

**REPORT OF CZECH REPUBLIC FOR 2003-2005  
ON THE IMPLEMENTATION OF THE ESPOO  
CONVENTION ON ENVIRONMENTAL IMPACT  
ASSESSMENT IN A TRANSBOUNDARY CONTEXT**

for the period mid-2003 to end of 2005

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

*Please provide the information requested below in Part I, 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 not be used to describe your experience of applying the Convention, i.e. just the framework for its implementation.*

## Article 2

### General Provisions

#### DOMESTIC IMPLEMENTATION OF THE CONVENTION

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

Act No. 100/2001 Coll. + amendments Act. No. 93/2004 Coll., Act. No. 163/2006 Coll. and its Annexes

Ordinance No. 457/2001 Coll. about authorisation for preparing documentation and expert report and some other points of the EIA

Ordinance No. 353/2004 Coll. on the authorisation for the field of assessment of impacts on public health

#### TRANSBOUNDARY EIA PROCEDURE

2. *Describe your national and transboundary EIA procedures and authorities (Art. 2.2):*

- a. *Describe your EIA procedure and indicate which steps of the EIA procedure include public participation.*

According to Act. No. 100/2001 Coll. the person who intends to implement a project ("the notifier") that comes under the Annex No. 1 of the act is obliged to submit a NOTIFICATION (with requisities according to Annex No. 3) of the project to the competent authority. The competent authority sends a copy of the notification to the affected administrative authorities and the affected territorial self-governing units for a viewpoint and then provides publication of the notification for the public, which may send written viewpoint within 20 days of the publication.

Then comes the FACT-FINDING PROCEDURE which objective is to refine information that is appropriate to be laid down in the documentation on the environmental impacts of the project (according to Annex No. 2). For projects that are not always obligatory subject to the assessment the object of this procedure shall also be to determine whether the project is to be assessed pursuant to this Act, this is done also according to viewpoints received from public. The reasoned conclusion of the fact-finding procedure is then sent to the notifier and published as well.

On the basis of the notification, the viewpoints of the notification and the conclusion of the fact-finding procedure the notifier shall provide preparation of the DOCUMENTATION (with requisities according to Annex No. 4). After the competent authority receives the completed documentation it shall be sent for a viewpoint to the affected administrative authorities and the affected territorial self-

governing units and then provides publication of the documentation for the public, which may submit its viewpoint to the competent authority within 30 days of the publication.

After this the competent authority provides the preparation of the EXPERT REPORT (including the proposal for the statement)(with requisities according to Annex No. 5) on the previous documentation by a person authorised to prepare documentation and expert report. The report is based on the notification, the documentation and all the viewpoints submitted thereon. When the competent authority receives the completed expert report it is sent to the notifier, the affected administrative authorities and the affected territorial self-governing units and at the same time provides publication of the expert report for the public, which may send written viewpoint within 30 days of the publication. If the competent authority has obtained negative viewpoints on the documentation or expert report it shall provide for a public hearing of the expert report and simultaneously of the documentation. The person preparing the expert report shall deal with the received written viewpoints on the expert report and those raised during the public hearing and potentially modify the proposal of the statement on the basis of these viewpoints. The above mentioned PUBLIC HEARING serves for the introduction of the project and the process of environmental impact assessment and mainly for the discussion about it.

On the basis of the documentation or notification, the expert report, the public hearing and the viewpoints submitted thereon, the competent authority shall issue a STATEMENT ON THE ASSESSMENT OF THE ENVIRONMENTAL IMPACTS OF IMPLEMENTING THE PROJECT (with requisities according to annex no. 6) with requirements and conditions to protect the environment divided for each stage of the project realisation. The competent authority shall send the statement to the notifier, the affected administrative authorities and the affected territorial self-governing units and at the same time provides publication of the statement for the public. The statement shall be a basic expert document for issuing a decision or measure pursuant to special regulations eg. Construction Code, Mining Act, Water Act, Act on railways and so on. The statement shall be submitted by the notifier as one of the basic documents for subsequent procedures or processes pursuant to these regulations. The statement shall usually be valid for a period of two years from the date of its issuing. In the absence of a statement, it shall not be possible to issue a decision or measure necessary for implementing the project in any administrative procedure or other process pursuant to special regulations. In such procedures or processes, the competent authority shall be affected administrative authority. An administrative authority that issues a decision or measure pursuant to special regulations shall include in its decision or measure the requirements for the protection of the environment set forth in the statement, if set forth therein, or it shall state in its decisions or measure the reasons why it did not do so or did so only partly.

