Ruling of Austria's Federal Administrative Court (Bundesverwaltungsgericht) on the planned third runway for Vienna International Airport (Schwechat).

2 February 2017

(Original in German)

Executive Summary (from Climate Blog of Columbia Law School[1])

Plans for a third runway at the Vienna-Schwechat airport were first submitted for review by the government of Lower Austria (one of Austria's 9 regions) in March 2007. (In early February) the Lower Austrian government's approval of those plans was struck down by Austria's Federal Administrative Court (*Bundesverwaltungsgericht*) because authorizing the runway would do more harm to the public interest than good, primarily because it would be contrary to Austria's national and international obligations to mitigate the causes of climate change.

Before arriving at its decision, the court examined expected changes in future air traffic, the emissions impacts of those changes, and the extent to which it would be possible for the airport to control or otherwise limit various sources of emissions. It also considered the economic benefits of the additional runway, the adverse impacts of climate change on Austria, and the state of Austria and Europe's effort to reduce emissions generally and from air traffic. After reviewing several estimates, the court concluded that a third runway would increase Austria's annual CO2 emissions by between 1.79 and 2.02% by 2025. This is at odds, the court noted, with Austria's 2020 transport sector emissions reduction target of 2.25%. The court also observed that short-term gains in the form of commerce or jobs were easily outweighed by the likely economic consequences of a destabilized climate.

The legal bases for the court's decision included domestic and international law. Environmental protection is a right embodied in Austria's constitution, in the constitution of the region of Lower Austria, and in the EU's Human Rights Charter. And Austria has articulated its climate change mitigation commitments both by ratifying the Paris Agreement and through its Climate Protection Law, which provides for a schedule of emissions reductions from 2015–2020 and beyond. The parties have six weeks to

[1] http://blogs.law.columbia.edu/climatechange/2017/02/10/no-3rd-runway-at-vienna-airport-because-adverse-climate-impacts-outweigh-short-term-economic-benefits-austrian-court/

appeal the decision to Austria's Constitutional Court. The full text of the decision (in German) is available here.

Note on the translation

This unofficial translation has been conducted by Pooja B. Chawda, Candidate for Master of Science in Sustainability Management at Columbia University. All views expressed herein are solely the interpretation of the author and do not reflect the official stance of the Austrian Government.

A variety of sources have been used, including, Linguee.de, WordReference, http://dict.tu-chemnitz.de, Google, and reference material available at the Goethe Institute Educational institution in New York City, New York.

My interpretation of key concepts has been cross-verified with Ms. Rike-Kristin Liebsch, M.A. student of Cultural Anthropology at the Westfälische Wilhelms-Universität of Münster in Germany, to whom I am grateful.

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New York, NY
pbc2112@columbia.edu

Key points raised in support of the construction of runway:

- The Provincial Court ruled that any improvement in aviation security is in the public interest (page 115).
- Existing two-way runway system would not be able to accommodate flight demands in the long run (page 24).
- If no third runway is constructed, Vienna would lose 3.3 million passengers and 36,000 flight movements by 2020 (page 41).
- It is necessary to preserve Vienna as a "hub" connecting western and eastern Europe, since it also houses various international organizations including the United Nations (page 23).
- This project will create additional jobs and be economically beneficial to the region, which is in the public interest (page 42).

Key points raised opposing the construction which led the Federal Administrative Court (FAC) to overturn the ruling of the Lower Court:

- Operations because of the "Third Runway" would lead to a significant increase in Co2 levels (3.6 Kilo tonnes), due to increased aircraft movements (page 19).
- Key airports in Europe have already made significant efforts to reduce Co2 emissions and very advanced in their Co2 reducing measures (page 19).
- FAC does not believe that forecasting increase of flight operations based on figures of the past can lead to 100% accurate projections (page 46).
- Co2 emmissions provided in analysis is missing essential parts and are underestimated (page 73). Co2 emissions caused by the 2-runway system in 2025 will account for about 3 to 4 % of Austria's total CO2 emissions. Additional emissions from planned runway are along the lines of 1.4 – 2.2%, which is substantial (page 73).
- FAC concludes that the construction of the third runway would lead to annual increases of Co2 emissions by 1.79% to 2.2. % by 2025 (page 80).
- Climate change is inevitable and will intensify in the future and measures to curb co2 must be prioritized (page 122).
- Austria is compelled by international and national laws to reduce GHG emissions (Paris Declaration, Kyoto Protocol, EU laws) (page 92).
- Construction of the highway renders 661 hectares of high quality agricultural land unusable for plant production, which is contrary to agricultural objectives (page 99).
- The Provincial Authorities are biased because this project is economically useful for the province, creating additional jobs. Creation of jobs is not the primary purpose of increasing infrastructure at the Vienna Airport (page 121).
- When the Federal Laws on aviation were issued in 1957, the context was different and does not reflect today's reality (page 123).

Postal address: Erdbergstraße 192 - 196 1030
Vienna Tel: +43 1 601 49 - 0 Fax: +43 1 531 09 - 153357/153364
E-Mail: einlaufstelle@bvwg.gv.at www.bvwg.gv.at DVR: 0939579

Business number (GZ): W109 2000179-1 / 291E

In the name of the republic
The Federal Administrative Court issues a decision through its chairperson Magister Karl Thomas BÜCHELE and judges Dr. Werner ANDRÄ and Dr. Christian BAUMGARTNER as assessor of the appeals of:

1. the AFLG The Community against noise from airplanes
2. the independent citizens' initiative against airplane noise and pollution,
3. Dr. Jutta LETH,
4. Ing. Thomas HÖPPEL, (1st to 4th represented by Proksch & Fritzsche Frank Fletzberger Attorneys at law),
5. the citizens' initiative "Platform against the third runway of Vienna Airport",
6. the citizens' initiative "Laaerberg noise protection",
7. Herbert HOFER,
8. the citizens' initiative against flight noise in Vienna West (represented by Heger & Partner Attorneys at law),
9. Association of citizens' initiative, "Lebenswertes Enzersdorf an der Fischa",
10. Citizens initiative "Liesing against flight noise and against the third runway"
11. the citizens' initiative of noise protection Groß-Enzersdorf municipality
12. the City of Vienna,
13. Dietrich BUSCHMANN, MA, (12th and 13th represented by Fellner Wratzfeld & Partner Attorneys at law GmbH),
14. Diploma-Engineer, (DI Ing.) Peter PELZMANN,
15 Wilhelm PAVICSITS,
16. Karin HOFBAUER,
17. Eva HITTINGER,
18. Franz HITTINGER,
19. Dr. Erich PITAK,
20. Dr. Brigitte BUSCHBECK,
21. DI Herbert BUSCHBECK,
22. Franziska BUSCHBECK,
23. the Vienna Woods environmental initiative
24. Eva HABISOHN,
25. Franz HABISOHN,
26. Roman RUSY,
27. engineer Iris MÜCK and
28. Dorothea FREISTETTER,

against the decision of the Federal State Government of Lower Austria of July 10, 2012 (Reference RU4-U302 / 301-2012) with which Vienna Airport was granted permission to set up and operate the " Parallel Runway 11R / 29L" project as an applicant and the first-party concerned, and the Province of Lower Austria as applicant and second-party

(both represented by Schönherr Attorneys-at-law GmbH) of which the approval for the project component "Relocation of Highway B 10" pursuant to § 17 Environmental Impact Assessment Act 2000 (UVP-G 2000) was issued:

A)
I. The complaints of Wilhelm PAVICSITS (15th plaintiff) and the " Vienna Woods environmental initiative " (23rd plaintiff) are rejected.
II. Petition for the cancellation of the security zone in the land register are rejected.
III. The other requests lodged by the plaintiffs in the proceedings will not be endorsed.

And recognizes:

B)
The application of the first and second parties to the establishment and operation of the " Parallel Runway 11R / 29L" project along with the "relocation of Highway B 10" is rejected.

C)

The revision against points A and B is not permitted.

Grounds for decision:

I. Procedure:

1. Authorization procedure for the authority concerned

1.1. Initiation request

In a joint letter dated March 1, 2007, Vienna Airport (the first-party) applied for authorization for the project "Parallel Runway 11R / 29L" and the Province of Lower Austria (second-party) for the project component “Relocation of Highway B 10” in accordance with § 5 EIA-G 2000 at the State Government of Lower Austria as the Environmental Impact Authority (EIA) Authority, the present requested authority of the proceedings before the Federal Administrative Court.

The new Parallel Runway 11R / 29L (abbreviated as: third runway) as well as all related project components is to be built directly adjacent to the existing runway in the south lying runway (the first runway, which is to be designated 11L / 29R in the future).

The third runway would therefore diagonally meet the existing runway 16/34 (the second runway).

The application essentially comprises the following items:

- Erection and operation of a third take-off and landing runway called "Parallel Runway 11R / 29L" with a total length of 3,680 m, which is to be located parallel to the existing first runway 11/29 at a distance of approx. 2,400 m
- Site adaptation measures
- Taxi area
- Streets, roads and service tracks
- Buildings and operating facilities in the new operating area of the third runway
- Outdoor facilities in the new operating area of the third runway
- Air traffic control devices
- Markings and signs
- waste water disposal facilities,
- water supply,
- electrical and communication systems,
- lighting equipment,
- gas supply facilities,
- snow shelter,
- technical noise protection measures,
- landscape conservation and natural conservation measures,
- airfield fencing,
- extension of civil airfield limits,
- clearing and replacement afforestation, –
- relocation of the Highway B 10 at a distance of 7,420 km.

The authorization was not sought nor filed for the establishment of flight routes and changes in the operation of the existing take off and landing runways.

A mediation process began in 2001. In addition to the first-party involved, representatives of air traffic control (the Austro Control GmbH – ACG), the provinces of Vienna and Lower Austria, the environmental attorneys' offices of Vienna and Lower Austria, the municipalities of the districts of Mödling, Vienna -Surroundings (Greater Vienna) /East, Bruck a.d. Leitha and Gänserndorf, various citizens' initiatives, settlers, chambers, associations, representatives of interests, as well as political parties participated. The purpose of this procedure was the design of air traffic in the existing two-runway systems as well as the construction of another runway at the Vienna Airport. The mediation procedure was concluded in June 2005.

1.2. Environmental impact assessments (EIA):

For this professional assessment of the project, both government experts (GE/ASV) and non-governmental experts (NGE/SV) were selected from the following specialist areas:

- Waste management,
- Wastewater engineering,
- Systems engineering fire protection,
- Construction engineering including fire safety,
- Lighting,
- Landfill technology,
- Railway engineering,
- Electrical engineering,
- Emergency planning, rescue and firefighting,
- Flight meteorology,
- Air traffic control,
- Air traffic control technology (communication, radar and navigation systems)
- air traffic control
- air traffic forecast
- forestry and hunting economy
- geohydrology
- geology
- aquatic ecology
- cultural goods
- agriculture
- noise protection
- aeronautics / general aviation security –
- air clean-up technology,
- mechanical engineering,
- Meteorology,
- Nature conservation,
- Optical interferences,
- Ornithology,
- Spatial planning and landscape design,
- Environmental hygiene,
- Traffic planning,
- Transport engineering,
- Veterinary medicine.

1.3 Amendments to the approval application (Revision 01 to 05)

By letter dated 31.01.2008 the "Revision 01" (on the basis of the opinions of the experts, project extensions by the parties involved as applicants) was submitted; Simultaneously, the project has been slightly modified or refined in some respects with regard to the adjustment of the distance of the runway track, navigation lights and of the circuits and of the runway signposts, the adjustment of the cross-travel area of the central runway and the rescheduling of the sewage canals from the industrial plants.

By letter of 27 March 2008, the "Revision 02" was submitted, on the basis of the comments received by the experts, and, separately, from the two participating parties, further optimizations, clarifications and improvements to the submission procedure.

By letter of 6 May 2008 the "Revision 03" was submitted after another additional preliminary examination.

On 27.02.2009, the application for approval was re-modified as "Revision 04". These changes concerned the laying of the noise barrier at Rauchenwarth and Schwadorf as well as the re-planning of the noise barrier at Klein-Neusiedl.

On 24.08.2011, an opinion was issued by the first party to the environmental impact assessment and the landfill proposed was clarified with regard to the monitoring of the construction.

Finally, the "Revision 05" was presented dated 23.07.2010. The modifications presented with this included the clarification and supplementation of the landscape conservation planning as well as the clarification of some details on the relocation of highway B 10.

Due to the duration of the procedure, the forecast horizon 2025 as well as a new air traffic forecast (document 30.35) were presented. In addition, document 30.36 "Air traffic forecast - allocation of flight movements on routes" was also submitted.

1.4. Statements, edict, objections, trial:

With edict dated 23.05.2008, the application with a description of the project as well as the time and place of the possible inspection were made, the project documents were published for public inspection and the possibility to submit comments. These were published in various newspapers including the Viennese newspaper, the official news of Lower Austria, the homepage of Lower Austria and the official boards of the local communities of Fischamend, Kleinneusiedl, Rauchenwarth and Schwadorf and other news carriers such as Kurier, Kronen Zeitung (both editions of Lower Austria), Schwechat and in the district administration of Greater Vienna (Wien-Umgebung) in accordance with § 44a in conjunction with § 44b Of the General Administrative Procedures Act 1991 - AVG and according to § 9 EIA-G 2000.

In the context of the project, a modification of the security zone of the Vienna-Schwechat airport was proposed, with reference to § 44a (3) AVG and § 70 (4) Aviation Law Safety zones, with a corresponding formal announcement from 29.05.2008 to 31.07.2008.

From 29.05.2008 to 31.07.2008, the application for approval and the project documents, including the environmental impact assessment (EIA), were launched in the local communities and in the district authority of Greater Vienna, as well as with the relevant authorities during the respective official hours for open public inspection.

The objections raised by the parties involved were raised by various “natural persons” or clients, citizens' initiatives, non-governmental organizations and municipalities.

From 07.07.2011 to 25.08.2011, the environmental impact assessment and the partial assessments according to § 12 UVP-G 2000 as well as the entire project with the status "Revision 05" in the local communities and in the district management team Vienna environment as well as at the office of the Provincial Government of lower Austria during the respective office hours according to the legal provision was made public. With the same edict the time and place of the hearing as well as the planned trial procedure in the large-scale proceedings were made known in accordance with §§ 44a ff of the AVG.

In the course of the circulation, various opinions were received which were opposed to the project.

In the period between 29.08.2011 and 7.09.2011, oral hearings took place. In this regard, the project was discussed in thematic blocks and numerous opinions were recorded.

Pursuant to § 44e Administrative Procedures Act (AVG,) a copy of the recorded trial letter was opened for inspection by the local communities and in the district management team of the greater Vienna area as well as with the concerned authority in the period from 13.09.2011 to 03.10.2011.

A transcript of the trial was also available on the Internet for three weeks on the website of the authority. An opinion from the committee against air traffic noise was sent to the Authority.

With the public announcmeent, the investigation concerning the "Parallel Runway 11R / 29L" project was finally closed with effect from October 12, 2011 according to § 16 (3) UVP-G 2000.

2. Validation of the authority concerned:

2.1. By decision of 10 July 2012, RU1-U-302 / 301-2012, the relevant authority was granted authorization to the parties involved to establish and operate the project "Parallel Runway 11R / 29L", as well as the project part " Relocation of Highway B 10 ", including the following components:

- Paving and rolling stock,
- marking and signposting,
- terrain adaptations,
- soil excavation dump,
- reconstruction,
- clearing and replacement afforestation,

- landscape conservation measures,
- civil airfield boundaries,
- airfield fencing,
- roads and paths,
- internal road network,
- roller road underpass,
- external road network,
- air traffic control and special systems,
- other ground installations,
- Infrastructure and objects (fire station, filling station, LuftfahrzeugEnteisungsstation, repairing buildings, winter maintenance halls, Bodenenteisungsmitteltank, garage, aircraft Enteisungsgeräte, lighting facilities, transformer stations for the air navigation ring),
- outdoor installations,
- defrosting,
- sewage disposal facilities,
- water supply,
- electrical and Telecommunications,
- lighting,
- gas supply,
- district heating,
- snow area.

The second participating party (representing the state highway plan) granted permission to set up and operate the project component "relocation of State Highway B 10" pursuant to § 17 UVP-G 2000.

2.2. In the approval procedure, pursuant to Section 3 (3) UVP-G 2000, the following substantive authorizations were granted approval according to the EIA-G 2000:

- Civil airfield license according to the Aviation Law for the modification of the scope of operation;
- Approval according to Aviation Law for the construction of civilian ground facilities;
- Exceptional authorization according to Aviation Law for the establishment or extension of airborne hazards within the safety zone;
- Approval according to Aviation law for the construction and operation of installations with optical or electrical interference;
- Authorization according to Aviation Law for the establishment and operation of air traffic control systems;

- Authorization pursuant to the Forestry Act 1975 for the permanent clearing of a total of 186,620 m² of forest floor and the temporary clearing of a total of 26,155 m² of forest floor;
- Authorization pursuant to the Water Legislation Act of 1959 for the effects on ground and surface water (Danube);
- Approval in accordance with the Waste Management Act 2002 for the construction and operation of a site-specific treatment facility (soil excavation dump);
- Approval of the alteration and destruction of monuments according to the Monument Protection Act;
- Exemption permit pursuant to the Federal Highway Act 1971 for the crossing of the A 4 motorway;
- Exceptional approval pursuant to the Railway Act 1957 for the construction of facilities in an area where construction has been banned.

Approval according to the Lower Austrian Road Act 1999 for the transfer of the national road B 10;

- Approval in accordance with the Lower Austrian Nature Conservation Act of 2000 for the construction of facilities and the carrying out of level-changing excavations and deposits or for the construction of a soil excavation dump as well as for the installation and measures in the landscape conservation area "Donau-March-Thaya-Auen";
- Authorization pursuant to the Lower Austrian National Parks Act for exemptions from the prohibition of intervention in the national park Donau-Auen.

2.3. The approval would be granted subject to extensive conditions, prerequisites, time limits and other secondary requirements.

The acceptance of the operating permit to be notified in the context of the EIA acceptance procedure has been stipulated according to § 73 LFG, to be applied for until 31.12.2024 at the end of the third stage of construction.

For the construction of the third runway and the related project components, three expansion stages were planned (depending on the time sequence of the development of air traffic).

Construction stage 1: In the construction phase, the first construction project is to relocate state highway B 10 with the accompanying economic routes in a new location. Furthermore, the following work would be carried out in this design phase in a total of eight construction phases:
terrain adaptations;

- Runway and taxiway system 11R / 29L with connection to stock in the course of parallel runways on track 16/34, TWY E and T;
- Construction of buildings in operating area track 11R / 29L;
- drainage measures with new drainage into the Danube;

- internal road connection to existing land and infrastructure masses on future TWY H and establishment of a non-free way (public way) to the Katharinenhof area from the west (B 10);
- accompanying measures (eg noise and visual protection measures, clearing and planting measures, monitoring of the countryside, etc.);
- air traffic control devices;
- Construction of the soil excavation dump.

In Construction phase 1, the new runway including the associated infrastructure and taxiway Route East as well as the systems in the new operating area of the parallel runway and the transformer stations for the flight safety ring are to be completed so that the new runway system can go into operation. The total construction time for the construction stage 1 is expected to be approximately 42.5 months of building. A completion deadline of 31.12.2018 was foreseen for this expansion stage.

Construction stage 2: The independent crossing of the existing runway system 11L / 29R (runway 1), are planned in construction stage 2 (consisting of three construction phases) consists of the construction of the taxiway and the renovation of B4.

The necessary land adaptation and drainage measures is to be carried out in phase 1. For the implementation of these measures, about six months will be needed.
A completion deadline for construction work was scheduled for 31 December 2019.

Construction stage 3: This phase (comprising of two construction phases) including the crossover of the existing runway 11/29 via the taxiways D3, D4 and A5, A6 as well as the construction of the roller track underpass / roadway underpass is to be built in the dismantling stage 3 (consisting of two construction phases) of the taxiways H and R (the access to the interior).

Finally, the provisional construction set up in phase 1 over the road crossroad is removed. In addition, the relevant connections are made to the infrastructure system set up in phase1 in the respective construction phase.

Further accompany measures (eg noise and visual protection measures, clearing and planting measures, monitoring of landscaping, etc.) are constructed. The construction time of stage 3 should be a total of approx. 8.5 months. A construction completion period for the construction work was scheduled for 31.12.2024.

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3. The appeal proceedings:

3.1. Procedure brought before the Environment Senate (UmweltSenat)

(In 1994, the Austrian Constitution was amended to create the Umweltsenat as an independent body to hear environmental appeals under the Federal Act on Environmental Impact Assessment (EIA Act) Further information available here.)

Appeals were lodged against the contested authority (to the environmental senate at the time).

Under procedural law, it was argued that the authorities concerned and all their employees were biaised because this was a project handled by the Province of Lower Austria. The request was made to refer the proceedings to another state government. More information about the Austrian Judicial System can be found here.

Furthermore, the EIA procedure could not have been initiated at all, since the application for authorization was incomplete and the existing (old) stock had not already been procedurally approved ("subsequent EIA").

The grounds of the contested decision are flawed, the investigation activity is erroneous. Furthermore, the reasoning is very brief and does not provide detailed analysis of the objections. There is no comment on the arguments and opinions put forward.

The oral hearing of the authority concerned could not have been pursued, since there was an arbitrary system of logging the objections. Furthermore, the conclusion of the preliminary investigation was dismissed. There had been no decision on applications. The "Revision 05" was not published publicly or communicated to the parties before the hearing.

The reasons for the necessity of the project were put forward in the contested decision. The public interest in the project is not what appears to be, the demand is artificially generated, jobs are not as numerous and not as skilled as illustrated.

Due to the trade in certificates, the rising energy prices and the "Austrian Airlines disaster", there is much less traffic than expected. There are also other public interests in the project.

As far as the scope of the project was concerned, the overall concept of the airport was being modified. Changes to existing parts of the airport should also have been taken account.

On the variation comparison, it was proposed that the air traffic forecasts are not up-to-date, and the confidence intervals were not given. Nor was the most environmentally-friendly variant submitted. The selection does not correspond to the state of the art, “the option Bratislava" and finally the danger to the traffic tasks of the airport of Bratislava were not examined. Finally, the variants compared were incomplete because the elimination of variants had not been sufficiently substantiated.

On the issue of traffic, the flight routes were missing. If these were not determinable beforehand, because these are determined by the regulation of the Austrocontrol, then all possible flight routes would have to be examined, not only the plausible ones.

Furthermore, there was no air traffic distribution. The operational concept (including flight routes) must be formulated as a binding condition.

The definition must be made according to the principle of minimization of the persons concerned. Furthermore, the air traffic forecasts are faulty. There would be much more air traffic on the basis of capacity reserves than had been the basis of the EIA. There are uncertainties in the forecast. On the basis of the certificate trading, the declining energy prices and the "AUA disaster", there would be much less traffic than expected.

The Curved Approach was suggested, though would not correspond to the state of the art techniques. Furthermore, Liesing's misappropriation of air traffic was incorrectly accepted. There is also a trend towards having larger aircrafts which has not been taken into account.

On the issue of the noise engineering principles it was stated that an assessment of the total noise noise effects were lacking. The cumulative effects of all the runways, including existing ones, should be taken into account.

The determination of the noise zones is not comprehensible, especially since all possible flight routes should be used as a basis. Thus, the measured value at the measuring point "SW 30, Andromedaweg" is strikingly lower than the calculation value.

The noise zones would be determined differently than those specified in Önormen und Richtlinien. The actual noise measurements were wrong and noise measuring devices had been made unfavorable. Furthermore, heavily affected areas are additionally affected by aircraft noise.

An area that is already suffering from the west winds on runway 29 at Westwind is affected by the east wind on runway R11 in case of landings. Densely populated areas were affected, but not evaluated, because they were below 45 dB. For example, Liesing was affected day and night.

There was no discussion about noise events in the Viennese urban area. The noise forecasts for Liesing were wrong. The forecast for the onshore traffic is not comprehensible. There would be no traceable calibration based on behavioral parameters. Furthermore, the modal split was not mentioned and no measures for improving the modal split had been prescribed. It lacks the assessment and assessment of noise in the outdoor area. People could no longer be outdoors and would become forced to stay"indoor".

The basic principles for air pollution control had the following issues:

- The forecast values for PM2,5 are not irrelevant, contrary to the assumption in the procedure.
- The NO2 loading projections of the feeder traffic were wrong or would lead to inflated budgets.
- The project showed an excess of NO2 in Mannswörth, but there were no disagreements (expert opinion Kager, page 128). During the construction phase,

the TMG for PM10 must only be reported from 400 µg / m3, which means that the safety to health can no longer be guaranteed. TMG is normal 50 µg / m3.

- The counter-opinion of DI Bayerl is not sufficiently appreciated, especially with regard to the data used (firstly there was talk of dat only from 2002, then from 1999 to 2009.) Nor does it seem clear the extent to which the individual reference years had an influence on the results of the data.
- The assessment periods should be set as from 2008 as twelve years old data could not provide a proper basis for arguments.
- According to Kager, it is not the data on which the expert opinion is based and therefore his expert opinion can not be verified and re-evaluated by experts.
- It is incomprehensible how the further deterioration of the air quality in an already polluted area may be permissible. In the report itself, it is stated that the limit values for NO2 have been partially exceeded. The actual situation is already characterized by the metropolitan area of Vienna and there are therefore low to moderate loads of CO, SO2, benzene and NOx.
- In the Vienna area, the limit values of PM10 and PM2.5 are exceeded frequently. There is a debate about the effects of fine dust.
- Furthermore, the problems of measurement data mixing as well as the inhomogeneous and different measurement periods of emission values are criticized; The derogated opinion on the secondary formation of air pollutants.
- Area-covered PM2.5 measurements would be missing, as is the exact range of the target region.
- Only the construction of the runway is assessed, but not the operation.
  For example, 330,000 tonnes of kerosene would be burned per year in densely populated areas - in the air layers between ground level and 1,500 m altitude, which is relevant for pulmonary respiration (with the planned 460,000 flight movements). Currently, there are 150,000 tons of kerosene. Studies assumed that particles from aircraft engines should be classified 100% in PM2.5. According to WHO, an increased mortality is given from a concentration of 10 µg. As early as 2005, Doctors reported that there was an increase of 8% in lung cancer if the fine dust increased by 10 µg / m3 of outside air.
- The calculation of the PM10 and PM2.5, coupled with the "smoke number" of the aircraft fleet considered, leads to an assessment of the actual emissions and thus to a misinterpretation of the forecast for the years 2020 and 2025.
- The NO2 loading projections concerning the traffic of consumers were wrong or exceeded.
- The forecast values are not up-to-date (2002 instead of 2010).
- The secondary formation of air pollutants (ozone, CO2) is also neglected.

As regards climate and climate protection, it was argued that this would be counteracted, as moving on with the construction of the runway would result in an intensification of climate change.

As regards the protection of goods, it was argued that there would be a loss of property. These are covered by the protection objective of the EIA-G. An inventory of

the property losses in the loss of value of land is necessary. In this context, reference was made to the EIA Directive (EIA Directive) and the Commission's decision in an Austrian preliminary ruling procedure.

As regards incidents, it was argued that the effects of aircraft crashes had not been investigated.

As regards the climate and energy concept, it was argued that this would be flawed because, as an example, the fuel forecast was missing.

Regarding environmental/health effects, it has been argued that there is a risk of health hazards and unacceptable harassment by noise. The project resulted in unacceptable nuisances and health hazards (a human-medical counter-report was presented). Special vulnerable groups such as elderly and home-bound sick people would not be taken into account. - 16 - Furthermore, there are additional risks for residents of Liesing. Thus, the counter-claims on environmental medicine were not acknowledged and dismissed. Concrete arguments on opinions and arguments in the proceedings of the authorities concerned (Greiser, Gatterer, Hutter), reference to this, attempt to debase the appraisals of Scheuch and Haider. Furthermore parks and recreational areas would be affected. Thus, the importance of airborne noise for recreational areas was not adequately acknowledged. There are unacceptable harassment issues in the outskirts of the city. The sound level of 60 dB and above is unacceptable. The noise limits are set too high. The level of 62 dB (A) was arbitrarily set. Object-based noise abatement measures are unlawful. This contravenes the European Convention on Human Rights (ECHR) and the EIA Directive. In this context, it was suggested that a preliminary ruling procedure be initiated at the Court of Justice of the European Union (ECJ). Furthermore, the aircraft would form condensation trails and white clouds. These would act "like fire-glasses in the sky". This results in increased UV radiation, which causes skin cancer. This would restrict any outdoor activities. The authority concerned had not approached this argument.

For nature conservation, it was proposed that the bee-eaters bird species are at risk. This is also connected with the "Spange Götzendorf" project.

The mediation was carried out, the results of which are unlikely to be reflected in the decision.

As to the clarity and suitability of individual requirements, it was proposed that the liquidity and the environmental friendliness of the traffic are not clearly defined. There was no operational concept. The noise protection criteria were unacceptable, not practical (being forced to stay indoors) and harmful to health. Noise measures are contradictory, would be too late and would build on indefinite forecasts. Furthermore, sound protection measures for Vienna and the surrounding area (Liesing, Mödling) would also be absent. The Security Zone Ordinance overshoots the authority's competence. The measurement points for pollutants in the construction phase are set too low, since wind is constantly blowing.

The emission reduction concept assumes insufficient values from which measures are to be taken. The reporting obligation for certain values is insufficient. As regards the agricultural compensatory areas, it was argued that the conditions were not suitable to secure compensating areas. The ecological building inspectorate is an impermissible delegation of the testing authority. The building inspector also had very vague competences. The ornithological noise monitoring is not sufficient and can not replace a protective concept. The requirements for mobility management are indeterminate and not sufficient. Likewise, land conservation measures and noise protection are too undefined.

The economic viability of tourism in the Rosalia-Kogelberg Nature Park region is disrupted due to noise levels.

The appellants claim that the applications of the first and second-party parties be rejected after the oral procedure, in the event that the proceedings should be referred back to the authority concerned to complete the procedure.

Further applications were requested:

- supplement the procedure of the authority concerned with regard to various areas indicated;
- suspend the proceedings pending the decision of the Court of Justice in Case C-420/11 (Leth v. Republic of Austria and Land Niederösterreich);
- restricting the operation of the Vienna airport (restriction of flight operations to certain periods, setting of upper limits for the flight movements for individual runways, introduction of a limit value for noise emissions for different operating times, modification of the calculation method for noise emissions);
- complement the extent to which (including intensities) burdens and relief effects are associated with the project in question;
- to amend the contested decision in such a way as to take account of the need to reduce the degree of concern, in particular by incorporating principles of diminution in the normative part of the sentence, such as by means of appropriate subsidiary clauses, and not merely by 'expectation' or 'hope' "The authority is limited to the justification part.

The first and second participating parties entered the appeals by letter dated 15.11.2012 and applied for their rebuttal or rejection.

During the appeal procedure, the Environmental Senate carried out an additional preliminary investigation procedure through Univ.-Prof. STURM in the field of airborne pollutants and BeSB GmbH in the field of noise as un-official experts.

By letter dated 19.09.2013 the BeSB GmbH Berlin, Schalltechnisches Büro, received the report titled “Noise Protection Areas according to the - Air traffic noise control regulation – (LuLärmIV)” for the airport of Vienna after commissioning of the parallel runway11R / 29L and a comparison with the noise protection areas according to the decision of the Lower Austrian Government of 10.07.2012 ".

By letter dated 10.11.2013, Univ.-Prof. Dr. STURM provided an expert opinion on "Responding to the questions on project-related air pollution."

3.2. Appeal's procedures before the Federal Administrative Court:

3.2.1. Party, supplementary investigations, edict:

By letter dated 30.12.2013, the files of the relevant authority and of the approval and the appeal proceedings were forwarded to the Federal Administrative Court by the Independent Environmental Senate.

