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AND NATURAL HABITATS

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Complaint in stand-by

**Presumed impact of a construction of Overhead
Power Line (OHL) in an environmentally
sensitive area in the Lithuanian-Polish
borderland**

REPORT BY THE GOVERNMENT

*Document prepared by
the Ministry of Environment of Lithuania*



**LIETUVOS RESPUBLIKOS APLINKOS MINISTERIJA
THE MINISTRY OF ENVIRONMENT OF THE REPUBLIC OF LITHUANIA**

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**REGARDING COMPLAINT NO.2013/5: PRESUMED IMPACT OF A
CONSTRUCTION OF OVERHEAD POWER LINE (OHL) IN AN ENVIRONMENTALLY
SENSITIVE AREA IN THE LITHUANIA – POLISH BORDERLAND**

The Ministry of Environment of the Republic of Lithuania (hereinafter – Ministry of Environment) received a notification of 20 June 2013 from the Secretariat of the Bern Convention of the Council of Europe informing that a complaint from association "Rudaminos Bendruomenė" (hereinafter – the Complaint) was received regarding possible violation of the Bern Convention (hereinafter – the Convention)¹ by the Republic of Lithuania during the implementation of the 400 kV overhead power transmission line "Alytus transformer substation – the border of the Republic of Poland" (hereinafter – the Power Line) construction project.

The complaint of the applicant association "Rudaminos Bendruomenė" (Association of Rudamina Community) (hereinafter – the Applicant) to the Secretariat of the Convention is based on the following arguments:

- (I) The environmental impact assessment was carried out in a non-transparent manner, responsible authorities failed to check the environmental impact assessment carried out by a private company, and the decision on the approval of the environmental impact assessment report, independent experts believe, is unqualified.
- (II) Responsible national authorities had refused to establish 2 protected areas near PLH200007 which automatically led to the laying of new a road and the development of infrastructure.
- (III) Environmental impact was not assessed as required by Article 6 of Directive 92/43/EEC, since the 5 km of the Power Line will be laid near the Žuvintas Biosphere Reserve, which is a site of the Natura 2000 network (LTALYB003), and will likely intersect an important bird migration corridor.
- (IV) The Applicant and experts had submitted alternatives to the selected Power Line construction route, however, their proposals were not considered during the environmental impact assessment and were rejected on the grounds of the project deadline (2015) and financial obligations to the EU.
- (V) Responsible institutions (Meteliai Regional Park, the Environmental Protection Agency) did not reply to the information submitted by the Applicant.
- (VI) The planned construction of the Power Line:
 - due to the laying of new roads, clearance of forest, earthwork (cultivation), increased pollution, technical maintenance of the line will endanger the previously unknown habitat of European pond turtles (*Emys orbicularis*) discovered this year and other species protected by the Bern Convention (*Grus grus*, etc.), as well as many bird species protected in the Žuvintas Biosphere Reserve (site of the Natura 2000 network - LTALYB003);

¹ Convention on the Conservation of European Wildlife and Natural Habitats

- the construction will exterminate protected and currently unexplored species and will affect the ecological corridor between Natura 2000 territories;
- the construction will destroy and fragment habitats and migration routes of protected species;
- protected species will be continuously disturbed by the noise and vibration caused by the construction and later - by the service (maintenance) of the line and will also die from vehicles.

(VII) Impact on the hydrological regime of Galadusys lake due to construction works of the Power Line, as well as chemical pollution while performing construction, maintenance and de-icing works of the line are possible.

(VIII) The territory used for the construction of the Power Line may be used for developing other infrastructure and building new objects.

The Secretariat of the Bern Convention requested the Republic of Lithuania to present its position on the Complaint of the Applicant by 25 /08/2013 (deadline extended up to 3/09/ 2013) and informed that documents received will be evaluated during the meeting of the Bureau on 17 September 2013.

The Republic of Lithuania disagrees with the Complaint of the Applicant and believes it to be unfounded due to the following grounds.

Firstly it is worth to clarify that the Lithuanian and Polish power connection project – the construction of the Power Line – is recognized by the legislation of the Republic of Lithuania as a project of strategic State importance, particularly important to the needs of society. The connection of the Lithuanian power system with Polish power system is recognized as having particular strategic significance to the national security of Lithuania.

The laying of the Power Line will enhance the transmission network in the Southern Lithuania and ensure reliable supply of imported electricity to Lithuania and the possibility to transmit it via the power connection across Poland to the network of other European countries. Power Line project is implemented by the electricity transmission system operator of the Republic of Lithuania LITGRID AB (hereinafter – Organizer of the planned activity) and the joint company established by Polish and Lithuanian transmission system operators called LitPol Link Sp. z.o.o. (hereinafter – Project coordinator).

I. The Applicant claims that the environmental impact assessment was carried out in a non-transparent manner, responsible authorities failed to check the environmental impact assessment carried out by a private company, and the decision on the approval of the environmental impact assessment report, independent experts believe, is unqualified.

This argument of the Applicant is unfounded. Alytus Regional Environmental Protection Department of the Ministry of Environment of the Republic of Lithuania (hereinafter – Alytus REPD) approved the report on the environmental impact assessment (hereinafter –the EIA) of the 400 kV overhead power transmission line "Alytus transformer substation – the border of the Republic of Poland" (copy of this report is in Annex No 2 of this letter) by the decision of 30/12//2010 (copy of the decision is in Annex No 1 of this letter).

