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TOWARDS THE FIRST OFFSHORE WIND ENERGY PLANT

Abstract

Offshore wind energy is one of the fastest growing sectors of renewable energy sources in Europe. In Poland, offshore wind energy is one of the most socially acceptable electricity generation technology. Even though Poland has a very favourable wind conditions for the development of both inland and offshore wind energy investments, there's still no offshore wind energy plant. The investment processes are still ongoing. One of the reasons underlying this is the lack of proper maritime spatial planning. Apart from that, there are several additional complicated regulations on the building permits, that the investor must obtain before the construction works may be started.

KEYWORDS

offshore wind energy, marine spatial planning, construction permit, artificial island, exclusive economic zone

SŁOWA KLUCZOWE

morska energetyka wiatrowa, morskie planowanie przestrzenne, pozwolenie na budowę, sztuczna wyspa, wyłączna strefa ekonomiczna

1. INTRODUCTION

Offshore wind energy in Europe has been developing very well. The total capacity from offshore wind farms in Europe at the end of 2020 reached 20 GW. Europe has five times the potential, estimated at 50–90 GW of new projects by 2030[1]. Currently, 105 offshore wind farms, i.e. 4543 wind turbines, are connected to the power grid in 11 European countries[2]. The goal of the European Union is to obtain 230–450 GW by 2050[3]. It's important because reaching 450 GW would make Europe climate neutral. Offshore wind may become the main source of energy production in Europe as early as 2042.

The leader of offshore wind energy development is Great Britain, where the installed capacity has exceeded 8 GW, and it is planned to reach 30 GW by 2030[4]. One of the largest existing offshore wind farms in the world, Walney Extension Orsted, is located in the Irish Sea and became operative in 2018[5]. The construction of the world's largest offshore wind farm, Hornsea One, located on the east coast of Great Britain, is already completed. This farm consists of 174 wind turbines, each with a capacity of 7 megawatts and a height of 190 m[6]. According to press reports, the energy that this farm will produce is sufficient to power up to 1 million homes[7].

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[1] An EU Strategy to harness the potential of offshore renewable energy for a climate neutral future, https://ec.europa.eu/energy/sites/ener/files/offshore_renewable_energy_strategy.pdf (accessed 05.06.2021), p. 2.

[2] Polskie Stowarzyszenie Energetyki Wiatrowej [the Polish Wind Energy Association], *Przyszłość morskiej energetyki wiatrowej w Polsce* [The future of offshore wind energy in Poland], 2019, psew.pl/wp-content/uploads/2019/06/Przyszłość-morskiej-energetyki-wiatrowej-w-Polsce-raport.pdf (accessed 05.06.2021), pp. 6–7.

[3] https://windeurope.org/about-wind/campaigns/european-green-deal/#:~:text=The%20European%20Commission%20says%20Europe,Europe's%20electricity%20demand%20in%202050 (accessed 05.06.2021).

[4] Polskie Stowarzyszenie Energetyki Wiatrowej, *op. cit*., p. 4.

[5] https://soton.13pl/u-wybrzezy-kumbrii-uruchomiono-najwieksza-morska-farme-wiatrowa-na-swiecie/ (accessed 05.06.2021).

[6] https://hornseaprojectone.co.uk/About-the-project#0 (accessed 05.06.2021).

[7] https://edition.cnn.com/2019/09/25/business/worlds-largest-wind-farm/index.html (accessed 05.06.2021).

Location, construction and operation of the wind farm is a complex subject matter. The article aims to analyse legal regulations concerning the location of the offshore wind farms. The offshore wind farm is defined in the Polish legal system[8] as an installation constituting a separate set of devices for energy production, which includes one or more offshore wind turbines, a medium voltage network with power stations located at sea, excluding devices on the transformer's high voltage side or transformers located on this stations. The offshore wind turbine is a single, independent set of devices used to generate electricity only from wind energy at sea.

Two areas of regulations will be analysed: 1. planning and spatial development of the internal sea waters, the territorial sea, and the exclusive economic zone, and 2. a permit for the construction and use of artificial islands. These two are specific for offshore wind farms, not for renewable energy developments in general. Other aspects of the offshore wind energy investment, such as environmental conditions decision, construction permit, laying cables or pipelines in the areas of the internal sea waters and the territorial sea, laying cables or pipelines in the exclusive economic zone[9] and a permit for temporary occupation of waters[10] fall outside the scope of the article.

