

Questionnaire for the

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

in the period 2010–2012

**Information on the focal point for the Convention**

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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

- 1. List the general legal, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2).*

The provisions of the Convention were implemented to the national legislation by means of the following legal acts:

- 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*,
- The Regulation of the Council of Ministers of 9 November 2010 on types of projects likely to have significant effects on the environment (O.J.2010.213.1397) – hereinafter *EIA Regulation*,
- Polish-German Agreement on transboundary EIA,
- Polish-Lithuanian Agreement on transboundary EIA.

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

The elaboration of further bilateral agreements are conducted with Germany, Slovakia, Belarus.

- 2. List the different authorities that are named responsible for the implementation of the EIA procedure in the transboundary context and domestically.*

#### Transboundary EIA:

1. The General Director for Environmental Protection (central governmental administration) – is responsible for international cooperation within transboundary EIA both in the case of being the Party of origin or the affected Party. He notifies as well receives notifications, contacts with other Parties within each stage of transboundary EIA and officially represents Polish Party. When Poland is Party of origin he is empowered to take over the conduct of the consultations on the basis of the EIA documentation from administration authority which carries out the EIA in the case if he deems it as purposeful from the intricacy point of view.

Moreover, this authority decides if transboundary EIA need to be conducted for projects related to the nuclear energy and the ancillary works and installations in the case when Poland is the Party of origin.

2. The Regional Director for Environmental Protection (regional governmental administration, one Director in each Voivodship, totally-16) – is responsible for making a decision if transboundary EIA is necessary to be conducted for certain types of projects in the case when Poland is the Party of origin (roads, railway lines, overhead power transmission lines, installations for the transport of crude oil, products, chemical substances or gas, artificial water reservoirs, projects carried out on closed sites, projects carried out in marine areas, the conversion of a forest which is not the property of the State Treasury into farmland, airports, terminal LNG, regional radio communication, radio navigation and radiolocation installations, projects consists of change or extension abovementioned projects, flood protection projects).

Moreover, in the case when Poland is the affected Party this authority – who is competent in respect of the area which may be affected by the possible transboundary impacts on the environment – expresses opinion if Poland need to be involved in the transboundary EIA and then ensures the public participation, collects comments from concerned public and authorities and finally prepares a draft position regarding planned project and submits it to the General Director for Environmental Protection. Such draft position is a background for official Polish position on planned project that is finally prepared by the General Director for Environmental Protection,

3. The Director of the Regional Directorate of State Forests – decides if transboundary EIA need to be carried out in the case of the conversion of a forest which is the property of the State Treasury into farmland,
4. The head of the county administration – is responsible for making decision if transboundary EIA need to be carried out in the case of land consolidation, exchange or division when Poland is the Party of origin,
5. The head of the local administration and the mayor of a town/city – are responsible for making decision if transboundary EIA is necessary to be conducted for certain types of projects in case when Poland is the Party of origin,

#### National (domestic) EIA:

- 1) The General Director for Environmental Protection – conducts national EIA and issues a decision on the environmental conditions in the case of projects related to the nuclear energy and the ancillary works and installations,
- 2) The Regional Director for Environmental Protection – conducts national EIA and issues a decision on the environmental conditions in the case of certain types of projects that may always have a significant impact on the environment such as roads, railway lines, overhead power transmission lines, installations for the transport of crude oil, products, chemical substances or gas, artificial water reservoirs. Moreover, he is competent to issue a decision on EIA for projects carried out on closed sites, projects carried out in marine areas, the conversion of a forest which is not the property of the State Treasury into farmland, airports, terminal LNG, regional radio communication, radio navigation and radiolocation installations, projects consists of change or extension abovementioned projects, flood protection projects,

- 3) The Director of the Regional Directorate of State Forests – conducts EIA and issues a decision on EIA in the case of the conversion of a forest which is the property of the State Treasury into farmland,
  - 4) The head of the county administration – conducts and issues a decision on EIA in the case of land consolidation, exchange or division,
  - 5) The head of the local administration and the mayor of a town/city – conducts EIA and issues a decision on EIA for certain types of projects others than those above-mentioned. There is no specified list of such projects.
- 3. *Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it.***

The General Director for Environmental Protection on the basis of article 128 of the *EIA Act of Law* shall manage a database on environmental impact assessments, also in a transboundary context, including data on the documentation prepared within the framework of these procedures.

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

There are no special provisions for joint cross-border projects in Polish law.

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

- 5. *Is appendix I to the Convention transposed fully into your country's national legislation? Please describe any differences between the national list and appendix I to the Convention.***

Yes, it is fully transposed into national legislation. The reflection of the appendix I was placed in the Regulation of the Council of Ministers on types of projects to have significant effects on the environment. This regulation is also in full compliance with annex I and II of the EU Directive on EIA.

- 6. *Does your country's legislation already cover fully the revised appendix I in the second amendment (ECE/MP.EIA/6, decision III/7)?***

Yes, it does.

#### PUBLIC PARTICIPATION

- 7. *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?***

Polish law does not contain any special provisions in this regard. National legislation just only stipulates that in the case if the affected Party wants to participate, then the General Director for Environmental Protection – in cooperation with an authority competent to issue a decision on the environmental conditions – shall agree with this Party on time-frames for the entire procedure. While making such an agreement on time-frames the General Director must take into account the necessity to ensure the public participation in the affected Party.

