

Objectives of plans or programmes and environmental protection objectives – A contradiction?

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Abstract

The European Union SEA Directive (2001/42/EC) addresses objectives in two ways: First, it is necessary to outline the objectives of plans or programmes in the environmental report; reasonable alternatives have to take account of these objectives. Second, the environmental report shall provide information on environmental protection objectives.

Objectives of plans or programmes, on the one hand, and environmental protection objectives, on the other, are sometimes similar or the same thing; in most cases, however, they are not. Mostly they are considered as two different things. This understanding of objectives is one of the main reasons for SEA's limited influence.

Good planning does not distinguish between objectives of plans and programmes, and environmental protection objectives. The success of SEA lies in integrating all types of objectives in a single process. This does not necessarily lead to a trade-off and it makes decision-making more transparent.

The following paper illustrates two exemplary Austrian approaches of how objectives can be regarded in SEA in an integrated way. The first is from an SEA guideline for provincial road corridors in Vorarlberg. The second is from a manual for SEA in town planning in Lower Austria.

Introduction and legal framework

Policy processes are mainly about defining and meeting objectives. No plan, no programme and no policy can ever be adopted without outlining the underlying objectives. The success of a plan, programme or policy is usually assessed by means of target achievement controls. Audit offices usually do not question the content of a policy itself, but they scrutinize the efficiency of a measure in regards to the assumed objectives.

Therefore it is astounding that this crucial aspect of policy making – defining objectives – is underrepresented in the legal foundations of most countries, states or provinces. It is widely undisputed that defining objectives is the sole domain of the political sphere, although the way how objectives are defined greatly influences the content of policies. Questioning this “unwritten rule” is often considered as an undesirable interference with political processes – and this is where SEA comes into play.

SEA addresses the issue of objectives, commencing with the European Union SEA Directive (2001/42/EC). First, it grounds parts of its provisions on the objectives of the plans or programmes that are subjected to SEA. Second, it requires an uncompromising assessment of plans or programmes for environmental objectives, which is more easily said than done.

As a result, the way of dealing with objectives based on the SEA is usually unsatisfactory: The two types of objectives which the SEA Directive refers to are often considered as two different and independent issues. Either objectives arise from the plan or programme themselves or objectives are derived from the outside world and forced into the assessment; the latter is the case with environmental protection objectives as the SEA Directive calls them.

The problem: Separate consideration of objectives of plans or programmes and of environmental protection objectives

European Union SEA Directive (2001/42/EC), which is by now implemented in the Member States' legislation on several territorial and governance levels, is concerned with objectives in two different ways:

First, based on annex I, outlining the objectives of the plan or programme in the environmental report is mandatory, as reasonable alternatives have to take account of these objectives (article 5). So, according to the SEA Directive this first objective basically comprises the motivation of the plan or programme which is usually expected to be of economic or social nature¹. Whether or not a plan or programme meets these objectives or whether there are other alternatives that meet these objectives more accurately, is not the subject of the assessment.

Second, the environmental report shall provide information on the environmental protection objectives, *"which are relevant to the plan or programme and the way those objectives and any environmental considerations have been taken into account during its preparation"*. So, according to the SEA Directive, there is a second, generally speaking different type of objective, which concerns "the environment" and forms the basis for the assessment of the plan or programme within an SEA.

The separation of these two types of objectives is to be considered one of the main obstacles for "good" SEA practice. There are basically two reasons for this:

First, the separation of different types of objectives, completely ignores that environmental objectives may often be at the same time objectives for the plan or programme itself. This does not only concern plans or programmes that are prepared, for example, for the management of a protected area or for policies that deal with environmental protection. Plans and programmes in developed countries that are subjected to the EU SEA Directive, usually concern the modification of already well developed systems, i. e. making them often more sustainable.

Second, – and this goes to the heart of the matter – before being subjected to SEA, plans or programmes are usually prepared in course of "the planning process" itself. Only after that, a more or less completed plan or programme will be assessed. This fact is perfectly understandable, especially in developed countries, as planning processes "themselves" are strictly regulated and by law often must encompass many different issues, including environmental concerns.

As a result, plans and programmes only rarely change during SEA and SEA has only very little influence on the content of plans and programmes. SEA rather prevents particularly adverse effects of a plan or programme and therefore often functions very similar to EIA.

Furthermore, there usually is a significant shortcoming in the evaluation of alternatives. This is due to the fact that the "primary" planning process, where a plan or programme is developed on the basis of pre-identified objectives, often does not require an alternatives assessment. Plans and programmes then enter the phase of SEA, when they are already highly elaborated and therefore in a stage, where it is hard to identify "reasonable" alternatives. This is less a problem regarding the assessment of environmental effects; it's rather a shortcoming of transparency and "planning culture" *per se*.

Finally, this leads to a situation where SEA is considered superfluous – both by decision makers who need to spend time and money for SEA, and the general public missing a real chance of influencing a planning process.

