

**Federal Act on Environmental Impact Assessment  
(Environmental Impact Assessment Act 2000)**

**SECTION 1**

**Purpose of environmental impact assessment and public participation**

**Article 1.** (1) The purpose of an environmental impact assessment (EIA) shall be, with public participation and on a basis of expertise,

1. to identify, describe and assess the direct and indirect effects that a project will or may have on
  - a) human beings, fauna, flora and their habitats,
  - b) on soil, water, air, and climate,
  - c) on the landscape, and
  - d) material assets and the cultural heritage, including interactions of several effects,
2. to examine measures that prevent or mitigate harmful, disturbing or adverse effects of a project on the environment or that enhance its beneficial effects,
3. to document the advantages and disadvantages of the alternatives examined by the project applicant as well as the environmentally relevant advantages and disadvantages of not proceeding with the project, and
4. to document the environmentally relevant advantages and disadvantages of the alternative sites or routes examined by the project applicant in case of projects for which the law foresees compulsory purchase.

(2) This Federal Act implements Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, OJ L 175/40 of 5 July 1985, p. 40, as last amended by Council Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC, OJ L 156 of 25 June 2003, p.17.

**Definitions**

**Article 2.** (1) “Co-operating authorities” shall mean the authorities which, on the basis of administrative provisions,

1. would be responsible for granting development consent or inspecting the project if the present Federal Act did not require the performance of an environmental impact assessment for the project,
2. are responsible for inspecting the facility, or
3. have to be involved in the relevant procedures.

(2) “Project” shall mean the establishment of a facility or any other intervention in nature and landscape, including all the measures that are spatially and functionally related thereto. A project may comprise one or more installations or interventions if these are spatially and functionally related.

(3) “Development consent” shall mean the acts or omissions of the authorities, as required by individual administrative provisions for the authorisation of a project’s implementation, such as in particular, permits, approvals or declarations. This also includes the granting of easements pursuant to the first sentence of Article 111(4) of the *Wasserrechtsgesetz*—WRG 1959 (Water Management Act) but not of other coercive rights.

(4) “Ombudsman for the environment” shall mean a body specifically established by the federal government or a *Land* to ensure the protection of the environment in administrative procedures.

(5) “Capacity” shall mean the size, input or output of a project approved or applied for, which shall be measured in the unit indicated in Annex 1 if a threshold value is given therein. In this context, an installation is a facility on a specific site or a combination of such facilities in a close spatial and functional connection, which serve one of the purposes indicated in Annex 1.

### Object of the environmental impact assessment

**Article 3.** (1) An environmental impact assessment shall be performed for projects listed in Annex 1 as well as modifications of these projects subject to the following provisions. The simplified procedure shall be applied to projects listed in Columns 2 and 3 of Annex 1. In the simplified procedure, Articles 3a (2), 6 (1) no. 1 (d) to (f), 7 (2), 12, 13 (2), 16 (2), 20 (5) and 21 shall not apply, while the provisions of Articles 3a (3), 7 (3), 12a and 19 (2) shall apply.

(2) If projects under Annex 1 that fall below the threshold values or do not fulfil the criteria defined therein are spatially related to other projects and, together with them, reach the relevant threshold value or fulfil the criterion, the authority shall examine on a case-by-case basis whether significant harmful, disturbing or adverse effects on the environment are to be expected due to a cumulation of effects and whether, as a result, an environmental impact assessment shall be performed for the project planned. A case-by-case examination shall not be carried out if the capacity of the project submitted is less than 25% of the threshold value. When taking a decision on a specific case, the criteria of paragraph 4 no.1 to 3 shall be taken into consideration, and paragraph 7 shall be applied. The environmental impact assessment shall be performed as a simplified procedure.

(3) If an environmental impact assessment has to be performed for a project, the authority (Article 39) shall apply the substantive approval provisions required for the implementation of the project under federal or *Land* administrative law, also to the extent that they fall in the domain of the municipalities, in a consolidated procedure (consolidated development consent procedure).

(4) In case of projects for which a threshold value is defined for certain protected areas in Column 3 of Annex 1 and, if this criterion is fulfilled, the authority shall decide on a case-by-case basis, taking into consideration the extent and lasting effects of the environmental impact, whether significant adverse effects are to be expected for the protected habitat (Category B of Annex 2) or the protection purpose for which the protected area has been established (Categories A, C, D and E of Annex 2). In this examination, protected areas of Category A, C, D or E of Annex 2 shall only be considered if they have already been designated or included in the list of sites of Community importance (Category A of Annex 2) on the day when the procedure is initiated. If such adverse effects are to be expected, an environmental impact assessment shall be performed. Paragraph 7 (Declaratory procedure) shall be applied. When taking the decision on a specific case, the authority shall take into consideration the following criteria:

1. Characteristics of the project (size of the project, cumulation with other projects, use of natural resources, production of waste, environmental pollution and nuisances, risk of accidents),
2. Location of the project (environmental sensitivity taking into account existing land use, abundance, quality and regenerative capacity of natural resources in the area, absorption capacity of the natural environment),
3. Characteristics of the potential impact of the project on the environment (extent of the impact, transboundary nature of the impact, magnitude and complexity of the impact, probability of the impact, duration, frequency and reversibility of the impact) as well as the change in the environmental impact resulting from the implementation of the project as compared with the situation without the implementation of the project. In case of projects falling under Column 3 of Annex 1, the changed impact shall be assessed with regard to the protected area.

(4a) In the case of projects for which special requirements other than those identified in paragraph 4 are laid down in Column 3 of Annex 1 and if these requirements apply, the authority shall determine on a case-by-case basis whether significant harmful, disturbing or adverse effects on the environment as defined in Article 1 (1) no. 1 are to be expected. If the authority finds that such effects are to be expected, a simplified environmental impact assessment shall be performed.

(5) The Federal Minister of Agriculture and Forestry, Environment and Water Management may specify further details of the implementation of the case-by-case examination according to paragraph 4 and Article 3a (1) no. 2 as well as paragraphs 2 and 3 by way of ordinance.

(6) Before the completion of the environmental impact assessment or of the case-by-case examination, projects subject to an examination according to paragraphs 1, 2 or 4 shall not be approved, and notifications made under administrative provisions shall have no legal effect before the completion of the environmental impact assessment. Approvals granted in violation of this provision may be declared null and void by the authority having competence pursuant to Article 40 (3) within a period of three years.

(7) Upon request by the project applicant, by a co-operating authority or by the ombudsman for the environment, the authority shall state whether an environmental impact assessment for a project needs to be performed pursuant to this Federal Act and which criterion of Annex 1 or Article 3a (1) to (3) applies to the project. This statement may also be made *ex officio*. The decision shall be taken in the first and second instances by administrative order within six weeks each. The project applicant, the co-operating authorities, the ombudsman for the environment and the host municipality shall have *locus standi*. Before the decision is taken, the water management planning body shall be heard. The essential substance of the decisions, including the main reasons for them, shall be published or made accessible to the public in a suitable way by the authority. The host municipality may file a complaint against the decision taken with the Administrative Court. The ombudsman for the environment and the co-operating authorities are exempted from the obligation to reimburse cash expenses.

(8) The Federal Minister of Agriculture and Forestry, Environment and Water Management may define, by way of ordinance, the areas (Category D of Annex 2) of the *Land* in question where the exposure limits specified by the *Immissionsschutzgesetz-Luft* (Ambient Air Quality Act), BGBl. I No. 115/1997, are exceeded repeatedly or for a prolonged period of time.

### Modifications

#### Article 3a. (1) Modifications of projects

1. that amount to a capacity increase of at least 100% of the threshold value indicated in Column 1 or 2 of Annex 1, if such a threshold value is specified, shall be submitted to an environmental impact assessment; this shall not apply to threshold values for modifications pursuant to no. 2;
2. for which a modification criterion is defined in Annex 1 shall be submitted to an environmental impact assessment provided that this criterion is met and the authority determines on a case-by-case basis that significant harmful, disturbing or adverse effects on the environment as defined in Article 1 (1) no. 1 are to be expected due to the modification.

(2) An environmental impact assessment shall be performed for modifications of other projects listed in Column 1 of Annex 1

1. if the threshold value of Column 1 is already reached by the existing installation or will be reached upon implementation of the modification, and if the modification results in a capacity increase amounting to at least 50% of this threshold value, or
2. if the capacity is increased by at least 50% of the previously approved capacity of the project in case no threshold value is indicated in Column 1 of Annex 1,

and if the authority determines for the case in question that significant harmful, disturbing or adverse effects on the environment as defined in Article 1 (1) no. 1 are to be expected due to the modification.

(3) A simplified environmental impact assessment shall be performed for modifications of other projects listed in Column 2 or 3 of Annex 1

1. if the threshold value of Column 2 or 3 is already reached by the existing installation or will be reached upon implementation of the modification, and if the modification results in a capacity increase amounting to at least 50% of this threshold value, or
2. if the capacity is increased by at least 50% of the previously approved capacity of the project in case no threshold value is indicated in Column 2 or 3 of Annex 3,

and if the authority determines for the case in question that significant harmful, disturbing or adverse effects on the environment as defined in Article 1 (1) no. 1 are to be expected due to the modification.

(4) When taking the decision on a case-by-case basis according to paragraph 1 no. 2 as well as paragraphs 2 and 3, the authority shall take into consideration the criteria identified in Article 3 (4) no. 1 to 3. Article 3 (7) shall apply.

(5) Unless Annex 1 provides otherwise, the applicability of an environmental impact assessment to modifications according to paragraph 1 no. 2 as well as paragraphs 2 and 3 shall be assessed on the basis of the sum total of the capacities approved in the past five years, including the capacity increase applied for, provided that the modification applied for results in a capacity increase amounting to at least 25% of the threshold value or, if no threshold value is specified, of the previously approved capacity.

(6) If modifications of projects under Annex 1 that fall below the threshold values of paragraphs 1 to 5 or do not fulfil the criteria defined therein are spatially related to other projects and, together with them, reach the relevant threshold value or fulfil the criterion of Annex 1, the authority shall examine on a case-by-case basis

whether significant harmful, disturbing or adverse effects on the environment are to be expected due to a cumulation of effects and whether, as a result, an environmental impact assessment shall be performed for the modification planned. A case-by-case examination shall not be carried out if the capacity of the project submitted is less than 25% of the threshold value. When taking a decision on a specific case, the criteria of Article 3 (4) no. 1 to 3 shall be taken into consideration, and Article 3 (7) shall be applied. The environmental impact assessment shall be performed as a simplified procedure.

(7) The development consent to the modification shall also cover the project already approved to the extent necessary due to the modification for protecting the interests indicated in Article 17 (1) to (5).

(8) An environmental impact assessment shall not be performed for measures that are the object of an adaptation or rehabilitation procedure under administrative law. Paragraphs 1 to 6 shall apply analogously to measures exceeding that scope.

## SECTION 2

### ENVIRONMENTAL IMPACT ASSESSMENT AND CONSOLIDATED DEVELOPMENT CONSENT PROCEDURE

#### Preliminary procedure

**Article 4.** (1) A preliminary procedure shall be carried out upon request of the project applicant. The request shall be accompanied by a description of the basic outline of the project and an outline of the environmental impact statement.

(2) After having consulted the co-operating authorities and, where appropriate, any third parties, the authority shall express their opinion to the project applicant on the documents according to paragraph 1 as soon as possible but no later than three months of their receipt. In particular, this opinion shall point out obvious deficiencies in the project or the outline of the environmental impact statement (Article 6) and shall indicate any additional information that probably needs to be included in the environmental impact statement.

#### Initiation of the environmental impact assessment

**Article 5.** (1) The project applicant planning a project subject to an environmental impact assessment according to Article 3 or 3a shall submit to the authority an application for development consent that contains the documentation required under administrative law for the approval of the project and of the environmental impact statement in the respectively required number of copies. If possible and appropriate with a view to expediency, speed, simplicity or cost savings, but at any rate subject to the provisions of Article 9 (4), these documents shall also be filed electronically. Evidence of authorisations shall not be deemed required to the extent that administrative provisions grant coercive rights in this respect. The project applicant shall also state whether and in which way he/she has informed the public about the project. Project documents containing trade or commercial secrets in the applicant's opinion shall be marked accordingly.

(2) If documents according to paragraph 1 are missing in the application or if the information of the environmental impact statement is incomplete, the authority shall order the project applicant to complement the application or the environmental impact statement according to Article 13 (3) *Allgemeines Verwaltungsverfahrensgesetz*—AVG (General Administrative Proceedings Act) even if this is only realised in the course of the development consent procedure.

(3) The authority shall communicate, without delay, the application, the relevant project documents and the environmental impact statement to the co-operating authorities for comments. The authorities according to Article 2 (1) no. 1 and 2 shall co-operate in the technical and legal assessment of the project to the extent required and shall submit proposals for the required subject fields and the respective experts.

(4) The ombudsman for the environment, the host municipality as well as the Federal Minister of Agriculture and Forestry, Environment and Water Management shall, at any rate, be sent a copy of the environmental impact statement without delay. The above may submit their comments thereon.

(5) Other formal parties and public services who have to be involved according to applicable administrative provisions shall be informed by the authority about the receipt of the application. If applicable administrative provisions explicitly require specific expert opinions, these shall be prepared.

(6) The application shall be rejected at any point in the procedure if it is established beyond doubt in the course of the procedure that the project fails to meet certain development consent requirements to such an extent that these deficiencies cannot be remedied by specifying obligations, conditions, deadlines, project modifications or offsetting measures.

(7) In addition to the second sentence of Article 39 (2) AVG, the authority may decide *ex officio* or upon request by a project applicant that two or more spatially related projects under Annex 1 shall be covered by one environmental impact assessment (environmental impact expertise or summary evaluation, comments, consultations according to Article 10 and, if applicable, public hearing).

### **Environmental impact statement**

**Article 6.** (1) The environmental impact statement shall contain the following information:

1. A description of the project comprising information on the site, design and size of the project and in particular:
  - a) a description of the physical characteristics of the whole project, including the land-use requirements during the construction and operational phases;
  - b) a description of the main characteristics of the production or processing procedures, in particular with regard to the nature and quantity of the materials used;
  - c) data, by type and quantity, of residues and emissions to be expected (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the implementation and operation of the project;
  - d) the increase in the concentration of pollutants in the ambient environment resulting from the project;
  - e) energy consumption, broken down by energy sources;
  - f) duration of the project's existence and follow-up measures as well as any measures to secure evidence and ensure concomitant control.
2. An outline of the main alternatives studied by the project applicant and an indication of the main reasons for this choice, taking into account the environmental effects; in case of Article 1 (1) no. 4, the alternative sites or routes examined by the project applicant.
3. A description of the aspects of the environment likely to be significantly affected by the project, including, in particular, human beings, fauna, flora and their habitats, soil, water, air, climate, landscape, material assets, including the cultural heritage, and the inter-relationship between the above factors.
4. A description of the likely significant effects of the proposed project on the environment resulting from:
  - a) the existence of the project,
  - b) the use of natural resources,
  - c) the emission of pollutants, the creation of nuisances and the nature, quantity and elimination of waste, as well as information on the methods used to forecast the effects on the environment.
5. A description of the measures envisaged to prevent, reduce or, where possible, offset any significant adverse effects of the project on the environment.
6. A non-technical summary of the information mentioned in numbers 1 to 5.
7. An indication of any difficulties (in particular, technical deficiencies or lack of data) encountered by the project applicant in compiling the required information.

(2) If individual items of information according to paragraph 1 are irrelevant for the project or if the project applicant cannot reasonably be required to compile this information having regard to current knowledge and methods of assessment, they need not be submitted. This fact shall be indicated and justified in the environmental impact statement. This provision shall be without prejudice to Article 5 (2).

(3) The Federal Minister of Agriculture and Forestry, Environment and Water Management may issue, by way of ordinance, more detailed requirements on the information to be submitted according to paragraph 1 for specific types of projects.

### Time schedule

**Article 7.** (1) The authority shall prepare a time schedule for the procedure setting deadlines for the individual steps of the procedure, taking into consideration the investigations and assessments required by the nature, size and site of the project. The time schedule shall be published on the Internet. Reasons for considerable delays in the time schedule shall be stated in the development consent order.

(2) With regard to projects listed in Column 1 of Annex 1, the authority of the first instance shall decide (Article 73 AVG) on the application in accordance with Article 5 without undue delay and no later than nine months of the application's receipt.

(3) With regard to projects listed in Column 2 or 3 of Annex 1, the authority shall decide (Article 73 AVG) on the application in accordance with Article 5 without undue delay and no later than six months of the application's receipt.

