

**WIFO**

A-1103 WIEN, POSTFACH 91  
TEL. 798 26 01 • FAX 798 93 86

 **ÖSTERREICHISCHES INSTITUT FÜR  
WIRTSCHAFTSFORSCHUNG**

**LICENSING, PERMITS AND  
AUTHORISATIONS FOR  
INDUSTRY IN AUSTRIA**

**WITH A FOCUS ON SMES**

**HELMUT JEGLITSCH,  
CHRISTINE MÉSZAROS-KNOLL**

**June 2000**

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Ministry for Economic Affairs and Labour

Scientific referees: Karl Aiginger, Gunther Tichy

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Table of Contents	Page
<b>Abstract</b>	<b>1</b>
<b>1. Introduction</b>	<b>2</b>
<b>2. Methodology</b>	<b>3</b>
<b>3. Legal framework</b>	<b>5</b>
3.1 <i>Fundamental structure of legislation and public administration in Austria</i>	5
3.2 <i>Applicable law</i>	6
3.2.1 Federal law relating to industrial facilities	6
3.2.1.1 <i>The industrial code</i>	6
3.2.1.2 <i>Waste management act</i>	9
3.2.1.3 <i>Water rights act</i>	9
3.2.1.4 <i>Forestry act</i>	10
3.2.1.5 <i>Air pollution control act applicable to boiler plants</i>	10
3.2.1.6 <i>Environmental impact assessment act</i>	10
3.2.1.7 <i>Other federal legislation</i>	10
3.2.2 Provincial legislation on industrial facilities	11
3.2.2.1 <i>Waste management</i>	11
3.2.2.2 <i>Nature and landscape conservation</i>	11
3.2.2.3 <i>Building code</i>	11
3.2.2.4 <i>Other regulations</i>	12
<b>4. Selection of case studies</b>	<b>12</b>
<b>5. Selection and evaluation of benchmarks</b>	<b>14</b>
5.1 <i>Input benchmarks</i>	14
5.1.1 Number of experts	14
5.1.2 Time elapsed	15
5.1.3 Costs of proceedings	17

5.2	<i>Output benchmarks</i>	18
5.2.1	<i>Predictability of the process</i>	18
5.2.2	<i>Opportunities to shape proceedings</i>	19
5.2.3	<i>Quality of decision and value of permit</i>	19
	5.2.3.1 <i>Duration of validity</i>	19
	5.2.3.2 <i>Standards and limits</i>	19
	5.2.3.3 <i>Stability</i>	20
	5.2.3.4 <i>Liability</i>	20
5.3	<i>Process benchmarks</i>	20
5.3.1	<i>Enterprises</i>	20
	5.3.1.1 <i>Knowledge, experience, contacts</i>	20
	5.3.1.2 <i>Organisation of the process in the enterprise</i>	21
5.3.2	<i>Authorities</i>	21
	5.3.2.1 <i>Co-ordination of proceedings and competencies</i>	21
	5.3.2.2 <i>Service and shaping proceedings</i>	22
	5.3.2.3 <i>Staffing levels and motivation</i>	23
	5.3.2.4 <i>Equipment</i>	23
5.3.3	<i>Communication between enterprises, authorities and neighbours</i>	24
<b>6.</b>	<b>The "best practice" and its enablers</b>	<b>24</b>
<b>7.</b>	<b>Conclusions and recommendations</b>	<b>28</b>
7.1	<i>Recommendations to authorities</i>	29
7.2	<i>Recommendations to enterprises and entrepreneurs' associations</i>	30
<b>ANNEX 1:</b>		<b>32</b>
<b>References</b>		<b>32</b>
<b>ANNEX 2:</b>		<b>33</b>
<b>Report on the efficiency award for public managers</b>		<b>33</b>
<b>ANNEX 3:</b>		<b>34</b>
<b>Case Studies</b>		<b>34</b>
<i>Case Study 1</i>		34
<i>Case study 2</i>		36
<i>Case study 3</i>		40
<i>Case study 4</i>		42
<i>Case study 5</i>		46
<i>Case study 6</i>		49

## Abstract

With the increase of both globalisation of enterprise and competition of ideal location, the legal and administrative frameworks with which European industry is confronted, are becoming increasingly more important. Upon this realisation the European Commission, in co-operation with a number of member states, decided to instigate an international benchmarking study in the first half of 1999. The question was how licensing procedures for industrial investments are structured in the individual member states and whether and where there was room for improvement.

A number of quantitative input benchmarks have been identified, such as the number of experts involved, the time required for proceedings, and costs incurred. Moreover, several output benchmarks, such as the predictability of the process, ways to shape the proceedings and the quality of decisions, were determined. Process benchmarks – pertaining to the spheres of enterprises, authorities, and the communication between the parties involved – were analysed and found to be largely qualitative in nature, with the legal environment being basically the same all over the country. As a next step, a "best practice" was identified as well as the circumstances conducive to it ("enablers"). Finally, appropriate recommendations were prepared on how such "best practice" elements could be transferred to "normal processes," thus improving the latter accordingly.

It turned out that in many areas of Austria, the time required for and the quality of proceedings leading to licenses, permits and authorisations have improved much in comparison with the situation several years ago. Numerous individual authorities have made good use of their organisational opportunities and brought about internal improvements of processes within the framework provided by existing legislation. However, regional differences are still marked. Furthermore, such developments have not taken place among building authorities, with them any improvement so far has been on a very limited level.

All things considered, industrial and building authorities as well as enterprises can become more efficient. In this context, it does not seem purposeful to abolish on-site negotiations (altogether) because these have proven quite useful in many cases. Furthermore, the exclusion of neighbours from the procedure is not advisable at all. However, we have been able to determine a wide range of improvements. As far as legal matters are concerned, it is the industrial law, the harmonising of industrial law and building law, as well as the civil service regulation, which are decisive, but any changes therein tend to require a lot of time. As concerns the administration, however, and even more so the information, a variety of measures could be carried out on the spot, at once and without legal changes at all: It would be an improvement if the authorities (communities, municipalities, district authorities, provincial governments) made full use of the organisational possibilities and the leeway at their disposal. It is the personal attitude of the players involved on behalf of the authorities and the enterprises that accounts for a lot.

A number of positive examples go to prove that considerable efforts are justifiable. Actually, a further reduction of time lapse is no longer the priority, at least in Austria. Individual industrial authorities have already succeeded in streamlining licensing procedures to such a degree that any

further reduction might result in a loss of quality. What seems of primary importance are improvements of the internal procedures within the authorities. This would result in greater security for those planning investments, in better quality decisions and in an overall increase of acceptance of the public service by enterprises and the public.

As far as procedures under the building law are concerned there is indeed room for further streamlining. Suitable measures would lead to fundamental improvements, in particular to a reduction of time lapse.

## 1. Introduction

The Republic of Austria, represented by the Federal Ministry for Economic Affairs, commissioned the Austrian Institute of Economic Research (WIFO) to prepare a benchmarking study. The study was to focus on the types, scopes and duration of permits for industrial operations in Austria. It has to be seen in the context of similar studies in other EU member states which were – following an initiative of the Austrian government – carried out at the same time, using methods that were as similar as possible. The basic idea was that, apart from legislative and fiscal measures, a targeted enhancement of efficiency mainly in the field of public services could contribute to improved competitiveness of European industry.

Following a presentation of the legal framework prepared by the Federal Ministry for Economic Affairs, the individual steps of facility approval and building permit proceedings were analysed. Six case studies covering different branches, sizes and Federal provinces were carried out and benchmarked. Each case had to be looked at from the perspectives of both the entrepreneurs and the authorities concerned. Depth interviews with representatives of authorities and enterprises were to be held and available documentation had to be evaluated.

The environment for a study of this kind was specially favourable in Austria (in the first half of 1999): as the re-definition of the role of the state in society and business had been in the centre of political discussions for some time, legislation governing operations facility permits has been in the focus of a fairly heated public debate for about a year. Moreover, many authorities at various levels in Austria have been re-considering proceedings on their own account in the past few years. Against this background, the present project met with a great deal of interest and readiness to co-operate on the part of the authorities, the Chamber of Commerce and many enterprises.

Out of the six investments analysed, one was found through personal contact with the enterprise, and one through personal contacts with the head of the authority in charge. The four other cases were selected by following talks with the provincial governments and the administrative authorities of the districts in charge of proceedings. The officials in charge with these authorities then made contact with the enterprises and proposed the specific investments. Numerous phone calls and e-mails as well as several trips to the locations of the enterprises selected and the local authorities in charge were required to arrange for appointments and carry out the interviews.

Close co-operation between WIFO, the Federal Ministry for Economic Affairs (for whose support in establishing contact with the various authorities we would like to say thank you at this point), the

European Commission and the other countries participating in the project, was part of the assignment.

## 2. Methodology

In the past few years processes involving in official proceedings for operations permits in Austria were analysed in several studies on occasions. Practically all of those studies were based on a large number of cases and focused on the length of proceedings to obtain industrial permits, with the results being as follows:

- In the early nineties, 163 proceedings examined all over Austria took an average 319 days from application to the granting of authorisation. 14 percent took less than 3 months whereas 35 percent of proceedings exceeded 1 year<sup>1</sup>.
- A little later, 567 proceedings were examined in five provinces and found to have taken an average 317 days from application to the granting of authorisation during the period from early 1993 to mid-1994; during the period between mid-1994 to late 1996, this was reduced to an average of 157 days. After June 1994, 55 percent of all proceedings were completed within a period of 90 days. Considerable differences in the duration of proceedings were observed between the individual administrative units examined<sup>2</sup>.
- In another province, the average length of proceedings was gradually reduced from 161 days in 1993 to 83 days as of now<sup>3</sup>.
- Organisational measures enabled the administrative authorities of a district to reduce the average time required for authorisation proceedings from 300 days in 1991 to roughly 70 days in 1995. In 1998, permits or authorisations were issued within five to six weeks in more than 70 percent of all cases. What's more, that district authority had reduced its staff during those years<sup>4</sup>.

Obviously, efforts of Austrian authorities to streamline procedures have already resulted in remarkable progress, which is also recognised by the citizens and enterprises concerned. Proceedings are sometimes optimised at the level of districts, sometimes at the level of provinces. In at least two provinces, almost 90 percent of all proceedings involving permits for operations facilities are completed within three months. In another province, "flash proceedings" are completed within three weeks, more than 50 percent of proceedings can be decided within two months. The demand that "a period of 6 months should be considered reasonable for a simple

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<sup>1</sup> Huber, W., "Dauer und Verzögerungsfaktoren der Genehmigungsverfahren – Ergebnisse einer Unternehmerbefragung", in Schwarzer, St. (Ed.), "Die Beschleunigung von Betriebsanlagengenehmigungen", Vienna 1997.

<sup>2</sup> Gruen, O. et al., "Genehmigungsverfahren bei Betriebsanlagen", Wien 1998.

<sup>3</sup> Press release (letter to the editor), July 1999.

<sup>4</sup> Oeberseder, J., "Beschleunigung der Betriebsanlagenverfahren", oral report given in Vienna, November 1998.

industrial permit to be granted," revolutionary at the time when it was made by the Advisory Council on Economic and Social Issues in 1970, is now more than met in the majority of cases.

The study presented examines the entire time span of proceedings. Unlike earlier studies this one included the time span right from the decision to invest up to the formal application. Furthermore we attempted to deal with the problem not only by looking at the time axis but by using the most comprehensive benchmarking approach possible. Benchmarking involves the following:

- understanding processes,
- analysing processes and their underlying conditions, and comparing them with processes in other organisations,
- finding meaningful criteria for the evaluation of processes,
- identifying best practices and the conditions enabling them,
- and finally, finding ways and means to transfer the conditions for best practices onto all other processes and making use of these.

