

Beata GŁADKOWSKA-CHOCIAN

THE EFFECT OF PUBLIC PARTICIPATION IN THE PROCEDURE OF ENVIRONMENTAL IMPACT ASSESSMENT ON THE DEVELOPMENT OF INFRASTRUCTURE INVESTMENTS

Beata Gładkowska-Chocian, MSc Eng. – PhD student at the Faculty of Economics and Management, University of Białystok

correspondence address:

EKOTON sp. z o. o.

Włókiennicza 7A lok. 14U, 15–464 Białystok

e-mail: beata@ekoton.pl

WPŁYW UDZIAŁU SPOŁECZEŃSTWA W PROCEDURZE OCENY ODDZIAŁYWANIA NA ŚRODOWISKO NA ROZWÓJ INWESTYCJI INFRASTRUKTURALNYCH

STRESZCZENIE: Rozwój gospodarczy stanowi długofalowy proces, ukierunkowany na ideę zrównoważonego rozwoju. Rozwój inwestycji infrastrukturalnych jest jednym z najważniejszych elementów, które determinują wzrost gospodarczy. Ocena oddziaływania na środowisko daje obywatelom możliwość wdrażania zrównoważonych rozwiązań w szerszym procesie planowania inwestycji infrastrukturalnych.

Jednym z podstawowych elementów procesu decyzyjnego w procesie inwestycyjnym jest ocena oddziaływania na środowisko, która prowadzi do pierwszej „decyzji inwestycyjnej” tj.: decyzji o środowiskowych uwarunkowaniach. Ocena oddziaływania na środowisko dla projektu oznacza procedurę wypracowania najlepszych rozwiązań dla planowanej inwestycji, w tym, w szczególności: weryfikację raportu o oddziaływaniu na środowisko dla projektu, uzyskanie opinii i uzgodnień wymaganych na mocy ustawy z dnia 3 października 2008 r. o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz ocenach oddziaływania na środowisko oraz zapewnienie możliwości udziału społeczeństwa w postępowaniu.

Niniejszy artykuł oparty jest na szerokiej bazie danych dotyczących procedur oceny oddziaływania na środowisko i przedstawia udział społeczeństwa w ocenie oddziaływania na środowisko, aby określić jego pozytywny i negatywny wpływ na rozwój inwestycji infrastrukturalnych.

SŁOWA KLUCZOWE: ocena oddziaływania na środowisko, udział społeczeństwa, inwestycje, infrastruktura, inwestycje infrastrukturalne.

Introduction

Economic development is a long-term process of changes in the economy, leading to improved living standards for people, and an increase in productivity, the employment rate, investments, functional capital, income and consumption. Infrastructure investment is an important element determining economic growth. Because of the role of infrastructure in economic growth, as well as its specific nature, any mistake in the process of its development may have adverse effects on the whole economy¹.

The challenge for the modern economy is to implement a vision of development based on eliminating major barriers to development and relying more on education, knowledge, digitization, and innovation respecting the principles of sustainable development. One of the basic steps of implementing infrastructure investments is the environmental impact assessment process, which leads to the first 'investment decision', i.e. the decision on the environmental conditions. This pre-investment step is subject to regulations set forth in the directive of the European Parliament and of the Council 2011/92/EU of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (amended in 2014), transposed into the Polish Act of 3 October 2008, on providing information on the environment and environmental protection, public participation in environmental protection, and on the environmental impact assessment² (Act on EIA).

The environmental impact assessment (EIA) is a key tool for implementing sustainable development in the wider process of planning infrastructure investments. In line with the above provisions, the EIA is a procedure for the assessment of the environmental impact of the planned project, including in particular the verification of a report on the impact of the project on the environment, the acquisition of statutory opinions and agreements, and creating opportunities for public participation in the procedure³. Public participation in environmental protection is an essential element of the EIA procedure, ensuring the involvement of members of the public in planning and making decisions that affect the functioning of the community in social, financial, economic, cultural, health and environmental aspects.

