

Questionnaire for the report of the Republic of Poland on the implementation of the Convention on Environmental Impact Assessment in a Transboundary Context in the period 2016–2018

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.

Please do not reproduce the text of the legislation itself but summarize and explicitly refer to the relevant provisions transposing the Convention text (e.g., EIA Law of the Republic of ..., art. 5, para. 3, of Government Resolution No. ..., para. ... item...)

Article 1 Definitions

I.1. Is the definition of impact for the purpose of the Convention the same in your legislation as in article 1?:

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of impact in the legislation

Your comments:

I.2. Is the definition of transboundary impact for the purpose of the Convention the same in your legislation as in article 1? Please specify each below.

- (a) Yes
- (b) Yes, with some differences (please provide details):
- (c) No (please provide the definition):
- (d) There are no definitions of transboundary impact in the legislation

Your comments:

I.3. Please specify how major change is defined in your national legislation:

Major change is not defined specifically in the national legislation. Major change of a project is considered by authority on case-by-case basis.

In the national legislation (*The Regulation of the Council of Ministers of 9 November 2010 on types of projects likely to have significant effects on the environment*) a catalogue of projects that are likely to impact the environment significantly is designated. If any project designated in the abovementioned *Regulation* will be a subject of the change, including extension, reconstruction or assembly, based on the certain thresholds specified in the *Regulation* as well, the project will be investigated whether EIA is required. Moreover, depending on characteristics of the planned project or activity, type and characteristics of the technology used, characteristics of the environment, extent of the change and other

determinants of importance for the area, major change which require environmental impact assessment is differentiated for each case.

I.4. How do you identify the public concerned? Please specify (more than one option may apply):

- (a) Based on the geographical location of the proposed project
- (b) By making the information available to all members of the public and letting them identify themselves as the public concerned
- (c) By other means (please specify):

Public concerned is identified by several means: the spatial scope of the environmental impact (significance, extent, accumulation, etc.) of the proposed activities, type of the planned activity or project.

Your comments:

Article 2

General provisions

I.5. Provide legislative, regulatory, administrative and other measures taken in your country to implement the provisions of the Convention (art. 2, para. 2):

- (a) Law on EIA:

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 - hereinafter EIA Act of Law.

- (b) EIA provisions are transposed into another law(s) (please specify):

Agreement between the Government of the Republic of Poland and the Government of the Federal Republic of Germany on the implementation of Convention on Environmental Impact Assessment in a Transboundary Context implementation.

Agreement between the Government of the Republic of Poland and the Government of the Republic of Lithuania on the implementation of Convention on Environmental Impact Assessment in a Transboundary Context.

- (c) Regulation (please indicate number/year/name):

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

- (d) Administrative (please indicate number/year/name):
- (e) Other (please specify):

Your comments:

The elaboration of further bilateral agreements is conducted with Slovakia and Belarus. Text of a new agreement with Germany (extended and updated version in comparison to the current agreement) is already approved by both countries.

I.6. Please describe any differences between the list of activities in your national legislation and appendix I to the Convention, if any:

- (a) There is no difference, all activities are transposed in the national legislation as is

- (b) It differs slightly (please specify):

Your comments:

Appendix I is fully transposed into national legislation. The reflection of the appendix I was placed in the EIA Regulation. This regulation is also in full compliance with annex I and II of the EU Directive on EIA.

I.7. Identify the competent authority/authorities responsible for carrying out the EIA procedure in your country (please specify):

- (a) There are different authorities at national, regional, local levels
- (b) They are different for domestic and transboundary procedures
- (c) Please name the responsible authority/authorities:

The General Director for Environmental Protection, The Regional Director for Environmental Protection, The Director of the Regional Directorate of State Forests, The head of the county administration, The head of the local administration and the mayor of a town/city. List of projects for which the competent authorities to issue the decision are indicated, is stated in the EIA Act of Law in the article 75.

- (d) There is no single authority responsible for the entire EIA procedure:

Your comments:

The General Director for Environmental Protection – responsible for conduction of national EIA and issuing a decision on the environmental conditions for project concerning the construction of the nuclear power facility.

The Regional Director for Environmental Protection – conducts national EIA and issues a decision on the environmental conditions for certain types of projects that may always have a significant impact on the environment:

- roads, highways,
- railway lines,
- overhead power transmission lines,
- installations for the transport of crude oil, products, chemical substances or gas,
- artificial water reservoirs,
- projects related to the nuclear energy,
- radioactive wastes disposals.

Moreover, the authority is competent to issue an EIA decision for projects planned to be implemented in the area of closed sites (restricted), marine areas, projects constituting the conversion of a forest which is not the property of the State Treasury into agricultural land, airports, terminal LNG, regional broadband radio communication, flood protection projects, exploration and prospection of mineral deposits, power lines and transformer stations, wind farms, or change/extension of the above-mentioned.

The Regional Director for Environmental Protection is also competent to conduct and issue a decision on the environmental conditions for the projects for which the applicant (proponent of the project) is a territorial self-government unit (the head of the county administration, the Director of the Regional Directorate of State Forests, the head of the local administration, mayor of a town/city/municipality), which normally, for such type of the project would be a competent authority. It is due to prevent the same authority to issue the decision on its own application for the project.

The head of the county administration – conducts and issues an EIA decision for consolidation, exchange or division of properties (parcels).

The Director of the Regional Directorate of State Forests – conducts EIA and issues an EIA decision for the conversion of a forest which is the property of the State Treasury into agricultural land.

The head of the local administration or the mayor of a town/city – conducts EIA and issues an EIA decision for all the projects others than those above-mentioned, but specified in EIA Regulation.

Moreover, in case when transboundary impact of a certain project is determined, each of the above-mentioned authority conducts the transboundary procedure, while The General Director for Environmental Protection is responsible for coordination of the whole process (contact with authorities and Affected Parties).

I.8. Is there an authority in your country that collects information on all the transboundary EIA cases? If so, please name it:

(a) No

(b) Yes (please specify):

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

Your comments:

I.9. How does your country, as a Party of origin and as an affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to the Party of origin's public, as required in article 2, paragraph 6 (please explain):

Polish law does not contain any special provisions in this regard. National legislation only stipulates that, when the Affected Party express its willingness to participate in a transboundary procedure, the General Director for Environmental Protection (in cooperation with an authority competent to issue a decision on the environmental conditions and the Affected Party) determines suitable time-frames for the entire procedure taking into account the necessity to ensure public participation in the Affected Party. Arrangements regarding public participation include the time when documents will be publicly available, dates when public participation starts and ends, as well as time limit to provide any comments or remarks to the Party of Origin.

As an Affected Party, situation occurs alike, although after the notification from the Party of Origin.

Article 3 Notification

I.10. As a Party of origin, when do you notify the affected Party (art. 3, para. 1)? Please specify:

- (a) During scoping
- (b) When the EIA report has been prepared and the domestic procedure started
- (c) After finishing the domestic procedure
- (d) At other times (please specify):

Your comments:

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 should be considered while defining the scope and content of such documentation. Nevertheless, in some cases it may happen at the stage of EIA documentation new information about project and its likelihood to have transboundary impact on the territory of another Party will be provided and thus the need to send notification to the Affected Party appears.

I.11. Please define the format of notification:

- (a) It is the format as decided by the first meeting of the Parties in its decision I/4 (ECE/MP.EIA/2, annex IV, appendix)
- (b) The country has its own format (please attach a copy)
- (c) No official format used

Your comments:

In Polish law there is no official format of notification specified, however there are two exceptions regarding bilateral agreements with Germany and Lithuania. Format of notifications was detailed in each of the agreements as one of the appendixes.

I.12. As a Party of origin, what information do you include in the notification (art. 3, para. 2)? Please specify (more than one options may apply):

- (a) The information required by article 3, paragraph 2
- (b) The information required by article 3, paragraph 5
- (c) Additional information (please specify):

Your comments:

The national legislation provides following information that need to be included in the notification :

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

The information sheet is attached to the notification, it which contains the basic information on the proposed project, in particular the data concerning:

- the type, characteristics, scale and localisation of the project,
- the surface area occupied by the real estate and building, as well as the existing manner of their use and the vegetal cover,
- the type of technology,
- possible alternatives of the project,
- anticipated quantities of the water, resources, materials, fuels and energy, to be used,
- environmental protection measures,
- types and anticipated quantities of the substances or energies emitted into the environment while using environmental protection measures,
- the possible transboundary impact on the environment,
- areas of high nature values that are under protection and ecological (wildlife) corridors, which are situated within the range of a significant impact of a project,
- the impact of the planned road (if so) included in Trans-European road network, on the road safety,
- projects under construction and already implemented, located in the area of the planned project in terms of cumulative impact,
- the risk of a major accident, natural catastrophe or construction disaster,
- anticipated types and quantities of generated wastes and their impact on the environment,
- eventual demolition works.