¹ Unfortunately, SEA Directive gives only very few indications of what should be considered as an objective. This usually misleads practitioners and decision makers to pay only very little attention to the formulation of objectives and to mix up the content of the plan or programme itself ("the measures") with the objectives that should underlie the policy making process.

Example 1: SEA guidelines for provincial road corridors in Vorarlberg, Austria

Vorarlberg is a comparably small alpine Austrian province (*Land*) located on the country's western border to Switzerland. Vorarlberg however, has a rich industrial tradition and is considered a prime example for "good" architecture, town planning and mobility policies. In 2012, Vorarlberg introduced SEA in the sector of road planning, both for provincial and municipal road networks.

According to the Vorarlberg's Roads Act, the provincial government needs to determine a road corridor before decreeing a provincial road. This road corridor is considered a plan according to the SEA Directive. The need for a road corridor was implemented contemporarily with the implementation of SEA for this type of plan. This situation caused the rare chance to implement SEA together with a totally new planning process; usually, SEA is implemented only after the corresponding plan or programme and especially planning processes have already been applicable for years.

Therefore, the developed SEA guidelines (Administration of the State of Vorarlberg, 2014) encompass the entire planning process which, according to the SEA Directive, in certain cases does not require an SEA. The government department responsible for provincial road planning uses the guidelines as sole basis for the entire planning process. In fact, the first steps provided by the guidelines do not distinguish between planning processes with or without SEA. The decision whether or not to undertake an SEA is to be taken during the planning process.

Some of the key specifications of the SEA guidelines relate to the question of objectives. The so-called planning order by the responsible member of the provincial government is the first step towards the planning of a provincial road. The planning order is indispensable for triggering the activities by the department responsible for provincial road planning and needs to include clear information on the objectives. These objectives often include environmental objectives, as improving the road network in Vorarlberg is very often linked to the aim of a more sustainable and safer mobility system. As soon as the planning department receives the planning order, it is required to further develop the planning order and include – most of all – a planning area.

The screening is carried out exclusively based on the following question: Given the objectives and the planning area defined in the planning order, can significant effects on the planning area be expected? Therefore the decision on whether or not to conduct an SEA is taken before even the first draft of a road corridor resp. corridor alternatives is designed.

As a further result, the identification and evaluation of alternatives is at the heart of the planning and – in case of the need for an SEA – also the SEA process. Alternatives, which usually include an array of 3 to 5 road corridor options that are all equally designed and described, are assessed both in terms of functional, technical respectively economic and environmental effects or characteristics. The recommendation for a certain corridor alternative is therefore based on several aspects with environmental concerns always being a part of the decision criteria.

The full integration of SEA and the planning process also implies the complete integration of environmental report and "technical" report. In order to avoid a "trade-off" of functional and economic aspects, on the one hand, and those traditionally "environmental", on the other, the SEA guideline includes clear requirements on which environmental aspects to deal with and how to deal with them.

The experiences at hand from using the SEA guidelines show three positive aspects: First, environmental issues are totally accepted and included right from the beginning of the planning process. Second, participation requirements that derive from SEA are successfully carried out for the entire planning process. Third, as all relevant aspects for decision making are documented in a single report and are subject to participation, decision making is very transparent and traceable.

Example 2: SEA manual for town planning in Lower Austria, Austria

Lower Austria is Austria's largest province (*Land*) by area. It surrounds Austria's capital, Vienna, which is a *Land* itself. Therefore, Lower Austria is basically characterised by two very different spatial patterns: Central Lower Austria is part of the densely populated Vienna region; the peripheral is mostly sparsely populated with decentralised, comparably small settlements. In 2014, Lower Austria decided to revise its SEA manual, starting with the methodological part (Administration of the State of Lower Austria, unpublished).

According to Lower Austria's Regional and Local Planning Act, development plans and zoning plans on municipal level need to be subjected to SEA whenever they are changed or entirely revised; few exceptions apply for minor changes. SEA by now is already broadly established and manuals for different steps of SEA or SEA preparation (e. g. screening) are generally successfully applied. However, the quality of SEA, both regarding content and process, is partly rather uneven. Therefore the provincial government decided to set up a comprehensive manual for SEA methodology.

The underlying idea of the manual is – again – to provide the best possible integration of the planning process “itself” and the SEA process. This is to avoid that decisions are basically taken before the start of an SEA. The manual contains two basic specifications: First, the environmental report is completely integrated in the “technical” report (respectively vice versa). Second, the applicable methodology does not operationally distinguish between objectives for the plan or programme and environmental objectives.

The methodology actually largely neglects the necessity of autonomously defining the objectives, as the basic objectives for municipal planning that can be found at the heart of every planning intention on municipal level, are essentially defined by provincial law or provincial strategies, plans or programmes. However, as circumstances vary between municipalities, it is important to weight the different thematic aspects during the scoping process. By doing so, some aspects can be even excluded from the assessment right from the beginning.

