



Implementing the European SEA - Directive in Germany

– Between “do minimum” and “(pro-) active initiatives” –

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Content

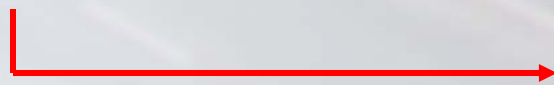
1. European Background:
Environmental Policy Integration and the SEA-Directive
2. Implementation of the SEA-Directive in Germany
Current Status and Future Steps
3. Planning processes in Germany and implications of SEA
Legislative and Institutional Requirements
4. Sector Example:
Federal German Transport Infrastructure Plan (FTIP)
5. Conclusion and Outlook



Background: Environmental Policy Integration

- **Treaty of the EC of Amsterdam, 1997, Art. 6:**
“Environmental protection requirements must be integrated into the definition and implementation of the Community policies and activities [...]”.
- **SEA-Directive, 2001, Art. 1:**
“The objective of this Directive is to [...] contribute to the integration of environmental considerations into the preparation and adoption of plans and programmes [...]”

Germany is often described as a former leader of European Environmental Policy who has lost its enthusiasm for functioning as pacemaker.



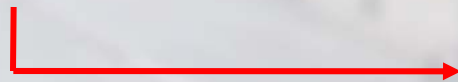
True or false ?



Implementation of the EC-Directive

- **SEA-Directive, 2001, Art. 13:**

“Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before 21 July 2004.”



**Germany is going to miss this
deadline !**



Implementation of the EC-Directive in Germany:

Current status

SEA-Directive, 2001, Art. 13: “Scope”:

SEA is to be carried out...

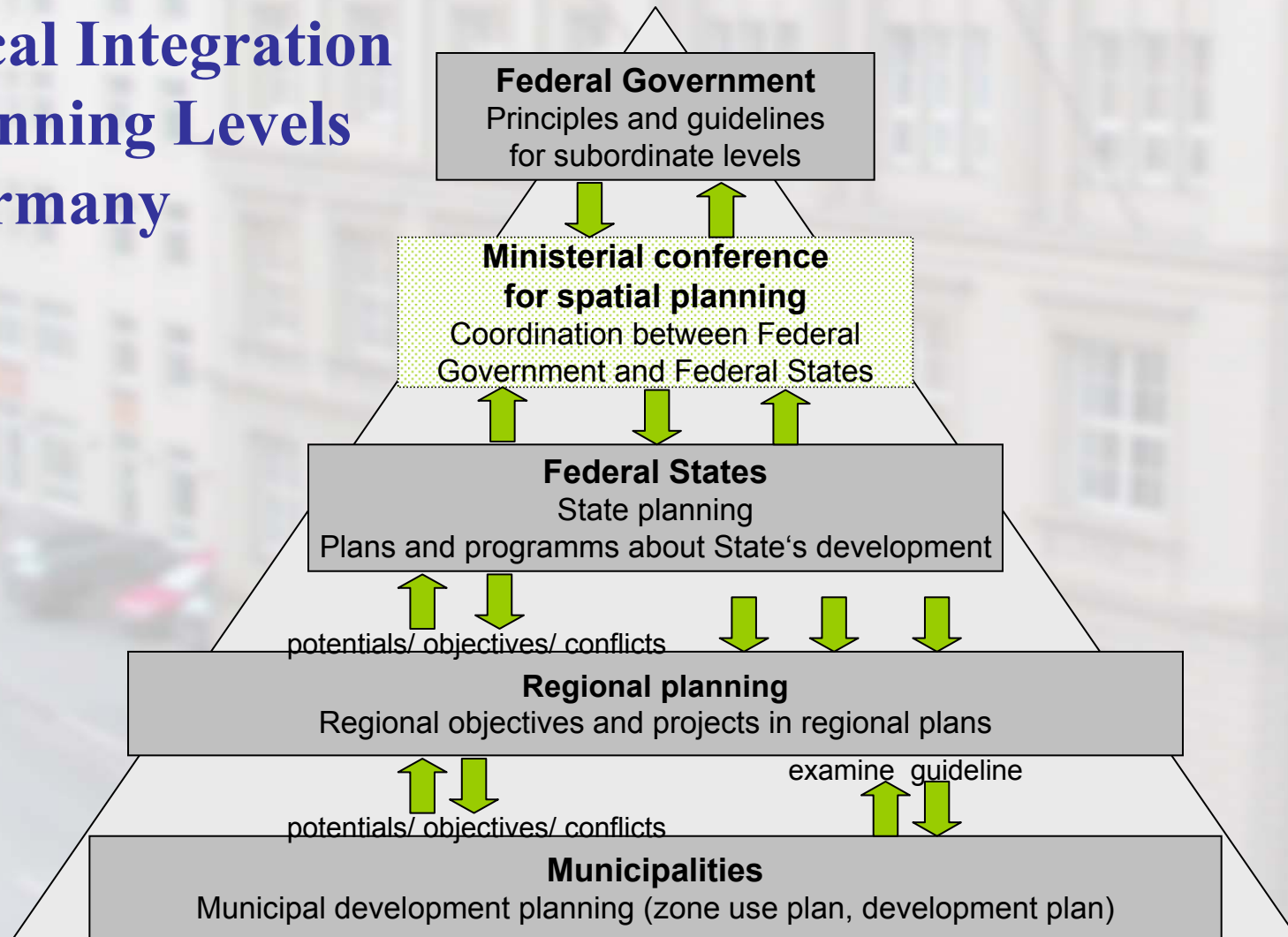
*“... for all plans and programmes, which are prepared for agriculture, forestry, fisheries, energy, industry, **transport**, waste management, water management, telecommunications, tourism, town and country planning or land use ...”.*

