

The Position of the Ministry of Environment of the Republic of Lithuania Regarding the Statement of Kazokiskes Community

After close consideration of the Statement supplied by Kazokiskes Community to the UNECE Aarhus Convention Compliance Committee, other documents sent by the Convention Secretariat, as well as information possessed in relation to the aforementioned Statement, the Ministry of Environment of the Republic of Lithuania states hereby its disagreement to argumentation present in the Statement by Kazokiskes Community and believes that the submitting party's assertion that the Republic of Lithuania is in breach of Articles 6 and 9 of the Convention is unsubstantiated due to the following reasons, regarding:

The Detailed Plan

By passing the decision No. 149, on May 12, 1999, the Municipal Council of the Trakai Region approved the preparation of a detailed plan for Kazokiskes landfill site. Further procedures for preparation of this design were given to the competence of newly established Municipality of Elektrenai. In relation to the detailed planning process, the Architecture and Territorial Planning Department of the aforementioned Municipality issued the consideration conclusion No. 00-009 on September 11, 2000, foreseeing that the detailed plan had to be prepared in two stages and presented for public consideration in compliance with the general procedure. The design preparation term was established starting from September 11, 2000, to September 11, 2003. On the same day, the Mayor of Elektrenai Municipality approved the requirements for preparation of the detailed plan.

In 2001 the detailed planning process started. The detailed plan for Kazokiskes landfill site has been prepared in the following constitution: the territory development program, explanatory note, main design drawing and procedural documentation. Such composition for a detailed plan is established by Clause 38 of the Rules for Detailed Planning approved by the Order No. 159 of the Minister of Construction and Urbanism on November 15, 1996.

By its Resolution No. 237 on Approval of the Territorial Development Program, the Municipality of Elektrenai expressed its consent to the Development Program of the Detailed Plan for Kazokiskes Landfill Site, as on December 22, 2001. The aforementioned Program has analyzed the following issues:

- The development of waste management (handling) facilities considering the construction of modern landfill section, rehabilitation of the existing landfill site section and site development throughout its further operation;
- Installation and development of leachate system for collection of the landfill leachate and other polluted sewage and their transmission to the waste water management facilities of Vievis;
- Installation and development of biogas system for collection and treatment or utilization of biogas;
- Installation of complex environmental monitoring system and implementation of scheduled observations;
- Development of infrastructure objects.

According to Clause 5 of the Rules for Detailed Planning applicable at the time and approved by the Order No. 159 of the Minister of Construction and Urbanism on November 15, 1996, the purpose of the detailed planning after performance of certain procedural actions is to set forth and legitimize conditions for the planned development of a certain territory taking into consideration the

geographical location and peculiarities of the territory, environmental and cultural heritage (monument conservation) requirements, as well as the third parties' interests.

The Law on Territorial Planning and aforementioned Rules for Detailed Planning provide that the detailed planning process should consist of the following:

- 1) assessment of the existing situation in the territory to be developed, resources thereof and their quality; preparation of the current situation plan (topographic land cadastre map, layouts of the existing buildings, greenery, natural and cultural heritage values and engineering networks), discussions on the general layout solutions, additional studies if required, assessments of hygiene situation, as well as demographic and population's morbidity indicators;
- 2) preparation and approval of the development programs for territory under development (character of activity to be developed and economic grounds thereto; construction development indicators; engineering facilities; water and energy consumption; waste water and waste quantity; traffic intensity and number of parking lots; population and environment impact indicators, assessment of the outcome of the proposed activity and forecast of possible loss, as well as other data in relation to the specific character of the territory under development);
- 3) preparation and approval of the main design drawing and explanatory note, where specific solutions (including the purpose of the land use and any changes thereof; boundaries of land plots or domains to be divided or consolidated; character of the territory use; location of facilities and structures or the principle of such location; urban, natural and cultural heritage, architectural and engineering parameters for the management and/or use of the territory under development; conditions for use of water resources; location of engineering facilities and networks or territories foreseen for such facilities and networks; land servitudes, etc.) are foreseen.

Depending on the planning purpose, the detailed plan preparation process may be reduced to two stages:

- 1) preparation and approval of development program for the territory under development; and
- 2) preparation of solutions and assessment of outcome; coordination and approval of solutions.