Thus, the objective of benchmarking is not only the definition of a "yardstick". "Much rather, insights from analysis and comparison should be used to attain improvements of processes"<sup>5</sup>.

The point is thus to identify "best practices" so that one can learn from them. However, it should be borne in mind that "best practice" is a relative concept which will hardly ever be found in its unadulterated state. There is no such thing as an absolute "best practice" to be copied in its entirety; much rather, what is at stake here is the identification of individual elements in recognised best practices which can then be transferred to other situations in an adapted form. This requires full understanding of the processes and the identification of strong points and weaknesses.

This study only examined a small number of investments in great detail, i.e., in comprehensive case studies. The specific conditions of individual processes were explored in detail, stages of proceedings were analysed and compared with one another. The aim was to develop input, output and process benchmarks. This enabled a comparison between proceedings and the identification of a "best practice" as well as a description of the circumstances enabling it (enablers). Finally, measures that should help transfer elements or conditions of best practices to normal proceedings were proposed.

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<sup>5</sup> Berchthold, St., "Trainingsprogram on Quality Matters – Module Benchmarking" (EUROCHAMBRES), Vienna 1997.



### 3. Legal framework<sup>6</sup>

#### 3.1 Fundamental structure of legislation and public administration in Austria

The approval of industrial facilities is within the sphere of responsibility of the public administration in Austria. Austria is a Federal state. Federal laws are adopted by Parliament and enforced by the Federal Ministries.

Austria has nine Federal provinces, each with its own legislative body (Provincial Diet) and its own public administration. Moreover, there are 15 chartered towns, 84 political districts and 2,335 communities with their own administrative authorities.

##### **Direct federal administration:**

Laws are adopted and enforced at the federal level – which is, however, relatively rare in the case of facility approval.

##### **Indirect federal administration:**

Laws are adopted at the federal level and enforced by provincial bodies. Basically, there are two stages of appeal, the second instance being the Provincial Governor. A third instance is provided for in exceptional cases – this applies, in particular, to industrial and trade law, which also governs the approval of industrial facilities. The District Commissioner (at the lowest administrative level) acts the first instance, followed by the Provincial Governor as the second instance. In exceptional cases, a third instance is provided for – usually the competent Federal Ministry.

##### **Provincial administration:**

Laws are adopted and enforced by the Province. As above, the district administrative authorities constitute the first instance, followed by the Provincial Government as the second instance.

##### **Stages of appeal:**

If a party appeals against a first-instance decision, the case is transferred to the next higher instance.

The **General Administrative Act** regulates the basic procedure to be followed in public administration, including the maximum length of proceedings. As a matter of principle, all proceedings follow the same course under this Act. However, in certain cases the Act only applies in the absence of specific provisions adopted within the framework of other administrative regulations, such as those derived from the Industrial Code. Each provincial administration has the right to adopt more detailed provisions regarding the conduct of administrative proceedings, subject to fundamental compliance with the General Administrative Act.

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<sup>6</sup> Compiled by Federal Ministry of Economic Affairs, July 1999.

Table 1: Legislation and Public Administration in Austria

Level	Legislation	Administration
Federal level	National Council (Parliament)	Federal Minister (Federal Ministries)
Provincial level	Provincial Diet (Provincial Parliament)	<b>Last instance:</b> Indirect federal administration: Provincial Governor (bodies in charge within the provincial authority) Provincial administration: Provincial Government (bodies in charge within the provincial authority)
		<b>First instance:</b> For both indirect federal administration and provincial administration: District Commissioner (district administrative authority) Mayor
Local level		

## 3.2 Applicable law

Both federal laws and provincial laws apply to the approval of industrial facilities as defined for the purposes of this project. Various bodies are in charge of enforcement.

In accordance with the cumulation principle, an industrial facility may require several approvals (building permit, authorisation under the provisions of water legislation, etc.). This fragmented approach often causes problems in terms of administrative efficiency, business management and procedural law.

### 3.2.1 Federal law relating to industrial facilities

#### 3.2.1.1 The industrial code

The most important "body of law" governing the approval of industrial facilities is the Industrial Code with its regulations, which lay down the course of approval proceedings and the areas to be covered. On the basis of the Industrial Code, additional and more detailed provisions (regulations of the Federal Ministry for Economic Affairs) may be adopted. The latter may have a considerable influence on the duration of approval proceedings.

Through the 1997 industrial and trade law amendment, further steps were taken to simplify and accelerate the proceedings, the most important measure being the concentration of proceedings, under which all proceedings concerning the granting of permits under federal law – except for those subject to Section 29 of the Waste Management Act and the Environmental Impact Assessment Act – have to be combined with the approval proceedings for industrial facilities. Hence, the substantive provisions of the other proceedings required for the granting of permits under federal law also apply in the proceedings relating to the approval of an industrial facility. This means that an approval granted for an industrial facility is also deemed to be an approval under these administrative regulations.

##### 3.2.1.1.1 Authorities concerned (standard case)

1. District administrative authority: first instance.

2. Provincial Governor: second instance.

#### 3.2.1.1.2 *Definition of an industrial facility*

An industrial facility is defined as any stationary facility intended for the regular exercise of an industrial activity. Thus, the criteria to be met include

- the stationary nature of the facility,
- an industrial activity,
- regular exercise of this activity in the facility.

#### 3.2.1.1.3 *Approval requirement*

Not every industrial facility is subject to approval. The erection, operation and modification of an industrial facility is subject to approval only if

- there is a risk of exposure to certain hazards and nuisances, and
- the facility is liable to cause such hazards and nuisances.

The personal and material goods and the groups of persons to be protected against harm are defined in the following. On this basis, any industrial facility is subject to approval, if it is liable to

- endanger the life or health of the industrial operator, family members working in a supportive capacity and not covered by occupational health and safety regulations, neighbours or customers;
- endanger the property or other real rights of neighbours;
- present a nuisance to neighbours through odours, noise, smoke, traffic jams, vibrations or in other ways;
- interfere with certain public interests (exercise of religion in churches, road traffic, water protection, etc.).

#### 3.2.1.1.4 *Approval proceedings*

The approval of an industrial facility is an administrative act subject to application. The application must be filed by the future "owner/operator". Proceedings are not instituted officially (not even in the case of illegal operation of unauthorised facilities) or by neighbours. An application must be accompanied by the documents required for the assessment of the project. As a rule, the approving body is the district administrative authority.

##### **a) Standard facilities subject to approval**

Notwithstanding the provisions of the General Administrative Act, "standard" approval proceedings comprise a compulsory on-site hearing, which constitutes the central element of the proceedings

and serves the taking of evidence on site. The owners/operators of the adjacent plots of land have to be summoned in person to the hearing; written notice has to be put up to notify the other neighbours.

In order to be admitted as parties to the proceedings, neighbours have to raise objections regarding their legal positions during the on-site hearing, at the latest. If they fail to do so, they do not have the right to appear as parties. This provision also serves as a model for other approval proceedings.

#### **b) Facilities with minor hazard/nuisance potential (simplified proceedings)**

If the occurrence of some impact from operation of a facility – although of minor scope – cannot be excluded (facilities with minor hazard/nuisance potential, minor facilities), the facility is subject to simplified proceedings without on-site hearing. On the basis of the application submitted, the nature of the facility is established and, if necessary, conditions are imposed for the protection of those concerned.

##### *3.2.1.1.5 Approval*

Approval of an industrial facility has to be granted if

- the foreseeable dangers to life and health and to the property and the real rights of the persons indicated are avoided;
- the nuisances, impairments and detrimental effects are reduced to an acceptable measure;
- emissions of air pollutants are limited according to the state of the art;
- waste is avoided or recycled according to the state of the art or – if this is not economically justifiable – properly disposed of.

##### *3.2.1.1.6 Legal effects of approval*

Firstly and most importantly, approval of an industrial facility grants the right to operate the facility under the conditions named in the notice of approval. To a certain extent, this right already exists before the administrative decision becomes legally effective and it may continue to exist for a certain period of time after withdrawal of the approval by the Administrative Court (supreme court for administrative matters). Moreover, approval grants the right to modify the facility to a certain extent without further approval; in particular, it confers the right to carry out replacement investments. A change of the facility owner/operator does not affect approval.

##### *3.2.1.1.7 Monitoring and operator obligations*

Industrial facilities have to be monitored by the authorities within the framework and by means of trade and industry inspections; special monitoring requirements have to be met in the case of facilities likely to constitute a hazard.

The owner/operator of an approved industrial facility has to have the facility inspected at regular intervals; the inspection schedule varies with the type of facility (standard facilities to be inspected at five-year intervals). The inspections have to be carried out by qualified institutions or by facility owners and/or staff members with the necessary expert knowledge. An environmental facility audit, including entry of the facility location in the register of environmental audits and locations, is also recognised. Outsourcing of the inspection duty to the operator is a form of privatising the proceedings.

In the case of facilities likely to constitute a hazard, state-of-the-art safety measures have to be provided for the event of an incident. The facility owner is obliged to inform the population regularly about the hazards and the effects of incidents and to provide the authorities in charge with the data required for the recording of environmental risks.

#### *3.2.1.1.8 Examples of implementing regulations*

Depending on the type of facility or operation, the following regulations apply:

- regulation on combustible liquids,
- solvents regulation,
- clean-air regulation,
- regulation on the protection against electricity,
- regulation on combustion plants,
- and others.

#### **3.2.1.2 Waste management act**

The provisions of the waste management act apply to hazardous waste, waste oil and – to a certain extent – non-hazardous waste.

##### *3.2.1.2.1 Authorities concerned*

Provincial Governor

#### **3.2.1.3 Water rights act**

This act applies if public or private bodies of water are used, substances or waste dangerous to water are stored, or bodies of water are exposed to hazards. It also applies to structures adjacent to bodies of water, and the like.

##### *3.2.1.3.1 Authorities concerned*

- District administrative authority: acts as first instance in all matters, unless subject to other regulations.
- Provincial Governor: second instance, special cases.

- Federal Ministry for Agriculture and Forestry: special waste.
- Also concerned in special cases: railway authority, trade and industry authorities, air pollution control / pipeline authority, mayors, mining authority, waste management authority.

#### **3.2.1.4 Forestry act**

Facilities which, according to the present state of scientific knowledge and experience, are known to cause forest-damaging air pollution are subject to approval.

##### *3.2.1.4.1 Authorities concerned*

District administrative authority as body of first instance.

#### **3.2.1.5 Air pollution control act applicable to boiler plants**

Steam boiler plants releasing emissions into the open atmosphere are subject to approval.

##### *3.2.1.5.1 Authorities concerned*

District administrative authority as body of first instance.

#### **3.2.1.6 Environmental impact assessment act**

Major facilities, such as roads, railway lines and certain types of large industrial facilities, are subject to approval. The assessment provides for citizen participation, with the term "citizen" being defined more widely than the term "neighbour". The proceedings comprise the identification, evaluation and description of the project; the assessment of the measures taken to prevent or mitigate its effects; the presentation of the advantages and disadvantages of the alternatives envisaged by the project applicant in case of non-execution of the project. The proceedings take a very long time and, in the case of industrial facilities, are not yet based on a comprehensive body of experience (see definition of the project).

