Application of Directive 2001/42/EC in Spatial Planning in the Enlarged EU: Key Challenges and Opportunities

Designing effective public participation system for SEA in spatial planning: Lessons from Austria

April 14-16, 2004, Szentendre

Introduction to An !dea

- 1st Austrian NGO dealing exclusively with EIA, SEA; EA as key task for the 21st century
- Application, evaluation, quality insurance and development of EA instruments
- Embedding EA into the crucial conceptions of sustainable development and integration of the environment into all sectors of policy
- Special attention to EU accession countries and networking, exchange

An !dea
Austrian Institute for the Development of Environmental Assessment
Presentation’s outline

- Brief survey on public participation legislation
- Brief survey on Austria’s spatial planning system, focussing on Styria
- Brief survey on Austrian SEAs

  Context “SEA Directive & land-use planning”:
  - Requirements of public participation
  - Key questions of public participation
  - Case studies: Experiences & lessons learned
  - Key learning points
  - Concluding remarks

Public participation: Legislation

- Århus Convention 1998, effective 2001 →
  (i) Access to environmental information and its collection and dissemination (Art. 4,5);
  (ii) several public participation measures (Art. 6-8); (iii) access to justice (Art. 9) →
- Directive 2003/35/EC on public participation for certain plans and programmes
- SEA Directive 2001/42/EC, effective 21 July 2004 at the latest
- SEA Protocol to the Espoo Convention, signed in Kiev (May 2003), effective ?
Public particip.: Legislation (2)

- National pieces of legislation beside UNECE and EU ones (Austria: federal, provincial level)
- In Austria: Beside some general provisions they are integrated into the different Acts

Austria’s spatial planning system

<table>
<thead>
<tr>
<th>Administrative area</th>
<th>Spatial pl. instrum.</th>
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<tbody>
<tr>
<td>Federal level (in all 9 provinces)</td>
<td>Austrian Spatial Planning Concept (recommendation)</td>
</tr>
<tr>
<td>Province of Styria (right of legislation and execution)</td>
<td>Provincial SP programme, provincial sectoral development programmes</td>
</tr>
<tr>
<td>Region within Styria (there are 16 plus Graz)</td>
<td>Req. SP programme, sectoral dev. programmes</td>
</tr>
<tr>
<td>Local level (543 municipalities/cities plus Graz)</td>
<td>Local dev. plan, sectoral dev. programmes, zoning plan, building (regul.) plan</td>
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Austrian spatial planning: Example

Process for setting up a Zoning Plan

1. Decision of the City Council/Municipality Council to set up/revise a zoning plan
2. Everybody/any institution can publish/declare his/her/its planning interests within four months
3. Elaboration of the Local Development Plan, parallel information/participation of the public
4. Decision of the Local Development Plan, announcement and public inspection
5. Drafting the zoning plan
6. Opportunity to comment on the draft within a period of eight weeks, the draft is accessible

Austrian spatial planning: Example (cont’d)

Process for setting up a Zoning Plan (2)

7. Taking into account all comments, revising the drafted zoning plan, informing all actors
8. Decision of the City Council concerning the final zoning plan, information, how comments have been considered
9. Submission to the provincial government, it has to review and to examine the zoning plan, afterwards it will adopt/approve (then announcement is following) or refuse the zoning plan (then back to step 5)
Austrian SEAs

Finished ones, partly done with base COM (96) 511 final

<table>
<thead>
<tr>
<th>Spatial planning</th>
<th>Sectoral planning</th>
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<tbody>
<tr>
<td>Development Area North-East Vienna</td>
<td>Waste management plan of Salzburg Province (recently finished)</td>
</tr>
<tr>
<td>(finished 4/03; transport, landscape)</td>
<td></td>
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<tr>
<td>Regional programme Tennengau (Salzburg)</td>
<td>Waste management plan Vienna</td>
</tr>
<tr>
<td>Finished 2002</td>
<td>Finished 2001</td>
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<tr>
<td>Land-use plan Weiz (Styria)</td>
<td>Demonstration study Danube corridor (transp.)</td>
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<tr>
<td>Plan adopted 1999</td>
<td></td>
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<td></td>
<td>Local Energy Plan Graz</td>
</tr>
</tbody>
</table>

Implementation of SEA Dir.

