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Implementation of the SEA Directive in Belgium

New EIA-legislation in Flanders.

What will the future bring?

• Jan De Mulder - Ministry of Flanders-Belgium
• 2nd European Planning Law Network Meeting
• Berlin 12 September 2002

Ambitions & major objectives of the EIA-decree:

- * comprehensive legal framework for EIA-instrument
- * complete transposition of EU- and international requirements
- * quality improvement of EIA-practice and decision making
- * improved consultation, publicity and participation

1. A comprehensive and clear legal framework for EIA

- * chapter < Decree concerning the General Provisions on Environmental Policy
- * formalization of present informal approaches, e.g.: scoping, quality control
- * more legal security for proponent: appeal opportunity
- * clear basis for executive orders

2. Transposition of EU-and international requirements

- Espoo-convention: EIA in a transboundary context
- Aarhus-convention: access to environmental information, public participation, access to justice
- EIA-Directives 85/337/EEC & 97/11/EC
- SEA-Directive 2001/42/EC

3. Quality improvement of the EIA-practice: efficiency and effectiveness (1)

- * general: formalisation & flexibility
- * clear procedural steps and terms
- * EIA-screening requirement and exemption opportunity
- * EIA-methodology & EIS-contents
- * opportunity of tuning in to other impact assessment reporting requirements

3. Quality improvement of the EIA-practice: efficiency and effectiveness (2)

- * introduction of EIA for certain plans and programs
- * relation project-EIA - plan-EIA
- * quality assurance
- * taking into account of EIS-outcome in decision making

4. Consultation, publicity and participation

- * in the phase of the notification:
 - > publicity and public consultation
- * with respect to the scoping issue
- * consultation between EIA-consultants and competent authority (environment administration)
 - > specific (methodological) directives

Major Procedural Steps of a Plan-EIA

- Notification : proponent to authority
- Consultation and public participation
- Scoping decision
- Drafting of the EIS
- Submission and quality control of EIS
- (Dis)Approval of EIS by authority

Some particularities

- A. EIA-screening requirement
- B. Exemption
- C. Quality assurance
- D. Appeal

A. EIA-screening requirement

- plans/programs; EIA-obligation (list EU-directive)
 - -> other: judgement (significant environmental impacts)
 - -> integration track: EIA < decision making procedure
- projects; EIA-obligation (list annex I EU-directive)
 - -> other: judgement (significant environmental impacts)

B. Exemption : only after screening judgement (1)

- plans/programs: if not on the list of the EU-directive and no significant environmental impacts expected
 - -> no significant environmental impacts because small area/local level or minor change to p/p
 - -> previous plan-EIA about quasi-identical p/p and new plan-EIA might not offer any additional relevant information on significant environmental impacts

B. Exemption : only after screening judgement (2)

- projects which are not on the list of annex I of the EIA-Directive:
 - -> previous plan-EIA on plan to which project belongs or project-EIA about quasi-identical project and new project-EIA might not offer any additional relevant information on significant environmental impacts
 - -> no significant environmental impacts and project-EIA might not offer any additional value

C. Quality assurance

- Recognition of consultants
- EIA-guidance
- Evaluation and monitoring
- Advisory (Appeal) Commission

D. Appeal (Advisory committee)

- Opportunity at administrative level for the following cases:
- project EIA-screening decision is positive
- EIS-contents or specific methodological requirements
- disapproval of plan- or project-EIS
- advice is binding if unanimously

Status

- Draft-decree has been finally approved by the Flemish Government
- Parliamentary approval expected before the end of 2002
- Scope of application of both plan- and project-EIA is still being discussed at administrative level
- Executive orders are being prepared

SEA and spatial planning in Flanders

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Spatial planning in Flanders in a nutshell

- Three levels:
 - region
 - province
 - municipality

Spatial planning in Flanders in a nutshell

- Each level has two types of instruments:
 - a spatial structure plan
 - a spatial implementation plan

A Spatial Structure plan

- Is a policy document about future spatial developments
- Not the framework for refusing or granting a building permit
- It contains three parts:
 - a binding, an indicative and an informative part

A spatial implementation plan

- Is a land-use plan and is a basis for granting or refusing building permits
- It contains:
 - a graphic plan
 - planning regulations
 - the legal and factual information
 - the relation with the spatial structure plan(s)
 - a list of regulations which are contradictory

Why a regional spatial implementation plan ?

- Preparation of a spatial implementation plan (SIP) to:
 - implement the regional structure plan
 - implement another plan
 - implement other legislation

SEA - when?

- During the preparation of the plan which precedes the SIP
- During the preparatory stage of the SIP

What is the SEA

- an assessment of possible effects at an early stage
- SEA + appropriate assessment of significant effects on specially protected areas

A first experience

- It is not yet mandatory
- A first experience with a SIP for a railway track
- A pilot project with the delimitation of the sea ports

SEA and a railway track

SIP for a railway track

EIA for the project



SEA for a SIP

SEA for the sea ports



Procedure for a regional spatial implementation plan (SIP) - Flemish region of Belgium

