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Effectiveness of EIA in the light of practical experience

Evaluation of the German Federal EIA Act in the light of the COM proposal (2012)628

Research project funded by the Federal Environment Protection Agency

ELNI EIA Conference - Wroclaw 2013

EU Environmental Impact Assessment Directive – challenges and perspectives
in the light of the past experiences and the recent proposal for amendment

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Overview

- I. Methodical Approach
- II. Selected Findings
- III. Policy recommendations
- IV. Final remarks

I. Cascade approach: Four Levels of scrutiny

| | | |
|---|--|--|
| 1 | All available data | National level [775 (+/- 150) EIA/year] |
| 2 | Collection of all EIAs 1999 to 2005 | Six regions (selection criteria) |
| 3 | Administrative files + desk officers interviews | 105 case studies (incl. 22 "policy-off") |
| 4 | + Interviews with other actors (developers, EIA- experts, NGO's) | Analysis of incentives and impediments → institutional innovations |



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I. Research instruments at Level 3

1. Basic data
 - for each case study
2. Goal achievement
 - against normative EIA requirements/EIA stage
3. Analysis of Benefits + Cost (ABC)
 - perceived quality / efforts (working days)
4. Questionnaire: desk officers (authorities)
 - semi standardized interviews

Level 4: Additional interviews



I. Data basis

1. Statistical analysis of the **105 case studies**

- Basic data sheet 50 items
- Goal achievement 63 items
- CBA/ABC questionnaire 38 items
- desk officer questionnaire 14 items

Total: **16.219 data** on scaled items

2. Qualitative analysis

- Open questions → desk officers
- Other findings during the evaluation

3. In dept institutional analysis of incentives/ impediments → specific instruments (Level 4)



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I. EIA Stages

Stage A: Anticipatory effects due to EIA obligation

Stage 0: Screening (policy on/off)

Stage 1: Scoping

Stage 2: EIA/environmental report(s)

Stage 3: Involvement of other authorities/agencies

Stage 4: Participation: General public/NGO's

Stage 5: Summary Description

Stage 6: Assessment of environmental effect

Stage 7: Consideration in the Decision

Stage 8: Monitoring

II. Selected Findings

Stage A: Anticipatory effects due to EIA

Question:

“significant” to “very significant” pre-effect
on the environment?

- Desk officers 37%
- Authors of EIA reports 58%
- NGO's 21%

II. Selected Findings

Stage 0: Screening

- Huge number of screening decisions, but vast majority → conclusion: EIA is not necessary
 - Desk officers
 - asking to specify thresholds (→ *Hendrik Schoukens*)
(→ *Marc Clement*)
 - policy on/off
- [COM-Prop.: Art. 4(3) + Annex II.A.: general criteria]

II. Selected Findings - Stage 1: Scoping

- High impact on quality of EIA report (stage 2)
- No coherent scoping-documentation in the files
> 50% case studies
- Plausible reasoning:
 - Evaluation scope 41%
 - Protected assets 44%
 - Impact factors and mechanisms 46%
 - Policy of-cases 10-14%
- Tiered procedures:
reconciliation of different layers
 - not plausible 65% (N 20)

II. Selected Findings - Stage 1: Scoping

Recommendations

- Scoping decision: written form mandatory
 - preferably “list of duties” posed on EIA report (expert)
 - „Assessment Guidance”: competent authority
- Additional
 - Instruction:
How operationalize and document the reconciliation of different layers
 - Instruction:
How to coordinate with other environmental assessments

II. Selected Findings - Stage 2: EIA study

- **Good quality (33% - 76%):**
 - Projects
 - Industrial installations: 42%
 - Others (incl. water): 72%
- **Relevant factors with impact on the quality**
 - Qualification EIA-expert
 - Qualification of the desk officer (competent authority)
 - Involvement of environmental authorities
- **Requests to enhance the EIA-report: 49%**
- **Focus on relevant environmental impacts missing: unnecessary flood of information ↔ data gaps**
[COM-Prop.: Art. 3: „significant impacts“]
- **Coordination of different environmental assessments is lacking**
[COM-Prop.: Art. 2(3)]

II. Selected Findings - Stage 2: EIA study

Recommendations

[→ Luc Lavrysen]

- **Accredited experts** prepare EIA study [COM: Art. 5(3)a]
- **Guidance: How** to integrate of different environmental assessment instruments
[COM-Prop.: Art. 2(3); no guidance on „how“]
- **Accompanying quality assurance:**
experts supporting the authority „*Behördengutachter*“
[COM: Art. 5(2)2: „may“ + 5(3)b]

II. Selected Findings - Stage 5: Summary

- Deficits:
 - data often neither scope-specific nor project-specific
 - effects **across** environmental media and on interactions are missing (83%)
 - Consolidation of the environmental concerns from other documentation such as the Habitats Directive analysis or the Landscape Conservation Support Plan
 - Incorporation of comments related to protected assets
- However, “policy-on” cases perform significantly better
 - but only reach a satisfactory result at best,
 - since plausible descriptions of the environmental impact associated with the plan are frequently lacking



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II. Selected Findings – Stage 6 “Assessment”

- Evaluation criteria remain unclear
 - no reference to legal requirements
 - no written documentation of the assessment (10%).

II. Selected Findings – Stage 7 “Decision”

- Environmental impacts - ranked as “substantial” - are generally taken into account.
 - However, impacts are assessed as “not substantial” to a surprisingly high degree
- Avoidance and reduction measures: only undifferentiated statements (48%)
- Frequently: lack of plausible ...
 - reasons to weigh up environmental concerns in comparison to other concerns
 - assessment against the legal requirements
- Again: “policy-on” cases perform significantly better

III. Core Institutional Recommendations

Reduce impediments / Enhance the incentives

1. Instruments enhancing the competence (authorities)
 - „project specific contact point“ (internal)
 - „experts supporting the authority“ (external) ✓
2. Quality assurance: documentation und transparency
 - „list of duties“: EIA-study (→ developer + EIA expert)
 - „Assessment Guidance“ for the competent authorities
3. Authorities: information management
 - „Helpdesk“
(best practice-examples: different stages/project types;
e.g. scoping documentation)
 - Centralized EIA register (documentation of all stages)

IV. Final remarks: Impact of the EIA

1. Positive environmental Effects identified

- including “pre-effects”

2. Perspective of the actors:

- „perceived quality” (benefit – ABC-context):
 - Precondition: Willingness to cooperate
 - Success of EIA
- Results of EIA in the case studies (good or excellent)
 - Authorities: 72% (Cooperation at Stage 3: 84%)
 - EIA-expert: 69% (Scoping - Stage 1: 35%)
 - NGO’s: 20% (Cooperation at Stage 3: 62%; 8: 16%)
- **Core actors: high reputation / acceptance of EIA**



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**Thank You
for Your attention**

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