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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE  
AND NATURAL HABITATS

**Standing Committee**

35<sup>th</sup> meeting  
Strasbourg, 1-4 December 2015

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**Possible file**

**MEDIATION PROCEDURE  
IN THE FRAME OF COMPLAINT NUMBER 2013/5: PRESUMED  
IMPACT OF A CONSTRUCTION OF OVERHEAD POWER LINE  
(OHL) IN AN ENVIRONMENTALLY SENSITIVE AREA IN THE  
LITHUANIAN-POLISH BORDERLAND**

**- REPORT OF THE VISIT -**

Vilnius and Rudamina (Lazdijai district)  
(6-9 October 2015)

*Document prepared by  
Mr Michael Usher, United Kingdom  
On behalf of the Bern Convention*

**Mediation Procedure**  
**in the frame of complaint number 2013/5: presumed impact of a**  
**construction of overhead power line (OHL) in an environmentally sensitive**  
**area in the Lithuanian-Polish borderland**

**REPORT ON THE VISIT TO LITHUANIA**  
**5 – 10 OCTOBER 2015**

by Mr Michael B Usher  
Stirling, 19 October 2015

\* \* \*

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## **SUMMARY**

A complaint had been submitted to the Secretariat of the Bern Convention in relation to the construction of an overhead power line in the Republic of Lithuania by the Association Rudamina Community. The complaint was subsequently expanded to include the potential development of the gas interconnection Poland-Lithuania. A mediation procedure was agreed in order to attempt to resolve the potential impacts of these infrastructure developments on various species of amphibians, reptiles and birds.

During a visit to Lithuania, the first two days were ‘fact finding’, with presentations by both the complainant and the Lithuanian authorities, followed by field visits to sites along the route of the nearly-completed overhead power line. The second two days involved joint meetings with all parties, and resulted in the successful agreement of 16 points, as listed in Annex 4.

The first six agreements are essentially points of fact concerning the infrastructure developments, the aims of the Bern Convention, the desire for openness with environmental information, and the geographical area to which the complaint relates. The following seven agreements relate to actions which might be taken to mitigate the effects of the developments on species of amphibians, reptiles, birds and mammals. The final three agreements relate to the longer-term well-being of these protected species, assisting the Lithuanian authorities to comply with the provisions of the Bern Convention. They include (1) the need for reinstatement of the development corridors to a condition as near as possible to that before the development occurred, (2) to the monitoring of selected species to determine the magnitude of any effects on biodiversity of the area, and (3) consideration of ‘biodiversity offsetting’ either to maintain the area’s biodiversity or to enhance it.

## **PRELIMINARIES**

The mediation procedure was carried out within the provisions of the *Convention on the Conservation of European Wildlife and Natural Habitats* (ETS 104), hereafter referred to as the ‘Bern Convention’. Article 1 of the Convention states that its aims are “to conserve wild flora and fauna species and their natural habitats” and that “particular emphasis is given to endangered and vulnerable species, including endangered and vulnerable migratory species”. These species are listed in the Annexes to the Convention.

This is the first time that a mediation procedure has been used in relation to a complaint against a national authority with reference to the Bern Convention. Hence in some ways the procedure in Lithuania can be viewed as ‘experimental’, assessing if such a procedure might be successful in resolving complaints in the future. The remit given to the mediator was to “endeavour to foster dialogue, facilitate discussions, identify and clarify the conservation issues, propose possible solutions that would satisfy the different parties, reach consensus and record agreements, all in the respect of the spirit and letter of the Convention”.

Prior to the first meeting in Vilnius two documents had been prepared by the Secretariat of the Bern Convention. The first was the *Terms of Reference* for the mediation procedure, included in this report as Annex 1. The second was the *Ground Rules* for the conduct of the procedure, included as Annex 2. Both of these documents were referred to on several occasions during the four days of meetings and discussions, and hence were a vital source of reference during the mediation procedure.

## **REPORT OF THE MEETINGS**

The four days of meetings associated with the mediation procedure essentially fell into two parts. The first part was associated with determining the facts surrounding the complaint and visiting field sites. The second part dealt with the exploration of compromises and ways of reaching a consensus. The programme for the four days is appended as Annex 3.

