

Questionnaire for the

**REPORT OF POLAND ON THE IMPLEMENTATION  
OF THE CONVENTION ON ENVIRONMENTAL  
IMPACT ASSESSMENT IN A TRANSBOUNDARY  
CONTEXT**

in the period 2006–2009

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# PART ONE – CURRENT LEGAL AND ADMINISTRATIVE FRAMEWORK FOR THE IMPLEMENTATION OF THE CONVENTION

*In this part, please provide the information requested, or revise any information relative to the previous report. Describe the legal, administrative and other measures taken in your country to implement the provisions of the Convention. This part should describe the framework for your country's implementation, and not experience in the application of the Convention.*

## Article 2

### General Provisions

#### DOMESTIC IMPLEMENTATION OF THE CONVENTION

1. *List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2.2).*

Establishment of national and transboundary EIA procedure by means of the following legal acts:

1. The Act of 3 October 2008 on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessment (O.J. 2008.199.1227 as amended) - hereinafter EIA Act of Law,
2. Regulation of Council of Ministers of 9 November 2004 on the types of projects likely to have significant effects on the environment and on the detailed criteria considering the qualification the project as for preparing the environmental report (O.J. 2004/No 257/Item 2573) - "Regulation",
3. Bilateral Agreement on transboundary EIA between Poland and Germany,
4. Bilateral Agreement on transboundary EIA between Poland and Lithuania.

The EIA Act of Law came into force on 15 November 2008 and thus fully repealed the provisions of The Act of 27 April 2001 on Environmental Protection Law (O.J. 2008. 150. 25 as amended) - hereinafter Environmental Protection Law which had regulated national and transboundary EIA procedure until this date.

At this place it is necessary to point out that the EIA Act of Law established the new central government administration authority - General Director for Environmental Protection (hereinafter GDOS) - who is responsible for national and transboundary EIA procedure. This body took over competences from the Minister of Environment in the EIA and SEA scope.

2. *Indicate any further measures to implement the provisions of the Convention that are planned for the near future.*

Poland is currently preparing the amendments of "Regulation". The amended "Regulation" will come into force at latest on 15 November 2010. There will be some changes in planned activity's thresholds which are required by Directive 85/337/EEC and through such amendments the Annex I and II of this directive will be fully implemented into Polish legislation.

Moreover, SEA Protocol ratification is still pending in Poland. This Protocol is currently under agreements with other Ministries and after this stage it must go through the Parliament in order to be accepted and finally signed by President.

After completed ratification the Protocol will be included in the Official Journal of Poland. However Poland has not ratified Protocol yet but so far all its provisions were incorporated and implemented into national legislation, especially in the EIA Act of Law.

Similar situation is according to the second amendment to the Espoo Convention, because Poland is presently considering its ratification. Unfortunately there is no definite time of starting and finishing this process but it is worth to indicate that provisions of second amendment to the Espoo Convention as so far were included in the EIA Act of Law, and in the most cases, when it is of course possible, the Affected Party is notified at the scoping stage.

Moreover due to fully implementation the provisions of the Espoo Convention Poland is currently preparing negotiation of the new bilateral agreements with Czech Republic, Slovakia, Belarus and renegotiation of existing agreements with Germany and Lithuania. It is also worth to indicate that we have recently received the invitation from Ukraine to negotiate such agreement so that we will probably start discussion with this country in near future.

#### TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE

### 3. *Describe your country's national and transboundary environmental impact assessment (EIA) procedures and authorities (art. 2.2):*

#### a. *Describe the EIA procedure in your country and indicate which steps of the EIA procedure include public participation;*

Since 28 July 2005 (when previously EIA provisions set up in Environmental Protection Law came into force), the national EIA procedure has to be conducted on the stage of issuing the decision on the environmental conditions (so called "environmental decision"). Moreover since 15 November 2008 (when new EIA Act of Law came into force) the EIA procedure can be repeated for one project concerned on the stage of issuing the decisions such as a decision on the construction permit, a decision to approve a construction design, a decision to allow the construction works to resume, a decision on the permit for the implementation of a road investment project and a decision on the permit for the implementation of a public use airport.

A decision on the environmental conditions shall be issued prior to obtaining:

- 1) a decision on the construction permit, a decision to approve a construction design and a decision to allow the construction works to resume;
- 2) a decision to permit the demolition of nuclear sites;
- 3) a decision on the conditions for land development and use;
- 4) a concession for prospecting for, or exploration of, mineral deposits, for exploitation of minerals from their deposits, for open storage of substances and the landfill of waste in the rock formation, including underground mining excavations;
- 5) a decision setting out the detailed conditions for the extraction of a mineral;
- 6) a water-law permit for the execution of water facilities;
- 7) a decision which sets out the conditions for the execution of works consisting in water regulation and the construction of flood protection embankments, land amelioration works, construction site drainage systems and other earthworks which change the water regime on sites with special natural values, particularly on sites with concentrations of vegetation with special natural values, sites with landscape and ecological values, the grounds of mass breeding of birds, those with concentrations of protected species and the fish spawning and wintering grounds as

well as the sites of ladder-passages and mass migration of fish and other aquatic organisms;

- 8) a decision to grant authorisation for a project to consolidate or exchange land;
- 9) a decision on the conversion a forest into agricultural land;
- 10) a decision on the permit for the implementation of a road investment project;
- 11) a decision to establish the location of a railway line;
- 12) a decision to establish the location of a motorway;
- 13) a decision to establish the location of Euro 2012 projects;
- 14) a decision on the permit for the implementation of a public use airport project;
- 15) a decision to establish the location of investment in the scope of Terminal LNG project.

The decision on the environmental conditions is binding for relevant authorities responsible for decision listed above.

By identifying the environmental requirements for a project, the decision on the environmental conditions in fact gives the project the environmental go-ahead. National EIA procedure varies between the types of projects which may always or possibly have a significant impact on the environment and are regulated in relevant Regulation based on Directive 85/337/EEC and 97/11/EC.

The key elements of national EIA procedure are:

1. Screening - is done only for Annex II projects (of above directive) after the application for the decision on the environmental conditions.
2. Scoping - generally there is no scoping stage for Annex I projects (of above directive) with one exception. When planned project may cause significant transboundary impact then the scoping for Annex I projects is obligatory before preparation the EIA documentation. But for Annex II projects (of above directive) scoping is done after the application for the decision on the environmental conditions if the relevant authority states the necessity and obligation to conduct the EIA procedure. If developer of the Annex I project (of above directive) asks for scoping, it has to provide basic data on the proposed project before it.
3. Consultation with relevant authorities, such as environment authority and sanitary inspection, on the screening and scoping stages (opinions).
4. Preparing the EIA documentation (environmental report) - if needed.
5. Public consultation on the stage of EIA documentation (possibility for all stakeholders to submit comments and suggestions on environmental impact report).
6. Consultation with relevant authorities, such as environment authority and sanitary inspection, on the stage of EIA documentation (agreements/arrangements and opinions).
7. Issue the final decision on the environmental conditions.
8. Possibility for public (all stakeholders) to acquaint with issued final decision on the environmental conditions.
9. Monitoring and post project analysis - if needed.

*b. Describe how the different steps of the transboundary EIA procedure set out in the Convention fit into your country's national EIA procedure;*

Transboundary EIA procedure is a part of the national EIA procedure and is generally conducted by the authority on the regional or local level, who conducts the national EIA procedure.

The General Director for Environmental Protection (GDOS) is involved in some parts of this procedure (notification, transboundary consultation). GDOS is generally competent for notification and transboundary consultation because of his main responsibility for international cooperation.

The transboundary EIA procedure is combined with the national EIA procedure. The steps relevant for transboundary EIA procedure are only notification and consultation. The other steps of transboundary EIA procedure are the same as for the national EIA procedure, with one exception: the scoping procedure is compulsory for all projects subject to EIA.

When a developer assumes that there is a possibility for the proposed project listed in Regulation (for which the EIA procedure is conducted) - both for those projects which automatically require an application of the EIA procedure because of their always negative effects on the environment (projects from Annex I of the directive) and for those projects which may require the application of the EIA procedure (projects from Annex II of the directive) - to have a transboundary effects on the environment he is obliged to ask relevant authority to define a scope of the EIA documentation (compulsory scoping procedure).

Simultaneously with inquire to define the EIA documentation scope the developer is also obliged to present basic data and information about the planned activity where he should indicate any possible cross-border impacts on the environment.

If at a screening and scoping stage it has been found that the significant adverse impact on the environment, as a result of the implementation of the planned project, may extend across the border then the transboundary EIA procedure will be launched - Poland as a Party of Origin (hereinafter PoO).

In such case the first step of transboundary EIA procedure is a notification which is the formal and mandatory start of the application procedure.

According to the national legislation when the EIA authority finds possible transboundary affects, it has to immediately notify GDOS about such possibility with submitting to him at the same time a basic project data (information sheet of the project), in order to notify the Affected Party (hereinafter AP) through the GDOS.

If the AP shows its interest in the procedure after having analyzed the information sheet of the project, then the relevant authorities agree the time schedule for the whole procedure. Even more when the AP submits comments on the data included in the information sheet for the project, they have to be taken into account during determination scope of the EIA documentation (environmental impact report) or making decision whether or not conducting transboundary EIA procedure is necessary at all for the project for which the EIA procedure is not obligatory.