The expert's report, which was submitted by the environmental senate, Univ.-Prof. STURM and BeSB GmbH were sent to the parties to the (present) plaintiffs by the end of June 2014. Comments of plaintiffs were received.

The following non-executive experts were subsequently appointed by the Federal Administrative Court: for the area of Ornithology Dr. PROBST, for the area of Traffic Planning DI Dr. NADLER and Univ.-Prof. Dr. NEUBERGER for environmental health.

By letter dated 16.09.2014, the Federal Ministry of Transport, Innovation and Technology (BMVIT) was asked to amend the regulation on noise mitigation measures in the field of air traffic (As per the air traffic noise control ordinance – LuLärmIV, Federal Law Gazette II No. 364/2012).

In order to examine the basis for the issuance of this "special immission protection regulation" within the parameters of § 17 para. 2 EIA-G 2000. The Act for the issuance of the Air traffic Noise Control regulation reached the Federal Administrative Court on 14.10.2014.

In accordance with § 44a in conjunction with § 44b of the General Law for Administrative Proceedings (AVG), the hearing of the oral hearing in January 2015 was made known by the edict of 18.11.2014 in the daily newspapers Kurier (for Vienna and Lower Austria), the standard and in the official newspaper of the Wiener Zeitung and on the homepage of the Federal Administrative Court.

An edict was also simultaneously issued comprising of additional expert opinions on the air pollution of Univ.-Prof. Dr. STURM of 10.11.2013 as well as to the noise protection areas according to LuLärmIV of BeSB GmbH Berlin of 19.09.2013. Furthermore, it was announced that these public reports are available for inspection and are also available on the Home page of the website of Federal Administrative Court. Simultaneously, the parties to the proceedings and parties were invited to the hearing.

3.2.2. Oral proceedings in the Federal Administrative Court:

From 7 to 9 January 2015, a public oral hearing was held before the Federal Administrative Court, with the participation of the experts appointed by the court. On 7.01. 2015, the topic of noise was discussed. On 08.01.2015 the topics of transport, air pollution as well as environmental hygiene, ornithology, aircraft crashes, electromagnetic fields, public interests and needs assessment were discussed. On 09.01. 2015, the areas of public interest and needs assessment were concluded and mediation was also dealt with.

The trial including annexes was sent to the parties to the proceedings by reference to the possibility of objection pursuant to § 14 para. 3 and para. 7 of the General Administrative Proceedings Act of 1991 (AVG) and posted on the homepage of the Federal Administrative Court. Furthermore, the trial letter was issued to the Federal Administrative Court for three weeks for public inspection in accordance with the provisions of Section 44e (3) AVG. Various opinions were submitted on the trial.

3.2.3. Order for the establishment of a CO2 emission level and comparison of the runway with respect to greenhouse gas emissions:

By letter dated 09.02.2015 by the Federal Administrative Court, the first party concerned was asked to clarify the order of the court at the hearing on CO2 minimization pursuant to § 13 para 3 AVG, to present an energy balance and a CO2 emission balance of the entire airport. This would be divided into the source groups air traffic "airside", electrical infrastructure of the airport (building and airfield) and the airport-relevant traffic "landside".

This analysis also had to be divided into the source groups air traffic "airside", electrical infrastructure of the airport (building and airfield) and the airport-relevant traffic "landside". This request was made in the light of the fact that, when the third runway at the Vienna Schwechat airport was put into operation, a significant increase in CO2 emissions would occur due to the projected increase in aircraft movements.

By letter of 19.02.2015, the first-party submitted the required energy and CO2 balance of Vienna Airport for 2013 as well as a list of measures. It was indicated that the balance sheet for the direct impactable shares for the two or three runway system cases shows an increase of 3.6 kilo tonnes per annum in CO2 emissions.

In a catalog of measures, the first participating party illustrated a potential CO2 reduction potential by means of various internal measures, such as the retrofitting of the

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(Airside), reduced use of the APU (auxiliary power units) of the aircraft by increasing the supply of power connections, photovoltaics, etc. in the amount of approx. 4.2 kilo tonnes per annum.

In his analysis dated 27.05.2015, Univ.-Prof. STURM assessed the potential savings mentioned in the proposed action of the first-party, and noted that while in isolation is considerable, is confined to the 2% range of the additional Co2 emissions generated by the third runway.

The bulk of the CO2 emissions come from the flight operations and therefore can not be influenced. The second largest emmission is attributable to the external energy supply with electricity and district/community heating. Both are currently powered using conventional sources (based on fossil fuels). By switching to e.g. green electricity sources or district/community heating from non-fossil sources, a noticeable reduction is possible.

Considering the initiatives to reduce CO2 emissions at other airports, the Airport Carbon Accreditation Scheme, launched by Airport Council International Europe (airportcarbonaccreditation.org), is a suitable platform.

This scheme envisages four stages up to the carbon neutrality of an airport (with the exception of direct air traffic).

Considering only steps 1 (mapping - that is the phase of data collection) and 2 (stationary infrastructure, handling and traffic airside, etc.), there are already many large European airports that have already set significant measures for CO2 reduction.

Vienna Schwechat Airport is located at level 1 (mapping). Almost all major European airports, such as Zurich, Munich, Hamburg or major airports such as Frankfurt, Paris (CDG and Orly) or London Heathrow and Gatwick have already made significant efforts to reduce CO2 emissions and are already in Stage 3 (Optimization).

Zurich and Munich reported, for example, a reduction of several 10 kilotonnes (kt) CO2 compared to the respective reference year.

This will mainly be achieved by converting the stationary infrastructure supply (for electricity, heat and cooling) to lower-CO2 energy carriers, fleet renewal/upgrade (increased use of e-mobility), and conversion of the runway lighting and lighting of the apron area etc to more economical light sources.

Based on the documentation provided by the first party, the information from CO2 reduction measures of other European airports, as well as from further technical literature, it could be concluded that a significantly higher CO2 reduction than that projected by the first party is possible. For example, a change in the source of supply for the "stationary infrastructure" sector is a conceivable reduction scenario in addition to the proposed changes in the vehicle fleet.

Finally, the opinion of Univ. Prof. SURM recommended the authorization of the third runway as a way to reduce Co2 emissions compared to conventional operations generating 30 kilo tonnes per annum

In a letter dated 07.09.2015, the first-party submitted a carbon footprint for the airport of Vienna for the year 2014 with the request to base it and the current figures off the technical assessment and the possible measures stipulated therein.

The first party has been pursuing a strategy for the reduction of CO2 emissions for many years. Many CO2 reduction measures have already been taken in recent years (eg reduction of GPU running times, refurbishing of runway buses, natural gas vehicles, renewal of apron and runway lighting, etc.)

All these efforts have not significantly reduced energy and fuel consumption, and therefore CO2 emissions. Therefore, the further reduction potential is correspondingly lower.

The first party participated in the ACAS (Airport Carbon Accreditation Scheme) and currently carries out the EMAS and ISO 14001 certification. Therefore, a further reduction potential of 30 kt / a (based on the three-run scenario 2015) appears to be too high.

In addition to the savings proposed by the first party, a further reduction appears to be possible only through the purchase of remote heating and cooling from renewable energy sources and the purchase of electricity from renewable energy sources.

When it comes to the definition of measures, it would be important to base the calculation on the amount of the carbon footprint for 2014 in a sufficiently clear manner. It should be determined how many grams of CO2 / Kilowatts/per hour is to be calculated (as a measurement basis) for the procurement of district heating / remote cooling and for the supply of electrical energy.

Furthermore, it should be noted that, in the cases presented by the first-concerned party and Univ.Prof. STURM, the tables contained projections for the three-runway system as 2025 for when the third runway would be commissioned.

If, however, the emission quantity (kt / a) mentioned in the projectionss is not reached, the savings commitment also be correspondingly reduced proportionally.

Finally, it should be stated that CO2 reduction measures, which are set from the legal force of the decision, are attributed to the savings committment. Otherwise, the first party concerned would have to postpone further reductions, which is contrary to the objectives of a rapid and early implementation.

Furthermore, Univ.-Prof. STURM was requested by the Federal Administrative Court to draw up a balance sheet of the greenhouse gases for Austria as well as the two- and three-runway system.

3.2.4. Applications and documents submitted in the administrative procedure:

During the oral hearing before the Federal Administrative Court, various plaintiffs submitted the following requests,

- to check the Air traffic noise control ordinance (LularmIV) for constitutional conformity;
- to change the flight safety zones;
- minimize the number of passengers, so that as few persons as possible are affected;
- prescribe the Curved Approach;
- to provide for monitoring of the health of the affected population;
- to require the first party to complete the submission documents relating to various subjects;
- the Court should bring a preliminary ruling procedure before the Court of Justice on the question of the inclusion of flight routes in the present proceedings;
- the deletion of the "security zone new - West" from the land register;
- issuing of the raw data records to the flight movements;
- to submit to the expert DI Nadler a supplement to his opinion on the assessment of the uncertainties of the transport model in the sense of " Quality management & quality assurance for traffic models and forecasting procedures" (QUALIVERMO)";
- to carry out a survey of the uncertainties for the areas of noise and air pollutants / climate and to discuss the results of this survey of uncertainties with the parties to the proceedings, while respecting the interests of the parties;
- to release recordings of the trial.

Furthermore, in the hearing, the Senate criticized as being biased because various applications had not been submitted by the plaintiffs; this demonstrates the prejudice on the part of the cognizant Senate.

By letter dated 10.03.2015, the first to fourth plaintiffs requested the transmission of the audio recordings of the oral hearing. This application was rejected by decision of the Federal Administrative Court of 19 March 2015. It was reasonably stated that the recordings were to be made available to the courts of public law only for reasons of evidence in a complaint or revision procedure following the decision of the Federal Administrative Court. The recordings are therefore not accessible to the parties to the proceedings.

By order dated 19.03.2015, Federal Administrative Court decided that the application of the first to the fourth plaintiff was rejected on "transmission of the recording of the trial".

By letter of 19 October 2015, the 21st complainant requested the deletion of the "new security area west", since the third runway had only the curved approach and no direct approach. He followed the request of the 20th complainant in the hearing.

By means of an appeal dated February 23, 2016, various complainants were encouraged to submit a request for examination to the Constitutional Court to LuLärmIV. The limit of 915 m laid down in this regulation is a definition without reference to air pollution. The non-consideration of emissions beyond the 915 m would inevitably lead to inconsistencies and to a (legally unacceptable) neglect of relevant climate-damaging effects of air traffic.

In any case, the Federal Administrative Court should recognize and take into account the fact that an atmospheric relevance of the height of 915 m, in particular with regard to air pollutant emissions or emissions of climatically relevant pollutants, is not traceable or derivable. Furthermore, this letter presented an opinion from the engineering firm Dr. Vrtala on the compatibility of the LuLärmIV with relevant other standards and the atmospheric relevance of the 915 m limit.

3.2.5. Hearing of the Federal Ministry of Finance (BMF) and the Federal Ministry of Transport, Innovation and Technology (BMVIT) regarding construction of the runway towards public interest:

In a letter dated 13.03.2015 of the Federal Administrative Court, the Federal Ministry of Finance (BMF) was asked to comment on the questions raised in the trial regarding tax exemptions in the area of the aviation sector. Furthermore, the Federal Ministry of Transport, Innovation and Technology (BMVIT), by letter dated 13.03.2015 of the Federal Administrative Court, was asked as the Supreme Civil Aviation Authority to comment on questions relating to the public benefit in establishing the third runway.

By letter dated 13.05.2015 of the Federal Ministry of Finance (BMF) a substantial exemption from Vienna Airport was confirmed with regard to tax and tax law provisions.

In a letter dated 12.06.2015 of the BMVIT, the following was carried out for the benefit of the public:

> " In addition to general security interests, such as the protection of the general public, the Luftfahrtgesetz (LFG) also includes the economic interest, such as the interests of the air transport industry, from the dangers and disturbing effects of aviation.
>
> The interests of the air transport industry include the "appropriate" or "economic operation", the "fulfillment of transport tasks" or the need to satisfy and prevent destroying competition.

There is also a threat to the transport tasks of the public airfields which are subject to operational liability.

In addition, according to the explanatory notes to section 71 of the legal version of the Aviation Law, the expansion of Austrian civil aviation is in the public interest.

In the "Aviation Roadmap 2020", the strategic overall concept of the Austrian federal government, the "development of an efficient and sustainable infrastructure" was also enshrined as one of the three main objectives for the strategic orientation of Austrian air transport. This roadmap was developed together with the stakeholders of the Austrian aviation industry to the optimum development of Austrian aviation.

With the implementation of the formulated individual measures, such as the construction of the 3rd runway, carrier: "VIE", the preservation and strengthening of the air transport location in Austria will be ensured.

Due to its geographical location, Vienna Airport has established itself as an important hub for air transport within Europe. From a strategic point of view, the provision of a third runway at Vienna Airport is regarded as essential for the further successful development of Vienna Airport as a hub location and for Austria as a commercial and air transport location.

Only by ensuring an efficient infrastructure can the corresponding capacities be made available in order to be able to meet future developments in aviation as a growth market in the best possible way and to ensure connectivity in the sense of a robust expansive network at Vienna International Airport.

Furthermore, the Austrian Administrative High Court has consistently held the view that any improvement in the aviation security is in the public interest.

The current arrangement of the two operating sites at the airport in Vienna entails major dependencies on the take-off and landing movements of aircraft. By setting up the third runway, an independent parallel operation would be possible without operational restrictions on take-off and landing movements, which will significantly increase the safety of aviation at the Vienna International Airport. Taking these aspects into account, the establishment of Runway 11R / 29L is in the public interest, which, according to the explanatory notes to section 71 of the LFG's legal version, includes the requirements. "

3.2.6. Plausibility check of flight numbers:

By order dated 13.05.2015 of the Federal Administrative Court, DI WIPF, an employee of the Swiss air navigation service, was appointed as expert for the plausibility check of the figures submitted by the first-concerned party in the administrative procedure for the flight movements as well as for other aeronautical questions.

Mr. WIPF confirmed that the figures submitted by the first concerned party were comprehensible. He came to the conclusion that, at the time of submitting the project, the available official historical time series of air traffic showed a steady growth over the years, which peaked in 2008. Subsequently, the volume of traffic has gradually declined until 2014. Despite the decrease in traffic in the last few years, the time series of traffic figures from 1998 to 2014 show a statistically positive overall trend. In recent years, an increased seasonal variation in the monthly flight movements could be observed.

Air traffic infrastrastructure should be interpreted on the basis of operations at the peak hour. The theoretical peak load in the hourly loads of the existing runway system had been reached or even exceeded in the period from 1998 to 2014. Recognizable peaks at night, at the end of the operating period, would indicate excessive traffic demand. At the same time, the theoretical yearly capacity of the two-runway system was once again achieved.

The existing two-way system will therefore not be able to accommodate the projected long-term demand for air traffic. Possible adjustments in technical and operational terms could probably also lead to a certain optimization in the future. However, there are indications that obvious improvements have already been made in recent years. Moreover, there is the danger of advancing on the ground and in the air by means of far-reaching approaches to the ever-increasing complexities of air traffic management.

In general, however, long-term air traffic developments would illustrate short-term deviations from the general trend. Nonetheless, long-term forecasts of various institutions would point to a weakening but still positive growth trend in European aviation. It was also important to note that the increase in passengers at regional (EU) and Vienna International Airport remains constant.

The airport as a hub in a transport network must also have sufficient capacity reserves during peak rush hours. If, on the other hand, the traffic exceeds its available capacity, there are generally delays or the rejection of traffic or, finally, a reduction in the minimum distances between aircraft. All three effects were contrary to the requirements of international civil aviation, to which the authorities concerned (the airport and air traffic control) had to adhere. The requirements would require a secure, orderly and rapid air traffic management. However, this means that at the level of air traffic management, first the prompt, the orderly, and the latter should be subordinated to the safe traffic handling. In practice, these three requirements are, to a considerable extent, in the tactical discretion of the control staff, which directly indicates air traffic. Strategic decisions on airport infrastructure, such as an optimally planned additional runway, would therefore create favorable conditions with their additional capacity in order to keep tactical compromises of the control staff peak hours.

3.2.7. Supplementary hearing, further comments from the plaintiffs:

DI WIPF's opinion was forwarded to the parties to the proceedings and the parties concerned. At the same time, a study was conducted by Univ.-Prof. STURM comparing to the two- and three-runway system of the Vienna International Airport (see section III.4.6.) to the greenhouse gases for Austria as a whole and the transport sector, in particular the airline sector.

To this end, various comments were received from plaintiffs and the first party concerned. It was proposed that the project would contribute significantly to climate change. In addition, it was argued that the project would cause additional condensation traces, which in turn would contribute to climate warming. In addition, various complainants submitted supplementary documentation on soil and water consumption.

II. Legal basis:

1. **General Administrative Procedure Act 1991 (AVG):**

§ 7 and § 53 AVG, BGBl. No. 51/1991 as amended. Federal Law Gazette I no. 161/2013, read as follows:

"Bias of administrative bodies

§ 7. (1) Administrative bodies shall abstain from the performance of their duties and shall instigate their representation:

(1) in matters in which they themselves, one of their members (§ 36a) or one of their dependents are involved;
(2) in matters in which they were appointed as plenipotentiaries of a party or are still appointed;
(3) where there are other important reasons which are likely to cast doubt on their full impartiality;
4. in the appeal proceedings, if they have participated in the issuing of the contested decision or the pre-decision of the appeal (§ 64a).

(2) In the cases of imminent danger, if the representation by another administrative body can not be effected immediately, the self-governing body may carry out the deferred official actions themselves.

§ 53. (1) Section 7 shall be applicable to official consultants. Other experts are excluded if one of the grounds of § 7 (1) 1, 2 and 4 applies; In addition, they may

be refused by a party if the circumstances render the impartiality or expert knowledge of the expert doubtful. The refusal may take place before the interrogation of the expert, but only later if the party makes it clear that he has not been able to ascertain the reason for the refusal beforehand, or that he has not been able to exercise it on time because of an obstacle which could not be overcome.

{...}

2. Administrative Judicial Procedure Act (VwGVG):

Sections 6 and 28 VwGVG, Federal Law Gazette I No. 33/2013 as amended. Federal Law Gazette I No. 82/2015, reads as follows:

"Bias"

§ 6. Members of the Administrative Court, expert lay judges and legal advisors shall be obliged to abstain from voting under notice to the President in the exercise of their office. "

"Findings"

Section 28.

(1) If the appeal is not to be rejected or the proceedings are to be terminated, the administrative court has to settle the case by means of cognizance.

(2) In the case of complaints pursuant to Article 130 (1) (1) B-VG, the administrative court itself has to decide on the substance itself if:

(1) the relevant facts are established;

2. the finding of the relevant facts by the administrative court itself is in the interest of the rapidity or is associated with a considerable cost saving.

(3) If the conditions of para. 2 are not met, the administrative court has to decide in the case of complaints pursuant to Article 130 para. 1 no. 1 B-VG in the case itself if the authority does not comply with the conditions laid down in the submission of the complaint with respect to the essential simplification or acceleration of the procedure.

If the Authority has failed to make necessary inquiries into the facts, the Administrative Court can annul the contested decision by resolution and refer the matter back to the Authority for issuing a new decision.

The authority is bound by the legal assessment from which the administrative court has decided upon its verdict.

(4) If the authority has discretion to exercise its discretion, the administrative court, by failing to decide on the substance of the case and if the appeal is not to be rejected or dismissed, must annul the contested decision by resolution and refer the matter to the issuing of a new decision the authority is bound by the legal assessment from which the administrative court has decided upon its ruling.

{...}

3. Environmental Impact Assessment Act 2000 (EIA-G 2000):

Sections 17, 19 and 45 of the UVP-G 2000, Federal Law Gazette No. 697/1993 as amended. Federal Law Gazette No. I 4/2016, are expressly stated as follows: "Decision

Article 17. (1) The authority shall apply the conditions of approval laid down in the relevant administrative provisions and in paragraphs 2 to 6 when deciding on the application. The consent of a third party is not a prerequisite for authorization in so far as the possibility of the granting of compulsory rights is provided for in the administrative part of the project. In this case, however, the approval shall be granted subject to the acquisition of the corresponding rights. [...] "

"Participating position as well as the appeal authority"

§ 19. (1) Parties' position

1. Neighbors: Neighbors are persons who are endangered or harassed by the construction, operation or the existence of the project or whose rights could be endangered at home or abroad, as well as the owners of establishments that are temporary residents and in the interest of protection of such people; Neighbors / are not persons who are temporarily in the vicinity of the project and are not legally entitled; With regard to neighbors abroad, the principle of reciprocity applies to States which are not Contracting Parties to the Agreement on the European Economic Area;

5. Municipalities pursuant to Section 3

{...}

(4) An opinion pursuant to Article 9 (5) may be supported by entry in a signature list, with the name, address and date of birth being indicated and the dated signature attached. The list of signatures must be submitted together with the decision. If an opinion of at least 200 persons who were eligible for municipal elections at the time of support in the local community or in a municipality

directly adjacent to this municipality, this group of persons (citizens' initiative) takes part in the procedure for the approval of the project and in accordance with § 20 as a party or as a party (para. 2). As a party, it is entitled to assert compliance with environmental protection regulations as a subjective right in the proceedings and to lodge a complaint with the Federal Administrative Court and revision to the Administrative Court as well as to appeal to the Constitutional Court.

(6) environmental organization is an association or a foundation, 1. which has the protection of the environment as the primary purpose according to the association statutes or foundation declaration, 2. the non-profit-making goals as captured in §§ 35 and 36 BAO, BGBl. 194/1961, and 3. prior to submitting the application pursuant to para. 7, at least three years of existence with the purpose stated under no. 1.

(7) **(Constitutional provision**) The Federal Minister of Agriculture, Forestry, Environment and Water Management shall, upon request, decide, with the consent of the Federal Minister of Economics and Labor, whether an environmental organization fulfills the criteria of paragraph 6 and in which federal states the environmental organization is authorized to exercise the parties' rights. Opponents to the decision also appeal to the Constitutional Court. [Note: Section 19 (7), last sentence, expired at the end of 31.12.2013.]

[...]

(10) An environmental organization recognized in accordance with para. 7 has a party position and is entitled to assert compliance with environmental protection regulations in the procedure insofar as it raised objections in writing during the period of application pursuant to § 9 para. 1. It is also entitled to lodge a complaint with the Federal Administrative Court as well as revision to the Administrative Court.

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Appellate proceedings

§ 40. (1) The Federal Administrative Court shall decide on appeals against decisions under the Federal Act. [...]

(2) The Federal Administrative Court decides through the Senate:

[...]

4. Federal Constitutional Law (B-VG):

Article 130 (1) (1), (3) and Article 151 (51) of the Basic Law, Federal Law Gazette No 1/1930 as amended. Federal Law Gazette I No. 106/2016, states:

> "Article 130. (1) The administrative courts shall recognize complaints
> 1. against the decision of a management authority on the ground of illegality;
>
> (3) Except in administrative matters and in the jurisdiction of the administrative court of the Federation, there is no unlawfulness in so far as the law gives the administrative authority discretion and has exercised it within the meaning of the law.
>
> 4) The administrative court has to decide on complaints pursuant to para. 1 no. 1 in administrative matters. In the case of complaints pursuant to para. 1 no. 1 in other cases, the administrative court has to decide on the substance itself if 1. the relevant facts are established or 2. the administrative court itself has determined the ascertainment of the relevant facts in the interest of the rapidity or considerable cost savings. "
>
> "Article 151. [...]
>
> (51) For the entry into force of the provisions amended or introduced by the Federal Law Gazette I No 51/2012 and for the expiry of the provisions repealed by this Federal Law as well as for the transition to the new legal situation, the following shall apply:
> 8. As of 1 January 2014, the independent administrative bodies in the provinces, the Federal Government Office and the independent financial department ('the independent administrative authorities') are dissolved; The administrative authorities listed in the Annex ('the other independent management authorities') are also dissolved. The responsibility for the continuation of the proceedings pending before these authorities at the end of 31 December 2013, as well as the proceedings concerning the conceptions (Article 119a (5)) pending before the supervisory authorities, shall be transferred to the administrative courts; This shall also apply to the procedures pending before other authorities in which these authorities are eligible for the relevant substantive authority or in the Authority, with the exception of the organs of the municipality.

[...]

Attachments

Dissolved independent administrative authorities

A. Federal Government

[...]

26. Independent environmental senate pursuant to § 1 (1) of the Federal Act on the Environment (USG 2000), BGBl. I No. 114;

5. Charter of Fundamental Rights of the European Union (GRC):

Article 37 GRC provides:

"Article 37

Environmental Protection

A high level of environmental protection and the improvement of environmental quality must be integrated into the policies of the Union and ensured by the principle of sustainable development. "

6. Federal Constitutional Law on Sustainability, Animal Protection, Comprehensive Environmental Protection, Water and Food Supply and Research Federal Constitution, Article 73 (Sustainable development)

Sections 1 to 3 of the Austrian Federal Constitution, BGBl. I No. 111/2013, read as follows:

"§ 1. The Republic of Austria (the Confederation, the Provinces and municipalities) is committed to the principle of sustainability in the use of natural resources in order to ensure the best possible quality of life for future generations.

§ 2. The Republic of Austria (Federation, Provinces and municipalities) is committed to animal protection.

§ 3. (1) The Republic of Austria (Federation, Provinces and municipalities) is committed to comprehensive environmental protection.

(2) Comprehensive environmental protection is the preservation of the natural environment as a human basis of human activity against harmful effects. Comprehensive environmental protection consists, in particular, of measures to maintain air, water and soil, as well as to prevent noise disturbances. "

7. Lower Austrian Provincial Constitution 1979 (Lower Austria, 1979):

Article 4 (2) and (3) of Lower Austria LV 1979, LGBl. 0001-0 idF. LGBl. 0001-21, including the headline:

"Article 4

Objectives and principles of state action

[...]

2. Living conditions:
The Province of Lower Austria must ensure that the living conditions of the Lower Austrian population in the individual municipalities and regions of the country are ensured, taking into account the estimated economic, social, and cultural needs. In this context, the creation and maintenance of appropriate working and social conditions, the fundamental recognition and maintenance of Sundays as a day of work rest, the best possible protection of the health care as well as sufficient housing possibilities, the protection and the care of the environment, nature, landscape and place to. Water is a sustainable source of life. Climate protection is particularly important.

3. Business:
The Province of Lower Austria has to promote the development of the economy taking into account social, ecological and regional needs.
[...] "

8. Aviation Law (LFG):

The relevant provisions of the LFG, BGBl. No. 253/1957, as amended. Federal Law Gazette I no. 80/2016, read as follows:

"4. Sections

Civilian airports

Section 1

Common provisions

Airports

§ 58. (1) Airports are land or water surfaces intended for continuous use for the departure and landing of aircraft (landings, waterways).
(2) Section 128 of the Water laws1959, Federal Law Gazette No. 215/1959, remains unaffected by the provisions of this Federal Law.
(3) Land or water surfaces may only be used for permanent departures and landings of aircraft if a civil airfield permit has been issued by the competent authority pursuant to Article 68.

Ground facilities

§ 59. Soil installations are buildings, installations and other fixed installations, which are located at airfields and whose use is mainly necessary for the proper operation of an airfield. Air navigation systems pursuant to Section 122 shall not be regarded as ground facilities.

Civil airfields and military airfields

§ 60. Military airfield is an airfield, the direction of which falls within the sphere of action of the Federal Minister of Defense. All other airfields are civil airfields.

[...]

Section 2

Civil airports

Civil airports authorization

§ 68. (1) Civil airfields may only be operated with an authorization (civil airfield permit). The same applies to any change in the modestly defined scope of operation of a civil airfield.
[...]

Prerequisites for civil airport liscencing

§ 71. (1) The civil airfield license shall be granted if:

(A) the project is technically appropriate and safe operation is to be expected,
(B) the creditor is reliable and appropriate to the management of the holding,
(C) the beneficiary 's financial resources ensure the fulfillment of the commitments resulting from this Federal Law on the airport;
(D) not oppose any other public interest.
(2) The prerequisite for granting the civil aviation permission for a public airfield is that there is a need for this. Airports may only be granted if their establishment is in the public interest. In particular, an airport is not in the public interest if:

(A) it is less than 100 km from an already approved and operating airport in the air line and would be likely to endanger its traffic;

(B) the operator of the existing airport is in a position and willing to undertake the tasks envisaged for the planned airport within six months.

[...]

Operation of civil airfields

§ 75. [...]

(5) Holders of public airfields may only terminate the operation of the aerodrome with the authorization of the competent authority to issue the civil airfield license (compulsory operation). The authorization shall be granted if the continuation of the operation can no longer be tolerated by the civilian pilot or if there is no public interest in the continuation of the holding

[...]

Security Zone Regulation

§ 87. (1) The security zone shall be defined by ordinance by the Federal Minister for Transport, Innovation and Technology, in the case of airports, by the district administrative authority, and in the case of military airfields, by the Federal Minister for Defense in the area necessary for the safety of departures and departures), Whereby the rights of third parties can not be restricted further than in the case according to § 72 Abs. 1 lit. (B) or section 83 (1).

[...]

(10) The Security Zone Regulation should be repealed if the safety zone for the safety of take-off and landing movements is no longer required.

[...]

Notice to the land registry

§ 90. The authority which has issued the Security Zone Ordinance shall notify the Land Registry Court which area is in the security zone. In the case of these properties, the Land Registry Court has to make an official statement to the security zone. "

9. Climate Protection Act (KSG):

The Federal Act on Compliance with Maximum Amounts of Greenhouse Gas Emissions and the Development of Effective Measures for Climate Protection (Climate Protection Act - KSG), Federal Law Gazette I No. 106/2011 as amended by Federal Law Gazette I No. 128/2015 reads:

"Aim

§ 1. This Federal Act is intended to enable a coordinated implementation of effective measures for climate protection.

Measures

§ 2. Measures shrined in this Federal Act are those which lead to a measurable, reportable and verifiable reduction of greenhouse gas emissions or reinforcement of carbon reductions, which are depicted in the Austrian stocktaking of the greenhouse gas industry in accordance with the applicable international and EU Law requirements. These include sovereign and private-sector measures by the Federal Government and the Provinces.

Allocation of the fixed levels of greenhouse gas emissions; trials for the development of measures

§ 3. (1) The quantitative limits of greenhouse gas emissions applicable under international law or unions law for the Republic of Austria shall be determined in accordance with the Annexes. The quantitative limits may also be broken down into sectors.

(2) Negotiations have to be taken to draw up measures for compliance with the quantitative limits in the respective sectors. Negotiations should focus on the following: increasing energy efficiency, increasing the share of renewable energies in eventual energy use, increasing overall energy efficiency in the building sector, integrating climate protection into spatial planning, mobility management, waste prevention, protection and extension of natural carbon sinks, and economic incentives for climate protection. Measures can also be developed in the form of multi-annual action programs as well as joint action by the local authorities. Responsibility for the conduct of negotiations in the respective sectors is the responsibility of the Federal Ministers, which is analogous to the climate strategies 2002 and 2007, in addition to the Federal Ministers responsible in accordance with the Federal Ministry of the Environment (Bundesministeriengesetz 1986, BMG), Federal Law Gazette.

The negotiations shall be submitted one month after the proposal of the Federal Minister of Agriculture, Forestry, Environment and Water Management, pursuant to § 4 para 3. Negotiations are to be concluded within nine months before the start of a commitment period, which is for the commitment period 2013 to 2020 of 31 March 2012. In the event of exceeding the maximum levels of greenhouse gas emissions from the Republic of Austria in accordance with international or non-EU obligations from 2013 onwards, further negotiations on the strengthening of existing measures or the introduction of additional measures shall immediately follow. These negotiations shall be concluded within six months.