*Nevertheless, it is worth to note that some special provisions regarding the equal rights for the public participation in both Parties are included in the Polish-German Agreement on EIA. The special regulations in this regard are set out in article 4 of this agreement. This article says, among others, that both Parties shall make the public participation on the basis of rules being in compliance with their national legislation. What is more, the public of the affected Party shall have a right to express their comments and views on the planned project within the same time-frames as these reserved for public of the Party of origin. Another important thing is that the public of the affected Party has an opportunity to make comments in its own mother tongue directly to the relevant authority of the Party of origin competent to issue a final decision. What is more, in the case if the Party of origin conducts the public hearing in order to explain comments and reservations from public then should also inform the affected Party about time and venue of such a meeting.*

## **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 as and no later than when informing its own public”.**

There is no special regulations that give information how to determine the necessity to send the notification to the affected Party. Polish law says that if the administration authority competent to issue a decision on environmental conditions (it means which carries out the EIA procedure) finds that a significant transboundary impact on the environment may arise as a result of the implementation of a proposed project, then shall issue a decision to conduct the transboundary procedure. As a rule, such decision on necessity to carry out the transboundary EIA is made on the basis of information about planned activity submitted by the developer. The analysis of such information generally leads to conclusion whether or not the Espoo Convention need to be applied. Moreover, Polish law stipulates, that in the case if there is possibility to occur the transboundary impacts the affected Party shall be involved at the scoping stage, in order to express comments and views regarding the scope and content of the EIA documentation that need to be elaborated for proposed project. Comments given by the affected Party shall be taken into account while defining the scope of the EIA documentation. Such approach and early involvement of the affected Party has many advantages that generally lead to facilitate the entire procedure.

- 9. Indicate whether and how the following provisions are reflected in your national legislation:**

- a. The stage in the EIA procedure when your country usually notifies the affected Party (art. 3.1);**

Notification usually takes place at the scoping stage, because national legislation says that comments given by the affected Party regarding the scope of the EIA documentation shall be taken into account while defining the scope and content of such documentation. Nevertheless, in some cases it may happen that only the EIA documentation stage provides new information about project and its likelihood to have transboundary impact on the territory of another Party and thus need to send notification to the affected Party.

- b. *The format for notification. Please indicate whether this is the format as decided by the first meeting of the Parties in its decision I/4 ( ECE /MP.EIA/2, annex IV, appendix). If not, does your country use a format of its own (in which case, please attach a copy of it)?***

The national legislation provides for basic information that need to be included in the notification such as:

- the name of the proposed project that may have a transboundary impact on the environment,
- the decision which is to be issued for this project and the authority competent to issue it,
- information sheet of the project,
- proposal of a date for the affected Party to reply whether it is interested in participating in transboundary EIA.

The information sheet that is attached to the notification is a kind of document which contains the basic information on the proposed project, in particular the data concerning:

- the type, scale and localisation of the project,
- the surface area of the real estate and the built structure occupied and the existing manner of their use as well as the vegetal cover in the real estate,
- the type of technology,
- the possible options of the project,
- the predicted quantities of the water, raw materials, intermediate materials, fuels and energy to be used,
- the measures to protect the environment,
- the types and predicted quantities of the substances or energies released into the environment when using the measures to protect the environment,
- the possible transboundary impact on the environment,
- the areas of high nature values that are under protection which are situated within the range of a significant impact of a project.

- c. *The time frame for the response to the notification from the affected Party (cf. art. 3, para. 3, “within the time specified in the notification”), the consequence if an affected Party does not comply with the time frame, and the possibility of extending a deadline;***

Polish law says that the General Director for Environmental Protection shall propose in notification a date for the affected Party to reply. There is no specified time frames for reply set out in the national legislation. Nevertheless, having in mind good practice and lessons learned Poland usually gives the affected Party around 30 days for reply. Moreover, in the case where the affected Party does not meet the deadline for reply, firstly we use an electronic correspondence to ask when we can possibly receive any response. If it does not work then we send the official letter with information that we treat the lack of response as no desire from the affected Party to be involved in the procedure.

If the affected Party ask for extending a deadline we usually give reasonable additional time for reply.

- d. *The request for information from the affected Party (art. 3 para. 6), necessary for the preparation of the EIA documentation;***

There is no reflection in national law regarding the request for information from the affected Party. Nevertheless, having in mind good practice and lessons learned Polish developers are usually informed by the General Director for Environmental Protection that such information might be obtained from the affected Party under the provisions of the Espoo Convention. Despite the fact that there is no legal background at the national level, Poland usually asks the affected Party for information necessary to be used while preparing the EIA documentation.

**e. *How your country cooperates with the authorities of the affected Party on public participation (art. 3, para. 8);***

In the case when Poland is the Party of origin, there is an obligation to agree with the affected Party the dates of the stages of the procedure, taking into account the need to enable the competent authorities and the public of the affected Party to participate in the procedure. What is more the notification and all relevant documents are obligatory sent in mother tongue of the affected Party in order to facilitate the public participation. According to the bilateral agreement with Germany, the German public may submit comments in its own language directly to the Polish relevant authority.

**f. *When and 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?***

Polish law does not regulate such an issue. The notification of the public from the affected Party is carried out accordingly to the national law of the affected Party.

**g. *When and how the public in the Party of origin is notified (what kinds of media, etc. are usually used). What is normally the content of the public notification?***

Polish law stipulates that prior to the issue and modification of decisions requiring public participation, the administration authority competent to issue such decisions shall provide the public with information concerning:

- the launch of the EIA for a planned project,
- the initiation of the procedure,
- the subject matter of the decision which has to be issued in the matter,
- the authority competent to issues decisions or the authorities competent to provide opinions and grant approvals,
- 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 authority competent for handling comments and suggestions,
- the date and place of the administrative hearing open to the public, where it is to be conducted,
- the procedure for the transboundary EIA, where it is to be conducted.

According to the national law “notification of the public” shall mean:

- 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,

- in the case if 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.

***h. 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.***

As a rule the information given to the public both in the Party of origin and the affected Party is the same. Nevertheless, we have no real influence on the public participation in the affected Party. We just only give the information and ask the affected Party for ensuring the public participation and finally providing us with comments from the public. It mainly depends on the affected Party on what kind of rules the public participation will be carried out.

***10. 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, annex III, 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, it does. The contact points for the purposes of notification are used regularly. The exceptions are cases where bilateral agreements are applied, if such agreements decide otherwise.

