment protection of the Republic of Moldova, the provisions of international agreements shall be applied.

211. In the context of application of the legislative framework, the legislator provided a possibility to apply the international environmental framework that the Republic of Moldova is a party to. This provision must be interpreted through the following two aspects: **(1) the aspect related to application of SEA procedure** – the following acts shall be applied in regard to this aspect:

- a) *Convention on Access to Information, Justice, and Public Participation in the Decision Making on Environment, signed in Aarhus on 25 June 1998;*
- b) *Convention on Environmental Impact Assessment in Transboundary Context (Espoo Convention), ratified by Parliament Resolution No. 1546-XII of 23.06.93;*
- c) *Protocol on Strategic Environment Assessment to Espoo Convention, adopted in Kiev (Ukraine) on 21 May 2003.*

(2) the aspect related to provisions applied in environmental assessment, as such. For this aspect, one can use the international acts on all areas, such as: air, water, biological diversity, etc. The list of international acts that the Republic of Moldova is a party to is posted on the webpage of the competent authority.

2.6. Issuance of environmental permit

(Article 14, paragraph (1)) The SEAR Report conclusions, environmental opinion, objections and proposals received after consultations with the public and central and local public authorities, and the results of consultations in transboundary context shall be taken into consideration when deciding upon the plan or program approval, in compliance with the provisions of Articles 9–12.

212. This means that no plan or program or any amendment of the latter can be subject to approval procedure without obtaining the environmental opinion/endorsement from the competent authority (those that are mandatorily subject to SEA procedure, as well as those decided upon the need of being subject to this procedure as a result of the screening procedure). In other words, for these types of plans/programs or amendments of the latter it is mandatory to go through the procedural phases and obtain an *environmental opinion*.

213. In this sense, the following two aspects should be highlighted:

- a) the initiator has the obligation **to obtain the environmental permit**, if the respective plan or program/amendment of a plan or program mandatorily constitutes a subject matter of the SEA procedure or if a decision is approved to subject the plan/program/amendment to this procedure;
- b) the competent authority has the obligation to issue an **environmental permit/endorsement** for approving the respective plan or program, or the amendment of the latter **only for the consulted version**.

214. During the plan or program finalization, the initiator should insure that:

- the conclusions in the SEA Report;
 - environmental opinion;
 - objections and proposals collected during the consultations with the public and pre-set relevant authorities;
 - results of transboundary consultations;
- are taken into consideration and reflected in the final version of the plan or program.

215. All the supporting documents in electronic version are kept by the initiator and competent authority. The hard copy is submitted to the competent authority and initiator for archiving. All the original copies are stored by the plan or program initiator.

216. Law No.11/2017 on Strategic Environment Assessment establishes that the information and comments obtained from the SEA Report should be used in the decision-making process.

(Article 14, paragraph (2)) For the approval of the plan or program subject to Strategic Environment Assessment, the initiator shall submit the documents provided for in the current legislation, including the environmental opinion.

217. Article 40 of Law No.100/2017 on Regulator Acts establishes the following list of documents relevant for plans or programs:

- a) information note;
- b) opinions and recommendations received during the review and public consultations, including in transboundary context, in original copies;
- c) expert reports, in original;
- d) summary of objections and proposals from public authorities, and summary recommendations from the civil society representatives, if there are such, indicating whether the proposals, objections, and recommendations have been accepted and providing arguments for their rejection;
- e) table of divergences, which reflects the current regulations and proposed amendments, for drafts that include amendments to the current plans or programs;
- f) other materials, as the case may be, based on which the draft regulatory act has been developed, in this case, it would be the SEA Report.

218. For plans and programs, the environment opinion is mandatorily requested. The decisions should be published, specifying the conditions for approving the decision and other requirements, as the case maybe.

(Article 14, paragraph (3)) After the plan or program approval in compliance with the procedure set in the current legislation, the initiator shall post the environmental approval on its official webpage, as well as:

- a) the plan or program in approved version;
- b) information on how environmental problems have been integrated in the plan or program, the impact of the plan or program on environment, including on human health;
- c) information about consultations with the public and central and local public authorities, and results of consultations in transboundary context, in compliance with the provisions of Article

9

219. After the plan or program approval by Parliament, Government or Local Public Authorities, the initiator posts information about the plan or program on the webpage.

220. A brief information compiled from the approved text of the plan or program and from the text of SEA Report is prepared, which would include: how the environmental objectives have been integrated in the plans or programs and how the opinions collected during the consultations, including in transboundary context, have been taken into consideration.

