

Federal Act on Environmental Impact Assessment (Environmental Impact Assessment Act 2000 - EIA Act 2000)

Original version: Federal Law Gazette No. 697/1993
as amended by Federal Law Gazette I No. 80/2018

Locus standi, right of participation and right of appeal

Article 19. (1) The following parties shall have *locus standi*:

1. Neighbours: Neighbours shall be persons who might be threatened or disturbed or whose rights *in rem* might be harmed in Austria or abroad by the construction, operation or existence of the project as well as the owners of facilities in which persons stay temporarily on a regular basis with regard to the protection of such persons; neighbours shall not be persons who stay temporarily in the vicinity of the project and do not have rights *in rem*; with regard to neighbours abroad, the principle of reciprocity shall apply to states not parties to the Agreement on the European Economic Area;
2. the parties stipulated by the applicable administrative provisions unless they already have *locus standi* according to number 1;
3. the ombudsman for the environment according to paragraph (3);
4. the water management planning body to protect the interests of water management according to Articles 55, 55g and 104a WRG 1959;
5. municipalities according to paragraph (3);
6. citizens' groups according to paragraph (4), except in the simplified procedure (paragraph (2));
7. environmental organisations recognised under paragraph (7) and
8. the ombudsman for the economic location according to paragraph (12).

(2) Citizens' groups according to paragraph (4) may participate in the simplified procedure as persons concerned involved with the right to inspect the files.

(3) The ombudsman for the environment, the host municipality and the directly adjoining Austrian municipalities which may be affected by significant effects of the project on the environment shall have *locus standi* in the development consent procedure and in the procedure according to Article 20. The ombudsman for the environment shall be entitled to claim the observance of legal provisions that serve to protect the environment as a subjective right in the procedure and to complain to the Federal Administrative Court and appeal to the Supreme Administrative Court. Municipalities as set out in the first sentence shall be entitled to claim the observance of legal provisions that serve to protect the environment or the public interest or to safeguard public interest as a subjective right in the procedure and to complain to the Federal Administrative Court and appeal to the Supreme Administrative Court.

(4) Comments according to Article 9 (5) may be supported by entering one's name, address, date of birth and dated signature on a list of signatures. The list of signatures shall be submitted at the same time as the comment. If a comment is supported by 200 persons or more who have the right to vote in municipal elections in the host municipality or in a directly adjoining municipality at the time of expressing their support, this group of persons (citizens' group) shall have *locus standi* in the development consent procedure for the project and in the procedure according to Article 20 or shall be considered to be a party involved (paragraph (2)). Citizens' groups having *locus standi* shall be entitled to claim the observance of environmental provisions as a subjective right in the procedure and to complain to the Federal Administrative Court and appeal to the Supreme Administrative Court as well as to complaint to the Constitutional Court.

(5) The representative of the citizens' group shall be the person designated as such in the list of signatures or, if such designation is lacking, the person ranking first in the list of signatures. The representative shall also be the person entitled to receive service according to Article 9 (1) *Zustellgesetz* (Service of Documents Act, Federal Law Gazette No 200/1982). If the representative resigns, the person ranking next on the list of signatures shall be considered to be the representative of the citizens' group. The representative may be replaced by another person by

means of a written statement to the authority. Such a statement shall be signed by the majority of the members of the citizens' group.

(6) An environmental organisation is an association or a foundation:

1. whose primary objective is the protection of the environment according to the association's statutes or the foundation's charter,
2. that is non-profit oriented under the terms of Articles 35 and 36 *Bundesabgabenordnung* (Federal Fiscal Code), Federal Law Gazette I No 194/1961 and
3. that has been in existence and has pursued the objective identified in number 1 for at least three years before submitting the application pursuant to paragraph (7).

The association shall have at least one hundred members. A federation shall comprise at least five member associations that meet the criteria of paragraph (6) numbers 1 to 3 and that, together, reach the minimum number required for five recognised environmental organisations. The authority shall be provided with credible evidence of the number.

(7) (Constitutional provision) In agreement with the Federal Minister for Economic Affairs and Labour, the Federal Minister of Agriculture and Forestry, Environment and Water Management shall decide upon request by administrative order whether an environmental organisation meets the criteria of paragraph (6) and in which Federal Provinces the environmental organisation is entitled to exercise the rights related to *locus standi*.

(8) The request pursuant to paragraph (7) shall be supported by suitable documents that prove that the criteria of paragraph (6) are met and that indicate the Federal Province/Federal Provinces covered by the activities of the environmental organisation. The rights related to *locus standi* can be exercised in procedures on projects to be implemented in this Federal Province/in these Federal Provinces or in directly neighbouring Federal Provinces. The Federal Minister for Sustainability and Tourism shall publish a list of the environmental organisations recognised by administrative order pursuant to paragraph (7) on the internet site of the Federal Ministry for Sustainability and Tourism. This list shall specify the Federal Provinces in which the environmental organisations are entitled to exercise rights related to *locus standi*.

(9) An environmental organisation recognised pursuant to paragraph (7) shall forthwith inform the Federal Minister for Sustainability and Tourism if any of the criteria defined in paragraph (6) is no longer met. Upon request by the Federal Minister for Sustainability and Tourism, the environmental organisation shall submit suitable documents proving that the criteria defined in paragraph (6) are still met. If the Federal Minister for Sustainability and Tourism gets to know that a recognised environmental organisation no longer meets any of the criteria of paragraph (6), this shall be determined by way of administrative order in agreement with the Federal Minister for Digital and Economic Affairs. The list pursuant to paragraph (8) shall be amended accordingly. Upon request by the Federal Minister for Sustainability and Tourism, but at any rate every three years from admission, the environmental organisation shall submit suitable documents proving that the criteria defined in paragraph (6) are still met. Such review shall also be carried out at the request of an EIA authority.

(10) An environmental organisation recognised pursuant to paragraph (7) shall have *locus standi* and shall be entitled to claim the observance of environmental provisions in the procedure if and to the extent it filed written complaints during the period for public inspection according to Article 9 (1). It shall also be entitled to lodge a complaint with the Federal Administrative Court and to appeal to the Supreme Administrative Court.

(11) An environmental organisation from a foreign state may exercise the rights under paragraph (10) if this state has been notified pursuant to Article 10 (1) no. 1, if the effects impact that part of the environment in the foreign state whose protection is pursued by the environmental organisation and if the environmental organisation could participate in an environmental impact

assessment procedure and a development consent procedure if the project were implemented in this foreign state.

(12) The ombudsman of the economic location shall have *locus standi* in development consent procedures and shall be entitled to claim the observance of provisions on public interests that justify the project's implementation and to lodge a complaint with the Federal Administrative Court and appeal to the Supreme Administrative Court as regards the observance of these provisions.

Entry into force, termination, transitional provisions

Article 46.

(28) The following shall apply to the entry into force of provisions amended or introduced by the Federal Act promulgated in Federal Law Gazette I No. 80/2018 and to the transition to the new regulatory framework:

5. Pursuant to Article 19 (9) environmental organisations which, at the time of the entry into force of this Federal Act, have been recognised for more than three years shall submit the documents by 1 December 2019, at the latest. If the check of a recognised environmental organisation shows that the criteria are no longer met, *locus standi* or the entitlement to complain shall, in procedures in which the environmental organisation has already obtained *locus standi* or the entitlement to lodge a complaint, be retained for pending procedures.