If the EIA documentation (environmental impact report) is ready then GDOS sends the relevant part of this documentation to AP due to providing the next formal steps of the transboundary EIA procedure

The transboundary consultation under article 5 of the Espoo Convention is usually proposed to the AP at the same time when the EIA documentation is submitted.

This stage of transboundary EIA procedure is normally carried out by the EIA authority, but in problematic and intricacy cases consultation can be taken over by GDOS. There is no exact time specified for such consultation during the procedure. However it has to be conducted after completion of the EIA documentation, after AP's public participation and before issuing the final decision.

The results of consultation, including the AP's comments and suggestions to the EIA documentation (environmental impact report), have to be reviewed at the time of issuing the decision on the environmental conditions. After issued the final decision on proposed project GDOS without any undue delay sends this decision to the AP. Moreover when the EIA authority decided and imposed on the developer an obligation to carry out the post-project analysis, the results of such analysis are also transmitted to the AP.

If Poland is AP, the GDOS receives the documentation on the proposed project and forward it to the regional authority (Regional Director for Environmental Protection, hereinafter RDOS), relevant in the light of area affected by the potential transboundary impact. RDOS makes the documentation available for the public review, in Polish language (but only the parts presenting the potential impact of the project on the environment). The public has 21 days for submitting comments and suggestions to the EIA documentation.

RDOS then prepares draft position on proposed project, which includes comments received from the public, and submits it to the GDOS. The GDOS forwards the final position on proposed project to the PoO.

- c. *List the different authorities that are named responsible for different steps of the transboundary EIA procedure (notification, consultation between Parties, public participation, etc.). Also list the authorities responsible for the domestic EIA procedure, if they are different;*

In case when Poland is PoO the following authorities take a part in a transboundary and national EIA procedure:

1. General Director for Environmental Protection (GDOS) - is responsible for such transboundary EIA stages:

- notification,
- agreeing on final schedule (in co-operation with relevant EIA authority),
- providing the AP with relevant EIA documentation,
- transboundary consultation (optionally - in complicated or/and important cases),
- providing the AP with final decision,
- providing the AP with outcomes of the post-project analysis.

Relevant authority for national EIA procedure is responsible for all other steps of transboundary EIA procedure. Depending on the kind of project the relevant authority for EIA procedure can be:

2. Regional Director for Environmental Protection (RDOS) - on regional level, there are 16 RDOS, one in each voivodship,

3. Head of Gmina (President or Mayor) - on local level.

When Poland is AP only two authorities participate in a transboundary EIA procedure:

1. General Director for Environmental Protection (GDOS) who is responsible for:

- receiving notification with documents containing information on a project undertaken outside the territory of the Republic of Poland which implementation may have an environmental impact on its territory,
- transferring these documents to the relevant Regional Director for Environmental Protection (RDOS) ,
- responding on the notification,
- presenting to the PoO comments and remarks on the scoping stage if this stage is conducted by the PoO,
- submitting to the PoO the official Poland's position on proposed project including outcomes from analysis of the EIA documentation, public participation, transboundary consultation and draft position of RDOS,
- taking part in a transboundary consultation as representative of the Polish government,
- receiving the final decision and outcomes from post-project analysis if such analysis is conducted.

2. Regional Director for Environmental Protection (RDOS), relevant due to the area which may be endangered as a result of implementation of the planned activity on the other country territory, is mainly responsible for other steps, especially for making public participation, preparing proposals of comments at the scoping stage and preparing the draft position on the planned project at the EIA documentation stage. Moreover this authority take part in consultation between Parties.

- d. *Is there one authority in your country that collects information on all the transboundary EIA cases? If so, name it. If not, does your country intend to establish such an authority?*

Yes, General Director for Environmental Protection (GDOS), as a coordination body for all transboundary cases, collects information about all transboundary EIA procedures.

This body is currently preparing database which will be contained such information. Objective database will be probably ready and available for public for few years (approximately 2-3 years).

4. *Does your country have special provisions for joint cross-border projects (e.g. roads, pipelines)?*

No. Poland currently has no special provisions for joint cross-border project but it is worth to indicate that we have started preparation to renegotiate the Polish-German Agreement on Transboundary EIA.

We are considering together with Germany the model of framework for joint cross-border projects which will be planned to implement on the Polish-German border. At the moment there is only very general proposal of such provision which will be afterwards discussed and considered by the Polish-German Working Group on Transboundary EIA. Unfortunately there is no certainty whether such provision will be approved.

#### IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING ENVIRONMENTAL IMPACT ASSESSMENT UNDER THE CONVENTION

5. *Is appendix I to the Convention transposed into your country's national legislation? Does your country's legislation already cover the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7), and if so, how? Please describe any differences between the national list and appendix I to the Convention. Please explain how your country interprets terms such as "large" and "major" used in appendix I (including in items 4, 8, 11, 14, 16, 17 and, as appropriate, 22).*

All activities listed in Appendix I to the Espoo Convention are included in the Polish Regulation (see point 1 in this section) so that there is full compatibility between Appendix I to the Espoo Convention and national legislation.

Unfortunately Poland has not ratified second amendment to the Espoo Convention yet so that the national legislation does not cover the revised appendix in the second amendment. But on the other hand the Espoo Convention has more extended application in Poland than it is required by Appendix I to this Convention. The provisions of this Convention are also applicable to all planned activities listed in the EU Directive 85/337/EEC.

Answering on the question regarding to the interpretation of the words "large" and "major" used in Appendix I, Poland interprets these words by particular criteria or thresholds specified in Polish Regulation, which allow to determine whether objective project is large or major.

6. Please describe:

- a. *The legislation and, where appropriate, the procedures your country would apply to determine that an “activity”, or a change to an activity, falls within the scope of appendix I (art. 2.3), or that an activity not listed should be treated as if it were (art. 2.5);*

All activities listed in Appendix I to the Espoo Convention are included in the national Regulation (see point 1 in this section). Most of them are specified in paragraph 2 of above mentioned Regulation what means that the national EIA procedure for these projects is always obligatory. But some of them are included in paragraph 3 and the necessity of conducting the national EIA procedure for them is optional and defined during screening stage. When the proposed project is subjected to the EIA procedure on the basis of national legislation it is also subjected to the transboundary EIA in case when the possibility of cross-border impacts has been found by developer or by the relevant authority.

When the developer assumes that there is a possibility for the proposed project listed in Regulation (for which the EIA procedure is always obligatory) to have transboundary effects on environment, he is obliged to ask relevant authority to define a scope of the EIA documentation (environmental impact report) - compulsory scoping procedure. In such case the developer shall enclose the data on possible transboundary effects.

Moreover if at the screening and scoping stage (for activities for which the EIA procedure is optional) the relevant authority reckons that project is expected to have significant transboundary effects, the transboundary EIA procedure will be launched. The same applies to the changes and reconstructions of the activities. However minor changes that have no significant impact on environment are excluded from the EIA procedure.

For the activities not listed in Polish Regulation, there is no possibility to conduct the national EIA procedure under the Polish law, also in a transboundary context.

- b. *How your country conducts transboundary EIA cooperation (through points of contact, through joint bodies or within bilateral or multilateral agreements);*

Poland usually conducts transboundary EIA cooperation through points of contact and, where appropriate, within bilateral agreements.

Poland has two bilateral agreements on transboundary EIA with Germany and with Lithuania. Moreover at this moment we are preparing negotiations of such bilateral agreements with Slovakia, Czech Republic and Belarus. Ukraine has recently sent to Poland the invitation to start negotiation of bilateral agreement. All these negotiations are still ongoing and it is difficult to define the approximately date its finishing and coming into force these new regulations.

- c. *How a change to an activity is considered as a “major” change;*

There are some guidelines in Regulation (see point 1 in this section) to consider what changes to activities / projects shall be made subject to national EIA procedure and consequently transboundary EIA procedure if needed. This Regulation requires that the likely significant environmental effects of modifications or changes or extension of activities which for realization need the growth of emission or consumption of raw material, materials, fuels, energy not less than 20 %, must be considered just as those of the activity itself have to be considered. (See also the response to question 5(a)).

- d. *How such an activity, or such a change to an activity, is considered “likely” to have a “significant” adverse transboundary impact (art. 2.3 and 2.5, and the Guidelines in appendix III).*

The relevant EIA authority finds out that proposed project may have significant adverse transboundary impact on the environment taking into account:

- distance between a location of proposed project and the border of RP,
- information submitted to him by developer,
- criteria from Appendix III to the Espoo Convention - which are repeated in Regulation (see point 1 in this section).

## PUBLIC PARTICIPATION

7. *Does your country have its own definition of “the public” in national legislation, compared to article 1(x)? How does your country, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your country’s public as required in article 2, paragraph 6?*

We do not have separated definition of "the public" in Polish law. The law states that "everyone" have a right to submit comments during the public participation procedure - what in fact falls into scope of definition from Article 1(x).

Moreover the EIA Act of law laid down that "everyone" shall have the right to the information about environment and its protection and to take part in the procedure requiring public participation.

According to the Polish law General Director (GDOS) after having acquired information on the likely transboundary impact of the proposed project, shall immediately notify affected Party and enclose relevant preliminary data on the possible transboundary impact, called as "information sheet of a project", in order to ask AP wheter it wishes to participate in trasnboundary EIA or not. At this stage the AP has right to make comments, remarks and suggestions on this information sheet. AP's comments should be next taken into account by relevant authority during scoping stage (at the stage of defining scope of the EIA documentation, called as environmental impact report, and preparation of this report by the developer). If national legislation of AP gives opportunity for public to participate at this stage of procedure then the comments and suggestions submitted by AP include also comments and suggestions from AP's public.

