



**GENERAL DIRECTOR
FOR ENVIRONMENTAL
PROTECTION**

Warsaw, 29 August 2023

DOOŚ-WDŚZOO.420.23.2023.AKA.11

RULING

The General Director for Environmental Protection, following the application of BWRX-300 Stawy Monowskie Sp. z o.o. dated 28 April 2023, pursuant to Article 108(1)(1)(b) in connection with Article 104(1)(1)(a) and (2) of 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 assessments (Journal of Laws of 2023, item 1094, as amended), hereinafter referred to as the EIA Act:

- 1) decides to conduct proceedings on the transboundary environmental impact of the project consisting in the 'Construction and operation of a small modular nuclear power plant with a total electrical power of up to 1,300 MWe using BWRX-300 technology in the location of Stawy Monowskie, Oświęcim Municipality';**
- 2) determine the scope of the documentation necessary to carry out the procedure referred to in point 1, including:**
 - a) BWRX-300 Stawy Monowskie Sp. z o.o. application for an environmental decision dated 28 April 2023;**
 - b) the project information sheet submitted with the application;**
 - c) the part of the report on the environmental impact of the project, which enables the country on whose territory the proposed project may have an impact to assess the possible significant transboundary environmental effects;**
- 3) determines the obligation of BWRX-300 Stawy Monowskie Sp. z o.o. to prepare the documentation referred to in point 2 in English and to submit it in one copy in written form and on a computer data carrier with its recording in electronic form.**

Justification

On 4 May 2023, the GDEP received an application from BWRX-300 Stawy Monowskie Sp. z o.o. dated 28 April 2023 to issue a decision on environmental conditions for the project involving 'Construction and operation of a small modular nuclear power plant with a total electrical power of up to 1,300 MWe using BWRX-300 technology in the location of Stawy

Monowskie, Oświęcim Municipality' and to determine the scope of the report on the environmental impact of this project.

On 31 July 2023, the GDEP received an application from the Austrian Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology (BMK) pursuant to Article 3(7) of the Convention on Environmental Impact Assessment in a Transboundary Context, signed at Espoo on 25 February 1991 (Journal of Laws No. 96, item 1110), hereinafter referred to as the Espoo Convention, and Article 7 of the Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (OJ L 26, 28.1.2012, p. 1), hereinafter referred to as the EIA Directive, to provide official notification of a project's possible significant transboundary environmental impact.

The GDEP has determined and weighed the following.

The project involves the construction and operation of a nuclear power plant with a capacity of up to 1,300 MWe gross, and thus belongs to projects that may always have a significant impact on the environment, as referred to in § 2(1)(4) of the Regulation of the Council of Ministers of 10 September 2019 on projects that may have a significant impact on the environment (Journal of Laws of 2019, item 1839, as amended), and therefore, by virtue of Article 71(2)(1) of the EIA Act, requires an environmental decision.

The authority competent to issue the decision on environmental conditions for the above-mentioned project, pursuant to Article 75(1)(1a) of the EIA Act, is the GDEP, and thus, as follows from Article 108(1)(1) of the EIA Act, the GDEP is competent to issue a decision on conducting proceedings on transboundary environmental impact.

The planned project involves the construction of up to four power units, comprising a modular nuclear reactor using BWRX-300 technology, a control room and the engine room buildings. The scope of the project also covers auxiliary buildings, including a spent fuel storage and the radioactive waste storage facilities, as well as the necessary technical infrastructure, including a water intake, cooling systems infrastructure, an electrical switchyard and a direct line to industrial plants from the Synthos Group. The project will be carried out in the Małopolskie Voivodship, in the City of Oświęcim. It is approximately 50 km from the border with the Czech Republic and the Slovak Republic.

It follows from the information presented in the project information sheet that due to the scale of the project and the preventive measures applied, the range of impacts will not extend beyond the territory of the Republic of Poland. However, in the case of a nuclear power plant, the possibility of negative transboundary impact as a result of a major accident cannot be excluded. In accordance with the precautionary principle adopted in the EU countries, considering the distance of the project from the border with the Czech Republic and the Slovak Republic, the GDEP determined that for this project it is necessary to conduct proceedings on transboundary environmental impact originating from the territory of the Republic of Poland.

