



**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  
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July , 2021 No. (63)-D8 (E)-

**REGARDING SUBMISSION OF COMMENTS (ACCC/S/2015/02)**

On 9 July 2021, the Ministry of Environment of the Republic of Lithuania (hereinafter referred to as the Ministry of Environment) received a letter from the Compliance Committee of Aarhus Convention with its draft findings on submission ACCC/S/2015/02 (hereinafter referred to as draft findings) concerning the Ostrovets Nuclear Power Plant Project (hereinafter referred to as the Ostrovets NPP) in Belarus.

We would like to express our sincere gratitude to the Compliance Committee and the Secretariat for the work done in the relation to the submission ACCC/S/2015/02. Moreover, we are grateful for the possibility to provide our insights concerning the subject matter. Please find our comments on the draft findings.

**Regarding failure to ensure proper translation of documents into Lithuanian**

In its draft findings, the Compliance Committee assessed the arguments provided by Lithuania regarding the failure to ensure proper translation of key documents into Lithuanian. The Committee considered that the Aarhus Convention, including article 3(9), did not require a Party of origin to translate all relevant information into the languages of all affected countries. The Committee did not find that the poor quality of the Lithuanian translation of the environmental impact assessment (hereinafter referred to as EIA) report as such implied a breach of article 3(9) of the Convention, as the EIA report was available in English and Russian. This conclusion was also based on the fact that according to the Lithuania's 2011 national census, 63% of Lithuanians spoke Russian and 30% spoke English.

We would like to draw the Committee's attention to the fact that the provided statistical information did not show the level of Russian and English proficiency of the Lithuanian population (for example, it is reasonable to say that some respondents could consider themselves as being able to speak the relevant language if they could speak it at least on domestic topics, in simple sentences). In addition, we would like to note that this statistical information did not show how many Lithuanians read in English and Russian. It can be assumed that a person who is able to speak a foreign language in simple sentences on domestic topics may not be able to read in that language. The EIA report and other key documents provide specific information that requires an appropriate level of language proficiency and the ability to read in the language in which the text

of the documents is written. We therefore consider this as an extremely important reason for which the Party of origin has to provide the public of the affected country with key documents (project description, information about the project's potential impact on the population and the environment, procedural and substantive EIA issues) translated into the national language of the affected country, as this is the only way to ensure participation of the public of the affected country in environmental decision-making and non-discrimination of the public on the grounds of citizenship, nationality or place of residence. As we mentioned in our previous answers, the only official State language of the Republic of Lithuania is Lithuanian, while 84.2% of the population of the Republic of Lithuania are Lithuanians.

In addition, we would like to note that the United Nations Convention on Environmental Impact Assessment in a Transboundary Context (also known as the Espoo Convention) applies to the EIA process for the siting and construction of the Ostrovets NPP, Belarus.

Paragraph 33 of the Guidance on the Practical Application of the Espoo Convention<sup>1</sup> (hereinafter referred to as Guidance) provides that “the “polluter pays” principle is interpreted to mean that e. g. translation costs of various EIA documents should be covered by the Party of origin, respectively by the developer. Furthermore, there are some procedural steps with clear financial implications (publication in the affected Party, presentation of the documentation for public inspection, public hearings etc.)”.

We also note that paragraph 58 of the Guidance acknowledges that “studies have shown that even minor difficulties in understanding the language may retard participation of the public and the authorities. This is the case with closely related languages such as the Scandinavian, German-based and Slavic languages“. We believe that difficulties in understanding the language have a greater effect on the participation of the public of the affected Party in environmental decision-making in cases when languages are unrelated. Lithuanian belongs to a different language group (Baltic language group) than English and Russian, therefore it is not closely related to Russian and English.

Accordingly, paragraph 61 of the Guidelines stresses the importance of translating at least part of the documents into the language of the affected Party. Furthermore, paragraph 26 of the Guidance on public participation in EIA in a transboundary context<sup>2</sup> states that the Party of origin should normally bear the costs of translating the documents.

Moreover, article 6(2) provides that the public concerned shall be informed in an adequate, timely and effective manner in order to ensure the opportunities for the public to participate. We are of the opinion that without a proper translation of the documents into Lithuanian, an adequate, timely and effective public participation was not ensured.

In view of the above, we believe that in the present case the rights of the Lithuanian-speaking public to participate in decision-making on the siting and construction of the Ostrovets NPP, Belarus, were violated as Belarus failed to ensure proper translation of key documents into Lithuanian.

### **Regarding assessment of locational alternatives for the NPP**

In its draft findings, the Compliance Committee abstains from making a finding as regards non-compliance by Belarus with article 6(4) of the Convention for precluding the public from having input on the site selection of the NPP.

We would like to inform, that the Meeting of Parties of the Espoo Convention (held in February 2019) adopted a decision IS/1d concluding that Belarus failed to comply with the Espoo Convention by not providing sufficient information about the reasons and considerations, explaining the selection of the Ostrovets site over the alternative locations. The most recent Meeting of Parties of the Espoo Convention (held in December 2020) adopted a decision VIII/4c reaffirming its previous decision.

Given that during the EIA process a proper assessment of the location alternatives was not provided, it is clear that the public did not receive sufficient information and therefore was unable

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<sup>1</sup> ECE/MP.EIA/8.

<sup>2</sup> ECE/MP.EIA/7.

properly assess the situation and express its views on this matter.