At the EIA documentation stage, General Director (GDOS) having obtained the environmental impact report prepared by developer, which includes comments and suggestions from public and authorities of AP, shall immediately forward the relevant parts of this document to the AP which participates in the transboundary EIA procedure in order to provide public participation in AP .

Detailed provisions on public participation procedure are included in bilateral agreements between Poland and neighbouring countries.

Transmittal of comments depends on the agreement between Poland as PoO and the AP. Usually the authority responsible for collecting comments from AP is the General Director for Environmental Protection (GDOS).

At the next stage comments from the AP (public and authorities) are considered and taken into account while issuing the final decision, it means decision on environmental condition.

## Article 3

### Notification

#### QUESTIONS TO PARTY OF ORIGIN

8. *Describe how your country determines when to send the notification to the affected Party, which is to occur “as early as possible and no later than when informing its own public”? At what stage in the EIA procedure does your country usually notify the affected Party (art. 3.1)*

According to the EIA Act of Law the authority responsible for the notification to the AP of proposed activity likely to cause a significant adverse transboundary impact, is the General Director for Environmental Protection (GDOS).

When the developer assumes that there is a possibility for the proposed project listed in Regulation to have transboundary effects on environment, he is obliged to ask relevant authority to define a scope of the environmental impact report (compulsory scoping procedure).

Developer shall enclose information sheet of the project including the data on possible transboundary effects especially specifying:

1. the type, size and location of the project,
2. the surface area of the land occupied and that of the built structure as well as their previous uses and vegetation cover,
3. the type of technology,
4. the possible alternatives,
5. the amount of water and other raw and processed materials, fuels and energy expected to be used,
6. the measures to protect the environment,
7. types and amounts of substances or energies expected to be emitted into the environment when applying the measures to protect the environment,
8. possible transboundary impact on environment.

The EIA authority responsible for issuing the final decision, after having taken account the above mentioned data and found that a significant transboundary impact on the environment may arise as a result of the implementation of a proposed project, has to issue a decision to conduct the procedure for transboundary EIA setting out scope of the documentation indispensable for this procedure to be carried out and imposing on the applicant the obligation to prepare such documentation in the language of the country in whose territory the project may have its impact. Next, the EIA authority informs GDOS that a proposed project may have a transboundary impact on the environment and forwards to him the information sheet of the project in order to notify the AP about planned activity by GDOS. According to the EIA Act of Law, GDOS is obliged to send the notification to the AP immediately after having acquired information on the possible transboundary impact of the proposed activity.

Notification is supposed to be done as early as possible, preferably at the scoping stage if such a phase is being carried out - i.e. before submission of application for decision on environmental conditions. According to the EIA Act of Law, the comments from the AP have to be taken into account while defining the scope of EIA documentation (environmental impact report).

Detailed information about timing the notification and its content are included in bilateral agreements.

9. *Does your country provide any information to supplement that required by article 3, paragraph 2?*

According to the EIA Act of Law GDOS in the notification informs the AP about the decision which will be issued for planned project, the authority competent to issue it and encloses at the same time the information sheet of the project which contains basic information on the proposed project, in particular the data concerning:

1. the type, size and location of the project,
2. the surface area of the landoccupied and that of the built structure as well as their previous uses and vegetation cover,
3. the type of technology,
4. the possible alternatives,
5. the amount of water and other raw and processed materials, fuels and energy expected to be used,
6. the measures to protect the environment,
7. types and amounts of substances or energies expected to be emitted into the environment when applying the measures to protect the environment,
8. possible transboundary impact on environment.

Generally Poland does not provide any additional information to supplement that required by article 3, paragraph 2.

10. *Does your country use the format for notification (as decided by the first meeting of the Parties, decision I/4, in document ECE/MP.EIA/2)? If not, in what format does your country normally present the notification?*

Yes, the proposed guidelines are followed.

11. *Describe the criteria your country uses to determine the time frame for the response to the notification from the affected Party (art. 3.3, “within the time specified in the notification”)? What is the consequence if an affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how does your country react?*

No legal provisions in the EIA Act of Law. The maximum time frame for a response is generally regulated in the bilateral agreements between RP and neighbouring countries. For example in the Polish - German agreement the time frame for response from AP is within 30 days from the communication. The extension of a deadline is possible if it does not affect the extension of administrative procedure.

12. *Describe when your country provides relevant information regarding the EIA procedure and proposed activity and its possible significant adverse transboundary impact as referred to in article 3, paragraph 5. Already with the notification, or later in the procedure?*

The above mentioned data is being sent together with notification.

According to the EIA Act of Law, GDOS is obliged to notify the AP on the proposed activity which may have significant adverse transboundary impact on environment, propose the date for response from AP whether AP is interested in participation in EIA procedure and enclose information sheet of the proposed project.

13. *How does your country determine whether it should request information from the affected Party (art. 3.6)? When does your country normally request information from the affected Party? What kind of information does your country normally request? How does your country determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (art. 3.6)?*

No legal provisions on this issue.

But Poland has some practical experiences in this field. As a good practice in some cases, we ask the AP about more detailed information concerning environment on the AP territory which may be the most exposed on the transboundary impact, indispensable to prepare appropriate and accurate the EIA documentation (environmental impact report).

Normally we decide whether it is necessary to ask other country about such information on the developer request. So far we had one case where we asked the AP for information about its environment and our request mainly concerned of information about nature protection and areas protected within European Ecological Network Natura 2000 and we did not specify exact time frame for a response but asked for quick response as soon as possible.

*14. Please describe:*

- a. *How your country cooperates with the authorities of the affected Party on public participation (art. 3.8), taking into account that the Party of origin and affected Party are both responsible;*

According to the EIA Act of Law, GDOS is responsible for preparing and transmitting the notification on the proposed activity which may have significant adverse transboundary impact on environment, to the AP (as described in point 8, 9, 10). The precise indication of the relevant authority, which is competent to receive the notification, is usually included in the bilateral agreements between RP and interested countries. However, there is no legal obligation for the PoO to transmit the notification directly to public of the AP (neither in the EIA Act of Law, nor in the bilateral agreements).

- b. *How your country identifies, in cooperation with the affected Party, the "public" in the affected area;*

No legal provisions in this field. "Public" in the affected area is usually identified by relevant authorities of the AP. Poland as the PoO sends the notification to the point of contact to the Espo Convention or to the relevant authority indicated in the bilateral agreement as an authority responsible for receiving the notification and deciding about possible participation in transboundary EIA, further receiving the EIA documentation and providing public participation.

- c. *How the public in the affected Party is notified (what kinds of media, etc are usually used). What is normally the content of the public notification?;*

In Poland, neither the national legislation nor the bilateral agreements, does not oblige the PoO to make direct notification to the public in the AP. The notification is only sent to the relevant authority who is further responsible for performing public participation and providing equal rights for public to make comments and suggestions concerning planned project.

- d. *Whether the notification to the public of the affected Party has the same content as the notification to your country's public. If not, describe why not. At what stage in the EIA procedure does your country normally notify the public of the affected Party?*

In Poland, neither the national legislation nor the bilateral agreements does not oblige to make direct notification to the public in the AP so that the notification to the AP's public and its content would depend on relevant AP authority who prepares such notification to public on the basis of information submitted by Poland in official notification (see point 9 in this section). Moreover, the stage of informing the

affected public also depends on the AP's relevant authority. Poland usually notifies the AP at the scoping stage but whether or not public participate at this stage depends on the AP's national legislation.

15. *Does your country make use of contact points for the purposes of notification as decided at the first meeting of Parties (ECE/MP.EIA/2, decision I/3), and as listed on the Convention website ([http://www.unece.org/env/eia/points\\_of\\_contact.htm](http://www.unece.org/env/eia/points_of_contact.htm))?*

Yes, the points of contact are made use of in this way.

#### QUESTIONS TO AFFECTED PARTY

16. *Describe the process of how your country decides whether or not to participate in the EIA procedure (art. 3.3)? Who participates in the decision-making, e.g. central authorities, local competent authorities, the public, environmental authorities? Describe the criteria or reasons your country uses to decide.*

According to the EIA Act of Law, GDOS is responsible for receiving and distributing the notification on the proposed activity which may have significant adverse transboundary impact on environment on the territory of RP.

Having acquired the notification with suitable documentation, GDOS forwards it to the authority on the regional level, it means to the relevant Regional Director for Environmental Protection (hereinafter RDOS) who is competent in respect of the area which may be affected by the possible transboundary impact on the environment.

RDOS after having analyzed all information about proposed project and having finally found that it is justified to launch the procedure for the transboundary impact on the environment, informs GDOS about necessity of Poland's participation in transboundary EIA procedure.

At the same time RDOS shall make available for review in the Polish language the documents received with notification.

The time frames for response to the notification, indicated by the PoOs, varies. So far, there were: no deadlines at all, 30 days and 50 days. Precise indication of deadline for the indication of desire to participate in the EIA procedure is included in some of the bilateral agreements between RP and neighbouring countries. For example in the Polish - German agreement the time frame for response from AP is within 30 days from the communication. Basically, in the decision-making process whether or not to take apart in transboundary EIA procedure participate two environmental authorities: GDOS (central level) and RDOS (regional level) competent in the area which may be affected by the possible transboundary impact. In some cases if it is needed RDOS consults such project which may have transboundary impact on the environment with other relevant authorities, especially with Mayor who is the authority on the local level.

