EIA and SEA in Germany
Federal German Act on EIA and SEA of 2011
- The national system including transboundary environmental assessment -

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Environmental Assessments for Programmes, Plans and Projects

- Prognosis and assessment of the environmental effects of plan /project before it is authorized
- procedure to improve quality of decision
- international legal framework (UN ECE, EC, States)

Main steps are

- Scoping
- Documentation of impacts of main option and alternatives
- Participation of authorities and public
- Taking results into account in decision
- [Right to appeal]
- Monitoring (ex-ante/ex-post)
1. INTRODUCTION - International legal framework

United Nations Economic Commission for Europe (UN ECE)
- Espoo-Convention on transboundary EIA (1991)
- SEA-Protocol 2003

European Union
- SEA Directive 2001

Germany
- Amendment SEA 2005 (EIA/SEA Act 2011 cod.)
GEOGRAPHICAL SITUATION OF GERMANY

Located in the heart of Europe

Several neighbour states on the continent

Related to more states by transboundary waters E.G. North sea/ Baltic sea, Danube river

Bilateral agreements on EIA/SEA with several neighbour states
2. EA IN GERMANY - Federal German Act on EIA/SEA of 2011
- EIA/SEA integrated into planning or decision making process

Example: Integration of SEA into planning process (SEA)

[Diagram of planning procedure and decision-making process]

- Decision on SEA §§ 14a - 14d
- Scoping
- Environmental report § 14g
- Participation §§ 14h – 14j
- Review of environmental report § 14k para. 1
- Announcement including summarized statement and monitoring measures § 14l
- Monitoring § 14m UVPG

Steps of planning procedure

- Decision on elaboration of plan / programme
- First draft concept on contents of plan / program
- Final draft of plan / programme including reasoning
- Participation of authorities and public
- Decision on plan / programme taking into result of EIA § 14k, para. 2 EIA Act
- Announcement to public
- Decision on adoption of plan / programme
- Monitoring according to Sectoral Planning Law

- Integrated SEA Procedure (German EIA Act)

Planning steps

SEA step
### 2. EA IN GERMANY - Federal German Act on EIA/SEA of 2011
- **EIA/SEA Field of application (Annex 1 and 3)**

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<td>- Waste management plan</td>
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*Basically: any project which may harm the environment*
Ranking of projects according to magnitude or capacity:

**Mandatory EIA**
- power plants >200 MW

**Case-by-case examination (screening):**
- General case-by-case examination  power plants  50 MW – 200 MW
- Specific Case-by-case examination  power plants  20 MW – 50 MW
  (restricted to investigation of especially susceptible project locations)

**Purpose:** Case-by-case-examination means: Decision on need of EIA
- Rough and quick assessment by the competent authority whether a project may have considerable adverse impacts and thus requires an EIA or not.
2. EA IN GERMANY - Federal German Act on EIA/SEA of 2011
- EIA procedure

Information on project

Decision whether EIA required

Scoping

Approval of EIA Documentation

Participation of authorities and public

Summarized description of impacts

Proponent

Decision on project

Realization of project

Monitoring
2. EA IN GERMANY - Federal German Act on EIA/SEA of 2011 - EIA procedure with transboundary participation

- Information on project
- Notification in scoping phase
- Project application/ EIA documentation
- Notification
- Submission of EIA documentation/ participation
- Participation of public/authorities
- Bilateral Consultation
- Submission of Decision
- Monitoring

Decision whether EIA required

Scoping

Approval of EIA Documentation

Participation of authorities and public

Assessment of project (preparation of summarized description of impacts)

Decision on project

Monitoring
General reflections of German law maker when starting

- **Competence**: Authority to be competent for transboundary steps in Germany?
- **Field of application**: Which kind of projects subject to transboundary EIA/SEA?
- **Significance**: Limited knowledge on state of environment on territory of other state
- **Starting point of transboundary EA**: Scoping phase or later?
- **Public participation**: Not entitled to act on the territory of other state. How to organize participation of foreign public (e.g. advertising, hearing)?
- **Translation**: Foreigners will not be able to act in German language (and vice versa)
- **Time Frames**: German time frames sufficient for transboundary participation? What about legal time frames of affected party?
- **Financial implications**: (e.g. costs of translation)
3. EA IN GERMANY - Federal German Act on EIA/SEA of 2011
   - Reflection on law making on transboundary EIA/SEA

- **Competence:** Authority which is responsible according to for national legislation
- **Field of application:** Any decision making procedure with EIA/SEA*
- **Significance:** hardly to define (in practice roughly comparing against thresholds of Party of Orign)
- **Starting point of transboundary EA:** scoping phase (if possible)

- **Public participation:**
  - according to rules of party of origin: time frame, letter or e-mail
  - according to rules of affected party origin: announcement, display, collection of comments

- **Translation***:
  - Party of Origin covers all costs: PoO regularly transmitts translated documents
  - affected party transmitts comments etc. in own language

- **Time Frames:** time frames of Party of Orign (under condition of translated documents)

- **Financial implications:** administrativ costs, beared by proponent

* under prerequiste that equivalence and reciprocity is mainly given
Federal level
• EIA legislation
• Espoo point of contact
State level
• Additional EIA legislation
• Carrying out EIA procedures including transboudary steps
Exkurs: Principle of Participation - equivalence

- Is a transboundary impact possible?
- Is it “significant“?
- When is a notification reasonable?

- Notification reasonable?
  - significance: rough comparison of concentration against German thresholds
  - hint: NOTIFY EVEN IN CASE OF ANY UNCERTAINTY

- Notification required
4. CONCLUSION

- EIA/SEA can contribute to a well-informed and sound decision
- EIA/SEA can protect the environment – without denying economic and social needs
- EIA/SEA can prevent future remedial actions
- EIA/SEA can prevent or reduce conflicts with the public
Thank you for your attention

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