

The 'Healthy Municipality' Association registered in compliance with the law of the Republic of Poland, address: 16-423 Bakalarzewo, ul. Kolonie 2, Suwałki district, Podlaskie Province, Poland, phone: +48 500 209 600

Summary of domestic remedies exhausted in relation to the Complaint brought by the "Healthy Municipality" Association (ACCC/C/2014/106) against the EIA for OHL 2x400kV Elk – Polish border

No.	Procedure / institution	Date of procedure	Domestic remedies applied by the Healthy Municipality Association	Date of application	Purpose of application of domestic remedies	Results of actions taken	Possibility to challenge decisions or whether an appeal has been made
1.	Commencement of the procedure for issuing an EIA decision by the Regional Directorate of Environmental Protections in Białystok (RDEP Białystok)	06.01. 2010.	No opportunity to supply any comments and for public participation due to a lack of information for the local community on the commencement of the EIA procedure	-----	No opportunity to supply any comments and for public participation	None	Not possible due to a lack of information
2.	EIA report made available for inspection by RDEP Białystok	06.09. 2012.	Despite the incomplete information, at 2nd stage of the procedure the public supplied comments and proposals to the EIA report	22.10. 2012	Real local community participation with the aim to change the technology and route and in respect of environmental and human impacts of the OHL 2x400kV route.	RDEP Białystok did not accept any comments and proposals submitted by local communities	Lack of legal possibilities (domestic law does not provide for administrative review)
3.	-----	-----	Founding of the Healthy Municipality Association	04.12. 2012	To foster and monitor participation by local communities in the protection of the environment before national judicial and administrative authorities. Protecting the environment, landscape quality and human life quality. Cultural values and human rights to life in safe environment and prevention of its degradation. Environmental education.	The "Healthy Municipality" Association with its seat in the Municipality of Bakalarzewo was successfully registered.	-----
4.	RDEP Białystok issues an approving EIA decision	04.07. 2013	The decision was appealed against to a higher-level authority (General Directorate for Environmental Protection in Warsaw – GDEP Warsaw)	31.07. 2013	To defend the public interest which was not taken into consideration when determining the route for OHL 2x400kV, in particular, with respect to protection against electromagnetic radiation (EMR)	Comments not taken into account, while the decision was made immediately enforceable, resulting in the commencement of construction works with devastating impact on the environment	The decision was appealed against before a national court, i.e. Provincial Administrative Court in Warsaw

5.	Decision of GDEP Warsaw	16.12. 2013	The decision was appealed against before a national court, i.e. Provincial Administrative Court in Warsaw	03.02. 2014	Actions to protect the environment, in favour of sustainable development and the right of local communities to information about the state of the environment and to influence environmental decision making process	GDEP issued a replacement EIA decision, which disregarded all material comments submitted by the local community and environmental organisations	Both the communities concerned and environmental organisations brought appeals before the domestic Provincial Administrative Court in Warsaw
6.	Judgment of the Provincial Administrative Court in Warsaw	25.09. 2014	The judgment was appealed against to the domestic Supreme Administrative Court (NSA)	23.12. 2014	To safeguard citizens' constitutional rights to environmental safety for contemporary and future generations and to prevent negative health impacts of environmental degradation, in accordance with the principle of sustainable development	Domestic court refused to recognise and dismissed the complaints lodged in their entirety. Construction work on OHL 2x400kV is close to completion.	Since local communities are prevented from seeking cassation review by legal restrictions, a cassation complaint was filed with the Supreme Administrative Court in Warsaw by ecological associations on behalf of the local communities and Healthy Municipality Association

Relevant Spatial Planning Procedures Affecting the Siting, Technological Solutions and Environmental and Human Impacts of OHL 2x400kV

COMMENT: The planning procedures listed below failed to follow the sequence required by national law.

- LSDP - local spatial development plan

- Bakalarzewo Study - Study of conditions and trends in the spatial development of the Bakalarzewo municipality', hereinafter referred to as the Bakalarzewo Study

- KPZK - *Koncepcja Przestrzennego Zagospodarowania Kraju 2030* - National Spatial Development Concept 2030

The remaining abbreviations used in this document are explained in ANNEX I to the basic document for the complaint submitted to the Aarhus Conventional Compliance Committee