Generally, before making a decision whether or not to participate in this procedure, the following criteria are taken into account by relevant authorities:

- distance between a location of proposed activity and the territory of RP,
- information on the proposed activity enclosed with the notification,
- criteria from Appendix III to Espoo Convention - which are repeated in Regulation (see point 1 in this section).

Poland as AP has experienced following difficulties in the notification procedure:

- the documentation including information on proposed activity had not been translated into Polish,
- data on proposed activity had not been sufficient to enable GDOS to respond,
- data on proposed activity had not complied with the Espoo Convention's requirements.

For those reasons (as mentioned above) GDOS had had many difficulties with making a decision on participation in EIA procedure.

In most cases RP declares its desire to participate in the EIA procedure on the proposed activity which may have significant adverse transboundary impact on environment on the territory of RP.

17. *When the Party of origin requests your country to provide information relating to the potentially affected environment, how does your country determine what is “reasonably obtainable” information to include in its response? Describe the procedures and, where appropriate, the legislation your country that would apply in determining the meaning of “promptly” in the context of responding to a request for information (art. 3.6)*

In few cases PoO asked Poland for the additional information on the proposed activity. In order to collect the requested data, relevant RDOSs were asked for help.

For Poland reasonably obtainable information means information which allows to assess possible transboundary impact and to determine how the environment would change as a result of realization of the proposed activity. Generally the above information includes technical parameters.

There is no provisions and procedures determining the meaning of "promptly" in Polish law. Colloquially, this word is interpreted as "as quickly as possible", which in this case means: after completing the data sufficient to respond to the request.

18. *Please describe:*

- a. *How your country cooperates with the authorities of the Party of origin on public participation (art. 3.8), taking into account that the Party of origin and affected Party are both responsible;*

Generally, when Poland is AP, public participation is conducted by RDOS who is responsible for making EIA documentation available for public within 21 days with possibility for submitting comments, remarks or objections. In the next stage these comments, remarks or objections are forwarded through the GDOS to the PoO. There are no special legal provision in the national legislation concerning cooperation with PoO on the public participation.

But more detailed legal provisions in this field are included in bilateral agreements, especially in Polish-German Agreement on transboundary EIA. When Germany is PoO then public in Poland has possibility for making comments or objections on the proposed activity and for transmittal of these comments or objections directly to the competent authority of the PoO, or where appropriate, through the GDOS.

- b. *How your country identifies the “public” in the affected area;*

First of all, GDOS identifies relevant RDOS (in voivodeship) competent in respect of the area which may be affected by the possible transboundary impact on the environment as a result of implementation of planned activity.

Then, RDOS having analyzed the distance between location of proposed activity and territory of RP and the information on the proposed activity enclosed with the notification, identifies the concerned communities where public participation should be done.

- c. *How the public is notified (e.g. what kinds of media, etc., are usually used). What is normally the content of the public notification?;*

According to the national legislation “notification of the public” means:

- the provision of information on the website of the Public Information Bulletin of the authority competent in the matter,

- the provision of information in a customary manner at the seat of the authority which is competent in the matter,
  - the provision of information by bill-posting in a customary manner at the location of the proposed project and, in the case of a draft document requiring public participation, in the press with an appropriate range in the light of the type of the document,
  - in the case where the seat of the authority competent in the matter is located in the area of a commune other than the commune which is relevant in terms of its location in the light of the subject matter of the procedure, also by a publication in the press or in a customary manner used in the locality or localities which are relevant in the light of the subject matter of the procedure;
- Usually such "notification of the public" shall contain the following information concerning :
- the launch of the transboundary environmental impact assessment procedure for a project;
  - the subject matter of the decision which has to be issued in the matter by PoO and the authority competent to issue this decision;
  - the possibilities of becoming acquainted with the necessary documentation of the case and the place where it is available for review;
  - the possibility of submitting comments and suggestions;
  - the manner and place for submitting comments and suggestions, providing, at the same time, for a 21-day period for their submission;
  - the date and place of the administrative hearing open to the public, where it is to be conducted by PoO.

*d. At what stage in the EIA procedure does your country normally notify its public?*

Basically the notification of public is occurred at the EIA documentation stage. But in some cases public is also notified during scoping stage. Generally it depends on which stage of EIA procedure Poland is notified by PoO.

Moreover the EIA Act of Law indicates that the Regional Director for Environmental Protection after having found that it is justified to launch the procedure for the transboundary EIA, shall make available for review in the Polish language the documents in the scope necessary to analyse the project or the environmental effects of the implementation of the document.

## **Article 4**

### ***Preparation of the environmental impact assessment documentation***

#### **QUESTIONS TO PARTY OF ORIGIN**

*19. What is the legal requirement for the minimum content of the EIA documentation (art. 4.1, appendix II)?*

Article 66 paragraph 1 the EIA Act of Law reads as follows:

The environmental impact report for a project shall contain:

1. a description of the proposed project, in particular:

- the characteristics of the whole project and the conditions of the site use at the stages of construction and operation,
- the main characteristic features of production processes,
- the envisaged types and quantities of pollutants caused by the operation of the proposed project;

2. a description of the natural elements of the environment exposed to the envisaged environmental impact of the proposed project, including the natural elements protected pursuant to the Nature Conservation Act of 16 April 2004;
3. a description of cultural heritage sites, protected pursuant to the regulations in the protection and care of cultural heritage sites, existing in the vicinity or within the direct range of the impact of the proposed project;
4. a description of the envisaged effects on the environment in the case where the project is not undertaken;
5. a description of the options analysed, including:
  - the option proposed by the proponent and a reasonable alternative,
  - the option which is most favourable for the environment, along with reasons for their choice;
6. the determination of the expected environmental impacts of the options analysed, also including the impact in the event of a major industrial accident as well as the possible transboundary impact on the environment;
7. the justification for the option proposed by the proponent, indicating its impact on the environment, in particular on:
  - human beings, fauna, flora, fungi, natural habitats, water and air,
  - the land surface, including land mass movements, climate and landscape,
  - property,
  - the cultural heritage sites and landscapes covered by the existing documentation, in particular those included in the register or records of cultural heritage sites,
  - the interactions between the elements referred to in letters a)-d);
8. a description of the prediction methods applied by the proponent and a description of the expected significant environmental effects of the proposed project, including direct, indirect, secondary, cumulative, short-term, medium-term and long-term, permanent and temporary environmental effects caused by:
  - the existence of the project,
  - the use of environmental resources,
  - emissions;
9. a description of the measures envisaged to prevent, reduce or offset in terms of nature conservation the adverse effects on the environment, in particular on the purposes and object of the protection of a Natura 2000 site and the integrity of this site;
10. for roads which are projects always likely to have a significant effect on the environment:
  - an indication of the assumptions for:
    - \* rescue investigations of the identified cultural heritage sites located within the area of the proposed project which have been discovered in the course of construction works,
    - \* the programme for the protection of the existing cultural heritage sites against the adverse impact of the proposed project and for the protection of the cultural landscape,
  - the analysis and assessment of the possible threats and damage to cultural heritage sites protected pursuant to the regulations on the protection and care of cultural heritage sites, in particular archaeological sites, in the vicinity or within the direct range of the proposed project;
11. where the proposed project involves the use of an installation, a comparison of the proposed technology with a technology which meets the requirements referred to in Article 143 of the Environmental Protection Act of 27 April 2001;
12. an indication as to whether the project requires the designation of a restricted use area within the meaning of the Environmental Protection Act of 27 April 2001, the delineation of the boundaries of such an area, the imposition of restrictions on the scope of the use of the

- area and the technical requirements for built structures and their uses; this shall not apply to projects consisting of the construction of a national road;
13. the presentation of issues in graphic form;
  14. the presentation of issues in cartographic form at a scale corresponding to the subject matter and level of detail of the issues analysed in the report and allowing for a comprehensive presentation of the environmental impact analyses carried out for the project;
  15. the analysis of potential social conflicts in relation to the proposed project;
  16. the presentation of the proposed monitoring of the impact of the proposed project at the stages of its construction and operation, in particular on the purposes and object of the protection of a Natura 2000 site and the integrity of this site;
  17. an indication of difficulties caused by technical deficiencies or gaps in current knowledge as encountered in preparing the report;
  18. a summary of the information contained in the report in a non-technical language for each element of the report;
  19. the name(s) of the person(s) who has(have) prepared the report;
  20. the sources of information providing the basis for the report.

Moreover the information referred to in paragraph 1 (4)-(8) shall include the envisaged effects of the options analysed on the purposes and object of the protection of a Natura 2000 site and the integrity of this site.

Also where it is found that a transboundary impact on the environment is likely, the information referred to in paragraph 1 (1)-(16) shall include the identification of the impact on the proposed project outside the territory of the Republic of Poland.

Where it is necessary to designate a restricted use area for the proposed project, a copy of the land register map which has been certified by the competent authority, with the marked course of the boundaries of the site where it is necessary to designate a restricted use area, shall be enclosed with the report. This shall not apply to projects consisting of the construction of a national road.

Where the proposed project involves the use of an installation subject to the requirement to obtain an integrated permit, the environmental impact report for a project shall contain a comparison of the proposed technique with the best available techniques.

The environmental impact report for a project shall take into account the impacts of the project at the stages of its implementation, operation or use and closure.