By specifying the waste codes in accordance with the requirements set in the Waste Management Regulations, the Explanatory Note and Development Program of Kazokiskes Landfill Site Detailed Plan clearly states that municipal waste ascribed to the category of non-hazardous waste will be handled on the Kazokiskes landfill site. During the landfill operation period, up to 6.58 million tones of municipal waste will be handled on the site. The Detailed Plan also mentions that the landfill gas collection system will be constructed for collection of gas on this landfill, and presents two most realistic alternatives for landfill gas utilization. After performance of analysis on the current situation, also taking into consideration the goals of the Detailed Plan, the Detailed Plan presents solutions for the territory under development and sets forth the mode for the use of the territory. Therefore at the moment of presentation of the Detailed Plan for Kazokiskes Landfill Site to the public already it has been informed on the scope of activity planned on the territory under development, and on the ways of landfill gas and leachate collection, as well as other infrastructure-related issues. We would like to note that in compliance with requirements of legal acts applicable in the Republic of Lithuania specific waste handling issues (such as sorting and composting) and measures to reduce the negative impact on environment should be discussed within the stage of the environmental impact assessment of the proposed economic activity in which the public is also invited to participate.

Pursuant to provisions of the Law on Territorial Planning of the Republic of Lithuania, territorial planning is a public process, which means that public is entitled to participate in the process of detailed territorial planning. The aforementioned Law on Territorial Planning and Public Participation in Territorial Planning Process Regulations, as approved by the Governmental Resolution No. 1079 on September 18, 1996, ensure the aforementioned right to public, establish the duties for officials in charge of preparation of territorial planning documents related to public information, as well as regulate public information procedures for detailed plans.

The aforementioned legal acts ensure a right to the public to submit proposals and claims, get acquainted with relevant territorial planning documents and get copies of such documents from the beginning of the planning process to a public meeting; they also establish the type of information to be publicly distributed and name the measures through which information on detailed planning should be published (local press, municipal website, local self-government office, where the planning is foreseen).

On February 15, 2002, public was informed on preparation of the Detailed Plan for Kazokiskes Landfill Site in the issue No. 7(87) of the newspaper *Elektrenu Zinios*. The announcement also specified an address, where the information, documentation and possibility to submit proposal in relation to the Detailed Plan was available.

Information on the prepared Detailed Plan for Kazokiskes Landfill Site was published in the issue No. 8 (88) of the newspaper *Elektrenu Zinios* on February 23, 2002. The announcement stated that the Detailed Plan would be publicly exposed on the announcement board of the Architecture and Territorial Planning Department of Elektrenai Municipality starting from February 25, 2002 to March 26, 2002; public discussions on the Detailed Plan would be held at Elektrenai Municipality, on March 26, 2002, 4 p.m.; and information on the Detailed Plan and the Detailed Plan itself for review would be available from February 23, 2002 to March 26, 2002, the same period was set for submission of proposals. The announcement also stated that applicants of rejected Plan-related proposals were entitled to appeal to authority implementing the territorial planning supervision on the state level within a month from the date of public meeting, as far as prepared Plan solutions and public hearing procedures were concerned.

Owners of land plots situated within the sanitary protection area of the planned landfill site were informed on their rights to get acquainted with the prepared Detailed Plan, present their suggestions and remarks in relation thereto, also on the date and time of the public meeting by registered letters. In total, 14 such registered letters were sent.

The public meeting was held in Elektrenai Municipality premises, on March 26, 2002, 4 p.m. Besides the organizer of the detailed plan and persons who prepared the Detailed Plan, five public representatives participated at the meeting. No public comments and proposals were received within the period set for introduction of the Detailed Plan to the public. Neither any motivated (reasonable) proposals for the Detailed Plan were presented by public representatives during the public meeting.

In observance of requirements set in Articles 20 and 23 of the Law on Territorial Planning and following the State Supervision Regulations of Territorial Planning and Construction, before submission of the Detailed Plan to the Municipality of Elektrenai for approval, Vilnius County Governor's Administration carried out the inspection of the Detailed Plan for Kazokiskes Landfill Site and presented its conclusion in the Deed of Checking of the Territorial Planning Document No. 103 (see Annex No. 1 hereto) stating that the Detailed Plan for Kazokiskes Landfill Site was approved with condition that it could come into force only when the final positive decision

concerning the landfill site and validity of activity would be passed. According to the territorial planning and environmental impact assessment requirements set to the proposed economic activity by respective legislation applicable at that time, the Detailed Plan could be approved before passing such decision on validity of the proposed economic activity. It could have come into force, however only on condition that the activity in question would be permitted in the territory covered by the Detailed Plan.