¹ E. Kochaniak, *Inwestycje infrastrukturalne w rozwoju gospodarczym*, "Contemporary Economy, Electronic Scientific Journal" 2016 Vol. 7, No. 1, p. 64.

² (i.e. OJ 2016, item 353).

³ Ustawa z 3 października 2008 r. o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz o ocenach oddziaływania na środowisko/Act of 3 October 2008 on providing information on the environment and environmental protection, public participation in environmental protection and on environmental impact assessment (i.e. OJ 2016, item 353).

The aim of this article is to present the effects of public participation in the procedure of the environmental impact assessment on the development of infrastructure investments, and to indicate the advantages and disadvantages of this participation.

Environmental impact assessment

The Environmental Impact Assessment process originated in the United States in the late 1960s and early 1970s, and has been adopted in the rest of the world. The purpose of the EIA is to aid the decision-making process to prevent the implementation of investment projects with strongly negative impacts on the environment. The emphasis of the EIA is on a holistic and multidisciplinary assessment of the potential impacts of specific projects on the environment. EIAs also consider alternatives (including alternative project locations, alternative solutions regarding organization, technology, operating and work conditions) and ways to prevent and mitigate the potential negative social and environmental impacts of specific projects.

The EIA process involves a number of steps, including project screening, scoping, an EIA report (consideration of alternatives, identification of major impacts and mitigation measures), public participation, review, decision and monitoring⁴. The EIA process consists of the analysis of a report on the environmental impact of the project, obtaining statutory opinions and approvals, and providing opportunities for public involvement in the process. Requirements for conducting the environmental impact assessment process, including the project's impact on Natura 2000 sites, are specified in Chapter V of the EIA Act and the Regulation of the Council of Ministers of 9 November 2010 listing the types of projects that could have a significant environmental impact⁵.

Under the EIA Act, the environmental impact assessment must be carried out for projects which:

- always have a significant impact on the environment,
- could have a significant impact on the environment if the environmental protection authority decides that an assessment must be carried out⁶.

⁴ C. Li Jennifer, *Environmental Impact Assessment in Developing Countries: An Opportunity for Greater Environmental Security?*, 2008, Working Paper No. 4, pp. 1–2.

⁵ (i.e. OJ 2016, item 71).

⁶ E. Florkiewicz, A. Kawecki, *Postępowania administracyjne w sprawach określonych ustawą z dnia 3 października 2008 r. o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz o ocenach oddziaływania na środowisko*, Warszawa 2009, p. 17.

The environmental impact of a project is analysed in terms of the direct and indirect impact of the project on the environment and human health and living conditions, material property, historic monuments, the landscape, the interaction between the factors specified above, the availability of mineral resources, the risk of natural and construction disasters, possibility and methods of preventing and reducing the project's negative environmental impact, and the required scope of monitoring.

When assessing the project's impact on Natura 2000 sites, the project is also analysed in terms of the cumulative impact it may have with other projects⁷.

Public participation in the environmental impact assessment

The main reason for public participation in environmental protection is the human right to a healthy environment⁸. The Stockholm Declaration adopted in 1972⁹ for the first time proclaimed the human right to a healthy and productive life in harmony with nature. At the international level the rights of the public to participate in environmental decision-making were established in the Aarhus Convention¹⁰. The Convention grants the public the right to receive environmental information that is held by public authorities, the right to participate in environmental decision-making, and the right to review and challenge decisions that have been made about the environment. These pillars of public participation in environmental protection were included in 2003 by the European Commission in two documents: Directive 2003/4/EC on public access to environmental information, and Directive 2003/35/EC providing for public with participation in respect of the drawing up of certain plans and programmes relating to the environment¹¹. In addition, public participation in the EIA process is specified in detail in the

⁷ Ustawa z 3 października 2008 r. o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz o ocenach oddziaływania na środowisko/Act of 3 October 2008 on providing information on the environment and environmental protection, public participation in environmental protection and on environmental impact assessment (i.e. OJ 2016, item 353).