#### QUESTIONS TO AFFECTED PARTY

***11. Indicate whether and how the following provisions are reflected in your national legislation:***

***a. How your country decides whether or not to participate in the EIA procedure (art. 3, para. 3)?***

The General Director for Environmental Protection, who is appointed as a Point of Contact to the notification, after having received documents containing information on a project undertaken outside the territory of Poland the implementation which may have an environmental impact in its territory, shall immediately forward such documents to the Regional Director for Environmental Protection – who is competent in respect of the area which may be affected by the possible transboundary impact on the environment. The task of Regional Director is to analyse the documents and, on the basis of such analysis as well as additional opinions of other specialised authorities, decide if launching the transboundary procedure is justified and thus necessary. When deciding to participate in transboundary EIA then need to inform own public on planned project. Further, the Regional Director submits his draft position concerning the necessity to participate in the EIA procedure to the General Director for Environmental Protection. Then, the General Director for Environmental Protection verifies such draft position and on its basis prepares the official Polish position which sends to the Party of origin. The General Director gives response to the notification within time frame specified by the Party of origin.

***b. The request from the Party of origin for information (art. 3, para. 6), necessary for the preparation of the EIA documentation;***



There are no special regulations in Polish law in this regard. Regardless of that, if Poland is asked for providing such information, then gives all necessary and requested information to the Party of origin.

***c. How your country cooperates with the authorities of the Party of origin on public participation (art. 3, para. 8);***

There are no special provisions in this regard. In practice the cooperation generally means forwarding all comments and suggestions in Polish from public collected by Polish relevant authorities. Such comments are forwarded to the Party of origin by the General Director for Environmental Protection.

***d. When and how the public is notified (e.g., what kinds of media, etc., are usually used).***

Public notification takes place at two stages: the notification stage (usually scoping stage) and the EIA documentation stage. The Regional Director for Environmental Protection who is competent in respect of the territory that may be affected by the planned project, is responsible for ensuring public participation. Means of notification of the public are following:

- 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,
- in the case if 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.

## **Article 4**

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

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

***12. Indicate the legal requirements in your country, if any, related to:***

***a. The content of the EIA documentation (art. 4, para. 1; appendix II);***

The article 66 paragraph 1 of the *EIA Act of Law* specifies the content of the EIA documentation. This article says in details what kind of issues need to be included in the EIA documentation and is in full compatibility with appendix II of the Espoo Convention. Moreover, the requirements of this article for the content of the EIA documentation are more extended than specified in appendix II – it is in full compliance with the EU Directive on EIA.

***b. The procedures for determining the content of the EIA documentation on a case-by-case basis (scoping procedure) (art. 4, para. 1);***

The scoping procedure is set out in article 63 paragraph 4, article 68 and article 69 paragraph 1 of the *EIA Act of Law*.

- For planned projects that need to be a subject of EIA optionally (activities listed in annex II of the EU Directive on EIA) – the scoping is carried out together with screening on the basis of information submitted by the developer together with application for a decision (so called information sheet of a project). When the authority determines that the EIA need to be conducted at the same time defines the scope and content of the EIA documentation. In defining the scope, the authority shall take into account the current knowledge and research methods as well as the existing technical possibilities and availability of data. This authority considering the location, character and magnitude of the environmental impact of the project, may also resign from the certain requirements concerning the content of the EIA documentation set out in the *EIA Act of Law* as well as indicate the types of alternative options which need to be examined, the types of impacts and the elements of the environment which require detailed analysis and the scope and methods for the assessment.
- For planned projects that need to be a subject of EIA mandatory (activities listed in annex I of the EU Directive on EIA) – there is no obligatory scoping stage. Nevertheless, the developer has a right to ask competent authority for defining the scope and content of the EIA documentation. In such situation, the developer should submit application for a decision together with basic information of a project (so called information sheet) instead of EIA documentation. Moreover, in the case when the planned project may have a transboundary impact of environment the scoping stage is mandatory.

According to the article 64 paragraph 3 of the *EIA Act of Law* the screening and scoping decision is issued by competent authority after opinions have been obtained from Regional Director for Environmental Protection and Sanitary Inspection. In the case when planned project is situated in the maritime areas then the opinion of the Director of Maritime Office need to be obtained.

***c. The identification of “reasonable alternatives” in accordance with appendix II, paragraph (b);***

The obligation to identify the “reasonable alternatives” is stipulated in article 66 paragraph 1 point 5) of the *EIA Act of Law*, which says that the EIA documentation should contain a description of the options analysed, including:

- the option proposed by the proponent and a reasonable alternative
- the option which is the most favourable for the environment, along with reasons for their choice.

Moreover, the relevant authority while defining the scope and content of EIA documentation may indicate in the scoping decision the types of alternative options which need to be examined.

***d. The procedures and format for providing the EIA documentation domestically;***

Regarding the procedure:

Article 77 of the *EIA Act of Law* establishes the procedure for providing the EIA documentation to the environmental and sanitary authorities whose approvals and opinions are needed at the EIA documentation phase. According to this article, where the EIA for a project is carried out, prior to the issue of a decision on the

environmental conditions, the authority competent to issue this decision is obliged to obtain the approval of the Regional Director for Environmental Protection or the Director of Maritime Office – if the planned project is situated in the maritime area – as well as the opinion of the Sanitary Inspection. Such approvals and opinions are based on the EIA documentation which is verified by these authorities. They need to be taken into account while issuing the decision by the competent authority. The EIA documentation is also provided to the public for 21-day period with possibility to comment on within this period. Public participation means possibility for everybody to acquaint with the EIA documentation and express views and comments on it.

Regarding the format:

According to the article 74 paragraph 2 of the *EIA Act of Law* the EIA documentation is submitted by the developer to the competent authority in three paper copies, along with their record in electronic form on data storage medium. Due to this fact, it is provided to the relevant authorities and public both in paper and electronic version.

***e. The procedures and format for providing the EIA documentation to the affected Party. If there is a difference between the procedures and format domestically and for the affected Party, please explain;***

There is no significant differences. According to the article 109 paragraph 3 point 2) lit. c) of the *EIA Act of Law*, in the case where the affected Party declared its participation, the EIA documentation is delivered to the affected Party in order to consult it with the relevant authorities and public from the affected Party. As a good practice the EIA documentation is provided both in paper and electronic version.

In that case the opportunity to express views and comments on the EIA documentation is also given to the public and authorities from the affected Party. Such comments shall be taken into account while issuing the final decision.