(4) If the authority has obtained significant knowledge related to the substance of a project, such up-to-date knowledge shall be used and the time limits for decision-making pursuant to paragraphs 2 and 3 shall be reduced by three months each if the application in accordance with Article 5 is closely related in time to this knowledge.

(5) If agreements on large-scale events concluded with international organisations specify deadlines for the implementation of a project subject to special requirements according to Article 3 (4a), efforts shall be made to take a decision within four months.

**Article 8.** *deleted*

### Public inspection

**Article 9.** (1) The authority shall communicate to the host municipality one copy of the application, of the documents identified in Article 5 (1) and of the environmental impact statement. These shall be available for public inspection at the authority and in the municipality for at least six weeks. The second and third sentences of Article 44b (2) AVG shall apply.

(2) If projects extend to at least five host communities, the documentation identified in paragraph 1 may be made available only at the authority, at the administrative district authority and at one host municipality per district affected by the project selected by the authority.

(3) The authority shall announce the project in accordance with Article 44a (3) AVG. The announcement shall always state:

1. the application's object and a description of the project,
2. the fact that the project is subject to an environmental impact assessment, the competent authority responsible for taking the decision, information on the nature of possible decisions and, if applicable, the likelihood of a transboundary EIA procedure pursuant to Article 10,
3. place and time of possible inspection, and
4. an indication of the fact that anybody may submit comments according to paragraph 5 and that citizens' groups have *locus standi* or the right to participate according to Article 19.

The date of the public hearing (Article 16) may be announced together with the project itself.

(4) In addition to the announcement according to paragraph 3, the authority shall also announce the project on the Internet. At any rate, a brief description of the project and the summary of the environmental impact statement pursuant to Article 6 (1) no. 6 shall be attached to the announcement.

(5) Anybody may submit written comments on the project and on the environmental impact statement to the authority within the public inspection period according to paragraph 1.

### Transboundary environmental impact

**Article 10.** (1) If the project might have significant effects on the environment in a foreign state or if a state that could be affected by the project's impact submits a request to that effect, the authority shall:

1. notify this state of the project as early as possible and, if appropriate for the consideration of transboundary effects, already during the preliminary procedure, but no later than the public, and shall attach to this notification a description of the project, any available information on its possible transboundary impact and, where applicable, the draft of the environmental impact statement,
2. inform this state about the course of the EIA procedure and the nature of the decision which may be taken, and set an appropriate deadline for communicating whether it wishes to participate in the EIA procedure or not.

(2) If this state informs the authority that it wishes to participate in the EIA procedure,

1. it shall be provided with the application for development consent, the environmental impact statement and any other documents relevant to decision-making that are available to the authority at the time of the announcement pursuant to Article 9,
2. it shall be given the opportunity for submitting comments within a reasonable period of time that shall be long enough that the state will also be able to make the application documents accessible to the public and give them the opportunity to submit comments, and
3. it shall be provided with the environmental impact expertise or the summary evaluation.

(3) On the basis of the documents provided and the results of the environmental impact expertise or the summary evaluation, consultations shall be held, if necessary, on potential transboundary effects and any measures necessary to avoid or reduce adverse transboundary effects on the environment. These consultations shall, if possible, take place via bodies already established by bilateral agreements within the framework of their competence, in particular the transboundary waters commissions. An appropriate time frame shall be agreed on for the duration of the consultation phase.

(4) The decision on the development consent application and the main reasons for it, information on the public participation process, and a description of the main measures to avoid or reduce or offset major harmful, disturbing or adverse effects on the environment shall be communicated to the state concerned.

(5) With regard to the provisions of paragraphs 1 to 4, the principle of reciprocity shall apply to states not parties to the Agreement on the European Economic Area.

(6) To the extent required for implementing the transboundary EIA procedure, the project applicant shall submit, upon request, translations of the documents he/she filed in the language of the state concerned.

(7) If, within the framework of an EIA procedure carried out in a foreign state, documents are received on the environmental impact of a foreign project that might have significant environmental effects in Austria and if the public has to be involved due to commitments under international law, the *Land* government shall proceed according to Article 9 with regard to documents corresponding to the documents specified in paragraph 2 no. 1, and the duration of public inspection shall be governed by the provisions of the country where the project is to be implemented. Other authorities with relevant environmental tasks shall be given the opportunity for submitting comments. The *Land* government shall forward comments received and, upon request of the foreign state, also provide information on the environment potentially affected to the state where the project is to be implemented. If other documents, such as expert opinions and decisions, are supplied during the procedure, these shall be made available to the public in an appropriate manner.

(8) Specific arrangements in the framework of state treaties shall remain unaffected.

**Article 11.** *deleted*

### **Environmental impact expertise**

**Article 12.** (1) For projects listed in Column 1 of Annex 1, the authority shall commission experts of the subjects in question to prepare an environmental impact expertise. The environmental impact expertise shall also take note of deviating opinions by co-operating experts.

(2) Non-official experts may also be consulted even if the requirements of Article 52 (2) to (4) AVG are not met. Institutions, institutes or companies with the relevant expertise may also be commissioned to act as experts.

(3) Any expertise and documents that have been submitted by the project applicant within the framework of the environmental impact statement or procedure or that are available to the authority on the project or its site shall be taken into consideration in the preparation of the environmental impact expertise.

(4) The environmental impact expertise shall

1. evaluate, from a technical perspective, and, if necessary, complement the environmental impact statement submitted for the assessment of the project's effects as well as other documents provided by the project applicant pursuant to Article 1 in accordance with the state of the art and other relevant scientific knowledge in a comprehensive and summary overall review taking into account the development consent criteria of Article 17;
2. discuss, in technical terms, the comments submitted pursuant to Article 5 (3) and (4), Article 9 (5) and Article 10; comments of similar substance or on the same topic may be dealt with jointly;
3. make proposals for measures according to Article 1 (1) no. 2 taking also account of occupational safety;
4. contain descriptions pursuant to Article 1 (1) no. 3 and 4, and
5. include expert statements on the project's expected effects on regional development taking account of public programmes and plans and with regard to the sustainable use of resources.

(5) Additionally, proposals shall also be made on how to secure evidence and on concomitant and follow-up control after cessation of operations.

(6) The environmental impact expertise shall contain a non-technical summary.

(7) The project applicant shall provide the authority and the experts with all the information required to draw up the expertise.

#### **Summary assessment of the environmental impacts**

**Article 12a.** For projects listed in Columns 2 or 3 of Annex 1, the authority shall prepare, with due consideration of the development consent criteria of Article 17, a summary assessment of the environmental impacts on the basis of the expertises and documents on the project or its site that have been prepared or submitted within the framework of the environmental impact statement or procedure or that are available to the authority as well as on the basis of the comments submitted. Article 12 (2) and (7) shall be applied subject to the proviso that a summary assessment be prepared instead of an environmental impact expertise.

#### **Information on the environmental impact expertise or the summary assessment**

**Article 13.** (1) The environmental impact expertise or the summary assessment shall immediately be forwarded to the project applicant, the co-operating authorities, the ombudsman for the environment, the water management planning body and the Federal Minister of Agriculture and Forestry, Environment and Water Management.

(2) The environmental impact expertise on projects listed in Column 1 of Annex 1 shall forthwith be made available for public inspection at the authority and in the host municipality for a minimum of four weeks. This fact shall be announced in a suitable way. Article 9 (2) shall apply.

**Article 14.** *deleted*

**Article 15.** *deleted*

#### **Hearing of the parties**

**Article 16.** (1) The authority shall hold a hearing of the parties covering all applicable administrative provisions at a place that seems to be most appropriate under the specific circumstances. The hearing of the parties shall be held in consultation with to the co-operating authorities and other formal parties and public services to be involved pursuant to the applicable administrative provisions, and at any rate, it shall be announced on the municipality's bulletin board.

(2) If major conflicts of interest between the project applicant and the other parties involved or affected are revealed in the course of the procedure, the authority may interrupt it for a mediation procedure upon request of the project applicant. The results of the mediation procedure may be forwarded to and considered by the authority, within the limits of statutory possibilities, in the rest of the development consent procedure and in the decision. Further agreements between the project applicant and the parties involved or affected may be documented in the administrative order. The project applicant may submit a request on the continuation of the development consent procedure at any time.

### Decision

**Article 17.** (1) When taking its decision on the application for development consent, the authority shall apply the development consent requirements contained in the relevant administrative provisions and in paragraphs 2 to 6. Consent by third parties shall not be required for granting development consent if coercive rights may be granted under administrative provisions with regard to the relevant part of the project. In that case, however, development consent shall be granted subject to the proviso that the rights in question are accorded.

(2) Unless already included in applicable administrative provisions, the following additional requirements shall be met with regard to effective precautions to protect the environment:

1. Emissions of polluting substances shall be controlled in accordance with the state of the art;
2. The burden on protectable assets due to the concentration of pollutants in the ambient environment shall be kept as low as possible; such exposure shall be prevented at any rate if it
  - a) constitutes a threat to human health or lives or to the property or other rights *in rem* of neighbours,
  - b) causes a significant burden on the environment by sustained effects, i.e. at any rate such effects capable of causing permanent harm to soil, air, plant or animal stocks or the status of waters, or
  - c) results into unacceptable nuisances to neighbours under the terms of Article 77 (2) *Gewerbeordnung* 1994 (Trade and Industry Act).
3. Waste shall be avoided or recycled according to the state of the art or, if this is unreasonable in economic terms, shall be properly disposed.

(3) Instead of paragraph 2, the criteria of Article 24h (1) and (2) shall be applied to the projects falling under numbers 9 to 11 of Annex 1.

(4) The decision shall take account of the results of the environmental impact assessment (in particular, environmental impact statement, environmental impact expertise or summary assessment, comments, including the comments and the results of the consultations according to Article 10 and, if applicable, the results of a public hearing). The specification of suitable obligations, conditions, deadlines, project modifications, offsetting measures or other requirements (in particular, also with regard to monitoring, measuring and reporting duties and measures to ensure follow-up activities) shall contribute to a high protection level for the environment in its entirety.

(5) The application shall be rejected if the overall assessment shows that, when considering public interests, in particular that of environmental protection, serious environmental pressures are to be expected due to the project and its impact, including, in particular, interactions, cumulative effects or shifts that cannot be prevented or reduced to a tolerable level by obligations, conditions, deadlines, other requirements, project modifications or offsetting measures.

(6) The development consent may set appropriate time frames for the completion of the project, individual parts thereof or for the exercise of rights. The authority may extend these periods for important reasons if the project applicant requests such an extension before the end of the time frames. In that case, the periods shall be suspended until the decision on the request becomes effective or until the Administrative Court or the Constitutional Court decides on the rejection of the request. Within the framework of an appeals procedure or under the terms of Article 18b, the time limits may be modified *ex officio*.

(7) The development consent order shall be made available for public inspection at the authority and the host municipality for a minimum of eight weeks at any rate. The administrative order shall contain the reasons for the decision taken as well as information on public participation and a description of the main measures to avoid, reduce and, if possible, offset major adverse effects. The possibility of public inspection shall be announced in a suitable way and, at any rate, also on the Internet.

(8) If official documents according to Article 44f AVG are served by edict, public inspection shall be possible at the authority and host municipality notwithstanding Article 44 (2) AVG.

### **Basic development consent and detailed development consents**

**Article 18.** (1) Upon the request of the project applicant, the authority may initially deal with all matters relevant for evaluating the basic admissibility of the project. In such a case, only the documents required for assessing basic admissibility need to be submitted. The basic development consent shall also identify the areas that shall remain subject to detailed development consents.

(2) On the basis of a basic development consent granted, the authority shall decide on the detailed development consents following submission of the required additional documents in a detailed procedure in which the development consent criteria of Article 17 shall be applied. Article 16 shall not be applied in detailed procedures. Parties having *locus standi* or the right to participate according to Article 19 with regard to the detailed project and the co-operating authorities affected by it shall be involved.

(3) Projects for which a basic development consent has been granted may be modified in the detailed development consent if

1. they comply with Article 17 (2) to (5) according to the results of the environmental impact assessment, and
2. the parties affected by the modification according to Article 19 are given the opportunity to protect their interests.

### **Development consents to sections**

**Article 18a.** Upon request by the project applicant, the authority may approve projects extending to a minimum of three host municipalities section by section after the performance of the environmental impact assessment for the entire project if this is appropriate due to the spatial dimensions of the project. Articles 16, 17, and 18 as well as Articles 19 to 23 shall be applied for granting development consent to each section.

### **Amendment of the administrative order before the transfer of competence**

**Article 18b.** Modifications of a project approved under Article 17 or 18 shall be approved by the time specified in Article 22 on the basis of the development consent requirements contained in Article 17 if:

1. they comply with Article 17 (2) to (5) according to the results of the environmental impact assessment, and
2. the parties affected by the modification according to Article 19 are given the opportunity to protect their interests.

In this process, the authority shall complement the investigation procedure and the environmental impact assessment to the extent required by their purpose.

### ***Locus standi*, right of participation and right of appeal**

**Article 19.** (1) The following parties shall have *locus standi*:

1. neighbours: neighbours shall be persons who might be threatened or disturbed or whose rights *in rem* might be harmed at home or abroad by the construction, operation or existence of the project as well as the owners of facilities in which persons stay temporarily on a regular basis with regard to the protection of such persons; neighbours shall not be persons who stay temporarily in the vicinity of the project and do not have rights *in rem*; with regard to neighbours abroad, the principle of reciprocity shall apply to states not parties to the Agreement on the European Economic Area;
2. the parties stipulated by the applicable administrative provisions unless they already have *locus standi* according to number 1;
3. the ombudsman for the environment according to paragraph 3;
4. the water management planning body to protect the interests of water management according to Article 55 (4) of the WRG 1959;

5. municipalities according to paragraph 3;
6. citizens' groups according to paragraph 4, except in the simplified procedure (paragraph 2); and
7. environmental organisations recognised under paragraph 7.

(2) Citizens' groups according to paragraph 4 may participate in the simplified procedure as parties involved with the right to inspect the files.

(3) The ombudsman for the environment, the host municipality and the directly adjoining Austrian municipalities which may be affected by significant effects of the project on the environment shall have *locus standi* in the development consent procedure and in the procedure according to Article 20. They shall be entitled to claim the observance of legal provisions that serve to protect the environment or the public interests in their competence as a subjective right in the procedure and to complain to the Administrative Court.

(4) **(Constitutional provision)** Comments according to Article 9 (5) may be supported by entering one's name, address, date of birth and signature on a list of signatures. The list of signatures shall be submitted at the same time as the comment. If a comment is supported by 200 persons or more who have the right to vote in municipal elections in the host municipality or in a directly adjoining municipality at the time of expressing their support, this group of persons (citizens' group) shall have *locus standi* in the development consent procedure for the project and in the procedure according to Article 20 or shall be considered to be a party involved (paragraph 2). Citizens' groups having *locus standi* shall be entitled to claim the observance of environmental provisions as a subjective right in the procedure and to complain to the Administrative Court or the Constitutional Court.

(5) The representative of the citizens' group shall be the person designated as such in the list of signatures or, if such designation is lacking, the person ranking first in the list of signatures. The representative shall also be the person entitled to receive service according to Article 9 (1) *Zustellgesetz* (Service of Documents Act, BGBl. No. 200/1982). If the representative resigns, the person ranking next on the list of signatures shall be considered to be the representative of the citizens' group. The representative may be replaced by another person by means of a written statement to the authority. Such a statement shall be signed by the majority of the members of the citizens' group.

(6) An environmental organisation is an association or a foundation:

1. whose primary objective is the protection of the environment according to the association's statutes or the foundation's charter,
2. that is non-profit oriented under the terms of Articles 35 and 36 *Bundesabgabenordnung*—BAO (Federal Fiscal Code), BGBl. No. 194/1961, and
3. that has been in existence and has pursued the objective identified in number 1 for at least three years before submitting the application pursuant to paragraph 7.

(7) **(Constitutional provision)** In agreement with the Federal Minister for Economic Affairs and Labour, the Federal Minister of Agriculture and Forestry, Environment and Water Management shall decide upon request by administrative order whether an environmental organisation meets the criteria of paragraph 6 and in which *Laender* the environmental organisation is entitled to exercise the rights related to *locus standi*. Complaints against the decision may also be filed with the Constitutional Court.

(8) The request pursuant to paragraph 7 shall be supported by suitable documents that prove that the criteria of paragraph 6 are met and that indicate the *Land/Laender* covered by the activities of the environmental organisation. The rights related to *locus standi* can be exercised in procedures on projects to be implemented in this *Land*/in these *Laender* or in directly neighbouring *Laender*. The Federal Minister of Agriculture and Forestry, Environment and Water Management shall publish a list of the environmental organisations recognised by administrative order pursuant to paragraph 7 on the Internet site of the Federal Ministry of Agriculture and Forestry, Environment and Water Management. This list shall specify the *Laender* in which the environmental organisations are entitled to exercise rights related to *locus standi*.