⁸ M. Micińska, *Udział społeczeństwa w ochronie środowiska. Instrumenty administracyjno-prawne*, Toruń 2011, p. 15.

⁹ Declaration adopted at the United Nations Conference on the Human Environment held in Stockholm from June 5–16 in 1972.

¹⁰ Convention on access to environmental information, public participation in environmental decision-making, access to justice adopted on 25 June 1998 in the Danish city of Aarhus at the Fourth Ministerial Conference as part of the „Environment for Europe” process. Parties to the convention (including Poland) entered it into force on 30 October 2001.

¹¹ M. Kryda, *Partycypacja w obszarze ekologii: szanse, możliwości, zagrożenia*, Warszawa 2010, p. 3.

Directive of the European Parliament and of the Council 2014/52/EU of 16 April 2014, amending Directive 2011/52/EU on the assessment of the effects of certain public and private projects on the environment.

At the national level the right of public for participation in administrative procedures is provided under Article 63 of the Constitution of the Republic of Poland of 2 April 1997, which states that everyone shall have the right to submit petitions, proposals and complaints in the public interest, in his/her own interest or in the interests of another person – with his/her consent – to organs of public authority, as well as to organizations and social institutions in connection with the performance of their prescribed duties within the field of public administration. The procedures for considering petitions, proposals and complaints are specified by statute¹². Detailed regulations on public participation in environmental protection, including the environmental impact assessment, are provided in the Act of 3 October 2008 on providing information on the environment and environmental protection, public participation in environmental protection and on the environmental impact assessment. Pursuant to the EIA Act, all persons have the right to submit comments and recommendations in procedures requiring public consultation, and administration authorities competent for issuing the decision or preparation of document drafts requiring public participation have to create such an opportunity. Prior to issuing or changing a decision requiring public consultation, the authorities issuing the decision are obliged to make the required information public, without unnecessary delay, including information about:

- commencement of an environmental impact assessment;
- initiation of a procedure;
- subject of the decision to be issued in a particular case;
- authority competent to issue a decision and authorities competent to issue a report and obtain approvals;
- where and how necessary documentation for the case is available to the public;
- opportunity to make comments and recommendations;
- where and how to make comments and recommendations, with a 21-day deadline for their submission; as of 1 January 2017 this deadline will be extended to 30 days;
- authority competent to examine comments and recommendations;

¹² The Constitution of the Republic of Poland of 2 April 1997 adopted by the the National Assembly on 2 April 1997, adopted by the Polish Nation in a constitutional referendum on 25 May 1997, and signed by the President of the Republic of Poland on 16 July 1997 (OJ 1997 No. 78 item 483 as amended).

- date and place of an administrative hearing open to the public, if a hearing is to be held;
- procedure for a transborder environmental impact assessment, if such is pending.

Pursuant to Article 44 of the EIA Act special rights are given to ecological organizations which declare, by reference to their statutory objectives, their willingness to participate in a given procedure requiring public consultation, and have the rights of a party to the case.

In addition, ecological organizations have the right to appeal against a decision issued in a procedure requiring public consultation if this is substantiated by the statutory objectives of that organization, and also if the organization did not participate in the procedure requiring public consultation carried out by the first-tier authority. In such a case, filing an appeal is tantamount to participation in the procedure, and the organization enjoys the rights of a party.

Moreover, ecological organizations have the right to file a complaint with an administrative court against a decision issued in a procedure requiring public consultation if this is substantiated by the statutory objectives of that organization, and also if the organization did not participate in the procedure requiring public consultation. If the ecological organization was denied involvement in the procedure, it has the right to file a relevant complaint.

Examples of public participation in the environmental impact assessment process

Investments in infrastructure create the foundations for economic development and are linked with it. According to M. Ratajczak, the higher the level of socio-economic development reached, the greater the need for infrastructure changes to move to a higher level of development¹³. There is a close relationship between the decision on the environmental conditions (*decyzja o uwarunkowaniach środowiskowych*, DUŚ) and the implementation of infrastructure projects, because DUŚ is the first administrative decision authorizing the implementation of a project, and the lack of it stops the investment process.

