



**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  
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Environment Division  
Palais des Nations  
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**REGARDING COMMUNICANT'S COMMENTS ON LITHUANIAN LEGISLATION ON  
PUBLIC INFORMATION AND PUBLIC PARTICIPATION IN THE EIA PROCESS**

The Ministry of Environment of the Republic of Lithuania received comments from the Association Rudamina Community (thereinafter referred to as the Communicant) regarding Lithuanian legislation on public information and public participation on 10 June 2015. It should be noted that Communicant commented on the provisions concerning public information and public participation in the environmental impact assessment (EIA) process only. Therefore, our explanations will be submitted in the scope of the EIA procedure.

In order to provide clear and structured answers to the doubts raised by the Communicant, we have identified three main issues that were commented upon.

**1. Regulation of public information and public participation in the EIA process - general information**

As it was stated in our answer, dated 8 June 2015, and as the Communicant confirms in its letter, the main legal acts setting the rules regarding EIA is the Law on Environmental Impact Assessment of the Proposed Economic Activity of the Republic of Lithuania (hereinafter referred to as the EIA Law<sup>1</sup>). Detailed rules regulating different aspects of EIA are enshrined in the executive acts. In our case, procedures of public information and public participation in the EIA process are set in the Procedure description *Information and Public Participation in the Process of the Environmental Impact Assessment of the Proposed Economic Activity* approved by Order No D1-370 of 15 July 2005 of the Minister of Environment of the Republic of Lithuania (last amendments made on 1 September 2012) (hereinafter referred to as the Procedure Description<sup>2</sup>).

The Communicant gives reference to the Article 3(5) of the EIA Law (Law in force, valid since 1 January 2014) and names all elements that EIA process consists of. Moreover, the Communicant lists all amendments of the EIA Law and the Procedure Description from their initial adoption in 15 August 1996 (the EIA Law) and in 2005 July 15 (the Procedure Description).

<sup>1</sup> Abbreviation used by the Communicant – PEAEIA Law.

<sup>2</sup> Named as a „Decree“ by the Communicant.

Although we can confirm that all these amendments were made<sup>3</sup>, it should be born in mind that most of them were not related to the provisions regulating public information and public participation in the EIA process.

## **2. Regulation of public information and public participation in the EIA process – the EIA Law**

Communicant states that *“The PEAEIA Law provides for a defined period of time of the public involvement (information and participation) only in the first stage of the EIA procedure (section 9 of the Art. 7)”*, however further admits that *“This first phase was not necessary at the OHL project because this project anyway falls into Annex I (...)”* and concludes that this is no longer an issue. As this is no longer an issue of this case, the Party concerned will not elaborate on this question.

On the contrary to what was stated by the Communicant, it should be highlighted that all detailed provisions regarding public information and public participation in the process of drafting and adoption of screening decision, EIA program, EIA report and the EIA decision<sup>4</sup> (including terms) are set in the Procedure Description.

The Communicant upholds its statement that *“during the procedures of EIA of the OHL project the PEAEIA Law had provisions that required the proposals of the public shall be motivated”*. As it was noted in the Party’s concerned response, dated 26 November 2014, *“The special plan of the Project in question was being developed and the SEA and EIA procedures were being implemented concurrently with the process of amendment of national legislation, with account of the decision taken at the third meeting of the Parties to the Aarhus Convention.”* However, *“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.”* In our knowledge, not a single complaint regarding refusal to accept unmotivated proposals was received by the competent authority or court during implementation of the Projects’ SEA, EIA or other related procedures.

## **3. Regulation of public information and public participation in the EIA process - Procedure Description**

Communicant comments on the certain terms of public participation set in the Procedure Description. It should be noted that these questions are answered in detail in the Party’s concerned response, dated 8 June 2015.

All in all, it should be stressed that Communicant’s comments regarding Lithuanian legislation on public information and public participation received on 10 June 2015 contradict the statement of the Communicant made in additional remarks, dated 25 February 2015, where Communicant stated that “Requirements of motivated participation still remain in the Law on Environmental Protection”. The Communicant did not provide any evidence supporting the previous statement. It should be noted repeatedly that Lithuanian legislation in force does not require “motivated” public participation. Moreover and in relation to the public participation terms, the Communicant did not evaluate national legislation in a systematic manner but took separate fragments of the EIA procedure instead. It should be born in mind, that public has a minimum of 20 working days in total (at least 10 working days to access and comment on the EIA program and at least 10 working days to access and comment on the EIA report) to access

<sup>3</sup> A small correction should be provided – the third amendment of the EIA Law was made on 18 April 2000.

<sup>4</sup> Communicant uses term „selection-program-report-activity permission decision“.

EIA documentation and to submit comments and proposals before the public hearing and a minimum of 20 working days to access and submit comments of the EIA documentation after the public hearing. Party concerned is of the opinion that these terms of public participation set in the national legislation guarantees balanced protection of the right of public participation according to the Aarhus Convention and other international agreements on the one side and the right of the Project developers on the other side. The Communicant did not provide any arguments to support its statement that terms of public participation regarding the EIA process are insufficient.

Yours sincerely,

Robertas Klovas  
Chancellor of the Ministry

