

TRUMACZ PRZYSIĘGŁY JĘZYKA ANGIELSKIEGO
mgr Małgorzata Magnuska
01-703 Warszawa
ul. Gąbińska 18 m. 57
tel. 601 23 49 40

Certified translation from Polish

[Document on the letterhead of Urząd Regulacji Energetyki - the Energy Regulatory Office]

Warsaw, dated 22 May 2017

[state emblem]

**PRESIDENT
OF THE ENERGY REGULATORY OFFICE**

DEK.WK.4111.3.3.2017.LW

DECISION

Pursuant to Art. 43 sec. 1 - 3 and 9 in conjunction with Art. 32 sec. 1 pt. 1, Art. 33 sec. 1 and Art. 37 and in conjunction with Art. 30 sec. 1 of the Act of 10 April 1997 - *Energy Law* (Journal of Laws/Dz.U. of 2017, item 220, as amended), and also in conjunction with Art. 104 of the Act of dated 14 June 1960 - *Code of Administrative Procedure* (Journal of Laws/Dz.U. of 2016, item 23, as amended) and Art. 3 of the Act of dated 20 February 2015 *on Renewable Energy Sources* (Journal of Laws/Dz.U. of 2015, item 478, as amended),

following examination of the application dated 25 January 2017,
as further clarified by the communication dated 19 May 2017,
submitted by the undertaking:

Syngas Project Spółka z ograniczoną odpowiedzialnością
with its registered office in Warsaw,

holding:

- | | |
|--|-------------|
| 1) National Court Register number: | 0000261455, |
| 2) taxpayer identification number (NIP): | 9512415890, |

hereinafter referred to as the "Applicant" or the "Undertaking"

I hereby resolve as follows:

*Małg.
Magn.*



- 1) to grant the undertaking **Syngas Project Spółka z ograniczoną odpowiedzialnością** with its registered office in Warsaw a **promise of licence No. WEE/13373/28191/P/DEK/2017/LW** to generate electric energy at:
 - a renewable energy plant - a dedicated biomass combustion plant (BMG), constituting a co-generation unit, with a total installed electricity capacity of **20.700 MW**, situated in the locality of Szczecin, Szczecin municipality, Szczecin powiat, zachodniopomorskie voivodeship, using 12 internal combustion engines (SSP) and the Rankine's organic cycle scheme (OOR), making use of gas obtained from biomass gasification and of supplementary fuel in the combustion process;
 - a renewable energy plant - a dedicated biomass combustion plant (BMG), constituting a co-generation unit, with a total installed electricity capacity of **20.700 MW**, situated in the locality of Małaszewicze Małe, Terespol municipality, Bialski powiat, lubelskie voivodeship, using 12 internal combustion engines (SSP) and Rankine's organic cycle scheme (OOR), making use of gas obtained from biomass gasification and of supplementary fuel in the combustion process;
- 2) to establish the validity period of this promise as follows: **until 1 December 2018**;
- 3) to ascertain that the investment projects described in point 1 would not be implemented had not the electric energy generated in these plants been entitled to the certificates of origin of co-generated energy referred to in Art. 91 of the Act – *the Energy Law* or the support provided for under *the Act on Renewable Energy Sources*;
- 4) to specify the following terms and conditions for business activity to be incorporated in the licence-granting decision:

1. The objects and scope of business activity.

1.1. The objects of the business activity covered by the licence will be the business of producing electric energy at:

- 1) the renewable energy plant - a dedicated biomass combustion plant (BMG), constituting a co-generation unit, with a total installed electricity capacity of **20,700 MW**, situated in the locality of Szczecin, Szczecin municipality, Szczecin powiat, zachodniopomorskie voivodeship, using 12 internal combustion engines (SSP) and



Rankine's organic cycle scheme (*OOR*), making use of gas obtained from biomass gasification and of supplementary fuel in the combustion process;

- 2) the renewable energy plant - a dedicated biomass combustion plant (**BMG**), constituting a co-generation unit, with a total installed electricity capacity of **20,700 MW**, situated in the locality of Małaszewicze Małe, Terespol Municipality, Bialski Powiat, lubelskie voivodeship, using 12 internal combustion engines (*SSP*) and Rankine's organic circulation system (*OOR*), making use of gas obtained from biomass gasification and of supplementary fuel in the combustion process.

