

# REPORT

## FROM THE IMPLEMENTATION OF THE CONVENTION ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS FOR ~~THE YEARS 2014-2016~~2017-2020

### 1. ~~1.~~ The process of report preparation.

1. ~~1.~~ During the preparation of this report, consultations with the public, non-governmental organisations (NGOs) and ~~administration~~administrative authorities were ~~conducted~~carried out in two phases.
2. ~~2.~~ At the beginning, the Ministry of ~~the~~Climate and Environment submitted for consultation to public administration units the report from years ~~2011-2013~~2014 - 2016 with a request to provide comments. Then, the Ministry published on its ~~website a~~Public Information Bulletin <https://bip.mos.gov.pl/> the draft report from the implementation of the ~~convention~~Convention for ~~the years 2014-2016~~2017 - 2020 in ~~three versions – in PDF format, in .doc format, with the~~ amendments in relation to the previous report from years ~~2011-2013~~2014 - 2016 marked in the ~~mode "register changes" mode,~~ and in ~~.doc~~PDF format ~~without marked changes. The PDF, 2014 - 2016 original version included the "register changes" mode.~~ The Ministry invited to provide comments to the content of the draft report via the ~~website. It is important to note that~~ Public Information Bulletin. A relevant announcement was also published on the Ministry's website - <https://www.gov.pl/web/klimat>. As ~~was~~ the consultations with the public with regard to ~~case with the previous Report on the Implementation of the Aarhus Convention,~~ the pure content of the 2014 - 2016 report ~~from years 2011-2013 were abandoned. The Ministry considered that consultation of the content of the previous report without the indication of the legislative changes that occurred in relation to the previous reporting period, may result in the fact that numerous~~ was not consulted with the public. The comments ~~of the public will concern issues that are already known to the authors of the report. Submitted comments enabled identification of submitted~~ made it possible to identify the institutional and legal changes ~~regarding in the~~ provisions implementing the ~~convention~~Convention that ~~took have taken~~ place over the past ~~three~~four years, and the difficulties that ~~appeared~~have arisen during the implementation of the Convention.
3. ~~3.~~ Subsequently, ~~Then~~ the Ministry of ~~the~~Climate and Environment on the basis of received comments prepared a draft report from the implementation of the ~~convention~~Convention, that was again sent for ~~consultation to the~~ consultations with public administration authorities. ~~Then, after~~After further amendments, ~~a~~ were made,

the draft report was sent ~~to~~for the second phase of public consultations. During the ~~consultations~~of consultation on the content of the draft report, comments were provided by the following entities:

1. Government institutions:

- Minister of Justice,
- Ministry of the Environment (from 21 March 2020 to 8 October 2020 constituted a separate entity) General Director for Environmental Protection along with regional directors responsible for ~~the~~ environmental protection,
- Chief Inspector of Environmental Protection along with voivodship inspectors of environmental verifiers protection,
- ~~General Administration of the State Forests~~
- ~~Polish Geological Institute – National Research Institute~~
- ~~Institute of Environmental Protection – National Research Institute~~
- President of ~~the~~ National Water Management Authority Atomic Energy Agency,
- ~~President of the State Atomics Agency~~
- ~~National Fund for Environmental Protection~~
- ~~President of the State Mining Authority~~
- ~~Institute of Meteorology~~ and Water Management,
- Minister of Maritime Economy and Inland Navigation.

1.2. Public representatives:

~~Fundacja Greenmind~~

- ~~Fundacja ClientEarth~~ foundation,

~~WWF Polska~~

~~Towarzystwo na rzecz Ziemi~~

- ~~2~~ Frank Bold foundation,
- Association Neighbours for Wesola (*Stowarzyszenie Sąsiedzi dla Wesolej*).

2. Determinants essential for understanding the report

4. ~~4.~~ On 31 December 2001, the Republic of Poland ratified the Convention on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, ~~prepared~~adopted in Aarhus on 25 June ~~25~~ 1998 (Journal of Laws of 2003, item 706), hereinafter referred to as "the "Convention."". On 16 May ~~16~~ 2002, the Convention came into force with respect to Poland and was incorporated ~~to~~into the national legal system. Provisions implementing the ~~provisions of the~~ Convention are ~~located~~included in ~~numerous~~many legal acts, of which the most important are the following:

1. the Act of 27 April 2001 ~~-on~~ Environmental Protection Law (Journal of Laws of 2016~~2020~~, item 672~~1219~~, as amended), hereinafter referred to as: the "EPL,"
2. the Act of 3 October 2008 on ~~Facilitating the Access to Provision of~~ Information ~~on about~~ the Environment and its Protection, Public Participation in Environmental Protection and ~~the~~ Environmental Impact ~~Assessment~~Assessments (Journal of

Laws of ~~2016~~2020, item ~~353~~283, as amended)), hereinafter referred to as: ~~"the~~ "Act on access to information Provision of Information about the environment," Environment".

3. ~~the~~ Act of 14 June 1960 ~~-on the~~ Code of Administrative Procedure (Journal of Laws of ~~2016~~2020, item ~~232~~56, as amended), hereinafter referred to as: ~~the~~ "CAP,".

4. the Act of 30 August 2002 ~~-The Law of on~~ the Law on Proceedings before Administrative Courts Procedure (Journal of Laws of ~~2016~~2019, item ~~718~~2325, as amended) hereinafter referred to as: "LAGP," the "LPAC".

5. ~~5-the~~ Act of 20 July 1991 on the Inspection for Environmental Protection (Journal of Laws of 2020, item 995, as amended), hereinafter referred to as the "IEP".

5. Amendment to the Convention, drawn up in Aarhus ~~on~~, of 25 June 1998 on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, adopted ~~on at~~ the second Meeting of the Parties ~~of to~~ the Convention in Almaty ~~from 25th to 27th of on~~ 25 - 27 May 2005 (~~concerning~~ GMO amendment) was ratified on 23 March 2009, and subsequently implemented through the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment.

6. ~~6-~~ On 24 December 2012, Poland ratified the ~~amendment regarding~~ Amendment to the Protocol on Pollutant Release and Transfer Registers ~~to of~~ the Aarhus Convention ~~on the Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters~~, signed in Kiev on 21 May 2003.

7. ~~7-~~ In Poland, the main legal act governing matters related to access to information ~~on about~~ the environment and its protection is the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment.

8. ~~8-~~ Undertaking administrative decisions concerning the environment in individual cases for the most part falls within the competence of the ~~Voivodeship Marshal and the powiat governor (starosta)~~ local and regional authorities or the General Director for Environmental Protection ~~and along with~~ regional directors responsible for ~~the~~ environmental protection. ~~On the other hand, the~~ The Minister of ~~the Environment~~ Climate and Environment, as the body coordinating the implementation of the Aarhus Convention in Poland, is mainly responsible for ~~preparation of~~ creating legal acts, national plans, programmes, and policies concerning the environment.

9. The Aarhus Convention has also been implemented by a number of legal acts of the European Union. As a member of the European Union, Poland is obliged to comply with them. The most important legal acts implementing the Aarhus Convention into EU law are the following:

1. the Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental ~~matters~~ information and repealing Council Directive 90/313/EEC,

2. ~~3-~~ the Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment,

3. the Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.

**3. Legislation, regulations, and other national measures implementing the general principles ~~included~~contained in the provisions of paragraphs 2, 3, 4, 7 and 8 of Article 3 of the Aarhus Convention.**

#### **Article 3, paragraph 2.**

~~10. 9.~~ Pursuant to Article 9 of the CAP, public administration ~~bodies~~authorities are ~~required~~obliged to provide full and proper information to ~~the~~ parties ~~regarding the~~about factual and legal circumstances which may affect the establishment of their rights and ~~the~~ obligations that are ~~the~~a subject of the administrative proceedings. The ~~bodies~~authorities shall take care to ensure that parties and other persons involved in proceedings do not suffer any loss ~~owing~~due to ignorance of the law and shall therefore provide the necessary clarifications and advice.

~~11. 10.~~ The Ministry of ~~the~~Climate and Environment runs "Ekoportal," a website presenting databases of public documents containing information ~~on~~about the environment and its protection, and performing e-learning functions.

~~12. 11.~~ According to the Act on ~~access to information~~Provision of Information about the ~~environment~~Environment, persons are designated from the offices of administration authorities, to deal with publishing information ~~on~~about the environment and its protection.

#### **Article 3, paragraph 3.**

~~13. 12.~~ Pursuant The EPL imposes an obligation to ~~EPL, the issues of~~include environmental protection and sustainable development ~~shall be covered~~issues in the ~~basic curricula of general education for~~core curriculum of all types of schools, ~~and as well as in~~ scientific ~~research centres concerned~~institutions dealing with environmental protection. The mass media ~~shall be~~are obliged to shape a positive attitude of the ~~public~~society to environmental protection and popularise the principles of such protection in publications and broadcasts. Ecological education is ~~an element~~a part of formal and informal education. The Ministry of ~~the~~Climate and Environment, as well as the National Fund for Environmental Protection and Water Management, ~~and voivodeship together with the voivodship~~ funds for environmental protection and water management, conduct and finance promotional activities consisting in building social ecological awareness.

~~13.~~ Public administration undertakes a number of activities ~~related to in the field of~~ ecological education, ~~and also~~ in cooperation with NGOs. The General Directorate for Environmental Protection (GDEP) conducted a nationwide campaign ~~regarding on the~~ protection of ~~the~~ Natura 2000 areas. ~~Training courses with regard to~~ Trainings on the protection of these

areas are ~~implemented~~ still carried out. Various types of educational campaigns were also ~~carried out~~ conducted by other public administration units, ~~and including~~ at the local and regional level as well. ~~The~~. In order to ensure access to environmental information and to improve the quality of data made available, the Chief Inspectorate of Environmental Protection ~~launched a new version the Portal~~ "in 2017-2020 was developing systems and tools for collecting, storing, and processing data obtained as part of the implementation of the State Environmental Monitoring (SEM) Programme. Pursuant to the Regulation of the Minister of the Environment of 6 June 2018 on the Scope and Manner of Providing Information on Air Pollution (Journal of Laws of 2018, item 1120), as of 1 January 2019, the "Air Quality" (*Jakość Powietrza*) (Air Quality) and ) portal run by the Chief Inspectorate of Environmental Protection presents forecasts on air pollution by PM<sub>10</sub> particulate matter, sulphur dioxide, nitrogen dioxide and tropospheric ozone, developed by the Institute of Environmental Protection - National Research Institute (IOŚ-PIB) pursuant to Article 88 (7) of the EPL. At the beginning of 2020, a new version of the "Air Quality" portal has been launched, expanded by, *inter alia*, the module of voivodship subpages. In 2020, a free mobile application for mobile devices (1 and 2): "Air Quality in Poland", expanded by the module of Air Quality Forecasts, has also been made available. These tools provide access to information on ~~the~~ current air quality coming directly ~~originating from approx. 150~~ about 190 automatic measurement stations of the State ~~Environment Monitoring Program~~. ~~Broader~~ Environmental Monitoring. The results of measurements generated at automatic stations are also made available through API of the "Air Quality" portal. ~~Higher~~ access to information will contribute to ~~a higher social~~ increased public awareness ~~about problems concerning on~~ air protection problems in Poland and ~~better care~~ greater concern for air quality.

14. ~~14. In 2014, as ordered by the~~ The Ministry of ~~the~~ Climate and Environment ~~TNS Polska conducted~~, taking into account the impact of public awareness on the effectiveness of measures taken in the area of air quality, is carrying out a number of information, education, and promotion activities in this area. For example, in 2019 it continued the nationwide information and education campaign launched in October/November 2018 and entitled "Clean Air - a test on the access to information on the healthy choice!", the main objective of which is to make the citizens aware of the positive aspects of living in a clean environment in Poland. The main objectives of the research were the following: where the air quality meets the required standards. This campaign was also conducted in 2020.

- 1) ~~Verification, to what extent offices of public administration fulfil their obligations i.e.:~~
  - a. ~~appointing persons responsible for publishing information on the environment;~~
  - b. ~~conducting publicly available data lists.~~
- 2) ~~Identification of social interest in submission of applications with regard to public information, and~~ The issue of access to environmental information ~~on the environment and its protection, and the diagnosis of the nature of the answers granted (refusals, fees).~~



- 3) Identification of difficulties related to the application of regulations contained in the Act on access to information about the environment, including but not limited to problems associated with collecting fees for publishing of information.

The assessment and the conclusions resulting from it have been described in the document entitled "The assessment and the diagnosis of the situation with regard to functioning of solutions adopted in the Act of 3 October 2008 on Publishing Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessment (Journal of Laws of 2013, item 1235, as amended)," which can be found on the [ekoportal.gov.pl](http://www.ekoportal.gov.pl) website, at: [http://www.ekoportal.gov.pl/fileadmin/Ekoportal/Informacja\\_o\\_srodowisku/raport\\_badania\\_publikacje/Raport\\_TNS\\_Polska.pdf](http://www.ekoportal.gov.pl/fileadmin/Ekoportal/Informacja_o_srodowisku/raport_badania_publikacje/Raport_TNS_Polska.pdf).

15. 15. The issues of the access to information on the environment and Ekoportal were popularised via through the national press and public radio.
16. 16. In 2015 and 2016, The concept of sustainable development was popularised through the Ministry of the Environment joined a European Environment's involvement, in 2015 and 2016, in a Europe-wide initiative entitled called European Sustainable Development Week (ESDW) in order to popularise the concept of sustainable development. The assumption of the this project is supporting to support activities promoting the use of the principles of sustainable development with regard to principles in all of its aspects — economic, social, and environmental. The initiative is addressed to a wide group range of entities, in both in the national public and private sector, inter alia, sectors, including government agencies, local government self-government authorities, research centres, educational institutions, museums, foundations, companies, non-governmental organisations NGOs, and individual citizens.
17. 17. The National Fund for Environmental Protection and Water Management (NFEP&WM) co-finances actions related to ecological activities in the field of environmental education — programmes with regard to for active ecological environmental education, and cross-media campaigns, training training courses, workshops and undertakings popularising ecological knowledge on ecology, competitions used to improve raise social ecological awareness, postgraduate studies. Co-financing was granted to Co-financed are radio, film and television productions, publications, and websites, as well as for the construction, expansion, adaptation, equipping and re-equipping of infrastructure facilities for the purpose of ecological environmental education, both in terms of for classroom teaching and outdoor classes. Information about the activities undertaken by the NFEP&WM is posted on its website (www.nfosigw.gov.pl/) and in publications. In addition, the NFEP&WM carries out educational and promotional actions, training courses and webinars.
18. 18. Implementation of the provisions of the Convention, especially with regard to particularly those concerning public participation in the decision-making process, was strengthened by the implementation into the national law of the provisions of the Council Directive 85/337/EEC of 27 June 1985 no. 85/337/EEC on the Assessment assessment of the Effect effects of Certain Public certain public and Private Projects private projects on the Environment (Official Journal of EU environment (OJ L 175 of, 5.7.1985, p. 40, Polish special edition: chapter Special

~~Edition: Chapter 15, vol/Vol. 01, pp. 248 – 256), which was then subsequently replaced by the Directive of 13 December 2011/92/EU of the European Parliament and of the European Council of 13 December 2011/92/EU on the Assessmentassessment of the Effectseffects of Certain Publiccertain public and Private Projectsprivate projects on the Environment (Official Journal of EUenvironment (OJ L 26 of 28.1.2012, p. 1, as amended). An important role in ensuring public participation in the decision-making process wasis also played by the Directive of the European Parliament and the European Council 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the Assessmentassessment of the Effectseffects of Certain Planscertain plans and Programmesprogrammes on the Environment (Official Journal of EUenvironment (OJ L 197 of 21.7.2001, p. 30; Polish special edition: chapterChapter 15, vol/Vol. 06, pp. 157 – 164). Article 6 of this Directive, refers to the participation of civil society during the preparation of strategic documents, which is directly reflected in Article 54(2) of the Act on access to information about the environment.~~

- ~~19.~~ 19. Strengthening of the activities implementing the provisions of the Convention by the public administration was also associated with the funds obtained by Poland from the cohesion policy from the budget of the European Union for the years 2007-2013 and 2014-2020. For all operational programmes (documents ~~in detail~~ regulating ~~in detail~~ the ~~mannerway~~ of ~~issuingspending~~ the funds, and ~~the~~ types of investments) ~~that featured infrastructure containing infrastructural~~ investments, including those related to agriculture, strategic environmental impact assessments ~~alongtogether~~ with ~~extensive public broad social~~ consultations were ~~conductedcarried out~~. These documents were consulted from the beginning of their creation, and ~~in~~ consultations ~~involved~~ not only social partners and ~~non-governmental organisations participated~~ NGOs, but also citizens of the Republic of Poland. ~~ConsideringGiven~~ the amount of funds allocated ~~for implementation of to~~ the programmes (EUR (€67 billion from the EU budget, and ~~a~~ necessary additional national ~~financing ≥ EUR contribution of ≥ €20 billion~~), ~~this has created~~ a good practice related to ~~publicsocial~~ participation in the decision-making process ~~was established. The~~. Applicants of ~~the~~ projects implemented on the basis of ~~measuresfunds~~ from the EU budget must demonstrate that ~~the~~ administrative decisions ~~allowing to commenceenabling the commencement of~~ the investment were, ~~beforeprior to~~ their ~~commencingadoption~~, effectively consulted with the public. ~~If the Contractor cannot Failure to demonstrate the evidence that consultations were held, financial support isof consultation by the Contractor makes it impossible to obtain financial support.~~ Similar requirements ~~with regard to regarding the publishing of environmental information on the environment also apply also~~ to the programmes and infrastructural projects ~~which are planned to be executed for implementation~~ under ~~perspectivePerspective~~ 2014-2020.

