



JUSTICE
AND
ENVIRONMENT

European Network
of Environmental Law Organizations



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Make some noise

Shadow report on implementation of the Environmental
Noise Directive

in Austria, Czech republic, Estonia, Hungary,
Slovakia and Slovenia



Justice & Environment

Justice & Environment (J&E) is a European network of environmental law organisations. J&E is a non-profit association with a mission that *aims for better legislation and implementation of environmental law on the national and European Union (EU) level to protect the environment, people and nature*. J&E fulfils this mission by ensuring the enforcement of EU legislation through the use of European law and exchange of information.

J&E was created in January 2003 and founded as a non-profit association in September 2004. J&E currently comprises six full-member organisations: Environmental Law Service, Czech Republic (EPS); Estonian Environmental Law Centre, Estonia (EELC); Environmental Management and Law Association, Hungary (EMLA); ÖKOBÜRO – Coordination Office of Austrian Environmental Organisations, Austria; Legal-Informational Centre for NGOs, Slovenia (PIC); and the Centre for Public Advocacy, Slovakia (VIA IURIS). J&E also has six associate members: Environmental Justice Association, Spain (AJA); Centre for Legal Resources, Romania (CRJ); Front 21/42 Citizens' Association, Macedonia (Front 21/42); MilieuKontakt International, the Netherlands (MKI); Independent Institute of Environmental Concerns, Germany (UfU); and Green Action – Friends of the Earth Croatia, Croatia (ZA).

All J&E activities are based on the expertise, knowledge and experience of its member organisations. The members contribute their legal know-how and are instrumental in the initiation, design and implementation of the J&E work programme. The strong grassroots contacts of the members enable J&E to concentrate on Europe-wide legal issues and horizontal legislation, notably the: Aarhus Convention, environmental impact assessment, environmental liability, pollution, Natura 2000, transport and the building of legal capacity. Within these fields J&E: carries out analysis, compiles case studies and joint position papers; formulates strategic complaints, encourages discussion and legal education; and conducts outreach activities. Thus J&E provides added value from civil society to legislators and adds tangible benefits by broadening public knowledge of EU law and legislation.

To carry out its programme of work J&E relies on a number of donors and supporters. First and foremost the members themselves financially contribute to the network. However J&E has been supported by: the European Commission through the LIFE+ programme, the International Visegrad Fund (IVF), The Ministry of Housing, Spatial Planning and the Environment of The Netherlands (VROM), the Sigrid Rausing Trust and its own member organisations

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1. Introduction

Protection against the adverse effects of noise in the environment has always been one of the aspects of the European Community's environmental law, as noise is one of the primary factors affecting the environment. Medical and statistical studies have shown that particularly long-term exposure of the human body to noise above a certain level is harmful. The available figures show that in the European Union there are more than 80 million people who are exposed to noise levels which, according to experts, may be harmful.¹

Noise is one of the areas, that is regulated by Acquis. The legal basis for resolving this problem within the Community as a whole has assigned anti-noise and anti-vibration protection to the **second and fourth action programme**.

The European Commission's attempts to resolve noise problems initially focused more or less on regulation of **noise emissions** from selected sources, such as cars and technical sources. This approach, however, proved inadequate, and the European Commission gradually began to concentrate on the issue of **noise imissions** (means of protecting people as the recipients of noise). Therefore the Green Paper on Future Noise Policy (COM(96) 540) was published by the Commission in November 1996. It describes noise as one of the basic environmental problems at the local level. One of the targets of the noise reduction policy was to ensure that nobody is exposed to noise levels which are harmful and affect the quality of life.

The European Union's concurrent **Sixth environmental action programme** for the years 2002 to 2012² considers the protection of the environment and the health of the citizens of the European Union to be one of its fundamental priorities. This programme has the task of substantially reducing the number of people at risk from long-term noise, including traffic noise. The first step to achieving this target and a key issue for the European Commission in terms of noise protection is the adoption of the Directive relating to the assessment and management of Environmental noise.