The biomass will consist in:

- **biomass from products, waste and residues from forestry and from the forestry product processing industry** - non-coniferous wood, coniferous wood, mixture of non-coniferous and coniferous wood;

The weight percentage of biomass in the overall stream of fuel delivered to the plants shall be 100%.

- 1.2. The electric energy produced from biomass in the dedicated biomass combustion plants may qualify as electricity produced from renewable energy sources only if it satisfies the requirements specified in the Act of 20 February 2015 on Renewable Energy Sources and in any secondary implementing regulations made thereunder.

2. Conditions for conducting business activity.

2.1. General conditions.

- 2.1.1. The Applicant will be required to ensure the high quality of services rendered and the reliable supply of electric energy, at the lowest costs possible.
- 2.1.2. The Applicant will be required to conduct its business activity in a way that does not threaten human life or health and does not cause physical damage.
- 2.1.3. The Applicant will be required to comply with the applicable laws, including the environmental protection and safety laws, and also with the secondary legislation issued thereunder.
- 2.1.4. The Applicant will be required to maintain or ensure the ability to raise or obtain funds or assets sufficient to satisfy third party claims that may arise as a result of improper conduct of the business activity covered by the licence or any environmental damage.

masp.
masp.

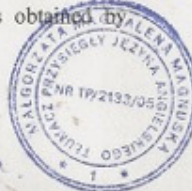


- 2.1.5. The Applicant will not be allowed to sell electric energy to any undertakings whose business activity includes the production, storage, transmission, distribution or trading of electric energy, if such undertakings do not hold the licence where it is required under the Act – *the Energy Law*.
- 2.1.6. The Applicant will be required, pursuant to Art. 34 sec. 1 of the Act – *the Energy Law*, to pay an annual fee to the State Budget, in the manner and in the amount specified in the regulations issued pursuant to Art. 34 sec. 3 of that Act.
- 2.1.7. The Applicant will be required to ensure that any actions involving independent operation of the plant and equipment are performed exclusively by persons holding qualifications required in this respect.

2.2. Specific conditions.

- 2.2.1. In order to benefit from the mechanisms and instruments supporting the production of electric energy as contemplated in the Act – *the Energy Law* and the Act on *Renewable Energy Sources*, the Applicant will be obligated to satisfy the requirements specified in the said Acts, and also in the secondary legislation issued thereunder. The verification of the aforementioned requirements will be made by way of separate and individual proceedings, during which the President of ERO will determine whether it is justified to grant such support, including its type and amount.
- 2.2.2. The Applicant will be required to comply with the technical conditions for the production of electricity set out in separate provisions, including in particular those relating to the maintenance of the facilities, plant and equipment in a good technical condition, allowing to produce electricity in a continuous and reliable manner, and in accordance with applicable regulations specifying technical, qualitative and environmental requirements, taking into account the need to keep the costs at a reasonable level.
- 2.2.3. The Applicant will be required to meet the technical conditions for the production of electricity generated by burning gas resulting gasification of biomass, as set out in the supporting documentation being an integral part of the licence.
- 2.2.4. The Applicant will be required to notify the President of ERO in writing in each case when any substantial changes are made with respect to the business activity covered by the licence in relation to production technology and the procedures for calculating and billing the electric energy generated from the burning of gas obtained by gasification of biomass, which result in particular from any changes in:

maso
magi



- 1) the type and quantity of biomass used and its feed-in locations and method, with regard to the metering procedures applied or the location of meters;
- 2) capacity of the equipment used to transport and feed waste;
- 3) metering apparatus and/or the location where it is installed;
- 4) applicable legal regulations;

- not later than within 14 days from the date on which such changes occur, and submit at the same time to the President of ERO a request for the licences to be amended along with the updated supporting documentation referred to in point 2.2.3.

2.2.5. The Applicant will not be allowed to operate any technical device that is subject to technical inspection, without a valid decision authorising its operation or in contravention of a decision to suspend its operation, issued by the competent technical inspection authority.

2.2.6. The Applicant will not be allowed to sell the generated electric energy using any metering devices not provided with the required evidence of legal metrological control or that has failed to meet the requirements of such control.

2.2.7. The Applicant will not be allowed to subsidize any activity not covered by this licence out of any revenue generated from the business activity covered by such licence.

