

IV SA/Wa 308/14 - Judgment

Date of judgment	2014-09-25	<i>final decision</i>
Date of receipt	2014-02-11	
Court	Voivodship Administrative Court (VAC) in Warsaw	
Judges	Jakub Linkowski /president rapporteur/	
Symbol with description	6139 Others with the primary symbol 613	
Thematic entries	Environmental protection	
Related signatures	II OSK 1076/15 – Judgment of SAC from 2016-07-28	
Complained authority	Other	
Content of the judgment	Complaint dismissed	
Established regulations	OJ 2001 No. 62 item 627 art. 62 par. 1 point 1b in connection with art. 66 par. 1 point 7c; <i>Act of 27 April 2001 on Environmental Protection Law</i> . OJ 2004 No. 257 item 2573 ; § 2; <i>Regulation of the Council of Ministers of 9 November 2004 on determining the types of projects that may significantly affect the environment and detailed conditions related to the qualification of the project for the preparation of the report on environmental impact</i> OJ 1960 No. 30 item 168 ; art. 7,77,107 § 3; <i>Act of 14 June 1960 - Code of Administrative Procedure</i> OJ 2002 No. 153 item 1270 ; art. 151; <i>Act of 30 June August 2002 – Law on Proceedings before Administrative Courts</i>	

SENTENCE

Voivodship Administrative Court in Warsaw composed of: President of the VAC, Łukasz Krzycki, Judges, VAC Judge Jakub Linkowski (rapp.), VAC Judge Małgorzata Małaszewska-Litwiniec, Court Reporter and Secretary Agnieszka Olszewska, after hearing at the court on 11 September 2014, the complaints of Association "P." based in G., Polish Association P. based in R. and B.W. on the decision of the General Director for Environmental Protection of [...] December 2013 no. [...] regarding the establishment of environmental conditions for the project - dismisses complaints -

JUSTIFICATION

Regional Director of Environmental Protection in B. (Hereinafter: RDEP in B.) by decision of [...] July 2013 defined the environmental conditions for the project "B."

Taking the deadline provided for in the CAP, the appeal against the above decision was made by:

letter of 31 July 2013: B. W., M. P., J. K., H. K., W. Z., J. G., W. O., S. F., K. B., S. S., W. K., B. G.,

letter of 3 August 2013: Association "P."

The parties have requested to repeal a/m decision in its entirety and refer the case back to the first instance authority. A request was made to order the authority to take expert evidence from medicine specialists to identify possible threats to health and life of people staying near the line and to determine if there is a need to create a limited use area.

The appellants have presented the following allegations:

violation of art. 7 of the Act of 14 June 1960 - The Code of Administrative Procedure (OJ of 2013,

item 267, hereinafter: "CAP") because the impact of investment on human health and life has not been analysed;

violation of art. 8 of CAP, because the authority issued a decision based on flawed documentation, in which the impact of investments on the health of people being under or near the line was marginalized;

violation of art. 10, 79 of CAP by failing to provide the parties an active participation in the proceedings and unequal treatment of the parties regarding the delivery of letters and decisions;

violation of art. 75, 77 and 78 of CAP due to issuing a decision based on incomplete evidence,

violation of art. 80 of CAP due to the superficial evaluation of the documentation of the case "omitting important documents confirming the circumstances raised by the parties";

violation of art. 107 § 3 of CAP

the first instance authority indicated in the decision that it is not competent to check whether the provisions based on which the decision is issued comply with European law, whereas "this matter is not reserved only for the court";

a non-exhaustive and misleading answer to the note about the corona discharge;

violation of the obligation to measure the intensity of the electric and magnetic field and noise after completion of the investment and on its basis to resolve the merits of the investment fence and to prohibit stay of the people under the line is in contradiction with the assurances of the authority that the project is not adversely affecting a human health;

it was alleged that the first-instance authority indicated that during the proceedings it analysed the environmental impact of the project, but did not consider the effect on humans;

the justification for the variant chosen for implementation is the absence of a collision with housing development, however, the analysis in this respect regarding the number of displacements or demolitions does not consider the impact on human health in the case of a line near housing. The decision does not indicate what is the safe distance of the line from the housing, as well as the number and location of buildings that are within 35-100 m from the line;

the first instance authority did not indicate in the decision what is the preferred distance between the line and the habitats of birds and bats;

the statement that "an acceptable level of 50 Hz electromagnetic field in the environment should not exceed the limits in places available to people" indicates that the authority is uncertain about this;

declaration of the authority that "corona discharge is located at a distance of 20 m from the line axis" raises doubts in the context of the condition imposed in point IV.1, regarding the need to measure the intensity of electric and magnetic fields and noise in the zone 35-100 m from the line;

violation of § 2 par. 1 point 6 of the Council of Ministers' ordinance of 9 November 2004 on determining the types of projects that may significantly affect the environment and detailed conditions related to the project's eligibility for preparation of the environmental impact report (OJ No. 257, item

2573, as amended) in connection with § 4 of the Council of Ministers' regulation of 9 November 2010 on projects that may significantly affect the environment due to erroneous recognition that the planned power line is not an investment that poses a threat of a serious industrial accident;

the authority did not impose an obligation to monitor the impact of investments on human health and increase their mortality;

the authority, considering that there is no need to establish an area of restricted use, did not take into account that the line will run through agricultural areas, where people will be working for many hours.

Association "P.", raised the following allegations:

1. breach of the precautionary principle, because the decision was issued without considering the latest research and technological solutions. The authority has not attempted to find solutions that would allow compliance with "health and environmental standards";

2. failure to analyse an option of carrying out an investment in a cable method, which is less emergency in relation to the overhead line, generates lower operating costs, does not affect the landscape values, does not cause collisions with birds, does not pose a threat to human health;

3. an authority did not consider proposed by the Association minimizing measures used in Sweden, i.e.: increasing the distance of the investment location to the places of human presence, implementation of cable networks instead of overhead and change of legal regulations regarding the interaction of electric and magnetic field components;

4. an authority in a laconic and non-exhaustive manner referred to the Association's comments regarding the threat of overvoltage to which workers working on high agricultural machineries under the line are exposed. The report does not consider legal regulations concerning the work safety of farmers under the power lines, there is also no mention that according to the guidelines of the Central Institute for Labour Protection, it is forbidden for farmers to work and animals to stay under the transmission lines;

5. in the case concerned, all the principles and legal basis of Sustainable Development which "enable reconciliation of the pursuit of a satisfactory economic result with a deep concern for the social environment and the natural environment" were omitted;

6. there is no scientific research or independent expert opinion in the documentation of the case concerned;

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7. an investor's plenipotentiary has formulated responses to comments and requests made during the public participation in an irregular manner, and omitted some of the comments altogether;

8. an authority should apply to the Ministry of Health and the Institute of Occupational Medicine for opinions that would verify the currently established standards on the acceptable levels of electromagnetic fields.

The Association, together with the appeal, submitted also a letter dated 5 June 2013 containing remarks made in the proceedings involving the public, asking for reconsideration. The letter stated that:

- a. the subject matter should be discontinued, as it does not include alternative options in the form of cable lines. Adopt an a priori only solution in the form of an overhead line is inconsistent with the principle of analysing the latest available technical solutions and the precautionary principle;
- b. a comparative analysis of the overhead line with the cable line included in the report (part I, chapter 2.3, point "A.") was created without the current global knowledge and without considering the need to ensure appropriate standards in the environment. For this investment, the designated technological strip is 70 m, it means 2 x 35 m from the axis of the line, while guidelines for Swedish high voltage lines indicate that the desired level of electromagnetic field is achieved at least at 130 m from the line axis, so the minimum corridor should be 260 m wide;
- c. world research indicates a very large negative influence of electromagnetic radiation on human health, particularly on children. Suggested minimum distance of the 400-kV line from human places of residence should be 300 m;
- d. a planned investment will have a significant impact on the landscape and natural environment, therefore the most advantageous variant is the zero variant or the underground cable line. Social protests in the municipalities through which the line is supposed to run clearly demonstrate the necessity to change the priority of ensuring the country's energy security.
- e. a statement that the noise-related impact cannot be eliminated indicates that the investor does not seek to reduce the acoustic impact to acceptable levels;
- f. it is necessary to establish a restricted use zone within the planned investment;
- g. contracts for easement of transmission and lease of land are unclear and imprecise;
- h. responsibility for "future property and compensation claims is transferred to local governments, and they are not clearly informed";
- i. power lines are the biggest threat to avifauna, especially for predatory and migration birds. The marking of the line itself is a seeming activity with little practical effectiveness, and the only effective solution in this matter would be to replace the overhead line with the underground one;
- j. a line operating temperature of 80°C testifies a significant shortage of the proposed technical solution, which will cause huge energy losses on transfers;
- k. worrying is the determination of the route of the line for the expected locations of wind farms. Society of M. and S. is opposed to the development of wind energy in that region.

The General Director of Environmental Protection, after considering the above appeals, by decision of [...] December 2013, annulled the judgment of the first instance authority:

point 1.2.3 as follows: "The structural elements of poles should be delivered to the place of their foundation using existing access roads and forest ducts. For hardening of dirt access roads, use gravel, crushed rock aggregate or similar material. Temporary roads to be dismantled after completion of works, and the area underneath lead to the state closest to the original one."