- b. *Describe how the different steps of the transboundary EIA procedure mentioned in the Convention fit into your national EIA procedure.*

The special provisions for regulation of transboundary EIA were added to the Act. No. 100/2001 Coll. by its amendment in 2004. The transboundary procedure is always governed by the Ministry and there are different time-limits in this case. Also the consultations are held. The post-project analysis is carried out on the request of the affected State and is based upon a deal between the state of origin and the affected state. Its manner is then the same as in the Espoo Convention. The whole

EIA procedure is similar to that mentioned above under a. but there are some specifications.

- c. *List the different authorities that are named responsible for different steps of the transboundary EIA procedure. Also list the authorities responsible for the domestic EIA procedure, if they are different.*

The transboundary EIA procedure is always governed by the Ministry of Environment in cooperation with the Ministry of Foreign Affairs. After the STATEMENT is issued, there are also other state offices that give final permission for the realization of the project as the building office (spatial permission, building permission), mining office etc, the request about the permissions and the permissions itself are then sent to the affected State by the Ministry of Environment. For the domestic EIA procedure the responsible authority is the Regional Authority and the Ministry of Environment depending on the concrete activity.

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

The Ministry of Environment leads the transboundary EIA and collects the information.

3. *Do you have special provisions for joint cross-border projects (e.g. roads, pipelines)?*

No.

#### IDENTIFICATION OF A PROPOSED ACTIVITY REQUIRING EIA UNDER THE CONVENTION

4. *Is your country's list of activities subject to the transboundary EIA procedure equivalent to that in Appendix I to the Convention?*

Not exactly. The list of activities subject to the transboundary EIA procedure includes all the activities mentioned in Appendix I to the Convention but there are some more activities added to it according to the European Directive on EIA and the national specifics.

5. *Please describe:*

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

Act n. 100/2001 Coll. includes as its Annex I, category I and II activities. If an activity is listed in this Annex I, the EIA procedure must be initiated. (Category II activities require that screening is undertaken at the start of the procedure.) Section 4 of the Act is on the Scope (the subject of EIA) and includes the following:

- (1) The subject of assessment pursuant to this Act shall be
  - (a) plans set forth in Annex 1, Category I and its changes if their capacity or extent reaches the limit set when it is set; this plans and its changes shall always be subject to assessment,
  - (b) plans set forth in Annex 1, Category II including plans that are under the limit set, if so laid down in a fact-finding procedure depending on whether they have significant effects on the environment,
  - (c) changes in any plan set forth in Annex 1, if its capacity or extent is to be significantly increased, or if there is a significant change in the technology,

management of operations or manner of use and they don't come under letter (a); these changes are the subject of assessment if so laid down in a fact-finding procedure depending on whether they have significant effects on the environment. Based upon above mentioned Act No. 100/2001 Coll. says, that the subject of transboundary environmental impact assessment for the Czech Republic shall be

- a) a project set forth in Annex No. 1, if the affected territory can extend beyond the territory of the Czech Republic,
- b) a project set forth in Annex No. 1, if the State, the territory of which can be affected by significant environmental impacts (the affected state), so requests,
- c) a project, which is planned to be implemented on the territory of another State (the state of origin) and which can have significant environmental impacts in the territory of the Czech Republic.

The notifier must also indicate in the NOTIFICATION that the planned activity could possibly affect the environment of other state.

*b. How a change to an activity is considered as a "major" change;*

Changes are mentioned in Section 4 (Scope: The subject of EIA of plans) of the relevant Czech Act, letter (a) says, that plans set forth in Annex 1, Category I and its changes if their capacity or extent reaches the limit set when it is set; this plans and its changes shall always be subject to assessment and letter (c) is about changes in any plan set forth in Annex 1, if its capacity or extent is to be significantly increased, or if there is a significant change in the technology, management of operations or manner of use and they don't come under letter (a); these changes are the subject of assessment if so laid down in a fact-finding procedure depending on whether they have significant effects on the environment.