In Germany implementation follows a number of different steps:

- 1a) Amelioration of existing EIA-Legislation
- 1b) Amelioration of national legislation in the transport and building sector
- 2) Adaptation of sectoral legislation
- 3) Adaptation of Laender-legislation



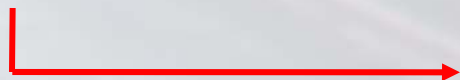
Vertical Integration of Planning Levels in Germany





Amelioration of existing EIA-Legislation (under discussion)

- Integration of the EC-Directive (SEA-Procedure)
 - Introduction of regulation measures
 - Requirements for instructions for legislation (national and sectoral)
 - Integration of relevant specific features into sectoral legislation
-
- ➔ No creation of new authorities (like a “SEA administrative body”)
 - ➔ Integration of SEA into existing planning processes



**Need for strong national
legislation !**



Need for strong national legislation

Clause of subsidiarity, but...

... Legislation has to be confirmed on **national level**, otherwise...

... various different regulations on the **Laender-level** are possible.

→ Problems with different procedures (e.g. flood protection planning)

→ Distortion of competition



Main institutional requirements of SEA to the German planning system

- Introduction of a stronger public participation
- Assessing cumulative and network effects to the environment
- Changing the project- to a network-perspective to enable the development of alternatives
- Develop a monitoring system



SEA-Obligatory in German Transport Planning

Plan or Program	Criteria for SEA-Obligation				Result
	Scope (Article 2a)		Obligatory SEA (Article 3 (2))		
	subject to preparation by an authority	required by legislative provisions	set framework for future projects listed in the EIA-Directive	likely effect on FFH-sites	
Federal Transport Infrastructure Plan	+	+	+	+	SEA
Laender Transport Programme	+	—	+	+	SEA in accordance to case-by-case-examination
Regional Transport Infrastructure Plan	+	+	+	+	SEA
Local Transport Development Plan	+	case-by-case-examination	+	+	SEA in accordance to case-by-case-examination