Therefore, we would find it relevant to include a separate finding as regards non-compliance by Belarus with article 6(4) of the Aarhus Convention also in the relation to the submission ACCC/S/2015/02.

### **Regarding assistance to public (Article 3(2))**

In its draft findings, the Compliance Committee expressed concern that none of the evidence before it shows that either Belarus or Lithuania took steps to make sure that the relevant law and the rules to be applied during the decision-making procedure were explained to the Lithuanian public.

We would like to draw the Committee's attention to the fact the whole transboundary EIA process was full of uncertainty: the order of procedures was not maintained, translation was not properly provided and the timely provision of the communication and information materials to the public was not ensured. Because of persistent communication failures and lack of timely clarifications from Belarus, Lithuanian authorities were not able to ensure appropriate guidance to the public so that the public has an adequate understanding of the relevant procedures. This issue was already considered by the Compliance Committee. The Meeting of Parties to the Aarhus Convention in 2014 endorsed Compliance Committee's findings with regard to communication ACCC/C/2009/44 and noted that there is considerable uncertainty as to the participatory procedures applicable in case of nuclear activities and also that there is lack of clarity as to the decision which is considered to be the final decision permitting an activity in terms of article 6 (9).

### **Regarding adoption of the present draft findings**

Ministry of Environment would like to draw the attention of the Compliance Committee and the Secretariat to the importance of adopting the draft findings and present them for endorsement by the Meeting of Parties to be held in October 2021 and encouraging Belarus to start implementation of the recommendations without a delay. Particular mention should be made of the fact that despite the unresolved safety issues at the NPP and ongoing follow up cases under the Aarhus and Espoo Convention, Belarusian authorities issued the final authorisation for the industrial operation of the first reactor on 10 June 2021. The second unit of the NPP is planned to start the commissioning procedures by the end of 2021.

Finally, we would like to point out that the Implementation Committee of the Espoo Convention is currently carrying out information gathering procedure regarding the law of Belarus on State ecological expertise, strategic environmental assessment and environmental impact assessment. Implementation Committee at its forty-ninth session on 2–5 February 2021 recalled that, further to its preliminary assessment, said law had several deficiencies vis-à-vis the Espoo Convention.<sup>3</sup> To our knowledge, some of the deficiencies are related to provisions equivalent to those in the Aarhus Convention.

Lithuania commends professional work of the Compliance Committee and the Secretariat and is looking forward to further cooperation.

Chancellor of the Ministry

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<sup>3</sup> ECE/MP.EIA/IC/2021/2

**DETALŪS METADUOMENYS**

<b>Dokumento sudarytojas (-ai)</b>	Lietuvos Respublikos aplinkos ministerija, A. Jakšto g. 4, 01105 Vilnius
<b>Dokumento pavadinimas (antraštė)</b>	REGARDING SUBMISSION OF COMMENTS (ACCC/S/2015/02)
<b>Dokumento registracijos data ir numeris</b>	2021-07-20 Nr. (63)-D8(E)-4794
<b>Dokumento specifikacijos identifikavimo žymuo</b>	ADOC-V1.0, GEDOC
<b>Parašo paskirtis</b>	Pasirašymas
<b>Parašą sukūrusio asmens vardas, pavardė ir pareigos</b>	SIGITA VASILJEVAITĖ, Kanclerė
<b>Parašo sukūrimo data ir laikas</b>	2021-07-20 13:14:16
<b>Parašo formatas</b>	Parašas, pažymėtas laiko žyma
<b>Laiko žymoje nurodytas laikas</b>	2021-07-20 13:14:26
<b>Informacija apie sertifikavimo paslaugų teikėją</b>	ADIC CA-B
<b>Sertifikato galiojimo laikas</b>	2020-12-21 - 2023-12-21
<b>Parašo paskirtis</b>	Registravimas
<b>Parašą sukūrusio asmens vardas, pavardė ir pareigos</b>	Regina Žemaitienė, Vyr. specialistė
<b>Parašo sukūrimo data ir laikas</b>	2021-07-20 13:19:00
<b>Parašo formatas</b>	Trumpalaikis skaitmeninis parašas, kuriame taip pat saugoma sertifikato informacija
<b>Laiko žymoje nurodytas laikas</b>	
<b>Informacija apie sertifikavimo paslaugų teikėją</b>	RCSC IssuingCA
<b>Sertifikato galiojimo laikas</b>	2021-01-07 - 2023-01-07
<b>Pagrindinio dokumento priedų skaičius</b>	0
<b>Pagrindinio dokumento pridedamų dokumentų skaičius</b>	0
<b>Programinės įrangos, kuria naudojantis sudarytas elektroninis dokumentas, pavadinimas</b>	Elektroninė dokumentų valdymo sistema VDVIS, versija v. 3.04.02
<b>El. dokumento įvykius aprašantys metaduomenys</b>	
<b>Informacija apie elektroninio dokumento ir elektroninio (-ių) parašo (-ų) tikrinimą (tikrinimo data)</b>	El. dokumentas atitinka specifikacijos keliamus reikalavimus. Visi dokumente esantys elektroniniai parašai galioja. Tikrinimo data: 2021-07-20 13:20:32
<b>Elektroninio dokumento nuorašo atspausdinimo data ir ją atspausdinęs darbuotojas</b>	2021-07-20 atspausdino Regina Žemaitienė
<b>Paieškos nuoroda</b>	