

**STRATEGIC ENVIRONMENTAL ASSESSMENT
SCREENING REPORT**

**OF THE ESPON 2013
OPERATIONAL PROGRAMME**

Produced for:
The Luxembourg Ministry for the Interior and Spatial Planning
(ESPON managing authority)
and
The ESPON Coordination Unit

Submitted by:
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SEA SCREENING REPORT FOR THE ESPON 2013 PROGRAMME

1. Introduction and structure of the report

The present screening report was undertaken to determine whether or not the ESPON 2013 Draft Operational programme, developed under objective 3 of the Structural Funds 2007-2013, required a full strategic environmental assessment (SEA) in accordance with Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (known as the SEA Directive).

On the 19th July 2007 a meeting was held between the companies doing the SEA screening, Ecosystems LTD, and the ex Ante evaluation (EureConsult) and the ESPON Coordination Unit and Managing Authority. The screening procedure and report structure, as described in the optional work package of the tender submitted by EureConsult, Tersyn and Ecosystems LTD, was presented, discussed and endorsed.

The present SEA Screening report is structured as follows:

- A reminder of the context for the ESPON programme
- An overview of provisions of the SEA Directive in terms of screening
- A step-by-step screening of the ESPON programme in relation to the SEA provisions
- A summary of the results of the SEA screening exercise
- Recommendations to the Managing Authority

The screening has been done on the basis of the Second Draft of the operational programme for ESPON, dated 25 July 2007. This draft does not contain the financial plan as the funding for ESPON and other European Territorial Cooperation Programmes is as yet unknown.

2. Context of the ESPON programme

The ESPON 2013 Programme is foreseen as part of Structural Funds 2007-2013, in particular related to actions under Objective 3, "European Territorial Cooperation"(COM (2004) 495 Article 6). It is destined to support the reinforcement of regional policy with studies, data collection and the observation and analysis of territorial development trends.

The overall objective as described in the 2nd Draft operational programme is to:

"Support policy development in relation to the aim of territorial cohesion and a harmonious development of the European territory by providing comparable information, evidence, analyses and scenarios on framework conditions for the development of regions and larger territories that can support the use of territorial capital and potentials and contribute to an improved European competitiveness, to European territorial cooperation and to a sustainable and balanced development".

The programme foresees 5 priorities :

Priorities	Main types of actions	Expected results
1. <u>Applied research on territorial development, competitiveness and cohesion</u> : Evidence on territorial trends and policy impacts	<ul style="list-style-type: none"> - Cross-thematic and thematic analysis (defining territorial potentials and challenges), including studies of territorial trends and prospective studies - Territorial impact of EU policies - Knowledge Support System 	The expected results will include an improvement of evidence based policy development including a European territorial dimension. The results will widen and deepen the existing knowledge base on European territorial development, to a large extent provided by the ESPON 2006 programme.
2. <u>Targeted analysis based on user demand</u> : European perspective to development of different types of territories	<ul style="list-style-type: none"> - Integrated studies and thematic analysis - Knowledge support to experimental and innovative actions - Joint actions related to other Structural Fund Programmes 	The results will cover a wide variety of themes, mostly in an integrated way, which has been selected by the Monitoring Committee to meet the best possible the demand expressed by potential users of ESPON results. The results will include European perspectives on territorial development that can reveal territorial potentials for the territory in question, inspire strategy building and planning processes and stimulate creativity on new ideas for projects.
3. <u>Scientific platform and tools</u> : Comparable regional data, analytical tools and scientific support	<ul style="list-style-type: none"> - ESPON Territorial Database, including data validation and improvement - Tools development and maintenance - Territorial Monitoring System and Reports 	Among the results will be the use of ESPON data and tools in policy making at different levels due to access, reliability and regular updates. In particular, the monitoring of territorial development will support regular stock taking of the development of individual territories and of the European continent as such.
4. <u>Awareness raising, empowerment and involvement</u> : Capacity building, dialogue and networking	<ul style="list-style-type: none"> - European seminars and events - Transnational networking activities - Synthesis reports and publications 	The number of policy makers and practitioners contacted and that has become aware of ESPON and the comparable European evidence available is expected to rise profoundly.
5. <u>Communication and technical/analytical assistance</u>		

(extracted from the 2nd draft of the ESPON 2013 operational programme)

The main target groups and beneficiaries are public authorities at all levels of administration, including policy makers and practitioners involved in carrying out programmes and project activities within Structural Funds programmes dealing with territorial development and cooperation, as well as the scientific community and the general public.

3. An overview of provisions of the SEA Directive in terms of screening

Articles 2 and 3 of Directive 2001/42/EC set out the scope of the Directive and define the type of plans and programmes that require an environmental assessment.