***f. The procedures for the examination of, and the deadlines for comments on, the EIA documentation domestically, and how the comments submitted domestically are addressed;***

a) According to the article 77 paragraph 6 of the *EIA Act of Law* the relevant authorities (Regional Director for Environmental Protection or Director of Maritime Office – in the case where the planned project is situated in the maritime areas and Sanitary Inspection) need to comment on the EIA documentation within 30 days since receiving the request from the authority competent to issue the decision on the environmental conditions for its examination of. Such comments made as approval and opinion need to be taken into account by the competent authority while issuing a decision on the environmental conditions as it is stipulated in the article 80 paragraph 1 point 1) of the *EIA Act of Law*.

b) The part III chapter 2 of the *EIA Act of law* regards the public participation in decision making. Particular articles of this chapter cover issues related to the procedures for the examination of, and the deadlines for comments on, the EIA documentation domestically, and how the comments submitted domestically are addressed. First of all the article 33 paragraph 1 of the *EIA Act of Law* stipulates, among other, that the public need to be informed about 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 as well as the manner, place and 21-day

period for their submission. Moreover, article 34 defines in details the means of submission the comments and suggestions. On the other hand according to the article 37 the authority which conducts the procedure shall consider comments and suggestions from public and in the justification of the decision shall provide information on public participation in the procedure 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. Moreover, the article 80 paragraph 1 point 2 says that the competent authority shall issue a decision on the environmental conditions taking into account the results of the public participation.

**g. *The procedures for the examination of, and the deadlines for comments on, the EIA documentation from the affected Party, and how the comments submitted by the affected Party are addressed;***

The national law gives legal framework for above mentioned steps in transboundary EIA, namely:

- Article 109 paragraph 2 of the *EIA Act of Law* generally says that notification should contain the proposed deadline for response whether or not the affected Party wishes to participate. In the case if the affected Party is interested in taking part in the procedure the next step, accordingly to article 109 paragraph 3 point 1 of the *EIA Act of Law*, is fixing the time frames for the entire transboundary EIA procedure, particularly for the individual stages. The Party of origin should fix the time frames in cooperation with the affected Party and having in mind the necessity to enable the public and authorities from this Party to participate and being consulted on the documentation.
- There is no specified deadline set out in the national legislation for comments, each case is considered individually while defining such deadline. In most cases the best practice is applied (at least 30 days, and maximum 3 months). While having cases with Germany and Lithuania such deadline for comments is set out in the bilateral agreements.
- Article 111 paragraph 2 of the *EIA Act of Law* stipulates that comments and suggestions submitted by the affected Party should be considered and used in issuing a decision on the environmental conditions.
- Article 80 paragraph 1 point 4 of the *EIA Act of Law* says that the competent authority shall issue a decision on the environmental conditions taking into account the results of the procedure for the transboundary EIA.
- Article 80 paragraph 2 point 1) lit. b) says that the results of the transboundary EIA shall be included in the justification of a decision on the environmental conditions.

**h. *The procedures for public hearings domestically;***

Article 36 of the *EIA Act of Law* says that the administration authority competent to issue the decision may conduct an administrative hearing open to the public. The rules for organizing such a public hearing are set out in *Administrative Procedure Code*.

**i. *The procedures for public hearings held on the territory of the affected Party.***

National legislation does not regulate this issue.

## QUESTIONS TO AFFECTED PARTY

### **13. Indicate the legal requirements in your country, if any, related to:**

- a. The procedures and deadlines for comments on the EIA documentation to be submitted to the Party of origin;**

Article 119 paragraph 3 of the *EIA Act of Law* generally says that Poland as the affected Party shall submit its position on the planned project to the Party of origin. There is no legal requirements for deadlines.

- b. The procedures for public participation in the review of the EIA documentation domestically, and the authority responsible for the execution of the aforementioned procedures;**

The legal requirements for public participation in the review of the EIA documentation in the case where Poland is the affected Party is set out in article 119 paragraph 1 of the *EIA Act of Law*. The authority responsible for this procedure is the Regional Director for Environmental Protection who is competent in respect of the area which may be affected by the possible transboundary impact on the environment. The part III, chapter 2 of the *EIA Act of Law* is also applied appropriately (see answer 12 f point b).

- c. The procedures for the examination of the EIA documentation domestically.**

The examination of the EIA documentation domestically, in the case where Poland is the affected Party, is carried out by the Regional Director for Environmental Protection who is competent in the area that might be affected. Pursuant to the article 119 paragraph 2 of the *EIA Act of Law* this authority after examination of the EIA documentation prepares and submits his opinion on the planned project to the General Director for Environmental Protection. Further, the General Director, on the basis of such opinion, informs the Party of origin on Polish comments on the EIA documentation.

## **Article 5**

### **Consultations**

## QUESTIONS TO PARTY OF ORIGIN

### **14. Indicate the legal requirements in your country, if any, related to the following provisions:**

- a. The procedures for cooperation with the affected Party related to consultations;**

Accordingly to the article 109 paragraph 3 point 1 of the *EIA Act of Law* the Party of origin should agree with the affected Party the dates of the particular stages of the procedure, amongst others consultations.

- b. The stages, procedures and deadlines for consultations with the affected Party;**

Questions in point b) and c) seems to have a similar meaning. In general, both questions are not fully clear what the author had in mind. So, please see answer in point c) which from our point of view is also applied in the case described in point b).

- c. The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.***

In the case when Poland is the Party of origin, the administration authority which carries out the EIA for a planned project shall hold consultations with the affected Party (article 110 paragraph 1 of the *EIA Act of Law*) via the General Director for Environmental Protection. In this consultation the General Director for Environmental Protection shall also participate.

There is one exception. The article 110 paragraph 2 of the *EIA Act of Law* says that where the General Director for Environmental Protection deems it purposeful in the light of the importance or intricacy of the case, he may take over the conduct of the consultations. In such consultation the administration authority which carries out the EIA shall participate.

#### QUESTIONS TO AFFECTED PARTY

- 15. Indicate the legal requirements in your country, if any, related to the following provisions:***

- a. The procedures for interaction with the Party of origin related to consultations;***  
No legal requirements.
- b. The stages, procedures and deadlines for consultations domestically, and who participates in the consultations.***  
No legal requirements.