#### Article 3, paragraph 4.

20. ~~20. Non~~The non-governmental organisations have a wide spectrum of possibilities in terms of financial support for ~~the projects concerning~~ environmental protection projects. At the central level, ~~financial support for co-financing of~~ activities concerning shaping the ~~society's ecological environmental~~ awareness ~~of society~~ is possible ~~underwithin~~ the ~~framework of the~~ priority programme entitled "Ecological ~~education~~Education" offered by the National Fund for Environmental Protection and Water Management. ~~The support for (NFEP&WM). Support was also directed within the framework of the programme dedicated to~~ non-governmental environmental organisations ~~entitled Strengthening Local Community Action for Sustainable Development (2015-2016). Support for environmental NGOs is conducted by the National Fund for Environmental Protection and Water Management, voivodeship NFEP&WM, voivodship~~ funds for environmental protection and water management, and the Civil Initiatives Fund (~~the Ministry of Labor~~~~the Family, Labour and Social Policy~~). It should be ~~pointed out~~noted, however, that the latter ~~is as well as the priority programme "Ecological Education" are not~~ intended ~~not only for non-governmental ecological organisations~~NGOs and ~~it does not have~~~~there are no~~ areas of support strictly focused on activities related to environmental protection, ~~biological diversity~~biodiversity, and ecological education. In addition, in 2013, ~~an~~ open call for proposals was ~~organized~~organised under the Operational ~~Program~~Programme PL02 ~~Biodiversity~~"the Protection of the Biological Diversity and Ecosystems Protection.". Regardless of the possibility ~~of applying to apply~~ under the main call, ~~under the aforementioned programme~~ a special allocation ~~was separated~~ (Small Grants Fund) intended ~~only for non-governmental organisations~~exclusively for NGOs ~~was separated under the above-mentioned programme~~. Financial support could have been intended, inter alia, for actions focused on growth of social awareness about biodiversity and education in this field in connection with changes in climate conditions and economic value of ecosystems, as well as for increased ecological potential of non-governmental ecological organisations to promote biodiversity. The expected ~~financial support is~~co-financing was 85% of eligible costs ~~in the case of~~for the main call, and 90% ~~in the case of financing from~~for the Small Grants Fund.

21. ~~21. Non-governmental organisations~~The NGOs could be supported under Measure 2.4, ~~projects~~project types 5b (Capacity- Building and Integration) and ~~5-c~~5c (Education for the Community of Protected Areas) of the Operational Programme Infrastructure and Environment ~~for the years 2014-2020 from the EU funds, they~~. They may also apply for financing of ~~their~~ own contribution from the ~~National Fund for Environmental Protection and Water Management (5% in the form~~~~national funds~~ of subsidies, ~~NFEP&WM (up to 10% in the form of a loan)-grants, loans for own contribution and liquidity~~). In the case of implementation of ~~the~~ environmental projects by non-governmental organisations under ~~the~~ LIFE ~~Program, financing~~Programme, support from ~~the~~ EU funds does not exceed 75% of the ~~project's~~ value ~~of the project~~, while from ~~the~~NFEP&WM funds ~~of the National Fund for Environmental Protection and Water Management~~ the organisations may ~~obtain~~receive additional ~~funds~~financing for ~~their~~ own contribution from 20 to 35%, depending on the priority area. In addition, ~~non-governmental organisations under~~NGOs ~~within~~ the priority ~~program~~programme "Co-financing of the LIFE Programme" can benefit from loans for own contribution and for maintaining financial liquidity. ~~In 2020, the NFEP&WM has launched a pilot programme, addressed to NGOs, for financing the preparation of LIFE applications, in~~



which these organisations can obtain non-refundable co-financing from the NFEP&WM resources up to the amount of PLN 50 thousand.

- ~~22.~~ 22. The Ministry of ~~the~~Climate and Environment cooperated with NGOs ~~under~~within ~~the framework of the~~ Partnership for ~~the climate~~Climate - a platform for cooperation, discussion, and education.
- ~~23.~~ 23. The CAP and the Act of 17 November 1964 on the Code of Civil Procedure (Journal of Laws of 2016, item 1822), hereinafter referred to as: the "CCP," as well as ~~LACP~~the LPAC and the Act on ~~access to information~~Provision of Information about the ~~environment~~Environment, allow for the participation of non-governmental organisations in court and administrative proceedings concerning environmental matters.
- ~~24.~~ 24. The Act of 24 April 2003 on Public Benefit and Volunteer Work (Journal of Laws of ~~2016~~2020, item ~~1817~~1057) authorises public institutions to implement public tasks in cooperation with NGOs, and even allows contracting non-governmental organisations operating in the field of public matters for execution of public tasks.
- ~~25.~~ 25. Non-governmental ecological organisations have the right to elect their representatives for the supervisory boards of the National Fund for Environmental Protection and Water Management, and ~~voivodeship~~voivodship funds for environmental protection and water management, handling, inter alia, money from ~~payments for utilizing the environment~~environmental charges, administrative ~~penalty payments~~fines, the state budget, and ~~EU~~European Union funds. They have the right to be represented also in advisory bodies, such as, for example, the GMO Committee and ~~National Environmental Protection~~the State Council. ~~for Nature Conservation.~~
- ~~26.~~ 26. ~~According~~Pursuant to Article 45 of the Act on ~~access to information~~Provision of Information about the ~~environment~~Environment, ecological organisations may cooperate in the field of environmental protection with administration authorities.

### **Article 3, paragraph 7.**

- ~~27.~~ 27. The Republic of Poland takes part in many international processes concerning environmental matters and works of international organisations in cases related to the environment, inter alia, the "Environment for Europe" process, the High-Level Political Forum on Sustainable Development (HLPF SD), the United Nations Environment Programme (UNEP), the United Nations Economic Commission for Europe (UNECE), and the Organisation for Economic Co-operation and Development (OECD). ~~In addition, Poland is involved, in the international forum, in the works on the implementation of Agenda 2030 for sustainable development.~~
- ~~28.~~ 28. In 1997, the Republic of Poland ratified the Convention on Environmental Impact ~~Assessments~~Assessment in a ~~transboundary context~~Transboundary Context (the Espoo Convention), prepared in Espoo on 25 February ~~25~~, 1991 (Journal of Laws of 1999, item 1110), which indicates the ~~need for~~necessity of conducting public consultations in cases ~~when the investment~~where a project implemented in ~~one country (party of origin) impacts the territory of another state (affected party), being able to cause~~one State ("Party of Origin") may have its impact on the territory of another State or States ("Affected Parties"), causing significant ~~adverse~~negative

~~environmental~~ effects ~~for the environment~~. ~~A. The Protocol on Strategic Protocol was drawn up Environmental Assessment~~ to the Espoo Convention, ~~drawn up~~ in Kiev on ~~21 May 21st~~ 2003, ~~whose~~which provisions apply ~~in relation to the drafts of~~draft strategic documents, ~~namely~~i.e., plans, programmes, policies, in this case also including situations in which effects of implementation of such a document would become evident on the territory of another ~~state~~State. The ratification of the Espoo Convention and the Protocol on Strategic Environmental Assessment obliges their signatories to inform each other in the event of the possibility of a significant impact on the territory of another State, and subsequently to conduct transboundary consultations on the project or the draft strategic document in question, its effects on the environment and measures to minimise the impact.

### Article 3, paragraph 8.

~~29.~~ 29. Pursuant to Article 225 ~~of the~~ CAP, no person shall be exposed to loss or accusation as a result of having filed a complaint or proposal or as a result of having provided material for publication that has the characteristics of a complaint or proposal, if he/she was acting within the law. State ~~bodies~~authorities, local government ~~bodies~~units and social organisation bodies are ~~required~~obliged to act against restrictions on criticism and other actions that limit the right to submit complaints or proposals or provide information for a publication that has the characteristics of a complaint or proposal.

### 4. 4 Identified difficulties in implementing Article 3.

~~30. According to the analysis of the Supreme Chamber of Control, Polish law concerning the access to environmental information is difficult to interpret, which contributes to the lack of performance of statutory duties by some offices.~~

30. There are ambiguities ~~with regard to~~in the application of the ~~law on right of~~ access to ~~environmental~~ information ~~on the environment with regard in relation~~ to other acts, ~~namely on the spatial information infrastructure e.g., Act on Spatial Information Infrastructure or Act on the re-use~~Reuse of ~~public sector information~~Public Sector Information.

31. ~~31. Non-governmental organisations~~NGOs indicate that there are difficulties in using ~~the funds allocated for ecological education. This is caused partially by the completion of issuing of funds from the previous budget perspective of the European Union and that the funds from the new perspective are yet to be released. In addition, non-governmental organisations informed in the course of consultations that a real concern to them are the possibilities of financing~~environmental education. In addition, NGOs reported during the consultation that the ability to finance certain specific ~~operations, activities, including~~ in particular recurrent ~~expenditures, expenditure~~ not associated with specific projects, ~~was a problem for them~~. Other problems ~~listed~~mentioned by

these organisations were ~~at the~~ small ~~financial~~ envelope ~~of funds~~ allocated for ~~nature~~ protection ~~of nature~~ and ~~ecological~~environmental education; as well as the difficult ~~to~~ ~~meet~~ conditions ~~effor~~ obtaining ~~the~~ subsidies.

## **5. ~~5~~ Further information concerning practical implementation of provisions of Article 3.**

~~32.~~ ~~32.~~ ~~Certain NGOs claim that there are some~~ irregularities ~~were detected concerning~~ ~~regarding the~~ implementation of the ~~legal~~ provisions ~~of law~~ by the ~~administration~~administrative authorities. These problems ~~were discussed~~are addressed in ~~explanation points relevant~~the explanatory paragraphs related to the ~~further~~subsequent articles of the Convention.

## **6. ~~6~~ Web addresses ~~relating~~related to the implementation of Article 3.**

~~33.~~

~~33.~~

~~www.ekoportal.gov.pl – the~~www.ekoportal.gov.pl - Ministry of ~~the~~Climate and Environment  
~~www.mos.gov.pl – the~~https://www.gov.pl/web/klimat - Ministry of ~~the~~Climate and Environment

~~http://gmo.mos.gov.pl –~~http://gmo.mos.gov.pl - information on GMO

~~www.gdos.gov.pl –~~www.gdos.gov.pl - General Directorate for Environmental Protection

~~http://www.bialystok.rdos.gov.pl/~~

~~http://bip.bydgoszcz.rdos.gov.pl/~~

~~http://bip.gdansk.rdos.gov.pl/~~

~~http://bip.gorzow.rdos.gov.pl/~~

~~http://bip.katowice.rdos.gov.pl/~~

~~http://bip.kielce.rdos.gov.pl/~~

~~http://bip.krakow.rdos.gov.pl/~~

~~http://bip.lublin.rdos.gov.pl/~~

~~http://bip.lodz.rdos.gov.pl/~~

~~http://bip.olsztyn.rdos.gov.pl/~~

~~http://bip.opole.rdos.gov.pl/~~

~~http://bip.poznan.rdos.gov.pl/~~

~~http://bip.rzeszow.rdos.gov.pl/~~

~~http://bip.szczecin.rdos.gov.pl/~~

~~http://bip.warszawa.rdos.gov.pl/~~

~~http://bip.wroclaw.rdos.gov.pl/~~

~~www.natura2000.gdos.gov.pl –~~http://www.bialystok.rdos.gov.pl/

~~http://bip.bydgoszcz.rdos.gov.pl/~~

~~http://bip.gdansk.rdos.gov.pl/~~

~~http://bip.gorzow.rdos.gov.pl/~~

~~http://bip.katowice.rdos.gov.pl/~~

<http://bip.kielce.rdos.gov.pl/>  
<http://bip.krakow.rdos.gov.pl/>  
<http://bip.lublin.rdos.gov.pl/>  
<http://bip.lodz.rdos.gov.pl/>  
<http://bip.olsztyn.rdos.gov.pl/>  
<http://bip.opole.rdos.gov.pl/>  
<http://bip.poznan.rdos.gov.pl/>  
<http://bip.rzeszow.rdos.gov.pl/>  
<http://bip.szczecin.rdos.gov.pl/>  
<http://bip.warszawa.rdos.gov.pl/>  
<http://bip.wroclaw.rdos.gov.pl/>  
[www.natura2000.gdos.gov.pl](http://www.natura2000.gdos.gov.pl) - information on the European Ecological Network Natura

2000

[www.gios.gov.pl](http://www.gios.gov.pl) - [www.gios.gov.pl](http://www.gios.gov.pl) - Chief Inspectorate of Environmental Protection

<http://powietrze.gios.gov.pl>  
<http://www.wios.bialystok.pl>  
<http://www.wios.bydgoszcz.pl>  
<http://www.gdansk.wios.gov.pl>  
<http://www.katowice.wios.gov.pl>  
<http://kielce.pios.gov.pl>  
<http://www.krakow.pios.gov.pl>  
<http://www.wios.lublin.pl>  
<http://www.wios.lodz.pl>  
<http://www.wios.olsztyn.pl>  
<http://www.opole.pios.gov.pl>  
<http://www.poznan.wios.gov.pl>  
<http://www.wios.rzeszow.pl>  
<http://www.wios.szczecin.pl>  
<http://www.wios.warszawa.pl>  
<http://www.wroclaw.pios.gov.pl>  
<http://www.zgora.pios.gov.pl>  
~~www.nfosigw.gov.pl~~ - <http://powietrze.gios.gov.pl>  
<http://www.wios.bialystok.pl>  
<http://www.wios.bydgoszcz.pl>  
<http://www.gdansk.wios.gov.pl>  
<http://www.katowice.wios.gov.pl>  
<http://kielce.pios.gov.pl>  
<http://www.krakow.pios.gov.pl>  
<http://www.wios.lublin.pl>  
<http://www.wios.lodz.pl>  
<http://www.wios.olsztyn.pl>  
<http://www.opole.pios.gov.pl>  
<http://www.poznan.wios.gov.pl>  
<http://www.wios.rzeszow.pl>  
<http://www.wios.szczecin.pl>

<http://www.wios.warszawa.pl>  
<http://www.wroclaw.pios.gov.pl>  
<http://www.zgora.pios.gov.pl>  
[www.nfosigw.gov.pl](http://www.nfosigw.gov.pl) - National Fund for Environmental Protection and Water Management  
~~Internet sites of voivodeship funds for environmental protection and water management:~~  
[www.wfosigw.bialystok.pl](http://www.wfosigw.bialystok.pl);  
[www.wfosigw.gda.pl](http://www.wfosigw.gda.pl)  
[www.wfosigw.katowice.pl](http://www.wfosigw.katowice.pl)  
[www.wfos.com.pl](http://www.wfos.com.pl)  
[www.wfos.krakow.pl](http://www.wfos.krakow.pl)  
[www.wfos.lublin.pl](http://www.wfos.lublin.pl)  
<http://new.wfosigw.lodz.pl>  
[www.wfosigw.olsztyn.pl](http://www.wfosigw.olsztyn.pl)  
[www.wfosigw.opole.pl](http://www.wfosigw.opole.pl)  
[www.wfosgw.poznan.pl](http://www.wfosgw.poznan.pl)  
[www.bip.wfosigw.rzeszow.pl](http://www.bip.wfosigw.rzeszow.pl)  
[www.wfos.szczecin.pl](http://www.wfos.szczecin.pl)  
[www.wfosigw.torun.pl](http://www.wfosigw.torun.pl)  
[www.wfosigw.pl](http://www.wfosigw.pl)  
[www.wfosigw.wroclaw.pl](http://www.wfosigw.wroclaw.pl)  
[www.wfosigw.zgora.pl](http://www.wfosigw.zgora.pl)  
[www.ekodzieciaki.mos.gov.pl](http://www.ekodzieciaki.mos.gov.pl) — the Ministry of the Environment, Voivodship Funds for Environmental Protection and Water Management:  
[www.wfosigw.bialystok.pl](http://www.wfosigw.bialystok.pl);  
[www.wfosigw.gda.pl](http://www.wfosigw.gda.pl)  
[www.wfosigw.katowice.pl](http://www.wfosigw.katowice.pl)  
[www.wfos.com.pl](http://www.wfos.com.pl)  
[www.wfos.krakow.pl](http://www.wfos.krakow.pl)  
[www.wfos.lublin.pl](http://www.wfos.lublin.pl)  
<http://new.wfosigw.lodz.pl>  
[www.wfosigw.olsztyn.pl](http://www.wfosigw.olsztyn.pl)  
[www.wfosigw.opole.pl](http://www.wfosigw.opole.pl)  
[www.wfosgw.poznan.pl](http://www.wfosgw.poznan.pl)  
[www.bip.wfosigw.rzeszow.pl](http://www.bip.wfosigw.rzeszow.pl)  
[www.wfos.szczecin.pl](http://www.wfos.szczecin.pl)  
[www.wfosigw.torun.pl](http://www.wfosigw.torun.pl)  
[www.wfosigw.pl](http://www.wfosigw.pl)  
[www.wfosigw.wroclaw.pl](http://www.wfosigw.wroclaw.pl)  
[www.wfosigw.zgora.pl](http://www.wfosigw.zgora.pl)  
[www.zielonalekcja.pl](http://www.zielonalekcja.pl) - ~~a website concerns ecological education for children~~  
[www.zielonalekcja.pl](http://www.zielonalekcja.pl) — subsidized by the National Fund for Environmental Protection and Water Management, ~~the website contains~~containing a database of educational materials (~~lessons~~lesson scenarios) broken down by age and subject.