The emphasis is on plans and programmes *that are likely to have significant environmental effects* (Article 3.1), whether negative or positive. Some plans and programmes are assumed to have significant environmental effects (Article 3.2) and so automatically require an SEA unless they fall into one or more of the special categories defined in the Directive (article 3.3, 3.8 and 3.9).

For other plans and programmes, it is for the Member States to determine whether they are likely to have significant environmental effects (Art 3.5). Before making a final decision, the environmental authorities of the Member States designated under article 6 (3) of the Directive need to be consulted. After the decision has been taken the conclusions of the screening and the reasons for not requiring an SEA must be made available to the public (Art 3.7).

4. Stepwise screening of the ESPON 2007-2013 Draft Operational Programme in accordance with article 2 and 3 of the SEA Directive

The following step-by-step assessment screens the ESPON Draft Operational programme in function of each of the individual conditions specified in Articles 2 and 3. The objective is to provide the responsible Managing Authority with the necessary information to be able to decide whether or not an SEA is required.

STEP ONE: is it a 'plan or programme' in the sense of Article 2 of the Directive ?

The SEA Directive applies only to plans and programmes, not policies or projects. Article 2 defines what a plan or programme is for the purposes of this Directive. The first step is therefore to determine whether the ESPON 2007-2013 Operational Programme matches this definition.

Question 1:

Is ESPON operational programme a plan or programme:

- *which is subject to preparation and/or adoption by an authority at national, regional, or local level or which is prepared by an authority for adoption, through a legislative procedure by Parliament or Government'*
- *which is required by legislative, regulatory or administrative provisions*

Answer:

YES

Comments

COUNCIL REGULATION (EC) 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion

Fund requires that operational programmes are submitted by Member States and adopted by the Commission as part of the strategic reference framework setting out a development strategy using a coherent set of priorities.

The ESPON operational programme has been drawn up in order to fulfill this obligation. The need for this specific operational programme has been identified under Council Regulation (EC) 1080/2006 on the European Regional Development Fund as part of the 'European territorial cooperation' objective. Article 6, paragraph 3 calls for the:

'reinforcement of the effectiveness of regional policy by promoting networking and exchange of experience among regional and local authorities focusing on the topics referred to under Article 5(1) and (2) and Article 8, including cooperation network programmes covering the whole Community and actions involving studies, data collection, and the observation and analysis of development trends in the Community'.

The programme has been submitted to the Commission, and will be subsequently managed by, the Luxembourg Ministry for the Interior and Spatial Planning who is designated by the Member States participating in the ESPON 2007-2013 programme as the responsible Managing Authority, in accordance with Article 14 of Council Regulation (EC) 1080/2006 on the European Regional Development Fund.

STEP TWO- does it set the framework for future development consent of projects?

The SEA applies to all plans and programmes (PPs) that are likely to have significant environmental effects. The Commission interpretation is that all PPs that fall under the terms of Article 3(2) automatically require an SEA as it is assumed they will have a significant effect.

Article 3 (2) contains two key components, both of which must be met.

Question 2

Is the PP prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and does it set the framework for future development consent of projects in Annexes I and II of the EIA Directive ?

Answer:

NO

Comments

ESPON can be considered to fall under several categories as it is a cross-sectoral study programme with a territorial focus providing evidence on EU wide territorial development and spatial planning in support of policy development. The programme produces information for policy-makers which gives the 'regions of Europe an opportunity to address their strong and weak points in a European territorial context and to enrich their development strategies, projects ideas and cooperation arrangements by providing them with comparable regional evidence'. It is also intended to 'provide knowledge support

for Structural Funds interventions in general, including considerations related to mainstream activities under Objectives 1 and 2'

The ESPON programme however supports projects and actions involving studies, data collection, observation and analysis of territorial development trends, not the development of land-use and other plans and programmes as such. The information gathered *may* subsequently inform or influence territorial development policies and programmes at Community, national, regional and local level but it *does not* directly set the framework for future development consent of projects in the sense of the EIA Directive 85/337/EEC.

For the purposes of the EIA Directive a project means:

- the execution of construction works or of other installations or schemes,
- other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources;

Annexes I and II of the EIA Directive list over 30 different types of projects involving practical construction works and on-site development activities at specific pre-defined geographical locations.

ESPON does not set the framework for the development consent of such activities either with regards to the location, nature, size and operating conditions or by allocating resources. Nor does it contain criteria or conditions which might guide the way a consenting authority decides on an application for development consent.