##### *3.2.1.6.1 Authorities concerned*

- All the authorities which would be concerned in the absence of EIA proceedings, and
- Federal Ministry for Economic Affairs,
- Federal Ministry for Science and Transport,
- Provincial Government.

#### **3.2.1.7 Other federal legislation**

- Act on swimming pool hygiene.
- Radiation protection act.

- Aviation act.
- Navigation Act.
- High-voltage power lines act.
- Energy management act.

### 3.2.2 *Provincial legislation on industrial facilities*

Each province can adopt its own provincial laws regarding certain areas, as laid down in the Constitution, and is responsible for their enforcement. As regards the approval of industrial facilities, the following areas are covered by provincial legislation:

#### 3.2.2.1 **Waste management**

Provincial regulations apply to areas not covered by the federal waste management act.

Authorities concerned:

- District administrative authority: first instance.
- Provincial Government: second instance and special cases.

#### 3.2.2.2 **Nature and landscape conservation**

Construction projects outside built-up areas and green-field projects.

Authorities concerned:

- District administrative authority: first instance
- Provincial Government: second instance and special cases

#### 3.2.2.3 **Building code**

In general, all construction projects, such as the erection of new buildings and the extension and conversion of existing buildings, are subject to approval.

Authorities concerned:

- Mayor or municipal authority: first instance.
- District commissioner: second instance and special cases.

There are some provinces in which the administrative tasks of the local authority (enforcement of the building code) within the framework of multi-stage proceedings are carried out by the first-instance body of the provincial level (district administrative authority).

#### 3.2.2.4 Other regulations

- Road legislation.
- High-voltage power line legislation.
- Electricity legislation.

## 4. Selection of case studies

The international group of experts had defined the following criteria for the selection of cases according to industries and sizes of enterprises with a view to optimal international comparability:

Foodstuffs production (less than 50 employees)

Chemical industry/plastics (more than 250 employees)

Machine-building (approximately 100 employees)

Wood processing (approximately 100 employees)

JOKER (less than 250 employees).

The JOKER was a compromise to take diverging opinions within the expert group into account. Each expert was able to select a case according to his/her wishes and take national specialities into account.

The project focused on small and medium-sized enterprises (SMEs) as these usually have little experience in dealing with the authorities in proceedings on the one hand, and because the expenditure in time and funds related to such proceedings is a disproportionate burden for them. However, one enterprise to be included was to be larger, with more pertinent experience. The idea was that elements from processes customarily followed there could perhaps be transferred to processes in smaller enterprises.

The specific proceedings preceding the granting of authorisations or permits were to have been completed in 1997 or 1998 and they were to be exemplary for the majority of routine cases. Complicated cases involving protracted proceedings, special sensitivity (e.g., nature conservation, archaeology, increased emission hazards) or comprehensive objections were to be excluded. We also tried to find cases from all over Austria so as not to concentrate on specific regions. One thing that needed to be considered was that, in spite of the fact that the legal environment is in principle the same for all of Austria, different regional authorities may handle actual proceedings differently. The following authorities in charge of industrial permits were involved:

- three district authorities,
- two municipalities,
- one provincial government.



For the "JOKER", two investments were analysed: In the course of the study it turned out that this would not cause too much extra effort and yet provide valuable additional information.

*The following investments were examined:*

	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
Location	Small town in rural area	Rural region	Small town, industrial zone	Big city, industrial zone	Rural region	Residential area on outskirts of city
Workers on location	200	580	100	33	100	35
Type of investment	Production hall	Ware-house	Conversion of production plant	New production plant	Ware-house and hall as sales outlet	New development of entire operation
Investment volume	ATS 4 mill.	ATS 37 mill.	ATS 50 mill.	ATS 40 mill.	ATS 8 mill.	ATS 12 mill.
Experience with proceedings involving operations permits	Little	Considerable	Considerable	None	Little	None
Authorities involved	Community, District Authority	Community, Provincial Government.	Municipality	Municipality	Community, District Authority	Community, District Authority

Using a given questionnaire several interviews with representatives of the authorities and of the enterprises were carried out. Each interview took between two and three hours. Apart from answers to the questions, numerous additional hints that turned out very useful for the preparation of the study were obtained. Many interviews were complemented by additional information obtained later on by phone, and numerous experts from other authorities and representations of interest were also asked for information.

From the start, it had been agreed that individual data known to the authors of the study would be treated as confidential and all enterprises involved had been assured of this. Moreover, it had to be taken into account that the number of enterprises in certain business lines is so small in some countries that the business line and number of staff alone would be enough to enable insiders to identify the enterprises in question. For this reason, the individual investments are dealt with in an anonymous form in this study. The numbering of investments does not correspond to the list at the beginning of this chapter.

## **5. Selection and evaluation of benchmarks**

### **5.1 Input benchmarks**

The analysis of the case studies made it possible for us to identify several quantitative input benchmarks which do not suffice for a full evaluation but at least come with the advantage of easy measurability:

#### *5.1.1 Number of experts*

The number of experts has a bearing on the duration and costs of proceedings for both enterprise and authorities. The organisational expenditure involved in terms of passing on files and fixing appointments increases considerably as the number of experts rises.

The question as to which experts have to be involved in specific proceedings largely depends on the type of facility and its location. It is obvious that the production of chemical goods has to be examined by more specialists than a service business. It depends on the location if a specialist of noise abatement or transport issues is needed. This was one of the reasons for the relatively large number of experts involved in cases 5 and 6. The expert in industrial safety (works inspector) has to be called in on all industrial law proceedings, he/she is not an official expert but a party to proceedings.

*Experts involved:*

	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
<i>Industrial law proceedings:</i>						
Industrial/plant engineering	x	x		x		
Machine-building					x	x
Electrical engineering				x		
Materials processing			x			
Structural engineering			x		x	x
Environmental technology				x		
Noise abatement					x	x
Transport					x	
Fire protection		x	x		x	x
Industrial safety	x	x	x	x	x	x
Physician			x	x		x
<i>Number:</i>	2	3	5	5	6	6
<i>Building regulations proceedings:</i>						
Structural engineering		x		x	x	x
Fire protection		x			x	x
Industrial safety				x		
<i>Number:</i>	0	2	0	2	2	2
<i>Total number</i>	2	5	5	7	8	8

However, much is left to the discretion of the officials in charge of proceedings. If, for example, certain experts such as the public health officer or a special materials processing engineer are difficult to call in and need a lot of advance planning, efforts will be made to make do without them. If, on the other hand, it has to be expected that the applicant or the neighbours will be difficult, there will be a tendency towards additional opinions and experts to safeguard proceedings even though this might protract the matter. This means that the problems entailed by calling in additional experts will be weighed against the problems caused by foregoing their participation in each individual case.

The optimal case identified here needed no more than one industrial engineering expert who was at the same time able to judge questions of structural engineering, and one industrial safety expert (works inspector). This could actually be sufficient for a large number of routine proceedings.

### 5.1.2 *Time elapsed*

On the one hand, the duration of proceedings has a bearing on the costs incurred by enterprises, which grow fast (costs of down times, costs for alternative storage and logistics, lost business opportunities, contractual penalties in case of delayed delivery), and with the authorities (files have to be kept pending). On the other hand, a certain minimum time is required to ensure the quality of planning and permits.

Specially fast proceedings will not come with benefits if the enterprise and its project managers and suppliers fall below the minimum time required for careful planning and the delivery of the new facility. Indeed, it can be disadvantageous if fast handling causes inaccuracies on the part of enterprises or authorities. Changes in plans and designs that may be required during proceedings are cumbersome and cause delays which were originally meant to be avoided. It is even more

embarrassing if the permit is flawed by insufficient facts to support the decision and appeals are received. This may lead to even longer delays and/or even necessitate costly changes of building parts that may already have been completed. It would be altogether disastrous to realise at such a late stage, that the whole project is not economically feasible.

What is remarkable are the major differences between the individual cases as regards the time spent on the individual phases of proceedings – some can be explained by special circumstances: in Case 3, sophisticated detailed planning was required after the formal decision to invest, in Cases 4 and 5 legal problems about the real estate taken into consideration for the project had to be sorted out before the first contact with the authorities. By contrast, the extremely short period between hearing and issuance of industrial permit in Cases 1 and 2 seems to be due to the internal organisation of the authorities.

*Time required (in days):*

	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
From decision for investment to first contact with authorities	10	30	121	107	130	13
Industrial law proceedings:						
From first contact to formal submission of application	18	70	0	30	71	27
From submission to on-site negotiation	24	28	24	75	44	38
From on-site negotiation to arrival of permit	2	4	53	104	25	20
From arrival of permit to entry into force of permit	58	116	91	223	154	85
Building law proceedings:						
From first contact to formal submission of application	18	70	0	37	113	30
From submission to on-site negotiation	24	28		159	134	33
From on-site negotiation to arrival of permit	22	25		51	1	77
From arrival of permit to entry into force of permit	78	137		261	262	140
Total duration:						
From decision for investment to entry into force of last permit required for building activities to start	88	167	212	703	392	153
From first contact to entry into force of last permit required for building activities to start	78	137	91	596	262	140
From submission to entry into force of last permit required for building activities to start	60	67	91	559	191	113

Moreover, it is striking that most phases of the building law proceedings take longer than those of the industrial law proceedings. In Case 3 no building law proceedings were required, it was sufficient to report the building activities. In Case 1, the building law and industrial law hearings were carried out at the same time, the permits were issued separately. In the remaining four cases, industrial law proceedings and building law proceedings were carried out in a somewhat coordinated way but still kept separately. In all cases (except for Case 3), the building permit was received after the industrial permit.

In general, the approval proceedings for industrial permits and for building permits tend to overlap somewhat. In five of the six cases examined, building activities started before the building permit had entered into force. In all cases, the industrial permit was considered decisive for success in the entire proceedings. By contrast, the building permit was rather considered a formal requirement if the plot of land had been designated accordingly in the zoning plan. In this context, entrepreneurs and authorities largely rely on the architect and/or contractor's supervisor, who know the building regulations and are obliged to adhere to these. In the course of approval proceedings for building permits it is quite common that hearings take place on the site of a more or less advanced construction.

This holds even more good for the formal permit to use, issued by the building authority: All cases under study show that the new construction was used right after completion and well before the formal proceedings for building permits were over. With four of the six cases there was a time lapse of 107 to 341 days between the completion of the construction and the on-site hearing to check compliance. The fifth case did not need a permit to use at all, while there was no building permit for the sixth case as yet, the project having only just being completed. We found no indication that the investors were unduly worried by such a relatively long time lapse.

Given the small number of cases examined, it is not possible to draw a well-founded conclusion about regional differences in the duration of proceedings within Austria. However, there are indications (corroborated by earlier studies on the topic) that there are major regional differences. Some district authorities have made considerable progress in improving the timing of their proceedings, others still lag behind although the legal situation is the same for all. Differences are also considerable among the 15 municipal councils, even though these have the advantage that industrial and building law proceedings are handled by the same authority.

### 5.1.3 *Costs of proceedings*

Costs of proceedings are composed of several components:

1. Out-of-pocket-costs incurred by the enterprise consist of expenses for the preparation of documents to be submitted, external experts (architects, master-builders, project managers), official experts and for fees paid to the authorities. Internal costs for staying in touch with the authorities, the experts, neighbours, etc., depend on the working hours expended and related labour costs.

2. Costs incurred by the authorities involve the fees of experts and the labour costs arising from internal organisation and handling the applications, which cannot be invoiced directly.

