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Title: Shared experience of SEA implementation from Malta and Ireland: Promoting best practices for environmental protection within the context of island states
Authors: Harris, Maryann¹ and Hili, Pierre²
Affiliations: ¹EU and International Planning Regulation Unit, Planning Division, Department of Housing, Local Government and Heritage, Ireland
²SEA Focal Point, Ministry for the Environment, Energy and Regeneration of the Grand Harbour, Malta

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Abstract

Malta and Ireland have several commonalities that have shaped their approaches to implementation of the SEA Directive over the past twenty years. Both are island states with uniquely rich biodiversity, cultural heritage and vulnerabilities to climate change. Both have experienced historical emigration and more recent economic growth and tourism development. Historical British rule has resulted in common law systems in both countries which influences the application of environmental legislation and planning processes in a post-colonial context. This paper presents the results of a recent technical study exchange on SEA in both countries with participation by national, regional and local government bodies on a multi-sectoral basis. It analyses how best practices can promote a culture that appreciates the central role of SEA in environmental protection and the understanding of the need for related investment in institutional capacity, research, and guidance to all stakeholders. Specific recommendations are made for SEA implementation for the next 20 years within and between EU Member States for: 1) Consolidation and strengthening of the SEA process through stakeholder exchanges and a more structured framework; 2) Training needs for the SEA Focal Point, Designated Authorities and Responsible Authorities; 3) Access to information and public participation in user-friendly and innovative ways to promote participation, understanding of issues and ownership. 4) Capacity-building techniques to overcome challenges in resources and procurement of expertise for SEA.

Summary Statement

Two island nations within the EU with uniquely rich biodiversity and cultural heritage share their experience of implementing SEA in a post-colonial context to plan for their growing economies.

Aim

Analyse best practice to promote in both countries the central role of SEA in environmental protection through exchange visits in 2023.

Background

Issues of culture, governance and development stand out as particularly important to the relationship between “smallness” and “islandness” and policy-making for sustainable development¹. “Islandness” is characterised by “geographical boundedness, historical distinctiveness, biotic diversity and endemism, linguistic nuances, cultural specifics, innovative governance practices and ‘pseudo-development’ strategies”². “Smallness” may be advantageous for states due to their compact and centralised administration, consensual policy style, small internal market and specialised open economies”³, flexibility, the accessibility to policy-makers and personal contacts⁴. Thus, small states can be sites to innovate change⁵ for a sustainable future.

Malta and Ireland are smaller, peripheral members of the EU-27 (Table 1) and have several commonalities that have shaped their approaches to implementation of the SEA Directive over the past twenty years⁶. Notwithstanding migration histories under past British rule^{7,8}, there are strong development pressures due to recent robust economies and population growth, through a combination of natural increase and declining net outward migration⁹.

Table 1: Comparison of geographical characteristics of Ireland and Malta^{10, 11}.

Characteristics	Ireland	Malta
Year of Independence	1922	1964
Land area sq. km. (2022)	84,421	316
Land area ranking EU-27 (2022)	19 th	27 th
Resident population (2023)	5,194,336	542,051
Resident population ranking EU-27 (2023)	19 th	27 th
Population density persons per sq. km. (2022)	75.2	1692.7
Resident population density ranking EU-27 (2022)	20 th	1 st

The Republic of Malta comprises three main inhabited islands: Malta, Gozo and Comino. It has the smallest land area and highest population density in the EU-27 (Table 1). Ireland comprises 26 counties which, together with 6 counties of Northern Ireland within the United Kingdom, make up the island of Ireland. Ireland has one of the lowest population densities (Table 1) but the third-fastest population growth rate in the EU-27 in the last 10 years, up by 14.4% when compared with an EU-27 average of 1.7%¹².

The application of environmental legislation and planning processes in both countries is influenced by common law systems from historical British governance. This model is process-focused whereby judges may incrementally modify and clarify the law through judgements on cases¹³. By way of judicial review, courts may rule on administrative decisions where there is a flaw with the decision-making *procedure*, however they are in principle not entitled to interrogate the *substance* of the decision, which is viewed as solely within the discretion of the decision-maker¹⁴. This results in refinement and transparency of legislation but can be a lengthy and costly process, at times causing uncertainty for the adoption and implementation of plans and programmes. Malta has a mixed legal system of both civil law and common law - but Maltese law is also influenced by international law and, more recently, European Union law. Not all the sources of the common law system have infiltrated the Maltese legal system: for instance, Malta does not abide by the doctrine of precedent¹⁵.



