

# Decision on environmental conditions for offshore wind farms

## The course of administrative procedure

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# Which provisions regulate the issues associated with the project environmental impact assessment?

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The issues associated with the project environmental impact assessment (“EIA”) are regulated by the following provisions:

- the act of October 3, 2008 *on publishing information about the environment and its conservation, public participation in the environmental protection and environmental impact assessment* (Dz. U. [Journal of Laws] no. 199, item 1227, with further amendments) (“UOOŚ”).
- the Regulation of the Council of Ministers of November 9, 2010, *on projects which may significantly affect the environment* (Dz. U. [Journal of Laws] no. 213, item 1397) (“The EIA Regulation”).
- Directive 85/337/EEC *on the assessment of the effects of certain public and private projects on the environment* (“the EIA Directive”)

# Definition of the offshore wind farm

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- Basic elements of the offshore wind farm (“OWF”) are as follows:
  - ✓ wind power plants,
  - ✓ offshore electric power station,
  - ✓ medium voltage (“MV”) power grid, connecting the wind power plants with the offshore electric power station (the so called internal connection infrastructure).
- [More information on page 13 of the Guide](#)

# Definition of the external connection infrastructure

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- Basic elements of the external connection infrastructure for the OWF are as follows:
  - ✓ high voltage (“HV”) seabed cable, connecting the offshore electric power station with the shore,
  - ✓ onshore electric power station, to which the seabed cable and the onshore power grid are connectes,
  - ✓ onshore HV power grid connecting the onshore electric power station with the grid connection point,
  - ✓ The electric power station, which is the the grid connection point.
- [More information on page 13 of the Guide.](#)

## Is it necessary to conduct the environmental impact assessment for the OWF?

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- Pursuant to Art. 2 par. 1 sec. 5 of the EIA Regulation, the OWF are among the projects that may always have a significant impact on the environment (the so called I group). Therefore it is necessary to conduct the EIA for OWF. The said provision stipulates:

***“installations which are using wind energy to generate electric power with the total power rating of the wind power plants of at least 100 MW and **located in the maritime areas of the Republic of Poland**”***

- EIA for OWF is conducted within the procedure on the issuance of the decision on environmental conditions (“DSU”).
- [More information on page 49 of the Guide.](#)

## Is the DSU for OWF the only environmental decision that has to be obtained for the project?

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- DSU for OWF is not the only environmental decision, which must be obtained for the project.
- Also the DSU for the external connection infrastructure must be obtained.
- This may be a joint decision or two separate decisions - one for the OWF and one for the external connection infrastructure. In the European countries both solutions are accepted.
- We recommend to conduct two separate procedures for the issuance of DSU - one for the OWF and one for the infrastructure.
- The only exception is the situation when the grid connection conditions for the OWF are issued. In such case we recommend to conduct a joint procedure for the issuance of both DSU - for the OWF and for the infrastructure.

[More information on page 56 of the Guide.](#)

# What are the arguments in favour of this solution (1)?

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- OWF and the external connection infrastructure are two separate projects, which serve different purposes.
- The generation and the transmission of energy are two different issues.
- Due to economic reasons the construction of the external connection infrastructure for just one OWF is unprofitable. Various investors will try to execute the external connections together, as the laying of separate cables for each OWF would be irrational for the banks, which provide financial support for the investments.
- The laying of separate cables is irrational in terms of the environmental impact. One cable will surely have a considerably smaller impact on the environment, than two or more cables.

## What are the arguments in favour of this solution (2)?

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- Directive 85/337/EEC does not require the issuance of one environmental decision for the project (because the Directive does not refer to any “environmental decisions”).
- The Directive only requires the Member States to conduct the EIA for the project before the issuance of the permit to construct the investment.



## What are the arguments in favour of this solution (3)?

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- In Europe the problem of joint or separate treatment of OWF and the external connection infrastructure does not exist. The EIA procedures are conducted either jointly or separately.
- The connection of Polish OWF to international grids, which will be constructed as separate projects, is becoming more possible.

## What are the arguments in favour of this solution (4)?

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- The lack of grid connection conditions prohibits the investors to precisely indicate the connection point. Hence, there is no possibility to determine the location of the seabed cable and the onshore power infrastructure, therefore the thorough EIA cannot be conducted for the said elements.
- For a joint application for an OWF and the external connection (without the connection conditions) it will be extremely difficult to meet the formal requirements regarding the attachments to the application for the issuance of DSU.
- However, due to the fact, that the environmental research may take a very long time (min. 2 years), the scope of the EIA report has to be indicated before the connection conditions are granted. The execution of the investment would be extended because of the waiting for the EIA report scope.

## What are the arguments in favour of this solution (5)?

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- “Wind Farms Environmental Impact Assessment Guidelines” published by the General Directorate for Environmental Protection indicate the possibility to conduct the EIA procedures for the OWF and for the external connection either jointly or separately.
- It is crucial for the procedure for the external connection to take into consideration also the potential accumulated impact on the environment of the external connection and the wind farm.

