Secretary of the Convention on Environmental Impact Assessment in a Transboundary Context and the Protocol on Strategic Environmental Assessment

Ms. Tea Aulavuo

Chair of the Implementation Committee of the Convention on Environmental Impact Assessment in a Transboundary Context and the Protocol on Strategic Environmental Assessment

Mr. Joe Ducomble

Submission by Belarus regarding non-compliance by the Republic of Poland with its obligations under the Convention on Environmental Impact Assessment in a Transboundary Context with respect to the construction of a barrier on the territory of the transboundary UNESCO World Heritage Site “Białowieża Forest”

Dear Ms. Tea Aulavuo,

Dear Mr. Joe Ducomble,

In accordance with paragraph 5a of the Annex to Decision III/2 (ECE/MP.EIA/6) and Decision VI/2 (ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1), the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus presents the following submission to the consideration of the Implementation Committee of the Convention on Environmental Impact Assessment in a Transboundary Context (hereinafter – the Espoo Convention).

On 25 January 2022, without necessary construction and environmental expertise, the Republic of Poland initiated the construction of an artificial barrier made of concrete, steel and concertina wire along the state border with the
Republic of Belarus, which runs, *inter alia*, through the territory of the transboundary UNESCO World Heritage Site “Białowieża Forest”.

According to paragraph 6 of the Law of the Republic of Poland of 29 October 2021 "On the construction of state border security", the construction of the barrier is not regulated by environmental legal acts: legislation on environmental protection, regulation on sharing information on the environment, regulation on the protection of agricultural, forest and environmental land, construction law, water law, geodetic and cartographic law, regulation on spatial planning and development.

In addition, based on paragraph 7 of the Law, the characteristics of the barrier are not publicly available, which made it impossible for the Belarusian side to conduct an independent expertise of it in a timely manner.

The Republic of Poland, having the data about the characteristics of the barrier planned to be constructed, was obliged to notify the Party likely to be affected (in this case – the Republic of Belarus) about the proposed activity in accordance with paragraphs 1 and 2 of Article 3 of the Espoo Convention and furnish “the affected Party ... with environmental impact assessment documentation” in accordance with paragraph 2 of Article 4 of the Espoo Convention. However, the Belarusian side did not receive documentation for consideration.

Having received the information about the beginning of the construction of the fence (barrier), the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus, in accordance with paragraph 7 of Article 3 of the Espoo Convention, requested the Ministry of Climate and Environment of the Republic of Poland to provide information on the impact assessment of the fence on the ecosystems of the transboundary UNESCO World Heritage Site “Białowieża Forest” (Annex 1). No answer was received from the Polish side so far.

To date, the barrier has the following characteristics: the height is 5.5 m, the actual length of the structure along the borders of the National Park “Belovezhskaya Pushcha” is 56.5 km, including 43.5 km within the boundaries of the UNESCO World Heritage Site “Białowieża Forest”.

The barrier is made of prefabricated steel elements, more than 40 thousand sections of steel spans, 49 thousand tonnes of steel were used. 38 815 construction I-beams, i.e. steel columns (weight – 14 170 tonnes), 38 774 different panels (weight – 34 399 tonnes) were used for the construction of the fence (Annex 2).

The barrier is made of concertina (Bruno) wire where wetlands and floodplains are.
The construction of such a monumental structure required a considerable amount of work: deforestation, road filling for heavy vehicles, foundation pour, etc.

The following negative impacts subject to *Appendix III to the Espoo Convention* are observed with the respect to the ecosystems of the transboundary UNESCO World Heritage Site “Białowiesza Forest”.

1. **Violation of hydrological regime on the territory of Białowiesza Forest and on adjacent territories.**

The large forest massif of Białowiesza Forest has historically developed in the conditions of a stable hydrological regime which is characterised by a rather high level of ground waters, intensive spring high water, stable summer-autumn and winter low-water periods. The construction of any engineering structures, especially in the central parts of the watershed, can cause a devastating impact on vulnerable phyto- and zoocenoses, the functioning of which is connected with excessively wet and waterlogged habitats. For example, there is a negative impact on the hydrological regime of the Lesnaya Pravaya and Perevoloka rivers as a result of the construction of embankments in the floodplains of the rivers.

In addition, changes in the hydrological regime may result in the loss of a number of territories that are extremely important for the conservation of biological diversity, primarily for the conservation of globally endangered bird species. As a result of the construction of border barriers, there is a high probability of destruction of valuable old-growth broad-leaved and black-alder forests, degradation of wetlands in the border zone. As a result of damming of the border strip, the groundwater level is expected to rise, causing a high probability of destruction of stock of trees in the area of direct impact.

2. **Fragmentation of the forest complex and protected habitats, interruption of transboundary ecological corridors.**

Construction of the barrier accompanied by the development of the road network intensifies the processes of fragmentation of the natural habitat of Białowiesza Forest, negatively affecting the variety of ecotopes necessary for the survival of the whole set of forest species of Białowiesza Forest.