2. PLANNING AND SPATIAL DEVELOPMENT OF THE INTERNAL SEA WATERS, THE TERRITORIAL SEA, AND THE EXCLUSIVE ECONOMIC ZONE

Marine spatial planning is the process by which the use of marine space is identified and used to inform development decisions made by regulators[11]. The issues of maritime spatial planning and development are regulated by the Act of 21 March 1991 on maritime areas of the Republic of Poland and maritime administration[12]. Marine spatial planning is a "public process of analyzing and allo-

[8] Act of 17 December 2020 on promoting electricity generation in wind farms, "Journal of Laws" 2021, item 234, Art. 3, point 3.

[9] M. Makowski, *Lokalizacja i budowa elektrowni wiatrowych w obszarach morskich Rzeczpospolitej Polskiej – nowe regulacje prawne* [Location and construction of wind farms in the maritime areas of the Republic of Poland: New legal regulations], "Prawo Morskie" 2012, Vol. XXVIII, pp. 187–188.

[10] J. Zaucha, *Gospodarowanie przestrzenią morską* [Sea space management], Sopot 2018, pp. 23–236.

[11] D. Vaughan, T. Agardy, *Marine protected areas and marine spatial planning: Allocation of resource use and environmental protection*, (in:) J. Humphreys, R.W.E. Clark (eds.), *Marine protected areas*, Elsevier 2020, p. 13.

[12] "Journal of Laws" 2021, item 2241 (commonly referred to as MARPMA).

cating the spatial and temporal distribution of human activities in marine areas to achieve ecological, economic, and social objectives that are usually specified through a political process"[13]. Maritime administration is a system of state authorities dealing with administrative activities in the scope of broadly understood use of the sea[14]. According to the definition adopted in this Act, maritime spatial planning and development means a process through which competent administrative authorities analyse and organize the use of maritime areas to achieve ecological, economic, and social objectives.

It is an instrument for reducing conflicts, strengthen the coordination between sectors, and protect the environment through assessing the environmental effects of concerned activities[15]. The use of marine spatial planning was discussed in the marine administration of several European countries in the 1970s[16]. The following circumstances are indicated as the origin of maritime spatial planning and development:

1. The growing scale of spatial conflicts at sea,
2. The process of redefining ways to benefit from the sea,
3. The need for coexistence and synergy between the users,
4. The growing scale of land-sea spatial interactions (submarine and land cables, landscape pollution, blue corridors),
5. The growing importance of space for ecosystem services, e.g. for the resistance of marine ecosystems to external shocks (the filtering role of estuaries)[17].

The authorities in charge of the field of maritime spatial planning are the minister competent for the maritime economy, who is currently the Minister of Maritime Economy and Inland Navigation, as well as the director of one of the maritime offices. The director of a maritime office has a wide range of competences[18]. There are currently three maritime offices in Poland: the Maritime

[13] C. Frazão Santos *et al*., *Marine spatial planning*, (in:) Ch. Sheppard (ed.), *World seas: An environmental evaluation*, 2nd ed., Academic Press 2019, p. 571 and the literature cited there.

[14] J. Młynarczyk, *Prawo morskie* [Maritime law], Gdańsk 2002, p. 49.

[15] European Union, *Maritime spatial planning in the EU: Achievements and future development*, Luxembourg 2011, https://doi.org/10.2771/81687 (accessed 15.06.2021).

[16] K. Grip, S. Blomqvist, *Marine spatial planning: Coordinating divergent marine interests*, "Ambio" 2021, Vol. 50, https://doi.org/10.1007/s13280-020-01471-0, p. 1172 (accessed 17.03.2023).

[17] J. Zaucha, M. Matczak, *Morskie planowanie przestrzenne: Definicja, geneza i cele* [Maritime spatial planning: Definition, genesis and goals], Warszawa 2014, https://docplayer.pl/11962721-Morskie-planowanie-przestrzenne-definicja-geneza-i-cele.html (accessed 17.03.2023).

[18] D. Trzcińska, P. Mierzejewski, *Dyrektor urzędu morskiego jako organ administracji morskiej* [Director of the maritime office as a maritime administration body], "Prawo Morskie" 2006, Vol. XXII, p. 227.