I.13. As a Party of origin, does your national legislation contain any provision on receiving a response to the notification from the Affected Party in a reasonable time frame (art. 3, para. 3, “within the time specified in the notification”)? Please specify:

- (a) National legislation does not cover the time frame
- (b) Yes, it is indicated in the national legislation (please indicate the time frame):
- (c) It is determined and agreed with each affected Party case by case in the beginning of the transboundary consultations (please indicate the average length in weeks): at least 4 weeks

Your comments:

According to the Polish law the General Director for Environmental Protection shall propose in notification letter a date for the Affected Party to reply. There is no specified time frames set out in the national legislation. Nevertheless, concerning good practice and lessons learned Poland usually designates around 30 days for the Affected Party to respond to the notification.

Please specify the consequence if a notified Affected Party does not comply with the time frame, and the possibility of extending a deadline:

In the case when the Affected Party does not meet the deadline for response, firstly through the electronic correspondence, question is being addressed to the Point of Contact whether Poland will receive any response and possibly when. If there is a further lack of any response from the Affected Party official letter is sent, together with information that no response from the Affected Party is treated as no willingness to participate or to be involved in the procedure.

If the Affected Party ask for extension of the deadline, Poland usually agrees and determines reasonable additional time for reply.

I.14. How do you inform the public and authorities of the affected Party (art. 3, para. 8)?
Please specify:

- (a) By informing the point of contact to the Convention listed on the Convention website¹
- (b) Other (please specify):

Your comments:

Poland usually informs point of contact regarding notification to the Convention listed on the Convention website (http://www.unece.org/env/eia/points_of_contact.html) who is responsible for informing competent authorities due to national law of the Affected Party (then competent authorities of this country are responsible for informing public).

In this case, to conduct effective procedure and to assure that authorities and public of the Affected Party will be informed properly, the list of points of contact should be checked and updated accordingly to any recent changes in each of the country, at earliest convenience. From the Polish experience, the list is not updated successfully, hence it requires a revision.

Moreover, based on the agreements with Germany and Lithuania exact authorities are designated, which should be informed accordingly, apart from the Point of Contact.

I.15. On what basis is the decision made to participate (or not) in the transboundary EIA procedure as an affected Party (art. 3, para. 3)? Please specify:

- (a) Notified ministry/authority of the affected Party responsible for EIA decides on its own based on the documentation provided by the Party of origin
- (b) Based on the opinions of the competent authorities of the affected Party
- (c) Based on the opinions of the competent authorities and that of the public of the affected Party
- (d) Other (please specify):

Your comments:

The General Director for Environmental Protection after receiving the notification containing information about a project undertaken outside the territory of Poland, which implementation may have an environmental impact on the territory of Poland, immediately forwards such documents to the Regional Director for Environmental Protection. The Regional Director for Environmental Protection who is competent with respect to the area which may be possibly affected by the transboundary impact on the environment analyses the documents and based on this, together with additional opinions of other specialised authorities, decides whether participation in a transboundary procedure is justified and thus necessary. The Regional Director for Environmental Protection as a competent authority also informs public about the notification and planned projects. Documents are put on a public display with a possibility to comment or give any remarks by the public. Later all comments are forwarded to the General Director for Environmental Protection, who sends them to the Party of Origin, which should include them in a scope of the EIA documentation.

The Regional Director submits authority statement concerning the necessity to participate in the EIA procedure to the General Director for Environmental Protection, as well as other authorities invited to provide their opinions. The General Director for Environmental

¹ List available from http://www.unece.org/env/eia/points_of_contact.htm.

Protection collects all the statements of the authorities and on this basis prepares the official letter with Polish position presented to the Party of Origin.

I.16. If the affected Party has indicated that it intends to participate in the EIA procedure, how are the details for such participation agreed, including the time frame for consultations and the deadline for commenting (art. 5)? Please specify:

- (a) Following the rules and procedures of the Party of origin
- (b) Following the rules and procedures of the affected Party
- (c) Other (please specify):

The details for affected Party participation are consulted among Parties.

Your comments:

In Polish law, there is an obligation to establish, in cooperation with the Affected Party, dates of the particular 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.

Articles 3.8 and 4.2

Public participation

I.17. How can the public express its opinion on the EIA documentation of the proposed project (art. 5)? Please specify (more than one option may apply):

As a Party of origin

- (a) By sending comments to the competent authority/focal point
- (b) By taking part in a public hearing
- (c) Other (please specify):

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 a public hearing are established in Administrative Procedure Code.

As an affected Party

- (d) By sending comments to the competent authority/focal point
- (e) By taking part in a public hearing
- (f) Other (please specify):

Your comments:

As the Affected Party, sometimes Poland is informed about public hearing organized by the Party of Origin. Although usually provided time is not sufficient, before the date of the public hearing, to inform the public and authorities about the meeting. Moreover, interpreter will not be provided.

I.18. Please indicate whether your national EIA legislation requires the organization of a public hearing on the territory of the affected Party in cases where your country is the country of origin:

- (a) Yes
- (b) No

Your comments:

National legislation does not regulate this issue. Parties may consult and agree on organizing public hearing for the public of the Affected Party.

I.19. Please indicate whether your national EIA legislation requires the organization of public hearings in cases where your country is the affected Party:

(a) Yes

(b) No

Your comments:

The legal requirements for public participation in a transboundary EIA proceeding when Poland is the Affected Party are established 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 possibly affected by the transboundary impact on the environment. The part III, chapter 2 of the EIA Act of Law (public participation in decision making) is applied appropriately. Article 36 of the EIA Act of Law stipulates that the administration authority competent to issue the decision may conduct an administrative hearing open to the public, although it is not obligatory. The provision of Article 91 (3) of the Administrative Procedure Code shall apply, respectively.

Article 4

Preparation of the environmental impact assessment documentation

I.20. How do you ensure sufficient quality of the EIA documentation As a Party of origin? Please specify:

(a) The competent authority checks the information provided and ensures it includes all information required under appendix II as a minimum before making it available for comments

(b) By using quality checklists

(c) There are no specific procedures or mechanisms

(d) Other (please specify):

Your comments:

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.

Additionally, article 74a paragraph 2 describes the requirements for the author of the EIA documentation or in case of team of authors – the person responsible for the whole team (manager). Such a person should be qualified and experienced sufficiently to elaborate EIA documentation with a high level of quality.

I.21. How do you determine the relevant information to be included in the EIA documentation in accordance with article 4, paragraph 1? Please specify (more than one option may apply):

- (a) By using appendix II
- (b) By using the comments received from the authorities concerned during the scoping phase, if applicable
- (c) By using the comments from members of the public during the scoping phase, if applicable
- (d) As determined by the proponent based on its own expertise
- (e) By using other means (please specify): see point I.20

Your comments:

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

For planned projects which might have a significant impact on the (activities listed in annex II of the EU Directive on EIA) the need to conduct EIA is investigated (screening) by the authority. Scoping is carried out together with screening on the basis of information submitted by the developer together with application for a decision. When the necessity to conduct EIA is determined by the authority, at the same time the scope and content of the EIA documentation is defined. The authority considers the current state of knowledge and research methods as well as the existing technical possibilities and availability of data, while defining the scope. Based on the location, character and magnitude of the environmental impact of the project, authority may exclude certain requirements concerning the content of the EIA documentation characterized in the *EIA Act of Law*. Likewise indicate types of alternative options which need to be examined, types of impacts and the elements of the environment which require fully detailed analysis, as well as the scope and methods for the assessment.

For planned projects which might always have a significant impact on the environment, for which EIA is mandatory (activities listed in annex I of the EU Directive on EIA) scoping stage is not obligatory. Nevertheless, the developer has a right to approach competent authority with a question regarding the scope and content of the EIA documentation. In such situation, the developer submits application for issuing a decision together with basic information of a project (so called information sheet) instead of EIA documentation. Although, when the planned project may have a transboundary impact on the 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 obtaining opinions about planned project from the Regional Director for Environmental Protection and Sanitary Inspection. Whenever planned project is situated in the maritime areas, opinion of the Director of Maritime Office need to be obtained as well.

I.22. How do you determine “reasonable alternatives” in accordance with appendix II, paragraph (b)?

- (a) On a case-by-case basis
- (b) As defined in the national legislation (please specify):
- (c) Other (please specify):

Your comments:

The obligation to identify the “reasonable alternatives” is stipulated in article 66 paragraph 1 point 5) of the *EIA Act of Law*, which determines that the EIA documentation should contain a description of the options analysed with regard to specific characteristics or impact of the planned project, including:

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

Article 5

Consultations on the basis of the environmental impact assessment documentation

I.23. Does your national EIA legislation have any provision on the organization of transboundary consultations between the authorities of the concerned Parties? Please specify:

- (a) Yes, it is obligatory
- (b) No, it does not have any provision on that
- (c) It is optional (please specify):

Your comments:

If the Affected Party express the willingness to participate in a transboundary procedure for a certain project, conduction of consultations is obligatory.