*20. Describe your country's procedures, if any, for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4.1).*

Generally the scope of the EIA documentation is literally determined in article 66 paragraph 1 of the EIA Act of Law for planned projects which may always have a significant impact on the environment (Annex I of the EIA Directive with obligatory EIA documentation). But before submitting the request for issuing a decision on the environmental conditions for projects which may always have a significant effect on the environment, instead of the EIA documentation (environmental impact report) for a project, the applicant may submit the information sheet of the project, along with the request for the definition of the scope of the EIA documentation (environmental impact report).

Determination of the EIA documentation (environmental impact report) scope is mandatory when the project may have a transboundary impact on the environment. It means that when the developer assumes that there is a possibility for the proposed project (Annex I of the Directive) to have transboundary effects on environment, he is obliged to ask relevant authority to define a scope of the EIA documentation (environmental impact report) - compulsory scoping procedure. Developer shall enclose the data on possible transboundary effects.

The requirement to prepare the EIA documentation (environmental impact report) for a proposed project which may possibly have a significant impact on the environment (Annex II of the EIA Directive projects subject to screening) shall be imposed on the developer by the authority responsible for granting decision on environmental conditions. At the same time this authority shall define the scope of the EIA documentation (environmental impact report).

The competent authority shall determine the necessity of preparing the EIA documentation (environmental impact report) and define its scope taking into account all the following factors:

1. the type and characteristics of the project, considering:
  - a) the scale of the project, the surface area of the land occupied and their mutual proportions,
  - b) the interactions with other projects, in particular the accumulation of the impacts of projects situated in the area affected by the project,
  - c) the use of natural resources,
  - d) emissions and the occurrence of other annoyances,
  - e) the major-accident hazard, taking into account the substances used and the technologies applied;
2. the location of the project, taking into account the possible danger for the environment, in particular as a result of the existing land use, the self-cleaning capacity of the environment, the renewal of natural resources, natural and landscape values as well as the conditions of local land-use plans, taking into account:
  - a) wetlands and other areas where groundwater lies at shallow depth,
  - b) coastal areas,
  - c) mountain or forest areas,
  - d) areas covered by protection, including the protective areas of water intakes and the protective areas of inland water reservoirs,
  - e) areas requiring special protection in the light of the occurrence of the species of flora and fauna or their habitats and natural habitats covered by protection, including Natura 2000 sites and the other forms of nature conservation,
  - f) areas where the environmental quality standards have been exceeded,
  - g) areas with landscapes of historic, cultural or archaeological significance,
  - h) the population density,
  - i) areas adjacent to lakes,
  - j) health resorts and the areas under health resort-specific protection;
3. the type and magnitude of the possible impact considered in relation to the factors listed in subparagraphs 1 and 2, which result from:
  - a) the range of impact – the geographical area and the size of the population on which the project may have an effect,
  - b) the transboundary nature of the impact of the project on the individual natural elements,
  - c) the levels and complexity of the impact, taking into account the load on the existing technical infrastructure,
  - d) the probability of the impact,
  - e) the duration, frequency and reversibility of the impact.

Moreover, when the repeated conduct of the EIA procedure is necessary then the EIA documentation shall contain the information referred to in above mentioned Article 66, defined with the level of detail and accuracy corresponding to the data acquired from the building design and other information obtained after the issue of the decision on the environmental conditions and the other decisions, where they have already been issued for a given project. This documentation shall also lay down the extent and manner of taking into account the requirements of environmental protection as contained in the decision on the

environmental conditions and the others decisions, where they have already been issued for a given project.

21. *How does your country identify “reasonable alternatives” in accordance with appendix II, paragraph (b)?*

Reasonable alternative is a realistic decision undertaken by estimation of an expected environmental impacts and potential purpose set by the developer.

22. *How does your country identify “the environment that is likely to be affected by the proposed activity and its alternatives” in accordance to appendix II, paragraph (c), and how does it define “impact” in accordance with article 1(vii)?*

The relevant EIA authority finds out that proposed project may have significant adverse transboundary impact on the environment taking into account:

1. information submitted to him by developer,
2. criteria from Appendix III to the Espoo Convention, which are repeated in Regulation (see point 1 in this section).

On the basis of the national legislation "Impact" is defined as expected significant environmental effects of the proposed project, including direct, indirect, secondary, cumulative, short-term, medium-term and long-term, permanent and temporary environmental effects caused by:

- a) the existence of the project,
- b) the use of environmental resources,
- c) emissions.

Moreover according to the EIA Act of Law impact can be defined as the envisaged significant impacts, including direct and indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative impacts on the purposes and object of the protection of Natura 2000 site, the integrity of this site and also on the environment, in particular on: biodiversity, humans, fauna, flora, water, air, land surface, landscape, climate, natural resources, cultural heritage, property, taking into accounts the interactions among these elements of the environment and those among the impacts on these elements.

23. *Does your country give the affected Party all of the EIA documentation (art. 4.2)? If not, which parts of the documentation does your country provide?*

According to the article 108 paragraph 4 subparagraph 4 of the EIA Act of Law we provide only this part of the environmental impact report for the project which enables the State (AP) whose territory may be affected by the project to assess the possible significant transboundary impact on the environment.

But in good practice it can be seen slightly different. So far, Poland was PoO only once and in this separate case we provided AP all parts of the EIA documentation.

24. *How does your country cooperate with the authorities of the affected Party on distribution of the EIA documentation and the submission of comments (art. 4.2), taking into account that the Party of origin and affected Party are both responsible? How does the competent authority in your country (as the Party of origin) deal with the comments (art. 4.2)?*

Poland usually furnishes the EIA documentation to the Point of Contacts to the Espoo Convention or to the relevant Ministers of the Environment (it depends whether or not the bilateral agreement between concerned Parties exists) with asking for making it available for public review with possibility for making comments or objection on proposed project.

Normally comments from affected public are submitted to the GDOS, as the central administration authority responsible for international cooperation, by relevant AP authority (Minister of the Environment, other suitable environmental authority or Point of Contact). Further the GDOS forwards all submitted comments, recommendations or objections on proposed project to the relevant EIA authority who is competent to issue the final decision in order to take into account all of them before final decision will be granted. Moreover provisions of the bilateral agreement with Germany specifies this issue in more details where public of the AP is provided with possibilities for making comments or objections on and for transmittal of these comments or objections to the competent authority of the PoO responsible for conducting the EIA procedure and issuing the final decision. The duration of public participation in AP shall be the same as for public in PoO.

25. *Describe the procedures and, where appropriate, the legislation that define the time frame for comments provided “within a reasonable time before the final decision” (art. 4.2)? What is the consequence if the affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how does your country react?*

Time frame is the time given to the AP for submitting their comments, recommendations or objections which shall be taken into account by competent authority in granting decision on environmental conditions. In justifiable cases this term can be extended. According to the Polish - German agreement the time frame for response from the AP in specific cases is up to 90 days from sending the EIA documentation. The extension of a deadline is possible if it does not affect the time frame of the administrative procedure.

26. *What material does your country provide, together with the affected Party, to the public of the affected Party?*

According to the EIA Act of Law Poland as the PoO forwards to the AP the following documents: the request for the issue of the decision on environmental conditions, the information sheet of the project, screening and scoping decisions (if it were issued), the part of the EIA documentation (the environmental impact report for the project) with summary in non-technical language which enables the AP to assess adverse significant impact on its environment, final decision (decision on environmental conditions).

27. *Does your country initiate a public hearing for the affected public, and at what stage, whether in the affected Party, in your country or as a joint hearing? If a public hearing is held in your country, as Party of origin, can the public of the affected Party, public authorities, organizations or other individuals come to your country to participate?*

Poland as the PoO does not initiate a public hearing for the AP. But the administration authority competent to issue the decision may conduct an administrative hearing open to the public, as well to the public of the AP. Usually the public hearing takes place after preparation of the EIA documentation.

#### QUESTIONS TO AFFECTED PARTY

28. *Describe the procedures and, where appropriate, the legislation your country would apply to determine the meaning of the words “within a reasonable time before the final decision”, this being the time frame for comments (art. 4.2)?*

Usually it is the time given by the PoO for comments, which should be flexible in some cases. According to Polish - German agreement the time frame for response from AP is up to 90 days from sending the EIA documentation.

29. *How does your country cooperate with the authorities of the Party of origin on the distribution of the EIA documentation and the submission of comments (art. 4.2), taking into account that the Party of origin and affected Party are both responsible?*

Poland as AP after having received the EIA documentation is individually responsible for distributing it to the concerned authorities and public due to make it available for review with possibility for making comments. Generally, there is no specific cooperation between AP and PoO with one exception. Polish-German Agreement says that the AP should inform the PoO about exact duration of public participation because the affected public has also an opportunity for transmitting comments on the project either directly to the relevant authority of the PoO or through the AP.

30. *Who is responsible for the organization of the public participation in the affected Party? Is the public participation normally organized in accordance with your legislation as the affected Party, with the legislation of the Party of origin, with ad hoc procedures, or with bilateral or multilateral agreements?*

Public participation in the AP is organized by AP according to AP's legislation, but with the time frame appointed in accordance with the legislation of the PoO to ensure the public of the AP, the equivalent opportunity to participate in relevant EIA procedures. In Poland there are 21 days for the public participation.

But Polish-German Agreement says that public in AP shall have the same time for making comments as public in PoO.