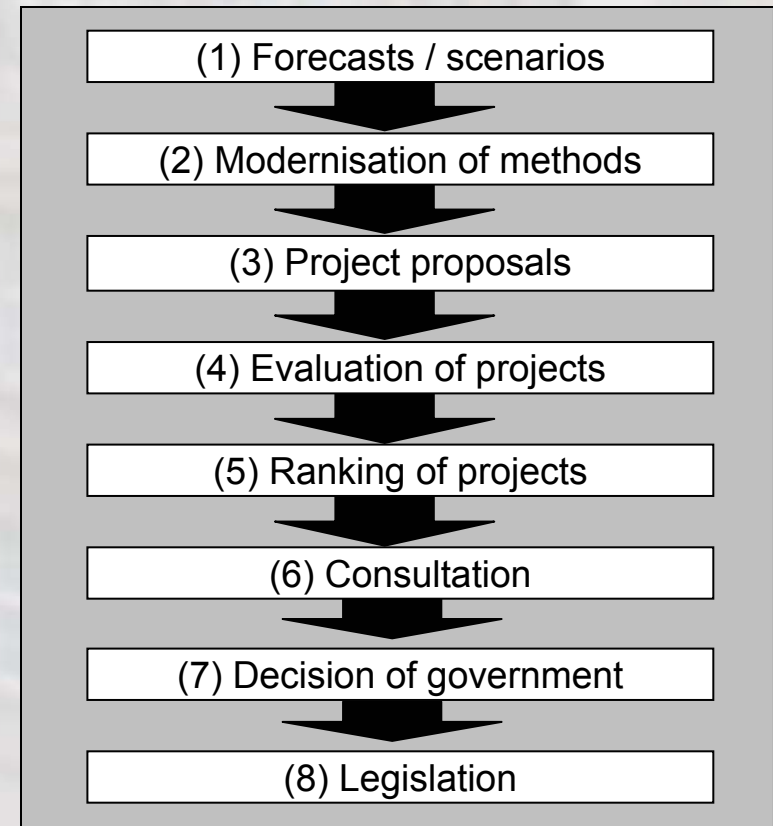
Case Study: The German Federal Transport Infrastructure Plan

- The FTIP is a long range plan for German long-distance transport infrastructure, which provides the financial framework of long-distance roads and motorways.
- FTIP can be described through a ‘Bottom - up, top -down’ approach of decision-making between the *Länder* and the Federal Minister of Transport and the parliament.