3. **Blocking of the migration routes and seasonal movements of animals, the subsequent impoverishment of the gene pool of their populations.**

The integrity of Białowiesza Forest is a critical factor for the migration and survival of wild ungulates. The earlier studies showed that before the construction of the barrier, they moved regularly to both parts of Białowiesza Forest with the same intensity.

In addition, the construction of the barrier on the territory of Poland will lead *de facto* to the separation of the single population of lynxes, wolves and bears of Białowiesza Forest and will stop their dispersal. It will become a serious
obstacle for these carnivores to use their living space, obtain food, and move around. It will have a significant impact on the reproduction and exchange of genetic material, which is the basis of functioning and lifetime of populations of carnivores. While the eastern part of the population of Białowieża Forest will have the opportunity to contact the populations of these carnivores on the territory of Belarus, the western part will be cut off from other populations and that will be the risk of its depletion and even extinction.

4. Degradation of especially valuable plant communities, rare and typical biotopes

In the course of the study of phytocoenotic diversity of the 500 m zone around the barrier, scientists carried out an inventory and developed a forecast for rare plant species, which resulted in the identification of 2 types of especially valuable plant communities (rare and reference) with the total area of 900.8 ha, including 295.7 ha at risk of degradation.

5. New ways of penetration of alien plant species into natural ecosystems.

The disturbance of phytocenoses and habitats, fragmentation of forest complexes and migration routes of plants, animals and people as a result of the construction of the barrier leads to the dissemination of alien (invasive) species.

These species cause considerable damage to natural ecosystems, which can be significantly transformed, that it its turn will negatively affect not only rare and endemic species, but also cenotic diversity and successional relationships.

One of the most dangerous invasive species in Białowieża Forest is Canadian goldenrod (Solidago canadensis L.). A it was stated earlier, Solidago canadensis is able to block restorative successions on lea lands in the conditions of southern Belarus.

The conclusions about the negative impact of the fence on the biological diversity and natural ecosystems of Białowieża Forest were made by the Belarusian scientists in the analytical note of the National Academy of Sciences of Belarus "Assessment and forecast of the impact of the barrier on the biodiversity and natural ecosystems of the National Park “Belovezhskaya Pushcha”.

The conclusions of the Belarusian researchers coincide with the opinion of a number of foreign scientists and experts who even at the construction stage prepared an “Open Letter” calling on the European Commission “to take all the possible measures to immediately halt the construction of the wall along the border between Poland and Belarus until an environmental impact assessment of this project on the coherence of the Natura 2000 network is carried out in accordance with European law and nature conservation requirements”. The document describes these “devastating consequences, leading to permanent interruption of the functional connectivity of the ecological corridors of the Natura 2000 network on the national and European scale” (Annex 3). To date,
the “Open Letter” has been signed by 1,833 scientists and experts from around the world.

In general, according to the estimates of Belarusian competent experts, the amount of damage caused to Białowieża Forest, due to land degradation committed by Poland during the construction of the barrier, the destruction of forest floor, living ground cover, valuable old-growth broad-leaved and black alder forests, as well as the removal (destruction) of the fertile soil layer, is approximately 51.86 million Belarusian rubles (more than 17 million US dollars).

It should be noted that the Republic of Belarus has repeatedly addressed the Polish side directly and through the working bodies of international treaties, strongly insisting on the necessity of consultations and stopping the construction of the barrier. However, we have to state, that the Polish side did not officially submit the assessment of the impact of the barrier on the ecosystems of Białowieża Forest in accordance with the Espoo Convention (Annex 4).

So far, no response has been received from the Polish side to the proposal of the Republic of Belarus, made in July 2022, to hold bilateral Belarusian-Polish consultations in accordance with paragraph 5 of Article 2 of the Espoo Convention and discuss the problem in accordance with the general principles set out in Appendix III to the Espoo Convention (Annex 5).

Therefore, taking into account the significant transboundary damage caused to the ecosystems of the unique transboundary UNESCO World Heritage Site “Białowieża Forest” by the Polish barrier during both its construction and further operation, the Belarusian party considers that the activity of the Republic of Poland on the construction of the barrier is subject to Appendix III to the Espoo Convention.

Thereof, the Republic of Poland should have been guided by the provisions of the Espoo Convention. However, as it follows from the abovementioned facts, the Polish side did not comply with the provisions of the Espoo Convention.

In connection with the above, the Republic of Belarus refers to the Implementation Committee of the Espoo Convention to initiate the consideration of the submission by the Belarusian side against the Republic of Poland in accordance with the established procedure.

Deputy Minister,
National Focal Point
of the Republic of Belarus
to the Espoo Convention

Ivan Prykhodzka