Further to the Commission proposal for a Directive relating to the assessment and management of Environmental noise (COM(2000)468), the European Parliament and Council adopted Directive 2002/49/EC³ on 25 June 2002 (hereinafter END), the main aim of which is to provide a common basis for tackling the noise problem across the EU. The underlying principles of this text are similar to those for other overarching environment policy directives:

- The determination of exposure to environmental noise, through noise mapping, by methods of assessment common in the Member States;
- Ensuring that information on environmental noise and its effects is made available to the public;
- Adoption of action plans by the Member States, based upon noise-mapping results, with a view to preventing and reducing environmental noise where necessary, particularly where exposure levels can result in harmful effects on human health and to preserving noise levels where they are low.

Justice & Environment (J&E) is an association of public interest environmental law organizations based in the EU member states. J&E aims to use the law to protect people, the environment and nature. Our

¹ The Green Paper on Future Noise Policy (COM(96) 540)

² The programme is available for download here: <http://ec.europa.eu/environment/newprg/index.htm>

³ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32002L0049:EN:NOT>

primary goal is to ensure the implementation and enforcement of EU legislation through the use of European law and exchange of information.

At a national level the member organisations of J&E specialise in providing legal aid in environmental matters. They often deal with cases where citizens and local NGOs approach them for help in the area of environmental noise. As a result they also have experience with the implementation of the END at the national level.

In order to share their experience with the implementation of the END, certain member organisations of J&E which are most involved with the issue of noise protection have decided to compile this report. Their aim is to:

- summarise their experience with the implementation of the END in Austria, the Czech Republic, Estonia, Slovenia and Slovakia, particularly from the viewpoint of NGOs and citizens,
- draw attention to problematic areas of the implementation process in these countries,
- identify elements of the implementation process which are identical or similar in these countries,
- contribute towards the Commission's review of the END.

2. Analysis of chief findings

2.1. Summary of the main requirements of the Directive

The main requirements of the END can be summarised in four basic groups:

- **Monitoring the environmental problem;** by requiring competent authorities in Member States to draw up “strategic noise maps” for major roads, railways, airports and agglomerations, using harmonised noise indicators L_{day} (day-evening-night equivalent level) and L_{night} (night equivalent level). These maps will be used to assess the number of people annoyed and sleep-disturbed respectively throughout Europe.
- **Informing and consulting the public** about noise exposure, its effects, and the measures considered to address noise, in line with the principles of the Aarhus Convention.
- **Addressing local noise issues** by requiring competent authorities to draw up action plans to reduce noise where necessary and maintain environmental noise quality where it is good. The directive does not set any limit value, nor does it prescribe the measures to be used in the action plans, which remain at the discretion of the competent authorities.
- **Developing a long-term EU strategy**, which includes objectives to reduce the number of people affected by noise in the longer term, and provides a framework for developing existing Community policy on noise reduction from source. With this respect, the Commission has made a declaration concerning the provisions laid down in Article 1.2 with regard to the preparation of legislation relating to sources of noise.

The subject of this report also corresponds to these basic areas:

- The first part is an analysis, summarising the main points of contact of the process to implement the END in Austria, the Czech Republic, Estonia, Slovenia and Slovakia. These were chosen because the member organisations of J&E which are involved with the issue of noise protection are active in these countries. Therefore this is not a representative analysis of the implementation of the END throughout the whole of the EU, but merely a kind of probe to assess the situation in certain selected countries;
- The second part contains recommendations and proposals for Community regulations covering noise protection;
- The third part of this work consists of individual national reports which give a detailed overview of the implementation of the END in these member states and also contain a brief description of the national legislation covering protection against noise emissions in the environment.

This work does not attempt to analyse all aspects of the END implementation process as required by the directive. Instead, it focuses on **selected critical points identified by the authors of this report** on the basis of their own experience. In addition, the first part of this work aims to analyse whether the conditions are in place in the individual member states to ensure that measures adopted on the basis of the END (particularly action plans) can actually result in a reduction in noise pollution.

2.2. Fulfilment of the formal requirements of the Directive (timely transposition, timely preparation of noise maps and action plans).

The directive sets the member states deadlines to fulfill the tasks it imposes. The key deadline for this analysis is the closing date for the submission of the report on the implementation of this Directive:

Article 11

Review and reporting

1. No later than 18 July 2009, the Commission shall submit to the European Parliament and the Council a report on the implementation of this Directive.