**7. ~~7~~ Legislation, regulations, and other measures implementing the principles of access to information ~~on~~about the environment and its protection included in Article 4.**

- ~~34.~~ ~~34.~~—The ~~primary~~basic legal act ~~governing~~regulating the ~~principles~~rules of access to information about the environment and its protection is the Act on ~~access to information~~Provision of Information about the ~~environment~~Environment. In ~~the not regulated cases~~unregulated matters, the Act of 6 September 2001 on Access to Public Information (Journal of Laws of ~~2016~~2019, item ~~1764~~1429, as amended), hereinafter referred to as: ~~the "AAPI," should be applied"~~ shall apply.
- ~~35.~~ ~~35.~~—The Act on ~~access to information~~Provision of Information about the ~~environment~~Environment defines the notion of information ~~on~~about the environment and its protection, ~~as well as~~and also specifies the principles of its publishing and release.
- ~~36.~~ ~~36.~~—Spatial information is a special kind of information on the environment. Spatial information ~~in a direct~~directly or ~~indirect manner includes approx. 90 %~~indirectly covers the vast majority of information ~~on~~about the environment and its protection. ~~Issues of spatial~~Spatial information ~~issues~~ are regulated by the Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (~~Official Journal of EU OJ~~ L 108 ~~of~~, 25.404.2007, p. 1), and by the Act of 4 March 2010 on ~~the~~ Spatial Information Infrastructure (Journal of Laws of 2020, item ~~489~~177, as amended).

**Article 4, paragraph 1.**

- ~~37.~~ ~~37.~~—Pursuant to Article 74(2) of the Constitution of the Republic of Poland, everyone has the right to ~~information~~be informed about the condition and protection of the environmental.
- ~~38.~~ ~~38.~~—According to the Act on ~~access to information~~Provision of Information about the ~~environment~~Environment, everyone has the right to access the information ~~on~~about the environment and its protection. ~~Administration~~Public authorities (~~in accordance with~~according to the amendment, ~~which that~~ entered into force on 1 January 2017, the ~~notion~~concept of ~~an administration~~administrative authority, ~~with regard~~in relation to the access to environmental information ~~on the environment shall was~~, has been replaced ~~with~~by the ~~term~~concept of "public ~~authorities~~authority") are obliged to ~~publish all~~make available to everyone information ~~on~~about the environment and its protection in their possession or which are intended for them. An entity demanding ~~the~~ information ~~on~~about the environment and its protection is not required to demonstrate a legal or ~~actual~~actual interest. ~~Publishing~~Environmental and protective information ~~on~~shall be made available in the ~~environment and its protection occurs in a~~ manner and ~~the~~ form specified in the application, request unless the technical ~~measures, which are means~~ at the disposal of the ~~administration~~public authority, do not allow publishing

~~of environmental and protective information on the environment and its protection to be made available in asuch manner and the form specified in the application.~~ If information ~~on about~~ the environment and its protection cannot be made available in a manner or in the form specified in the application, the public administration ~~authority~~ notifies in writing the entity requesting ~~the such~~ information, within 14 days from the date of the receipt of the application, of reasons why publishing of information according to the ~~application request~~ is ~~impossible, and not possible as well as~~ indicates ~~how or~~ in what ~~manner or~~ form the information ~~will can~~ be ~~published made available~~.

## **Article 4, paragraph 2.**

~~39.—The Act on access to information~~Provision of Information about the ~~environment~~Environment requires ~~the administration~~public authorities to ~~publish~~disclose information ~~on about~~ the environment and its protection without unnecessary delay, no later than within one month ~~after from~~ the ~~day date~~ of ~~the~~ receipt of the application. The deadline for ~~publishing~~providing access to environmental information ~~on environment~~ due to the complexity of the case may be extended ~~up to~~ 2 months. The applicant is ~~notified on each and every~~informed of any extension of the deadline.

~~40. Documents, the data about which are published~~The Act on Provision of Information about the Environment , in the scope in the publicly available lists containing information about environment, ~~are made available on the day of submitting the application.~~

which it refers to Article ~~4, paragraphs 3 and 4~~

~~41. According to the Act on access to information about the environment, the administration~~36(1) of the CAP, thus enabling the authority ~~will not enclose information on the environment and its protection, if the information relates to:~~

- ~~• individual data obtained in public statistics research program protected by statistical confidentiality;~~
- ~~• cases subject to an ongoing judicial, disciplinary, or criminal proceedings, if publishing of information would disrupt the course of the proceedings;~~
- ~~• matters being subjected to copyrights or patent rights, if publishing of information could violate these rights;~~
- ~~• personal data concerning third parties, if publishing of information would violate provisions of the Act of 29 August 1997 on Personal Data Protection (Journal of Laws of 2016, item 922, as amended ) hereinafter referred to as "the Personal Data Protection Act;"~~
- ~~• documents or data supplied by third parties, if these persons, having no obligation to deliver them, and who cannot be so obliged, provided the documents and data voluntarily and formulated a reservation concerning their nondisclosure;~~
- ~~• documents or data whose publishing would cause a threat to the environment or to the nation's ecological safety;~~

- ~~the information of commercial value, including technological data, supplied by third parties and covered by the commercial secret, if publishing of such information would deteriorate competitive position of these persons and they formulated a justified application for excluding these information from being published;~~
- ~~projects that may significantly affect the environment, implemented in enclosed areas, with regard to which there are no proceedings involving public participation;~~
- ~~the defence and security of the state;~~
- ~~public safety.~~

39. to set a new deadline in the event of failure to resolve the matter within the time limit, should be interpreted in accordance with Article 4(2) of the Aarhus Convention and Article 3(2) of the Directive 2003/4/EC. In accordance with the amendment, which entered into force on 1 January 2017, the aforementioned premises these provisions, the two-month deadline for the refusal to make making information available will change their nature from obligatory to optional. When refusing is a final time limit, and the public authority which is obliged to make information available, public authorities would also have to consider public interest served by disclosure the information. In addition, the amendment introduces a deadline for submission by third parties of the application for excluding information from being published. It is 14 days from providing the information to the public authorities. cannot extend this deadline once again, while Article 36 of the CCP should be applied accordingly with regard to the authority's obligation to notify the party of any failure to resolve the matter within the deadline. The reference to Article 36 of the CAP does not, however, entitle the authority to set subsequent deadlines for the handling of the case which exceed the time limit of two months.

40. 42. The administration authority may refuse publishing of Documents for which data are included in publicly accessible lists containing environmental information on shall be made available without delay, but no later than 3 days after the request.

41. Pursuant to Article 14 (4) of the Act on Provision of Information about the Environment, on the date of application, information held by public authorities or intended for public authorities shall be made available to enable action to be taken to prevent or minimise damage resulting from a threat to human health or the environment, caused by human activity or natural causes. The information referred to above shall be made available to those who could be affected by the threat.

#### **Article 4 paragraphs 3 and 4.**

42. Under the Act on Provision of Information about the Environment, public authorities may refuse to disclose information about the environment and its protection after considering the public interest in releasing the information in a specific case, if the release of such information may violate:

- the data protection provided by the provisions on the protection of classified information,
- the course of pending judicial, disciplinary, or criminal proceedings,
- the intellectual property rights referred to in the Act of 4 February 1994 on Copyright and Related Rights (Journal of Laws of 2019, item 1231, Journal of Laws of 2020, item 288) or in the Act of 30 June 2000 on Industrial Property Law (Journal of Laws of 2020, item 286, as amended),

- the protection of personal data concerning third parties where such protection is provided for by separate legislation,
- the protection of information or data provided by third parties where they have supplied it voluntarily without being obliged or required to do so, unless they have given their consent to its disclosure,
- the state of the environment to which the information relates, in particular by revealing areas or habitats of plants, animals and fungi covered by species protection,
- the protection of commercially valuable information, including technical data, provided by third parties, and covered by business secrets, where those third parties have requested the exclusion of such information from disclosure, giving detailed reasons why their competitive position could be adversely affected,
- the defence and security of the state,
- public security,
- protection of statistical confidentiality as provided for in legislation on public statistics.

As from 1 January 2017, the deadline for requesting an exemption from disclosure of information covered by business secrets is 14 days from the date on which information of commercial value, including technological data, covered by business secrets is provided to public authorities.

43. A public authority may refuse to provide access to information about the environment and its protection if:

- it would require the provision of documents or data in the course of completion or intended for internal communication;
- the request is manifestly unreasonable to be ~~completed~~; fulfilled,
- ~~or~~ the request is formulated in too general manner.

#### **Article 4, paragraph 5.**

44. ~~43.~~ According to the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment, if ~~the an~~ application relates to the information not being in the possession of ~~an administration authority, such an authority~~ the public authorities, these authorities shall immediately, but ~~not~~ no later than within 14 days from the date of ~~the~~ receipt of the application, transfers forward the application to the competent ~~administration authority, which holds~~ entity in whose possession the ~~required~~ requested information, is held and ~~notifies~~ shall notify the applicant ~~of this fact~~ thereof or, if the competent ~~authority~~ entity cannot be defined, returns return the application to the ~~Applicant~~ applicant.

#### **Article 4, paragraph 6.**

45. ~~44.~~ The practice for the interpretation by public administration authorities of the Polish regulations concerning public information, including information ~~on~~ about the

environment and its protection relies on providing this part of the information that is not subjected to secrecy. ~~For instance, the applicant receives documents with anonymised personal data, whose disclosure would breach the provisions~~ Since 1 January 2017, pursuant to Article 19(4) of the Act on Personal Data Protection. ~~The amendment~~ Provision of the Act on access to information Information about the environment, which came into force on 1 January 2017, provides new wording of Article 19(4), according to which Environment, if it ~~will be~~ is possible to separate ~~a~~ the part of the information ~~subjected~~ subject to exclusion from ~~being published~~ disclosure for the reasons referred to in Article 16 of the Act ~~(finally amended)~~, the remaining part of the information ~~will~~ shall be ~~published~~ made available.

#### Article 4, paragraph 7.

~~46.~~ 45. ~~According~~ Pursuant to the Act on Provision of Information about the Environment, a refusal to provide access to information about the environment, ~~refusal to publish information on the environment~~ and its protection is ~~imposed~~ made by way of an administrative decision. The provisions of ~~LACP~~ the LPAC apply to the complaints ~~considered~~ examined in the court-administrative proceedings and related to ~~publishing~~ the provision of access to information ~~on~~ about the environment and its protection.

#### Article 4, paragraph 8.

~~47.~~ 46. ~~The~~ Regulation of the Minister of the Environment of 12 November 2010 on Fees for Publishing Information on the Environment (Journal of Laws of 2010, item 1415) amended by the Regulation of the Minister of the Environment of 12 December 2016 (Journal of Laws of 2016, item 2089), hereinafter referred to as: the "Regulation on Fees," ~~regulates~~, determines the rates of fees for publishing-providing access to information ~~on~~ about the environment and its protection. These fees correspond to the costs incurred for ~~drawing up~~ making copies of documents.

~~48.~~ 47. Fees for publishing-providing information ~~on~~ about the environment and its protection are as follows (in the approximated ~~Euro~~ € amounts converted according to the exchange rate of ~~14 March 2017~~ 25 June 2020):

- for searching up to 10 documents — ~~EUR~~ 1.16; 12 €,
- for searching each additional document — ~~EUR~~ 0.11; €,
- for scanning a document — ~~EUR~~ 0.02 € for one page of the copy; 1,
- for black- and white ~~copy~~ photocopy of a document — ~~EUR~~ 0.03 € for one page of the copy; 1,
- for a colour ~~copy~~ photocopy of a document — ~~EUR~~ 0.3 € for one page of the copy; 1,
- for recording a CD or DVD — no more than ~~EUR~~ 0.3 €.

~~49.~~ 48. ~~Information proactively published~~ The information actively provided on ~~web pages~~ the website are free ~~of charge~~.



## **8. ~~8~~ Identified difficulties in implementing Article 4.**

~~49. NGOs claim that Article 4(3) of the Convention was in principle transposed correctly, however, the emphasis is not placed on social interest militating in favour of disclosure of information on the environment that would allow to fulfil the request to publish such information in the event when the grounds for a refusal are not obvious with regard to documents or data:~~

- ~~a) — in the process of being executed;~~
- ~~b) — intended for internal communication.~~

~~50. According to non-governmental organisations, the current wording of the provisions of the Act on access to information about the environment indicates that when examining premises for refusal of publishing of information on the environment and its protection, the public interest militating in favour of publishing the information should be considered. This interest can be implied from the Code of Administrative Procedure alone.~~

~~51. Non-governmental organisations indicate that the current wording of the provision of Article 16 of the Act on access to information about the environment is inconsistent with the Aarhus Convention. Article 16 is far more rigorous than Article 4(3) and (4) of the Convention. In addition, in their opinion, Article 35a(6) of the Nuclear Law Act does not provide for the exclusion specified in the Article 4(4) point d of the Convention.~~

~~52. NGOs claimed that the Act on access to information about the environment does not currently contain any provision that obliges public authorities, handling disclosed information, to examine whether it is possible to separate a part of the information without breaching the confidentiality of the excluded information and to publish the remaining part. So far this was a tacit practice, not always applied in the Polish law.~~

~~52. According to non-governmental organisations, it is rarely the case that a reply to the applications for publishing information on environment and its protection were provided within one week.~~

50. **9** According to Article 4(2) of the Aarhus Convention and Article 3(2) of Directive 2003/4, information shall be made available without undue delay, but no longer than within one month and, in particularly complex cases, at the latest within two months. In practice, however, it happens that making information available takes longer than two months, and thus longer than the maximum permissible deadline. The EPL in Article 14(1) and (2) refers to the appropriate application of Article 36(1) of the CAP, which, however, in the context of the Act on Provision of Information about the Environment, only imposes on public authorities the obligation to notify the party about the failure to settle the case within the deadline but does not grant the right to extend the deadline for settling the case beyond two months.

51. Pursuant to Article 4(7) of the Aarhus Convention and Article 4(5) of Directive 2003/4, a refusal to grant access to information shall be notified in writing if the request for access to information was in writing or if so has been requested by the applicant, and it shall contain a statement of reasons and an indication of the remedies available to

the applicant. The Aarhus Convention and Directive 2003/4 also imply the obligation to provide an effective administrative and judicial appeal route (Article 9(1) of the Aarhus Convention and Article 6(1) and (2) of the Directive 2003/4). Under Polish law, in order to comply with the above requirements, it is necessary for a refusal to take the form of an administrative decision (or possibly an appealable decision), so that the applicant will have a right to appeal using administrative procedures, and then file a complaint with an administrative court. Pursuant to Article 20 of the Act on Provision of Information about the Environment, a refusal to disclose information about the environment and its protection takes place by way of a decision. In the opinion of NGOs, it happens in practice that administration authorities do not issue a decision, but only inform the applicant about the refusal in an ordinary letter or by e-mail, thus making it impossible to lodge an appeal. In such a situation, the applicant must first lodge a complaint to the administrative court (against the authority's inaction) and only after obtaining a judgment ordering the authority to settle the matter on merits he/she may appeal against the decision issued.

52. Similarly, NGOs claim that in case of exclusion from disclosure of part of the information due to the existence of one of the exceptions set out in Article 16 of the Act on Provision of Information about the Environment, it happens that administration authorities do not issue a refusal decision in the scope of the exclusion, although such an obligation arises both from Article 19(4) in connection with Article 20(1) of the Act on Provision of Information about the Environment, and from the provisions of the Aarhus Convention (Article 9(1)) and Directive 2003/4 (Article 6(1)). In the opinion of NGOs, it is necessary to train those responsible for providing access to environmental information and for the central government administration authorities to issue appropriate guidelines in this respect.

## **9. Further information concerning practical implementation of provisions of Article 4.**

53. 53.—In 20142017, the Ministry of theClimate and Environment received 10469 applications for disclosure of information onabout the environment and its protection, and issued 44 decisions on refusal to make such information available. In 20152018, the Ministry received 62 applications, none of which resulted in a negative decision. 56 requests and issued 3 decisions on the refusal to release such information. In 20162019, the Ministry ofreceived 50 applications126 requests and issued 53 refusals to make the information on the environment and its protection available. In 2014, 2017, the Inspectorate of Environmental Protection Inspection (the (Chief Inspector of Environmental Protection, and voivodeship environmental verifiers) considered 8,201 applications and voivodship inspectors of environmental protection) provided 8907 information about the environment and its protection, within the scope and form indicated by the applicants. In 2018, 9624 requests for publishing information onabout the environment and its protection have already been processed, and in 2015—9,1662019 - 12169. Observing anthe increasing tendency of requests for provision ofenvironmental information concerning environment, it can be assumed that in 20162020 the Inspectorate of Environmental Protection Inspection will grant approx. 10,000 piecesabout 15000 of such information. TheIn 2019, the vast majority of

applications made available by the Environmental Protection Inspection was (nearly 11500) concerned with the state of the environment, among which the dominant requests were for information on air pollution (just over 7300, including 6672 information on the condition of the environment from the State Environment Monitoring Program. According to the data reports received consulting process, the Voivodship Environmental Protection Inspectorates alone in 2014 received 2,793 applications for publishing information on environment, and the Inspectorates did not refuse once. In 2015, voivodeship inspectorates received 3,405 applications, of which two cases ended in refusal to make the information available. In 2016, voivodeship inspectorates received 3,346 applications and refused to publish information in 4 cases. Similar data with regard to the Regional Directorates for Environmental Protection are as follows: background substances in the air), surface and underground water quality, transport and industrial noise pollution, environmental quality in municipalities and on the intensity of electromagnetic radiation, as well as in the field of nature monitoring. Information was also provided about the results of inspections of entities using the environment and imposed fines, establishments whose activities could be the source of a serious accident, the results of monitoring of municipal waste landfills, quantities, and types of imported and exported waste. In 2014, they received 3,055 applications and issued 4 refusals, in 2015 – 3,671 applications and 4 refusals, in 2016 – 3,480 applications and 8 refusals. In the period from 2014 to May 2016<sup>2017</sup>, the President of the State Mining Authority, hereinafter referred to as "SMA" has examined a total of 2,059 applications for publishing information on environment and its protection. In addition, in the aforementioned scope, in SMA 1 proceeding concerning publishing information on environment involving non-governmental organisations was conducted, and administrative courts did not receive any complaints in connection with the applications and the current court proceedings. In the period from January 2014 to May 2016, the President of the National Atomic Energy Agency did not receive any application for publishing information on environment. General Directorate of State Forests (GDSF) keeps the register of applications from 2015, with 118 received applications that year. In 2016 there were 39 such applications. DGSE did not issue even one refusal related to access to information on the environment and its protection. In 2014, the National Water Management Authority (NWMA) received 11 applications for disclosure of information on environment and its protection. In 2015 – 29 applications, while in 2016 – 26 applications. NWMA did not issue even one refusal related to access to information on the environment and its protection. In 2014, the Inspectorate for Environmental Protection (IEP) – National Research Institute received 17 applications, in 2015 – 21 applications and in 2016 – 15 applications. In not one single case IEP refused to disclose information request for environmental information, in 2018 – two requests, and in 2019 – also two requests.

