

Procedure for pre-selecting the location of municipal designated spatial plans

The purpose of municipal designated spatial plans (MDSP) is to plan a construction work which has a significant spatial impact whose location has not been determined in the comprehensive plan.

The list of construction works that have a significant spatial impact is adopted by regulation of the Government of the Republic. The procedure for the preparation of an MDSP consists of two stages:

1) pre-selecting the location of the construction work, aimed at finding the most suitable location for the construction work;

2) preparing the detailed solution which determines the building rights and fulfils the relevant functions listed in § 126 (1) of the PA

The MDSP serves as the basis for the preparation of building design documentation.

- Strategic environmental assessment (SEA) is mandatory when preparing the MDSP.
- According to § 117 (1) of the PA, prior to acceptance of a spatial plan, the results of the SEA are included in the plan.
- Furthermore, it must be ensured that the SEA input is taken into account on an ongoing basis when creating a spatial plan.
- The local government as the authority arranging creation of the spatial plan must make sure that the spatial plan is created by a person with the required competence and that the preparation of the SEA is led by a leading expert meeting the requirements (PA § 4 (5); EIAEMSA § 34).
- The MDSP may be used to propose an amendment to a county plan.
- If it is mandatory to publish a notification in a newspaper, the notification must be published in a municipal newspaper, and in a county newspaper or a newspaper of nation-wide circulation (hereinafter: newspaper) (PA § 96 (3¹), (5); § 100 (5); § 102 (1); § 106 (5); § 108 (1); § 113 (5); § 115 (1); § 118 (6); § 120 (1); § 122 (6)).
- Extension of the term for proceedings is possible where warranted by the circumstances (APA § 41).
- Pre-selecting a location for the MDSP is carried out in cooperation with the authorities of the executive branch (hereinafter: authorities) in whose area of government the issues addressed by the plan fall (hereinafter: the parties cooperating). (PA § 99 (1))
- The Minister in charge of the policy sector and any persons whose rights the MDSP may affect, as well as any persons who have expressed an interest in being invited to participate in pre-selecting location for the plan, and any persons or authorities who may have a legitimate interest in the resulting significant environmental impact that may be presumed to be triggered by, or in the implementation of, the plan – including, through an organisation that unites them, environmental non-governmental organisations – are invited to participate in pre-selecting a location for the plan (hereinafter: the parties to be invited to participate). (PA § 99 (2))
- When creating the MDSP, the parties cooperating and the parties to be invited to participate must be determined depending on the nature of the spatial plan and the planning area, and sufficient and required interaction must be ensured throughout the process.

Need to prepare the MDSP

An application is filed to the municipality to initiate creation of the MDSP

The application to initiate creation of the MDSP must include sufficient information (APA § 14 (2), PA § 96 (4))

If an application is filed to initiate creation of the MDSP for establishing a wind farm, the municipality informs the public of the application and its content and of the opportunity to present opinions regarding the plan, as well as the opportunity to file an equivalent application where several persons may be presumed to hold an interest in the opening of proceedings PA § 96 (3¹)

Notification is published in a newspaper and on the website of the authority arranging creation of the plan

Additional applications may be filed within 30 days following the publication of the notification

Initiation of the MDSP and the SEA

The creation of an MDSP and its SEA is initiated or refused to initiate by a resolution of the municipal council (within 30 days following reception of an application seeking the initiation; the time limit may be extended to 90 days where warranted by the circumstances)
PA § 96 (1), (3)
Content of resolution: PA § 96 (4)

Notification is made of the initiation: in a newspaper within 30 days in the Official Announcements and on the website of the municipality, within 14 days in a letter sent to the parties cooperating and the parties to be invited to participate, within 30 days when pre-selecting, it is probably not known yet whether the PA prescribes notifying them when creating the detailed solution. Content of notification: same as the content of the resolution to initiate (PA § 96 (6), EIAEMSA § 35 (7))

Pre-selecting the location

After initiation of the MDSP, a pre-selection of the location is made to find the most suitable location for the construction work, which forms the basis for preparing the detailed solution for the plan PA § 98 (1)

When pre-selecting a location for an MDSP, several alternative options must be considered (PA § 98 (2))

During the process of pre-selecting a location for the MDSP, the plan – together with its material annexes, which primarily include any investigations, endorsements, opinions and other up-to-date information – is made public through the website of the authority arranging its creation (PA § 99 (6))

Acronyms

MDSP – municipal designated spatial plan; SEA – strategic environmental assessment; PA – Planning Act; EIAEMSA – Environmental Impact Assessment and Environmental Management System Act; APA – Administrative Procedure Act.