According to the article 109 paragraph 3 point 1 of the EIA Act of Law, the Party of Origin consults and agrees with the Affected Party the dates of the particular stages of the whole procedure.

When Poland is the Party of Origin, the administration authority which carries out the EIA for a planned project holds obligatory consultations with the Affected Party (based on article 110 paragraph 1 of the EIA Act of Law in accordance with art. 5 of the Espoo Convention). The General Director for Environmental Protection participate in the consultations as a mediation authority.

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, consultations may be taken over by this authority while the administration authority which carries out the EIA procedure is participating.

Article 6

Final decision

I.24. Please indicate all points below that are covered in a final decision related to the implementation of the planned activity (art. 6, para. 1):

- (a) Conclusions of the EIA documentation
- (b) Comments received in accordance with article 3, paragraph 8, and article 4, paragraph 2
- (c) Outcome of the consultations as referred to in article 5
- (d) Outcomes of the transboundary consultations
- (e) Comments received from the affected Party
- (f) Mitigation measures
- (g) Other (please specify):

Additionally, article 82 of the EIA Act of Law describes that in the issued decision, the following should be included:

- the type of the implemented project and its localization,
- relevant conditions for the use of the environment during the implementation and operation phase of the project, with particular emphasis on the protection of valuable natural values, natural resources and monuments, as well as reduction of the nuisance to neighbouring areas,
- necessary environmental protection requirements,
- requirements for counteracting the effects of industrial accidents,
- requirements for limiting transboundary environmental impact.

If applicable, the following requirements are included as well:

- the necessity to implement environmental compensation,
- the obligation to avoid, prevent and limit the impact of the project on the environment,
- the obligation to perform monitoring on the impacts of the project on the environment.

I.25. 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)?:

(a) Yes

(b) No

Your comments:

Generally, the national law pursuant to article 37 of the EIA Act of Law requires that the authority which conducts the procedure considers comments and suggestions, moreover in the justification of the decision provides information on public participation in the procedure, how and to what extent comments and suggestions submitted by public have been taken into account.

Moreover, article 80 of the EIA Act of Law orders that the decision on the environmental conditions is issued by the competent authority taking into account:

- results of the reconciliations and opinions given by the authorities competent in the field of sanitary inspection and environmental protection issues,
- findings presented in the EIA documentation,
- results of the public participation,
- results of the transboundary EIA procedure, if applicable.

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 how and to what extent comments and suggestions submitted during to public participation have been considered,
- information on how and to what extent the following were considered:
 - a) findings of the EIA documentation,

b) reconciliations issued by the Regional Director for Environmental Protection and opinion of the Sanitary Inspection,

c) the results of the transboundary EIA procedure.

I.26. Is there any regulation in the national legislation of your country that ensures the implementation of the provisions of article 6, paragraph 3?:

(a) No

(b) Yes (please specify):

Your comments:

According to the article 145 §1 point 5) and 155 of the Administrative Procedure Code in relation to article 87 EIA Act of Law, the decision might be revised under the certain circumstances. When the final decision has been already issued, it might be revised if new facts or new evidence – existing on the day of issuing the decision, and were revealed later, but were not known to the authority competent to issue this decision.

I.27. Do all activities listed in appendix I (items 1-22) require a final decision to authorize or undertake such an activity?:

(a) Yes

(b) No (please specify those that do not):

Your comments:

Appendix I is fully transposed into national legislation. The reflection of the appendix I was placed in the *Regulation of the Council of Ministers of 9 November 2010 on types of projects likely to have significant effects on the environment*. This regulation is in full compliance with annex I and II of the EU Directive on EIA.

I.28. For each type of activity listed in appendix I that does require a final decision, please indicate the legal requirements in your country that identify what is regarded as the “final decision” to authorize or undertake such an activity (art. 6 in conjunction with art. 2, para. 3), and the term used in the national legislation to indicate the final decision in the original language:

Your comments:

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 (*in Polish: decyzja o środowiskowych uwarunkowaniach*) which determines the environmental conditions for the project implementation. Such decision is required for proposed projects which may always or possibly, have a significant impact on the environment.

Decision on the environmental conditions is issued after completed EIA procedure. Moreover, decision is binding for further development of the investment and to obtain any other required decisions, for instance: construction permit, decision on land development and development conditions, a concession to search for or identify a complex of underground carbon dioxide storage, a concession for extracting minerals from deposits, decision determining the detailed conditions for mining minerals, permit required by Water Law Act. The full list of the decisions which require firstly environmental conditions decision to be obtained is specified in art. 72 of the EIA Act of Law.

Article 7

Post-project analysis

I.29. Is there any provision regarding post-project analysis in your national EIA legislation (art. 7, para. 1)?:

- (a) No
- (b) Yes (please specify the main steps to be taken and how the results of it are communicated):

Your comments:

On the basis of article 82 paragraph 1 point 5) of the EIA Act of Law the competent authority in the decision on the environmental conditions may impose on the proponent the requirement to perform and present a post-project analysis and sets 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. It stipulates that in this kind of analysis comparison of the findings concluded in the EIA documentation and those in the decision on the environmental conditions is being done. In particular, findings concerning the envisaged nature and scope of the environmental impact of the project and the proposed prevention measures, with the actual environmental impact of the project and measures undertaken to reduce it. Such analysis may indicate the need to designate an area of restricted use for the project. On the basis of national law, the proponent 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 when transboundary EIA has been conducted, such analysis is forwarded to the Affected Party

Article 8

Bilateral and multilateral cooperation

(a) Agreements

I.30. Does your country have any bilateral or multilateral agreements based on the Convention (art. 8, appendix VI)?:

- (a) No
- (b) Yes Please specify with which countries:

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 issues covered are as specified in appendix VI of the Espoo Convention, however in some matters regulation is more practical related to the mutual cooperation.

Texts of the both agreements are publicly available, although provided only in the languages of the Concerned Parties.

If publicly available, please also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.

I.31. What issues do these bilateral agreements cover (appendix VI)? (More than one option may apply):

- (a) Specific conditions of the subregion concerned
- (b) Institutional, administrative and other arrangements

- (c) Harmonization of the Parties' policies and measures
- (d) Developing, improving, and/or harmonizing methods for the identification, measurement, prediction and assessment of impacts, and for post-project analysis
- (e) Developing and/or improving methods and programmes for the collection, analysis, storage and timely dissemination of comparable data regarding environmental quality in order to provide input into the EIA
- (f) Establishment of threshold levels and more specified criteria for defining the significance of transboundary impacts related to the location, nature or size of proposed activities
- (g) Undertaking joint EIA, development of joint monitoring programmes, intercalibration of monitoring devices and harmonization of methodologies
- (h) Other, please specify:

Your comments:

Agreement between the Government of the Republic of Poland and the Government of the Federal Republic of Germany on the implementation of Convention on Environmental Impact Assessment in a Transboundary Context implementation covers the following issues:

- scope of the application (e.g. the requirements for application of the transboundary EIA),
- notification (e.g. the scope and content of notification, indication of authorities competent to notify and to be notified, as well as involved in particular stages of EIA, manner of providing statements and forwarding documents, deadlines for response, example form of acknowledging the receipt the notification and declaration of participation),
- EIA documentation (e.g. the required content, submission to the Affected Party, deadline for comments and statements, example form of acknowledging the receipt of the EIA documentation),
- public participation (e.g. rules of organizing public participation in the Affected Party and rights given to the public from the Affected Party),
- positions, statements (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 provisions on opportunity to directly exchange 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),
- submission of the final decision to the Affected Party (e.g. the obligation to provide the final decision available to the public in the Affected Party),
- post-project analysis (e.g. general rules of performing and presenting its findings to the Affected Party),
- meeting deadlines (the means that might be used in order to meet deadlines),
- translation of documents (e.g. the scope of translation, which Party bears the costs of translations, both documents as well as interpreter during meetings),

- relevant authorities,
- settlement of disputes.

Agreement between the Government of the Republic of Poland and the Government of the Republic of Lithuania on the implementation of Convention on Environmental Impact Assessment in a Transboundary Context has similar content as the abovementioned Polish-German agreement.

(b) Procedural steps required by national legislation

I.32. Please describe how the steps required for a transboundary EIA procedure under your national legislation correlate to domestic EIA in the lead-up to the final decision. If there are differences in the procedures for screening/scoping or for preparation of the environmental impact assessment and consultation, please specify.