Office in Gdynia[19], the Maritime Office in Słupsk[20], and the Maritime Office in Szczecin[21]. Locating maritime spatial planning at a regional level is indicated as one of the weaknesses of maritime spatial planning[22].

Pursuant to Art. 371 of the above Act, maritime spatial planning and development covers the following areas: the internal marine waters, the territorial sea, and the exclusive economic zone. Pursuant to the Directive 2014/89/EU of the European Parliament and of the Council of 23 July 2014, establishing a framework for maritime spatial planning[23], documents that are related to maritime spatial planning should be available to all coastal states regardless of their membership in the European Union. Pursuant to the above Directive, Member States shall establish, taking into account relevant activities, and uses of marine waters, procedural activities including:

1. Consideration of the land and sea interaction,
2. Consideration of environmental, economic, and social aspects, as well as safety aspects,
3. Seeking to promote coherence between maritime spatial planning and the resulting plan or plans and other processes such as integrated coastal zone management or equivalent formal or informal activities,
4. Ensuring the involvement of interested parties,
5. Organising the use of the best available data,
6. Ensuring cross-border cooperation between Member States,
7. Promoting cooperation with third countries.

In addition, the above Directive requires Member States to draw up maritime spatial development plans by 2021.

Maritime spatial planning is a separate system from land planning. The differences relate to the legal basis of planning, competent authorities, and planning institutions. It is indicated that marine and coastal zone planning should be inte-

[19] Ordinance No. 34 of the Ministry of Maritime Economy and Inland Navigation with regard to providing the statute for the Maritime Office in Gdynia, Journal of Laws MGiZS from 2017, item 35.

[20] Ordinance No. 28 of the Ministry of Maritime Economy and Inland Navigation with regard to providing the statute for the Maritime Office in Słupsk, Journal of Laws MGiZS from 2016, item 28.

[21] Ordinance No. 19 of the Ministry of Maritime Economy and Inland Navigation with regard to providing the statute for the Maritime Office in Szczecin of 26 April 2018, Journal of Laws MGiZS from 2018, item 19.

[22] D. Pyć, *Zasady morskiego planowania przestrzennego i zintegrowanego zarządzania strefą przybrzeżną* [Principles of maritime spatial planning and integrated coastal zone management], „Prawo Morskie" 2013, Vol. XXIX, pp. 117–135.

[23] "Official Journal of the EU", L 257, 28.08.2014, p. 135.

grated[24]. Nevertheless, the priorities of Polish maritime spatial planning were not sufficiently clearly defined[25].

The study of the spatial development conditions of Polish maritime areas covers Polish maritime areas within the meaning of the Act on maritime areas of the Republic of Poland and maritime administration, in the part relating to the exclusive economic zone[26] and the territorial sea of the Republic of Poland and the sea waters belt located between the base line of the territorial sea and the boundaries of the cadastral parcels of the land area adjacent to sea waters. The study also covers the internal sea waters of the Gulf of Gdańsk. The subject of the maritime study is not the waters within the ports and the Szczecin and Vistula Lagoon. The above maritime study is a document identifying and analysing physiogeographic, spatial, legal, economic, social, and environmental conditions for the purposes of drawing up spatial development plans for Polish maritime areas. The purpose of the study was to collect and analyse information in order to prepare the spatial development plan. The marine study has an informative value, allowing valorisation of phenomena and making subsequent accurate spatial decisions. Thus, it is a kind of inventory and assessment of the state of the sea areas. A maritime study differs from a municipal study in that the maritime study is not an act of internal management. This means that it is not binding for planning authorities involved in drawing up local spatial development plans[27].

In Poland, the process of effective preparation for drawing up maritime spatial development plans began in 2013[28]. The decisions in these plans are a manifestation of the planning authority of the areas covered by them[29]. Maritime spatial development plans determine:

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[24] European Parliament and Council, Recommendation of the European Parliament and of the Council of 30 May 2002 concerning the implementation of Integrated Coastal Zone Management in Europe, "Official Journal" 2002, L 148, 06/06/2002, pp. 0024–0027; B. Shipman, T. Stojanovic, *Facts, fictions, and failures of integrated coastal zone management in Europe*, "Coastal Management" 2007, Vol. 35, issue 2, pp. 375–398; J. Taussik, *The opportunities of spatial planning for integrated coastal management*, Marine Policy 2007, Vol. 31, issue 5, pp. 611–618.

