

# Experience of Poland in application of SEA in a transboundary context for spatial development planning and nuclear energy sector

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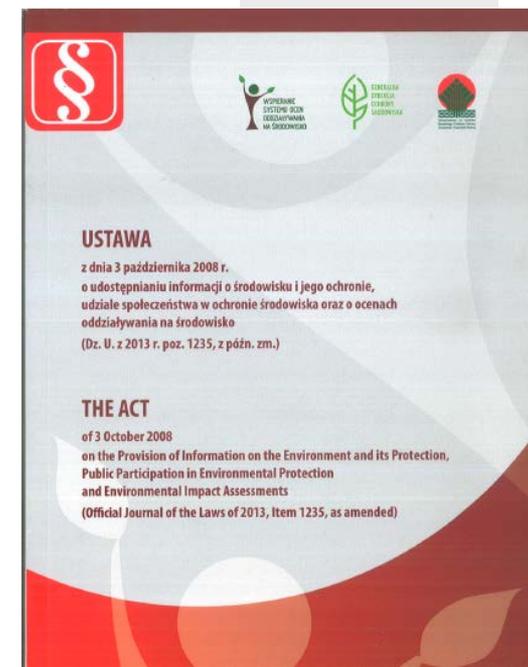


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# Legal frameworks

- Poland ratified the SEA Protocol in 2011,
- Poland is a Member State of UE (UE is a Party to the SEA Protocol since 2008),
- SEA Protocol and SEA Directive have been implemented into national law „**The Act of 3 October 2008 on the Provisions of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (O.J. of the Laws of 2013, Item 1235 as amended)**



## SEA in Poland

- SEA is carried out for draft plans and programmes of specific types,
- SEA is also required when already adopted and being in force strategic document is modified (amended),
- SEA is performed by competent authority at national, regional or local level which prepares the draft plan or programme,
- within SEA procedure competent authority (which draw up the document) is obliged to:
  - seek opinions and approvals of relevant authorities (environmental protection and sanitary inspectorate authorities);
  - carry out the public participation;
  - take into account comments from authorities and public while adopting the document;
  - perform transboundary procedure, if necessary.

## CASE STUDY 1

### Voivodship Spatial Development Plan for Lubuskie

- Spatial Development Plan for Lubuskie Voivodship was originally adopted in 2002,
- such plan is not an instrument of local law and do not constitute legal grounds for issuing of administrative, it gives only to the municipalities a basis for formulation of regional-level conclusions in municipality-level studies on the conditions and directions of spatial development, as well as local spatial development
- due to a number of changes in socio-economic and legal situation in Poland, existing Plan needed to be amended accordingly,
- special attention was paid to:
  - cultural heritage,
  - tourism,
  - industry,
  - natural resources,
  - communication and transport,
  - problematic and functional areas,



## CASE STUDY 1

- implementation of draft plan was likely to have significant transboundary, including health, effects on the German territory,
- due to the fact that, the existing bilateral agreement on EIA has been applied successfully for many years both countries decided to apply its provisions also to the extent appropriate to SEA,
- **notification** contained information on:
  - the legal status of draft plan;
  - its text and environmental report in Polish and German,
- **deadline for the response** by Germany on whether it would like to participate or not in the procedure was set to **30 days** from the date of receiving the notification,

# CASE STUDY 1

- **Public participation in Germany** was organized on the same rules as in Poland (the equal rights and opportunities):
  - the German public was informed about draft plan and transboundary SEA by relevant German authorities through public notice and public display in Official Journal,
  - the time frame for submitting comments and suggestions by German public was **at least 21-day period as Polish law stipulates** (time for public access and formulate comments)
  - the German public could send the comments and suggestions directly to the Polish authority which drew up a draft plan or indirectly through the German relevant authority in their,
  - the comments could be formulated by German public in German language (or Polish) in written form, verbally to be recorded in the minutes and using the means of electronic communication without the need to secure them within safe digital signature,
  - in the course of German public participation Polish relevant authority received **1099 comments in German**,
  - most of them were sent directly to the authority in charge of drawing up the draft plan,



# CASE STUDY 1

- the **information on the manner in which the comments and suggestions submitted by the German public** has been taken into account and to what extent it has been used was included in executive summary as an enclosure to the adopted plan,
- **Germany gave two statements**, Brandenburg and Saxony, included opinions of the municipalities and other concerned German authorities. At this stage Saxony was fully satisfied with SEA documentation and had no further questions or concerns,
- **meeting at the governmental level** to discuss in detail the transboundary environmental effects of implementing the plan and measures envisaged to prevent, reduce or mitigate environmental effects. Parties reached consensus.
- the adopted document together with its executive summary were translated in to German by authority in charge. The original version and the German translation were then sent to Germany in order to make it publicly available for concerned stakeholders in the affected Party,



