Translated provisions

The Act of 5 June 1998 on voivodeship self-government

Article 90

1. Anyone, whose legal interest or entitlement has been violated by the provision of the local law act issued with regard to the case in the scope of the public administration, can, upon ineffective call on the voivodeship self-government authority who issued the provision to remove the violation, complain on the provision to the administrative court.

2. (repealed)

3. Provision of subpar. 1 does not apply, if the administrative court has already adjudicated in the case and rejected the compliant.

4. In the case of the call for removal of the violation, the provisions on deadlines for examining cases in the administrative procedure apply.

Article 91

1. Provisions of Article 90 apply respectively, when the voivodeship self-government authority does not perform activities imposed by the law or, by taking legal or factual activities, violates the rights of third parties.

2. In cases referred to in subpar. 1, the administrative court can order the supervisory authority to perform necessary activities to the benefit of the complainant.

The Act of 30 August 2002 – the Law on Proceedings before Administrative Courts

Article 3 par. 2

§ 2. The review of the activity of public administration by administrative courts shall include adjudicating on complaints against:

1) administrative decisions;

2) orders made in administrative proceedings, which are subject to an interlocutory appeal or those concluding the proceeding, as well as orders resolving the case in its merit;

3) orders made in enforcement proceedings and proceedings to secure claims which are subject to an interlocutory appeal;

4) acts or actions related to public administration regarding rights or obligations under legal regulations other than acts or actions specified in points 1-3;

4a) written interpretations of tax law issued in individual cases;

5) local enactments issued by local government authorities and territorial agencies of government administration;

6) enactments issued by units of local government and their associations, other than those specified in point 5, in respect of matters falling within the scope of public administration;

7) acts of supervision over activities of local government authorities;

8) lack of action or excessive length of proceedings in the cases referred to in points 1-4a.

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

Article 12

1. Information on the environment and its protection shall be made available on a written request for the provision of information, referred to in this part as “request”.

2. The following shall be provided without a written request:

1) information which does not have to be retrieved;

2) in the case of the occurrence of an elemental disaster, another type of natural disaster, a technological accident referred to in the Act of 18 April 2002 on the State of Elemental Disaster (Journal of Laws No. 62, item 558, as amended), or another direct threat for human health or the environment caused by human activity or natural causes, the information held by the administration authorities or intended for them which may allow the persons likely to suffer as a result of this threat to take action to prevent or minimise the damage arising from this threat.

Article 42

The authority which prepares a draft document requiring public participation shall:

1) consider comments and suggestions;

2) enclose with the adopted document the justification containing information on public participation in the procedure and the manner in which the comments and suggestions submitted in relation to public participation have been considered and the extent to which they have been used.

Article 43

The authority which prepares a draft document requiring public participation shall inform the public that the document has been adopted and about the possibilities of becoming acquainted with its content along with:

1) the justification referred to in Article 42 point 2;

2) the summary referred to in Article 55 par. 3 – in the case of documents referred to in Articles 46 and 47.

Article 44

1. The environmental organisations which, referring to their statutory objectives, inform of their wish to take part in a specific procedure requiring public participation shall take part therein with the

rights of a party. The provision of Article 31 par. 4 of the Administrative Procedure Code shall not apply.

2. An environmental organisation shall have the right to appeal a decision issued in a procedure requiring public participation where this is justified by the statutory objectives of this organisation, including the case where it did not take part in a specific procedure requiring public participation conducted by a first instance authority; the submission of the appeal shall be tantamount to the declaration of its willingness to take part in this procedure. The organisation shall take part in the review procedure with the rights of a party.

3. An environmental organisation shall have the right to file a complaint with the administrative court against a decision issued in a procedure requiring public participation where this is justified by the statutory objectives of this organisation, including the case where it did not take part in a specific procedure requiring public participation.

4. An environmental organisation can file a complaint against a refusal to let it take part in the procedure.

Article 45

1. Environmental organisations, the subsidiary units of local self-governments, worker councils, volunteer fire service units and trade unions may cooperate with administration authorities in the field of environmental protection.

2. Trade unions and worker councils may establish internal environmental commissions and appoint non-governmental inspectors for environmental protection in order to organise and conduct non-governmental environmental inspections at their workplaces.

3. Administration authorities may assist environmental organisations in their activities in the field of environmental protection.