It has been found that hardly any of these cost components can be reliably delimited from others and quantified. If the entrepreneur (managing director) is the internal project co-ordinator him/herself, as is often the case with SMEs, his/her working hours are usually not accounted for in any way. Costs for external project managers and/or architects are usually known but it is hard to actually say how much time they spent on the proceedings. Many documents required for the authorities are also needed for the building project, anyway. Enterprises can thus only quantify the costs incurred for external experts and the fees they pay for the hearing. In general, enterprises reckon with planning and organisational costs amounting to about 5 percent of the total sum invested, and this also includes the costs of proceedings before the authorities.

*Costs for the enterprise:*

	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
Official fees	ATS 5,600	ATS 7,630	Not itemised	Not itemised	ATS 17,8€	ATS 16,3€
Other costs	5 percent of building investment volume		5 to 7 percent of building investment volume	5 percent of building investment volume	ATS 100,0€	ATS 150,0€
Expenditure in time				6 manager months	Approximately 80 man-hours	

Since there is no appropriate way of calculating the costs of projects, the authorities are even less in a position to quantify their costs. Expenditure for experts and internal handling of the file is at best estimated.

For all these reasons, the figures were incomplete and too unreliable to enable the identification of a best practice.

## 5.2 Output benchmarks

Output benchmarks refer to the results of the operations facilities proceedings for enterprises, authorities and parties at different stages of the proceedings. They are significant yardsticks for the quality of processes: predictability and opportunities to shape proceedings as well as the quality of decisions concerning the content of permits, like standards and limits, duration of validity, stability and liability.

### 5.2.1 Predictability of the process

In four of the six cases examined, the successful outcome was clear shortly after the first contact was made with the industrial authority, which was regarded as decisive for the outcome of proceedings as such.

*Safety about success of project:*

	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
Days after decision to invest	15	59	121	585	135	18
Days after first contact made with authority	5	29	0	105	5	5
Days before(+)/after (-) the first hearing under industrial law	+ 13	+ 41	+ 24	- 27	+ 66	+ 22

It was only in Case 4 that it took until the second hearing under industrial law that the project was liable to be granted a permit. In Case 3, the successful outcome was only sure when the application was formally submitted to the authority since there had been no informal prior contacts.

### 5.2.2 Opportunities to shape proceedings

The opportunity to shape proceedings in a pragmatic way exists within limits in Austria: even though documentation may be incomplete when the formal application is filed (with some authorities, the rate of incomplete applications is very high), a date for the on-site hearing is fixed for projects otherwise ready for negotiation. Missing documentation and minor corrections of the detailed designs can be submitted up to the date fixed for the hearing. In the cases examined, documents and minor corrections also followed after the date of the hearing had been set.

### 5.2.3 Quality of decision and value of permit

#### 5.2.3.1 Duration of validity

Basically, the duration of validity of building permits is unlimited. Industrial permits are also unlimited in duration, with the following exceptions applying:

- Industrial facilities must be adapted to the state of the art unless this causes unreasonable expenditure. Such adaptations are prescribed by the authority in a new decision containing requirements; such decisions can be appealed against. Non-fulfilment of requirements carries fines or the prohibition of all operation.
- New laws or regulations within the Industrial Code may result in the prescription of adaptations of industrial facilities and plants, usually with transitional periods. In such cases, the enterprises are obliged to fulfil the legal requirements while no decisions have to be issued by the authorities. In practice, the authorities check the facilities and issue new decisions.

This is also true of the cases examined here.

#### 5.2.3.2 Standards and limits

The permit covers a description of machinery, processes, operating hours, produced quantities and emissions of noise and other pollutants. Subsequent changes are subject to authorisation if they have a subsequent impact on the environment, the neighbours or the workers; in practice,

this applies to increased emissions or changing operating hours. If no subsequent impact is to be expected, changes need to be reported to the authority only. This applies for all cases examined here.

### **5.2.3.3 Stability**

Within 14 days from the date of receipt of a permit, appeals against the latter can be filed by the applicant, the works inspector and the neighbours who have become parties to the proceedings due to objections raised before the end of the on-site negotiation. The better the preparatory work for a permit, the smaller the danger that an appeal will be filed and proceedings will thus be protracted. Appeals against permits which have entered into force are only possible in exceptional cases. In the cases examined, there were no appeals.

### **5.2.3.4 Liability**

Liability for the operation of plants and facilities is first and foremost assumed by the enterprise responsible for adherence to regulations and fulfilment of requirements as well as for ongoing checks on the operational safety of such plants. The of losses and private-law claims for damages. The authorities are liable for cases in which official powers are abused, this requires culpable acts in the enforcement of the laws. All this is true of the cases examined here, all enterprises have taken out insurances.

## **5.3 Process benchmarks**

The process benchmarks described here are qualitative in nature and can also be considered to be "enablers" in specific cases.

Proceedings for the granting of operations facility permits encompass processes involving the sphere of the enterprises on the one hand and the sphere of the authorities on the other, as well as processes of communication between enterprises and authorities as well as other parties concerned. The following description of process benchmarks will differentiate between these spheres.

### **5.3.1 Enterprises**

#### **5.3.1.1 Knowledge, experience, contacts**

The expediency and quality of processes in the enterprise depend significantly on the experience of that enterprise in dealing with investments and the building and operations facility permits required for these, and whether such proceedings are largely a routine matter or not. What is needed in this context is a good overview of the market and contacts with goods suppliers, architects and master-builders as well as financing institutions. With respect to the specific project, information about the suitability and designation in the zoning plan of the real estate and an exact idea of the subsequent use thereof are indispensable.



Basic information about the legal requirements should be provided prior to the granting of the industrial permit and on an ongoing basis by the Austrian Economic Chamber or the authorities. The enterprise may improve its knowledge on current legal requirements with the help of external experts as well as by information obtained from the authorities (personal information, folders, checklists, Internet).

### **5.3.1.2 Organisation of the process in the enterprise**

Fine organisational culture and clear-cut decisions within the enterprise prior to and after proceedings before the authorities are helpful. It is useful to have an internal project manager who acts as a liaison officer with the authorities and is supported by the company management. In major projects, the appointment of an internal project team is recommended. If the enterprise has little experience in obtaining operations facility permits, an experienced external project manager who is also known to the authorities as a reliable person should be called in early on.

During proceedings, it is recommended

- to use available informal channels to clarify matters (personal meetings with representatives of the authorities, project open day);
- to submit complete and high-quality documents with the application as quickly as possible while taking the results of meetings into consideration in these;
- to file the formal application for the permit to use the operations facility without delay and to submit any missing documents reliably at a later date;
- to get in touch with neighbours in due course and in a targeted way.

The premises required for on-site negotiations should be made available or accessible and competent representatives of the enterprise and experts assisting the enterprise (architect, master-builder, suppliers, external project managers) should be present or available on call.

## **5.3.2 Authorities**

### **5.3.2.1 Co-ordination of proceedings and competences**

The extent and quality of co-ordination of the proceedings between different authorities as well as between representatives within the authorities on the one hand and the experts on the other hand are important benchmarks.

Carrying out proceedings under industrial and building law largely in parallel or even jointly is purposeful and should be possible within the existing legal framework. The transfer of competence in building matters from the communities to the district authorities – a "concentration of proceedings with the district authorities" – is presently possible on a voluntary basis but cannot be forced without any amendments to the existing legislation.

It has turned out that it makes good sense to vest the industrial regulations expert with the competence to handle proceedings under both industrial and building law. In the optimal case, the officer in charge of the project uses project controlling to direct the proceedings and co-ordinates processes within the authority (district authority, municipality), involving the experts (district authority, municipality, provincial government) and other authorities (community, works inspectorate).

Co-ordination is facilitated by optimal organisation of the experts, with "allrounders" among experts being found locally (organised in a decentralised way) while "special experts" would have to be organised in a centralised "expert pool" at provincial level. This would improve their availability and reduce travel expenses.

### **5.3.2.2 Service and shaping proceedings**

In the course of the study, the quality of service provided for enterprises and the way the authorities shape the processes involved have turned out to be the most important criteria for "good practices". The following benchmarks have been identified:

#### **Comprehensive opportunities for information and advice to enterprises prior to actual proceedings**

This includes information events organised by the authorities, information sheets and checklists in print and on the Internet. Personal counselling by representatives of authorities, especially in the shape of a co-ordinated "project open day" have proven very useful. At the project open day, the authorities should be represented by the official in charge of the project, an "expert on industrial matters" and the works inspector; they should have the largest extent of advance information on the project that can possibly be given. Part of the counselling process should involve the scheduling of project timing in co-operation with the enterprise. The official in charge of the project should also carry out internal process controlling, e.g. by using checklists covering the stages of proceedings with the authority.

#### **Shaping proceedings**

Expediency and quality of processes can be influenced in a positive way by the following measures:

- It should be possible to make appointments for personal counselling at relatively short notice. Project open days at set dates on which appropriate premises for meetings are made available have proven very useful.
- A sufficient number of negotiation dates for on-site hearings should be fixed in advance with the most important experts, the works inspector and the representative of the community.
- On-site negotiations should be scheduled as soon as the application has been received, the project is ripe for negotiations and the only thing that is missing is drawings of details or individual documents which can be submitted at a later date before the hearing.

- Documentation should be sent to all experts, the works inspector and the community for comments simultaneously. They can prepare their requirements in advance and restrict themselves to additions or amendments at the on-site hearing. The requirements they prepare can be turned into building blocks to be incorporated in the text of the records of the hearing. Thus, the outline of permits containing the project data can already be drafted prior to negotiations.
- Invitations to neighbours (residents and property owners, details taken from the Land Register or other data bases) should be prepared with EDP support using serial letters.
- A skilful choice of locations for negotiations can also assist in making processes more successful. Sufficient and easily accessible spaces should be available with the enterprise, at the offices of the authorities or at nearby restaurants.

#### **Permits can be issued expediently if**

- the records of the hearings can be written on a laptop on site, printed out and signed by the official chairing the hearing and all those present,
- wording from the records can be transferred into the draft permit prepared in advance and it can immediately be signed by the official having signatory power, ideally the official chairing negotiations,
- the costs can already be calculated and paid after the end of negotiations.

#### **5.3.2.3 Staffing levels and motivation**

The application of appropriate personnel management methods and service laws are important factors for speeding up and enhancing the quality of processes. It should be provided that

- the industrial regulations expert has a recognised and hierarchically sound position as the project manager on the part of the authority,
- there is a competent "industrial regulations expert" (construction, machine-building engineer) who does not hesitate in decision-making processes and is in a position to decide which other special experts will have to be called in,
- officials and experts are sufficiently well trained in technical and legal matters as well as in chairing negotiations,
- appropriate incentives and recognition for officials and experts are granted.

#### **5.3.2.4 Equipment**

Appropriate equipment, i.e., office equipment (laptops, printers), copying machines and communication facilities (Internet access, e-mail, electronic files) are prerequisites for expedient and efficient proceedings.

### 5.3.3 *Communication between enterprises, authorities and neighbours*

All case studies have shown that good human relations – first and foremost in the communication between authorities, enterprises and neighbours – are significant pre-requisites for "best practices". Underlying attitudes can be considerably changed by public discussions and specific action ("Public Managers," administrative reform in the provinces).

On the part of the authorities, the will to co-operate, counsel and assist is a key factor in good co-operation and good processes. Such readiness to co-operate is usually based on an understanding of the authority as a service provider – the authority needs to see itself that way. Specifically,

- information should be provided about difficulties to be expected and what to do about these (e.g., be in touch with neighbours on an ongoing basis),
- it should be disclosed right away if a project cannot be carried out,
- orders with respect to documentation to be submitted or requirements to be fulfilled should be limited to what is really necessary.