## **Article 6**

### ***Final decision***

#### QUESTIONS TO PARTY OF ORIGIN

- 16. Indicate the legal requirements in your country, if any, related to the following provisions:***

- a. The definition of "final decision" related to the implementation of the planned activity; the content of decisions; and procedures for their adoption;***

The "final decision", in the meaning of the Espoo Convention, is defined in article 71 of the *EIA Act of Law* as a decision on the environmental conditions which determines the environmental conditions for the implementation of a project. Such decision shall be required for proposed projects which may always or possibly have a significant impact on the environment. Its content is specified in article 82 of the *EIA Act of Law*.

According to the article 85 paragraph 2 point 1) of the *EIA Act of Law*, in the case where EIA is conducted, the decision on environmental conditions shall have a justification contains:

- 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,

- information on the manner in which the following has been considered and the extent which it has been used:
  - the findings of the EIA documentation,
  - the approvals by the Regional Director for Environmental Protection and opinion of the Sanitary Inspection,
  - the results of the transboundary EIA.

According to the article 85 paragraph 2 point 2) of the *EIA Act of Law*, in the case where EIA is not conducted, the decision on environmental conditions shall have a justification contains:

- information on the factors considered within screening phase and taken into account when stating that there is no need to carry out the EIA.

Decision on the environmental conditions is issued after having completed the EIA procedure. This decision is binding for investment decisions and is required to be obtained before applying for example for construction permit.

- b. 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, para. 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?***

Each type of activity listed in appendix I, firstly need to have obtained a decision on the environmental conditions (decyzja o środowiskowych uwarunkowaniach) that is necessary before investment decisions, for example localization decision or construction permit. According to the article 86 of the *EIA Act of Law* the terms of decision on the environmental conditions is fully binding for further investment decisions, in particular for construction permit and it is enclosed to the application for the investment decisions.

- c. The procedures for informing of the "final decision" domestically and for the affected Party;***

Informing public domestically that the final decision has been issued is based on the article 38 and the article 85 paragraph 3 of the *EIA Act of Law*. At the same time the public is informed about the possibilities of becoming acquainted with its content and the documentation of the case.

On the other hand, the article 112 of the *EIA Act of Law* says that the final decision shall be forwarded by the General Director for Environmental Protection without undue delay to the affected Party.

- d. 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, para. 1)?***

Generally, the national law requires in article 37 of the *EIA Act of Law* that the authority which conducts the procedure shall consider comments and suggestions and in the justification of the decision shall provide information on public participation in the procedure 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. Moreover, article 80 of the *EIA Act of Law* says that the competent

authority shall issue a decision on the environmental conditions taking into account among others:

- the results of the approvals and opinions of the authorities competent in the field of sanitary inspection and environmental protection issues,
- the results of the public participation,
- the results of the procedure for transboundary EIA, where it has been conducted.

Additionally, the article 85 of the *EIA Act of Law* says that the justification of the decision on the environmental conditions shall contain:

- 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,
- information on the manner in which the following has been considered and the extent which it has been used:
  - the findings of the EIA documentation,
  - the approvals by the Regional Director for Environmental Protection and opinion of the Sanitary Inspection,
  - the results of the transboundary EIA.

***e. The opportunity to review the decision if, before the activity is implemented, additional information becomes available according to article 6, paragraph 3.***

According to the article 145 §1 point 5) of the *Administrative Procedure Code* the decision might be revised under the following circumstances. In the case where the final decision has been issued the decision might be revised if the new facts or new evidence – existing in the day of issuing the decision but were not known by the authority competent to issue this decision – reveal later.

## **Article 7**

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

***17. Indicate the legal requirements in your country, if any, related to:***

***a. Post-project analysis (art. 7, para. 1);***

On the basis of article 82 paragraph 1 point 5) of the *EIA Act of Law* the competent authority may in the decision on the environmental conditions impose on the applicant the requirement to perform and present a post-project analysis and set out its scope and the date of its presentation. The definition of a post-project analysis is given by article 83 paragraph 1 of the *EIA Act of Law* which stipulates that this kind of analysis shall compare findings contained in the EIA documentation for a project and in the decision on the environmental conditions, in particular the findings concerning the envisaged nature and 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. This analysis may indicate the need to designate a restricted use area for the project.

***b. Procedures for informing of the results of post-project analysis.***

On the basis of national law, the applicant has an obligation to present the post-project analysis in the date specified in the decision on the environmental conditions



by competent authority. Nevertheless, in the case if transboundary EIA has been conducted then such analysis is forwarded to the affected Party.

## Article 8

### *Bilateral and multilateral agreements*

**18. 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.**

Poland is a Party of two bilateral agreements on transboundary EIA with: Germany and Lithuania. Both agreements are source of generally applicable law and are legally binding for contracting Parties. As a rule they cover issues specified in appendix VI of the Espoo Convention but in some places regulate more practical issues related to the mutual cooperation.

For example, the Polish-German Agreement on transboundary EIA covers the following issues:

- Scope of application (e.g. the requirements for application of the transboundary EIA),
- Notification (e.g. the scope and content of notification, authorities competent to notify and to be notified as well as to be involved in particular stages of EIA, the way of sending and replying, deadline for response, example of acknowledging the receipt the notification and declaration of participation),
- EIA documentation (e.g. the requirements for its content, its submission to the affected Party, deadline for comments),
- Public participation (e.g. the set of rules of organizing public participation in the affected Party and rights given to the public from the affected Party),
- Positions (with comments) of the relevant authorities from the affected Party (e.g. indication of the authorities of the Party of origin competent to receive such positions with comments),
- Exchange of information (e.g. general provision on opportunity to direct exchange of information between authorities from both Parties that are involved in the procedure),
- Consultations on the basis of EIA documentation before issuing the final decision (e.g. the general rules to carry out such consultations, time-frames, topics for discussion),
- Submitting the final decision to the affected Party (e.g. the obligation to make the final decision publicly available in the affected Party),
- Post-project analysis (e.g. general rule of performing and presenting its findings to the affected Party),
- To meet deadlines (the means that might be used in order to meet deadlines)
- Translation of documents (e.g. the scope of translation, the Party of origin is burdened with costs of translation both documents as well as interpreter during a meetings),
- Relevant authorities,
- Settlement of disputes.