The first part of the procedure occupied days 1 and 2 (6 and 7 October 2015). Both parties met with the staff of the Council of Europe and the mediator separately.

First, there was a presentation by the Lithuanian authorities, outlining the strategic importance of the overhead power line (OHL) and the proposed gas pipe line (gas interconnection Poland-Lithuania – GIPL). The outline included information about the Environmental Impact Assessment (EIA) for the OHL, about the biodiversity of the area, environmental surveillance prior to, and during, construction, and plans to mitigate the effects on the wildlife of the corridor along these lines.

Second, this was followed by a similar presentation by the complainants, giving information about the area in the vicinity of the Lithuanian border with Poland – largely closed during the Soviet era, and without the extensive drainage which had occurred in other parts of Lithuania. The complainants discussed their complaint in detail, focussing on species of concern (amphibians, birds and reptiles), and their impression that greater transparency on the part of the authorities would have been beneficial.

In these two periods of presentation and discussion, a series of more or less similar questions was put to both parties – the authorities and the complainants.

This was followed by a series of field visits, suggested by the complainants and the authorities, as shown on the map on page 13. On the afternoon of the second day a meeting was held in Rudamina with the local community and the Mayor of Lazdijai District, and subsequently a further meeting was held with the local authority in Alytus.

The second part of the procedure occupied days 3 and 4 (8 and 9 October 2015). Both the complainants and the authorities met together in the offices of the Ministry of Environment in Vilnius. The discussion began with attempting to reach agreement on some general points, directly stemming from the initial presentations and information gained in the field and at local meetings. Discussions moved on to consider the individual species of amphibians, reptiles, birds and mammals, as listed in the annexes of the Bern Convention, which might have been, or might be in the future, affected by the construction of the OHL (and the GIPL when that development takes place). Finally, three general issues were discussed which related to gaining evidence about any observable effects of the developments and thus ameliorating or mitigating any effects in the respective geographical areas.

## **CONCLUSION OF THE MEDIATION PROCEDURE**

Any mediation process can be prolonged until either a consensus is reached, an agreed alternative way forward determined, or recognition that there can be no agreement. In this instance it is extremely fortunate that, during two days of discussions, we appear to have reached agreement on all points raised in the complaint. The wording, which was written at the final session and projected onto a screen, was then slightly modified, re-examined by everyone present, subjected to further very slight modifications, and then agreed by all those people who were present (see illustration on the following page). This final version of the agreements on 16 points is included as Annex 4.

In terms of the 6 more general points, five were easily agreed. However, there was a lengthy discussion about the third point in Annex 4 – the geographical area to which the complaint relates. Eventually this was agreed to be the western part of Lithuania through which the OHL (approximately 31 km in length) and GIPL pass, from the Žuvintas Biosphere Reserve to the border with Poland. It was agreed not to include a seventh point about restoration work along the line of the OHL.

There are 7 points relating to species, included on the Annexes to the Bern Convention, about which the complaint relates. For each of these species, or groups of species, there was a detailed discussion until a consensus was reached, and then then agreement was recorded in writing.



***These are the participants after reaching the agreement shown in Annex 4; from left to right they are Algirdas Klimavičius, Ranūnas Valiokas, Christina Baglai, Edmundas Greimas, Michael Usher, Artūras Vilimas, Jūratė Usevičiūtė, Lina Čaplikaitė-Denisovienė and Gediminas Karalius.***

In one sense this could have concluded the mediation procedure, although it might have left open concerns about the longer-term viability of several of the species populations and hence with longer-term compliance with the provisions of the Bern Convention. Three general points were put forward and agreed as being important in the context of the OHL (now largely completed – all pylons erected and about 50% of the cables installed) and the proposed GIPL (for which the EIA has recently been agreed by the competent authority, the Lithuanian Environmental Protection Agency).

First, the re-instatement of the ground in the two corridors of the OHL and GIPL is an important aspect of post-development works. This aspect of the development of the OHL is foreseen in material both in the EIA and in the construction design documentation. In order to minimise the effects of the developments, it would be advisable to reinstate (or restore) these areas to conditions as near as possible to those which existed before the developments began. It was recognised, however, that in some instances that might not be possible, as for example where the OHL passed through woodland (any regrowth of trees would need to be cut periodically for safety reasons).

