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IMPLEMENTING THE EC SEA DIRECTIVE REGARDING AUSTRIAN SPATIAL PLANS

Introduction

This paper is based on the author's presentation on the implementation of the EC Directive on strategic environmental assessment (SEA) in the context of Austria's spatial plans, done for the working group on "Research and integrative spatial planning" within the international conference "Research in Spatial Development and Planning in the Enlarged EU", held at the Faculty of Architecture at the Slovak University of Technology in Bratislava on June 24 and 25, 2004.

It deals with numerous Austrian activities to support the transposition of the requirements of the EC Directive "on the assessment of the effects of certain plans and programmes on the environment"¹, further on referred to as the "SEA Directive", in its spatial planning system. Moreover, it gives some hints for future tasks in the context of the application of the SEA Directive for Austrian spatial plans.

Austria's implementation of the SEA Directive

The legislative and executive competences in Austria are split between the federal and the provincial level (in all there are nine provinces in Austria). E.g. mining matters, water management and forestry are federal competences, whereas spatial planning and nature conservation are responsibilities of the provinces. To date (i.e. end of September 2004), only two acts have been amended in order to fulfil the requirements of the SEA Directive:

- The Water Management Act and²
- The Spatial Planning Act of (the province of) Salzburg³

For other acts such proposals exist. Here is to name the Federal Waste Management Act, the Spatial Planning Act of Lower Austria and the Carinthian Act on Environmental Planning. In Styria, the competent committee of the provincial parliament is dealing with a first proposal amending its Spatial Planning Act. Moreover, there are ongoing preparations for adapting federal laws concerning clean air, transport and noise protection in order to comply with the SEA Directive.

¹ Directive 2001/42/EC

² Federal Law Gazette for the Republic of Austria (2003)

³ Provincial Law Gazette of Salzburg Province (2004)

One can see, that there is still a lot of legislative work to do for the Austrian Parliament and the nine provincial Parliaments: Only two pieces of legislation have been amended before the deadline of 21 July 2004, laid down in the SEA Directive.

In order to support provincial governments to implement the SEA application for their spatial plans in a homogeneous way, two guidance documents have been published: One is dealing with process and implementation issues⁴, the other one focuses on interpretation and methodological issues⁵; both of them are not binding, but a good source of advise.

SEA application

Focusing on spatial planning as a competence of the provinces, we find eight Spatial Planning Acts, regulating the distinct supra local and local spatial plans, and the Building Code of Vienna. Taking Styria as an example, the hierarchy of its spatial planning instruments is presented in the following table.

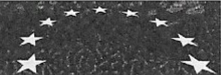
Administrative area within Styria	Corresponding spatial planning instruments
Whole province	Provincial spatial planning programme
	Sectoral development programmes (such as energy, transport, tourism, air quality e.g.)
Region (there are 16 regions plus Graz)	Regional spatial planning programme
	Sectoral development programmes
Municipality (there are 543 municipalities within Styria plus the capital Graz)	Local development concept
	Local sectoral development programmes
	Land-use plan (Zoning plan)
	Building (regulation) plan(s)

Table 1: Spatial planning instruments in Styria

It is not clear, which of all these plans and programmes will be covered by the SEA Directive. One of the guidance documents mentioned above (methodological paper 2004) states, that supra local spatial plans are subject to the SEA Directive, when they fulfil the conditions of Article 2(a) of the SEA Directive. For the local plans it is argued, that local development concepts and land-use plans will be covered by the SEA Directive, as they often "set the framework for future development consent of projects listed in Annexes I and II to Directive 85/337/EEC" (Article 3.2(a) of the SEA Directive), whereas building plans are generally seen as not applicable to the SEA Directive, because normally they have no significant environmental effects.

⁴ Proposals of the provincial experts for implementing the SEA Directive (2003)

⁵ Methodological paper on methodology for implementing the SEA Directive into Austria's spatial planning practice (2004)



The future practice of conducting SEAs in Austria will hopefully contribute to more clarity in this context.

The experiences gained so far are limited, but can act as a good starting point for further activities.

Until today, eight voluntary SEA case studies have been elaborated in Austria, but only five of them can be judged as comprehensive SEAs, see the following table.

Case study	Period for conducting the SEA
Land-use plan of Weiz (Styrian municipality)	1998-1999
Regional programme of Tennengau (13 municipalities within Salzburg Province)	1999-2001
Waste management plan of Vienna City	2000-2001
Urban and transport development in the North-East of Vienna City	2001-2003
Waste management plan of Salzburg Province	2003-2004

Table 2: Comprehensive Austrian SEA studies

Two of them are dealing with spatial planning issues (Weiz, Tennengau), one is tackling both spatial planning and sectoral issues, whereas the other two are focusing on waste management.