The author of this article analysed environmental impact assessment procedures for infrastructure investments carried out by the Regional Directorate of Environmental Protection in Białystok (RDOŚ) between the entry of

¹³ M. Ratajczak, *Infrastruktura a wzrost i rozwój gospodarczy*, „Ruch Prawniczy, Ekonomiczny i Społeczny” 2000 b. 4, p. 86.

the EIA Act into force and the establishment of RDOŚ (15 November 2008) and the end of 2015. The research was based on the review of documents and analysis of individual cases. The analysis showed that during that period RDOŚ in Białystok received 186 applications for a decision on environmental conditions for infrastructure investments, and in 41 cases the environmental impact assessment procedure was initiated. Between 2008 and the end of 2015 RDOŚ in Białystok issued 32 decisions on environmental conditions with the EIA for infrastructural projects, and appeals were filed against 20 of these decisions, which means that 62.5% of investment projects were put on hold (table 1).

The gathered information shows that from 2009 appeals were filed against at least 50% of the issued DUŚ with the EIA, and in 2013 it was as much as 100%. This state of affairs means that investors are trying at all costs to avoid the environmental impact assessment, because they fear that objections against their investment will be raised even if the investors prove that their project will not have a significant negative impact on the environment, and the proposed mitigation measures will limit the potential negative impact.

Table 1. Statistics on environmental impact assessment procedures for infrastructure investments carried out by the Regional Directorate of Environmental Protection in Białystok (RDOŚ) in 2008–2015

Analysed parameter	Year								Total
	2008	2009	2010	2011	2012	2013	2014	2015	
Number of filed application for the issue of DUŚ for infrastructure investments	1	41	45	24	24	20	11	20	186
Number of initiated procedures with EIA for infrastructure investments	1	10	2	7	8	2	4	7	41
Number of issued DUŚ with EIA procedure for infrastructure investments	0	7	2	6	6	2	4	5	32
Number of appeals against DUŚ for infrastructure investments subject to EIA	0	4	1	3	5	2	2	3	20

Source: author's own analysis based on statistics from RDOŚ in Białystok.

The analysis of the documentation related to individual procedures of the environmental impact assessment conducted by RDOŚ in Białystok in 2008–2015 for infrastructure investments revealed the significant involvement of the public. In most cases the public submitted comments, requests, protests, and, importantly, comments were made even if the proponents did not apply to the authority conducting the procedure for the opportunity to read the documents relevant to the case. This means that the proponents were unfamiliar with the documentation to which they raised objections. Three examples of EIA procedures for infrastructure investment with public participation are presented below.

The first investment project concerned the redevelopment of national road No. 8 to raise its standard to an expressway on the sections from the border of Mazowieckie province – Zambrów bypass – km 561+073 – 575+955 (561+073 – 575+834 of the existing length of national road No. 8) – Wiśniewo bypass – Jeżewo (including the Mężenin bypass) – km 586+310 – 615+960.85 (585+731 – 615+251 of the existing length of the national road No. 8) and in 2009 at the stage of the EIA eight comments and applications were made by business operators, heads of Szumowo municipality and Rutka municipality, and one ecological organization (Stowarzyszenie Federacja Zielonych in Białystok). Business operators protested against being deprived of direct access to national road No. 8, pointed to the wrong location of MSAs¹⁴, and incompliance between the local spatial development plan for Zambrów municipality. The complaints of business operators were not considered because they were inconsistent with the provisions of the Regulation of the Minister of Transport and Maritime Economy of 2 March 1999 on the technical conditions to be met by public roads and their location¹⁵, as well as the provisions of the EIA Act. The head of Szumowo municipality challenged the choice of a variant for implementation, the location of MSAs, and pointed to the need to consider access for emergency services to the gas compressor station Yamal – Western Europe near the village of Ostrożne. These objections were unfounded because access points for emergency services had already been designed, and suggestions for other variants were inconsistent with the Regulation on technical conditions to be met by public roads and their location. The head of Rutka proposed the redesign of the Mężenin junction to shorten the travel distance to Zambrów. In response he received information that, in parallel to expressway No. 8, a road serving local traffic will be built. Under the EIA procedure a representative of an ecological organization, Stowarzyszenie Federacja Zielonych in Białystok, requested a repeat site visit due to the fact that the General Directorate of National Roads and Motor-

¹⁴ MSA – motorway service area.