Mainly via amendments of existing Acts, e.g.: Water Management Act (federal), Spatial Planning Act Salzburg (provincial)

Austrian Convention until end of 2004, renewing constitution and administrative system → possible changes in competences

Pilot projects showed feasibility of transposing the requirements of the Directive
Participation requirements

✓ Supports the **transparency** of decision-making at the strategic level, here in the case of land-use planning
✓ Safeguards sufficient **access** to all relevant information concerning the plan and the environmental report
✓ Needs sufficient **time** and **resources**
✓ Abstract plans → “translate” it for the public

Participation requirements (2)

✓ Influences the decision-making by informing and involving interested and affected **public** and **government/administrative bodies** and **ensures** that all relevant parties are involved, at least represented
✓ Explicitly **addresses** their inputs, comments and concerns both in documentation and decision-making
Participation: Key questions

WHO?

WHEN?

HOW?

WHO?

How to identify the public concerned?

- **National/provincial level**: Not practical to involve the whole population at the strategic level → NGOs, experts (model of “qualified public”), staff of various authorities

- **Local level**: Involvement of the general public possible
WHEN ?

- E.g. in the Netherlands twofold involvement of the public (scoping, review of env. report)
- SEA Directive: The public ... shall be given an early and effective opportunity within appropriate time frames to express their opinion on the draft PP and the accompanying ER before the adoption of the PP or its submission to the legislative procedure

HOW ? (Techniques)

- **Information** measures (drafted plan and/or maps accessible, print media, radio, TV, internet, models, exhibitions, ...)
- **Consultation** measures (qualified public, opportunity to comment on documents, hearings, meetings, ...)
- **More active** measures (mediation, workshop, round table, consensus conference, citizen juries, planning cell, ...)
- Cf. proceedings Szentendre Nov. 2000, pp. 31-34
Summary participation SEA Dir.

- *Information* concerning screening decision case by case/PP types (beside obligatory covered PPs according to Art. 3, par. 2)
- To make available the draft PP and the ER to the public and environmental auth., *(information)*, to give opportunity to comment on both documents within appropriate time frames *(consultation)*
- *Taken into account* those comments
- To make available the adopted PP; statement, how comments have been taken into account; the reasons for the decision; monitoring measures *(information)*

Actors of SEA Directive

- Authority *preparing and/or adopting* the PP
- Authorities to be consulted by reason of their specific *environmental* responsibilities (environmental authority/-ies)
- *The public*
- *Other Member States* (transboundary significant environmental effects of PP) including *their public*
Actors according to EU SEA Directive

Authority preparing and/or adopting the PP → Consultation regarding scope → Env. authority/-ies

The public

Information rights, consultation (opinions expressed)

Possibly affected Member States

Different “qualities”

More “active” mutual forms

Consultation

Covered by the Directive

Making information available
Spatial planning & SEA: Case studies Austria

- Subject: 3rd revision of land-use plan Weiz
- Small municipality in Styria, approx. 9,300 inhabitants, area of 5 km²
- Three alternatives: (1) No action, (2) environmentally friendly, (3) plans of municipality; 25 key areas selected
- Public participation according to SEA Directive and Styrian Spatial Planning Act

Case study Weiz (cont’d)

- Drafted land-use plan and environmental report accessible for the public and stakeholders for eight weeks
- Opportunity to comment on both documents (written, oral) → environmental report: none from public!
- Public hearing (with maps etc.)
- Non-technical summary (4 pages) of drafted plan/alternatives, environmental report for every inhabitant (free of charge)
Case study Weiz: Lessons learned

- Public SEA hearing separate from public hearing for drafted plan → too less participants and comments → **one common public hearing** in the future
- Even the non-technical summary was not understood by everybody → Elaborate a brief, clear and simple one in the future, focusing on the **main significant** environmental problems
- Need for a language, that can be understood by “non experts” = everybody
- Good **preparation, advertisement and moderation** of public hearing is necessary in order to get many and useful opinions and comments