Article 46

1. A strategic environmental assessment shall be required for:

1) a concept of national spatial planning policy, a draft study on the conditions and directions of local spatial development, draft spatial development plans and draft regional development strategies;

2) policies, strategies, plans or programmes in the fields of industry, energy, transport, telecommunications, water management, waste management, forestry, agriculture, fisheries, tourism and land use, drawn up or adopted by the administration authorities, setting out a framework for the subsequent implementation of projects likely to have a significant impact on the environment;

3) policies, strategies, plans or programmes other than those listed in points 1 and 2 the implementation of which is likely to have a significant impact on the Natura 2000 site, where they are not directly related to the protection of the Natura 2000 site or do not result from such protection.

Article 47

2. The conduct of a strategic environmental assessment shall also be required in the case of draft documents other than those enumerated in Article 46, where in agreement with the relevant authority referred to in Article 57, the authority which prepares the draft document states that they

set out a framework for the future implementation of projects likely to have a significant impact on the environment and that the implementation of the provisions of these documents may cause a significant impact on the environment.

Article 48

1. The authority which prepares the draft documents referred to in Article 46 points 1 and 2 may decide, in agreement with the competent authorities referred to in Articles 57 and 58, not to carry out a strategic environmental assessment where it determines that the implementation of the provisions of a given document would not have a significant impact on the environment.

1a. The decision not to carry out the strategic environmental assessment in the case of documents referred to in Article 46 par. 1 may apply only to draft documents which make slight modifications to the provisions of the already adopted documents.

2. The decision not to carry out the strategic environmental assessment in the case of documents referred to in Article 46 par. 2 may apply only to draft documents which make slight modifications to the provisions of the already adopted documents or draft documents concerning areas within the limits of one commune.

3. The decision not to carry out the strategic environmental assessment referred to in par. 1 shall require a justification containing information on the factors referred to in Article 49.

4. The authority which prepares the draft documents referred to in Article 46 point 2 shall inform the public without an undue delay of its decision not to carry out the strategic environmental assessment referred to in par. 1.

Article 54

1. The authority which prepares the draft document referred to in Articles 46 or 47 shall make it, along with the environmental impact prognosis, subject to the opinion of the competent authorities referred to in Articles 57 and 58. The competent authorities shall issue their opinions within 30 days of the date of receipt of the request for their opinion.

2. The authority which prepares the draft document shall ensure the possibility of public participation, pursuant to the provisions of Part III, Chapters 1 and 3, in the strategic environmental assessment.

3. The rules of submitting comments and suggestions and providing opinions on draft local land-use plans and studies on the conditions and directions of local spatial planning shall be defined by the provisions of the Act of 27 March 2003 on Spatial Planning and Development (Journal of Laws No. 80, item 717, as amended).

Article 55

1. The authority which prepares the draft document referred to in Articles 46 or 47 shall take into account the findings of the environmental impact prognosis and the opinions of the authorities referred to in Articles 57 and 58 and consider the comments and suggestions submitted as a result of public participation.

2. The draft document referred to in Articles 46 or 47 must not be adopted, unless the premises referred to in Article 34 of the Nature Conservation Act of 16 April 2004 occur, where the strategic environmental assessment indicates that it may have a significant adverse effect on the Natura 2000 site.

3. A written summary containing a justification of the choice of the adopted document in relation to the alternatives considered as well as the information on the manner in which the following has been taken into account and to what extent it has been used shall be enclosed with the adopted document:

1) the findings of the environmental impact prognosis;

2) the opinions of the competent authorities referred to in Articles 57 and 58;

3) the submitted comments and suggestions;

4) the results of the procedure relating to transboundary environmental impact, where it has been conducted;

5) proposals for the methods and frequency of monitoring the effects of the implementation of the provisions of the document.

4. The authority which prepares the draft document shall submit it, along with the summary referred to in par. 3, to the competent authorities referred to in Articles 57 and 58.

5. The authority which prepares the draft document shall be obliged to monitor the effects of the implementation of the adopted document in the scope of its environmental impact, in accordance with the frequency and methods referred to in par. 3 point 5.

The Act of 27 March 2003 on Spatial Planning and Development

Article 3

1. Development and implementation of the spatial policy in the municipal area, including the adoption of the case study of the conditions and directions of spatial planning of a municipality and local land-use plans, with the exception of internal sea waters, the territorial sea and the exclusive economic zone and closed areas, belong to the own tasks of a municipality.

2. Carrying out, within the limits of own territorial jurisdiction, analyses and case studies in the scope of spatial planning referring to the area of a poviat and subject matters regarding development thereof, belongs to the tasks of the poviat self-government.

3. Development and implementation of the spatial policy in voivodeship, including adoption of the spatial development plan of a voivodeship, belong to the tasks of the voivodeship self-government.