(9) An environmental organisation recognised pursuant to paragraph 7 shall forthwith inform the Federal Minister of Agriculture and Forestry, Environment and Water Management if any of the criteria defined in paragraph 6 is no longer met. Upon request of the Federal Minister of Agriculture and Forestry, Environment and Water Management, the environmental organisation shall submit suitable documents proving that the criteria defined in paragraph 6 continue to be met. If the Federal Minister of Agriculture and Forestry, Environment and Water Management learns that a recognised environmental organisation no longer meets one of the criteria of paragraph 6, this fact shall be declared by way of administrative order in agreement with the

Federal Minister for Economic Affairs and Labour. The list pursuant to paragraph 8 shall be amended accordingly.

(10) An environmental organisation recognised pursuant to paragraph 7 shall have *locus standi* and be entitled to claim the observance of environmental provisions in the procedure insofar as it has filed written complaints during the period for public inspection according to Article 9 (1). It shall also be entitled to complain to the Administrative Court.

(11) An environmental organisation from a foreign state may exercise the rights under paragraph 10 if this state has been notified pursuant to Article 10 (1) no. 1, if the effects impact that part of the environment in the foreign state whose protection is pursued by the environmental organisation and if the environmental organisation could participate in an environmental impact assessment procedure if the project was implemented in this foreign state.

### **Acceptance inspection**

**Article 20.** (1) The project applicant shall notify the authority of the project's completion before operations are started. If parts of the projects are to be taken into operation (paragraph 3), their completion shall be notified.

(2) The authority shall inspect the project for compliance with the development consent and shall issue an administrative order thereon. The authority shall apply the provisions contained in administrative regulations on operating permits, authorisations of use, building approvals, etc. The administrative acceptance order shall replace the administrative orders required according to the relevant administrative provisions. The acceptance inspection shall be performed in consultation with the co-operating authorities and the parties according to Article 19 (1) no. 3 to 7.

(3) If appropriate to the type of project, the authority may perform the acceptance inspection in several parts. In this case, administrative acceptance orders shall be issued on the individual parts of the project.

(4) The administrative acceptance order shall stipulate the elimination of deviations found. The authority may, however, approve minor deviations by applying Article 18 (3) if the parties affected according to Article 19 (1) have been given the opportunity to protect their interests.

(5) For projects listed in Column 1 of Annex 1, the administrative acceptance order shall also state the date by which the post-project analysis (Article 21) shall be performed.

(6) If an acceptance inspection is not meaningful due to the project type, the authority shall already state the date (within three to five years of granting development consent) by which the post-project analysis shall be performed in the development consent order.

### **Post-project analysis**

**Article 21.** (1) Three years at the earliest and five years at the latest after notification of completion in accordance with Article 20 (1) or at a date specified in the development consent order in accordance with Article 20 (6), the authorities in accordance with Article 22 shall jointly inspect projects listed in Column 1 of Annex 1 for compliance with the development consent order and to verify whether the assumptions and forecasts of the environmental impact assessment correspond to the actual effects of the project on the environment. The authority according to Article 39 and the co-operating authorities shall be involved therein at any rate. Post-project analysis shall be carried out by the date indicated in the administrative acceptance order in accordance with Article 20 (5).

(2) The authorities shall communicate the results of post-project analysis to the authority according to Article 39 and to the Federal Minister of Agriculture and Forestry, Environment and Water Management.

### **Transfer of competence**

**Article 22.** (1) Unless paragraph 2 applies, the competence of the authority shall be transferred to the authorities which, according to administrative regulations, have competence for the implementation of the provisions relevant to the development consents according to Articles 17 to 18b when the administrative acceptance order becomes final.

(2) In the cases of Article 20 (6), the competence is transferred to the authorities which, according to administrative regulations, have competence for the implementation of the provisions relevant to the development consents according to Articles 17 to 18b upon the entry into force of the development consent order.

(3) If basic and detailed development consents (Article 18) were granted, competence is transferred when the administrative acceptance orders or, if no acceptance inspection is performed, the development consents granted in accordance with Article 18 become final.

(4) The competence for implementing and monitoring compliance with the ancillary provisions of the development consent order (conditions, obligations and other requirements) shall be governed by the applicable administrative provisions after the competence transfer in accordance with paragraphs 1 and 2. Ancillary provisions issued on the basis of Article 17 (2) to (4) and (6) shall be implemented and monitored for compliance by the *Land* government. In the case of a suspected offence pursuant to Article 45 no. 2 (a), the *Land* government shall take the measures defined in Article 360 (1) and (3) of the *Gewerbeordnung* 1994 (Trade and Industry Act) with regard to these ancillary provisions. For reasons of expediency or cost savings, it may transfer this competence to the administrative district authorities.

(5) The competent authorities shall call for the remedy of deficiencies and divergences observed within the framework of post-project analysis.

### **Controls and obligations to tolerate**

**Article 23.** (1) To the extent necessary for the implementation of the legal provisions applicable to a specific project, the authorities as well as the experts and officials employed by them shall be entitled to enter and inspect premises, buildings and installations, to take samples in a quantity required for the investigations without any compensation, to perform measurements and to inspect documents. Disturbances and obstructions of operation shall be avoided as far as possible. The owner of the premises and/or the operator or the representative of those persons shall be informed, at the latest, upon entry into the premises or the installation. In case of imminent danger, or if neither the owner of the premises nor the holder of the development consent nor their representative can be contacted, it shall suffice to inform them afterwards.

(2) The owners of the premises, the operators or their representatives shall tolerate the controls in accordance with paragraph 1, provide the information required for the performance of the controls and make available the necessary documents.

## **SECTION 3**

### **ENVIRONMENTAL IMPACT ASSESSMENT FOR FEDERAL ROADS AND HIGH-SPEED RAILROADS**

#### **Scope for federal roads**

**Article 23a.** (1) An environmental impact assessment (Article 1) shall be performed for the following federal road projects in accordance with this section:

1. construction of new federal roads or their subsections, except for additional interchanges,
2. extension of an existing federal road from two lanes to four or more lanes over a continuous length of 10 km or more,
3. construction of a second carriageway over a continuous length of 10 km or more.

(2) An environmental impact assessment (Article 1) shall be performed in the form of a simplified procedure for the following federal road projects in accordance with this section:

1. construction of additional interchanges if an average daily traffic volume of 8,000 motorised vehicles or more is expected to be reached on all ramps taken together within a forecasting period of five years;
2. projects according to paragraph 1 no. 2 or 3 with a length of less than 10 km, if they reach a length of 10 km or more together with directly adjacent subsections that have not yet been opened or were opened to traffic within the past 10 years.
3. extension measures of any other type for federal roads, if they border on a protected area of Category A, B, C, D or E according to Annex 2 and if, taking into consideration the extent and sustained effects of the environmental impact, significant adverse effects are to be expected for the protected habitat (Category B of Annex 2) or the protection purpose for which the protected area has been established (Categories A, C, D and E of Annex 2) in any specific case; excepted are cases in which protected areas are only bordered on by protective structures for eliminating danger zones or in which existing roads are moved due to disasters or the construction of new bridges, the construction of additional car parks for less than 750 motorised vehicles, the construction of additional establishments pursuant to Article 27 *Bundesstrassengesetz* 1971 (Federal Road Act) with an area of less than 5 ha, the addition of crawler lanes, the shifting of ramps, the construction of additional individual ramps for existing junctions or interchanges or changes of the road's centre line or level by less than 5 m, installations for road operation and environmental protection measures.

When taking a decision on a specific case, Article 24 (5) shall apply.

### **Scope for high-speed railroads**

**Article 23b.** (1) For the following high-speed railroad projects that go beyond extension measures for existing railroads, an environmental impact assessment (Article 1) shall be performed in accordance with this section:

1. construction of new lines for long-distance railway traffic or their subsections, construction of other new railway lines or their subsections over a continuous length of 10 km or more,
2. modification of railway lines or their subsections over a continuous length of 10 km or more, if the distance between the middle of the outermost track of the modified route and the middle of the outermost track of the existing route exceeds 100 m.

(2) An environmental impact assessment (Article 1) shall be performed in the form of a simplified procedure for the following high-speed railroad projects in accordance with this section:

1. a) construction of new railway lines or their subsections, if they border on a protected area of Category A, B, C or E according to Annex 2,
- b) modification of railway lines or their subsections, if the distance between the middle of the outermost track of the modified route and the middle of the outermost track of the existing route exceeds 100 m and if they border on a protected area of Category A, B, C or E according to Annex 2,
- c) modification of railway lines by the addition of a track over a continuous length of 2.5 km or more if they border on a protected area of Category A, B or C according to Annex 2, or
- d) modification of railway lines or their subsections having a traffic volume of 60,000 trains/year (before or after the capacity increase) raising the train capacity by 25% or more if they border on a protected area of Category E according to Annex 2,

if, taking into consideration the extent and sustained effects of the environmental impact, significant adverse effects are to be expected for the protected habitat (Category B of Annex 2) or the protection purpose for which the protected area has been established (Categories A, C and E of Annex 2) in any specific case; excepted are cases in which protected areas are only bordered on by protective structures for eliminating danger zones or in which existing routes are moved due to disasters;

2. projects according to paragraph 1 no. 2 or 3 with a length of less than 10 km, if they reach a continuous length of at least 10 km together with directly adjacent subsections that have not yet been opened or were opened to traffic within the past 10 years and if on the basis of the criteria defined in Article 3 (4) no. 1 to 3, significant harmful, disturbing or adverse effects on the environment are to be expected due to a cumulation of the subsections' effects in a specific case and, therefore, the project shall be submitted to an environmental impact assessment.

When taking a decision on a specific case, Article 24 (5) shall apply.

(3) If an environmental impact assessment is to be performed for the construction of a high-speed railroad according to this section and if this project entails an accompanying measure listed in Annex 1 which is spatially and functionally related to this project, the environmental impact assessment shall be performed for the entire project (high-speed railroad and accompanying measure) in accordance with the provisions of this section. If the simplified procedure is stipulated for the high-speed railroad and the accompanying measure, this procedure

shall be applied. For all the subsequent development consent procedures, a new environmental impact assessment need not be performed.

(4) If the construction of a high-speed railroad that need not be submitted to an environmental impact assessment pursuant to paragraph 1 or 2 entails an accompanying measure listed in Annex 1 which is spatially and functionally related to this project, an environmental impact assessment shall be performed for the entire project (high-speed railroad and accompanying measure) in accordance with the provisions of this section. If the simplified procedure is stipulated for the accompanying measure, this procedure shall be applied. For all the subsequent development consent procedures, a new environmental impact assessment need not be performed.

### Procedures, authority

**Article 24.** (1) If a project has to be submitted to an environmental impact assessment pursuant to Article 23a or Article 23b, the Federal Minister of Transport, Innovation and Technology shall implement the environmental impact assessment and a partly consolidated development consent procedure. In this development consent procedure, the Federal Minister of Transport, Innovation and Technology shall apply all approval provisions that are required for the project's implementation under federal administrative law and otherwise would have to be applied by himself/herself or another federal minister. The *Land* governor may be entrusted with the performance of the environmental impact assessment procedure and, with regard to high-speed railroads, also the partly consolidated development consent procedure in full or in part if this is in the interest of expediency, speed, simplicity and cost savings.

(2) The Federal Minister of Transport, Innovation and Technology shall also be the competent authority in the declaratory procedure pursuant to paragraph 5. The administrative district authority shall be responsible for implementing the penal provisions.

(3) The *Land* governor shall perform a partly consolidated development consent procedure in which he/she shall apply the rest of the approval provisions required for the project's implementation under federal administrative law, also to the extent that they fall in the domain of the municipalities. The administrative district authority may be entrusted with the performance of the partly consolidated development consent procedure in full or in part if this is in the interest of expediency, speed, simplicity and cost savings.

(4) The *Laender* shall retain their competence for implementing the approval provisions under administrative law.

(5) The authority pursuant to paragraph 2 shall inform the co-operating authorities, the ombudsman for the environment and the host municipality about planned projects in accordance with Articles 23a and 23b and shall provide them with adequate documentation for the identification of the project and for the assessment of its impact according to Article 23a (2) and (3) or Article 23b (2). Within six weeks of receipt, they may request a declaration stating whether an environmental impact assessment needs to be performed for the project, and they shall have *locus standi* with the rights according to the second sentence of Article 19 (3). The project applicant shall also have *locus standi* and the right to submit requests. A decision on this request shall be taken by way of administrative order within eight weeks. The essential substance of the decision and the main reasons for it shall be published or made accessible to the public in a suitable way. This paragraph shall not apply if an environmental impact assessment will be performed for the project at any rate.

(6) In the examination according to Article 23a (2) and Article 23b (2), protected areas of Category A, C, D or E shall only be considered if they have already been designated or included in the list of sites of Community importance (Category A of Annex 2) on the day when the procedure according to Article 24a (1) is initiated.

(7) Unless otherwise provided for in the following provisions of the present section, the following shall apply in the procedure pursuant to paragraph 1: Article 2 (Definitions) subject to the proviso that "co-operating authorities" shall mean the authorities that, in addition to the competent authority pursuant to paragraph 1, have competence for granting development consent to a project requiring an environmental impact assessment in accordance with Article 23a or Article 23b, or have to be involved in the relevant procedures; Article 4 (Preliminary procedure); Article 6 (Environmental impact statement) subject to the proviso that the authority may stipulate that certain information and documents need to be presented only in a development consent procedure unless they are required for assessing the environmental effects during that specific stage of the procedure; Article 10 (1) to (6) and (8) (Transboundary effects); Article 16 (Public hearing).

(8) Article 9 (Public inspection) shall be applied subject to the proviso that public inspection and inspection in accordance with Article 4 (5) *Bundesstrassengesetz* 1971 shall be performed together. Furthermore, the fact that citizens' groups have *locus standi* or the right to participate in the development consent procedures shall be pointed out. Article 19 (4) shall apply to the establishment of a citizens' group.

(9) In the simplified procedure, Article 24c (Environmental impact expertise) shall be replaced by Article 24d (Summary assessment of the environmental impact) and the fourth sentence of Article 24h (8).

(10) Before the completion of the environmental impact assessment or of the case-by-case examination, approvals shall not be issued on projects subject to an assessment in accordance with Article 23a or Article 23b, and notifications made under administrative provisions shall have no legal effect. Within a period of three years, approvals granted in violation of this provision may be declared null and void by the superior authority with substantive jurisdiction or, if such an authority is not provided for, by the authority which issued the administrative order.

(11) If projects of Article 23a and Article 23b are interdependent, the environmental impact assessment may be performed in a co-ordinated way. The authority may commission a common environmental impact expertise (Article 24c) or a common summary assessment (Article 24d).

### **Initiation of the environmental impact assessment**

**Article 24a.** (1) The project applicant shall submit to the authority pursuant to Article 24 (1) an application for development consent that contains the documentation required under the administrative provisions for the approval of the project identified in Article 24 (1) and the environmental impact statement in the respectively required number of copies. If possible and appropriate with a view to expediency, speed, simplicity or cost savings, but at any rate subject to the provisions of Article 9 (4), these documents shall also be filed electronically. Evidence of authorisations shall not be deemed required to the extent that administrative provisions grant coercive rights in this respect. The project applicant shall also state whether and in which way he/she has informed the public about the project. If a mediation procedure has been performed, its results shall be provided to the authority pursuant to Article 24 (1).

(2) If documents according to paragraph 1 are missing in the application for development consent or if the information of the environmental impact statement is incomplete, the authority pursuant to Article 24 (1) shall order the project applicant to complement the application for development consent or the environmental impact statement according to Article 13 (3) AVG even if this is only realised in the course of the development consent procedure.

(3) The authority pursuant to Article 24 (1) shall communicate, without delay, the application for development consent, the relevant project documents and the environmental impact statement to the co-operating authorities and to the host municipality for comments. The co-operating authorities shall co-operate in the technical and legal assessment of the project to the extent required and shall submit proposals for the required subject fields and the respective experts.

(4) The ombudsman for the environment and the Federal Minister of Agriculture and Forestry, Environment and Water Management shall, at any rate, be sent a copy of the environmental impact statement without delay. The above may submit their comments thereon.

(5) The request shall be rejected at any point in the procedure if it is established beyond doubt in the course of the procedure that the project fails to meet certain development consent requirements to such an extent that these deficiencies cannot be remedied by specifying obligations, conditions, deadlines, project modifications or offsetting measures.