Member states should fulfill the following tasks imposed by the directive by this deadline:

a) Creation of strategic noise maps

Article 7

Strategic noise mapping

1. Member States shall ensure that strategic noise maps showing the situation in the preceding calendar year are drawn up no later than 30 June 2007 and, where relevant, approved by the competent authorities, for all agglomerations with more than 250 000 inhabitants and for all major roads which have more than six million vehicle passages a year, major railways which have more than 60 000 train passages per year, and major airports within their territories.

The following table summarises compliance with the deadlines for the creation of strategic noise maps in the different countries:

Table 1

State	Strategic noise map	Finished within 30 June 2007
Austria	SNM of major roads	No, published January 2009
	SNM of major railways	No, published January 2009
	SNM of major airports	No, published January 2009
	SNM of Vienna agglomeration	No, published January 2009
Czech Republic	SNM of major roads	No, finished in October 2007
	SNM of major railways	No, finished in October 2007
	SNM of Ruzyně airport	No, finished in October 2007
	SNM of Prague agglomeration	No, finished in January 2008
	SNM of Brno agglomeration	No, finished in January 2008
	SNM of Ostrava agglomeration	No, finished in January 2008
Estonia	SNM of Tallin agglomeration	No, still not approved
	SNM of major roads	No, approved August 2008
Hungary	SNM of Budapest agglomeration	Yes, approved June 28, 2007
	SNM of major roads	No, approved between August 14, 2007 and December 13, 2007
	SNM of major railways	No, approved July 1, 2007
	SNM of Ferihegy airport	No, approved July 1, 2007
Slovakia	SNM of Bratislava agglomeration	Yes
	SNM of major roads	Yes
Slovenia	SNM of Ljubljana agglomeration	Yes
	SNM of major railways	Yes
	SNM of major roads	Yes

From this we can clearly conclude that, with a few exceptions, the deadline imposed by the END was not met. In most cases there were major delays with the creation of SNM, which could have had a negative impact on the quality of the action plans, as there was less time to compile them.

Article 8

Action plans

Member States shall ensure that no later than 18 July 2008 the competent authorities have drawn up action plans designed to manage, within their territories, noise issues and effects, including noise reduction where necessary, for:

- (a) places near the major roads which have more than six million vehicle passages a year, major railways which have more than 60 000 train passages per year and major airports;
 - (b) agglomerations with more than 250 000 inhabitants. Such plans shall also aim to protect quiet areas against an increase in noise levels.
-

b) Creation of action plans

The following table summarises compliance with the deadlines for the creation of action plans in the different countries:

Table 2

State	Action plan	Finished within 18 July 2008
Austria	Action plan of major roads	No, published February 2009
	Action plan of other major roads	No, published February 2009, except AP for province Carinthia, Upper Austria and Salzburg, which have not yet been published
	Action plan of major railways	No, published February 2009
	Action plan of major airports	No, published February 2009
	Action plan – IPPC facilities in Vienna	No, published February 2009
Czech Republic	AP of Ruzyne airport	Yes
	AP of major railways	Yes
	AP of road traffic (13 AP for specific regions)	Yes
	AP of Prague agglomeration	No, finished in second half 2008
	AP of Brno agglomeration	No, finished in second half 2008
Estonia	AP of Tallin agglomeration	No, approved May 2009
	AP of road traffic along major roads	No, approved December 2008
Hungary	AP of Budapest agglomeration	No, approved November 2008
	AP of major roads	No, not approved yet
	AP major railways	No, not approved yet
	AP Ferihegy airport	No, not approved yet
Slovakia	AP Bratislava agglomeration	No, not delivered yet
	AP of major roads	No, approved August 2008 and April 2009
Slovenia	AP of Ljubljana agglomeration	No AP prepared yet
	AP of major railways	No AP prepared yet
	AP of major roads	No AP prepared yet

As stated above, in most cases the deadline for the creation of strategic noise maps in these countries was not met. This is even truer as regards the creation of action plans. The only country in which the action plans were partially drawn up on time was the Czech Republic⁴. In contrast, in some cases no action plans had been created at all (Slovenia), or only some (Slovakia, Hungary, Austria). As more than a year has passed since the deadline for the AP, the situation regarding the implementation of this part of the END in these countries is pathetic, to say the least.