On the operational level, the manual is designed to be all-encompassing. It basically contains an extensive hierarchic matrix that covers all thematic aspects that can possibly be relevant for decision making – including the environmental ones. It breaks down every thematic field: from 3 main focuses to 6 fields of action to 12 thematic areas to 34 sub-aspects. For every sub-aspect, the matrix contains specifications for describing the current state of environment, typological influences and effects. For the assessment itself, methods are prescribed on three different depths for every sub-aspect. The decision which depth is going to be applied is taken during the scoping process.

This concept of a manual is of course quite restrictive and limits the room for manoeuvre for the users. However, to prepare a manual of this sort was a deliberate decision with a strong motivation: As the quality of SEA is partly rather moderate, the competent supervisory authorities on provincial level considered a stronger guidance as would be necessary. With the new manual at hand, it should be easier to jointly specify the scope of assessment including the methodology. This is considered to be especially supportive for the many small municipalities which often do not have the personnel and / or economic resources to effectively deal with demanding SEA cases.

The manual is currently subject to a final coordination process with the relevant experts of the provincial government. However, it was already tested by consultants who were not involved in the design of the manual. First experiences show that the all-encompassing nature of the manual is considered rather challenging at the start, but after getting used to it, users tend to appreciate the clear and dependable working process.

Concerning content-related aspects, it is still too early to evaluate whether the new manual helps to improve the quality of SEA. However, the experts involved see a good chance that decision processes will be more transparent and including and will be therefore more open.

Conclusions and proposal for a revision of the SEA Directive

The title of this paper includes the question whether objectives of plans or programmes and environmental protection objectives constitute a contradiction within SEA. Of course they do not – this is not the main finding of this paper. But the two examples provided in the paper strengthen the argument that these two types of objectives which are addressed by the SEA Directive need to be considered in an integrated way in order to apply SEA as a part of “good” planning processes.

The more developed our countries and the more established our planning culture, the more “technical” and environmental protection objectives resemble one another. Planning without considering environmental aspects at all is almost impossible nowadays – it did not need the SEA for that. Reciprocally, SEAs detached from the planning process as strict tools to enforce environmental concerns may have been the secret wish of environmental extremists, but it turned out that such SEAs simply do not work.

SEA is successful if we manage to integrate as many environmental concerns into the core of the planning process without insisting on exceptional attention to be paid to them. Referring to the SEA Directive currently in force, the following practices turned out to be useful to achieve this goal:

Fully integrate the “traditional” planning process and the SEA process. This can be best achieved by not distinguishing between objectives of plans or programmes and environmental protection objectives. Sometimes they are the same, often they do not contradict each other and never there is a reason why one type of objective should be considered only after another type of objective has already been considered.

Practitioners who have decades of experience with “traditional” planning processes often have difficulties with SEA. As soon as the “technical” report on a plan or programme is completed they do not see the need for further discussions. In that case it is helpful to fully integrate the “technical” report and the environmental report. This report shall contain all arguments that are relevant for decision making, independently from the source (objective) they refer to.

This also benefits the alternatives assessment considerably. The rationale of identifying and evaluating alternatives is carried to the core of plan making. Documenting this process in a common report is a huge leap in transparency.

This does not question or limit the primacy of politics at all. It rather strengthens it by further developing planning in the context of the shift from government to governance. Civil society requires being part of all stages of plan-making. This certainly includes the definition of objectives. And we can be sure of one thing: An alert and empowered civil society is the best guarantee for environmental issues to be addressed satisfactorily.

Regarding the future revision of the SEA Directive, embedding this approach in the SEA Directive would certainly be desirable. The SEA Directive currently in force scarcely addresses the question of objectives of plans and programmes and the integration of planning process and SEA process. This is to be considered as a shortcoming that produces tame SEA processes – this is a real threat to SEA: Poor results and limited influence of SEA continue to be the best argument to completely abolish the instrument as such.

So it is the responsibility of the European Commission to clearly define what SEA should be and what SEA should consist of. It is simply not enough to rely on the member states’ goodwill in implementing the SEA Directive.

References

Administration of the State of Lower Austria (Amt der Niederösterreichischen Landesregierung, unpublished): Leitfaden SUP. Modul 1: Methoden. St. Pölten / Vienna.

Administration of the State of Vorarlberg (Amt der Vorarlberger Landesregierung, 2016): Strategische Umweltprüfung (SUP) für Straßen- und Wegekonzepte. Leitfaden. Bregenz / Vienna.

Administration of the State of Vorarlberg (Amt der Vorarlberger Landesregierung, 2014): Strategische Umweltprüfung (SUP) für Landesstraßenkorridore. Leitfaden. Bregenz / Vienna.

Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment

Regional and Local Planning Act of the State of Lower Austria (NÖ Raumordnungsgesetz 2014, LGBl. Nr. 3/2015 idF LGBl. Nr. 63/2016)

Roads Act of the State of Vorarlberg (Gesetz über den Bau und die Erhaltung öffentlicher Straßen sowie über die Wegefreiheit, LGBl. Nr. 79/2012 idF LGBl. Nr. 54/2015)