(3) The results of the negotiations pursuant to para. 2 shall be recorded separately. The measures adopted must be implemented immediately.

(4) The Federal Minister for Agriculture, Forestry, Environment and Water Management shall report to the National Climate Protection Committee (§ 4) on

the outcome of the negotiations pursuant to para. 2 and the measures defined in para.

Progress report

§ 6. The Federal Minister for Agriculture, Forestry, Environment and Water Management shall submit a written report to the National Council and the National Climate Protection Committee on the progress made in compliance with the quantitative limits of greenhouse gas emissions laid down in Section 3 (1) The report shall be broken down by sector according to the annexes.

Climate protection responsibility mechanism

§ 7. In the event of an exceedance of the maximum levels of greenhouse gas emissions applicable pursuant to international or non-EU obligations for the Republic of Austria from the year 2013, the responsibilities shall be formulated in a separate agreement.

For the commitment period 2008 to 2012, the Provinces will not be subject to any financial obligations in the event of exceeding the maximum levels of greenhouse gases as set out in Appendix 1. Any obligations on the part of the Confederation to exceed the limits of greenhouse gases as set out in Appendix 1 shall be covered by the applicable Federal Financial Law.

Appendix 2 Annual levels of greenhouse gas emissions by sector for the commitment period 2013 to 2020 in million tonnes of carbon dioxide equivalent (calculated in accordance with the 2006 IPCC Guidelines for National Greenhouse Gas Accidents)

Sector	2013	2014	2015	2016	2017	2018	2019	2020
Waste management CRF sectors 1A1a - other fuels; And 6	3.1	3.0	3.0	2.9	2.9	2.8	2.8	2.7
Energy and Industry (Non-Emission Trading) CRF sectors 1A1 (minus 1A1a - other fuels), 1A2, 1A3e, 1B, 2A, 2B, 2C, 2D, 2G and 3	7.0	6.9	6.9	6.8	6.7	6.6	6.6	6.5

Fluorinated gases CRF sectors 2E and 2F	2.2	2.2	2.2	2.2	2.1	2.1	2.1	2.1
Buildings CRF sectors 1A4a and 1A4b	10.0	9.7	9.4	9.1	8.8	8.5	8.5	8.2
Agriculture CRF sectors 1A4c and 4	8.0	8.0	8.0	7.9	7.9	7.9	7.9	7.9
Transport CRF sectors 1A3a (minus CO2), 1A3b, 1A3c, 1A3d and 1A5	22.3	22.3	22.2	22.1	22.0	21.9	21.8	21.7
Total sum	52.6	52.1	51.5	51.0	50.4	49.9	49.4	48.8

III. The Federal Administrative Court has considered:

1. Jurisdiction of the Federal Administrative Court:

According to § 5 EIA-G 2000 in the version valid until 31.12.2013, the project applicant for a project for which an EIA is to be carried out pursuant to §§ 3 or 3a had to submit an application for approval to the authority concerned of the project and the UVE in the required number. Pursuant to Section 40 (1) of the Act, the environmental authority was the authority to issue appeals and a competent authority in the matter in question.

According to Article 151 para. 51 no. 8 B-VG, as amended. The amendment of the Administrative Judicial Act 2012, Federal Law Gazette I No. 51/2012, iVm. Z 26 of the annex to this Federal Act, the environmental environment was terminated on 01.01.2014. The responsibility for the continuation of the proceedings pending at the end of 31.12.2013 has been transferred to the administrative courts.

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According to Art. 131 para. 4 no. 2 lit. A iVm. Section 40 para. 1 EIA-G 2000 as amended. BGBl. I No. 95/2013 decides on appeals against decisions under the EIA Directive 2000 since 1 January 2014 by the Federal Administrative Court.

2. On the right to appeal/legitimacy of appeals

2.1. The admissibility of the appeal lodged by the 15th complainant and the 23rd applicant (Provisional notice A.I.):

The 15th complainant has his regular place of residence in 7212 Forchtenstein, which is about 45 to 50 km from the location of the project. Because of the distance, it is excluded from the outset that this plaintiff can be affected by the impact of the third runway.

§ 19 para. 1 no. 1 UVP-G 2000 defines who is to be qualified as a neighbor within the scope of the UVP-G 2000. The neighboring term of the EIA-G 2000 is not identical with the immediate proximity to the project, but presupposes a possible personal affection in the protected legal sphere.

The spatial proximity to the project, which is decisive for the assessment of the affectedness, is determined by the possible immission area (VwGH 24.06.2009, 2007/05/0171). Neighborhood thus includes those spatial areas in which, at the time of approval, it can not be ruled out that there are adverse effects.

The spatial proximity to the project, which is decisive for the assessment of the affectedness, is determined by the possible immission range.

Neighborhood thus encompasses the spatial area in which, at the time of approval, it can not be ruled out that there are adverse effects.

The intention of the project developer must, ex ante, be appropriate to bring about a certain legal damage.

The areas in which the impacts are not to be excluded, or for reasons of space, are not included in the immission area (US 03.03.2010, 8B / 2009 / 18-15 Stadl-Paura, VwGH 24.06.2009, 2007/05/0171, VWGH 23.09.2004, 2004/07/0055, US 08.03.2007, 9B / 2005 / 8-431 Stmk-Bgld 380 kV line II [part Stmk]).

The 23rd complainant, the "Umweltinitiative Wienerwald", was not constituted as a citizens' initiative during the period of application, nor did Mr WECHSELBERGER, who partook in the appeal and which had appeared for the appellant at the hearing of the administrative court, in the proceedings of the requested authority objections raised.

The 23rd complainant is also not a recognized environmental organization according to the EIA Directive 2000. For the first time, the letter of 23 August 2012, which was entitled as an "opposition", did not appear until the contested decision had been issued.

The VWGH has already stated with its discovery of 17.02.2016, Ro 2016/04/0001, that only one environmental organization recognized according to § 19 para. 7 EIA-G 2000 is party.

2.2. The admissibility of the remaining plaintiffs:

The first plaintiff is an environmental organization recognized by the Federal Ministry of Agriculture, Forestry, Environment and Water Management (BMLFUW) pursuant to Section 19 (7) UVP-G 2000. The project is to be set up in the province of Lower Austria. The complaint lodged in the open period is admissible.

The second, fifth, sixth and eight-to-eleven complainants are citizens' initiatives, which correspond to the requirements of § 19 para. 4 EIA-G 2000 (at least 200 dated signatures with name, date of birth, address, support A concrete opinion on the project). The legitimate establishment of all citizens' initiatives was confirmed by the authorities concerned. Complaints filed in the open period are admissible.

A citizens' initiative legally established in accordance with EIA-G 2000 as well as an environmental organization recognized according to EIA-G 2000 is party to the EIA approval procedure and is entitled to assert compliance with environmental protection regulations, but not other public interests, as a subjective right. The prerequisite for the citizens' initiative is that they have submitted an opinion during the period of application pursuant to § 9 para. 5 EIA-G 2000 which is supported by at least 200 persons who are eligible to vote in the local community or the neighboring communities. This is the case with the above-mentioned complainants.

The Twelfth plaintiff (the city of Vienna) raised objections in due time as a neighboring community (§ 19 para. 1 no. 5 in conjunction with para. 3 UVP-G 2000). Your complaint, filed in the open period, is admissible.

As regards the other plaintiffs (common people), it may be left with a view to the judgment of the ECJ 15.10.2015, C-137/14, whether they have raised objections in the proceedings of the authority concerned in time (cf. BVwG 06.04.2016, W193 2006762-1, Oberinntal Community Power Plant, WA). In its submissions, it is also conceivable to assume a subjective concern. As a neighbors and / or neighbors, they are party to the provisions of § 19 (1) 1 UVP-G 2000.

3. Findings and justification for the project (point B.):

3.1. Scope of the project:

It is noted that the project comprises of the construction of a third runway including the transfer of Highway B 10, the above mentioned in point I.1. listed in the Annex.

The location of the project is to cover all areas of the municipalities of Fischamend, Klein-Neusiedl, Rauchenwarth, Schwadorf and Schwechat, all within the administrative district of Vienna.This is evident from the submitted documents.

3.2. For the requirement on the basis of estimated flight movements:

It is proposed by various plaintiffs that there is no need for another runway at Vienna International Airport. The flight numbers are declining.

(Page 40 of the original document)

3.2.1. The Federal Administrative Court notes that Vienna Airport is expected to reach its capacity limit in the existing two-lane system in 2025 without the construction of another runway.

3.2.2. Details of the demand by the first party:

The request for authorization from the first party is justified by the increasing need for flight movements. This is based on an econometric forecast model, which was developed in 1995 together with an operator of seven British airports. This operator had been consulted as a consultant, as he had long-term experience with the production and use of forecasting models.

In the UVE, the first participating party presented the increasing demand in various documents:

- Document 30.03. Traffic Development FH Vienna from 15.2.2007 (the authorizing party is indicated);
- Document 30.35. Traffic development FH Wien from Oct. 2009 (written by INTRAPLAN Munich);
- Document 30.36. Aeronautical development - Assignment of flight movements on flight routes from 5.7.2010 (written by INTRAPLAN Munich);
- part-GA air traffic forecast for the NÖ LReg from 30.11.2010 by Univ.-Prof. Dr. Johannes REICHMUTH from DLR (German Aerospace Center);
- Supplement to the VHS of the Lower Austrian LRG, "Study Transport Development Vienna Airport of 2009" (from INTRAPLAN) - VH took place in Aug / Sep 2011.

3.2.3. Needs assessment by the authority concerned

The question on the needs assessment was requested on 30.11.2010 from Univ.-Prof. Dr. REICHMUTH.

This leads to the conclusion that the forecast model used by INTRAPLAN is suitable to provide sufficient input data for subsequent studies on the direct and indirect effects of an expansion of the Vienna Airport.

Details of the prognosis model remained discus- sible, although these were questions which are the subject of current research and therefore could not be conclusively clarified.

The forecast premises, which determine the prognostic results as input variables for the forecast model, would move towards a realistic framework.

Although they are not always more closely justified by the forecaster, they are nevertheless comprehensible, as the expert's own research had shown.

However, the forecasting premisses that Vienna Airport retains a second-order hub airport remains a risky hypothesis.

The implied consolidation of airlines and air traffic alliances could also lead to a concentration of hub airports in alliances.

Overall, the prognosis results could be described as plausible in the sense that the probability of their occurrence is comparatively high.

According to the expert, the results of the projections for passenger traffic are more than underestimating the development at Vienna Airport.

The reason for this is, on the one hand, the strong growth of other private journeys, which is due to its strong link to economic development, but may be more strongly influenced by price and supply trends in the segment of low-cost carriers and therefore weaker.

On the other hand, the aforementioned forecast supposes that the airport of Vienna retains function leads to a considerable traffic increase by means of transfer traffic which would be dropped in case of a reduction or even a setting of the lifting function.

The results of the flight movements projections would be considered compatible with the prognosis forecasts in the forecast.

The projected increase in the average number of passengers per passenger flight movements from 76 to about 93 passengers in 2020 appears plausible.

Possible uncertainties regarding the continuation of the large growth of other private journeys and the accompanying dynamic network expansion of low-cost carriers may result in lower flight movements than reported in the forecast. Overall, the forecast results are suitable as input variables for the environmental impact assessment.

In the contested decision, the question of the air traffic forecast (page 362, chapter 8.8.) is as follows:

> "According to the traffic forecast (doc. 30.35) the transport requirement in Vienna in 2025 is 37 million passengers and 415,000 flight movements. This corresponds to an increase of 87% compared to 2008 with the passengers at an average growth rate 3.8% per year, and 42% in flight movements, resulting in an average growth rate of 2.1% per year.

Much of the passenger growth is achieved by an increasing aircraft size or by a rising number of passengers per flight. Nevertheless, the increases in the number of flight movements are so great that in 2025 a capacity requirement of 100 predictable flight movements per hour exists. This is not feasible with the existing runway system.

Today, this system operates a maximum of 70 flight movements / hour in regular operation and can be brought to a maximum of 72 flight movements / hour by optimization. As early as 2020, a capacity of 90 planned flight movements per hour will exist. Then 30.6 million passengers and 371,000 flight movements are expected in Vienna.

If no parallel runway expansions are implemented, Vienna Airport loses 3.3 million passengers and 36,000 flight movements compared to the year 2020. In 2025 the traffic losses are 8.6 million passengers and 79,000 flight movements against the demand. The airport of Vienna will still be able to grow in a market-oriented manner by 2015.

The capacity bottlenecks are then becoming more and more noticeable and lead to traffic losses, which will be considerable by 2018.

In the opinion of the expert on air traffic forecasting, the forecast for the passenger volume is plausible, but is rather high. However, the expert also concludes that at Vienna Airport a strong passenger growth can be expected.

This therefore necessitates the demand for the third runway. "

In the decision, the following is explained in Chapter 8.9.2 "Public interests according to Luftfahrtgesetz - LFG" (page 363 ff):

"The public interest in the expansion of airports as required is irrespective of whether the airport is run by a state itself or by a private company. In the second case, the public interest in the expansion of an airport can largely meet the entrepreneurial interests of the operator. Within the air traffic law system, which is responsible for fulfilling a task and function which is in the interest of the general public, it is obvious that the Vienna Airport must be given the opportunity to meet the need for entrepreneurial aspects and to adapt to the conditions of the respective market.

The following objectives are regarded as justified and necessary:

- satisfaction of air traffic demand at Vienna International Airport.
- Securing and strengthening the function of the airport as a central air traffic hub.
- Promoting economic development including securing and creating jobs in the vicinity of the airport.

The subject of the assessment of the auditor assigned by the Authority for the Department of Air Traffic Prognosis (Prof. Dr. Reichmuth of DLR) comprises the forecast methodology, the forecast premiums (input data) and the forecast results. The forecast model is considered adequate in its entirely and the forecasted results are assessed as plausible.

The examiner, who is consulted by the authority, confirms the results of the "Transport Development Vienna Airport" (other documents, document 30.35), carried out in the expert report of Intraplan Consult GmbH. Demand for air traffic is highlighted by large passenger volumes and the growth of flight movements.

In the report (Intraplan Consult GmbH), for example, an increase in passenger volume from 19.7 million (reference year 2008) to 30.6 million (planned for 2020) and 37 million (planned for 2025) is projected. This corresponds to increases in flight movements from 293,000 (2008) to 371,000 (2020) and to 415,000 (2025). The assessor consulted by the Authority designates the results of the flight movement forecast as compatible with the demand forecast. Overall, the prognosis results as an input for an environmental impact assessment are considered as suitable. The statements of the auditor are comprehensible to the authority and correspond to the state of the sciences. The expected traffic volume - which has already been confirmed - can not be managed without a third runway.

The significance of the expansion of Vienna Airport for the long-term positive development of the entire region is also clearly documented in document 01.01, Purpose of the project '. More than 14,000 people are already employed at the airport in Vienna. Apart from Vienna Airport AG, the workspaces can be divided between more than 200 companies, such as airlines, retail and catering companies, forwarders, public service companies, service providers, car rental companies and transport and mineral oil companies. A larger number of passengers also attracted an increasing number of employees. One million passengers will generate about 1,100 jobs. Each additional million passengers results in an average of about 1,000 additional jobs at the location. The airport of Vienna now secures more than 29,000 jobs in the Austrian economy. The value added by Vienna Airport amounts to 2.8 billion euros per year (as of 2005). In the course of the next few years, additional jobs will be created as a result of the implementation of growth-enhancing projects at Vienna International Airport, as this project is undoubtedly. Each workplace at the location creates another business in the Austrian economy. Each Euro value added, which is generated here, attracts another 0.9 Euro in the Austrian economy. In addition, the airport as a provider of transport infrastructure makes a significant contribution to the dynamism of the entire region. Many companies need worldwide flights to maintain their competitiveness. In Austria, this affects around 1,200 companies with a total of 600,000 employees and a comprehensive supplier structure.

In summary, the public interest in the construction of the third runway must be answered in the affirmative. Other public interests, such as the maintenance of public peace, order and security and the protection of the general public, shall not prevent the granting of the requested authorization for the third runway. "

3.2.4. Plausibility check by the Federal Administrative Court:

At the oral hearing of the Federal Administrative Court, the question of need was discussed in detail (see Trial page 187 together with Supplement 17 "Assessment of the forecast from the autumn 2014 perspective", Intraplan 2014).

By order of the Federal Administrative Court of May 13, 2015, Mr. DI Heinz WIPF, an employee of the Swiss air traffic control, was appointed as a non-executive expert on aeronautical engineering issues, as the Federal Administrative Court in the course of the discussion at the hearing examined the question of additional requirements and the data submitted by the or the statements made by the authority concerned had not been completely clarified. He was asked to answer a number of questions concerning the development of air traffic development and air traffic demand at Vienna International Airport. In addition, he was asked to investigate the extent to which the safety of aviation at Vienna International Airport would be increased by the construction of the third runway.

With expert opinions from March 1, 2016, the expert appraised by the Court of Appeals summarized the question of capacity:

In the context of its opinion, the expert analyzed the evolution of the number of flight movements in the past and carried out a forecast of the flight movements for the year 2025. In addition, various additional examinations were carried out by the expert for the classification and plausibility check of the results.

The analysis was concluded on the basis that the existing two-run system will not be able to accommodate the demand for air traffic in the long term and therefore a third runway is needed in the longer term.

In concrete terms, the expert's prediction is that 2025 will have a probability of 95% of flight movements between about 281 thousand and 471 thousand aircraft movements per year.

The average value is a number of approx. 364 thousand flight movements per year.

In the INTRAPLAN forecast submitted by the first-concerned party (submission document 30.35 of October 2009), it is stated that in 2025 flight movements between approximately 355 thousand and 445 thousand, movements with an average anticipated value of approx. 415 thousand movements.

In comparing the mean values, the forecast of the court ordered experts, Mr. WIPF has reduced flight numbers, but the number of flight movements indicated by Intraplan lie completely within the scope of the reviewer DI WIPF's 95% confidence interval.

The expert Mr. WIPF, appointed by the Court, therefore, in principle, confirms the forecast of the number of aircraft movements in the submission document 30.35 of October 2009.

In addition, the expert Mr. WIPF, appointed by the court, points out the following:

- In the short term, more fluctuations in the annual flight movements as well as deviations from the general trend may arise.
- In the past, Vienna Airport has already worked on the capacity limit at least on individual days. Even though a slight decline in flight numbers has since occurred, the capacity reserve at Vienna Airport can be classified as relatively low.
- The increase in passenger numbers has continued unabated at both Vienna and the EU as a whole.
- The expert DI WIPF, who has been appointed by the Court, also believes that his results are supported by other studies. For example, other well-known studies of rising passenger numbers and the increasing number of flight movements (DKMA, Global Traffic Forecast 2015 - 2034, IATA Air Passenger Forecast Shows Dip in Long-Term Demand, 26.11.2015, Airbus Global_Market_Forecast_2016-2035). The Austrian Aviation Sector in the Context of the Austrian Business Location of Steer, Davis and Gleave, which was created for BMVIT and already introduced into the process, is particularly noteworthy since it is specifically concerned with the situation in Austria. In this study it is shown that in the long term a decrease of the flight movements is only to be expected if the airport completely loses its lifting function, which is however not considered very likely. (Summary and chapter 7.17 ff). Also, the study is carried out in terms of capacity (Table 6.9.) that the "runway is full at peak times".

In the course of the WIPF's opinion, several plantiffs argued that there was no need to derive an increasing need. To this end, they submitted an opinion from Univ.-Prof. Dr. MACOUN, Vienna University of Technology, from 17.05.2016. In contrast to the expert DI WIPF appointed by the court, Univ.-Prof. Dr MACOUN concluded that for the future the stagnation of the flight movements or a slight increase could be expected, but that the capacity of the existing two-runway system is sufficient to handle the expected future air traffic at Vienna International Airport. This also applies to the aspect of capacity utilization during peak hours.

For reasons of justification, Univ.-Prof. Dr. MACOUN on the one hand refers to declining flight numbers in the last few years. On the other hand, he pointed out that the development of the past flight movements could be better represented by a logarithmic trend than by the exponential trend assumed by the court-appointed expert DI Wipf. If a logarithmic trend were assumed and extrapolated from this for the future, this would result in a significantly lower increase in the number of flight movements.

Overall, it is to be assumed that the flight movements in 2025 will still be below the level of the flight movements of the previous peak year 2008. Also in terms of traffic during peak hours, Univ.-Prof. Dr. MACOUN sees sufficient figures. According to his own estimates, the volume of traffic in the peak hours in recent years has tended to decline. Compared to the capacity of airports such as Munich or Zurich, he sees sufficient capacity in Vienna.

Overall, Univ.-Prof. Dr. MACOUN from the development of the flight movements figures a trend towards saturation. Such saturation effects would also be apparent in motorized individual traffic. The development of the growth of motorization levels in Austria also shows a negative trend.

In addition, Univ.-Prof. Dr. MACOUN fundamentally criticized the forecast methodology used by the expert DI WIPF. Both the trend analysis favored by the expert DI WIPF and the Box-Jenkins method, which he also considered, are not a decent means of verifying long-term air traffic forecasts.

By letter dated 22.04.2016, the project applicant submitted an opinion from INTRAPLAN to the opinion of the expert DI WIPF. In this case, it is pointed out that already at the hearing a delayed development of the number of flight movements was pointed out and that the flight movement figures determined in the submission document 30.35 were only to be expected with a time delay of five to eight years.

In this respect, the new forecast by the expert DI WIPF would have fully confirmed the facts submitted at the hearing. On the other hand, the opinion compares the development of the number of flight movements and the number of passengers carried. From this it can be seen that despite the stagnating or even decreasing number of flight movements, the number of passengers transported is constantly increasing. The reason for this is that the airlines had increasingly replaced smaller aircraft with larger aircraft with correspondingly increased passenger capacity.

Based on the decisions and arguments presented, the Federal Administrative Court has considered that the discussion of the numbers of flight movements can not be separated from the development of passenger numbers, since the number of flight movements is only a consequence of the passenger volume (The proportionally small proportion of freight traffic at Vienna Airport can be neglected in this discussion).

It is obvious to the Federal Administrative Court that the paradox of rising passenger numbers and declining flight movements is caused by an increase in the number of aircraft used for transport.

For fundamental reasons, however, it is not to be expected that any increase in aircraft numbers can be completely compensated by the use of even larger aircrafts. As long as the steady increase in passenger numbers continues, an increase in the number of flight movements can be expected in the longer term.

There were no indications that the number of passengers would increase in the future. Univ.-Prof. Dr. MACOUN points out that the growth in passenger numbers is only 1.3% in 2015, but this corresponds in absolute terms to an increase in passengers by about 300 thousand per year. The annual increase is therefore greater than the total annual volume of flights in recent years at Klagenfurt Airport (see Statistics Austria, Commercial Air Transport at Austrian Airports, according to Flight Movements, Passengers, 2010 - 2014, Created April 30, 2015).

The increase in the number of flight passages is against the backdrop of a decline in transfer passenger numbers. It follows that the increase in passenger numbers is the result of the increase in the original passenger volume (see Flughafen Wien AG, Annual Report 2015, and the table on page 8 in the statement by Prof. Dr. MACOUN).

It is thus the demand for flights by the population from the Vienna region as well as visitors from the Vienna region, which will ncrease the number of passengers and ultimately the number of flight movements.

With regard to the procedure for forecasting developments in the future, the Federal Administrative Court is essentially of the opinion that there is currently no method at hand that can be used to predict the future development with 100% certainty.

Each method used has particular strengths and weaknesses. In this respect, it is essential to subject the results to a professional critical assessment. In this respect, the court can also make the objection of Univ.-Prof. Dr. MACOUN, that the development of flight numbers in the past is better described by a logarithmic trend than by the exponential trend used by the expert DI WIPF is not to be seen as a decisive stumbling block, since an accurate adaptation to the past can not be guaranteed that a forecast made on this basis will lead to accurate results for the future.

With regard to the capacity of the existing 2-runway system, the evaluations of the expert DI WIPF (in particular Fig. 8b) reveal a factual maximum utilization at around 70 flight movements per hour. As shown in Fig. 8b, however, this is not an absolute limit. For example, more than 70 flight movements per hour were carried out. However, the relative rarity and the position in the coordinate system suggest that these were exceptional situations.

However, it is essential for the smooth handling of the traffic that it can be handled smoothly even under unfavorable conditions.

Most of the flight operations at a major airport are planned in the long term and after fixed periods. In doing so, the airlines use certain operating and cycling times, which are necessary for a smooth operation. In order to ensure the capacities promised on the airport side even under unfavorable conditions, a certain reserve must always be maintained. To what extent larger traffic volumes could be handled under special conditions is irrelevant for the planning of air traffic. In this respect, the question arises whether in the top hour 70 or, as Univ.-Prof. Dr. MACOUN, 74 flight movements per hour. It is essential to ensure trouble-free operation even under unfavorable conditions.

In this respect, the comparison with other airports is also problematic since each airport is subject to specific conditions. These range from restrictions due to the location of the runways, the usable approach and departure routes to special operating regulations at specific times.

Although there is certainly a certain amount of relief due to the decline in flight movements, it can be seen from the work of the expert DI WIPF that the existing two-runway system does not have large reserves, so that in the event of additional flight movements, the Court of First Instance considers to be of a longer term nature, temporary bottlenecks are not excluded.

It is also important to take into account the fact that air traffic needs to be handled safely. As the expert DI Wipf, appointed by a court of law, pointed out in his opinion, capacity bottlenecks are having an unfavorable effect on the safety of air traffic. In this respect, it would be desirable for safety aspects if the capacity were not used to the last.

3.3. To improve the location of the Eastern region and to provide transport infrastructure:

The Federal Administrative Court notes that Vienna Airport is becoming more attractive through the construction of the third runway through additional and direct flight connections. As a result, the location of Vienna and the Austrian East region will remain attractive to international organizations such as OPEC, the UNO and other international organizations, as a location for international congresses as well as for international tourism, and the attractiveness will continue to grow.

The first participating party was brought to the belief that the third runway would be in the public interest through the following: (project description of 23.01.2008, document 01.01 purpose of the project, page 7 f):

> "In the last few years, both the number of flight movements and the number of passengers have been growing steadily over the last few years and the forecasts point to a steadily increasing demand. This trend is also clearly visible at Vienna Schwechat Airport. Vienna Schwechat Airport has established itself as a hub for air traffic, in particular for traffic in the growth markets of Eastern Europe, thus ensuring its competitiveness in the growing air traffic market. In order to maintain this competitiveness, it is also necessary to cover the demand in the future, in particular also with regard to the requirements on the quality and time during the handling of aircraft.
>
> The possibilities to meet this increasing demand with the existing runway system at Vienna International Airport are limited. The use of larger and more powerful aircraft makes it possible to increase the number of passengers or freight with the same flight numbers. However, securing the increasing need for flight movements (for example, by adding new destinations) is also essential. Here the

capacity of the runway system is restricted (taking into account the safety requirements) (72 runs or landings in the peak hour).

(Page 50 of the original document)

The year 2020 is used as the forecast year. For this period, the relevant development of growth in aviation (both for the numbers of movements, passenger numbers and the development of routes) can be estimated in a suitable and plausible manner. The forecast of air traffic for the year 2020 is presented in document 30.03, Traffic Development Airport Vienna 'of the other documents.

The studies of traffic development for Vienna Schwechat Airport show that the existing 2-runway system, while retaining the internationally required service standards for the maintenance of the hub function, significantly reduces the possibilities for increasing flight movements.

With increasing utilization of the capacity reserves affects the possibilities to maintain appropriate upgrades.

As a result of the increasing utilization of capacity, the growth in flight movements is thus clearly diminishing in the 2020 forecast. However, the expected demand or the potential for flight movements is significantly higher. In a scenario not subject to the limitations of a 2-runway system, as is the case with a 3-runway system, about 335,000 aircrafts would be launched or landed in 2020.

In order to remain internationally competitive, it is therefore necessary to expand the existing runway system. This is the only way to secure the sustainable development of Vienna International Airport. The importance of the growth of Vienna International Airport on the long-term positive development of the entire region is evident:

More than 14,000 people are already employed at the airport in Vienna. Apart from the Vienna Airport group, the workspaces are divided into more than 200 companies, such as airlines, retail and catering companies, freight forwarders, public service companies, service providers, car rental companies and transport and mineral oil companies. A larger number of passengers also attracted an increasing number of employees. One million passengers will have about 1,100 jobs. Each additional million passengers results in an average of about 1,000 additional jobs at the location.

Vienna Airport already provides more than 29,000 jobs in the Austrian economy. The value added by Vienna Airport amounts to 2.8 billion euros per year (as of 2005). In implementing further growth-enhancing projects at Vienna International Airport, as the project in question is undoubtedly, a further successful development of Vienna Airport will create numerous new jobs in the

coming years. Each workplace at the location creates another business in the Austrian economy. Every euro value added, which is earned here, attracts another 0.9 Euro in the Austrian economy.

In addition, the airport as a provider of transport infrastructure makes a significant contribution to the dynamism of the entire region. Many companies need worldwide flights to maintain their competitiveness. In Austria, this affects around 1,200 companies with a total of 600,000 employees and a comprehensive supply structure. "

In addition, the BMVIT presented the "Air Traffic 2020 roadmap" in the verbal complaint proceedings lodged before the Federal Administrative Court.

This document has also been forwarded to the Federal Administrative Court by letter dated 13.03.2015 of the BMVIT of June 13, 2015.

The main focus was on the case law related to the public interest of the VwGH as well as the "Roadmap 2020", the strategic overall concept of the Austrian federal government, for the development of a powerful and sustainable infrastructure for the orientation of Austrian air traffic.

3.4. To create additional jobs:

From the above, it can also be inferred that the construction of the third runway will result in a direct increase in the number of jobs at Vienna International Airport. In addition, indirect workload effects will be achieved by increasing the location advantage through better flight connections throughout the Eastern Austrian region.

3.5. For flight safety

The Federal Administrative Court notes that the construction of the third runway will lead to an improvement in aviation safety.

According to the report of the expert DI WIPF of March 1, 2016, appointed by the Court, the construction of the third runway will overall increase the safety of aviation around Vienna International Airport. On this matter, the expert's report (p. 21) states:

"The airport as a hub in a transport network must also have sufficient capacity reserves during peak traffic hous. If, on the other hand, the traffic offered to the network node exceeds its available capacity, this will result in delays, or the minimum distance between airplanes can not be maintained. All three effects are contrary to the requirements of international civil aviation, to which the authorities concerned [airport and air traffic control] have to adhere. The requirements call for a secure, orderly and speedy air traffic management. This

means, however, that at the level of air traffic management, the first, the orderly, and the one of the safe traffic processing should be subordinated. In practice, these three presuppositions are a considerable part of the tactical discretion of the control staff, which directly directs air traffic. Strategic decisions on airport infrastructure, such as an optimally planned additional runway, therefore create favorable conditions with their additional capacity to keep tactical compromises of the control staff within the peak hour. "

The parties to the proceedings did not object to those submissions.

3.6. To the emissions of greenhouse gases (GHG) through the third runway:

3.6.1. Findings on the GHG caused by the project and on climate change:

According to proposed figures, the first participating party can reduce CO2 emissions by means of various measures to the extent of 4.4 kt / a. This could be increased to a total of 30 kt by means of additional requirements and secondary provisions. Austria has entered into an obligation with the Climate Protection Act (KSG) to reduce GHG emissions by 2014 to 52.1 million tonnes of CO2 equivalents;

This year, however, GHG emissions amounted to 76.3 million tonnes. It is to be assumed that in the reference year 2025 the desired value will not be reached.

Climate change has already had negative effects in Austria and has already had a detrimental impact on people, animals, plants and the landscape.

It can be assumed that climate change will lead to further serious damage in Austria. For people, there will be health impairments associated with deaths; There is a great loss of income and property;

It results in reduced yields in various economic sectors, in particular agriculture, forestry and tourism; Furthermore, there is a decrease in jobs.