Second, to determine whether or not any of the species populations have been affected, monitoring is essential. The evidence collected by a programme of monitoring of selected species could be used to assess the impacts of the OHL (and the GIPL). It is perhaps surprising that no plan had been devised for monitoring species before the construction work started, but nevertheless it was agreed that such a plan should now be devised and implemented as soon as possible. With this in mind, it would be useful at the same time to prepare and agree a plan for monitoring any effects due to the construction of the GIPL. This would allow for a baseline condition to be determined, after which any changes in species populations would become clearer (unfortunately such baseline conditions are only poorly known in relation to the construction of the OHL).

Third, many governments around the world are now considering ‘biodiversity offsetting’ as a means of reconciling development with protection of biodiversity. Biodiversity offsetting is defined as “*trying to compensate for the damage to species and habitats caused by development ... by creating an ‘ecologically equivalent’ benefit elsewhere*” (quotation from Maron, M. *et al.*, in *Nature*, 22 July 2015). The process of offsetting has been developed by the International Union for the Conservation of Nature (IUCN) into two new concepts, those of ‘No Net Loss’ and ‘Net Positive Impact’

approaches to maintaining and enhancing biodiversity respectively (see Box 3 on page 14 of [http://www.unglobalcompact.org/docs/issues\\_doc/Environment/BES\\_Framework.pdf](http://www.unglobalcompact.org/docs/issues_doc/Environment/BES_Framework.pdf) for the mitigation hierarchy for managing biodiversity risk).

It was agreed that consideration would be given to biodiversity offsetting in relation to the OHL and GIPL developments. This might include the identification of a further protected area in the vicinity of the Lithuanian border with Poland. Previously an area to the east of Lake Galadus had been proposed as a protected area on the grounds of its geomorphology and landscape characteristics. It is also a cultural landscape, especially important for bee keeping and honey production (the honey from the border area between Poland and Lithuania has been awarded the European Union's first transnational 'Protected Designation of Origin'), and it is now known to be potentially important for biodiversity, especially with the noted northward movement of species due to the changing climate. If biodiversity offsetting is to be implemented, protection of this area would ensure that at least there was 'No Net Loss' of biodiversity, and possibly that there would be a 'Net Positive Impact' for the biodiversity of Lithuania.

### **COMMENTS FOR FUTURE MEDIATION PROCEDURES**

As this is the first time that a mediation procedure has been attempted in relation to a complaint submitted to the Bern Convention, there are four points which might be considered for future similar procedures.

First, it had been agreed that the proceedings of this mediation would remain confidential until the report is published by the Secretariat of the Bern Convention prior to a meeting of the Standing Committee. It is therefore recommended that all parties agree that no sound recordings of any of the proceedings be made. Furthermore, they should also agree that no contact be made with the press until the procedure has been concluded.

Second, an account of the meeting with the community at Rudamina was reported, demonstrating the considerable local interest in a case such as this. Given this experience, the Secretariat might consider developing a press release, with the national authorities and the complainant, to be issued on the day that the mediation procedure begins. This could explain briefly what the Bern Convention is, what the complaint is, how the authorities have responded, the aim of the mediation, and when the results will be made public.

Third, a difficult aspect of a mediation procedure is the attitude of both the complainant and the authorities. Whilst all sides are likely to hold very strong views, it is nevertheless essential that they are all willing to modify their views as the mediation procedure develops and attempts are made to reach a consensus. Everyone present should be willing to seek compromises, to search for different ways of progressing issues, or to accept that they are occasionally willing to give way and support an opposing view.

Finally, as the mediation procedure progresses, the participants should have some authority to be able to reach agreements. Hence, it should be clear, before the start of the procedure, the extent of authority that the participants have to reach a final agreement. In most cases agreements might have to be provisional – for example in this case the authorities would need to seek final approval from the three ministries involved (Environment, Foreign Affairs and Energy) and the complainants stated that the whole of the Association Rudamina Community would need to endorse the agreements made in Vilnius.

