

Provisions of Offshore windfarms in Germany

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Section II 2.1

General Aspects of Water Quality and Management, Groundwater Protection

Agenda

- Introduction
- System of competencies offshore
- Spatial Planning
 - Exclusive Economic Zone
 - Area of Territorial Sea
- Licensing Procedure
 - Exclusive Economic Zone
 - Area of Territorial Sea
- Power line connection

Introduction

■ Basics

- Offshore wind energy is supposed to take a bigger part in the supply of electricity in Germany
- It is realistic to become wind energy a contingent of about 15 % of the daily requirement until 2025/2030

■ Offshore wind farms in terms of § 10 of the Renewable Energy Sources Act:

- Energy plants in a distance 3 sea miles from the coast line

Competencies

- Determination into:
 - the Area of Territorial Sea
 - in the Exclusive Economic Zone (EEZ)

- Important in a Federal State like Germany:
 - Territorial sea: the federal states are competent, because of Art. 83, 30 Constitutional Law of Germany
 - Lower Saxony, Mecklenburg-Western Pomerania, Schleswig-Holstein
 - EEZ: International law transformed and implemented by the Federation

- Classification counts even for the relocation of submarine cables

Spatial Planning

- Duties of Spatial Planning in Germany:
 - Development/(Re)arrangement/Conservation of the territory
 - Coordination of different requirements
 - Balance of conflicts
- Plans are of overriding importance and of an integrating character
- Legal effect of the arrangements in the plans are usually of a binding nature

Spatial planning in the EEZ

- Legal base for planning in the EEZ:
 - § 18 of the German Regional Planning Act
- Germany is on the way to develop a plan
 - By the Federal Maritime and Hydrographic Agency
- Already fixed:
 - Marine reserves in terms of § 38 Federal Nature Conservation Act
 - Special Areas of Conservation in terms of the Habitats Directive
 - Special Protection areas in terms of the Birds Directive
 - Preferred areas for wind energy farms, § 3a Maritime Facilities Ordinance
 - An incentive to build there

Spatial Planning in the territorial sea

- Responsibility of the Federal States
 - § 6 German Regional Planning Act
- Federal States have their own Planning Acts
- If the wind farm project is relevant to the spatial structure
 - Authority disclose a regional planning procedure, § 1 Regional Planning Ordinance
 - Undertake an environmental impact assessment, Annex of the Environmental Impact Assessment Act
- Result has be considered in the following licensing procedure

Procedure of permission

- Permission Procedure depends also on the location:
 - Procedure for wind farms in the territorial sea:
 - Related to the procedure for onshore wind farms
 - The provisions of the Federal Immission Control Act are applying
 - Permission has a „concentrated effect“
 - Procedure for wind farms in the EEZ is regulated by the Marine Facilities Ordinance

Permission procedure in the EEZ

- Competent authority: Federal Maritime and Hydrographic Agency
- Permission Procedure is ruled in § 5 of the Maritime Facilities Ordinance
 - Consideration of the statements of other authorities
 - Agreement of the Waterways and Shipping Directorate
 - If necessary, a environmental impact assessment has to be undertaken
 - Principle of priority

Permission procedure in the territory sea

- German law applies
- The implementation of the Laws and Ordinances lies behind the Federal States
- The Procedure is regulated by the Federal Immission Control Act
 - Formal/simplified
 - Participation of public
 - Environmental impact assessment
- Permission has an „effect of concentration“
 - Includes all needed permissions

Power line connection

- Besides the provisions of the Maritime Facilities Ordinance:
 - Federal mining law, building law, water law applies
 - Regional Planning Procedure:
 - To balance different interests (environment protection, fishery, shipping and marine)
 - Further permissions:
 - In terms of the German Water Resources Act/Federal States Water Acts
 - In terms of the Federal Waterway Act
 - In terms of the Law of Embankment
 - In terms of Federal States Nature Conservation Acts

Thank you for your attention!