In this regard, he stated: "The structural elements of poles should be delivered to the place of their

foundation, using existing access roads and forest ducts. For hardening of dirt access roads use gravel, crushed rock aggregate or similar material. If necessary, additional access roads should be made from concrete slabs or JOMB-type plates. Disassemble concrete slabs or JOMB-type plates after completion of construction works. Preserve forest roads with temporary routes from existing forest tracks to posts of poles, while on non-forested grounds, the area occupied by temporary roads should be as close as possible to the original, previous state. "

point 1.2.4 of the first instance decision as follows: "When planning a commute, use the existing forest roads and ducts, and if it necessary to build temporary roads, avoid forest areas, hydrogenic and meadow areas and identified valuable natural sites as well as possible new ones, indicated by nature supervision." In this regard, he stated: "When planning a commute, use the existing forest roads and ducts to the maximum, and if it is necessary to build temporary roads, avoid the forest areas, hydrogenic and meadow areas and identified valuable natural sites as well as possible new ones, indicated by nature conservation. Temporary roads should be delimited as far as possible within the line of technological strip."

point 1.2.7 as follows: "Poles should be positioned so that their placement influences the water conditions of the given habitat as little as possible. The poles should be placed as far as possible from the waterlogged habitats and the time of earthworks in the construction of poles should be limited to a minimum." In this regard, he said: "Poles should be positioned so that their placement influences the water conditions of the given habitat as little as possible. The poles should be placed as far as possible from the waterlogged habitats and the time of earthworks in the construction of poles should be limited to a minimum. On posts of poles: Eł - 12, Eł - 49 and Eł - 51, use tight walls (e.g. Larsen type) to prevent excavation of water."

point 1.2.19 as follows: "Reduce felling of trees and bushes to the necessary minimum." In this regard, he stated: "The maximum area of afforestation covered by the felling cannot be greater than 5.3 ha, with the trees and bushes being cut limited to the necessary minimum."

point 1.2.21 as follows: "Make a replacement plant in the same number of trees as have been cut." In this regard, he stated: "Make a replacement plant in the same number of trees as have been cut. Ensure consistency of species planted in a given area with existing ones, and these plantings should be carried out using native species. Plantings should be carried out outside natural habitats for which trees and shrubs are perceived as a threat. Replacement plantings, including the selection of planting locations and species composition of trees, should be carried out after consultation with nature supervisor."

point 1.2.26 as follows: "In the case of natural supervision, that during the construction works, apart from the migration period of amphibians, increased activity of amphibians occurred, and thus the possibility of negative, direct impact on these animals, apply measures to minimize this impact in the form of fences." In this regard, he stated: "In the case of natural supervision, that during the construction works, apart from the migration period of amphibians, increased activity of amphibians occurred, and thus the possibility of negative, direct impact on these animals, apply measures to minimize this impact in the form of fences with the parameters indicated in point 1.2.38."

point 1.2.27 as follows: "While carrying out construction works, if it is necessary to locate the excavation near the place intensely penetrated by amphibians, fence them with protective fences." In this regard, he stated: "The felling of trees and shrubs should be carried out outside the breeding season of birds, it means outside the period from March 1 to August 31."

point 1.2.31 as follows: "In the voivodship [...], poles, access roads, construction facilities and

material bases, locate, after consultation with the nature supervisor, except for the identified patches of protected natural habitats and sites of large copper (*lycaena dispar*), violet copper (*lycaena helle*) and green gomphid (*ophiogomphus cecilia*), it means outside the sections specified in the decision, and possibly beyond the other occurrence of protected species." In this regard, he stated: "Poles, access roads, construction facilities and material bases, locate, after consultation with the nature supervisor, except for the identified patches of protected natural habitats and sites of large copper (*lycaena dispar*), violet copper (*lycaena helle*) and green gomphid (*ophiogomphus cecilia*), it means outside the sections specified in the decision, and possibly beyond the other occurrence of protected species. "

point 1.2.33 as follows: "In the voivodship [...], do not locate poles, access roads and technical bases related to the phase of construction of the 400-kV power line within identified c and z positions, it means outside sectors" specified in decision. In this regard, he ruled a dismissal of the proceedings of the first instance authority.

point 1.2.34 as follows: "In the voivodship [...], do not locate poles, access roads and technical bases within the identified lobes of protected natural habitats, it means outside sectors" specified in the decision of the first instance authority. In this regard, he ruled a dismissal of the proceedings of the first instance authority.

point 1.2.35 as follows: "In the voivodship [...], in the case of forest natural habitats, including priority ones, if it cannot be bypassed, guide the 400kV power line over the tree tops, while excluding felling on areas" specified in the decision. In this regard, he stated: "In the case of forest natural habitats, including European Community priority ones, such as *91E0 and *91D0, if they cannot be bypassed, carry the power line over the tree tops, while excluding felling on areas" specified in the decision.

point 1.2.36 as follows: "In the voivodship [...], in the case of forest natural habitats, including priority ones such as *91E0 and *91D0, if they cannot be bypassed, the felling should be excluded, and the power line should be carried over the tree tops." In this regard, he ruled a dismissal of the proceedings of the first instance authority.

point 1.2.37 as follows: "Excavations cover as soon as possible to prevent the trapping of ground beetles (*coleoptera carabidae*)". In this regard, he ruled: "Use and liquidate excavations in the shortest possible time, flood after a release of ground beetles".

point 1.2.43 as follows: "Due to the breeding of birds, in the voivodship [...], do not carry out construction and assembly works in the period from March 1 to August 31 in sectors" specified in the decision. In this regard, he ruled: Carry out all construction and assembly work on the power outside the bird breeding period, it means outside the period 1 March - 31 August in sectors" specified in the decision.

point 1.2.44 as follows: "Due to the breeding period of the white-tailed eagle (*haliaeetus albicilla*), in the voivodship [...], do not carry out construction and assembly works in the period from January 1 to August 31 in sector" specified in the decision. In this regard, he ruled: "Due to the breeding period of the white-tailed eagle do not carry out construction and assembly works in the period from 1 January to 31 August in sector" specified in the decision.

point 1.2.45 as follows: "In the voivodship [...], due to bats' reproduction, assembly and construction works should be carried out outside the period 1 May -31 August in sectors" specified in the decision. In this regard, he ruled: Due to the bats' reproduction, assembly and construction works should be carried out outside the period May 1 - August 31" in sectors specified in the decision.

point 1.2.46 as follows: "In the voivodship [...], all construction and assembly works, as well as related to felling trees, near localized nests of protected species should be carried out outside March 15 - July 31, and in the case of lesser spotted eagles (*clanga pomarina*) outside the period 15 March - 15 August, and in case of white-tailed eagle outside the period 1 January - 31 July, in sectors" specified in the decision. In this regard, he ruled a dismissal of the proceedings of the first instance authority.

point 1.2.47 as follows: "In the voivodship [...], construction and assembly work near forest areas and in places where tree felling will take place, as a rule, carry out outside the period May 1 - August 31. If it is necessary to conduct works during the breeding period of birds, they must be done under the supervision of an ornithologist, who will determine the scope of permissible works at a specific place and time" in sectors specified in the decision. In this regard, he ruled a dismissal of the proceedings of the first instance authority.

point 1.2.48 as follow: "In the voivodship [...], due to the occurrence of bats and crossing river valleys, apply wider poles spacing (450-550 m) in sectors" specified in the decision. In this regard, he ruled: "Due to the occurrence of bats and crossing river valleys, apply wider poles spacing (450-550 m) in sectors" specified in the decision.

point 1.2.49 as follows: "In the voivodship [...], due to the existence of important habitats of bats, apply wider poles spacing in sectors" specified in the decision. In this regard, he ruled a dismissal of the proceedings of the first instance authority.

point 1.3.1 as follows: "In the voivodship [...], to reduce the number of bird collisions with cables, mark lines e.g. in the form of red, orange or yellow balls, mounted on both lightning conductors at distances of 60 m on sections" specified in the decision. Their installation, type of markers and arrangement on the lightning conductor of the power lines must be agreed with the ornithologist supervisor." In this regard, he ruled: "In order to reduce the cases of bird collisions with cables, mark lines in the form of red, orange or yellow balls with a diameter of 60 cm, mounted on both lightning conductors, on the sections" specified in the decision. "The balls must be assembled alternately every 60 m, which will create the effect of their installation every 30 m. Mounting of balls to be carried out under the supervision of an ornithologist."

point 1.3.2 as follows: "In the voivodship [...], in order to reduce the number of bird collisions with cables, in places potentially exposed to collisions with crucial ones (white-tailed eagle, black stork (*ciconia nigra*), lesser spotted eagle and areas of high density of white stork (*ciconia ciconia*) nests), mark cables in the form of coloured balls (e.g. red, orange, yellow) on the lightning conductors. Of technical reasons, the balls should be assembled alternately every 60 m, which will create the effect of installing them every 30 m. Type of markers and their arrangement on the lightning conductor lines of the power line should be agreed with the supervising ornithologist." on sections specified in the decision. In this regard, he ruled a dismissal of the proceedings of the first instance authority in II.3 as follows: "Ornithological monitoring should be performed by specialists in ornithology, and chiropterological - by specialists in the field of chiropterology. The post-implementation monitoring results each time should be submitted to the Regional Director of Environmental Protection in [...]." In this regard, he ruled: "Ornithological monitoring should be performed by specialists in ornithology, and chiropterological - by specialists in the field of chiropterology. A naturalist (forest ranger, gardener, biologist or landscape architect) should conduct monitoring, including annual health checks of plantings by period of 5 years from the date of their creation. In case of finding that trees or bushes die or fall out, supplements should be used in these plantings. The post-implementation monitoring

results each time should be submitted to the Regional Director of Environmental Protection in [...]"

point II.3 as follows: " Ornithological monitoring should be performed by specialists in ornithology, and chiropterological - by specialists in the field of chiropterology. The post-implementation monitoring results each time should be submitted to the Regional Director of Environmental Protection in [...]" In this regard, he ruled: " Ornithological monitoring should be performed by specialists in ornithology, and chiropterological - by specialists in the field of chiropterology. A naturalist (forest ranger, gardener, biologist or landscape architect) should conduct monitoring, including annual health checks of plantings by period of 5 years from the date of their creation. In case of finding that trees or bushes die or fall out, supplements should be used in these plantings. The post-implementation monitoring results each time should be submitted to the Regional Director of Environmental Protection in [...]"

