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THE EVALUATION OF THE INFLUENCE ON THE ENVIRONMENT AS AN INSTRUMENT OF SUSTAINABLE DEVELOPMENT MANAGEMENT

OCENA ODDZIAŁYWANIA NA ŚRODOWISKO JAKO INSTRUMENT ZARZĄDZANIA ZRÓWNOWAŻONYM ROZWOJEM

Abstract: The procedure of assessing the project's influence on the environment during which, inter alia, the compliance of the implemented project (*eg* concerning technical infrastructure, linear investments, or processes that affect the forms of nature) with the requirements of the environmental protection is verified, constitutes an environmental management instrument. Especially the environmental authorities leading or consulting this procedure may apply different limits and concepts of the action. At the same time they are limited by legal determinants. The aim of this article is to identify the most significant organizational problems that have arisen during the application of this procedure at the level of regional directors of environmental protection throughout the country. As a part of the study to fulfill the aim of the research, an analysis of all cases conducted by them was carried out. This led to a dispute and a consequence in the form of an appeal against the issued decision on the environmental conditions and the outcome of the appeal by the Director General of Environmental Protection. This article has verified the substantive scope of the issues, the ways to resolve conflicts and their impact on the regional and national development. Based upon these results, the proposals for changes of the environmental management system have been formulated.

Keywords: the evaluation of the influence on the environment, instrument of management, sustainable development

Introduction

Environmental protection requires the coordination of different activities: in addition to the chemical or biological analyses, it seems necessary for them to maintain an appropriate framework for managing. They ensure the actual implementation into the practice the results of other studies. In this context, the role of the evaluation procedure of the project's influence on the environment should reconcile the tasks significant for the economic development with the environmental protection [1]. This procedure is shaped primarily by the environmental protection authorities: regional environmental directors and the General Director of Environmental Protection (GDEP) who all agree and verify the scope of the

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evaluation and in more important issues conduct the proceedings themselves in this regard and bear in mind the implementation of the principles associated with sustainable development [2]. The purpose of this article is to identify the key organizational problems that have arisen during the application of this procedure at the level of regional directors of environmental protection throughout the country and the assessment of the role of environmental authorities in this regard in the process of environmental management.

The procedure of the evaluation of the project's influence on the environment is applicable in the legal systems of different countries, and appropriate sources are also included in the law of the European Union [3]. It is supposed to ensure that the projects likely to have significant effects on the environment (for example, the projects for technical infrastructure, linear investments, or the processes that affect the forms of nature) are implemented so that they would have the least possible negative impact on the environmental values. Therefore, at the level of the regulation of the Council of Ministers the projects have been determined, which may always or potentially significantly affect the environment and the process of the projects in question is or may be carried out. It ends with issuing of a decision on the environmental conditions [4]. The procedure is carried out by different bodies: village mayor/mayor/president, the governor, the director of the Regional Directorate of State Forests, as well as the regional director of environmental protection [5]. The latter authority shall in particular deal with issues related to the projects which always significantly influence the environment: roads, railway lines, overhead power lines, projects implemented in enclosed areas and marine areas, projects involving the realization of an investment at the airports for public use, as well as investments in the terminal [6]. In other cases, the regional director of the environmental protection shall not carry out any proceedings; however, he may interfere at their different stages.

Cases dealt with directly by the environmental authorities have raised the most controversy. This is due to the nature of the projects, which are key from the point of view of the development of the country, or the regional development. At the same time, it should be noted that the procedure of the evaluation of the projects' influence on the environment constitutes one of many limitations to the investments [7]. Conducting the evaluation of the projects' influence on the environment involves several steps, which as a rule can be the following:

- the submission and preliminary assessment of the application;
- the agreement on the scope of the report on the environmental conditions;
- the evaluation of the report;
- the decision on the environmental conditions [8];
- the post-implementation analysis.

Undoubtedly, these above mentioned solutions are highly formalized [9], nevertheless as a rule, provide verification of various impacts (natural, health, cultural to some extent) of the project taken into account. However, given the scope of the complications in this context, the authority conducting the proceedings may have some problems in relation to the proper conduct of the individual stages involved in the assessment. These problems will affect the scope and quality of activities related to the management of the environment; since in some cases the current system solutions may be ineffective or counterproductive. It bears special significance to the key regional development projects or development of the country for which there is an appropriate regional director of the environmental protection.