2.2.8. The Applicant will be required to provide, upon request of the President of ERO, metering data used to determine the quantity of electricity generated from the combustion of gas resulting from the gasification of biomass.

2.3. Reporting and disclosure of information

2.3.1. The Applicant will be required notify the President of ERO in writing in case of any change in:

- 1) the designation of the entity, its registered office or domicile or their address,
- 2) its number in the register of entrepreneurs in the National Court Register or its number in the equivalent register of a Member State of the European Union, the Swiss Confederation, a member state of the European Free Trade Agreement – a party to the agreement on the European Economic Area or Turkey,
- 3) taxpayer identification number NIP,

Marek Magda



- not later than within 7 days from the date on which such changes occur, and, should such change require an amendment of this licence, submit at the same time a request for such licence to be amended.

- 2.3.2. The Applicant will be required, within a period not longer than 14 days from the occurrence of any substantial change other than those indicated in point 2.2.4. and in point 2.3.1. relating to the business activity covered by this licence (in particular those relating to the expansion or reduction of the scope of such activity or the details of persons authorised to or forming part of the body authorised to represent the Applicant), to notify the President of ERO in writing of such changes, and, should such change require an amendment of this licence, submit at the same time a request for such licence to be amended.
- 2.3.3. The Applicant will be required to inform the President of ERO in writing of its intention to cease the activity under the licence not later than 18 months prior to the expected date of cessation of the activity.
- 2.3.4. The Applicant will be required to notify the President of ERO in writing of its failure to start the activity covered by the licence if they have not been initiated within 6 months from the date on which the licence is granted, not later than 14 days after the lapse of that time-limit, and indicate the reasons for not initiating the activity; the date on which the production of electric energy was actually started shall be considered the date on which the activity is initiated.
- 2.3.5. The Applicant will be required to inform the President of ERO in writing of its intention to carry out a division or merger with other entities, not later than 30 days prior to the planned division or merger date.
- 2.3.6. The Applicant will be required notify the President of ERO in writing of its having ceased to comply with any of the conditions referred to in Art. 33 sec. 1 of the Act *the Energy Law*, and also of the occurrence of the circumstances referred to in Art. 33 sec. 3 or sec. 3a of that Act, not later than within 7 days from the date on which the Applicant ceased to conform to any of the said conditions or any of such circumstance occurred.
- 2.4. **Conditions for ceasing the activity following the expiry or revocation of the licence.**
- 2.4.1. Not later than 18 months prior to the expiry date of the licence or the cessation of its activity, the Applicant will provide to the President of ERO the following analyses prepared at its own cost:

Małgorzata
Kucharska

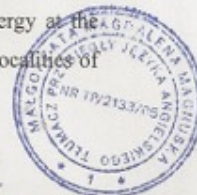


- 1) technical analysis,
 - 2) financial analysis (together with the certified auditor's opinion and report on the examination of the Applicant's financial statements for the last year of activity if the obligation to audit such statements follows from the provisions of the Act dated 29 September 1994 *on Accounting* (Journal of Laws/Dz.U. of 2016, item 1047, as amended),
 - 3) analysis of environmental impacts,
- with regard to the activity under the licence, specifying in particular the status of the Applicant's meeting its obligations to third parties as of the expected date of cessation of that activity.
- 2.4.2. The Applicant will be required to implement the conclusions and recommendations resulting from the above analyses as soon as practicable.
 - 2.4.3. Following the cessation of the activity under the licence, the Applicant will be required to eliminate the consequences of its activity, in particular with regard to the recultivation of the land, restoring the terrain characteristics to proper condition, and hazardous waste disposal.
 - 2.4.4. Not later than 18 months prior to the planned date of cessation of the activity under licence, the Applicant shall develop and provide to the President of ERO the action plan referred to in point 2.4.3., indicating the source of financing such actions. In case of any substantial changes in the conditions on the basis of which such plan has been prepared, the Applicant will be required to promptly update it.
 - 2.4.5. The Applicant will not be required to implement the provisions of points 2.4.1. to 2.4.4. if the assets used to perform the activity have been handed over to another entity.

