

Bakałarzewo 19.10.2018r.

Healthy Community Association
Mirosław Przyborowski
ul. Kolonie 2
16 – 423 Bakałarzewo,
Powiat suwalski, województwo Podlaskie
Polska

Ms. Fiona Marshall
Secretary to the Aarhus
Convention Compliance
Committee UN Economic
Commission for Europe
Environment Division
Room 429-2
Palais des Nations
CH-1211 Geneva 10
Switzerland

Madam Fiona Marshall

We present a reference to the responses of the interested party (Polish government) to the questions of the Aarhus Compliance Committee presented on 19 September 2018. in case ACCC / C / 2015/126.

Ad 2. The Polish government, in its reply, explains that in accordance with Polish law, the Voivode's replacement order may be the subject of appeal. The local community affected by the replacement order has not been informed about this.

The interested party reported:

“ Reply to the questions of the Aarhus Convention Compliance Committee related to the case ACCC/C/2015/126

The Spatial Planning Act requires that the comments submitted during public consultations should be considered during the planning procedure, but it does not impose on the authorities an obligation to include the content of all comments fded, because suggestions submitted by the public are often contradictory or contrary to law, so it would not be possible to include them all.”

We inform the Compliance Committee that all comments and requests made by the

residents of the municipality of Bakalarzewo and the Commune Office and the Municipal Council for Substitute Administration have not been included without any justification.

The Municipality of Bakalarzewo formally acknowledged the public's comments and these comments were not in any way illegal. Only the legal ineptitude of local government and the pressure of government institutions suggested by the investor to lose EU funding caused the omission of reasonable technical and planning solutions!

The interested party reported:

***"NOTICE OF THE VOIVODE OF PODLASIE of 06 May 2014
on providing for public consultation of the draft Substitute Order of the Voivode of Podlasie dated ... regarding the adoption of a local zoning plan in the area allowing the construction of a section of the 400 kV double-circuit overhead power line Elk-national border in the area of the Commune of Bakalarzewo.***

The draft of the above Substitute Order, along with environmental impact forecast will be available from 22 May 2014 until 20 June 2014 at the premises of the Podlasie Voivodeship Office in Białystok at ul. Mickiewicza 3, room 320 (3rd floor) from 8.00 a.m. to 3.00 p.m. and available at www.bip.bialystok.uw.gov.pl.

***"VOIVODE OF PODLASIE
Białystok, 23 December 2013
[handwritten: Ms Wróblewska]
[stamp: received, Bakalarzewo Municipal Office, 27.12.2013, daily ref. no. 2260/2013, signature]
WI-743.2.2.2013.AM
Bakalarzewo Municipal Office ul. Rynek 3 16-423 Bakalarzewo***

With regard to the proposal to the local zoning plan, filed on 6 November 2013, for the area allowing the construction of a section of the 400 kV double-circuit overhead power line Elk-national border in the area of the Commune of Bakalarzewo, we inform that the proposal has not been accepted.

The selected location of the project constitutes an optimum course, both in terms of environment and distance from residential buildings. According to information learned by us, the construction of the line as a cable line is not justified.

DEPUTY VOIVODE OF PODLASIE

Wojciech Dzierzgowski "

Bakalarzewo Municipality in a letter dated 4 November 2013, reference number RLG.6724.11.2013 applied for an investor's effort to run the line as far as possible from the buildings or to ensure the construction of the power line with a cable, but the Voivode

of Podlasie responded that the construction of the cable line was not justified. Without any consultations with the inhabitants of the Bakalarzewo commune in this regard. No specialist expertise was carried out.

The interested party (Polish government) did not submit any document confirming consultations with the inhabitants of the Bakalarzewo commune regarding the cable variant. The expertise of an expert in this area is also not provided.

It should be clearly stated that the OHL line 2x400kV from the design assumption in the title of the notification to the administrative procedure was determined by the investor as - overhead and two-track. In such a situation, the investor of PSE became the sole decision maker of both the type of technology and the route of the power line

The interested party reported:

“[handwritten OOG.0057.80.2013]

[stamp: BAKALARZEWO COMMUNE HEAD, ul. Rynek 3, 16-423 BAKALARZEWO]

Bakalarzewo, 15 November 2013

Regional Administrative Court in Białystok ul. Sienkiewicza 84 15-950 Białystok via

the Voivode of Podlasie Podlasie Voivodeship Office ul. Mickiewicza 3 15-213

Białystok

Applicant: Municipal Council of Bakalarzewo ul. Rynek 3 16-423 Bakalarzewo

COMPLAINT

against the Substitute Order of the Voivode of Podlasie regarding commencing to draw up a zoning plan in the area allowing the construction of a section of the 400 kV double-circuit overhead power line Elk-national-border on the territory of the Commune of Bakalarzewo.

