

Jerzy Jendrośka

# Elements of bilateral agreements

Training Workshop on the Practical Application of Transboundary Environmental Impact Assessment  
(EIA): Bilateral Agreements on Transboundary EIA  
16-17 March 2021

Action implemented by:

## Activities covered

- Activities covered in Appendix 1 to Espoo (draft South-East Europe multilateral agreement)
- Any activity subject to EIA (Germany-Netherlands, Germany-Poland)
- Activities covered in Annex to the Agreement and other activity subject to EIA (Estonia-Latvia)
- Any activity subject to EIA except those for national defence (Lithuania-Poland)

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## Approach to trigger transboundary procedure

- Mandatory notification
  - for any project 5 km from border and any project in Ems-Dollart area (Germany-Netherlands)
  - 15 km from border for projects listed in Annex to Agreement (Estonia-Latvia)
  - Any activity listed in Annex to Agreement (Estonia-Finland)
- Screening for transboundary effect according to screening criteria
  - in case of doubts – consultation with affected Party required (Germany-Netherlands)
- Request from affected Party

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## Responsibilities

- Parties jointly or separately for some tasks
- „Competent authorities” – as designated
- Decision-making authority or local authorities for some tasks
- Commision
- Developer
  - rarely mentioned,
  - in the context of costs

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## Public participation

- Responsibility of both Parties - details to be
  - Agreed by „competent authorities”
  - Commission (Estonia-Latvia)
- Some details in the agreement:
  - Public to be informed of notification (Estonia-Finland and Aarhus ACC-92)
  - Notification of the public to be done by affected Party (Germany-Poland)
  - Local authorities responsible for organising public participation at the expense of party of origin (Estonia-Latvia)
  - Comments:
    - Via Affected party
    - Directly to decision-making authority

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## Time-frames and details of procedure

- Reply to notification
  - 2 months (Estonia-Finland)
  - 30 days (Germany-Poland)
  - 1 month (Estonia-Latvia)
- Governmental consultations
  - Up to 3 months (Estonia-Finland)
  - Up to 6 months (Estonia-Latvia)
- Other time-frames -to be fixed by
  - Party of origin
  - Both Parties
  - Commisision

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## Organizational issues

- Parties
  - Central ministries
  - Regional authorities ((Germany-Netherlands)
  - „Competent authorities” nominated by the Parties (Estonia-Finland)
- Joint bodies
  - Commission on EIA– as advisory body (Estonia-Finland)
  - Commission – decision-making power for: joint EIA, time-frames, public participation procedure, post-project analysis (Estonia-Latvia)

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## Governmental consultations

- Obligation:
  - Mandatory (Lithuania-Poland, Estonia-Finland)
  - In case of problems (Germany-Netherlands)
  - Upon request of affected Party (Germany-Poland)
- Timing and details to be established
  - Together with confirming participation in transboundary procedure
  - When submitting comments to EIA Report (Germany-Poland)
  - By the Commission

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## Governmental consultations - details

- Time-frames and venues
- Participants
  - Public authorities
  - Any joint bodies
  - Other participants: Experts, NGOs etc
- Topics for consultations

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## Final decision

- Transboundary procedure applies to all consecutive decision-making in which EIA is conducted (Germany-Poland and Lithuania-Poland)
- Decisions must be transmitted immediately
- Translation of decisions – sometimes only parts to be translated, including possibilities to appeal (Germany-Poland )

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## Post-project analysis

- To be decided
  - By both Parties(Lithuania-Poland)
  - By competent authority (Estonia-Finland)
  - Commision (Estonia-Latvia)
- Results to be translated and transmitted to affected Party

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## Annexes to bilateral agreements

- List of activities
- Criteria for screening
- Competent authorities
- Templates for documents, in particular for:
  - Notiification
  - Confirmation of:
    - Receipt
    - Participation
  - Proposals for time-frames

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