On April 5, 2002, the Detailed Plan for Kazokiskes Landfill Site was approved by the decision No. 55 *Regarding the Approval of the detailed plan* of the Council of Elektrenai Municipality and on April 5, 2002, entered on the Territorial Planning Documents Register of the aforementioned Municipality (the registration number of the Detailed Plan is 010663000047).

Thus the aforementioned national legal acts in compliance with provisions of Articles 6 and 7 of the Convention foresaw possibilities for public to take part in the decision making process regarding the Detailed Plan. The carried out public information and involvement procedures were in compliance with those provided by respective legal acts: public had been informed on the matter during the initial stage through the most appropriate public information media (local newspaper), registered letters has been sent to the most interested part of public, publicly presented information was compliant with the requirements set for detailed planning. Nevertheless the public stayed inactive, as just a few population representatives had taken part in the public meeting, no reasonable comments, nor suggestions were received during the period fixed for submission of such reasoning and/or at the public meeting. So the Detailed Plan was approved in accordance with legal acts applicable at that time in compliance with the Convention provisions.

Environmental Impact Assessment, Technical Project and Construction Permit

Pursuant to the requirements set by the Law on Environmental Impact Assessment of the Proposed Economic Activity, the environmental impact assessment was carried out for construction of the Municipal Waste Landfill of Vilnius County (further referred to as “the Landfill of Vilnius County”) in 2002. The Environmental Impact Assessment (EIA) Program for the Landfill of Vilnius County was prepared in March 2002. In relation to preparation of the aforementioned EIA Program, conclusions by the relative parties of EIA, including the Regional Development Department of the Vilnius County Governor’s Administration, Mayor of Elektrenai Municipality, Vilnius Public Health Center, Fire Protection Service for Elektrenai and Lithuanian Power Plant Security and Public Health and Specialist Training Center in Trakai were obtained.

The EIA Program for the Landfill of Vilnius County was approved by the Ministry of Environment on April 4, 2002, by the letter No. 01-24-1771. After examination of the EIA report for construction of the Landfill of Vilnius County, the conclusions of the EIA subjects and taking into consideration the expressed public opinion in relation to construction of the landfill site in Kazokiskes, on June 12, 2002, the Ministry of Environment made a decision No. 01-24-3257 on the possibilities for construction of the Landfill of Vilnius County in Kazokiskes.

It is noteworthy that the national legislation of the Republic of Lithuania, including the Law on Environmental Impact Assessment of the Proposed Economic Activity and the Order of Informing the Public and Public Participation in the Process of Environmental Impact Assessment, ensure the right to the public to take part in the EIA process of the proposed economic activity. The aforementioned legal acts provide that public may submit motivated proposals for the EIA in relation to the proposed economic activity and possible impacts on environment by such activity, as well as establish the obligation for developer of such proposed economic activity and responsible

institutions to inform the public on EIA by organizing a meeting for the public to get introduced to EIA report, etc. It should be stressed out that in the process of EIA for construction of the Landfill of Vilnius County, appropriate conditions have been created for the public to take part in the assessment process, i.e. the public has been announced on the planned construction of the landfill in Kazokiskes in compliance with requirements set forth by the Law on Environmental Impact Assessment of the Proposed Economic Activity and Order of Informing the Public and Public Participation in the Process of Environmental Impact Assessment. On March 23, 2002, the public was informed on the prepared EIA Program for construction of the Landfill of Vilnius County through the local newspaper *Elektrenu Zinios*. The announcement also specified a place, where the Program prepared was available for reviewing and where to submit comments and proposals in relation to the proposed economic activity and EIA program. No public proposals were received within the stage of preparation of the EIA program. On May 6, 2002, an announcement on Consideration of the EIA report in Relation to the Landfill of Vilnius County was placed in the village of Kazokiskes. The announcement on the prepared EIA Report for the Landfill of Vilnius County and public meeting thereof was published in the newspaper *Elektrenu Zinios* on May 11, 2002. At the meeting held on May 21, 2002, the residents of Kazokiskes were informed on the project and formulated their questions to the preparer of EIA documentation to be presented at the Landfill of Vilnius County EIA report discussion meeting. On the same day, after the meeting, public hearing of the EIA Report was held. As could be seen from the minutes of the public hearing of the EIA Report enclosed to the EIA Report, answers to all questions raised during the prior meeting and during the public hearing. The meeting had stated that no reasonable objections against the planned construction of the regional landfill site in Kazokiskes were expressed, public had positive opinion on such construction of the landfill and therefore a decision was passed to approve the EIA Report in relation of the Landfill of Vilnius County in question. The competent authority made a justified decision on construction of the Landfill of Vilnius County on June 12, 2002. The Ministry of Environment as competent authority placed information on the decision on its Website and Supplement *Informaciniai Pranesimai* to the Official Gazette, on June 27, 2002.