Section 7 (Screening procedure) states that "... For plans set forth in Annex No. 1, Category II and for changes in plans pursuant to Section 4, paragraph 1, letter (c), the objective of the screening procedure shall also be determination of whether the plan or change therein is to be assessed pursuant to this Act. The screening procedure shall be commenced and carried out on the basis of notification and the viewpoints obtained thereon, and pursuant to the points of view and factors set forth in Annex 2 to this Act. When deciding whether the plan has significant effects on environment, the competent authority always takes into consideration the character and extent of the plan, whether the plan or its change by their capacity or extent reaches the limit set in Annex 1, Category II and the received viewpoints of the public, the affected administrative authorities and the affected territorial self-governing units."

*c. How such an activity, or such a change to an activity, is considered likely to have a "significant" adverse transboundary impact (Art. 2.5, Guidelines in Appendix III); and*

Act No. 100/2001 Coll. does not include significance criteria for transboundary effects; any potential transboundary effect might result in a transboundary EIA. It is just stated that a project which is planned to be implemented on the territory of another state and which can have significant environmental impacts in the territory of the Czech Republic is subject of transboundary EIA (Section 11, paragraph 1, letter (c)).

*d. How you would decide whether it is "likely" to have such an impact. (Art. 2.3)*

See the previous answer. The notifier must also indicate in the NOTIFICATION that the planned activity is likely to affect the environment of other state.

## PUBLIC PARTICIPATION

6. *Do you have your own definition of “the public” in your national legislation, compared to Article 1(x)? How do you, together with the affected Party, ensure that the opportunity given to the public of the affected Party is equivalent to the one given to your own public as required in Article 2, paragraph 6?*

There is no definition of the "public" in our Act, when it gives "public" the possibility to participate by sending a viewpoint or joining the PUBLIC HEARING it uses the term "anybody".

The Ministry of Environment sends all information about the activity to the affected Party and this should be distributed to its own public. In this case the affected party is proceeding according to its national legislation. It also needs to be mentioned here that all of our neighbouring states (which are the most likely states to be affected) are parties to the Convention.

## Article 3

### Notification

#### QUESTIONS TO PARTY OF ORIGIN

7. *Describe how you determine when to send the notification to the affected Party, which is to occur “as early as possible and no later than when informing its own public”? At what stage in the EIA procedure do you usually notify the affected Party? (Art. 3.1)*

The affected Party is notified at the moment the Czech Ministry of Environment finds out that there is a possibility of transboundary effect or when the affected Party announces that it feels possible transboundary impact of a project planned on the territory of Czech Republic. Within 5 working days after this the Ministry sends the NOTIFICATION to the affected Party together with the information on the course of the assessment. In practise it is usually sent no later than it is sent to the Czech public and Czech concerned authorities.

8. *Describe how you determine the content of the notification? (Art. 3.2)*

The content of the notification is given by Annex No. 3 to our Act and in the chapter "Information on impacts of the project on public health and the environment" the information on potential important unfavourable transboundary impacts must be presented. The Ministry then takes this information into consideration in the fact-finding procedure according to the principle that the nature of impacts in relation to their transboundary extent must be considered. According to this the Ministry sends the notification to the affected Party including the requisites of Article 3.2 of the Convention.

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

The time frame is that specified for domestic EIA (20 to 30 days for public and affected authorities according to the concrete stage of the EIA procedure).

No experience of an affected Party complying with the timeframe because there is always open space for operating with the deadlines and it depends on consensus of both parties. In principle, the affected Party can nonetheless participate in the EIA procedure.

According to Czech law, each deadline for giving viewpoints can be prolonged by the Ministry by thirty more days. Other deadlines are then prolonged appropriately.

10. Describe when you provide relevant information regarding the EIA procedure and proposed activity and its possible significant adverse transboundary impact as referred to in Article 3, paragraph 5. Already with the notification or later in the procedure?

Practice varies, with information sometimes being submitted after having received a positive response from the affected Parties indicating a desire to participate, and sometimes already with the notification.

11. How do you determine whether you should request information from the affected Party (Art. 3.6)? When do you normally request information from the affected Party? What kind of information do you normally request? How do you determine the time frame for a response from the affected Party to a request for information, which should be “prompt” (Art. 3.6)?

The information is requested once the affected Party indicates that they want to participate in the Czech EIA procedure. If they so indicate, the Ministry of Environment sends to them another letter with a question about the environment in the affected area. This information is given to the investor, who uses it for the EIA DOCUMENTATION about the activity.