The landscape is permanently negatively affected by climate change. Glaciers melt away, changes in the vegetation and the forest composition goes uphill.

To put counter-measures, a substantial amount of public funds must be used. There are migratory movements of climate refugees from regions affected by climate change, which will lead to social tensions.

Climate change also has positive consequences. Thus, plants can be cultivated that have not yet been cultivated in Austria for climatic reasons and, for example, a reduction in heating costs is to be expected.

Furthermore, the year-round tourism and the Alpine area could be favored, in particular, in the Mediterranean summer resorts.

In some areas, the consequences of climate change in Austria have not yet been clarified, because even more research is needed (for example, no reliable statements on extreme events such as storm and hail frequency and erosion due to severe precipitation are possible;

A statement on the change in the flood risk for the whole of Austria is currently not possible; Changes in the supply of renewable energy sources such as wind energy, solar energy and biomass have not yet been clarified).

Overall, however, the drastically negative consequences of climate change have far outweighed the possible positive effects.

3.6.2. Details of the first party to the increase of GHG by the project in the UVE:

Several complaints criticized that the project is contrary to the efforts and obligations of Austria to reduce greenhouse gas emissions and to counteract the environmental protection as a whole.

The first participating party, in the UVE that it presented, speaks of a 100% increase in GHG emissions in the investigation area by the year 2020, with the third runway contributing 50% to the increase.

Overall, the airport's CO2 emissions for 2020 are forecasted at 515,858 tonnes. This corresponds to between 3.0 and 3.4% of the emissions of all of Austria.

The first participating party reports on the increase in the GHG in the Environmental compatibility declaration (UVE) in chapter 01.4 in the revision 05 of June 2010:

> **"4.18.4. Balance of climate-relevant emissions**
>
> Table 4.18-1 contains a comparison of the climate-relevant trace gases of the flight and vehicle traffic.
>
> In contrast to the UVE contribution 02.420, a larger area of investigation has now been selected for vehicle traffic (see chapter 4.19 Airborne pollutants).
>
> The absolute values of the CO2 balances are thus only comparable to a limited extent.
>
> The recalculation showed that for the planning scenario 2020 compared to the base year 2003, an increase of 2.2 times now can be expected.
>
> Without the construction of the planned third runway, total emissions would increase by about 70% as a result of the general traffic increase.

For the zero scenario 2025, a doubling of CO2 emissions is also to be expected.

An increase of 2.5 times the emissions of the base year 2003 is shown for the plan scenario 2025.

Table 4.18-1: Comparison of the emissions of climate-relevant gases in the investigation area by vehicles and aircraft at Vienna Schwechat airport for the base year 2003, zero and planned scenario 2020 as well as zero and plan scenario 2025.

Climate affecting GHGs	**CO2 equivalent [t / d] Car traffic**	**CO2 equivalent [t / d] Air transport [LTO]**	**CO2 equivalent [t / d] Total**
Total inventory 2003	**443.7**	**529.4**	**973.1**
Zero scenario 2020	**786.0**	**908.4**	**1676.4**
Planning scenario 2020	**798.2**	**1300.0**	**2098.2**
Zero scenario 2025	**920.9**	**917.6**	**1838.5**
Development plan 2025	**940.9**	**1468.5**	**2409.4**

Table 4.18-2: Comparison of the emissions of climatically relevant gases Base year 2003, zero and plan scenario 2020 as well as zero and plan scenario 2025 of the airport company with those of the federal states of Vienna and Lower Austria (Bundesländer Luftschadstoff-Inventur 1990-2005, Umweltbundesamt Wien, 2007)

Relation of the CO2 equivalents of the airport to the total emissions of Vienna + Lower Austria 2005 [1000t / d]				
Zero scenario 2020	Planning Scenario 2020	Zero scenario 2025	Planning scenario 2025	Vienna and Lower Austria
1.7	2.1	1.8	2.4	77.0
Share of the CO2 equivalents of the airport to the total emissions of Vienna 2005				
2.2%	2.7%	2.4%	3.1%	

4.18.5. Overall assessment of environmental impacts from the point of view of the Department of Climate

Taking account of the above-mentioned current fundamentals (in particular air traffic forecasts), there is no significant change in the technical assessment for the forecast year 2020.

> The comparison with the emissions of the federal states of Vienna and Lower Austria (reference year 2005) shows that the greenhouse gas emissions that can be credited to the Vienna Airport are in the range of 2-3%.
>
> The assessment-relevant change between zero and plan scenario is less than 1% of the emissions shown by the two federal states and is therefore to be considered negligible.
>
> From the point of view of climate protection, the project is still to be assessed as environmentally friendly.
>
> Even if the forecast horizon is extended to the year 2025, the assessment of environmental compatibility remains unchanged from the point of view of the Department of Climate. "

The first party concludes that, in implementing the third runway project, with an increase in air traffic in the area of the LTO (landing and take-off - landing and start-up phase of an aircraft) of CO2 equivalent of 550.9 t / d thus approx. 201.1 kt / a for the forecast time point 2025 is to be expected :

> "With regard to the targets set out in the Kyoto Protocol, national and international approaches are needed. Increases in the flow of traffic also automatically lead to an increase in the emission of gases with a high concentration of gases. However, due to these emissions of climate-relevant gases, effects on local and regional climatic conditions can not be derived. No further action is therefore required in the project in question. "

The partial assessment Meteorology of the Environmental Impact Assessment (page 6) confirms the statements of the UVE and provides supplementary data for the year 2025.

For 2025 the expert predicts a share of 3.1%, in the zero scenario, i.e. without erecting the third runway, in addition to 2.4%, calculated as the share of the CO2 equivalents of the airport in the total emissions of Vienna and Lower Austria in 2005 (UV-GA, technical discussion of the comments received, item 12, page 122.) The Meteorological Particulars follow the conclusions and measures regarding the Kyoto Protocol targets.

3.6.3. On the reduction potential of THG by the first party involved:

At the hearing of the Federal Administrative Court in January 2015, the increase in GHG was extensively discussed in the context of this project. The first party involved was asked to provide an energy balance sheet and, in addition to the approval application, an energy balance and derived from this a CO2 emission balance of the entire airport (divided into the source groups air traffic, ground traffic "airside", electrical infrastructure of the airport (building and airfield) and airport-relevant traffic " Landside ").

By letter dated 19 February 2015, the first – concerned party submitted a list which stipulated that changes in aircraft handling (conversion of the diesel - powered vehicles in the airfield to electric drives, ground power supply systems [GPU] to stationary ground power supply), stationary / infrastructure - related sources (eg photovoltaic installation) and implantation of the environmental management system EMAS (Eco Management and Audit Scheme) with CO2 savings of 4.4 kt / a.

On 23.05.2015, Federal Administrative Court commissioned an extensive CO2 balance and forecast by Univ.-Prof. STURM:

"1 Responsibility Federal Administrative Court January 2015

In the immediate aftermath of the public hearing of the Federal Administrative Court (FAC) concerning the project Parallelpiste 11R / 29L 'of Vienna Airportin January 2015, the FAC commissioned a more detailed discussion of the CO2 problem through the construction of the 3rd runway and the elaboration of potential CO2 reduction potentials.

2 CO2 balance and reduction possibilities

2.1 CO2 balance and forecast

When a third runway at the Vienna Schwechat airport would be put into operation, a significant increase in CO2 emissions would occur due to the projected increase in flight movements.

Based on data from the EIA procedure as well as additionally provided documents, the CO2 emission quantities listed in Table 1 are obtained. It should be noted, however, that only the increase rates for the 'directly' influenceable CO2 emission share were cited.

This increase factor was also included here for the third-party companies' shares.

Table 1: CO2 Emissions from Vienna Airport Schwechat, figures in [kt / a]

Year	Air traffic	Processing	Engine production	Stationary infrastructure sources	Emmission	Total
2013 [2]	235,3	13,4	4,7	48,1	6,8	308,3
2025 2 Runway	322,7	17,4*	6,1*	48,1*	8,8*	403,2
2025 3 Runway	518,4	22,8*	8,0*	48,1*	15,0*	612,3

The energy and CO2 balance of the Vienna Airport [2] shows an increase of only 3.6 kt / a of CO2 for the direct impactable shares for the planned two or three runway system. This large discrepancy with regard to the total additional emissions (excluding air traffic and engine test) is primarily explained by the fact that a large proportion of the CO2 emissions not resulting from direct air traffic are attributable to third parties and thus can not be influenced directly by the Vienna Schwechat Airport.

2.2 CO2 reduction potential

The Vienna International Airport (Schwechat) provides a potential CO2 reduction potential through a number of internal measures, such as the retrofitting of the Airside fleet, reduced use of the APUs of the aircraft by increasing the supply of power connections, photovoltaics, etc. of approx. 4.2 kilo tonnes per annum (kt/a).

If one considers the potential savings mentioned in the Vienna Airport proposal, it is considerable in isolation, but is within the 2% range of the additional CO2 emissions generated by the operation of the third runway.

The majority of CO2 emissions come from the flight operation and can not be influenced. The next largest share relates to the external energy supply with electricity and district heating. Both are now largely conventional (based on fossil fuels). In this case, a significant reduction would be possible by switching to, for example, green electricity or district heating from non-fossil sources.

Considering the CO2 reduction initiatives at other airports, the Airport Carbon Accreditation scheme, launched by the Airport Council International Europe in 2009, is a suitable platform (http://www.airportcarbonaccreditation.org). This scheme provides for 4 stages to achieve the CO2 neutrality of an airport (with the exception of direct air traffic). Just for level 1 (mapping = collecting data) and 2 (stationary infrastructure, handling and traffic airside, etc.), there are already many large European airports that have already set significant measures for CO2 reduction.

Vienna Schwechat Airport is located at level 1 (collect data = mapping). Almost all major European airports, such as Zurich, Munich, Hamburg or major airports such as Frankfurt, Paris (CDG and Orly) or London Heathrow and Gatwick have already made considerable efforts to reduce CO2 emissions and are already at level 3 (Optimization) [6]. Zurich [7] and Munich, for example, report a reduction of several 10kt CO2 compared to the respective reference year. This has been achieved mainly by substituting the stationary infrastructure supply (electricity, heat, cold) to CO2-lower energy carriers, fleet renewal (increased use of e-mobility), conversion of downhill lighting and front lighting to more fuel-efficient lamps etc. [8].

Based on the documents made available by the Vienna Schwechat airport, the information from CO2 reduction measures of other European airports as well as further technical literature, it can be concluded that appropriate measures can make a significant reduction in the CO2 reduction mentioned by the Vienna Schwechat Airport. In addition to the intended conversions in the vehicle fleet, e.g. a conversion of the reference source for the stationary infrastructure sector is a conceivable reduction scenario.

It is therefore recommended to link the operation of a third runway to a reduction potention of up to 30 kt / annum (based on a 3-runway scenario 2025).

3 Annexes

[1] UVE Documents for the chapter on airborne pollutants [2] LUA 2015: Energy balance and CO2 balance for Vienna International Airport; Calculation for the year 2025 for the 2 and 3 runway system based on the fiscal year 2013; Creator: Mathä M., Ellinger R .; February 2015 [3] VIE 2015: List of measures Vienna Airport to reduce CO2 emissions; Creator: Vienna Airport Schwechat, Röhrer C., Hackl J .; February 2015 [4] http://www.airportcarbonaccreditation.org/ (Access: 23.5.2015) [5] http://www.flughafen-zuerich.ch/unternehmen/laerm-politik-undumwelt/klima-und-energie (Access 23.5.2015) "

By letter dated 07.09.2015, the first party involved gave the opinion of Univ.Prof. STURM as follows:

"At this time the C02 balance sheet has been made available for Vienna Airport for the fiscal year 2014. We hereby present this balance sheet in the supplement and request that these current figures be used as a basis for the professional assessment and the possible regulation of the measures.

Vienna Airport been pursuing a strategy for the reduction of CO2 emissions for many years. For this reason, we have already implemented a number of measures for reducing CO2 emissions (eg reducing the GPU running times, retrofitting the apron, natural gas vehicles, upgrading the apron and runway lighting, etc.) in recent years. All this has not significantly reduced the energy and fuel consumption and thus the CO2 emissions. Therefore, the further reduction potential is correspondingly lower. We are also participating in the ACAS (Airport Carbon Accreditation Scheme) and currently are carrying out the EMAS and ISO 14001 certification. For this reason, a further reduction potential of 30 kt / a (based on the 3-run scenario 2015) appears to be too high.

In addition to the savings we propose, further reductions may only appear by (i) obtaining district heating and cooling from renewable sources of energy; and (ii) obtaining electricity from renewable energy sources.

It would be important to define the calculation base on the basis of the C02 balance sheet in 2014 with a clear definition. It should be determined how much gC02 / kWh current (as calculation basis) are to be applied for the procurement of district heating / remote cooling and for the supply of electrical energy.

Furthermore, it should be stated that the forecasts for the 3-runway system 2025, which are submitted by Prof Sturm, are for commissioning the 3rd runway. If, however, the emission quantity (kt / a) mentioned in the tables is not reached, the savings obligation should also be correspondingly be reduced proportionally."

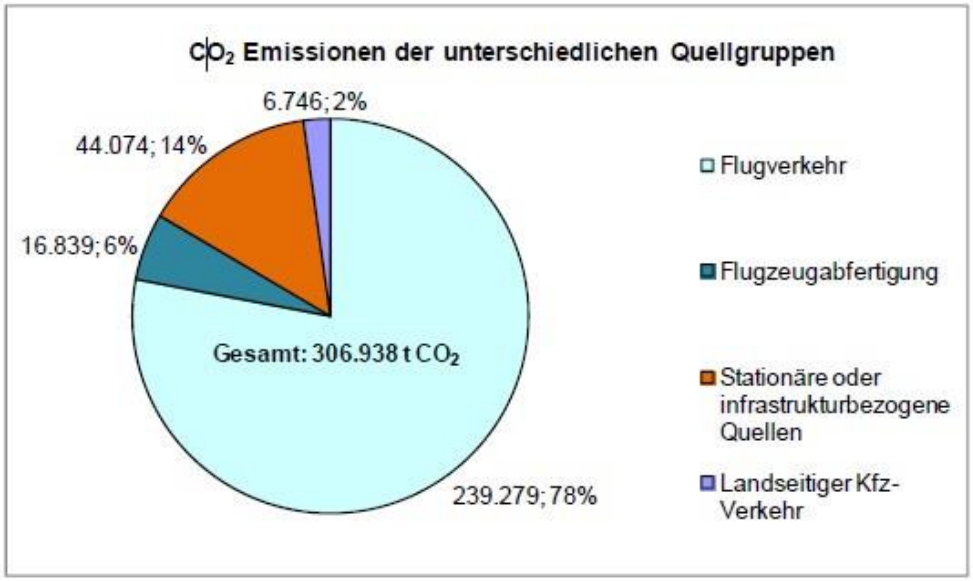
From the "CO2 Balance Sheet for Vienna Airport" of March 2015, submitted as a supplement to this letter of the first-concerned party:

"6 SUMMARY OF THE RESULTS

The following section presents the results of CO2 assessment at the Vienna Airport (VIE) for the year 2014.

An emission of total of 306,900 t CO2 is reported for Vienna Airport for the year 2014. The major share of emissions is attributable to aircraft sources at 78% (see figure 3 below and table 11 in chapter 5). The second-largest item is 14% of the emissions generated by the consumption of electrical energy or heating energy (stationary or infrastructure-related sources). At 6%, emission sources for aircraft handling and 2% of land-based vehicles are responsible for total emissions.

Figure 3 CO2 emission contributions, broken down by source group



Legend:

Flugverkehr – Air traffic
Flugzeugabfertigung – Aircraft handling and servicing
Stationare oder infrastrukturbezogene quellen - Stationary or infrastructure-related sources
Landseitiger Kfz-Verhekr - Land-based motor vehicle traffic
Gesammt: overall

With regard to the three scopes (scopes, see Figure 4), the total emissions are spread over 3% Scope 1 (CO2 emissions generated by the business of the airport from sources that the company itself owns and / or operates, 2% can be directly influenced by the airport operator Scope 1 (A), 15% Scope 2 (CO2 emissions generated by the third party of the energy consumed by the airport operator, 10% of which can be directly affected by the airport operator Scope 2 A) and 82% Scope 3 CO2 emissions that are generated in the supply chain or as a result of the use of the products or services sold by the airport. As a rule, emissions from the airport operator can not be influenced directly by the airport operator.

Figure 4 Assignment of CO2 emissions by scope (scopes) and influence (A can be directly influenced, B can not be directly influenced)

(Page 60 of the original document)

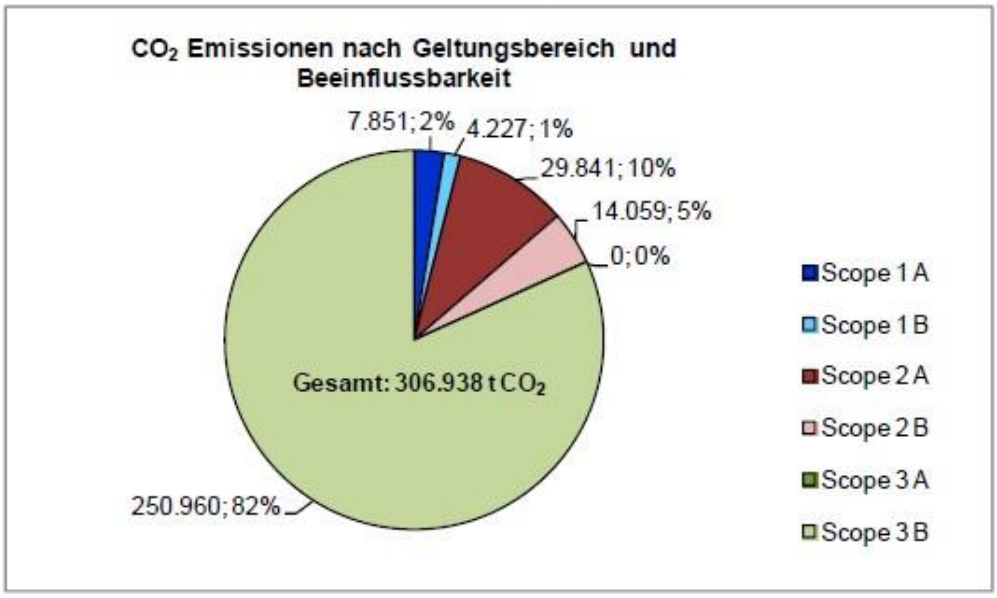


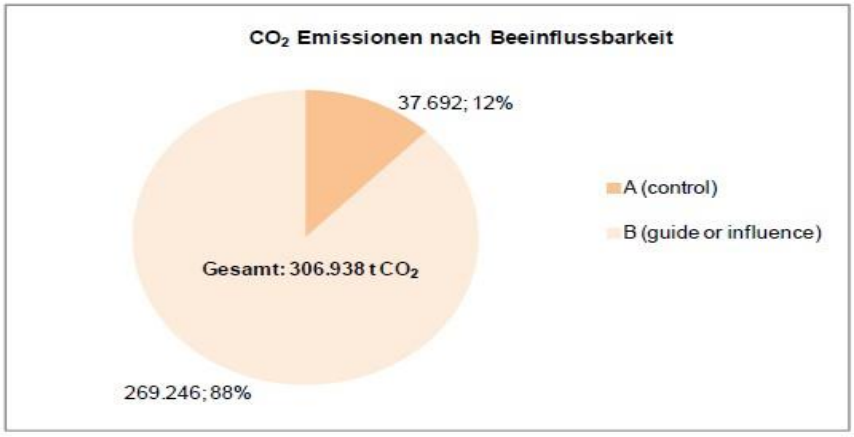
Abbildung 4 Zuordnung der CO2-Emissionen nach Geltungsbereichen (Scopes) und Beeinflussbarkeit (A direkt beeinflussbar, B nicht direkt beeinflussbar)

CO2 emissions according to scope and influence

The airport operators can directly influence the emissions of the airport's own vehicles, equipment and machinery, as well as emissions that correlate directly with the airport's

energy consumption (column A, see table 11 in chapter 5). This results in a share of 12% (see figure 5 below). The remaining 88% of CO2 emissions are air traffic emissions, land-based emissions and third-party emissions (Column B, see Table 11 in Chapter 5). These can only be influenced by the airport operator through indirect measures (incentives, communication, ...).

Figure 5 CO2 emissions broken down into direct influence by the airport operator (A) or emissions that can not be directly influenced by the airport operator (B)



7 EMISSION COMPARISON WITH OTHER BALANCE SHEETS

In the previous year (2013), the new third terminal, “Checkin 3” was in operation for the first time for a whole year, in the years before it was only operational partly or during the construction phase.

For this reason, an emissions comparison is carried out exclusively with the previous year (see Table 12). This approach is titled "Airport Carbon Accadiation, Docomentation and Guidance". As can be seen in Table 12, a reduction of CO2 emissions in 2014 from around 308.2 kt from the previous year is 0.4% to around 306.9 kt. Table 12 also lists the CO2 emissions recorded in 2014 compared to the previous year, which can be directly influenced by the airport operator (Scope 1 A, Scope 2 A and Scope 3 A).

This shows a decrease of the airport operator's influence compared to the previous year, was around 15% in aircraft handling and around 7% in stationary and infrastructure-related sources.

Table 12 CO2 emissions comparison of the fiscal year with the results from the previous year as well as the relation to the reference value.

Total Emmission	**Unit**	**Prior year (2013)**	**Financial year (2014)**	**Difference between**

				financial year and prior year	
Air traffic	t CO_2	235.289	239.279	3990 t CO_2	1,7%
Aircraft handling	t CO_2	18.070	16.839	-1.231 t CO_2	-6,8%
Stationary/infrastructure sources	t CO_2	48.052	44.074	-3.978 t CO_2	-8,3%
Land-based car traffic	t CO_2	6.758	6.746	-12 t CO_2	-0,2%
Total emission	**t CO_2**	**308.169**	**306.938**	**-1.231 t CO_2**	**-0,4%**

Emmissions (directly influenced)	**Unit**	**Prior year (2013)**	**Financial year (2014)**	**Difference between financial year and prior year**	
Air traffic	t CO_2	0	0	0 t CO_2	0,0%
Aircraft handling	t CO_2	9.053	7.677	-1.376 t CO_2	-15,2%
Stationary/infrastructure sources	t CO_2	32.312	30.015	-2.297 t CO_2	-7,1%
Land-based car traffic	t CO_2	0	0	0 t CO_2	0,0 %
Total emmissions (directly influenced)	t CO_2	41.365	37.692	-3.673 t CO_2	-8,9 %

Reference base	**Prior year (2013)**	**Financial year (2014)**	**Difference between financial year and prior year**	
Number of traffic units (VE)	23.878.338	24.508.038	629.700 VE	2,6%
Emmissions for the airport with all terminals in relation to the reference kg CO_2/VE	1,73	1,54	-0,19 kg CO_2	-11%

The number of flight movements compared to the previous year is at about the same level. CO2 emissions have risen slightly as a result of the higher number of heavier jets (medium jets).

In terms of aircraft handling, the lower emissions are due to lower diesel and petrol fuel consumption.

For CO2 emissions from stationary and infrastructure-related sources, the reduction results from the reduced power consumption, despite the slightly increased CO2 emission factor of the grid operator as well as the lower heating energy requirements. The CO2 emissions from the country's motor vehicle traffic are at a similar level as in the previous year. [...] "

In the opinion of Univ.-Prof. STURM dated 29.02.2016 a "CO2 reduction potential when commissioning the third runway of the Vienna Airport" has been conducted:

"1 Responsibility Federal Administrative Court January 2015

In the immediate aftermath of the public prosecution of the FAC concerning the project Parallel Runway 11R / 29L 'of Flughafen Wien AG in January 2015, the FAC commissioned a more detailed discussion of the CO2 problem through the construction of the 3rd runway and the elaboration of potential CO2 reduction potentials.

2 CO2 balance and reduction possibilities

2.1 CO2 balance and forecast

When a third runway at the Vienna Schwechat airport was put into operation, a significant increase in CO2 emissions would occur due to the projected increase in flight movements.

Based on data from the EIA procedure [1] as well as additionally provided documents [2], the CO2 emission quantities listed in Table 1 result. It should be noted, however, that in [2] only the increase rates for the 'directly' influenceable CO2 emission share were cited. This increase factor was also included here for the third-party companies' shares.

Table 1: CO2 Emissions from Vienna Airport Schwechat, figures in [kt / a]

Year	Air traffic	Air craft handling	Engine tests	Stationary /Infrastructure sources	Land emmissions	Sum
2013 [3]	235,3	13,4	4,7	48,1	6,8	308,3

2025 2 Pisten	322,7	17,4*	6,1*	48,1*	8,8*	403,2
2025 3 Pisten	518,4	22,8*	8,0*	48,1*	15,0*	612,3

* Calculation with the increase rates given in [2]

As can be seen from Table 1, a 3-runway system versus the 2-runway system in 2025 leads to a 50% increase in CO2 emissions.

If only the emissions from landfills, stationary infrastructure and emissions Landside (limited to the immediate front area of the airport) are considered, this yields approx. 18 kt / a or 10% more CO2 emissions.

It is assumed in [2] that the emissions from the sector, stationary and infrastructure are not increased by the 3 runway system.

This assumption does not seem quite clear, since e.g. The air-conditioning of rooms depends on the number of persons in it and thus also on changes in the number of passengers.

As already stated, the assumption of the same level of CO2 emissions from the 'stationary infrastructure sources' sector, which is taken by Vienna Schwechat airport, is not realistic.

Even if structural extensions are not planned, the demand for heat generation and, above all, air-conditioning is linked to the number of passengers.

Assuming an increase of about 50% of the increase in take-off, engine spills and emissions Landside, 15% for the 2-runway system and 35% for the 3 runway system 2025 result in the increases is illustrated in Table 2.

Table 2: CO2 Emissions from Vienna International Airport Schwechat, revised extrapolation for stationary infrastructure, data in [kt / a]

Year	Air traffic	Handling	Engine production	Stationary Infrastructure sources	Emmissions landside	Total
2013 [3]	235,3	13,4	4,7	48,1	6,8	308,3
2014 [4]	239,3	11,9	4,9	44,1	6,7	306,9
2025 2 Pisten	322,7	17,4*	6,1*	55,3**	8,8*	410,4

[3]						
2025 3 Pisten [3]	518,4	22,8*	8,0*	64,9**	15,0*	625,7

* Calculation with the increase rates given in [2]

** Calculation with 15% for 2-runway system and 35% for 3-runway system

The energy and CO2 balance of the Vienna Airport [2] shows an increase of 3.6 kt / a of CO2 for the direct impactable shares for the planned two or three runway system.

This large discrepancy with regard to the total additional emissions (excluding air traffic and engine test) is primarily explained by the fact that a large proportion of the CO2 emissions not resulting from direct air traffic are attributable to third parties and thus can only be influenced indirectly by the Vienna Schwechat airport, according to [2] would. In [3] an update of the CO2 emission data for the year 2014 took place.

A slight increase in airborne CO2 emissions is offset by an approximately equal reduction in stationary sources. In total, a reduction of about 0.45% occurred between 2013 and 2014.

2.2 CO2 reduction potential

The Vienna International Airport (Schwechat) provides a potential CO2 reduction potential by means of various internal measures, such as the retrofitting of the Airside fleet, reduced use of the APUs of the aircraft by increasing the supply of power connections, photovoltaics, etc. of approximately 4.2 kt / A.

Considering the savings potential mentioned in the Vienna Airport proposal, viewed in isolation is considerable, but remains within the 2% range of the additional Co2 emissions generated by the third runway.

Runways generate additional CO2 emissions. The majority of CO2 emissions come from the flight operation and can not be influenced. The next largest share relates to the external energy supply with electricity and district heating. Both are now largely conventional (based on fossil fuels). Here, by switching to e.g. green electricity or district heating from non-fossil sources.

Considering the CO2 reduction initiatives set up at other airports, the Airport Carbon Accreditation Scheme, launched by Airport Council International Europe in 2009, is a suitable platform (http://www.airportcarbonaccreditation.org).

This scheme provides for 4 stages to achieve the CO2 neutrality of an airport (with the exception of direct air traffic). If you only look at levels 1 (Mapping = data collection) and 2 (area stationary infrastructure, handling and traffic airside, etc.), there are already many European large airports that have already set significant measures for CO2 reduction.

Vienna Schwechat Airport is located at level 1 (collect data = mapping).
Almost all major European airports, such as Zurich, Munich, Hamburg or major airports such as Frankfurt, Paris (CDG and Orly) or London Heathrow and Gatwick have already made considerable efforts to reduce CO2 emissions and are already at level 3 (Optimization) [6]. Zurich [7] and Munich, for example. A reduction of several 10kt CO2 compared to the respective reference year.

This has mainly been achieved by converting the stationary infrastructure supply (electricity, heat, cold) to CO2-lower energy carriers, fleet renewals (increased use of e-mobility), conversion of downhill lighting and front lighting to more fuel-efficient lamps.

Based on the documents made available by the Vienna Schwechat airport, the information from CO2 reduction measures of other European airports as well as further technical literature, it can be concluded that appropriate measures can significantly reduce the CO2 reduction mentioned by the Airport.

In addition to the intended conversions in the vehicle fleet, e.g. a conversion of the source of supply for the stationary infrastructure sector is a conceivable reduction scenario.

It is therefore recommended to link the operation of a third runway which would result in a reduction potention of up to 30 kt / annum (based on the 3-runway scenario 2025 cited in Table 2).

2.3 Statement of the Vienna Airport as of 07.09.2015

(Citation begins) On 7 September 2015 an opinion on the proposed CO2 reduction potential of 30 kt / a related to the 3-runway scenario 2025 was submitted by the representative of Vienna Airport [5]. In terms of content, the following is relevant:

Given the data proposed, a further reduction in savings will only appear by:

(I) obtaining district heating and remote cooling from renewable energy sources;

(Ii) to obtain electricity from renewable energy sources.

It would be important to define the calculation base on the basis of the C02 balance sheet in 2014 with a clear definition.

It should be determined how much gC02 / kWh current (as calculation basis) are to be applied for the procurement of district heating / remote cooling and for the supply of electrical energy. (End of quote)

The following is noted:

The airport of Vienna is responsible for the reduction of CO2 emissions.

It appears to the expert with regard to international measures already implemented at other airports

To reduce CO2 emissions, the reduction potential of 30 kt can be achieved by commissioning the third runway 2025 (compared to commissioning without measures).

In the documents [2] and [3] made available by Vienna Airport, the CO2 emissions were derived on the basis of energy consumption. The starting point is thus known to the airport of Vienna.

The reference year for the actual state is 2014. The reference basis for the calculated forecast values 2 and 3 runway system 2025 (see Table 2) are the emission factors and the activity data available for the 2013 forecasts.

From the point of view of the SV, it is permissible to apply measures for CO2 reduction, which can clearly be attributed to the 3-runway scenario, and to account for the reduction potential.

