

Evaluation of the German AtEI Act - Main Challenges

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Project Information

- ▶ Project period: 10/2016 – 5/2019
- ▶ **Project Team:** Independent Institute for Environmental Issues (UfU), Dr. Kerstin Tews, Free University of Berlin, Prof. Dr. Thomas Schomerus, Leuphana University
- ▶ Project aim: To evaluate whether the legal objectives of the federal Environmental Information Act (UIG),
 - free access to environmental information
 - as well as the active disseminationare achieved in practice and what further impacts this act has.

Access to (environmental) information in Germany

The Environmental Information Act (UIG) is part of a family of “Freedom of Information Acts” and further relevant legislation

- ▶ (1990: Environmental Information Directive)
- ▶ 1994: Environmental Information Act (UIG)
- ▶ (1998: Aarhus Convention)
- ▶ 2004: Revision of UIG
- ▶ 2005: Freedom of Information Act (IFG)
- ▶ 2005 et seq.: 16 Länder-UIGs and 13 IFGs, in particular Hamburg Transparency Act (2012)
- ▶ 2006: Act on Re-Use of Public Sector Information (IWG)
- ▶ 2007: Consumer Information Act (VIG)
- ▶ (2009: Art. 15 TFEU and Art. 42 EU Charter of Fund. Rights)
- ▶ 2009: Geodata Access Act (GeoZG)
- ▶ 2013: E-Government Act (EgovG)
- ▶ 2017: Network Enforcement Act (NetzDG)....

Main challenges for the Evaluation

- ▶ **Timeframe**
 - ▷ 22 after first UIG, 12 years after the revised law
 - ▷ 2 ½ survey period

- ▶ **Statistics**
 - ▷ No „duty“ to register environmental information requests
 - ▷ Understanding of term „environmental information request“ (e.g. 20.000 in online survey, 93 in interview)
 - ▷ Different internal administrative organization

- ▶ **Identification of stakeholders**
 - ▷ Public bodies (no „contact person“ on most webpages)
 - ▷ Private bodies (no „list“, only few legal cases“)
 - ▷ Other stakeholder („everyone“)

Evaluation approach/methods used

- ▶ Partially standardized online survey
 - ▷ (423) public bodies under the obligation to provide EI (72)
 - ▷ (42) private bodies under the obligation to provide EI (11)
 - ▷ (114) environmental and nature conservation associations (26)
 - ▷ (4) journalist associations with request to forward it to members (3)
 - ▷ (40) Economic associations with request to forward it to members (48)
 - ▷ (5) lawyer associations (9)
 - ▷ (75) people who made an EI- request via "<https://fragenstaat.de/>" and public call to the participate on various sources (81)
- ▶ **Interviews:** 12 public bodies
- ▶ **Analysis of the published case law** with regard to the research-related questions
- ▶ **Legal report** to identify legal barriers for access to environmental information (Prof. Dr. Schomerus)
- ▶ **Policy transfer-study:** "big picture" / lesson drawing (Dr. Tews/Dr. Beermann)

Main results/challenges

- ▶ Is the Environmental Information Act known to the public / the responsible bodies?
- ▶ How many environmental information requests are filed? Where?
- ▶ Main challenges for the enforcement of the right of AtEI?

A) Active dissemination of environmental information

B) Upon request

Is the Environmental Information Act known to the public / administration?

Public:

- ▶ Right to request environmental information is requested by many different stakeholders
- ▶ However many participants of the online survey answered that they have never heard about the right to request environmental information

Public bodies:

- ▶ Yes, by experts, however many requests that fall under the UIG are answered without being recognized as an environmental information request. Often no general information on the Act in the "intranet" of the public body

Private bodies:

- ▶ unclear

How many information requests are filed? Where?

- ▶ No exact answer possible → no statistics and different understanding of term „environmental information request“
- ▶ The number of requests differs considerably among the different public authorities
 - ▷ some with a very large number of requests
 - ▷ majority with small number or no requests at all

Main results/challenges: proactive dissemination of environmental information

- ▶ Webpages are the most used source for the dissemination of environmental information
- ▶ The total data of disseminated information is enormous and it is actively used by the different stakeholders

Challenges:

- ▶ there is no overall strategie amongst and within the responsible bodies about the question which information should be disseminated (Only very few bodies have guidelines/standards on the active dissemination)
- ▶ dissemination is often part of the general press/citizens service department
- ▶ no plattform/special search engine that connects the disseminated information
- ▶ large number of public bodies answered that the human ressources for the editing of the environmental information are not sufficient

Main results/ Challenges Informations upon request – public bodies

- ▶ Overall estimation of public bodies on enforcement → very positive; only very small number of rejection rate; only small number of appeal procedures/court cases

Challenges:

- ▷ Meeting deadlines in „third-party-constellations“
- ▷ „Sufficient human resources“ in public bodies with many requests
- ▷ Imprecise requests → Motiv?
- ▷ Anonymous requests
- ▷ Legal uncertainty with „grounds for refusal“
- ▷ Often „no guidelines“

Main results/Challenges: Information upon request – stakeholders

- ▶ Results: no „clear picture“ but neither generally negative nor positive

Challenges:

- ▶ Missing support: No „registers on available environmental information“; no definition of persons/departments responsible for requests; non-forwarding to responsible authority
- ▶ Non answering of requests
- ▶ Answering within the timeframe
- ▶ Full answer of request
- ▶ „business secrets“

Many thanks for your attention!

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