### **ACKNOWLEDGEMENTS**

In undertaking this mediation procedure, I should like to express my gratitude to many people. First of all, I should like to thank the many participants who have been prepared to discuss issues about the OHL, the GIPL, the environment of south western Lithuania, and the various species listed in the annexes of the Bern Convention.

I should like to thank the staff of the Secretariat – Ivana d'Alessandro and Christina Baglai – for their assistance throughout the planning and execution of the mediation procedure.

In Lithuania, my thanks go to staff of the Ministry of Environment for providing a meeting room, to the Rudamina Community for arranging a meeting room in Vilnius and for the use of its Church Hall, to LitPol Link for arranging a room for the meeting with authorities in Alytus and for everyone who provided transport for the field visits and community meetings.

I should also like to thank Artūras Vilimas, who lent me some field cloths on our first day, and Ramūnas Valiokas, who arranged for my lost suit case, with all my own field clothing, to find its way to meet me by Lake Gilutis.

**ANNEX 1 - Terms of reference****TERMS OF REFERENCE****FOR THE MEDIATION PROCEDURE IN THE FRAME OF COMPLAINT NO. 2013/5: PRESUMED IMPACT OF A CONSTRUCTION OF OVERHEAD POWER LINE (OHL) IN AN ENVIRONMENTALLY SENSITIVE AREA IN THE LITHUANIAN-POLISH BORDERLAND**

The purpose of this mediation is to identify and clarify the conservation issues related to the above mentioned complaint, solve possible conflicts between Lithuanian authorities and the Association Rudamina Community in view of reaching a consensus on the actions to be undertaken as a follow-up to the complaint, satisfying both sides, and in the respect of the spirit and letter of the Bern Convention.

The mediator will be independent, neutral and impartial and will act as an honest broker, autonomous from both the national authorities and the complainant in the exercise of his functions. He is requested to:

- Assess the state of progress of the energy development projects in the area subject to the complaint;
- Examine the biological situation the habitats that may be affected by the overhead power line and other potential developments;
- Assess the possible impacts of the developments plans and infrastructures on the long-term survival of the species about which the complaint has been made;
- Examine the impact of the restoration measures or the protection measures which will eventually be put in place, or planned to mitigate the effects of the energy development projects;
- Discuss with relevant competent authorities at the national, regional and local level, as well as with the representatives of the complainants and other stakeholder;
- Detect issues of potential conflicts and explore options for possible agreement towards a fair solution of the complaint;
- Suggest and advise on possible ways forward that would avoid a situation of non-compliance with the provisions of the Bern Convention;
- If there is a consensus during the mediation process, record this in writing if at all possible; and
- After completing the mediation, the mediator shall submit a written report to the Standing Committee in one of the official languages of the Council of Europe.

Mediations shall remain confidential until such point as the mediation process has concluded.



## **ANNEX 2 - Ground rules**

**GROUND RULES  
FOR THE CONDUCT OF THE MEDIATION PROCEDURE  
IN THE FRAMEWORK OF COMPLAINT NO. 2013/5:  
“PRESUMED IMPACT OF A CONSTRUCTION OF OVERHEAD POWER LINE (OHL) IN AN  
ENVIRONMENTALLY SENSITIVE AREA IN THE LITHUANIAN-POLISH BORDERLAND”  
UNDER THE BERN CONVENTION**

The present Rules aim to support productive communication during the mediation procedure in the framework of complaint no. 2013/5.

### **1. The mediator:**

- a. May conduct the mediation in such manner as he considers appropriate, having in mind at all times the circumstances of the case and the wishes of the parties;
- b. Shall treat the parties with fairness and impartiality;
- c. Conducts the mediation in English.

### **2. The parties:**

- a. Shall identify a representative who is authorised to settle the dispute on behalf of that party, and shall confirm that authority in writing;
- b. Shall act in good faith throughout the mediation;
- c. Agree to listen respectfully and sincerely try to understand the other party's needs and interests. The parties agree to take turns speaking and not interrupt each other;
- d. Agree not to blame or attack each other and will ask questions of each other for the purposes of gaining clarity and understanding. To ask questions, each party indicate their wish to the mediator;
- e. Shall introduce herself/himself before taking the floor;
- f. Agree to refrain from unproductive arguing and to use their time in the mediation to work towards their fairest and most constructive agreement;
- g. Will request a break to consult colleagues when they need to.

