

EIA and other forms of assessment - EIA and SEA, habitat assessment, Water Framework Directive, IED and waste management

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Outline

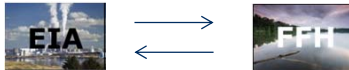
- Introduction - Aim and Scope of the presentation
- Assessments pursuant to EIA, SEA and Habitats Directive
 - Aims, Scope and Content, Procedure, Alternatives, Public Participation, Effects on Decision-Making
- Other forms of assessment
- Conclusions

Mutual references EIA and Habitats/Bird-Directive

Projects requiring both EIA and nature assessment :

"[...] Member States **shall, where appropriate, ensure** that **coordinated and/or joint procedures** fulfilling the requirements of that Union legislation are provided for. "

(Article 2 (3) 1 EIA-Directive)



Mutual references EIA and other Union legislation

Projects requiring both EIA and assessments pursuant to other Union legislation (e.g. SEA, WFD, Waste, IED):

"[...] Member States **may provide** for coordinated and/or joint procedures."

(Article 2 (3) 2 EIA-Directive)



Setting up coordinated / joint procedures

Coordinated procedures

- various assessments
- coordinating authority

Joint procedure

- single assessment

Commission shall provide **guidance** for:
EIA + Habitat/Birds-Directive, WFD and IED



SEA - EIA / Habitat assessment

SEA for plans and programmes

which

in certain policy fields (e.g. energy, transport, land use)

set the framework for future development consent of **EIA-projects**

or

have been determined to require an **assessment under Habitats-Directive**

Mutual references SEA and other Union legislation

SEA assessment :

without prejudice to EIA and other Union legislation requirements

"[...] Member States may provide for coordinated or joint procedures [...] inter alia, to avoid duplication of assessment."

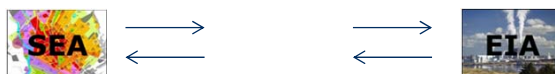
(Article 11 (2) SEA-Directive)



SEA and EIA

Valciukiene, C-295/10

As assessments carried out pursuant to SEA-Directive and EIA-Directive "differ for a number of reasons, it is necessary to comply with the requirements of both of those directives concurrently."







Objectives



High level of protection, integration of environmental concerns into planning, precaution



Provide for assessment prior to consent, precaution



Assessment prior consent, preserve the ecological characteristics of sites which host natural habitat types

Subject of Assessment



(Only) certain plans (linked to EIA and Habitat-Directives)



(Only) certain projects (Annexes); plans?



Any plan or project likely to have a significant effect on the site

Content of Assessment



Integration of environmental considerations into planning




Broad; direct and indirect significant effects;
e.g. health, environment, biodiversity, climate



Adverse effects on conervations objectives of the site

Procedure




SEA Extensive provisions relating to the deliberation procedure


EIA Extensive provisions relating to the deliberation procedure

FFH Provisions on procedure and ascertaining integrity of site concerned

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Public Participation (Consultations)




SEA Yes , mandatory according to PP-Directive

EIA Yes , mandatory according to PP-Directive

FFH Hearing, if appropriate.
C-416/10, Krizan, *Acces to Justice?*

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Alternatives



Environmental Report: reasonable alternatives



Impact Statement: description of reasonable alternatives studied by the developer



In case of negative assessment and overriding interest

Effects on Decision-Making



Results „shall be taken into account“ during preparation and before adoption of plan



Results shall duly be taken into account in the consent procedure



Authorisation only if integrity of site is not affected adversely; exceptions

Effects on decision-making

- C-418/04, Commission/Ireland
 - EIA and SEA cannot replace Assessment according Art 6 Habitat-Directive

- C- 407/03, Commission/Finland
 - Failure to provide a sufficient degree of legal certainty
 - Obligation to carry out assessment under Article 6 Habitat-Directive including those projects subject to an EIA

IED, WFD, Waste Directive



- Assessment not mainly relating to procedure
- authorization; permit standards
- IED prominently stands out
 - General framework for control of industrial activities
 - Integrated protection of environment; high level
 - Huge potential overlap with EIA
 - Fully coordinated permit required
 - Use of information and results from EIA. Art 5 (3) IE-D

Summary, Conclusions



- Assessments differ in various respects
 - mainly procedural nature of EIA, SEA
- Coordination and joint procedures
 - strongly favored (EIA-Habitat) or at least available (EIA + other, esp. WFD, IED)
 - Substantial requirements have to be fulfilled in any case
- Flexibility for Members States with regard to transposition/implementation

Thank you for your attention !



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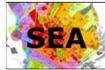
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Relevant Legislation



- Directive 2014/52/EU of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (EIA)



- Directive 2001/42/EC of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (SEA)



- Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (FFH)



- Directive 2000/60/EC of 23 October 2000 establishing a framework for Community action in the field of water policy



- Directive 2008/98/EC of 19 November 2008 on waste and repealing certain Directives



- Directive 2010/75/EU of 24 November 2010 on industrial emissions (integrated pollution prevention and control)

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Picture Sources

- FFH: <http://www.naturfotoworkshop.at/naturfotoworkshop-herbert-koepfel-neue-arbeiten-galerie-projekte-und-prints/blog/files/2014-09-20-neue-arbeiten-oberoesterreich-europaschutzgebiet-traun-donau-auen.html>
- SEA: <http://www.christoph-stark.at/index.php?seitenId=58&tagebucheintraegeAnsicht=detail&tagebucheintraegeId=2170>
- EIA: <http://www.photomediaservice.de/deutschland/wismar/L118089152-industrieanlage-im-hafengebiet/>
- Water: <http://lpmweb2.lpm.uni-sb.de/moodle/course/info.php?id=828>
- Waste: <http://www.beobachter.ch/natur/natuerlich-leben/abfall-recycling/>
- IED: http://de.wikipedia.org/wiki/Hochofen#mediaviewer/File:Phoenix_west_IMG7689.jpg

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