The EIA was carried out by the contractor UAB SWECO Lietuva (hereinafter – EIA developer), having the right to carry out such activities in the procedure defined by national legislation, selected by the Organizer of the planned activity in a public procurement process. The impact of the construction of the Power Line on the environment assessed between October 2009 and December 2010. During the performance of these procedures special attention was paid and detailed studies of environmental impact were carried out, as well the EIA report was prepared, coordinated among responsible authorities and publicly discussed with the society, and later checked and approved by Alytus REPD.

During the environmental impact assessment the EIA report was coordinated among all EIA subjects specified in the Law on Environmental Impact Assessment of the Proposed Economic Activity of the Republic of Lithuania. The EIA report was coordinated in accordance with existing legal regulations with the following subjects: State authorities responsible for: health protection, fire

protection, protection of cultural property; county authorities; municipality authorities; authorities responsible for the organization of protection and management of protected areas.

The prepared EIA program was available at the office of the EIA developer, in the premises of Alytus District Municipality, as well as in Alytus, Simnas, Miroslavas, Kriokialaukis elderships which are situated in Alytus District Municipality; Lazdijai District Municipality, Lazdijai City, Lazdijai, Krosna, Šeštokai, Teizai, Būdviētis elderships which are situated in Lazdijai District Municipality; on the website of the project coordinator LitPol Link Sp. z.o.o. Information on the prepared EIA report and public introduction was published in newspapers "Lazdijų Žvaigždė" of 25/06/2010, "Alytaus Naujienos" of 26/06/2010; "Lietuvos Žinios" of 26/06/2010, Krosna town newspaper "Saugok Šeimą" of June 2010; on the bulletin boards of Alytus and Lazdijai District Municipalities, as well as Alytus, Miroslavas, Kriokialaukis, Simnas, Lazdijai City, Lazdijai, Krosna, Šeštokai, Teizai and Būdviētis elderships.

Public presentation of the EIA report took place on: 13/07/2010 in Miroslavas and Kriokialaukis elderships, 14/07/2010 in Simnas eldership; 16/07/2010 in the public library of Alytus District Municipality and Alytus eldership; 14/07/2010 Krosna eldership, 15/07/2010 Šeštokai eldership, 15/07/2010 Būdviētis eldership, 19/07/2010 Teizai eldership, 19/07/2010 Lazdijai District Municipality, Lazdijai City eldership, Lazdijai eldership.

The EIA developer prepared a special information booklet (1000 copies) which provided visual and informative introduction of the planned economic activity, its possible effects, project procedures, possibilities for public access to the EIA documents and the opportunity to participate in the EIA process, and which was distributed to the public in the elderships and municipalities concerned. The results of the EIA of the planned Power Line were presented to Lazdijai District Municipality Administration on 27/07/2010 in the presence of the Organizer of the planned activity, Project coordinator, EIA developer and media representatives.

Project organizers conducted two information conferences on the project: on 15/05/2009 in Jaczne, the Republic of Poland and on 23/10/2009 in Alytus, the Republic of Lithuania, to allow representatives of local authorities, the public and non-governmental organizations to get acquainted to the project in the early stages of planning, as well as submit comments and participate in discussions. The conference in Lithuania was attended by representatives of Alytus REPD, Alytus and Lazdijai District Municipalities and elderships, Alytus County Governor's Administration, Meteliai Regional Park Administration, Lithuanian Ornithological Society, the media and other organizations.

The planned activities were additionally publicized on the website of the daily newspaper "Lietuvos Rytas" (www.lrytas.lt) on 29/06/2010, Delfi news portal (www.delfi.lt), Cika website (www.cika.lt) on 23/07/2010, on the website of Lazdijai District newspaper "Dzūkų Žinios" (www.dzukuzinios.lt) on 07/07/2010, on the website of the Lithuanian news agency "Elta" (www.elta.lt) on 07/09/2010.

Alytus REPD announced about the received EIA report on its website <http://ard.am.lt/VI/index.php#a/515> on 25/10/2010.

During the EIA Alytus REPD received proposals from the public concerned. Acting in accordance with Article 10(4) of the Law on the Environmental Impact Assessment of the Proposed Economic Activity, on 10/12/2010 by a letter invited stakeholders who had submitted proposals, EIA subjects, EIA developer and Organizer of the planned activity to discuss the proposals of the public concerned in the meeting held in Alytus REPD on 17/12/2010.

Before making a decision on the planned economic activity, Alytus REPD examined all proposals of the stakeholders from society for the planned construction of the Power Line and submitted a reasoned response to each stakeholder. Any interested persons had the opportunity to be heard on the EIA being carried out throughout the entire period of performance and publication of the EIA procedure. However, "independent experts" mentioned in the Complaint did not take advantage of it. The Applicant failed to provide in his complaint any evidence to support its claims on the qualification deficiencies in the quality of the EIA report and its performance found by the "independent experts". It should be emphasized that the principled objection of the Applicant to the EIA report alone does not prove the non-transparency or poor quality of the preparation of this report.

