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ОБЪЕДИНЕННЫЕ НАЦИИ

ЕВРОПЕЙСКАЯ ЭКОНОМИЧЕСКАЯ
КОМИССИЯ

UNITED NATIONS

ECONOMIC COMMISSION
FOR EUROPE

Palais des Nations, Room 429-4
CH-1211 GENEVA 10

15 August 2017

Ms. Agne Jakstiene and Ms. Egle Pauziliene
Ministry of Environment
Vilnius, Lithuania

Dear Ms. Jakstiene and Ms. Pauzoliene,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Lithuania in connection with the construction of overhead powerlines (ACCC/C/2013/98)

In the course of its deliberations on the above communication, the Compliance Committee has identified a number of factual matters that it wishes to clarify in order to be able to proceed in the preparation of its draft findings. To this end, please find enclosed a list of questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your replies to the enclosed questions on or before **Friday, 1 September 2017**. Please send your response to aarhus.compliance@unece.org, copying the communicant. The communicant will thereafter have one week to provide the Committee with any comments it wishes to make on your replies. The Committee will consider the information received by the above deadlines when deliberating upon its draft findings at its upcoming fifty-eighth meeting (Budva, 10 – 13 September 2017).

Please do not hesitate to contact the secretariat if you require any further information. If the above timeframe will not be feasible for you, please inform the secretariat as soon as possible.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'F Marshall', written in a cursive style.

Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of Lithuania to the United Nations Office and other international organizations in Geneva
Ms. Ramune Ramanauskiene, Association Rudamina Community

Enc: Questions from the Compliance Committee to the Party concerned

Questions from the Compliance Committee to the Party concerned:

1. Please provide the Committee with Minutes No. D4-50 of 30 April 2010 formalizing the agreement between Lithuania and Poland referred to on page 13 of the judgement of the Kaunas District Court of 5 July 2012 (annex 1 to your reply to the Committee's questions of 8 June 2015). Did this agreement designate the border crossing points for the power line in a binding manner?
2. The developer (LitPolLink) states in its letter to Parliament of 11 October 2010: "Based on agreements with the European Commission, the decision on environmental protection conditions for the project of the power line from Elk to the state border, as well as for Elk substation reconstruction, should be issued by June 2012" and "if the investment is late, and, respectively, the Polish grid operator has not fulfilled the commitments by the 30th of June 2012, the money for project implementation from the EU regional funds will be possibly lost."¹ Please provide the Committee with the relevant provisions of any agreements between Lithuania and the European Commission (or of any other relevant documents) which required that the decision on environmental protection conditions for the project should be issued by June 2012.
3. Were there any other agreements between Lithuania and EU institutions relating to the construction of the power line between Alytus and the Polish border? If so, please specify the date and give a brief description of the nature of each agreement.
4. In point 1 of your letter to the Committee dated 13 March 2015, you stated that the 2002 General Plan referred to an *overhead* power line. In your letter dated 25 May 2016, you indicated that the 2002 General Plan was legally binding on the decision-makers when deciding on the construction of the Alytus power line (see reply to question 1). In your reply to question 8 in the same letter, you stated that the choice of technology, including whether the power line should be overhead or not, was subject to public participation under both the EIA procedure and the SEA procedure and that "the underground alternative was also discussed, evaluated but rejected." In the light of the above, could the decision-maker have contradicted the 2002 plan and opted for the "underground alternative" instead of an overhead powerline? If so, could such a decision have been the subject of a court challenge on the ground that it contravened the 2002 General Plan?
5. Decree No. 1-190, issued by the Minister of Energy of 19 October 2009, also refers to the "construction of the 400 kV *overhead* power line". If the decision-maker would have eventually decided to opt for the "underground alternative", could such a decision have been subject of a court challenge by the developer (LitPol link) or other entity on the ground that it contravened Decision No. 1-190?
6. The Committee notes that the municipality of Lazdijai requested the consideration of an alternative route in this case. Which of the following stages, if any, of the public procedure, were the designated stage(s) at which a *member of the public* (as opposed to a public authority like the municipality of Lazdijai) could have proposed an alternative route?
 - a. Scoping;
 - b. Special plan concept development;
 - c. SEA hearing;
 - d. EIA hearing;
 - e. Any other point of the procedure (please specify).
7. It appears from the documents provided to the Committee that the EIA and SEA procedures each analyzed three route options (A, B and B1). Was the public notified of the existence of all three of these route options and informed of their opportunities to comment on each of them? If yes, please specify how and when the public were notified regarding each option.
8. In annex 5 to your response to the communication, you have included a public information brochure. When was this brochure issued? When and how was this brochure made available to the public?
9. The communicant submits that its Chair was on two occasions contacted by the State Security Department inquiring about the power line project and requesting a meeting.² The communicant further submits that on 16 January 2015, the State Security Department issued a statement confirming that they had issued an internal assignment to "contact Rudamina community and to discuss the issues encountered by the people of Rudamina".³ Please comment on these allegations, including whether any such action by the State Security Department was related to the communicant's involvement with the OHL development.

¹ See additional remarks of the communicant regarding explanations of the Republic of Lithuania, 25 February 2015, annex 11, pp. 2 and 3.

² Ibid., p. 8.

³ Ibid.

10. Please provide the Committee with the average number of copies distributed for a single edition of the following newspapers:
- a. *Alytaus Naujienos*.
 - b. *Dzūkų Žinios*.
 - c. *Lazdijų Žvaigžde*.
 - d. *Miesto Laikraštis*.
 - e. *Respublika*.
 - f. *Lietuvos Žinios*.
11. In your letter of 9 June 2015, you state that under Lithuania's territorial planning system, the planning organizer is responsible for notifying the public as well as taking comments of the public into account. Please specify which entity (e.g. the project developer, the EIA consultant or the competent public authorities) is responsible in the context of an EIA procedure for:
- a. Identifying the public concerned by the project;
 - b. Taking the comments of the public into account (i.e. not "analysing how comments were taken into consideration"⁴ after the fact, but the actual stage of taking them into account)?

Please provide the text of the relevant legislative provisions where the entity responsible for each of the above tasks is specified, together with an English translation thereof.

⁴Comments by the Party concerned on communicant's additional remarks of 25 February 2015, 9 June 2015, p. 4.