

Jerzy Jendrośka

Incorporating results of EIA and SEA
into the final decision regarding the
project or strategic document

Major legislative dilemmas for Implementing
the Espoo Convention and its Protocol on SEA in
the UNECE region and ways to address them in
national legislation

20 January 2015 Moscow

Content

- Concept of final decision
- Duty to „take due account” of environmental assessment
- Statement of reasons
- Obligation to inform about the decision and make it available

Concept of the final decision

- Final decision in EIA (art. 7)
 - the decision of the competent authority which entitles the developer to proceed with the project
 - Problem with multi-stage development control
- Final decision under SEA Protocol (art.11) – decision to adopt strategic document
 - Not necessarily taken by the planning authority (may be taken by the Parliament)

Concept of taking „due account”

- Taking due account
 - obligation to read and consider seriously
 - but not always to accept all comments
 - evidenced in Statement of Reasons (sometimes also in the merit of the decision)

Due account of what?

- Environmental assesment - meaning:
 - EIA/SEA report
 - Consultation with environmental/health authorities
 - Transboundary consultation
 - Public participation

Statement of reasons (art11.2 SEA Protocol)

- Must summarize:
 - how the environmental, including health, considerations have been integrated into the strategic document,
 - how the comments received during:
 - Consultation with environmental/health authorities
 - Transboundary consultation
 - Public participation
 - have been taken into account and
 - the reasons for adopting strategic document in the light of the reasonable alternatives considered

Obligation to inform about the decision

- Informing whom
 - Environmental/health authorities
 - Parties potentially affected
 - Public
- Informing about what
 - The decision being taken
 - Where it is made available

Obligation to inform about the decision - -cd

- Informing how:
 - the same way as informing about the procedure,
 - including means of notifying
 - the public or
 - affected Parties
- Informing when:
 - Promptly – without delay

Obligation to make the decision available

- Together with the statement of reasons
- By making it available:
 - online on the publicly accessible registers of decisions
 - In hard copies in places where it is easily available
- In case of transboundary procedure it means:
 - translating the decision
 - sending its copy to the potentially affected Parties