It should be noted that the proposed economic activity must be carried out in compliance with the decision on the proposed economic activity EIA requirements, as well as requirements set forth in the EIA report itself, which means that such economic activity must be carried out only under such conditions and circumstances as are specified in the report.

The Detailed Plan for the Landfill in Kazokiskes states that only municipal waste (i.e. ascribed to the category of non-hazardous waste) will be handled on the landfill. It also states that within the landfill operation period up to 6.58 million tones municipal waste will be handled therein. Whereas the EIA Report specifies up to 6.8 million tones of municipal waste to be handled on the same landfill site throughout its entire operation period. Such quantity of waste to be handled is provided in the EIA Report due to the reason that the landfill's impacts on environment has been assessed in preparation of the EIA Report taking into consideration not only municipal waste handling, but also municipal waste treatment sludge. The EIA Program has stated already that in preparation of the EIA the landfill's impacts on environment will be analyzed considering also the handling of municipal waste treatment sludge. The aforementioned program has been notified to public in accordance with the Order of Informing the Public and Public Participation in the Process of Environmental Impact Assessment. In carrying out the EIA for the Landfill, the impacts on different environmental components while handling municipal waste as well as municipal waste treatment sludge on the Landfill was estimated.

Regarding the results presented in the EIA Report, it could be stated that municipal waste and municipal waste treatment sludge handling activity in the Landfill of Kazokiskes are allowed, when

applying negative environmental impacts prevention, reduction and compensation measures. In preparation of the technical project of the Landfill in Kazokiskes, handling of municipal sewage sludge was refused. Considering the information as presented above, we believe that aforementioned circumstances could not influence the decision passed by the Council of Elekrenai Municipality in approval of the Detailed Plan for the Landfill in Kazokiskes.

Section 3.1 of the EIA Report of Kazokiskes Landfill defining the technological processes provides for approximate waste quantity foreseen for handling on the Landfill within its entire operation period, and it is 6.8 million tones. This section defines the foreseen technological process, landfill bed structure, leachate and landfill gas handling, pile covering, offtake of surface waste water and discusses other important issues. Pursuant to requirements set forth in the Law on Environmental Impact Assessment of the Proposed Economic Activity, the EIA Report analyzes possible Landfill impacts on such environmental components as water, air and soil, underground (geology), biological diversity and landscape, as well as foresees certain measures for prevention and/or reduction of negative impacts. The Statement's argument that the Report fails to specify the measures for the negative impacts reduction is unreasonable, as, for example, the section Possible Environmental impacts and Such impacts Reducing Measures of the EIA Report "Water" section (Annex No. 2 herein) enlists the measures reducing possible Landfill's impacts on surface and underground waters, namely:

- construction of artificial insulating layer on the Landfill bed (0.5 m thickness compacted clay, 6 mm thickness concrete stone clay and high density polyethylene (HDPE) 2 mm thickness membrane layers);
- installation of separate collection systems for non-polluted surface water (from rain and melting snow) and leachate;
- re-cultivation of non-operated part of the pile;
- monitoring of surface and underground water and leachate;
- prevention measures for emergency situations, including construction of duplicate pumps in the leachate and surface water pumping stations.

In order to avoid negative impacts on water, the Landfill will have the leachate collection system installed.

The "Technological Process" section of the EIA Report states that in order to reduce possible negative impacts on air pollution, the landfill gas collection system will be installed (Annex No. 3). During the first years of Landfill operation, burning of the collected landfill gas is planned in a special flare. Later as the quantity of collected landfill gas will grow, the gas will be used for electricity generation.

After implementation of forecast assessment of the Landfill's impacts on air, it is stated in the "Environmental Air (Atmosphere)" section of the EIA that no hazards to human health and life will be present under the forecast situation (see Annex No. 4). The "Human Health" section in the aforementioned Report states that any direct impacts on human health are possible due to the proposed economic activity on the Landfill site in Kazokiskes providing an explanation that this is determined by the territorial distribution of population, the sanitary protection zone and regime to be established in vicinities of the Landfill (see Annex No. 5).

Measures to prevent the negative impacts are presented respectively in the Report regarding all environmental components analyzed in the EIA Report.