Natura 2000 areas in Poland are defined and specified in the act on the nature protection. In accordance with this act, Natura 2000 area network includes:

- special protection areas for birds;
- areas of natural habitats protection;
- areas important for the European Community.

The list of Natura 2000 areas is being developed by the Environmental Protection General Director, the public authority responsible for the implementation of various objectives of sustainable development. Among the existing statutory duties in the areas covered by Natura 2000 one can name:

- adaptation to the environmental protection requirements all the documents on the spatial policy, *ie* local plans of spatial development;
- monitoring of individual actions;
- conducting environmental compensation;
- reducing activities which may worsen the conditions of natural habitats or the habitats of plants, for which the area of Natura 2000 has been created;
- reducing economic activity to such a type which does not negatively effect Natura 2000 area;
- reducing farming, forestry, hunting and fishing if they threaten the natural values of Natura 2000 area.

Natura 2000 is a significant form of nature protection applied in the whole European Union. Due to the above mentioned fact, it is crucial that it is co-financed from the European Union funds [10]. Nonetheless - also taking into account the foregoing issue, in the area there are environmental constraints for several entities, associated with the implemented activities within these areas [11]. One can take as an example the necessity of conducting evaluation procedure of the undertaking's impact on Natura 2000 area, which will aim at developing such a formula of the undertaking so that the effect of influence on Natura 2000 area was as small as possible [12].

In the literature, there is no doubt that implementation of Natura 2000 is an expression of the realization of sustainable development concept. Furthermore, in the context of this issue, arguable are also the relations and conflicts between objectives which are important from the environmental protection point of view and the investment as well as economic development. The more it seems reasonable to analyze how individual cities covered by Natura 2000 areas are trying to solve this problem in their spatial policy.

Sustainable development is defined and analyzed in a broader scope also in the foreign literature. The relationship between sustainable development and innovation processes, indicating that sustainable development should create a comprehensive system within which the environmental, economic and social elements would be combined are taken into consideration [13]. B. Morton states that sustainable development ought to be understood primarily as education and the adopted management model [14]. Regardless of the theoretical assumptions, including the European countries, difficulties might be noted in reconciling environmental and economic dimensions of sustainable development [15]. Hence, numerous attempts are formed to define and refine new models related to this term [16].

Materials and methods

As a part of the research objectives the data was collected - in the whole Poland - concerning the decisions taken by the regional environmental directors in each province and the decisions, which have been appealed in 2011. The appellate agency in this case is the General Director of Environmental Protection. Therefore, the General Directorate for Environmental Protection collected and meticulously analyzed the documentation concerning the appeals and decisions issued at this level in 2011. It examined in particular:

- the scope of the matters that were the subject of an appeal (*ie* the subject of a dispute between parties to the proceedings and the environmental authority);
- the type of the appellant;
- the appeal decision at GDEP level;
- the time the appeal;
- if and how the matter was dealt with at the level of judicial administration.

Results

In 2011, the General Director of Environmental Protection examined 43 cases under appeal. Half of them concerned the environmental conditions decision issued by the regional directors of environmental protection in 2011, and the other half - in other years. Five cases were considered much longer, as they were related to decisions made before 2010. These cases mainly concerned the objectives of the projects related to road and energy. One has to note that a longer treatment of cases - due to procedural considerations - delays the implementation of the projects themselves, which has a significant impact on the national and regional development. In this case a longer consideration of matters takes place in a limited scope - comparing to the total number of cases.

The Director General of Environmental Protection in 2011 dealt with cases conducted by the regional directors of the environmental protection of fourteen provinces. Most of appeals [11] were directed to the decisions of the regional director of environmental protection in Warsaw - mainly due to the largest number of cases carried out in this region. As a rule, the individual provinces conduct different cases in terms of subject matter.