Taking into account comments of the EIA participants and the public, Alytus REPD repeatedly insisted on amending and supplementing the EIA report. Only after the specified requirements have been integrated, Alytus REPD made its final decision on the approval of the EIA report. Therefore, the decision to approve the EIA report on the construction of the Power Line was made after comprehensively and fully considering and evaluating the conclusions and proposals of all EIA subjects, in accordance with all the procedures set out in the Law on Environmental Impact Assessment of the Proposed Economic Activity and by ensuring submission of proper information and participation of public in all stages of EIA procedure.

It should be noted that during the stage of preparation of special territorial planning documents, in accordance with the established procedures, strategic environmental assessment (hereinafter - the SEA) of the special plan solutions was carried out. The SEA stage involved defining the territorial scope of the alternatives and using the evaluation method narrowed it down to 2 main territorial alternatives for a more detailed rational examination. During the EIA all circumstances for these two territorial alternatives were evaluated and the impact of the planned Power Line on all environmental elements was fully assessed. Qualified specialists assessed and considered a whole network of territorial alternatives and possible technological alternatives for the of the Power Line (the diagram of the considered possible alternatives is provided in Annex No 5 of this letter. Finally, the EIA report selected a sub-alternative of the strip that has the lowest impact on the environment.

It should also be emphasized that the Power Line construction project is being carried out in the territories of two countries (Lithuania and Poland), EIA procedures have been performed and completed on both sides, therefore, the assessment has been done comprehensively and fully and both EIA reports have coherently assessed all aspects of environmental impact on both sides of the border. The fact that the EIA of the Power Line has been completed in two parts, i.e. by assigning it to either Lithuanian or Polish territory, does in no way affect the quality of the assessment but rather confirms the thoroughness of the EIA (on the Polish side the EIA decision was made by Regionalna dyrekcja ochrony środowiska w Białymstoku (Białystok Regional Environmental Protection Department) on 04/07/2013).

In addition, it should be indicated that the Applicant submitted the complaint regarding the lawfulness of the EIA report to national courts of the Republic of Lithuania. The court proceedings took place over two years, i.e. from February 2011 until May 2013. The case was investigated in both the court of first instance and the court of appeal. On 29/05/2013 the Supreme Administrative Court of Lithuania issued a final and non-appealable order by which it dismissed the Applicant's complaint as unfounded. Therefore, the Applicant has exhausted all legal measures to defend its interests guaranteed to the Applicant by the laws of the Republic of Lithuania, Lithuanian courts have thoroughly and reasonably evaluated all the arguments made by the Applicant in several court instances on the unlawfulness of the EIA report and confirmed that the EIA report is lawful and justified.

To sum up, it is clear that the EIA was carried out in a transparent, qualified and detailed manner, discussed with the public and coordinated among the subjects specified by the existing legislation. Given the above, the Applicant's claims that the EIA was carried out in a non-transparent manner, responsible authorities failed to check the EIA carried out by a private company, and the decision on the approval of the EIA report, independent experts believe, is unqualified, are unfounded.

II. The Applicant claims that responsible national authorities had refused to establish 2 protected areas near site PLH200007 which automatically led to the laying of a new road and the development of infrastructure.

By claiming that responsible national authorities had refused to establish 2 protected areas near Polish Natura 2000 network area PLH200007, the Applicant does not specify them. The Ministry of Environment has no data that any of the areas in Lithuania is proposed to be protected as Natura 2000 territory because of its important ecological relations to Polish site PLH200007.

It should be noted that not because of the development of the Natura 2000 network, but rather in the implementation of national territorial planning documents there are preliminary planned two landscape and geologically sensitive protected sites near the territory of dispute and the border with the Republic of Poland, namely:

- in the General Plan (2008) of Lazdijai District Municipality territory the recreation area near Galadusys lake has been established and the proposal to establish a landscape reserve in this area has been made;
- in the General Plan (2011) of Alytus County territory the proposal for a protected territory in neighbourhood of Vingrėnai village for the preservation of the geomorphologically valuable site has been made.

Establishment of a protected area needs a separate special planning process which in both cases has not been started yet.

In order to disclose the environmental value of the area better and to support the establishment of Galadusys landscape reserve, Lazdijai District Municipality organized the preparation of the feasibility study and its discussion with the public. Receiving public disapproval, Lazdijai District Municipality Council decided to refrain from establishing the landscape reserve, therefore, this site will continue to be managed as a recreational zone. The issue of establishing the proposed protected territory in the neighbourhood of Vingrėnai village has not been withdrawn so far. It will be considered in accordance with the sequence provided for in the implementation program of General Plan of Alytus County territory approved on behalf of the Government, i.e. after 2021.

No new roads have been laid in the territory indicated by the Applicant. During 2012 – 2013 Lazdijai District Municipality reconstructed the existing local road near Galadusys lake. The length of the reconstructed road – 9574 m., width – 5-7 m.; the road was lined with asphalt pavement. Road reconstruction works were completed according to the prepared technical project which was coordinated among all authorities that had set the design conditions, as well as Alytus REPD.

III. The Applicant claims that the environmental impact was not assessed as required by Article 6 of Directive 92/43/EEC, since the 5 km of the Power Line will be laid near the Žuvintas Biosphere Reserve, which is a site of the Natura 2000 network (LTALYB003), and will likely intersect an important bird migration corridor.