Figures 1a and 1b: A comparison of the planning systems of Ireland¹⁶ and Malta¹⁷.

A comparison of both planning systems (Figures 1a-1b) illustrates the hierarchy to which SEA is applied using a tiering approach¹⁸. Ireland (Figure 1a) is currently revising its National Planning Framework (NPF)¹⁹. It is executed on a six-year cycle through three Regional Spatial and Economic Strategies, which in turn instigate 31 different local authority Development Plans, with Local Area Plans for settlements over

5,000, all of which reviewed by the Office of the Planning Regulator (OPR)²⁰. In Malta, the Strategic Plan for Environment and Development (also being revised) guides the Subject Plans, Local Plans, Action Plans, Development Briefs and Article 50 Policies²¹. (Figure 1b). Malta's SEA Focal Point acts as regulator and Competent Authority with a number of consultees. Ireland has designated environmental authorities on a sectoral basis to be consulted by the Competent Authority that is preparing a given plan²².

Given these contextual commonalities and resulting operational frameworks, the respective governments and the European Commission agreed that a technical study exchange on SEA in 2023 with participation by national, regional and local government bodies on a multi-sectoral basis would be highly beneficial.

Description of the technical exchange process

This process involved an expert group visit from Malta to Ireland in June 2023 and a reciprocal visit in October 2023. Over 40 representatives from Competent Authorities as regulatory agencies, plan-making Responsible Authorities, and national environmental Designated Authorities participated during each visit.

Its aim was the analysis of the governance and frameworks to operationalise the SEA process. The main topics of the exchange were:

1. Integration of the SEA process into plan-making by national and regional authorities to ensure environmental protection and sustainable development.
2. Capacity-building for the provision of environmental assessment in Malta and Ireland.
3. Legislative and policy frameworks for SEA in Malta and Ireland and application of case law.

Main outcomes

Four key areas to advance best practice in SEA emerged from the discussions:

1. Promoting national dialogue. Establishment of the National SEA Forum in Ireland as a means of dialogue and improving expertise proved to be of benefit to SEA implementation²³. The Maltese SEA Focal Point is exploring the establishment of a similar Forum with eventual opportunities for joint events with Ireland. This visit has shown the benefits and challenges of different institutional formats for designation of competent and environmental authorities.

2. Public consultation methods. This key aspect of SEA²⁴ requires further pilot initiatives as there is limited EU guidance to increase participatory planning through the SEA process²⁵. Malta has experience with gaining public input and engaging the public in examining alternatives to improve SEA implementation. The Maltese SEA Focal Point has developed a Screening Process template to assist plan-makers in their responsibilities including input from concerned parties. Public engagement with the SEA process in Ireland is low, and is the subject of a research project funded by the EPA and OPR²⁶.

3. SEA and cultural heritage. The exchange highlighted challenges faced in terms of touristic pressures on cultural heritage sites, limited expertise and institutional memory on SEA, and new challenges posed by climate change and biodiversity loss. The Irish Department of Housing, Local Government and Heritage and Maltese Superintendence for Cultural Heritage representatives discussed the greater incorporation of SEA into heritage planning and management and challenges arising from development, tourism and climate change for the long-term protection of UNESCO World Heritage sites, many which overlap with Natura 2000 sites. Requirements for SEA will be increasing in the Irish national heritage consent regime under new national legislation passed in 2023²⁷. Examples from the Gozo Regional Development Authority (GRDA) of participatory planning in setting the Vision Statement for Gozo²⁸ and the first Regional Development Strategy²⁹ illustrate best practice in Malta for spatial planning and sustainable urban development. Ireland is drafting its first National Strategy for World Heritage³⁰ with recommendations for specific guidance for sustainable development. Both strategies address key issues of protection of cultural heritage and biodiversity, climate change mitigation, sustainable tourism and rural development. A wider

interpretation of the term environment is needed to include not only natural aspects but also cultural heritage.