In the remaining part, the General Director of Environmental Protection upheld the decision of the first instance authority.

Referring to the allegations contained in the appeals, he pointed out that the impact of the planned investment on health and human life was addressed in chapter 5.12 of the environmental report "Impact on health and life", which included analysis of the impact of the various investment options in both the construction and operation phases.

The permissible values of electromagnetic radiation for places accessible to the public were established in the ordinance of the Minister of the Environment of October 30, 2003 on acceptable levels of electromagnetic fields in the environment and ways to check compliance with these levels (OJ of 2003 No. 192, item 1883): 10 kV/m for an electrical component and 60 A/m for the magnetic component at the frequency of fields emitted by power lines 50 Hz. However, for residential areas, the electric field strength of 50 Hz cannot exceed value - 1 kV/m, and the magnetic field - 60 A/m.

The information included in the report shows that both during the construction and operation of the line, the intensity of the electrical and magnetic components outside the designated technological strip with a width of 70 m (35 m each side from the line axis) will not exceed the admissible values. However, in this strip, it is not allowed to locate residential buildings, where the electric field strength may exceed the value of 1 kV/m.

The appeal body indicated that the width of the technological strip designated for the investment in question was determined based on the calculations presented in the environmental impact assessment report. He pointed out that the area of the technological strip is not identical to the area of exceedance of environmental quality standards in the field of electromagnetic field emission and noise, because in many places these values may be lower than the permissible ones, and the technological strip is also an area needed for construction and maintenance works and in emergency situations.

The report shows that "the exemplary calculations carried out demonstrated that at the shortest distance of the span from the ground (13,4 m) strength of the electrical component in planned to build power line at the maximum permissible operating voltage (420 kV) will not exceed 4.77 kV/m at the desired location. This value may occur only at the largest overhang of the line and in the most unfavourable working conditions. In addition, part II of the report indicates that field work related to the use of agricultural machinery cannot be carried out in an area where the electric field strength exceeds 10 kV/m, and the magnetic field - 60 A/m. The average level of electromagnetic field in which people working in field works is present, due to, among others, the movement of agricultural machinery in relation to the line, is very small, much smaller than the above-mentioned limit values".

Contrary to the appellants, in the absence of exceedances of environmental quality standards outside the designated area of 70 m (2 x 35m), there are no legal grounds, as well as no economic justification for determining the technological corridor 260 m wide (2 x 130 m).

The authority said that the permissible electromagnetic radiation limits were set by regulation of the Minister of the Environment of 30 October 2003 in agreement with the minister competent for health, in accordance with the statutory delegation referred to in Article 122 par. 1 of the Act of 27 April 2001 on Environmental Protection Law (OJ of 2008 No. 25, item 150, as amended, hereinafter referred to as "EPL"). Thus, these levels consider the medical aspects of the interaction of electromagnetic fields on the human body and are also applicable to high risk groups, including children. Permissible levels of electromagnetic fields that may occur in the environment in places accessible to people have been established assuming that the continuous presence of people of any age and state of health - in areas with lower levels - cannot have negative health effects for them.

Permitted levels of electromagnetic radiation in the environment co-create (under art. 83 par. 2 of EPL) environmental quality standards, in accordance with art 82 of EPL, one of the basic tools to implement the protection of environmental resources. Public administration authorities dealing in the proceedings regarding the issue of a decision on environmental conditions are obligatorily related to the environmental quality standards set out in the applicable provisions of national law.

The General Director of Environmental Protection stated that the implementation of the project in question, maintaining the established technological strip of the site and thus acceptable levels of electromagnetic radiation in the environment, will not significantly affect human health, therefore the applicants' concerns should be considered unjustified.

As for the noise impact of the line, he said that the acoustic noise level related to the operation of 400 kV power lines during good weather is comparable to the acoustic background level. Most often it is within 32-38 dB at 15 m from the line. These values are lower than the values referred to in the regulation of the Minister of Environment of June 14, 2007. regarding permissible average noise levels in the environment (OJ of 2007 No. 120, item 826, as amended).

Locally, most often in bad weather conditions, it is expected that the noise level generated by the power line may periodically reach up to 46 dB. Appropriate technical solutions in the form of e.g. multiple conductors, will reduce the level of sound produced by the line.

He also stressed that during proceedings aimed at issuing a decision on environmental conditions, the first-instance authority requested the State Sanitary Inspector in Białystok and the State Sanitary Inspector in Olsztyn to express an opinion on the scope of their jurisdiction. Sanitary authorities respectively, by letters of 29 May 2013 and 16 May 2013, positively evaluated the conditions for the implementation of the project. Thus, the conditions for the implementation of the project have been assessed by public administration authorities specialized in the will of the legislator in terms of sanitary, hygienic and health conditions, and these authorities gave a positive opinion on the implementation of the project.

Addressing the allegation of "unspecified safe development", he stated that the Polish regulations do not regulate the issue of a minimum, safe distance from the power line to buildings, because the basic impacts, it means noise and electromagnetic field, have boundary norms in the generally applicable law.

As in decision of the authority of the first instance has been explained, "the technological strip has been designated so that all interactions of the lines are closed within its boundaries, therefore the location of housing is not possible in this area". But outside the designated zone of 35 m on both sides of the line axis there are no restrictions and therefore location of buildings is allowed. Moreover, in the assessment of the authority, it is not worth considering the allegation of lack of explanation regarding the possibility of staying and working under the line, because the distance between the phase conductor and the ground in a desired place will not be less than 13.4 m, which will allow working under the line even using larger agricultural machines. Staying within the reach of such fields is completely safe and in accordance with the regulations".

In respond to the allegations concerning the reasons for renouncing the analysis of the variant consisting of the implementation of the cable line, he explained that the task of the competent to issue a decision on environmental conditions authority is to determine the conditions for the project to the extent proposed by the investor. In the case at hand, this was done based on the conducted environmental impact assessment. The scope of the project and all its conceptual changes depend on the investor, and the role of environmental protection authorities is their assessment in terms of environmental conditions and requirements.

Regardless of the above, the environmental impact report as well as the decision on environmental conditions take into account the analysis of options to the extent required by the provisions of the Act of October 3, 2008 on facilitating the access to information about the environment and its protection, public participation in environmental protection and the environmental impact assessment (the EIA Act). The EIA Act imposes on the applicant the obligation to determine options but does not oblige him to define technological variants.

He stated that in replying to the comments and requests submitted in the course of the proceedings, RDEP in B. was based on the information provided in the report and its annexes on the impact of the project on the environment, it means on documentation which was the basis for the assessment of the project's environmental impact and environmental determinants for the implementation of investments.

The information contained in the report contradicts the applicants' claims that the cable line was more economical and more beneficial in terms of environmental impact, including human health. On the one hand - as the applicants rightly pointed - does not cause a collision with birds, but on the other hand - as the app have not already paid attention - it has a negative impact on soil and water relations, natural habitats and necessitates to exclude a large area of land from use, including agricultural crops.

Referring to the applicants' comments regarding the significant impact of the overhead line on the landscape, he pointed out that the 400-kV line will affect the landscape of the areas through which it runs. This impact will be direct, long-lasting, mainly related to interference in the landscape and the fragmentation of open areas. Interference with the landscape results from the presence of poles, which, although they are arranged point by point and occupy a small area, reach high above the level of the land, towering and dominating over the other elements of space. In addition, regular distribution of poles at similar intervals (approximately 350-500m on average) and the interconnection of power cables between them causes in the landscape the effect of a barrier of some sort that cuts the space and focuses the view along its direction (page 150 part II of the report). As the report's authors pointed out, the high voltage line has the strongest influence on the landscape in its immediate surroundings. As you move away from the line, its impact on the perception of the landscape becomes smaller, however, even from several hundred meters, depending on the location and terrain conditions, it is potentially a dominant in space. He stressed that the scale of this impact will be variable over time.

Referring to the definition of landscape in the European Landscape Convention of 20 October 2000 adopted by Poland and published in OJ of 2006 No. 14, item 98, he stated that for the perception of observers the dominant meaning is the period of functioning of a given element in the landscape. The shorter the element functions in the landscape, and thus in the consciousness of its recipients, the more negative its reception. The above means that the impact of the planned line on the landscape will gradually decrease with the time of the project operation.

The authority did not agree with the allegation that the cable line does not violate landscape values. He argued that this method of investment implementation leaves a clear ecological footprint (change in soil structure) along the entire length of the transmission system route (significant excavations for the cable line) and visible connection points of the cable sections (for transport and assembly reasons not longer than 600 - 800 m) - cable wells, or possible places for introducing cooling air into tunnels, end stations with overhead elements (table 2-1, page 41 part I of the report).

According to the authority, it cannot be clearly stated that the overhead line is more emergency in relation to the cable. Nevertheless, in the case of a cable line failure, repairing the damage requires a long-term and expensive location of the damage, and each time carrying out earthworks. Removal of the failure in this case involves: repeated devastation of the area within the cable line to repair the damage, devastation of the surrounding area to transport the necessary equipment and materials to remove the damage to the line (page 41 part I of the report). In the situation of removing the failure of overhead lines, there is no significant interference in the environment.