### **3. Confidentiality:**

- a. All mediation sessions shall be private and confidential, and shall be attended only by the mediator, the parties and their representatives as identified in the final agenda.
- b. No information regarding the mediation, its settlement terms or the outcome shall be disclosed to any person, including any media outlet, without the express consent of the parties, the mediator and the Council of Europe.

### **ANNEX 3 - Programme for the mediation procedure**

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

## **MEDIATION PROCEDURE**

6-9 October 2015  
Vilnius and Rudamina (Lazdijai district)

### **PROGRAMME**

#### **VISIT OF:**

- Professor Michael Usher, Mediator
- Ms Ivana d'Alessandro, Head of the Biodiversity Unit, Council of Europe
- Ms Christina Baglai, Bern Convention Secretariat

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#### **MONDAY 5 OCTOBER 2015**

**Arrival at Vilnius, overnight at Ratonda Centrum Hotel**

#### **TUESDAY 6 OCTOBER 2015**

**09H00 – 10H30 – MINISTRY OF ENVIRONMENT, A.JAKŠTO STR. 4, VILNIUS**

#### **Meeting with Lithuanian authorities (core officials and decision makers)**

##### *Participants*

1. Lina Čaplikaitė-Denisovienė, Deputy Head, Nature Protection Division, the Ministry of Environment of the Republic of Lithuania;
2. Algirdas Klimavičius, Head, Protected Areas Strategy Division, Protected Areas and Landscape Department, the Ministry of Environment of the Republic of Lithuania;
3. Kristina Klovaitė, Chief Desk Officer, Nature Protection Division, the Ministry of Environment of the Republic of Lithuania;
4. Prof. Romas Pakalnis, Assistant of Head of **Protection and Management Division**, State Service for Protected Areas under the Ministry of Environment (to be confirmed)
5. Daiva Lukošienė, Chief Desk Officer, Environmental Impact Assessment and Pollution Prevention Division, Pollution Prevention and License Department, Environmental Protection Agency;
6. Jonas Mažeika, Head, Energy Security Policy Division, Economic Security Policy Department, Ministry of Foreign Affairs of the Republic of Lithuania;
7. Jūratė Usevičiūtė, Second Secretary, Energy Security Policy Division, Economic Security Policy Department, Ministry of Foreign Affairs of the Republic of Lithuania;
8. Gediminas Karalius, Adviser, Electricity sector division, Ministry of Energy of the Republic of Lithuania;
9. Artūras Vilimas, CEO and President of the Management Board, LitPol Link;
10. Vilija Railaitė, Head, Communication Division, Litgrid AB;

11. Edmundas Greimas, Executive Director, Lithuanian Fund for Nature;
12. Saulius Sabonis, Head of Engineering Division AB, Amber Grid;
13. Andr  Nutautien , Senior engineer of Engineering Division AB Amber Grid;
14. Darius Šali nas, Environmental Group Leader of Department of Environment Protection and Investment Projects. JSC “Kelprojektas” (EIA for gas pipeline project);
15. Nerijus Zableckis, Director of FPP consulting (EIA for gas pipeline Project – biodiversity part)

**11H00 – 12H30 – RATONDA CENTRUM HOTEL**

**Meeting with the complainants**

*Participants*

1. Mr Ramunas Valiokas, representative of the complainants;
2. Ms Ruta Cimakauskiene, Head of the Association Rudamina Community;
3. Mr Mantas Zelevas, zoologist.

**12H30 – 13H45 - LUNCH AT THE MINISTRY OF ENVIRONMENT**

**14H00 - DEPARTURE FOR RUDAMINA FROM THE MINISTRY OF ENVIRONMENT, A. JAKŠTO STR. 4, VILNIUS**

**16H00 – 18H30 – FIRST VISIT OF THE AREA**

**Trip to Rudamina**

Including stops in the vicinity of UNESCO-protected Zuvintas Lake Biosphere reserve and other areas interested by the development of the OHL, including the lake.

