



LIETUVOS RESPUBLIKOS APLINKOS MINISTERIJA
THE MINISTRY OF ENVIRONMENT OF THE REPUBLIC OF LITHUANIA

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Compliance Committee
Convention on Access to Information, Public
Participation in Decision-making
and Access to Justice in Environmental Matters
(Aarhus Convention)
United Nations Economic Commission for
Europe
Environment Division
Palais des Nations
CH-1211 Geneva 10, Switzerland

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**REGARDING COMPLIANCE COMMITTEE'S ADDITIONAL QUESTIONS
(COMMUNICATION ACCC/C/2013/98)**

The Ministry of Environment of the Republic of Lithuania expresses its gratitude to the Compliance Committee for the extension of the term for submission of answers to the questions 3, 9 and 11. Please find our answers to these questions provided below.

Question No. 3

Compliance Committee asks whether there are any agreements between Lithuania and the EU institutions relating to the construction of the power line between Alytus and the Polish border. Our answer is that no bilateral agreements between Lithuania and any of the EU institutions regarding this project were signed. Taking into consideration the fact that this project is a part of the EU energy market, related non-binding memorandums, signed by the Baltic States and the EU Commission can be named: Memorandum of Understanding on the Baltic Energy Market Interconnection Plan 2009 and Memorandum of Understanding on the Baltic Energy Market Interconnection Plan 2015.¹

In addition to this, the Lithuanian system operator LITGRID AB provided information about its' signed agreements:

1. 01-10-2008, No. 011A (TIENRF, October 1st, 2008), on the Consultancy Services for the Initial Phase – Part 1 and Part 2 of the Project Power Interconnection between Lithuania and Poland (the LitPol Link Project);
2. 23-07-2010, No. 2009-E263/09-ENER/09/TEN-E-SI2.566837, on the Design for the construction of 400 kV AC double circuit overhead line Alytus – Lithuania/Poland border and converter station;
3. 11-11-2013, No. 2013-E352/13-ENER/13/TEN-E-SI2.675750, on the Oversight of design and build contract of 500 MW HVDC back-to-back converter station with 400 kV switchyard interconnecting Lithuanian and Polish power grids in LitPol Link Project;

¹ For more information please see: <http://ec.europa.eu/energy/en/topics/infrastructure/baltic-energy-market-interconnection-plan>

Question No. 9

Compliance Committee asks the Party concerned to comment on the communicant's allegations regarding the involvement of the State Security Department in the project related issues.

State Security Department is one of the intelligence institutions in Lithuania, which acts upon the principles enshrined in the national legislation mentioned below.

In accordance with the Law on Intelligence *'the activities of intelligence institutions shall be based on general legal and special principles'* (article 4 paragraph 1). *'The activities of intelligence institutions shall be carried out in compliance with the following general legal principles: 1) lawfulness; 2) allegiance to human rights and fundamental freedoms; 4) accountability to the main government institutions of the State in charge of ensuring of national security.'* (article 4 paragraph 2). *'Special principles of activities of intelligence institutions shall be as follows: 1) political neutrality – intelligence institutions and intelligence officers may not use the powers granted to them so that they wilfully interfere, by their active or passive conduct, in the democratic processes taking place in the State and participate in political decision-making; 2) prohibition of publication of activity methods – the methods of activities of intelligence institutions are not public and may not be disclosed to persons not engaged in intelligence and counterintelligence or not exercising control or coordination of these activities; 3) timeliness – intelligence information must be provided to institutions ensuring national security within a reasonable time limit; 4) objectivity – intelligence information may not be distorted and biased; 5) clarity – intelligence information must be provided in a manner that would prevent it from being interpreted ambiguously and differently.'* (article 4 paragraph 3).

In order to clarify the issues in the Rudamina community related to the electricity power line LitPol Link, the State Security Department initiated a conversation with the Chair Ms. R. Cimauskiene. It was the only contact (conversation) the State Security Department had with the Rudamina community with regard to the mentioned OHL project.

Question No. 11

Compliance Committee asks which entity (e.g. the project developer, the EIA consultant or the competent public authorities) is responsible for a) identifying the public concerned, and b) taking the comments of the public into account during the EIA procedure.

According to the Law on Environmental Impact Assessment of the Proposed Economic Activity (hereinafter 'EIA Law'; version valid at the time of implementation of the EIA procedures of the project) article 6 paragraph 2 and 3:

'2. The organiser (developer) of the proposed economic activity shall, on its own account, conduct the procedures of environmental impact assessment prescribed for it by this Law.'