The kind of information requested would depend on the type of activity.

The Czech Republic asks for information in general terms, leaving it up to the affected Party to determine what they are able to provide.

“Promptly” is not determined.

12. How do you consult with the authorities of the affected Party on public participation (Art. 3.8)? How do you identify, in cooperation with the affected Party, the “public” in the affected area? How is the public in the affected Party notified (what kinds of media, etc are usually used)? What is normally the content of the public notification? Does the notification to the public of the affected Party have the same content as the notification to your own public? If not, describe why not. At what stage in the EIA procedure do you normally notify the public of the affected Party?

The Czech Republic, as Party of origin, does not identify the public in the affected Party; it is up to the affected Party to do so.

The notification in Czech Republic is placed on public notice boards, and distributed by Internet and by another means (local newspapers, radio...).

The content of the notification depends on what is being notified, but generally: notification, documentation and expert opinion. Each document has its content defined in Annexes to the Act.

Yes, both the to the public of the affected Party and the notification to Czech public contain the same information. The same notification is used for the sake of simplicity.

The Czech Republic notifies the affected Party and it is up to them when they will notify their public.

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

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

14. Do you provide any information to supplement that required by Article 3, paragraph 2? Do you, furthermore, follow the proposed guidelines in the report of the first meeting of the Parties (ECE/MP/2, decision I/4)? If not, in what format do you normally present the notification?

Yes, according the requirement of Annex 3 of Act n. 100/2001 Coll., the same notification as is sent within the Czech Republic is also sent to the affected Parties, including information to supplement that required by Article 3, paragraph 2.

No, the proposed guidelines are not followed. A national format is used. An explanatory letter accompanies the form.

#### QUESTIONS TO AFFECTED PARTY

15. *Describe the process of how you decide whether or not you want to participate in the EIA procedure (Art. 3.3)? Who participates in the decision-making, for example: central authorities, local competent authorities, the public and environmental authorities? Describe the criteria or reasons you use to decide?*

It depends. The Ministry sends the notification to the relevant authorities in the Czech Republic asking them whether or not it should participate and if the information about this notification is published as well (a kind of screening).

16. *When the Party of origin requests you to provide information relating potentially affected environment: (a) how do you determine what is “reasonably obtainable” information to include in your response; and (b) describe the procedures and, where appropriate, the legislation you would apply to determine the meaning of “promptly” in the context of responding to a request for information? (Art. 3.6)*

As the reasonably obtainable information we would probably use the most up-to-date one that are known to the Ministry or to the local responsible authority and the as well expert information that are possible to be brought out within the deadline given by the Party of origin for response. But we have no experience in this area.

### Article 4

#### *Preparation of the EIA documentation*

#### QUESTIONS TO PARTY OF ORIGIN

17. *What is the legal requirement for the content of the EIA documentation (Art. 4.1)?*

The EIA documentation that is submitted to the Party of origin is the DOCUMENTATION according to our Act and its Annex No. 4 (mentioned above in answer to question no. 2.) and this documentation includes all the requisities of Appendix II of the Convention.

18. *Describe your country’s procedures for determining the content of the EIA documentation (Art. 4.1).*

See previous response. Furthermore the responsible authority sets in the conclusion of the fact-finding procedure the topics for the future DOCUMENTATION that they consider to be important in relation to the concrete activity.

19. *How do you identify “reasonable alternatives” in accordance with Appendix II, alinea (b)?*

In the notification according to Section 6 of our Act the notifier is obliged to introduce the main studied alternatives of the activity which is included in Annex 1, Category I, that is always subject to assessment and also to explain the reason, why he prefers any of the alternatives. The competent authority can in the conclusion of the fact-finding procedure also propose the preparation of variant approaches for the plan in the DOCUMENTATION, which generally differ in the location, capacity, technology employed or moment of implementation, if the implementation thereof is demonstrably useful and technically feasible. It shall be permitted only exceptionally, and with adequate justification, to propose the preparation of a variant of the design of the plan that is different from the approved land-use planning documentation.