**Meeting with the Director of the Biosphere Reserve (Mr. Ar nas Pranaitis)**

**OVERNIGHT IN GILUITIS, ALYTUS DISTRICT**

**19H30 DINNER IN GILUITIS**

**WEDNESDAY 7 OCTOBER 2015**

**8H00 – 10H00 – VISIT OF THE AREAS PROPOSED BY THE COMPLAINANT**

**Visit to the natural area close to Lake Galadusys, see [map](#).**

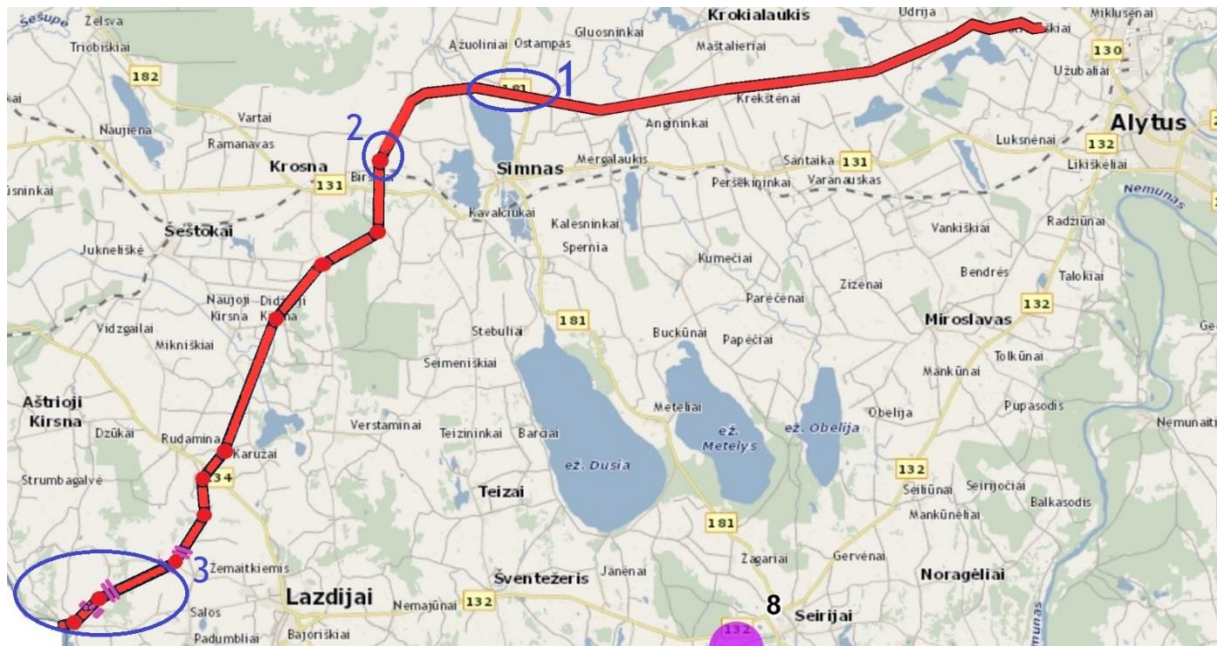
*Means of transport: SUV*

*Participants:*

1. Mr Ramunas Valiokas;
2. Ms Ruta Cimakauskiene;
3. Mr Algirdas Knystautas;
4. Mr Evaldas Snieškus (Herpethologist)

CoE Delegation and Lithuanian authorities

**10H00 – 12H00 – VISIT OF THE AREAS PROPOSED BY THE AUTHORITIES**



*Means of transport: Bus + SUV*

*Participants:*

1. Lina Čaplikaitė-Denisovienė;
2. Algirdas Klimavičius;
3. Kristina Klovaite;
4. Jūratė Usevičiūtė;
5. Gediminas Karalius;
6. Prof. Romas Pakalnis;
7. Artūras Vilimas, CEO and President of the Management Board, LitPol Link;
8. Audrius Tamolis, Project manager, LitPol Link;
9. Edmundas Greimas;
10. Žydrūnas Sinkevičius, Expert, Lithuanian Fund for Nature;
11. Darius Šaliūnas;
12. Nerijus Zableckis;
13. Dalė Amšiejienė, Alytus Division, Pollution Prevention and License Department, Environmental Protection Agency
14. Representative of Alytus Regional Environmental Protection Department of the Ministry of Environment of the Republic of Lithuania (to be confirmed)
15. Evaldas Brusokas, Head, Lazdijai Regional Agency, Alytus Regional Environmental Protection Department of the Ministry of Environment of the Republic of Lithuania