3 Annexes

[1] UVE Documents for the chapter on airborne pollutants [2] LUA 2015_a: Energy balance and CO2 balance for Vienna International Airport; Calculation for the year 2025 for the 2 and 3 runway system based on the fiscal year 2013; Creator: Mathä M., Ellinger R .; February 2015 [3] LUA 2015_b: Carbon footprint for Vienna Airport, 2014 financial year; Creator: Mathä M., Ellinger R .; March 2015 [4] VIE 2015: List of measures Vienna Airport to reduce CO2 emissions; Creator: Vienna Airport Schwechat, Röhrer C., Hackl J .; February 2015 [5] Schönherr 2015: Project, Parallelpiste 11R / 29L ', OPINION on the subject of reduction of CO2 emissions, together with documentary file, GZ .: W109 2000 179- 1 / 193Z of 7.9.2015 [6] http: //www.airportcarbonaccreditation. Org / (Access: 23.5.2015)

The first-party responded in the report of 20.05.2016 on the opinion of Univ.Prof. STURM from 29.02.2016 concerning CO2 reduction potential as follows:

> "To this end, we merely point out that Vienna Airport reached ACAS Level 2 at the end of 2015.
>
> In addition, Vienna Airport is now PM AS-certified. A separate Sustainability Report was also published. This is only to illustrate our efforts to improve the sustainable development of Vienna International Airport, in particular with regard to the planned runway 11R / 29L. "

3.6.4. On GHG levels in Austria and the additional GHG emissions projected by flight movements due to the third runway:

As per expert opinions dated 29.02.2016 by Univ.-Prof. STURM on "Status and prognosis of greenhouse gas emissions in Austria":

> "1 Authority Federal Administrative Court
>
> In the immediate aftermath of the public hearing of the Federal Administrative Court (FAC) concerning the project Runway 11R / 29L in the Vienna Airway in January 2015, the FAC commissioned a more detailed discussion of the CO2 problem through the construction of the 3rd runway and the elaboration of potential CO2 reduction potentials. Part of this is the collection of data on the status and prognosis of greenhouse gas emissions in Austria.
>
> The data on the status and prognosis of greenhouse gas emissions (GHG) in Austria are given in the literature [1] and [2].
>
> 2 Abbreviations and conversion factors used
>
> Used conversion factors:

CH_4	Methane
CO_2	Carbon dioxide
CO_2e	CO2 equivalient
‚cruise‘	Emission of aircraft during the flight (subsequent to take-off or landing) (LTO)
GHG	Greenhouse Gas
HFCs	Hydrogen containing hydrofluorocarbons
LTO	Landing-Take Off
LULUCF	Landuse, **L**and**u**se **C**hange and **F**orestry (Landnutzung, Landnutzungsänderung und Forstwirtschaft)
N2O	Nitrous Oxide (Laughing gas)

NF3	Nitrogen trifluoride
PFCs	Perfluorinated hydrocarbons
SF6	Sulfur hexafluoride
THG	Greenhouse gas
THGP	GHG potential
WAM	Emission Projection Scenario ‘with additional measures’ gemäß [2]
WEM	Emission Projection Scenario ‘**w**ith **e**xisting **m**easures’ gemäß [2]

For the calculation of the CO2 equivalents, the following factors were used for the greenhouse gas potential according to [1]: THGP of CH4 = 25 THGP of N2O = 298

3 Greenhouse Gas Emissions of Austria

The [1] greenhouse gas emissions for 2007 and 2013 [2] provides forecasts of emissions for the years 2015, 2020 and 2025.

In the forecast, the subdivision of CO2 emissions into the transport sector and the sub-heading of air transport are national, while the other GHGs do not include any values for the sub-heading of air transport.

Table 1 to Table 4 shows emissions for the greenhouse gases CO2, CH4 and N2O. Due to their low relevance in the transport sector, the emissions of HFCs, PFCs, SF6 and NF3 are not listed here; they are very well contained in the sum of the CO2 equivalents.

For the year 2007 it should be noted that although a value for the CO2 equivalent for the transport sector (1.A.3 transport) is given in [1], it does not include the values of the individual greenhouse gases.

As far as the subcitems were concerned, the CO2, CH4 and N2O emissions were added for the "Traffic Traffic", "Railways", "Navigation" and "Civil Aviation" subdivisions (table).

However, with these values alone, the CO2 equivalents (CO2e) can not be 100% reproduced. The "error" is about 2% and results from non-tabulated emission data, e.g. To the point, other transportation '.

Further, it is to be noted that in the FIG. 10, the emissions of the subpoint of national air traffic, i.e. flights within Austria.

Only the national air traffic is included:

Table 1: Greenhouse gas emissions for the sum of all sources in Austria

		THG All Sources 1, Austria			
		CO_2e [kt]	**CO_2 [kt]**	**CH_4 [kt]**	**N_2O [kt]**
	2007	86933	74271	292,25	11,76
	2013	79599	67768	261,21	10,95
WEM	**2015**	79737	67940	255,65	11,15
	2020	79067	67252	247,55	11,05
	2025	76779	65534	240,54	10,99
WAM	**2015**	79066	67315	255,44	10,92
	2020	73293	61602	246,42	10,87
	2025	68998	58203	238,94	10,64

Table 2: Greenhouse gas emissions for the 1.A.3 transport sector in Austria

		THG Transport 1.A.3, Österreich			
		CO_{2e} [kt]	**CO_2 [kt]**	**CH_4 [kt]**	**N_2O [kt]**
	2007	23791	23157*	0,74*	0,57*
	2013	22809	22603	0,46	0,65
WEM	**2015**	23184	22959	0,17	0,74
	2020	23286	23041	0,14	0,81
	2025	23281	23018	0,13	0,87
WAM	**2015**	22839	22626	0,16	0,70
	2020	18832	18626	0,13	0,68
	2025	17904	17689	0,12	0,71

* Werte aus Tabelle 4

Contains the emissions from the sub-point of national air traffic, i. flights within Austria.

Table 3: Greenhouse gas emissions for the sub-item national air traffic

1.A.3.a

		GHG National Aircrafts, 1.A.3a Austria			
		CO_{2e} [kt]	**CO_2 [kt]**	**CH_4 [kt]**	**N_2O [kt]**
	2007	75	74	0,005	0,003
	2013	56	55	0,004	0,003
WEM	**2015**	60	60	k,A,	k,A,
	2020	69	69	k,A,	k,A,
	2025	79	79	k,A,	k,A,
WAM	**2015**	60	60	k,A,	k,A,
	2020	69	69	k,A,	k,A,
	2025	70	70	k,A,	k,A,

Table 4 lists the emissions from the Transport subsections on the determination of the emissions of the transport sector according to [1]

Table 4: Emissions of the individual subdivisions of the transport sector to the total formation of the same for the 2007 calculation year

Sector	**CO_{2e} [kt]**	**CO_2 [kt]**	**CH_4 [kt]**	**N_2O [kt]**
Road traffic		22913	0,72	0,5
Rail transport		156	0,007	0,06
shipping		14,7	0,005	0,002
Civil aviation		73,7	0,0051	0,0033
Calculated total	**23.344,29**	**23.157,4**	**0,7371**	**0,5653**

Table 5: contains an overall classification of all airborne emissions in Austria, which are composed of the take-off and landing operations of national (national) flights as well as of flights with take-off or landing in Austria from abroad (international).

The land and take-off activities can be found under the heading LTO, the emissions from the subsequent activities after take-off or those before the landing under the heading 'cruise'.

For take-offs and landings in Austria, 319kt CO2 will be generated in 2007 and 2013. The total CO2 emissions of air traffic in Austria in 2007 are 2250kt and 2013 around 2030kt.

Table 5: Greenhouse gas emissions of total air traffic (national and international flights) in Austria

		CO2 emissions Air transport in all of Austria			
		CO2e [kt]	**CO2 [kt]**	**CH4 [kt]**	**N2O [kt]**
2007	LTO national	30	29	0,005	0,002
	Cruise national	45	45		0,001
	LTO international	295	290	0,040	0,013
	Cruise international	1904	1886		0,060
2013	LTO national	26	25	0,004	0,002
	Cruise national	29	29		0,001
	LTO international	299	294	0,040	0,013
	Cruise international	1697	1682		0,050

In Table 6, a CO2 emission rate of 319 kt is reported for air traffic (LTO) in 2013. This value reflects the emissions of the LTO share at the individual Austrian airports.

This includes the LTO emissions data from the Vienna Airport. In [3], the LTO share of Vienna Airport for 2013 will be 235.3 kt, With approximately 74% of all LTO activities in Austria.

The CO2 emission data Austria referred to in Table 1 of the UBA report [1] contain exclusively those emissions from the air transport sector which have a national character; Within Austria, in order to take into account also those emissions of GHG caused by international flight activities with start or

destination in Austria (see Table 5), these emissions were added to the sums of Table 1 and listed in Table 6.

(Page 70 of the original document)

Table 6: Greenhouse gas emissions for the sum of all sources in Austria including international air traffic for the years 2007 and 2013

		All GHG sources [1], Austria			
		CO_2e [kt]	**CO_2 [kt]**	**CH_4 [kt]**	**N_2O [kt]**
2007	Totals from the table	86933	74271	292,25	11,76
	International LTO Share. (Tabelle *5*)	295	290	0,040	0,013
	International share. (Tabelle *5*)	1904	1886		0,060
	New sum	**89132**	**76447**	**292,29**	**11,83**
2013	Sum from the tables	79599	67768	261,21	10,95
	International LTO Share. (Tabelle *5*)	299	294	0,040	0,013
	International share. (Tabelle *5*)	1697	1682		0,050
	New sum	**81595**	**69744**	**261,25**	**11,01**

For all other years, there are no predictions as to the amount of emissions resulting from international air traffic (see Table 5), which means that for the years 2015, 2020 and 2025 no revised total sum can be established.

The overall value of the years 2015, 2020 and 2025 is thus underestimated in the order of 2 to 3% of the total CO2 emissions.

Table 7 contains, in comparison, the CO2 emission values of the Vienna airport for 2-runway operations (2013, 2014 and 2025) and 2025 for 3-runway operations.

Table 7: CO2 emissions from Vienna Airport in kt

Year	Air traffic (LTO)	Processing	Engine production	Stationary infrastructure sources	Landside emmissions	Total
2013 [3]	235,3	13,4	4,7	48,1	6,8	308,3
2014 [4]	239,3	11,9	4,9	44,1	6,7	306,9
2025 2 Pisten [3]	322,7	17,4*	6,1*	55,3**	8,8*	410,4
2025 3 Pisten [3]	518,4	22,8*	8,0*	64,9**	15,0*	625,7

* Calculation with the increase rates given in [3]

** Calculation with 15% for 2-runway system and 35% for 3-runway system

For the year 2025, the CO2 share of the Vienna airport for 2-run operations (410.4 kt) is approximately 0.6% of the total emissions of the scenario WEM and 0.7% for the scenario WAM.

With the 3-runway operation, the absolute share of the airport increases to approx. 0.9% for the scenario WEM and 1% for the scenario WAM.

The relative change through a 3-runway operation instead of 2-way operation results in an increase of approx. 0.2% to 0.3% of the Austrian CO2 emissions.

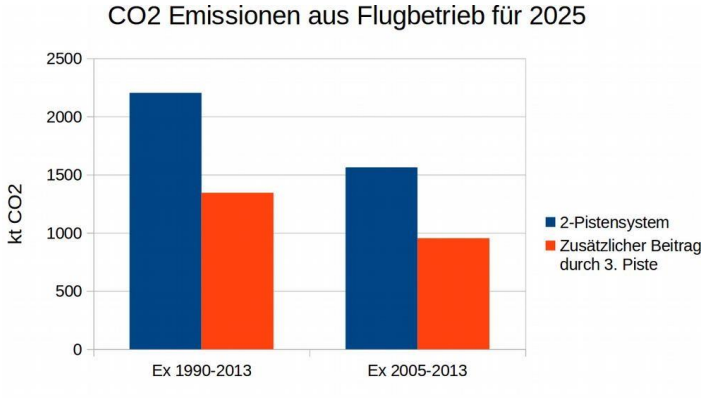
4 Annxes

[1] Umweltbundesamt, 2015, Austria's National Inventory Report 2015, REP0552, Vienna 2015
[2] Umweltbundesamt, 2015, GHG Projections and Assessment of Policies Measures in Austria, Reporting under Regulation (EU) 525/2013, 15 March 2015, REP-0527

[3] LUA 2015_a: Energy balance and CO2 balance for Vienna International Airport; Calculation for the year 2025 for the 2 and 3 runway system based on the fiscal year 2013; Creator: Mathä M., Ellinger R .; February 2015
[4] LUA 2015_b: Carbon footprint for Vienna Airport, 2014 financial year; Creator: Mathä M., Ellinger R .; March 2015 "

The first to fourth complaint leaders stated by means of a letter dated May 20, 2016 that in the case of Univ.-Prof. STURM, the essential part of the flight movement from the "cruise" is missing. For this purpose, the Dr VRTALA opinion of 19 May 2016, which is annexed to the document, is summarized as follows: [Highlights in the original]:

> **"On the subject of greenhouse gases:**
>
> 1. The CO2 emissions determined by Prof. Sturm are **missing the essential parts** of the flight ('cruise') and the traffic network outside the airport's area.
>
> 2. The emissions comparisons with Austria reported by Prof. Sturm are therefore considerably **underestimated.** For this reason, an estimate of the magnitude of the expected CO2 emissions was made.
>
> 3. It can be assumed that the CO2 emissions caused by the **2-runway system** of Vienna Schwechat Airport in 2025 will have a share of **at least just under 3%,** or at most slightly more than 4%, of Austria's total CO2 emissions.
>
> 4. The **additional emissions** from the planned third runway at Vienna Airport are not 0.2 to 0.3%, but are **along the lines of of 1.4 to 2.2% compared to the total emissions of Austria.** The increase in CO2 emissions from aircraft operations during the forecast year 2025 is large compared to existing emissions. **The increase in CO2 emissions through the third runway is substantial.**



Die Graphik zeigt Hochrechnungen der CO2-Emissionen aus dem Flugbetrieb für einen "worst case" (Daten 1990-2013) und einen "best case" (Daten 2005-2013). Es ist deutlich zu sehen, dass in beiden Szenarien die durch die 3. Piste verursachten Emissionen ca. 60% des 2-Pistensystems betragen.

Legend
The graph shows the cumulative CO2 emissions from the aircraft operation for a "worst case" (data 1990 - 2013) and a "best case" (data 2005-2013). It can be seen clearly that in both scenarios the emissions caused by the 3rd runway amount to approx. 60% of the 2-runway system.

> 5. **Significant factors** influencing a global increase in temperature (contraction and constriction-induced cirrus formation) were not observed.
> The actual anticipated effects from the operation of the third runway are **therefore again underprojected**. These effects were estimated here, expressed in terms of CO2 equivalents and compared with the corresponding CO2 equivalents of Austria. Depending on the model, and contingent to the impact of the **third runway** and all currently known atmospheric effects, **up to 5.4%** more climate-relevant emissions are expected compared to the overall climatic-relevant emissions of Austria.
>
> 6. According to the applicant, the scope and the possibility of influencing greenhouse gas emissions permits measures in a range of only 12%. The fact is that the non-construction of the 3rd runway could avoid considerable greenhouse gas emissions (as well as other air pollutants and noise) (see picture above). Therefore, in the case of an installation permit of the third runway, the applicant should at least be obliged to carry out other 1: 1 replacement measures in order to compensate for any greenhouse gas emissions that may occur. "

The following is a detailed discussion of the calculation of additional GHG emissions.

With the opinion dated 06.07.2016, Univ.-Prof. STURM on the above remarks by Dr. VRTALA from states:

> "1 Task
>
> As a result of the investigation procedure of the Federal Administrative Court in connection with the project Runway11R / 29L 'of Vienna Airport in January 2015, the Federal Administrative Court (Bundesverwaltungsgericht) dealt with a more detailed discussion of the CO2 problem caused by the construction of the 3rd runway and an elaboration of potential CO2 reduction potentials.
>
> Based on publicly available documents as well as the information provided by the consensus-maker, an opinion was issued on the potential CO2 reduction potential at Vienna Schwechat Airport [1]
>
> As well as the status and prognosis of greenhouse gas emissions in Austria [2].

On the two reports referred to above, an opinion is presented by the engineering firm Vrtala put forward by various parties [3]. The following is a discussion of the arguments presented in this opinion.

2 Opinion Vrtala [3] The figures given in [1] and [2] were based on publicly available documents from the Environmental Protection Agency from 2015 [4],

[2]. The main criterion in the Vrtala opinion [3] is that the shares of Vienna Schwechat Airport referred to in [2] are highly underestimated in terms of CO2 pollution in Austria.

For this purpose, the following is stated:

The values given in the Federal Environmental Agency (Umweltbundesamt/UBA) studies are based on CO2 estimates, which primarily result from fuel conversion data at the point of refueling.

That is, in concrete terms, that all airborne CO2 emissions resulting from the incineration of fuel will be allocated to the issuer, in particular the aircraft, whether it is in Austria (national air traffic) or a destination in a foreign location (international air traffic).[2]

In the case of fuel consumption and thus CO2 emissions from road traffic, e.g. The so-called “fuel tourism” plays a large role.

Fuel bought in Austria resulting in Co2 emmissions are also reflected in the Austrian CO2 emission allowances.

This is also the case with the CO2 emissions from aircraft which are assigned to the "cruise" operating status.

In the case of intercontinental flights, the entire CO2 emission, for example, of a flight from Vienna to the USA can be found in the emissions balance of Austria.

This can be seen from the different ratios of CO2 emissions from the operating states "cruise / LTO" for national and international flights.

While this is approximately 1.1 for national flights for 2013 [4], this figure increases to 5.7 (very rough estimate) for international flights.

For a more accurate allocation, a precise breakdown of the flight movements by aircraft and destination would be required - which will be difficult to predict

[2] *In the national emission allowance of the UBA [4], only the national flights are taken into account in the CO2 balance; in [2] Table 6 a new total including international flights is calculated.*

especially for the forecast. Thus, it is barely possible to give precise data on the CO2 emissions with respect to Austria for the forecast conditions with 2 or 3 runways.

In the statement [3] it is correctly pointed out that the additional CO2 emissions generated by the 3rd runway in Airport Vienna - Schwechat from the air traffic operation only the LTO activity and from the road traffic only the landside 'Shares are included in the overall road network.

This results from the delineation of the project, which was defined in the EIA procedure with these processes.

This is due to the fact that an exact assignment can not be carried out without specifying the destinations and consequent flight routes until leaving Austrian territory. In addition, there are the above-mentioned problems with the determination of the reference base (CO2 emissions Austria).

In the Vrtala analysis [3], an attempt is made to close CO2 emissions from the cruise sector by means of the 'cruise' and 'LTO' CO2 emission ratios.

In doing so, he comes to a factor of between 4.6 and 5.2 depending on the period of his evaluation.

This corresponds roughly to the figures from the UBA report [2], whereby a weighted mean value for the flights nationally and internationally results from [3].

In principle, therefore, the same problem applies with regard to 'cruise' international as mentioned above ('cruise' does not only include CO2 emission shares on Austrian territory).

The difference between 2 and 3 runway operations, which are illustrated and determined in the objections [3], would then be between 1.4 and 2.2% according to [3], depending on the development scenario (Table 3 in [3]).

They thus represent the "upper" limit of the CO2 emissions caused by the 3-runway operation.

This also means that the percentage changes mentioned in [2] are the changes based on the existing data material, which can be derived in a semi-path-based manner with respect to the demarcated project.

It is correct that, as stated in the application [3], this is the lower limit of the possible CO2 content of Vienna Airport 2.

A further point of criticism in [3] is the implied failure to take account of CO2 emissions from road traffic outside the bounded 'landside' area. Here, however,

the question arises as to the delineation of the investigation area and to the total emissions contained in the forecast horizons for Austria.

The forecast for Austria 2025 takes account of economic developments, but these are also the reason for the project third runway. The extent to which the very general developments in the prognosis of Austria are connected with the concrete figures of the project, or where their delineation is, can not be said.

Theoretically, the emissions of the zero variant could be deducted from the more extensive consideration of the traffic flows from the total emissions of Austria in the UVE, and that of the 3-runway operation again, but, this leads to a disingenuousness which does not reflect reality.

If this ambiguity is eliminated, an increase of up to 4% of the CO2 emissions in relation to the emission allowance in Austria 2025 is assumed in [3], which appears to be over-pronounced due to the non-definable delimitation and thus possible double evaluation.

Regarding the statements with regard to CO2 equivalents, condensation clouds, etc., it should be noted that these are in principle correct.

The project is based on a certain need for additional flights, if not covered elsewhere.

Thus, it is actually irrelevant to the climatic effect whether the contrails originate from airplanes started / landed in Vienna or in Bratislava.

In summary, the following can be stated:

- The CO2 Emmissions Inventory is Austria is based, among other things on fuel consumption data in Austria and does not take into account where this fuel consumption is locally attributable locally [4]. For flight operation, this means that e.g. the shares from the operating mode 'cruise' for international flights are fully included in the Austrian balance sheet [2] (in the case of flights with destinations outside Austria) or are not taken into account at source airports outside Austria. However, this is due to the nature of CO2 emissions, which are assigned to individual countries but also contain emissions that do not occur in this country (for example, “Fuel Tourism” / Tanktourism). Therefore, any indication of percentage changes in CO2 levels on a national basis is also subject to considerable uncertainties.
- The project-related CO2 supplementary emissions listed in [1] take account of the additional LTO activities and the road transport from the carrier's 'landside' share to the higher-level road network. The changes are reported as <1% with respect to the emissions balance of Austria. This is the quantitatively determinable change within a space which can be assigned to the project in the halfway direction, but - as stated correctly in [3] - represents the lower framework of the project-related increase.

- The increases in the CO2 balance of 1.4% to 2.2% for the flight operation and up to 4% in total reported in [3] do not take into account that the "cruise" share is not entirely generated in Austrian territory and possible double - road traffic.
- Globally speaking, however, it is also true that these emissions are produced by the additional flights.

Footnote:

2.This raises the question of the delineation of the project. If, for example, the additional flights depart from nearby Bratislava airport and continue via Austria, there would be no additional CO2 emissions in the current practice of CO2 emission balancing in Austria.

3 It is assumed that the ratio of international to national flights also increases equally in the forecast years for 3-runway operations.This can be countered by the fact that the number of national flights is decreasing in relation to the cross-border ones.

3. Annexes
[1] Storm P .: CO2 reduction potential when commissioning the 3rd runway of Vienna Schwechat Airport; BVWG, February 2016
[2] Sturm P .: Status and forecast of greenhouse gas emissions in Austria; BVWG, February 2016
[3] Vrtala A .: Opinion within the appeal procedure Parallelpiste 11R / 29L Flughafen Wien AG and Land Niederösterreich acc. Section 12 (2)
UVP-G 2000, GZ SAFL16-02.09160118 of May 19, 2016
[4] Umweltbundesamt, 2015, Austria's National Inventory Report 2015, REP0552, Vienna 2015, pp 582
[5] Environmental Protection Agency, 2015, GHG Projections and Assessment of Policies and Measures in Austria, Reporting under Regulation (EU) 525/2013, 15 March 2015, REP-0527, pp 183 "

3.6.5 Conclusions on the reduction potential of the first party and the additional GHG caused by the project:

The reduction potential for GHG emissions, which is reasonably and achievable according to the latest state of technology, caused by the project third runway on the "basis", is extremely limited with 30 kt of CO2 emissions compared to the unavoidable emissions of the (LTO, see below) 195.7 kt (difference of 518.4 - 322.7), taking into account the total flight (see below) of 1,175 kt (below). This is evident from the expert opinions of the SV Univ.-Prof. STURM and the comments of the first party concerned.

From the report of the SV Univ.-Prof. STURM of 29.02.2016, status and forecast of greenhouse gas emissions in Austria, Table 5, total emissions of air traffic in Austria

(overall setting of all air traffic emissions in Austria, resulting from the start and landing operations of national flights as well as flights with take-off or landing in Austria from abroad in 2013) is 2,030 kt CO2.

These emissions are composed of LTO (emissions at take-off and landing nationally with 25 and international with 294) of a total of 319 kt CO2 and cruise (emissions during the subsequent flight nationally with 29 and international with 1,682) of a total of 1,711 kt CO2.

The "LTO factor" thus contributes to the emissions of 15.71%, the "cruise factor", by 84.29%, corresponding to a ratio of approx. 1: 5.4. Comparing this with the figures presented in Table 5 of this report for 2007, the ratio this year is 319: 1931 with total emissions of 2250 kt, which corresponds to a ratio of 14.18: 85.82% or approx. 1: 6.05.

The ratio of these two variables between 2007 and 2013 has therefore not changed significantly.

According to Table 7 of this report in 2013, the Vienna Airport contributes 235.3 kt to more than two-thirds of the emissions from take-off and landing (LTO). Univ.-Prof. in its opinion of 29.02.2016 from Table 5, STURM calculates a share of the airport of Vienna of approx. 74% of the "LTO emissions" of Austria

For the emissions of the flights departing from Vienna Airport in 2025, 322.7 kt are foreseen in the case of the zero-scheduled run (two-lane runways) and 518.4 kt CO2 in the case of the construction of the third runway. Table 7 of the report does not include values for "cruise emissions".

However, the Federal Administrative Court concludes from the results of the proceedings (Dr. VRTALA opinion of 19.05.2016 to the STURM report of 06.07.2016) that there is no significant difference between the "LTO emissions" and "cruise-Emissions ", ie emissions from take-off and landing to emissions during air travel, but is precautionary for a ratio of only 1: 5.

For the Federal Administrative Court, this ratio does not represent the upper range of the conceivable emissions, but appears to be realistic.

In the realistic - assumption of such a ratio, emissions in the zero - schedule (two - runway system) for the year 2015 of 322.7 kt "LTO emissions" and 322.7 x 5 = 1613 "cruise emissions" would result in total emissions of flights departing from the airport and landing at the airport of 1,936.2 kt CO2 emissions.

In the case of the realization of the third runway, such emissions for the year 2025 would amount to 518.5 "LTO emissions" and 518.5 x 5 = 2.592.5 "cruise emissions".

This would result in total emissions (LTO plus Cruise) of 3,111 kt CO2 for the year 2025.

It should also be taken into account that the emissions of the "cruise" include only the emissions from the flight of departing aircraft because these emissions from the tank conversions of aircraft at the airport in Vienna (see expert's report, University of STURM, 06.07.2016).

The difference between the zero-planned scenario and the planned project would therefore be a difference of 3,111 - 1,936 = 1,175 kt CO2 emissions for 2025.

This value is as shown in Table 1 of the report of Univ.-Prof. (A scenario assuming that no further efficient measures to limit CO2 emissions are taken) are presented, according to which the GHG emissions for the sum of all sources in Austria in 2025 with 65,534 kt CO2 emissions respectively.

This comparison leads to the conclusion that the construction of the third runway will lead to an increase in CO2 emissions of 1.79% of the total CO2 emissions projected for Austria in 2025.

When the scenario WAM (which assumes the adoption of additional efficient measures to limit GHG emissions), which produces CO2 emissions for Austria of 58,203 kt CO2 emissions from all sources, this percentage even rises to 2.02%.

It is not the case that these emissions occur all over Austrian territory, but rather are allocated to flights originating from Vienna International Airport. The total emissions of Austria are only used as a reference for the absolute level of emissions.

3.6.6. On the consequences of climate change for Austria:

Greenhouse gases (GHG):

An increasing number of weather anomalies and extreme weather events are attributed to current climate change by the overwhelming majority of scientists. A driving force for this is the man-made emissions of GHG which influence the energy balance of the atmosphere by the absorption of infrared radiation. The climate-affecting gases include carbon dioxide (CO2), which is generated when fossil fuels are used, along with methane (CH4), nitrous oxide (N2O) and fluorinated gases (F-gases). To calculate the GHG emissions, the emission values of all gases are converted into CO2 equivalent. The greenhouse gas potentials of are discussed in the "IPCC Fourth Assessment Report" (2007). (Source: Http://www.umweltbundesamt.at/umweltsituation/luft/treibhausgase/).

According to the findings of the Intergovernmental Panel on Climate Change (IPCC), the most qualified and specialized global scientific body for the investigation of climate change, in its Fifth Assessment Report (available at: http://www.ipcc.ch/report/ar5/index.shtml) reports temperature rise in the atmosphere and in the oceans, a widespread melting process of the polar caps and an

increase in the sea level, caused by the strong increase in the content of GHG In the Earth's atmosphere over the last 100 years, evidently and with almost certainly due to the release of GHG by human activity.

As a result of this, it is already possible to observe a deterioration of many natural systems, which form a basis for life on earth and man's economy. The continuation or increase in the release rates so far will probably lead to greater impacts on the entire ecosystem of the earth in the 21st century than was already the case in the 20th century.

In particular, the effect of numerous feedback and amplification effects, such as the reduction of the ability of the oceans to absorb heat or the release of methane by heating previously permafrost regions, can not yet be exactly calculated scientifically. It is very likely that warming by 1 - 2 degrees of global temperature over the 1990 level will entail significant risks to many ecosystems. It would be difficult to achieve the so-called two-degree goal. If the increase is 4 degrees or more, very high risks are expected and the probability of multiple, abrupt and irrevocable changes in the system's soils (so-called tilting effects) also increases.

According to a large number of studies, it is assumed that climate change has been influenced by humans since the beginning of industrialization and is already taking place. If there are no sustained reductions in GHG emissions, there will be a further rise in temperature with widespread consequences. This has meanwhile become a widely known fact.

Ministerial Council on Climate Change:

The Austrian federal government therefore assumes that climate change is already showing its effects in Austria and will continue to intensify. Against this background, a strategy for adapting to climate change was adopted by the Council of Ministers on 23.10.2012; This was noted by the Landholders' Conference on 16.05.2013. In the document "The Austrian Strategy for Adaptation to Climate Change (Part 1 - Context)" of May 2012 (submitted under https://www.bmlfuw.gv.at) on this ministerial decision are on the one hand the causes of climate change as well as its consequences, in particular for Austria and the Alpine region. In this document, both direct and indirect expected effects of climate change are expected on the basis of climate scenarios for Austria are presented in the following manner:

For agriculture and forestry:

- extension of the vegetation period;
- displacement of precipitation from the vegetation period into the winter (regional differentiation necessary);
- decrease of precipitation frequency during summer months;
- increase in rainfall variability from year to year in summer;
- increase in the frequency of dry periods;
- heat load of plants, especially in combination with drought;

- probably decrease in soil water content and thus increased dryness in the south and east of Austria;
- increase the potential evapotranspiration through higher temperatures and longer periods of vegetation;
- heat stress on plants and increased evapotranspiration can lead to the disappearance of individual crops from the use of the plants. Increased risk of reducing biodiversity;
- change in species composition including new invasive species;
- Occurrence of modified and new invasive parasites on plants and plant products;
- the occurrence of new pathogens in animal husbandry;
- at present there are no reliable statements on extreme events such as storms and storms
- Hail frequency and erosion caused by heavy precipitation;
- With regard to floods, see Activity Field Water Balance and Water Management (increased research needs);
- Change of physiological performance and quality parameters of crops and crops as a result of altered precipitation distribution and temperature conditions.

(Page 80 of the original document)

For the water balance and water management:

- Tendency to shift the risk of flooding into winter and spring in northern Austria;
- Increase of severe precipitation possible (hitherto not clearly demonstrated); Discusses a possible increase in short-term local shortfalls;
- increase in evaporation levels;
- Decrease of snowfall and snow cover, earlier start of snowmelt;
- increase in winter precipitation (especially in the north), decrease in summer precipitation;
- increase in runoff in winter (with the exception of the south), reduction in summer (regionally different);
- Decline in glaciers continues. Outflows from the glacial melt are likely to reach their maximum by 2040-2050;
- Increase of the floods in the Alps in winter, possible reduction in the lowlands in late summer / autumn;
- Increase of the floods in winter, reduction in summer;
- increase in water temperatures (surface waters - especially in summer and ground water);
- Locally, the loading potential can increase in the range of the permafrost limit; From a regional point of view, the increase in larger inflows should be rather small.
- in the south and east of Austria decrease in groundwater recharge probable; In the north and west of Austria it could increase;

- As a result of the possible increase in the evaporation and decrease in precipitation in the summer, a reduction of the source deposits from near-surface sources can not be ruled out.
- possible lower dilution potential in surface waters in southeast Austria can lead to increased material concentrations;
- Temperature increase will lead to changes in aquatic biocenoses, bioregions will shift;
- Small-scale bottlenecks could be exacerbated by water shortages in areas with unfavorable water supply.