[25] J. Zaucha, *Sea basin maritime spatial planning: A case study of the Baltic Sea Region and Poland*, "Marine Policy" 2014, Vol. 50, p. 44.

[26] See further D. Pyć, *Wybrane aspekty prawne i ekologiczne związane z układaniem rurociągów podmorskich* [Selected legal and ecological aspects related to laying submarine pipelines], "Prawo Morskie" 2006, Vol. XXII, pp. 27–29.

[27] Instytut Morski w Gdańsku, *Studium uwarunkowań zagospodarowania przestrzennego polskich obszarów morskich wraz z analizami przestrzennymi* [Study of the conditions for spatial development of Polish sea areas together with spatial analyzes], Gdańsk 2015, http://www.ums.gov.pl/ObszaryMorskie/2015/Studium_Uwarunkowan_Zagospodarowania_Przestrzennego_POM.pdf (accessed 17.03.2023), pp. 9–12.

[28] D. Pyć, *The Polish legal regime on marine spatial planning*, "Maritime Law" 2017, Vol. XXXIII, p. 120.

[29] T. Bąkowski, *Planowanie i zagospodarowanie przestrzenne obszarów morskich. Problematyka administracyjnoprawna* [Planning and spatial development of sea areas: Administrative and legal issues], Gdańsk 2018, p. 153.

1. The basic function and permissible functions for each of the areas separated in the plans. The basic function means the leading purpose of the area separated in the plans. Permissible functions mean the other uses of the areas separated in the plans, the coexistence of which does not disturb the leading destination in a manner that permanently prevents the implementation of the basic function and does not adversely affect the sustainable development of the areas separated in the plans.
2. Bans or restrictions on the use of areas separated in the plans, taking into account the requirements of nature protection.
3. The location of public purpose investments. It should be noted that maritime spatial development plans may contain information arrangements regarding the expected distribution of public purpose investments, other than those specified in the plans.
4. Directions of transport and technical infrastructure development.
5. Areas and conditions of:
   a. environmental protection and cultural heritage,
   b. fishing and aquaculture,
   c. obtaining renewable energy,
   d. exploration and recognition of mineral deposits and extraction of minerals from deposits.

Activities whose sole purpose is national defence or security may be carried out regardless of the decisions of the maritime spatial development plan, including basic and permissible functions, on the principles set out in separate regulations.

The plan may contain provisions binding provincial and municipal local governments, in whose areas internal sea waters occur, or municipalities neighbouring the area of the plan through the shoreline or the corresponding boundaries of sea areas, when drawing up provincial spatial development plans, studies of the conditions and directions of spatial development of municipalities, and local spatial development plans in the scope of:

1. The distribution of public purpose investments of national significance specified in the mediumterm national development strategy and other development strategies, and the national spatial development concept, and programmes defining government tasks,
2. Protected areas, including areas of protected space,
3. The manner of using sea areas, including restrictions and approvals.

The draft of the maritime area plan is prepared by the territorially competent director of a maritime office. Planning in these areas should be based on the use of an ecosystem approach[30]. The ecosystem approach means that in the management of human activities the following conditions will be met:

[30] P. Gilliland, D. Lafolley, *Key elements and steps in the process of developing ecosystem-based marine spatial planning*, "Marine Policy" 2008, Vol. 32, issue 5, pp. 787–796; F. Douvere,

1. The impact on the ecosystem of planned human activities will be maintained at a level enabling the achievement and maintenance of the good ecological status of the environment.
2. Both the ability of the ecosystem to function properly and its resistance to environmental changes resulting from human activities will be preserved.
3. Simultaneous, permanent, and sustainable use of ecosystem resources and services by current and future generations will be enabled[31].

An environmental impact assessment is prepared for the draft of the spatial development plan for internal marine waters, the territorial sea, and the exclusive economic zone.

In addition, when drawing up the maritime spatial development plan, account is taken of:

1. Supporting sustainable development in the maritime sector, while considering economic, social, and environmental aspects, including improvement of the state of the environment and resilience to climate change,
2. State defence and security,
3. Coordination of activities of relevant entities and ways of using the sea.

Maritime spatial development plans are adopted by the Council of Ministers by way of a regulation. The costs of drawing up a maritime spatial development plan and preparing an environmental impact assessment are charged to the state budget or the investor implementing the investment, if the arrangements of this plan are a direct consequence of the implementation of this investment.