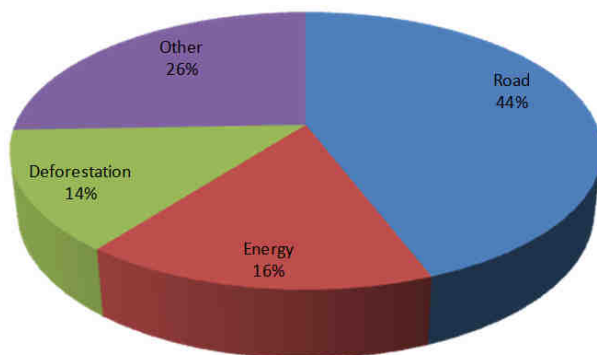


Fig. 1. Purpose of cases in 2011 dealt with by the General Director of Environmental Protection under appeal. Source: Own study

The problems concerning particular categories of cases related to the environment constitute information about the capabilities and effectiveness of the achievement of the objectives vital from the point of view of sustainable development. The most contentious issues discussed at the level of the General Director of Environmental Protection related to road projects (Fig. 1). The road investment location due to the large land area required for the purpose of it is a very challenging process, in several cases causing spatial conflicts with the objectives that are crucial from the point of view of environmental protection. Since the roads are designated very frequently in the areas of high natural value. In this case, the controversy is mainly how to determine the location of the road to violate the environmental values as little as possible. The controversy reaches also the energy purposes, and the changes of forests to something else.

The other goals that were associated with filing appeals were primarily associated with the construction of airports (2 appeals) as well as flood control facilities (4 appeals). They can also cause controversy related to the environmental protection. Furthermore, it should be added that the appeals concerning the projects related to the location of airports were most complex. The General Director of Environmental Protection while evaluating them, considered the most mutually diverse problems.

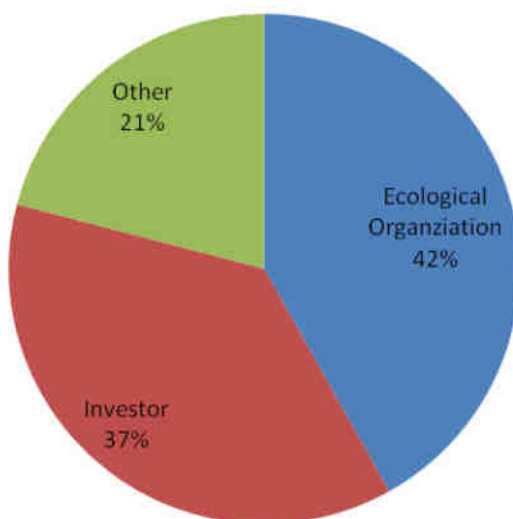


Fig. 2. Entities questioning the decisions on the environmental conditions. Source: Own study

The highest number of appeals to the regional directors' decisions has been filed by the environmental organizations (Fig. 2). This proves the fact that the Polish environmental management system possesses sufficient active public participation in the environmental matters - at least in this area. The environmental organizations questioned in particular the issues of the projects related to the road investments and airports. These investments give rise to much controversy from the ecological point of view. The investors, in addition to questioning the road projects, filed appeals primarily to matters related to the forest land use change. In other cases, the appeals were filed by other parties, commonly by persons with

the ownership or other property rights to the real estate which the project would affect. There were also appeals filed by persons without any status as parties to the proceedings, such as tenants and leaseholders on the estate which could be affected by the implemented project.

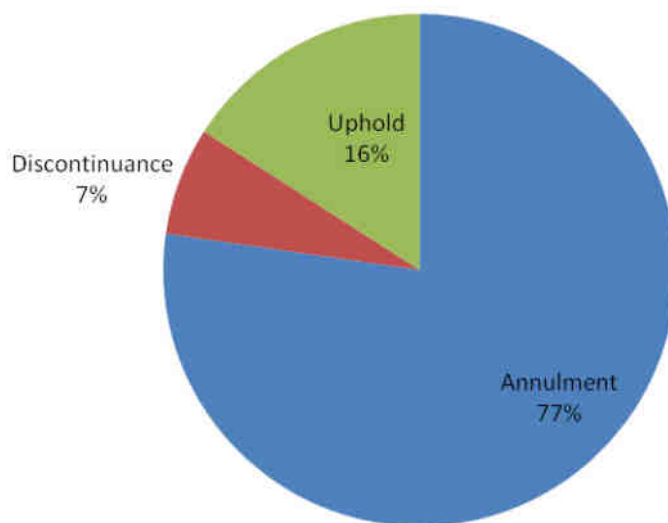


Fig. 3. Types of decisions of the General Director of Environmental Protection. Source: Own study

