

**INTERACT II EX ANTE EVALUATION:
EXAMINATION OF THE LIKELY SIGNIFICANT
ENVIRONMENTAL EFFECTS OF INTERACT II**

submitted to the

Austrian Federal Chancellery

by

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on

20 October 2006



1. Introduction

This exercise is carried out in accordance with the criteria defined by Art 3 (5) of the Strategic Environmental Assessment (SEA) Directive 2001/42/EC and its Annex II as set out in the ToR for the ex-ante evaluation of INTERACT II. Its objective is to determine if the INTERACT 2007-2013 Draft Operational programme requires a detailed strategic environmental assessment.

Following the second drafting group meeting of INTERACT II held on 25th September 2006 in Brussels the Managing Authority (in accordance with the ToR and the contractual provisions for the ex-ante evaluation of INTERACT II) has opted for and requested evaluators to perform an examination of the likely significant environmental effects of INTERACT II.

The findings of the present examination are based on the third draft of the operational programme for INTERACT II (pre-release, dated 13th October 2006).

2. Reference Points

2.1 Legal basis, core mission and objective

The legal basis for the INTERACT II programme is Article 6 (3) of Council Regulation (EC) 1080/06, which is aiming at the “*reinforcement of the effectiveness of regional policy by promoting [...] (b) exchanges of experience concerning the identification, transfer and dissemination of best practice ...*”. Its core mission is to identify, to describe and to spread good governance approaches and practices of cross-border, trans-national and interregional cooperation across the EU.

Accordingly, INTERACT II aims to support European Territorial Cooperation co-funded by the European Regional Development Fund in the programming period 2007-2013 in providing services to the target groups aiming at:

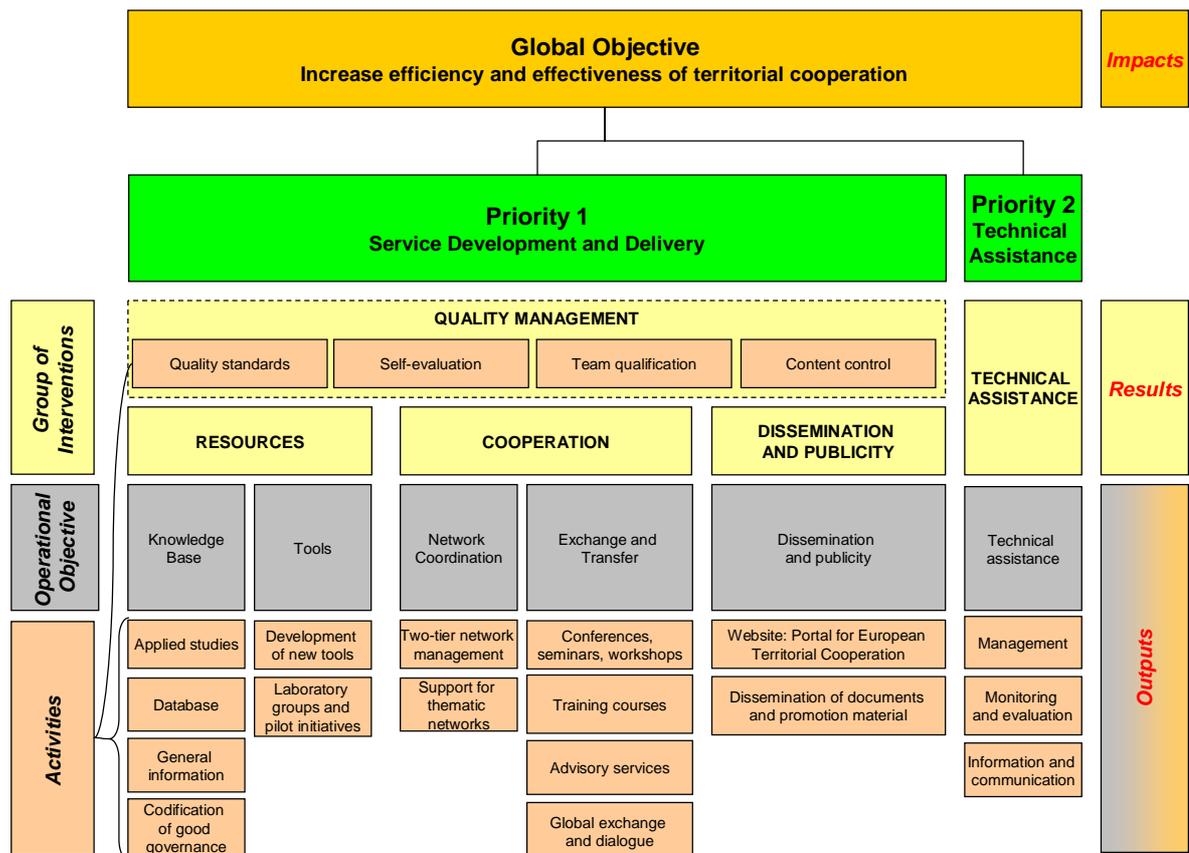
- securing and increasing the efficiency and effectiveness of Territorial Cooperation programmes and projects relating to specific geographic spaces or thematic fields and
- contributing to the quality of and know-how in cross-border, trans-national and interregional cooperation in the EU (27) and the associated countries (Norway and Switzerland)¹.