3. A PERMIT FOR THE CONSTRUCTION AND USE OF ARTIFICIAL ISLANDS

The Republic of Poland has the sole right to construct and grant permits for the construction and use in the exclusive economic zone of: artificial islands, all types of structures, and equipment intended for scientific research, recognition, or exploitation of resources, as well as in relation to other undertakings in the field of economic research and exploitation of the exclusive economic zone, in particular the use of water, sea currents, and wind for energy purposes. Artificial islands, constructions, and equipment are subject to Polish law. The Republic of

The importance of marine spatial planning in advancing ecosystem-based sea use management, "Marine Policy" 2008, Vol. 32, issue 5, pp. 759–761.

[31] M. Nyka, *Znaczenie podejścia ekosystemowego i usług ekosystemowych w morskim planowaniu przestrzennym* [The significance of the ecosystem approach and ecosystem services in marine spatial planning], „Prawo Morskie" 2015, http://prawo-morskie.pl/wp-content/uploads/2015/12/znaczenie-podejścia-ekosystemowego-i-usług-ekosystemowych-w-morskim-planowaniu-przestrzennym.pdf (accessed 17.03.2023), p. 4.

Poland holds exclusive economic zone power over: 1. the construction and use of artificial islands, structures, and other equipment, 2. scientific research, 3. the protection and preservation of the marine environment. Conducting economic activity on artificial islands is a manifestation of glocalization[32].

With regard to the construction or use of artificial islands, structures, and equipment in Polish maritime areas, the procedure for obtaining a permit for the implementation of the above investment is as follows. Generally, the construction and use of wind farms in internal marine waters and the territorial sea is prohibited. Thus, wind farms may be established only in the exclusive economic zone, i.e. at least 12 nautical miles from the shore[33].

The decisive proceedings are separate from the proceedings for a permit to construct or use artificial islands, structures, and equipment in Polish maritime areas.

In the decisive proceedings, the successful entity is the applicant who: 1. has reached the qualifying minimum, 2. has obtained the highest number of points among all participants.

The results of the decisive proceedings are announced at the registered office and in the Public Information Bulletin on the website of the office supporting the minister competent for maritime economy, with the indication of applicants who have reached the qualifying minimum, ranked in order of decreasing number of points obtained.

The minister competent for maritime economy, after conducting the decisive proceedings:

1. Grants a permit by way of an administrative decision to construct or use artificial islands, structures, and equipment in Polish maritime areas, to an entity selected not earlier than 14 days from the date of announcement of the results of the proceedings, or
2. Considers the proceedings unresolved if none of the applicants has reached the qualifying minimum, or
3. Annuls the decisive proceedings, if in the decisive proceedings the provisions of law, or interests of competition participants have been grossly violated.

The permits give the right to use the Polish maritime area for the purposes specified in the permit, and the rights arising from the permit may not be trans-

[32] S. Goran, *"Glocalization" of business activities: A "glocal strategy" approach*, "Management Decision" 2001, Vol. 39, issue 1, pp. 6–18; D.C. Kotlewski, A. Dudzińska-Jarmolińska, *Sztuczne wyspy jako przejaw glokalizacji* [Artificial islands as a manifestation of glocalisation], „Kwartalnik Nauk o Przedsiębiorstwie" 2017, Vol. 42, issue 1, pp. 24–37.

[33] K. Zajdler, *Regulacje prawa krajowego dotyczące inwestycji w farmy wiatrowe (wybrane aspekty)* [National law regulations regarding investments in wind farms (selected aspects)], Warszawa 2011, pp. 129–130.

ferred to other entities[34]. In the permit, the authority specifies the type of the project and its location using geocentric and geodetic coordinates, characteristic technical parameters of the project, detailed conditions, and requirements resulting from separate provisions. With regard to the permits for the occupation of the exclusive economic zone for the construction and use of artificial islands, structures, and equipment, the legislator has provided for an additional fee in the amount of 1% of the value of the planned project. It is estimated that the fee may amount to PLN 60–100 million[35].

