Dear Dr Valiokas,

Subject: Your application for access to documents – Ref GestDem No. 2015/829

We refer to your e-mail dated February 05, 2015 in which you make a request for access to documents under Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents\(^1\), registered on February 11, 2015 under the above mentioned reference number.

Your application concerns the following documents:

1. Agreements between the European Commission and the Polish (and, eventually, Lithuanian) authorities, power system operators, other related companies and organizations that set specific dates for obtaining environmental documentation (such as environmental planning conditions, EIA reports, permissions etc.) for the 400 kV power line from Elk to the state border, as well as for Elk substation reconstruction (parts of the LitPol Link project).

2. Documents revealing what commitments the Polish grid operator had to fulfil by the specified date 30th of June 2012 in order to get the support from the EU regional funds for the LitPol Link project.

3. Agreements between the European Reconstruction and Development Bank and the above-mentioned Polish parties that mention specific conditions for submitting the EIA documentation, including specific deadlines.

\(^1\) OJ L 145, 31.5.2001, p.43
4. Documents/correspondence that contain agreements of the Polish (and eventually Lithuanian) transmission system operators and the European Commission to accomplish the construction of the LitPol Link power interconnection by the deadline of 2015.

Related to point no. 1 and the reference to TEN-E funding in the cited letter of LitPol Link Sp. z o. o from October, 2010, we would like to inform you that the Feasibility Study for Construction of double-circuit 400 kV line Elk-State Border (Alytus direction) and the Feasibility Study for Development of 400/220/110 kV station Elk received financial aid under the TEN-E programme (Decision granting financial aid for an Action concerning the granting of Community financial aid for projects of common interest “Feasibility studies of the LitPol Link Project” 2008-E243/08-TREN/08/TEN-E – SI2.536847 in the field of the trans-European energy networks - TEN-E).

As set in the Decision E243/08, the completion date of the Action was initially the 31th of December 2012, which was later amended with an extension until the 30th of June 2014. However, the Action covers the conducting of feasibility studies and does not set any specific deadlines for obtaining environmental documentation for the construction of the line Elk-State Border and the Elk substation.

The Decision is attached to this letter for your information. Please note that Annex II of the decision has not been included, given that this technical annex contains commercially sensitive information about the projects and disclosing it may undermine the protection of commercial interests of the projects promoters. Such exception from granting access to documents falls into the scope of Article 4 (2) of Regulation No 1049/2001.

Related to point no. 2 and point no. 4, we would like to inform you that the construction of the Elk Bis-Polish border line received financial assistance under the ERDF programme, which is managed by the Directorate-General for Regional and Urban Policy.

No agreements have been signed between the European Commission and the Polish transmission system operator with regards to the deadline of 30th of June 2012 for submitting the EIA documentation of the project. Moreover, please note that the practice of the European Commission does not envisage the signature of any such agreements.

No agreements were made either with regards to the deadline of the 31st of December 2015 for the completion of the construction of the LitPol Link power interconnection. However, the deadline of the 31st of December 2015 represents a legal requirement in order for the project to be eligible for funding under the ERDF, in line with Article 56 of the Council Regulation (EC) No 1083/2006: "Expenditure, including for major projects, shall be eligible for a contribution from the Funds if it has actually been paid between the date of submission of the operational programmes to the Commission or from 1 January 2007, whichever is earlier, and 31 December 2015. Operations must not have been completed before the starting date for eligibility."

---

Moreover, it is worth mentioning that the end of 2015 was also the commissioning date declared by the project promoters of LitPol Link for the Lithuanian section of the project within the Projects of Common Interest (PCI) exercise.³

Related to point no.3, we kindly advise you to contact the European Bank for Reconstruction and Development directly in order to obtain more information on the matter, given that the organization of their work is done independently from that of the European Commission.

In accordance with Article 7(2) of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents, you are entitled to make a confirmatory application requesting the Commission to review this position. Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission
Secretary-General
Transparency unit SG-B-5
BERL 5/327
B-1049 Bruxelles
or by email to: sg-acc-doc@ec.europa.eu

Enclosure: Decision granting financial aid for an Action concerning the granting of Community financial aid for projects of common interest “Feasibility studies of the LitPol Link Project”