The Polish-Lithuanian Agreement on transboundary EIA has similar content as the Polish-German.

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

No supplementary points of contact were established in Poland pursuant to the bilateral agreements.

## **Article 9**

### ***Research programmes***

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

No specific research is carried out.

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

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

Ratified

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

Ratified

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

Ratified.

## **PART TWO – PRACTICAL APPLICATION DURING THE PERIOD 2010–2012**

*Please report on your country's practical experiences in 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; and 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 2010–2012**

**25. If your country's national administration has a list of transboundary EIA procedures that were under way during the reporting period, in which your country was Party of origin or affected Party, please list it.**

**Poland as the Party of origin in the period of 2010 – 2012:**

1. Construction of railway number 7 from East Warsaw via Lublin and Dorohusk to state border with Ukraine ( affected Party – Ukraine),
2. Construction of slaughterhouse KOJS in Jabłonka (affected Party – Slovakia),
3. Construction of wastewater treatment plant KOJS in Jabłonka (affected Party – Slovakia),
4. Construction of onshore wind farm in Jasna Góra, Bogatynia community (affected Party – Czech Republic),
5. Construction of onshore wind farm in Krzewina-Lutogniewice (affected Party – Czech Republic),
6. Construction of onshore wind farm TURÓW in Bogatynia (affected Party – Czech Republic and Germany),
7. Construction of onshore wind farm in Wyszków-Wygancice Żytawskie, Bogatynia community (affected Party – Czech Republic and Germany),
8. Exploitation of melaphyre deposits RYBNICA I in Rybnica Leśna, Mioszów community (affected Party – Czech Republic),
9. Construction of a new power unit in coal-fired power plant TURÓW in Bogatynia (affected Party – Czech Republic and Germany),
10. Modernization of railway Bielawa Dolna-Horka (affected Party – Germany),
11. Reconstruction of temporary dam on the Witka river in Niedów, Bogatynia community (affected Party – Czech Republic and Germany),
12. Reconstruction of permanent dam on the Witka river in Niedów, Bogatynia community (affected Party – Czech Republic and Germany),
13. Modification of a concession for exploitation of melaphyre deposits RYBNICA I in Rybnica, Mioszów community (affected Party – Czech Republic),
14. Construction of offshore wind farm NORTH BALTIC in the Baltic Sea (affected Party – Sweden and Finland),
15. Exploitation of melaphyre deposits in Tłumaczów (affected Party – Czech Republic),
16. Extension of slaughterhouse KOJS/KABANOS and construction of wastewater treatment plant in Jabłonka (affected Party – Slovakia),
17. Construction of highway A2 from state border with Germany via Świecko to Nowy Tomyśl (affected Party – Germany),
18. Construction of national road DK 18 from state border with Germany to junction “Olszyna” (affected Party – Germany),
19. Reconstruction of viewing tower on the Śnieżnik Kłodzki in the Sudety Mountains (affected Party – Czech Republic),
20. Construction of onshore wind farm in Biała community (affected Party – Czech Republic),
21. Construction of onshore wind farm LUBRZA I (affected Party – Czech Republic),
22. Construction of onshore wind farm LUBRZA II with associated infrastructure (affected Party – Czech Republic).

**Poland as the affected Party in the period of 2010 – 2012:**

1. Construction of water reservoir Nove Herminovy and regulation of Opava river together with connected activities (Party of origin – Czech Republic),
2. Construction of onshore wind farm Vaclavice activities (Party of origin – Czech Republic),
3. Construction of ski lift Nydek-Cantoryje (Party of origin – Czech Republic),
4. Construction of a new power unit in nuclear power plant in Temelin (Party of origin – Czech Republic),

5. Construction of onshore wind farm in Lichkov and Mladkov (Party of origin – Czech Republic),
6. Construction of thermal park area with hotel in Spisska Stara Ves (Party of origin – Slovakia),
7. Construction of FehrmanBelt Fixed Link (Party of origin – Denmark and Germany),
8. Construction of offshore wind farm STROM NORD in the Baltic Sea (Party of origin – Germany),
9. Construction of NORD STREAM pipe line (Party of origin – Germany, Denmark, Sweden, Finland, Russia),
10. Construction of water reservoir in HemannsdorferSee on the post-mining areas (Party of origin – Germany),
11. Modernization of railway Bielawa Dolna-Horka (Party of origin – Germany),
12. Construction of Baltic Nuclear Power Plant in Kaliningrad (Party of origin – Russia),
13. Construction of Nuclear Power Plant in Belarus (Party of origin – Belarus),
14. Construction of integrated repository of radioactive waste (Party of origin – Slovakia),
15. Expansion of radioactive waste repository in Mochovce (Party of origin – Slovakia),
16. Construction of offshore wind farm SODRA MIDSJOBANKEN in the Baltic Sea (Party of origin – Sweden),
17. Construction of Chmelnitzky Nuclear Power Plant in Ukraine (Party of origin – Ukraine),
18. Exploitation of brown coal deposits in Janschwalde Nord (Party of origin – Germany),
19. Construction of offshore wind farm WIKINGER SUD in the Baltic Sea (Party of origin – Germany),
20. Construction of offshore wind farm WIKINGER NORD in the Baltic Sea (Party of origin – Germany),
21. Construction of Interconnector Eisenhüttenstadt between Germany and Poland (Party of origin – Germany),
22. Construction of offshore wind farm OSTSEEPERLE in the Baltic Sea (Party of origin – Germany),
23. Construction of offshore wind farm BALTIC EAGLE in the Baltic Sea (Party of origin – Germany),
24. Construction of offshore wind farm ADLERGRUND 500 in the Baltic Sea (Party of origin – Germany),
25. Construction of offshore wind farm ADLERGRUND GAP in the Baltic Sea (Party of origin – Germany),
26. Construction of flood banks in Guben/Nysa Łużycka river (Party of origin – Germany),
27. Reparation of flood banks in Hagenwerder/Nysa Łużycka river (Party of origin – Germany),
28. Construction of flood banks in Krauschwitz (Sagar)/Nysa Łużycka river (Party of origin – Germany),
29. Construction of ski lifts MAŁA UPA in Karkonosze (Party of origin – Czech Republic),
30. Construction of Biogas Plant in Brandenburg (Party of origin – Germany),
31. Construction of onshore wind farms in Borova (Party of origin – Czech Republic),
32. Extension of water reservoir in HemannsdorferSee (Party of origin – Germany),
33. Construction of offshore wind farm KRIGERS FLAK in the Baltic Sea (Party of origin – Denmark),