20. *How do you identify “the environment that is likely to be affected by the proposed activity and its alternatives” in accordance to Appendix II, alinea (c), and the definition of “impact” in Article 1(vii)?*

The area of impact that is likely to be affected by the proposed activity is one of the requisities of the notification according to Annex 3 of our Act so basically it is suggested by the notifier. Then the competent authority can moderate the area of impact (the affected environment) in the fact-finding procedure according to the criteria listed in Annex 2 to our Act and in relation to the nature of the specific project or kind of project, the environmental factors, which could be affected by the activity and the current state of knowledges and assessment methods.

21. *Do you give the affected Party all of the EIA documentation (Art. 4.2)? If not, which parts of the documentation do you provide?*

Yes, all the EIA documentation including the viewpoints of public is given to the affected Party.

22. *How is the transfer and reception of the comments from the affected Party organized? How does the competent authority in your country (as the Party of origin) deal with the comments? (Art. 4.2)*

It is usually the environment ministry of the affected Party that collects comments from the public in the affected Party and sends them to the Ministry of Environment in the Czech Republic. The contact point in the affected Party is generally the Espoo focal point, but that individual sometimes instructs the Czech Republic to use of a different contact. The Ministry of Environment creates the final EIA STATEMENT taking into account the comments of the affected Party; if the comments are not accepted then the reasons for such a decision must be included in the STATEMENT.

23. *Describe the procedures and, where appropriate the legislation you would apply to determine the time frame for comments provided for in the words “within a reasonable time before the final decision” (Art. 4.2)? What is the consequence if the affected Party does not comply with the time frame? If an affected Party asks for an extension of a deadline, how do you react?*

The Czech Republic’s legislation provides for a total of sixty days for the affected Party to express its opinion (Act 100/2001 Coll., art. 8, para. 3, and art. 12, para. 1). The Czech Republic tries to take late comments into account as well. If this is possible according to the law, the Czech Republic extends the deadline.

24. *What material do you provide, together with the affected Party, to the public of the affected Party?*

The NOTIFICATION, DOCUMENTATION, STATEMENT or CONCLUSION OF FACT FINDING PROCEDURE and, depending to settlements, also the EXPERT OPINION are provided. Also the results of the subsequent procedures and the applications for the subsequent decisions are provided to the affected Party and its public.

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

No, the Party of origin does not initiate a public hearing for the affected public.

Yes, after EXPERT OPINION is finished the Czech Republic has a public hearing about the DOCUMENTATION and the EXPERT OPINION to which everyone can come so the public of the affected Party, public authorities, organisations or other individuals as well.

#### QUESTIONS TO AFFECTED PARTY

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

It is stated in our Act (Section 14, paragraph 5) that within 15 days of the date when information on an obtained documentation was published, every person shall be entitled to send a written viewpoint on this documentation to the Ministry of Environment. The Ministry then sends the viewpoints together with its own viewpoint and information that it will potentially participate in the consultation to the State of origin within 30 days of the date when the information about the obtained documentation was published. The determination also depends on the deadline specified by the Party of the origin.

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

For Czech public it is organized by our Ministry according to our legislation in accordance with the legislation of the Party of origin. For further details see the previous answer.

## Article 5

### Consultations

#### QUESTIONS TO PARTY OF ORIGIN

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

Within 20 days of obtaining the EIA DOCUMENTATION, the Ministry sends this documentation to the affected State and offers a consultation. If the affected State expresses interest in a consultation, the Ministry shall participate in the consultation, the notifier and the person preparing the documentation are also obliged to participate in the consultation. The information on the consultation is published by the Ministry. At the beginning, there is a preliminary time frame given but when necessary it could be changed depending on the deal of the parties.

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

The level for consultation is usually national, participants are mentioned above. Both means are used depending on their suitability for concrete activity.

#### QUESTIONS TO AFFECTED PARTY

30. *On what level is the consultation normally held: national, regional or local? Who normally participates in the consultation? By what means do you usually communicate in*

*consultations, for example by meeting or by the exchange of written communications? How do you indicate if there is no need for consultations?*

It is practically similar to the previous answer and it usually depends on the offer of Party of origin. If our Ministry obtains the notification of a project or otherwise learns of a project, that will be implemented in the territory of the State of origin and might possibly have transboundary impacts, the information is published and sent to the affected administrative authorities and affected territorial self-governing units for a viewpoint. After the notification is published every one is entitled to send a written viewpoint on it to the Ministry. Then the Ministry sends to the Party of origin its own viewpoint together with all the collected viewpoints of the public and concerned authorities and this way the Ministry enters the next possible dealing with the Party of origin.