This ordinance was issued under art. 12 section 3 of the Act on spatial planning and development as a result of the resolution no. XXIX/188/13 of the Municipal Council of 23 July 2013 regarding the withdrawal from adopting the amendment to the "Study of conditions and directions of spatial development of the Commune of Bakalarzewo". This resolution was adopted due to the refusal by the investor's representative to adapt the draft local zoning plan and the spatial development study to the comments taken into account by the Commune Head in the order no. 30/2013 of 28.05.2013. “

We emphasize that the Replacement Order for the 2x400kV line OHL in the Bakalarzewo commune was only consistent with the will of the investor PSE S.A. and representatives of the government. The variant and technology of implementation were not accepted by the local government and residents of the commune. Proof: decision of the Mayor of the Bakalarzewo commune of 19/02/2014 ref. RIG.6724.3.2014

Ad.7. From the annexes presented by the interested party, ie: RDOŚ announcements (of which only one concerns the municipality of Bakalarzewo), confirms the allegation of the Healthy Community Association to limit the possibility of reading the documentation due to the fact that it was located over 120 km and difficult communication city of Białystok available.

Ad.8. The Polish Government has not presented any documents confirming public participation and conducting public consultations with the residents of the Bakalarzewo commune regarding the replacement order. Provided only to the office of the municipality of Bakalarzewo, notifications regarding the replacement order were not an effective way of informing the concerned community. Therefore, the Voivode of Podlasie did not carry out any social consultations, nor did it provide the local community with an alternative implementation of the line in a variant such as cable. Information about the creation of a replacement project at the seat of the Provincial Office, 120 km away, does not constitute a public consultation by government bodies.

Public consultations should be more than just public information about planned activities by the authorities - they assume mutual communication and establishing relations between the inhabitants and the authorities and administration. In our opinion, the goal of consultations should be to seek solutions that will help public authorities make decisions that best implement the principle of the common good in a given community.

It should be emphasized that not one of the formal OHL 2x400kV investment notifications reported about social, property and health risks and effects.

In all government materials, no opinion of specialists in the field of health, occupational safety and long-term residence in the vicinity of 400 kV overhead transmission lines has been presented.

Ad.9. The Government in its reply to the questions of the Compliance Committee confirms the allegations of the Healthy Community Association regarding the lack of information for the local community about the issued Supplementary Order. The Voivode of Podlasie on the substitute order of 16 July 2014 only informed the municipality of Bakalarzewo (24 July 2014). however, without a request for publication and general information to the local community.

The given links to the websites by the interested party were not an effective form of providing information for the average person, but even served for purely formal activities and the concealment of information about replacement order.

Ad.10. Since 2012, residents of the Bakalarzewo commune have been informed by the investor of PSE about one possible option of the route of the line OHL 2x400kV. Only after disclosure of the EIA report they learned about the existence of other variants, but there was no possibility of discussing them. RDOŚ in Białystok did not conduct public

consultations on variants' proposals. As part of the EIA, the report presents the option selected and promoted by the investor of PSE. The type of energy transmission technology has been specified in the title of administrative proceedings as - overhead.

In conclusion, the PSE investor chose the variant and overhead technology for the construction of the 2x400kV line and consistently implemented the investment. The state authorities did not take into account any applications and comments of the local community and self-government of the municipality of Bakalarzewo and did not undertake any independent actions that could ensure broadly understood public safety. Manipulation and concealing information about the investment and its social effects enabled the PSE investor to achieve the intended goal.

In addition, we provide information obtained from the observation of press releases regarding the Ełk - Alytus transmission line. From the interview with the investor's representative, it appears that the problematic line was built for many times larger transmissions than it was presented in the documents and the environmental impact assessment procedure. This confirms all the allegations of the local community about the fictitious form of the EIA procedure and spatial planning in the discussed case. <https://forsal.pl/artykuly/1073999,synchronizacja-baltow-z-europa-zachodnia-w-2025-r.html>

Thus, we are calling on the Polish government side to:

- 1.) presenting the actual technical parameters of the Ełk - Alytus transmission line and the legal assessment of the correctness of the EIA procedure carried out in the context of increasing the transmission parameters and thus its environmental impact.
- 2.) demonstrating that in the process of assessing the environmental impact of the OHL 2x400kV Ełk-Alytus line, an environmental risk analysis has been carried out which has aroused and raises the concern of local communities by an expert, in particular in the field of long-term health impacts on the human population.
- 3.) Establishment of an impartial specialized commission on examination of all legal, environmental and social aspects for high voltage transmission lines in Poland for which the OHL line 2x400kV Ełk-Alytus is a vivid example of violation of the right to a safe environment and the right to information about the state of the environment and threats. In particular, to examine the compliance of these procedures with the provisions of the Aarhus Convention which has been ratified by the Polish Government. Our representative suggested to the government side to create such a team during discussions at the meeting of the Aarhus Commission in Geneva.

Chairman of the Healthy Community Association

Mr. Mirosław Przyborowski

Mirosław Przyborowski