34. Final processing of liquid radioactive waste at Mochovce location (Party of origin – Slovakia),
35. Construction of electrical heating plant in Brest (Party of origin – Belarus),

**26. Does your country object to the inclusion of the above list of transboundary EIA procedures in a compilation of such procedures to be made available on the website of the Convention? (Indicate “yes” if you object.)**

No objections.

**27. Provide information and explanations on the average duration of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.**

Duration of transboundary EIA depends on many factors, especially on the stage of the procedure at which the notification has happened, the translations, the quality of the documentation and others. Due to this fact it is hardly difficult to provide average duration because each case is treated individually.

Nevertheless, in the general terms it can be said that the entire procedure (with scoping stage) normally takes more or less two years, or even longer:

- Notification plus declaration and expressing comments on scoping – 1,5 to 2 months,
- Preparation of EIA documentation – 1 or 1,5 year (in some cases even 2 years or longer),
- Sending EIA documentation plus public participation and comments from authorities from affected Party – 3 or 4 months,
- Supplementing EIA documentation if serious lack of information has been found – 3-6 months,
- Consultations – 2-3 months,
- Issuing decision and forwarding to the affected Party – approximately 3 months.

Even if the time frame for the entire procedure is agreed and established at the beginning of the procedure there is no certainty that there will not be any delays or extensions. The general rule is if the EIA documentation is of the high quality as well as is provided to the affected Party translated into its own language there is high probability that the duration of each stage of transboundary EIA will be significantly shorter. Moreover, if the comments of the affected Party made at the scoping stage were considered and taken into account in the EIA documentation then procedure might also be significantly speeded up. These factors definitely facilitate the transboundary EIA procedure.

#### EXPERIENCE IN THE TRANSBOUNDARY ENVIRONMENTAL IMPACT ASSESSMENT PROCEDURE DURING THE PERIOD 2010–2012

**28. If your country has had practical experience in the transboundary EIA procedure during the reporting period, has the implementation of the Convention supported the prevention, reduction or control of possible significant transboundary environmental impacts? Provide practical examples if available.**

In general terms the transboundary EIA has to ensure that other Party is informed on the proposed project and has an opportunity to be acquainted with relevant documents as well as a possibility to express its comments and views. Doing so, the affected Party has a real influence on the way of implementation of the proposed project, namely may support the prevention, reduction or control of possible transboundary environmental impacts.

**29. 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. 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?**

The EIA documentation, prepared by the Polish developers, usually contains a separate chapter devoted to the transboundary issues. Nevertheless, in some cases where Poland was or still is the affected Party we were provided with the EIA documentation without a separate transboundary chapter. It caused a lot of problems with appropriate understanding and correct assessment of potential transboundary impacts and that's why the entire procedure was extended due to the necessity to ask the Party of origin for complex information on transboundary issues. Unfortunately, some countries even do not examine in the EIA documentation the impacts on the territory of other country despite the fact that they decided to send notification and transboundary EIA has been triggered.

**b. 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?**

In the case if Poland is the Party of origin the responsibility for translation is imposed on the Polish Party. So, the relevant documentation, usually scoping documentation and the EIA documentation as well as any additional information requested by the affected Party are translated by the developer. What is more, the notification and the official letters are prepared in the language of the affected Party by the competent authority – the General Director for Environmental Protection.

If Poland as the affected Party is provided with the documentation without any translation – it is very common practice with some countries – especially in the cases where no bilateral agreements exist, then we have to make translation on our own (it is really time-consuming and expensive). In such situations the transboundary chapter and non-technical summary are normally translated, but in some cases we need to translate also other chapters to be able to understand the planned project and its potential impacts. The translation issues are hardly difficult especially in the cases where no legal requirements are in force in this regard (no bilateral agreements with Czech Republic, Slovakia, Ukraine, Belarus).

**c. 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? 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)?**

Poland organizes the public participation just only in the case of being the affected Party. In such situation the public participation usually lasts 21-day period, with exception of cases with Germany (accordingly to Polish-German Agreement public from the affected Party shall have the same time period as public from the Party of origin – in Germany it is approximately 6 weeks).

***d. 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 common difficulties that Poland has encountered during consultations are:

- Different level of stakeholders taking part in consultations from both Parties – for example one Party is represented by governmental administration experts in the environmental issues while another one is represented by local authorities which are not specialised in the environmental issues. In such situation the discussion is not always at high level of substance and technical aspects and thus it is hardly difficult to find common understanding and consensus.
- Overtiming – it is one of the most popular factor that causes significant extension of the procedure and thus delays the investment process.
- Differences in understanding the definition and purpose of the consultations – some countries have completely different views on form and purpose of the consultations as well as the topics and issues that should be covered. This causes misunderstandings while one Party is still interested in supplementing and improving the EIA documentation but another one Party is just only interested in having the high level meeting on the basis of the EIA documentation, that takes place just only once.
- Differences in the legal status of consultations outcomes – for some countries the results of the consultations are binding while for other Parties it is just only fulfilling the obligation to carry out the consultations without reflection its results in the final decision.

On the other hand, Poland as the affected Party has noticed positive aspects of having consultations as a tool to support the prevention, reduction or control transboundary impacts. For example, several times it was decided during consultations that additional prevention measurements need to be applied in order to protect the environment on the Polish territory e.g. the obligation to carry out the noise and emission monitoring on the Polish side or reduce the amount of originally planned wind turbines.