Alternatively, this question can be answered or supported by providing a schematic flowchart showing these steps.

(1) Notification:

- basic information about the planned project (information sheet)
- information about national EIA procedure
- type of administrative decision
- usually 30-day period for declaration and comments on scoping

(2) Declaration of participation:

- acknowledgment of receipt without undue delay
- at the latest 30 days for declaration since receiving the notification

(3) Scoping:

- comments on the scope and content of the EIA documentation

(4) EIA documentation:

- prepared by the developer in paper and electronic version
- contained a separate chapter on transboundary impacts on the environment
- statements of relevant authorities

(5) Public participation of the Affected Party:

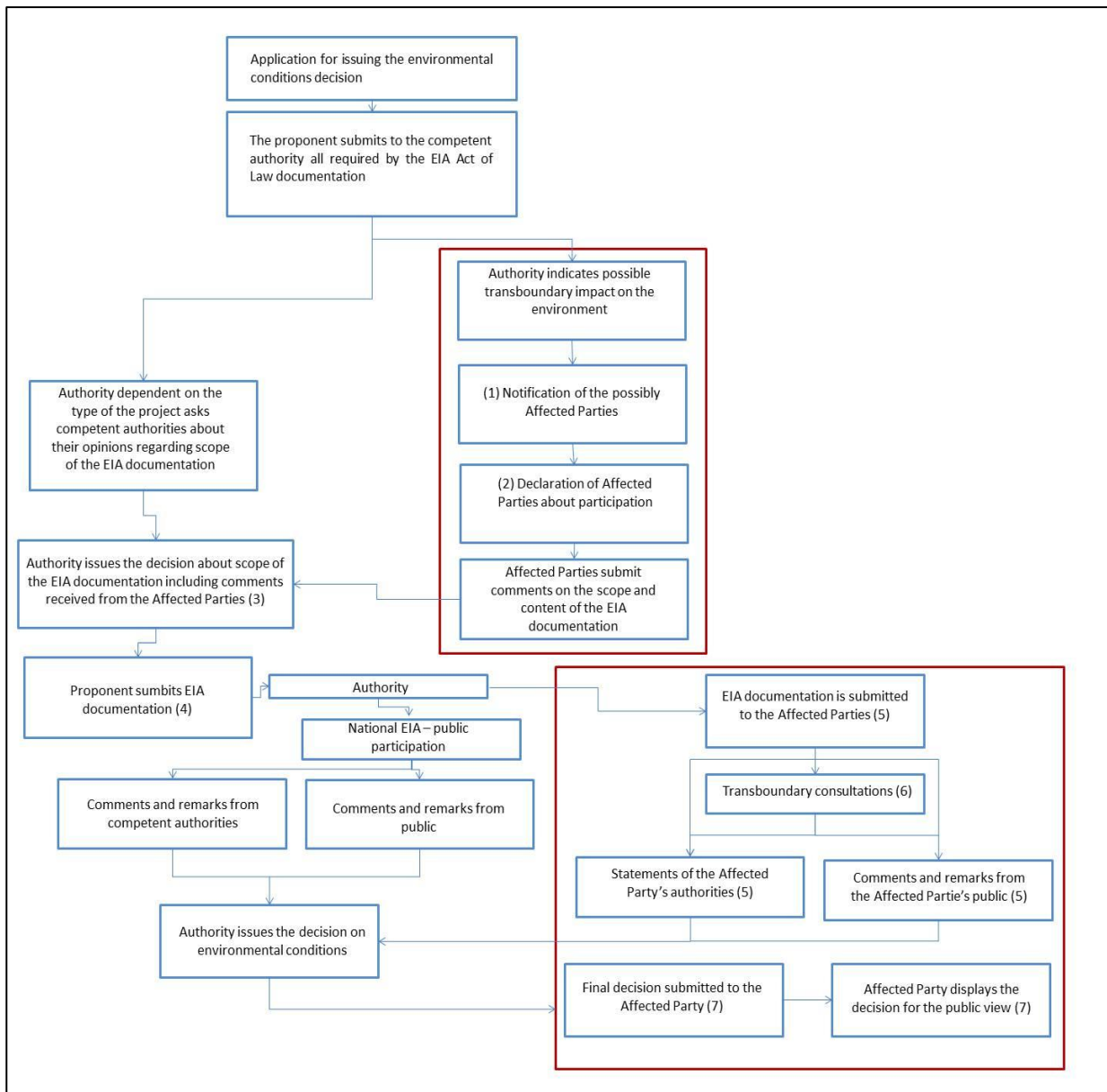
- the same rules as applied towards the Polish public
- 30-day period for getting acquainted with the EIA documentation and making comments
- comments considered and taken into account if relevant

(6) Transboundary consultations:

- obligatory consultations in a form of the information exchange via official letters
- meeting at governmental level
- topics for discussion: transboundary impacts, mitigation and minimizing measures

(7) Final decision:

- binding for further proceedings with the project
- submitted to share with relevant authorities of Affected Parties
- made publicly available for public review in Affected Parties



Your comments:

I.33. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for joint cross-border projects (e.g., roads, pipelines)?

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

Case by case approach is applied. Each cross-border project is consulted among Parties

I.34. Does your country have special provisions or informal arrangements concerning transboundary EIA procedures for nuclear power plants (NPPs)?

(a) No

(b) Yes (please specify):

(i) Special provisions:

(ii) Informal arrangements:

Your comments:

Part two

Practical application during the period 2016–2018

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

II.1. Does your country object to the information on transboundary EIA procedures that you provide in this section being compiled and made available on the website of the Convention? Please specify (indicate "yes" if you object):

(a) Yes

(b) No

Your comments:

1. Experience in the transboundary environmental impact assessment procedure during the period 2016–2018

Cases during the period 2016–2018

II.2. If your country's national administration has a record of transboundary EIA procedures that were under way during the reporting period, in which your country was a Party of origin or affected Party, please list them in the tables II.2 (a) and II.2 (b) below (adding additional rows as needed).

Table II.2 (a)

Transboundary EIA procedures: As a Party of origin

	<i>Project name</i>	<i>Starting date (date notification sent)</i>	<i>Affected Party/ Parties</i>	<i>Timing of the notification (screening, scoping or preparation of the EIA documentation)</i>	<i>Length of the main steps in months</i>			<i>Final decision (date of issuing, if information is available)</i>
					<i>Submission of the environmental report</i>	<i>Transboundary consultations (expert), if any</i>	<i>Public participation, including public hearing, if any</i>	
1	North Baltic offshore wind farm	4.07.2011	Sweden	2 months - scoping stage				
2	North Baltic offshore wind farm	23.05.2012	Finland	2 months - scoping stage				
3	Exploitation of the lignite deposit in Gubin	29.01.2013	Germany	3 months - scoping stage	13.10.2015	only written form of the information exchange	30.11.2015 - 29.12.2015 (EIA report)	
4	Offshore Wind Farm BALTICA-1	08.03.2013	Sweden	1,5 month - scoping stage		only written form of the information exchange	March/April 2013 (scoping)	

	Project name	Starting date (date notification sent)	Affected Party/ Parties	Timing of the notification (screening, scoping or preparation of the EIA documentation)	Length of the main steps in months			Final decision (date of issuing, if information is available)
					Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
5	Offshore Wind Farm BALTICA-1	03.04.2013	Finland	2 months - scoping stage		only written form of the information exchange	April/May 2013 (scoping)	
6	Flood protection reconstruction of the Miedzianka and Witka rivers, stage II: Witka	07.01.2014	Germany		11.08.2016		08.11.2016 - 28.11.2016 (EIA report)	15.12.2017
7	Construction of the S-3 expressway connection on the Legnica-Lubawka section from km 67 + 650 to the country border with the R-11 road	19.12.2014	Czech Republic	3 months - scoping stage	23.04.2016	no comments were submitted from the affected Party		29.06.2016
8	Continuation of the exploitation of the Turów lignite deposit	08.04.2015	Germany	1 month - scoping stage	12.02.2019	awaiting		
9	Continuation of the exploitation of the Turów lignite deposit	08.04.2015	Czech Republic	2 months - scoping stage	12.02.2019	awaiting		
10	The First Polish Nuclear Power Plant	02.12.2015	Germany, Czech Republic, Slovakia, Ukraine, Byelarus, Finland, Lithuania, the Russian Federation, Denmark, Latvia, Estonia,	6 months - scoping stage	under preparation	only in written form of the information exchange during the scoping stage	Slovakia (11.01.2016-01.02.2016), Latvia (no dates provided), Sweden (15.12.2015-29.01.2016)	

