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. February 2023

Ministerstwo Infrastruktury

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**Strategic Environmental Assessment (SEA) of the Draft National Shipping Program of Poland until 2030**

**Comments and concerns during the transboundary public participation from 01.02. to 02.03.2023**

Basis: design documents at <https://www.gdws.wsv.bund.de/SharedDocs/Planfeststellungsverfahren/DE/700_SUP_polnisches_Nationales_Schifffahrtsprogramm_2030.html>

Dear Sir or Madam,

I am writing to you because

(individual representation of being affected, e.g. as a

- resident of the Oder Valley

- economic impact, e.g. agriculture, fishery, tourism enterprises

- regular visitors as anglers, nature-related recreation, scientific research in the Oder Valley, etc.)

The documents available in German are not comprehensible for me in all points due to an inadequate translation in some passages. This is also true for the file "4. non-technical summary of the EIA for the NSP2030\_EN.pdf". Contrary to the title "Summary without use of technical language", a large number of technical terms are used in the text. Not all abbreviations used are explained in the text. An often faulty grammar as well as the obviously wrong or unusual translation of some terms further complicates the understanding. My right to participate as an affected party is thus restricted.

I am surprised about the public interpretation of the transboundary SEA at this point in time. In the explanatory notes to the statements of the SEA on the environmental impacts of the project, reference is made to a large extent to the transboundary environmental impact assessment (EIA) on the project "1B.2 Stage I and Stage II Modernization Works on the Odra River as a Border River within the Project of Flood Protection in the Odra and Vistula River Basins". The interpretation of the revised EIA documentation already took place in Germany from 31.07. to 29.08.2019. Usually, an SEA is carried out first. The results of this are then taken into account in the subsequent planning with the associated EIA. Although in the past the project sponsor had noted that the SEA for the Oder Flood Risk Management Plan (2nd cycle 2016-2021) indicated that detailed environmental impact assessments should be carried out at the stage of deciding on the environmental conditions, the public in Germany was not involved in the SEA at that time. The procedure chosen now therefore does not seem to me to be in conformity with the law.

Up to now, measures of the navigation program were justified with the necessity for high water protection (1.80 m average water depth to achieve the minimum diving depth for icebreakers). In contrast, with reference to the European Agreement on the Main Inland Waterways of International Importance (AGN), which has not been ratified by Germany, there is now talk of a general modernization of the regulatory system of the Border Oder for navigation with apparent diving depths of 2.50 meters. This is not covered by the German-Polish Navigation Agreement of 2015. But already the creation of an average water depth of 1.80 m is to be rejected. In view of the ecological catastrophe in the Odra river of summer 2022, I agree with the opinion of the Leibniz Institute of Freshwater Ecology and Inland Fisheries (IGB) in Ber-lin (press release of 12.09.2022) that "from a scientific point of view it is crucial to protect and restore the river and its remaining near-natural habitats - instead of further regulating it by additional river engineering measures".

The EIA concludes that no significant lasting negative impacts on the various protected assets in the area of the Odra river and the Odra valley are to be expected. Only during the construction phase there would be local and temporary adverse effects. Border-crossing negative impacts are not to be expected. The SEA repeats these evaluations without adding any new substantive aspects compared to the EIA.

Various objections to the above-mentioned statements of the EIA had already been raised at an earlier stage by various parties (State of Brandenburg, IGB, environmental associations, etc.). For example, serious technical deficiencies were identified during the review of the documents for the EIA, as a result of which many assessment statements are to be called into question. Since the SEA does not provide any new arguments in this respect, I would like to refer to and endorse the statements made in the following documents:

- Joint opinion, statement and objection of the National Office of Recognized Nature Conservation Associations GbR and the German Nature Conservation Ring (DNR) on the procedure concerning the transboundary environmental impact of the planned project of the Republic of Poland entitled "1B.2 Stage I and Stage II Modernization Works on the Odra River as a Border River within the Project of Flood Protection in the Odra and Vistula River Basins" - notice of the publication of the documents dated July 11, 2019;

- Summary statement on the documents submitted by the Republic of Poland in German language on the transboundary environmental impact assessment on behalf of the German Nature Conservation Ring (DNR) (IGB August 2019);

- Objection dated August 13, 2020 from the Ministry of the Environment of the Federal State of Brandenburg against Decision No. 5/2020 dated March 18, 2020 from the Regional Director of Environmental Protection in Szczecin, file number WONS-OŚ.4233.1.2017.KK.68.