In its application, the Republic of Austria indicated that negative environmental impact of the project on its territory cannot be excluded, and therefore requested official notification of the project's possible significant transboundary environmental impact.

Article 104 of the EIA Act sets out the prerequisites for initiating, e.g., in the course of the procedure for issuing a decision on environmental conditions, proceedings on transboundary environmental impact originating from the territory of the Republic of Poland. Transboundary proceedings are initiated *ex officio* in the case of ascertaining the possibility of a significant transboundary environmental impact originating from the territory of the Republic of Poland (Article 104(1)(1)(a) of the EIA Act) or at the request of another country on whose territory a given project may have an impact (Article 104(2) of the EIA Act). However, pursuant to Article 108(1)(1) of the EIA Act, the decision to conduct proceedings on transboundary environmental impact determines the scope of the documentation necessary to conduct such proceedings and the language in which the documentation should be prepared, depending on the number of countries on whose territory there is a possibility of significant environmental impact due to the implementation of the planned project.

Pursuant to Article 3(7) of the Espoo Convention and Article 7 of the EIA Directive, a country on whose territory significant adverse effects may occur as a result of a planned project can proceed with transboundary environmental impact procedures upon request.

Official notification of the opportunity to participate in the proceedings in question as an Affected Party will be sent to countries in close proximity to the location of the planned project, namely the Czech Republic and the Slovak Republic. In addition, due to a request by the Austrian Federal Ministry for Climate Action, Environment, Energy, Mobility, Innovation and Technology (BMK), an official notification will also be given to the Republic of Austria.

In view of the above, the GDEP ruled as in the operative part.

Instruction

- a party dissatisfied with this decision, pursuant to Article 108(3) of the EIA Act, in connection with Article 127(3) and Article 144 of the Code of Administrative Procedure, may apply to the GDEP, within seven days from the date of its delivery, for reconsideration of the issue of conducting proceedings on transboundary environmental impact;
- during the running of the time limit for filing an application for reconsideration of the question of conducting a transboundary environmental impact proceeding, pursuant to Article 127a § 1 in connection with Article 127 § 3 and Article 144 of the Code of Administrative Procedure, a party may waive the right to file such a request;
- as of the date of delivery to the GDEP of the statement on waiver of the right to file an application for reconsideration of the issue of conducting the proceedings on transboundary environmental impact by the last party, pursuant to Article 127a § 2 in connection with Article 127 § 3 and Article 144 of the Code of Administrative Procedure, this decision becomes final and legally binding;

- against the order, pursuant to Article 50 and Article 52 in connection with Article 3 § 2(2) of the Act of 30 August 2002 – Law on proceedings before administrative courts (Journal of Laws of 2023, item 1634), hereinafter referred to as the LPAC, a complaint may be lodged with the Voivodship Administrative Court in Warsaw without the need to exercise the right to apply for reconsideration of the issue of conducting proceedings on transboundary environmental impact;
- pursuant to Article 54(1) and Article 53(1) of the LPAC, the complaint shall be lodged via GDEP within thirty days from the date of delivery of the decision to the complainant;
- The complainant, pursuant to Article 230 of the LPAC in connection with § 2(1)(1) of the Regulation of the Council of Ministers of 16 December 2003 on the amount and detailed rules for collecting the fee in proceedings before administrative courts (Journal of Laws of 2021, item 535), is obliged to pay an entry fee on the complaint in the amount of PLN 100. The complainant, as is apparent from Article 239 of the LPAC, may be exempted from the obligation to pay court costs;
- the complainant, pursuant to Article 243 of the LPAC, may be granted, upon request, a right to assistance. Such a request is free of court fees.

Receive:

1. BWRX-300 Stawy Monowskie Sp. z o.o. with its registered office in Warsaw, Al. Jana Pawła II 22, 00-133 Warszawa, Poland.
2. other parties to the proceedings pursuant to Article 49 § 1 of the Act of 14 June 1960 – Code of Administrative Procedure (Journal of Laws of 2023, item 775, as amended) in connection with Article 74(3) of the EIA Act.

For information:

1. Regional Director for Environmental Protection in Kraków.