54. In 2014, Fundacja Greenmind conducted <sup>1</sup>a research essential for this report, which covered a representative sample of gminas and all regional directorates for environmental protection (Chylarecki P., Wiśniewska M., Engel J. 2014)<sup>2</sup>. The purpose of the study was the public control of public administration practices with regard to ensuring: access to information on the environment and its protection, and the public participation in decisions-

<sup>1</sup>-under the project "Aarhus Convention in practice – the civic monitoring of public administration and dialogue for changes"

<sup>2</sup><[http://greenmind.pl/wp-content/uploads/2014/09/Greenmind\\_RaportAarhus.pdf](http://greenmind.pl/wp-content/uploads/2014/09/Greenmind_RaportAarhus.pdf)>

making regarding environmental matters. The research report indicates some irregularities that occurred in the course of examination of some applications for publishing information on environment.

The most important conclusions:

1. In some cases, administration authorities refused to publish environmental impact report or provided the report in a different form than required.
2. There were cases of breaches of the deadline for publishing of information by the administration authorities. It was related, in particular, to documents, about which data are published at the publicly available data lists. Such documents should be published on the day of submitting the application.
3. The authorities imposed undue fees for publishing information on environment or conditioned publishing of information on submission of a fee.
4. Regulation on Fees determines that the deadline for providing the fee for publishing the information is 14 days. However, it does not determine from which date should this time be calculated.

54. 55. In 2016, as ordered by Between 2017 and 2020, trainings on sharing environmental information were conducted on behalf of the Ministry of the Environment, training courses with regard to publishing information on the environment were conducted. The Environment/Ministry of Climate and Environment. These training courses were intended for employees of administrative authorities that publish disclose environmental information on the environment.

55. 56. Draft of the amendment of the Regulation on The Fees envisages Ordinance provides that the deadline to provide fees, which 14-day period for payment of the fee is 14 days, will be calculated from the day date of receipt of receiving the fee notice on the amount of the fee.

## **10. 10 Web addresses relating related to the implementation of Article 4.**

57.

56. [www.ekoportal.gov.pl](http://www.ekoportal.gov.pl) — the  
<https://www.gov.pl/web/klimat> - Ministry of the Climate and Environment,  
[www.mos.gov.pl](http://www.mos.gov.pl) — the [www.ekoportal.gov.pl](http://www.ekoportal.gov.pl) - Ministry of the Climate and Environment,  
<http://gmo.mos.gov.pl> — <http://gmo.mos.gov.pl> - information on GMO,  
[www.gdos.gov.pl](http://www.gdos.gov.pl) [www.gdos.gov.pl](http://www.gdos.gov.pl) - General Directorate for Environmental Protection,  
[www.gios.gov.pl](http://www.gios.gov.pl) — [www.gios.gov.pl](http://www.gios.gov.pl) - Chief Inspectorate of Environmental Protection,  
[www.kzgw.gov.pl](http://www.kzgw.gov.pl) — National Water Management Authority  
[www.natura2000.gdos.gov.pl](http://www.natura2000.gdos.gov.pl) — [www.wody.gov.pl](http://www.wody.gov.pl) - State Water Holding Polish Waters,  
<https://natura2000.gdos.gov.pl/> - information on the European Ecological Network Natura 2000,  
[www.isap.sejm.gov.pl](http://www.isap.sejm.gov.pl) — Internet database of legal documents  
<http://www.dziennikustaw.gov.pl> — [www.isap.sejm.gov.pl](http://www.isap.sejm.gov.pl) - Online Database of Polish Legislation.

**11. ~~11~~ Legislation, regulations, and other measures implementing the principles of gathering and distribution of information on the environment included in Article 5.**

Article 5, paragraph 1.

Article 5, paragraph 1 (a).

~~57.~~ ~~58.~~ Public administration authorities, by virtue of the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment, are obliged to ~~conduct~~ maintain publicly available data lists, containing, inter alia, information on public ~~documents and~~ environmental documents and analyses, ~~and as well as on~~ proceedings related to projects that may affect the environment.

~~59.~~ ~~With regard to adapting to~~ In the field of climate change ~~Internet portal was adaptation,~~ the KLIMADA website ([www.klimada.mos.gov.pl](http://www.klimada.mos.gov.pl)) ~~has been~~ launched in 2013 ~~called~~ KLIMADA ([klimada.mos.gov.pl](http://klimada.mos.gov.pl)). ~~This.~~ It is an official website coordinated by the Ministry of the Environment, which includes Climate with a database of information and news, which serves, ~~inter alia, popularization of among other things, to popularise~~ topics concerning the issue of ~~adapting~~ adaptation to the climate change. Additionally, the website provides materials and scientific studies ~~are available on the website, being~~ prepared under within the project "Preparation and Implementation of Strategic Adaptation Plan for Sectors and Areas Sensitive to Climate Change" with the acronym KLIMADA. The main goal of the project and the strategic adaptation plan is an increase in resilience of the economy and the society to the expected climate change in the ~~last past~~ decades of the 21st century.

~~58.~~ Apart from the information contained on the website, ~~as ordered by~~ the Ministry of the Environment, commissioned the preparation of a package of infographics ~~has been~~ ~~prepared relating to the issue of on~~ climate change ~~and as well as on~~ adaptation to the climate change in particular individual sectors (cities, agriculture, ~~power sector~~ energy, transport, the Baltic ~~sea~~, Sea) and prepared a brochure ~~was prepared~~ in Polish and English ~~language on~~ adapting adaptation to the climate change in Poland. All materials are available on the website [klimada.mos.gov.pl](http://klimada.mos.gov.pl) [www.klimada.mos.gov.pl](http://www.klimada.mos.gov.pl). An extension of the KLIMADA project is, co-financed by EU funds under Measure 2.1 of the Operational Programme Infrastructure and Environment 2014-2020, the project "Knowledge base on climate change and adaptation to its effects and its dissemination channels in the context of increasing the resilience of the economy, environment and society to climate change and counteracting and minimising the effects of extraordinary risks" (in polish: "Baza wiedzy o zmianach klimatu i adaptacji do ich skutków oraz kanałów jej upowszechniania w kontekście zwiększania odporności gospodarki, środowiska i społeczeństwa na zmiany klimatu oraz przeciwdziałania i minimalizowania skutków nadzwyczajnych zagrożeń"). This project, carried out by the Institute of Environmental Protection, assumes, inter alia, creating a central database of emissions, creating a decision support system, developing climate scenarios,



developing a knowledge base on adaptation to climate change. Project activities in the field of climate change adaptation are focused on creating two portals: climate-info and climate-adaptation. The Project also foresees a number of information, promotion, and educational activities, which will be implemented through e-learning, publications, conferences, workshops, trainings, information materials, substantive studies. The project is expected to be completed by the end of 2021. Information and materials are available at <https://klimada2.ios.gov.pl/>.

~~60. Pursuant to EPL, establishes Polish monitoring for environment, which is a system of measurements, assessments and forecasts of the environment's condition, and collection, processing and distributing information on the environment and its protection. Polish monitoring for environment is implemented on the basis of the long-term programmes of the Environment Monitoring Program (<http://www.gios.gov.pl/pl/stan-srodowiska/pms>) prepared by the Chief Inspector of Environmental Protection and approved by the Minister of the Environment, as well as 16 voivodeship monitoring programmes prepared by the voivodeship environmental protection inspector and approved by the Chief Inspector of Environmental Protection.~~

~~59. 64.~~As regards improvement of air quality, a "Clean Air" tab has been created on the website of the Ministry of Climate and Environment. It is an official thematic website dedicated to air quality issues in Poland, where we can obtain practical information on possible sources of co-financing for dedicated groups of beneficiaries, both within the framework of the programme "Clean Air", "Stop Smog", as well as thermo-modernisation relief. In addition, on this website we can find out what are the main sources of exceeded air quality norms, which cause the so-called "near-ground emissions" phenomenon, as well as news and a number of practical announcements for beneficiaries of financial programmes, including information about conducted and planned trainings in the discussed subject matter as well as new principles of operation of the above-mentioned programmes. The website also contains a number of infographics illustrating the main sources of air pollution in Poland. In addition, the website has links to the Chancellery of the Prime Minister. It is coordinated by the Ministry of Climate and Environment in cooperation with the National Fund for Environmental Protection and Water Management. The EPL established the State Environmental Monitoring, which is a system of measurements, assessments, and forecasts of the environmental condition as well as collection, processing, and dissemination of information about the environment and its protection. The scope of tasks of the State Environmental Monitoring is defined in the long-term strategic programmes of SEM, developed by the Chief Inspector of Environmental Protection, and approved by the Minister of Environment, and executive programmes of the State Environmental Monitoring developed by the Chief Inspector of Environmental Protection. Article 28 (1) of the Act of 20 July 1991 on the Inspection for Environmental Protection (Journal of Laws of 2020, item 995, as amended) obliges the Chief Inspector of Environmental Protection to ensure that the public is informed about the state of the environment.

~~The Act of 13 May 2011 on amending the Atomic Law Amending the Nuclear Law and Amending Certain Other Laws~~Act and certain other acts (Journal of Laws of 2011, -item 766) added Article ~~35(a)~~35a to the Act of 29 November 2000 ~~-Nuclear~~on the Atomic Law ~~(binding text of the Act: Journal of Laws of 20142019, item 45121792, and of 2020, item~~

283, as amended). This provision ~~assumes~~stipulates, *inter alia*, that the President of ~~the~~ National Atomic Energy Agency publishes information on the state of ~~the~~ nuclear safety, and radiological protection of nuclear facilities, their ~~effect~~impact on ~~people's~~human health and the ~~natural~~ environment; information on the size and isotopic composition of releases of radioactive substances from nuclear facilities into the environment; information ~~about~~ event~~son incidents or accidents~~ in ~~the~~a nuclear facility ~~resulting in creation of~~ causing a hazard; information on ~~the~~ issued ~~permits concerning~~licences for nuclear facilities and annual safety ~~assessment~~assessments of ~~the~~ supervised nuclear facilities. The catalogue of information made available by the President of National Atomic Energy Agency has been extended to include a State review on certain technical and organisational aspects related to the operation of nuclear installations and a national action plan to improve the nuclear safety level of domestic nuclear installations (to be drawn up when justified). The Act of 4 April 2014 ~~Law Amending~~amending the ~~Nuclear~~Atomic Law Act and Amending Certain Other Laws~~certain other acts~~ (Journal of Laws, item 587) ~~introduced changes to the amended Article 25(1) point 9 of~~ (9) of the Act on Provision of Information about the Act on access to information about the environment~~Environment~~. This ~~change~~amendment expanded the catalogue of information ~~which~~that the President of ~~the~~ National Atomic Energy Agency ~~publishes~~shall make available by information on the condition of radiological protection of radioactive waste dumps, their effect on people's health and the environment, information on the size and isotopic composition of releases of radioactive substances from radioactive landfills into the environment, and information on the key events in the radioactive waste dumps causing creation of a hazard – excluding information concerning physical protection and protections of nuclear materials, as well as information constituting a business secret, as defined in the regulations on counteracting unfair competition.

60. This information is published in the Public Information Bulletin (BIP) of the President of the National Atomic Energy Agency. Additionally, in BIP of the President of the National Atomic Energy Agency a list of data on the documents containing information about the environment and its protection is conducted in the form of information sheets compliant with the regulation of the Minister of the Environment of 22 September 2010 on the template and the content and the layout of publicly available documents containing information about environment and its protection (Journal of Laws of 2010, item 1249).

#### **Article 5, paragraph 1 (b)).**

61. ~~62. Administration~~Administrative authorities obliged to ~~perform~~carry out monitoring ~~research~~studies are required to share and publish information ~~on~~about the environment and its protection, free of charge.

62. ~~63.~~ Pursuant to ~~the~~ EPL, the operators of the installation and users of the device, are under an obligation ~~concerning periodical measurements of~~ periodically measure the volume of ~~emission and measurements of the quantity of abstracted emissions as well as the amount of~~ water and energy ~~intake~~consumed. In the case of significant quantities of substances or energy, monitoring ~~is~~shall be continuous.

- ~~63.~~ ~~64.~~ Results of some measurements, due to the need to provide systematic control of the volume of emissions or other conditions of the use of the environment, are obligatorily and regularly presented to the environmental protection authority and the ~~voivodship environmental protection inspector~~ Voivodship Inspector of Environmental Protection.
- ~~64.~~ ~~65.~~ In ~~the~~ case of ~~the~~ use of the environment for which fees are ~~collected~~ charged (water abstraction, ~~emission of~~ sewage emissions, etc.), information ~~are~~ is submitted to the ~~Voivodeship Marshal and the voivodship environmental protection inspector.~~ Marshall of the Voivodship and the Voivodship Inspector of Environmental Protection.
- ~~65.~~ ~~66.~~ Information ~~on~~ about upper-tier establishments or establishments with a high risk of a major industrial accident must be reported to the State Fire ~~Department~~ Service. The operator ~~prepares the~~ of such establishment shall prepare a major incident and accident prevention programme ~~to prevent major industrial breakdowns~~, in which ~~he or she presents safety system that guarantees it shall present to the State Fire Service and to the Voivodship Inspector of Environmental Protection a safety system guaranteeing the protection of people and the environment to the State Fire Department and the voivodship environmental protection inspector.~~
- ~~66.~~ ~~67.~~ The Act of 14 December 2012 on Waste (Journal of Laws of ~~2013~~ 2020, item ~~24797~~, as amended-) imposes on landfill site operators an obligation to monitor the landfill site and ~~provide to send the results for the voivodship environmental protection inspector to the Voivodship Inspector of Environmental Protection~~ on an annual basis. The ~~voivodeship environmental protection inspector~~ The Voivodship Inspector of Environmental Protection must be immediately notified ~~about of the confirmed~~ any changes ~~of in~~ the observed parameters ~~that indicate a~~ indicating the possibility of occurrence or emergence of ~~hazards forthreats to~~ the ~~natural~~ environment.

#### Article 5, paragraph 1 (c).

- ~~67.~~ ~~68.~~ The principles of ~~proceeding in hazardous~~ dealing with emergency situations are ~~described~~ regulated in numerous legal acts. They indicate ~~responsibility for cooperation with competent~~ the obligation of the relevant authorities ~~of at~~ each level to cooperate, depending on the type of ~~the~~ natural disaster.
- ~~68.~~ ~~69.~~ ~~Editors~~ The editors-in-chief of journals and broadcasters of radio and television programmes are obliged ~~to~~, at the request of ~~administration~~ the administrative authorities, to ~~immediately and~~ publish or post, free of charge ~~publish or post messages, without delay, communications~~ of these authorities related to activities, ~~which are~~ aimed at preventing or remedying the effects of a natural disaster ~~or recovery from it.~~
- ~~69.~~ ~~70.~~ ~~Environmental Protection~~ The Inspection for Environmental Protection informs the public about the ~~condition~~ state of the environment and keeps ~~the~~ a register ~~on the prerequisites of serious~~ of major accidents. Other authorities are obliged to ~~immediately~~ contact the mass media without delay and ~~properly~~ to distribute ~~the~~ information accordingly, depending on the situation.
- ~~70.~~ ~~71.~~ ~~The Voivodship Marshals~~ Governors (the Voivods) are obliged to announce smog warnings, ~~featuring warning states containing~~ an appeal to ~~the residents for~~

~~appropriate behaviour in~~ inhabitants to behave appropriately in order to ~~minimize~~ minimise the ~~reasons~~ causes and effects of the occurrence ~~of smog~~ thereof.