In addition, both the recognized environmental associations BUND Brandenburg, NABU, DNR and the State of Brandenburg filed an appeal against the environmental decision of the GDOŚ as an authority of II. Instanz of 16.08.2022 (DOOŚ-WDŚZOO.420.24.2020.aka.132) filed an appeal with the Voivodeship Administrative Court in Warsaw. I also support this procedure.

In connection with the project, I would like to highlight in particular the following aspects with potential for cross-border negative impacts:

- Due to the planned change of construction form, length and height of the existing groynes in the relevant sections of the Border Odra river, an additional increase of the water level of the Odra river is to be expected at narrow points in case of flooding. This increases the risk of flooding for settlements, infrastructure and agricultural land on the German side as well.

- With the redesign of the groynes, changes in the river bed are intended, in particular the deepening of the central navigation channel. During periods of low water discharge, this is expected to lower groundwater levels in the floodplain on the German side as well. This will aggravate and prolong droughts. This is to be regarded as particularly serious, since in the course of the general climate change an increase and extremization of droughts is prognosticated, which would have to be urgently counteracted by suitable renaturation measures.

This can lead to yield losses in usable areas of the floodplain as well as to massive impairments of the habitat functions of floodplain waters, wetlands and forests. As a result, inadmissible deteriorations for the protection goals of relevant EU directives are also to be expected on the German side (Water Framework Directive, Fauna-Flora-Habitat Directive, Birds Directive). These aspects are inadmissibly not considered in the SEA/UVP.

- The statements on the impacts and environmental compatibility of the planned measures on the Border Odra assume that suitable river engineering measures will be carried out on the German side at the same time. However, most of these are still at an early planning stage and are also controversial in society. In Germany, the planning approval authority at the Directorate-General for Waterways and Shipping opened the scoping procedure on February 2, 2021 to define the scope of investigation for the strategic environmental assessment of the "River Control Concept for the Border Odra River"; an environmental report is not yet available and thus no environmental decision has been made. Years to decades may still pass before any implementation. The EIA/SEA does not contain any statements on the effects of a considerable delay between the implementation of measures on the Polish and German side, e.g. with regard to flood protection, the groundwater regime in the floodplain, the discharge conditions in the river, the morphology of the riverbed as well as the habitat conditions in the river, on the banks and in the floodplain.

- As can be seen in the area of the current construction measures of stage I on the Border Odra river, in the course of the construction work there will be extensive excavations of previously covered and thus protected soil areas on banks and in the floodplain. These are known to have considerable contaminated sites of currently determined pollutants (heavy metals, organic substances, etc.). There is a risk that these will be mobilized to a greater extent, reach German territory with the river water and lead to considerable pollutant loads in usable areas and habitats. This aspect is not sufficiently addressed in the SEA/UVP.

- The increase in flow velocity in the middle of the river intended by the measures leads to a decrease in flow in the groyne bays with a corresponding sedimentation event. In the long term, this is likely to lead to siltation and degradation of riparian habitats and an associated loss of biodiversity on the German side as well. This is contrary to the objectives of the above-mentioned EU directives. This aspect is not addressed in the EIA/SEA.

- The traffic forecasts, which assume a considerable increase of shipping traffic on the Odra river after implementation of the planned measures, are not technically justified. For example, the expected decrease in the transport of raw materials in connection with the planned coal phase-out is not taken into account. In the German Federal Transport Infrastructure Plan 2030, the Border Odra river is only classified as a secondary waterway due to the low traffic volume and corresponding forecasts.

If, however, the traffic forecasts according to the draft of the National Navigation Program of Poland until 2030 are correct, then this would be associated with numerous burdens (noise, wave impact, light emissions during night travel, etc.), which would significantly impair the attractiveness of the entire section of the Border Odra for fishing tourism and other nature-based tourism. This will lead to loss of revenue of tourism companies in the region, also on the German side. This aspect is not addressed in the SEA/UVP.

For the reasons mentioned above, I reject the expansion measures planned on the Odra river as well as their partial financing with EU funding instruments and demand instead that they not be implemented.

Yours sincerely

Signature