⁴ The delays with the creation of the strategic noise maps had a negative impact on their quality, as confirmed by the compiler of the AP.

2.3. Strategic noise maps

2.3.1. Problems during implementation: scope of noise mapping, methodical problems – relevance of noise inputs, credibility of results

In terms of content, the available information shows that the strategic noise maps from most of the countries in question comply with the formal requirements of the directive. They do, however, have some problems in common – particularly compliance with the requirement stipulated in paragraph 6 of Annex 4:

For the purposes of informing the citizen in accordance with Article 9 and the development of action plans in accordance with Article 8, additional and more detailed information must be given, such as:

– difference maps, in which the existing situation is compared with various possible future situations

None of the strategic noise maps analysed from Austria, the Czech Republic, Slovenia, and Slovakia contain maps which predict the development of the noise situation in different potential variants.

In the Czech Republic there is a specific problem determining the territory for strategic noise maps of agglomerations. The directive states that in the first phase, i.e. by 30.6. 2007, strategic noise maps must be created for agglomerations with more than 250 thousand inhabitants. The list of precisely marked out agglomerations is, as stipulated by the directive, determined by a national regulation. In the Czech Republic this regulation is Ministry of Health Decree No. 561/2006 Coll. The strategic noise maps in the Czech Republic, however, in contravention of this decree, do not cover the entire territory of the agglomerations. The European Commission does not consider this violation of the national regulation to be a breach of the END.⁵

2.3.1.1. Fulfilment of the requirements of Article 9 of the Directive (timeliness, completeness and clarity of provided information).

It can be said that all the countries in question essentially complied with the requirements of Article 9 of the END. Strategic noise maps are publicly accessible via internet, and are clear and comprehensible.

In one case the requisite information is not available in the strategic noise map, but in the related action plans. This is the case with the strategic noise map in Austria, which does not contain information about the estimated numbers of dwellings, schools and hospitals in a certain area that are exposed to specific values of a noise indicator. This information is contained in the individual action plans.

One serious drawback is the fact that the strategic noise maps in Austria also do not contain a summary of the most important conclusions.

Failure to comply with the basic requirements of Article 9 of the END can essentially only be identified in the strategic noise map of the Tallin agglomeration (Estonia). Apart from the fact that this document does not contain information about the legal framework under which the SNM was created, it does not provide a complete overview of the infringement of noise limits in this agglomeration, something which may be seen as a very serious inadequacy.

⁵ As evident from the European Commission's response to the municipalities and NGOs which filed a complaint against this procedure

2.4. Action plans

2.4.1. Process of acquisition of action plans – quality of public involvement

Involving the public in the creation of action plans is one of the fundamental tenets of the END. In all the countries in question these requirements of the Directive have been transposed to the national legal system, even if sometimes only as to comply with its minimal requirements. Despite this, the implementation of these requirements in practice has resulted in a number of major problems in the member states.

Article 8 paragraph 7 of the Directive stipulates the following basic conditions for public involvement:

a) Public involvement must be timely and effective

- In Austria the strategic noise maps were published at virtually the same time as the draft action plans, at the beginning of 2009. This is not merely a violation of Article 7 paragraph 1 and Article 8 paragraph 1, but as a result of this the public did not have sufficient time to acquaint itself with the content of the strategic noise maps and the related action plans.
- With regard to discussion of the draft action plan in the province of Vienna the requirements for public involvement were not met at all, as the public was not even given the opportunity to acquaint itself with the proposal. The discussions were attended merely by the heads of the Viennese districts, as foreseen in the Vienna Noise Protection Act. This contradicts one of the basic requirements of the directive.
- In Estonia the public had on average 13-14 days to acquaint itself with the draft action plans. This lack of time, together with the fact that the public were not sufficiently informed about the action plans, meant that public participation in meetings was minimal. In one case the public discussion was cancelled due to lack of interest. Records of these public discussions imply that the public was not sufficiently informed about the topic of the meeting and the aims of action planning, as the majority of the comments and observations related to problems outside of this framework. The comments made by the public were not taken into account when proposing changes to the action plan, but were passed on to be dealt with by the appropriate officials. In other cases they were rejected due to fact that there was no time to modify the draft of the action plan. This form of public involvement cannot by any means be termed effective.
- Unlike in Estonia and other countries, public discussions were not organised in the Czech Republic. Citizens were only given the opportunity to send their comments on the draft action plans in writing. The number of comments sent was very low considering the importance of the issue under discussion – just a few dozen, most of which came from NGOs. Considering the low level of public involvement, public participation in the preparation of action plans cannot be termed effective.
- The process of preparing action plans was not completed in the other countries concerned, therefore the effectiveness of public participation cannot be analysed.