For tourism:

- increase in annual average temperature (all-year tourism);
- Change in precipitation levels and their seasonal distribution - Decrease in precipitation frequency during summer months and increase in winter months;
- decrease of the snow content in deep and middle locations, decrease in snow safety;
- decrease of ice and freezing days;
- increase of days without snow-capped snow in the mountains;
- thawing of the permafrost soils can lead to instability of the infrastructure and to the danger of rocking;
- Decline in glaciers influences the landscape;
- increased pressure on glaciers due to poorer conditions in low altitude ski areas;
- increase in water temperatures (longer "bath-bath" temperatures);
- possible exposure to the water quality of the lakes (e.g., by algae) at higher temperatures;
- relative climatic favors of the Alpine area, in particular Mediterranean resorts in the summer;
- Increased heat periods or increase in heat days (over 30 ° C) in the summer (eg urban tourism - escape from urban areas into surrounding areas);
- Decline in species diversity (flora and fauna) leads to a change in the landscape.

For the energy sector with a focus on the electricity industry:

- increase in the flow of waste water in winter and early start of snowmelt;
- in pre-alpine waters: increased occurrence of low water periods in summer and autumn;
- in alpine waters: possibly in the late summer longer periods of low water, in the glaciated areas the summer and autumn runoff even briefly up
- in the medium term as the glacier melt contributes to the runoff. In the long term, however, the decline in glaciers will also lead to a drop in water supply;
- Rise in water temperatures, especially during summery periods of drought;
- Glacier and permafrost drop and thereby increased impact rate;
- possible change in wind load;
- possible change in solar irradiation;

- possible changes in the presentation of biogenic substances for energy use;
- decrease in heating energy requirement and increase in cooling energy requirement; Changes in the number of heating and cooling days;
- possible changes in the supply of renewable energy sources (e.g.
- Wind energy, solar energy, biomass).

For buildings and living conditions:

- rising average temperatures and temperature maxima;
- Increased occurrence of heat waves leads to an increase in heat stress; Especially for urban regions, a reinforcement of the heat sinking effect is expected.
- increasing the temperature-related physical stress of buildings;
- increase in nighttime temperature minima above 20 ° C;
- regionally different increases in precipitation intensity;
- Relocation of the risk of flooding in the winter and spring - a general statement about the change in the flood risk for the whole of Austria is currently not possible;
- Increased snow loads are to be expected at higher altitudes and can not be ruled out for lower and middle layers due to increasing climatic variability.
- At present, no reliable statements on extreme events such as storm and hail frequency are possible (increased research requirements are necessary).
- Locally varying degrees of strength and thawing of permafrost can lead to increased muds, rockfall, rockfall and landslides in the alpine region, as well as avalanches in winter.
- increased risk of forest and land fires due to heat waves.

For health:

- Increased occurrence of heat waves leads to an increase in heat stress; Especially for urban regions, a reinforcement of the heat sinking effect is expected.
- Achieving new maximum temperatures in lowland areas of Austria;
- increase in nighttime temperature minima above 20 ° C, in particular during heat periods;
- Increase in thermophysiological stress on hot days and during heat periods;
- Increase in the mortality rate during heat periods, in particular with risk groups; Possible impairment of performance on hot days and during heat periods;
- change the propagation and transmission conditions of vectors and pathogens;
- possible increased spread of allergenic plants and animals;
- It is currently not possible to make a statement about the increase in extreme weather events such as storm and hail frequency, as well as severe

precipitation and floods. More frequent extreme events increase the risk of spills, injuries, permanent disabilities and death.
- As secondary health consequences after extreme events, stress and mental disorders as well as mold fungi in residential areas are possible with damp damages.
- Summer high-pressure weather conditions can promote the formation of air pollution.
- Higher temperatures can promote the proliferation of microorganisms in foodstuffs and lead to an increase in food-borne infections.
- Possible bacteriological impairment of drinking water quality due to an increase in water temperatures.

For ecosystems and biodiversity:
- increase in annual average temperature;
- Higher temperatures lead directly to an extension of the vegetation period and thus to an earlier onset and a later end of the transpiration of the plants.
- increase in the frequency of dry periods;
- Change in precipitation levels and their seasonal distribution - Decrease in precipitation frequency during summer months and increase in winter months (regional differentiation necessary);
- heat load of plants, especially in combination with drought;
- probably decrease in soil water content and thus increased dryness in the south and east of Austria;
- increased risk of reducing biodiversity;
- change in species composition;
- decrease of the snow content in deep and middle locations, decrease in snow safety;
- decrease of ice and freezing days;
- rise in water temperatures, especially during summer dry periods;
- displacement of areal boundaries along height and humidity gradients;
- changes in species composition in life communities and biotopes;
- loss of habitats and species;
- Spread of new invasive species (neobiota).

For the transport infrastructure:
- Rising heat loads can lead to material and structural damage as well as to deformation of road surfaces and rail infrastructure.
- in the case of heat waves, increased risk of failure of electronic equipment (signal systems);
- Change in precipitation levels and their seasonal distribution - Decrease in precipitation frequency during summer months and increase in winter months;
- dendency to postpone the flood risk in winter and spring in northern Austria;

- increase in runoff in winter (with the exception of the south), reduction in summer (regionally different);
- Increase of severe precipitation possible (hitherto unambiguous);
- Discusses a possible increase in short-term local shortfalls;
- Heavy precipitation can lead to overloading of drainage systems and flooding of underpasses.
- Erosion and sub-rinsing can endanger the stability of railway dams and track beds.
- increasing risk of mass movements (landslides, muds);
- decrease of snowfall and snow cover, earlier start of snowmelt;
- decrease in snow content in deep and middle layers;
- Decrease in snow safety;
- increase in snowfall at altitudes above 1.800 m, which can lead to a higher risk of avalanches;
- increase of days without snow-capped snow in the mountains;
- decrease of ice and freezing days
- Defrosting the permafrost soils can lead to instability of the infrastructure and to the danger of rocking.
- Burdensome statements regarding storms are not yet possible; Storms can cause damage to the electronic infrastructure.

For business, industry and commerce:

- Higher temperatures and heat waves increase the cooling requirements for the storage and transport of different products.
- Higher temperatures and heat waves affect working conditions (decrease in productivity, health and safety at work).
- changes in consumption by rising temperatures and prolonged periods of heat (e.g., drinks);
- Decrease in the availability of cooling water in heat waves / droughts can affect cooling-intensive production and energy production;
- possible changes in the availability of raw materials and precursors due to changed temperature and precipitation conditions can have an impact on the entire value chain;
- regionally different water availability due to changes in precipitation levels and their seasonal distribution - decrease in precipitation frequency during summer months and increase in winter months;
- Potentially increasing extreme events and extreme weather conditions can cause massive damage to the operational infrastructure and production (risk of liquidity bottlenecks in companies and insurance companies).
- Precipitation and temperature-induced extreme events (storm, hail, floods and mass movements, heat waves in connection with drought) can lead to bottlenecks in the energy supply and thus hinder production or lead to production failures.

- influencing the logistics within the company by possibly increasing extreme events, impairment of transport and storage infrastructure;
- Through the global network, both the supply for the production in Austria and the sale of Austrian products will be affected by climatic conditions in other continents.
- Both climate protection and climate change can lead to product and process innovations - in the insulation industry, coolants, new building materials, regenerative energies, flood protection, slope stability and other forms of adaptation.

For the city including the urban green space and parks

- Increased occurrence of heat waves leads to an increase in heat stress; Especially for urban regions, a reinforcement of the heat sinking effect is expected.
- Increasing thermal extremes and reaching new temperature maxima in lowland areas of Austria;
- increase in nighttime temperature minima above 20 ° C, in particular during heat periods;
- Increase in thermophysiological stress on hot days and during heat periods;
- Increase in the mortality rate during heat periods, especially in the case of vulnerable groups;
- Decreased productivity on hot days and during heat periods;
- Reinforcement of the thermal city climate effect due to increased demand for heat in heat waves (increasing building air conditioning);
- Summer high-pressure weather conditions can promote the formation of air pollution.
- Relocation of the risk of flooding in the winter and spring - a general statement about the change in the flood risk for the whole of Austria is currently not possible;
- Change in precipitation levels and their seasonal distribution - Decrease in precipitation frequency during summer months and increase in winter months;
- frequent summer thunderstorms and severe rainfall events with heavy rainfall peaks;
- Stressful statements regarding storms are not yet possible; Storms can cause damage to the electronic infrastructure.
- changes in the urban flora and fauna and the spread of warming plants and animal species, especially neobiota;
- decrease in the evaporation capacity of vegetation;
- extension of the vegetation period;
- increased vulnerability of vegetation during dry periods.

In Chapter 14, under the heading "Global Context" on page 99,

"Secure living conditions

In many regions of the world, climate change will have a lasting impact on living conditions and lead to a massive threat to food supplies, eg due to water scarcity. Other effects of climate change will affect heat-related deaths, the spread of vector-borne diseases such as malaria and access to natural resources. The achievement of the Millennium Development Goals (MDGs) and the related national targets for the eradication of poverty and the promotion of sustainable development appears to be endangered by climate change (OECD 2009). This is likely to result in an increase in environmental fugitives.

The number of the 25 million environmental refugees estimated in 1999 will rise to 150-200 million by the year 2050. The rise in sea level alone will lead to ten million additional environmental refugees over the next decade (EK 2007c). Climate change is not the only factor that leads to migration; Triggers are often existing problematic conditions (political, economic, religious, etc.). These include, among other things, inadequate infrastructure, general water scarcity, poor basic medical care, etc.

[...]

Preserve and protect the environment

From a global perspective, the state of the environment and the natural bases of life have deteriorated steadily in the past decades; Climate change is exacerbating the situation. The integration of environmental protection and the preservation of the natural basis of life is therefore one of the most important tasks of development cooperation, as stated, among other things, in Austrian legislation.

The impact of climate change and the need for adaptation are particularly exacerbating the problems of the poor population in rural areas and coastal areas, which are already exposed to difficult agro-ecological conditions, environmental risks and high climatic variability. Insecure land rights, lack of access to environmental information, and the impact of environmental disasters are a major threat to their existence. Laws are implemented flawlessly; The capacities in ministries, regions, municipalities and institutions are weak (BMeiA 2009).

In the document "The Austrian Strategy for Adaptation to Climate Change" (Part 2 - Action Plan, Recommendations for Implementation) on the Ministerial Council Decision of 23.10.2012,

"Vulnerability assessment of heat effects

The direct effects are the direct effects of climatic and weather changes on the human organism (eg by heat waves) as well as the health consequences of weather-related extreme events (eg by heavy rain, floods, etc.) (Dombois & Brown-Fahrländer 2004, Jendritzky 2009).

The most important direct load on the human body is heat waves, especially in urban areas. Heat waves lead to increased mortality but also affect morbidity, Efficiency and well-being. In particular, children, the elderly and persons with cardiovascular disease are considered to be particularly affected.

[...]

Climate change also favors the further and more rapid spread of allergenic plants and animals. For example, in the case of the introduced species of Ambrosia ('Ragweed') a further spread can also be expected in the west of Austria. A longer pollen flight season, but also a higher aggressiveness of the pollen is already observed. The knowledge about the potential spread of allergenic plants and animals is insufficient, so the vulnerability is currently not reliably assessable. However, due to the high aggressiveness of the ragweed allergen and the high potential for cross-reactivity with food, the vulnerability is likely to be high.

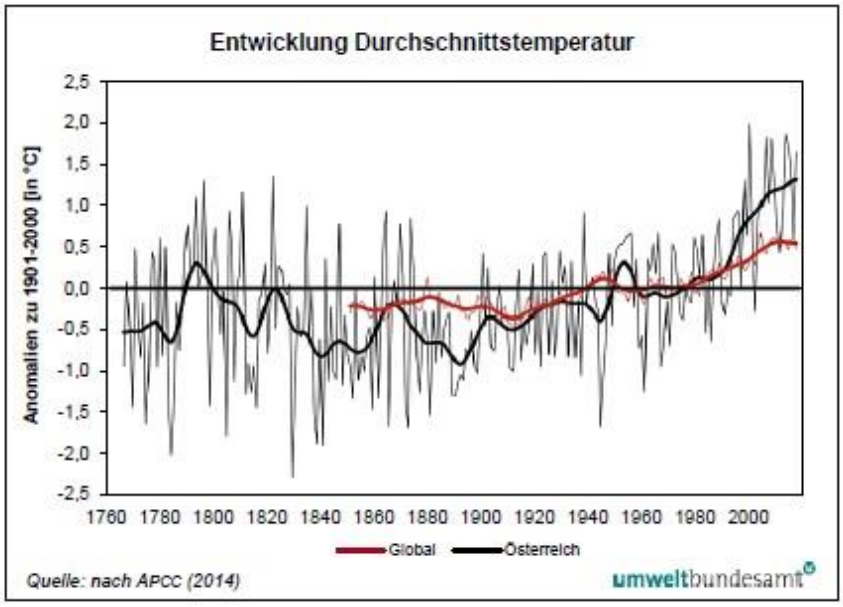
The interaction of air pollutants and climate change is manifold. More frequent summer high-pressure weather conditions (high temperatures and strong solar radiation) can favor the formation of ground-level ozone. Ozone causes mucosal irritation and inflammatory responses of the respiratory tract. Persons with respiratory disease and allergies are particularly affected. An increase in UV radiation due to the decrease in stratospheric ozone is likely to increase the risk of skin tumors and cancer. Without adequate protective measures, a moderate vulnerability is assumed, and high vulnerability is assumed for risk groups. "

In the climate protection report 2016 of the Austrian Environment Agency, on page 26 on the effects of climate change for Austria,

"The state of knowledge about climate change in Austria, its effects and the possibilities for mitigation and adaptation are set out in the Austrian report on the Austrian Panel on Climate Change (APCC). Currently, the global average temperature is around 0.85 ° C above that at the end of the 19th century. In Austria, the temperature rise is more than twice as high as in the global average and is now already 2 ° C. A further rise in temperature from 1-2 ° C to the middle of this century is to be expected. The attainment of the 2 ° C target would mean an increase of almost 4 ° C for Austria (APCC 2014).

The last winter of 2015/2016 was above the annual average of 2.7 ° C, making it the second warmest winter in the nearly 250-year history (ZAMG 2016). "

In this report, on page 27, the annual mean temperature in Austria is compared to the global average graphically as follows:



Trends in average temperatures

Further details on the implications for Austria are given below:

> "The rise in temperature caused by climate change is followed by one Increase in drought and heat periods during the summer half-year, among which vegetation, (useful) animals and humans suffer. Figure 4 shows the temporal development of heat days in a worst-case scenario. The most important environmental impacts include:
>
> • The risk of forest fires will increase and warming pests will increase.
> • Extreme weather events are more frequent.
> • In the winter months, precipitation will increase.
> • The drying out of the soil in summer and increased erosion caused by heavy rainfall lead to humus degradation.
> • The water intake of the soils is reduced, among other things also by less snow cover in the winter.
> • Slides, muds and stone falls will increase.
> • Due to the reduction in glaciers, the water supply of the rivers fed by glaciers is influenced.
>
> Economic consequences concern, inter alia, Wintertourism, since also artificial snowmaking is subject to restrictions in ski resorts. Among other things due to the changed occurrence of rainfall, yields in agriculture, forestry and electricity production in hydropower plants are also affected. Migration from the southern countries (eg Africa) will also increase. In Asia and Africa alone, 74-250 million people are expected to be affected by 2020.

(Page 90 of the original document)

The Federal Administrative Court concludes that it is highly likely that recognized studies show that climate change is already showing its effects in Austria and that it will continue to intensify in the future if there is a lack of or counter-measures against a rise in GHG. This is now a notorious fact. Climate change has a major impact on the entire living environment, with a negative impact on humans, animals and plants. There is a drastic loss of income and income as well as the loss of jobs, particularly in the areas of agriculture, forestry, and tourism. Assets are destroyed, the number of heat meters will rise.

3.6.7. International and national guidelines for the reduction of GHG:

The Kyoto Protocol:

In 2005, the "Kyoto Protocol to the United Nations Framework Convention on Climate Change" (the Kyoto Protocol) came into force, which for the first time set binding environmental targets for the industrialized countries. The EU undertook to reduce its GHG emissions by 8%. Austria's commitment within the European burden allocation was 13% compared to 1990. The first Kyoto commitment period ended at the end of 2012, an agreement on a follow-up period was reached at the 8th Conference of the Parties in Doha in 2012.

The second Kyoto commitment period is from 2013 to 2020. For this period, the EU and some industrialized countries are committed to further reduce their emissions of GHG. The Agreement enters into force when three-quarters of the Contracting Parties to the Kyoto Protocol have deposited their ratification certificates (status of ratification). The agreed reduction for the EU and its Member States is 20% compared to 1990. This commitment is in line with the existing climate and energy package 2020. (Source: http://www.umweltbundesamt.at/umweltsituation/luft/treibhausgase/).

The Paris Convention on Climate Change 2015:

The Paris Convention on Climate Change is an agreement between the 195 Member States of the United Nations Framework Convention on Climate Change (UNFCCC) with the aim of climate protection following the Kyoto Protocol. The Convention was adopted on 12 December 2015 at the UN Conference on Climate Change in Paris and provides for the limitation of global warming to well below 2 ° C against pre-industrial values. It entered into force on 04.11.2016.

In contrast to the Kyoto Protocol, this new agreement covers not only industrial but also emerging and developing countries to take account of changes in the global distribution of GHG emissions. Planned Reduction Projects of the participating countries ("Intended Nationally Determined Contributions") were submitted to the UNFCCC.

The Climate Protection Act – (Klimaschutzgesetz) KSG:

In Austria, the KSG establishes sectoral emission ceilings for 2013 - 2020 and supports the process for defining and implementing measures. The KSG represents the national implementation of the EU Effort-Sharing Decision (or: Effort Sharing Decision (ESD), which is Decision No 406/2009 / EC of the European Parliament and of the Council of 23.04.2009 on the efforts of the Member States to reduce their greenhouse gas emissions with a view to meeting the Community's commitments to reduce greenhouse gas emissions by 2020, Official Journal of 05.06.2009, L 140/136). A key element of the Act is sectoral quantitative limits. These were supplemented by an amendment to the KSG (BGBl. I No. 94/2013) for the period 2013 - 2020. On the basis of this legal basis, Austria is obliged to achieve the target of - 16% in 2005 for sectors outside of emissions trading.

Since the entry into force of the ESD, international reporting has been converted to the IPCC 2006 Guidelines for greenhouse gas inventories, and the annual allowances have been adapted to the EU Member States (see also chapter 3.1.1). This amendment has also been transposed into national law by the Amendment to the Climate Protection Act 2015 (Federal Law Gazette I No. 128/2015).

For the period from 2013 onwards, the KSG also establishes additional procedures between the Federation and the Länder

- fix future levels for each sector;
- to develop measures to ensure compliance with these quantitative limits - to this end, the respective federal ministers responsible for the respective sector have to convene sectoral negotiating groups and to develop proposals for action;
- to agree on a climate protection responsibility mechanism in order to regulate binding consequences in the event of a failure to target.

In addition to the mandate of the respective federal ministers, the KSG has also set up two permanent bodies, which are now regularly involved in the implementation of the law - the National Climate Protection Committee (NKK) as a steering committee and the National Climate Protection Advisory Board (NKB).

In Appendix 1 to the KSG, the annual quantitative limits of GHG emissions are calculated for the commitment period 2013 to 2020 (expressed in million tonnes of carbon dioxide equivalent) for Austria. Accordingly, from 2015 to 2020, a reduction of 51.5 to 48.8 million tonnes will occur; Which would be a decrease of 5.24%. The transport sector is expected to fall by 22.2 to 21.7; Which would be a decrease of 2.25%.

GHG emissions in Austria:

The Climate Protection Report 2016 of the Austrian Environment Agency (available at http://www.umweltbundesamt.at/umweltsituation/luft/) is summarized on page 5:

> "Background

With the new international climate protection agreement adopted in Paris at the end of 2015, the state community has set a clear signal against climate change and its consequences. Only a long-term exit from the use of fossil fuels can save the globe from a climate collapse.

The average global temperature rose almost 1 ° C against the preindustrial level. 2014 and 2015 were the warmest of the world's most recent measurement history.

In Austria, the average temperature rise recorded by measurements is already 2 ° C. The last winter of 2015/2016 was 2.7 ° C above the yearly average and was the second warmest winter in the almost 250-year-old Austrian history of measurement.

Climate models predict that Austria will continue to grow stronger than the global average. The rise in temperature is followed by an increase in drought and heat during the summer half year, which affects vegetation, livestock and people. The risk of forest fires will increase and warming pests will increase.

Furthermore, extreme weather events, landslides, muds and rockfall will occur more frequently. Due to the special sensitivity of the (alpine) natural habitats, but also of the technical interventions in the natural environment (technosphere), extensive adaptation measures to climate change will be indispensable even if the global climate protection measures are successful. Economic consequences include, inter alia, winter tourism and due to the changed occurrence of rainfall also income in the agriculture, forestry and energy industry. Migration pressures from southern countries (eg Africa) will also increase.

Greenhouse gas emissions in Austria in 2014

In 2014, the greenhouse gas emissions of Austria were 76.3 million tonnes of carbon dioxide equivalent (CO2 equivalent). Emissions were therefore 4.6% and 3.7 million tonnes below the 2013 level.

This is the downward trend since the peak in emissions in 2005. Mainly responsible for the reduction in emissions compared to 2013 are, in particular, the reduction of emissions in the field of energy production as well as the mild weather conditions with the resulting lower heating requirements of households. Austria's total emissions in 2014 were 3.2% lower than in 1990.

Figure A: History of Austrian greenhouse gas emissions compared to the (Klimaschutzgesetz) Climat Protection Law KSG target, 1990 - 2014

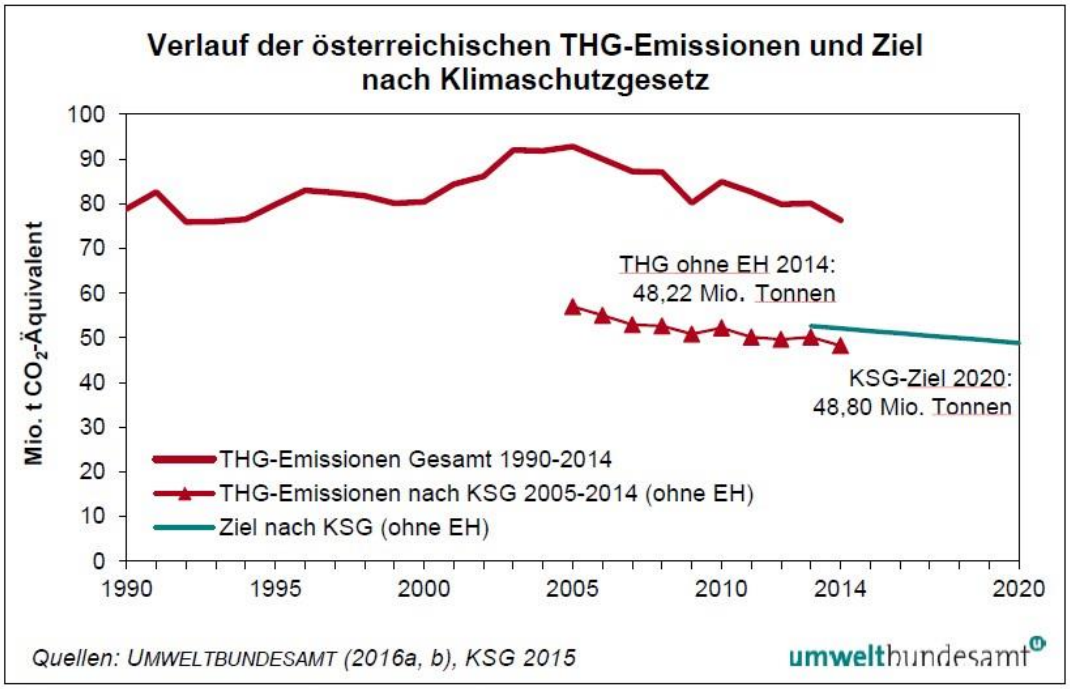


Diagram: Course of the Austrian GHG Emissions towards the goal of the Climate Protection Act (KSG)
Mio. T Co2-equivalent*: CO2 equivalent in millions of tonnes*
THG-Emissionen Gesamt 1990-2014 *– Total GHG emissions from 1990-2014*
THG-Emissionen nach KSG 2005-2014 (ohne EH) *= GHG emissions according to KSG 2005-2014 (Without Emissionshandel (EH) Emissions trading)*
Goal towards KSG*: Goal towards Climate Protection Act – (Klimaschutzgesetz) KSG*

GHG emissions from the transport sector:

From the climate protection report 2016, the sectoral analysis (page 39 ff) reveals that the main causes of Austrian GHG emissions (including emissions trading [abbreviated: EH])) in 2014 are the energy and industrial sectors (44.4% Including 7.7% non-emissions trading), transport (28.5%), agriculture (10.4%) and buildings (10.0%). These sectors account for around 93.3% of greenhouse gas emissions.

The largest increase in greenhouse gas emissions since 1990, according to the current inventory, is the transport sector with an increase of 7.9 million tonnes of CO2 equivalent or 57.6%.

The emissions of the building sector fell by 5.5 million tonnes (- 42.1%) of CO2 equivalent during the period under review. In the sectors of waste management (1.2 million tonnes, 27.5%), agriculture (1.5 million tonnes, 15.6%) and energy and industry (2.6 million tonnes, 7.2%), greenhouse gas emissions have also declined.

The emissions of fluorinated gases have increased slightly. The most important causes of greenhouse gas emissions (excluding emissions trading) were the transport sectors (45.0%), agriculture (16.5%), buildings (16%) and energy and industry (12%).

The largest reductions in GHG emissions since 2005 (excluding EH) are recorded in the buildings and transport sectors, with a minus of 4.9 million tonnes and 2.9 million tonnes, or - 39.4% and - 11 respectively, 7%. There is also a decline in agriculture (- 0.1 million tonnes, - 1.8%), waste management (- 0.3 million tonnes, - 9.4%) and energy and industry without emissions trading (- 0, 7 million tonnes, - 10.2%). The increase in emissions of fluorinated gases (+ 0.2 million tonnes, + 10.3%) is relatively significant, but in absolute terms it is only slight because of the low overall volume.

This is shown graphically in the climate protection report 2016 on page 38 with figures 6 and 7 as follows:

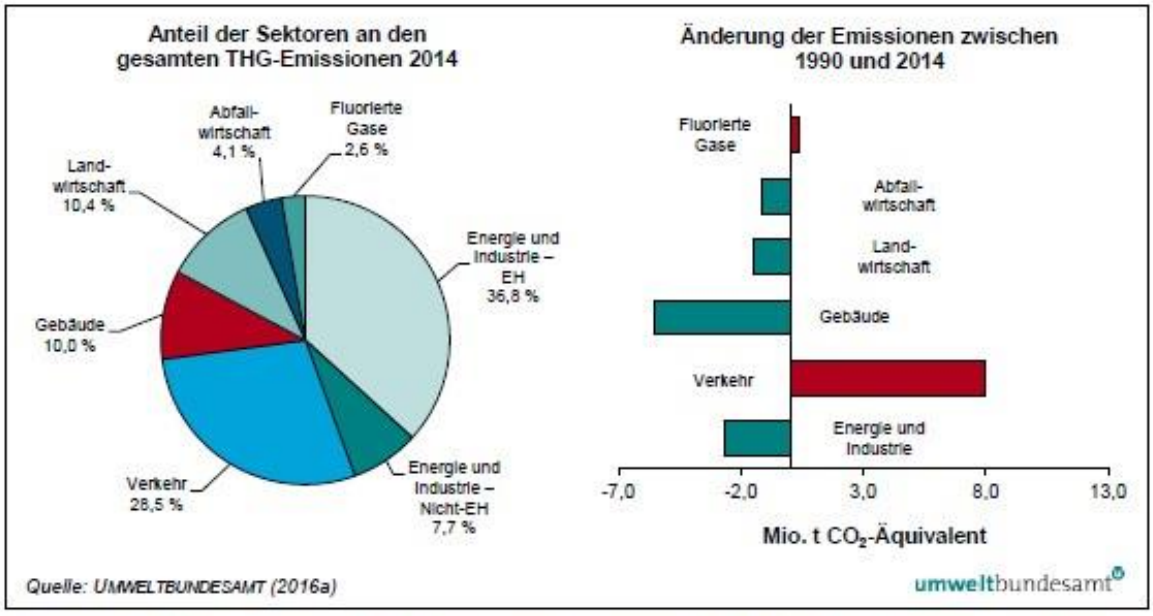


Abbildung 6: Anteil der Sektoren an den Treibhausgas-Emissionen 2014 und Änderung der Emissionen zwischen 1990 und 2014.

Legend:
Anteil der Sektoren an den gesamsten THG – Emissionen *2014 - Share of sectors in total GHG emissions*
Anderungen der Emissionen zwischen 1990 und 2014 *- Changes in emissions between 1990 and 2014*
Landwirtschaft *- Agriculture*
Gebaude *- Buildings*
Verkehr *- Traffic*
Energie und Industrie Nicht EH *– Energy and Industries (Without Emissionshandel (EH) Emissions trading)*
Energie und Industie EH *- Energy and Industries (With Emissionshandel (EH) Emissions trading)*

Fluorierte Gase *- Fluorinated gases*
Abfallwirtschaft *– Waste Management*
Mio. T. Co2-Aquivalent *– Tonnes of Co2 equivalent*

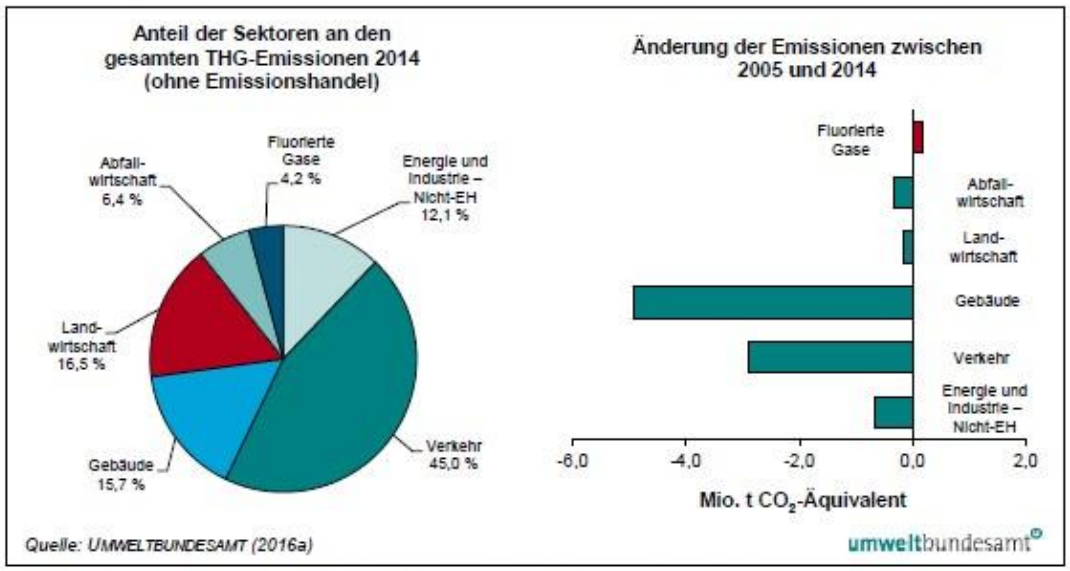


Abbildung 7: Anteil der Sektoren an den Treibhausgas-Emissionen 2014 (ohne Emissionshandel) und Änderung der Emissionen zwischen 2005 und 2014.