Project name	Starting date (date notification sent)	Affected Party/ Parties	Timing of the notification (screening, scoping or preparation of the EIA documentation)	Length of the main steps in months			Final decision (date of issuing, if information is available)
				Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
	Estonia, Sweden, Austria; Hungary (29.12.2015 notification upon request), the Netherlands (17.12.2015 notification upon request)	Sweden, Austria, Hungary, the Netherlands					
11	1B.2 Stage I and Stage II Modernization works on Odra river as part of the Flood Protection Project in the riverbasins of Odra and Vistula	Germany	1 month - scoping stage	02.05.2018, 1st completion of EIA report: 30.05.2018; 2nd completion of EIA report: 07.08.2018			
12	Baltic Pipe	Sweden	1 month and 3 weeks - scoping stage	under preparation			
13	Baltic Pipe	Germany	2 months - scoping stage	under preparation			
14	Baltic Pipe	Denmark	1 month and 3 weeks - scoping stage	under preparation			

Table II.2 (b)

Transboundary EIA procedures: As the affected Party

	<i>Project name</i>	<i>Starting date (date notification sent)</i>	<i>Party/ Parties of Origin</i>	<i>Timing of the notification (screening, scoping or preparation of the EIA documentation)</i>	<i>Length of the main steps in months</i>			<i>Final decision (date of issuing, if information is available)</i>
					<i>Submission of the environmental report</i>	<i>Transboundary consultations (expert), if any</i>	<i>Public participation, including public hearing, if any</i>	
1	Baltic NPP in Kaliningrad	05.02.2010	Russia	No scoping stage	05.02.2010	25.05.2011	April 2010 June/July 2011	
2	The Fehmarn Belt Fixed Link	21.06.2010	Denmark, Germany	2 months - scoping stage	28.06.2013	11.06.2013 informal meeting in Warsaw	13.05.2014 - 24.06.2014 (scoping); 10.08.2016 - 21.09.2016 (EIA report)	31.01.2019
3	Sodra Midsjobanken offshore wind farm	30.06.2011	Sweden	3 months - scoping stage	15.10.2015	only written form of the information exchange	05.11.2015 - 08.12.2015 (scoping);	
4	Khmelnyskyi NPP unit 3 and 4	21.01.2011	Ukraine	2 months - scoping stage	12.06.2012, 12.06.2018 (after resumption of the project)	22.08.2013	February 2011 (scoping), July 2012 (EIA report), August 2019 (EIA report after resumption of the project)	
5	Offshore wind farm - Wikinger Nord	22.07.2011	Germany	2 months - scoping stage	27.08.2012	only written form of the information exchange	10.08.2011- 31.08.2018 (scoping) 26.10.2012- 07.12.2012 (EIA	

<i>Project name</i>	<i>Starting date (date notification sent)</i>	<i>Party/ Parties of Origin</i>	<i>Timing of the notification (screening, scoping or preparation of the EIA documentation)</i>	<i>Length of the main steps in months</i>			<i>Final decision (date of issuing, if information is available)</i>	
				<i>Submission of the environmental report</i>	<i>Transboundary consultations (expert), if any</i>	<i>Public participation, including public hearing, if any</i>		
						report) 29.04.2013- 03.06.2013 (supplemented EIA report) 234.03.2014- 14.04.2014 (supplemented EIA report)		
6	Offshore wind farm - Wikinger Sud	22.07.2011	Germany	2 months - scoping stage	27.08.2012	only written form of the information exchange	10.08.2011- 31.08.2018 (scoping) 26.10.2012- 07.12.2012 (EIA report) 29.04.2013- 03.06.2013 (supplemented EIA report) 234.03.2014- 14.04.2014 (supplemented EIA report)	
7	Ostseeperle offshore wind farm	08.12.2011	Germany	1,5 months - scoping stage				
8	Ostseeschatz offshore wind farm	08.12.2011	Germany	1,5 months - scoping stage	4.03.2013	only written form of the information exchange	January 2011 (scoping), March 2013 (EIA report),	

	<i>Project name</i>	<i>Starting date (date notification sent)</i>	<i>Party/ Parties of Origin</i>	<i>Timing of the notification (screening, scoping or preparation of the EIA documentation)</i>	<i>Length of the main steps in months</i>			<i>Final decision (date of issuing, if information is available)</i>
					<i>Submission of the environmental report</i>	<i>Transboundary consultations (expert), if any</i>	<i>Public participation, including public hearing, if any</i>	
							September 2013 (supplemented EIA report)	
9	Baltic Eagle offshore wind farm	08.12.2011	Germany	1,5 months - scoping stage	4.03.2013	only written form of the information exchange	Januar 2011 (scoping), March 2013 (EIA report), September 2013 (supplemented EIA report)	
10	Wind farm "Adlergrund 500"	07.02.2012	Germany	3 months - scoping stage	13.07.2012 (incomplete)	only written form of the information exchange	March/April 2012 (scoping), no public consultation on EIA report due to the incomplete documentation	
11	Wind farm "Adlergrund GAP"	07.02.2012	Germany	3 months - scoping stage	13.07.2012 (incomplete)	only written form of the information exchange	March/April 2012 (scoping), no public consultation on EIA report due to the incomplete documentation	
12	Reparation of the Hagenwerder flood protection bank in the area of Nysa Łużycka river	07.02.2012	Germany	1 month - scoping stage	Not submitted since Poland decided not to further participate due to changes made to the project design	Scoping expert meeting on 16.05.2012	March 2012 (scoping), 21 days (scoping - on supplementary	15 June 2017

Project name	Starting date (date notification sent)	Party/ Parties of Origin	Timing of the notification (screening, scoping or preparation of the EIA documentation)	Length of the main steps in months			Final decision (date of issuing, if information is available)	
				Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any		
						information), November/December 2014 (second scoping)		
13	Wind farm Baltic Sea/ Kriegers Flak	13.07.2012	Denmark	2,5 months - scoping stage				
14	Installation for the final processing of the liquid radioactive wastes in Mochovce	15.10.2012	Slovakia		18.08.2014	only written form of the information exchange	26.11.2012 - 17.12.2012	17.07.2014
15	Modernization of the flood embankment on the Oder river, reservoir 10, construction section 74-76	20.09.2012	Germany	1 month -scoping stage				
16	Offshore wind farm WINDANKER	31.05.2013	Germany	3 months - scoping stage	21.04.2016	only written form of the information exchange	18.06.2013- 01.08.2013 (scoping) 08.06.2016- 08.07.2016 (EIA report)	
17	Nord Stream 2	8.04.2013	Germany	2 months - scoping stage	6-7.04.2017	5.12.2017	April/June 2013 (scoping), April/June 2017 (EIA report)	31.01.2018, 27.03.2018
18	Nord Stream 2	8.04.2013	Sweden	2 months - scoping stage	6-7.04.2017	only in written form of the information exchange	April/June 2013 (scoping), April/June 2017 (EIA report)	7.06.2018

<i>Project name</i>	<i>Starting date (date notification sent)</i>	<i>Party/ Parties of Origin</i>	<i>Timing of the notification (screening, scoping or preparation of the EIA documentation)</i>	<i>Length of the main steps in months</i>			
				<i>Submission of the environmental report</i>	<i>Transboundary consultations (expert), if any</i>	<i>Public participation, including public hearing, if any</i>	<i>Final decision (date of issuing, if information is available)</i>
19 Nord Stream 2	8.04.2013	Denmark	2 months - scoping stage	19.06.2017, 12.10.2018 (EIA report for the changed project)	only in written form of the information exchange	April/June 2013 (scoping), April/June 2017 (EIA report), October/December 2018(EIA report for changed project)	transboundary consultations are still undergoing
20 Nord Stream 2	8.04.2013	Finland	2 months - scoping stage	6-7.04.2017	only in written form of the information exchange	April/June 2013 (scoping), April/June 2017 (EIA report)	5.04.2018, 12.04.2018
21 Nord Stream 2	8.04.2013	Russia	2 months - scoping stage	6-7.04.2017	only in written form of the information exchange	April/June 2013 (scoping), April/June 2017 (EIA report)	6.06.2018, 3.08.2018
22 Widening of the flood embankment and construction of a new flood protection measure on Nysa Łużycka, Krauschwitz in Klein Priebus	19.07.2013	Germany	2 months - scoping stage	04.04.2014	only in written form of the information exchange		
23 NPP Fennovoima	27.09.2013	Finland	4 months - scoping stage	24.02.2014	only in written form of the information exchange	December 2013/January 2014 (scoping); February/April or March/May 2014 (EIA report)	
24 New Nuclear Power Plant in	13.03.2014	Slovakia	2 months - scoping	07.09.2015	24.05.2016	02.05.-	30.05.2016