3. MONITORING

(Article 15, paragraph (1)) The initiator shall monitor, within the limit of its competence and according to a set program, the significant impacts of the plan or program implementation on environment, including on human health with the view to identify unforeseen adverse effects in their incipient stage and take appropriate remedial actions.

221. The mitigation stage of the Strategic Environment Assessment **includes identification of action that should avoided, reduction and compensation of the main impacts identified.**
222. The monitoring program includes in itself a table with monitoring indicators, monitoring period, and the structures/units responsible for the development of monitoring reports and dissemination of the latter to the broad public. The monitoring program is a component part of the plan or program and of the SEA Report.
223. The structure/unit responsible for monitoring the implementation of environmental objectives is indicated in the SEA Report and in the environmental opinion/endorsement.
224. Impact mitigation is one of the main outputs of the Strategic Environment Assessment, and such actions can cover a broad range, including:
- a) changing towards another alternative identified or changing the plan or program overall.
 - b) technical measures that should be applied during the implementation stage, for *e.g.*, *protection areas, application of specific designing principles;*
 - c) identification of project aspects which will be highlighted during the environmental impact assessment of respective projects.
 - d) proposed changes in other plans or programs.
225. Aim of monitoring is to **measure the plan or program performances to determine if the effects of the latter are anticipated, and thus to establish the need for subsequent revision of the latter.** Therefore, the goal of monitoring is to check if the implementation of plans or program will not cause damages to environment, and if they are implemented in line with the approved decision namely if and how the SEA proposed mitigation measures are put in practice and with what effect.
226. The effects that are important for environment at the implementation level of plans or programs should be monitored in order to identify any unforeseen adverse effects and allow taking preventive actions. The decision on what and how should be monitored is approved during the incipient SEA process phases and during the plan or program drafting process. It should be mentioned that environmental monitoring differs from the monitoring of the plan or program efficiency. The set of environmental indicators should be developed so as to better reflect the environmental concerns or the impacts foreseen in the plan or program implementation.

(Article 15, paragraph (2)) The initiator shall submit the results of monitoring to the competent authority and publish them on its official webpage.

227. The plan or program implementation shall be monitored to find if the environmental objectives are pursued or if the impact assessment of individual projects is systematically

applied. The information recording system can be used to monitor the obstacles encountered and progress achieved in the implementation process, as well as to focus on or adjust all the SEA processes. Monitoring the cumulative impacts can be reasonable for plans or programs causing changes in environment at regional scale or changes in the essential values of nature.

228. Monitoring reports should provide information on:

- A brief summary of activities implemented within the fundamental document and how relevant mitigation measures and SEA recommendations have been followed/implemented;
- What is monitored (key environmental and health issues through relevant indicators);
- How the situation has changed i.e. what effects were recorded – this may be described in quantitative (e.g. air quality) as well as qualitative (if data are not available) terms;
- How the changes relate to the fundamental document implementation;
- Conclusions i.e. if any actions are needed to be undertaken, if any adjustments of the monitoring scheme should be done.

Testbook No 10: Example of table for regular (e.g. annual) reporting on activities implementing the SEA recommendations

Activities implemented during reporting period	Relevant SEA recommendation(s)	How SEA recommendations were met	Comments
Initiating construction of highway	Corridor A should be preferred in order to avoid significant impacts on human health	Corridor A was selected for highway, however with small adjustments, which were analyzed by EIA – EIA confirmed that modifications of the corridor will not lead to significant health impacts.	
The scheme to support ‘small and medium enterprises’ (SMEs) in rural areas was launched	Prefer alternative energy resources	Use of alternative energy resources has been included in overall evaluation scheme i.e. project proposal using alternative energy resources can get higher score for this criterion compare to projects using fossil fuels	

229. Based on the preliminarily set program, the initiator informs the competent authority about the accomplishment of environmental objectives within the plan or program. The reports are open to the public and posted on the webpage.

(Article 15, paragraph (3)) To apply the provisions of paragraph (1) and exclude overlapping, existing monitoring mechanisms and monitoring data originating from other sources can be used.

4. LIABILITY AND CONTESTATION OF DECISIONS

(Article 16) Non-observance of or non-compliance with the provisions of this law shall entail disciplinary, civil, misdemeanor or criminal liability.

230. To insure a coherent implementation of Law No.11/2017 on Strategic Environment Assessment, there were established provisions for calling to liability for non-observance of the legal framework.
231. The following forms of liability are applied: **disciplinary liability** is applied on basis of the labor legislation to civil servants who incorrectly apply or ignore the provisions of Law No.11/2017; **civil liability** may appear from the infringement of rights or non-observance of provisions stipulated in civil contracts signed particularly between the initiator and developer; **misdemeanor liability** is applied for infringing the provisions of Misdemeanor Code that may apply in relation to Law No.11/2017; **criminal liability** arises only if considerable damage have been caused to environment and to human life and health through the actions of representatives of the initiator, developer, and competent authority.