GHG emissions from air transport:

On the basis of Directive 2008/101 / EC of 19.11.2008 amending Directive 2003/87 / EC, emissions trading has also included the air transport sector since 2012. Austria is responsible for the administration of approximately 15 aircraft operators. Originally, all national and international flights that are launched or landed from an airport in the European Union should be covered by EU emissions trading.

However, in October 2013, the General Assembly of the ICAO (Assembly of the International Civil Aviation Association) decided to develop a global market-based measure to curb climate-damaging emissions from air traffic. The measure is to be developed by 2016 and implemented from 2020 onwards.

In response to developments at the ICAO, the European Union adopted Regulation 421/2014 / EU amending the EU Emission Trading Directive for air transport. The regulation provides, inter alia, That 2013 - 2016 only flights within the European Economic Area (EEA) are included in emissions trading. In addition, a threshold of 1,000 tonnes of CO2 per year has been set for non-commercial aircraft operators.

At the beginning of October 2016, the meeting of the ICAO came to an end, in which the EU also participated. The central theme of the meeting was the creation of an international instrument for applying market-based mechanisms to emissions from international air transport. According to the compromise proposal, air companies are to

compensate their CO2 emissions from 2020 by buying "emission units". These "emission units" are derived from CO2 reduction projects in other sectors, such as reforestation projects. This so-called "offsetting" is voluntary in a first phase - from 2020 to 2026 - only afterwards (2027 to 2035) will the mechanism be mandatory. The entry into force of the mechanism from 2020 onwards means that an increase in emissions from international air transport is still possible. Environmental associations are critical of the outcome of the conference. They warn that "offsetting" alone is not enough to counteract the effects of CO2 emissions. Moreover, the decision does not contain clear terms for offsetting, for example, which criteria must be applied to eligible projects (Madner / Hollaus, RdU 2016, 244).

Transport in Austria is currently the sector with the greatest deviation from the sectoral objective of the climate strategy (Climate Protection Report of the Federal Environmental Agency 2016, p. 35 ff). This applies in particular to air transport. According to the explanatory comments on the amendment of the Emission Reduction Code, which included air transport into emissions trading (330 Blg.NR XIV GP), emissions from air transport in the EU-15 have more than doubled between 1990 and 2006. If this trend continues, there is a risk that efforts to reduce GHG in other sectors will be counteracted by the sharp increase in emissions from air transport.

The emissions audited by the operators of Austria as an administrative Member State for 2012, taking into account the derogation, amounted to 1.23 million tonnes of CO2 equivalent. However, the emission balance of air transport was not relevant to the Kyoto target, since the air transport certificates are not linked to the amount of allowable emissions of a Kyoto contract division (Assigned Amount) (Climate Protection Report of the Federal Environmental Agency 2013, 48).

The CO2 emissions resulting from the quantities of kerosene (international bunkers) released in Austria for international air traffic amount to 2,050 kt CO2, or almost one-tenth of the emissions from road traffic, and have more than doubled since 1990 from 886 kt (EPA, Austrian National Inventory Report 2012, cited according to Kromp-Kolb et al., Austrian Environmental Report, Climate Change 2014, 181).

In the recitals of the above-mentioned Directive 2008/101 / EC, reference is made to the latest scientific evidence in the IPPC Fourth Assessment Report, which showed that the negative impact of climate change affects ecosystems, food production, achieving sustainable development, As well as human health and safety. The IPPC estimates that the overall climate impact of air transport is currently two to four times greater than the sole effect of its previous CO2 emissions. The aim of the Directive is therefore to reduce the impact of air transport on air transport by including emissions from air transport into the community system.

However, the concrete calculations mentioned for the project Vienna Airport third runway show that a reduction of the GHG emissions from the air traffic during the prognosticated growth, and will not take place when the relevant infrastructure is approved; it can already be assumed from the outset with particular likelihood, that the

directive and the implementation of the Emission Reduction Code, which is to be implemented, will not reach its target, at least with regard to Austria.

3.7. Regarding tax and duties:

The Federal Administrative Court notes that the airport of Vienna is largely exempt with regard to regulations for the provision of value-added tax, mineral oil tax, real estate tax, flight tax and capital gains tax.

Several plaintiffs have argued that the airport is preferred in terms of taxes and duties. The airport can only be operated economically by means of "financial splash" and various benefits. They criticize the fact that the airport can only survive through - among other things - extreme tax relief. As a result, the airport is a "tax haven".

At the hearing of the Federal Administrative Court, the questions of taxation and taxation were discussed (cf negotiation page 189 ff, as well as the supplement 18 presented by the sixth applicant) [Study by Steer Davis Gleave, The Austrian Aviation Sector in the context of the Business Location Austria, June 2014] and Supplement 19 [CE Delft, The economics of Heathrow expansion, February 2008]).

Following the submission of the negotiation letter, the Federal Ministry of Finance (BMF), at the invitation of the Federal Administrative Court, submitted a letter of 13 May 2015 on the tax and contributions issues raised during the hearing. In essence, the BMF confirmed the extensive exemptions in the area of value added tax, mineral oil tax, real estate tax, flight tax and capital income tax. The first party did not oppose these submissions.

3.8. Plant and animal protection:

The Federal Administrative Court notes that the erection and operation of the third runway will not affect the bee-eater bird species.

The complaint by the Ninth complainant alleges that the bee-eater is endangered species. For this purpose, reference is also made to the EIA procedure for the project "Spange Götzendorf" [Procedure of the BVwG Zl. W102 2000176]. The Federal Administrative Court brought an opinion by Dr. PROBST on the subject of ornithology. This results in the conclusion that there is no biologically active impairment of this bird species. No further concerns were raised by the complainants regarding the impact on animals and plants.

3.9. Land use:

The Federal Administrative Court notes that the construction of the third runway makes 661 hectares of high-quality agricultural land of the type "Chernosem" unusable for plant production.

It is suggested by individual complainants that the project results in massive land consumption. Valuable agricultural arable land is rendered useless. It is clear from the UV-GA, Partial Report on Agriculture, p. 7, by DI Schretzmayer, an official expert on the area, from the 23.04.2009, that Cernosem soils are characterized by a high natural soil value (high quality agricultural land).

In addition, due to the soil type (high silt fraction), the good supply of organic matter (humus soil) and the pH values in the neutral to weakly alkaline range, combined with the carbonate content, a high buffering capacity of the soils for pollutants can be assumed. Predominantly Chernosem.

Its occurrence is indicated in the mapping area (KB Schwechat) in the EBOD (Internet version of the digital soil map, http://gis.lebensministerium.at/eBOD/) with 4.427 hectares (= 34.5% of the mapping area). The average Cherno appearing in the mapping area is still 1 342 hectares (10.5% of the kart area).

Furthermore, the following is given in section 27 ff:

> "Of the total utilized agricultural area of approx. 864 ha, approx. 203 hectares can be used again after the construction phase. As a result of the completion of the project, areas of approx. 661 he tares of agricultural use are permanently removed.
>
> As a result of the project, the municipalities of Schwechat, Fischamend, Kleinneusiedl, Schwadorf and Rauchenwarth can be directly affected by the consumption of agricultural land. In this area, a total of 166 agricultural and forestry holdings managed 6,008 hectares of agricultural land and 1,037 hectares of forest. Compared to the year 1995, this means a decrease in the number of holdings from 194 to 166 with an approximately constant overall size of the cultivated land (1995: 5.920 ha). The average farm size increased from 36 ha in 1995 to 42.4 ha in 1999.
>
> Of the 166 agricultural and forestry holdings of the narrow investigation area, 100 were registered as main commercial enterprises, 56 as secondary producers and 10 enterprises as enterprises of legal persons. The main contractors and holdings of legal persons employed an average of 39.9 hectares of agricultural land.
>
> 73% of the total agricultural area was farmed by main companies and holdings of legal persons. Compared to the year 1995, the share of agricultural land used by the main farms and holdings of legal persons decreased from 76.3% to 73%, while the share of farmland cultivated by sideline farms rose from 23.7% to 27 %.

The agricultural area is used almost entirely (97%) as arable land in the narrow investigation area. The use as grassland, house gardens, orchards, vineyards and tree nurseries is insignificant in the narrow investigation area.
Livestock farming is of little importance. In 1999, 246 cattle, 2,100 pigs, 54 sheep and goats and approximately 5,000 poultry were kept. This corresponds to a livestock population of only 0.09 cattle per hectare (LU) per hectare of agricultural land. Compared with the year 1995, a further declining trend is evident despite the fact that livestock are already low.

Assessment:

In relation to the investigation area, approximately 11% of the total agricultural area of the municipalities is lost. Compensation measures in the sense of rebuilding agricultural land in the local area is not possible.

Effective protection measures for the soil and thus agricultural areas are currently de facto non-existent (see risk factor 11). In contrast to this is the pronounced legal protection of the forest. The comprehensive prohibition on grubbing proves that, in principle, the conservation of every forest area is in the public interest. The public interest in forest management therefore does not have to be proved in the grubbing-up process, it is already prescribed by law.

A special public interest can also be justified on the grounds of low forest resources or a negative forest area balance. As a condition for a clearing, substitute afforestations can be prescribed. Since only suitable soil is suitable for this purpose and soil (area) is not perceptible as such, the use of farmland is generally used for the replacement of afforestation.

This results in the fact that a strain of forest areas leads directly to a loss of agricultural land. Very often to a far greater extent, since replacement afforestation areas are required in the ratio of up to 1: 3 to the clearing area and higher.

(Page 100 of the original document)

The protection of the forest is thus far above the protection of agricultural land. Also, the designation as a priority agricultural zone (coherent land with a particular natural suitability for agricultural use) leads only to the consequence that a different type of cultivation as grassland -Agriculture and forestry may be devoted only if no other area is considered in the municipality for the intended dedication.

In the present project, only 84 hectares of agricultural land is used for ecological compensation measures and reforestation activities outside the future airport area.

In the case of afforestation areas, there is no doubt as to whether the extent of the replacement afforestation areas and the areas for ecological areas are higher than the agricultural areas.

The impact of the considerable loss of agricultural production area on agriculture can be considered in several respects: a.) At the operating level:

The available data regarding the structure of the company are already relatively old with the last years published by Statistik Austria in 1995 and 1999. The Green Report of Lower Austria slightly more updated, but is not entirely accurate with details the community level:

Compared to the survey in 1999, the number of agricultural and forestry holdings decreased by 15.5% in 2005 (agricultural structural adjustment). The jobs involved above-average small-scale enterprises (22%), while only 9.8% of the main contracter were left out.

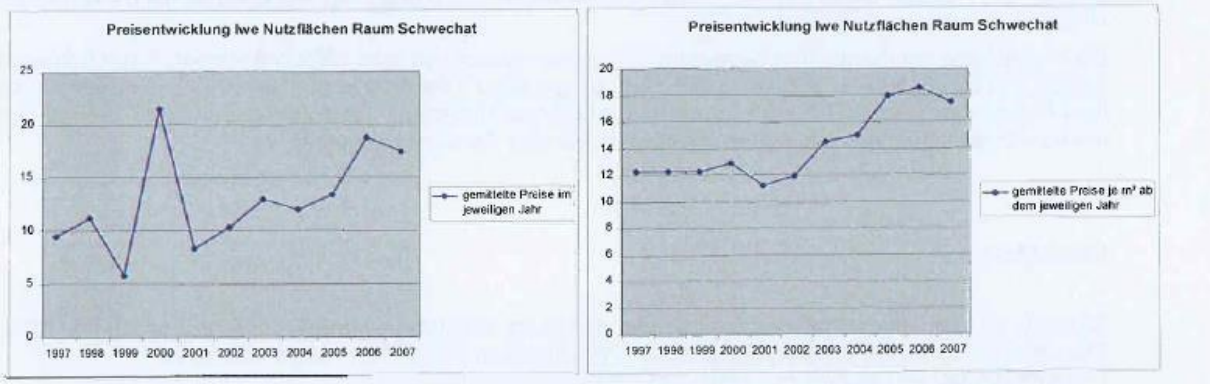
According to INVEKOS1, 22.59% of agricultural and forestry holdings were abandoned in Lower Austria between 1999 and 2007. There was a decline in the districts of Lilienfeld and Waidhofen a.d. (35%, 34%, 32%), followed by Gänserndorf, Bruck / Leitha, and Baden / Mödling, respectively. This affected mainly arable farming areas and significantly less grassland areas.

In the municipalities affected by the project, there has been an increasing pressure on agricultural land for years.

According to surveys in Wiener Neustadt, Enzersdorf / Fischa, Magareten / Moos, Fischamendmarkt, Rauchenwarth, Schwadorf, Mannswörth and Kleinneusiedl since 1994, 156 hectares of agricultural land were purchased from Vienna Airport in 40 business cases costing 19 million Euros.

In contrast to this, only 53 hectares were sold to the others in the 85 municipalities with a purchase sum of € 4.5 million. The average price in the latter cases was € 8.58 per meter square (/m2) at the airport € 12.26 / m2. But not only through the airport, there is a great deal of pressure on agricultural land, but also on the high pressure of settlement in the surroundings of the city of Vienna, and the resulting demand for infrastructure facilities and other areas (commercial and industrial areas, roads, public transport,).

Figure 3: Price development of agricultural land in the Schwechat area



[1] Die Definition des landwirtschaftlichen Betriebes lautet für die Agrarstrukturerhebung anders als für INVEKOS

The price development can be seen in the adjacent diagrams. In a period of 10 years, it rose from approx. € 8 per m2 of agricultural land to approx. € 18, while in the same period a falling price trend was recorded throughout Austria.

For agricultural use such land charges can not be financed. Under the given conditions, an expansion of the operating area is hardly possible.

In return, however, it should be noted that, of course, farmers profit from such prices, provided they sell the land.

On a stand-alone basis, the compensation of the surface load can only be achieved by means of corresponding payment payments. B.) Abstract

'Agriculture produces foodstuffs, raw materials, and, to a greater extent, also energy carriers. However, it is also a major factor in the labor market.

As a result of increasing technology and globalization, agriculture has undergone enormous changes in recent decades. For example, in the period from 1998 to 2006, the share of agriculture and forestry employees in Austria declined from 6% to 5.1%. The importance of regional supply has diminished considerably through intensive trade and transport. The importance of the area of 661 hectares of arable land is a question of reference.

In 2005 and 2006 approx. 11.5 hectares of land was used per day for traffic and construction areas in Austria, 5 hectares of which were sealed (Source: Umweltbundesamt, Eight Environmental Monitoring Report of the Environment Minister to the National Council). 661 hectares therefore correspond to the consumption of about 2 months.

Anteil an der Ackerfläche

	Verbrauch	Niederösterreichisches Flach- und Hügelland	Niederösterreich	Österreich	EU (27)
ha	661	488441	691307	1380481	105000000
%		0,1353	0,0956	0,0479	0,0006

In fact, the one-time concrete consumption of 661 hectares is not a problem but, as in many other areas, the cumulative effect, the consumption of 4,200 hectares year by year in Austria, but probably similar in the other EU countries and beyond. Therefore, a solution can not be found in individual cases, but must be strategically planned ('EU Strategy for Sustainable Development', 'The Austrian Strategy for Sustainable Development').

In reality, therefore, the question of the loss of agricultural land by land use is not a question of the field of agriculture, but rather of spatial planning. The 'Austrian Strategy for Sustainable Development' was formulated as a target to achieve a reduction of the growth of permanently sealed areas to a maximum of one tenth of today's value (by 2002).

It is stated there that in the future one of the central tasks of spatial planning will be to optimize the location for socio-political, resource-consuming uses, which takes account of all relevant aspects of sustainability.

The fact that spatial planning does not yet really cover the protection of agricultural land is documented in the contribution to spatial planning of the UVE, where this is dealt with relatively briefly: "The land use of the project remains a residual burden. However, the project mainly affects agricultural areas and existing transport areas. "The title of the specialist paper mentions only the protection of human beings.

In the area of sustainable agricultural areas - airport development (including forest management and replacement afforestation areas, ecological balancing areas, etc.), the need to weigh up by means of policy and spatial planning remains to which usage the more importance is attached: securing and further expanding the economic factor airport or preserving the land for agricultural production. "

4. Legal assessment:

4.1. On the bias/prejudice of the authority concerned:

In various complaints, the bias of individual authorities or the authorities concerned, the Lower Austrian provincial government as a whole, is alleged because it is a project of Lower Austria. There was an economic linkage between the country and the first party. The Lower Austria LandesBeteiligungsholding GmbH, a company which is wholly owned by the Provice of Lower Austria, administers the 20% shares of the Province of Lower Austria.

The Chairperson of the State government as a member of the authority concerned, both the sovereign (official decision by the authority concerned) and private-sector tasks (administrative holding of the Governor) of Lower Austria coincide inevitably. The Province of Lower Austria as a major shareholder of Vienna Airport has a considerable economic interest in granting the third runway. Furthermore, the second-concernd party, the department for state road planning, is part of the Lower Austrian provincial government and thus also the authority concerned.

The authorities concerned were prejudiced because the Land Niederösterreich was at the same time an applicant (the second-concerned party) or a project applicant and a validation authority; The officials concerned with the decision were bound by instructions.

Some plaintiffs argue that the public authority decides on its own merits, which is an infringement of the right to the legal judge according to the law. In adherence to Article 83 (2) B-VG, others argue the bias of the authorities leads to the nullity of this contested decision.

In this connection, the request is to refer the proceedings to another state government.

In the first place, it should be noted that - contrary to the alleged complaints - even a present bias does not result in lack of authority or invalidity of the decision. Pursuant to Section 39 (1) EIA-G 2000, the state government is responsible for proceedings under the first and second sections of this Act.

The law does not provide for a different provision in the event that a province concerned is itself a party to the proceedings or otherwise involved in the case. There can therefore be no doubt as to the competence of the Lower Austrian provincial government.

This also corresponds to the principles of the Austrian legal system, which does not recognize the incompatibility of the position of a local authority as a legal entity and the public authority on the other.

The safeguarding of impartiality is ensured by organizational regulations, service obligations of the institutions and their criminal liability.

In the sense of § 7 AVG (the relevant provision for regulating a bias in an administrative procedure), this can only be an individual administrative body (organ administrator), but not an authority as such (VwGH 29.03.2000, 94/12/0180, VwGH 22.06. 2005, 2004/12/0171). Even the intervention of a self-employed organist does not result in the lack of competence of the authority (Hengstschläger / Leeb, AVG2 § 7, RZ 20 ff mwN).

Thus neither the nullity of the contested decision nor the lack of competence of the Lower Austrian regional government as a defendant authority can be assumed.

If a defendant organ violates an official act contrary to § 7 AVG, it is objectively unlawful and therefore the procedure is deficient (VwGH 18.03.2013, 2011/05/0010). This

deficiency may be claimed by the respective legal remedy brought against the decision completing the proceedings. Ultimately, however, it is irrelevant whether the respective administrators of the authority concerned were affected by § 7 AVG. On the one hand, the complainants have not shown the relevance of this possible procedural error. They had to state in concrete form, in the complaints, the other result which the authority concerned could have obtained if the procedural rules were complied with (see, for example, VwGH 22.03.1999, 98/10/0041 and 27.04.2000, 99/10/0181).

If there are no material objections to the opinions prepared or the decision based on them, a bias would not constitute a significant procedural deficiency (VwGH 06.07.2010, 2008/05/0115).

On the other hand, the Federal Administrative Court now decides on the matter. Since the amendment of the Administrative Judicial Enforcement Act 2012, the administrative courts generally decide on the basis of the facts they have established (thus as factual instances) in the case itself (see Hengstschläger / Leeb, AVG2 § 7, RZ 25 ff mwN).

They are, therefore, also entitled to remedy violations by the authority against § 7 AVG or to issue an unqualified decision of the matter within the framework of Art. 130 para. 3 and 4 B-VG in conjunction with § 28 para. 2 to 4 VwGG (That is, to confirm, alter or completely abolish the decision). In the present case, the Federal Administrative Court also had to exercise the discretion of the authority concerned (see point III.4.12.2.).

Since, firstly, the applicants have not put forward the relevance of a possible bias of a manager of the authority concerned, and secondly, the Federal Administrative Court re-decides on the substance of the case, the arguments put forward in this regard need not be dealt with further.

4.2. On the bias of the cognizant Senate of the Federal Administrative Court:

At the hearing of the Federal Administrative Court, several complainants were put forward to the effect that the Senate was prejudiced/biased in its findings.

Although the Noise Emissions Division had been dealt with by a technical expert, no expert in the field of environmental hygiene was involved in this area of assessment, contrary to the appellants' request and also the announcement of the presiding judge. (Negotiation p. 48 ff). It was argued that the Senate was also biased since no supplementary expert opinion had been sought on various questions raised by the plaintiffs (see negotiation pp. 51 f and 261).

In this connection, it should be pointed out that, at the beginning of the hearing, the presiding judge has shown that the procedure is subject to the LuLärmIV, Federal Law Gazette II No. 364/2012, since it is a "special emmission control regulation " as captured in § 17 para. 3 EIA-G 2000.

Since LuLärmIV entered into force after issuing the contested decision to the authority concerned, that regulation is now to be applied in the proceedings before the Federal Administrative Court.

The noise sector is therefore no longer to be assessed according to the criteria of the trade regulation. The Federal Administrative Court therefore requested and examined the act for the issuance of this regulation by Federal Ministry for Transport, Innovation and Technology (BMVIT)

The study of the Medical University of Vienna, Institute for Environmental Hygiene, which is based on the regulation, was also examined. On the other hand, in the context of the provisions of the Federal Law on the Noise Control (BStLärmIV), the Federal Court of Appeals on W104 2108274-1, in contrast to the provisions of the Federal Administrative Court of Justice (BStLärmIV)), did not seek to initiate proceedings under Article 139 B-VG. The Senate therefore assumed during the hearing that the assessment of sound emissions from the point of view of environmental hygiene is covered by the application of the LuLärm. This was communicated to the complainant by the presiding judge. Therefore, there were no discussion topics on the topic of laryngology, and therefore no expert from the field of environmental hygiene had been brought into this area (Negotiation Letter p. 9).

An authority which represents a different legal position is not biased (VwGH 21.10.2009, 2009/06/0088). Even infringements of the law by the authorities alone do not give any indication of the existence of bias (VwSlg 8783 A / 1975). The cognizant Senate did not, therefore, regard itself as biased, because it took a different view from the legal view represented by the individual parties.

4.3. On the bias of a court appointed expert:

Furthermore, at the hearing of the Federal Administrative Court, a plaintiff claimed that the noise protection expert was "excluded from the procedure", because he had been involved in the decision-making process in the relevant authority's proceedings. It was argued that the Federal Administrative Court should have assigned a new expert.

Reference should be made to the case-law of the Administrative Court, according to which the reimbursement of an expert opinion by an expert is not involved in the decision, but in the process of evidence (i.e. the drafting of the decision).

Thus, in the appeal proceedings, an administrative court can refer to the same (official) expert (cf. Hengstschläger / Leeb, AVG2 § 7, paragraph 13, and § 53 rz 4) (VwGH 13.04.2000, 99/07/0155, 15.11.2001 , 2001/07/0146, 20.05.2010, 2009/07/0052, critical to this Hengstschläger, RdU 2012, 95).

Therefore, no bias of the noise protection expert can be assumed.

4.4. Rejection of applications for the deletion of the security zone in the land register (Proof Point A.II.):

The Federal Ministry of Transport, Innovation and Technology is responsible for issuing a safety zone ordinance for airports in accordance with section 87 (1) LFG. The existing security zone for the Vienna-Schwechat airport was also ordered by the (then) Federal Minister of Transport on 22.10.1976 in accordance with §§ 86 to 88 LFG. Since the safety zone regulation is not covered by the concentrated authorization procedure according to EIA-G 2000, there is no jurisdiction of the Federal Administrative Court to annul. The application for the cancellation of the Security Zone Regulation must therefore be rejected.

Since the application submitted by the first-concerned party is to be dismissed for the establishment and operation of the third runway, an application for the repeal of the Security Zone Regulation with regard to this project is to be submitted to the Federal Minister of Transport, Innovation and Technology. The latter then has to inform the Land Registry Court which land is no longer in the security zone. The Land Registry Court has the right to cancel the security zone on its own premises.

4.5. On the existence of public interests according to the LFG for the construction of the third runway:

4.5.1. What is meant by public interests according to LFG:

Pursuant to Section 17 (1) EIA-G 2000, the approval requirements laid down in the relevant administrative regulations and in paragraphs 2 to 6 of this provision are to be applied (Baumgartner / Petek, EIA-G 2000, 165). This stipulates that the applicable material requirements must be applied in addition to the additional approval criteria of the EIA-G 2000. This means that, in the EIA procedure, all substantive approval criteria must be fulfilled in order to ensure the approvability of the project.

If differently strict requirements arise, each of these requirements must be met as such.

Thus, each requirement for authorization must be assessed separately, each individual event being interpreted from its specific systematic context.

Therefore, a single ground for refusal can be found in the individual application requirements as a whole (Madner, Umweltaufleistungsprüfung, in: Holoubek / Potacs, Public Economic Law II, 924, N. Raschauer, Ennöckl / Raschauer / Bergthaler3, § 17 Rz 6, for the legal requirements for approval under the EIA procedure, see, for example, VwGG VwSlg 15.702 A / 2001, BVwG W104 2000178-1, Kötschach-Mauthen, Starkstromleitung, and VWGH 24.02.2015, Ro 2014/05/0097).

According to Section 68 (1) LFG, which is part of the EIA procedure, an authorization is required for the operation of civilian airfields (civil airfield permit). The same applies to any change in the modestly defined scope of operation of a civil airfield.

In accordance with section 71 (1) LFG, the civil airfield permit is to be granted if the project is suitable from a technical point of view and a safe operation is to be expected (a), the licensee is reliable and suitable for managing the enterprise (b), the beneficiary's financial resources ensure the fulfillment of the obligations arising out of this Federal Act on the flight operator (c), and other public interests do not conflict with the financial means of the grantor (d).

According to section 71 (2) of the LFG, the prerequisite for the granting of the civil airfield authorization of a public airfield is that there is a need for this. Airports may only be granted if their establishment is in the public interest.

According to section 72 para. 1 E LFG, the decision on the civil airfield licensing (among other things) has the conditions and requirements, in so far as it takes into account the provisions of § 71 para. 1 in particular with regard to the transport tasks of the civil airfield.

Accordingly, in accordance with section 71 (1) lit. d, the civil airfield permit can be granted only if "other public interests do not pose any opposition".

According to paragraph 2 of this provision, the prerequisite for the granting of a civil airfield license for an airport is that its establishment is in the public interest.

Both also apply to any change in the modestly defined scope of operation of an airport, which also requires a civil airfield license (section 68 (1) LFG).

Since the scope of operation of Vienna Airport is considerably expanded by the third runway, this is in accordance with section 71 (1) lit. d is subject to approval. Thus, if there is another public interest opposed to building the runway, it can not be built.

What is meant by these "other public interests" is not defined further in the LFG (eg § 17 (3) Forestry Law and §§ 104a and 105 Water protection law (1959); There is also no target definition in the LFG that could be used for interpretation (as, for example, in various nature conservation laws of the Länder, cf. § 1 para 1 OÖ NSchG, § 1 para 1 UVP-G 2000). Public interests are, in any case, to be understood as those which concern the interests of the common good over individual interests (see below in section III.4.5.14). When interpreting section 71 (1) lit. d it is therefore for the administration to determine which are the public interests which are relevant to this administrative decision.

The Administrative Court concerns itself with the question of what constitutes "other public interests" within the meaning of Article 71 (1) lit. (D) LFG, in its decision VwSlg. 7913 A / 1970 and pointed out:

> "It can be inferred from the word 'other' that the conditions laid down in the lit. (a) to (c) of section 71 (1) LFG do not fall under this category. It is therefore necessary to take account of other public interests which are to be exercised under the aviation law. Such public interests are, for example, the protection of

the universaility(§§ 92, 96 and 124 LFG), the maintenance of public peace, order and security (§§ 5, 124, 126, 145),The maintenance of life, health and property (§ 133), the guarantee of the security of the person and property (§ 122),The security of persons and things on earth (§ 128), the maintenance of disturbing influences on persons and things (§ 5) and the avoidance of avoidable noise (§ 14).

A prerequisite for granting an airfield license for a public airfield is, in accordance with section 71 (2) LFG, that there is a need for this. Airports may only be granted if their establishment is in the public interest. In particular, an airport is not in the public interest if:

(A) it is less than 100 km from an already approved and operating airport in the air line and would be likely to disrupt its traffic;

(B) the operator of the existing airport is in a position and willing to undertake the tasks envisaged for the planned airport within six months.

With the decision of 25.06.2008, 2007/03/0181, the Administratvie Court stated that the authority responsible for issuing a civil airfield license at airports according to § 68 para. 2 LFG had to examine whether the prerequisites required by § 71 LFG for the granting of the civil airfield permit, among others do not preclude that other public interests.

In this way, the authority is also obliged to keep life, health and property at risk. With the decision of 30.09.2010, 2010/03/0110, the Administrative Court reiterated that the protection of the general public, the keeping of dangers of life, health and property is among the public interests; including the prevention of avoidable noises.

As regards the construction of the third runway of the Vienna International Airport, the construction therefore must not outweigh the public interest for its construction. Such a public interest legitimating the project can exist for a variety of reasons, for example because there is an additional need for the increase in the number of movements, an increase in air traffic safety, the creation of additional jobs, a higher tax and tax revenue, or an improvement in Austria as a business location, especially in Vienna. The public interests, such as the reduction of greenhouse gas emissions, which are contrary to the permit are also to be achieved by achieving the so-called "two-degree goal" (see also point III.4.5.8 below) and thus to allow a limitation of the greenhouse effect, or, for example, the avoidance of soil consumption.

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Public interests can, in principle, be all interests of a common interest, irrespective of their nature. Pure private interests are excluded. If the law explicitly provides for the balancing of public interests, the inclusion of private interests must be avoided (see Stolzlechner, Administrative Decisions, Legal Considerations for the Consideration of Public and Private Interests in Individual Administrative Decisions, ZfV 2000/521).

The construction and operation of the third runway is subject to various public interests, as well as to a private interest of the first participating party to have financial benefits.

Projects of private institutions can be in the public interest if the realization also serves public interests and a proof thereof is provided.

The first participating party is the applicant for the public interest in the third runway (description of the project from 23.01.2008, document 01.01, purpose of the project, page 7 f), which is necessary because of the worldwide increase in flight movements and passengers.

This trend is also evident at Vienna Airport. In order to safeguard the hub function of Vienna, particularly in Eastern Europe, the competitiveness had to be secured by the construction of the third runway because the possibilities to meet this increasing demand with the existing runway system at Vienna Schwechat Airport were limited.

Taking into account the safety requirements, the capacity of the existing runway system is limited; they had 72 takeoffs or landings in peak hours. The growth of Vienna Airport is an important factor for the long-term positive development of the entire region. At the airport's location, more than 14,000 people are currently employed (including third-party companies). An increase in the number of passengers will also lead to an increase in jobs. The airport of Vienna also already secure more than 29,000 jobs in the Austrian economy. The added value generated by Vienna International Airport amounted to 2.8 billion euros per year (as of 2005).

This project would undoubtedly strengthen growth and create new jobs in the coming years. Each workplace at the location will bring another business into the Austrian economy.

As a provider of transport infrastructure, the airport makes a significant contribution to the dynamism of the entire region. Many companies needed worldwide flights to maintain their competitiveness. A generally accepted development of air transport in the region and the integration of the current or potential affected by the increasing volume of air traffic had been an important factor in planning, and a mediation procedure had been carried out in the interests of the widest possible participation of the citizens. The object of the mediation procedure was the design of air traffic in the existing two-lane system as well as the construction of a third runway at Vienna Airport.