## Article 5, paragraph 2.

- ~~71.~~ ~~72.~~ The principles of ~~sharing making available~~ and distributing information ~~on the environment and its protection are determined by the Act on access to~~ disseminating information about the environment. ~~According to~~ and its protection are set out in the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment. Pursuant to this Act, documents and data ~~about the~~ on documents containing information about the environment and its protection are ~~included~~ placed in ~~the~~ publicly available lists, in Public Information Bulletins, and electronic databases.
- ~~72.~~ ~~73.~~ ~~Administration~~ Administrative authorities are obliged to ~~appoint~~ designate persons responsible for publishing information ~~on~~ about the environment.
- ~~73.~~ ~~74.~~ ~~The majority of the~~ Most databases are ~~available on~~ accessible via the Internet. Access to them is free of charge. If a database is not ~~available~~ accessible via the Internet, then information from ~~this~~ that database ~~are made~~ is available upon request.
- ~~74.~~ ~~75.~~ The AAPI ~~Act~~ imposes on ~~offices~~ public authorities and entities ~~possessing~~ managing public funds the obligation to ~~keep~~ maintain on the ~~on-line~~ Internet a Public Information Bulletin containing electronic copies of public information.

## Article 5, paragraph 3.

- ~~75.~~ ~~76.~~ ~~According~~ Pursuant to the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment, public administration authorities post information on policies, plans, programmes, maps, and analyses, as well as other documents concerning environmental protection, in ~~the~~ publicly available data lists and in the Public Information Bulletin.
- ~~76.~~ ~~77.~~ Pursuant to the Act of 20 July 2000 on ~~Publication~~ Promulgation of Normative Acts and ~~Certain Other~~ some other Legal Acts (Journal of Laws ~~of 2016~~ 2019, item ~~296~~ 1461, as amended), the Journal of Laws of the Republic of Poland (Journal of Laws, in Polish: Dziennik Ustaw) is ~~issued~~ published by the Prime Minister ~~by means~~ with the assistance of the ~~Governmental~~ Government Legislation Centre. ~~From~~ Since 1 January 2012, the Journal of Laws ~~has been issued~~ is published also in ~~an~~ electronic form, ~~with due observance of~~ maintaining the ~~order~~ sequence of ~~the~~ items in ~~the~~ a given calendar year. ~~Normative~~ The Journal of Laws publishes normative acts and other ~~legislation are announced in the Journal of Laws.~~ legal acts. It is available at <http://www.dziennikustaw.gov.pl/DU>.
- ~~77.~~ ~~78.~~ The Minister of ~~the~~ Climate and Environment maintains the [www.ekoportal.gov.pl](http://www.ekoportal.gov.pl) website, [www.ekoportal.gov.pl](http://www.ekoportal.gov.pl), through which, each ~~and every~~ office ~~may publish~~ can make information on ~~the~~ its documents containing environmental information ~~on the environment that are in their possession, free of charge~~ freely available. The Publicly

Available Data List ~~kept~~maintained on ~~the~~ Ekoportal gathers information published by ~~more than 1,500~~over 1500 offices, which translates into ~~more than 5,000~~over 5000 users. Ekoportal ~~records more than 13,000 monthly visits on the website. has over 13000 hits per month.~~ Offices not using the Ekoportal maintain publicly ~~available~~accessible data lists ~~with use of~~using their own tools.

~~78.~~ ~~79.~~ Documents relating to particular authorities are available on ~~the~~ websites of their Public Information Bulletins.

~~80.~~ ~~The~~ GMO registers ~~along, together~~ with all ~~appropriate~~relevant information, including resolutions of the ~~Commission responsible for the~~ GMO Committee, are available ~~on the web site~~ <http://gmo.mos.gov.pl>.

~~79.~~ ~~The~~ ~~at~~ <http://gmo.mos.gov.pl>. A list of databases ~~of~~on the ~~Ministry of the Environment~~environment is available on Ekoportal in the form of a ~~manual~~guide and a search engine (~~<http://www.ekoportal.gov.pl/informacja-o-srodowisku/bazy-danych-resortu-srodowiska/>~~)(~~<https://ekoportal.gov.pl/dane-o-srodowisku/srodowiskowebazy-danych>~~).

~~80.~~ ~~81.~~ Particular authorities of the ~~Individual~~ central administration ~~involved in issues related to the environment keep~~authorities dealing with environmental matters maintain their own databases. Examples:

- ~~The~~ Chief Inspectorate of Environmental Protection ~~keeps~~(CIEP) maintains the following databases and ~~data sets:~~datasets: the monitoring of ~~soils~~the chemistry ~~of soils~~ (MCG), ~~monitoring of~~the air quality ~~monitoring~~ (JPOAT), monitoring of species and natural habitats (MSGP), ~~monitoring~~Monitoring of ~~birds of Poland~~Polish Birds (MPP), monitoring ~~bottom sediments in rivers and lakes (OSADY), monitoring of marine species and habitats, the~~ noise ~~monitoring~~ (EHALAS), ~~monitoring of~~the electromagnetic fields ~~monitoring~~ (JELMAG), monitoring of surface ~~waters~~water quality (JWODA), monitoring of ~~air pollutants backgrounds at EMEP stations, monitoring of precipitation, monitoring of the ozone layer, Corine Land Cover.~~ Geoportal CIEP INSPIRE - a node of Infrastructure for Spatial Information and IT portal of the Chief Inspectorate of Environmental Protection, which allows the public to access information on the findings of inspections carried out and on post-inspection activities undertaken. Access to some ~~parts of data from certain databases~~ is possible via the website. The Chief Inspectorate of Environmental Protection disseminates results of the Corine Land Cover (CLC) projects through a website; the portal <http://clc.gios.gov.pl/>. It should be noted that the above-mentioned resources of the Chief Inspectorate of Environmental Protection are also described on the portal <https://dane.gov.pl>.

- ~~The~~ General Directorate for Environmental Protection ~~keeps~~maintains, inter alia, ~~the~~ Central Register of ~~the~~ Forms of Nature Protection ~~Forms~~, the "geoserwis" website ~~and, a database of environmental impact assessments and a register of the~~ Natura 2000 sites;

- Polish Geological Institute — National Research Institute ~~under~~within the ~~performance~~framework of tasks of ~~the~~ Polish Geological Survey and ~~the~~ Polish Hydrogeological Survey maintains ~~a few dozen~~several dozens of databases, containing information on ~~the~~ inanimate environment. ~~Most~~Almost all of these databases are available on-line, free of charge. The most important include:



Central Geological Database, Landslides Counteracting System SOPO, Central Hydrogeological ~~Database, Data Bank called~~ HYDRO Bank, ~~Underground Waters~~ Groundwater Monitoring, System of Management and ~~Protecting~~ Protection of Polish Mineral ~~Raw Materials~~ Resources in Poland MIDAS, ~~Central Geological Database~~ INFOGEOSKARB, Register of Mining Areas, ~~Geo~~environmental Geo-environmental Database, ~~Central Register~~ Geolocalities of Poland. ~~Resources of Polish Geo-sites.~~ The information ~~resources~~ are ~~supplements~~ supplemented by geological, geochemical, hydrogeological, ~~geological-engineering-geological,~~ and geo-environmental maps made available on ~~the~~ IKAR geoportal, ~~annually published a~~ Balance of ~~Raw Material of Mineral Resources Deposits in~~ Poland ~~mines issued every year,~~ and announcements, warnings, and ~~statements~~ reports of the ~~State Fire Department~~ Polish Geological Survey.

~~82. Infrastructure of~~ The infrastructure for spatial information ~~play a more and more~~ plays an increasingly important role in ~~the~~ collection and dissemination of ~~environmental~~ information ~~on the environment.~~ Directive 2007/2/EC of the European Parliament and ~~of~~ the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (~~Official Journal of EUOJ~~ L 108-~~of,~~ 25.404.2007, p. 1, as amended) and ~~the~~ Act of 4 March 2010 on Spatial Information Infrastructure (Journal of Laws ~~of 2020,~~ item 489177, as amended), which ~~implemented the~~ implements this Directive into the Polish legal system, define the principles ~~for the creation of~~ creating the infrastructure ~~effor~~ for spatial information.

~~81. While executing Fulfilling the~~ obligations ~~arising from under~~ the Act on Spatial Information Infrastructure, the Chief Inspector of Environmental Protection, as the leading authority for the subject matter "devices for monitoring of the environment", ~~runs operates~~ the GIOŚ INSPIRE Geoportal (<http://inspire.gios.gov.pl/portal/>) — ~~trade website~~ CIEP INSPIRE (<http://inspire.gios.gov.pl/portal/>) - a branch service constituting a ~~centrenode~~ of Infrastructure ~~effor~~ for Spatial Information ~~with regard to devices for environment in the scope of environmental~~ monitoring ~~devices.~~

#### Article 5, paragraph 4.

~~82. 83.~~ The Chief Inspector of Environmental Protection prepares, ~~no less frequently than according to Article 25b of the IEP, at least~~ once every 4 years, ~~the a~~ report on the ~~condition~~ state of the environment in Poland, ~~particularly taking into account of the in particular~~ data from the State Environmental Monitoring. ~~In 2014, the~~ The Chief Inspector of Environmental Protection ~~prepared in 2018 developed~~ and published the ~~report~~ "Condition of the Environment in Poland. 20142018 Report." — ~~The~~ ([http://www.gios.gov.pl/images/dokumenty/pms/raporty/Stany\\_srodowiska\\_w\\_PolsceRaport\\_2018.pdf](http://www.gios.gov.pl/images/dokumenty/pms/raporty/Stany_srodowiska_w_PolsceRaport_2018.pdf)). This report presents the ~~condition~~ state of all environmental components covered by ~~the~~ State Environmental Monitoring: nature, air, waters, soils, ~~including taking into account noise~~ exposure ~~to noise,~~ electromagnetic fields, and ionizing radiation. ~~Reports of the voivodeship are prepared no less frequently than once every 3 years~~ In addition, by the ~~voivodeship~~ end of 2018, the voivodeship

inspectories of environmental protection. developed reports on the state of the environment in the voivodships (at least once every 3 years) as one of the tasks specified in the voivodship programmes of environmental monitoring. These reports constitute an a cause-and-effect analysis of ~~the~~ environmental problems in the voivodeship with cause-voivodship and -effect approach. ~~The reports are commonly~~ are widely available in a printed and electronic form, including through the Internet ~~sites~~ websites of the environmental protection inspection authorities ~~of environmental protection inspection.~~

#### Article 5, paragraph 5.

- ~~83.~~ 84. The Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment requires to publish on the Internet data on ~~the~~ documents containing information about the environment.
84. The Minister of Climate and Environment maintains the Ekoportal, a website which contains, among other things, a database of documents containing information on the environment.
- ~~85. Minister of the Environment maintains Ekoportal, a database on the documents containing information on the environment.~~
- ~~85.~~ 86. ~~Website~~ The website of the Sejm of the Republic of Poland (Polish Sejm) contains the ~~content~~ contents of all binding legal acts in Poland as published in the Journal of Laws and ~~the Monitor Polski (Polish Official Gazette of the Republic of Poland).~~ (in Polish: Monitor Polski). Since 1 January 2012, ~~the~~ Journal of Laws ~~has been issued~~ is published in ~~an~~ electronic form, ~~with due observance of~~ preserving the order of ~~the~~ items in ~~the~~ a given calendar year. ~~In the~~ The Journal of Laws publishes the most important normative acts and ~~other certain legislation are announced.~~ The local some other legal acts. Acts of local law and internal legal acts, produced of internal character are published in official journals maintained by individual public authorities, ~~are published in the Official Journals.~~

#### Article 5, paragraph 6.

- ~~86.~~ 87. ~~The~~ Article 21(2) ~~point )~~ (32) of the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment states that ~~in the~~ data on environmental declarations, referred to in the Act of 15 July 2011 on ~~state eco-~~ the National Community Eco-management and ~~audit scheme~~ Audit Scheme (EMAS) (Journal of Laws of 2020, item ~~1060~~ 634, as amended), shall be placed in the publicly available lists; ~~on.~~ On the other hand, Article 21(2) ~~point )~~ (23) ~~(m)~~ of the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment states that the data on environmental reviews (eco-auditing issued by virtue of audits), performed pursuant to the ~~LACP Act~~ EPL, shall be placed in the publicly available lists.

## Article 5, paragraph 7.

~~87.~~ ~~88.~~ ~~Websites~~ The websites of the Polish Sejm, ~~the~~ Polish Senate, the ~~Governmental~~ Government Legislation Centre, as well as all ~~the~~ offices — within the scope of their competences, — contain ~~the database~~ databases with ~~binding~~ valid legal acts ~~and, as well as~~ copies of ~~drafts of~~ draft legal acts ~~along with justification for their introduction.~~ justifications.

~~88.~~ ~~89.~~ ~~Administration~~ Administrative authorities participating in the law-making process are obliged to publish on the Internet drafts of legal acts ~~along together~~ with their justification and impact assessment ~~of the effects of the regulation on the Internet.~~

~~89.~~ ~~90.~~ ~~Administration~~ Administrative authorities shall publish information on their functions ~~they perform~~ on the Internet ~~and e.g.,~~ in the Public Information Bulletin.

## Article 5, paragraph 8.

~~90.~~ ~~91.~~ ~~According to LACP~~ Pursuant to Article 167 of the EPL, the entity placing a product on the market should ensure that the product meets the environmental protection requirements. The product should be provided with information concerning fuel ~~consumption~~ or consumables, ~~the volume of~~ consumption, emissions ~~related to~~ connected with the use of the product ~~utilisation,~~ and environmentally safe ~~usage~~ use, dismantling, ~~recycling~~ re-use, or ~~rendering~~ disposal of the product ~~harmless~~. The ~~Seller~~ seller of the ~~products should~~ product shall ensure that such information is also ~~available~~ displayed at the points of sale of the product.

~~91.~~ ~~92.~~ ~~According to LACP~~ Pursuant to Article 80 of the EPL, advertising or ~~a different~~ any other type of promotion of ~~a product~~ goods or ~~a service~~ services should not contain ~~contents~~ propagating content that promotes a consumption model ~~contradictory~~ contrary to the principles of the environmental protection and sustainable development, and in particular use the ~~imagery~~ image of wild nature to promote products and services ~~negatively affecting~~ that have a negative impact on the natural environment.

## Article 5, paragraph 9.

~~92.~~ ~~93.~~ The Polish Pollutant Release and Transfer Register ~~was~~ has been created as ~~a part~~ an element of the European Pollutant Release and Transfer Register, (E-PRTR), established ~~in~~ by the Regulation (EC) ~~no.~~ No 166/2006 of the European Parliament and of the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (~~Official Journal of EU~~ OJ L 33 ~~of,~~ 4.2.2006, p. 1). ~~The~~ This register is

~~kept maintained~~ by the Chief Inspector of Environmental Protection in the form of a publicly available database. In 2017- 2020, the Chief Inspectorate of Environmental Protection implemented actions to adapt this database to the requirements of the INSPIRE.

93. ~~94, Administration~~ The administrative authorities are obliged to collect ~~the~~ data on entities emitting ~~pollutants~~ pollution and ~~publishing it in the publicly~~ make them available in publicly accessible lists.

## **12. 12 Identified difficulties in implementing Article 5.**

94. ~~95.~~ There are irregularities ~~concerning keeping their maintaining a~~ publicly ~~available~~ accessible list of data on documents containing environmental information ~~on the environment~~, as required by ~~the~~ provisions of ~~LAC~~ the EPL and the Act on ~~access to information~~ Provision of Information about the ~~environment~~. Irregularities involve: ~~the Environment. These irregularities consist in~~ lack of a publicly ~~available~~ accessible list, ~~not entering the failure to enter~~ data on some ~~of the~~ documents into the list, entering data with a delay of many months and improper form of the list.

96. ~~Still there is a problem with transferring knowledge on the environment to the public, which consists not so much in the lack of the data, but rather in the fact that the data is somewhat closed and that requires a laborious familiarisation with the instruction on how to search the databases and learning the definitions, which are used therein.~~

95. ~~97.~~ The problem is the hermetic nature of environmental data. Part of the data requires reading the instructions of a given database and/or becoming familiar with the terms used in it in order to read it correctly.

96. The problem is the heterogeneity of the form of ~~conducting the~~ publicly available data lists ~~resulting from due to~~ the application use of ~~various data communication~~ different ICT tools.

97. ~~98.~~ According to ~~non-governmental organisations~~ NGOs, the Republic of Poland in principle correctly transposed ~~the~~ Article 5(8) of the Convention ~~correctly~~, ensuring ~~public's access to a sufficient amount of information on that the public is sufficiently informed about~~ products, in a manner that will enable consumers to make conscious choices ~~with regard to~~ regarding their environmental effects. However, in ~~their~~ NGOs opinion, doubts may be raised by the limited material scope of the ~~Regulation~~ regulation issued ~~on the basis of the pursuant to~~ Article 167 of the ~~Environmental Protection Law (EPL)~~ EPL<sup>3</sup> and the lack of other implementing ~~ordinances, essential~~ regulations which are relevant for the transposition of this article of the Convention.

<sup>3</sup> ~~The following act is concerned: Regulation~~ Ordinance of the Minister of Economy and Labour of ~~28th~~ 28 December 2004 on products to be provided with information significant from the point of view of environmental protection (Journal of Laws of 2005, No. 6, item 40, as amended) ~~that, which~~ concerns the obligation to provide ~~with proper~~ appropriate information only ~~the for~~ products which are new motor vehicles of the following categories:

-1) M1 and N1 as defined by the regulations concerning homologation of vehicles and trailers,

-2) L2e as defined by the regulations concerning homologation of three-wheeled vehicles

- marked numerically with eight-digit codes of Combined Nomenclature CN that are set forth in Appendix to this Regulation Ordinance.

~~98.~~ ~~99.~~ NGOs have claimed that Public Information Bulletins are inconsistent and burdened with many defects that make it difficult to search for information. This situation applies ~~in particular~~ particularly to local ~~governments~~ authorities. The situation is better ~~in the case of the~~ for authorities ~~specialized in making the decisions on the~~ specialised in environmental ~~issues~~ decision-making.