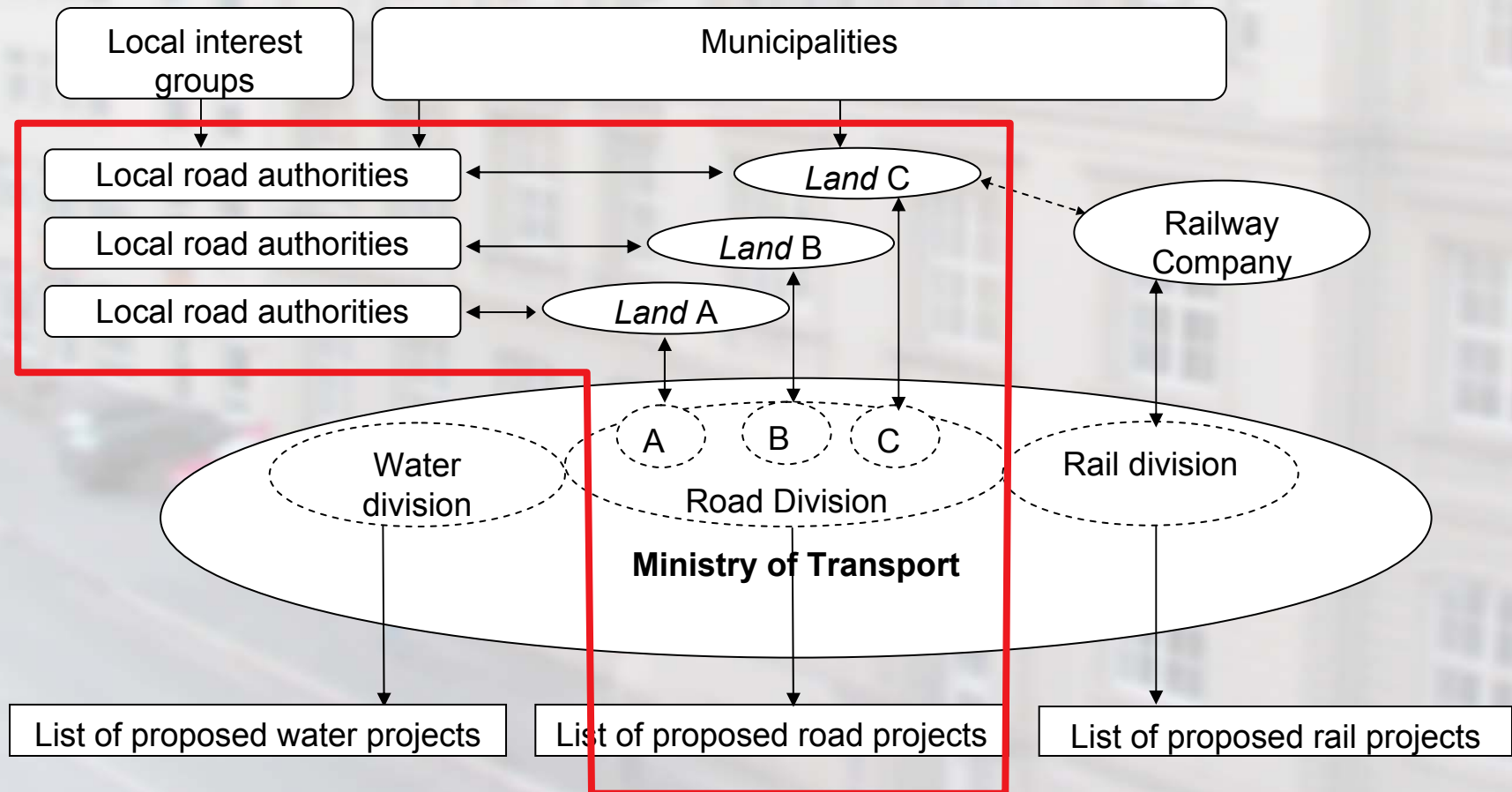
FTIP - Process: the official version

- Integrated transport planning of rail, road and inland water-ways.
- Financial framework for transport planning with a time horizon to 2015.
- Incorporates up 2,578 infrastructure projects.
- Financial volume for 2003-2015: 148,900,000,000 Euro (82,800,000 Euro for most urgent measures).