JUSTIFICATION

Upon the application dated 25 January 2017 (hereinafter referred to as: the "Application"), pursuant to Art. 61 § 1 of the Act – *Code of Administrative Procedure* in conjunction with Art. 43 sec. 1 - 3 and 9 and Art. 32 sec. 1 pt. 1 of the Act – *the Energy Law*, an administrative procedure was initiated regarding the grant to the undertaking Syngas Project Spółka z ograniczoną odpowiedzialnością with its registered office in Warsaw a promise of a licence to conduct business activity consisting in the production of electric energy at the renewable energy source plants, constituting co-generation units, situated in the localities of

Małgorzata
Małgorzata



Following the analysis of the collected documentation, it was found that the Applicant:

- The documents that are attached by the Undertaking to the application for the grant of a promise of a licence for the production of electric energy provide **plausible evidence** of the possibility of raising funds to finance the investment project and properly conduct the activity described in the promise of the licence. Nevertheless, the above does not imply that third parties may rely on this decision as an independent source of confirmation that such funds will be raised and that the investment project will be carried out. Furthermore, it should be pointed out that in line with the judgment of the Court of Appeal in Warsaw, VI Civil Division, dated 31 January 2017 (file ref. VI ACa 1724/15), *“the assessment of whether an undertaking seeking the grant of a licence has sufficient resources ensuring proper performance of the activity under licence is to be made by the administrative authority, but the burden of proof regarding the circumstances justifying the granting of the requested licence rests with the undertaking”*. Accordingly, the final determination whether the Undertaking that is to carry out the investment project and to apply for the granting of the licence for the activity described in this licence has funds ensuring proper performance of that activity will be made in the course of the proceedings for granting the licence.

The terms and conditions for conducting the activity covered by the licence to be issued on the basis of this promise have been specified in accordance with Art. 37 of the Act - *the Energy Law*, based on the information provided by the Undertaking. In the course of these proceedings, the Applicant introduced a technical and economic description of the proposed

Mass.
Naga.



investment projects, the work on which is to start after 4 May 2015, that is following the entry into force of the *Act on Renewable Energy Sources*.

The authority conducting the proceedings has determined that the difference between the negative and positive cash flows (NPV) related to the implementation of these investment projects consisting in the construction of renewable energy source facilities, constituting co-generation units, which are covered by this promise, amounts to PLN 2.225 million for each of the plants; therefore, the value of the related expenditures incurred throughout the period of execution and operation of the investment project exceeds the cash inflows projected by the Undertaking in this respect.

To sum up the foregoing, it should be concluded with regard to the business activity planned by the Undertaking that the support referred to in pt. 3 in the operative part of this decision provides economic justification for taking it up and conducting it.

In the subject case, in accordance with the provisions of Art. 23 sec. 3 of the Act – *the Energy Law*, the Executive Boards of Zachodniopomorskie and Lubelskie Voivodeships were requested to issue their opinions. The Executive Boards of both Voivodeships provided positive opinions.

It should be underlined however that any subsequent grant of a licence for the production of electricity is not tantamount to the satisfaction of the conditions entitling to benefit from the mechanisms and instruments in support of production of electricity as provided for in the Act – *the Energy Law* and in the *Act on Renewable Energy Sources*. This is so because such conditions are defined in statutory provisions and in secondary legislation, as stated in the condition 2.2.1. of the this promise of a licence, and their fulfilment is subject to case by case verification by the President of the Energy Regulatory Office.

The validity period of this promise of licence has been specified for a period until 1 December 2018, in line with the application of the Party and pursuant to Art. 43 sec. 3 of the Act – *the Energy Law*.

Therefore, I rule as stated in the operative part.

INSTRUCTIONS

1. This decision may be appealed to the Regional Court in Warsaw – the Court of Competition and Consumer Protection – through the intermediary of my office, within two weeks from the date of service of this decision (Art. 30 sec. 2 and 3 of the Act – *the Energy Law*).

Małgorzata
Małgorzata



Energy Law and Art. 479⁴⁶ pt. 1 and Art. 479⁴⁷ § 1 of the Act of 17 November 1964 – *the Code of Civil Procedure* /Journal of Laws/Dz.U. of 2016, item 1822, as amended/).