<i>Project name</i>	<i>Starting date (date notification sent)</i>	<i>Party/ Parties of Origin</i>	<i>Timing of the notification (screening, scoping or preparation of the EIA documentation)</i>	<i>Length of the main steps in months</i>			<i>Final decision (date of issuing, if information is available)</i>
				<i>Submission of the environmental report</i>	<i>Transboundary consultations (expert), if any</i>	<i>Public participation, including public hearing, if any</i>	
Jaslovske Bohunice Site			stage			22.05.2014 (scoping) September/Octob er 2015 (EIA report), August/Septemb er 2016 (final decision)	
25 Expansion of storage capacity of the interim spent fuel storage facility at Jaslovske Bohunice	17.10.2014	Slovakia	2 months - scoping stage	18.02.2015	only in written form of the information exchange	March/April 2015 (EIA report), June/July 2016 (final decision)	29.04.2016
26 Temporary repository of spent nuclear fuel in the area of Chernobyl Nuclear Power Plant	21.10.2014	Ukraine	1 month - scoping stage	11.02.2015	only in written form of the information exchange	November 2014, February 2015	
27 Increasing the production capacity of the paper machines by the company LEIPA Georg Leinfelder GmbH in Schwedt	19.01.2015	Germany	1 month - scoping stage	20.12.2016			20.09.2017
28 Construction of flood banks on the Petrůvka (Piotrówka) river	06.08.2015	Czech Republic	1,5 month - scoping stage	15.05.2017	29.01.2019	27.08.2015-17.09.2015 (scoping); 14.06.2017-13.07.2017 (EIA report); 27.11.2017 -	

Project name	Starting date (date notification sent)	Party/ Parties of Origin	Timing of the notification (screening, scoping or preparation of the EIA documentation)	Length of the main steps in months			Final decision (date of issuing, if information is available)
				Submission of the environmental report	Transboundary consultations (expert), if any	Public participation, including public hearing, if any	
						27.12.2017 (supplemented EIA report)	
29 Interim storage facility, encapsulation plan and final repository for spent nuclear fuel	25.11.2015	Sweden	2 months - scoping stage	05.02.2016	21-22.03.2016	December 2015/January 2016 (scoping); March/April 2016 (EIA report); January/February 2017 (summary of the transboundary procedure)	
30 Flood protection on Nysa Łużycka in Rothenburg / O.L. the Lodenau district	18.04.2016	Germany	1,5 month - scoping stage				
31 Paper Factory Guben	05.08.2016	Germany	1 month - scoping stage		only in written form of the information exchange during the scoping stage		
32 A facility for the encapsulation and final storage of nuclear spent fuel	06.09.2016	Finland	3 months - scoping stage				
33 Extension of the lifetime for the operation of two nuclear power plants in Ukraine	03.04.2017	Ukraine	No scoping stage	03.04.2017	24.11.2017	8.05.2017-08.06.2017,	

	<i>Project name</i>	<i>Starting date (date notification sent)</i>	<i>Party/ Parties of Origin</i>	<i>Timing of the notification (screening, scoping or preparation of the EIA documentation</i>	<i>Length of the main steps in months</i>			<i>Final decision (date of issuing, if information is available)</i>
					<i>Submission of the environmental report</i>	<i>Transboundary consultations (expert), if any</i>	<i>Public participation, including public hearing, if any</i>	
	(South-Ukraine NPP and Zaporizhzhya NPP)							
34	European gas connection line EUGAL	13.07.2017	Germany	3 months - scoping stage	25.08.2017	2 months	1,5 months	7.12.2017
35	European gas connection line EUGAL - IPPC	22.09.2017	Germany	2 months - scoping stage	18.12.2017	4 months and expert meeting on 17.07.2018	1,5 months	no official information provided by now
36	Optimization of processing capacities for Javys, a. s. radioactive waste treatment and conditioning technologies at Jaslovske Bohunice site	06.04.2018	Slovakia	3 months - scoping stage				
37	Windfarm Wulkow	09.08.2018	Germany	No scoping stage	09.08.2018		1 month	
38	Nuclear power plant Mochovce VVER 4x440 MW 3. construction	17.07.2018	Slovakia		17.07.2018		1 month	29.10.2018
39	Baltic Pipe	12.02.2018	Sweden	1 month and one week				
40	Baltic Pipe	16.03.2018	Germany	1 month scoping stage				
41	Rivne NPP - lifetime extension	29.01.2018	Ukraine	2 months - scoping stage			1 month	

Your comments:

In Poland public have an opportunity to submit any comments or remarks to the displayed for a public view documentation for a 30 – day period since 1 January 2017. Until then comments or remarks could have been provided for 21-day period.

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.

II.3. The Convention does not mention the translation of EIA documentation as an important prerequisite for the participation of potentially affected Parties in a transboundary EIA procedure. Please explain:

- (a) How has your country addressed the issue of the translation of EIA documentation?

In the article 108 paragraph 1 point 1 of EIA Act of Law is indicated that the competent authority which issues the decision on a transboundary procedure for that specific type of the project, determines the scope of the EIA documentation and obligates the proponent of the activity to translate the documentation in the language of the affected country.

- (b) What difficulties has your country experienced with regard to translation and interpretation, both as a Party of origin and as an Affected Party, and what solutions has it found?

As a Party of Origin and as the Affected Party, the main issue with translations is when the proponent of the activity translates the EIA documentation in order to enable the Affected Party to recognize and assess the possible significant transboundary impacts on their environment, but the extent of translations is highly insufficient. Usually the Affected Party needs to either provide additional translations on their/our own or requests the Party of origin to provide translations of incomplete chapters of the EIA documentation.

For both, as a Party of Origin and the Affected Party, when the quality of the translations is very low it affects the whole EIA procedure. Authorities are unable to provide substantive opinions, while misunderstanding of the public occur when the EIA documentation is made publicly available.

Insufficient extent of the translations and low quality of the translations extend the whole transboundary procedure and create misunderstanding between the Parties about the subject of the procedure.

As the Affected Party, Poland frequently receives the documentation without any translations, unless the bilateral agreement is signed between the Parties. Then the translations are conducted by the Polish Party, which is time consuming and cost-generating. Moreover, the time for response to the Party of Origin is much shorter, since firstly the translations must be conducted in order to ask authorities for their opinion and make documentation publicly available.

- (c) Which Party covers the cost of translation of EIA documentation?

- (i) As a Party of origin:

In the case when Poland is the Party of Origin, the responsibility for translations is imposed on the Polish Party (as stated in national EIA Act of Law – article 108 paragraph 1 point 1). Translations are obligatory, what is more, details of the translations are also described in bilateral agreements. 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. Notification and official letters are prepared in the language of the Affected Party by the competent authority – the General Director for Environmental Protection.

The positive experience referring to translations is due to the provisions applied by the bilateral agreements on the EIA procedure. Even though negotiations on the common draft

agreement are complicated and a long lasting process, the binding provisions of the agreement establish coherent frames for cooperation and the transboundary procedure is much more effective with regard to the duration of the whole procedure.

(ii) As an affected Party:

If the documentation is provided to the Polish party without any translation (unfortunately very common practice with some countries, especially when no bilateral agreements exist), then translations must be conducted by the Polish Party. In this situation the transboundary chapter and non-technical summary are translated. In some cases it is not sufficient information, hence other chapters are translated for the full understanding of the planned project, as well as its potential impacts.

The translation issues are especially difficult when no legal obligations and requirements are available.

Poland receives notification and other documents translated into Polish mostly from countries where the bilateral agreement on EIA is in force or advanced draft of bilateral agreement is already prepared.

In case of projects listed in annex I of the Espoo Convention, documentation received is usually translated into English. In other cases the translations are generally provided. In the period 2016 – 2018 only very few cases occurred when documentation forwarded to Poland was in the language of the Party of Origin (except English).

Very often at the stage of the notification documentation is in English or the language of the Party of Origin, when Poland expresses the willingness to participate in a transboundary procedure, later documentation is received in Polish.

According to the national law in Poland any documentation made publicly available, should be provided in Polish. Even though documents are provided in English, Poland as the Affected Party has to carry the cost of the translations anyway.

From the experience, when the translations are not provided, Poland firstly asks the Party of Origin if conducting the translation on the behalf of the Party of Origin is possible. When the Party of Origin does not provide the translations, Poland translates documents.

In some cases, when the transboundary cooperation between the Parties is working effectively and accurately, even though there is no bilateral agreement between them, the Party of Origin sends the EIA documentation already translated to Poland and vice-versa. It proves how international cooperation and the mutual deference work perfectly for a transboundary issues.

(iii) Other, please specify:

(d) What parts of the EIA documentation does your country usually translate?

