



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

A. Jaksto St. 4, LT-01105 Vilnius, tel: (+370 5) 266 35 39, fax: (+3705) 266 36 63, e-mail: info@am.lt http://www.am.lt

Compliance Committee  
Convention on Access to Information, Public  
Participation in Decision-making  
and Access to Justice in Environmental Matters  
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United Nations Economic Commission for  
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Environment Division  
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**REGARDING COMPLIANCE COMMITTEE'S ADDITIONAL QUESTIONS  
(COMMUNICATION ACCC/C/2013/98)**

Dear Ms. Fiona Marshall,

On 11 May 2016, the Ministry of Environment of the Republic of Lithuania received a letter from the Compliance Committee of the Aarhus Convention with questions addressed to the Party concerned in the procedure based on the communication ACCC/C/2013/98. Please find our answers to the questions provided below.

**1. Was the reference to OHL in the 2002 General Plan legally binding for the subsequent decision-making?**

According to the Law on Territorial Planning (version of the law in force at the time when 2002 General Plan was approved) article 8 paragraph 2, the approved general plan becomes legally binding. Further preparation, amendments of general, special, detailed plans of the same or lower level, taking the land for public need (conditions enshrined in the national legislation), reservation of territories for commonly used State's, counties', municipalities' objects, and development of infrastructure shall be made on the basis (in line with) of approved general plan.

As it was mentioned in our letter dated 6 June 2015, "approved general plan becomes legally binding and also becomes the ground for drawing up, amending or supplementing general, special or detailed territorial planning documents of the lower level. <...> Each general plan of the lower level (county, municipality) takes over the planning solutions of the higher level plans' (for e. g., reserved territories for the infrastructure)."

It should be concluded, that solutions of 2002 General Plan were legally binding. The answer to the first question is affirmative – reservation of certain territories for OHL in the 2002 General Plan was legally binding.

**2. If the reference to OHL in the 2002 General Plan was not legally binding, was the reference to OHL in the 2002 General Plan effectively politically binding on Alytus in practice?**

Reservation of certain territories for OHL in the 2002 General Plan was legally binding.

**3. If the reference to OHL in the 2002 General Plan was either legally or politically binding, was the 2002 General Plan subject to public participation prior to its adoption? If so, please describe the public participation carried out.**

According to the Law on Territorial Planning article 25 paragraph 1, general, special and detailed planning shall be public. Detailed rules on the public participation were (and still are) enshrined in the

Order, approved by the Government.

Firstly, it should be mentioned that 2002 General Plan was the first spatial planning document covering the whole territory of the Republic of Lithuania after the regain of independence in 1990. The Ministry of Construction and Urban Development (now – the Ministry of Environment) was responsible for the organization of the planning. The preparation of 2002 General Plan started in 1996. In order to guarantee effective information of the public and public participation during the planning process, the Ministry of Construction and Urban Development cooperated with the Social Information Center (thereinafter referred to as SIC). SIC prepared public participation program applicable during the preparation of the General Plan of Lithuania. It was foreseen that public participation should be organized on the different levels (national, regional, local). Certain bodies were created<sup>1</sup> in order to guarantee effective public participation. Information of the public, public participation was carried out in five stages:

1. **First stage** (1996); Public was informed about the beginning of the planning process, its goals, and ways and means of public participation.

1.1. A press conference was organized (17/12/1996); representatives from news agencies (*ELTA*, *BNS*), radio stations (*Znad Willi*, *Lietuvos nacionalinis radijas (National Radio of Lithuania)*, *Radijas užsieniui (Radio for Abroad)*), newspapers (*Respublika*, *Lietuvos Rytas*, *Diena*, *Verslo žinios*, *Statyba ir architektūra*, *Kauno diena*), television (*Tele-3*, *LNK*) took part in this conference.

1.2. Information about preparation of General Plan was published by media (17/12/1996 – 24/12/1996): a) news agencies (*ELTA*, *BNS*) – “Vision of Lithuania for the year 2020 is being created”, “Lithuania is planning the strategy of territory development”; b) radio stations (*Znad Willi*, *Lietuvos nacionalinis radijas*, *Radijas užsieniui* – information about the process of preparation of the General Plan was presented by the representatives of the competent authority); c) related articles were printed in these newspapers (distributed in the whole country) – “The country will be planned according to the Plan” (*Respublika*), “The project of Lithuania’s territory is under preparation” (*Lietuvos Rytas*), “The General Plan – first steps are taken” (*Diena*), “The Big Plan” (*Verslo žinios*); d) related reports were made via popular TV stations (*Tele-3*, *LNK*).