The contested decision (pp. 362 ff.) is presented as being in public interest because there is a need to cover the increasing flight movements.

In addition, the project aimed at securing and strengthening the function of the airport as a key hub for air traffic and promoting economic development, including securing and creating jobs in the vicinity of the airport.

Overall, the public interest in the construction of the third runway is to be answered in the affirmative. Other public interests, such as the maintenance of public peace, order

and security, and the protection of the general public, would not preclude the granting of the requested authorization for the third runway.

Other conflicting public interests, which can not be met by effective measures, such as the avoidance of noise, land use, or the emission of greenhouse gases by the aircraft, which are additionally hauling the airport, have not been brought into the balance of interests.

The plaintiff has used a number of conflicting interests, such as the lack of needs, the increase in greenhouse gases, soil and water consumption and health problems caused by air pollution, sound emissions and electromagnetic fields (see I.3.1 above).

The first plaintiff is an environmental organization recognized in accordance with section 19 (7) of the EIA-G 2000.

The second, fifth, sixth and eight-to-eleven plaintiffs are citizens' initiatives pursuant to Article 19 (4) of the EIA Directive.

These plaintiffs are each entitled to assert compliance with environmental protection regulations in the proceedings.

They can therefore object that the construction or expansion of the airport is contrary to public interests (Section 71 (1) (a) to (d) LFG) or that the construction or expansion is not in the public interest (Section 71 (2) LFG).

In addition, the Federal Administrative Court determined further public interests in its proceedings, which were not or not sufficiently clarified in the administrative procedure, but were presented in the appeal.

In addition to the Federal Ministry of Finance (BMF), aspects of taxation and taxation were discussed, and the BMVIT, as the Supreme Air Authority, was asked in writing to comment on the issues raised during the hearing in connection with the existence of public interests (see point I.3.2.5.).

Furthermore, expert opinions were provided by Univ.-Prof. (I.3.2.3) and on the need to forecast the evolution of the flight movements of DI WIPF (I.3.2.6.).

The Federal Ministry of Economics and Technology (BMVIT) emphasizes that, in addition to the general security interests (such as the protection of the general public and the public from the dangers and disturbing effects of aviation), the LFG also expresses economic interests such as interest in air transport. The interests of the air transport industry include the "appropriate" or "economic operation", the "fulfillment of traffic tasks" or the need to satisfy and prevent destroying competition. There is also a threat to the transport duties of the publicly operated airfields which are subject to operational liability. Furthermore, the expansion of Austrian civil aviation in the public interest would be in accordance with the explanatory notes to § 71 of the legal version of the LFG.

In the Roadmap 2020, the strategic overall concept of the Austrian federal government is stated as "the development of a powerful and sustainable infrastructure" is anchored as one of the three main objectives for the strategic orientation of Austrian air transport. With the implementation of the formulated individual measures, such as the "construction of the 3rd runway, carrier: VIE", the preservation and strengthening of the air transport location in Austria will be ensured.

From a strategic point of view, the provision of a third runway at Vienna Airport will be regarded as essential for the further successful development of Vienna Airport as a hub location and for Austria as a commercial and air transport location. Only by ensuring an efficient infrastructure could the corresponding capacities be made available in order to be able to meet future developments in aviation as a growth market in the best possible way and to ensure connectivity in the sense of a strong expansive network at the Vienna Airport.

Finally, in the letter of the BMVIT, it is referred to the established case law of the Federal Administrative Court, according to which any improvement which serves to increase the safety of aviation is in the public interest.The current arrangement of the two operational flights at the airport in Vienna necessitates a major dependency on the take-off and landing movements of aircraft. By setting up the third runway, an independent parallel operation would be possible without operational restrictions on take-off and landing movements. This will substantially increase the safety of aviation at Vienna International Airport.Taking these aspects into account, the third runway was established in the public interest, which, would fulfill the need according to the explanatory notes to § 71 of the LFG's legal version.

4.5.2. On the unlawfulness of the official ruling:

According to Article 130 (3) B-VG, there is no unlawfulness in so far as the law grants discretion to the administrative authority and has exercised it within the meaning of the law.

It is open to interpretation on whether the carrying out of a weighing of interests is, at all events, a matter of discretion, (for example, Dünser, Jurisdiction of Courts in Courts) in Larcher, Handbuch Verwaltungsgerichtsbarkeit, 229, 245, mwN judicial jurisdiction, BVWG 21.01.2016, W113 2017242-1, Handalm wind farm; Rather, for example, Fuchs, Administrative court and administrative jurisdiction: Review and Outlook, in: Holoubek / Lang, The proceedings before the Federal Administrative Court and the Federal Finance Court, 232, 263).

The fact that various public interests which speak for the project have been stopped by the authorities concerned and other - opposing - public interests, such as climate protection, have not been discussed and weighed, the exercise of discretion by the authority concerned can not be seen as error-free.

Section 28 (2) of theAdministrative court procedural law (Verwaltungsgerichtsverfahrensgesetz VwGVG) provides that the administrative court has to decide on the substance itself if the relevant facts are established or if the decision itself is determined by the administrative court itself in the interests of the rapidity or is associated with a considerable cost saving.

The Administrative Court may, in all cases, amend the decision in all cases; The administrative court shall act or supplement this judgment.

If, as in the present case, the administrative exercise of discretion proves to be not within the meaning of the law because the relevant circumstances have not been fully established, the administrative court is empowered, in the event of the conditions for a decision on the substance itself (§ 28 2 VwGVG), if necessary after supplementing the investigation procedure, to exercise its own discretion (VwGH 01.03.2016, Ra 2015/11/0106, 26.04.2016, Ro 2015/03/0038).

Since the Environmental Senate, or the Federal Administrative Court, had already carried out a large number of amendments to the investigation procedure, a reassignment due to renewed discretionary practice would have been associated with additional time delays and additional expenses, especially since the relevant facts after an oral hearing and a supplementary party and does not require any additional investigation.

The Federal Administrative Court therefore has to examine the interests of the authority concerned in the procedure for granting a civil airfield license in accordance with LFG, or to carry it out and supplement it, if this has not already been done in the administrative procedure.

4.5.3. For the need or the forecast of the flight movements:

According to Section 71 (2) LFG, a prerequisite for the civil aviation permit is that there is a need. A civil airfield permit is also required for the substantial expansion of a civil airfield - as here through the third runway - and therefore also the need for the corresponding requirements is required. Already the requirement for authorization of the "need" according to § 71 paragraph 2 LFG indexes a public interest directly defined in the LFG. Through the creation of the corresponding legal basis with certain authorization requirements, the legislator has taken a weighing of the interests concerned.

(Reference: Yearbook of Austrian and European Environmental Law 2012, Interest Balancing in Austrian Environmental Law, p. 143).

The legal presumption that the project is in the public interest is thus already apparent from the fact that the question of additional requirements is defined as an authorization requirement by Section 71 (2) LFG.

As regards the meaning of the term "need", the Administrative Court in connection with the granting of compulsory rights stated that this was conceptually in a deficiency state. (VwGH 02.06.2005, 2004/07/0148, most recently the realization 29.01.2009, 2005/07 / 0041).

The need for a third runway has resulted in the procedure of the relevant authority. The plausibility test by the Federal Administrative Court also confirmed this need.

The LFG establishes the authorization of a civil airfield licence to the condition of an additional requirement in so far as a legitimate public interest in the LFG is determined.

It is as a result of sufficient proof (see point III.3.2 above), that the Commission considers the need for public interest at the Vienna Airport.

4.5.4. Arugments to improve the location of the Eastern region and to provide transport infrastructure:

By building the third runway, the international attractiveness of Vienna Airport is maintained, and this is further enhanced by the higher capacity for flight movements, and the associated increased international air connections and transfer options.

This will lead to an important improvement in the Austrian East region and to an improvement in the supply of air traffic infrastructure at Vienna International Airport in order to meet the foreseeable increase in demand over the next few years (see point III.3.3 above).

The construction of the third runway is in both the regional and economic interest of Austria.

Vienna is the seat of several international organizations (the headquarters of the United Nations, the Organization for Security and Cooperation in Europe [OSCE], the Organization of Oil Exporting States [OPEC] and several non-governmental organizations). With an improved connection to the international air traffic network, Vienna remains attractive as a location as well as for international conferences. This is in Austria's foreign policy interests. Furthermore, these international organizations generate around 10,000 jobs directly and indirectly. This also has direct and indirect monetary and economic effects, which is in public interest.

The construction of the third runway and the subsequentluy improved supply of air traffic infrastructure with regard to the resulting appreciation of the economic location of the eastern region of Austria as well as the city of Vienna as the seat of international organizations and the venue for international conferences is in the public interest.

4.5.5. From the viewpoint of additional job creation

Following on from the above, the improvement of economic conditions in Austria's eastern region is mainly due to the maintenance and improvement of the air traffic infrastructure.

This will have a positive effect on the labor market situation. There will also be additional jobs directly at Vienna International Airport, but also in the greater area (see section III.3.4.).

4.5.6. For flight safety:

The construction of the third runway leads to an increase in flight safety (see point III.3.5 above). According to the court's ruling, any improvement which leads to an increase in the safety of aviation is in the public interest (cf. the judicial references in point III.4.5.1.).

Ultimately, the authorities concerned, such as the airport and Austro Control, have to give priority to flight safety, in accordance with ICAO's national and international regulations, in the handling of air traffic (Section 74 of the LFG and the Civil Airfield Operating Regulations).

Thus, when the airport is a hub in a transport network that has insufficient capacity, there are delays or refusals of traffic. This should be taken into account in a long-term traffic planning.

4.5.7. Vienna Airport Operations

According to the opinion of the Federal Ministry of Transport, Building and Urban Development (point I.3.2.6.), the construction of the third runway ensures the operational obligation of Vienna International Airport, which is in the public interest. But even without construction of the third runway, the operation is secured at the Vienna Airport. Regardless of the runway system, overloading can occur during the operation of the airport, in which operation can not be carried out smoothly. However, consideration should be given to long-term planning.

4.5.8. The contribution of the project to the greenhouse effect:

In its decision of 24.08.2011, 2010/06/0002, on the construction of the Schrick-Poysbrunn section of the A5 Nordautobahn, the Administrative Court shared the then official assessment that solutions to the Kyoto Protocol targets at national and international level need to be found.

The severe environmental impacts referred to in section 24f (4) of the EIA-G 2000 (this provision corresponds to the type of project to be evaluated in the second section of the EIA-G 2000 of the provision of § 17 (5) UVP-G 2000) related to environmental impacts in the area specifically affected by the impact of the project.

It can not be inferred from the "Kyoto Protocol" that projects which caused a certain increase in the emissions of climatically relevant gases would not be permissible.

However, the existence of a public interest in the project to be assessed here must already be examined at the level of the substantive law (§ 71 (2) LFG) without the application of § 17 para 5 EIA-G 2000. Of the individual applicable approval requirements, the application must be rejected if an overall assessment results in serious environmental pollution that can not be adequately avoided or minimized by secondary determinations.

However, a restriction of the public interests to be taken into account under the LFG is not apparent.

With the Climate Protection Act (KSG), Austria has set itself the goal of achieving a reduction in GHG equivalents from 51.5 to 48.8 million from 2015 to 2020; Which would be a decrease of 5.24%.

The transport sector is expected to fall by 22.2% to 21.7%, which constitutes of a decrease of 2.25%.

However, the construction and operation of the third runway will result in an increase of 1.79% (assuming the WEM scenario) and 2.02% (assuming the scenario WAM) of the total emissions of GHG emissions from all of Austria (cf. Point III.3.6.6.).

The GHG emissions were not mentioned in the procedure of the authority concerned, nor were they used for weighing purposes. The GHG emissions, however, must be included in the considerations.

From the explanations above under point III.3.6. It is clear that climate change in Austria is already underway and will have a major impact on humans, animals, plants and the entire environment in the future.

There are significant reductions in property values, loss of jobs, especially in the tourism and agricultural and forestry sectors, flood catastrophes and a drastic increase in heavy heat days.

Furthermore, considerable production losses are expected in agriculture and forestry. These will also result in the loss of animal and plant species as well as additional human deaths and severe health impairments.

Serious damage to Austrian agriculture is to be expected.

A significant reduction in the additional THG emissions caused by the project third runway can not be significantly reduced either by the emission reduction measures proposed by the first-concerned party nor by secondary measures in the decision of the Federal Administrative Court.

The construction and operation of the third runway is contrary to the public interests of environmental protection, in particular climate protection.

4.5.9. Regarding tax and duties:

The fact that Vienna Airport does not make a direct, substantial contribution to tax and duties is borne by the will of the legislature and can not be held against the first party as an opposing public interest.

From the point of view of taxation and duties, there is therefore neither a legitimate nor a contrary interest in the project of the third runway.

4.5.10. Land use:

Through the construction of the third runway, 661 hectares of high-quality agricultural land of the type "Chernosem" are rendered unusable for plant production. Soil is a scarce resource that can not be reproduced (see point III.3.9.).

The consumption of high-quality arable land on this scale contradicts the public interest.

It should also be recalled that this means that agricultural production is further removed from the consumer, the greater Vienna area, thereby worsening regional supply, which is contrary to the public interest.

According to the official expert, agriculture is not a consumption of 661 hectares, but, as in many other areas, the cumulative effect.

Thus, in Austria, but probably in a similar dimension, soils in the other EU states and beyond, year after year.

A solution can not be found in individual cases, but must be made through strategic planning.

In reality, therefore, the question of the loss of agricultural land by land use is not a question of the field of agriculture, but rather of spatial planning.

In the document "The Austrian Strategy for Sustainable Development", the aim was to reduce the growth of permanently sealed areas to a maximum of one tenth of today's value (which was related to the year 2002) by 2010.

It is one of the central future tasks of spatial planning to carry out a site optimization for socio-political, resource-consuming uses, which takes account of all relevant aspects of sustainability.

The fact that spatial planning does not yet really take account of the protection of agricultural land is documented in the spatial planning section of the UVE.

This will be dealt with relatively briefly: "The space consumption of the project remains as a residual load. However, the project mainly affects agricultural areas and existing transport areas ".

Even in the title, only the protection of man is mentioned. In the area of tension, agricultural areas - airport development (including forest management and replacement afforestation areas, ecological compensation areas, etc.), the need for balancing through policy and spatial planning remains to which usage the higher importance would be attached:

Securing and further developing the economic factor airport or the conservation of land for agricultural production.

The high level of soil utilization of the project as a whole is contrary to the public interest in maintaining the livelihoods of the population.

4.5.11. Plant and animal protection:

The proof has shown (III.3.8.) that there is no direct impairment in the plants and animals.

The project does not preclude the protection of plants and animals.

4.5.12. Other aspects relating to the third runway:

Noise immission of the land-bound traffic carriers occurs along the entire route between the starting point and the end point of a travel movement. On the other hand, noise emissions from air traffic are restricted to the vicinity of the airport.

Land-based modes of transport offer a travel alternative to air traffic only in the area of the short and partly the medium-haul routes.

Here too, land-based modes of transport also have an impact on the environment, in particular by noise pollution and the "dissection effect" of a traffic route in the landscape structure. This is particularly true with regard to noise exposure.

At least in the vicinity of road and railways, similar noise emissions are generated as in the vicinity of an airport, but spread over the entire course of the route.

In the area of long-haul, there is a public interest in the construction of the third runway compared to land-based modes of transport.

4.5.13. Economic aspects:

The economic interest of the first participating party in the construction and operation of the third runway is not to be taken into account in the assessment decision.

Thus, the Federal Administrative Court, with its discovery of 09.11.2016, Ro 2014/10/0043, stated on the occasion of the refusal of clearing permit, that purely economic considerations of utility or expediency are not sufficient to establish a public interest in a different use of forest soil (cf. The recognition of the VwGH 18.06.2013, 2012/10/0133, mwN.).

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The consideration of private-sector interests is not scheduled in the approval of a civil airfield license in the LFG.

4.5.14. Overall result

According to Article 130 (1) (1) B-VG, the administrative courts recognize, inter alia, on complaints against the decision of a management authority on the ground of illegality.

Paragraph 3 of that constitutional regulation provides that, except in administrative matters and in the cases pertaining to the jurisdiction of the administrative court of the Federal Republic of Finance, there is no unlawfulness, insofar as the law grants discretion to the administrative authority and has exercised it within the meaning of the law.

The Federal Administrative Court has therefore, pursuant to § 28 para. 2 iVm. (4) decided to take into consideration, the weight of public interests (see section III.4.5.2 above).

The establishment or extension of an airport can only be granted if (among other things) there is no opposition to public interests within the meaning of section 71 (1) lit. D LFG and the public interest within the meaning of section 71 (2) LFG is given (III.4.5.1.).

The public interests are therefore to be weighed above any other.

Evaluation criteria:

In many cases, legislators have already prioritized different interests. This is, on the one hand, determined by the target regulations (eg in nature conservation laws), on the other hand by the fundamental rights concerned (Label in: Yearbook of the Austrian and Europe, Environmental Law 2012, International Assessment in Austrian Environmental Law, p. 144, with reference to Berka, Constitutional Law 3 [2010] 1550).

In the LFG, the requirement as a legitimate public interest is explicitly stated in Section 71 (2).

Criteria for consideration, which under the "other public interests" according to § 71 Abs. 1 lit. D LFG is to be understood as not allowing the opposition to provision of civil airfield permit, are however not defined in the LFG.

In any case, public interests are to be understood as those which concern the interests of the common good over individual interests.

These are, in the present case, the requirements set out in point III.4.5.3. To III.4.5.11. Enumerated interests. Private economic interests must therefore not be included in the consideration.

Even if no criteria for the evaluation of the interests are provided in § 71 LFG and such a constellation is criticized in the literature with reference to Article 18 B-VG (Stolzlechner, administrative law-making decision-making, legal questions regarding the consideration of public and private interests in individual administrative decisions, ZfV 2000/521), the Constitutional Court considered this relevant provision in the National Conservation Act to be unobjectionable (VfSlg 11.019 / 1986, cf., further, vfSlg 9883/1983 mwH).

If no criteria can be taken from a substantive law, as in the case of the LFG, the evaluation must be based on the value of democratically legitimated organs or the gradual building of the legal system.

Such indications arise, for example, from decisions of the Federal Government or resolutions of the National Council, from the provisions of Union law, as well as from federal and state constitutional provisions.

The public interest legitimizing the project:

As the project legitimizing public interest is the growing need, the increasing demand for the flight movements in the Austrian East region, which in the foreseeable future, is to be anticipated. As a public interest, the need is expressly stipulated as an authorization requirement in § 71 (2) LFG (III.4.5.1 and III.4.5.3).

There is also a particular public interest in the construction of the third runway with regard to Austria's regional and economic interests by offering high-quality transport infrastructure to connect to the international air traffic network for the Austrian economy and tourism. This will also secure or generate jobs (point III.4.5.4.).

A high-quality connection from Vienna to the international air traffic network is also beneficial for international organizations, which are based in the federal capital, from a foreign policy perspective of public interest (see point III.4.5.4.).

Ultimately, jobs will also be created directly and indirectly through the third runway at the airport (III.4.5.5.). However, this is of secondary importance in the evaluation, since the construction of such a transport infrastructure does not have the purpose of creating jobs at Vienna International Airport.

It was not possible to assess the extent to which the implementation of the project could lead to the loss of jobs in other modes of transport and in other regions.

No special public interest in the construction of the third runway exists from the point of view of taxation and taxation.
The procedure resulted in a tax-exempt and duty free position of airports, which is legally anchored and is thus supported by the democratic will (see point III.4.5.8.).

The public interests opposing the project:

The public interest in avoiding and reducing climate change and its consequences is strongly opposed to the stated interests in the construction and operation of the third runway.

Austria has already been particularly affected by this.

Already, the global average temperature is around 0.85 ° C above that at the end of the 19th century.

In Austria, the temperature increase is more than twice as high as in the global average and is already at 2 ° C.

A further temperature rise of 1 - 2 ° C up to the middle of this century is to be expected.

The achievement of the two-degree goal would mean an increase of almost 4 ° C for Austria.

As an alpine state, Austria is particularly diverse and drastically affected by the effects of climate change, which will lead to the destruction of wealth and jobs, as well as changes in the landscape.

The disastrous and far-reaching consequences of climate change are enumerated in a decision of the Federal Government of 23.10.2012 (see section III.3.6.).

In the document on the ministerial decision of the Austrian Federal Government of the 23.10.2012

("The Austrian Strategy for Adaptation to Climate Change" - Part 2, Action Plan, Recommendations for Implementation) is carried out:

"Heat waves lead to increased mortality but also affect morbidity, performance and well-being.

In particular, children, the elderly and persons with cardiovascular disease are considered to be particularly affected.

"Furthermore, the likelihood of the risk of skin tumors and cancer being increased (see section III.3.6.6).

As a result of climate change, serious damage to health and an increase in heat-related deaths are to be expected.

The project will make a major contribution to the increase in GHG emissions. Thus, the goal is to reduce GHG emissions all over Austria.

However, in the case of the health and life products, an evaluation of goods with opposing public interests is by no means considered [cf. Melt / Schwarzer, UVP-G (2011), § 17, RZ 147, Altenburger / Berger, UVP-G Environmental Impact Assessment Act2 (2010), RZ 48].

At the same time, Austria has been compelled by law both internally and internationally to reduce GHG emissions.

Austria has far missed this goal and will not reach it by 2025 (III.3.6.7.).

Furthermore, the use of the third runway leads to considerable land use (III.3.11.).

Consideration through principles of European Union Law:

The European Union (like the Republic of Austria) has joined the climate protection agreement of Paris.

Furthermore, the Effort-Sharing Decision (Decision No 406/2009 / EC of the European Parliament and of the Council of 23.04.2009) should also be taken into account in the present case.

This is the reason why EU law should be applied and, therefore, Art. 37 Charter of Fundamental Rights of the European Union (GRC) must also be observed.

This provision aims to achieve a high level of environmental protection and, in any case, also includes the environmental media air, water and soil (as in the third sentence of the second sentence of the BVG Sustainability Act - below).

In addition, environmental protection, as defined by Art. 37 GRC, is defined by the principle of sustainable development, which also targets the interests of future generations at European level.

The explicit reference to the improvement of environmental quality in Article 37 GRC is an indication that environmental measures must not only protect and preserve the present state of the environment, but also take measures to improve environmental conditions.

Art. 37 GRC, as well as the national target provisions of the BVG, must be included in the interests weighing. The Constitutional Court also interprets provisions of the GRC interpretatively (eg VfSlg. 19.632 / 2012).

Consideration by Federal and Land Constitutional Law:

The evaluation of public interests is not absolute and is subject to the change of time.

When the relevant provision of LFG (Federal Law Gazette no. 253) was issued in 1957, climate change and the prevention of greenhouse gas emissions have not yet been considered.

At the time, the air was largely still a free product. Now, the compulsion to take into account the increase in greenhouse gases and the associated overall social costs is also acknowledged at the level of international law, but also in federal and state legislation.

Climate change is one of the most urgent problems in today’s context.

As a result of the changes in the situation, the interpretation of the concept of public interests has also changed.

The dominance of the development of aviation and the related economic aspects typical of the time when the LFG was adopted are replaced by increased attention to environmental protection.

This is also reflected by the issuance of the "Federal Constitutional Law of 27 November 1984 on Comprehensive Environmental Protection" with Federal Law Gazette No. 491/1984 (BVG Umweltschutz), which introduced environmental protection as a national goal.

The Federal Constitutional Law for Environmental Protection was then adopted in 2013 by the "Federal Constitutional Law on Sustainability, Animal Protection, Comprehensive Environmental Protection, Water and Food Supply and Research" (Federal Constitutional Law for Sustainability), BGBl. I No. 111/2013, and has been superseded.

The Federal Constitutional Law for Sustainability is, therefore, to be used in the interpretation of the notion of public interest as means to achieve a national target.

According to the BVG sustainability, the Republic of Austria (the Confederation, the Provinces and municipalities) is committed to the principle of sustainability in the use of natural resources in order to ensure the best possible quality of life for future generations (§ 1) awell as on comprehensive environmental protection (§ 2 para. 1).

Comprehensive environmental protection is the preservation of the natural environment as a human basis for humans from harmful effects.

Comprehensive environmental protection consists, in particular, of measures for the protection of air, water and soil and the prevention of noise pollution (section 2 (2)).

The Lower Austrian Provincial Law 1979 (Lower Austria, 1979) – concerns itself with the third runway in the province of Lower Austria – and prioritizes environmental protection and especially for climate protection.

Thus in Article 4 under the heading "Aims and Principles of State Action" in paragraph 2 ("Living Conditions") state:

> "The Procince of Lower Austria has to ensure that the living conditions of the Lower Austrian population in the individual municipalities and regions of the country are ensured, taking into account the estimated economic, social, and cultural needs.
>
> In this context, the creation and maintenance of appropriate working and social conditions, the fundamental recognition and maintenance of Sundays as a day of work rest, the best possible protection of the health care as well as sufficient housing possibilities, the protection and the care of the environment, nature, landscape and place."

Finally, the last sentence of this clause specifically states: "Climate protection is particularly important."

In the provinces of Vorarlberg, Tyrol, Salzburg, Upper Austria and Carinthia too, environmental protection and climate protection in particular are given prominence as an objective and principle of state action.

Furthermore, Article 4 (3) of the Lower Austrian Law, under the heading "Economy", provides that "the Land of Lower Austria shall promote the development of the economy, taking into account social, ecological and regional needs".

Thus, both the Federal and the Lower Austrian Constitutional Authorities have emphasized environmental protection - and in particular climate protection - as a particular target.

Even if such national targets are primarily directed at the legislature, these constitutional provisions are nevertheless to be used as an interpretation aid within the framework of the co-application (cf. the BVG on the comprehensive environmental protection, Federal Law Gazette no. 491/1984, The author is not responsible for any contents linked or referred to from his pages - unless he has full knowledge of illegal contents and would be able to prevent the visitors of his site fromviewing those pages : Korinek / Holoubek [Hrsg], Federal Constitutional Law BVG Environment, Kerschner [Hrsg], State Objective Environmental Protection [1996]).

Although national targets are directed primarily at legislators, they can be used as a means of interpretation in the interpretation of undefined legislation (such as 'public interests') (see Budischowsky, The Confession to Water Supply as a State Goal, RdU 2015/113 p 182, Köhler, Nature Conservation Law2, p. 24 mwN, VwSlgNF 13.466 A / 1991).

Evalution by means of resolutions or resolutions by state authorities:

The Austrian Federal Government has decided by a resolution adopted by the Council of Ministers on 23.10.2012 to adopt a strategy for adaptation to climate change.

All the possible consequences of climate change are to be taken into account in all relevant planning and decision-making processes on the national level up to the local level, take into account the private sector and the individual (p. 127).

In the hearing before the Federal Administrative Court, the "Aviation Road Map 2020", prepared by BMVIT, was submitted by the first concerned party.

This was noted in 2011 by the Federal Government in the Council of Ministers. This strategy paper is an overall concept of the Federal Government on the optimal development of Austrian aviation up to the year 2020.

In the "Roadmap 2020" construction of the third runway is placed on the fourth category in a five-stage scale. The construction of the third runway is therefore not the highest priority.

In the 102nd session of the National Council, the resolution of 12.11.2015 concerning Austria's contribution to an ambitious result at the Climate Conference COP 21 in Paris (114 / E XXV. GP) was adopted by a majority. Accordingly, the Federal Government, and

in particular the Federal Ministers of Agriculture, Forestry, Environment and Water Management, Calls on the European Union and its objective to reduce the number of European countries' Greenhouse gas emissions of at least 40% by 2030 against the 1990 status at the COP 21 climate conference in Paris for an ambitious global, legally binding climate protection agreement for the post-2020 period, which is consistent with the objective of limiting the increase in global average temperatures to below two degrees Celsius.

Ruling

As to the construction of the third runway, the public interests speak of an additional need for air connections and the associated improvement of the eastern region of Austria as well as the better supply of transport infrastructure and the creation of additional jobs.

Also in terms of flight safety, the third runway would be a profit, but the authorities always have to give priority to safety.

No special public interest in the construction of the third runway exists from the point of view of taxation and duties.

In the Austrian Federal Constitution as well as the Lower Austrian Land Constitution, environmental protection - and here climate protection in particular - is given special priority.

Also, EU laws aims at a high environmental protection level through Art. 37 of Governance, Risikomanagement und Compliance (GRC).

As climate change is associated with severe health damage, with an increase in heat - related deaths as well as severe impairments of the Austrian economy and the agriculture and the project will lead to a significant increase in GHG emissions, the public interest in the realization of the project fall below the public interest in the protection against the negative effects of climate change and land use.

On the whole, the public interest prevails that there is no further significant increase in GHG emissions in Austria due to the construction and operation of the third runway.

Austria respects its national and international commitments to reduce GHG emissions compared to the various public interests that speak for the establishment of the project.

Also, the preservation of valuable arable land for future generations to provide food is urgently required.

The public interest in the construction of the third runway is thus largely lacking. The application submitted by the parties concerned must therefore be dismissed in its entirety.

Against this background, it is also not necessary to address the other applications and submissions made by the plaintiffs.

Since the application submitted by the parties concerned must be dismissed in the light of the complaints lodged by the complainant non-governmental organization and of the citizens' initiatives, the complainants of the other complainants need not be considered further.These are natural persons who can only assert the violation of subjective rights.

IV. The inadmissibility of the revision (point C):

The revision of the 15th complainant is not admissible, since the question of the potential concern of possible neighbors and the possible party position has already been sufficiently clarified by the Federal Administrative Court (24.06.2009, 2007/05/0171; VwGH 24.06.2009, 2007/05 / 0171; VWGH 23.09.2004, 2004/07/0055).

The revision of the 23rd complainant is not admissible because the Court has already decided that only one environmental organization recognized according to § 19 para. 7 UVPG 2000 is party (17.02.2016, Ro 2016/04/0001).

The revision against the refusal of the applications for the deletion of the security zone in the land register is not permissible because the legal situation regarding the jurisdiction of the issuance of a security zone regulation for airports has been clearly and unequivocally clarified in accordance with section 87 (1) LFG.

There is no question of legal relevance even if the legal situation is clear (VwGH 28.05.2014, Ra 2014/07/0053).

The revision against Point of Reference A. is therefore inadmissible.

The determinants of the conduct of the interests weighing up have been set out in detail by the Administrative Court in the context of permanent jurisprudence (see the Judiciary quoted in section III.4.5). The position of the substantive interests balancing in the EIA procedure can also be regarded as judicially clear (see the judg ment cited in points III.4.5.1 and 4.5.2.).

As both the KSG and the Effort Sharing Decision (Decision No 406/2009 / EC of the European Parliament and of the Council of 23.04.2009) were not applied directly, but were taken into account only within the framework of the air traffic law balancing of interests, this interpretation is not a matter of fundamental importance.

Thus, the present decision does not deviate from the previous case-law of the Administrative Court, nor is there any jurisprudence; The present case-law of the Court is not to be assessed as inconsistent, and there are no other indications of a fundamental importance of the question to be solved.

The revision against Point of Reference B. is therefore inadmissible

Legal remedy:

A complaint against this decision may be lodged with the Constitutional Court and / or a regular or extraordinary revision to the Administrative Court within six weeks of service.

A lawyer's obligation applies to the drafting and file of a complaint or revision.

In order to lodge a complaint with the Constitutional Court, one who is infringed by the decision in a constitutionally guaranteed law or by applying an unlawful general norm in rights is entitled.

A revision is permitted if the decision depends on the solution of a legal question of fundamental importance.

A complaint must be submitted to the Constitutional Court.

A revision shall be submitted to the Federal Administrative Court unless otherwise stipulated by law, with an entry fee of € 240, which is payable.

FEDERAL ADMINISTRATION
Special Session W109, on 02.02.2017

Mag. BÜCHELE
(JUDGE)