Target group of INTERACT II are the institutions and bodies that have been established to manage European Territorial Cooperation Programmes, i.e. cross-border programmes, trans-national programmes, interregional and network programmes operating under the European Territorial Cooperation Objective 2007-2013 (Managing Authorities, Joint Technical Secretariats, Monitoring and Steering Committees, National Contact Points, Certifying Authorities and Audit Authorities).

¹ Cf. section 4.2 of the Draft Operational Programme

The programme establishes two priorities, i.e. Service Development and Delivery (Priority 1) and Technical Assistance (Priority 2). Priority 1 comprises 4 groups of intervention (Resources, Cooperation, Dissemination and Publicity, Quality Management), each of these pursuing several operational objectives. Priority 2 represents an operational objective on its own (Technical Assistance).

The objective tree below (taken from the INTERACT II Operational Programme, 3rd draft) provides an overview of the programme structure (priorities; groups of intervention; operational objectives and their related activities and expected results):



2.2 Aspects of examination in relation to the SEA Directive

According to Directive 2001/42/EC certain plans and programmes that are likely to have significant environmental effects shall be the subject of an environmental assessment. Article 3 provides for the scope of the SEA Directive, defining the type of plans and programmes that require such an environmental assessment.

Article 3 (2) provides a list for specific plans and programmes for which an SEA is obligatory, with the exception of cases in which Articles 3 (3), 3 (8) or 3 (9) are applicable. As far as any other plans and programmes are concerned, Member States

are to determine the likelihood of significant environmental effects through case-by-case examination (Art 3 (5)). The environmentally responsible authorities of the Member States shall be consulted concerning the result of the examination (Article 6 (3)). Following the final decision Article 3 (7) requires that the conclusions of the examination and the reasons for not requiring the full SEA are made available to the public.

3. Examination of the likely significant environmental effects of INTERACT II in accordance with Article 3 (5) Directive 2001/42/EC

This exercise aims to clarify if a detailed SEA is required, 'testing' the INTERACT II Draft Operation Programme against Articles 2 and 3 of Directive 2001/42/EC.

3.1 Does INTERACT II represent a plan or programme as per definition of Article 2 of Directive 2001/42/EC?

Questions:

Does the INTERACT II draft operational programme represent 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:

INTERACT II represents a 'plan or programme' as per definition of Article 2 of Directive 2001/42/EC.

Comments:

- Council Regulation (EC) No. 1083/06 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No. 1260/99 (General Regulation) requires submission by Member States and adoption by the Commission of Operational Programmes as part of the strategic reference framework setting out a development strategy using a coherent set of priorities.
- The operational programme of INTERACT II complies with this requirement. The need for the operational programme has been stated in Council Regulation (EC) 1080/06 on the European Regional Development Fund as part of the 'European territorial cooperation' objective. Article 6 (3) aims at the *"reinforcement of the effectiveness of regional policy by promoting [...] (b) exchanges of experience concerning the identification, transfer and dissemination of best practice ..."*

- Following adoption by the Commission, the Austrian Federal Chancellery upon designation by the Member States will, in line with the provisions of Council Regulation (EC) 1080/06 on the European Regional Development Fund (Article 14), act as the responsible Managing Authority of the programme.

3.2 Does INTERACT II set the framework for future development consent of projects)?

Question:

- Has the present Operational Programme been prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use; and
- Does the present Operational Programme set the framework for future development consent of projects as listed in Annex I and II of Directive 85/337/EEC on Environmental Impact Assessment EIA?

Answer:

No.

Comments:

INTERACT II is meant to support the overall goals of the European Territorial Cooperation Objective, by putting specific efforts to foster and further develop the features of its implementing systems, which are characterised by:

- the variety of actors (qualification, interests, professional and cultural background), involved in the delivery of the policies;
- the interaction of the different government and administrative levels (EU, national, regional, local) and institutions involved, fundamentally influencing the efficiency and effectiveness of policy implementation.

INTERACT II addresses the specific complexity of the implementing system, which is rooted in the multi-country, multilevel and cross-sector nature of INTERREG. Due to the cross-sector nature, the Operational Programme may be considered to fall under several of the categories of the above question.

The INTERACT II Operational Programme however aims to develop appropriate governance solutions for policy implementation. It spreads systematic and standardized description of working practices mainly through dissemination of information, e.g. web page/links and references to events/publications etc.; platforms for exchange between programme makers, project owners etc.; studies; conferences, workshops and seminars; expert pools for advisory services and the development of tools.