Question 3

Does the PP, in view of its likely effect on sites, require an assessment under Article 6 and 7 of the Directive 92/43/EEC–

Answer

NO

Comments

The 'Habitats' Directive 92/43/EEC requires Member States to designate Special Areas of Conservation for rare and vulnerable habitat types and species listed in the Directive which occur in their territory. These sites form part of a coherent European ecological network of protected sites, known as the Natura 2000 network. Article 6 and 7 lay down the rules governing projects that may have a significant effect on a protected site within the Natura 2000 network. Such projects must undergo an 'appropriate assessment' of their implications for the site in view of the sites' conservation objectives.

The ESPON programme does not support projects or actions that are likely to affect sites in the Natura 2000 Network. It supports instead projects involving studies, data collection, observation and analysis of territorial development trends (including inter alia information relating to Natura 2000) which bear no direct relation to article 6 and 7 of the Habitats Directive.

STEP THREE – is the ESPON programme likely to have significant environmental effects?

From the above it can be concluded that the ESPON 2013 draft operational programme does not *automatically* require an environmental assessment under the SEA Directive. But the Member States still need to determine whether the Programme falls under the definition of article 3 (4) and is likely to have significant environmental effects.

Annex II of the SEA Directive provides a detailed list of questions to help assess the nature of the plan or programme and its potential environmental impact. The first set of questions concerns the characteristics of the plan or programme and helps to determine whether it sets the framework for future development consent of projects. The second set of questions refers to the potential environmental effects of the programme. A detailed evaluation of these questions is included in annex I and has been used to develop the answers to the questions raised here.

Question 4

Does the PP set the framework for future development consent of projects other than those under the EIA directive?

Answer:

NO

Comments (see also annex I):

'Development consent' is not defined in the Directive but according to Commission guidance it would 'normally mean that the plan or programme contains criteria or conditions which guide the way the consenting authority decide an application for development consent, for instance in placing limits on the type of activity or development which is to be permitted in a given area'.

By funding studies, data collection and the observation and analysis of territorial development trends which may (or may not) subsequently influence territorial development policies, it can be concluded that, in light of the above mentioned guidance, ESPON does not set the framework for the development consent of projects.

Question 5

Is the PP likely to have a significant environmental effect?

Answer

Contributing territorial information is unlikely to have significant environmental effects

Comments (see also annex I)

If the plan or programme does not set a framework for future development consent of projects, then the question of whether it has any significant environmental effects does not arise. Nevertheless, as the SEA Directive's main focus is on 'significant environmental effects', an attempt has been made to answer the questions outlined in Annex II of the Directive. From this analysis we conclude that it is impossible to predict with any degree of probability the environmental effects of the ESPON 2013.

This is because the results of the ESPON projects and the information generated are not legally binding for anyone. The ESPON programme broadens the information base but does not determine the criteria for decision making. The information may or may not be taken up and used by authorities in the elaboration of future territorial development and land use policies or programmes. ESPON has no way of influencing this other than through wide dissemination and publicity for its results. Even the targeted analyses based on user demand do not necessarily imply a take-up of the findings in future development programmes and policies.

According to Commission guidance on the SEA Directive, the use of the word 'likely' suggests that the environmental effects to be considered are those which can be expected with a reasonable degree of probability. As it is not possible to conclude that there is a reasonable degree of probability in the case of the ESPON 2013 Draft Operational Programme, it has to be concluded that the programme is unlikely to have significant environmental effects.

5. Summary of the results of the SEA screening

The following table is a summary of the screening assessment:

Screening questions derived from SEA Directive	Assessment
Article 2	
<p><i>Is ESPON Operational Programme a 'plan or programme:</i></p> <ul style="list-style-type: none"> - <i>which are subject to preparation and/or adoption by an authority at national, regional, or local level or which are prepared by an authority for adoption, through a legislative procedure by Parliament or Government'</i> - <i>which are required by legislative, regulatory or administrative provisions</i> 	YES
Article 3 (2)	
<p><i>Is the Programme prepared for</i></p> <p><i>(a) agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use and sets the framework for future development consent of projects in Annexes I and II of the EIA Directive</i></p>	NO
<p><i>(b) in view of its likely effect on sites, does it require an assessment under Article 6 and 7 of the Directive 92/43/EEC</i></p>	NO
Article 3 (4)	
<p><i>Does the PP set the framework for future development consent of projects (other than those under the EIA directive)</i></p>	NO
<p><i>Is it likely to have a significant environmental effect?</i></p>	UNLIKELY

From this we can draw the following concluding remarks on the screening of the ESPON 2013 operational programme (2nd Draft):

- it is a programme in the sense of Article 2 of the SEA Directive and therefore subject to the provisions of the Directive
- it does not set the framework for future development consent of projects in Annexes I and II of the EIA Directive and therefore does not automatically require an environmental assessment
- it does not set the framework for future development consent of projects other than those under the EIA Directive, and it is not possible to predict with any reasonable degree of probability that it is likely to have significant environmental effects.