## **Article 6**

### ***Final decision***

#### QUESTIONS TO PARTY OF ORIGIN

*31. Describe what is regarded as the “final decision” to authorize or undertake a proposed activity (Art. 2.3). Do all projects listed in Appendix I require such a decision?*

There is always a subsequent procedure or process pursuant to special regulations. In this process the final decision or measure (eg. spatial permission, building permission, mining permission etc.) is issued and the Statement on the Environmental Impact Assessment of Implementing the Project is a kind of basic expert document for it. In the absence of a Statement it is not possible to issue such decision or measure. An administrative authority that issues final decision or measure shall include in it the requirements for the protection of the environment set forth in the Statement and if it is not included or it is included only partly the reasons for this must be stated. In practice the final decision usually includes the requirements.

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

Section 13, paragraph 5: The Ministry shall incorporate the opinion of the affected state in the statement, or shall set forth therein the reasons why it did not incorporate it partly or entirely in its statement. More information on this topic and the following procedures is given in the previous answer.

*33. 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 public in your country (Art. 6.1)?*

Yes, they are taken into consideration in the same way.

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

The Ministry sends to the affected State the related decisions pursuant to special regulations within 15 days of the date of their receipt (Statement 13, paragraph 6) Yes, the final decision does contain the reasons and considerations on which the decision is based, according to our legislation every decision must be reasoned otherwise it is not valid.

*35. If additional information comes available according to paragraph 3 before the activity commences, how do you consult with the affected Party? If need be, can the decision be revised? (Art. 6.3)*

Consultations are possible but we have no experience with this.

## **Article 7**

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

36. *How do you determine whether you should request a post-project analysis to be carried out (Art. 7.1)?*

In Section 12 paragraph 3 and 4 there are the same rules as in the Article 7.1 of the Convention. We have no practical experience with this.

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

In Section 12 paragraph 3 and 4 there are the same rules as in the Article 7.1 of the Convention. We have no practical experience with this.

## **Article 8**

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

38. *Do you have any bilateral or multilateral agreements based on the EIA Convention (Art. 8, Appendix VI)? If so, list them. Briefly describe the nature of these agreements. To what extent are these agreements based on Appendix VI and what issues do they cover? If publicly available, also attach the texts of such bilateral and multilateral agreements, preferably in English, French or Russian.*

The Czech Republic has started discussing draft agreements with all its neighbours (Austria, Germany, Poland and Slovakia) but these were recently interrupted because we must first coordinate our national position to the bilateral cooperation with other concerned Ministries.

39. *Have you established any supplementary points of contact pursuant to bilateral or multilateral agreements?*

No, a supplementary point of contact has not been established. The Ministry of the Environment is the representative of the Czech Republic on these matters.

## **Article 9**

### ***Research programmes***

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

No.

## **Ratification of the amendments to the Convention and of the Protocol on SEA**

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

The proposal for ratification of both these amendments is now being discussed at the Parliament and it should finish during the year 2007.

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

Same as answer to question 41.

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

Ratified 19 July 2005.

## PART II – PRACTICAL APPLICATION DURING THE PERIOD 2003-2005

*Please report on your practical experiences of applying the Convention (not your procedures described in Part I), whether as Party of origin or affected Party. The focus here is on identifying the best practice as well as difficulties Parties encountered in applying the Convention in practice to enable Parties to share solutions. Parties should therefore provide appropriate examples highlighting application of the Convention and innovative approaches to improve application of the Convention.*

### CASES DURING THE PERIOD 2003-2005

44. *Do you have any practical experience of applying the Convention in this period (yes/no)? If you do not have any such experience, why not?*

Yes.

45. *Does your national administration have information on the transboundary EIA procedures that were underway during the period? If so, please list these procedures, clearly identifying for each whether your country was the Party of origin or the affected Party. If you have not provided a list of transboundary EIA procedures in connection with previous reporting, also provide a list of those procedures. If possible, also indicate for each procedure why it was considered necessary to apply the Convention.*

Yes, the Ministry is the only authority that practises the transboundary EIA.

