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**Synpunkter på planerna att etablera en havsbaserad vindkraftspark Klaipeda, i enlighet med konventionen om miljökonsekvensbeskrivningar i ett gränsöverskridande sammanhang (Esbokonventionen)**

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Miljöministeriet i Litauen har underrättat Sverige/Naturvårdsverket om gränsöverskridande samråd i enlighet med Esbokonventionen gällande vindkraftsparken Klaipeda. BirdLife Sverige har lämnat synpunkter som nu har bemötts. Miljöministeriet har därvid framställt frågan om samrådet kan avslutas i enlighet med artikel 5 Esbokonventionen. Nedan redogörs för vår ståndpunkt i frågan.

**Remaining conflict with Natura 2000 legislation**

The Ministry of Environment of the Republic of Lithuania has presented a response to the opinions raised by BirdLife Sweden, and others. We are not familiar with at what stage a transboundary consultation pursuant to Article 5 of the Espoo Convention can be considered complete, but we certainly believe that the response is insufficient and not in line with the Birds Directive.

The Ministry of Environment states that the windfarm can not be moved to avoid significant effects on e.g. the wintering population of e.g. velvet scoter, and that 1 km distance between the nearest wind turbine and the Natura 2000 border is a sufficient measure to reduce the impacts to insignificant level. If an adverse effect, more significant than provided for during the EIA is established, the Ministry of Environment claims that additional impact mitigation measures will be applied. The number of birds excluded from the Natura 2000 area will be monitored within the proposed control program, and the impact is considered significant when the abundance of birds within the Natura 2000 site is reduced more than 20% compared with the natural long-term (10 years) population fluctuation.

BirdLife Sweden opposes the opinion that 1 km distance between the nearest wind turbine and the Natura 2000 border is a sufficient measure to reduce the impacts to insignificant level. As presented in the EIA report, there is *"a great probability of decrease in density of the protected species of birds in the adjacent Natura 2000 area"*. Neither the Natura 2000 legislation nor the guidance given by the EU Court of Justice (in multiple cases) presents any reason for applying a "trigger level" of impact at 20% population reduction, as presented in the response from the Ministry of Environment. It seems necessary to stress, again, that the negative effect on the population using the Natura 2000 is forbidden no matter if the reason for reduction is located within or 1 km away from the Natura 2000 area.

BirdLife Sweden would also like to reiterate the fact that, under the present circumstances (i.e. the risk of reducing the values of the Natura 2000 population of e.g. velvet scoter), there is no room for building the windfarm and *then* evaluate the impacts. Instead, even at the stage of *a significant risk* should the project be rejected. We recommend the Ministry of Environment to consult the EU Commission, or the EU Court of Justice, if the Ministry of Environment decides not to trust the words of BirdLife Sweden. We would also recommend the Ministry of Environment to consult the national BirdLife partner – the Lithuanian Ornithological Society (LOD) – for further instructions on how to avoid being accused and brought to the EU Court of Justice for breaching the Natura 2000 rules.

BirdLife Sweden remains at your disposal for further correspondence!

Best regards,



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