b) The results of public involvement must be taken into account by responsible authorities

- Considering the fact that, with the exception of the Czech Republic and Estonia, the process of preparing action plans in the countries concerned is not yet complete, the authorities' approach to comments made by the public cannot be assessed in general terms. The figures show that

public comments are mostly rejected, as they often focus on specific measures in a specific location, which are not supported in such a general text as the AP.

c) Information about decisions taken must be given to the public

- As in the previous section we can only draw on very fragmentary information, as in most countries the process of preparing the action plans was not completed. In formal terms this requirement of the directive was met – the final versions of the action plans are available to the public, including a list of comments and the responses to them (Estonia, the Czech Republic). As regards content, these comments are often arranged in a very formal way and do not answer the questions put forward.

d) A reasonable time frame must be given to public involvement.

- The approach taken by the individual member states differs greatly in this regard. On the one hand there is Estonia, which has set a totally inadequate two-week deadline for the submission of comments on drafts of action plans. At the opposite end there is the Czech Republic, which granted around 8 weeks for the submission of comments. Austria set the deadline at 6 weeks, which is reasonable, but the draft action plans were published at the same time as the country's strategic noise map. Apart from the fact that this is in contravention of the Directive it greatly reduces the level of public involvement, as 6 weeks to study the strategic noise maps and action plans cannot be considered sufficient time to formulate comments.

2.4.2. Character of noise protection measures proposed in the action plans (clear measures, emphasis on the most burdened areas - Article 8 paragraph 1)

In the Czech Republic the main criticism against the draft action plans in the public discussions was the fact that the proposed anti-noise measures are merely a summary of projects and plans which have already negotiated and approved in other strategic documents. This fact is admitted by the compiler himself, who in the text of the action plans explicitly states that the factuality and quality of the plans was affected by the time constraints on the preparation of these documents and that the source material was of low quality (for reasons of technical incompatibility). In formal terms the action plans comply with the requirements of the directive, apart from the fact that they do not specify quiet areas. After analysing the content of the action plans, however, we come to the conclusion that they do not offer much in the way of new means of protecting against noise, even for the most burdened areas, as is stipulated by Article 8, paragraph 1 of the END. They only contain general anti-noise measures which are unrelated to specific areas and also take a time schedule for the implementation of these measures.

In Austria the situation is similar. The available action plans in most cases summarize measures already in place without offering new and/or more effective ways of dealing with environmental noise. No quiet areas are specified and the measures presented do not relate to concrete areas or numbers of people to be disburdened in accordance with Article 8 paragraph 1 END.

As in Estonia, the quality of the content of these action plans is disputable. The action plan for major roads contains a general list of measures being considered, although in the end the only thing it recommends is the construction of noise barriers. The AP of Tallin agglomeration also only gives general anti-noise measures, without listing specific projects, cost estimates, deadlines, etc. Not even this conforms to the directive's requirement stipulating clear measures with emphasis on the most burdened areas.

Slovakia, where the process of preparing the AP is still not formally complete, has faced similar criticism of the content of these plans. The anti-noise measures are often very vague and general, or are missing entirely from some action plans (e.g. the AP of the Bratislava agglomeration). This is another case where clear measures have not been adopted with emphasis on the most burdened areas.

All the above cases show a failure to comply with the requirements of the directive as regards the content of action plans. These AP can do little to help reduce the noise burden in the countries in question.

2.4.3. Interconnection between action plan outputs and other national planning processes and national budget rules.

The results of analyses carried out in these countries show that this is one of the most critical points affecting the implementation of the directive. Article 1 paragraph 1 c) of the Directive states that the aim of adopting action plans is: “the adoption of action plans by the Member States, based upon noise-mapping results, with a view to preventing and reducing environmental noise.” In order for action plans to help prevent and reduce noise they must be incorporated into the legal system of the member states, obliging authorities to take them into consideration when taking decisions at the national level. Although the END does not explicitly stipulate this requirement, it stems from the provision quoted above regarding the aim of action plans.