For four of these case studies one can find an analysis⁶ regarding (i) the involvement of stakeholders and the public, (ii) the methods used in the assessment of environmental impacts and (iii) the impact of SEA on decision-making. The newest Austrian SEA (subject: waste management plan of Salzburg province) could not be included, because it had not been finished at the time of writing the paper mentioned. Another useful source for the Austrian SEAs is a special issue of the magazine of the Austrian Society for Spatial Planning, which was exclusively dedicated to SEA⁷.

Measures apart from case studies

The process for implementing the SEA Directive in Austria does not only include the SEA case studies mentioned, but involves a range of other accompanying activities. These include the elaboration of studies, the organization of training courses and other measures. Some of them, which are taking spatial planning issues into account, are briefly described in the following.

- A review of international and national SEA experiences and approaches has been elaborated in 1995 and 1996, commissioned by the Federal Ministry of Environment, Youth and Family Affairs⁸. It collected and analysed SEA experiences in Canada, Germany, the Netherlands, United Kingdom and the U.S., based on a comprehensive literature review and on structured interviews with 58 SEA experts. The consideration of SEA of spatial plans at different levels was an important part of this study.

⁶ Aschemann R (2004)

⁷ Magazine "Forum Raumplanung" (2004)

⁸ Jorde T, Aschemann R, Hittinger H (1997)

- Research studies on the range of potential plans and programmes that will be subject to the SEA Directive - both for the whole of Austria and for the City of Vienna - have been completed, taking into account all relevant spatial plans.
- For some of the case studies mentioned evaluation studies have been commissioned in order to identify SEA benefits and obstacles, to draw conclusions for the future and to conclude crucial lessons learned; one is dealing with the SEA of the land-use plan of Weiz⁹.
- Two Ph.D.¹⁰ and two Master theses¹¹ have been completed within the last three years in Austria, considering spatial planning instruments to an extensive degree. They demonstrated e.g., that the implementation of the SEA Directive according to the process is easily feasible both into the Upper Austrian and Lower Austrian spatial planning system without bigger expenditure.
- Three important SEA conferences have been organized in 1996, in 1998 and in 2003, all of them presented SEAs of spatial plans among other topics. Moreover, two series of SEA training workshops for administration staff have been organized in 1997 and 2001/2002 dealing with spatial and sectoral plans.

To summarize one can say that a bunch of activities has been unfolded concerning the SEA implementation for the Austrian spatial plans, but there is still a lot to do.

Prospects

Compared to other EU member states, Austria has relatively many municipalities, 2,346 at all: One way to deal with more than 2,000 potentially SEAs of local development concepts and/or land-use plans could be the development of an "SEA light". Such an "SEA light" would take into account the shrinking public budgets and the growing tasks of local municipalities by trying to find a way to transpose the SEA Directive with a minimum of expenditure (in terms of staff, money and time). But at the same time this "SEA light" has to fully comply with the requirements of the SEA Directive, of course.

The case studies mentioned demonstrated, that the necessary SEA communication issues are as important as methodological and other procedural issues, i.e. it is crucial to care for an appropriate participation process (e.g. professional public relation measures, suitable non-technical summary). Especially for spatial plans it would be important to "translate" the abstract plan contents into a easy-to-understood language, that can be understood by every citizen.

⁹ Aschemann R (1999)

¹⁰ Arbter U K (2002) and Stöglehner G (2003)

¹¹ Simon S E (2003) and Wegerer G (2004)



Another suggestion is the development of a set of criteria or indicators at each level of spatial planning decision-making (provincial, regional and local) in order to assess the environmental effects of the spatial plan corresponded. Such a set could consist of certain standard elements (for all plans at that level) and some specific ones (for the individual plan taking into account its frame conditions). Such a set would reduce the effort to do spatial plan SEAs, simultaneously it would ease to compare the results of different SEAs.

The elbow-room of interpretation, given with the formulation of Article 3(4) of the SEA Directive¹², needs a precise attention in order to really identify all relevant plans and programmes with significant environmental effects and therefore to acknowledge the spirit of the SEA Directive. One master thesis mentioned above (Simon 2003) focussed on that topic, using the example of local spatial planning in Lower Austria. The author applied the three-step-screening methodology of Sommer¹³ (it is a case-by-case examination) and examined ten intended land-use changes for Gloggnitz and Wiener Neustadt, two Lower Austrian municipalities. The result was, that five of those land-use changes would make an SEA mandatory, the other five would not.

Last not least, monitoring seems to be a crucial innovation in the SEA Directive as it was not a part of the project EIA Directive. In the monitoring context a big research demand can be recognized in order to "identify at an early stage unforeseen adverse effects, and to be able to undertake appropriate remedial action" according to Article 10(1) of the SEA Directive. Existing monitoring arrangements could support that task, which might serve both as quality control instrument and to improve SEA methodologies, particularly in the context of spatial plans.

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¹² "Member States shall determine whether plans and programmes, other than those referred to in paragraph 2, which set the framework for future development consent of projects, are likely to have significant environmental effects."

¹³ *Sommer A* (2003)

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