### **Timetable**

**Article 24b.** (1) In co-operation with the other authorities responsible for granting development consents, the authority pursuant to Article 24 (1) shall prepare a time schedule for the procedure setting deadlines for the individual steps of the procedure, taking into consideration the investigations and assessments required by the

nature, size and site of the project. The time schedule shall be published on the Internet. Reasons for considerable delays in the time schedule shall be stated in the development consent orders.

(2) The authority shall decide on the application for development consent pursuant to Article 24a without undue delay and at the latest within twelve months.

### **Environmental impact expertise**

**Article 24c.** (1) For projects that require the performance of an environmental impact assessment in accordance with this section, the competent authority pursuant to Article 24 (1) shall commission experts of the subject fields in question to prepare an environmental impact expertise, unless a simplified procedure shall be performed. The environmental impact expertise shall also take note of deviating opinions by co-operating experts.

(2) The consultation of non-official experts or co-ordinators is permitted. Institutions, institutes or companies with the relevant expertise may also be commissioned to act as experts.

(3) Costs arising to the authority in the implementation of the environmental impact assessment procedure, such as charges or fees of experts or co-ordinators, shall be borne by the project applicant. The authority may instruct the project applicant by administrative order to directly pay these costs after an examination for factual and mathematical correctness.

(4) Any expertise and documents that have been submitted by the project applicant within the framework of the environmental impact statement or procedure or that are available to the authority on the project or its site shall be taken into consideration in the preparation of the environmental impact expertise.

(5) The environmental impact expertise shall

1. evaluate, from a technical perspective, and, if necessary, complement the environmental impact statement submitted for the assessment of the project's effects pursuant to Article 1 (1) as well as other documents provided by the project applicant in accordance with the state of the art and other relevant scientific knowledge in a comprehensive and integrative overall review taking into account the development consent criteria of Article 24h,
2. discuss, in technical terms, the comments submitted pursuant to Article 9 (5), Article 10 and Article 24a; comments of similar substance or on the same topic may be dealt with jointly,
3. propose measures in accordance with Article 1 (1) no. 2,
4. contain descriptions pursuant to Article 1 (1) no. 3 and 4, and
5. include expert statements on the project's expected effects on regional development taking account of public programmes and plans and with regard to the sustainable use of resources.

(6) Additionally, proposals shall also be made on how to secure evidence and on concomitant control.

(7) The environmental impact expertise shall contain a non-technical summary.

(8) The project applicant shall provide the authority and the experts with all the information required to draw up the expertise.

### **Summary assessment of the environmental impact**

**Article 24d.** For projects for which a simplified environmental impact assessment shall be performed in accordance with this section, the competent authority pursuant to Article 24 (1) shall prepare, with due consideration to the development consent criteria of Article 24h, a summary assessment of the environmental impact on the basis of the expertises and documents on the project or its site that have been prepared or submitted within the framework of the environmental impact statement or procedure or that are available to the authority as well as on the basis of the comments submitted. Article 24c (2), (3) and (8) shall apply subject to the proviso that a summary assessment be prepared instead of an environmental impact expertise.

### **Information on the environmental impact expertise or the summary assessment**

**Article 24e.** (1) The environmental impact expertise or the summary assessment shall immediately be forwarded to the project applicant, the co-operating authorities, the host municipality, the ombudsman for the environment and the Federal Minister of Agriculture and Forestry, Environment and Water Management.

(2) The environmental impact expertise (Article 24c) shall forthwith be made available for public inspection at the authority and in the host municipality for a minimum of four weeks. This fact shall be announced in a suitable way. The participating parties may make copies themselves or have them made at their expenses. If necessary, the authority shall make available to the municipality a sufficient number of copies. Article 9 (2) shall apply.

**Article 24f.** *deleted.*

### **Modifications to the project**

**Article 24g.** (1) In a development consent procedure, the project may be modified without requiring a repetition of the steps of the environmental impact assessment performed provided that:

1. the modifications serve to implement results of the environmental impact assessment, or
2. the modifications cannot result in adverse environmental effects.

(2) For modifications to the project other than those covered by paragraph 1,

1. the project documents and the environmental impact statement shall be complemented or amended as appropriate,
2. the authority pursuant to Article 24 (1) shall give the parties entitled to submit comments in accordance with Article 24a (3) and (4) the opportunity to submit their comments on the project modifications and the amended or complemented parts of the environmental impact statement within a period of three weeks; Article 24 (8) and Article 24a (3) and (4) shall apply subject to the proviso that the period for public inspection and the submission of comments shall only be three weeks, and
3. the authority shall subsequently commission the amendment of the environmental impact expertise or of the summary assessment and shall make the environmental impact expertise accessible to the public. Article 24e shall apply subject to the proviso that the period for public inspection shall only be two weeks.

### **Decision and post-project analysis**

**Article 24h.** (1) Development consents (paragraph 6) shall only be granted if, in addition to the applicable administrative provisions, the following requirements are met with regard to effective precautions to protect the environment:

1. Emissions of polluting substances shall be controlled in accordance with the state of the art;
2. The burden on protectable assets due to the concentration of pollutants in the ambient environment shall be kept as low as possible; such exposure shall be prevented at any rate if it—
  - a) constitutes a threat to human health or lives or to the property or other rights *in rem* of neighbours,
  - b) causes a significant burden on the environment by sustained effects, i.e. at any rate, such effects capable of causing permanent harm to soil, air, plant or animal stocks or the status of waters, or
  - c) results in unacceptable nuisances to neighbours under the terms of Article 77 (2) *Gewerbeordnung* 1994.
3. Waste shall be avoided or recycled according to the state of the art or, if this is unreasonable in economic terms, shall be properly disposed.

(2) If, in a specific case of road construction projects (Article 23a and Annex 1 no. 9), the number of neighbours of existing traffic facilities who are permanently relieved by the implementation of the project is considerably higher than the number neighbours affected by the project, the development consent requirements of paragraph 1 no. 2 (c) shall be considered to be met if the disturbance of the neighbours is kept as low as possible at an economically reasonable effort with regard to the achievable purpose. In the case of railroad projects (Article 23b and Annex 1 no. 10 and 11), the acceptability of disturbance under the terms of paragraph 1 no. 2 (c) shall be assessed in accordance with existing regulations on ambient environment quality.

(3) The decision shall take account of the results of the environmental impact assessment (in particular, environmental impact statement, environmental impact expertise or summary assessment, comments, including the comments and the results of the consultations according to Article 10 and, if applicable, the results of a public hearing). The specification of suitable obligations, conditions, deadlines, project modifications, offsetting measures or other requirements (in particular, also with regard to monitoring, measuring and reporting duties and measures to ensure follow-up activities) shall contribute to a high protection level for the environment in its entirety.

(4) The application shall be rejected if the overall assessment shows that, when considering public interests, in particular that of environmental protection, serious environmental pressures are to be expected due to the project and its impact, including, in particular, interactions, cumulative effects or shifts, and cannot be prevented or reduced to a tolerable level by obligations, conditions, deadlines, other requirements, project modifications or offsetting measures.

(5) The development consent may set appropriate time frames for the completion of the project, individual parts thereof or for the exercise of rights. The authority may extend these periods for important reasons if the project applicant requests such an extension before the end of the time frames. In that case, the periods shall be suspended until the decision on the request becomes effective or until the Administrative Court or the Constitutional Court decides on the rejection of the request. Within the framework of an appeals procedure or under the terms of Article 24g, the time limits may be modified *ex officio*.

(6) The competent authority pursuant to Article 24 (1) and the other authorities responsible for granting development consent under the terms of Article 2 (3) shall apply paragraphs 1 to 5, 13 and 14 to the extent that these are relevant for their domain.

(7) The competent authority pursuant to Article 24 (1) shall co-ordinate the development consent procedures with the other competent authorities. In particular, they shall agree on how the results of environmental impact assessment are to be taken into account in the individual development consents and on ensuring continuity with regard to the experts involved throughout the procedure.

(8) **(Constitutional provision)** The persons stipulated in the applicable administrative provisions and the persons affected by the subject of individual procedures pursuant to Article 19 (1) no. 1 shall have *locus standi* in the development consent procedures according to paragraph 6. The persons listed in Article 19 (1) no. 3 to 6 shall have *locus standi* subject to the provisions of Article 19, the right to demand compliance with provisions of environmental protection as a subjective right in the procedure and the right to complain to the Administrative Court; citizens' groups shall also be entitled to complain to the Constitutional Court. Persons according to Article 19 (1) no. 7 shall have *locus standi* subject to the provisions of Article 19, the right to demand compliance with provisions of environmental protection in the procedure and the right to complain to the Administrative Court. If the environmental impact assessment was performed in a simplified procedure, citizens' groups in accordance with Article 19 (4) may participate in the simplified procedure as parties involved with the right to inspect the files. Article 24c (2) and (3) shall apply to the development consent procedures pursuant to paragraph 6 and co-ordination according to paragraph 7.

(9) Upon the request of the project applicant, the authority may initially deal with all matters relevant for evaluating the basic admissibility of the project in the procedure pursuant to Article 24 (1) and (3). In such a case, only the documents required for assessing basic admissibility need to be submitted. The basic development consent shall also identify the areas that shall remain subject to detailed development consents.

(10) In procedures pursuant to Article 24 (1), the basic development consent shall, at any rate, deal with the development consent requirements stipulated for the routing decision in the *Bundesstrassengesetz* 1971 and the *Hochleistungsstreckengesetz*. Coercive rights provided for in administrative law and in paragraph 15 may be exercised after the basic development consent has become effective provided that it adequately considers the results of the environmental impact assessment pursuant to paragraphs 3 and 4 and specifies the subject, scope and necessity of the coercive right.

(11) On the basis of a basic development consent granted, the authority shall decide on the detailed development consents following submission of the required additional documents in a detailed procedure in which the development consent criteria of paragraphs 1 to 5 shall be applied. Article 16 shall not be applied in detailed procedures. Parties having *locus standi* or the right to participate according to paragraph 8 by the detailed project and the co-operating authorities affected by it shall be involved. Projects for which a basic development consent has been granted may be modified in the detailed development consent if the criteria

defined in Article 24g (1) are met and the parties affected by the modification according to paragraph 8 are given the opportunity to protect their interests.

(12) Furthermore, the following provisions shall apply to procedures under Article 24 (1) and (3): Article 18a (Development consent to sections) subject to the proviso that paragraphs 1 to 11, paragraphs 13 and 14 as well as Article 16 shall be applied for granting development consent to each section; Article 23 (Controls and obligations to tolerate).

(13) The development consent order pursuant to paragraph 6 shall be made available for public inspection at the authority issuing the administrative order and the host municipality for a minimum of eight weeks at any rate. They shall contain the reasons for the decision taken as well as information on public participation and a description of the main measures to avoid, reduce and, if possible, offset major adverse effects. The possibility of public inspection shall be announced in a suitable way and, at any rate, also on the Internet.

(14) If official documents according to Article 44f AVG are served by edict, public inspection shall be possible at the competent authority and the host municipality notwithstanding Article 44 (2) AVG.

(15) For the implementation of measures that constitute a prerequisite for the development consent to a project according to the results of the environmental impact assessment, ownership as well as the permanent or temporary granting, restriction and suspension of rights *in rem* and obligatory rights (in particular, usufruct, tenancy and leasehold rights) in real property may be claimed by way of compulsory purchase. However, this shall only apply unless other federal or *Land* laws provide for compulsory purchase for this purpose. The provisions of Articles 18 to 20a *Bundesstrassengesetz* 1971 shall apply to projects under the terms of Article 23a, and the provisions of the *Eisenbahn-Enteignungsentschädigungsgesetz* (Railway Expropriation Compensation Act) shall apply to projects under the terms of Article 23b.

(16) Three years at the earliest and five years at the latest after the opening to traffic, the authority pursuant to Article 24 (1) shall inspect the project together with the co-operating authorities for compliance with the development consent order and to verify whether the assumptions and forecasts of the environmental impact assessment correspond to the actual effects of the project on the environment. The results of the post-project analysis shall be communicated to the co-operating authorities and to the Federal Minister of Agriculture and Forestry, Environment and Water Management.

## SECTION 4

### SPECIAL PROVISIONS ON PROJECTS OF RELEVANCE TO WATER MANAGEMENT

**Article 24i.** With regard to the projects identified in numbers 25 and 30 to 42 of Annex 1, the Federal Minister of Agriculture and Forestry, Environment and Water Management may issue, by way of ordinance, provisions on the criteria relevant to water management that have to be taken into account in the performance of the case-by-case examination (in particular, Articles 12, 12a, 13 and 105 WRG 1959).

**Article 24j.** If detailed provisions on the form of the environmental impact statement are laid down for the projects identified in numbers 25 and 30 to 42 of Annex 1 in accordance with Article 103 (2) WRG 1959, these shall be considered to be an ordinance in accordance with Article 6 (3).

**Article 24k.** (1) In decisions on applications related to a project identified in numbers 25 and 30 to 42 of Annex 1, the authority shall use, in particular, the provisions of Articles 12, 12a, 13 and 105 WRG 1959 as criteria for development consent.

(2) The development consent order shall compile the parts concerning aspects of water management.

(3) The Federal Minister of Agriculture and Forestry, Environment and Water Management may issue, by way of ordinance, detailed provisions on the content and form of administrative approval orders. If detailed provisions on the content and form of administrative approval orders are laid down for the projects identified in

numbers 25 and 30 to 42 of Annex 1 in accordance with Article 111 (5) WRG 1959, these shall be considered to be an ordinance in accordance with the preceding sentence.

**Article 24l.** (1) The holder of the development consent shall collect data related to aspects of water management and the results of pollution monitoring as stipulated by administrative order and performed by him/her, and he/she shall process, if necessary, and provide these data and results in a suitable form to the *Land* government or, after competence transfer in accordance with Article 22, to the *Land* governor. The Federal Minister of Agriculture and Forestry, Environment and Water Management shall define, by way of ordinance, the data to which this applies and the way in which these data shall be processed and forwarded.

(2) The Federal Minister of Agriculture and Forestry, Environment and Water Management may issue, by way of ordinance, details on the type and transfer modes of the data concerning aspects of water management under the terms of Article 59a WRG 1959 that are to be submitted to the *Land* governor by the authority competent for development consent.

## SECTION 5

### ENVIRONMENTAL COUNCIL

#### Establishment and tasks

**Article 25.** (1) An Environmental Council shall be established with the Federal Ministry of Agriculture and Forestry, Environment and Water Management.

(2) The Environmental Council shall have the following tasks:

1. to demand information and reports from the competent bodies on questions related to environmental impact assessment or consolidated development consent procedures performed in accordance with this or other federal acts;
2. to observe the effects of implementing this Federal Act or the provisions on environmental impact assessment contained in other federal acts on environmental protection and to attach the results of these observations to the report submitted by the Federal Minister of Agriculture and Forestry, Environment and Water Management to the National Council in accordance with Article 44;
3. to prepare an opinion to supplement the report submitted by the Federal Minister of Agriculture and Forestry, Environment and Water Management to the National Council in accordance with Article 44;
4. to make proposals on possible improvements of environmental protection to legislative and executive bodies;
5. to discuss issues of fundamental importance to environmental protection upon request by a member of the Environmental Council representing a political party;
6. to issue its rules of procedure.

(3) Upon request by the Environmental Council, the competent federal ministers and *Land* governments shall report to the Council on experiences made in the field of environmental impact assessment and the implementation of this Federal Act in their domain.

(4) The development consents issued on the basis of Section 2 of this Federal Act, as well as the ordinances and development consents issued on the basis of Section 3 of this Federal Act shall be communicated to the Environmental Council.

#### Members of the Environmental Council

**Article 26.** (1) The Environmental Council shall be made up of:

1. Representatives of political parties: four representatives of the strongest party in the Main Committee of the National Council, three representatives of the second-strongest party and one representative each of the other parties represented in the Main Committee of the National Council shall be delegated to the Environmental Council. If the two strongest parties represented in the National Council hold the same number of seats, each of the two parties shall delegate three representatives;

2. One representative each of the Austrian Diet of Chambers of Labour, the Federal Economic Chamber, the Conference of Presidents of the Chambers of Agriculture and of the Austrian Trade Union Federation;
3. Two representatives of *Länder* appointed by the Conference of *Land* Governors;
4. One representative each of the Association of Municipalities and the Association of Cities and Towns;
5. Two representatives of the federal government appointed by the Federal Minister of Agriculture and Forestry, Environment and Water Management and by the Federal Chancellor.