CoE Delegation and Representatives of the complainant

**12H00 – 13H00 – LUNCH IN LAZDIJAI, RESTAURANT “DVYNIAI”, SODŲ STR. 47, LAZDIJAI**

**13H30 – 17H30 – MEETINGS WITH THE LOCAL AUTHORITIES/COMMUNITY**

**13h30 – 15h00 Meeting with the local community and the Mayor of Lazdijai District in Rudamina**

**16h00 – 17h30 Meeting with the local authorities and community in Alytus**

**17H30 – 19H30 – DEPARTURE FOR VILNIUS – OVERNIGHT AT RATONDA CENTRUM HOTEL**

**THURSDAY 8 OCTOBER 2015**

**9H00 – 17H30 – MEDIATION**

**VENUE: LITHUANIAN MINISTRY OF ENVIRONMENT, A. JAKŠTO STR. 4, VILNIUS**

*From the side of the authorities:*

Core participants:

1. Ms. Lina Čaplikaitė-Denisovienė
2. Mr. Algirdas Klimavičius
3. Ms. Jūratė Usevičiūtė
4. Mr. Gediminas Karalius
5. Mr. Karolis Sankovski
6. Mr. Edmundas Greimas

Consultants /observers (in a separate room, available for consultations) :

1. Ms. Kristina Klovaitė
2. Ms. Miglė Masaitytė, Head of Pollution Prevention Department, Environmental Impact Assessment Division, the Ministry of Environment of the Republic of Lithuania
3. Prof. Romas Pakalnis, (to be confirmed)
4. Mr. Egidijus Purlys (only 8th October), Head of Electricity Sector Division, the Ministry of Energy of the Republic of Lithuania
5. Ms. Justina Ratkevičiūtė, Deputy head of Electricity Sector Division, Ministry of Energy of the Republic of Lithuania
6. Mr. Karolis Švaikauskas, Deputy head of Oil and Gas Sector Division, the Ministry of Energy of the Republic of Lithuania
7. Mr. Artūras Vilimas
8. Ms. Andrė Nutautienė
9. Mr. Nerijus Zableckis
10. Mr. Darius Šaliūnas
11. Liutauras Raudonikis, Director, Lithuanian Ornithological Society;

*From the side of the complainant:*

1. Mr. Ramunas Valiokas, representative of the complainants
2. Ms. Ruta Cimauskiene, Head of the Association Rudamina Community
3. Prof. Paulius Kavaliauskas, landscape management, Vilnius University
4. Mr. Algirdas Knystautas

**FRIDAY 9 OCTOBER 2015**

**9H00 – 17H30 – CONTINUATION OF UNFINISHED WORK**

**VENUE: LITHUANIAN MINISTRY OF ENVIRONMENT, A. JAKŠTO STR. 4, VILNIUS.**

**SATURDAY 10 OCTOBER 2015 – DEPARTURE OF COE DELEGATION**

## ANNEX 4 - The agreement made in Vilnius

### THE MEDIATION PROCEDURE IN THE FRAME OF COMPLAINT NUMBER 2013/5: PRESUMED IMPACT OF A CONSTRUCTION OF OVERHEAD POWER LINE (OHL) IN AN ENVIRONMENTALLY SENSITIVE AREA IN THE LITHUANIAN-POLISH BORDERLAND

**In order to ensure compliance with the provisions of the Bern Convention in Lithuania, it is agreed that:**

- Lithuania needs to invest in its energy security, diversifying its supplies;
- the LitPol Link overhead powerline (OHL) has nearly been completed;
- the original complaint form and subsequent updates comprise areas, from the Žuvintas Biosphere Reserve in the north to the Lithuanian border with Poland in the south-west, which might be impacted by the OHL;
- it is important to strive for the conservation of species, and their habitats, listed under the Bern Convention;
- all research, monitoring and surveys on the Bern Convention species should be planned, and the results communicated, in an open and fair manner consistent with Lithuanian law; and
- the environmental impact assessment (EIA) for the gas pipeline (gas interconnection Poland-Lithuania pipeline, GIPL) was approved by the Environmental Protection Agency on 21 August 2015.