The competent authorities for the issue of the permit in question are:

1. The minister competent for maritime economy for planned, implemented, or operating projects:
   a. in the area of the internal sea waters or the territorial sea, if no maritime spatial development plan has been adopted for these areas and these projects require a building permit,
   b. in the exclusive economic zone.
2. The territorially competent director of the maritime office for planned, implemented, or operating projects in areas of the internal sea waters or the territorial sea, if for these areas:
   a. a spatial development plan for the internal sea waters, the territorial sea, and the exclusive economic zone has been adopted,
   b. a spatial development plan for the internal marine waters, the territorial sea, and the exclusive economic zone has not been adopted, and these projects do not require a building permit.

The permit for the location of an investment consisting in the construction and use of artificial islands, structures, and equipment in Polish maritime areas is issued after the application for the permit has been approved by the ministers competent in the matters of: energy, economy, culture, and protection of the national heritage, fisheries, environment, internal affairs, and the Minister of National Defence. The deadline for issuing an opinion is a maximum of 90 days from the date of receipt of the application. Not issuing an opinion within this period is treated as issuing an unqualified opinion. The obligation to provide opinions was excluded in relation to projects that do not require a building permit.

The approving authorities shall refuse to issue a permit where its issuance would create a risk to:

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[34] M. Makowski, *Problemy prawne lokalizacji i budowy elektrowni wiatrowych w obszarach morskich Rzeczpospolitej Polskie*j [Legal problems of locating and building wind farms in the maritime areas of the Republic of Poland], „Prawo Morskie" 2011, Vol. XXVII, p. 251.

[35] A. Łobodzińska. M. Rudnicki, *Prawno-finansowe podstawy rozwoju morskiej energetyki wiatrowej w Polsce w oparciu o sztuczne wyspy morskie na Bałtyku* [Legal and financial basis for the development of offshore wind energy in Poland based on artificial sea islands in the Baltic Sea], „Roczniki Nauk Prawnych" 2011, Vol. XXI, No. 2, p. 288.

1. The environment, sea resources, or undersea resources, including rational management of mineral deposits,
2. The interests of the national economy,
3. State defence and security,
4. Maritime safety,
5. Safe sea fishing,
6. Aircraft flight safety,
7. The underwater archaeological heritage,
8. Safety related to research, recognition, and exploitation of mineral resources of the seabed and the inside of the earth beneath it,
9. The implementation of the basic functions specified in the spatial development plans for the internal marine waters, the territorial sea, and the exclusive economic zone.

It should be noted that these conditions are obligatory. Their occurrence obliges the approving authority to refuse to issue a permit.

Based on separate provisions, the approving authorities indicate the occurrence of the above-mentioned threats or specific conditions and requirements resulting from separate provisions. Such separate provisions in the light of the case law[36] may be, for example, the Act of June 9 2011 the Geological and Mining Law[37], or the Act of 27 April 2001 – the Environmental Protection Law[38].

The permit for the location of an investment consisting in the construction and use of artificial islands, structures, and equipment in Polish maritime areas is issued for the period necessary for the construction or use of artificial islands, structures, and equipment, but not longer than 35 years. In a situation where artificial islands, structures, and equipment have been constructed and used in accordance with the requirements specified in the permit, the authority that issued the permit may extend its validity for a period of up to 20 years. The validity is extended by way of a decision, at the application of the entity, to which the permit was granted, submitted not later than 120 days before the expiry date of the permit.

In a situation where, within 8 years from the date of issuing the permit, the entity which has been granted the permit does not obtain the building permit for all or part of the project implemented in stages covered by the permit, the authority which has issued the permit states, by way of a decision, the revocation of the permit. If the entity to which the permit has been granted, no later than 60 days before the expiry of 8 years from the date of the issue of the permit, submits

[36] Judgment of the Supreme Administrative Court of 16 December 2014, II OSK 1252/13, Legalis Number 1327673.

[37] Consolidated text, "Journal of Laws" 2019, item 868, as amended (commonly referred to as GML).

[38] Consolidated text, "Journal of Laws" 2019, item 1396, as amended (commonly referred to as EPL).

to the authority that has issued the permit, written explanations and documents confirming the undertaking of all actions required by law, aimed at obtaining a building permit, the period of 8 years is extended for the time necessary to obtain a building permit, but no longer than for 2 years from the date on which the 8-year deadline expired from the date of the issue of the permit. The authority states the extension of the deadline by way of a decision.

