



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
ENVIRONMENT
Directorate A - Governance, Communication and Civil Protection
ENV.A.2 - Infringements
The Head of Unit

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ENV A2/MT/ap/D(2005)25835

Ms Ramune Duleviciene
Mr Ulrich Salburg
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LT-2001 Vilnius
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Dear Ms Duleviciene,
Dear Mr Salburg,

Thank you for your letters of 24 August 2005 and 15 September 2005 relating to the Kazokiskes landfill project. In my letter I will also be referring to the information presented by you during the meeting of 5 October 2005 and the documents transmitted to my services during that meeting.

In your letters and during the discussion two issues were raised: that of the landfill already existing in Kazokiskes and that of the new landfill planned to be built there.

Please let me start with the issue of the new landfill. You claim in your letters that in relation to that landfill the requirements of Directive 96/61/EC concerning integrated pollution prevention and control (IPPC Directive) are not respected as the Lithuanian authorities intend to issue an IPPC permit for this landfill only after the construction of the landfill is finished. You also claim that in this case provisions of Directive 2003/35/EC providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment and amending with regard to public participation and access to justice Council Directives 85/337/EEC and 96/61/EC would not be respected as the requirement that the public concerned must be given an early and effective opportunity to participate in the procedures would not be fulfilled (Article 15a paragraph 1 of Directive 96/61/EC as amended by Directive 2003/35/EC). You also inform us that the intention of the national authorities to issue an IPPC permit only when the construction is finalized is contrary to the Lithuanian law transposing the IPPC Directive.

First of all, I would like to inform you that Article 4 of the IPPC Directive requires that Member States take the necessary measures to ensure that no new installation is operated without a permit issued in accordance with the Directive. Therefore, there is no infringement of Community law if the permit is issued before an installation starts operating.

Please, note also that provisions of Directive 2003/35/EC amending Directive 96/61/EC should be applied as from 25 June 2005 which is the deadline for transposition of this Directive. If an IPPC procedure started before this date, provisions of Directive 2003/35/EC do not apply.

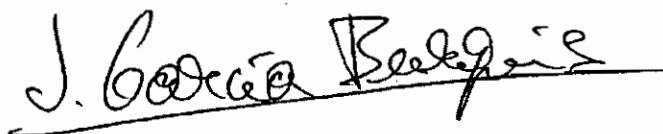
Let me also inform you that the European Commission can only pursue the alleged non-respect of the EC Treaty and matters covered by secondary Community law. The non-compliance by the Lithuanian authorities with the Lithuanian law does not fall within the competencies of the European Commission.

Therefore, on the basis of the information provided in your correspondence and taking into account the above explanations, no infringement of Community environmental law can be detected in relation to the new landfill planned in the Kazokiskes area.

In relation to the old landfill, you claim that this landfill does not comply with the requirements of IPPC Directive and in particular with Article 3 and 6 of this Directive: the application for an IPPC permit for this landfill does not contain the information required by Article 6 of the Directive and consequently, the requirement of Article 3 of the Directive - that competent authorities when they determine the conditions of the permit should take account of the fact that the installation is operated in such a way that all preventive measures are taken against pollution in particular through application of the best available techniques -- is not respected. You inform the Commission that the application for this permit does not contain any information on the technique used to reduce emissions and about emissions originating from the landfill and that the permit does not contain any information on best available technology, air pollution, noise control and control of smell.

I would like to inform you that from the information provided in your correspondence it appears that this landfill is an 'existing installation' within the meaning of the IPPC Directive as, although the permit was issued in January 2005, the landfill existed long before then. Therefore the requirements of the IPPC Directive are to be complied with in respect to this landfill by 30 October 2007 and no infringement of the IPPC Directive can be detected at this stage.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'J. García Burgués', written over a horizontal line.

Julio GARCÍA BURGUÉS
Head of Unit