

CASE STUDIES ON THE APPLICATION OF THE CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY CONTEXT (ESPOO CONVENTION)

CASE STUDY IN MARINE REGIONS SAARE WIND ENERGY OFFSHORE WIND FARM IN ESTONIA (2020)

BACKGROUND

The proposed Saare Wind Energy offshore wind farm project includes a maximum of 100 wind turbines with a total production capacity reaching 1 400 MW and its transmission connection to the general electricity grid. The wind farm is proposed in the Estonian territorial sea of the Baltic Sea and the transmission connection intersects the same marine area and the land of Saare County and Pärnu County on the Estonian mainland.

The project is located on so-called 'preferred area' for the construction of wind farms defined in the Estonian national plan 2030+ and in the thematic plan of the Estonian Maritime Spatial Plan. The depth of the sea in this area is about 20-35 meters and a distance from the coast exceeds 10 km. The construction work is expected to begin in 2026 and be completed in 2028.



Fig. 1. Envisaged offshore wind farm including possible extension

(Source: ERR, BNS, The Baltic Times, Saare Wind Energy)

The Government of the Republic of Estonia is the decision-maker of the superficies licence applied by the developer; the Consumer Protection and Technical Regulatory Authority managed the application procedure and certain stages of the EIA procedure. The communication with other countries is coordinated by the Ministry of the Environment. The entire transboundary consultations process during the EIA procedure involves close cooperation between the cited Ministry and Authority, as well as with the developer.

PROCEDURE FOLLOWED IN ACCORDANCE WITH THE ESPOO CONVENTION

(a) EIA procedure and determination of the likely significant adverse transboundary impact (article 2(2), 2(5), Appendix I and Appendix III)

The necessity of EIA for this project was defined directly by the national Environmental Impact Assessment and Environmental Management System Act¹ that prescribes mandatory EIA for planned offshore wind parks in the country's territory. The transboundary consultations during the EIA procedure were initiated directly based on the Espoo Convention that in its Appendix I, item 22 lists major installations for the harnessing of wind power for energy production (wind farms) as proposed activities that are likely to cause significant adverse transboundary impact. Since the duty to conduct the transboundary EIA procedure was clearly defined through these two legal frameworks, it was not necessary to deploy any other criteria² for determining whether the proposed wind farm could have potential transboundary impacts and requires transboundary EIA.

The transboundary impacts of the proposed wind farm were defined together with other potentially significant environmental impacts in national settings and included the following main potential impacts:

- Impacts on the natural environment - in particular on the quality of seawater that can be manifested primarily during the installation of wind turbine foundations and submarine cables during construction through the suspension of marine sediments in the water column; as well as on seabed habitats and seabed biota, that may be primarily in the form of wind turbine foundations and submarine cables, transforming the existing natural seabed which will be made anthropogenic.
- Fish fauna – impacts on fish living in the area that can be caused by the increased ship traffic, and the installation of offshore wind farm foundations and submarine cables, which involves noise emissions and the discharge of sediments into the water column (suspended solids). The issue of seabed sediment movement and noise is also important when installing submarine cables.
- Impact on birds - the most important possible negative impact is the impact on waterfowl migration, as they can migrate in masse at the low height (in the height zone of the wind turbines and thus in the area of direct impact).
- Visual impact - Large offshore wind turbines are also visible from a distance of 10 kilometres with good visibility in case of weather, view, thus, there will be a change in the sea view. Considering that the nearest wind turbine is at least 10 km away from Saaremaa, the area of influence of visual impacts can be limited to a distance of ~10...15 km.

The developer of the proposed activity presented, inter alia, these issues in the scoping document which was sent to all affected Parties (see below).

(b) Notification of affected Parties (articles 2(4) and 3)

After the initiation of the EIA procedure in May 2020, the Consumer Protection and Technical Regulatory Authority requested the Ministry of the Environment to inform the expected affected countries about the project. The Ministry of the Environment sent a notification letter initiating the transboundary EIA process to the potentially affected Parties (Latvia, Lithuania, Sweden, Finland) in July 2020.

The notification letter of the Ministry of the Environment followed the format for notification stipulated by Decision I/4 of the First Meeting of Parties to the Espoo Convention (Oslo, 18-20 May 1998). It provided information on the proposed activity and available information on its possible transboundary impact; the translated EIA procedure initiation decision; the schematic map of the location of the proposed project; the

¹ Environmental Impact Assessment and Environmental Management System Act (22.02.2005, RT I 2005, 15, 87; access link of the English translation of the Act in force: <https://www.riigiteataja.ee/en/eli/ee/520012015014/consolide/current>. The EIA procedure for the Saare Wind Energy project is carried out according to an earlier version of the Act.

² Such as HELCOM Recommendation 17/3 on Information and Consultation with regard to Construction of New Installations Affecting the Baltic Sea.

nature of the possible decision; an indication of a reasonable time within which a response is required, taking into account the nature of the proposed activity; relevant information regarding the environmental impact assessment forming a list of issues that needs attention in the procedure, including an indication of the time schedule for transmittal of comments; and also a copy of the developer's application for the development consent.