The legislator has provided for other obligatory conditions for the revocation of the permit. And so, in a situation where, within: 1. 3 years from the date on which the building permit decision became final, the construction of an artificial island, structure, and equipment has not been initiated, or 2. 5 years from the date of the construction initiation, no use of the artificial island, structure, and equipment has been made, the authority that issued the permit shall state, by way of a decision, the revocation of that permit.

In addition, the legislator provided for optional grounds for the revocation of the permit, providing that the authority may, by way of a decision, state for the whole or,(in the situation of a staging project), for part of the area covered by the permit, its revocation if the construction or use of an artificial island, structures, and equipment has been inconsistent with the conditions set out in the permit, at the same time imposing a financial penalty. The amount of the financial penalty is the equivalent of up to 1,000,000 units of account, called "Special Drawing Rights (SDR)".

If the permit expires or its revocation is stated, the authority that has issued the permit may order, by way of a decision, that the entity to which the permit has been granted, effects the total or partial removal at the expense of that entity of structures, equipment, and infrastructure elements and, as well, remedy damage caused to the environment, specifying the conditions and the deadline for performing these activities. Failure to fulfil the obligation specified in the decision results in the fact that these works may be carried out by the territorially competent director of the maritime office at the expense of the entity obliged by the decision to carry out these works.

In the course of the proceedings for granting the permit, it may happen that the competent authorities commence the preparation of a spatial development plan for internal marine waters, the territorial sea, and the exclusive economic zone. In this situation, the legislator has decided that failure to adopt the plan at the preparation stage is a reason for suspending the proceedings for granting the permit until the plan is adopted.

4. CONCLUSIONS

It seems that despite high costs, investments in offshore wind farms are one of the more promising directions for the development of the renewable energy sector. The location of windmills at sea is justified by better wind conditions than on land and should not cause conflicts with the neighbouring countries.

Currently, there is not a single offshore wind turbine in Poland. The Polish Offshore Wind Farm Bałtyk Środkowy III will be located at a minimum distance of approx. 23 kilometers from the shoreline, opposite the Smołdzino municipality and the city of Łeba (the Pomorskie Province). The area available for the development of wind farms included in the farm is approx. 89 km^2, which is less than 0.3 per cent of the area of the Polish maritime areas. Around the area available for development, a 500 m wide strip has been designated, which must remain free from development – no part of the farm (even a rotor propeller) may be within its boundaries. As a result, free space around the farm will be maintained, which can be used, for example, as a flow corridor for other users[39]. According to the investor – the Polenergia group, the Offshore Wind Farm Bałtyk Środkowy III is a project that is at the most advanced stage in Poland[40].

In total, more than 20 location permits were issued, but only a few of them have a chance of implementation, as most of them have expired[41].The estimated cost of 1 MWh from offshore wind farms is significantly higher than that from onshore wind farms, and amounts to approx. PLN 713 (168 EUR). It mainly results from higher capital costs and more than twice higher fixed costs. Nevertheless, owing to the large development potential of this technology, it is possible to significantly reduce the unit cost of production after the successful launch of the first offshore wind farms in Poland[42]. The location of windmills at a distance of more than 20 kilometres from the shoreline will not disturb the seaside landscape of the coast, and may be an important factor in the economic development of coastal areas and the whole of Poland[43]. Expert calculations from 2016 show that installing 6 GW offshore wind farms will create 77,000 jobs throughout Poland,

[39] www.baltyk3.pl/projekt/locationacja/ (accessed 05.06.2021).

[40] http://www.baltyk3.pl/projekt/pozwolenia/ (accessed 05.11.2020).

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will generate approx. PLN 60 billion of value added to GDP, and PLN 15 billion of revenues from CIT and VAT until 2030[44].

The offshore wind farm investment and construction process is a complex and multi-stage process. Individual permits must be obtained in a specific order, which makes the process lengthy – obtaining all necessary permits should be estimated for a period of several years. There is a risk of expiry of previously obtained permits before obtaining further ones. Despite the high investment costs, investors are eager to locate offshore investments. To facilitate and simplify procedures, in November 2019 the Ministry of Energy completed internal work on the special offshore wind energy act. This act, however, does not deal (at least not directly) with the subject of the article. On the one hand, the act dedicated to offshore wind energy was one of the factors most expected by the sector to accelerate offshore development in Poland[45]. On the other hand, however, this is another special act that introduces solutions different from the general ones, carrying the risk of introducing simplifications in the field of environmental protection measures.

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