Good personal relations, readiness to co-operate among the officials involved as well as good communicative skills of industrial regulations experts and other experts are key factors contributing to success. On-site negotiations should, e.g., be chaired in a confident, well structured and at the same time co-operating way (i.e., objections of those concerned should be dealt with "in a reasonable manner").

The readiness of enterprises to co-operate with authorities and abutters is decisive for the successful outcome of proceedings. The following factors are conducive:

- Information should be obtained about the limits imposed to the authorities by law, and necessary requirements and orders for documentation should be accepted.
- The authorities should be approached in an open and co-operating way, enterprises should be imaginative when alternative solutions have to be found.
- Any detailed drawings and documents missing at the initial stage should be provided as quickly as possible and without deviations from the application.
- Agreements reached with the authority should be reliably adhered to.
- Willingness to co-operate with neighbours should be shown early on, information and clarification of problems should be provided in advance, if possible.

## **6. The "best practice" and its enablers**

The five case studies were analysed in individual process phases and the duration and quality of processes in the individual phases were compared. What can theoretically be considered the "best

practice" for the industrial and building permits of an operations facility in Austria could be as follows:

**Point of time t:**

Enterprise: The decision to invest has been taken. The legal, technical and financial fundamentals of the planned investment are available, so is suitable real estate property which is designated accordingly in the zoning plan. The internal decision-making process in the enterprise has been completed, the project team is functional. The master builder/project manager has presented drawings and cost estimates. First contacts with the authorities have been made, basic information on the stages of proceedings are available.

The enterprise seeks to contact industrial and building authorities, an appointment is made for an informal meeting of the entrepreneur and his/her project managers with the industrial authority.

Enabler with the enterprise: The enterprise has experience with investments or has contracted an experienced external project manager, good basic information has been obtained, contacts have been made with suppliers, master-builders, architects and authorities.

Enabler with the authorities: The authorities provide written advance information on proceedings and the documents required in the context. Moreover they offer an opportunity for representatives of the enterprise to meet the right experts in the framework of a project open day that is organised routinely.

**Next steps of the enterprise:** Planning continues.

Enabler with the enterprise: Good organisational culture exists within the company.

**Point of time t + 10 days:**

Informal discussions with the representatives of the industrial authority and the building authority take place. Participants on authorities' side: Industrial regulations expert, official expert on plant engineering, construction expert, works inspector.

Enterprise: A rough design as well as a description of the project are submitted, details are explained orally.

Industrial authority: Technical and legal aspects of the project are discussed with respect to environmental protection, neighbourhood protection, industrial safety; changes and/or specifications are requested. The experts to be called in are determined. The documents required for the formal application (designs, concepts, expert opinions) are discussed.

Joint action: Proceedings and next steps are discussed, schedule is prepared, both sides record the outcome of the meeting in informal memos.

Positive outcome: The project is ripe for negotiations.

Enabler with enterprise and authorities: Representatives of enterprise have clear ideas, experts are competent, climate for negotiations is characterised by spirit of co-operation, there is

understanding for the position of the other partners, and a readiness to arrive at compromises together.

Next steps of enterprise: Designs are adapted, documents to be submitted are improved and complemented. Neighbours are informed of the project and involved in the planning stage.

Enabler with enterprise: Climate characterising talks with neighbours is friendly, readiness to allay their misgivings is expressed.

Next steps for authority: The building authority is informed and asked for information about any specialities under the building regulations to be taken into account. The industrial regulations expert in charge of the project co-ordinates the industrial authority, the building authority and the official experts required and schedules a joint on-site hearing.

Enabler with the authorities: The community administration is ready to co-ordinate measures with the industrial authority (transfer of powers, combination of industrial and building law proceedings). There are good personal relations between the officials of the individual authorities and divisions. The officials and experts concerned have scheduled a sufficient number of negotiation days for proceedings of this kind.

**Point of time t + 28 days:**

Enterprise: A formal application for an industrial permit is submitted while supporting documents may still be incomplete. These are provided before the on-site hearing takes place.

A formal application for a building permit is submitted to the building authority.

Enabler with the authorities: Incomplete project documents can already be subjected to partial checks.

Enabler with the enterprise: The representatives of the enterprise are already fully informed about the proceedings and the necessary documentation and adhere to the agreements reached during the informal preliminary stage. Eventually, the documentation submitted will be complete and of good quality.

Next steps for authorities: Copies of the documents submitted are sent to other authorities or experts who might be concerned (e.g., public health officer) and checked immediately. Comments and requirements are dictated and will be part of the draft of the hearing records.

The on-site hearing is scheduled and those interested are invited to take part. The project documents are made accessible for inspection.

Enabler with the authorities: The co-ordinating official from the industrial authority has all the powers required. The entire process is monitored by means of internal electronic controlling. The experts required are available at short notice. Sufficient equipment for typing and communicating is available.

**Point of time t + 44 days:**

Industrial and building authorities carry out a joint on-site hearing; negotiations are held on the location of the planned investment. The following persons are present: the co-ordinating industrial regulations expert who chairs the hearing, an expert who is well versed in plant engineering and structural engineering matters, the official in charge of building matters of the community, the works inspector, representatives of the enterprise, and – only if absolutely needed – other experts (electrical engineering, traffic, fire protection, environmental protection, noise abatement, etc.). A record of the hearing is drawn up and printed out immediately, signed by all participants and copies are handed to all of them. The record contains all requirements imposed and co-ordinated in the course of negotiation by the two authorities, it will serve as a basis for the granting and printout of the industrial permit and the building permit. Costs are calculated and collected immediately after the end of the hearing.

Enabler with the enterprise: All parts of the operations on which the investment has a bearing are accessible. People who can provide information are present or can be called in at short notice. An appropriate meeting room is available.

Enabler with the authorities: The co-ordinating official (chairman of hearing) has been trained in the skills required for the chairperson's position and is in a position to chair the hearing in a confident, expedient and co-operative manner. The experts have already studied the documentation submitted, they are familiar with the project and can hand in the comments they have prepared in advance. The typist present at the hearing is equipped with a laptop computer and printer. The skeleton of the record has largely been prepared in advance with the help of text building blocks and standard phrases.

**Point of time t + 46 days:**

Authorities: Permits are issued and signed, fees are calculated and cashed. The industrial permit and the building permit are served upon the enterprise and the other persons and offices involved.

Enabler with the authorities: Routine permits have been prepared by means of building blocks, individual requirements are inserted from the records drawn up at the hearings. Officials who have signatory powers are available. Lists of addresses are ready.

**Point of time t + 60 days:**

After the 14-day period of appeal has expired, both permits enter into force. There will be no objections, as solutions have been worked out for all problematic issues beforehand.

Next steps of enterprise: The plant or facility is built. Upon completion, the industrial authority is informed accordingly; this notice has to include the certificates of the executing companies confirming that the work has been carried out in accordance with the permits.

Enabler with the enterprises: The construction is carried out by reliable enterprises as planned. Any necessary changes from the plans submitted will be immediately negotiated with the authorities.

Next steps for authorities: The industrial authority examines both the notice of completion and annexes. If the examination is satisfactory the file is closed. Once permission has been granted. The building authority will set another date for an on-site hearing in the course of which the

compliance of the construction with the requirements is established. In that case a permit to use is issued. Once this has become legally binding the file is closed.

Enabler with the authorities: The documents needed in order to file the notice of completion have been agreed upon with the enterprise. The electronic control system of the processing will enable a speedy examination of the documents submitted and an efficient conclusion of the whole procedure.

## 7. Conclusions and recommendations

Industrial permit proceedings have considerably improved in Austria in the past few years. Many authorities enforcing laws have themselves found "benchmarks" important for their work, re-organised their processes and entered into a kind of competition with each other. The following examples are cases in point:

- A district authority (backed by the provincial government) has made full use of its discretion in shaping processes and introduced the following organisational measures: an industrial engineer with all-round knowledge and fixed consulting days has been appointed; informative evenings are frequently organised in co-operation with the Economic Chamber; a maximum of EDP is used; concentrated and participatory proceedings are carried out.
- A municipal division has called in an external advisor and re-engineered internal processes: as a result, almost 50 percent of individual steps were identified as unproductive and eliminated. The issuing of permits was speeded up and capacities were set free at all levels.
- A provincial government is currently creating "operational facility units" in all its district authorities where proceedings concerning operations facility permits can be concentrated. At the same time, the use of an "electronic checklist" developed by an external consultant is considered; the list is to guide officials in charge through the entire range of legal aspects along a tree structure so as to improve the quality of proceedings and decisions.

The approaches illustrated above could easily be further developed. What is more, they should be implemented on a federal basis and without any regional changes.

No similar development has been found in building permit proceedings. As early as during the first part of proceedings, from the first contact with the authorities to the application for a building permit and negotiations up to the point when the permit is issued, processes are – with a few exceptions – often much more time-consuming than in the industrial proceedings that evolve in parallel. Inasmuch as the second part of proceedings, from notice of completion to the on-site inspection after completion and to the granting of the permit for use, is concerned, the question indeed arises if it is still necessary at all. Neither applicants nor authorities are particularly eager to get it done and the date of the permit to use the building under the building regulations is not in any way linked with the actual date when the new plant becomes operational. For practical reasons, all those concerned disregard formal legislation which apparently no longer corresponds to present-day needs.



As a matter of fact, this process could be replaced by a notice of completion supported by certificates of the executing companies. If contractors could be increasingly involved in guarantees for compliance, it would be recommendable to devise stiff fines. This would lead not only to an increase in efficiency concerning the procedure, but also to an increase in quality concerning the investment.

The documents required in this context will partly be the same as those required for the completion of the industrial law proceedings – yet another argument for establishing parallel proceedings but for combining them altogether as far as possible.

The present study identified best practices in various stages of proceedings involving the granting of operations facility permits. By taking measures at various levels, "enablers" resulting in optimal processes could be transferred to the majority of normal proceedings.

Apart from fundamental legal changes, numerous measures within the administration would considerably streamline, speed up and reduce the costs of proceedings, without any fundamental lowering of environmental and safety standards. None of the recommendations following is in itself a novelty, most of them have been observed in previous studies and some of them have already been put into practice by various authorities. But it is these recommendations which we have identified as enabling best practices and which we suggest should be introduced for all of Austria.

## **7.1 Recommendations to authorities**

- Further development of administrative reform projects in the individual provinces towards more service orientation and accommodation to citizens' needs. It might be well worth contracting external experts with experience in slimming the administration of big units.
- The introduction of project management methods and process controlling with the explicit aim to make proceedings foreseeable, clear and expedient.
- Greater awareness and transparency of internal costs and the introduction of internal accounts.
- A re-organisation of the official experts' system: decentralised "all-round" experts and the creation of a pool of "special experts" at the level of the provinces.
- Extended opportunities for information and communication, in particular the introduction of "project open days" when competent persons can be met at fixed times and at appointed places.
- Improvement of the information available to and the training of specialised officials and experts with a view to technical skills ("allrounders") and personal skills ("willingness to decide", "negotiating skills"). Training seminars to be set up for both civil servants and managers of private enterprises could lead to very profitable intercultural exchanges.

- Improved equipment: laptops, computers, printers, e-mail, electronic files.
- Improved public relations work of the authorities ("Visitors' Days", informative events). Regular publication of progress made in improving processes. Accommodating, friendly language in both oral and written communication. Legal issues must be presented in language that is accessible to the average citizen.
- Possibility for enterprises to give feed-back to the authorities about the perceived quality of the formal and informal activities in the course of the procedures.