It should be noted that during the special territorial planning stage, in accordance with the established procedures, the SEA of the plan solutions and the EIA of the planned economic activity were carried out. During the aforementioned assessments biodiversity researches and assessments of the examined territorial alternatives were carried out, the summary and conclusions of which are presented in the EIA report, including the impact on the Žuvintas Biosphere Reserve (See Annex No. 2, Volume L-1. Text in chapters 2.3.9; 2.3.10; 3.3.5; 3.3.6). The impact of the planned economic activity on fauna was assessed by an expert group led by L. Raudonikis (Lithuanian Ornithological Society) (experts Dr. K. Baranauskas, Dr. P. Ivinskis (Institute of Ecology of Nature Research Centre), Dr. J. Sorokaitė), the impact on flora was assessed by Dr. V. Rašomavičius (Institute of Botany of Nature Research Centre). The qualification of the aforementioned experts fully complies with the requirements set out in the Law on the Environmental Impact Assessment of the Proposed Economic Activity.

It should be noted that comprehensive biodiversity studies have been carried out and sensitive areas have been indicated in these alternative strips (including possible bird migration routes), and measures to avoid or mitigate the negative effect have been proposed, summarized in the graphic Annex 17 of Volume L-2 and Articles 3.4.5-3.4.6 of Volume L-1 of the EIA report.

The negative impact of the Power Line construction and exploitation on the Žuvintas Biosphere Reserve, designated as Natura 2000 site important for the protection of birds and habitats (as Site of Community importance and Special Area of Conservation), and negative impact on migrating birds has not been found. We would like to note that birds cross the territory between Žuvintas and Simnas lakes during local migration between their feeding and resting sites. No convergence points of bird migration flows were determined in the territory of the planned economic activity, therefore, no negative impact on international bird migration corridors is expected. 47 percent (about 24.2 km) of

the Power Line will be laid next to the already existing 110 kV (Alytus – Šeštokai) and 10 kV overhead power transmission lines. The selected Power Line construction alternative bypasses the Žuvintas Biosphere Reserve by 4-5 km in most points and only in a small section (around 2 km), together with the existing 110 kV Power Line, approaches the aforementioned protected territory. By applying the precautionary principle and aiming to avoid any negative impact on migrating birds, the project provides for the marking of electric wires with bright coloured highlighters, as well as other measures improving the visibility of electric wires and reducing the risk of birds colliding with them.

In September 2010 the State Service for Protected Areas under the Ministry of Environment – an authority responsible for the assessment of impact on Natura 2000 sites within the Republic of Lithuania – approved the EIA report, including the sections which examine the alternatives related to the possible impact on the Natura 2000 site – Žuvintas Biosphere Reserve.

IV. The Applicant claims that the Applicant and experts had submitted alternatives to the selected Power Line construction route, however, their proposals were not considered during the environmental impact assessment and were rejected on the grounds of the project deadline (2015) and financial obligations to the EU.

This argument of the Applicant is unfounded. The propositions submitted by the Applicant on the selected Power Line construction route and its technological alternatives were comprehensively assessed and reasonably rejected as unfounded.

It should be noted that the EIA report considered such Power Line construction strip alternatives which had legal grounds, i.e. the construction of such line had been indicated in national territory planning documents. Boundaries of the Power Line strip and the connection point with the line on the Polish side, determined by the solutions of the general territory plan of the Republic of Lithuania, approved by the 29/10/2002 resolution of the Seimas of the Republic of Lithuania No. IX-1154, are consistent with the General plan of Alytus District Municipality territory, approved by the 24/03/2009 decision of Alytus District Municipality Council No. K-79, and the General Plan of Lazdijai District Municipality territory, approved by the 05/12/2008 decision of Lazdijai District Municipality Council No. 5TS-648, in the territories of which the Power Line is provided for (EIA report. Volume L-1, page 40. Volume L-2. Graphic Annex 2). The construction site of the Power Line is also provided for in the National Energy Strategy. All of the aforementioned territory planning documents had been publically discussed and coordinated among all stakeholders and institutions concerned reconciled before their adoption. The public concerned, including the Applicant, were ensured the right established by the laws to participate and submit proposals in the preparation of higher level territory planning documents (i.e. when preparing general plans of the state, counties, municipalities territories).

Taking into account the EIA, the most acceptable, in terms of the preservation of biological diversity, Power Line laying alternative B1 was selected, having proper legal grounds provided by national, county and municipality general plans. Meanwhile, the Power Line strip alternative proposed by the Applicant falls outside the stated limits of the General Plan of the territory of the Republic of Lithuania, enters Marijampolė and Kalvarija municipality territories which are not included in the construction of the 400 kV overhead power transmission line neither by the solutions of the General Plans of territory of the the Republic of Lithuania, nor the solutions of the general plans of the territories aforementioned municipalities, thereby violating the interests of the municipal societies which have not been included in the consideration of such solution during the preparation of the General Plan of the territory of the Republic of Lithuania. Although the alternative proposed by the Applicant did not have any legal grounds, this territorial alternative was assessed in terms of its environmental impact and it was found that the impact of the proposed alternative strip would be unacceptable due to its possible impact on the Natura 2000 territory – Kalvarija Biosphere Polygon. Kalvarija Biosphere Polygon (around 20 000 ha) was established in Kalvarija municipality borderland with Poland in 2009, given the status of a site of the Natura 2000 network, designed to preserve the populations of Corncrake (*Crex crex*), Marsh harrier (*Circus aeruginosus*), Montagu's harrier (*Circus pygargus*), Spotted crane (*Porzana porzana*) and Tawny Pipit (*Anthus campestris*), as well as natural grassland habitats including habitat types of Community interest: 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometalia*) (* important orchid sites), 6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels, 6450

