ENVIRONMENT AGENCY AUSTRIA umweltbundesamt

Legal implementation of EIA/SEA in Austria

The role of the EAA = Environment Agency Austria/Umweltbundesamt

Outline

Part 1

- Legal implementation of EIA in Austria
- EIA – the concentrated procedure
- SEA in Austria

Part 2

- The role of the U (=EAA[1]) within EIA procedures
- Sensitive aspects within the assessment
- Experiences and results of an evaluation

[1]Environment Agency Austria

EIA – purpose and objectives

Environmental Impact Assessment (EIA):

- a **systematic, explicit assessment** of the actions of economic development and their environmental effects;
- an **environmental management tool** to identify environmental problems and providing solutions to prevent or minimize these problems;
- an **aid to decision making**. EIA is designed to alert the decision maker, the regulatory agencies and the public of the environmental consequences of projects;

- should be used to **maximize benefits** - by considering alternatives that might reduce impacts and lower the costs of construction, operation or of environmental protection.

EIA implementation in Austria

- First implementation of the EIA Directive in 1993 with the Federal Act on Environmental Impact Assessment (*UVP-G 1993*)
- After amendment of the EIA Directive in 1997: substantial adaptation of the Austrian legal situation – amendment of the EIA act in august 2000 (*UVP-G 2000*):

  Further smaller amendments in 2004, 2005 and 2006
- Comprehensive amendment in 2009: e.g. adjustment of annex (new/modified project types, lower threshold values), inclusion of UNESCO world heritage sites, procedural modifications

EIA act – screening is defined by

- **List of projects** subject to EIA in **Annex 1** with in total 88 project types in **3 columns**:

<table>
<tr><th>column 1</th><th>column 2</th><th>column 3</th></tr>
<tr><td>full EIA procedure</td><td>simplified EIA procedure</td><td>case-by-case examination (screening process) and where applicable simplified EIA procedure</td></tr>
<tr><td colspan="2">new installations:
EIA is required</td><td rowspan="2">projects that are situated in protected areas

(Protected areas are defined in Annex 2)</td></tr>
<tr><td colspan="2">modifications:
case-by-case examination (screening process) and EIA procedure where applicable</td></tr>
</table>

Which sectors are covered?

Environmental Impact Assessment Act 2000

section 3	annex 1
Traffic (federal roads and high-speed railroads)	waste management
	energy industries
	radioactive material
	infrastructure
	extractive industry
	water management
	agriculture and forestry
	other installations

What means "concentrated" procedure?

„One-Stop-Shop"

- only one application for authorization required
  - benefit for the project developer
  - EIS contains all information required (except section 3-projects)

- EIA authority applies all the relevant legislation in a concentrated procedure and decides about approval in an official notice
  - one authority is responsible for the whole procedure
  - compilation of all procedural information at one office

Who is the "competent authority"?

Number and location of competent authorities:

- Austria consists of 9 provinces (federal states)
- each province has its own CA: Department of the State government
- motorways and high-speed railways have their own CA: (department of the Federal Ministry for transport, innovation and technology)

FLOW CHART - EIA PROCEDURE (column 1 projects)

Preliminary proceedings (facultative)

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Checking the application and the EIS

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Opportunity of submitting comments (by authorities or the local community)

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Public inspection (application, EIS)

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Providing an **Environmental Impact Expertise**

↓

Public inspection

↓

Public debate (facultative)

↓

Hearing of the parties

↓

Decision
Public announcement of the development content

↓

Acceptance inspection

↓

Post-project analysis

Preparation and Submission of the Environmental Impact Statement (EIS)

Ex= experts of engeneering/ consultants

PD = project developer

CA = competent authority

Ex = experts of the CA

Role of the Competent Authority (CA)

PD = project developer

CA = competent authority

Env.OM = Environment Ombudsman

U = Environment Agency Austria

Reviewing process done by the CA

Reviewing Process – Role of the Environment Agency Austria/Ministry

EAA = Environment Agency Austria

Reviewing Process and Decision Making

EIA–Procedure: Possibilities to Appeal

Courts of justice

- **Environmental Senate:** (first instance)

= authority of appeal against decisions made by the provincial government

- **Administrative Court/Constitutional Court of Austria** (second instance)

Respite of appealing

Appealing within **4 weeks** after the decision is announced

Who is allowed to appeal?

parties of the proceedings (neighbours, Environment Ombudsman, communes, NGOs, citizens`groups)

Example – Car Testing Center Voitsberg (1)

Project: Car testing Center in Voitsberg

Construction of test and race tracks plus infrastructure and a tribune for about 3,000 people

EIA-Act

Annex 1 no.24:

Permanent race or test tracks for motorized vehicles with a length of 2 km or more

Annex 1 no.17:

Amusement parks or fun fairs, sports stadiums or golf courses with an area of 10 ha or more or a car park for 1,500 motorized vehicles or more.