2. The appeal against the decision should satisfy the requirements specified for a procedural document and include the reference to the contested decision and the value of the subject of dispute, description of claims, concise justification thereof, indication of evidence, and include an application for an annulment or change of the decision in whole or in part (Art. 479⁴⁹ of the Act – *the Code of Civil Procedure*).
3. Obtaining this promise of a licence does not release from the obligation to obtain other licences and permissions that are required pursuant to separate provisions.
4. In order to conduct any activity referred to in Art. 32 sec. 1 of the Act - *the Energy Law* other than the production of energy, the Applicant must obtain a separate licence.
5. The objects, scope and conditions of conducting the activity covered by the licence may be altered only after the licence is amended.
6. The promise of a licence does give the right to conduct activity within the scope for which the licence is required.
7. During the validity period of the promise no request to grant the licence for the activity defined in the promise or to amend thereof, unless the factual and legal circumstances specified in the application to grant the promise have changed (Art. 43 sec. 4 of the Act - *the Energy Law*).
8. An application for the issuance of a licence on the basis of this promise should include a statement regarding any changes in the factual and legal circumstances described in the application to issue the promise. In accordance with the current legal regime, the application should be accompanied in particular by:
 - a current extract from the register of entrepreneurs, obtained not earlier than 3 months before it is submitted to the licensing authority;
 - a list of persons authorised to represent the Undertaking and of the members of the supervisory board;
 - originals or copies, certified as true copies in accordance with Art. 76a § 2 of the Code of Administrative Procedure, of current information from the National Criminal Register attesting the absence of any criminal record for the persons authorised to represent the Undertaking and the members of the supervisory board, and also current information from the National Criminal Register attesting the absence of any criminal record for the business enterprise as a whole (as a body corporate).

Handwritten signature: *Marek Wajda*



In the event that the undertaking, any person authorised to represent the Undertaking or any member of the supervisory board is not a Polish citizen, relevant information issued by the competent authority of the country of which such person is a national should also be provided together with the translation thereof into Polish by a sworn translator.

All the above-mentioned documents must be obtained not earlier than 3 months before their submission to the licensing authority.

- the list of all entities having substantial influence over or controlling or co-controlling the applicant within the meaning of Art. 3 sec. 1 pt. 34, 35 and pt. 36 letter a, b, e and f of the Accounting Act;
- originals or copies, certified as true copies in accordance with Art. 76a § 2 of the Code of Administrative Procedure, of current information from the National Criminal Register attesting the absence of any criminal records for the entities having substantial influence over or controlling or co-controlling the applicant within the meaning of Art. 3 sec. 1 pt. 34-36 of the Accounting Act. In case of an entity registered abroad or who is not a citizen of Poland, relevant information issued by the competent authority of the country of registration or citizenship of such entity should **also** be provided together with the translation thereof into Polish by a sworn translator.

All the above-mentioned documents must be obtained not earlier than 3 months before their submission to the licensing authority.

- a declaration by the undertaking (in case of a civil law partnership, of each of the partners) and declarations by the persons and members referred to in Art. 33 sec. 3c in conjunction with sec. 3a of the Act – the Energy Law confirming that there are no prerequisites to suspend the proceedings on the basis of Art. 33 sec. 3a, which provides that the President of ERO shall suspend the proceedings if a decision to present charges in the matter involving the commitment of a criminal offence or a fiscal offence related to the business activity conducted;
- a declaration by the undertaking that no petition for declaration of **bankruptcy** has been brought with regard to it and that it is not in **liquidation**;
- a declaration by the undertaking that it has not been deleted from any regulated business register in recent years for the reasons referred to in Art. 71 sec. 1 of the Act on Freedom of Business Activity;

Handwritten signature



- a declaration whether the undertaking appears in the register of payers of the tax on goods and services;
- a certificate of assignment of an excise tax number issued by the relevant head of the customs office, if the Undertaking has such number;
- evidence of payment of the respective stamp duty for granting the licence in the amount of PLN 616;
- if legal transactions are performed through a proxy, a power of attorney authorising to perform such legal transactions on behalf of the Applicant (together with the proof of payment of the respective stamp duty in the amount of PLN 17);
- a description of the technical parameters of the equipment to be used for the generation of electric energy and of the technical status of such equipment;
- documents clearly confirming the Applicant's legal title to the facilities and installations necessary for the activity covered by the licence (e.g. notarial deed, an extract from the land and mortgage register, an extract from the land register, lease or lending for use agreements, final building works acceptance report, etc.);
- a description of the use of useful heat;
- a diagram of the set of equipment forming part of the co-generation unit, indicating the balancing threshold;
- a detailed power evacuation diagram, together with the indication of:
- the points of measurement of the quantity of electricity produced in the co-generation unit, in particular, those specified in § 13 of the regulation of the Minister of Economy *regarding detailed obligations to obtain and redeem certificates of origin, substitution fee payment, and purchase of electricity and heat produced in renewable energy sources and the obligation to confirm data regarding the quantity of electricity produced in a renewable energy source* (Journal of Laws/Dz.U. of 2012, item 1229, as amended),
- the delineation of ownership of equipment, networks and installations that belongs to the Applicant and to the operator of the power grid system;
- all generating facilities / equipment (belonging to the Applicant or third parties) from which energy is supplied through a given service connection;
- documents evidencing the completion of the plant's construction and the start of its operations, i.e. permission to operate;