Northern boreal alluvial meadows, 6510 Lowland hay meadows (*Alopecurus pratensis*, *Sanguisorba officinalis*). Therefore, changing the crossing point of the Lithuanian – Polish border in accordance with the Applicant's proposition, by moving it to Kalvarija municipality was unacceptable due to the negative impact on both other national protected territories and Natura 2000 network sites.

Therefore, the Power Line route alternative proposed by the Applicant was considered and reasonably dismissed not due to the project deadline or financial obligations to the EU, as stated by the Applicant, but rather due to the fact that the alternative proposed by the Applicant violates higher power territory planning documents and because of the unacceptable negative environmental impact. The Supreme Administrative Court of Lithuania investigated the lawfulness of the EIA on the basis of the Applicant's complaint and stated in its final and non-appealable order of 29 May 2013, the following: "*From the previously discussed General Plan of the territory of the Republic of Lithuania it can be seen that the 400 kV high voltage overhead power line track was reserved for the laying of the line of dispute within the territories of Alytus and Lazdijai municipalities, therefore, the construction of the line in the areas proposed by the Applicant would contradict the existing higher power territory planning documents if these were left unchanged*"².

It is important to note that the location of the Power Line is determined not only by national highest power documents but also by international obligations. When selecting Power Line strip alternatives, the EIA report took into account the consultations between the Republic of Lithuania and the Republic of Poland on the border crossing point. During cross-border consultations it was decided that while preparing SEA and EIA documents and the Special plan, EIA developer will coordinate the border crossing point by taking into account Seinai rural district territory planning documents and the solutions of general planning documents existing within the territory of Lithuania (EIA report. Volume L-2. Textual Annex 8, 30/04/2010 protocol No. D4-50). Given this agreement, the Lithuanian-Polish border crossing point is set to be in Lazdijai District, northwest of Galadusys lake (EIA report. Volume L-2. Graphic Annex 3). Similarly, responsible Polish authorities also comply with the aforementioned agreement between the countries on the border crossing point in planning the Power Line strip and carrying out the EIA procedures. By failing to comply with the agreement on the border crossing point of the Power Line, planning on both sides of the border would become logically impossible.

V. The Applicant claims that responsible institutions (Meteliai Regional Park, the Environmental Protection Agency) did not reply to the information submitted by the Applicant.

The Administration of the Meteliai Regional Park (hereinafter – the Administration) did not participate in the EIA process and has not received any letters from Rudamina Community. Mr. Ramūnas Valiokas has called the Administration by phone and informed them that pond turtles are being discovered in Rudamina. However, Rudamina area is not in the Meteliai Regional Park and falls outside the territory protected by the Administration. The situation was explained to Mr. Ramūnas Valiokas. Despite that, the State Service for Protected Areas, having considered the fact that the natural conditions in the examined area are potentially suitable for pond turtles, seeking to prevent accidental destruction of the pond turtle population or their habitats, presented relevant conditions in its conclusion. These conditions indicate that Power Line supports cannot be constructed in the protection strips along the river banks, construction sites cannot be set up near water bodies and their protection zones, small open shallow waters (wetlands, bogs) have to be preserved during the construction. Therefore, the Ministry of Environment considers that by applying the conditions laid down, even after discovering the presence of pond turtles later, the planned economic activity will not have negative consequences for the population of this species.

The Environmental Protection Agency did not participate in the EIA process as the responsible institution was Alytus REPD.

VI. It is noted in the Complaint that planned construction of the Power Line:

- **because of laid roads, clearance of forests, earthworks (cultivation), increased pollution, and line technical maintenance will endanger new and previously unknown habitats of European**

² Order of The Supreme Administrative Court of Lithuania of 29 May 2013 in administrative proceedings No. A⁶⁰²-186/2013

pond turtle which was discovered this year (*Emys orbicularis*) and other species, protected by the Bern convention (*Grus grus* and others), as well as many bird species, protected in the Žuvintas Biosphere Reserve (site of Natura 2000 network - LTALYB003);

- **will exterminate protected and not yet researched species and will affect ecological corridor between Natura 2000 territories;**
- **will destroy and fragment habitats and migration routes of protected species;**
- **construction and later line maintenance (service) works will disturb protected species by noise and vibration, the species will die because of vehicles.**

It is to be noted that the Applicant did not provide any proof, confirming Applicant's statements about the new and previously unknown habitats of European pond turtle (*Emys orbicularis*) found at the planned Power line construction sites. Applicant's photographs attached to the Complaint also do not confirm that the species are found exactly at the sites where the construction of Power line is planned.