## **7.2 Recommendations to enterprises and entrepreneurs' associations**

- Establishing unequivocal internal structures for decision making. Setting up a project team with well defined responsibilities.
- Enterprises with little experience with approval proceedings ought to contract a seasoned external expert of good standing. Entrepreneurs' associations should consider bearing all or part of the costs for such experts.
- Establishing a climate of co-operation and confidence with the authorities throughout the procedure.
- Contacting and informing neighbours and the public at a very early stage.
- Continued measures encouraging and motivating the competition among provinces, authorities, officials and teams (examples: "Public Manager of the Year" provided by the Austrian Chamber of Commerce, "Award for best quality in administration" created by the Styrian entrepreneurs' association, "Efficiency Award" created by the Upper Austrian Chamber of Commerce).
- Information to enterprises about the need for "public relations" and good communication culture in dealing with authorities and neighbours.

The process benchmarks presented in this study, the best practices and the recommendations reflect the situation of 1999. We would like to emphasise this because in the world of organisation and administration things are changing very rapidly. Thus, what was considered as a revolutionary demand of the "Beirat für Wirtschafts- und Sozialfragen" in 1970, namely to set a six-month deadline for the average approval proceeding<sup>7</sup>, is beaten by far by the majority of cases in 1999. On the other hand the suggestion to set up special official days for applicants was not favourably received by one Federal state as late as 1990<sup>8</sup>, while in 1996 that very same idea was given an award in another Federal state and has by now become standard procedure with many authorities.

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<sup>7</sup> Beirat für Wirtschafts- und Sozialfragen (Ed.), "Wirtschaftsstandort Österreich", Vienna 1970.

<sup>8</sup> Wolfgang Steiner, "Selbstreform der Verwaltung – Vorschläge zur Vereinfachung der Verwaltung", Vienna 1991.

Today's best practice need not necessarily be tomorrow's. Conditions, goals and techniques are continuously changing, and the optimal organisation of procedures is a moving target to be constantly adjusted.

## ANNEX 1:

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## ANNEX 2:

### Report on the efficiency award for public managers

(By kind permission of Dr. Stephan Schwarzer, Wirtschaftskammer Österreich)

In 1999, the Austrian Federal Economic Chamber is inviting nominations for the Efficiency Award for Public Managers for the third time. This award goes to government officials in licensing agencies, who handle licensing procedures for industrial plants efficiently, rapidly, and without excessive red tape.

This campaign has triggered a positive echo from government administrators, the media, and the business community. Individuals and teams with an outstanding record of effective process management will be selected by industry representatives on the basis of the nominations received.

The impact of this campaign is meanwhile making itself felt all over Austria: many government offices have set up special licensing departments where the responsibility for handling the licensing procedures under different legislative provisions is now under one roof. Project applicants are given an opportunity to meet with all official representatives involved for a preliminary appraisal to ensure that their application meets the required standards of quality and to avoid time-consuming adjustments later on. Cut-and-paste elements which are useful for the paperwork that needs to be done in the course of the licensing procedure (written statements, expert opinions, official notices) are drafted in order to minimise red tape. In some Federal provinces, the involvement of experts has been decentralised to avoid experts spending a vast amount of their time travelling to and from the site of hearings. Finally, government administrators are increasingly relying on a monitoring system which fully records the number and duration of cases submitted for licensing, in order to be able to identify and remedy bottlenecks as soon as they arise.

These improvements have meanwhile shortened the processing time for official procedures: in many government offices, the average length of completion for procedures has been cut back to one half or even to one third of what it used to be. The driving force behind these internal administrative improvements has been the understanding that business needs smooth licensing procedures to assert itself as a successful player in global competition.

The "Efficiency in public management" campaign is a major contribution to making government decision-makers realise how important efficient facility licensing is for the overall economy of a country. The campaign aims at introducing state-of-the-art process management on a nation-wide scale.

The deadline for the submission of nominations for the 1999 Efficiency Award for Public Managers is 10 May 1999. This year's winners will receive their awards from president Maderthaler on 8 June 1999.

## ANNEX 3:

### Case Studies

#### Case Study 1

##### *Description*

Location:	On the outskirts of a small town. Adjacent to several residential buildings.
Kind of investment:	Production shed.
Amount of investment:	ATS 4.0 mill.
Experience in applying for licences:	Two permits applied for per year.
Authorities involved:	Municipality, district commission.

##### *Procedure*

#### **Decision to invest: 5 September 1997**

#### **First informal contacts with the authorities: 15 September 1997**

Project jour fixe with task force (industrial regulations expert, official technical expert and labour inspector). General project – the construction plan is drawn up by the architect, the layout of the machinery by the supplier. No official plan submitted to authorities at this point. Discussion with expert on details. Results of the discussion are taken into account in the plan submitted later-on.

#### **Realisation of project informally agreed on: 20 September 1997**

#### **Formal application for industrial and building permits submitted: 3 October 1997**

Detailed plans are submitted at a later date.

#### **On-site negotiation on industrial and building regulations: 27 October 1997**

Chairman: Industrial regulations expert, official engineering expert, labour inspector, municipal construction expert, secretary, representatives of the enterprise.

#### **Industrial permit issued by the authorities: 29 October 1997**

#### **Building permit issued by the authorities: 18 November 1997**

#### **Construction started: 14 November 1997**

#### **Construction completed – production can start: 31 December 1997**

#### **On-site inspection after completion of building: 2 November 1998**

#### **Authorisation for use of building: 23 November 1998**

**Remarks by the enterprise:**

Co-ordination: manager, internal project co-ordinator.

Architect, building contractor and machine supplier furnish plans.

Informal talks with the neighbours immediately follow the preliminary contact with the authorities. Reasonable wishes (installation of sound-proof windows to be paid for by the company) are taken into account.

Regulations for the protection of employees (stipulated by the authorities) can run counter to regulations protecting neighbours (demanded by neighbours).

Authorisation procedure did not entail any real delay, since the planning documents requested were necessary to begin with and the deadlines to which the authorities are committed were parallel to those of the suppliers.

Advantages of fast processing: very high. Costs incurred from interruptions (machine breakdown), alternative storage and logistics costs (new storage shed), taxes (on investments collected at the end of the year for a given year), lost market opportunities (with new products), guarantees of construction companies to begin construction (capacity, weather conditions).

Requirements: Consultations with the authorities (access to authorities), since other consultants are too expensive (project managers) or incapable of assuming tasks (Chambers of Commerce). Relationship with authorities based on trust. The official experts involved also offer solutions.

**Remarks by the authorities:**

Special project jour fixe set aside for discussing projects. Participants: expert on investment issues (also construction expert), labour inspector, expert on industrial regulations and water management regulations. Goal: consultations for enterprises. Fixed dates (twice monthly) and places. Additional dates for consultations are arranged, if needed. Official expert of authorities is nominated by the decentralised district office for construction (not in all provinces). There is also a labour inspector involved. All-round experts have checklists (forms) for documenting problems and assigning specialists to deal with these problems. Official expert must have engineering background (construction engineering, possibly mechanical engineering), as "universal approach" is sufficient in 90 percent of all cases.

Additional experts are only needed on rare occasions. The various steps of consultation are documented (special form). In the preliminary phase consultations are conducted until project is pronounced "admissible for formal authorisation procedure".

The formal procedure follows: project is submitted, the date for the on-site negotiation is set up. The first examination of the file results in a "preliminary" report and permit is prepared (incl. all stamps covering official fees needed since they may be difficult to obtain in certain places.)

The procedures required by industrial and water management regulations are streamlined and structured in modules. The procedure required by building regulations takes place parallel to this (by special permission of the district commission). Building matters are co-ordinated with the

municipality (questionnaire, preliminary contacts, documentation, date for joint on-site negotiations). Those building applications must, however, be submitted to the mayor.

There is one day set aside for special consultations with the authorities (within the pertinent department and with other departments) to discuss difficult cases.

Finding a date for joint negotiations (industrial and building authorities) will take at least three weeks after formal application has been received. Experts have trouble fitting additional appointments into their very tight schedules.

The permit eventually granted is split up into numerous "paragraphs" (in the past, these were individual licences). Such a joint procedure is more expedient and usually less expensive (size of the commission, duration of the negotiations, investment volume), internal contradictions are avoided.

On the side of the authorities a project co-ordinator is appointed. He is responsible for the entire project (by mandate, special training is needed). Easy access to the authorities must be ensured. The appointment of a project co-ordinator on the company's side is also important.

As a rule, important parts of the licence have been negotiated on before the on-site negotiation. The remaining parts can be lifted from the written documentation of the negotiations.

#### *Procedure case 1:*

	Industrial regulations		Building regulations		Days accumulated
	Date	Days	Date	Days	
Decision to invest	05.09.97	0	05.09.97	0	0
Informal contacts with authorities	15.09.97	10	15.09.97	10	10
Realisation of project informally agreed on	20.09.97	5	20.09.97	5	15
Formal application	03.10.97	13	03.10.97	13	28
Joint on-site negotiation	27.10.97	24	27.10.97	24	52
Industrial permit issued	29.10.97	2			54
<i>Industrial permit legally binding</i>	12.11.97	14			68
Construction begins	14.11.97	2	14.11.97	18	70
Building permit issued			18.11.97	4	74
<i>Building permit legally binding</i>			02.12.97	14	88
Construction completed – production can start	30.12.97	46	30.12.97	28	116
Notice on completion (industry)	28.02.98	60			176
On-site inspection after completion of building			02.11.98	306	422
Permit for use of building			23.11.98	21	443
Permit for use of building legally binding			07.12.98	14	457

## **Case study 2**

### *Description*

Location: Rural area, residential buildings in the vicinity.



Kind of investment:	Addition of a storage shed.
Amount of investment:	ATS 37.0 mill.
Experience in applying for licences:	Routine procedure, approximately 10 authorisation procedures per year
Authorities involved:	Municipality, district commission.

#### *Procedure*

**Decision to invest: 16 January 1997**

**First informal contacts with authorities: 15 February 1997**

**Realisation of project informally agreed on: 15 March 1997**

**Formal application for industrial permit submitted: 25 April 1997**

**Construction documents submitted: 25 April 1997**

**Joint on-site negotiation on industrial and building regulations: 23 May 1997**

Chairman: Industrial regulations expert, official expert on investment issues, labour inspector, technical expert on fire protection, representative of the fire department, municipal construction expert, secretary, representatives of the enterprise, architect who drew up the plan, neighbours.

Duration: approximately 1 hour, fees: ATS 7,630,–.

**Industrial permit issued by authorities: 27 May 1997**

**Building permit issued by authorities: 17 June 1997**

**Construction started: 31 May 1997**

**Construction completed: 30 October 1997**

**On-site inspection after completion of building: 16 December 1997**

**Permit for use of building: 28 May 1998**

No technical changes required, processed within 2 weeks

**Inspection by industrial authorities: 17 December 1998**

Carried out by the district commissioner's office to whom competence has been transferred from the provincial government. Authorities demand inspections and reports from technical experts regarding individual parts of the plant at regular intervals.

**Remarks by the enterprise:**

Co-ordination: managing director, company manager.

Planning, contacts with the authorities: external planning office, external specialists, contacts with neighbours (already informal ones prior to the negotiation with planning authorities).

Both on regional and municipal levels there is strong political interest that the investment be successful. This makes certain things easier. While the legal framework cannot be changed, the good will shown on all levels is very helpful.