Regarding the signalled solution consisting in choosing the zero option, he decided that it is impossible to deny that in terms of environmental implications this is the most advantageous option, however, its adoption would mean leaving a large region of Poland without sufficient security in the electricity supply (which consequences, also in terms of impact on the environment are difficult to predict) and failure to implement one of the key projects with the rank of a trans-European connection (page 38 part I of the report).

Referred to the raised issue of residents' opposition to the implementation of the 400-kV overhead line, he stated that the authority competent to issue a decision on environmental conditions conducts proceedings and issues a resolution in the scope which was specified by the investor in the application. If the result of the conducted procedure indicates the possibility of realizing the investment (which means the lack of a specific negative impact on the environment), this body is obliged to issue a decision on the environmental conditions for it.

He also stressed that issues concerning the correct transposition of provisions of EU directives into national law go beyond the scope of the case and the power of the authority regarding environmental impact assessments set out in the provisions of EIA Act.

In terms of the environmental impact (for humans and animals) of ions produced by the cables of high-voltage overhead lines, he stated that this issue is the subject of research and analysis, but only in the case of DC overhead lines, which are not built in Poland. The only known reports on the potential environmental impact of ions produced by AC overhead lines are by Denis Henshaw (from Bristol University). A qualitative and quantitative analysis of the phenomenon of ion formation in the environment of high voltage power line cables is described in Transmission Line Reference book, 345 kV and above (Electric Power Research Institute, Palo Alto, 1982, pp. 169-203). This analysis indicates that the concentration of ions generated at the surface of high voltage conductors is so small that it cannot affect the environment in any way, including living organisms. This is fully confirmed by the reports contained in the monograph devoted to the issues of the impact of overhead lines on

human health and the health condition of animals. In this publication, "Extremely Low Frequency Fields. Environmental Health Criteria No. 238" published in 2007 by the WHO have not been mentioned any studies indicating that increased ion concentration at the surface of live conductor cables under voltage may adversely affect human health or the condition of animals, including livestock.

One of the long-term interactions that may arise in connection with the operation of the power line, along with electromagnetic radiation, is the emission of noise from conductive elements of live lines, from working conductors (corona discharge) and elements of an electro-insulating system and discharges on their surface.

For the report, calculations have been made regarding the predicted noise propagation and electromagnetic field, which show that the over-standard range of these emissions during the operation phase will fit inside the designated technological strip, covering areas of 35 m in each direction from the axis of the line. Implementation of the project with the maintenance of a fixed technological strip will not result in exceeding the regulations of the Minister of the Environment of 14 June 2007 regarding permissible noise levels in the environment, noise intensity in areas covered by acoustic protection and established in the ordinance of the Minister of Environment of 30 October 2003 on the permissible average level of electromagnetic fields in the environment and methods of checking compliance with these levels on places accessible to people. In addition, under conditions of 1.3.3, 1.3.4 RDEP in B. indicated technical solutions, which are requirements in the field of environmental protection necessary to be included in the construction project, the use of which will reduce the noise and electromagnetic field emitted during the operation of the power line: the use of phase multiple conductors and implementation of the project in the form of a double-track line, when the distance between the phase conductor and the ground in any place will not be less than 13.4 m.

Regarding the issue of the legitimacy of the investment fence and the ban on staying under the line raised in the appeal, he pointed out that it is not possible to prohibit the stay of the population under the cables, let alone hedge the fence, for example, along the entire length. As it results from the proceedings on the environmental impact assessment, it is also not advisable due to the lack of exceeding the standards.

In the opinion of the authority, contrary to the applicants' arguments, during the proceedings, the first instance authority analysed the impact of the planned project on health and the living conditions of people. The lack of a literal description of the investment impact on people contested by the appellants does not mean that this element has been omitted. The authority indicated that it "analysed the impact of the planned project on the environment considering all the criteria". The phrase "in particular" used in the further part of the sentence means that the catalogue of the criteria is not closed. It is noted that in the light of art. 3 par. 2 of the Act of October 3, 2008 on sharing information about the environment and its protection, public participation in environmental protection and environmental impact assessments (hereinafter "EIA") by impact on the environment should also be understood impact on human health, including the assessment of the impact of electromagnetic fields and noise.

In the present proceedings, the number of collisions with residential buildings located in the technological strip of lines was considered as one of criteria for selecting the variant accepted for implementation. It was indicated, in the decision of the first instance body, that no residential buildings exist up to 35 m from the line axis. This information is crucial due to the mentioned technological strip designated at 35 m from the line axis. It is true that the first instance authority did not specify in a decision the number of buildings, which occurs in the distance of 35 - 100 m from the line axis, however, explained that at this distance "in the analysed variant there is the smallest number

of buildings, both residential and economic in relation to other variants ". The table in Part II of the report shows that in the distance of 35-100 m from the line axis in option 4 there are 13 residential buildings, while in the case of other options, there are: in the case of option 2 - 16 buildings, in the case of option 3 - 23 buildings, in the case of option 5 - 27 buildings. Therefore, the findings of RDEP in Białystok made in the decision remain valid and it does not matter that the exact number or location of buildings within the range of 35-100 m is not indicated.

He stressed that the criterion of the number of collisions with buildings in the delimited area up to 35 m and 35-100 m from the axis of the lines in each direction was not the only one considered. Under the option of recognizing variant 4 as the one adopted for implementation were also other issues, indicated in the justification of the decision of the first instance body, such as interference in legally protected natural areas, including the Natura 2000 sites, presence in the vicinity of cultural heritage and technical infrastructure facilities that limit the possibility of establishing power line poles or conductors, occurrence of non-cohesive soils on the planned route, preventing or hindering the construction of foundations for supporting constructions, social considerations, economic aspect, the need to minimize the impact of the line on the landscape.

Referred to an allegation of indication in the decision preferred line's distance from habitats of birds and bats, he pointed out that in the present proceedings regarding the environmental impact assessment the influence of the power line having a specific, established route was analysed. During this procedure, issues related to the impact of the proposed line on birds and bats were also considered. The basis for establishing the facts of the case and the starting point for analyses in the scope of assessing the impact of the subject power line on individual elements of the natural environment were reliable data collected during the inventory and monitoring. They provided information on the distribution of natural habitats, animals and plant species, as well as on the use of the analysed space by the fauna. He stressed that there is no obligation to specify in the decision on environmental conditions the preferred line distance relative to the habitats of birds and bats. The term "habitat of the species" refers not only to breeding grounds, but also feeding grounds, lodging places, wintering grounds, etc., as part of this habitat. The impact of a given investment can be mitigated in a variety of ways. In the decision of the first instance, several conditions were imposed to minimize the impact of the project on birds and bats, some of them were clarified at the stage of appeal proceedings. They concerned both the deadlines for investment implementation and project solutions. For example, an investor was obliged to lead the line on certain sections over the tree tops, which allowed a significant reduction in the extent of tree felling in forest areas, and, among others. due to the bats it was ordered to use wider poles spacing on sections of lines passing through river valleys. In the assessment of the appeal body, the conditions set out in the decision allow effective limitation of the line's impact on avifauna and chiropterofauna, therefore the above allegation is unfounded.

Referred to the allegation that in the decision on environmental conditions, the authority did not impose an obligation to monitor the impact of investments on human health and increase their mortality, he pointed out that examining the impact of the planned project on particular environmental components covered also checking whether the construction of the planned 400 kV power line relation [...] - the border of the Republic of Poland will be the reason for exceeding the levels of electromagnetic fields specified in the ordinance on permissible levels of electromagnetic fields in the environment and ways to check compliance with these levels. However, in this type of procedure, it is not expected to examine human health in terms of the impact of electromagnetic fields on the human body. Nevertheless, to allay fears of residents about their own health and striving to act to limit the presence of people in the range of electromagnetic fields of over-normative levels, applying the precautionary principle, the body imposed an obligation to perform post-implementation analysis in the field of noise and electromagnetic field (point IV of the decision). The proposed post-implementation analysis will include measurements of the most important impacts resulting from the

operation of the enterprise

Referred to the allegations regarding the necessity to create a limited use area, he explained that the environmental impact assessment carried out shows that the environmental quality standards will not be exceeded beyond the technological strip of the line for which they were or will be established in favour of P. S.A. land easements and easements of transmission, it means a limited property rights. It means that the area to which the investor will have a legal title is the plant site, within which it is permissible to exceed the environmental standards, without the obligation to create an area of limited use. There are also no grounds for determining the obligation to create a zone of limited use in the area to which the investor will not have a legal title.

Notwithstanding the above, the first-instance authority, considering that the assessment of the environmental impact of the project before its implementation is for obvious reasons always based on the expected impact of the investment on the environment, imposed on the investor an obligation to monitor the project's environmental impact and carry out post-implementation analysis. Both tools are designed to control the effectiveness of measures to minimize the impact of the line on the environment, imposed in the environmental decision.

In the opinion of the appeal authority, there is no confirmation in the case files of the alleged breach of the precautionary principle and the failure of the authority to find solutions to comply with environmental standards. The information contained in the report that "there is no scientific literature on the impact of power lines on the studied plant and animal species" is not a testimony to the failure to include the latest research and technological solutions in the present case, but only to indicate the difficulties resulting from technical shortcomings or gaps in modern knowledge that were encountered in the preparation of the report. For the above reasons, as the authors of the report point out, "the conclusions were mainly based on the experience and knowledge of the authors and consultations with other specialists".