No.	Procedure / Institution	Date of procedure	Domestic remedies applied by the Healthy Municipality Association	Date of application	Purpose of application of domestic remedies	Results of actions taken	Possibility to challenge decisions or whether an appeal has been made
1.	Municipality of Bakalarzewo opens the procedure to modify the Bakalarzewo Study and the LSDP in order to provide for the siting of OHL 2x400kV	28.12. 2011	Municipality residents submitted comments and proposals to the LDSP and to the environmental impact forecast. In case of Bakalarzewo Study, only final comments could be submitted due to lack of information about the opening of the procedure.	-----	Active participation of local communities, to minimise environmental impacts of a project likely to have significant effects on the environment	All the comments and proposals submitted by local community were accepted by the municipality board (local authority)!	No need to file appeals
2.	Adoption of the national spatial development concept (KPZK) by Poland's Council of Ministers	27.04. 2012	No information of any kind was made available about the work on the concept and the environmental impact forecast or about these documents being approved	-----	No possibility for public participation to take place at an early stage when all options concerning the OHL project are still open	No possibility for public participation at the fault of national authorities	Lack of legal possibilities (domestic law does not provide for administrative review)

3.	At the request of Podlaskie Province Governor, Bakałarzewo Municipality refrains from adopting amended Bakałarzewo Study	02.07.2013	Local communities not informed	-----	Lack of information about the possibility to use any remedies	-----	-----
4.	Work commences on preparation of Replacement Order of Podlaskie Province Governor (compulsory procedure) on the LSDP for the OHL line route, which was previously rejected by the municipality board –see item 1)	15.10.2013	Proposals (Prop) and comments (Com) submitted to the LDSP for the contested OHL line being developed by Province Governor	(Prop) submitted on 6.12.2013; (Com) 4.07.2014	Real, active participation of local community aimed at modifying technology and route and environmental and human impacts of the OHL 2x400kV route, to minimise environmental impacts of a project likely to have significant effects on the environment	Podlaskie Province Governor rejects all comments and proposals of local communities, which were earlier accepted by the municipality board – see item 1.	Lack of legal possibilities (domestic law does not provide for administrative review)
5.	Adoption of amended provincial plan for the OHL line route within Bakałarzewo Municipality – <i>under the previous provincial plan dated 2003, the project's completion deadline set for 2010 had lapsed. The route of OHL line was imposed against local community's views.</i>	26.05.2014	1. Proposals to the provincial plan submitted. 2. Local community afforded no opportunity to study the draft plan and environmental impact forecast; no information on the deadline for and possibility to submit comments to the draft plan and forecast	20.01.2014	Re. 1. Request for public consultations on routing of and change of technology to ground cable for the OHL line Ad.2. Not able to act due to lack of information on planning and environmental procedures in progress.	Re. 1. Province executive board failed to consider the proposals submitted. Ad.2. No opportunity to study the environmental impact forecast.	Re. 1. Lack of legal possibilities (domestic law does not provide for administrative review) <i>The sequence of planning procedures was reversed unlawfully.</i>
6.	Approval of Replacement Order of Podlaskie Province Governor (compulsory procedure) on the Bakałarzewo Municipality's LSDP for OHL line route option, which was previously rejected by Bakałarzewo Municipality Board – see item 1)	16.07.2014	1. Considerably delayed information for local communities. Inhabitants had only one day to study the documentation and take action. Notice to rectify breaches of the law delivered to the governor. 2. Complaint to the Prime Minister against the replacement order of Podlaskie Province Governor.	Re.1-04.08.2014 Re.2-04.08.2014	Re. 1. Notice to rectify breaches of the law in view of negative environmental and human impacts of OHL 2x400kV as per the developer's option, which was already rejected earlier by the local community and municipality board Re.2. Lawfulness of replacement order issued by the Governor to be checked by the supervisory authority.	Re. 1. Governor denied local community's right to be informed about the current procedure relating to a project having significant effects on the environment and people. Ad.2. Failure to answer the complaint.	Re. 1. In his procedural document, Governor failed to inform about the possibility of and deadline for appeal, as a result of which no appeal was filed Ad.2. Lack of information on possible further actions.
7.	1. Expropriation of real properties for the construction of OHL line – Suwalski District Head 2. Construction permits issued – Podlaskie Province Governor	From 2014	1. Complaints filed with Podlaskie Province Governor against expropriation decisions. 2. Complaints filed with General Inspector of Building Supervision against construction permits.	2014 - 2015	To safeguard the human right to make decisions about the environment and place of residence. Complaints against infringements of construction law and the right to property in connection with the siting of a project having negative effects for the environment and people	Legal actions and litigation in expropriation matters. Poland fails to recognize citizens' rights to secure environment – blackmail by threatening compulsory expropriations.	Cases in progress – some residents have no funds and do not receive any assistance from the national administration in very complex legal procedures and in the context of developer's pressure