## **Article 5**

### ***Consultations***

#### **QUESTIONS TO PARTY OF ORIGIN**

31. *At which step of the EIA procedure does the consultation in accordance with article 5 generally take place? Describe the procedures and, where appropriate, the legislation your country would apply to determine the meaning of “undue delay”, with regard to the timing of the entry into consultation? Does your country normally set the duration for consultations beforehand? If there seems to be no need for consultation, how does your country determine not to carry out consultations?*

According to the EIA Act of Law the transboundary consultations in accordance with article 5 takes place after completion of the EIA documentation and after its transmission to the AP.

When GDOS receives the EIA documentation from relevant EIA authority, due to forward it to the AP, he transmits it to the AP simultaneously with proposal of entering into a transboundary consultation in accordance with the dates of the stages of procedure agreed earlier (on the confirmation of participation stage).

The transboundary consultations shall be arranged without undue delay, it means as soon as possible after completion of the EIA documentation and its transmission to the AP.

So far, practical experiences shown that the consultation is more efficient when they are carried out after having submitted the AP's official comments regarding the EIA documentation on proposed project.

On the basis of the article 110 the EIA Act of Law, when the AP confirms its desire to take apart in a transboundary consultation then the administration authority which carries out the environmental impact assessment for a project shall, via the General Director for Environmental Protection, hold consultations with the State in whose territory the project may have its impact. The consultations shall concern the measures to eliminate or reduce the transboundary impact on the environment

Where GDOS deems it purposeful in the light of the importance or intricacy of the case, he may take over the conduct of the transboundary consultations. The legal base for that is the EIA Act of Law.

32. *On what level do you arrange for consultation: national, regional or local? Who usually participates in the consultation? Describe the responsibilities of the authorities involved. By what means do you usually communicate in consultations, for example by meeting, exchange of written communications?*

In accordance with Polish law, when Poland is PoO the authority responsible for carrying out the environmental impact assessment in a transboundary context procedure shall hold consultations. In most cases the competent authority is Mayor at the local level and in the other cases, such roads, railways or pipelines, RDOS at the regional level. Where GDOS deems it purposeful because of the importance or intricacy of the case, he may take over the consultations which firstly means exchange written communications and the next arrange meeting between concerned Parties.

#### QUESTIONS TO AFFECTED PARTY

33. *On what level is the consultation normally held: national, regional or local? Who normally participates in the consultation? By what means does your country usually communicate in consultations, for example by meeting or by the exchange of written communications? How does your country indicate if there is no need for consultations?*

The consultation is arranged on governmental level but some representatives of RDOS (regional level) may be present. Polish side as the AP is usually represented by people from General Directorate for Environmental Protection, people from regional level (RDOS) and experts from special bodies such as Voivodship Inspectorate for Environmental Protection or Regional Water Management Authority. Consultation might be carried out by different means, but the most efficient is the special meeting organised by the PoO on the national level. When there is no need for consultation Poland confirms it in letter or during working meeting.

## Article 6

### *Final decision*

#### QUESTIONS TO PARTY OF ORIGIN

34. *For each type of activity listed in appendix I, identify what is regarded as the “final decision” to authorize or undertake a proposed activity (art. 6 in conjunction with art. 2.3); also provide the term used in the national legislation in the original language. Do all projects listed in appendix I require such a decision?*

On the basis the EIA Act of Law the final decision ending the EIA procedure is the decision on environmental conditions (so called environmental decision) which shall define the environmental conditions for the implementation of a project. Such decision is required for all activities listed in Appendix I to the Espoo Convention.

Moreover a decision on the environmental conditions shall be required for:

1. proposed projects which may always have a significant impact on the environment (Annex I of the EIA directive);
2. proposed projects which may possibly have a significant impact on the environment (Annex II of the EIA Directive).

According to the EIA Act of Law in a decision on the environmental conditions issued after the environmental impact assessment has been carried out for a project, the competent authority shall define:

1. the type and place of the implementation of the project,
2. the conditions for the use of the area at the stages of the implementation and operation or use of the project, with particular consideration given to the need to protect special natural values, natural resources and cultural heritage sites and to reduce the annoyances for the adjacent areas,
3. the requirements of environmental protection which must be taken into account in the documentation required for the issue of the decisions on construction permit,
4. the requirements to prevent the effects of industrial accidents, in the case of projects classified as plants which represent major-accident hazards within the meaning of the Environmental Protection Act of 27 April 2001,
5. the requirements to reduce the transboundary impact on the environment in the case of projects for which the procedure for the transboundary impact on the environment has been carried out.

Where the environmental impact assessment for a project indicates the need to:

1. perform nature compensation – authority states the need to perform such compensation,
2. prevent, reduce and monitor the environmental impact of a project – authority imposes the obligation to carry out these actions;
3. establish restricted use area – authority states such need to establish a restricted use area;
4. present his position on the need to carry out the environmental impact reassessment for a project and the procedure for the transboundary impact on the environment within the framework of the procedure to issue the decisions on construction permit and decision on the permit for the implementation of a road investment project
5. may impose on the applicant the requirement to present a follow-up analysis, setting out its scope and the date of its presentation.

A description of the characteristics of the project shall be an enclosure to a decision on the environmental conditions.

In the final decision the administration authority may impose on the applicant obligations to prevent, reduce, monitor the effects of the project on the environment and nature compensation and may impose the obligation to submit a follow-up analysis, defining its scope and the time of its submission.

35. *How does the EIA procedure (including the outcome) in your country, whether or not transboundary, influence the decision-making process for a proposed activity (art. 6.1)?*

According to the EIA Act of Law, while granting the decision on environmental conditions, the relevant authority has to consider and take into account:

- comments from AP on EIA documentation (including comments from public),
- results of the transboundary consultations.

Additionally, according to principles of administrative procedure, while granting the administrative decision the authority has to take into account all information gathered during the procedure. For the decision on environmental conditions it is respectively: comments from public and relevant authorities and information in the EIA documentation.

36. *Are the comments of the authorities and the public of the affected Party and the outcome of the consultations taken into consideration in the same way as the comments from the authorities and the public in your country (art. 6.1)?*

See above.

There is no distinction in Polish law as for comments from authorities and public of the AP and comments from authorities and public of RP.

37. *How is the obligation to submit the final decision to the affected Party normally fulfilled? Does the final decision contain the reasons and considerations on which the decision is based? (art. 6.2)*

According to the EIA Act of Law, GDOS is obliged to send the final decision to the AP. In accordance with Administrative Procedure Code, all administrative decisions have to contain the reasons and considerations on which they are based. As for the decision on environmental conditions there is additional requirement in the EIA Act of Law that the authority can not resign from the above-mentioned requirement.

38. *If additional information becomes available according to article 6, paragraph 3, before the activity commences, how does your country consult with the affected Party? If need be, can the decision be revised? (art. 6.3)*

In such case Poland usually provides additional information to the AP in this country language and proposes meeting in order to discuss problematic issues and find best solution. If concerned Parties decided that it is absolutely necessary to change the final decision, because of lack of reasonable solution, the issued decision would be revised.

## **Article 7**

### ***Post-Project Analysis***

39. *How does your country determine whether it should request a post-project analysis to be carried out (art. 7.1)?*

The obligation of preparing the post-project is imposed on the applicant when the authority states the necessity to compare the findings of the EIA documentation (environmental impact report) and the provisions of the decision with the real effects of the project on the environment and the measures undertaken to reduce them.

According to the EIA Act of Law the post-project analysis shall compare the findings contained in the EIA documentation (environmental impact report) for a project and in the decision on the environmental conditions, in particular the findings concerning the envisaged nature and the scope of the environmental impact of the project and the proposed prevention measures, with the real environmental impact of the project and the measures taken to reduce it.

The post-project- analysis may indicate the necessity to designate a restricted use area for the project.

40. *Where, as a result of post-project analysis, it is concluded that there is a significant adverse transboundary impact by the activity, how does your country inform the other Party and consult on necessary measures to reduce or eliminate the impact pursuant to article 7, paragraph 2?*

We have no experiences in this field yet, but for sure the AP should be informed about it and the Parties should enter into consultations on necessary measures to reduce or eliminate the impact.

## **Article 8**

### ***Bilateral and multilateral agreements***

41. *Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

We have two formal bilateral agreements :

1. The Agreement between the Government of Poland and Lithuania, which came into force on 27 May 2004.
2. The Agreement between the Government of Poland and Federal Republic of Germany signed on 11 April 2006, which came into force on 6 July 2007.

Moreover there is one draft bilateral agreements:

1. The agreement between the Government of Poland and the Republic of Slovakia (we also intend to prepare such draft agreement with Czech Republic, Belarus and probably Ukraine)
- Above mentioned bilateral agreements contain some general principles on applying the EIA procedure in a transboundary context and regulate in details the following issues:

1. Format for notification
2. Distribution and content of the EIA documentation
3. Translation of the EIA documentation
4. Principles of public participation
5. Time frame for preparing and sending the affected party position
6. Exchanging information between relevant authorities
7. Consultation before issuing the final decision
8. Transmittal the final decision
9. Post-project analysis
10. Competent authorities
11. Settlements of disputes
12. Compatibility with other international agreements
13. Entry into force and withdrawal.

These agreements take into account differences between Parties and deal with the practical institutional aspects of the EIA transboundary context indicated in App. VI (b and d). They are sort of guidelines for officials, describing stages of the EIA transboundary procedure.

42. *Has your country established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

No.