¹⁵ (OJ 1999 No. 43, item 430).

ways in Białystok (GDDKiA) at first promised to offer him transport to the site but this promise was not fulfilled at the last minute. Information provided by GDDKiA revealed that the representative of the NGO did not turn up at the agreed time before travel to the site, so his complaint was deemed to be unjustified.

Another EIA procedure concerned the modernization of a railway line, E-75, on the section Warszawa – Białystok – Sokółka within the limits of Podlaskie province, and comments and recommendations were made by residents of the villages Dąbrowa Łazy, Szepietowo-Żaki, the head of Szepietowo municipality, the head of Nowe Piekuty municipality, the head of Żłota Wieś village, the head of Jabłoń Dąbrowa village, a Member of Parliament, the Municipal Social Welfare Centre in Łapy, and representatives of residents of the town of Łapy. The comments made by the public were as follows:

- they requested the installation of traffic lights at the existing crossings, and protested against the removal of some railway crossings;
- they complained that information about the solutions planned for the rail substructure to limit the emission of vibrations, as well as the installation of noise barriers in the Piekuty municipality, was not provided;
- the opinion of local administrative authorities and residents was not taken in consideration; the Council for Nowe Piekuty municipality expressed a negative opinion on the design concept for the rebuilding of railway crossings in the Nowe Piekuty municipality;
- the Administration of District Roads in Wysokie Mazowieckie and the Provincial or District Police Headquarters have not been consulted concerning the project;
- information about the construction of roads parallel to the railway for cases when some railway crossings are to be removed is imprecise;
- the construction of an underpass for disabled people, cyclists and pedestrians in place of the existing footbridge linking the two parts of Łapy is necessary.

The Regional Directorate of Environmental Protection in Białystok analysed the submitted comments and concluded that all railway level crossings are designed to have traffic light system and half-barriers. In addition, the number of crossings was consistent with the Regulation of the Minister of Transport and Maritime Economy of 26 February 1996 on the technical conditions to be met by crossings of railways with public roads and their location¹⁶. Therefore, the submitted comments were unjustified. The proposal for the use of vibration abatements and noise barriers was accepted. The comment about the need to consult the administration of roads and police on the project was not considered because it was beyond the scope of the decision

¹⁶ (O) 1996 No. 33, item 144).

on environmental conditions. The complaint about the lack of the project's consultation with local government and authorities and residents of Nowe Piekuty was found unjustified because the documentation indicates that the project was consulted on with the municipalities of Nowe Piekuty, Szepietowo and Sokoły in 2007 and 2008. A proposal for the correction of parallel roads could not be taken into account at the stage of the environmental decision, while the issue of the construction of the underpass in Łapy was not covered by the analysed procedure.

The above description of the case shows that only one out of six comments made under the public consultation had substantial grounds, were consistent with regulations, and had been included in the decision on the environmental conditions.

The third EIA procedure concerned the project for the Construction of Trasa Niepodległości in Białystok, including the construction, rebuilding and extension of three streets, Aleja J. I. Paderewskiego, Aleja Niepodległości and Narodowych Sił Zbrojnych, together with civil engineering structures such as overpasses, tunnels, footbridges, culverts and retaining structures, and the construction and reconstruction of the necessary technical infrastructure, on plots located in Białystok and in the municipality of Juchnowiec Kościelny. Public participation involved local residents and one NGO operating in support of sustainable growth (Fundacja Towarzystwo Ulepszania Świata, Centrum Zrównoważonego Rozwoju).