The programme thus does not directly treat any of the sectors listed in the question above; nor does it address the development of land-use and other plans and programmes. The activities of INTERACT II could possibly inform territorial cooperation policies and programmes and/or shape systems for their implementation at Community, national, regional and local level, but it does not directly set the framework for future development consent of projects.

Projects in the strict sense of Directive 85/337/EEC on EIA are related to:

- 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.

The types of projects involving practical construction works and on-site development activities are listed in Annex I and II of the EIA Directive. INTERACT II does neither set the framework for the development consent of such projects nor does it contain criteria or conditions which might guide the way a consenting authority decides on an application for development consent.

3.3 Does INTERACT II, in view of a potential effect on sites, require an assessment under Article 6 and 7 of the Directive 92/43/EEC?

Answer:

No.

Comments:

According to the 'Habitats' Directive 92/43/EEC Member States are to establish special areas of conservation (as part of a coherent European ecological network of protected sites, Natura 2000) for rare and vulnerable habitat types and species which occur in their territory.

According to Article 6 (3) any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.

INTERACT II does not support projects or actions that are likely to affect sites in the Natura 2000 Network. It spreads systematic and standardized description of working practices mainly through dissemination of information, studies, tools and organisation of events and by many other comparable means.

3.4 Is INTERACT II likely to have significant environmental effects?

The 'testing' of INTERACT II against questions 3.1 to 3.3 above proves that the present programme does not represent one of the 'standard' cases explicitly listed in Directive 2001/42/EC, which require a full environmental assessment. In such a situation the SEA Directive foresees that Member States are to verify if the programme is still likely to have significant environmental effects (Article 3 (4)).

The Member States shall take into account relevant criteria set out in Annex II of the SEA Directive in order to assess the nature of the plan or programme and its likely significant effects on the environment. An assessment has been included in the Annex of

this examination report, which has been used to establish answers to the questions below.

Question:

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

Answer:

No.

Comments:

- 'Development consent' is not defined in the Directive but according to the SEA guidance document² it 'normally mean[s] 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' (section 3.23).
- The INTERACT II Operational Programme aims to elaborate and disseminate standardised information, studies, tools and to organise related events, in order to develop appropriate governance solutions for policy implementation. Thus it intends to spread systematic and standardized information, but does not set the framework for the development consent of projects.

Question:

- Is INTERACT II likely to have a significant environmental effect?

Answer:

The development and dissemination of appropriate governance solutions for policy implementation is unlikely to have significant environmental effects.

Comments:

- INTERACT II does not set a framework for future development consent of projects. Therefore the question if the programme has significant environmental impacts does actually not apply.
- Still, in line with the ToR for the ex-ante evaluation of INTERACT II, evaluators have assessed the programme against the criteria of Annex II of the SEA Directive. The assessment shows that it is impossible to forecast the probability of environmental impacts the INTERACT II Operational Programme may have. The Programme establishes and disseminates information, studies, tools and organises events, in order to identify, to describe and to spread good governance approaches and practices. The outputs/results of the programme are offered to

² http://ec.europa.eu/environment/eia/pdf/030923_sea_guidance.pdf

authorities involved in the implementation of cross-border, trans-national and interregional cooperation projects under the Territorial Co-operation Objective.

- According to the guidance document for 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 (section 3.50). Since it is impossible to determine whether there is a reasonable degree of probability in the case of the INTERACT II Draft Operational Programme, it can be assumed that the programme is unlikely to have significant environmental effects.

3.5 Conclusion

The below provides an overview of the results of the examination of the INTERACT 2007-2013 Operational Programme against the likelihood of significant environmental effects in accordance with Article 3 (5) Directive 2001/42/EC:

SEA Directive Article and examination question	Result
<p>Article 2</p> <p>3.1 Does INTERACT II represent a plan or programme:</p> <ul style="list-style-type: none"> • 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? 	Yes
<p>Article 3 (2)</p> <p>3.2 Does INTERACT II set the framework for future development consent of projects)?</p> <ul style="list-style-type: none"> • Has the present Operational Programme been prepared for agriculture, forestry, fisheries, energy, industry, transport, waste management, water management, telecommunications, tourism, town and country planning or land use; and • Does the present Operational Programme set the framework for future development consent of projects as listed in Annex I and II of Directive 85/337/EEC on Environmental Impact Assessment EIA? 	No
<p>Article 2</p> <p>3.3 Does INTERACT II, in view of its likely effect on sites, require an</p>	No

assessment under Article 6 and 7 of the Directive 92/43/EEC?	
<p>Article 3 (4)</p> <p>3.4 Is INTERACT II likely to have significant environmental effects?</p> <ul style="list-style-type: none"> • Does INTERACT II set the framework for future development consent of projects other than those under the EIA directive? • Is INTERACT II likely to have a significant environmental effect? 	<p>No</p> <p>Unlikely</p>

Consequently evaluators conclude that a detailed strategic environmental assessment in accordance with the SEA Directive is not required.