## **Article 9**

### ***Research programmes***

43. *Are you aware of any specific research in relation to the items mentioned in article 9 in your country? If so, describe it briefly.*

Yes, Poland is aware of specific research due to improving the EIA procedures.

For example, for improving existing qualitative and quantitative methods for assessing the impacts of proposed activities, developing new methodology and better understanding administrative procedure Poland's EIA experts prepared the "Methodological Manual of General Directorate for Environmental Protection, Administrative Procedure for issues defined in the EIA Act of Law" published in August 2009.

Moreover at this time we are realizing the special research project which crucial goal is to prepare and publish several guidelines on specific topics related to each component of the environment useful for public administration officials, experts who prepare the EIA documentation, NGO's and for other stakeholders. Such guidelines will allow to better understand the major aims of the EIA procedure and cause-effect relationship and their role in integrated environmental management.

## Ratification of the amendments to the Convention and of the Protocol on Strategic Environmental Assessment

44. *If your country has not yet ratified the first amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

Poland ratified the first amendment to the Espoo Convention.

45. *If your country has not yet ratified the second amendment to the Convention, does it have plans to ratify this amendment? If so, when?*

Poland has not officially ratified the second amendment to the Espoo Convention yet but so far all its provisions were included in the EIA Act of Law.

Poland will start the ratification process soon, but unfortunately it is difficult to exact define the time of its starting and ending.

46. *If your country has not yet ratified the Protocol on SEA, does it have plans to ratify the Protocol? If so, when?*

Poland has not ratified the SEA Protocol yet. The ratification process is still pending.

We hope that it will be ended no longer than the end of 2010 or the early beginning of the 2011.

## PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2006–2009

*Please report on your country's practical experiences of applying the Convention (not your country's procedures described in part one), whether as Party of origin or affected Party. The focus here is on identifying good practices as well as difficulties Parties have encountered in applying the Convention in practice; the goal is to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve its application.*

### CASES DURING THE PERIOD 2006–2009

47. *Does your country's national administration have information on the transboundary EIA procedures that were under way during the period? If so, please list these procedures, clearly identifying for each whether your country was the Party of origin or the affected Party. If your country does not have any experience of applying the Convention, why not?*

Poland as Party of Origin:

1. Construction of reservoir flood in Krzanowice (with Czech Republic). Finished.
2. Construction of Bioethanol Manufacturing Plant in Kostrzyn upon Odra (with Germany). Finished.
3. Construction of Expressway S3 on the distance from Legnica to Lubawka, up to the border with Czech Republic, Dolnoslaskie Voivodship (with Czech Republic). Finished.
4. Construction of the new energetic block about 460 MW production capacity in existing coal-fired power plant in Turów (with Germany and Czech Republic). Still ongoing.
5. SEA procedure in a transboundary context for the draft document "Developing of the Road Corridor so called Via Baltica" (with Lithuania). Finished.
6. Construction of Wind Power Plant in Krzewina-Lutogniewice, Bogatynia, Jasna Góra (with Germany and Czech Republic). Still ongoing.

7. Construction of Recreation Center in Piwniczna Zdrój (with Slovakia). Finished.
8. Construction of Highway A2 on the distance from Warsaw to Kukuryki (with Belarus). Finished.

Poland as Affected Party:

1. Construction of Wind Power Plant Lichhov-Mladkov (with Czech Republic). Still ongoing.
  2. Construction of ski-lifts and ski-runs on Czantoria (with Czech Republic). Still ongoing.
  3. Continuing of the exploitation of the coal mine CSM (with Czech Republic). Still ongoing.
  4. Project to consolidate or exchange land in the Trčkov and Bedřichovka area (with Czech Republic). Finished.
  5. Construction of Expressway R11 (with Czech Republic). Still ongoing.
  6. SEA procedure in a transboundary context for the draft plans of management in the Odra basin (with Czech Republic). Finished.
  7. Construction of new nuclear power plant in Finland (with Finland). Finished.
  8. Extension of existing nuclear power plant in Olkiluoto in Finland (with Finland).
  9. SEA procedure in a transboundary context for draft local land-use plans prepared in view of new nuclear power plant in Finland (with Finland). Finished.
  10. Expansion of a planned spent nuclear fuel repository in Olkiluoto (with Finland). Finished.
  11. Construction of nuclear power plant near Ignalin (with Lithuania). Finished.
  12. Gravel mine in Berzdorf-Ost (with Germany). Finished.
  13. Construction of wastewater treatment plant in Eisenhüttenstadt (with Germany). Finished.
  14. Construction of paper mill in Eisenhüttenstadt (with Germany). Finished.
  15. Construction of coal-fired power plant in Lubmin, 3700 MW production capacity (with Germany). Still ongoing.
  16. Construction of Nord Stream Gas Pipeline (with Germany, Denmark, Sweden, Finland, Russia). Finished.
  17. Remedial works on the Boundary Odra river near Reitwein (with Germany). Finished.
  18. Construction of waste incinerator in Schwedt (with Germany). Finished.
  19. Construction of road bridge in Frankurt/Oder (with Germany). Finished.
  20. SEA procedure in a transboundary context for draft plan of developing German Economic Exclusive Zone (with Germany). Finished.
  21. Construction of two power blocks of existing nuclear power plant in Mochovce (with Slovakia). Finished.
  22. Construction of aquatic park with hotel complex in Stara Spisska Ves (with Slovakia). Finished.
  23. Construction of nuclear power plant in Belarus (with Belarus). Still ongoing.
48. *Does your country object to the above list of transboundary EIA procedures being included in a compilation of such procedures to be made available on the website of the Convention? (Indicate “yes” if you object.)*
- No. There are no objections.
49. *Are there projects other than those mentioned above for which a transboundary EIA procedure should have been applied, but was not? Explain why.*
- No.
50. *Provide information on the average duration of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.*

In practice the average duration of whole transboundary EIA procedure is approximately from half a year to 1-2 years or in intricacy and complicated cases even longer. Each stages have different duration and it depends on many factors, for example the following stages can last:

1. Notification and response on it - approximately 30 days after receiving the notification.
2. Scoping - approximately 1-2 months.
3. Preparation of EIA documentation - approximately from 6 months to 1 year, or even more.
3. EIA documentation - approximately 1-3 months (with public participation).
4. Consultation - approximately 1-2 months.
5. Issuing the final decision and its providing to the AP - approximately 3 months or even longer.

## EXPERIENCE OF THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE IN 2006–2009

51. *If your country has had practical experience, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.*

Poland has a lot of practical experiences related to the implementation of the Espoo Convention, used as a tool to prevent, reduce and control possible significant transboundary environmental impacts which might occur as a result of construction most of above mentioned projects.

In general, conducting a transboundary EIA procedure, as an integral part of the national EIA procedure, strongly supports the environment protection in case where planned project may have significant adverse impact on the other country's environment.

First of all, such procedures allow concerned Parties to exchange suitable information about planned activities and their possible cross-border impacts and analyze this information in order to define whether or not such impacts might occur, which natural components of environment might be exposed for negative transboundary impacts and its possible size and distance. Recognizing and defining possible transboundary impacts and finally application the largest and the most suitable measures to prevent, reduce and mitigate can allow to protect environment in the global scale. Moreover it helps to control any undesirable changes in environment which may appear as a consequences of implementation of new project and learn new lessons, good practices and solutions. Additionally transboundary EIA procedure allow to maintain good relationships between concerned countries.

Giving practical examples, it is worth to indicate that as a result of one of the finished transboundary EIA procedure (Construction of paper mill in Eisenhüttenstadt in Germany) the PoO accepted and finally realized Poland's request on building measuring point near the border in order to measure the real level of gas and dust emissions into air. In case when the measurements were higher than the acceptable level it would be necessary to take additional measures to reduce undesirable impacts on the environment.

52. *How has your country interpreted in practice the various terms used in the Convention, and what criteria has your country used to do this? Key terms include the following: “major change” (art. 1 (v)), “a reasonable time” (art. 3.2(c), art. 4.2), “promptly” (art. 3.6) and “a reasonable time frame” (art. 5). (Do not provide references to answers to earlier questions 6 (b), 11, 13, 25 and 31.) If your country experiences substantial difficulties interpreting particular terms, does your country work together with other Parties to find solutions? If not, how does your country overcome the problem?*

1. Major change to an activity (art. 1 v) - construction works or other intervention in the environment, consisting of the transformation or change in the use of land, including the extraction of minerals;
2. Reasonable time (art. 3.2 c) - sufficient and adequate time for responding on the notification, including time for analyzing submitted information;
3. Promptly (art. 3.6) - as soon as possible;
4. Reasonable time frame (art. 5) - possible and realizable time for consultation.

53. *Please share with other Parties your country's experience of using the Convention in practice. In response to each of the questions below, either provide one or two practical examples or describe your country's general experience. You might also include examples of "lessons learned" in order to help others.*

- a. *How in practice has your country identified transboundary EIA activities for notification under the Convention, and determined the significance and likelihood of adverse transboundary impact?;*

Transboundary EIA activities are identified on the basis of the information submitted by developer and according to the activities listed in the Regulation which contains all activities specified in Annex I of the Espoo Convention and Annex I and II of the Directive 85/337/EEC. Such identification are made by the authority who is responsible for conducting the national EIA procedure

- b. *Indicate whether a separate chapter is provided on transboundary issues in the EIA documentation. How does your country determine how much information to include in the EIA documentation?;*

Yes. Separate chapter on transboundary issues is usually included in EIA documentation. The type of required information on transboundary issues which must be included in EIA documentation are specified in the EIA Act of Law. Generally, where it is found that a transboundary impact on the environment is likely, the developer must present in the EIA documentation all information about impacts on the particular elements of the environment in a transboundary context. It means that all requirements for content of EIA documentation specified in the national legislation must be also applied in a transboundary context in justifiable cases.