Referred to the allegation that the first-instance authority did not take into account the minimization measures applied in Sweden at the stage of the proceedings, i.e. increasing the location of the investment relative to places of residence, implementation of cable networks instead of overhead and changes in legal regulations regarding the impact components of the electromagnetic and magnetic field, he pointed out that the restrictions applied in Poland are stricter than those recommended by the European Parliament. He also noted that the Polish regulations were considered by the WHO to be sufficient.

He stated that in the scope of Swedish regulations (recommendations of Swedish radiological protection services) in the case of electric field strength (E), the limit value is 10 kV/m, while the limit value of the magnetic field is equal to 80 A/m. In case of construction of new power lines in Sweden, it is recommended to use the so-called "precautionary approach", aimed at maintaining natural levels of the magnetic field, if it does not entail excessive costs of the project ("Power lines and power stations in the human environment", Handbook. Collective work edited by M. Szuby, PSE-Operator SA, Edition 5, Warsaw 2008). From the information on which the applicant association relies, it appears that the Swedish company Kraftnat, dealing also with transporting of electricity, taking into account the government's recommendations, developed its own strategy for reducing the magnetic field around the power lines, setting the threshold values of 4 μT at a distance of 50 m from the line and 0.4 at a distance of 130 m from the line.

Sweden's policy in the field of radiation safety rules for the construction of new power lines is not based on specific limits of the electromagnetic field, and the indicated values of 4 and 0.4 μT are only

ones adopted by the Swedish company responsible for the supply of electricity.

He also explained that in Sweden, electricity transmission investments can be more easily located due to the lower density of population (20 people/km² in Sweden).

Since the over-normative impact of the subject power line will fit within the limits of its technological strip, there is no justification for increasing the distance of the investment location in relation to the places of human presence.

Referred to the laconic accusation and the non-exhaustive reply to the note about the threat of power surges, he stated that the authority of the first instance responded to the comments and proposals made during public participation concisely and succinctly. The authority would fail to fulfil its obligations only in case of a complete lack of response to the interested parties' claims.

When it comes to the risk of power surges, lightning cables will provide effective protection against atmospheric discharge.

Power lines do not limit the possibility of people or animals being under them and carrying out various types of field works. There are no guidelines of the Central Institute for Labour Protection, according to which farmers are not allowed to work under the line. The guidelines cited by the applicants were not presented to the General Director for Environmental Protection by them, so they cannot be addressed. The authority, when examining the evidence, cannot assess evidence that is not in the case files. The assessment of any evidence in out-of-process mode is inadmissible. In addition, the party to the proceedings is not exempt from the obligation to actively participate in the process of gathering evidence, i.e. submitting documents to confirm and authenticate his theses, and should not stop at presenting general information.

Having regard to the United Nations Conference in Rio de Janeiro on 3-14 June 1992 referred to in by the applicants, during which the concept of sustainable development was developed, and a document called Agenda 21 was adopted, he explained that the principle of sustainable development was introduced into national law by adoption of the Constitution of the Republic of Poland. This principle has been entered in art. 5 of the Constitution of the Republic of Poland, and the definition of sustainable development was included in the provisions of EPL.

Acting in accordance with the principle of sustainable development, the first-instance authority determined the environmental conditions for the project, considering both the natural conditions and those related to socio-economic development.

A construction of the power transmission line is aimed at strengthening the energy security of Poland, neighbouring countries and in the future creating the Baltic Electricity Ring. The planned project will ensure greater operational reliability of the National Transmission System and stable operation of the 400-kV transmission network in the central and north-eastern part of Poland. The cross-border connection between Poland and [...] is one of the strategic projects of Poland and the European Union.

Impacts that may occur both at the stage of implementation and operation of the 400-kV line have been diagnosed in the report and analysed as part of the environmental impact assessment. In the decision of the first-instance authority, several actions have been defined aimed at preventing and minimizing the potential negative impact of investments on the environment as well as health and life of people.

Imposing on the investor obligations resulting from environmental quality standards has not been introduced in a discretionary manner but considering the principle of proportionality of measures for purposes, and indication of legal norms that form the basis for issuing a decision aimed at limiting the negative impact on the environment.

Referred to the issue regarding the necessity to dismissal of the proceedings due to the lack of analysis of the cable (underground) variant, he explained that according to the view established in the case-law, the pointlessness of administrative proceedings means the absence of any element of substantive law resulting in the fact that it is impossible to settle the matter by resolving it beings. A dismissal of administrative proceedings is a formal decision terminating it, without its substantive decision. The provision of art. 105 §1 of CAP is applicable only in those situations where, in the light of substantive law and established factual status, there is no administrative case that may be the subject of proceedings.

It should be stated, in this situation, as the fact that the variant of the implementation of the project using the cable method is not analysed does not constitute a reason to dismissal the proceedings.

Then he pointed out that it is not worth considering the allegation concerning the danger of power lines for avifauna and that the marking of the line is an apparent activity of low practical effectiveness. Referring to the above issues, the authority pointed out that power lines, like other types of projects, may pose a threat to avifauna. The scale of this impact varies and depends on many factors. First, whether the route of this type of investment runs through areas particularly valuable for birds. Data on the occurrence of birds in the area were collected during the year-round monitoring. The research was carried out during the autumn and spring migration, during the breeding season, the dispersion of the hatchery and during wintering. Based on the results of these studies, it is possible to assess whether the area through which the project runs is valuable for birds. During the monitoring no sites of relevance for avifauna, important breeding grounds, feeding grounds or places of rest during migration were recorded. However, it was found, that on several sections the line runs through areas that are important for the lesser spotted eagle, white-tailed eagle and white stork. Due to the increased use of airspace by birds belonging to these species to minimize the risk of collision with the line in question, the decision obligated the investor to mark the a/m sections. They are also guidelines on the size, colour and method of balls mounting to ensure proper marking of both lightning conductors, which, due to smaller diameter than power lines, pose a greater risk of collision.

Referred to the questioned effectiveness of the above-mentioned markers, he said that these solutions are applied not only in Poland, but also in the world. The applicant association did not invoke any test results that would confirm its statement. By contrast, there are several studies confirming the effectiveness of this type of solutions (Morkill, A.E., and S.H. Anderson., 1991. Effectiveness of marking power lines to reduce sandhill crane collisions. *Wildlife Soc. B.* 19: 442-449, Savareno, A.J., L.A. Savareno, R. Boettcher, and S.M. Haig 1996. Avian behaviour and mortality at power lines in coastal South Carolina, *Wildlife Soc. B.* 24: 636-648). Contrary to the Association's claims, in the opinion of the General Director of Environmental Protection, the marking of lines is a tool to reduce bird mortality.

An authority also disagreed with the statement that the only effective solution to minimize the impact of the power line on avifauna would be to replace the overhead line with an underground one. He pointed out that the report analysed one of the investment variants, where some of line sections will be implemented in underground technology. Chapter 2.3 of part I of the report considers the advantages and disadvantages of such a solution. The information provided leads to the conclusion that this is not only more expensive and very difficult to implement option from the technical point of view, but also

causing much greater interference in the natural environment. In the technological strip of 30 – 40 m wide, destruction of natural habitats as well as habitats of plants and animals will occur. The entire length of the section led below the surface of the earth will require cutting trees and bushes, which will have negative consequences also for avifauna. It will be irreversible losses, because the area in the technological strip will be excluded from the possibility of reforestation. An important issue from the hydrogenic habitats' point of view is also changes in the water relations of this area, caused by the need for drainage. The appeal body drew attention to the fact that during the environmental impact assessment, the analysis not only influences the impact of the undertaking, but also the impact of mitigation measures related to its implementation, proposed in relation to the diagnosed negative impacts. The influence on all elements of the natural environment should be considered. The authority may impose specific mitigating measures in the form of investment implementation conditions in the form of, for example, construction or design solutions, etc. if it is certain that they do not adversely affect other environmental components. In the case of the solution proposed by the complainant, the effects of its implementation may cause a negative impact of a much greater scope and scale, given that the line runs through an area of Community D. which is one of the most valuable natural terrain along its route. The implementation of the subject power line on this section with underground cable would entail the necessity of cutting out a significant area of the riparian forest creating a natural habitat of priority importance for the Community (willow, poplar, alder and ash gallery forests - code 91E0), found during the inventory in the R. river. The overhead line will enable the habitat to be preserved using longer spans and pylons.

Issues related to the technical aspects of investments go beyond the scope of decisions on environmental conditions, therefore the allegation in this respect is devoid of procedural importance.

About the request to take evidence from an expert opinion, he explained that the appointment of an expert should relate to circumstances in which it is impossible to determine the facts by means of guidance, knowledge, life experience and logical reasoning principles, available to administration. In the case at hand, both authorities the first and the appeal, based on the evidence gathered in the case, could assess the environmental impact of the investment in the field of electromagnetic field emissions. It is therefore not expedient to draw up an opinion to the extent that the association is expected to do so.

In addition, the General Director of Environmental Protection explained that in accordance with art. 108 § 1 of CAP, the decision from which the appeal can be made, may be immediately enforceable if it is necessary due to the recovery of human health or life, or to protect the national farm from heavy losses, or because of other social interest or exceptionally important interest of the party. RDEP in B. issued a decision of [...] July 2013, immediately enforceable on the investor's request, filed in a letter dated 19 April 2013, due to important social interest. The first instance authority indicated the reasons which led it, giving the contested decision the order of immediate enforceability. He explained that the construction of the power transmission line will increase the transmission guarantee for electricity, create new opportunities for economic development and will increase the investment attractiveness of [...] parts of Poland. In addition, the construction of the line will contribute to the creation of an electricity transit route between east and west of Europe.