*hale
haji.*

- the decision setting out the technical conditions for the connection to the power grid (so called grid connection terms and conditions) or so-called connection agreement;
- a report on the technical verification, approval and acceptance to operation of the power-generating equipment, issued by the operator of the power grid to which the plant will be connected;
- a report of the check of correct functioning of metering and billing systems (so called detailed technical service request report - *OTS*);
- decisions of the Office of Technical Inspection [*UDT- Urząd Dozoru Technicznego*] regarding authorization for placing into service generating equipment used to produce electricity, together with technical verification reports annexed to such decisions (where required);
- results of operation and test run tests (about 3 pages) confirming that specific types of fuel (biomass) can be used in the plant mentioned in the application to grant the licence;
- detailed specification of the biomass type intended to be used in the Undertaking's co-generation unit, stating its characteristic parameters;
- sample (preliminary) purchase contracts for the specific biomass type in case of units using biomass;
- a detailed and legible fuel feeding sequence diagram/including supplementary and combustion-supporting fuels (if any);
- an opinion of the generation equipment manufacturer regarding the possibility of burning specific fuel types (gas from biomass) and supplementary fuel in it;
- information on the use or on the non-use of supplementary fuel in the renewable energy plant;
- a document drawn up by an independent third party with expertise and experience in validating generating units, which is to include a confirmation that the technical safeguards in place prevent the production of electricity from supplementary fuel. Such opinion should be prepared on the basis of a plant audit;
- a document entitled "Supporting Documentation. Energy Production and Billing Procedure Plant for Renewable Energy Sources" – in 2 copies (0);
- an opinion regarding the prepared supporting documentation (drawn up by an independent third party on the basis of plant audit) – in 1 copy;

Marg.
Najm.



- a decision granting an integrated authorisation, and if such decision is not required, a permit to introduce pollutants into air, waste generation permit;
- a summary of the planned annual revenues and costs for the activity covered by the licence application, for a period of minimum three years (balance sheets and profit and loss accounts);
- a current certificate from the relevant tax office and customs office, obtained not earlier than 3 months before its submission to the licensing authority, stating that the undertaking is not arrears with liabilities to the State Treasury;
- current certificate from the relevant branch of the Social Insurance Institution (*Zakład Ubezpieczeń Społecznych*) stating that the Applicant is not in arrears with the payment of the social security contributions, obtained not earlier than 3 months before its submission to the licensing authority;
- current statement from the bank in which the Applicant's principal account is held describing the Undertaking's turnover, financial capability and creditworthiness and providing information about any loan facilities extended to the Applicant and the information whether the said bank account is free of enforcement titles, obtained not earlier than 3 months before it is submitted to the licensing authority.

President

of the Energy Regulatory Office

pursuant to the authority

[stamp of the Director Donata Nowak]

[illegible handwritten signature]

[round seal of the President of the Energy Regulatory Office]

Issued to:

Syngas Project Spółka z o.o.

ul. Jeździecka 1/11, 01-461 Warsaw

[stamp reading as follows:]

Stamp duty paid in the amount of PLN 196.00

Required stamp duty PLN 98

[stamp and signature of the Department Head]

[round seal of the President of the Energy Regulatory Office on each page]



14

I, Małgorzata Magnuska, a sworn translator of English registered by the Minister of Justice under ref. no. TP/2133/05, hereby certify that the attached is a true and correct translation of the original/~~copy~~ of the document in Polish which has been presented to me.

Warsaw *1 June 2014* Repertorium no. *60/2014*