(i) As a Party of origin:

Translations of the documentation forwarded to the Affected Party are obligatory. Details of the translations are described in article 108 paragraph 4 of the EIA Act of Law. The authority which issues the decision on a transboundary procedure, establishes the extent of the documentation which should be translated. It obligates the proponent to translate the project information sheet, application to issue the decision, decision on the scope of the documentation and the EIA report in the extent which will enable the Affected Party to assess the possible significant transboundary impacts on the environment.

Moreover, translations are described in detail in bilateral agreements.

(ii) As an affected Party:

When the translation of the EIA documentation is not provided by the Party of Origin, Poland translates the transboundary chapter and non-technical summary. However, when those chapters do not provide sufficient information, other chapters must be translated for the full understanding of the planned activity and its potential impacts on the environment.

(e) Please indicate whether and how the issue of translation is addressed in bilateral agreements between your country and other Parties.

In the agreement between the Government of the Republic of Poland and the Government of the Federal Republic of Germany on the implementation of Convention on Environmental Impact Assessment in a Transboundary Context implementation, translations are specified in article 11. According to the agreement The Party of Origin will provide documents, translated into the official language of the Affected Party, as following:

- notification pursuant to the art. 3 para. 2 and information included in the para. 5 of the Espoo Convention,

- non-technical summary of the EIA documentation pursuant to the art. 4 para. 1 of the Espoo Convention, together with those elements of the EIA documentation, which will enable the Affected Party to assess the predicted significant negative transboundary impact on the environment and to enable the Affected Party's to present their statement,

- decision regarding the planned activity, including the elements of the justification in the final decision, which enable the Affected Party to acknowledge how issued decision includes:

a) predicted significant negative transboundary impact on the environment provided in the EIA documentation,

b) opinions of the Affected Party's authorities, relevant in the decision-making process,

c) comments and remarks of the Affected Party's public, relevant in the decision-making process,

d) results of the consultations between the Party of Origin and the Affected Party,

e) measures for reduction or elimination of the significant negative transboundary impact on the environment.

- all the other documents, which are prepared by the Party of Origin, which are crucial for the course of the procedure, especially invitations for the consultations and protocols from the consultations,

- result of the post-project analysis, if performed pursuant to the art. 7 of the Espoo Convention.

If the Affected Party stipulates that provided translations are insufficient, it informs the Party of Origin. Both Parties will pursuit to the common understanding about additional translations, followed by the extended time to provide the statement by the Affected Party.

Moreover, the public of the Affected Party forwards the comments and remarks to the Party of Origin in their official language, but those additionally may be forwarded in the language of the Party of Origin as well.

The agreement between the Government of the Republic of Poland and the Government of the Republic of Lithuania on the implementation of Convention on Environmental Impact Assessment in a Transboundary Context, covers translations in the similar extent as the abovementioned.

- (f) As a Party of origin, in which language do you usually provide EIA documentation to the affected Party?
- (i) English
 - (ii) The affected Party's language
 - (iii) Other (please, specify):
- (g) As an affected Party, from which language do you usually translate?
- (i) English
 - (ii) Language of the Party of origin
 - (iii) Other (please, specify)

There is no predominating trend in the translation language, although documents are usually provided in English, unless there is an agreement between the Parties.

- (h) Describe any difficulties that your country has encountered during public participation procedures and consultations under article 5, for example with regard to timing, language and the need for additional information.
- (i) As a Party of origin:

Experience with public participation

When the public of the Affected Party is especially concerned about certain project, the number of comments received from the public might reach even thousands of submissions. Comments are in the language of the Affected Party, hence it is very difficult to differentiate them and the cost of translations by Party of Origin is incredibly high.

Experience with consultations under article 5:

Exciding the time for response is usually one of the main factors affecting the whole procedure, by extending and delaying the investment process. As a Party of Origin Poland have negative experience with Affected Parties in this matter. Parties do not meet the deadlines for submitting their opinions on the scope of the EIA documentation or on the EIA documentation. Moreover, they do not ask for prolongation in advance.

- (ii) As an affected Party:

Experience with public participation

As the Affected Party, the main problem regarding the public participation is faced due to the lack of the documentation translations into Polish. Usually the time provided by the Party of Origin to send the statement of the Polish Party and comments or remarks from the public does not include the necessity to provide proper translations. Hence Poland needs to ask the Party of Origin to extend the time for response. Moreover, very often Party of Origin informs about very tight schedule for a certain planned project.

Experience with consultations under article 5:

During the expert meeting the need to receive some additional information from the Party of Origin is required, in case some explanation of used methods or certain approach presented in the EIA documentation will be requested. Unfortunately, the Party of Origin does not always invite authors of the EIA documentation for the expert meeting, hence substantive answer and positive conclusion of the expert meeting is not possible to reach by both Parties.

Another issue with transboundary consultations is when after the expert meeting, the Party of Origin sends the protocol to the Affected Party without possibility for comments or issues the final decision without agreement of the Affected Party to the text of the protocol, hence without signing the protocol by both Heads of the delegations (Affected Party and Party of Origin).

(i) Please describe how the costs of interpretation during the hearings are covered:

(ii) By the Party of origin:

Poland as the Party of Origin covers all the costs of the interpretation during the hearings. Depending on the type of the hearing, number of participants, level of the expert knowledge. The proponent (developer) is covering all the costs.

(iii) By the affected Party:

In case when Poland is Affected Party, costs should be covered by the Party of Origin. There is no legal obligation for Poland to assure any of such expenses.

(iv) Shared by both Parties concerned:

(v) Developer:

(vi) Other, please specify:

II.4. Describe any difficulties that your country has encountered during transboundary public participation (expert consultation, public hearing, etc.), including on issues of timing, language and the need for additional information:

1. As the Party of Origin Poland has faced some difficulties during consultations under art. 5. Participation of public representatives, local politicians of the Affected Party in transboundary consultations, which supposed to be in a form of the expert meeting conducted in accordance with article 5 of the Espoo convention, is problematic for the Party of Origin to perform successful transboundary consultations. Usually the discussion is more focused on political issues and interest than the exchange of professional knowledge in environmental matters regarding the planned project.
2. Moreover, different levels of stakeholders taking part in a transboundary consultation meeting from the Affected Party, while the Party of Origin is represented by governmental administration experts in the environmental issues. When Affected Party involves local authorities which are not specialised in the environmental issues for transboundary consultation in a form of the expert meeting, the discussion is not always at a high level of substance and technical aspects, very often emotional approach is dominating. Thus it is difficult to find common understanding and consensus in a discussed matter.
3. Similarly, as mentioned above with the same reasoning, during consultations under art. 5, participation of a different levels of stakeholders involved in transboundary consultation meeting is problematic for Poland as the Affected Party.

4. As the Party of Origin Poland has had problems with public participation when comments received from the public very often are not appropriate in accordance to the level of procedure (screening, scoping, EIA documentation).
5. In addition, depending on the agreement existing between Poland as the Party of Origin and some Affected Parties, public might send their comments directly to the authority responsible for issuing the final decision, which in comparison to the high number of submission (even thousands) might be difficult to condense into comprehensive and clear summary.
6. Results (outcomes) of the transboundary consultations differ between the countries in terms of the legal status. For Poland as the Party of Origin, results of the consultations are legally binding, while for others Parties it only remain as implementation of the obligation to carry out the transboundary consultations. Hence, there is no resemblance of the arrangements agreed during the consultations in the final decision, which is crucial for the Affected Party.
7. The definition and purpose of the consultations are understood and seen differently, depending on the country. Character and purpose of the consultations, as well as topics and issues that should be discussed between the Parties are viewed much differently. Very often one Party is only interested to receive additional information and explanations regarding the EIA documentation, while others understand transboundary consultations only in a form of the meeting on the basis of the EIA documentation. Hence, the exchange of the information in official letters is not seen as transboundary consultations, which results in a misunderstanding between the Parties. The transboundary meeting in a form of the high level expert meeting takes place only once, unless any major changes to the EIA documentation, therefore the planned project occurred. Some Parties without the request of the Polish Party for organization of such a meeting conclude that Poland did not expressed the willingness to participate in a transboundary procedure.
8. Moreover, all the problems regarding timing, language and the need for additional information specified in the question II.3 point h) also apply into this question as difficulties that has encountered during transboundary public participation.

II.5. Does your country have successful examples of organizing transboundary EIA procedures for joint cross-border projects or that of an NPP?:

- (a) Yes
- (b) No

II.6. If you answered yes to question II.5, please provide information on your country's experiences describing, for example, means of cooperation (e.g., contact points, joint bodies, bilateral agreements, special and common provisions, etc.), institutional arrangements, and how practical matters are dealt with (e.g., translation, interpretation, transmission of documents, etc.):

- (a) For joint cross-border projects:
- (b) For NPPs:

Poland has an experience only for the scoping stage for the power plant in the sector of the nuclear energy. Further EIA proceeding is still undergoing.