He indicated that the project is co-financed by the European Union and is included in the list of individual projects of the Infrastructure and Environment Operational Program Priority X "[...]", Action 10.1 "[...]". By Decision [...] the European Union has given a priority status to the project and participates in its costs. The project to build the section [...] - the border of the State of the Republic of Poland with [...] will be implemented in the perspective of financing 2007-2013 (which means that its implementation will not end later than in 2015). In addition, the investment, by decision of the

European Commission, received co-financing from the TEN - E fund.

At the same time, he determined that the project complies with the second priority of the National Development Strategy 2007-2015, it means with "Improvement of technical and social infrastructure", the sixth horizontal objective in the strategic area "Competitive Economy" of the National Development Strategy 2020, it means with "Energy security and the environment "and the third horizontal objective of the National Strategic Reference Framework, it means with "Construction and modernization of technical and social infrastructure of key importance for the growth of Poland's competitiveness".

Bearing in mind that the investment is strategic in terms of socio-economic development of the region and the country, and due to the existing possibility of untimely project implementation, there may be a loss of significant financial resources from public sources intended for the implementation of the intended project, in the light of the premises listed in art. 108 § 1 of CAP, giving the planned investment the rigor of immediate enforceability should be considered justified. In view of the above, the authority has no grounds to waive the immediate enforceability of the decision on environmental conditions.

Finally, he pointed out that the case documentation shows that the selection of the recommended option 4 was preceded by a detailed multicriteria analysis, which enabled the selection of the optimal variant, considering different criteria having a significant impact on the implementation and functioning of the chosen solution. This option is the most beneficial in terms of environmental, economic and social impacts, including consequences for human health and life. Route of the planned line according to option W4 between point B - H marked on the graphical annex to the report, including a section that runs, among others, by the municipality of B., is based on the route developed in 1997-2000, partly introduced into the planning documents of municipalities and voivodships. A local community was made aware of the route of the 400-kV power line since 1997.

As for the risk of failure, he stated that it occurs in each of the presented variants to the same extent. However, bearing in mind, that in the case of the variant chosen for implementation, in the strip of 35 m from the line axis there is no housing development, the operation of the proposed 400 kV line will not cause a nuisance to the existing housing.

Taking into account that the jurisdictional powers of the appeal authority are not limited only to checking the legitimacy of the allegations raised against the decision of the first instance authority, but also to a comprehensive analysis of the case files and substantive control of the decision of the first instance authority, the appeal authority stated that the decision of the first instance authority require reformation in respect of imposed conditions for the implementation of the project. After analysing the evidence, the appeal authority shared the view of RDEP in B. regarding the establishment of environmental conditions for the implementation of the project. However, bearing in mind, that the essence of the decision on environmental conditions is to establish in its viewpoint a specific, enforceable conditions and requirements that will have a real impact on the implementation of the planned investment, due to excessive vagueness, imprecision or repeating the conditions of project implementation specified by the first instance authority the appeal body overturned in part the decision under review and in this respect ruled on the merits of the case or dismissed the proceedings of the first instance authority.

Against the above decision the Association "P." and Association "P." brought action before a Voivodship Administrative Court in Warsaw. Mentioned complaints were registered under reference number IV SA/Wa 308/14.

In addition, the complaint against the above decision brought by B. W. Skarga was registered under reference number IV SA/Wa 439/14.

National Association "P." in the complaint, requested the annulment of the decision of the General Director for Environmental Protection, dated [...] December 2013, together with the previous decision of the RDEP in B. of [...] July 2013.

The contested decision alleged violation of art. 7.8, 77 § 1.107 § 3 of CAP in connection with;

art. 62 par. 1 point 1b in connection with art. 66 par. 1 point 7 c of the EIA Act by completely ignoring the impact of investment on tangible goods, the more so because the authority did not even specify how this concept is understood and, inter alia, M.B. admitted that he is not a specialist in this area. The above-mentioned deficiency cannot be overcome by the VAC, which controls the decision and is bound by it without being able to go beyond its justification.

art. 62 par. 1 point 1a in connection with art. 66 par. 1 point 7a of the EIA Act by assuming that the impact on health and living conditions of people comes down to control whether the investment does not violate existing standards (in addition not based on the current level of knowledge) in a situation where the real impact should be assessed, especially on children exposed to increased risk of leukaemia, which M.B., one of the authors of the report, confirms, among others, in his publication.

art. 66 par. 1 point 8 of the EIA Act by omitting the cumulative impacts of electromagnetic fields of the existing near power line and mobile telephony base stations which falls under the superposition with the field emitted by a planned power line.

art. 38 and 74 par. 1 of the Polish Constitution by issuing a decision without taking into account the protection of human life because both, the report and the jurisdiction itself, do not respect the latest state of scientific knowledge regarding the impact of investment on human life, especially on children (leukaemia), and are based on a norm drawn up in 70 of the last century.

The association "[...]" filed for annulment of a contested decision of GDEP and the previous decision of RDEP in Bialystok and to award the costs of proceeding to the Association according to prescribed standards.

In the Association's opinion, the decisions issued in the present case do not sufficiently consider the main aspect of the environmental impacts of high-voltage transmission lines, it means the impact of EMF's electromagnetic radiation on human health.

It suffered that the standard presented by the authority is far unequal to the norms related to the "precautionary approach" presented by the Association in the Swedish company's approach [...]. It stated that the Polish standard is stricter than the ICNIRP guidelines for the HV line, but far from the more progressive standards. The ICNIRP limit value for magnetic fields at μT applies to short-term exposure, but most countries have adopted the ICNIRP threshold for long-term exposure. According to the Association, the threshold 100 μT set by ICNIRP, and even a stricter limit value of 75 μT from the Polish standard, does not protect public health. Some countries have adopted more restrictive norms, regulations and rules than Polish: Argentina, Sweden, Great Britain, Switzerland. Some of these jurisdictions have set thresholds for children's exposure, most often at a fraction of μT . Others have provided a limit value (10-25 μT) at the edge of the line's corridor.

In addition, according to the Association, the authority violated art. 7 and 8 of CAP in connection with the lack of an accurate explanation of the actual facts of the case and failure to take into account a properly understood social interest and a legitimate interest of citizens, thus breaching the principle of deepening citizens' trust in the State Authorities and undermining the determinants of legal culture.

At the same time, association has indicated that she is concerned about the disrespectful treatment of occupational safety and health of work (OSH) under power lines, since the decision implies that the area of the technological strip is the site of the plant and there is no need to designate a restricted area in this concept. The principles of occupational health and safety should apply to every workplace. The threat is serious because there are examples of farmers' paralysis by unloading high voltage power lines.

B.W. in her complaint requested annulment in its entirety of a decision of GDEP regarding the positive opinion on the variant indicated by the investor for the municipality of B. and to transfer the case to the first instance authority, ordering to carry out also "its own full evidentiary proceedings regarding the municipality of B."

The contested decision of GDEP and the previous decision of the RDEP in B. accused:

violation of art. of CAP, due to the failure to take steps necessary to clearly explain facts of the case and to consider the "interest of those who pay attention" and not to disregard the impact of investments on health and life of people. In addition, she pointed out that the authority agreed to the option preferred by the investor, while he did not consider that option 2 is more beneficial for residents of B.;

violation of art. 8 of CAP, because the authority issued a decision based on flawed documentation, in which the impact of investments on the health of people being under or near the line was marginalized;

violation of art. 10, 49 and 79 of CAP by failing to provide the parties an active participation in the proceedings and unequal treatment of the parties regarding the delivery of letters and decisions;

violation of art. 75, 77 and 78 of CAP due to issuing a decision based on incomplete evidence, without request for expert opinion on the impact of electromagnetic fields on humans, a complaining party asked for;

violation of art. 80 of CAP due to the superficial evaluation of the documentation of the case "omitting important documents confirming the circumstances raised by the parties";

violation of art. 107 § 3 of CAP due to:

incorrect and incomplete justification of the decision,

the use by the authority of the word "authority has not met", "authority does not know", "should have no influence", which are unreliable and the explanation that "competent institutions have given opinion", which are insufficient;

statement in the justification of the decision that there are no studies which results would confirm the negative impact of the power line on human health, "undefined safe buildings", un-explain whether it would be possible to stay and work under the power line;

absence of any indication whether the line in question will not breach OSH rules of Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields)) (18th individual Directive within the meaning of Article 16 (1) of the Directive 89/391/EEC) and Directive 2008/46/EC of the European Parliament and of the Council of 23 April 2008 amending Directive 2004/40/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual Directive within the meaning of Article 16 (1) of Directive 89/391/EEC), especially since these provisions have not been transposed to the regulation of the Minister of Labour and Social Policy of November 29, 2002 on the maximum permissible concentrations and intensities of factors harmful to health in the work environment (OJ of 2002 No. 217, item 1833);

justification in the decision that the implementation of the cable (underground) power line would have a greater negative impact than the overhead line without reference to any research that would confirm it;

abandoning the analysis of the variant consisting of the implementation of the cable line;

The authority indicated in his decision that he is not able to check whether the provisions based on which the decision is issued comply with European law, whereas "this competence is not reserved only for the court";

a non-exhaustive and misleading answer in the decision of the first instance authority on the note regarding the corona discharge;

an obligation to measure the intensity of the electric and magnetic fields and noise after the investment has been completed and based on the determination of the merits of the investment fence and prohibition of people to stay under power line is in contradiction with the authority's assurances that the project has no negative impact on human health. By imposing an obligation to perform a post-implementation analysis, the authority did not indicate when the analysis should be carried out and when and to whom the results should be submitted;