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MINISTERSTWO GOSPODARKI  
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## CASE STUDY 2

### Polish Nuclear Energy Programme

- the Minister of Economy responsible for preparing the draft Programme found that this document is likely to have significant transboundary environmental effects,
- 10 parties were notified, 7 declared its wish to participate (Austria, Sweden, Finland, Czech, Slovakia, Germany, Denmark),
- Estonia, Latvia and Lithuania did not declare participation but informed that at the EIA stage they wish to attend,
- notification included the draft programme and its environmental report (translation in to English and German), three countries asked for deadline prolongation up to 3 months,



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## CASE STUDY 2

- public participation in the APs was organized twice (1st – draft program and environmental report – in most cases lasted 3 months, 2nd – annex including new proposal of location – 21 days),
- due to the further requests from APs for extension of the deadline for providing statement, Poland gave 5 months from the date of receiving the notification for response to all Parties,
- generally, each Party gave its own public completely different time-frames for comments,
- in most cases APs submitted their authorities statements together with enclosed comments from public,
- one exception – to the extent appropriate application of Polish-German Agreement on EIA to SEA gave the German public an opportunity to send comments in their mother tongue directly to Polish authority, through standard post and e-mails as well,
- as a consequence of such approach Poland received more than

**35 000 comments from German public**

(in German),

## CASE STUDY 2

- comments from public were considered and taken into account while adopting the document and the information in what manner it happened was included in the executive summary enclosed to the adopted programme,
- four APs took part in the **meeting at the governmental level** to discuss in detail the transboundary environmental effects. The meeting offered a unique opportunity to address any issues of concern and Parties finally reached consensus,
- the programme was adopted at the beginning of 2014. After completion of the translation into English and German it will be sent to the APs.

## CONCLUSIONS – BENEFITS:

1. the APs public was informed at the very beginning stage of planning and programming process,
2. the APs public had an opportunity to be familiarized with the draft document when all the options were still opened,
3. the APs public could express their views and comments on draft document, so that the public had a real influence on the decision-making process (APs comments in their mother tongue),
4. the APs obtained real information what is going on and relevant explanations on concerned issues,
5. the awareness of APs public were significantly raised in the field of spatial planning and nuclear energy sector in Poland,
6. the relevant authorities in charge of drawing up the strategic document received feedback from APs authorities and public what kind of issues are of the high importance, so that it allowed to find reasonable solutions at the planning and programming stage,
7. elimination and minimalization of conflicts, disputes and concerns at the stage of preparation of planning and programming documents before starting EIA's for particular planned projects.



## CONCLUSIONS – CHALLENGES:

1. time-consuming and expensive translations of documents, letters, statements and comments cause extensions of the SEA procedure,
2. high quality of technical terminology used in translated documents is of the high importance to avoid misunderstandings and confusions,
3. setting the time-frames of SEA procedure suitable for all APs,
4. in case of few APs involved in procedure the coordination of the public participation in APs, which should be carried out at the same time period in each country, was found as a really difficult task. Especially difficult task was the coordination of setting time-frames for availability of documents for public review at the same time and for the same amount of days in each country,
5. the extremely huge amount of received comments from public, especially by electronic messages,
6. a lack of sufficient human resources to deal with huge amount of submitted comments from APs public in their mother tongue (it is also time-consuming),
7. not coordinated statements from some APs with contradictory comments and requests,
8. lack of bilateral agreements was one of the reason of practical and logistical challenges, especially if several APs were involved.



## CONCLUSIONS – OVERCOMING CHALLENGES:

1. the burden of translation of documents, letters, statements and comments was on Poland as PoO,
2. misunderstandings and confusions were clarified by experts of authority in charge through letters or electronic messages and phone calls,
3. informal contacts with APs to discuss together deadlines before sending notification with defined time-frames for each stage of procedure,
4. informal contacts with APs, especially with Points of Contact to the SEA Protocol, to specify the practical arrangements regarding public participation,
5. Poland has not found so far a reasonable solution how to overcome the extremely huge amount of comments received by e-mails,
6. to hire the external experts or qualified company to analyze comments, put them in to thematic groups and prepare the summary with the importance of each group of comments,
7. direct contacts with all involved authorities of APs as well as Points of Contacts to the SEA Protocol to clarify confusions and contradictions,
8. to the extent appropriate, application of bilateral agreement on EIA to the SEA significantly facilitated the transboundary procedure and allowed to avoid unexpected and unnecessary extensions.



Thank you for your attention 😊



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