The transboundary EIA procedure with respect to the planned construction of the first Nuclear Power Plant in Poland was initiated in 2015. At the scoping stage, immediately after the receipt of the relevant information from the developer, Poland has sent 13 notifications (to its neighbours, the Baltic Sea region countries and, as a result of an SEA

for the Polish NPP Programme, to Austria) in three languages (English as a lingua franca, and German and Lithuanian, owing to requirements in the respective bilateral agreements). In addition to the official notifications, Poland informed 13 further countries located up to 1,000 kilometers from the potential site of the NPP (corresponding to the distance of a possible impact in case of an accident beyond the design basis). All the 13 officially notified countries indicated their wish to take part in the EIA procedure as Affected Parties, and two of the informally apprized countries asked for an official notification. As a result, 15 countries were notified and had possibility to comment on the scope of the EIA report (almost all parties responded within the given time frame).

The early involvement of the Affected Parties and also the provision of information to a broader range of Parties have advantages that can facilitate the entire procedure. First of all, early involvement of the Affected Parties makes it possible to establish effective and optimal time frames and costs for the EIA procedure, and prevents late participation of Affected Parties on request (at the final stage of EIA). Broad input from Affected Parties at the scoping stage helps developing adequate and comprehensive EIA documentation based on exhaustive analyses and investigations. Moreover, early and broad involvement of the Affected Parties helps to achieve a high degree of transparency of the procedure.

II.7. Please provide examples from your experience during the reporting period (either complete cases or elements such as notification, consultation and public participation) that, in your view, constitute good practice:

Poland as the Affected Party noticed positive aspects of transboundary consultations as an effective tool for supporting, preventing, reducing and controlling transboundary impacts. For instance, additional prevention measures in order to protect the environment on the territory of the Affected Party are decided under the discussion during transboundary consultations.

Moreover, some projects under transboundary consultations might be modified due to comments received from the Affected Party. As an example Poland was notified about planned project regarding the wind farm. Comments regarding the EIA documentation were forwarded to the Party of Origin, which responded to the remarks. The exchange of the information regarding the project included a few rounds of official letters. Due to the comments received from Poland the proponent of the project decided to limit the number of the wind turbines in comparison to the original planned number, with the modification of its characteristics. The information regarding this change was submitted to Poland, with an opportunity to provide any further comments. Once more, due to opinions received from the Affected Party the proponent limited the number of turbines more. After exchange of the information regarding the impact on the environment and post-project analysis, which will be forwarded to the Polish Party after the implementation of the project, Poland was satisfied with the result of the transboundary consultation and is waiting for the Party of Origin to submit the final decision.

Considering the consultations stage, good practice experience is with Parties which do not issue the final decision before the protocol with consultations outcomes is accepted and signed by heads 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 as legally obligating.

Moreover, provision of written translations and interpretations during consultation stage is of the high value for effective procedure. It affects the response from the public, minimizes the language risk and misinterpretation or misunderstanding between Parties.

II.8. Would your country like to introduce a case in the form of a Convention “case study fact sheet”?

- (a) No
- (b) Yes (please indicate which cases):

Case Study Fact Sheet will be prepared for the Södra Midsjöbanken offshore wind power plant in Swedish Exclusive Economic Zone.

II.9. Has your country carried out post-project analyses in the period 2013–2015:

- (a) No
- (b) Yes (please indicate which projects, along with the challenges in implementation and any lessons learned):

2. Experience in using the guidance in 2016–2018

II.10. Has your country used in practice the following guidance, adopted by the Meeting of the Parties and available online?

- (a) Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/7):

No

Yes (please provide details):

Poland sometimes use the guidance and apply its recommendations, usually when there is some misinterpretation of the text of the Espoo Convention between Parties. Nevertheless, other Parties are not familiar with the guidance, hence its mutual application is burdensome and problematic.

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

As the meetings to the Espoo Convention are organized, maybe annual workshops including the matter of this and other guidance should be conducted, especially that people working in the competent authorities in an each of the country change constantly and might require some sort of a tranship

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

No

Yes (please provide details):

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

- (c) Guidance on the Practical Application of the Espoo Convention (ECE/MP.EIA/8):

No

Yes (please provide details):

It has been used in practice several times, unfortunately not every Party is familiar with the document and willing to apply it as a good practice.

The same situation occur as in the question II.10 (a) Experience with using the Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context (ECE/MP.EIA/7).

Your experience with using this guidance:

Your suggestions for improving or supplementing the guidance:

The same applies as mentioned in the question II.10 (a).

Moreover, as suggestion for improvement in usage of the guidance, probably printed publications sent to all the Espoo Point of Contacts could boost its application.

3. Clarity of the Convention

II.11. Has your country had difficulties implementing the procedures defined in the Convention, either As a Party of origin or as an affected Party, because of a lack of clarity of the provisions?

No

Yes (please indicate which provisions and how they are unclear):

Unclear provisions in the Convention are as follows:

1. Article 2 paragraph 1 says: *The Parties shall, either individually or jointly, take all appropriate and effective measures to prevent, reduce and control significant adverse transboundary environmental impact from proposed activities.*

The abovementioned article does not indicate precisely what individually or jointly means, moreover term of the appropriate and effective measures is strongly biased, since countries have different law orders and recommendations for certain type of projects. This article is also the only indication for conducting joint transboundary EIA procedure by two or more Parties, hence is too general to be the basis for such procedure. Separate guidance in this matter would help Parties to develop a collective approach, applicable in all the countries when such procedure is conducted. Lack of framework for such type of procedures prevent Parties to take actions for joint projects.

2. Article 3 paragraph 8 – “(...)and for the transmittal of these comments or objections to the competent authority of the Party of origin, either directly to this authority or, where appropriate, through the Party of origin.”

The difference between “directly to the competent authority of the Party of origin” and “through the Party of origin” is unclear. From practical experience 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 the public are collected by the Affected Party and then sent to the Party of Origin.

3. Article 5 – there are some confusions in interpretation of this article. According to the observed practice some Parties treat consultations pursuant to article 5 as a process consisting of consultation and supplementation of the EIA documentation, as a final step of the whole procedure the high level (expert) meeting is organized. On a contrary, other Parties treat consultations only when a high level (expert) meeting takes place. Such differences in understanding the consultation stage of procedure cause some difficulties. Moreover, some Parties do not consider exchange of the information (in official letters) between the Parties about certain project, already after the completion of the EIA documentation – as part of the consultation pursuant to article 5. Following the article 5, term of the reasonable time-frames for consultations is ambiguous and general. It should be discussed (maybe in a form of a guidance) how to narrow those frames.

4. Suggested improvements to the report

II.12 Please provide further suggestions (preferably specific drafting proposals) for how this report could be improved.

1. Questions II.3 point h) and question II.4 are strongly connected with each other hence the differentiation between them to provide comprehensive and accurate answer is really vague.

II.3 point h) *Describe any difficulties that your country has encountered during public participation procedures and consultations under article 5, for example with regard to timing, language and the need for additional information*

II. 4 *Describe any difficulties that your country has encountered during transboundary public participation (expert consultation, public hearing, etc.), including on issues of timing, language and the need for additional information.*

Public participation procedures are part of the transboundary public participations, in this point those two questions cover the same area of investigation.

Moreover, expert consultation (expert meeting) might be part of the consultations under art. 5 of the Espoo Convention, including this in the brackets of the transboundary public participation is confusing. Unless, the expert consultation in the transboundary public participation means the meeting of the public with experts from the certain field of science. Although usually in Poland during public hearing experts which were preparing EIA documentation are present to provide professional answers for the questions asked by the public. Unfortunately the term is not completely accurate in the question II.4, thus create some misunderstanding.

It would be more convenient if those two questions would treat public participation in transboundary procedures separately from the consultations under article 5, both questions should be divided into the problems occurring for a country as Party of Origin and as Affected Party:

- a) Describe any difficulties that your country has encountered during public participation procedures (during public hearing, due to submitted comments) including issues of timing, language and the need for additional information.
 - b) Describe any difficulties that your country has encountered during consultations under article 5 including on issues of timing, language and the need for additional information.
2. In question II.9. (*Has your country carried out post-project analyses in the period 2013–2015*), the period for the reporting of the implementation supposedly should be 2016 – 2018, not 2013 – 2015.
 3. Question II.2 *Experience in the transboundary environmental impact assessment procedure during the period 2016–2018* in the part II is followed by the specific table from the Party of Origin and the Affected Party point of view. Describing the main steps in months might be problematic since very often procedures are long lasting. Providing specific dates would be more convenient, also with indication whether EIA documentation is under preparation or other certain stages of the EIA procedure, otherwise in this case the section in the table is empty without any explanation.