3.6 Next steps

In case the Managing Authority follows the conclusions of evaluators, the present examination report, accompanied by the Managing Authority's decision that a detailed strategic environmental assessment in accordance with the SEA Directive is not required, shall be submitted to the authorities designated under Article 6(3) of the SEA Directive for comments in accordance with article 3 (6) of the Directive.

The present examination report is based on the third draft of the operational programme for INTERACT II (pre-release, dated 13th October 2006). The Managing Authority shall revisit the examination questions in case upcoming drafts of the programme undergo major adjustments.

ANNEX

Detailed assessment of INTERACT II against criteria for determining the likely significance of environmental effects referred to in Article 3(5) of the SEA Directive

1. Characteristics of INTERACT II, having regard, in particular, to:

Annex II/1 Criteria	Comments	Assessment
The degree to which INTERACT II sets a framework for projects and other activities, either with regard to the location, nature, size and operating conditions or by allocating resources.	The INTERACT II draft operational programme does not set a framework for cross-border programmes, trans-national programmes and interregional programmes in the strict sense of the given criteria, as it has no direct impact in relation to location, nature, size and operating conditions and does not allocate natural resources.	No direct impact
The degree to which INTERACT II influences other plans and programmes including those in a hierarchy	<p>The Programme establishes standardised information, studies, tools and organises events, in order to identify, to describe and to spread good governance approaches and practices. The outputs/results of the programme are offered to authorities involved in the implementation of cross-border, trans-national and interregional cooperation activities under the Territorial Co-operation Objective.</p> <p>Depending on the extent to which the outputs are accepted by the target audience, INTERACT II may influence the efficiency, effectiveness and quality of Territorial Cooperation programme implementation. It is, however, impossible to predict if such influence is likely to be, if at all, relevant from an environmental point of view within EU, national or regional programmes.</p>	<p>Low direct impact</p> <p>Degree of influence cannot be determined at this stage</p>
The relevance of INTERACT II for the integration of environmental considerations in particular with promoting sustainable development	<p>The Joint Strategy of the INTERACT II Operational Programme (section 4.2) is committed to Article 2 of the Amsterdam Treaty 1997, which stipulates "throughout the Community a harmonious, balanced and sustainable development of economic activities (...), sustainable and non-inflationary growth (...), a high level of protection and an improvement in the quality of the environment, an increase in the standard and quality of living conditions"</p> <p>The programme document further on highlights that in order to keep in mind the general issue of good governance, appropriate links shall be established to thematic networks and cooperation platforms operating in fields such as environmental protection.</p> <p>Finally, the "impact on the environment (neutral, positive, environment-focussed)", represents one of the indicators for monitoring and evaluation of the</p>	<p>Low direct impact</p> <p>Relevance cannot be determined at this stage</p>

	<p>programme (cf. section 8).</p> <p>The INTERACT II Operational Programme however is supposed to spread systematic and standardized information, with the aim to share experiences and best practice between authorities involved in the implementation of cross-border, trans-national and interregional cooperation programmes under the Territorial Co-operation Objective. It is therefore difficult to determine if the programme itself will directly encourage the integration of environmental considerations.</p>	
Environmental problems relevant to the plan or programme	<p>As stated above, it is impossible to determine at this stage if the programme itself will directly encourage the integration of environmental considerations.</p> <p>INTERACT II is committed to both Article 2 of the Amsterdam Treaty 1997 and the Gothenburg Agenda, which highlight the importance to contribute to a balanced and sustainable development that takes environmental considerations into account.</p>	<p>Low direct impact</p> <p>Relevance cannot be determined at this stage</p>
The relevance of the plan or programme for the implementation of Community legislation on the Environment	<p>Some of the activities of INTERACT II may be relevant to activities related to environmental themes or networks, but it cannot be determined whether such activity will be of relevance to the implementation of Community legislation on the environment.</p>	<p>Low direct impact</p> <p>Relevance cannot be determined at this stage</p>

2. Characteristics of the effects and of the area likely to be affected, having regard, in particular, to:

Annex II/2 Criteria	Comments	Assessment
<ul style="list-style-type: none"> - 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 due to special natural characteristics or cultural heritage, exceeded environmental quality standards or limit values, intensive land-use - the effects on areas or landscapes which have a recognized national, Community or international protection status 	<p>Given the above assessment and taking into account that INTERACT II is meant to support and develop the features of the implementing systems of programmes of the Territorial Cooperation Objective, it is expected that the environmental effects resulting directly from the programme will not be significant.</p>	<p>Not significant</p>