In the Complaint there are only statements of the local population saying that they saw European pond turtles in these locations, but specific places where the turtles were found are not indicated.

As it was indicated, qualified experts from respective fields were employed in the preparation of the EIA report. During the assessment finding places of European pond turtles (*Emys orbicularis*) were not recorded in the investigated area. In addition, EIA report results are substantiated by data about finding places of protected animals, plants and fungi that is collected in the Protected Species Information System. Ministry of the Environment is the manager of the Protected Species Information System. Data about the protected species can be supplied to the Protected Species Information System by all legal and natural persons, education and scientific institutions, non-governmental organisations. To ensure reliability and authenticity of the data, all information supplied to the Protected Species Information System are verified by inspectors (scientists – experts). At this time, there is no data in the Protected Species Information System about the finding places of the European pond turtle at the locations specified by the Applicant.

The fact that European pond turtle was found is also unconfirmed by the survey of amphibians and reptiles performed in 2013 July-August in part of the specified territory by experts (Ž. Sinkevičius, D. Bastytė) of the non governmental organisation – Lithuanian Fund for Nature, which implements projects for protection of the European pond turtle and other aquatic animals in that region of Lithuania. In July 2013 expert Ž. Sinkevičius inspected the planned route Power Line from Žemaitkiemis village, Lazdijai District Municipality (place of the planned intermediate support No. 130, coordinates N 6013753, E 464815) to Filicijanavas village, Lazdijai District Municipality (place of planned anchor support No. 149, coordinates N 6010337, E 459973). In August 2013 expert D. Bastytė inspected the planned Power Line from Žemaitkiemis village, Lazdijai District Municipality (place of the planned intermediate support No. 130, coordinates N 6013753, E 464815) to Šadžiūnai village, Lazdijai District Municipality place of the planned intermediate support No. 135 coordinates N 6012564, E 463852). The surveys were conducted by walking on foot along the abovementioned route (from planned intermediate support No. 130 to the place of the planned anchor support No. 149) inspecting territory of about 50 m to both sides from the Power Line and searching for territories which would be suitable for European pond turtle (*Emys orbicularis*), European fire-bellied toad (*Bombina bombina*) and Common tree frog (*Hyla arborea*) or other protected species. If such territories where these three protected species of reptiles and amphibians could potentially live and breed were found, the territory was inspected in detail, in order to find the individuals of these species or traces of their activities.

Based on this additional survey research it could be stated that there are no European pond turtle and its habitats in the under the planned route of the Power Line from Žemaitkiemis village, Lazdijai District Municipality to Filicijanavas village, Lazdijai District Municipality. Also, Lithuanian Fund for Nature stated that European fire-bellied toad (*Bombina bombina*) and Common tree frog (*Hyla arborea*) habitats were not found in the 100 m wide lane under the planned route of the Power Line.

The impact of the intended Power Line on the environment was comprehensively assessed during environmental impact assessment. EIA report specifies measures reducing possible impact on the known important biodiversity objects during the construction and operation of the Power Line.

It should be noted that during the approval of the EIA report, a condition, that it is necessary to preserve all existing and potential habitats of protected species' during the construction works of the Power Line was set. Having in mind the fact that natural conditions of the analysed territories could be suitable for European pond turtles and in order to insure from unintentional destruction of European pond turtle, their local population or potential habitats, the supports will not be built in protection strips along the river banks, near water bodies and construction sites will not be set up in protection zones of water bodies. During the construction all small and open water bodies will be preserved (ponds, small swamps). If unidentified biodiversity elements and their finding places exist, negative impact could be done only during the construction and only in small areas where Power Line supports will be built. However, this risk is reduced to a minimum by raising the abovementioned condition of support placement further from potential habitats of the protected species. Thus, the statement of Applicant that "massive expansion of the infrastructure will badly damage the habitat and will create a realistic risk of losing it because of the OHL construction itself" is unfounded.

EIA report conclusions specify that significant negative impact to fauna during the construction of the Power line can be reduced by choosing the time of the construction, choosing the appropriate support and construction site placement, also by preserving creek hydrological regime and shore structure, natural and semi-natural meadows. It should be noted that during the implementation of the decision of the responsible institution about the planned economic activity admissibility, Alytus REPD decision's clause 6 will be applied (see Annex No 1). The clause specifies impact avoiding, mitigating or compensating measures, one of which – mandatory ecological supervision of technical project implementation and direct inspection of the future construction sites before the works by the ecology expert.

During the building of the power Line through the farmland, meadows, pastures there will be no significant impact, however, it is planned that considerable damage to the soil by heavy building machinery will be avoided. To reduce the impact, building of the overhead line supports will be conducted in autumn – winter season. During autumn – winter season, when the ground is frozen, it is planned to conduct works on the Power Line route going through more waterlogged and "light" soils, and in summer works will be conducted on dry sandy, sandy loam or clay soils.

To reduce the impact on biodiversity, the materials and equipment needed for the building of the Power Line are to be stored near the route, i. e. on the protection zone of the Power line, on free government land and other suitable territory. The amount of stored materials and equipment will not be big, since reinforced concrete foundations and supports will be brought directly from the factory, assembled and built on the route. Insulators, reinforcements, cables and lightning protection cable, fiber-optic cable needed for the building of the Power Line are planned to be stored at the designed temporary 1100 m² storage site on the territory of the direct current insert.