~~99.~~ ~~100.~~ NGOs ~~noticed~~ noted that ~~sometimes the~~ publicly available data lists sometimes contain incomplete information. ~~In their opinion also~~ Also, the form, in which the information on ~~the~~ documents is ~~published, is~~ made available is, in their view, archaic or illegible.

### **13. ~~13.~~ Further information concerning practical implementation of provisions of Article 5.**

~~101.~~ The ~~Supreme Chamber of Control~~ indicates the need for proper conducting Minister of Climate and ~~constant updating of~~ Environment provides interested administrative authorities with an application for maintaining a publicly available accessible list of data on documents containing information ~~on~~ about the environment and its protection.

~~100.~~ ~~102.~~ Minister of the Environment facilitates the concerned administration authorities with an application that allows keeping publicly available lists on documents containing information on environment and its protection, and presenting such information their presentation on the Ekoportal. ~~More~~ This possibility is currently used by more than 1,500 1500 offices ~~currently benefits from this possibility~~.

### **14. ~~14.~~ Web addresses relating related to the implementation of Article 5.**

~~103.~~

~~101.~~ www.ekoportal.gov.pl — the

www.ekoportal.gov.pl - Ministry of ~~the~~ Climate and Environment.

~~www.mos.gov.pl~~ — ~~the~~ https://www.gov.pl/web/klimat - Ministry of ~~the~~ Climate and Environment.

~~www.gios.gov.pl~~ - Chief Inspectorate of Environmental Protection

~~www.gdos.gov.pl~~ — the General Directorate www.klimada.mos.gov.pl - Ministry of Climate and Environment.

www.klimada2.ios.gov.pl - Institute of Environmental Protection.

~~www.gmes.info~~ — www.gios.gov.pl - Chief Inspectorate of Environmental Protection.

www.gdos.gov.pl - General Directorate for Environmental Protection.

www.gmes.info - European Union's Earth Observation Programme "Copernicus" —

www.pgi.gov.pl — www.pgi.gov.pl - Polish Geological Institute — National Research Institute.

~~www.paa.gov.pl~~ and ~~bip.paa.gov.pl~~ — www.paa.gov.pl and www.bip.paa.gov.pl - National Atomic Energy Agency.

www.gios.gov.pl/prtr/portal-gios.gov.pl - Chief Inspectorate of Environmental Protection.



**15. ~~15~~ Legislation, regulations, and other measures implementing the implementation of the principles rules of public participation in decisions decision-making concerning special service activities included in Article 6.**

~~102. 104.~~ Pursuant to the Act on ~~access to information~~ Provision of Information about the ~~environment, each and every person~~ Environment, everyone has the right to submit comments and ~~requests~~ proposals in the proceedings ~~requiring~~ that require public participation. ~~Administration~~ The administrative authorities competent ~~for issuing the to~~ issue decisions are ~~required~~ obliged to properly provide the possibility of the participation of the public before ~~issuance of these~~ issuing or amending such decisions ~~or their change~~.

~~105. Established~~ The established procedures ~~refers~~ shall apply to decisions ~~issued for on~~ projects listed in ~~Appendix 1 and Annex I bis~~ to the Convention.

~~103. 106.~~ On and in Annex II to the basis of Directive 2011/92/EU.

~~104.~~ Pursuant to the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment, ecological organisations, which ~~by invoking, relying on~~ their statutory objectives, ~~report a desire~~ declare willingness to participate in ~~a specific~~ certain proceedings requiring public participation ~~of the public~~, participate in such proceedings as a party, if they ~~perform~~ carry out statutory activities ~~with regard to in the field of~~ environmental or nature protection, for a minimum of 12 months ~~before prior to the~~ date of initiation of ~~this procedure such proceedings~~. An ecological organisation has the right to ~~file an~~ appeal against a ~~decisions issued in the proceedings requiring~~ decision taken in a public participation, procedure if ~~this~~ is justified by the statutory objectives of ~~this that~~ organisation, ~~and also in the event when such an~~ organisation including where it did not participate in a ~~specific proceedings~~ requiring given public participation ~~of the public, procedure~~ conducted by ~~the an~~ authority of first instance ~~body~~. Filing an appeal ~~is~~ shall be equivalent to ~~declaring~~ willingness expressing a desire to participate in such ~~proceedings a procedure~~. In the appeal proceedings, the ~~organization~~ organisation participates ~~having the rights of as~~ a party.

~~105. 107.~~ Ecological organization An ecological organisation can ~~use~~ challenge a ~~complaint~~ to the administrative court as to the decision issued in the proceedings requiring a public participation, ~~if it procedure before an administrative court if this~~ is justified by the statutory ~~goals of this organization, also in the event when~~ objectives of that organisation, including where it did not participate in the ~~specified the proceedings~~ requiring public participation procedure in question.

**Article 6, paragraph 1.**

~~106. 108.~~ ~~The principles of preparation of~~ The rules for carrying out environmental impact assessments are ~~established~~ set out in the Act on Publishing Provision of Information en about the Environment. ~~The particular~~ Particular types of ~~activities projects~~



~~assessment is prepared~~ assessments shall be carried out are listed in the Regulation of the Council of Ministers of ~~9 November 2010 on Projects that May Significantly Affect the Environment~~, ~~10 September 2019 on projects likely to have a significant impact on the environment~~ (Journal of Laws of ~~2016~~2019, item ~~74~~1839).

~~107. 109. Pursuant to The EPL, provides that the operation of~~ an installation ~~whose operation, given which, due to~~ the type and scale of ~~the activity conducted therein, is likely to cause substantial pollution of the~~ its activity, may cause significant pollution of specific natural elements or the environment as a whole, requires an integrated permit. ~~The types of installations that may cause significant pollution of particular natural elements or the environment as a whole are specified. They are currently defined by the Regulation of the Minister of Environment of 27 August 2014 on types of installations that may cause significant pollution of~~ particular natural elements or the environment as a whole, requires an integrated permit. ~~The Minister of the Environment determines the types of installation that could cause substantial of the particular natural elements or the environment as a whole. (Journal of Laws of 2014, item 1169).~~

~~108. 110. The Act on access to information~~ Provision of Information about the environment envisages ~~Environment stipulates~~ that public participation ~~is~~ shall not be carried out with respect to projects carried out in ~~relation to projects implemented in enclosed~~ closed areas, if ~~participation of the public involvement~~ could have unfavourable effect ~~an adverse impact~~ on the ~~objectives of state~~ defence and security ~~objectives of the state~~.

⋮

## Article 6, paragraph 2.

~~109. 111. Pursuant to the Act on access to information~~ Provision of Information about the environment ~~Environment~~, before issuing ~~and changing decisions that require or amending a decision requiring~~ public participation, the authority competent ~~for issuing the~~ to issue such a decision ~~shall~~, without ~~unnecessary~~ undue delay, ~~announces~~ announce to the public information on:

- ~~proceeding with the commencement of an~~ assessment of the ~~environmental impact of the project on the environment~~;
- ~~initiating the initiation of~~ proceedings;
- ~~the subject of the decision that is to~~ be issued in the case;
- ~~the~~ authority competent ~~for issuing to issue~~ the decision and ~~the~~ authorities competent to issue opinions and ~~conclude agreements; make arrangements~~;
- ~~possibilities the possibility~~ of familiarising with ~~any the~~ necessary documentation of the case and the place where it is ~~available; displayed for inspection~~;
- ~~possibilities of submitting the possibility to submit~~ comments and requests; ~~proposals~~;
- ~~method of the manner and the place for submitting the comments and the requests; proposals, indicating~~ at the same time ~~indicating the 21~~ 30-day time limit ~~deadline~~ for their submission;
- ~~the~~ authority competent ~~for examination of the to consider~~ comments ~~and proposals~~;

- ~~the date and the requests;~~
- ~~the date and the place of a public~~ the administrative hearing open to the public, if the hearing is held; any,
- ~~a proceeding~~ the proceedings on the ~~cross-border~~ transboundary environmental ~~effect~~ impacts, if the proceeding is held. any.

Communication The term "announce to the public ~~is defined~~" shall be understood as:

- ~~publishing of making the~~ information available on the website of the Public Information Bulletin of the authority competent ~~for in~~ the ~~case, matter,~~
- announcement of the information, in the ~~customarily adopted~~ usual manner, in the seat of the authority ~~that is competent for in~~ the ~~case matter,~~
- announcement by means of ~~the information by way of notification a~~ notice, in the ~~customarily adopted~~ usual manner ~~at, in~~ the place of the planned project,
- ~~in the case when where~~ the seat of the ~~office of the~~ authority competent ~~for in~~ the ~~case matter~~ is ~~located within the area of~~ situated in a ~~gmina (commune) municipality~~ other than the ~~gmina locally competent municipality~~ with ~~regard to jurisdiction over~~ the subject matter of the proceedings—, also by announcement in the press or in the ~~customarily adopted~~ usual manner in the ~~town of locality~~ or ~~towns competent localities~~ with ~~regard to jurisdiction over~~ the subject matter of the proceedings.

The necessary documentation ~~of a for the~~ case includes ~~the following~~: the application for ~~issuing the decisions along with a decision together with the required attachments, as well as the decisions of the authority competent to issue the decision required appendices, as well as the requirements, required by the provisions, of the authority competent for the issuance of the decision and the stance of the by law and the positions of~~ other authorities, if ~~the standpoint such positions~~ are available within the ~~period of deadline for~~ submitting comments and ~~requests applications~~.

### Article 6, paragraph 3.

~~110. 412.~~ The deadline for submitting comments and ~~requests applications~~ to the planned decision requiring public participation is ~~24~~ 30 days.

### Article 6, paragraph 4.

~~111. 413.~~ As indicated in the explanations ~~relating to Article 6 (, paragraph 2), procedure of,~~ the public participation ~~begins procedure starts~~ even before the ~~issuance of the decision— is issued.~~

### Article 6, paragraph 5.

~~112. 114.~~ The legal provisions do not impose on the public authorities, nor on the investors an obligation to examine the scope of the public interest or to grant information prior to submission of the application. However, some investments are covered by various types of plans resulting from the law. These plans allow the public concerned to become acquainted with potential investments long before the procedure for issuing a permit for their implementation begins.

#### **Article 6, paragraph 6.**

~~113. 115.~~ Information on the application and the ~~attached~~accompanying documentation ~~can be accessed by means of publicly~~is available through publicly accessible data lists (~~see~~vide explanations ~~concerning~~on Article 5, paragraph ~~52~~). Pursuant to Article 33(1) ~~point~~)(5) of the Act on ~~access to information~~Provision of Information about the ~~environment~~Environment, the necessary documentation of the case shall be ~~rendered~~made available for inspection at ~~the~~ place indicated by the authority competent ~~for issuing~~to issue the decision.

#### **Article 6, paragraph 7.**

~~114. 116.~~ ~~The comments~~Comments and ~~the requests~~can~~proposals may~~ be submitted by ~~each and every person~~anyone in ~~a written form~~writing, orally ~~to be included in~~into the ~~records~~record and by means of electronic communication, without signing them ~~with~~using a safe electronic signature.

~~115. 117.~~ Ecological organisations that by invoking their statutory objectives, report a desire to participate in a specific ~~proceedings~~proceeding requiring participation of the public, if they perform statutory activities with regard to environmental or nature protection for at least 12 months before initiation of this procedure, participate in such proceedings as a party.

~~116. 118.~~ An ecological organisation has the right to file an appeal against a ~~decisions~~decision issued in a proceeding requiring public participation, if it is justified by the statutory objectives of this organisation, and also in the event when such organisation did not participate in specific proceedings requiring participation of the public, conducted by the first instance body; filing an appeal is equivalent to declaring willingness to participate in such proceeding. In the appeal proceedings the organization participates having the rights of a party.

#### **Article 6, paragraph 8.**

~~117. 119.~~ The authority conducting the ~~proceeding~~proceedings examines the comments and ~~the~~ requests, and in the substantiation of the decision, ~~provides~~ information on the public participation in the proceedings, and on how and to what extent the submitted comments and requests submitted in connection with the public participation ~~were taken into consideration~~have been considered.

## **Article 6, paragraph 9.**

~~118. 120.~~ The authority ~~competent~~responsible for issuing the decision announces ~~to~~ the public information ~~on issuing about the issuance of~~ the decision and the possibilities of familiarising with its content ~~to the public~~.

~~119. 121.~~ ~~According~~Pursuant to ~~CAP~~ the ~~notification~~CAP, a decision should contain: ~~the name~~ an indication of ~~the~~ public administration ~~body~~authority, the date of ~~issue~~, ~~the name(s)~~issuance, an indication of ~~the~~ party or parties, reference to the legal ~~authority referred to~~basis, a ~~ruling~~decision, a factual and legal justification, an ~~advisory notice instruction~~ as to whether and ~~how~~in what manner an appeal may be ~~brought and the lodged against it~~, a signature, ~~name and stating the forename and surname and an official~~ position of the person authorised to issue the decision. ~~Any~~A decision which may be challenged ~~by~~before a ~~petition to the civil~~common court or ~~a complaint to the appealed against before an~~ administrative court should also contain an ~~advisory notice that such a petition or instruction on the admissibility of bringing an action or a complaint and the amount of the fee for the action or the entry of a complaint may be brought or objection against a decision, if they are of a fixed nature, or the basis for calculating the fee or entry of a relative nature, as well as the possibility for the party to apply for exemption from the costs or grant a right to assistance.~~

~~120. 122.~~ The Act on ~~access to information~~Provision of Information about the ~~environment~~statesEnvironment provides that ~~the~~ decision on environmental conditions requires ~~substantiation. Additionally, justification. In addition,~~ the Act lists the necessary elements of such a decision. ~~They~~These include, inter alia, include information on the conducted ~~procedure~~proceedings requiring public participation, and on how and to what extent the ~~submitted~~ comments and ~~requests submitted~~proposals made in connection with ~~the~~ public participation ~~were~~have been taken into ~~consideration~~account. The act also provides that the justification of the environmental decision should include information on how and to what extent have been considered:

## **Article 6, paragraph 10**

~~123.~~ ~~Conducting environmental impact assessments, under which participation of the public takes place is also required~~the findings contained in the ~~case of introducing changes in report on~~ the decisions on environmental conditions.

## **Article 6, paragraph 11, Article 6a, Appendix I a**

- ~~– 124. Provisions included in CAP define the issue of publishing information to parties in connection with the existing proceeding. The provisions of the Act impact of the project on access to information about the environment with regard to the procedures concerning public participation envisage publishing of information in connection with a proceeding conducted by an authority. According to CAP the use,~~
- ~~– the arrangements and opinions of the authorities referred to in Article 77(1) of the Act,~~
- ~~– the results of the aforementioned procedures is required upon proceedings on transboundary environmental impact, if carried out, and the justification of the position referred to in Article 82(1)(4) of the Act (position on the necessity to carry out an environmental impact assessment of the project and proceedings on transboundary environmental impact as part of the proceedings on the issuance of certain subsequent decisions).~~

#### **Article 6, paragraph 10.**

121. An environmental impact assessment with public participation is also required when amending an environmental decision.

#### **Article 6, paragraph 11, Article 6a, Annex I a.**

122. The provisions of the CAP determine the issue of making information available to parties in connection with the pending proceedings. The provisions of the Act on Provision of Information about the Environment concerning the public participation procedure provide for making information available in connection with the proceedings conducted by the authority. Pursuant to the CAP, the application of the above-mentioned procedure is required when issuing certain administrative decisions, namely such as the integrated permit, decisions issued on the basis of ~~under~~ the Act of 22 June 2001 on ~~genetically modified organisms and genetically modified micro-organisms~~ Microorganisms and Genetically Modified Organisms (Journal of Laws of 2015 ~~2020~~, item ~~806322~~), hereinafter referred to as "the "GMO Act"" or with regard respect to the decision ~~decisions~~ on environmental conditions. ~~Provisions~~ The provisions that ~~are included in~~ the Amendment to the Aarhus Convention ~~concerning the genetically modified organisms, on Genetically Modified Organisms contains~~ are also reflected in the provisions of the GMO Act. At the same time, Article 14a of the GMO Act precisely ~~determines~~ defines the information ~~regarding GMO~~ on GMOs that ~~are subject to being published. shall be made available.~~ The public has the right and ~~a possibility~~ opportunity to become ~~familiar~~ acquainted with the ~~request~~ application and the documentation. This ~~takes place by way of~~ is done through the GMO registers that operate on the website of the Ministry of ~~the~~ Climate and Environment.

#### **16. 16 Identified difficulties in implementing Article 6.**

123. 125. As a result of control conducted by the Supreme Chamber of Control it has been stated that there are There are incidental cases ~~when administration where~~

administrative authorities do not properly inform the public ~~on conducting about~~ proceedings ~~that require requiring~~ public participation.

~~124. 126.~~ As regards the method of ~~notification of notifying~~ the public about conducted proceedings, objections are sometimes raised by the content and type of ~~transferred communicated~~ information, applied channels of communication ~~channels used, and the date of notification occasionally provoke objections. There are some cases of providing untrue information and confirming events inconsistent with the actual condition and the deadline for notification.~~ The authorities often do not ~~use apply~~ all the ~~notification methods of notification~~ required by ~~legal the~~ provisions of law, thus limiting the ~~target group circle of recipients~~ of the ~~announcement notice~~ and potential participants of the ~~proceeding proceedings~~.