Analyses performed in the participating countries demonstrate, however, that in all cases action plans are rather a kind of “soft law”. There is no indication that authorities take them into account within their relevant decision-making processes. Their utility value for urban planning processes, for example, is purely a question of interpretation and of the willingness of the officials involved to take action plans into consideration on a non-committal basis. It is possible to foresee, that “soft” format of action plans will not affect decision making in member states at all.

Action plans do not have any influence on national budget rules in the participating countries. If they do refer to the costs of anti-noise measures, the action plans cannot be used to assist the decision-making process as they are too general and non-binding.

The fact that action plans are not firmly rooted in the national legal systems of the countries concerned leads to the situation that their contribution to preventing and reducing environmental noise is negligible and it is thus hard to determine the Directive’s requirements in this respect are being met

2.5. Brief excursion into national legislation for protection against noise

In order to provide the best insight into the legal sphere in which the END is implemented, this report contains a chapter describing national legal means of noise protection.

2.5.1. Existence of binding noise limits

From the data available it is apparent that the situation differs greatly in the countries under review. On the one side there is Austria and Slovenia, where the laws do not prescribe universally-binding noise emission limits. It is only in cases of new building projects which are subject to an EIA that the question of noise arises. The Austrian legal system does not stipulate any noise limits for the interior of residential buildings.

On the other side are Hungary, Estonia, Slovakia and the Czech Republic. The legal systems of these countries do contain generally binding (enforceable) limits for environmental noise.

2.5.2. State administration in noise protection

One specific situation in this regard is in Austria, where noise protection is part of the planning permission process. Therefore the responsible body is the authority issuing the planning permission.

In Hungary and Slovenia the issue of noise protection is the remit of the Ministry of the Environment, while in Estonia, the Czech Republic, and Slovakia this falls under the Ministry of Health of the respective countries. This shows that these countries have different approaches to issue of noise – as a public health problem or as an environmental problem. In any case, the authorities in these countries have at their disposal legal means which allow them to influence permits issued for new building projects or to penalise the infringement of noise limits on existing building sites (this is lacking in Austria). However, none of these countries has a tradition of involving the public in the issue of noise levels and noise protection.

2.5.3. Efficiency of the national noise protection system

As in the previous two sections, the situation in Austria needs to be assessed separately. There the main obstacle to effective noise protection is the establishment of binding emission limits.

Unlike in other countries this does not appear as a fundamental reform of the law (with the exception of Estonia, where the poorly-designed limits system restricts their applicability). The problem tends to lie in the practical application of these limits by the respective authorities, which often do not have the capacity to deal with noise annoyance cases. One example is the Czech Republic, which has relatively strict noise limits, although the fact that exceptions may be granted to permit sources of excessive noise renders this law somewhat ineffective in some areas (particularly as regards traffic noise).

2.5.4. Other legal instruments, their effectiveness and distribution (i.e. civil law instruments)

In all the countries in question there are civil law instruments which can be used to enforce protection against noise. However, the use of these instruments is limited to individual cases. In Slovenia there have been several cases where citizens annoyed by noise have gone to court to request reductions in the noise levels of industrial plants. Courts in the Czech Republic deal with numerous suits filed by citizens' groups against the state or regional authorities, as the owners of noisy roads. As in Austria and Estonia these are legal institutes protecting ownership rights against excessive annoyance from other owners (neighbouring properties). In contrast, Slovenia is considering the introduction of damage compensation.

The use of civil law as a means of noise protection is clearly very limited, particularly due to the length and costliness of the civil process. This therefore cannot be described as an generally effective means of protection against noise.

3. Summary and recommendations

3.1. Implementation of the Directive

The data collated can be used to determine the main problem areas in the implementation of the END in these countries. In general it can be said that the quality of the implementation of the END in the countries in question is relatively low. Moreover, if we were to compare the quality of the implementation of individual parts of the Directive, there is clearly a difference when comparing noise mapping and action planning. The quality of the content and the way action plans have been prepared in the few countries that have completed them is wholly inadequate. This can particularly be said about compliance with the requirements concerning public involvement in the preparation of these plans. On the other hand, there are few positive examples, one of which is the increased public involvement in the preparation of action plans through the establishment of a noise committee in Hungary.