The potentially affected countries have been notified under the Espoo Convention. The Helsinki Commission under Article 7(1) of the Helsinki Convention has not been notified separately.

The notification process followed the principles laid down in the Estonian-Finnish bilateral agreement on environmental impact assessment in a transboundary context. Estonia treated all the potentially affected Parties equally - irrespective whether or not they had bilateral agreements with Estonia³ - and provided with two months (60 days) to answer to the notification.

Sweden, Latvia and Lithuania confirmed their wish to participate in the EIA procedure and shared during August-September 2020 their lists of issues that need attention in the EIA process. Finland chose not to participate in this EIA process.

(c) EIA Documentation (articles 4, 2 (11) and appendix II)

The actual EIA process started with so-called EIA programme (EIA scoping document) which provided, among other things, an overview of the studies to be carried out during the EIA. The developer had translated the EIA programme almost fully into English, also brief summaries in Swedish, Latvian and Lithuanian had been prepared. Furthermore, the documents also included tables with an overview of the feedback from the affected Parties at the notification stage and the developer's/experts' responses thereto.

The Ministry of the Environment had sent the EIA programme documentation to the affected Parties in April 2021 (again a two month timeframe to answer had been provided). Responses had been received from Sweden, Latvia and Lithuania in June 2021. The developer supplemented the EIA programme also with an overview of comments obtained during public consultations and the explanation of how they were taken into account. The EIA programme had been approved by the Ministry of the Environment in October 2021.

The EIA report (documentation) is being prepared on the basis of the approved EIA programme, including the performance of necessary studies (February 2021-October 2022). The EIA Report assesses zero alternative (do nothing) and two other main alternatives of the proposed project within the 'preferred area' in the maritime spatial plan.

(d) Consultations with affected Parties (article 5)

The transmission of the extended summary of the EIA report to Latvia, Lithuania and Sweden is scheduled for June 2023.

(e) Public Participation (articles 2(6), 3(8), 4(2))

Estonia did not use any criteria limiting the participation of the public in the procedures - i.e. participation was open for all persons regardless e.g. the nationality or citizenship. At the EIA programme stage, transboundary (virtual) meeting had not been organized.

(f) Final Decision on the proposed activity (article 6)

³ Estonia has also a bilateral agreement with Latvia (Estonian-Latvian bilateral agreement on environmental impact assessment in a transboundary context) which includes a shorter notification response timeframe; however, the joint commission has agreed to follow the two months timeframe.

Upon making the decision to grant or refuse to grant development consent, the decision-maker must take into account the results of the EIA and the environmental measures contained in the report.

(g) Post-project analysis (article 7 and Appendix 7)

According to the Act, the EIA report must describe, inter alia, the measures to prevent or minimise the negative environmental impact involved and assesses the likely efficiency of the measures, and make a reasoned proposal for the establishment of the conditions of environmental monitoring.

BENEFITS OR INTERESTING FEATURES

Specifying that concerning this specific case, so far there have been no potential difficulties, the following activities have been constructive in the transboundary EIA process:

- to early involve neighbouring countries and to early comprehensively plan the EIA procedure (this is helpful both for the Party of origin, including in terms of cooperation between the relevant national authorities and the developer/experts; as well as to the affected Parties);
- to provide, as Party of origin, already in the notification stage the (summary) translations of the relevant/additional documentation;
- to provide long time frames in the EIA procedure for the countries to submit comments – necessary to carry out effective public participation in the affected Parties;
- to send, as Party of origin, the documentation in electronic format (instead or in addition to hard copies), as well as the link of the dedicated webpage for additional information;
- to ensure that the electronic documentation is correct and can be downloaded from the webpage (so that there are no technical problems). In this EIA procedure, the documentation in electronic format has been sent directly to the contacts, i.e. without the additional necessity to download it; to provide an overview of the feedback received from the affected Party (in the previous stage) and the responses thereto in the EIA documentation. For instance, if prior EIA Programme (scoping) has been sent to the affected Party, it could include an overview of the feedback obtained during notification stage.

Furthermore, the following list summarises the main general conclusions and possible recommendations:

- Communication and cooperation between the concerned Parties is the key to overcome potential difficulties.
- The networks of national points of contact and focal points for the Convention is very reasonable and useful, being helpful on solving potential issues quickly.
- As a practical observation, it should be kept in mind that the contacts on the respective Convention's webpages should be up to date.
- As part of the documentation/information that is included to the notification, it is recommended that a more general map of the Party of origin with the indication of the location of the proposed activity is also attached (e.g., in addition to a detailed map of the proposed activity), as it gives a more general overview, for example when the proposed activity is located near the common borders; this is also relevant in terms of public consultation.

USEFUL LINKS

Webpage of the Saare Wind Energy offshore wind farm project: <https://www.swe.ee/en>