~~127. Non-governmental organisations NGOs~~ indicate that, in their opinion, Article 6 of the Convention ~~is has~~ not been fully implemented into ~~the~~ Polish law in the Act of 18 July 2001 - on Water Law (Journal of Laws of ~~2015 2020~~, item ~~469 310~~, as amended~~-~~), hereinafter referred to as the "Water Law". They claim that aquatic legal water permits issued under this Act do not sufficiently ensure public participation in ~~decisions making, in a sufficient degree. In particular, this decision-making.~~ This particularly applies to non-governmental organisations.

~~128. Non-governmental organisations claim that the Polish law in an inaccurate manner specifies that the notification referred to in Article 6(2) of the Convention should be effective and timely.~~

~~125. 129.~~ According to NGOs, ~~deadlines set by the amended Act on access to information about the environment (30 days) on submitting comments by the public may prove to be too short. They also claim that the 14 days provided by the Act of 10 July 2008 on Extractive Waste (Journal of Laws of 2013, item 1136, as amended) limits the They point in particular to the lack of possibility of the public participation in decision-making even more to appeal against water permit approvals.~~

~~126. 130.~~ With As regard ~~to the~~ Article 6(5) of the Convention, ~~non-governmental organisations the NGOs~~ claim that ~~in the Polish law~~ there are no provisions in Polish law that ~~would obligate oblige~~ or encourage potential applicants to examine the scope of the public interest, or to provide information ~~on about~~ the planned project.

~~127. 131.~~ The NGOs indicate that the provision of Article 33(2) of the Act on ~~access to information Provision of Information~~ about the ~~environment includes Environment contains~~ a closed catalogue of documents, about which the administration authority notifies before issuing and changing amending of a decision. According to non-governmental organisations, this catalogue should be open.

~~132.~~ According to ~~non-governmental organisations NGOs~~, it is ~~a mistake wrong~~ that ~~in~~ Article 38 of the Act on ~~access to information Provision of Information~~ about the ~~environment Environment~~ does not include ~~the a~~ requirement for ~~an the~~ authority to ~~immediately~~ inform about ~~issuing a the issuance of the~~ decision immediately. In practice ~~for this reason,~~ they must have to use the access mode to information ~~on about~~ the environment. In addition, NGOs indicate point out that the authorities ~~often,~~ when ~~making an information on preparation informing the public about the commencement of the development~~ of a document ~~publicly available, they usually begin, often immediately start~~ public consultations ~~on~~ the draft document straightaway. In opinion of non-governmental organisations it also.



According to NGOs, this is a breach/violation of Article 39(1) of the Environmental Protection Act.

128. 133. The NGOs observed weaknesses in the application of the legal provisions relating to on Provision of Information about the Environment. However, it should be noted here that the development of a document does not fall under the category of public participation in decision-making. This remark seems to apply to strategic documents for the development of which public participation is provided for, in decisions-making, particular in the course/area of conducted research/strategic environmental impact assessments.

134. The fact/problem for NGOs is that the provisions/delegislation does not state as whespecify how they are admitted to the proceedings is a problem for the NGOs. For this reason, occasionally the NGOs are. Therefore, they are sometimes not aware of the fact that after the submission they can act as a party.

129. 135. According to non-governmental organisations, once they have sent their notification.

130. According to NGOs, their comments and requests, submitted during the administrative proceedings are/were rarely reflected in the adopted decisions. Furthermore/In addition, according to these organisations, the responsible authority frequently does not enclose/often fails to attach to the adopted document a substantiation/justification containing information on the/about public participation in the proceedings, and how and to what extent the submitted/all comments and requests submitted in connection with the/relation to public participation were/have been taken into consideration/account and incorporated. In the opinion of non-governmental organisations, oftentimes the/often an authority does not inform the public about the adoption of adopting a document and the possibilities/possibility to familiarise with its content, and justification, and summary.

136. The NGOs claimed, that in their opinion, presentation of variants other than preferred by the investor was aimed at fulfilment of formal requirements, provided for by legal provisions.

137. The NGOs believe that they were often not admitted to the proceedings for reasons not related to the legal procedure and having little justification.

131. 137 The non/Non-governmental organisations indicate that there are problems with the lack of information on conducted/about proceedings being conducted, especially at the level of regional and local administration. Information on/In their opinion, information about conducted proceedings frequently/often appears with a delay, or is provided at/in an indefinite place or commonly/generally inaccessible one/place (this applies both to the websites of the offices, including Public Information Bulletins/public information bulletins, as well as information boards). The notion/concept of "usual places customarily adopted" as those where such information should be provided creates/appear raises numerous problems for effective information and foras regard the efficient notification of procedure participants of the proceedings.

132. 17 In the opinion of NGOs, the provisions of the Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control) are incompatible with the Aarhus Convention. In their view, this makes the Polish regulations implementing Directive 2010/75/EU also

incompatible with this Convention. Currently, the case ACCC/C/2014/121 - European Union is pending before the Aarhus Convention Compliance Committee (ACCC). The case concerns public participation in decisions on amendments to integrated permits. According to NGOs, in order to ensure compliance with the Convention, the scope of public participation in issuing integrated permits should be extended to situations where a permit should be amended following an examination which takes place at least once every 5 years, or where there has been a change in the best available techniques which allows emissions to be significantly reduced without entailing excessive costs, or where this results from the need to adapt the operation of the installation to changes in environmental regulations.

133. NGOs consider it necessary to introduce screening for decisions on planned non-Annex I projects likely to have a significant effect on the environment. The requested screening would have the purpose of demonstrating whether public participation in decision-making would be required for planned projects. In particular, according to NGOs, this applies to permits for gas and dust emissions to the air issued under the EPL, water permits, and water law assessments referred to in Article 388 of the Water Law<sup>4</sup>, as well as decisions repealing bans on species protection of plants, animals and fungi issued under the Nature Conservation Act<sup>5</sup>.
134. NGOs raise the fact that in Poland the Act on Provision of Information about the Environment specifies precisely in Article 3(1)(11)(c) the elements of the notice addressed to the public. With a proper interpretation of this provision, the requirement of "appropriate" notification about the planned project is fulfilled. However, the Act on Provision of Information about the Environment does not prescribe that the notification must be "effective". According to NGOs, this sometimes results in the authorities taking a mechanical approach to posting notices to the public, without much thought as to whether the notices have a chance of being noted by interested persons. Unregulated in the Act on Provision of Information about the Environment is also the issue of "timely" notification of the public, i.e., the dates on which the announcements should be posted. In this regard, NGOs claim that they still encounter a situation in which the deadline for submitting comments and applications is counted from the day the notification is posted or from the following day (while it is not always known on which day the notification has been posted, especially when it has been posted on the notice board).
135. Pursuant to Article 6(3) of the Convention, procedures allowing for public participation must provide for a reasonable timeframe for particular stages of such participation (informing the public, preparation by the public to participate, submission of comments and proposals). Meanwhile, in Poland, only one period is specified - 30 days for submitting comments and proposals, which according to non-governmental organisations may sometimes turn out to be too short.
136. Social organisations point out that a comprehensive analysis of the legal system in which the procedure for implementing projects requiring public participation takes place does not in practice boil down only to the procedure for issuing a decision requiring public participation.
137. NGOs point to the lack of opportunities for public participation in proceedings to prolongate geological concessions. Especially, they draw attention to Article 72(2)(2)

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<sup>4</sup> Act of 20 July 2017 on Water Law (Journal of Laws of 2020, item 310).

<sup>5</sup> Act of 16 April 2004 on the Nature Conservation (Journal of Laws of 2020, item 55).

of the Act on Provision of Information about the Environment, at least as regards points (j), (k), (l), which exclude such proceedings from the obligation to carry out an environmental impact assessment.

**17. Further information concerning practical implementation of provisions of Article 6.**

~~138. Post-inspection conclusions of the Supreme Chamber of Control from 2010, addressed to local government units, indicate the need for utilisation of all the informational channels for publishing data on conducted proceedings and assuring proper time for preparation and active participation in the public proceedings.~~

**18. ~~18~~ Web addresses ~~relating~~related to the implementation of Article 6.**

~~138.~~

~~139. [www.gdos.gov.pl](http://www.gdos.gov.pl) — the [www.gdos.gov.pl](http://www.gdos.gov.pl) - General Directorate ~~offor~~ Environmental Protection,~~

~~[www.nik.gov.pl](http://www.nik.gov.pl) — the [www.nik.gov.pl](http://www.nik.gov.pl) - Supreme Audit Office.~~

**19. ~~19~~ Practical and/or other conditions enabling ~~social~~public participation in developing plans and programmes concerning environmental matters in accordance with Article 7.**

~~139. 140. The Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment states that ~~administration bodies~~ the administrative authorities competent ~~to develop~~ for preparing draft documents, in cases where legal regulations require ~~provision of~~ providing the possibility of ~~public~~ public participation ~~of society, provide, shall ensure~~ the possibility of ~~the society's~~ public participation accordingly ~~prior to acceptance of~~ before adopting these documents or ~~their change~~ amending them.~~

~~140. 141. The following ~~drafts~~ projects require a strategic ~~evaluation of influence on the environment, under which the participation of~~ environmental impact assessment:~~

~~1) a draft concept of the national spatial development, the society is carried out: study of conditions and directions of the municipality spatial development, the spatial development plan, and the development strategy, setting the framework for the subsequent implementation of projects likely to have a significant impact on the environment,~~

~~• the National Spatial Development Concept, study of conditions and directions for land planning in the municipal area, spatial development plans and regional development strategies,~~

~~• 2) policies, strategies, plans or programs and programmes in the field of industry, energy, transport, ~~telecommunication~~ telecommunications, water management, waste management, forestry, agriculture, ~~fishery~~ fisheries, tourism, and land~~

~~distribution use, developed or accepted~~adopted by ~~administration bodies defining frameworks~~administrative authorities, setting a framework for future~~the subsequent implementation of undertakings that may significantly influence projects likely to have a significant impact on the environment;~~<sub>1</sub>

- ~~3)~~3) ~~policies, strategies, plans or programs implementation of which may result and programmes other than those listed in points 1 and 2, whose implementation may have a significant influence impact on the Natura 2000 site unless areas if they are directly not causally related to the protection of Natura 2000 site areas or do not result from this that protection.~~

~~141. 142. Execution of A strategic evaluation of influence on the environment~~environmental impact assessment is also required also in the case of changes to the draft documents, referred to above and in the case of their amendment if these set forth the frameworks for future, in agreement with the competent authority, the authority preparing the project establishes that the implementation of undertakings that may significantly influence the environment or the provisions of the given document or its amendment may cause a significant impact on the environment. In specific cases it is possible not to carry out an assessment, and thus not to conduct a public participation procedure.

~~142. A strategic environmental impact assessment is also required for draft documents other than those mentioned above and for draft amendments to such documents, if, in agreement with the competent authority, the authority preparing the project establishes that the implementation of the provisions of these documents the document or its amendment may result in have a significant impact on the environment. When requesting an agreement, the authority preparing a project shall attach information on the environmental conditions. The authority preparing a project shall make a written statement on the need to conduct a strategic environmental impact assessment or not. The position shall require a justification, including information on environmental considerations.~~

~~143. A strategic environmental impact assessment shall not be required for draft documents referred to in point 139(1) and (2) and for draft amendments to such documents, as well as for projects referred to in point 141:~~

- ~~1) that are prepared exclusively for national defence or civil defence purposes,~~
- ~~2) that are financial or budgetary, except for a project the implementation of which may, in the case of development have a significant impact on a Natura 2000 site.~~

~~144. The authority preparing draft documents referred to in point 139(1) and (2) and draft amendments to such documents may, after agreement with the competent authority, refrain from carrying out a strategic environmental impact assessment if it determines that implementation of certain documents requiring strategic evaluation the provisions of influence on the environment, having agreed with appropriate administration bodies, withdraw from its execution if the organ considers such document or its amendment will not have a significant impact on the environment, including Natura 2000 sites. The authority preparing a draft amendment to the documents referred to in point 139(3) may also, after agreement with the competent authority, refrain from carrying out a strategic environmental impact assessment if it determines that implementation of the provisions of a given document will not cause significant influence on environment. However, even then termination of execution of strategic evaluation of influence on the environment may apply only minor changes in relation to already existing documents such amendment will not have a significant impact on Natura 2000 sites.~~

~~145.~~ 143. ~~In accordance with~~ Pursuant to the Act on ~~access to information~~ Provision of Information about the ~~environment~~ Environment, the authority ~~developing the~~ preparing a draft document requiring public participation ~~announces~~ shall, without ~~unnecessary~~ undue delay, ~~the~~ announce information on:

- ~~preparation of the intention to prepare a~~ draft document and ~~about~~ its scope; subject matter,
- ~~possibilities~~ the possibility of familiarizing/familiarising with the necessary documentation of the case and the place, where it is available; ~~for viewing,~~
- ~~possibilities~~ the possibility of submitting comments and ~~requests;~~ proposals,
- ~~method~~ the manner and place ~~to report remarks and applications, at the same time of submitting comments and proposals,~~ indicating at ~~the same time at~~ least 21-day deadline for their submission; ,
- the authority competent ~~for examination of the~~ to consider comments and proposals,
- the requests;
- ~~a proceeding~~ proceedings on the ~~cross-border~~ transboundary environmental effect/impact, if any,

• Special provisions, *inter alia*, the Act of 20 July 2017 on Water Law (Journal of Laws of 2017, item 310, as amended) set other, longer deadlines for comments on drafts of certain plans and programmes. In the ~~proceeding~~ case of flood risk management plans, drought mitigation plans or river basin management plans, the deadline for submitting comments is ~~held~~ 6 months.

~~146.~~ 144. Law making The principles of law-making in Poland require ~~provision of~~ ensuring public participation ~~induring~~ the legislative process ~~of legislation~~. In the case of draft acts and regulations, it is mandatory to conduct public consultations and ~~evaluation~~ an assessment of the effects of ~~the regulation, in accordance with~~ regulations, pursuant to the principles of the governmental legislative process regulated in Resolution No. 190 of the Council of Ministers of 29 October 2013 on the Rules of Procedure of the Council of Ministers (Polish Official Gazette of 2016, item 1006, as amended). Also relevant in this respect is the Act of 7 July 2005 on Lobbying Activity in the Law-Making Process (Journal of Laws of 2017, item 248), hereinafter referred to as the "Lobbying Act".

~~147.~~ 145. The law requires the participation of ~~non-governmental organizations in numerous~~ NGOs in many advisory bodies, ~~also these taking part~~ including those playing a role in the decision-making process related to the development of ~~environmentally relevant~~ plans and ~~programs connected with the environment~~ programmes, such as Polish the State Council for Nature Protection/Conservation and the Commission for GMO Committee. Representatives of ~~non-governmental organizations~~ NGOs are also invited to the bodies ~~making decisions~~ deciding on ~~spending the funds on~~ the allocation of financial resources for the development of ~~environmentally relevant~~ plans and ~~programs connected with the environment.~~ programmes.

~~148.~~ 146. The deadline for ~~submission of remarks to the~~ submitting comments on a draft document requiring public participation ~~shorter amounts to~~ is at least 21 days.

~~149.~~ 147. Procedure of The public participation procedure starts even before the development of a document requiring public participation, ~~since as it is stated in~~ pursuant to Article 39, ~~passage (1)~~ of the Act on Provision of Information ~~on~~ about the Environment, the ~~authority developing~~ body preparing the document ~~announces~~ shall,



without ~~unnecessary~~undue delay, ~~preparation~~announce to the public the commencement of the development of the draft document and its ~~scope~~subject.

~~150. 148.~~ The authority ~~developing the~~preparing a draft document requiring public participation ~~considers the remarks~~shall consider comments and ~~applications~~proposals and ~~also attaches~~shall attach to the adopted document a ~~reasoning~~justification containing information on the public participation ~~of society~~ in the ~~proceedings~~procedure and on how the ~~remarks~~comments and ~~applications~~proposals submitted ~~under their~~in connection with public participation ~~of the society~~ have been taken into account. ~~What is more and considered. In addition,~~ the authority must inform the ~~society~~public about ~~acceptation~~the adoption of the document and about ~~opportunity to read~~the possibility of reading its content ~~along with the reasoning, justification,~~ and summary.

~~20 Possibilities of social~~**20 Opportunities for public participation in development of developing environmental policies relating to environment in accordance with under Article 7.**

~~151. 149.~~ The obligation to ~~conduct~~carry out a strategic ~~evaluation of influence on the environment, under~~environmental impact assessment, in which ~~the~~public participation ~~of the society will be conducted~~is ensured, also applies to the development of policies.

**21. 21 Identified difficulties in implementation of implementing Article 7.**

~~150. Non-governmental organizations indicate that deadlines stipulated in the Act of 27 March 2003 on spatial planning and development (Journal of Laws of 2016 item 778, as amended, for submission of remarks are too short (14 and 21 days). However, it should be noted that these are the minimum deadlines and they may be longer.~~

~~151. In the case of spatial development plans non-governmental organizations stated that public consultations of these documents rarely bring any changes of their content postulated by these organizations.~~

~~152. 22~~ NGOs consider that for some plans and programmes "of environmental importance", a public participation procedure is not required in Poland. They point primarily to forest management plans drawn up under Chapter 4 of the Act of 28 September 1991 on Forests (Journal of Laws of 2020, item 1463), long-term hunting breeding plans and annual hunting plans drawn up under Chapter 3 of the Act of 13 October 1995 on Hunting Law (Journal of Laws of 2020, item 67), annual plans of inspection activities of the Inspection of Environmental Protection, referred to in Article 5(4)(2) and Article 5a of the IEP, annual plans of inspections concerning observance of regulations on prevention of industrial incidents and accidents.