In light of the above, the evaluation indicates that an environmental assessment under the SEA Directive is **not** required.

6. Recommendations to the Managing Authority

We recommend the Managing Authority:

- considers the conclusions of this report that an environmental assessment is not required for the ESPON 2013 Operational programme.
- submits its conclusion, together with the present screening report, to the authorities designated under Article 6(3) of the SEA Directive for comments in accordance with article 3 (6) of the Directive

Depending on the outcome of the consultation with the authorities under Article 6(3), the Managing authority will either need make public its decision not to undertake an environmental assessment under the SEA Directive, giving reasons for this decision, in accordance with article 3 (7) of the Directive; or it may need to review any comments received from the environmental authorities in function of the above-mentioned screening conditions in order to determine whether these give rise to an alternative conclusion (ie that an environmental report is necessary).

We also recommend that the Managing authority review the screening conditions if any significant changes are introduced to the current draft of the Operational programme following public consultation and/or further developments coming from the European Commission.

Finally, we would also highlight the fact that it is considered good practice, when a programme does not require an SEA, to include consideration of how the programme will promote sustainable development in terms of economic growth, social cohesion and environmental protection in the ex ante evaluation.

ANNEX I

Detailed assessment of 'significant environmental effects' according to Annex II of the SEA Directive

Annex II of SEA Directive	Comments	Degree and relevance
Characteristics of the plan or programme		
The degree to which the PP set a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources	The ESPON draft operational programme does not set a framework for territorial development projects. It has no immediate influence on the nature, size and operating conditions of prospective development activities.	Not relevant
The degree to which the PP influences other plans and programmes including those in a hierarchy	<p>The ESPON programme is designed to have some influence on territorial development policies at Community, interregional, national and even regional level by providing evidence that can support a better targeting of interventions aiming at improving regional competitiveness and territorial cohesion. But it achieves this through the provision of information, cross thematic and thematic analyses, territorial impact studies, evidence support to experimental actions (for instance, in the field of spatial visions and experimental territorial development).</p> <p>The information provided through the ESPON programme and its projects is not legally binding. It is up to the public authorities to determine whether they wish to use the data to inform their development and land use policies. At this stage, there is no way of knowing if the information will eventually help orientate future territorial development or not, and if so, how. Further the themes for research studies and analysis under ESPON 2013 are not yet identified.</p> <p>If a public authority does decide to use the information, this will most likely form part of an existing or future development programme which, itself, would have to undergo an SEA screening or environmental assessment.</p> <p>In light of this it is not possible to say what the influence of the ESPON programme is likely to be, if any, and whether or not it will strongly influence EU, national or regional territorial development programmes.</p>	low, not possible to determine at this stage
The relevance of the plan or programme for the integration of environmental considerations in particular with promoting sustainable development	<p>Part of the objective of the ESPON operational programme is to contribute to a sustainable and balanced development.</p> <p>According to Annex V1.2 of the OP, some of the themes for applied research actions and targeted analysis may focus on environmental issues. Further, it can, in principle, support integrated analysis and cross thematic studies which could highlight more sustainable forms of development. However, bearing</p>	Low, not possible to determine at this stage

	in mind the programme is about broadening the information base, it is not possible to say whether the ESPON programme is likely to directly encourage the integration of environmental considerations into territorial development policies or not.	
Environmental problems relevant to the plan or programme	As above, without knowledge of the subsequent use of the information produced it is not possible to say whether the results might indirectly encourage a further exacerbation of environmental problems through increased territorial developments, or to their avoidance/reduction/ resolution. It should also be noted that the programme is expected to contribute to a balanced and sustainable development that takes environmental considerations into account (Gothenburg agenda).	low, not possible to determine at this stage
The relevance of the plan or programme for the implementation of Community legislation on the Environment	As above, the ESPON operational programme could theoretically choose environmental themes for its projects and carry out studies on the territorial impacts of environmental policies, but it is not possible to predict how it will be relevant to the implementation of Community legislation on the environment.	low, not possible to determine at this stage
Characteristics of the (environmental) effects		
...and the area likely to be affected, having regard, in particular, to: - the probability, duration, frequency and reversibility of the effects - the cumulative nature of the effects - the transboundary nature of the effects - the risks to human health or the environment (e.g. due to accidents) - the magnitude and spatial extent of the effect - the value and vulnerability of the area likely to be affected - the effects on areas or landscapes which have a recognized national, Community or international protection status	For the reasons mentioned above and considering that ESPON funds studies, data collection, observation and analyses it is expected that the environmental effects resulting directly from the programme will not be significant.	Not significant