4. Resourcing and procurement. Capacity-building techniques were explored to address challenges in resourcing and procuring the expertise for SEA. Recent studies by professional institutes in Ireland reveal critical vacancies in planning for over 60% of public and private entities³¹ and a capacity crisis in the ecology sector³². Applications to Irish university courses have declined sharply in city planning and environmental policy (40%) and environment (17%)³³. Intake by students in spatial planning courses in Malta is also worryingly low. Both countries rely upon out-sourcing of expertise by public bodies with increased costs and time delays through procurement procedures from a limited pool of consultants. Irish authorities use multi-party framework agreements for public procurement of consultants for environmental assessment to encourage competition, manage costs and reduce timeframes for SEA and it is recommended to be included in SEA Action Plans. The Maltese SEA Focal Point deemed that further capacity-building and training on SEA including through training courses, expert exchange of views, seminars, conferences, and possibly more well-publicised educational programmes in environmental assessment to increase in-house expertise would strengthen the SEA process.

Discussion

There are many similarities between Malta and Ireland including historical, demographic, social, cultural, economic and environmental aspects. The aspect of island culture and ecology was discussed and this is a strong theme in terms of the unique language, biodiversity and history of cultural inculcation of both islands combined with modern economic growth and touristic development. This has led to possible contradictions emerging from ‘openness’ and ‘closeness’ of island states emanating from the drive to develop and modernise, while at the same time holding on to island culture and values^{34, 35}.

Both countries continue to experience challenges in, addressing and increasing awareness of the SEA process. Increasing environmental awareness requires considerable ongoing time and effort. This need for capacity-building for environmental assessment has highlighted the importance of such exchange visits for peripheral nations, as it was remarked many times during the visit by both delegations that “we don’t feel so alone now”. This experience highlighted that authorities responsible for SEA and its challenges can greatly benefit from such expert ‘learning’ sessions that provide much needed mutual support and reassurance. While there was a good gender balance of speakers, the older age profile illustrated the need to attract younger professionals to undertake environmental assessment.

EU legislation and CJEU rulings can be challenging to implement for the SEA process in a common law system³⁶. A shared challenge is the limited availability of technical expertise to meet legal requirements for SEA, posing a risk to the planning processes. It is evident that further efforts are required to provide and improve the level of networking as a means of training. The exchange visit has highlighted the need for cross-fertilisation of ideas and for more educational programmes for both countries and within the EU generally. This visit proved to be a success on various counts including: improved awareness, strong and effective cooperation, and a positive outlook towards the future, that could be summarily described as a non-formal learning opportunity based on the sharing of experience for improved policy implementation.

Recommendations

Specific recommendations for SEA implementation for the next 20 years within and between EU Member States include:

1) Consolidation and strengthening of the SEA process through stakeholder exchanges and a more structured framework.

Countries that have not already done so could explore capacity-building measures, namely:

- Establishment of a National SEA Forum.
- Commissioning an SEA Effectiveness Review (SER).

- Preparing an SEA Action Plan.

2) *Training needs for the SEA Focal Point, Designated Authorities and Responsible Authorities are explored.*

- Re-training and upskilling of experienced staff to increase in-house expertise is critical.
- The Irish EPA website is a repository for national and EU resources and guidance documents on SEA³⁷.
- Promotion of exchanges on SEA using TAIEX for networking improvement could be increased within the EU-27.

3) *Access to information and public participation in user-friendly and innovative ways to promote participation, understanding of issues and ownership.*

- Further collaboration between Malta and Ireland on public participation for sustainable development, including on World Heritage sites.
- Malta's Environment and Resources Authority has developed a standard mechanism for recording SEA consultations which could be used as a best practice.
- The SEAWAY Project in Ireland can provide peer-reviewed research resources³⁸.

4) *Capacity-building techniques to overcome challenges in resources and procurement of expertise for SEA.*

- Future exchanges may link to universities, thus promoting careers in SEA.
- Improved sharing of procurement frameworks among governmental bodies and supporting entry into the market of new service providers are areas for future focus.

Conclusions

Awareness and implementation of SEA can benefit from the provision of opportunities for exchange of views. Such programmes can serve as a platform for increased awareness, enhanced cooperation, consolidation of environmental values, training and informal education for policy-makers. The evaluation of this expert exchange visit corroborates that informal settings can serve as a form of Education for Sustainable Development (ESD) for policy-makers³⁹.

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