- c. *What methodology does your country use in impact assessment in the (transboundary) EIA procedure (e.g. impact prediction methods and methods to compare alternatives)?;*

Methodology used in impact assessment depends on the kind of planned activity and its possible impacts on the particular components of the environment.

- d. *Translation is not addressed in the Convention. How has your country addressed the question of translation? What does your country usually translate? What difficulties has your country experienced relating to translation and interpretation, and what solutions has your country applied?;*

Translation issues are regulated in bilateral agreements with Germany and with Lithuania. In cases with these countries there are no problems in this field because the PoO is obliged to translate all documents into the AP's language. But translation is more complicated with other Poland's neighbours because there are no bilateral regulations on this matter. Then we try to correspond with other Parties in English language.

Generally, Poland has a lot of problems when the PoO sends us huge EIA documentation only in its language. Then it is difficult to define which chapters should be translated and this situation can cause a lot of problems, for example with choosing an appropriate part of the EIA documentation to translate it. As a consequence of this situation some problems with complex analyses all aspects of the planned project may occur. In order to solve these problems we ask the PoO for translation of the table of contents of the EIA documentation into English. Then choosing the best chapters for translation is easier. Nevertheless translation is very expensive and even more time-consuming.

But it is worth to indicate that when Poland is the PoO, Polish authority responsible for conducting national and transboundary EIA procedure on the basis of the national legislation has a right to impose on the applicant the obligation to prepare suitable documentation, in the language of the country in whose territory the project may have its impact, so that we usually submit to the AP documents translated into its own language.

- e. *How has your country organized transboundary public participation in practice? As Party of origin, has your country organized public participation in affected Parties and, if so, how? What has been your country's experience of the effectiveness of public participation? Has your country experienced difficulties with the participation of its public or the public of another Party? (e.g. have there been complaints from the public about the procedure?);*

We only organize public participation in cases when Poland is AP. Then suitable information and documentation about planned project are available for public review with possibilities for making comments on it for 21 days. Usually there are no problems with public participation. Moreover there are no complaints from the public about the procedure. Effectiveness of public participation depends on many factors but in particular depends on:

1. Correct notification of the public - it means that public participation is more effective when notification of the public is made by authority in an appropriate way specified in national legislation.
2. Type of planned activity, its location in near vicinity to the border, scale and long-range impacts. It means that more people take part in public participation when planned project is controversial, such as a gas pipeline Nord Stream or nuclear power plant.

- f. *Describe any difficulties that your country has encountered during consultations, for example over timing, language and the need for additional information. As an affected Party, have consultations under article 5 supported the prevention, reduction or control of possible significant transboundary environmental impacts?;*

The most frequent difficulties that Poland as far as has encountered during transboundary consultations are:

1. problems with language and good quality of translation,
2. inappropriate translation of the EIA documentation and other additional documents,
3. lack of agreed minutes from consultation or/and in consequence in implementation its provisions.

In general, consultation under article 5 of the Espoo Convention has supported in many cases the prevention, reduction and control of possible transboundary impacts.

- g. *Describe examples of the form, content and language of the final decision, when it is issued and how it is communicated to the affected Party and its public;*

Generally the final decision issued in Poland consists the following information:

1. the type and place of the implementation of the project,
2. the conditions for the use of the area at the stages of the implementation and operation or use of the project, with particular consideration given to the need to protect special natural values, natural resources and cultural heritage sites and to reduce the annoyances for the adjacent areas,
3. the requirements of environmental protection which must be taken into account in building permit,
4. the requirements to prevent the effects of industrial accidents, in the case of projects classified as plants which represent major-accident hazards,
5. the requirements to reduce the transboundary impact on the environment in the case of projects for which the procedure for the transboundary impact on the environment has been carried out.

Moreover in justifiable cases such decision can consist:

1. the need to perform nature compensation,
2. the obligation to prevent, reduce and monitor the environmental impact of a project,
3. the need to establish a restricted use area,
4. the state about the need to conduct environmental impact reassessment on the stage of building permit
5. the requirement to present a post-project analysis.

A final decision also requires a justification which shall contain:

1. information on the conducted procedure requiring public participation and the manner in which the comments and suggestions submitted in relation to public participation have been considered and the extent to which they have been used,
2. information on the manner in which the following has been considered and the extent to which it has been used:
  - the findings of the environmental impact report for the project,
  - the approvals by the Regional Director for Environmental Protection and opinions of the authority of the State Sanitary Inspectorate,
  - the results of the procedure for the transboundary environmental impact, where it has been conducted
3. the justification of the position about the need to conduct environmental impact reassessment on the stage of building permit.

The authority competent to issue a decision on the environmental conditions shall inform the public of the decision issued and the possibilities of becoming acquainted with its content and the documentation of the case, including the approval obtained from the Regional Director for Environmental Protection and the opinion of the authority of the State Sanitary Inspectorate. At the same time the final decision shall be forwarded by GDOS to the AP in order to make it available for public and relevant authorities in the AP to become acquainted with its content.

*h. Has your country carried out post-project analyses and, if so, on what kinds of project?;*

Yes, post-project analyses are carried out in Poland. Whether or not to carry out such analysis depends on many factors, for example: character of project, its scale, location, possible impacts on the environment, envisaged emissions, vicinity of protected areas etc.

In general post-project analyses are carried out especially for the following projects: roads, railways, manufacturing plants, power plants etc.

The obligation to carry out post-project is obliged on the developer in case by case by the relevant EIA authority in agreement with RDOS.

- i. *Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your country's experiences describing, for example, means of cooperation (e.g. contact points, joint bodies, bilateral agreements), institutional arrangements, and how practical matters are dealt with (e.g. translation, interpretation, transmission of documents, etc.);*

No experiences.

- j. *Name examples of good practice cases, whether complete cases or good practice elements (e.g. notification, consultation or public participation) within cases. Would your country like to introduce a case in the form of a Convention's "case study fact sheet"?*

No experiences and good practice cases which can be introduced in case study fact sheet.

- k. *Identify the most common means of applying the Convention (e.g. through focal points, joint bodies, multilateral agreements).*

focal points, bilateral agreements

#### CO-OPERATION BETWEEN PARTIES IN 2006–2009

54. *Does your country have any successful examples of how it has overcome difficulties arising from different legal systems in neighbouring countries?*

No experience.

#### EXPERIENCE IN USING THE GUIDANCE IN 2006–2009

55. *Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online? Describe your country's experience with using these guidance documents and how they might be improved or supplemented:*

- a. *Guidance on public participation in EIA in a transboundary context;*

We have no special experiences related to usage of this guidance and proposals of its improvement.

- b. *Guidance on subregional cooperation;*

We have no special experiences related to usage of this guidance and proposals of its improvement.

- c. *Guidelines on good practice and on bilateral and multilateral agreements.*

We have no special experiences related to usage of this guidance and proposals of its improvement.

#### CLARITY OF THE CONVENTION

56. *Has your country had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear? Describe the transboundary EIA procedure as applied in practice, where this has varied from that described in part one above or in the Convention. Also describe in*

*general the strengths and weaknesses of your country's implementation of the Convention's transboundary EIA procedure, which your country encounters when applying the Convention.*

We had difficulties, especially with:

1. translation,
2. definition of the time for issuing the final decision - Convention does not exactly define when the final decision can be issued, it means after consultation or after submitting additional information if they were needed. Generally, it is complicated situation when the planned project is controversial from many reasons, especially because of the location, the type and scale, its impact on the environment on the other side of the border, and when the AP has a lot of questions, concerns and need more and more clarifications and additional opinions, expertises or information. In such situation it is difficult to define whether or not the transboundary consultations were ended and whether or not the final decision can be issued,
3. framework and rules for conducting the joint EIA transboundary procedure in case when the planned activity will be implemented on the both sides of the border.

In the light of above mentioned problems we state that the Espoo Conventions provisions are unclear in the following fields: translation, issue the final decision and joint transboundary EIA procedure.

#### AWARENESS OF THE CONVENTION

*57. Has your country undertaken activities to promote awareness of the Convention among stakeholders (e.g. the public, local authorities, consultants and experts, academics, investors)? If so, describe them.*

No.

*58. Does your country see a need to improve the application of the Convention in your country and, if so, how does it intend to do so? What relevant legal or administrative developments are proposed or ongoing?*

We see a need to improve the application of the Espoo Convention, especially in the translation field. Therefore Poland currently prepares the new bilateral agreements with neighbourhood countries and improves existing one's.

On the basis of the principle "polluter pays" we would like to enter in these new agreements the provision of PoO obligation to prepare all documentation and suitable letters or additional information on EIA in AP's language.

Generally, in the most cases other Parties do not respect this principle explaining that they do not have national legal provisions to impose on the developer the obligation to translate EIA documentation into AP's language. It is the most problematic issue because Poland has very bad experiences with translation documentation into Polish. Our national legislation says that the developer is obliged to translate all documentation into other Party language so that in all cases, when Poland is PoO, AP will receive translated documentation.

#### SUGGESTED IMPROVEMENTS TO THE REPORT

*59. Please provide suggestions for how this report may be improved.*

No suggestions.

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