Building of the temporary roads or other engineering networks is not planned during the construction, since products will be brought using existing roads. The products and structures on the route will be transported by tractors.

The most important measure for reducing the negative impact on biological diversity (invertebrates, amphibians, reptiles) is reducing damaged or destroyed habitat area. This will be achieved by setting up temporary building sites (if such are needed) in previously damaged, urbanised or cropland areas; by choosing support placement further from river or creek valleys, ponds, small swamps and further from territories important for habitat protection. It is also planned to avoid setting up service roads to the constructed supports in natural environment. Agricultural land or existing roads of fields and forests or gravel roads will be used for that.

In order to reduce impact on wildlife, forest cutting and route clearing will be conducted when birds are not breeding, i. e. restrictions to the construction of the Power Line from April to July will be applied. It is planned to conduct forest clearing and support building during the months of September-February.

According to Environmental and social management and monitoring plan (ESMMP), which is the part of the project, it is planned to conduct main electricity line construction works during the cold period of the year, when animal juveniles are almost grown (animal juveniles living on the ground will already be able to move away from the moving mechanisms, also, when the ground is frozen, there will be less damage to the soil).

Main negative impact reducing measures for protected species and their habitats, named in the EIA report and Alytus REPD decision, which will be implemented during Power Line building works are as follows:

Impact reducing measures for surface water bodies:

- Power Line supports are not designed in shore protection zones of the surface water bodies;
- Object building sites will not be set up near water bodies and in their shore protection zones.

Impact reducing measures for soils:

- Before the start of the building works, the fertile layer of the soil is removed or excavated from the construction sites, stored and used to restore the damaged surroundings.

Impact reducing, compensating measures for the landscape:

- Power line is designed in forests only in places where it is unavoidable, accordingly, if possible, choosing sapling areas or areas of the forest that have been already cut;
- Areas where digging, storing, transportation works were performed or any other damage to the aeration soil was made will be restored (restoring to the previous state);
- The usual diversity of the plants will be maintained on the route of the Power Line: swamp plants will be preserved in swamps, the route crossing the forests where forest cutting is unavoidable will be adapted for cultivating low growing wooded vegetation;
- The forest will be replanted at other sites on a bigger territory than it was cut near existing forest ecosystems;
- Areas of meadows or swamps which are losing their natural conditions will be restored.

Impact reducing measures for plant cover diversity:

- Possible Power Line impact on forest habitats and protected species will be minimal since Power Line route is chosen in such way, that, as far as it is possible it would not cross bigger forested areas and in one forest it would go through young forest stands or areas that have already been cut;
- The impact of planned Power Line on wetland vegetation will be avoided by not disrupting the hydrological regime in those areas, especially during the construction of the Power Line (when installing temporary service roads, construction sites, etc.);
- Measures of restoration of damaged plant cover will be applied. These measures will be based on former plant diversity re-naturalisation principles (for restoration plant seed mixes which are not common to the region are not used);
- Construction in waterlogged and on light soils will be conducted in winter, when ground is frozen;
- Mandatory technical project implementation ecological supervision will be performed;
- Temporary construction sites will not be setup on natural habitats.

Impact reducing measures for animals:

- The main negative impact reducing measure for living biological diversity is reducing the area where habitats are damaged or destroyed. This will be achieved by setting up temporary building sites in previously damaged, urbanised or cropland areas and by choosing support placement further from river or creek valleys and from territories important for habitat protection. It is also planned to avoid setting up service roads to the constructed supports in natural environment. Agricultural land or existing field, forest, gravel roads will be used for that;

- To reduce the impact, it is planned to conduct works in waterlogged and on light soils during winter, when the ground is frozen and when animal young in these places are grown and would be able to move away from the moving mechanisms, also on frozen ground, there will be less damage to the soil;

- Tracked vehicles instead of wheeled are used, if there is possibility to choose (there would be less possibility of death to mammals living in shallow burrows (tunnels) and their systems);

- If the works are performed during the warm periods of the year, before the start of the day works, nature ecology expert will inspect the route section, where machinery will be used and remove animal younglings further from the route.

As international experience shows, birds may die when colliding the cables during the migration at the bottlenecks of migration routes and near the colonies. There are no numerous bird colonies at the planned Power Line strip and around it. Large numbers of birds are observed near Žuvintas and Metelys lakes, however, Power Line does not cross Žuvintas Biosphere Reserve and Meteliai Regional Park. Furthermore, planned Power Line route is chosen by partially coinciding it with existing 110 kV power line route, thus impact for migrating bird accumulations will not increase significantly.

One of the reducing measures of bird deaths by colliding with the cables of the planned Power Line, is increased visibility of the overhead line (cable, lightning protection cable) in selected places. Although there are no identified bird migration routes, yet in the EIA report as a precaution sensitive areas for birds collisions on Power Line are identified. At the identified sensitive spots, i. e. both lightning protection cables and fiber-optic cables, technical project provides for devices increasing visualisation and scaring off the birds. It is planned to put bright color vibration dampers – distance spacers on the phase cable at the abovementioned Power Line places. Concrete of the visualisation increasing measures and their placement will be specified in the Technical working project.

