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**Subject:** REGARDING THE PLAN OF ACTION FOR DECISION VII/8L (LITHUANIA)

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#### REGARDING THE PLAN OF ACTION FOR DECISION VII/8L (LITHUANIA)

The Meeting of the Parties, regarding decision VII/81 concerning the compliance of Lithuania, has requested the Party concerned to submit a plan of action, including a time schedule to the Compliance Committee containing the implementation of the recommendations in that decision.

Based on the request, the Ministry of Environment prepared a plan of action for decision VII/8l (Lithuania).

The Public Interest Advocacy Fund provides critical notes about this plan.

#### *All claims of the Public Interest Advocacy Fund can be supported by documents*

The measures proposed by the Government of Lithuania do not cover the cases where the organisers do not carry out mandatory Environmental Impact Assessment (EIA) procedures, and subsequently indicate that those procedures are not required in general.

For instance, the above-mentioned organisers refuse to establish the significance of economic activity for "Natura 2000" territories only because this economic activity is not included in Annex 2 of the EIA Law (this is how the Ministry of Environment (MoE) officially interprets the norm of Article 3 Part 1 (3) and Part 2 of the EIA Law) or because construction works are not being carried out in the premises of "Natura 2000" areas (this is determined by the Environment ministerial order). In such cases, the public concerned does not have an object of the administrative-legal appeal. Therefore, the consideration of a proper prior examination of alternatives is simply meaningless.

Such interpretation of the law declared by the MoE leads to forests in "Natura 2000" territories being systematically clear-cut on a national scale, not only without assessing the significance of such forestry activities but even categorically refusing to determine the damage that is caused to protected objects by such activities. This is the official position of the Ministry of the Environment, which is declared based on the current legal regulation, both in the courts and in the MoE's official responses.

Consequently, we believe that the law should clearly establish the right of the public concerned to appeal to the court if the environmental impact assessment procedure is refused to be carried out or the failure to fulfil such an obligation occurs. This is especially relevant in cases where the request for a significance examination is refused to be carried out when the economic activity is present either in the "Natura 2000" territory or in its close environment, even though the

public concerned demands such inspection with reason or a question arises whether the activity by its nature falls under Annex 1 of the Law on EIA or Annex 2.

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Saulius Dambrauskas,  
Lawyer, Founder of the Public Interest Advocacy Fund



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***Visi Viešojo intereso gynimo fondo teiginiai gali būti patvirtinti dokumentais***

Lietuvos Vyriausybės siūlomos priemonės neapima tų atvejų, kai organizatoriai tiesiog nevykdo privalomų PAV procedūrų ir nurodo, jog tos procedūros nėra privalomos.

Pavyzdžiui, atsisako nustatyti ūkinės veiklos reikšmingumą „Natura 2000“ teritorijoms tik todėl, kad ūkinė veikla nėra įtraukta į PAV įstatymo 2 priedą (taip AM oficialiai traktuoja PAV įstatymo 3 straipsnio 1 dalies 3 punkte ir 2 dalyje nustatytus teisinius pagrindus) arba kad joje nėra vykdoma statinio statyba (taip yra nustatyta Aplinkos ministro įsakyme). Tokiais atvejais Suinteresuota visuomenė neturi administracinio-teisinio apskundimo objekto. Todėl svarstymas apie tinkamą išankstinį alternatyvų nagrinėjimą tiesiog netenka prasmės.

AM deklaruojamas teisės aiškinimas lemia situaciją, kad valstybiniu mastu miškai „Natura 2000“ teritorijose sistemingai iškertami plynai ne tik neįvertinus tokios miško ūkio veiklos reikšmingumo, bet net ir kategoriškai atsisakant nustatyti tokios veiklos reikšmingumą saugomoms vertybėms. Ir tai yra oficiali Aplinkos ministerijos pozicija, kurią ji deklaruoja remdamasi galiojančiu teisiniu reguliavimu tiek teismuose tiek savo oficialiuose atsakymuose.

Todėl manome, jog įstatyme turėtų būti aiškiai nustatyta, kad atsisakymą atlikti poveikio aplinkai vertinimo procedūrą arba tokios pareigos nevykdymą Suinteresuota visuomenė turi teisę apskusti teismui. Tai ypač aktualu tais atvejais, kai atsisakoma kreiptis dėl reikšmingumo išvados, kai ūkinė veikla vykdoma „Natura 2000“ teritorijoje ar jai artimoje aplinkoje, nors Suinteresuota visuomenė motyvuotai to reikalauja arba kyla ginčas dėl to, ar veikla pagal savo pobūdį patenka į PAV įstatymo 1 arba 2 priedą.

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Pagarbiai,  
Viešojo intereso gynimo fondo vadovas, advokatas Saulius Dambrauskas