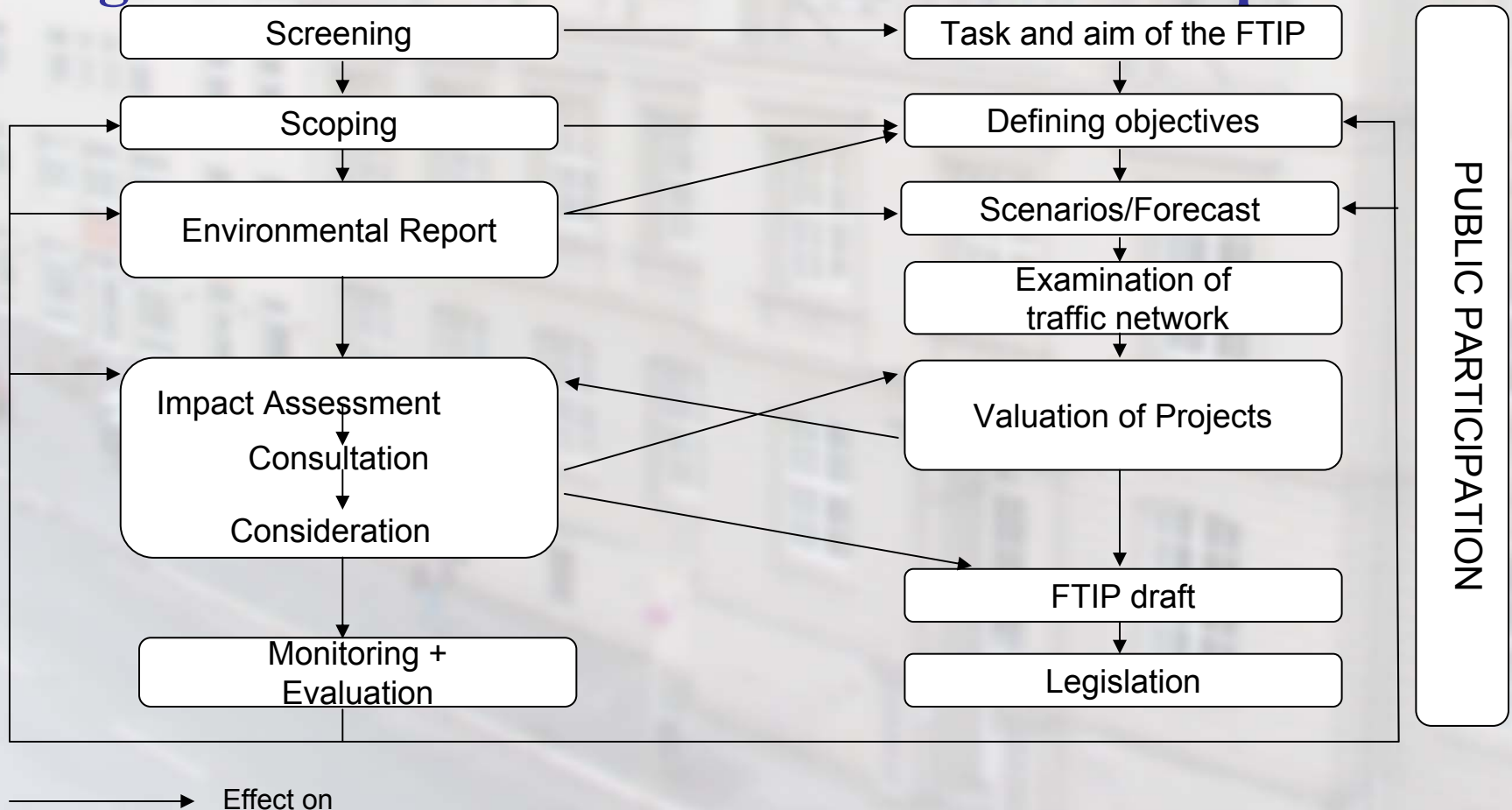


Vertical Alliances between Road Planning Authorities





Integration of SEA into the German FTIP is possible





Current disput between responsible ministries

BMU (Federal German Ministry of the Environment)

Pragmatic Argumentation:

According to the EC-Directive a SEA has to be carried out for Federal Transport Infrastructure Plan, as it is likely to have ...

“significant environmental effects” (Article 2 (4)).

BMVfW (Federal German Ministry for Transport, Building and Housing)

Argumentation according to the Formulation of the Directive:

As the FTIP is part of a legislation process, it is neither a plan nor a programme itself. Therefore, SEA, which is applicable for “plans and programmes”, does not have to be carried out.



Current Assessment Elements of the FTIP

Presently a Project Perspective Approach:

- Cost-Benefit-Analysis (quantitative)
- Environment and Nature Conservation Appraisal (qualitative):
 - Environmental Risk Assessment
 - Habitats Directive Assessment
- Regional Planning Appraisal (qualitative)
 - Spatial Impact Assessment

→ **No integration of different assessments !**



New Aspects in the FTIP through SEA

- Developing a real Target System
- Need for a multi-modal-perspective
- Scenario making as a Supportive Tool
- Testing real Alternatives
- Introduction of Public Participation
- Development of a Monitoring System



Chances and Challenges of SEA in Germany

- Large window of opportunities with strong national implementation
- Identification of environmentally sustainable alternatives
- Adoption of precautionary-principle
- Participation seen as a chance
- Weight and relevance of monitoring

- Political decision-making-process as precondition
- Conflicts between the federal and *Laender* level
- Conflicts between responsible authorities (e.g. BMU versus BMVBW)
- Reluctance of practitioners towards further regulation
- Rationality of decision-making not ensured
- Need for binding outcomes into decision-making processes



Conclusions and Outlook I

- SEA is a promising tool to support environmental policy integration.
- The implementation of the SEA directive into national law is a good opportunity to further the development of SEA strategies and methods.
- The implementation of SEA will forward the integration of environmental aspects into German plans and programmes.
- SEA will have an added value for political decision-making processes, especially for broad scale decisions on a strategic level.



Conclusions and Outlook II

- The success of the instrument will depend on favourable conditions on different planning levels as well as within different policy sectors.
- Planning processes will have to be redesigned for a successful implementation.
- SEA will have to be flexible in order to meet different demands.
- Measures for information and capacity building will be needed.
- Creation of awareness of main stakeholders is crucial.



**Thank you for your
audience.**

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