1.3. Written information about the planning process was sent to the non-governmental and political organisations (130 organisations in total), and Association of the municipalities of Lithuania. Organisations were also informed about the establishment of Central working group on public participation. Organisations were invited to take part in this group. 18 of them expressed their interest in the planning process.

2. **Second stage** (1996-1997); During the second stage of the planning process the status quo (existing situation regarding the use of certain territories in the country) was analysed. Analysis’ results were presented and discussed with the public. The main goals of this stage were to a) present the results of existing situation analysis to the public, to receive public opinion, remarks, suggestions; b) to review the work done by the planning organizer; c) to evaluate the effectiveness of the implementation of the public participation program; d) to identify public concerned and the most effective ways of communication with the public.

2.1. Four regional conferences and a roundtable were organised in 1997. The public was invited to participate actively in these regional conferences (related articles were posted in the local newspaper), to provide their comments in writing. These four conferences were organized in Alytus (covering Alytus and Vilnius regions), Kaunas (covering Kaunas and Marijampolė regions), Klaipėda (covering Klaipėda, Tauragė, Telšiai regions) and Šiauliai (covering Šiauliai, Panevėžys, Utena regions). General and specific (concerning each region) issues regarding territorial planning were discussed during these events. Representatives of media, public, non-governmental organisations, local government, business, education sector took part in the conferences, roundtable discussion, organized by the Ministry of Environment. Moreover, related discussions were also organized on the local level. Great amount of comments, suggestions were received during the events and in writing.

3. **Third stage** (1999); presentation of preliminary solutions for the public. The main goals of this stage were a) to introduce public with preliminary solutions of the General Plan; b) to provide a

<sup>1</sup> Coordination Committee on the general planning, Central working group on public participation, 10 regional committees on public participation were established. Municipalities had an obligation to guarantee effective public participation on the local level.

possibility for the public to give its opinion, suggestions, and comments; c) to identify effective means of cooperation between public and planning organizer at this stage.

3.1. Information about prepared preliminary solutions and related events (presentation of preliminary solutions) was published by: a) news agencies (*BNS, ELTA*); b) radio station (*Lietuvos nacionalinis radijas*); c) the press: newspapers (*Respublika, Zaliasis pasaulis, Statybu pilotas*), specialized magazines (*Statybu pilotas, Statyba ir architektūra, Savivaldybių žinios*).

3.2. Information for the public about the preliminary solutions was also presented during the yearly Construction Exhibition in the capital Vilnius.

3.3. Detailed information about the planning process was freely accessible for every person at the premises of the Ministry of Environment during the whole planning process.

3.4. A public exposition of graphic and textual material on the preliminary solutions was organized in the Ministry of Environment (exposition was open for more than 1 month).

3.5. Eight conferences on the presentation of the preliminary solutions were organized.

4. **Fourth stage**; presentation of the draft solutions (preliminary solutions updated according to the remarks, proposals received);

5. **Fifth stage** (2002); distribution of the material related to the approved General Plan.

**4. What was the scope of the decision-making in the EIA procedure approved by Decision No. ARV2-5-1810 of Alytus RED on 30 December 2010? For example, did the EIA procedure decide both routing and technology, or technology only?**

The decision-making in the EIA procedure approved by Decision No. APV2-5-1810 of Alytus RED on 30 December 2010 included assessment of<sup>2</sup>:

1. Impact of the planned economic activity on: air, water, soil, underground, landscape, protected areas, flora and fauna, cultural heritage, public health.

2. Various risks (accidents determined by internal, external factors);

3. Alternatives:

3.1. *Strategic*; the following criteria were taken into consideration: interests of the concerned parties, strategic interests and goals of the State, EU normative requirements, EU Council regulation on the high priority of the project, tendencies and competition existing in the worldwide economic energy market.

3.2. *Time*; possible obstacles for the timely implementation of the project: search for the most optimal technological solution, world economic crisis, amendment of strategic plans according to the decisions taken during the EIA procedure, amendment of national and EU legislation, migration of fauna, flora vegetation and other.