4. Development and implementation of the state spatial policy expressed in the concept of the national spatial development belong to the tasks of the Council of Ministers.

Article 4

1. Determining the designation of the site, the arrangement of the public purpose investment and specifying spatial planning and terms and conditions of land development is done in a local spatial development plan.

1a. In relation to the areas of internal sea waters, the territorial sea and the exclusive economic zone, the location of public purpose investments and spatial planning and terms and conditions of land development are determined pursuant to the provisions of the Act of 21 March 1991 on Marine Zones of the Republic of Poland and Marine Administration (Journal of Laws of 2003, No. 153, item 1502 and No. 170, item 1652 and of 2004, No. 6, item 41).

2. In the case of a lack of a local spatial development plan, spatial planning and terms and conditions of land development are determined by a decision on the terms and conditions of spatial planning and land development, whereas:

1) location of the public purpose investment is determined by a decision on the location of the public purpose investment;

2) spatial planning of land-use and terms and conditions of land development for other investment are determined by a decision on the terms and conditions of land development.

3. With regard to the closed areas in the local spatial development plan, only the boundaries of these sites and boundaries of their protective zones are determined. In the protective zones, limitations in spatial planning and using the sites, including the ban on development are determined.

4. Provisions of subpar. 3 do not apply to closed sites determined by the Minister of Transport.

Article 5

Drawing up drafts of voivodeship land-use plans, case studies of conditions and development of spatial planning for a commune and a local land-use plan constitutes drafting a spatial development plan, on a regional and local scale, respectively, pursuant to Article 2 par. 3 and Article 6 par. 1 of the Act of 15 December 2000 on Self-governments of Architects, Construction Engineers and Urbanists (Journal of Laws of 2001, No. 5, item 42 and of 2002, No. 23, item 221, No. 153, item 1271 and No. 240, item 2052).

Article 15

1. A voyt, a mayor or a president of the city draws up a local plan draft including text and graphic parts, in compliance with the provisions of the case study and separate provisions referring to the area covered with the plan.

2. The local plan obligatorily determines:

1) the purpose of sites and lines separating various purpose sites or various terms and conditions of spatial planning;

2) the rules of protecting and developing the order;

3) the rules of environment, nature and cultural landscape protection;

4) the rules of cultural heritage, monuments and contemporary cultural assets' protection;

5) requirements resulting from the needs of shaping public spaces;

6) the rules of shaping the development and land-use indicators, maximum and minimum intensity of development as the indicator of the total area of development with regard to the area of a building plot, a minimal percentage share in the biologically active area with regard to the building plot's area, maximum height of the building, minimal number of parking spaces and the manner of execution thereof, as well as the lines of developments and sizes of buildings;

7) boundaries and spatial planning for sites or buildings covered with protection determined on the grounds of separate provisions, including mining sites, as well as areas at special threat of flooding and landslides areas;

(below as it stood before 18 March 2011)

7) boundaries and spatial planning for sites or buildings covered with protection determined on the grounds of separate provisions, including mining sites, as well as areas at ~~special~~ threat of flooding and landslides areas;

8) detailed rules and terms and conditions of parcelling and re-parcelling real estate covered with the local plan;

9) special terms and conditions of spatial planning and limitations to land-use, including the ban on development;

10) rules of modernisation, building and extension of communication systems and technical infrastructure;

11) spatial planning and deadline thereof, the manner of furnishing and using sites;

12) percentage rates on the grounds of which the fee referred to in Article 36 par. 4 is determined.

3. The local plan defines, depending on the needs, the following:

1) boundaries of areas that require parcelling and re-parcelling real estate;

2) boundaries of rehabilitation areas of the existing development and technical infrastructure;

3) boundaries of areas requiring transformations or recultivation;

3a) boundaries of sites for construction of the devices referred to in Article 10 par. 2a, and boundaries of their protective zones related to the limitations to land development, spatial planning and use of the sites, as well as a significant impact thereof on the environment;

4) boundaries of sites for construction of commercial facilities referred to in Article 10 par. 2 point 8;

4a) boundaries of sites for arrangement of public purpose investment of local significance;

4b) boundaries of sites for public purpose investment of supra-local significance, included in the voivodeship spatial development plan or in the final decision on the location of a national, voivodeship or poviat road, railway line of state significance, public use airport, investment in the scope of a terminal or project Euro 2012;

5) boundaries of recreation and leisure sites and sites for the organisation of mass events;

6) boundaries of Holocaust Memorials and their protection zones, as well as limitations concerning conducting business activities in the area thereof, stipulated in the Act of 7 May 1999 on the Protection of Sites of Former Nazi Extermination Camps;

7) boundaries of closed sites and boundaries of protection zones thereof;

8) the manner of situating construction facilities with regard to roads and other publicly available sites, as well as to the boundaries of adjacent properties, colour scheme of construction facilities and roof covering;

9) rules and terms and conditions of situating small architecture objects, boards and advertising devices, as well as fencing, sizes thereof, quality standards and types of construction materials, which they can be made of;

10) minimal area of newly parcelled building plots.