Taking into consideration the aforementioned information for public familiarization with the proposed economic activity and EIA Report, it should be stressed out that public was provided with sufficient quantity of information on the proposed economic activity, technological solutions, measures foreseen for the negative impacts prevention in order to be able to express its reasonable opinion on construction of the Landfill in Kazokiskes. It is noteworthy that in preparation of the technical project the solutions contained in the EIA Report are implemented providing specific technical characteristics and other technical information important to performance of the project.

The aforementioned relevant parties of EIA presented their own conclusions on the EIA documentation of Kazokiskes Landfill and development possibilities for the proposed economic activity in accordance with the procedure provided by the Law on Environmental Impact Assessment of the Proposed Economic Activity. In passing its decision on possibilities for the proposed economic activity in respect of the EIA, the competent authority took into consideration such conclusions by the aforementioned relevant parties of EIA, also public opinion expressed during public meeting.

Taking into consideration the aforementioned information it could be stated that the public has been informed on the proposed economic activity and EIA for the Landfill in Kazokiskes in observance the requirements of legal acts of the Republic of Lithuania and not infringing Section 2 of Article 6 of the Convention, which specifies that interested public has to be informed within the initial stage of environmental decision being passed, whereas the decision in relation to environmental impacts by construction of the regional landfill in Kazokiskes has been passed in the initial stage, before preparation of the technical project and prior to other decisions (regarding the construction permit and IPPC Permit). As mentioned above, the EIA Report presents a full description of the planned technologies and economic activity, analysis of possible environmental impacts on different environmental components, foresees preventive measures to avoid such impacts, as well as presents the project solutions to be elaborated in preparation of the technical project for the Landfill.

Speaking of Section 4 of Article 6 of the Convention, which emphasizes public involvement within the initial stage, when consideration of different variants is available and it is possible to ensure the most effective public involvement, it should be stressed out that pursuant to applicable Lithuanian legislation the possibility of consideration of different alternatives is set forth in the EIA process, which is obviously the initial one within the entire design stage. In carrying out the EIA of the Landfill of Vilnius County, two alternative sites for construction of the aforementioned landfill were analyzed and public was informed about the proposed economic activity within the initial stage, so it could be stated that public has been provided with the opportunity to discuss the issue of alternative site for construction of the landfill.

Whereas in the design stage of any structure, the technical project is a unanimous document setting forth the essential functional (of purpose), architectural (esthetical), technological, technical, economical and quality requirements to the planned structure, as well as other indicators and characteristics thereof, rather than providing for the possibility to consider its alternative variants (such as of location, etc.). In the technical project stage, it is impossible already to change basic solutions contained in the EIA Report, such as of the proposed economic activity to be developed, selected waste management methods, the site for implementation of activity, etc. Such project can only elaborate the EIA solutions by presenting technical characteristics and other information important for validation of construction process of the planned structure, as well as its implementation. And, finally, based on the technical project of the landfill, the construction permit is issued.

Pursuant to Article 32 of the Law on Construction of the Republic of Lithuania, the builder (developer) must inform the public on the commencement of designing process for structures within the public interest. The list of such structures (buildings) in compliance with the public interest was approved by the Order No. D1-708 on the Construction Technical Regulation STR 1.05.06:2006 *Design Approval of a Building Structure* passed on December 30, 2004, by the Minister of Environment. First of all, the list contains such structures, to which mechanical resistance and fire safety requirements are raised. In case of landfills, environmental requirements are a priority. In compliance with legal acts applicable in Lithuania, within the preparation process of the technical project for Kazokiskes landfill, the builder was not supposed to notify the public on construction of the landfill and thus was not in breach of the legal requirements. Nonetheless, as it was mentioned before, the public has been supplied with all required information on the proposed economic activity, technological solutions and measures foreseen for prevention of negative impacts as specified on the EIA Report, and could express its motivated opinion on construction of the landfill before the preparation of the technical project. [It is noteworthy that the technical project, on the basis of which the construction permit is issued, realizes the technological solutions of the EIA Report, presents specific characteristics and other technical information relevant to the project implementation.]

On January 27, 2005, based on the Order No. V-63 *Concerning the Formation of the Work Group to Assess the Public Health Impact by the Planned Landfill in Kazokiskes* of the Minister of Health Care, the aforementioned work group was formed. In the Conclusion section of the Statement prepared by the aforementioned group on the Planned Construction of the Municipal Landfill of Vilnius County in Kazokiskes, an additional assessment of the public health impacts by environmental factors to be caused by the aforementioned landfill was suggested.