## Which administrative body is responsible for the issuance of DSU for OWF?

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- The body in charge of the issuance of the DSU for projects executed in the maritime areas is the Regional Director for Environmental Protection (“RDOŚ”).
- The territorial jurisdiction of the Regional Director for Environmental Protection covers the maritime area along the coastline within the given province.
- [More information on page 52 of the Guide.](#)

## What is the course of the procedure for the issuance of DSU for the OWF (1)?

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1. The submission of the application for the issuance of the DSU together with the application for the determination of the scope of the EIA report.
2. Initiation of the procedure by RDOŚ.
3. Initiation of the procedure in terms of the cross-border environmental impact (optional).
4. RDOŚ requests from the Chief Sanitary Inspectorate (*Państwowa Inspekcja Sanitarna* “PIS”) and from the Director of the Maritime Office (*Urząd Morski* “UM”) the opinion on the scope of the EIA report.
5. PIS and UM issue the opinion on the scope of the EIA report.
6. RDOŚ issues the decision on the scope of the EIA report.
7. RDOŚ issues the decision on the suspension of the procedure until the EIA report is submitted.

## What is the course of the procedure for the issuance of DSU for the OWF (2)?

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8. Submission of the EIA report to RDOŚ.
  9. Issuance of the opinion on the conditions for the execution of the project.
  10. Social consultations.
  11. Issuance of the decision on environmental conditions for the OWF.
- The description given above refers to not only to the situation, where the investor has not yet obtained the grid connection conditions (then the procedure is conducted only for the OWF), but also to such situation, where the investor already has those conditions (then the procedure is carried out jointly for the OWF and for the external connection).
  - More information on page 54 of the Guide.

# How long does it take to obtain the DSU for the OWF?

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- Administrative procedures from the moment of initiating the procedure for the issuance of DSU until the issuance of this decision should take about 4 months in theory.
- However, the time needed for the environmental research, that will be ordered in the RDOŚ's decision on the scope of the EIA report, should also be added. We anticipate, that such research, due to organisational issues and meteorological conditions may take about 2 years.
- The minimum time needed for the issuance of DSU should be about 2.5 years from the moment of submitting the application for the DSU.
- [More information on page 60 of the Guide.](#)

# DSU - basic information (1)

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- In the DSU issued after the EIA the following elements are indicated:
  - ✓ type of project and place of execution of this project,
  - ✓ area exploitation conditions, including the necessity to protect natural resources, historical monuments and to minimize any difficulties for the neighbouring areas,
  - ✓ requirements regarding the environment necessary to be considered in the construction permit,
  - ✓ requirements regarding the reactions to the effects of industrial breakdowns,
  - ✓ requirements regarding the limitation of the cross-border environmental impact,



## DSU - basic information (2)

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- ✓ statement on the necessity to conduct the EIA again,
- ✓ statement on the necessity to conduct the cross-border EIA within the procedure on the issuance of the construction permit,
- ✓ decision on the necessity to conduct the environmental compensation (optional),
- ✓ decision on the obligation to prevent, limit and monitor the impact of the project on the environment (optional),
- ✓ decision on the necessity to create a restricted exploitation area (optional),
- ✓ decision on the obligation to present the post-execution analyses (optional).

## DSU - basic information (3)

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- DSU is valid for 4 years from the day, in which the decision became final.
- If the project is to be executed in stages, the validity of the DSU may be extended by 2 more years.
- DSU may be transferred to another entity, if this entity accepts the conditions included in the decision.
- [More information on page 60 of the Guide.](#)

# What is the scope of information, which must be included in the Project Information Sheet (1)?

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- Project Information Sheet (*Karta Informacyjna Przedsięwzięcia “KIP”*) is a document containing the basic information about the project, in particular the data on:
  - ✓ the type of project, its scale and location,
  - ✓ area covered by the project and the structures and the previous method of exploitation of this area and the vegetable cover,
  - ✓ type of technology
  - ✓ potential alternative variants of the project,
  - ✓ anticipated amount of water, raw materials, materials, fuels and energy to be used,
  - ✓ solutions in terms of the environmental protection,

## What is the scope of information, which must be included in the Project Information Sheet (2)?

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- ✓ types and anticipated amounts of substances or energy released to the environment, when applying the environmental protection solutions,
  - ✓ the cross-border environmental impact,
  - ✓ areas protected under the Act of April 16, 2004 on the Nature Conservation, which are within the area of the impact of the planned project.
- The scope of KIP is specified in Art. 3 par. 1 sec. 5 of UOOŚ.
  - [More information on page 63 of the Guide.](#)

# What is the scope of the EIA Report?

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- The EIA report is a complex document, in which all the environmental impacts of the planned project should be described and analysed.
- The scope of the EIA report was specified in Art. 66 of UOOŚ.
- Requirement details regarding the content of the report should be included in the RDOŚ's decision on the scope of the report - we recommend to obtain such decision.
- Specific environmental analyses will be the special elements of the EIA report for OWF.
- **More information on page 68 of the Guide.**