***e. 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;***

The final decision (decision on the environmental conditions) is issued as an administrative decision which terms are fully binding for other investment decisions, especially for construction permit. This decision defines the environmental conditions for the implementation of the project and contains the justification. It is issued in Polish language, and in this language version it is sent to the affected Party. The exception is where the bilateral agreements are applied (with Germany and Lithuania – then Poland additionally translates parts of the decision into language of the affected Party).

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

Poland have performed one post-project analysis so far in relation to the transboundary EIA for “Extraction of sand deposits in the Baltic Sea (Middle Bank)”. The outcomes of this analysis were provided to the affected Party – Sweden. No significant changes in the environment were found as a result of this post-project analysis. More information are available at

[http://www.unece.org/fileadmin/DAM/env/eia/documents/ActivityReports/SopotOct11/18\\_PL\\_Post-project-analysis\\_sand-excavation.pdf](http://www.unece.org/fileadmin/DAM/env/eia/documents/ActivityReports/SopotOct11/18_PL_Post-project-analysis_sand-excavation.pdf).

**g. 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 practical experiences and successful examples in this regard.

**h. 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”?**

- As an example of good practice at the notification stage it is worth to note that if the deadline specified in notification (usually 30 days) is not enough and when the affected Party asks for its extension we normally extend such deadline in order to have complete and well prepared answer of the affected Party. Similar situation occurs at the EIA documentation stage – if the affected Party needs more time for submitting its comments on the project then we normally extend the deadline for maximum 30 days.
- Additionally we try to keep informal contacts with other Parties by using electronic communication. Writing e-mails and exchanging necessary information also in this way allows to have more effective cooperation and updated information on the procedure.
- Considering the consultations stage, good practice example might be the approach that the final decision is not issued before the protocol with consultations outcomes is accepted and signed by chairs of both delegations – the affected Party and the Party of origin. Generally both Parties need to agree on the content of such document which outcomes shall be reflected in the final decision.
- Moreover, providing the written translation and interpretation during consultations stage is of the high value for smooth running of the procedure. It minimizes the language risk and misinterpretation or misunderstanding between Parties.

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

It is not clear what the author had in mind asking this question and we cannot catch the purpose of this question.



But if we understand correctly, the answer is as follows. As a rule the Convention in Poland is applied through the focal points and bilateral agreements.

#### CO-OPERATION BETWEEN PARTIES IN 2010–2012

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

The elaboration of the draft bilateral agreement with Belarus which meets the requirements of Polish and Belarusian (outside the EU) legal systems and the Espoo Convention.

#### EXPERIENCE IN USING THE GUIDANCE IN 2010–2012

**31. 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 (ECE/MP.EIA/7);**

We sometimes use this guidance and apply its recommendations. Nevertheless, we found that other Parties are not familiar with this guidance and because of that it is hardly difficult to apply it mutually.

**b. Guidance on subregional cooperation (ECE/MP.EIA/6, annex V, appendix);**

It is used very seldom due to its too general recommendations. Nevertheless, the study cases described there are really worth to pay special attention.

**c. Guidelines on good practice and on bilateral and multilateral agreements (ECE/MP.EIA/6, annex IV, appendix).**

It has been used in practice several times but unfortunately not every Party is familiar with this document and keen to apply it as a good practice. Moreover, this guidelines is too general and not provide detailed solutions.

#### CLARITY OF THE CONVENTION

**32. 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?**

Unclear provisions in the Convention are as follows:

- **Article 2 paragraph 1** – what does it mean that “the Parties shall individually or jointly take appropriate and effective measures...”? This article is too general to be the basis for carrying out the joint transboundary EIA. Would that be possible to specify the detailed recommendations on joint transboundary EIA (separate guidance)? Having no framework for such type of procedure causes that no joint activities are taken by the Parties.
- **Article 3 paragraph 8** – says that “...comments or objections made by the public of the affected Party might be transmitted to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin. What is the difference between “directly to the competent authority of the

Party of origin” and “through the Party of origin”? From our practical experiences comments of the public of the affected Party are usually transmitted directly to the competent authority of the Party of origin by the public on their own. The other option is that the comments of public are collected by the affected Party and then send to the Party of origin.

- **Article 5** – there are some confusions in interpretation of this article. Having in mind our practice we have noticed that some Parties treat consultations referred to in article 5 as a process made up of consulting and supplementing the EIA documentation and as a final step the high level meeting takes place. Contrary, other Parties treat such consultations as a high level meeting taking place just only once. Such differences in understanding this stage of procedure cause some difficulties. Moreover, what does it mean reasonable time-frames for consultations? The term reasonable is too general and quite vague.
- **Article 6** – regards the final decision on the proposed activity. Does it mean that article 6 regards the final decision which completes the EIA procedure or regards the final decision which definitely authorizes the planned project and is treated as development consent? In the legal systems of some Parties the definition of final decision on the purposes of the Convention is not ultimately binding.

#### AWARENESS OF THE CONVENTION

33. *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.*

We organize the workshops and trainings for the local administration authorities in order to present the rights and obligations resulted from the Espoo Convention. During such meetings the most questionable issues regarding the transboundary EIA procedure are discussed and tried to be solved by exchanging views and good practices between concerned stakeholders.

34. *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?*

In order to improve the application of the Convention we see a need to elaborate new bilateral agreements. Therefore we are negotiating the further bilateral agreements with neighbouring countries.

#### SUGGESTED IMPROVEMENTS TO THE REPORT

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

Some questions are too general and make unnecessary confusions due to the fact that they had been formulated in unclear form (both in part I and II). The questions are definitely too extended, thus splitting them into few separate questions might help in better understanding. Moreover, the form of the entire questionnaire is not practical and seems to be unclear. Therefore it is highly recommendable to consider the preparation of a completely new form of questionnaire for the next reporting period (multiple choice or multiple choice combined with open-ended questions).

If we talk about particular articles of the Espoo Convention it means that as a rule the entire question should be devoted to the transboundary EIA, but in some questions asking for relations at the domestic level caused some confusions (for example article 5, question 14c –

are we still talking about consultations in the transboundary EIA or just only about consultations domestically?).

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