RDEP in B. pointed out that during the proceedings he analysed the impact of the project on the environment, but did not consider the impact on people in the mentioned criteria;

11. the justification for the variant chosen for implementation is the absence of a collision with housing development, however, the analysis in this respect regarding the number of displacements or demolitions does not consider the impact on human health in the case of a power line close to the buildings. The contested decision does not indicate what is the safe distance of the line from the housing development, as well as the number and location of buildings that are within 35-100 m from the line;

12. RDEP in B. did not indicate in the decision what is the preferred distance of the line relative to the habitats of birds and bats;

13. the statement contained in the decision on environmental conditions that "an acceptable level of 50 Hz electromagnetic field should not exceed the limits in places available to people" indicates that the authority is uncertain about this;

declaration of the authority of first instance that "corona discharge is located at a distance of 20 m from the line axis" raises doubts in the context of the condition imposed in point IV.1, regarding the need to measure the intensity of electric and magnetic fields and noise in the zone 35-100 m from the line;

violation of § 2 par. 1 point 6 of the Council of Ministers' ordinance of 9 November 2004 on determining the types of projects that may significantly affect the environment and detailed conditions related to the project's eligibility for preparation of the environmental impact report in connection with § 4 of the Council of Ministers' regulation of 9 November 2010 on projects that may significantly affect the environment (OJ No 213, item 1397) due to erroneous recognition that the planned power line is not an investment that poses a threat of a serious industrial accident;

the authority did not impose an obligation to monitor the impact of investments on human health and increase their mortality;

in the 70 m strip, that is 35 m on both sides of the line axis, an industrial plant will be created, constituting a source of electromagnetic field emission, on which the applicant will be exposed;

violation of the precautionary principle due to the lack of findings regarding the impact of investments on the health of people working under the line and animals staying under the line. According to the applicant, the authority relied only on the findings made by experts employed by the investor who did not maintain objectivity.

In response to complaints, the General Director of Environmental Protection asked for their dismissal. He submitted that the applicants' questioning of the decisions results not from the real risks and deficiencies in the contested decision but mostly from the applicants' reluctance to the planned investment.

At the hearing on 11 September 2014, the Court ordered a merger of cases with the file reference number IV SA/Wa 308/14 and IV SA/Wa 439/14 for joint recognition and settlement and ordered that mentioned cases will be continued under file reference number IV SA/Wa 308/14.

Representative of the Association "P." pointed out that a new environmental impact assessment procedure should be carried out, as then specific conditions will be known, e.g. location of power line poles. He claimed that no other technical variants were analysed, e.g. the possibility of implementing the power line at least partially with the underground course, which will result, among others, in disfiguring the valuable landscape of the area and the threat to health and life of residents. The authority did not consider whether there is a breach of prohibitions resulting from art. 33-34 of the Nature Conservation Act.

B.W. pointed out that volume I of the administrative file starts from page 8 and there is no investor application for issuing a decision regarding environmental conditions for the implementation of the project. It is impossible to compare the application with the decision. The report does not indicate whether the impact of investments on mushrooms, other plant and animal organisms was analysed. No inventory was made, which may result in a collision between the investment and the places of protected mushrooms. According to the applicant, the issuance of the environmental decision should precede the adoption of the local zoning plan. She argued that the decisions were not communicated in accordance with local customs (i.e. to individual village mayors), which resulted in the possibility of not notifying of some persons of the area, e.g. in municipality of B. She also indicated that on page 37-38 of the reasoning of the contested decision it was stated that the standards could be exceeded on

the premises of the plant known as a technological strip and that this strip including also the applicant's property, which means that standards may be exceeded there.

President of the Association "P." Z. G. stated that only people with medical and not technical knowledge regarding the measurement and prognosis of the size of contamination can speak about the impact on human health. The report should refer to the latest knowledge, while the existing standards use research from the 70s of the last century. Doctor S. himself confirms that there may be a single case of leukaemia in connection with electromagnetic fields, which is confirmed by the study submitted by him. The report does not analyse the impact on property value as a tangible asset. Analysing the impact of the whole investment, the natural background of the earth was assumed as the base background, not considering the existence of other lines or mobile telephony base stations.

P. S.A., participant in the proceedings, appealed for dismissal of the complaints of both associations by referring to the judgments of SAC II OZ 662/14, II OSK 1005/12, II OSK 1059/12 and II OSK 2004/12 in the absence of an association's demonstration of a relationship between their statutory objectives and a specific matter, and lack of evidence protection of the objective legal order. At the same time, he pointed out that in his opinion the complaint of B.W. was lodged after the deadline if it was counted from the date of the public announcement (December 17, 2013 - date of announcement on the BIP website). He believes that if the investment collides with the positions of mushrooms subject to protection, this issue would be signalled in the prepared studies, which results from the content of the contract binding the investor and the contractor. He stated that the distance between the edge of the technological strip and the buildings of the applicant is important, while the impact on the property itself is not standardized. In practice, judicial opinions prepared by the Communications Institutes are accepted.

The General Director of Environmental Protection asked for the rejection of complaints or their dismissal. He pointed out that the implementation of the investment as underground would result in a much greater impact on natural resources, especially on water relations. He indicated that the inventory included all living organisms, including mushrooms. No impacts have been identified that would have a similar character, e.g. in the same frequencies that could accumulate with the planned investment.

The Voivodship Administrative Court in Warsaw considered the following:

According to art. 1 of the Act of 25 July 2002 of Administrative Court Procedure Law (OJ No. 153 item 1269, as amended), administrative courts control the operation of public administration in terms of compliance with law, which means that within the scope of the Court's review is obliged to investigate whether the administrative authorities in the case have not violated the law to an extent that affects the outcome of the case.

According to art. 134 § 1 of the Act of 30 August 2002. Law on Proceedings before Administrative Courts - hereinafter referred to as the LPAC, the Court issues a decision within the limits of the case, but it is not bound by the complaints and motions of the complaint and the legal basis established. This means that within the limits of a given case, the Court assesses the compliance of the challenged act with the provisions of law, regardless of the allegations raised in the complaint.

Recognizing the complaint in the light of the above-mentioned criteria, it should be held that the action is not worthy of consideration, as the contested decision does not infringe the law.

The court states that the proceedings in the case examined were carried out in accordance with the

law. The collected evidence was assessed in a correct manner, and logical conclusions were drawn from it, which appeared in the extensive justification of the contested decision. The appeal authority carried out the re-trial and as a result made concrete changes to the examined decision of the first-instance authority.

First, there were no grounds to reject any of the complaints lodged - as requested by the General Director for Environmental Protection and P. S.A. participant in the proceedings.

Complaints were filed on time and all complaining entities had the right to lodge them.

It should be stressed that the proceedings before the authorities of both instances were conducted based on the EIA Act and concerned the determination of environmental conditions for the project called "[...]".

At this point, reference should be made to the complaint concerning the violation of the provisions of the Constitution of the Republic of Poland by the contested decision.

This allegation must be considered unfounded.

It must be stressed that public authorities are obliged to "conduct a policy ensuring ecological security for contemporary and future generations" (art. 74 par. 1 of the Constitution of the Republic of Poland). This wording defines the framework of tasks (policy principles) of the state but does not directly raise any subjective rights on the part of the individual. The term "environmental security" should be understood as obtaining such a state of the environment that allows for safe staying in this environment and enables the use of this environment in a way that ensures human development. Environmental protection is one of the elements of "environmental security", but the tasks of public authorities are wider - they also include activities improving the current state of the environment and programming its further development. The basic method of obtaining this goal is - ordered by art. 5 of the Constitution - following the principle of sustainable development, which refers to international arrangements, in particular the conference in Rio de Janeiro in 1992 (see J. Boć, (in): Polish Constitutions and a commentary to the Constitution of the Republic of Poland of 1997, edited by J. Bocia, Wrocław 1998, pp. 24 et seq.).

As part of the principles of sustainable development, not only environmental protection is included, but also due care for social and civilization development, related to the need to build appropriate infrastructure (e.g. power lines) necessary for human life and individual communities, considering the civilization needs. The idea of sustainable development therefore includes the need to consider different constitutional values and their appropriate balance (see judgment of the CT of 6 June 2006, K 23/05, OTK 2006/6/62).

In summary, the Court states that environmental protection is extremely important, but it cannot be implemented in isolation from civilization development, which is necessary for the proper functioning of society in a modern, developing world.

Referred to the individual allegations presented in the complaints, the Court finds that the allegation raised in this case by the Association "P." "that life and health are determined by a standard prepared by people working for the investor and not conducting research" is incorrect, because the levels of acceptable electromagnetic radiation were established by way of an ordinance of 30 October 2003 by the Minister of the Environment in agreement with the minister competent for health matters, in accordance with the statutory delegation referred to in art. 122 par. 1 of EPL. Therefore, these levels

consider the medical aspects of the interaction of electromagnetic fields on the human body and apply to high risk groups, including children. Permissible levels of electromagnetic fields that may occur in the environment in places accessible to the public have been established assuming that the permanent presence of people of any age and health - in fields of specific levels - must not entail negative effects on the health of these people. Permitted levels of electromagnetic radiation in the environment co-create under art. 83 par. 2 of EPL, environmental quality standards, in accordance with art. 82 of EPL, one of the basic tools to implement the protection of environmental resources. The implementation of the project, while maintaining the established technological strip of the site and thus the permissible levels of electromagnetic radiation in the environment, will not significantly affect the health of people who will not be "permanently" in the power line technological strip. The case file shows that during proceedings aimed at issuing a decision on environmental conditions, the first instance authority requested the State Sanitary Inspector in [...] and the State Sanitary Inspector in [...] to express an opinion on the scope of hygiene requirements. and health. These authorities gave a positive opinion on the conditions for the implementation of the project. Thus, it should be stated that the conditions for the implementation of the project have been assessed by public administration specialized in the field of sanitary, hygienic and health conditions, and these authorities gave a positive opinion on the implementation of the project.