The procedures in which we were or are the Party of origin are:

- 1/ The storage of spent atomic fuel elements in the territory of Nuclear Power Plant Temelin, the affected Party was Austria and the transboundary procedure was undertaken at the request of Austrian environmental ministry
- 2/ The wind park at Klinovec, the affected Party was Germany and the transboundary procedure was undertaken at the request of the affected Party
- 3/ The wind farm Medvedi Skala, the affected Party was Germany and the transboundary procedure was undertaken at the request of the affected Party
- 4/ The farm of wind power plants Mauricius, the affected Party was Germany and the transboundary procedure was undertaken at the request of the affected Party
- 5/ The extension of pilot water Otrokovice - Rohatec, the activity is on the border of Czech Republic and Slovak Republic and on both sides the EIA procedure is undertaken in the same time period, we do exchange the documents and each party runs its own transboundary EIA

The procedures in which we were or are the affected Party are:

- 1/ The railway modernisation Bratislava - Kuty to the total speed of 160 km per hour, the party of origin is Slovakia, we were interested according to the notification
- 2/ The fast highway R6 Puchov - state border CR/SR, the party of origin is Slovakia, we were interested according to the notification
- 3/ The wind park Myjava, locality Polana, the party of origin is Slovakia, we were interested according to the notification
- 4/ The wind park Myjava, locality Vesny Vrch, the party of origin is Slovakia, we were interested according to the notification
- 5/ The shutout of Nuclear Power Plant V1 Jaslovské Bohunice, the party of origin is Slovakia, we were interested according to the notification

6/ The motorway A5 Nord Autobahn, part Poysbrunn - state border Drasenhofen, the party of origin is Austria, we were interested according to the notification

46. *Are there other projects than those mentioned above for which a transboundary EIA procedure should have been applied, but was not? Explain why.*

I don't think so.

47. *Provide information on the average durations of transboundary EIA procedures, both of the individual steps and of the procedures as a whole.*

Except one (The storage of spent atomic fuel elements in the territory of Nuclear Power Plant Temelin) all the above mentioned transboundary EIA procedures are ongoing and they are usually in the first period so we can't count the average duration. The only one that is already finished can't be a representative example for duration because it is exceptional.

#### EXPERIENCE OF THE TRANSBOUNDARY EIA PROCEDURE IN 2003-2005

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

We have not much practical experience with transboundary EIA in which we were the Party of origin, so we can't tell much to this question.

49. *How have you interpreted in practice the various terms used in the Convention, and what criteria have you used to do this? Key terms include the following: "promptly" (Art. 3.6), "a reasonable time" (Art. 3.2(c), Art. 4.2), "a reasonable time-frame" (Art. 5), and "major change" (Art. 1(v)). If you are experiencing substantial difficulties interpreting particular terms, do you work together with other Parties to find solutions? If not, how do you overcome the problem?*

promptly - until now we as the affected Party were not asked for information to the state of the environment in the affected territory, so we have no practical experience; as the Party of origin we asked for information to the state of the environment in the affected territory promptly - now it is already half a year since that and no such information had been given to us even the affected Party requested the transboundary EIA

reasonable time - with respect to our public we meet the deadlines according to our law which are usually 30 days and the other Party might be given another 30 more days if necessary

reasonable time-frame - this we experienced only in one case - The storage of spent atomic fuel elements in the territory of Nuclear Power Plant Temelin - the affected Party - Austria was very much interested so we made with them three consultations (2 after documentation was published and 1 after the expert opinion was published) until all their questions were answered and no new arose

Also we have to mention that when doing transboundary EIA with Slovakia, the terms are similar because we have analogical laws.

major change - we have no practical experience with using this term in transboundary EIA because the subject to these were only newly established projects

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

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

There are three aspects that we use when identifying the possibility of transboundary impact, first a chapter about possible transboundary impacts is an obligatory part of the Notification, the second aspect is the location of the project next or near to the state borders and according to this it usually appears in the viewpoints of public and of the affected authorities and the third aspect is that the affected Party asks for participation in the transboundary EIA.

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

Yes, there is a separate chapter about potential transboundary impacts in the documentation, the range of the chapter depends on the significance of the potential impact, the documentation is prepared by the authorized person and then it is checked by the responsible authority. When some requisite or information is missing, it is given back to the authorized person to complete it. The documentation sent to the affected State is the same as the national one and it includes wide-range of information on the possible transboundary impacts.

- c. *What methodology do you use in impact assessment in the (transboundary) EIA procedure (for example, impact prediction methods and methods to compare alternatives)?*

We do moderate different possible future situations and their possible impacts on environment depending on the concrete project. Alternatives are compared according to their impacts on environment and in the Statement the order of them is given.