Pursuant to section 1 of Article 5 of the Law on Environmental Impact Assessment of the Proposed Economic Activity, state authorities in charge of health care should also be treated as relevant parties of EIA with all respective rights and duties as foreseen by the aforementioned Law, including their obligation to consider EIA programs and reports and submit their own conclusions in relation to the EIA programs, reports and possibilities of the proposed economic activity.

It is noteworthy that Vilnius Public Health Center and Public Health Care and Specialist Training Center in Trakai were involved in examination of the EIA documents related to the planned construction of the Municipal Landfill of Vilnius County (Program and Report) and afterwards presented their own conclusions. By issuing its Sanitary Expertise Report No. 12-751 in relation to the aforementioned project documents on May 28, 2002, Vilnius Public Health Center approved the construction of Municipal Landfill of Vilnius County in Kazokiskes. As well as the Public Health Care and Specialist Training Center in Trakai expressed its approval to the EIA Report without any remarks on May 13, 2002, by the Letter No. 12-119 (see the Annexes No. 6 and No. 7). The aforementioned authorities have been implementing functions of the relevant parties of EIA in charge of public health care in compliance with the following legal acts: the Law on Public Health Care (the Official Gazette, 2000, No. 56-2225), Order No. 12 on Approval of Regulations passed by the Head of the State Public Health Care Service on November 9, 2000 (the Official Gazette, 2000, No. 99-3156; 2004, No. 7-175), Order No. 87 on Commitment of Authorities passed on February 6, 2001, by the Health Care Minister of the Republic of Lithuania (the Official Gazette, 2001, No. 15-461; 2002, No. 93-4002) applicable to Vilnius Public Health Center; and Order No. 242 *on Approval of Regulations of the State Budget Institution Public Health Care and Specialist Training Center in Trakai* passed on May 28, 2002, by the Health Care Minister of the Republic of Lithuania as applicable to the Public Health Care and Specialist Training Center in Trakai.

The Law Environmental Impact Assessment of the Proposed Economic Activity does not provide for any possibility to require performance of additional or new EIA for the proposed economic activity from the developer of such activity, when the decision on possibilities of such proposed economic activity in respect of EIA has been made already in compliance with applicable requirements.

Integrated Pollution Prevention and Control (IPPC)

Plans are being made to construct the landfill for non-hazardous waste in Kazokiskes, in compliance with all and any requirements set forth to the landfills of this type by Lithuanian as well European Community legal acts (e.g. construction of the mineral base, leachate and landfill gas collection systems, etc.). As in most modern landfills, the use of compactor is foreseen in the planned Kazokiskes Landfill. Appropriate compaction of waste handled on the landfill site can reduce the problems of odor, leachate formation, waste spread, etc. Therefore it cannot be stated that construction of the aforementioned landfill is in breach of requirement to apply the best available production methods provided by the Council Directive 96/61/EC Concerning integrated pollution prevention and control, whereas according to the Directive, the best available technologies should be applied to the waste handling method that has been chosen, in this particular case to waste handling on the landfill site, but the Directive does not require for selection of some particular waste handling method. After a waste handling method is selected (waste handling on the landfill site in this case), the best technology available must be sought for this particular method rather than the best technology in general out of all existing technologies to all waste handling methods.

Construction and operation of a landfill fall within the scope of waste handling methods legitimized by the Waste Directive, as well as national legislation. The Regional Municipal Waste Handling Landfill of Vilnius County is being founded in Kazokiskes following the National Strategic Waste Management Plan, which provides for development of the entire waste management system incorporating the planning and development and/or rehabilitation of waste collection, sorting and recycling systems, closing and management of out-dated landfill sites, construction of new modern waste handling facilities, effective operation and administration of waste management infrastructure. It also foresees the terms for implementation of different measures contained therein.

The planned landfill in Kazokiskes is one of the components within the project for development of Vilnius County Waste Management System incorporating *inter alia* the management of 125 out-dated landfill sites, arrangement of grounds for containers, construction of sites for handling large-sized waste and composting.

We would like to stress out that alongside with implementation of the regional system development, waste sorting and quantity minimization will be also carried out.

As required by the Council Directive 1999/31/EC on Waste landfills and Lithuanian legislation to reduce gradually biodegradable waste handling on landfill sites, development of separate municipal biodegradable waste collection infrastructure and application of other waste separation measures, construction of industrial composting for municipal biodegradable waste or biogas production facilities as well as municipal waste burning facilities, etc. are foreseen in development of the regional system. It is noteworthy also that handling of biodegradable waste from gardening, park and greenery arrangement is banned on the landfill sites in Lithuania.