VII. In the Complaint Applicant specified that because of the power line construction there is possible impact on Galadusys Lake hydrological regime, chemical contamination while performing line construction, maintenance and de-icing.

In the Complaint Applicant specified, that because of the Power Line construction there is possible impact on Galadusys Lake hydrological regime. This Applicant's argument is unfounded because of the specifics of the object – Power Line. Ground (digging) works will be mainly performed at the Power Line support building places and not along the whole Power line route. Since no Power Line support will be built in water bodies or on the shores of water bodies, they will have no impact on nearby water bodies, including Galadusys Lake hydrological regime, and will not endanger their ecosystems.

Applicant states that there is possible chemical contamination while performing construction, maintenance and de-icing works of the Power Line. EIA report specifies impact reducing measures during construction for chemical air pollution caused by emissions of the construction machinery.

Power Line maintenance in Lithuania is performed in accordance with national legal acts. After construction of the Power Line, its care and maintenance, tree cutting on the Line route would be performed no more frequently than 3 years. During these works individual trees or bushes, which might endanger continuous and safe supply of the electricity, are cut. The work schedule is coordinated with plant and animal biological life rhythm of the respective areas. These works would not endanger flora and fauna at the route of the Power Line. During Power Line maintenance, chemical line cleaning or other measures, which might cause an environmental pollution threat, will not be used.

Contamination is theoretically possible only in cases of emergency. Contamination by chemical means in the course of normal construction and operation is not possible.

It must be underlined that there is no practice in Lithuania and usually no natural conditions which would force to use chemicals in order to de-ice cables or insulators. It is also expected that they will not be used in the future. It also must be noted that overhead power lines are designed in such way that supports, insulators and cables would withstand maximal possible icing and other atmospheric strain.

VIII. Applicant also states that territory, which will be used for the Power line, could be used to develop other infrastructure and build new objects.

During the implementation of the Power Line construction project, it is not planned to lay permanent roads and other infrastructure development is not planned. If needed (in some places according to geological situation they are required), and depending on the season, during the construction of the Power Line, set up of temporary service roads is possible. Possible impact of the abovementioned works on individual elements of the environment is assessed in detail in the EIA report (Annex No 2. Volume L-1, section 3), specifying measures for reducing and avoiding such negative impact.

It should be noted that at this time there are no projects planned, which would be developed utilising the engineering infrastructure corridor formed by the Power Line route. Applicant's statement that engineering infrastructure corridor formed by the Power Line automatically determines the rise of other infrastructure objects at that place, regardless of the scale of the impact on the environment, is groundless and unfounded. New projects, first of all, would have to be planned in accordance with territory planning documents, environmental impact assessment must be performed and other procedures provided by law must be conducted.

Further plans of the project

Technical project has been prepared and building permit has been received in order to conduct Power line building works. It is planned that construction works will start at the beginning of 2014. At the moment, building contractor services are being procured. During the preparation of the technical project, when choosing Power Line support building places, areas of valuable plants and animal habitats identified in the EIA report were taken into account. For the protection of the rest of possibly unidentified valuable biological diversity elements, provisions in the building contract concluded between LITGRID AB (Organizer of the planned activity) and the building contractor will be included. These provisions state that during the implementation of the decision of the responsible institution on planned economic activity permissibility, it is necessary to apply abovementioned decision clause 6 (See Annex No 1), specifying impact avoiding, reducing or compensating measures. One of the conditions is mandatory ecological supervision of technical project implementation and direct inspection of the future construction sites before the works by the ecology expert. Measures to be applied to biological diversity during construction are described in detail in part VI of this document.

Summarizing, the Power Line construction works will be performed in accordance with Alytus REPD decision (Annex No. 1), EIA report (Annex No. 2), Power Line special plan and parts of the technical project, namely Environmental, Preparations for construction and organisation of construction works (Annexes No. 3 and No. 4), implementing measures specified by these documents.

Lithuania has taken all necessary legislative and administrative measures in order to conserve wild flora and fauna, their natural habitats and especially protected species, listed in the appendices of the Convention. While assessing EIA documents and setting mandatory conditions, responsible institutions in Lithuania have taken all necessary measures to protect wild fauna, flora and habitats and to maintain viable populations in the territory of the planned Power Line route during the construction of the Power Line and it's operation. Special attention was paid to the preservation of the habitats of protected species and protection of bird migration routes during EIA performance, assessment and decision taking. In the decisions adopted by the responsible institutions in Lithuania conditions are set and measures specified that species' habitats should not be damaged or destroyed and that wildlife should be disturbed to a lesser extent as possible during the construction and maintenance of the Power Line.

Having in mind all of the above, it should be considered that the Republic of Lithuania has taken all necessary legislative and administrative measures in order to comply with the requirements of the Convention and has not breached articles 2, 4, 6 and 7 of the Convention.

Encl.:

Annex No. 1: Copy of the decision of the Alytus REPD;

Annex No. 2: Copy of the EIA report;

Annex No. 3: Extracts of the Technical project Environmental part;

Annex No. 4: Extracts of the Preparations for construction and organisation of construction works part;

Annex No. 5: Copy of Strategic environmental assessment scheme.

Viceminister

Linas Jonauskas