'3. The drafter of documents of environmental impact assessment shall identify, describe and assess the likely effect of the proposed economic activity on the environment, develop a programme and draw up a report as well as conduct the procedures of environmental impact assessment prescribed for it by this Law.'

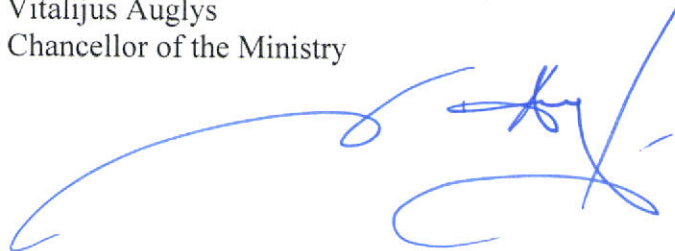
Public information and participation in the EIA process is regulated in detail by the Procedure for public information and participation in the environment impact assessment process of the proposed economic activity (hereinafter 'Procedure for public information and participation in the EIA').

According to the legal provisions enshrined in the national legislation mentioned above the public concerned is partly defined by the EIA Law, because according to the definitions of the **public** and the **public concerned** enshrined in this law any member of the public (with the exception of state or municipal authorities) that participates in the EIA procedures and or provide comments regarding EIA are always considered as public concerned. Identification of the public concerned also falls under the responsibility of the organiser (developer) or the drafter of documents of EIA. It should be highlighted, that the organiser (developer) or the drafter of documents of EIA have limited discretion while defining the public concerned, as very clear guidelines how the public

concerned should be defined for the specific case are provided in the national legislation. In accordance with paragraph 18 of the Procedure for public information and participation in the EIA, the organiser (developer) or the drafter of documents of EIA should publish information listed in paragraphs 9, 12 and 14 in 1) the local (city (-ies) or region (-s) where economic activity is planned) and national *press*, and, if possible – on the radio and television, on the website of the organiser (developer); 2) on the municipalities' (elderships') *billboards* in whose territory economic activity is planned; 3) information listed in paragraphs 9, 12 and 14 should be sent *by registered mail* to the members of the public concerned who provided their written comments, proposals on EIA during the scoping phase and/or during the preparation of EIA report. In addition to this, the organiser (developer) or the drafter of documents of EIA is free to use other means and ways of public information (paragraph 19 of the Procedure for public information and participation in the EIA).

Responsibility for taking into account comments of the public during the EIA procedure is shared between the competent authority and the organiser (developer) or the drafter of documents of EIA depending on the stage of the procedure. In accordance with paragraph 33 of the Procedure for public information and participation in the EIA, the organiser (developer) or the drafter of documents of EIA should prepare reasoned evaluation of the proposals (comments) provided by the public concerned according to the established form (Annex 4 to the Procedure for public information and participation in the EIA) and to provide written answers to the member of the public who sent their proposals (comments)¹. Moreover, in cases where comments, proposals from the public concerned have been received by the competent authority regarding the EIA programme or the EIA report, the competent authority, prior to the approval of the EIA programme or the adoption of the decision on the proposed economic activity, organises a discussion on the comments, proposals together with the developer, the drafter of the EIA documentation, state and municipal authorities that participate in the EIA procedure and the members of the public concerned who submitted comments.

Yours sincerely,
Vitalijus Auglys
Chancellor of the Ministry



¹ Note: the concept of 'reasoned proposals' of the public concerned is present in the version of the Procedure for public information and participation in the EIA discussed above. It should be stressed once again that the concept of 'reasoned proposals' provided for in specific articles of the EIA Law and specific provisions of the Procedure for public information and participation in the EIA were replaced with 'proposals' during the implementation of the decision taken at the third meeting of the Parties to the Aarhus Convention. Moreover, in accordance with national legislation in force at the time of project implementation, the public had the possibility to participate in decision making and was notified of the progress of procedures under way by methods foreseen and within the time frames laid down in legislation. Members of the public could and did submit their comments and proposals. Throughout the period of project implementation, the competent authorities and the entities implementing the project encouraged the public to be actively involved in this procedure, accepted and evaluated the submitted comments and took them into account in part. There was not a single instance of refusal to accept a proposal from the public for the reason that a proposal had been presented in undue time or was unreasoned.