(2) A substitute member shall be appointed for each member.

(3) The following shall not be members of the Environmental Council:

1. Members of the federal government or a *Land* government, nor state secretaries;
2. Members of the Environmental Senate;
3. Persons who are not eligible for membership in the National Council.

(4) Membership in the Environmental Council shall only terminate upon appointment of other representatives by the delegating bodies (paragraph 1).

(5) The activities of members of the Environmental Council shall be performed on a voluntary basis. When taking part in meetings of the Environmental Council, its members domiciled outside of Vienna shall be entitled to a reimbursement of travel expenses (class 5) subject to the provisions applying to federal civil servants of the general administrative service.

### **Chairpersons and management of the Environmental Council**

**Article 27.** (1) The Environmental Council shall elect from its members a chairperson and two vice-chairpersons. Irrespective of any change in membership in accordance with Article 26 (4), the term of office of the chairperson (vice-chairpersons) shall be five years. Re-election is possible.

(2) The meetings of the Environmental Council shall be convened whenever required. Upon request of a member or the Environmental Senate, the chairperson shall convene a meeting that shall take place within four weeks.

(3) The Environmental Council shall have a quorum when more than half of its members are present. Decisions shall be adopted with a simple majority of votes cast. In case of a tie, the chairperson shall have the casting vote. Abstentions shall not be permitted.

(4) The mentioning of minority votes shall be permitted.

(5) The Environmental Council may set up, from among its members, permanent and temporary working groups that may be entrusted with the preparation, review and processing of specific issues. It shall also be entitled to confer to an individual member (rapporteur) the management, preliminary review and processing of specific issues.

(6) Each member of the Environmental Council shall be obliged to participate in the meetings, unless there is a justified reason preventing his/her attendance. If a member is not able to attend a meeting, he/she shall communicate this fact in due time whereupon the substitute member shall be invited.

(7) The Federal Ministry of Agriculture and Forestry, Environment and Water Management shall be responsible for managing the business of the Environmental Council. After hearing the parties, the Federal Minister of Agriculture and Forestry, Environment and Water Management shall make available the required staff to the Environmental Council.

(8) Within the framework of their activities for the Environmental Council, the staff responsible for the management of the Environmental Council shall be bound only by the instructions of the chairperson or the members identified in the rules of procedure.

### Support obligations

**Article 28.** (1) **(Constitutional provision)** All officials of authorities implementing this Federal Act or co-operating in its implementation shall support the Environmental Council in the fulfilment of its tasks, give it access to their files and, upon request, provide required information.

(2) If necessary, the Environmental Council may consult ombudsmen for the environment, experts, members of the Environmental Senate or representatives of environmental protection organisations in connection with the discussion of specific issues.

### Secrecy obligations

**Article 29.** The members of the Environmental Council and persons assisting in the deliberations in accordance with Article 28 (2) shall be obliged to maintain secrecy on all matters that come to their knowledge exclusively in the course of their activities in the Environmental Council if public interests or the interests of a party commend secrecy.

**Articles 30. – 38.** *deleted*

## SECTION 6

### COMMON PROVISIONS

#### Authorities

**Article 39.** (1) The *Land* government shall have competence for the procedures in accordance with Sections 1 and 2. The competence of the *Land* government shall extend to all investigations, decisions and inspections under the relevant administrative provisions according to Article 5 (1) as well as to modifications pursuant to Article 18b. This competence shall also include the implementation of the penal provisions. The *Land* government may entrust the administrative district authority, in full or in part, with the performance of the procedure, including procedures in accordance with Article 45, and authorise the administrative district authority to take decisions on behalf of the *Land* government. This shall not affect any statutory co-operation and hearing rights.

(2) In procedures under Section 2, the competence of the *Land* government shall begin when a decision pursuant to Article 3 (7) becomes effective stipulating that a project has to be submitted to an environmental impact assessment in accordance with this Federal Act or, otherwise, upon the submission of a request for a preliminary procedure in accordance with Article 4 or, if such a request is not submitted, upon the submission of a request in accordance with Article 5. From that point in time on, the competence of other authorities having competence under administrative provisions shall be confined to co-operation in the implementation of this Federal Act in the matters according to paragraph 1. The competence of the *Land* government shall end at the time specified in Article 22.

**Article 40.** (1) In matters pursuant to Section 1 and 2, the Environmental Senate shall be the authority of appeal and the superior authority with substantive jurisdiction in accordance with Articles 5, 68 and 73 AVG, also in the cases where competence has been delegated in accordance with the third sentence of Article 39 (1). The Environmental Senate shall also decide on requests for readmission in accordance with Article 69 AVG.

(2) Parties shall file their appeals within four weeks.

(3) Administrative orders issued in violation of the provisions of Article 3 (6) shall be declared null and void by the superior authority having substantive jurisdiction or, if such an authority is not provided for, by the authority which issued the administrative order.

### Responsibilities in the domain of municipalities

**Article 41.** The tasks of the municipalities defined in Article 9 (1) and (2), Article 13 (2) Article 17 (7) and Article 24 (4) shall be fulfilled in the delegated domain and any other tasks defined in this Federal Act in the own domain of the municipalities.

### Applicability of the General Administrative Proceedings Act

**Article 42.** (1) Unless this Federal Act contains special provisions on the administrative procedure, AVG 1991 shall be applied in the implementation of this Federal Act.

(2) To the extent that this Federal Act and its annexes refer to provisions contained in other federal acts, these shall apply as amended.

(3) Contrary to Article 3 (2) *Gebührengesetz* (Public Charges Act), charges may also be paid by bank transfer.

### EIA documentation

**Article 43.** (1) The Federal Minister of Agriculture and Forestry, Environment and Water Management shall establish an EIA documentation which shall cover the environmental impact assessments performed in accordance with this Federal Act or other federal acts. For this purpose, the Federal Minister of Agriculture and Forestry, Environment and Water Management may use the services of Umweltbundesamt GmbH (Federal Environment Agency). The documentation shall include, in particular, the declaratory decisions (Articles 3 (7) and 24 (3)), the applicant's environmental impact statement, the most important results of the environmental impact expertise or of the summary assessment, the essential content and reasons of the decision(s) as well as the results of post-project analysis. The competent authorities shall provide these documents to the Federal Minister of Agriculture and Forestry, Environment and Water Management.

(2) The Federal Minister of Agriculture and Forestry, Environment and Water Management and Umweltbundesamt GmbH may compile the data in accordance with paragraph 1 and electronically process them. Person-related data subject to privacy may only be communicated to—

1. federal or *Land* services if the data constitute an essential prerequisite for the recipient of the data in connection with the implementation of this Federal Act or other federal or *Land* legislation for the protection of human life or health or of the environment,
2. the competent authorities of foreign states if this is necessary to prevent a specific danger to human life or health or to the environment or if bilateral agreements so provide.

### Reports to the National Council

**Article 44.** The Federal Minister of Agriculture and Forestry, Environment and Water Management shall report to the National Council every three years and for the first time in 1998 on the implementation of this Federal Act and environmental impact assessments performed in accordance with other federal acts, notwithstanding relevant information included in the *Gewässerschutzbericht* (Report on the protection of waters) in accordance with Article 33e WRG 1959.

### Penal provisions

**Article 45.** Unless an act constitutes a criminal offence, for which the courts have jurisdiction, persons commit an administrative offence punishable by the authority with a fine—

1. of up to €30,000 if they implement or operate a project subject to EIA (Articles 3, 3a, 23a and 23b) without the development consent required by this Federal Act (Article 17 and Article 24 (1));
2. of up to €15,000
  - a) if they do not comply with ancillary provisions (obligations and other requirements) in accordance with Article 17 (2) to (4) and (6) or Article 20 (4),
  - b) if they do not fulfil the notification duty in accordance with Article 20 (1),

- c) if, in violation of Article 23 (1) and (2), they do not allow, or obstruct investigations, controls or the taking of samples, do not provide information or do not make available documents requested.

### **Entry into force, termination, transitional provisions**

**Article 46.** (1) Unless provided otherwise in the following, this Federal Act shall enter into force on 1 July 1994.

(2) The provisions on the Environmental Senate contained in Articles 38 (3) and 40 shall cease to be effective on 31 December 2000. Cases pending with the Environmental Senate on 31 December 2000 shall be continued by the Environmental Senate.

(3) Section 2 shall not apply to projects for which a development consent procedure required under administrative provisions was initiated before 31 December 1994 unless the project applicant requests that the environmental impact assessment and the consolidated development consent procedure be performed for development consents initiated after 30 June 1994, but for which administrative orders have not yet been issued. In that case too, any valid approvals shall remain unaffected.

(4) The provisions of Section 3 shall not apply to projects for which the hearing procedure required by the *Bundesstrassengesetz* or the *Hochleistungsstreckengesetz* was initiated before 30 June 1994; in these cases, the last sentence of Article 24 (3) shall be considered to have been complied with and shall apply to the subsequent, non-consolidated development consent procedures by way of analogy.

(5) The provisions of Section 5 shall not apply to projects for which the lead procedure specified in Annex 2, or in case of Article 30 (2) the hearing procedure in accordance with Article 4 *Bundesstrassengesetz* 1971, or in case of Article 30 (2) the hearing procedure in accordance with Article 4 *Hochleistungsstreckengesetz* was initiated before 30 June 1994.

(6) Ordinances based on this Federal Act may be issued from the day following its announcement on; they shall enter into force at the date indicated in paragraph 1 at the earliest.

(7) Articles 17 (2a), 24, 30, 35 (1) and 47 (2) and (3) as given in BGBl. No. 773/1996 shall enter into force on 1 January 1997.

(8) Articles 1, 2 (1), (2), (3) and (5), Article 3, Article 3a, Articles 4 to 10, Article 12, Article 12a, Article 13, Articles 16 to 18a, Articles 19 to 23b, Article 24 (1) to (10), Articles 24a to 24l, Article 25 (1) and (2), Article 26 (1), Article 27 (7) and (8), Articles 39 to 45, Article 46 (8) to (11) and Article 47 (1), (2) and (4), as well as Annexes 1 and 2 as given in BGBl. I No. 89/2000 shall enter into force on the day following the publication of the Federal Act in the Federal Law Gazette; Articles 8, 11, 14, 15 and Articles 30 to 38 as well as Annexes 1 and 2 as given in BGBl. No. 773/1996 shall cease to be effective on that day.

(9) This Federal Act shall not apply to projects that were not covered by Section 2 or 3 of this Federal Act as given in BGBl. No. 773/1996 before the date specified in paragraph 8 and for which a development consent procedure required by administrative provisions or a routing ordinance procedure was initiated before the date specified in paragraph 8 if the provisions of Directive 85/337/EEC as amended by Directive 97/11/EC are directly applied in the procedure or if the performance of an environmental impact assessment was not required by Community legislation. Upon request by the project applicant, these procedures may be continued in accordance with the provisions of this Federal Act from the date specified in paragraph 8 on.

(10) The competence transfer for projects for which an administrative acceptance order was issued before the date specified in paragraph 8 shall be governed by Article 20 (3) of this Federal Act as given in BGBl. No. 773/96.

(11) Until the completion of pending procedures, the provisions of Articles 30 to 38 shall be applied to projects for which a development consent procedure in accordance with Section 5 of this Federal Act as given in BGBl. No. 773/1996 was initiated before the date specified in paragraph 8 and that do not fall under the scope of this Federal Act as amended by BGBl. I No. 89/2000.

(12) Article 45 no. 1 and 2 as given in BGBl. I No. 108/2001 shall enter into force on 1 January 2002.

(13) Article 24 (1) as given in BGBl. I No. 151/2001 shall enter into force on 1 January 2002.

(14) Articles 23a and 24h (7) as given in BGBl. I No. 50/2002 shall enter into force on 1 April 2002.

(15) Neither an environmental impact assessment nor a consolidated development consent procedure shall be performed in accordance with the present Federal Act for projects that are transferred to the competence of the *Länder* under Article 5 *Bundesgesetz über die Auflassung und Übertragung von Bundesstrassen* (Federal Act on the Conveyance and Transfer of Federal Roads), BGBl. I No. 50/2002, and that are covered by an ordinance pursuant to Article 4 *Bundesstrassengesetz* 1971 issued already before 15 February 2002. Article 24h (5) shall apply *mutatis mutandis* to any development consent under the terms of Article 2 (3) that has not yet become effective. Unless the results of an environmental impact assessment already performed in accordance with the Articles 24a to 24f of the present Federal Act are input under Article 24h (5) into a development consent under the terms of Article 2 (3), the requirements resulting from the ordinance issued pursuant to Article 4 *Bundesstrassengesetz* 1971 shall be complied with. The first and second sentences of Article 24h (6) shall apply *mutatis mutandis*, and the provisions of Articles 18 to 20a *Bundesstrassengesetz* 1971 shall be complied with. An acceptance inspection according to Article 20 shall not be performed; Article 24h (7) shall be applied to post-project analysis *mutatis mutandis*.

(16) For other projects that are transferred to the competence of the *Länder* under Article 5 *Bundesgesetz über die Auflassung und Übertragung von Bundesstrassen*, BGBl. I No. 50/2002, and for which an environmental impact assessment has been carried out in accordance with Articles 24a to 24f of the present Federal Act, neither a new environmental impact assessment nor a consolidated development consent procedure shall be performed if it is ensured that the results of the environmental impact assessment are taken into account in a development consent order granted under road legislation or a routing ordinance issued under road construction legislation and if legal protection is granted against this legal act to an extent that is equivalent to the one provided under Article 24 (11). Article 24h (5) shall apply *mutatis mutandis* to development consents under the terms of Article 2 (3) that have not yet become effective. Unless the results of the environmental impact assessment are input under Article 24h (5) into a development consent under the terms of Article 2 (3), the requirements resulting from a routing ordinance issued under road legislation shall be complied with. The first and second sentences of Article 24h (6) shall apply *mutatis mutandis*, and the provisions of Articles 18 to 20a *Bundesstrassengesetz* 1971 shall be complied with. An acceptance inspection according to Article 20 shall not be performed; Article 24h (7) shall be applied to post-project analysis *mutatis mutandis*.

(17) A new case-by-case examination shall not be performed for projects that are transferred to the competence of the *Länder* under Article 5 *Bundesgesetz über die Auflassung und Übertragung von Bundesstrassen*, BGBl. I No. 50/2002, and to which the Federal Minister of Transport, Innovation and Technology has applied Article 24 (3). The provisions of Article 3 (7) on the declaratory procedure shall not be applied.

(18) The following shall apply to the entry into force of non-constitutional provisions amended or introduced by the Federal Act promulgated in BGBl. I No. 153/2004, to the termination of non-constitutional provisions repealed by this Federal Act and to the transition to the new regulatory framework:

1. Article 1 (2), Article 2 (3), Article 3 (4), (5) and (7), Article 3a, Article 5 (1), Article 7 (1), Article 9 (3) to (5), Article 10, Article 12 (4), Article 17, Article 18, Article 18a, Article 18b, Article 19 (1), (3), (4), (6) and (8) to (10), Article 20 (2), Article 22, Articles 23a to 24h, Article 24i to 24l, Article 39, Article 41, Article 45 and Article 47 as well as the introduction of Annex 1 and numbers 1, 2, 9 to 15, 17 to 19, 21, 24 to 26, 43, 61, 63, 64, 79, 80, 82 of Annex 1, including footnotes 1a, 2, 3, 3a, 4, 4a and 15 and Annex 2 shall enter into force on 1 January 2005.
2. Upon the entry into force of the provisions listed in number 1, Article 24f, number 38 of Annex 1 as well as the footnotes 6, 11 and 21 of Annex 1 of this Federal Act as given in BGBl. I No. 89/2000, BGBl. I No. 151/2001 and BGBl. I No. 50/2002 shall be repealed.
- 2a. The last sentence of Article 19 (10) shall be terminated for projects subject to simplified procedures on 1 June 2006. Procedures pending at that time shall be completed on the basis of the regulatory framework in force on 31 May 2006.
3. Article 3a (1) no. 1 as given in the Federal Act promulgated in BGBl. I No. 153/2004 shall not apply to projects for which an effective administrative order pursuant to Article 3 (7) exists on 31 May 2005 and for which a procedure according to Article 5 has been initiated or, if it was stated that a procedure under the EIA Act 2000 was not required, a procedure has been initiated in accordance with the applicable sectoral legislation. Article 19 (1) no. 7 as well as paragraphs 10 and 11 as given in the Federal Act promulgated in BGBl. I No. 153/2004 shall apply to projects for which the procedure pursuant to Article 5 or Article 24a is initiated after 31 May 2005.