After preliminary contacts with the authorities and neighbours, there was no further doubt about the feasibility of the project.

Processing for the permit for use of the building had been held up at the town hall, but this was not crucial.

External inspectors will be taken on for regular technical checks after completion of the building. They will be less partial to what is going on within the company and have greater credibility for both authorities and the public.

Authorisation procedure is basically necessary for security reasons. There is no problem with this, since the company itself is interested in security.

The forms produced by the authorities are not optimal, even though they have recently been considerably improved. Too many different possible situations must be taken into account. In individual instances, this becomes more confusing than helpful. At the same time, important details often fall by the wayside. Such forms are best seen and used as approximate checklist.

In an earlier (larger) investment project of the same company there was initially some unrest among the neighbours who felt misinformed. The company then established a "civil council", which organised a number of informative events and was active in educating, counselling and, most importantly, reassuring the local population. In the end there were no more problems with neighbours or civil groups once the actual permitting procedure got under way.

**Remarks by the authorities:**

Since water management regulations are important for the whole site (there had already been a production plant at the site where the storage shed was constructed) and the provincial government was responsible for this according to the legal situation in 1997, the whole procedure (including aspects related to industrial regulations) was dealt with the provincial government and not by the district commissioner's office.

The provincial government has direct access to the various technical experts of the local authorities. For this reason it was also easier to fix dates.

As of 1998 the situation changed. The file was passed on to the district commission which carried out an on-site inspection at the end of 1998 with the goal of "becoming familiar with the plant". This examination did not have any significant consequences for the company.

The authorities concerned do not provide forms. Preliminary contact between the applicants and heads of the authorities is viewed as very important. Guidelines cannot replace personal consultations. Jour fixe days were introduced but this did not prove expedient. There were too many misunderstandings regarding the decisions and agreements arrived at.

It would be desirable to transfer the agenda of building regulation to the district commissions, which would certainly make matters easier for the applicants. Some municipalities have already transferred competence, but this will not be the case for all of Austria.

A "project department" was established at the district commissioner's office in early 1998. The crucial point is that the main legal expert is responsible for co-ordination and has the authority to issue directives to other experts who are responsible for a given matter. The applicant can thus deal with one and the same contact person at the local authorities. The experience made with this procedure has been good and it will soon be introduced in all district commissioner's offices.

It is hardly possible to speed up the procedure any more. Most importantly, it would not be very sensible, since it would reduce the quality of the procedure. Any necessary technical changes at a later date are very expensive and thus contested.

*Procedure case 2:*

	Industrial regulations		Building regulations		Days cumulated
	Date	Days	Date	Days	
Decision to invest	16.01.97	0	16.01.97	0	0
Informal contacts with local building authorities	15.02.97	30	15.02.97	30	30
Realisation of project informally agreed on	15.03.97	15	15.03.97	15	45
Formal application	25.04.97	41	25.04.97	41	86
Joint on-site negotiation	23.05.97	28	23.05.97	28	114
Industrial permit issued	27.05.97	4			118
Construction work begins	31.05.97	4	31.05.97	18	122
<i>Industrial permit legally binding</i>	10.06.97	10			132
Construction permit issued			17.06.97	17	139
<i>Construction permit legally binding</i>			01.07.97	14	153
Construction completed – production can start	30.10.97	142	30.10.97	122	275
Notice on completion (industry)					
On-site inspection after completion of building			16.12.97	47	322
Permit for use of building			28.05.98	163	485
Permit for use of building legally binding			11.06.98	14	499
Inspection by industrial authorities	17.12.98	546			688

### **Case study 3**

#### *Description*

Location:	Industrial zone on the outskirts of a small town.
Kind of investment:	Reconstruction of a production plant in an existing shed.
Amount of investment:	ATS 50 mill.
Experience in applying for licences:	At least 20 authorisation procedures per year.
Authorities involved:	Municipal council

#### *Procedure*

**Decision to invest: 1 February 1997**

**Informal contacts with authorities: none**

**Formal application for industrial permit submitted: 2 June 1997**

**Notice to building authorities: 2 June 1997**

**Realisation of project informally agreed on: 2 June 1997**

**Notification by building authorities: 11 June 1997**

**On-site negotiation with industrial authorities: 26 June 1997**

Construction expert (chairman), official expert for engineering, technical expert on fire protection, labour inspector, secretary with laptop.

Fees for one full day of consultations: approximately ATS 20,000 to 30,000.

**Industrial permit issued: 18 August 1997**

Pre-formulated with stored paragraphs and excerpts from the minutes of the negotiations.

**Construction started: 2 September 1997**

**Construction completed. Part of the plant can go into operation: 7 September 1998**

**Inspection by industrial authorities (on the occasion of negotiating a second project):  
1 April 1999**

**Notice of partial completion submitted to industrial authorities: 25 February 1999**

#### **Remarks by the enterprise:**

Co-ordination: separate project department.

At the beginning of the year three to four dates for consultations (one full day each) are agreed upon with the authorities on the basis of the investment programme.

Experts from building and industrial authorities present at these negotiations.

Joint negotiations: 2 to 8 discussion items/date, including notices on completion. Documents must be submitted two to three weeks prior to meeting. Producing documents is routine procedure: technical office of the authorities produces documents (construction and procedure plan), director and technical expert describe building project. Representatives of suppliers are only involved in negotiations in 2 to 3 percent of all cases. It is the enterprise's responsibility that all requirements are met. Costs for total planning: 5 to 10 percent of investment sum.

Costs for plans to be submitted to authorities: approximately 10 percent of investment sum.

Neighbours: Other industrial plants, no problems.

Generally speaking, a good relationship of mutual trust has been built up with the authorities over the years. Test certificates required regularly are usually drawn up by external consultants, since they are less partial to enterprise.

#### **Remarks by the authorities:**

Procedure: Municipal office is responsible for both industrial and building regulations. The industrial regulations expert is in charge of central co-ordination. Good personal contacts with civil servants are crucial.

2 applications are required, 2 separate permits are issued, but there is only one joint meeting. Both authorities (departments) are represented by technical experts at the negotiation, but there is only one chairman (usually the industrial regulations expert.)

The industrial regulations expert (covers other legal areas such as water management law, right of navigation), engineering expert, official construction expert, labour inspector.

Once a month a general day is set aside for talks regarding industry regulations where also building regulations are dealt with. After preliminary contacts there are usually considerable changes in the plan. The greatest problem is the clumsiness shown by those who are newcomers to the field. These persons often do not appear at the jour fixe discussions, not even after they have been invited to do so.

An additional impediment to processing is fixing dates for meetings with technical experts. These are experts from the provincial government responsible for "design issues", noise, environmental protection, questions related to chemical processes. By contrast, engineering experts, building construction, traffic control, public health officer, labour inspector are appointed by the office in charge or locally.

In the case of the enterprise in question: the enterprise may submit changes to the planning authorities within the 4 weeks preceding the meeting.

Negotiation: The requirements are usually known to all parties. An effort is made to clarify these before the documents are submitted so that they can already been included in the plans. If not: sluggish negotiation on requirements during on-site inspection and agreement. Enterprise has strict internal conditions (ISO 9000 and 14000). Neighbours are invited to attend but rarely do. They simply accept construction and operation "in compliance with requirements."

Minutes of the meeting (industrial and building regulations) are printed on the spot and signed by all participants (including representatives of the enterprise). Here the requirements are documented which the office then immediately incorporates in the permit by means of a computer network. (In other cases, this applies for both permits.)

To save costs, a collective industrial permit was issued for six different investment projects, one of which was the case examined here. Independently, a separate file was created for each individual project. This file included one copy of the collective permit.

Permit: a form with a reference to the minutes of the meeting. Stamps covering official fees were provided by the enterprise.

Notice, forms, checklist (caution!) are offered.

The industrial regulations expert prefers personal consultations, as this enables one to focus better on individual cases.

Companies submitting applications should hire an expert with a lot of routine as their project manager. This may be expensive but it ultimately pays off. The project is better, the procedure simpler and the project finds greater acceptance with authorities and neighbours. The time span leading up to the beginning of operation is significantly shorter.

Since 1977, procedure documents have been entered in databases. Thus statistical evaluations are now possible.

*Procedure case 3:*

	Industrial regulations		Building regulations		Days cumulated
	Date	Days	Date	Days	
Decision to invest	01.02.97	0	01.02.97	0	0
Informal contacts with authorities					
Realisation of project informally agreed on					
Formal application	02.06.97	122	02.06.97	122	122
Construction permit issued			11.06.97	9	131
Construction permit legally binding			11.06.97	0	131
On-site negotiation	26.06.97	24			155
Industrial permit issued	18.08.97	53			208
Industrial permit legally binding	01.09.97	14			222
Construction started	02.09.97	1			223
Construction completed – production can start	02.09.98	365			588
Notice on completion (industry)					

**Case study 4**

*Description*

Location: Industrial zone on the outskirts of a large city.  
 Kind of investment: Completely new construction of production shed with all facilities.

Amount of investment: Approximately ATS 40 mill.  
Experience in applying for licences: None.  
Authorities involved: Municipal council

*Procedure*

**Decision to invest: 30 June 1995**

**Informal contacts with construction authorities: 15 October 1995**

**Formal application for construction permit submitted: 22 November 1995**

**Plan changed by applicant: 19 April 1996**

**On-site negotiation with construction authorities: 29 April 1996**

Present: chairman, owner of industrial zone and his planner, applicant with designer of plan for production plant, labour inspector, industrial engineering expert.

**Building permit issued: 19 June 1996**

**Construction started: 1 November 1996**

**Informal contacts with industrial authorities: 23 October 1996 / 21 November 1996**

**Formal application for industrial permit submitted: 22 November 1996**

**First on-site negotiation with industrial authorities: 9 January 1997**

Present: chairman, labour inspector, official industrial engineering expert, electrical engineering expert (environmental engineering expert was unable to attend), applicant, property owner, municipal department as neighbour, (public health officer dealt with case in writing).

Poor negotiating atmosphere, problems with official industrial engineering expert, negotiation broken off. Official reason: documents missing.

**Second negotiation with industrial authorities: 5 February 1997**

Participants: same as on 9 January, but with a different industrial engineering expert.

Duration of negotiation: 8:30 to 11:15 a.m.

**Realisation of project informally agreed on: 5 February 1997**

**Industrial permit issued: 12 March 1997**

**Industrial permit received by the entrepreneur: 20 May 1997**

**Construction completed: 31 August 1997**

**On-site inspection after completion of construction: 9 January 1998**

**Permit for use of building: 27 March 1998**

### **Inspection by industrial authorities: 31 March 1998**

Market office checks hygienic conditions once or twice a year.

#### **Remarks by the enterprise:**

Co-ordination: manager responsible for industrial regulations, worked on project for six months (planning, contacts with authorities, supervision of construction), project planning, contacts with authorities: external planning office, fee approximately 5 percent of investment sum.

Neighbours: other industrial plants, no problems.

Without planning office there would have been substantial additional costs. Establishing a project jour fixe contributes greatly to improving and accelerating procedure. The personality of the head of the individual department of the authorities is crucial. Growing number of law suits to establish liability of public authorities is indicative of problems caused by interpersonal relations. In larger cities, authorities are highly specialised. For each detail, there is a separate department with its own technical expert.