In order to minimize package waste coming onto the landfill sites, recyclable waste sorting and collection system is under the process of development in Vilnius County.

Priorities in waste handling activity are given to more advanced technologies, such as incineration, nevertheless the common practice is to handle waste on landfill sites in the European Community as well as all over the world, as there is no such waste handling technology, on application of which no waste could remain and thus landfill sites could be avoided. Even in waste incineration, a certain part of waste (incineration remains, etc.) still remains and has to be handled on the landfill site. Therefore landfill site construction is still inevitable.

In compliance with the Rules for Issuing, Renewal and Cancellation of Integrated Pollution Prevention and Control Permits (further referred to as “the Rules”) approved by the Order No. D1-330 passed on June 29, 2005, by the Minister of Environment (the Official Gazette, 2005, No. 103-3829), the Integrated Pollution Prevention and Control Permit further referred to as “the IPPC Permit”) is issued before starting the operation of objects of economic activity and performance of such activity (in this particular case, before operation of the newly constructed regional landfill) based on an application for such Permit submitted by the executor of such economic activity. This ensures the conditions for respective environmental institutions to check whether the object of economic activity has been built and developed appropriately, whether it is in compliance with requirements set forth in legal acts, including the EIA decision and, finally, whether it will be operated appropriately in the future. Only when the object of economic activity is in compliance with all the aforementioned requirements, such economic activity may be authorized for commencement.

According to clause 26 of the Rules, the executing party must submit an application for the IPPC Permit for obtaining new facilities as specified in Annex No. 1 to the aforementioned Rules (the Landfill in Kazokiskes is included into the Annex) to the Regional Environmental protection Department (further – “REPD”) 4 months prior to the commencement date of the proposed activity at the latest. The IPPC Permit issued by the REPD ensures a right to operate the facilities in observance of certain requirements being fixed thereto. The IPPC Permit to a landfill as to any other object of economic activity will be issued only provided that such a landfill site is constructed and equipped in accordance with all technical project requirements, is in compliance with all environmental requirements, EIA decision, etc.

According to the Rules, the REPD should inform the public through any possible ways of information dissemination within 10 days at the latest after the date of reception of application for issuing or renewal of the IPPC Permit for facilities specified in Annex 1 of the Rules. The interested public is entitled to supply motivated and reasonable proposals within 14 days after the publication date of such announcement. In preparation of the IPPC Permit, the REPD has to take into consideration all reasonable proposals that have been received in relation thereto, and the IPPC Permit can be issued only after the expiration of the period set for submission of proposals and other comments by interested public. The REPD must further notify the interested public on the IPPC Permit issued in 10 days after the issue date thereof through any possible ways of information dissemination. Thus the interested public, including the Kazokiskes community, will be provided with a possibility to submit their proposals and comments in relation to the IPPC Permit conditions, as well as with the right ensured by the law to dispute the RED's decision regarding the IPPC Permit according to respective pre-trial procedures and/or in court (in the Republic of Lithuania the Law on Administrative Proceedings provides for the right to dispute the decisions passed by subjects of public administration, including the decision concerning the IPPC Permit).

The Statement submitting party affirms that the public involvement in decision making procedures for issuing the IPPC Permit is ineffective, when construction of given object of economic activity is completed. It should be stressed out however that in compliance with Lithuanian legal acts and

Article 6 of the Aarhus Convention public is involved into the decision making procedures concerning any proposed economic activity at the earliest stages. In the given case, the public was informed on the proposed economic activity, i.e. construction of the Municipal Waste Landfill of Vilnius County, back in 2002, during the stage of preparation of the detailed plan. Starting from this moment up to now the public has been and still is entitled to participate in decision making procedures related to these activity and is involved therein. Therefore an assertion that the public gets involved in the decision making procedures in some delay is groundless, as decision related to the IPPC Permit is only one decision out of the many related to the economic activity. The purpose of this decision is just to elaborate the requirements raised to the economic activity and it is passed taking into consideration all earlier decisions in relation to the economic activity. The public will be ensured a possibility to participate in the process of issuing the IPPC Permit.

Article 9

The submitting party's statement that it has not been provided with a possibility to dispute the decisions in approval of the technical project and issue of the construction permit in court is unreasonable. The decision for approval of the technical project, as well as decision on issue of the construction permit are acts falling within the scope of administrative law pursuant to the Law on Public Administration (section 18, Article 2) and Law on Administrative Proceedings (Section 15, Article 2) and may be disputed in the courts of law (or out of court) in compliance with the order provided by the latter Law.