4. This Federal Act shall not apply to projects listed in numbers 9 to 12, 14, 15, 17 to 19, 25, 26, 63, 64, 79 and 80 of Annex 1 that fall under the scope of this Federal Act for the first time and for which a development consent procedure required under administrative legislation is initiated by 31 December 2004, unless the project applicant submits a request to the *Land* government on the performance of an environmental impact assessment and a consolidated development consent procedure or a case-by-case examination.
5. Section 3 as given in the Federal Act promulgated in BGBl. I No. 153/2004 shall not apply to the following projects:
  - a) federal roads and high-speed railroads for which the announcement pursuant to Article 9 (3) is made by 31 December 2004;
  - b) federal roads and high-speed railroads that fall under the scope of this Federal Act for the first time and for which the hearing procedure required by the *Bundesstrassengesetz* 1971 or the *Hochleistungsstreckengesetz* or a development consent procedure required under administrative legislation is initiated by 31 December 2004, unless the project applicant requests that an environmental impact assessment or a case-by-case examination be performed;
  - c) federal roads for which the preliminary procedure pursuant to Article 4 is initiated by 31 December 2004 and the announcement pursuant to Article 9 (3) is made by 31 May 2005, unless the project applicant requests that Section 3 as given in the Federal Act promulgated in BGBl. I No. 153/2004 be applied.

(19) **(Constitutional provision)** The following shall apply to the entry into force of constitutional provisions amended or introduced by the Federal Act promulgated in BGBl. I No. 153/2004, to the termination of constitutional provisions repealed by this Federal Act and to the transition to the new regulatory framework:

1. Paragraph 19 (7) as given in the Federal Act promulgated in BGBl. I No. 153/2004 shall enter into force on 1 January 2005.
2. Article 24 (11) and Article 47 (3) of this Federal Act as given in BGBl. I No. 773/1996 shall be repealed on 1 January 2005, but under the terms of number 3 and paragraph 18 no. 5 shall continue to be applied to the projects specified therein.
3. Section 3 as given in the Federal Act promulgated in BGBl. I No. 153/2004 shall not apply to the following projects:
  - a) federal roads for which a declaratory procedure pursuant to Article 24 (5) is initiated by 31 December 2004; however, if the announcement pursuant to Article 9 (3) is only made after 31 May 2005, the provision of Article 24h (8) as given in the Federal Act promulgated in BGBl. I No. 153/2004 shall apply to the parties having *locus standi* and the right to participate in the procedures for granting development consent under the terms of Article 2 (3);
  - b) high-speed railroads for which the preliminary procedure pursuant to Article 4 is initiated by 31 December 2004, unless the project applicant requests that Section 3 as given in the Federal Act promulgated in BGBl. I No. 153/2004 be applied; if the announcement pursuant to Article 9 (3) is only made after 31 May 2005, the provision of Article 24h (8) as given in the Federal Act promulgated in BGBl. I No. 153/2004 shall apply to the parties having *locus standi* and the right to participate in the procedures for granting development consent under the terms of Article 2 (3).
4. With regard to projects pursuant to number 3 for which the hearing procedure is initiated by announcement according to Article 9 (3) after 31 May 2005, the Constitutional Court shall decide on the unlawfulness of routing ordinances upon an application filed within six weeks of the ordinance's promulgation by the persons identified in Article 19(1) no.3 to 7 as given in the Federal Act promulgated in BGBl. I No. 153/2004.

### **Implementation**

**Article 47.** (1) To the extent that the federal level is responsible for implementing this Federal Act and unless paragraphs 2 to 4 do not provide otherwise, the Federal Minister of Agriculture and Forestry, Environment and Water Management shall have that responsibility; in all other instances the *Land* governments shall be responsible.

(2) The implementation of Articles 23a to 24h and of the provisions of Article 45 related to these articles shall be the responsibility of the Federal Minister of Transport, Technology and Innovation or, to the extent that development consent procedures are to be performed by other authorities, the federal ministers in charge of the implementation of the applicable administrative regulations.

(3) To the extent that the federal level is responsible for implementing Articles 21, 22 and 23, the federal ministers having competence for these administrative provisions shall have that responsibility.

(4) The Federal Minister of Agriculture and Forestry, Environment and Water Management shall be responsible for implementing Article 19 (7) and for issuing administrative orders under paragraph 9 in agreement with the Federal Minister for Economic Affairs and Labour.

**ANNEX 1**

This Annex contains the projects subject to an EIA according to Article 3.

Columns 1 and 2 list those projects that shall be subject to an EIA at any rate and shall be covered by an EIA procedure (Column 1) or a simplified procedure (Column 2). For the modification criteria identified in Annex 1, a case-by-case examination shall be performed if the threshold value is exceeded; otherwise Article 3a (2) and (3) shall apply unless only new installations, constructions or developments are explicitly covered.

Column 3 contains those projects that shall only be subject to an EIA if specific criteria are met. A case-by-case examination shall be performed for them above the minimum thresholds indicated. If the results of the case-by-case examination state that an EIA shall be performed, the simplified procedure shall be applied.

The categories of protected areas referred to in Column 3 are defined in Annex 2. However, areas falling under Category A, C, D or E shall only be taken into consideration for assessing the need for performing an EIA on a project if they have already been designated on the day when the application is submitted.

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
	<b>Waste management</b>		
No. 1	<ul style="list-style-type: none"> <li>a) Landfills for hazardous waste; the calculation basis (Art. 3a (3)) for modifications shall be the total volume approved by administrative order;</li> <li>b) Installations for the biological, physical or mechanical-biological treatment of hazardous waste with a capacity of 20,000 tonnes/year or more;</li> <li>c) Other installations for the treatment (thermal, chemical) of hazardous waste, excluding installations exclusively used for material recycling.</li> </ul>		
No. 2	<ul style="list-style-type: none"> <li>a) Mass-waste landfills or residual material landfills with a total volume of 500,000 m<sup>3</sup> or more;</li> <li>b) Underground storage for non-hazardous waste with a total volume of 500,000 m<sup>3</sup> or more;</li> <li>c) Other installations for the treatment (thermal, chemical, physical, biological, mechanical-biological) of non-hazardous waste with a capacity of 35,000 tonnes / year or 100 tonnes / day or more, excluding installations exclusively used for material recycling or mechanical sorting;</li> </ul>	<ul style="list-style-type: none"> <li>d) Demolition waste landfills with a total volume of 1,000,000 m<sup>3</sup> or more;</li> <li>e) Installations for the treatment of demolition waste with a capacity of 200,000 tonnes/year or more.</li> </ul>	

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
No. 3		a) Installations for storage of scrap motorised vehicles, including installations for dismantling, with a total storage capacity of 10,000 tonnes or more; b) Installations for storage of scrap iron with a total storage capacity of 30,000 tonnes or more;	c) Installations for storage of scrap motorised vehicles, including installations for dismantling, with a total storage capacity of 5,000 tonnes or more in protected areas of Category C.
<b>Energy industries</b>			
No. 4	a) Thermal power stations or other combustion installations with a rated thermal input of 200 MW or more;		b) Thermal power stations or other combustion installations with a rated thermal input of 100 MW or more in protected areas of Category D.
No. 5	Nuclear power stations and other nuclear reactors unless they are prohibited under the <i>Atomsperrgesetz</i> (Nuclear Ban Act, BGBl. No. 676/1978), including the dismantling or decommissioning of such power stations or reactors, except reactors at research institutions for the production and conversion of fissionable and fertile material, whose maximum power does not exceed 1 kW continuous thermal load.		
No. 6		a) Installations for the harnessing of wind power with a total electricity output of 20 MW or more, or with at least 20 converters;	b) Installations for the harnessing of wind power with a total electricity output of 10 MW or more, or with at least 10 converters in protected areas of Category A.
<b>Handling of radioactive material</b>			
No. 7	a) Installations for the production or enrichment of nuclear fuels or for the reprocessing or disposal of irradiated nuclear fuels; b) Installations for the processing or permanent storage of high-level radioactive waste; c) Installations for the permanent storage of low- and medium-level radioactive waste; d) Installations solely designed for the storage, planned for more than 10 years, of irradiated nuclear fuels or radioactive waste at a different site than the production site (except storage of waste of radioactive material of natural origin, e.g. granite).		
No. 7	The calculation basis (Art. 3a (2)) for modifications of installations according to (a) to (d) shall be the total production or storage capacity approved by administrative order.		

	EIA	Simplified EIA procedure	
	Column 1	Column 2	Column 3
No. 8		Construction of particle accelerators of 50 MeV or more.	
<b>Infrastructure projects</b>			
No. 9	<p>a) Construction of new express roads<sup>1</sup> or their subsections, excluding additional interchanges; the widening from two to four or more lanes over a continuous length of 10 km or more shall also be considered the construction of a new road;</p> <p>b) Construction of other new roads or their subsections over a continuous length of 10 km or more, if the new road is expected to reach an average daily traffic volume of 2,000 motorised vehicles within a forecasting period of five years; the widening from two to four or more lanes shall also be considered the construction of a new road;</p> <p>c) Construction of a new second carriageway over a continuous length of 10 km or more;</p>	<p>d) Construction of additional interchanges for express roads<sup>1</sup>) if an average daily traffic volume of at least 8,000 motorised vehicles is expected to be reached on all ramps taken together within a forecasting period of five years;</p> <p>e) Construction of other new roads or their subsections over a continuous length of 5 km or more, if the new road is expected to reach an average daily traffic volume of 15,000 motorised vehicles within a forecasting period of five years;</p> <p>f) Projects under (a), (b), (c) or (e) if the length criterion defined therein is only met in combination with directly adjacent subsections that have not yet been opened or were opened to traffic within the past 10 years;</p>	<p>g) Any other extension measures for express roads<sup>1</sup>), or construction of other new roads or their subsections, if they border on a protected area of Category A or C and if an average daily traffic volume of 2,000 motorised vehicles is expected to be reached within a forecasting period of five years;</p> <p>h) Any other extension measures for express roads<sup>1</sup>), or construction of other new roads or their subsections over a continuous length of 500 m or more, if they border on a protected area of Category B or D and if an average daily traffic volume of 2,000 motorised vehicles is expected to be reached within a forecasting period of five years;</p> <p>i) Construction of other new roads or their subsections, if they border on a protected area of Category E and if an average daily traffic volume of 15,000 motorised vehicles is expected to be reached within a forecasting period of five years.</p> <p>The widening from two to four or more lanes shall also be considered the construction of a new road under the terms of (g) to (i); excepted from (g) to (i) are cases in which protected areas are only bordered on by protective structures for eliminating danger zones or in which existing roads are moved due to disasters, the elimination of level railway crossings or due to the construction of new bridges. Article 3a (5) shall not apply to (g) and (h). No. 9 does not cover federal roads (Art. 23a).</p>

<sup>1</sup> Express roads according to the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975.

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
No. 10	<p>a) Construction of new lines for long-distance railway traffic or their subsections;</p> <p>b) Construction of other new railway lines or their subsections over a continuous length of 10 km or more;</p> <p>c) Modification of railway lines or their subsections over a continuous length of 10 km or more, if the distance between the middle of the outermost track of the modified route and the middle of the outermost track of the existing route exceeds 100 m;</p>	<p>d) Projects under (b) and (c) if the length criterion defined therein is only met in combination with directly adjacent subsections that have not yet been opened or were opened to traffic within the past 10 years and the authority determines on a case-by-case basis that significant harmful, disturbing or adverse effects on the environment are to be expected due to the cumulation of the subsections' effects in a specific case and, therefore, the project shall be submitted to an environmental impact assessment;</p>	<p>e) Construction of new railway lines or their subsections, if they border on a protected area of Category A, B, C or E;</p> <p>f) Modification of railway lines or their subsections, if the distance between the middle of the outermost track of the modified route and the middle of the outermost track of the existing route exceeds 100 m and if they border on a protected area of Category A, B, C or E according to Annex 2;</p> <p>g) Modification of railway lines by the addition of a track over a continuous length of 2.5 km or more if they border on a protected area of Category A, B or C;</p> <p>h) Modification of railway lines or their subsections having a traffic volume of 60,000 trains/year (before or after the capacity increase) raising the train capacity by 25% or more if they border on a protected area of Category E.</p> <p>(E) to (h) shall not include tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport inside continuous settlement areas as well as railway sidings; likewise, cases are excepted in which protected areas are only bordered on by protective structures for eliminating danger zones or in which lines are moved due to disasters.</p> <p>Article 3a (5) shall not apply to (c), (f), (g) and (h). No. 10 does not cover high-speed railway lines (Art. 23b).</p>
No. 11	<p>a) Marshalling yards with an area of 75 ha or more;</p> <p>b) Freight railway stations, freight terminals or freight distribution centres with an area of 50 ha or more;</p>		<p>c) Marshalling yards with an area of 30 ha or more in protected areas of Category A or C;</p> <p>d) Freight railway stations, freight terminals or freight distribution centres with an area of 25 ha or more in protected areas of Category A or C.</p>

	EIA	Simplified EIA procedure	
	Column 1	Column 2	Column 3
No. 12	<p>a) Development of new glacier skiing areas or modification (expansion) of existing ones if this entails land use for new pistes or cableway lines;</p> <p>b) Development of new skiing areas<sup>1a</sup>) or modification (expansion) of existing ones by the construction of cableway installations for passenger transport or ski-tows or the establishment of pistes, if the area used for terrain modifications due to new pistes or cableway lines amounts to 20 ha or more;</p>		<p>c) Development of new skiing areas<sup>1a</sup>) or modification (expansion) of existing ones by the construction of cableway installations for passenger transport or ski-tows or the establishment of pistes in protected areas of Category A, if the area used for new pistes or cableway lines amount to 10 ha or more.</p> <p>Article 3 (2) and Article 3a (6) shall apply to number 12 subject to the proviso that the authority shall examine on a case-by-case basis whether significant harmful, disturbing or adverse effects on the environment are to be expected due to a cumulation of effects and whether, as a result, an environmental impact assessment shall be performed for the modification planned, if the project submitted or the modification requested entails that the area used for new pistes or cableway lines amount to 5 ha or more and this project is spatially related to one or more other such projects.</p>
No. 13	<p>a) Pipelines for the transport of oil, petroleum products, chemical substances or gas with an inside diameter of 800 mm or more and a length of 40 km or more;</p>		<p>b) Pipelines for the transport of oil, petroleum products, chemical substances or gas with an inside diameter of 500 mm or more and a length of 25 km or more in protected areas of Category A or C.</p> <p>The calculation basis (Art. 3a (2) and (3)) for modifications of installations according to (a) and (b) shall be the pipeline length.</p>

<sup>1a</sup> A skiing area comprises an area of separate or connected cableway installations and related groomed or marked pistes in which it is essentially possible to continuously travel with winter sports equipment and that is provided with the basic infrastructure required (e.g. transport infrastructure, catering facilities, accommodation, water supply and sewerage, etc.).

The skiing area is delimited either

a) morphologically by valley areas: valley areas are self-contained landscapes delimitable by characteristic natural terrain lines and forms (e.g. ridges, crests, etc.) that constitute a topographical unit. If a clear delimitation by characteristic natural terrain lines and forms is not possible, a skiing area may also comprise several valley areas;

or

b) by the catchment areas of running waters or parts thereof: this catchment area shall be taken into account up to the valley's existing collector sewer.