This scheme is for information purposes only and has no legal effect

The scheme is based on the PA and the EIAEMSA as of 1 November 2022

The scheme has been prepared by the Spatial Planning Department of the Ministry of Finance as of 10 December 2022

Presenting the proposed decision on pre-selecting a location for the MDSP and the report concerning the first stage of SEA for endorsement and for opinions

Based on the endorsements and opinions received, the necessary modifications are made to the proposed resolution on pre-selecting a location for the MDSP and the report concerning the first stage of SEA PA § 105 (3)

The proposed resolution on pre-selecting a location for the MDSP together with the report concerning the first stage of SEA is presented for endorsement to authorities and the persons and authorities are notified of the opportunity to present their opinion regarding the proposed resolution and the report PA § 105 (1)

The authority arranging creation of the MDSP considers the proposals it has received and, based on those proposals, makes the necessary modifications in the initial positions of the plan and in its SEA programme PA § 103 (5)

The initial positions for pre-selecting a location, and the SEA programme, for the MDSP are transmitted to authorities and persons to present proposals in regard to these documents, and a time limit is set that may not be shorter than 30 days for presentation of the proposals PA § 103 (1)

Based on the results of public display and public discussion, the necessary modifications are made to the initial positions for pre-selecting a location for the MDSP and to the SEA programme of the plan PA § 102 (2)

Authorities and persons are notified of the public discussion in a letter at least 14 days before the commencement of the discussion PA § 101 (2)
Content of notification: time and place of public discussion

The public discussion is held at least in the major population centre of each municipality and in the main business centre of each major settlement within 45 days following the end of the public display PA § 101 (1)

Written opinions will be replied in writing within 30 days following the end of the display, communicating the reasoned position of the municipality concerning those opinions together with the time and place of the public discussion PA § 100 (8)

Notification is made of public display: in a newspaper at least 14 days before commencement of the display in a letter sent to the parties cooperating and the parties to be invited to participate, at least 14 days before commencement of the display on the website of the municipality PA § 100 (4), (5)
Content of notification: PA § 100 (6), EIAEMSA § 37 (2)

The authority arranging creation of the MDSP arranges public display or initial positions for pre-selecting a location for the plan and of its SEA programme at least in the major population centre of each municipality situated in the planning area and in the main business centre of each major settlement with a duration of at least 60 days

If no endorsement or opinion is given in 30 days or application filed for extension of the time limit, the proposed resolution and report are deemed to have been tacitly endorsed by the authority, or the person who was invited to present an opinion is deemed to have declined to do so (PA § 105 (2))

In the course of pre-selecting a location for the MDSP, the authority arranging creation of the plan draws up a report concerning the first stage SEA of the plan, which must contain the information specified in EIAEMSA § 40 (4) and (42) (PA § 104 (1) and (2))

The initial positions for the MDSP and for its SEA programme, together with any proposals presented by the persons and authorities, are made public on the website of the authority arranging creation of the plan (PA § 103 (6))

The Minister in charge of the policy sector or an official authorised by the Minister has a right to designate, in addition to those named in the initial position, other persons and authorities in cooperation with whom the MDSP is to be created or who are to be invited to participate in creating the plan (PA § 103 (3))

If written opinions were presented during public display, information concerning the results of public display is published within 30 days in a newspaper and in the Official Announcements (PA § 102 (1))

Public display of the proposed resolution on pre-selecting a location for the MDSP and of the report concerning the first stage of SEA

The municipality arranges public display of the proposed resolution on pre-selecting a location for the MDSP and of the report concerning the first stage of SEA at least in the major population centre of each municipality situated in the planning area and in the main business centre of each major settlement for a duration of at least 30 days PA § 106 (1), (3)

Notification is made of public display:
- in a newspaper at least 14 days before commencement of the display
- in a letter sent to the parties cooperating and the parties to be invited to participate, at least 14 days before commencement of the display
- on the website of the municipality PA § 106 (4), (5)
Content of notification: PA § 106 (6), EIAEMSA § 37 (2)

The authority arranging creation of the MDSP communicates to the persons who presented written opinions during the period of public display its reasoned position concerning those opinions together with the time and place of the public discussion within 30 days following the end of public display PA § 105 (8)

A public discussion is held in the major population centre of the municipality and in the main business centre of each major settlement within 45 days following the end of the public display PA § 107 (1)

Authorities and persons are notified of public discussion in a letter sent at least 14 days before commencement of the public discussion PA § 107 (2)
Content of notification: time and place of public discussion

Information concerning the results of public display and public discussion is published in a newspaper and in the Official Announcements within 30 days following the date on which the public discussion was held PA § 108 (1)

Based on the results of public display and public discussion, the necessary modifications are made to the proposed location on pre-selecting a location for the MDSP and to the report concerning the first stage of SEA PA § 108 (2)

Approving the resolution on pre-selecting a location for the MDSP and the report concerning the first stage of SEA

The municipal council adopts a resolution by which it approves, or refuses to approve, the resolution on pre-selecting a location for the MDSP and to the report concerning the first stage of SEA. PA § 109 (1)

The adoption of the resolution on pre-selecting a location is notified within 14 days following adoption of the resolution:
- in a letter sent to the parties cooperating and to the parties to be invited to participate
- in the Official Announcements
- on the website of the municipality PA § 109 (4)

Proceedings over the detailed solution for the MDSP begin

During the time of public display of the proposed resolution on pre-selecting a location for the MDSP and of the report concerning the first stage of SEA, everyone has a right to present opinions concerning the proposed resolution and report (PA § 106 (2))

If the modifications made based on the results of public display and public discussions alter the principal solution on pre-selecting a location for the MDSP or necessitate significant changes in the report concerning the first stage of its SEA, the proposed decision and report are presented anew for endorsement to the authorities of the executive branch in whose area of government the issues addressed by the modifications fall, and the public display and public discussion are held anew following the requirements established in the Planning Act in respect of arranging the public display and public discussion of the proposed decision and report (PA § 108 (3))

Having regard to § 110 of the PA, the resolution that pre-selects a location may include a temporary ban on planning and building work in the planning area or part thereof. PA § 109 (3)