The decisions of the General Director for Environmental Protection are a central basis for the formulation of applications in terms of the participating parties' awareness in the evaluation of the influence on the environment and the quality of the decisions taken at the regional level. Figure 3 proves that the decisions predominantly issued by the regional directors of environmental protection and appealed at GDEP level were wholly or partially repealed. A small proportion of cases (related primarily to the energy destination) ended with their discontinuance. This resulted mainly from the fact that the appealed have been filed by the entities that were not parties to the proceedings, such as already indicated above tenants or leaseholders. Nonetheless, it is crucial that such a misunderstanding occurred to a small extent.

Upheld decisions in terms of the destination concerned primarily the activities associated with the forest land use change. The investors were the appellants in five cases, and only two - the environmental organizations. This demonstrates the effectiveness of the environmental organizations challenging the decisions at the regional level. The investors have not quite accurately made the analysis in this regard; therefore their appeals have not been successful. The problems consisted of the incorrect interpretation of the local plans made by the investors. In the appeals, it has been pointed to the inconsistency of the forest reassignment to the existing local plan. Such assessments, however, were not generally correct.

From the indicated group of cases, eight were sent in the form of complaints to the Regional Administrative Court. It can be assumed that this was the extent of dissatisfaction

with the decisions of the General Director of Environmental Protection. With regard to other issues and realities in this regard it should be noted that it was minor. Within this specified group, seven complaints were dismissed by the court, and only one taken into account. It can be assumed that the charges brought against GDEP position in the vast majority were wrong, which positively demonstrates the role of that body in the sustainable development. In addition, in seven cases the complainant was the ecological organization, and only one - the investor. Consequently, the activity of the environmental organizations in the national context is large, however, is not always justified. Five appealed cases were associated with the most contentious issues related to road projects.

Conclusions

The study shows that the General Director of Environmental Protection is one of the most significant environmental management entities in Poland. This is not only because of legal regulations, but also factual ones. The most contentious cases are effectively as well as correctly decided by the authority. The above is proven by a small number of GDEP sued decisions to the administrative courts and the acceptance in a prevailing scope GDEP's arguments. Definitely, one has to less positively assess the role of least some regional directors of the environmental protection, whose decisions provoked controversy among the parties and were changed at a later stage.

Moreover, one should note a very important role of the environmental organizations, which to a large extent - especially at the regional level - are able to observe and raise issues concerning the negative impact of the investment - especially the infrastructure investments on the environment. At this level, their role seems to be justified. However, in the context of undermining the decisions of the General Director of Environmental Protection the matter is already different, and eventually the environmental organizations' argument opposing the GDEP's position turns out to be groundless. A lot of doubts as to the environmental matters being carried out in practice are raised by the investors and property owners. In this context, it seems that a broader environmental education is very much necessary - also including within its scope the functioning of the environmental management system (also in the procedural dimension). The environmental authorities have a significant impact on these as they conduct the environmental impact assessment at the regional level.

The analysis of the results leads to the conclusion that there is a need to clarify the environmental management system in the procedure of the environmental impact of several contentious issues. They are related primarily to the clarification as a part of the environmental education the parties' rights to appeal the decision and the rules related to the conduct of linear investments, which due to their wider range have different characteristics. Especially in these cases, it seems necessary to link environmental management with the process of spatial management.

References

- [1] Poskrobko B, Poskrobko T. Zarządzanie środowiskiem w Polsce. Warszawa: Wyd. Polskie Wydawnictwo Ekonomiczne; 2012.
- [2] Bukowski Z. Zrównoważony rozwój w systemie prawa. Toruń: Wyd. Dom Organizatora; 2009.
- [3] Pchalek M, Behnke M. Postępowanie w sprawie oceny oddziaływania na środowisko w prawie polskim i UE. Warszawa; Wyd. Beck; 2009.
- [4] Dobrowolski G. Decyzja o środowiskowych uwarunkowaniach. Toruń: Wyd. Dom Organizatora; 2011.