Representatives of the public requested:

- downgrading of the technical category of the road from a fast traffic trunk road to a service road. Trasa Niepodległości should not be a bypass but a city road with particular emphasis on public transport. After the implementation of the investment Armii Krajowej street will become an access road to the bypass road;
- reducing or eliminating the use of products made of PVC during construction;
- creating BUS lanes on the whole length of the road;
- installing speed recording devices;
- planting 2 new trees per cut down tree;
- an analysis of the negative impact of noise caused by road traffic on the health and life of local residents and the fauna of Bacieczki forest, and the reasons and costs of installing noise barriers in the city;
- marking different types of buildings on the maps of acoustic analysis;
- creating a detailed description, including drawings, of the planned civil engineering structures;
- specifying types of paving to be used for bike lanes;
- carrying out public consultation regarding the planned project;

- preventing reduced adsorption of CO₂ by green areas caused by increased traffic and removal of trees;
- an admission that the road construction will create an obstacle limiting pedestrian and bicycle traffic in favour of car traffic, and will divide the district of Leśna Dolina into two parts, thus creating difficulties for children in getting to school, and that the construction and use of the bypass will deteriorate the condition of the existing buildings;
- repeating the noise analysis on floors 6 and 7 of a building near Wiadukt street;
- an analysis of the negative acoustic impact of the railway line in relation to the planned felling of trees;
- extending noise barriers on the whole length of the loop and along the viaduct, in parallel to individual estates.

In reply to the comments RDOŚ in Białystok stated that the technical parameters of the planned road Trasa Niepodległości in Białystok are consistent with local spatial development plans. It was explained that only PVC pipes will be used for the construction of sewage discharge systems to protect the environment. In the area of Trasa Niepodległości the investor planned that public transport will use service roads (i.e. in places best adapted to the needs of people). Speed recording devices will be installed in line with the Regulation of the Minister of Transport, Construction and Maritime Economy of 14 March 2013 on the conditions for the location, method of marking and conducting measurements by speed recording devices.

As with the plantings along Trasa Niepodległości, they have been planned in the maximum amount, taking into account the limitations resulting from the width of the roadway dividing lines (including issues of ownership) and underground infrastructure. Noise reduction was planned in such a way that most of the road will run in trenches, which will significantly reduce the problematic traffic noise in the environment and will not disturb landscape features. Short sections of noise barriers have also been designed along the planned road. Types of management for land situated in the direct vicinity of the proposed project were marked on maps in accordance with applicable local zoning plans, or, if such plans do not exist, according to the actual land use.

The comment on alleged obstacles to pedestrian and bicycle traffic was unfounded, because footbridges for pedestrians and cyclists have been designed over Trasa Niepodległości to allow free access to the other side of the road. Bike lanes have been designed on one side along Magnoliowa, Transportowa, and Rzymowskiego streets, and in other cases bike lanes will be on both sides of the crossings. A combined lane for pedestrians and bikes has been designed only along Octowa street. In explanation, more detailed

information was given about the planned surface for bike lanes (bituminous surface). Allegation about the lack of public consultation was unfounded, because RDOŚ in Białystok, as the body conducting the procedure to issue a decision on the environmental conditions for this project, had carried out a procedure with public participation, and informed the public of the opportunity to access the documents and the submission of potential comments and recommendations. In addition, during the preparation of the draft and final design documentation for the construction of Trasa Niepodległości the investor carried out consultations with local residents and businesses neighbouring the road. The comment on the reduced adsorption of CO₂ was also unfounded, because the planned project assumed new plantings to compensate for the trees removed in relation to road construction. The EIA report presented analyses of emissions which did not indicate the exceedance of the acceptable limits.

The allegation regarding obstacles to pedestrian and bicycle traffic was unjustified because the designs for road construction included footbridges, bike lanes and service roads. The project documentation did not show any deterioration to the condition of the existing buildings because of the construction and use of the road. Comments about noise pollution were unfounded because the planned project provided for mitigating measures such as noise barriers adjusted to the geometry of the road and distance to residential buildings.

The comment about tree felling was found unjustified since the planned felling will not have a negative impact on the acoustic conditions. The comment about the need for longer noise barriers along the whole loop and along the overpass was unjustified, because mitigating measures specified in the EIA report will reduce the level of noise in line with the existing regulations.

