



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 REQUEST TO PROVIDE ADDITIONAL
INFORMATION (COMMUNICATION ACCC/C/2013/98)**

Dear Ms. Fiona Marshall,

On 19 May 2015, 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 Communicant and the Party concerned in the procedure based on the communication ACCC/C/2013/98. Please find our answers to questions listed in section 3 and translation of requested documents listed in section 2 (attached to this letter).

It should be noted that pursuant to Article 9(8) of the Law on Environmental Impact Assessment of the Proposed Economic Activity of the Republic of Lithuania (hereinafter referred to as the EIA Law), *all participants¹ in the process of environmental impact assessment shall, during the carrying out of procedures of environmental impact assessment and until the competent authority adopts a decision, have a right to refer to the competent authority and entities of environmental impact assessment on the issues falling within the scope of their competence by submitting in writing the information on possible violations in identifying, describing and assessing the likely effect of the proposed economic activity on the environment or when carrying out the procedures of environmental impact assessment.*

This provision means that the public has the right to submit comments to the competent authority and relevant parties of the EIA **from the very beginning of the EIA procedures until the competent authority adopts the final decision – the EIA decision.**

Detailed rules regarding 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).

¹ Participants of the EIA process are listed in the Article 5 of the EIA Law: 1) competent authority – institution empowered by the Government; 2) relevant parties of the EIA: governmental institutions, responsible for health protection, fire-prevention, protection of cultural assets, and municipal institutions; 3) the developer of the planned economic activity; 4) preparer of the EIA documents; 5) the public; 6) when transboundary EIA is carried out – state empowered institution responsible for the coordination of transboundary EIA process.

a. What is the minimum time period set out in the legislation for the public to inspect the EIA documentation before the date of a public hearing?

Pursuant to the national legal acts, public has the minimum of 10 working days (at least 14 calendar days) to inspect the EIA program and submit comments² and the minimum of 10 working days (at least 14 calendar days) to inspect the EIA report and submit comments before the date of a public hearing, i.e. **20 working days (at least 28 calendar days) in total** to inspect the EIA documentation and to submit comments before the date of a public hearing:

- 1) Once the EIA program of the proposed economic activity is drawn up, it must be made publicly available. Public has 10 working days to inspect EIA program and to submit comments (Item 14.6. of the Procedure Description).

The preparer of the EIA documentation evaluates and updates (if necessary) EIA program according to public comments (if any) and sends this updated EIA program for the relevant parties of the EIA. Relevant parties of the EIA must submit their motivated conclusions within 10 working days (Article 8(6) of the EIA Law). Once this 10 working days term ends, received motivated conclusions are taken into consideration, EIA program is updated if necessary (EIA program's redrafting time depends on the content of the conclusions received). Relevant parties of the EIA have 5 more working days to give their conclusions on the redrafted EIA program. Competent authority must approve the EIA program within 10 working days after receiving it from the preparer of the EIA documentation (Article 8(11) of the EIA Law) or to give a motivated request to the preparer of the EIA documentation to supplement or amend the EIA program (Article 8(10) of the EIA Law). In this case the term of 10 working days starts on the day when supplemented EIA program was received. Once the EIA program is approved, the preparer of the EIA documentation prepares EIA report.

- 2) Once the EIA report of the proposed economic activity is prepared, it must be made publicly available at least 10 working days prior to a public hearing (Item 21 of the Procedure Description). Public is able to inspect and comment on the EIA report during this time.

b. What is the minimum time period set out in the legislation for the public to be able submit comments after the public hearing?

Pursuant to the national legal acts, public has the **minimum of 20 working days (at least 28 calendar days)** to inspect the EIA report and to submit comments after the public hearing³:

- 1) Public can submit comments within 10 working days after the public hearing (Item 31 of the Procedure Description).
- 2) The preparer of the EIA documentation evaluates and updates (if necessary) EIA report according to public comments (if any) and sends this updated EIA report to the relevant parties of the EIA for their motivated conclusions (Item 34. of the Procedure Description). Relevant parties submit their motivated conclusions within 20 working days (Article 9(4) of the EIA Law). Once the term of 20 working days ends, all received motivated conclusions are taken into consideration, EIA report is updated if necessary (EIA report's redrafting time depends on the quantity and the content of the conclusions received). Relevant parties of the EIA have 10 more working days to give their motivated conclusions on the redrafted EIA report.

² In practise the term for inspection and comments on EIA program is longer as public has right to comment on the EIA program also during the analysis of the EIA program by relevant parties and competent authority up to the preparation of the EIA report.

³ In practise the term for comments on EIA report is longer as public has right to comment on the EIA report also during the analysis of the EIA report by relevant parties and competent authority up to the term set in the announcement of the competent authority.

- 3) Once the competent authority receives the EIA report together with the conclusions of the relevant parties of EIA, it must publish the following information (Item 36.2. of the Procedure Description):
- (a) The name, address, telephone number and fax number of the developer of the proposed economic activity;
 - (b) The name, address, telephone number and fax number of the drafter of EIA documents of the proposed economic activity;
 - (c) The name of the proposed economic activity;
 - (d) The venue (county, city/town, region, neighbourhood, village, street) of the proposed economic activity;
 - (e) Information about the relevant parties of EIA entities that analyse EIA documents to the extent of their competence and submit conclusions; information about the competent authority that make a decision on the admissibility of the proposed economic activity in the selected location;
 - (f) The time frame for the public to submit comments to the competent authority and relevant parties of the EIA to the extent of their competence. Minimum time frame – 10 working days after the publication of information listed in (a)-(f).

The competent authority is obliged to adopt the final decision within 25 working days after the last round of comments.

c. Does the legislation expressly require that the EIA documentation must remain available for inspection by the public after the date of the public hearing and if so, for how long (for example, until the end of the period for the public comments)?

Items 22, 31 and 36 of the Procedure Description set an obligation for the responsible subjects to guarantee the accessibility of the EIA documentation for the public. EIA documentation must remain available for the inspection by the public and for the provision of comments for the minimum of 20 working days (at least 28 calendar days) after the date of the public hearing. However, the common practice is that EIA documentation's availability time exceeds time frames (20 working days) set in the national legislation – documents are uploaded to the webpages of the preparer of the EIA documents or the developer of the planned economic activity and are usually available longer, even after the finalization of the EIA procedure. EIA documentation is also provided by the competent authority upon individual request at all times.

ATTACHED:

1. The decision of the Kaunas District Court in administrative case No I-757-422/2012, dated 5 July 2012, 23 pages.
2. The decision of the Supreme Administrative Court in administrative case A⁶⁰²-186/2013, dated 29 May 2013, 40 pages.
3. The Government's statement of defense submitted to the Kaunas District Court in administrative case No I-757-422/2012, dated 28 March 2011, 30 pages.
4. The Government's statement of defense submitted to the Supreme Administrative Court in administrative case A⁶⁰²-186/2013, dated 27 August 2012, 15 pages.

Yours sincerely,

Robertas Klovas
Chancellor of the Ministry