#### **Remarks by the authorities:**

Municipal office takes care of both industrial and building licence procedures. As a rule, this involves two separate procedures. No central office, no concentration of procedure, only partial co-ordination by expert responsible for industrial regulations. (Exchange of information. Care is taken to ensure that requirements for building permit and industrial permit are not contradictory.) Computer documentation of procedure still in a nascent stage, thus hardly any statistical data available. Laptops have only been introduced recently. A separate "project programme" should make it easier in the future to check whether the documents submitted are complete.

Pre-fabricated paragraphs on standardised requirements are increasingly being used for standardised permits.

Checklists, instruction forms are available in both printed and electronic form (Internet). Since May 1998 good experience has been made with monthly project jour fixe introduced on a large scale. These special consultation days are attended by a lawyer who is specialised in industrial regulations, an industrial engineering expert, building inspector, labour inspector, representatives of the Chamber of Commerce.

Advantages: Time saving for both enterprises and authorities, direct communication, documents submitted are better and more complete. It would be desirable to reduce number of procedures by introducing type classifications.

Joint procedure (building and industrial permit) tends to delay the process and is thus not recommended.

Self-inspection by enterprise or civil engineers commissioned by it should be expanded. Project managers are often architects and thus not so familiar with procedure. It would be good to have "industrial building contractors" with all-round expertise.



Procedure case 4:

	Industrial regulations		Building regulations		Days cumulative
	Date	Days	Date	Days	
Decision to invest	30.06.95	0	30.06.95	0	0
First contact with construction authorities			15.10.95	107	107
Realisation of project informally agreed on			15.10.95	0	107
Formal application (construction)			22.11.95	38	145
On-site negotiation construction			29.04.96	158	303
Construction permit issued			19.06.96	51	354
<i>Construction permit legally binding</i>			03.07.96	14	368
First contact with industrial authorities	23.10.96	480			480
Construction started	01.11.96	12	01.11.96	124	492
Formal application (industry)	22.11.96	21			513
Negotiation (industry)	05.02.97	75			588
Industrial permit issued	20.05.97	104			692
<i>Industrial permit legally binding</i>	03.06.97	14			706
Construction completed – production can start	31.08.97	89	31.08.97	303	795
Notice on completion (industry)					
On-site inspection after completion of building			09.01.98	131	926
Permit for use of building			27.03.98	77	1.003
Inspection by industrial authorities	30.03.98	211			1.006
Permit for use of building legally binding			11.04.98	14	1.017

## Case study 5

### *Description*

Location:	Rural area, right next to motorway. Residential buildings some way off.
Kind of investment:	Storage and sales shed. Standardised machinery, trucks and customer traffic, otherwise little noise.
Amount of investment:	ATS 8.4 mill.
Experience in applying for licences:	One authorisation procedure every two or three years.
Authorities involved:	Municipality, district commission.

### *Procedure*

**Decision to invest: 15 January 1997**

**Preliminary agreement on purchase of site: February 1997**

**Physical planning procedure from February 1997 to November 1997**

No serious difficulties, positive reaction by municipality and Federal government, but formal procedure itself very complicated.

**First informal contacts with the authorities: 25 May 1997**

Individual consultations of enterprise and external project manager with labour inspector and fire protection expert. As there were no serious problem points, and these talks mainly served to improve the negotiation atmosphere.

**Realisation of project informally agreed on: 30 May 1997**

**Formal application for industrial permit submitted: 4 August 1997**

**Date for on-site negotiation fixed: 20 August 1997**

**Formal application for construction permit submitted: 15 September 1997**

**On-site negotiation with industrial authorities: 17 September 1997**

Present: Industrial regulations expert from the district commissioner's office (chairman), applicant with external project manager, secretary, labour inspector, 5 technical experts (engineering, construction, noise, fire protection, traffic), one municipal officer, one neighbour.

Fees: ATS 6,880

**On-site negotiation with building authorities: 27 January 1998**

Only possible after formal completion of physical planning procedure. Present: applicant with planner, mayor, municipal construction expert, secretary, chimney sweep.

Fees: ATS 11,000

**Industrial permit issued: 12 October 1997**

**Construction started: 28 October 1997**

As soon as the municipality had finished the physical planning procedure and the district commission had granted the industrial permit, construction work was given the go-ahead, since there could be no more doubt about a positive outcome. The remaining procedure of obtaining a construction permit was considered a mere formality.

**Construction permit issued: 28 January 1998**

**Completion of construction, operation can begin: 21 March 1998**

**On-site inspection after completion of building: 18 May 1998**

**Permit for use of building: 22 June 1998**

**Inspection by industrial authorities:**

On 30 April 1998 authorities requested to be informed about completion of construction and to be submitted certificates proving that all requirements had been met.

No real examinations. Reliance on trustworthy project managers known by the authorities and watchful neighbours.

**Remarks by the enterprise:**

Co-ordination: manager.

Hours of work: 40 to 60.

Project planning, contacts with authorities: external planning office, external specialists.

Preparing documents for authorities required another 30 hours.

Total of approximately 80 hours of manpower.

Informal contacts with (distant) neighbours immediately following preliminary contacts with the authorities.

Since April 1997 it was clear that project would be successful.

Everything hinges on the personality of the official project manager. At the moment the view of the applicant is favourably considered and every attempt is being made to find solutions acceptable to all sides. A change of project manager could easily change the situation. Procedure for industrial licensing and for building licensing should be merged.

**Remarks by the authorities:**

Once a month jour fixe for discussing project with a number of technical experts. Also model instruction sheet as well as internet information are offered. Technical experts are booked for fixed dates long in advance.

Authorisation procedure (industrial regulations) carried out by the district commissioner's office in the concrete case: normal procedure, routine case.

Experts are provided by the respective department of the Federal government. In the given geographical region an expert on noise is consulted.

In new projects the quality of the documents submitted is usually excellent, in reconstruction this is not so.

Fee structure for official procedures is highly complex, even for experts it is hard to decide which rules to apply.

A good relationship between authorities, planners, applicant and, if possible, also neighbours, based on mutual trust, is crucial. Acceptable solutions can almost always be found in a climate of co-operation.

*Procedure case 5:*

	Industrial regulations		Building regulations		Days cumulative
	Date	Days	Date	Days	
Decision to invest	15.01.97	0	15.01.97	0	0
Informal contacts with authorities	25.05.97	130	25.05.97	130	130
Realisation of project informally agreed on	30.05.97	5	30.05.97	5	135
Formal application industry	04.08.97	65			200
Formal application construction			15.09.97	107	241
On-site negotiation industry	17.09.97	44			243
Industrial permit issued	12.10.97	25			268
<i>Industrial permit legally binding</i>	26.10.97	14			282
Construction started	28.10.97	2	28.10.97	85	284
On-site-negotiation construction			27.01.98	91	375
Building permit issued			28.01.98	1	376
<i>Building permit legally binding</i>			11.02.98	14	390
Construction completed – operation can start	21.03.98	144	21.03.98	38	428
On-site inspection after completion of building			18.05.98	58	486
Notice on completion (industry)	04.06.98	75			503
Permit for use of building			22.06.98	35	521
Permit for use of building legally binding			06.07.98	14	535

## Case study 6

### *Description*

Location:	Reconstruction of an existing building in a densely built-up area on the outskirts of a large city.
Kind of investment:	Storage yard, workshop and office building. For the most part standardised machinery, little noise.
Amount of investment:	ATS 12 mill.
Experience in applying for licences:	None.
Authorities involved:	Municipality, district commission.

### *Procedure*

Decision to invest preceded by two-year search for suitable property.

#### **Decision to invest: 2 September 1997**

#### **First informal contact with the authorities: 15 September 1998**

Individual discussions with the enterprise and external project manager with head of authority department. A constructive discussion atmosphere from the very beginning.

Participation in project jour fixe early October 1998. Documents largely complete, application ready to submit.

#### **Realisation of project informally agreed on: 20 September 1997**

#### **Formal application for industrial permit submitted: 12 October 1998**

#### **On-site negotiation with industrial authorities: 19 November 1998**

Present: Applicant with planner, official industry expert from the district commissioner's office, secretary, labour inspector, 5 technical experts (engineering, construction, noise, fire protection, public health officer), representative of the municipality

Fees: ATS 5,300

Before negotiation was formally opened the three neighbours present were informed about project. They were satisfied and left.

#### **Formal application for construction permit submitted: 14 October 1998**

#### **Negotiation with construction authorities: 19 November 1998**

Present: Applicant with planner, mayor, municipal construction expert, secretary, chimney sweep.

Fees: ATS 11,000

#### **Industrial permit issued: 25 November 1998**

#### **Building permit issued: 1 January 1999**

**Construction started: 18 January 1999 (existing buildings had been pulled down by that date)**

**Completion of construction, operation can begin: 28 May 1999**

**On-site inspection after completion of building: pending**

**Permit for use of building: pending**

**Inspection by industrial authorities: pending**

**Remarks by the enterprise:**

Co-ordination: manager

Project planning, contacts with authorities: external planning office, external experts.

Contacts with neighbours: informally right after preliminary contact with authorities.

A site within the competence of this district administrative authority had been specifically sought out. In the neighbouring district (big city) significantly more problems with the authorities were to be expected.

Right after preliminary contacts with the authorities and neighbours it was clear that the project was feasible. Everything had already been agreed on personally in advance. For this reason all of the official procedures were regarded as mere formalities.

The available forms and checklists were seen as containing too much legal terminology and as being too difficult to read. Oral explanations of experts before and throughout the negotiations were deemed considerably more valuable.

Without experienced planners the project would not have been possible.

Pasting stamps covering official fees was regarded as very tedious.

The negotiations were not very well organised. Too many people present at the same time, thus there were always additional discussions which resulted in a loss of time and attention. Some matters might have been dealt with in writing.

**Remarks by the authorities:**

Once a month project jour fixe attended by a number of technical experts. A model instruction sheet and Internet information is provided. Schedule for negotiations: technical experts are engaged for set dates long in advance.

Industrial permit issued by the district commissioner's office in the case in question: simplified procedure without water management aspect. Routine case.

Technical experts are named by the respective department of the Federal government. In the given geographical region noise engineers are always consulted.

In new plants the quality of the documents submitted is usually excellent, in reconstruction less so.

Fee structure for official procedures is highly complex, even for experts it is hard to decide which rules to apply.

A good relationship between authorities, planners, applicant and, if possible, also neighbours, based on mutual trust, is crucial. Acceptable solutions can almost always be found in a climate of co-operation.

*Procedure case 6:*

	Industrial regulations		Building regulations		Days cumulative
	Date	Days	Date	Days	
Decision to invest	02.09.98	0	02.09.98	0	0
Informal contacts with authorities	15.09.98	13	15.09.98	13	13
Realisation of project informally agreed on	20.09.98	5	20.09.98	5	18
Formal application (industry)	12.10.98	23			41
Formal application (construction)			14.10.98	2	43
On-site negotiation (construction)			17.11.98	33	76
On-site negotiation (industry)	19.11.98	37			78
Industrial permit issued	25.11.98	6			84
<i>Industrial permit legally binding</i>	09.12.98	14			98
Construction started	18.01.99	40	18.01.99	62	138
Construction permit issued			19.01.99	1	139
<i>Construction permit legally binding</i>			02.02.99	14	153
Construction completed – operation can start	28.05.99	130	28.05.99	115	268
Notice of completion (industry)					
On-site inspection after completion of building					
Permit for use of building					
Permit for use of building legally binding					

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Wien 3, Arsenal, Objekt 20 • Postanschrift: A-1103 Wien, Postfach 91 • Tel. (+43 1) 798 26 01-0 •  
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