Referring to the allegation of infringement of art. 66 par. 1 point 8 of EIA Act, due to the omission in the course of the proceedings of issues related to the accumulation of impacts in the field of electromagnetic field emissions from the planned 400 kV power line, the Court notes that acting in accordance with art. 136 of CAP, GDEP conducted an additional investigation during the appeal proceedings, in which the investor was summoned by a letter dated October 21, 2013, to clarify the doubts contained in the report on the project's impact on the environment. Doubts concerned, among others cumulative impacts of the planned investment with other projects. A supplement provided by the investor in a letter dated October 25, 2013, allowed the adjudicating authority to determine that due to the diverse range of field frequencies generated by overhead power lines and emitted by antennas of mobile telephony base stations, it is inadmissible to speak about accumulated impact on the environment. Antennas of mobile telephony base stations generate electromagnetic fields with a frequency exceeding 900 MHz, the properties of which are different from the 50 Hz electromagnetic field generated by overhead lines. Electromagnetic fields with a frequency of 50 Hz and radiation with a frequency exceeding 900 MHz should be treated as two different phenomena that do not accumulate. Because of such significant differences in the frequency of electromagnetic fields, there are different environmental standards set out in the ordinance of the Minister of the Environment of October 30, 2003 on acceptable levels of electromagnetic fields in the environment and ways to check compliance with these levels, determined depending on the type of source that generates them. Therefore, there is no standard in the applicable provisions to which the cumulative effect of the electromagnetic fields originating from completely different sources would be referenced.

Consequently, the violation pointed out by the applicant Association cannot be referred to the present case, due to the lack of scientific justification, as well as a specific standard to which the cumulative effect of the electromagnetic field from overhead power lines and cellular telephony base stations would be referred.

Cumulative repercussions of the planned investment with other projects was devoted to chapter 9.2 part IV of the report on the project's environmental impact dated June 2012. The report's authors have juxtaposed intersections and approximations of the power line with other planned or existing investments in individual municipalities, in a buffer of 500 m and described cumulative impacts at the stage of construction, operation and liquidation of the 400-kV line. Detailed analysis of the cumulative impact of the electromagnetic field generated by the subject line 400 kV with existing or planned over

110kV overhead lines (intersection or close-up) in the area of the investment was included in the study: "Analysis of the environmental impact of the electromagnetic field produced by crossed overhead lines : an existing 110 kV and proposed 400 kV on the route [...] – Polish border", made by the Bureau "E" in December 2012, constituting Annex 4 to the letter of the investor's plenipotentiary dated October 25, 2013. Performed for the a/m needs calculations indicate that near intersections and close ups of the 400-kV line with 110 kV lines, the intensity of the magnetic field and the electric field strength will not exceed the permissible value for places accessible to people ($E = 10 \text{ kV/m}$, $H = 60 \text{ A/m}$).

The court also notes that the issues concerning changes in legal regulations regarding the electric and magnetic field components go beyond the scope of the case and the authority's competence in the scope of environmental impact assessments, as set out in the EIA Act on Environmental Protection, so the allegations in this respect are not justified.

Also does not deserve to include the allegation of the need to require the investor to demonstrate additional lack of threat from the proposed power lines in terms of the impact of the electromagnetic field emitted by it on human health, because the case documentation shows that the implementation of the project with a technological belt (70 m that is $2 \times 35 \text{ m}$ from the axis of the line in both directions) will not have a negative impact on the environment, including human health. In addition, in this type of procedure, it is not expected to examine human health in terms of the overall impact of electromagnetic fields on the human body. Nevertheless, in order to allay the concerns of local residents about health and striving to take measures to limit the presence of people in the range of electromagnetic fields of over-normative levels, applying the precautionary principle, the first instance authority imposed an obligation to perform post-implementation analysis in the field of noise and electromagnetic field (point IV of the decision about environmental conditions). The proposed post-implementation analysis will include measurements of the most important impacts resulting from the operation of the enterprise.

In addition, there is no justification in the applicable legal provisions to establish a "safe zone" because the Polish regulations do not regulate the minimum, safe distance of the power line from buildings or places of human presence, because the basic impacts, i.e. noise and electromagnetic field, have boundary norms in the generally applicable law. In the appealed decision of the appeal authority, it was explained that "the technological strip has been designated so that all the interactions of the line have closed within its boundaries, therefore the location of housing is not possible in this area". Therefore, apart from the designated zone of 35 m on both sides of the line axis, there are no restrictions and it is allowed to place buildings intended for the permanent presence of people inside. In addition, the distance between the phase conductor and the ground will not be less than 13.4 m in any place, thanks to which it will be possible to work under the line even using larger agricultural machines. Staying within the reach of such fields is completely safe and compliant with current regulations. In this situation, the buildings of the applicant B.W., which are not in zone 35 m from the designed power line will not be exposed to excessive effects of the electromagnetic field.

It should be emphasized that in the report on the environmental impact of the planned 400 kV line [...] - Polish border, characteristics of 6 investment location variants and zero variant (consisting in the abandonment of 400 kV line construction) and a cable variant (earth fault) were presented.

As for the zero option, it is the most favourable option in terms of environmental implications; however, its adoption would mean the abandonment of investment and leaving a large region of Poland without sufficient security in electricity supply (consequences of which are also difficult to predict in terms of environmental impact) and failure to implement one of the key projects with the

rank of a trans-European connection (page 38 part I of the report). Such a solution, especially in the current geopolitical situation, would be highly unfavourable for the country and its energy security.

The case file (including the impact report) shows that the implementation of the proposed project using the cable method would entail a greater scale of negative impacts on the environment than the overhead line, and this was the main reason for the selection of the implementation of the project in the form of an overhead line. Such a line could have a very negative effect, e.g. in terms of violation of water relations and impact on the soil.

The authority also stated that the case documentation shows that the selection of the recommended option 4 was preceded by a detailed multicriteria analysis, which enabled the selection of the optimal variant, considering different criteria having a significant impact on the implementation and functioning of the chosen solution. This option is the most beneficial in terms of environmental, economic and social impacts, including consequences for human health and life. Therefore, there is no justification for choosing a different location or technology variant. This issue was thoroughly explained by the administrative authority and found expression in the grounds for the contested decision.

It is also difficult to agree with the position of the Association "P." that the construction of the power line will not contribute to economic development and does not serve an important public interest, because creating conditions for effective and reliable transmission of electricity and then delivering it to recipients is one of factors determining the economic development of the region and the country.

Providing guarantees of electricity transmission will increase the investment attractiveness of the region and create an opportunity for its development not only by attracting new investors who will create additional jobs, but also due to financial benefits from the property tax paid by the owner of the power grid to the budgets of municipalities along the route of the line.

Regarding the need to organize a public debate on the overall energy policy of Poland, it must be stated that the proceedings concern a specific investment, i.e. a 400-kV power line [...] - the border of the Republic of Poland, not the general energy policy of the country for which a Minister of Economy is responsible as the minister competent for energy. The adopted "Poland's Energy Policy by 2030" constitutes an annex to Resolution No. 202/2009 of the Council of Ministers of November 10, 2009 and has been subjected to the procedure of strategic environmental impact assessment. As part of the strategic environmental impact assessment, the authority preparing the draft document prepared the environmental impact forecast, which is the equivalent of the environmental impact assessment report, developed as part of the proceedings on the assessment of the project's environmental impact.

The prepared environmental impact assessment together with the draft document has been subjected to review by environmental and sanitary inspection authorities, and then, after considering authorities opinions and agreements, for public consultation.

As the authority rightly pointed out in the defence, everyone interested in the proceedings had the opportunity at the end of May and June 2009 to submit his comments and requests to the documents submitted for review.

Addressing issues related to the "principle of solidarity of all people in space and time", the impact of investments on future generations, participation of residents in the planned project, the Court states that when issuing the contested decision, the body followed the general principles of administrative procedure set out in art. 6-16 of CAP, which also result from the provisions of the Constitution of the

Republic of Poland. Bearing in mind the development of technology and the growing demand for electricity, for the sake of energy consumers (present and future), the implementation of this investment is necessary to strengthen the energy security of Poland and neighbouring countries. The planned project will ensure greater operational reliability of the National Transmission System and stable operation of the 400-kV transmission network in the central and north-eastern part of Poland. The cross-border connection between Poland and [...] is one of the strategic projects of Poland and the European Union. The principle of participation of residents in undertaking the project was implemented by ensuring public participation in the proceedings.

Referring to allegations of complaints regarding violation of the rules of administrative proceedings, the Court finds that the evidence, in accordance with art. 7 and 77 of CAP, was collected and considered carefully, which was reflected in the justification of the challenged decision, meeting the requirements of art. 107 § 3 of CAP.

Having regard to the presented facts of the case, the Court states that the authority has thoroughly explained all the circumstances of the case, justified the legal basis indicated in the decision and, making the correct interpretation of the provisions, issued a decision in accordance with the law.

For these reasons, pursuant to art. 151 of the Act of 30 August 2002 - Law on Proceedings before Administrative Courts (OJ of 2012, item 270), the complaint must be dismissed as unfounded.