The following list contains the main findings resulting from this analysis:

a) Failure to meet deadlines for the creation of SNM and AP

- Most of the countries in question did not abide by the deadlines for the creation of their strategic noise maps or action plans⁶. This had various adverse effects on the quality of the process. In Austria, for example, the strategic noise maps were published practically at the same time as the action plans, which greatly cut the amount of time available to study the SNM and prepare comments on the AP. As a result of delays with the creation of the SNM in the Czech Republic there were problems with the quality of the action plans. The compilers of the AP admit that the fact that they had limited time to prepare was reflected in the content of the plans.
- The actual process of preparing these action plans is still not complete in most of these countries, despite more than a year having passed since the expiry of the deadline set by the Directive.

b) Very low level of public involvement in the preparation of AP

- In all these countries inadequacies can be identified in the implementation of the END relating to the requisite public involvement in the preparation of AP. In some cases the public was completely excluded (the AP of the Vienna province); in other cases the public involvement in the preparations, evidently due to the lack of public awareness of the possibility of getting involved, was very low, and public comments were rejected across the board, instead of being dealt with specifically.
- The low or total absence of public involvement in the preparation of AP may be considered one of the greatest failings of the implementation of the END in the countries in question.

c) Low quality of action plans and SNMs

- The countries where the action planning process has been completed (especially the Czech Republic and Estonia but the available AP in Austria show a similar tendency) have one particular problem in common – the quality of AP. This is particularly true as regards the requirements for clear measures with emphasis on the most burdened areas as specified

⁶ The reasons of breaking this obligation was not the subject of this report, but are mostly evident: late transposition of the Directive into national legal system, low political will etc.

in Article 8 paragraph 1. The anti-noise measures contained in the action plans are too general and in most cases merely copy previous plans and strategies, especially as regards the development of transport infrastructure. The action plans do not set any deadlines for implementation, and the parts relating to the cost estimates for these measures are also poor.

- For this reason action plans do not offer any great promise of resolving the situation with noise in these countries and it is doubtful whether they comply with the aims of the Directive as contained in Article 1, paragraph 1 c), which states that action plans are prepared in order to prevent and reduce environmental noise.
- There are also several serious inadequacies evident in the strategic noise maps. They do not share a common denominator and differ in each different country. In Slovenia the mapping only included plants which require an IPPC permit, while in the Czech Republic the strategic noise maps only covered those parts of agglomerations defined by national legislation. In Estonia it was because of these inadequacies in the content of SNMs that they were not approved by the Health Protection Inspectorate.

d) Non-cohesion of action plans with the national legislation

- None of the participating countries make clear the legal nature of their action plans, or whether they should just be seen as a basis for related processes (e.g. land use planning). In all the evaluated countries the legal nature of the AP can be interpreted as a “soft law”, which does not have any direct impact on decisions made by the competent authorities. When transposing the Directive member states did not take the opportunity of clarifying how action plans relate to the decision-making process at the national level. In some countries the authorities in question even refuse to consider action plans as a non-committal source of information (in the Czech Republic SNM and AP are rejected as a basis for regional land planning due to the fact that they have not been prepared according to the demanded standards).
- These facts also reduce the potential of action plans to contribute towards preventing and reducing noise in the environment.

Overall the implementation of the END in the countries in question can be rated as being highly problematic, particularly in the action planning phase.

3.2. Chief recommendations by Justice&Environment

The drawbacks of implementation as described above are partially the result of poor practice in the individual member states and partially of the actual wording of the Directive. Rectifying these problems requires an enhancement of the quality of implementation at the level of the member states (which includes an extension of the role of the Commission as regards the monitoring of the quality of implementation), but it is also necessary to amend the text of the Directive itself and to modify certain provisions. In compliance with Article 11 paragraph 2 of the Directive the Commission, when preparing the report as described in paragraph 1 of the same article, assesses the need for further measures regarding the protection against environmental noise. In this respect the following proposals, which are based on experience with the implementation of the END in the countries assessed, should be considered.