Article 38

Voivodeship self-government authorities draw up a voivodeship spatial development plan, conduct analyses and case studies, as well as develop conceptions and programmes concerning areas and issues in spatial planning with regard to the needs and objectives of works performed in this scope.

Article 39

1. A voivodeship sejmik adopts a resolution on proceeding to draw up a voivodeship spatial development plan.

2. The voivodeship spatial development plan is drawn up for the area within the administrative boundaries of the voivodeship.

3. The voivodeship spatial development plan includes agreements on the voivodeship development strategy and specifications concerning, in particular:

1) basic elements of the voivodeship settlement network and their communication and infrastructural connections, including directions of cross border connections;

2) the system of protected areas, including environment, nature and cultural landscape, resorts, cultural heritage and monuments, as well as contemporary cultural assets' protection areas;

3) arrangement of public purpose investment of supra-local significance;

4) problematic areas along with the rules of spatial planning therefor and metropolitan areas;

5) support areas;

6) areas at a special threat of flooding;

(below as it stood before 18 March 2011)

6) areas at a special threat of flooding and landslide;

7) boundaries of closed sites and protective zones thereof;

8) areas of occurrence of documented mineral deposits.

4. The voivodeship spatial development plan includes the arrangements regarding the conception of national spatial planning referred to in Article 47 par. 1 point 1, and programmes referred to in Article 48 par. 1.

5. The voivodeship spatial development plan includes public purpose investments of supra-local significance referred to in subpar. 3 point 3, which were specified in the documents adopted by the Seym of the Republic of Poland, the Council of Ministers, the relevant minister or voivodeship sejmik, in compliance with the competence thereof.

6. The spatial development plan for the metropolitan area is adopted as a part of the voivodeship spatial development plan.

Article 41

1. After adopting by the voivodeship sejmik a resolution on proceeding to draw up a voivodeship spatial development plan, the marshal of the voivodeship performs activities, in the following order:

1) announces in the national press and by announcement at commune offices, poviat starosties, marshal office and voivodeship office, the adoption of the resolution on proceeding to draw up a plan, specifying its form, place and deadline of submitting motions regarding the plan, not shorter than 3 months as of the announcement day;

2) notifies in writing on the adoption of the resolution on proceeding to draw up a plan the institutions and authorities relevant for agreeing and giving opinion on the plan;

3) examines motions referred to in point 1;

4) draws up a voivodeship spatial development plan along with the environmental impact prognosis;

5) obtains from the voivodeship urban-architectural committee an opinion on the plan draft;

6) requests an opinion on the plan draft from relevant institutions and authorities, as well as the voivode, management boards of poviats, voyts, mayors of communes and presidents of cities located within the area of the voivodeship, as well as government and self-government public administration authorities in the sites adjacent to the boundaries of the voivodeship, and agrees on the draft with the authorities specified in separate provisions;

7) presents the draft of the plan to the minister relevant for construction, spatial and housing planning in order to state compliance of the plan with the conception of spatial development of the country and government programmes referred to in Article 48 par. 1;

8) presents the draft of the plan to the voivodeship sejmik for adoption.

2. Provisions of Articles 23-26 apply to giving opinions and agreeing on the draft of the voivodeship spatial development plan, respectively, with the exception of the deadline for arrangements and giving opinions which should not be shorter than 40 days as of the day of sharing the plan draft along with the environmental impact prognosis.

Article 44

1. Agreements regarding the voivodeship spatial development plan are introduced to the local plan upon prior agreement of the deadline for completing the public purpose investment of supra-local significance and the terms and conditions of introducing them to the local plan.

2. The arrangements referred to in subpar. 1 are made by the marshal of the voivodeship with the voyt, mayor or president of the city.

3. The costs of introducing arrangements on the voivodeship spatial development plan to the local plan and reimbursement of expenses on indemnity referred to in Article 36, as well as the amount allocated to cover increased costs of implementation of commune tasks, are specified in the agreement concluded between the marshal of the voivodeship and voyt, mayor or president of the city. Provisions of Article 21 apply respectively.

4. Disputes concerning cases referred to in subpar. 1-3 are resolved by ordinary courts.