- [5] Gruszecki K. Ustawa o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz o ocenach oddziaływania na środowisko. Komentarz. Wrocław: Wyd. Presscom; 2009.
- [6] Rakoczy B. Ustawa o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz o ocenach oddziaływania na środowisko, Komentarz. Warszawa: Wyd. Lexis Nexis; 2010.
- [7] Zakrzewska M. Ochrona środowiska w procesie inwestycyjno-budowlanym. Warszawa: Wyd. Lexis Nexis; 2010.
- [8] Mickiewicz P, Kielsznia M, Nowak M, Gawłowski S. Ocena oddziaływania na środowisko a zarządzanie rozwojem lokalnym i regionalnym. Łódź: Wyd. Społeczna Wyższa Szkoła Przedsiębiorczości i Zarządzania; 2011.
- [9] Mickiewicz P, Skotarczak T, Kiepas-Kokot A, Nowak M. Wybrane problemy zarządzania środowiskiem w rozwoju lokalnym i regionalnym. Łódź - Warszawa: Wyd. Społeczna Wyższa Przedsiębiorczości i Zarządzania; 2010.
- [10] Boć J, Nowacki K, Samborska-Boć E. Environmental Protection. Warszawa: Wyd. Kolonia Limited 2008.
- [11] Luchter B. Nature Management Basics. Kraków: Wyd. Uniwersytetu Ekonomicznego w Krakowie; 2009.
- [12] Korzeniowski P. Environmental Protection Legal Institutions and the Investment-Construction Process. Warszawa: Wyd. Difin; 2012.
- [13] Newman L. Change uncertainty and futures of sustainable development. Futures 2006;38:633-637. DOI: 10.1016/j.futures.2005.09.011.
- [14] Morton B. Sustainable Development. Marine Pollution Bulletin. 2000;7:563-564. DOI: 10.1016/S0025-326X(00)00003-5.
- [15] Munitlak Ivanovic O, Golusin M, Dodic S, Dodic J. Perspectives of sustainable development in countries of Southeastern Europe. Renewable and Sustainable Energy Reviews. 2009;13:2079-2087. DOI: 10.1016/j.rser.2009.03.004.
- [16] Iyer-Raniga U, Treloar G. A context for participation in sustainable development. Environmental Management. 2000;4:349-361. DOI: 10.1007/s002670010092.

OCENA ODDZIAŁYWANIA NA ŚRODOWISKO JAKO INSTRUMENT ZARZĄDZANIA ZRÓWNOWAŻONYM ROZWOJEM

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Abstrakt: Procedura oceny oddziaływania przedsięwzięcia na środowisko, w trakcie której między innymi weryfikowana jest zgodność realizowanego przedsięwzięcia (np. dotyczącego infrastruktury technicznej, inwestycji liniowych czy też procesów wpływających na formy ochrony przyrody) z wymogami ochrony środowiska, stanowi instrument zarządzania środowiskiem. Zwłaszcza organy ochrony środowiska, prowadząc lub konsultując niniejszą procedurę, mogą stosować zróżnicowane ograniczenia i koncepcje działania. Jednocześnie są ograniczane uwarunkowaniami prawnymi. Celem artykułu jest określenie najważniejszych problemów organizacyjnych, które pojawiły się przy okazji stosowania tej procedury na szczeblu regionalnych dyrektorów ochrony środowiska w całej Polsce. W ramach realizacji celu badań dokonano analizy wszystkich spraw przez nich prowadzonych, które wywołały spór i konsekwencje w postaci wniesienia odwołania od wydanej decyzji o środowiskowych uwarunkowaniach i rozpatrzenia odwołania przez Generalnego Dyrektora Ochrony Środowiska. W artykule zweryfikowano zakres przedmiotowy i merytoryczny spraw, sposób rozwiązania sporów oraz ich wpływ na rozwój regionalny i krajowy. Na podstawie otrzymanych wyników sformułowano propozycje zmian systemu zarządzania środowiskiem.

Słowa kluczowe: ocena oddziaływania na środowisko, instrument zarządzania, zrównoważony rozwój