3.2.2. Monitoring the effectiveness of action plans

As stated above, the “soft law” character of action plans, together with the fact that they are so general, leads to doubts about whether the anti-noise measures they describe will be implemented, and if so, what quality they will have. At the same time the Directive completely lacks any sort of mechanism to provide the Commission with information about whether the anti-noise measures described in action plans are put into practice. This mechanism should be based on the principle of submitting regular reports to the Commission, ideally in relation to the five-year interval as specified in Article 8 paragraph 5 of the Directive, during which the updates to action plans are prepared. On the basis of these reports the Commission should enforce compliance with END requirements in the member states.

In order to implement this proposal it is necessary to change the text of the END so that it then obliges member states to provide the Commission with reports on the implementation of the measures defined in action plans.

3.2.3. More specific requirements regarding the content of action plans

One of the biggest problems with action plans in the countries in question is that they are far too general. They only contain specific measures and projects to a very limited extent. This makes it very difficult to quantify how action plans help to resolve problems with environmental noise. Appendix V point 4 of the Directive states that the Commission may develop guidelines providing further guidance on action plans. With reference to this provision the Commission should prepare more detailed guidelines for:

- Defining noise-reduction measures so as to ensure that action plans only contain those measures which are specific and planned for a specific locality. This seems to be most wanted improving of the APs.
- Determining the specific requirements for financial information given by action plans. The budget estimate, cost-effectiveness assessment, and cost-benefit assessment must be tied in with specific anti-noise measures for a specific locality and must contain an implementation estimate.

In order to increase the effectiveness of action plans the Commission should issue guidelines with more detailed requirements regarding the content of action plans. Action plans must contain a specific list of measures to reduce noise that will be localised in specific areas, giving an estimated time schedule and a cost estimate for implementation.

3.2.4. Incorporating the need for the integration of action plans into national decision-making processes.

If action plans are not taken into consideration as part of national decision-making processes, there is little sense in preparing them. As described in the report, legal framework of action plans is not linked to any part of national legislation in countries in question. The Commission should ensure that

member states adopt a unified approach to action plans. Action plans must serve as a basis for decision-making processes, particularly as regards traffic and land-use planning.

In order to implement this requirement the content of the END should be amended so that it contains the stipulation that action plans must be taken into consideration by member states in cases of traffic and land-use planning.

3.2.5. Setting binding noise limits

Legislative developments covering protection of the air against pollutants can be used as an example of how effective environmental protection requires a combination of emissions and concentration standards. This clearly applies also to noise reduction. As regards noise emission limits, the European Union has made some progress. There are a number of regulations which define noise emission limits for machinery and equipment. However, there are no overall noise limit values at the European level, and this is currently left wholly at the discretion of the member states. As this report implies, the legal systems vary greatly in the individual member states. There are some states whose legal systems contain binding noise limits, while in other countries there is evidently nothing of the sort. As a result it can be assumed that the standard of noise protection varies greatly in the different member states.

This analysis also shows that the implementation of the END, considering the “soft law” nature of SNMs and APs, will evidently not lead to a reduction in the noise burden for the inhabitants of the member states. If the European Union wants to achieve its goal in this respect, it must take stronger legal steps to enforce its measures.

The experience of the countries where no binding noise limits exist has shown, that other methods, like controlling noise through EIA procedures, are not sufficient on their own for ensuring satisfactory noise protection.

Determining noise limit values is therefore the basic prerequisite for any further fundamental progress towards improving this situation. Further discussion is needed as to whether noise limits should be set only for the interior of buildings or also for outside areas, for the whole day or only at night, and whether these limits will only apply to certain designated zones (residential areas etc).

It is necessary to renew discussions on setting noise limits at the European level and to focus further EU legislative steps towards achieving this goal.

3.2.6. Enhancing the quality of public involvement in the action planning process

This report has clearly shown that the quality of public involvement in the preparation of action plans in many countries does not comply with the requirements stipulated by the Directive. One of the reasons is evidently that the formulation of the requirements for public involvement is too general.

It is necessary to clarify the legal regulations and specify in which phases of the process the public should be consulted, whether public hearings should be held, in what ways the public should be informed about the individual phases of action planning etc.