(Article 17) Any physical or legal entity shall have the right to contest any decision issued on basis of the provisions of this Law, in compliance with the current legislation.

232. The possibility to contest in court is applicable in case as well. If one of the parties considers that a decision issued at any phase of the SEA procedure is illegally issued from the procedural and substantive points of view, it has the right to apply the provisions of the Law on Administrative Court, No.793/2000.

Table No. 5. Phases of SEA implementation

Steps	Actions in line with the planning process	Actions in line with the Strategic Environment Assessment	Consultations with authorities, public access to information, and public participation in the Strategic Environment Assessment
Initiation	Determination of overall objectives of the plan or program and of the link of the latter with other plans and programs.	Determining the need for SEA (Article 5 of Law 11/2017 on Strategic Environment Assessment)	From case to case, relevant environmental/health authorities are <i>consulted</i> and the public <i>informed</i> .
	Scoping of SEA Report for plans or programs.	The scope of SEA Report is usually determined by identifying: - environmental problems relevant for the plan or program. - environmental objectives set at international or national/local level, which are relevant for the plan or program; - other environmental considerations that should be taken into account during the plan or program drafting and during the SEA process. (Article 7 of Law 11/2017 on Strategic Environment Assessment)	Identification of authorities that should be consulted and of the public that will participate in consultations; Consultation of relevant environmental/healthcare authorities. <i>Optional:</i> Public consultation
Detailed analysis of the context and scope	Assessment of relevant plans and programs Determination of main development trends Determination of opportunities for and constraints to future development	Basic analysis by focusing on areas of activity identified during the scoping, and indicating: - environmental characteristics in the areas that could be significantly affected; - current status of environment and its evolution in case when the plan or program won't be implemented <i>Optional:</i> Further, specify the goal of the	<i>Optional:</i> Consultation with authorities and the public on the context and scope Recording comments

Steps	Actions in line with the planning process	Actions in line with the Strategic Environment Assessment	Consultations with authorities, public access to information, and public participation in the Strategic Environment Assessment
		assessment which will follow (Article 8 of Law 11/2017 on Strategic Environment Assessment)	
Development and comparison of proposed alternatives	The following alternative options should be taken into consideration: - specific development goals, - actions for accomplishing these goals, - actions for improving the implementation of selected actions	Strategic Environment Assessment can review: - proposed development goals, - actions proposed for accomplishing these goals, These options are assessed on basis of: - their link with the relevant environmental objectives, and/or - significant impacts on environment. During the implementation of this activity, possible alternative options and measures for the prevention, reduction or mitigation of significant adverse impacts are analyzed.	<i>Optional:</i> Consultation of authorities and the public regarding the alternatives Recording of comments.
Revision, final adjustments, and implementation and monitoring arrangements	Final revision of proposed alternatives. Proposal on implementation and monitoring of arrangements.	Recording of the procedure for developing and reviewing alternatives; Recommendation of preferred alternatives and stipulation of reasons for respective preferences and recommendations made; Identification and description of any uncertainties and risks in the assessment process and proposal of monitoring arrangements; Preparation of SEA Report. (Article 15 of Law 11/2017 on Strategic Environment Assessment)	Proposed plan or program and SEA Report are made available to the public; Consultation of authorities and the public regarding the proposed plan or program and the SEA Report. Announcement and consultation of affected parties Recording the comments (Articles 9 and 10 of Law 11/2017 on Strategic Environment Assessment)

Steps	Actions in line with the planning process	Actions in line with the Strategic Environment Assessment	Consultations with authorities, public access to information, and public participation in the Strategic Environment Assessment
		Assessment)	
Decision making	Taking the SEA Report and the comments of authorities and the public into consideration. (Article 14 of Law 11/2017 on Strategic Environment Assessment)		Informing relevant environmental/healthcare authorities and the public about the approved decision

The document was developed in order to support efficient SEA practice in the Republic of Moldova. The work was carried out within the EaP GREEN Project, which assists country in elaborating the national guidelines on the practical application of SEA. The EaP GREEN is jointly implemented by the four partner organisations - OECD, UNEP, UNECE and UNIDO - with the financial support of the European Union, four implementing partners, and other donors. More information can be found at <http://www.green-economies-eap.org/>

This report was produced with the technical assistance of the UNECE within the EaP GREEN. The views expressed herein can in no way be taken to reflect the official opinion of the UNECE, other EaP GREEN implementing partners, or the European Union.