3.3. *Routing*; the goal was to indicate the most optimal routing of the project. The following criteria were applied in order to compare alternative A, B, sub alternative B1 (alternatives, identified during the SEA procedure were taken into consideration): sensitivity of the environment; social factors (the level of area population, etc.). It was identified that the following risks shall be taken into consideration while deciding upon the routing: living areas, protected areas and their buffer zones, cultural heritage, underground resources and their buffer zones, woodlands, water bodies, existing and planned engineering facilities, territorial planning solutions, interests of the land plot owners, technological aspects, and other.

3.4. *Technology*; assessed technological alternatives: 1) electricity transmission via underground cable; 2) possibilities of running in parallel and/or joining at some places of existing 110 kV and 10 kV air lines and planned 400 kV line in planned economic activities' sub alternative B1; 3) Alytus TS reconstruction and expansion by direct current inclusion technological alternatives.

3.5. *Environmental*.

4. Transboundary impact assessment.

The answer to the second part of the question is affirmative. The EIA procedure decided both routing and technology.

**5. What was the scope of the decision-making in the SEA procedure finalized by order 1-211 of the Ministry of Energy<sup>3</sup> dated 30 August 2011? For example, did the SEA procedure decide both**

<sup>2</sup> The scope of the OHL EIA is defined in the EIA program, EIA report.

<sup>3</sup> Note: Order 1-211 dated 30 August 2011 was taken by the Minister of Energy.

### **routing and technology, or routing only?**

According to the SEA documentation, the main goals of the SEA: 1) to identify, describe and assess possible significant consequences on the environment by the drafted Special Plan; 2) to guarantee consultation with public authorities and the public; to guarantee that due account will be taken of the results of consultations; 3) to guarantee that special planning organizer will have detailed and confirmed information on the Special Plan's possible significant consequences on the environment.

The decision-making in the SEA procedure covered assessment of possible routing alternatives (including zero alternative) and various related factors: distance from the living area, private property, regulations on the use of land and its protection, protected areas and woodlands, minerals' mining areas, development of recreation, tourism, nature and cultural heritage, structural and functional priorities of spatial development. Moreover, density of the population and its health condition, climatic, air-hydrographic conditions of the area, geological structure (engineering-geological, hydrogeological conditions, protection of the underground waters), soil, relief, underground resources, landscape, flora, fauna and other biodiversity, net of the protected areas, cultural heritage in the area concerned were taken into consideration. Moreover, questions regarding technology alternatives were raised during the presentation of concept solutions of the Special Plan (30 March 2010) and also during the final meeting-conference on special planning (9 May 2011). The underground cable alternative was discussed with the public. Competent persons gave explanation on the selection of OHL. As the proposed activity fell within the scope of the EIA Law, it was decided to conduct EIA and prepare a specification of the most appropriate alternatives of the proposed project, assessed and selected during the detailed planning and the SEA, in the course of the EIA process and the design level.

The answer to the second part of the question is affirmative. The SEA procedure included assessment of routing and technology.

### **6. What was the legal relationship, if any, between the decision-making in the above SEA and the EIA procedures?**

In general, SEA and EIA are legally separate procedures. Each of them has their own goals. However, in order to avoid duplication of assessments it is legitimate to make use of the available results of relevant assessments of the effects on the environment (the EIA procedure relied upon the results of the SEA as much as it concerns routing alternatives (A, B alternatives and B1 sub alternative) in the present case). Final results of the EIA, SEA procedures should be the same (regarding selection of routing, technology, etc.). It means that in case when later procedure brings different results, the one firstly implemented should be repeated.

### **7. Was the final route (i.e. the route now constructed) an option subject to public participation under (i) the EIA procedure or (ii) the SEA procedure or (iii) both?**

The final route was an option subject to public participation under both procedures – the EIA and the SEA.

### **8. Was the choice of technology (i.e. OHL or underground line) an option subject to public participation under (i) the EIA procedure or (ii) the SEA procedure or (iii) both?**

The choice of technology was an option subject to public participation under both procedures – the EIA and the SEA. It should be added, that according to the comments received from the public the underground line alternative was also discussed, evaluated but rejected (detailed rejection motives were given for the public concerned).

Yours sincerely,

Robertas Klovas  
Chancellor of the Ministry