**In relation to species listed on annexes to the Bern Convention, it is agreed that:**

#### *Amphibians and reptiles*

- the Lithuanian population of *Emys orbicularis* is of special concern. To ensure its protection, further information about its present distribution and abundance should be collected. Small open shallow water bodies and small swamps must be conserved and managed;
- in order to ensure the conservation of *Bombina bombina*, *Triturus cristatus*, *Pelobates fuscus*, *Bufo bufo*, *Bufo viridis*, *Rana arvalis* and *Rana ridibunda*, the mosaic of habitats (open waters, swamps, natural grasslands, woodlands, streams and small agricultural areas), providing the interconnections for metapopulations, needs to be conserved and managed;
- there are no special concerns regarding *Lacerta agilis*;

#### *Birds*

- for the high-flying bird species (*Botaurus stellaris*, *Ciconia nigra*, *Grus grus*, *Egretta alba*, *Haliaeetus albicilla*, *Circus aeruginosus* and *Circus pygargus*), it is recognised that occasional bird strikes might occur. However, in mitigation of this risk three important flight sectors for migratory birds have been identified as indicated in the EIA report. Appropriate flight diverters will be installed on the optical ground wire (OPGW) through these three sectors;
- the OHL is unlikely to affect the population of *Falco tinnunculus*. However the provision of nest boxes in the vicinity of the OHL will facilitate the conservation of this population;
- no special measures require to be undertaken in relation to the following six bird species: *Crex crex*, *Porzana parva*, *Porzana porzana*, *Tringa glareola*, *Upopa epops* and *Chlidonias niger*; and

#### *Mammals:*

- no special provision can be made for wide-ranging species such as *Lynx lynx*.

**Furthermore, for the long-term conservation of species listed on the annexes to the Bern Convention, and the habitats in which they live, it is agreed that:**

- the preparation of a plan for monitoring of appropriate Bern Convention species, which might be affected by the OHL, will be led by the competent authority. The aim is to agree this plan with interested parties before the end of 2016;
- the corridors of the OHL and GIPL should be reinstated according to the EIA and construction design documentation. They should be managed in a state as near to the original state as is possible for the benefit of the Bern Convention species; and
- consideration should be given to biodiversity offsetting.

**Done in Vilnius on 8 and 9 October 2015**

**Participants in the mediation procedure:**

- ***On behalf of the complainant:***

1. Dr Ramūnas Valiokas, representative of the complainants;
2. Ms Rūta Cimakauskienė, Head of the Association Rudamina Community;
3. Dr Algirdas Knystautas, NGO “Movement for Nature”.

- ***On behalf of the Lithuanian authorities:***

1. Ms Lina Čaplikaitė-Denisovienė, Deputy Head, Nature Protection Division, the Ministry of Environment of the Republic of Lithuania;
2. Mr Algirdas Klimavičius, Head, Protected Areas Strategy Division, Protected Areas and Landscape Department, the Ministry of Environment of the Republic of Lithuania;
3. Ms Jūratė Usevičiūtė, Second Secretary, Energy Security Policy Division, Economic Security Policy Department, Ministry of Foreign Affairs of the Republic of Lithuania;
4. Mr Gediminas Karalius, Adviser, Electricity sector division, Ministry of Energy of the Republic of Lithuania;
- 5a Mr Karolis Sankovski, Member of the Board and Director of the Strategic Infrastructure Department of Litgrid;
- 5b Mr Artūras Vilimas, CEO and the President of the Management Board, LitPol Link;
- 6a Mr Edmundas Greimas, Executive Director, Lithuanian Fund for Nature;
- 6b Mr Liutauras Raudonikis, Director, Lithuanian Ornithological Society;

- ***In attendance:***

Ms Kristina Klovaite, Chief Desk Officer, Nature Protection Division, the Ministry of Environment of the Republic of Lithuania

- ***Mediator: Prof. Michael Usher***

- ***On behalf of the Council of Europe’s Bern Convention Secretariat: Ms Christina Baglai***