- d. *Translation is not addressed in the Convention. How have you addressed the question of translation? What do you usually translate? What difficulties have you experienced relating to translation and interpretation, and what solutions have you applied?*

The documents are not translated into the language of the affected Party, in the transboundary EIA each Party is obtaining the documents in original language and arranges the translation on their own. For example in the case of transboundary EIA with Austria (Temelin) we send them Documentation and Statement and they send us all the collected viewpoints in original language. According to our legislation when we are the state of origin the translations of necessary documents are arranged by the ministry and the cost of it is paid by the person who intends to implement a project (notifier).

- e. *How have you organized transboundary public participation in practice? As Party of origin, have you organized public participation in affected Parties and, if so, how? What has been your experience of the effectiveness of public participation? Have you experienced difficulties with the participation of your public or the public of another Party? (For example, have there been complaints from the public about the procedure?)*

No we haven't organized any public participation in affected Party, but in the case of Temelin, we afforded the opportunity of joining the public hearing to the public of affected Party. We arranged that the public hearing was translated in German. After there raised some complaints from the Austrian public, because there was consecutive



translation arranged and they said the public hearing was very much prolonged by this. We don't think the complaints were rightful, because it was not possible to arrange synchronous translation for the reason you need special facilities (eg. earphones) for this and we could not predict how many people from the affected party are coming.

- f. *Describe any difficulties that you have encountered during consultations, for example over timing, language and the need for additional information.*

See previous question, other difficulties are not known to us, in the case of Temelin we had no problem with additional information, when Austria had more questions we arranged more consultations.

The cooperation with Slovakia is easier because we have similar language.

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

The final decision has the form that is prescribed by the legislation, it usually consists of three parts - the sentence, the rationalisation (including all the laws and backgrounds that led to this decision) and the possibility of appeal. It is issued in the term given by the specific law. The copy of it is then sent to the contact point of the affected State and they arrange the translation and publication of it.

- h. *Have you carried out post-project analyses and, if so, on what kinds of projects?*

No.

- i. *Do you have successful examples of organizing transboundary EIA procedures for joint cross-border projects? Please provide information on your experiences describing, for example, any bilateral agreements, institutional arrangements, and how practical matters are dealt with (contact points, translation, interpretation, transmission of documents, etc.).*

No, we have no special regulations on joint cross-border projects.

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

We don't remember any good practice case that could be useful to mention.

#### CO-OPERATION BETWEEN PARTIES IN 2003-2005

51. *Do you have any successful examples of how you have overcome difficulties arising from different legal systems in neighbouring countries?*

No, we had no such difficulties until now.

#### EXPERIENCE IN USING THE GUIDANCE IN 2003-2005

52. *Have you used in practice the following guidance, recently adopted by the Meeting of the Parties and available on-line? Describe your experience of using these guidance documents and how they might be improved or supplemented.*

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

not used

- b. *Guidance on subregional cooperation; and*

not used

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

not used - but could be useful

CLARITY OF THE CONVENTION

53. *Have you had difficulties implementing the procedure defined in the Convention, either as Party of origin or as affected Party? Are there provisions in the Convention that are unclear? Describe the transboundary EIA procedure as applied in practice, where this has varied from that described in Part I or in the Convention. Also describe in general the strengths and weaknesses of your country's implementation of the Convention's transboundary EIA procedure, which you encounter when actually applying the Convention.*

We have no experience with the post-project analyse and we appreciate any good practise of other states.

Our transboundary EIA procedure runs according to the convention, but we have some additional procedures, e.g. we use the independent Expert Opinion that verifies the data in the Notification and Documentation.

AWARENESS OF THE CONVENTION

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

No, the text of the Convention was published in the national Collection of international Conventions and it was also included in the Act. No. 100/2001 Coll. so it is generally known.

55. *Do you see a need to improve the application of the Convention in your country and, if so, how do you intend to do so? What relevant legal or administrative developments are proposed or on-going?*

In these days we are preparing a kind of amendment or new conception of the EIA pocedure and some alternations to the transboundary EIA articles are also made according to our experience.

SUGGESTED IMPROVEMENTS TO THE REPORT

56. *Please provide suggestions for how the report may be improved.*

no suggestions