Case study Tennengau

- **Tennengau**: 670 km², 54,000 inhabitants
- **Actors**: Mayors of the 13 municipalities concerned, four working groups (e.g. settlement), environmental authority, general public
- **Three** alternatives including no action
- **Means**: Article in leading regional newspaper, radio presentation, planner’s surgery hours
- Again **no** written comment to the environmental report, but some oral ones
Development North-East Vienna

- Districts 21 and 22 (north of the Danube river)
- **Spatial**, transport and landscape issues; time frame 2001-21; 260,000 inhabitants concerned in Vienna; 47,000 in Lower Austria; six planning alternatives
- **Actors**: Dept.’s of Viennese City Government (e.g. regional dev., env. protection, economic and technological dev., water management) and dept’s of provincial government of Lower Austria, external experts (transport, spatial planning, landscape planning...), qualified public **PLUS** general public
- **Moderation** and **steering** the process: extra tasks
- Model called “Round table” approach

Developm. North-East Vienna (2)

- **SEA core group** (experts, moderation, ...): some 10 meetings, last meeting on March 24, 2003
- **Qualified public**: Delegates from city districts concerned (Florisdorf und Donaustadt, Lower Austrian neighbour municipalities), interest groups (Chamber of Labour, Chamber of Commerce, environmental NGOs, ...)
- For **general public** two meetings (May 28, 2002 with 160 participants, Dec 4, 2002 with 230 part.) plus two further meetings in Lower Austria; last presentation on April 7, 2003 (560 participants); exhibitions in May and June 2003; Website (in April 2003 1,258 users) and articles for newspapers
Public part. North-East Vienna Dev.

Meetings of general public, supported by website, media

This figure is based on two diagrammes by Dr. K. Arbter (2003)

Some ideas

- Weiz case study: Site visits concerning key areas of intended important land-use changes (experts and citizens together)
- Mediation procedure (provision in Art. 16 of Austrian EIA Act, but results can be taken into account, only) for SEAs
- Computer models of future land-use patterns (housing, power plants, ...) so that people can visualize effects of plan measures
- Trial run: Comments to environmental report and draft land-use plan by @
Key learning points

- Sometimes less interest in participation than expected
- Qualified public and organized groups often more present than “normal” citizens
- Use internet, but: Danger of “digital divide“
- Crucial: Clearly defined competences
- Communication between all actors and stakeholders should be safeguarded by a special co-ordinator

Key learning points (2)

- There is no cooking recipe for involvement of stakeholders and the public for land-use SEAs, unfortunately
- But: Don’t invent the wheel twice, because a lot of experiences have been made already: Learn from own and foreign lessons
- Be creative and don’t focus on the usual “active citizens“ only, try to reach the “silent mass“
Concluding remarks

Public participation for SEA of land-use plans has to consider the strategic level (often more abstract than a project and a sectoral plan or programme)

No experience with transboundary effects, yet Task for the future

Methods and techniques of participation depend on SEA’s subject (level of detail, its stage in the decision-making process)

Allow sufficient time for consultation

Concluding remarks (2)

Public participation is an additional and valuable resource to improve the quality of land-use plans and of the decision-making

Commission pilot projects with a special focus on participation

Review completed land-use SEAs by experts in order to improve participation’s quality

Try/test new/innovative approaches for public participation in order to reach an effective public participation for your SEA
Concluding remarks (3)

Scoping is a crucial stage within any SEA, often setting frame conditions which cannot be changed afterwards. At this time public participation would be very important. Weiz case study: three scoping meetings, but only experts as participants.

Hopefully you will have further ideas in the following working groups!

Welcome to the EU!

A heartily welcome to all new EU Member States, who will join the Union by 1 May 2004!!
Questions for working groups

- **Methods** of gaining opinions/comments (paths of communication, role of media, ...)
- **Who** are the stakeholders and the public?
- Methods to communicate land-use plan issues in a way that everybody is able to understand these
- **Resources** (Time, money, staff, NGO expenditure ...)
- “Planning culture“ (authorities sometimes don’t like involvement of “non-experts“)
- Environmental and social/economic effects?

Environ. assessment / sustainability ass.