EIA		Simplified EIA procedure	
	Column 1	Column 2	Column 3
No. 14	<p>a) Construction of new airports, excluding glider airfields and heliports that mainly serve for rescue missions, missions of the police administration, the performance of tasks of national defence or traffic monitoring using helicopters;</p> <p>b) Construction of new runways with a length of 2,100 m or more;</p> <p>c) Modification of airports by the construction of new runways or the extension of existing ones, if the total runway length increases by 25% or more due to the new or extended runway;</p> <p>d) Modification of airports, if this is expected to increase the number of flight movements (motor aircrafts, power gliders in powered flight or helicopters) by 20,000 or more per year within a forecasting period of five years;</p>		<p>e) Construction of new runways with a length of 1,050 m or more in protected areas of Category A, D or E;</p> <p>f) Modification of airports by the construction of new runways or the extension of existing ones in protected areas of Category A, D or E, if the total runway length increases by 12.5% or more due to the new or extended runway;</p> <p>g) Modification of airports in protected areas of Category A, D or E, if this is expected to increase the number of flight movements (motor aircrafts, power gliders in powered flight or helicopters) by 12.5% or more per year within a forecasting period of five years.</p> <p>The provisions of (b) to (g) shall not apply to the construction and extension of runways nor to other aviation-related modifications of airports that are mainly used for the purpose of military aviation. The provisions of (c) and (f) shall also exclude projects designed exclusively for raising air traffic safety.</p>
No. 15	<p>a) Construction of new ports, coal or petroleum ports which permit the passage of vessels of over 1,350 tonnes;</p> <p>b) Modification of ports by extending the water surface or deepening by 25% or more;</p> <p>c) Construction of new inland waterways which permit the passage of vessels of over 1,350 tonnes;</p>		<p>d) Construction of new ports, coal or petroleum ports in protected areas of Category A or C;</p> <p>e) Modification of ports in protected areas of Category A or C by extending the water surface or by deepening by 12.5% or more;</p> <p>f) Construction of new inland waterways in protected areas of Category A or C.</p>
No. 16	<p>a) High-voltage power lines with a nominal voltage of 220 kV or more and a length of 15 km or more;</p>		<p>b) High-voltage power lines with a nominal voltage of 110 kV or more and a length of 20 km or more in protected areas of Category A or B;</p> <p>The calculation basis (Art. 3a (2) and (3)) for modifications of installations according to (a) and (b) shall be the line length.</p>

	EIA	Simplified EIA procedure	
	Column 1	Column 2	Column 3
No. 17		a) Amusement parks or fun fairs <sup>2)</sup> , sports stadiums or golf courses with an area of 10 ha or more or a car park for 1,500 motorised vehicles or more;	b) Amusement parks or fun fairs <sup>2)</sup> , sports stadiums or golf courses with an area of 5 ha or more or a car park for 750 motorised vehicles or more in protected areas of Category A or D; c) Projects pursuant to (a) and (b) as well as facilities related thereto that are built, modified or expanded for large-scale events (e.g. Olympic Games, world or European championships, Formula 1 races) on the basis of agreements with international organisations, after the performance of a case-by-case examination according to Article 3 (4a);  If the special requirements of (c) are fulfilled, (a) and (b) shall not apply. Article 3a (5) shall apply to (a) and (b) subject to the proviso that the modification applied for need not amount to a capacity increase by 25% of the threshold value.
No. 18		a) Industrial or business parks <sup>3)</sup> with an area of 50 ha or more. b) Urban development projects <sup>3a)</sup> with a floor space of 100,000 m <sup>2</sup> or more;	c) Industrial or business parks <sup>3)</sup> with an area of 25 ha or more in protected areas of Category A or D.
No. 19		a) Shopping centres <sup>4)</sup> with an area of 10 ha or more or a car park for 1,000 motorised vehicles or more;	b) Shopping centres <sup>4)</sup> with an area of 5 ha or more or a car park for 500 motorised vehicles or more in protected areas of Category A or D.  Article 3a (5) shall apply to (a) and (b) subject to the proviso that the modification applied for need not amount to a capacity increase by 25% of the threshold value.
No. 20		a) Tourist accommodation, such as hotels or holiday villages, including ancillary facilities, with 500 beds or more or an area of 5 ha or more outside continuous settlement areas;	b) Tourist accommodation, such as hotels or holiday villages, including ancillary facilities, with 250 beds or more or an area of 2.5 ha or more outside continuous settlement areas in protected areas of Category A or B.

<sup>2</sup> Amusement parks or fun fairs are permanent facilities for the entertainment of a high number of visitors, irrespective of the fact whether they are made up of various stands, booths and games (classic fun fairs with merry-go-rounds, roller-coasters, shooting galleries, etc.) or cover a specific theme. They also cover, in particular, multifunctional compounds serving comprehensive demands for leisure activities that include sports, catering and other service facilities and constitute a functional unit. The calculation of the land covered shall be based on the total area functionally related to the project, in particular the roofed area and the area of outdoor or indoor car parks.

<sup>3</sup> Industrial or business parks are areas that are developed by a builder or operator and are provided with the required infrastructure for the joint industrial or business utilisation by several companies, that are characterised by spatial proximity and form an operational or functional unit.

<sup>3a</sup> Urban development projects relate to residential or office/business buildings, including the related infrastructure facilities, such as shopping centres, establishments of local supply, kindergartens, schools, event areas, hotels and restaurants, parking lots and the like.

<sup>4</sup> Shopping centres are buildings and compounds with sales and display rooms of commercial and industrial companies as well as related service and leisure facilities that are characterised by spatial proximity and form an operational or functional unit. The calculation of the land covered shall be based on the total area functionally related to the project, in particular the roofed area and the area of indoor or outdoor car parks.

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
No. 21		a) Outdoor or indoor car parks <sup>4a)</sup> accessible to the public for 1,500 motorised vehicles or more;	b) Outdoor or indoor car parks <sup>4a)</sup> accessible to the public for 750 motorised vehicles or more in protected areas of Category A, B or D.
No. 22		a) Marinas (including buoy fields) with 300 or more berths for recreational crafts;	b) Marinas (including buoy fields) with 150 or more berths for recreational crafts in protected areas of Category A.
No. 23		a) Camp sites with 500 lots or more outside continuous settlement areas;	b) Camp sites with 250 lots or more outside continuous settlement areas in protected areas of Category A.
No. 24		a) Permanent race or test tracks for motorised vehicles with a length of 2 km or more;	b) Permanent race or test tracks for motorised vehicles in protected areas of Category A; c) The re-establishment, expansion or adaptation of race tracks pursuant to (a) and (b) that have or had existed for 20 years or more as well as of test tracks pursuant to (a) and (b) for the purpose of drivability and safety quality testing performed by car manufacturers that cover statutory mandatory safety checks (proper functioning of the steering system, brakes, etc.) forming an integral part of the production cycle, after the performance of a case-by-case examination according to Article 3 (4a);  If the special requirements of (c) are fulfilled, (a) and (b) shall not apply.
<b>Extractive industry</b>			
No. 25	a) Extraction of mineral raw material in open-cast mining (loose material—excavation or dredging, consolidated rock in open-pit mines hidden from view with slide, pipe conveyors or another materials-handling system with equivalent environmental impact) or peat extraction, where the surface of the site <sup>5)</sup> is 20 ha or more;		c) Extraction of mineral raw material in open-cast mining (loose material—excavation or dredging, consolidated rock in open-pit mines hidden from view with slide, pipe conveyors or another materials-handling system with equivalent environmental impact) or peat extraction in protected areas of Category A or E or for dredging and peat extraction also Category C, where the surface of the site <sup>5)</sup> is 10 ha or more;

<sup>4a)</sup> Outdoor or indoor car parks accessible to the public are those exclusively established for parking purposes (e.g. multi-storey car parks, park-and-rides) or in combination with other projects (car parks for the customers of a shopping centre, visitors of amusement parks, etc.) and that are open to the public without any further access restriction (including, for example, cases in which a fee has to be paid or lots are rented out permanently to anybody). However, car parks that are only accessible to a pre-defined user group (e.g. suppliers or employees of a company, i.e. there has to be an access restriction preventing the general public from using the car park) are not deemed car parks accessible to the public.

<sup>5)</sup> The calculation of the surface for the extraction of mineral raw material in open-cast mining shall be based on the development and mining zones to be identified in the site plans according to Article 80 (2) no. 8 or 113 (2) no. 1 *Mineralrohstoffgesetz* (Mining Act, BGBl. I No. 38/1999).

<sup>6)</sup> deleted.

EIA		Simplified EIA procedure	
	Column 1	Column 2	Column 3
No. 25	b) Expansion of the extraction of mineral raw materials in open cast mining (loose material—excavation or dredging, consolidated rock in open-pit mines hidden from view with slide, pipe conveyors or another materials-handling system with equivalent environmental impact) or peat extraction, where the surface of the site <sup>5)</sup> of the extractions existing or approved within the past ten years and the expansion applied for amounts to 20 ha or more and the additional area <sup>5)</sup> amounts to 5 ha or more;		d) Expansion of the extraction of mineral raw materials in open cast mining (loose material—excavation or dredging, consolidated rock in open-pit mines hidden from view with slide, pipe conveyors or another materials-handling system with equivalent environmental impact) or peat extraction in protected areas of Category A or E or for dredging and peat extraction also Category C, where the surface of the site <sup>5)</sup> of the extractions existing or approved within the past ten years and the expansion applied for amounts to 10 ha or more and the additional area <sup>5)</sup> amounts to 2,5 ha or more.  No. 25 shall not include the activities covered by No. 37.
No. 26	a) Extraction of mineral raw material in open-cast mining (solid rock) on an area <sup>5)</sup> of 10 ha or more; b) Expansion of the extraction of mineral raw materials in open cast mining (solid rock) if the area <sup>5)</sup> covered by extractions existing or approved within the past ten years and the expansion applied for amounts to 13 ha or more and if the additional area <sup>5)</sup> amounts to 3 ha or more;		c) Extraction of mineral raw materials in open cast mining (solid rock) in protected areas of Category A or E on an area of 5 ha or more; d) Expansion of the extraction of mineral raw materials in open cast mining (solid rock) in protected areas of Category A or E if the area <sup>5)</sup> covered by extractions existing or approved within the past ten years and the expansion applied for amounts to 7.5 ha or more and if the additional area <sup>5)</sup> amounts to 1.5 ha or more.
No. 27	a) Underground mining for which coherent overground installations and operating facilities cover an area of 10 ha or more;		b) Underground mining in protected areas of Category A for which coherent overground installations and operating facilities cover an area of 5 ha or more.
No. 28			Construction of new deep-drilling installations for depths of 1,000 m or more in protected areas of Category A with the exception of trial and prospecting drillings, pit mining for salt and the activities covered by No. 29 and 33.
No. 29	a) Extraction of petroleum or natural gas with a capacity of 500 tonnes/day or more per probe for petroleum and 500,000 m <sup>3</sup> /day or more per probe for natural gas; b) Extraction installations of hydrocarbon mining with a processing capacity of 2,000 tonnes/day or more for petroleum and 2,000,000 m <sup>3</sup> /day or more for natural gas;		c) Extraction of petroleum or natural gas with a capacity of 250 tonnes/day or more per probe for petroleum and 250,000 m <sup>3</sup> /day or more per probe for natural gas in protected areas of Category A; d) Extraction installations of hydrocarbon mining with a processing capacity of 750 tonnes/day or more for petroleum and 1,000,000 m <sup>3</sup> /day or more for natural gas in protected areas of Category A.  (Quantities and volumes are indicated at atmospheric pressure).

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
	<b>Water management</b>		
No. 30	Hydropower plants (dams, barrages, run-offs) with a bottleneck output of 15 MW or more and chains of power plants <sup>7</sup> ) above 2 MW.		
No. 31		a) Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10,000,000 m <sup>3</sup> ;	b) Dams and other installations designed for the holding back or permanent storage of water in protected areas of Category A, where a new or additional amount of water held back or stored exceeds 2,000,000 m <sup>3</sup> .
No. 32		a) Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10,000,000 m <sup>3</sup> ; b) Other groundwater abstraction schemes <sup>8</sup> ) if more than 90% of the first aquifer of the groundwater resources regenerated on a long-term average are to be used on average per year in the catchment area affected by the abstraction; c) Other artificial groundwater recharge schemes <sup>9</sup> ) if more than 90% of the first aquifer of the groundwater resources regenerated on a long-term average in the outflow area are to be used on average per year.	
No. 33			Construction of new deep-drilling installations in connection with water supply for depths of 1,000 m or more in protected areas of Category A or C with the exception of trial and prospecting drillings.
No. 34			Long-distance aqueducts with a length of 100 km or more in protected areas of Category C.
No. 35		Installations for land drainage with an area of 300 ha or more.	
No. 36		Installations for the irrigation of land with an annual irrigation area of 2,500 ha or more.	
No. 37			Extraction of mineral raw material by fluvial dredging in protected areas of Category A with an extracted quantity of 400,000 m <sup>3</sup> or more in total or 100,000 m <sup>3</sup> per year with the exception of structural maintenance measures for this river.
No. 38	<i>Deleted</i>		

<sup>7</sup> Chains of power plants are a sequence of two or more storage areas for hydropower exploitation without any intermediate free-flowing river sections of a minimum length of 2 km calculated on the basis of the final water quantity.

<sup>8</sup> The calculation shall be made irrespective of the aquifer from which groundwater is to be abstracted.

<sup>9</sup> The calculation shall be made irrespective of the aquifer which is to be recharged with groundwater.

	EIA	Simplified EIA procedure	
	Column 1	Column 2	Column 3
No. 39	<p>a) Works for the transfer of water resources between river basins where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100,000,000 m<sup>3</sup>/year;</p> <p>b) Other works for the transfer of water resources between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000,000,000 m<sup>3</sup> / year and where the amount of water transferred exceeds 5% of this flow;</p>		<p>c) Works for the transfer of water resources between river basins in protected areas of Category A where this transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 25,000,000 m<sup>3</sup>/year.</p> <p>No. 39 does not include works for the transfer of water resources for the purpose of drinking water supply.</p>
No. 40		a) Waste water treatment plants with a design capacity exceeding 150,000 population equivalent <sup>10</sup> );	b) Waste water treatment plants located in protected areas of Category A or C with a design capacity exceeding 100,000 population equivalent <sup>10</sup> ) where the design water quantity of the waste water treatment plant is greater than Q <sub>95%</sub> of the receiving body of water at the point of discharge.
No. 41		<p>Creation or shifting of running waters with a mean flow rate (MQ) of 1 m<sup>3</sup>/s or more over a construction length of 3 km or more.</p> <p>Measures to improve the ecological function of waters (renaturation) shall be excepted.</p>	
No. 42		<p>Protective and flow-control structures with a construction length exceeding 3 km along running waters with a mean flow rate (MQ) exceeding 5 m<sup>3</sup>/s;</p> <p>Measures to improve the ecological function of waters (renaturation) shall be excepted.</p>	

<sup>10</sup>Population equivalent as defined in Article 2 (6) of Directive 91/271/EEC: One population equivalent corresponds to the organic biodegradable load having a five-day biochemical oxygen demand (BOD5) of 60 g of oxygen per day.

	EIA	Simplified EIA procedure	
	Column 1	Column 2	Column 3
	<b>Agriculture and forestry</b>		
No. 43		<p>a) Installations for rearing animals with more than:</p> <p>48,000 places for laying hens, young hens, parents of broilers or turkeys</p> <p>65,000 places for broilers</p> <p>2,500 places for production pigs</p> <p>700 places for sows;</p>	<p>b) Installations for rearing animals located in protected areas of Category C or E with more than:</p> <p>40,000 places for laying hens, young hens, parents of broilers or turkeys</p> <p>42,500 places for broilers</p> <p>1,400 places for production pigs</p> <p>450 places for sows.</p> <p>With regard to (a) and (b) the following shall apply: in case of mixed stocks, the percentages of the actual place numbers are added and when the sum total is 100% or more, an EIA or a case-by-case examination shall be performed; stocks of up to 5% of the place numbers shall not be taken into account.</p>
No. 44		a) Intensive fish farming <sup>12)</sup> with a production capacity of 300 tonnes/year or more;	b) Intensive fish farming <sup>12)</sup> with a production capacity of 150 tonnes/year or more in protected areas of Category A.
No. 45		a) Conversion of uncultivated land <sup>13)</sup> or semi-natural areas for intensive agricultural purposes <sup>14)</sup> with an area of 70 ha or more;	<p>b) Conversion of uncultivated land<sup>13)</sup> or semi-natural areas for intensive agricultural purposes<sup>14)</sup> with an area of 35 ha or more in protected areas of Category A;</p> <p>unless the <i>Flurverfassungs-Grundsatzgesetz</i> 1951 (Framework Act on the Restructuring of Rural Land) applies to projects of No. 45.</p>

<sup>11</sup> *deleted.*

<sup>12</sup> Intensive fish farming shall mean fish rearing where fish production is increased by measures such as carbohydrate-rich additional feeding, aeration or gas application or water treatment.

<sup>13</sup> Uncultivated land shall mean open, non-farmed land that is not used for agriculture or forestry due to its unfavourable ecological conditions, but that could be economically used after cultivation and melioration.

<sup>14</sup> Intensive agricultural purposes shall mean a form of agriculture with a high input of production means per surface unit (i.e. usually high input of fertilisers, relatively high input of synthetically manufactured plant health products, plant treatment products and herbicides as well as intensive artificial irrigation methods).