Annex 1 no.46:

Uprooting of an area bigger than 20 ha

Example – Car Testing Center Voitsberg (2)

EIA-procedure - 1st Instance:

- **EIS submission** and application (by PD): Nov. 2005
- Environmental Impact Expertise (by CA): Nov. 2006
- **Positive decision** by the CA: April 2007

EIA-procedure – 2nd Instance:

- **5 appeals** filed by neighbours in May 2007
- **Decision of the Environmental Senate** (June 2008):

  No overriding public interests of the project versus forestry and spatial planning
- ⇨ **project disapproved**!

SEA in Austria - general conditions

Legal framework in Austria for transposing the SEA Directive into national law:

- Federal allocation of rights and duties with 9 independent provinces („Länder")
- Both legislation and execution in the sectors affected by the SEA Directive are shared between Federal and Province Authorities
- **Environment and planning** competences as interdisciplinary/cross-sectional matters are held **by Federal, Province and Local** Authorities

SEA implementation

- SEA transposed by the federal government as well as the federal provinces
- Transposition mainly done by integrating SEA requirements into existing administrative laws, sometimes by adopting special laws
- no SEA ‘parent’ law at federal level

For more information (available in English) see:
http://www.umweltbundesamt.at/en/umweltschutz/uvpsupemas/sup/

Which sectors are covered?

FEDERAL	„province“
waste	waste
noise	noise
air	land use
water	water
traffic	traffic
	hunt/fisheries/agriculture
	nature conservation

EU-subsidies: structural funds, rural development programme

SEA implementation

Federal level:

- integration of SEA provisions into prevailing case law in the sectors waste, noise, air and water through determination of PPs subject to SEA and provisions for procedural aspects
- new SEA act for the traffic sector

federal province level:

- in two federal provinces: central implementation through enacting a new law providing guidance for PPs subject to SEA and procedural aspects
- in other provinces: implementation in sectoral legal acts, predominantly in spatial planning legislation

U/EAA - tasks SEA

SEA:

- Technical assistance for the Ministry in the national implementation of SEA
- Developing SEA methodology and guidance, e.g. the **SEA-Toolkit** http://www.strategischeumweltpruefung.at/
- **Reviewing** Environmental Reports on behalf of the Ministry, supporting their role as environmental body in the sectors transport infrastructure, waste management, structural funds and the rural development program
- **Elaboration of the** Environmental Reports on behalf of the authority that is responsible for the plan or program and has to perform SEA (e.g. for the National Water Management Plan, Federal Waste Management Plan)

Environment Acency Austria – tasks EIA

- Reviewing each EIA-project
- National contact point (Ministry, CAs, public)
- Elaboration of studies, guidelines, etc.
- EIA-documentation

EIA process (1)

Key stages	Notes
Project preparation	prepared by developer (D)
Notification to competent authority (CA)	voluntarily in advance of the application for development consent
Screening	decision on whether EIA is required (**CA**)
Scoping	identifying the matters to be covered in the environmental information (**D**, **CA**)
Environmental studies (EIA report, EIS – Environmental Impact Statement)	developer carries out studies to collect and prepare the environmental information

EIA process (2)

Key stages	Notes
Submission of Environmental Information	developer submits the environmental information to the CA together with the application for development consent
Review of Adequacy of the Environmental Information	EIA report/EIS reviewed by independent body or CA
Consultations	**authorities** with environmental responsibilities, other interested **organisations** and **the public** shall be given the possibility to review and comment
Decision making and announcement	Reaching a decision taking the EIS and results of consultations into account and informing the public

Reviewing Process – Role of the Environment Agency Austria/Ministry

EAA = Environment Agency Austria

Reviewing Process and Decision Making

EIS content

Requirements for the Environmental Studies/Reports:

- **Completeness**
- Clear structure and outline
- Description of the project
- Alternative solutions
- Description of the present situation, the key impact and the mitigation measures
- Description of the interaction between the resources concerned
- **Comprehensibility**
- Comprehensibility lists of data and detailed explanations of scientific reasoning
- Compact wording, concentration on the essentials
- Clear layout both from a factual and optical point of view.

role of the Umweltbundesamt in EIA

Services of the Umweltbundesamt provided for the Federal Ministry of Agriculture, Forestry, Environment and Water Management (Lebensministerium) are regulated in the EIA Act 2000:

Lebensministerium/Ministry	Umweltbundesamt
Legal affairs	Technical and scientific assistance; acting as unit „environmental control" by legal order on behalf of the Lebensministerium

unit „environmental control"– tasks EIA

- Reviewing Environmental Impact Statement Reports (EIS) as well as EIS-concepts
- Operating two national EIA-databases (only in German)
  - Screening notices: http://www.umweltbundesamt.at/uvp_fest_online/
  - EIA documents/notices: http://www.umweltbundesamt.at/uvp_online/

Review procedure (1)

- Technical coordination and examination of the submission documents, checking legal requirements such as completeness and plausibility of the descriptions made
- approx. time-frame: 4 weeks

EIS transmission
by the competent authority

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Information about the arrival of EIS documents and invitation of our experts to check and give a comment

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Elaboration of expert‘s comments on all subjects of protection by specialist departments and Lebensministerium

Review procedure by U=EAA (2)

Compilation of a draft statement

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Discussion of the first draft by an editorial group

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Adjustments and dissemination of the final draft to all experts involved

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Transmission of the final statement to the competent authority

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After a time limit of one week: statement available for the public via www.umweltbundesamt.at in the national EIA database

EIA–documentation

2 databases

- screening notice database (since 2000)
- EIA-database (all projects)
- free online access for the public*

archive (reports hardcopies)

- EIS
- environmental impact expertises
- decesions
- access for the public

* http://www.umweltbundesamt.at/uvpdatenbank/

Screening notice database

- Establishment (2007;) ongoing update of the database
- Query via Umweltbundesamt-Homepage – free online access for the public

screening notice database

EIA-documentation and database

- Establishment and ongoing update of the EIA-database
- Query via Umweltbundesamt-Homepage – free online access for the public

EIA-database analysis (1)

EIA-database analysis (2)

EIA - technical and conceptual works

- General EIS – Guideline (revised version 2008); guidelines for special project types
  guidelines for EIA and air quality protection act; guideline for waste incineration plants, thermal power stations and other combustion installations (revised version 2008);
- Chairing of technical working groups
- Provision of technical information for citizen‘s groups, planning offices, project proponents, etc.
- Technical contributions to law proposals and amendments
- Research activities (EIA evaluation - national and EU)

"sensitive" aspects within the assessment

Soil

- How are soil aspects handled within EIA?
- Interreg-project "Urban SMS" aims on increasing the relevance of soil-issues within planning processes
- because the resource soil is often underestimated in the environmental assessment in spatial planning

  Guidance how to include soil protection aspects practically in SEA/EIA

Landscape

- How can impacts be measured?
- What if mitigation measures don`t work?
- legal background often insufficiant

sensitive aspects within the assessment

Energy

- the latest amendment of the EIA-act demands reports on the relevance of the project concerning energy and climate aspects; a special guidance is in progress.

What about aspects like…

- “consideration of alternatives”
- “monitoring”
- “final inspection” “post-project analysis”

The value of EIA for the environment

- Integrative approach: interdisciplinary exchange of information between various natural science disciplines; trade-offs in terms of measures for single environmental issues of EIA
- Compilation and assessment of projects subject to EIA including their surroundings with regard to cumulative impacts
- Effectiveness of the instrument for environmental precautions and positive influence on ecological-relevant behaviour of EIA-stakeholder

EIA experiences in Austria

- Sound co-operation among proponents, planning offices elaborating EIA statements and competent authorities as well as Ombudsman for the environment
- Guidance documents and expert statements support the competent authority during the approval process
- Steadily increasing quality of the submission documents and the overall EIA process through learning experience
- Public and stakeholder involvement enhances transparency in project development and EIA approval

Thank you!

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