Article 22 of the Law on Administrative Proceedings of the Republic of Lithuania provides any person with a possibility to file a claim (complaint) related to an administrative act or action (omission) by a public authority (including any municipal institution), when such person thinks any of his/ her rights or interests protected by the law has been infringed.

Although we think that the decisions in approval of the technical project and issue of the construction permit cannot be treated as such in the sense of Article 6 of the Convention, whereas they determine the requirements to a building, fix technical parameters of such building, such as general area, construction volume, number of floors, altitude of the building, material of basic structures, etc. All aspects of the proposed economic activity are analyzed in preparation of the detailed plan, EIA the proposed economic activity, also by issuing the IPPC Permit and fixing certain requirements therein. As mentioned above, Lithuanian legal acts ensure a right to the public to get involved in these decision making procedures, as well as a right of appeal to courts (other institutions engaged in dispute settlement out of court) and dispute the aforementioned decisions.

It should be noted that the Supreme Administrative Court has stated in its ruling passed on November 18, 2004, that the community of Kazokiskes applied to the administrative court in relation to the decision passed by competent authority (Ministry of Environment) on June 12, 2002, and published on June 27, 2002, only on October 18, 2004, i.e. in more than two years. The court specified that in compliance with section 1 of Article 34 of the Law on Administrative Proceedings, the Administrative Court may renew the claim submission terms upon the claimant's request, if it is acknowledged that the term has been missed due to important reasons. Although in the given case, the claimant has failed to present any evidence on its inability to apply to the Administrative Court due to objective circumstances, outside the claimant's control at the time of official pronouncement of the appealed ruling. The claimant could not prove that within the terms and procedures as set in the Order of Informing the Public and Public Participation in the Process of Environmental Impact Assessment the developer of the proposed economic activity under appeal has failed to publish information on its decision through means of public information as specified in the aforementioned

Regulations (in places of mass gathering, press on the national as well as regional level) and that the above-mentioned circumstance could have precluded objectively the claimant from seeking the court's protection within the term provided by the law. The court has stressed out that the claimant has failed to disclose and specify in detail to the court the circumstances, when the claimant has become objectively aware of the decision under appeal. Considering all the aforementioned circumstances, the court has refused to renew the claim submission term. These circumstances also show that the claimants have had the right to take part in the decision making process, also the right of appeal to court, but due to too low interest in the initial planning procedures of the economic activity or due to some other, unknown reasons have failed to exercise these rights provided thereto by the law.

It is also noteworthy that on July 4, 2006, the Administrative Court of Vilnius County decided to accept the claim by the Kazokiskes community and other claimants asking for annulment of the following:

1. the conclusions in analysis of the detailed planning process and procedure passed by Elektrenai Municipality on September 11, 2000;
2. conditions to preparation of the general, detailed and specialized planning documentation issued by Elektrenai Municipality on September 11, 2000;
3. Resolution No. 55 passed by Elektrenai Municipality Council on April 5, 2002;
4. the Code of Designing Requirements No. 04-27 issued by the Architecture and Territorial Planning Department of Elektrenai Municipality on May 12, 2004; and
5. the Construction permit No. 07LR-8 issued by the Architecture and Territorial Planning Department of Elektrenai Municipality on January 24, 2006.

Other Information

We would like to note that opinion on construction of the Landfill in Kazokiskes has been expressed not only by members of the Kazokiskes community or responsible institutions, but also by a few Lithuanian non-governmental organizations working in the area of environment. Linas Vainius, the Council member of the Atgaja Society (one of the founders of Lithuanian Green movement) and CEE Bankwatch Network coordinator, has also not once spoken on the subject in public (see Annexes No. 8 and No. 9). Being the representative of non-governmental institution, Linas Vainius took part in preparation process of Waste Management System of Vilnius County, as well as the public informing process of the Environmental Impact Assessment Report. In his public statements Mr. Vainius says he is sure about objectiveness and transparency of the process. This case was even presented as the best practice example at the European Parliament international conference held in 2002.

Taking into consideration the information and arguments as expressed above, we believe the statement of the Kazokiskes community claiming for the breach of Article 6 and 9 of the Convention within the decision making process for construction of the Municipal Waste Landfill of Vilnius County in Kazokiskes, is groundless as the aforementioned processes have been carried out pursuant to the national legislation applicable at the time and in compliance with Aarhus Convention requirements.