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
No. 46		a) Deforestation on an area of 20 ha or more; b) Expansion of deforestation if the area approved within the past ten years <sup>15)</sup> and the expansion applied for amount to 20 ha or more and if the additional new area amounts to 5 ha or more;	c) Initial afforestation with tree species not suitable for the site in question on an area of 15 ha or more in protected areas of Category A; d) Expansion of initial afforestation with tree species not suitable for the site in question in protected areas of Category A if the area approved within the past ten years and the expansion applied for amount to 15 ha or more and if the additional new area amounts to 3.5 ha or more; e) Deforestation on an area of 10 ha or more in protected areas of Category A; f) Expansion of deforestation in protected areas of Category A if the area approved within the past ten years <sup>15)</sup> and the expansion applied for amount to 10 ha or more and if the additional new area amounts to 2.5 ha or more;  unless projects of Number 46 are subject to the <i>Flurverfassung-Grundsatzgesetz</i> 1951 (Framework Act on the Restructuring of Rural Land) or the <i>Grundsatzgesetz über die Behandlung der Wald- und Weidenutzungsrechte</i> 1951 (Framework Act on the Regulation of the Rights to Use Forests and Pastures).
	<b>Other installations</b>		
No. 47		a) Construction of new integrated chemical plants, i.e. installations for the manufacture of substances on an industrial scale using chemical conversion processes <sup>16)</sup> , in which several units are functionally linked <sup>17)</sup> to one another; b) Extension of an integrated chemical plant by new installations for the manufacture of substances on an industrial scale using chemical conversion processes <sup>16)</sup> that are functionally linked <sup>17)</sup> to an existing chemical plant. <sup>18)</sup>	

<sup>15</sup> Areas for which land reclamation permits have expired before the date when the request is submitted (Article 18 (1) no. 1 *Forstgesetz* (Forestry Act), as well as areas for which replacement afforestation in accordance with Article 18 (2) *Forstgesetz* have been ordered shall not be included in the calculation.

<sup>16</sup> This refers to installations for the production of stable chemical intermediate or finished products (in particular, marketable products).

<sup>17</sup> "Functionally linked" means that the output of one installation serves as an input of another installation (irrespective of the transport mode used between the two installations). Infrastructure lines as well as raw-material or residue links do not constitute functional links. Raw materials typically are petroleum (e.g. naphtha), natural gas, ores, air, minerals, coal. Basic chemical substances (e.g. ammonia, sulphuric acid, ethylene) are not considered to be raw material, i.e. installations for the manufacture of basic chemical substances shall be taken into account when assessing functionally linked installations.

Residues shall mean substances whose production is not the primary purpose of an installation, but which are generated for reasons of process technology (e.g. due to incomplete conversion).

	EIA	Simplified EIA procedure	
	Column 1	Column 2	Column 3
No. 48		<p>Installations for the production of basic organic chemicals using chemical conversion processes, in particular for the production of</p> <ul style="list-style-type: none"> <li>- simple hydrocarbons (linear or cyclic, saturated or unsaturated, aliphatic or aromatic),</li> <li>- oxygen-containing hydrocarbons, such as alcohols, aldehydes, ketones, carboxylic acids, esters, acetates, ethers, peroxides, epoxy resins,</li> <li>- sulphurous hydrocarbons,</li> <li>- nitrogenous hydrocarbons such as amines, amides, nitrous compounds, nitro compounds or nitrate compounds, nitriles, cyanates, isocyanates,</li> <li>- phosphorus-containing hydrocarbons,</li> <li>- halogenic hydrocarbons,</li> <li>- surface-active agents and surfactants,</li> <li>- organometallic compounds, basic organic chemicals with more than one heteratom type,</li> </ul> <p>with a production capacity exceeding 150,000 tonnes per year<sup>19</sup>).</p>	
No. 49		<p>Installations for the production of basic inorganic chemicals using chemical conversion processes, in particular for the production of</p> <ul style="list-style-type: none"> <li>- gases, such as ammonia, chlorine or hydrogen chloride, fluorine or hydrogen fluoride, carbon oxides, sulphur compounds, nitrogen oxides, hydrogen, sulphur dioxide, carbonyl chloride,</li> <li>- acids, such as chromic acid, hydrofluoric acid, phosphoric acid, nitric acid, hydrochloric acid, sulphuric acid, oleum, sulphurous acid,</li> <li>- bases, such as ammonium hydroxide,</li> <li>- hydrogen peroxide,</li> <li>- by means of chlor-alkali electrolysis,</li> </ul>	

<sup>18</sup>Other modifications within an integrated chemical plant, i.e. capacity increases of individual installations within an integrated chemical plant, are covered by the projects of No. 48 to 57.

<sup>19</sup> The production capacity refers to each of the substance groups identified in the indents, i.e. the production capacities for chemicals of one and the same substance group shall be added up (e.g. all oxygen-containing hydrocarbons).

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
No. 49		<ul style="list-style-type: none"> <li>- salts, such as ammonium chloride, potassium chlorate, potassium carbonate, sodium carbonate, perborate, silver nitrate,</li> <li>- non-metals or metal oxides, with a production capacity exceeding 150,000 tonnes per year<sup>19</sup>).</li> </ul>	
No. 50		<ul style="list-style-type: none"> <li>a) Installations for the production of active ingredients for plant health products or biocides with a production capacity exceeding 5,000 tonnes/year;</li> <li>b) Installations in which plant health products or biocides or their active ingredients are milled, mechanically mixed, packaged or re-filled with a production capacity exceeding 10,000 tonnes/year.</li> </ul>	
No. 51		Installations using a chemical or biological process for the production of active ingredients for pharmaceutical products with a production capacity exceeding 5,000 tonnes/year.	
No. 52		Installations for the production of fine organic chemicals using chemical conversion processes, in particular for the production of <ul style="list-style-type: none"> <li>- aromatic compounds,</li> <li>- organic colouring agents,</li> <li>- fragrances,</li> <li>- additives for polymers and coating materials,</li> </ul> unless covered by No. 57, with a production capacity exceeding 50,000 tonnes/year.	
No. 53		Installations for the production of fine inorganic chemicals using chemical conversion processes, in particular for the production of <ul style="list-style-type: none"> <li>- calcium carbide, silicon, silicon carbide or pigments,</li> </ul> unless covered by No. 57, with a production capacity exceeding 50,000 tonnes/year.	
No. 54		Installations for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers) with a production capacity exceeding 150,000 tonnes/year.	
No. 55		Installations for the production of polymers (plastic materials, synthetic resins, synthetic fibres) or for the production of synthetic rubbers or elastomers with a production capacity exceeding 150,000 tonnes/year.	

	EIA	Simplified EIA procedure	
	Column 1	Column 2	Column 3
No. 56		Installations using chemical conversion processes for the production of biofuels with a production capacity exceeding 100,000 tonnes/year.	
No. 57		<p>a) Installations for the production of fine organic or inorganic chemicals in multi-purpose or multi-product installations<sup>20</sup>) with a production capacity exceeding 15,000 tonnes/year;</p> <p>b) Installations for the production of active ingredients for pharmaceutical products, plant health products or biocides in multi-purpose or multi-product installations<sup>20</sup>) with a production capacity exceeding 5,000 tonnes/year.</p>	
No. 58		Installations for the manufacture, treatment, processing, recovery or destruction of explosives on an industrial scale.	
No. 59		<p>a) Construction of new installations for work (intended use in accordance with Article 1 (3) <i>Verordnung biologische Arbeitsstoffe—VbA</i> (Ordinance on Biological Agents at Work), BGBl. II No. 237/1998) with biological working substances of risk class 3 or 4 (Article 40 (4) no. 3 and 4 <i>ArbeitnehmerInnenschutzgesetz—ASchG</i> (Health and Safety at Work Act, BGBl. No. 450/1994) that are intended for production purposes and exceed a working volume of 10 litre;</p> <p>b) Construction of new installations for work with genetically modified micro-organisms of safety class 3 or higher (Article 5 no. 2 <i>Gentechnikgesetz—GTG</i> (Genetic Engineering Act), BGBl. No. 510/1994) on a large scale (Article 4 no. 11 GTG, BGBl. No. 510/1994).</p>	
No. 60		<p>a) Installations for the production of pulp or cellulose with the exception of ground wood pulp;</p> <p>b) Installations for the production of ground wood pulp with a production capacity exceeding 100,000 tonnes/year.</p>	

<sup>20</sup> This includes multi-purpose or multi-product installations for the production of fine chemicals and pharmaceutical products, biocides or plant health products. The production capacities refer to individual installations.

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
No. 61		a) Installations for the production of paper, board or cardboard with a production capacity exceeding 200 tonnes/day or 72,000 tonnes/year; b) Other installations for the processing of pulp or cellulose with a production capacity exceeding 100,000 tonnes/year.	
No. 62		Installations for the pre-treatment (operations such as bleaching, washing, mercerisation) or dyeing of fibres or textiles with a treatment capacity exceeding 20,000 tonnes/year.	
No. 63		a) Installations for the tanning of hides or skins with a treatment capacity exceeding 20,000 tonnes/year;	b) Installations for the tanning of hides or skins in protected areas of Category E with a treatment capacity exceeding 10,000 tonnes/year.
No. 64		a) Construction of new integrated works for the initial melting of cast-iron and steel; b) Installations for the roasting and sintering of metallic ores; c) Installations for the initial melting of cast-iron and steel with a production capacity exceeding 500,000 tonnes/year; d) Installations for the processing of ferrous metals (hot-rolling mills, smitheries with hammers) with a production capacity exceeding 500,000 tonnes/year;	e) Installations for the initial melting of cast-iron and steel with a production capacity exceeding 250,000 tonnes/year in protected areas of Category D; f) Installations for the processing of ferrous metals (hot-rolling mills, smitheries with hammers) with a production capacity exceeding 250,000 tonnes/year in protected areas of Category D.
No. 65		Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.	
No. 66		a) Ferrous metal foundries with a production capacity exceeding 100,000 tonnes/year; b) Non-ferrous metal foundries or installations for the smelting, including the alloyage, of non-ferrous metals, including recovered products (refining), with a production capacity exceeding 50,000 tonnes/year;	c) Ferrous metal foundries with a production capacity exceeding 50,000 tonnes/year in protected areas of Category D; d) Non-ferrous metal foundries or installations for the smelting, including the alloyage, of non-ferrous metals, including recovered products (refining), with a production capacity exceeding 25,000 tonnes/year in protected areas of Category D.

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<sup>21</sup> *deleted.*

	EIA	Simplified EIA procedure	
	Column 1	Column 2	Column 3
No. 67		Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process with an annual consumption exceeding 30,000 tonnes of coating substances or, in case of application of protective fused metal coats to metal surfaces, with an annual consumption exceeding 15,000 tonnes of coating substances.	
No. 68		<p>a) Installations for the manufacture and assembly of motor vehicles with a production capacity exceeding 200,000 vehicles per year;</p> <p>b) Installations for the manufacture of motor-vehicle engines with a production capacity exceeding 600,000 engines per year.</p>	
No. 69		Shipyards with a slip facility exceeding 150 m in length.	
No. 70		<p>Installations for the construction and repair of aircraft with a thrust exceeding 100 kN.</p> <p>The calculation basis (Article 3a (3)) for modifications shall be the installation's area in hectare as approved by administrative order.</p>	
No. 71		Installations for the construction of track-bound vehicles where the production capacity exceeds 200 vehicles per year for railway operations or 400 vehicles per year for tramway operations.	
No. 72		Installations with more than 60 test benches for engines, turbines or reactors with the exception of cold-test benches.	
No. 73		Installations for explosive forming or lining where the explosive quantity is 10 kg or more per charge.	
No. 74		a) Installations for the production of cement clinker or cement with a production capacity exceeding 300,000 tonnes/year;	b) Installations for the production of cement clinker or cement with a production capacity exceeding 150,000 tonnes/year in protected areas of Category D.
No. 75		Installations for the extraction, processing and transformation of asbestos and products containing asbestos with an annual production exceeding 10,000 tonnes of finished products for asbestos-cement products, with an annual production exceeding 10 tonnes of finished products for friction material, and with an input exceeding 200 tonnes per year for other uses of asbestos.	

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
No. 76		a) Installations for the manufacture of glass or glass fibre with a production capacity exceeding 200,000 tonnes/year;	b) Installations for the manufacture of glass or glass fibre with a production capacity exceeding 100,000 tonnes / year in protected areas of Category D.
No. 77		a) Installations for smelting mineral substances including the production of mineral fibres with a production capacity exceeding 200,000 tonnes/year;	b) Installations for smelting mineral substances including the production of mineral fibres with a production capacity exceeding 100,000 tonnes / year in protected areas of Category D.
No. 78		a) Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 300,000 tonnes/year;	b) Installations for the manufacture of ceramic products by firing, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain, with a production capacity exceeding 150,000 tonnes/year in protected areas of Category D.
No. 79		a) Crude-oil refineries (excluding installations manufacturing only lubricants). The calculation basis (Art. 3a (3)) for modifications to (a) shall be the processing capacity for crude oil in tonnes.	b) Construction of new installations in a crude-oil refinery (excluding installations manufacturing only lubricants) in protected areas of Category D.
No. 80		a) Installations for the storage of petroleum, petrochemical or chemical products with a total storage capacity exceeding 200,000 tonnes; b) Installations for the storage of natural gas or combustible gases in tanks with a total storage capacity exceeding 200,000 m <sup>3</sup> (based on 0 °C, 1.013 hPa); c) Surface storage of solid fossil fuels with a total storage capacity exceeding 500,000 tonnes;	d) Installations for the storage of petroleum, petrochemical or chemical products with a total storage capacity exceeding 100,000 tonnes in protected areas of Category C.
No. 81		a) Installations for the briquetting of coal and lignite with a capacity exceeding 250,000 tonnes/year; b) Installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day; c) Installations for the dry distillation of 500 tonnes or more of coal per day.	
No. 82		Installations for the disposal or recycling of animal carcasses and animal waste with a treatment capacity exceeding 10 tonnes/day.	

	<b>EIA</b>	<b>Simplified EIA procedure</b>	
	Column 1	Column 2	Column 3
No. 83		a) Installations for the manufacture of fats or oils from animal raw materials with a production capacity exceeding 75,000 tonnes/year; b) Installations for the manufacture of fats or oils from vegetable raw materials with a production capacity exceeding 150,000 tonnes/year; c) Installations for the manufacture of fish meal and fish oil with a production capacity exceeding 10,000 tonnes/year.	
No. 84		Installations for the manufacture of preserved food (including animal food) as well as frozen food products from vegetable or animal raw materials with a production capacity exceeding 100,000 tonnes/year.	
No. 85		Installations for the treatment or processing of milk with a processing capacity exceeding 2.5 million hectolitre per year.	
No. 86		a) Breweries with a production capacity exceeding 100,000 tonnes/year; b) Malthouses with a production capacity exceeding 100,000 tonnes/year.	
No. 87		a) Installations for the manufacture of confectionery and syrup with a production capacity exceeding 100,000 tonnes/year; b) Industrial starch manufacturing installations with a production capacity exceeding 150,000 tonnes/year.	
No. 87		c) Installations for the manufacture or refining of sugar with a production capacity exceeding 200,000 tonnes/year.	
No. 88		Installations for the slaughter of animals and the processing of meat with a carcass production exceeding 40,000 tonnes/year.	

## ANNEX 2

Categories of protected areas:

Category	Protected area	Scope
A	Special protection area	Pursuant to Council Directive 79/409/EEC on the conservation of wild birds (Birds Directive), OJ No. L 103/1, as last amended by Council Directive 94/24/EC of 8 June 1994, OJ No. L 164/9, as well as pursuant to Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (Habitat Directive), OJ No. L 206/7; protection areas included in the list of sites of Community importance pursuant to Article 4 (2) of this Directive; forest reservations pursuant to Article 27 <i>Forstgesetz</i> ); Specific areas designated national parks <sup>1</sup> ) under <i>Land</i> law, precisely delineated areas designated for nature conservation purposes by administrative act, similar small-scale protection areas designated by ordinance or designated unique natural phenomena.
B	Alpine zone	The lower boundary of the alpine zone is the line of closed tree cover, i.e. the beginning of the area with isolated, stunted trees and low shrubs (see Article 2 <i>Forstgesetz</i> 1975).
C	Water protection and conservation area	Water protection and conservation areas according to Articles 34, 35 and 37 WRG 1959.
D	Area subject to air pollution	Areas defined according to Article 3 (8).
E	Settlement area	In or near settlement areas. The vicinity of a settlement area shall mean a zone within a radius of 300 m around the project site where land is defined or designated as follows: 1. Construction land where residential buildings may be constructed (excluding areas used exclusively for business, commercial or industrial purposes, single farm or other buildings), 2. Land for child-care facilities, playgrounds, schools or similar facilities, hospitals, medical institutions, residential homes for the elderly, cemeteries, churches and equivalent premises of recognised religious communities, parks, camp sites and outdoor swimming pools, gardens and allotments.

<sup>1</sup> Areas of transregional importance due to their characteristic surface features or fauna and flora.