The above examples show that in most cases the raised objections and proposals made were unsubstantiated and resulted from the lack of knowledge about regulations, lack of information about the planned project, or misunderstanding of the available documentation.

Advantages and disadvantages of public involvement in the environmental impact assessment procedure

There is a growing consensus that broad-based stakeholder involvement is a vital ingredient for effective environmental assessment, as it is for project planning, appraisal and development in general¹⁷. Public involvement has

¹⁷ R. Hughes, *Environmental impact assessment and stakeholder involvement*, "Environmental Planning Issues" 1998 No. 11, p. 1.

many advantages but also disadvantages. Advantages of public participation in the environmental impact assessment process include:

- building and mobilization of civil society;
- creating better access to information about the environment and planned investment projects;
- reduced and channelled social conflict;
- building environmental awareness among citizens so they can share responsibility for the decisions made;
- ability of the public to be involved in the creation of issued administrative decisions;
- increased number of measures mitigating the negative impact of the project on the environment;
- proponents can be involved in the shaping of the social and economic order and spatial development of a given area;
- officials are deprived of their omnipotence.

Disadvantages of public involvement in the environmental impact assessment procedure:

- conflict between stakeholders may sometimes escalate;
- the essence of the environmental impact assessment is misunderstood because participating members of the public do not always have specialist education, and do not always understand the documents filed under the EIA procedure;
- some stakeholders may have a pettifogging attitude and do not respect decisions made in the process;
- the objective representation of stakeholder interests (investor, local community, environmental protection authorities) involved in the conflict is difficult;
- longer time is needed to make the final decision about the project;
- proponents do not have to substantiate their objectives and recommendations (there is no need for the submission of specific evidence supporting their arguments);
- proponents bear no responsibility for the legal and economic consequences of the prolonged conflict;
- the costs of the implementation and operation of the investment increase;
- the number of mitigating measures may increase even if they are not always necessary to ensure environmental protection;
- investors are forced to carry out additional environmental analyses;
- investments are put on hold.

Conclusions

Public participation in the procedure of the environmental impact assessment has a significant effect on the development of infrastructure investments. The current legislation vests extensive rights to the public, particularly ecological organizations, for their involvement in the EIA procedure. Because of this, the public, without any negative consequences for itself, but with full consequences for the investor, often obstructs or disables the implementation of infrastructure investments. The analysis of EIA procedures for infrastructure investments carried out by RDOŚ in Białystok in 2008–2015 revealed that public stakeholders take advantage of their rights, participate in the EIA, propose comments and recommendations, and use the right to appeal against the issued decisions on environmental conditions. Comments and complaints made by the public are often unjustified because of insufficient knowledge of regulations and technical aspects indicated in the EIA, and the fact that the public repudiates evidence provided by investors or fails to read relevant documents.

Misinterpretation of the precautionary principle and demanding investors to design excessive numbers of mitigating measures, just in case, is sometimes overused by the public. The European Commission and European Parliament have noted the economic effects of the intensified escape of investors from Europe, and what is happening does not fit the principle of sustainable growth promoted in Europe, as Josef Zboril commented¹⁸. In addition, numerous conflicts between Member States and the European Commission on issues related to the EIA create a need for further amendments to Community law¹⁹.

On the other hand, the EIA and public involvement in this process give investors a specific motivation and oblige them to include more ecological solutions when planning, implementing and using infrastructure investments.

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¹⁸ Comment by Josef Zboril, member of the European Economic and Social Committee, at the ELNI Conference – EIA Directive – challenges and perspectives in the light of past experiences and the recent proposal for amendment, Wrocław 23–24 May 2013.

¹⁹ G. Chocian, J. Faszczka, B. Gładkowska-Chocian, *Bariery związane z ochroną środowiska*, in: A. Furgalski, Ł. Malinowski (eds), *Biała Księga Infrastruktury*, Warszawa 2013, p. 120.

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