## **22. Further information concerning practical implementation of provisions of Article 7-:**

- ~~153. 152. Participation of~~ Public participation in the ~~society in development~~ preparation of plans, ~~programs~~ programmes and policies is widely ~~applied~~ used in public administration, which results from the obligation ~~to conduct social consultations of public consultation.~~
- ~~154. 153. The~~ Minister of ~~the~~ Climate and Environment ensures public participation ~~of in~~ the ~~society in~~ development of plans, ~~programs~~ programmes, and policies for which public participation ~~of the society~~ is required. ~~What is more~~ In addition, the Minister of ~~the~~ Climate and Environment, to the extent allowed by national and supranational regulations ~~and organizational possibilities, provides, ensures public participation of the society~~ in making strategic decisions with regard to international agreements concluded by the Republic of Poland.
- ~~155. 154. Apart from~~ In addition to the ~~possibility to report remarks in writing~~ opportunity to submit written and ~~electronically, consultations are also conducted with~~ electronic comments, interested ~~non-governmental organizations~~ NGOs and ~~organizations of entrepreneurs. Submitted remarks~~ business organisations are also consulted. The comments submitted are considered. Information ~~about on~~ the results of ~~consultation~~ the consultation is available in the project documentation ~~of the projects~~ and on the ~~web site of the office~~ office's website. It is also sent to interested partners.
- ~~156. 155. The society is provided with~~ Public participation in is guaranteed, at various levels, in the development of plans, ~~programs, policy~~ programmes, policies and ~~strategy concerning ecological~~ strategies for environmental education ~~at different levels, management of, Natura 2000 management and protection~~ the conservation of endangered species.
- ~~157. 156. The~~ General Directorate for Environmental Protection has introduced information an Information and ~~communication platform~~ Communication Platform (PIK) to support the development of ~~plans of protection~~ conservation tasks ~~of plans for~~ Natura 2000 areas, including the implementation and service handling of ~~social~~ public consultations.
- ~~158. 157. Participation of the society in~~ Public participation in the development of various ~~kind~~ types of strategic documents is also ~~provided, among others~~ ensured, inter alia, by all central ~~administration bodies~~ administrative authorities developing documents of strategic ~~documents~~ nature for which a strategic ~~evaluation of the~~ environmental impact ~~on environment~~ assessment is ~~concluded~~ carried out.

## **23. ~~23~~ Web addresses related to the implementation of the Article 7-:**

~~158.~~

~~159. www.ekoportal.gov.pl — the~~

www.ekoportal.gov.pl - Ministry of ~~the~~ Climate and Environment,

www.mos.gov.pl — ~~the~~ https://www.gov.pl/web/klimat - Ministry of ~~the~~ Climate and Environment,

~~www.pzo.gdos.gov.pl~~ ~~www.gdos.gov.pl~~ - General Directorate for Environmental Protection (GDEP).

~~24~~ ~~http://projekty.gdos.gov.pl/plany-zadan-ochronnych-platforma-informacyjnokomunikacyjna~~ - Information and Communication Platform (PIK) operated by GDEP.

**24. Efforts taken in order to promote effective social participation in the decision-making process by public authorities and in the establishment of commonly binding standards that can have a significant influence on environment in accordance with Article 8.**

~~160. 159.~~ Both the general provisions concerning establishment of legal acts and the Act on Provision of Information ~~on~~ about the Environment ~~state the~~ provide for public participation ~~of the society in development of~~ establishing executive regulations and other ~~commonly~~ generally binding standards. ~~Public opinion~~ norms. The public, including non-governmental ~~organizations~~ organisations, must be informed about planned solutions ~~about the current~~ at what stage of the project, ~~about is, what are~~ its subsequent versions and ~~remarks thereto~~. ~~Participation of the society~~ what comments have been submitted to it. Public participation in the process of ~~development of~~ preparing normative acts is guaranteed ~~in numerous~~ by a number of legal acts, as well as voluntarily adopted practices (good legislative practices) concerning the implementation of the general principle ~~to conduct of~~ public consultations by central administration ~~bodies~~ authorities, self-government administration and the Sejm.

~~161. 160.~~ Principles The principles of ~~social~~ public participation in the process of ~~development of~~ drafting government documents, in particular draft normative acts ~~were~~ codified in the Act of 7 July 2005 on lobbying activity in the lawmaking process (Journal of Laws of 2005, item 1414, are indicated in the Lobbying Act, as amended) and well as in the regulations ~~concerning organization~~ on the organisation of government works. Offices are obliged, among others, to publish ~~programs~~ programmes of legislative ~~work~~ work or draft legal acts ~~along together~~ with reasoning justifications and an assessment of their effects ~~of the regulation~~. ~~Administration offices also prepare their own, detailed principles in this respect.~~

~~162. 161.~~ Acts governing ~~principles of~~ the functioning of local government ~~of~~ at all levels ~~stipulate~~ provide for consultations with ~~the inhabitants~~ residents on issues important ~~for~~ a given to the area and ~~also~~ define the procedure and principles ~~of~~ for conducting consultations.

~~163. 162.~~ Representatives of ~~non-governmental organizations~~ NGOs have the right to participate in the meetings of ~~the commission and~~ parliamentary ~~sub-committee~~. ~~Non-governmental organizations, which are committees and subcommittees. NGOs that are known to be~~ interested in a ~~given matter~~ particular topic are invited to delegate their representatives. Other organizations may apply for participation of their representatives in the meeting. In practice, ~~non-governmental organizations~~ NGOs actively participate in the meetings of ~~most~~ the majority of parliamentary ~~sub-~~

~~committees~~subcommittees preparing draft ~~legal acts,~~legislation by asking questions, commenting ~~analysis~~on analyses, and presenting proposals ~~effor~~for new solutions.

**25. 25 Identification of Identified difficulties in implementation of implementing Article 8.**

~~163. Non-governmental organizations indicate that the terms for public consultations of normative acts provided in provisions of laws may prove to be too short.~~

~~164. In the opinion of non-governmental organizations, public authorities rarely take into account remarks reported during the social consultations. In their opinion, such actions can discourage society to this legal institution.~~

~~165. The organizations believe that public consultations often do not fulfil their role, as the legislator assumes in advance certain option of solutions and does not want to accept corrections proposed by these organizations.~~

~~166. Non-governmental organizations draw attention to the fact that there were cases where information on concluded public consultations was not sufficient. They also believe that in some cases such consultations were intentionally not concluded. Deputy draft laws, which are not subject to consultations are the problem for non-governmental organizations, while terms of works in commissions often make it difficult for these organisations to participate in the legislative process.~~

~~164. 26~~No difficulties in implementing this provision of the Convention have been identified or reported.

**26. Further information concerning practical implementation of provisions of article 8.**

~~165. 167.~~The Ministry of theClimate and Environment applies three main methods of consultation of draft legal acts:

- a) simultaneously with ~~interministerial~~inter-ministerial arrangements, draft acts are sent ~~out~~for consultation to interested entities (~~administration bodies~~administrative authorities other than competent ministers, trade unions, ~~business alliance and non-governmental organizations~~employers' organisations, entrepreneurs' organisations and other industry organisations, and NGOs). Drafts are also consulted with representatives of ~~local self~~self-governments, ~~in particular and with local administration party~~the self-governmental side of the Joint Commission of ~~the Government and Local Government~~Authorities,
- b) draft ~~legal~~legislative acts ~~alongtogether~~with ~~reasoning and evaluation of influences of the regulation~~their justification and impact assessment are provided ~~made available~~on the website of the Ministry of the Environment ~~or on a website of the Governmental~~Government Legislative Process ([www.rpl.gov.pl](http://www.rpl.gov.pl)) with the information ~~abouton~~on the deadline ~~within which remarks shall be submitted~~for submitting comments and ~~the~~the address of ~~athe~~a person ~~conducting~~in charge of the

case. After ~~concerning~~considering the ~~remarks~~comments, the Ministry ~~of the Environment develops~~prepares a summary of ~~remarks along~~the comments with ~~reasoning an explanation~~of these~~those~~ cases, in which ~~remarks~~the comments have not been ~~approved~~accepted,

- c) if necessary, other forms of ~~consultations are applied~~consultation, such as debates or seminars, ~~for to~~to which ~~the interested parties~~stakeholders are invited or ~~to which~~admission to them is free, ~~are also used~~are also used.

~~166. 168.~~ Representatives of some ~~non-governmental organizations~~NGOs constantly participate in meetings related to the legislative process ~~in at~~in the Sejm. ~~Upon At~~Upon their request, a number of solutions have been ~~admitted to~~adopted into the ~~law~~legal system.

## **27. ~~27~~ Web addresses related to the implementation of the Article 8.**

~~169.~~

~~167.~~ <http://orka.sejm.gov.pl/projustall6.htm> -

<http://orka.sejm.gov.pl/projustall6.htm> - the Sejm's website ~~of the Sejm~~ containing draft legal acts;

<http://www.senat.gov.pl/k7/pos/pracet.htm> - website of

<http://www.senat.gov.pl/k7/pos/pracet.htm> - the Senate, website containing draft legal acts;

<http://legislacja.rcl.gov.pl/> - the Governmental Legislation Process

~~28.~~ <http://legislacja.rcl.gov.pl/> - Government Legislation Process,

<https://www.prezydent.pl/> - the President of the Republic of Poland.

## **28. Legislation, regulations, and other measures implementing the principles of access to justice included in article 9.**

~~168. 170.~~ RightCurrently, a draft amendment to the Act on Provision of Information about the Environment is being developed to incorporate the requirements of Article 11(1) and (3) of the EIA Directive and thus, Article 9 of the Aarhus Convention.

~~169.~~ The developed draft amendment to the Act on Provision of Information about the Environment is included in the list of the Government's legislative works (UD050).

~~170.~~ The draft provides for provisions that will enable ecological organisations to appeal against decisions on investments that have a significant impact on the environment within the scope of the environmental impact assessment, and to file complaints with the court.

~~171.~~ The draft also contains a legal basis for administrative courts to suspend the execution of environmental decisions, which will make it possible to suspend such decisions.

~~172.~~ According to the draft act, exemptions to measures suspending the execution of investment decisions, which are provided for in some other acts, will be removed. The changes introduced are described in more detail in the explanatory memorandum to the amendment to the Act.

173. The right of access to justice in ~~cases concerning environment~~ environmental matters is guaranteed in administrative proceedings, ~~court-administrative~~ as well as in judicial and civil proceedings.

174. 171. The CAP guarantees the right to appeal ~~the~~ against an administrative decision to ~~the body of a~~ higher instance-level authority. This right is guaranteed to the parties ~~of~~ to the proceedings, ~~namely each that is, any~~ any person, whose legal obligations ~~and legal~~ or interests are ~~influenced by the proceeding. The appeal is exempt from fees affected by the proceedings.~~ The appeal is free of charge. With regard to environmental decisions, in connection with the amendment of the Act on Provision of Information about the Environment, from 1 January 2018, the parties to the proceedings on the decision on environmental conditions are no longer determined according to the general rules arising from Article 28 of the CAP. Article 33 of the Act on Provision of Information about the Environment indicates that the parties are the applicant and the entity that has a property right to the real estate located in the area that will be affected by the project. This area shall be understood as:

- 1) 172. the intended area of land on which the project will be carried out and the area within 100 m of the boundaries of that area,
- 2) the plots on which environmental quality standards would be exceeded as a result of the implementation or operation of the project,
- 3) the plots located within the range of the significant impact of the project, which may impose restrictions on the development of the property in accordance with its current use.

175. Ecological organisations have the right to act as a party ~~parties~~ in the proceedings requiring public participation of the public. Decision of the body of. A decision by a higher instance may be challenged to a voivodeship authority and a decision issued on the basis of a request for reconsideration of the case may be appealed against to the Voivodship Administrative Court. Due to the amendment of the CAP, which came into force on 1 June 2017, against a decision issued by an authority for which there is no appeal to a higher authority, but instead a request for reconsideration of the case (to the same authority that issued the decision), a party may file a complaint directly to the administrative court. Decision or a sentence of voivodeship administrative court can be challenged. It does not have to use a request for reconsideration before doing so. A decision or verdict of a Voivodship Administrative Court (VAC) may be appealed to the Supreme Administrative Court that can (SAC), which may change or repeal/overrule the settlement decision of voivodeship administrative court the VAC. The right to participate in the proceedings is guaranteed to everyone who has a legal interest and to non-governmental ~~organizations, which~~ organisations that participated in the administrative procedure. As a rule, each of the above-mentioned decisions contains an instruction about the available legal remedies and rights of the party.

176. 173. In the case of If a complaint ~~submitted in is made to an~~ submitted to an administrative court, a fee amounting ~~to of~~ to 100 PLN (~~ca approx.~~ approx. € 25) ~~shall be paid. In cases concerning protection of environment is payable. In environmental and nature conservation cases,~~ shall be paid. In environmental and nature conservation cases, the court fee ~~amounts to is~~ amounts to PLN 200 (~~approx.~~ approx. € 50).

177. PLN (ca. € 50).

178. 174. Judgments of Voivodship Administrative courts' decisions Courts, which have not been ~~challenged~~ appealed, are binding on the case.

179. An appeal to a higher authority may be made by the person who requested the action. If the authority considers the complaint to be justified, it shall set another deadline for consideration of the case. If the deadline is not met, the complaint may be submitted to the Voivodship Administrative Court through the authority.

180. All parties and persons with the rights of parties have an equal right to appeal. The same principle applies to proceedings in civil and criminal matters.

181. In civil matters, non-governmental organisations within the scope of their statutory tasks may, with the consent of the individual expressed in writing, bring actions on his/her behalf in environmental matters and join him/her in pending proceedings. In addition, NGOs that do not participate in the case may present to the court a position relevant to the case expressed as a resolution or a statement of their duly authorised bodies.

### **Article 9, paragraph 1.**

181. Any person whose access to information has been denied has the right to appeal to a higher authority and later to challenge the final decision in court (including the situation described in point 172, where a first instance decision may be challenged directly before the administrative court).

In a situation where a given case-

~~175. Appeal to the body of higher instance may be submitted by a person who demanded to take up actions. If the body considers the complaint as justified, it shall determine another date to consider the case. If the deadline is not met, complaint may be submitted in the voivodeship administrative court.~~

~~176. All parties and persons with rights of the parties have equal right to the appeal procedure. The same principle refers to proceedings in civil and criminal cases.~~

### **Article 9, paragraph 1**

~~177. Any person whose request for information has been refused has the right to appeal to the authority of second instance and then to the court.~~

~~182. 178. When a given body will not~~authority fails to respond to the applicationa request for access to environmental information ~~on environment, or will provide~~provides incomplete information, the applicant ~~is entitled~~has the right to ~~submit~~file a complaint to the administrative court ~~on idleness~~for inaction of the administration ~~body~~authority.

~~183. 179. Regulations of law of the administrative court procedure are applied to~~To complaints ~~considered~~examined in the ~~proceeding on access to~~proceedings for sharing information ~~on about the~~ environment and its protection. ~~the provisions of the LPAC shall apply.~~

~~184. 180. The Act on Provision of Information on about the Environment provides access to the~~an appeal procedure similar to the previously described procedures established in the ~~code of administrative proceedings~~CAP and ~~law of the administrative courts~~ proceedings, however, with LPAC. However, the difference is that the Act on Provision of Information ~~on about the Environment states the term, pursuant to Article 20,~~ provides for a deadline of 15 days ~~within which a complaint and answer to for the~~



~~competent authority to forward~~ the complaint ~~shall be submitted by a competent body~~ and the response to it to the administrative court. The administrative court ~~considers~~ has 30 days to examine the complaint ~~within 30 days~~ counted from the ~~dated~~ day of receipt of receiving the ~~files along~~ file together with the ~~answer~~ response to the complaint.

## Article 9, paragraph 2.

~~185. 181.~~ Decisions to which provisions of article 6 of the Convention refer are administrative decisions that can be appealed against, and which can be challenged to the court. ~~Parties~~ As a rule, the parties to the proceedings ~~always~~ have the right to appeal ~~to~~ against the decision. Ecological organisations also have ~~the~~ a similar right in cases requiring public participation. Every person has the right to participate in the proceedings related to ~~the~~ decisions mentioned ~~referred to~~ in Article 6 of the Convention, ~~however~~ but the right of access to the appeal procedure is available only to those ~~who have~~ with a legal interest ~~and for the environmental organizations, as well as to ecological organisations.~~

~~186. 182.~~ Possibility ~~Access~~ to ~~participate~~ participation in the procedure, and, ~~as a consequence, consequently~~ access to justice for ~~environmental organizations, is disabled, ecological organisations, is excluded~~ if the competent ~~body~~ authority decides not to ~~conduct~~ carry out a full environmental impact assessment procedure ~~of evaluation of impact on the environment.~~ The decision may be appealed against.

## Article 9, paragraph 3.

~~187. 183.~~ Appeals ~~to~~ acts against ~~actions~~ or omissions of ~~administration bodies~~ administrative authorities may be ~~adopted~~ taken in administrative or ~~administrative~~ court ~~administrative~~ proceedings. The list of ~~the~~ parties may ~~be different depending~~ vary depends on the case (for example, in the case of a permit to emit wastewater, the parties ~~in the case of permission for emission of effluents~~ are those persons ~~who are authorised~~ hold permits to use water; ~~in,~~ in the case of an environmental impact assessment, they will be the ~~case~~ neighbours of ~~evaluation of influence on environment~~ the parties to the proceeding are those neighbouring with the area ~~of on which~~ the investment, for which such evaluation ~~of influence on environment is conducted~~ being carried out is located).

~~188. 184.~~ Cases concerning ~~actions~~ acts or omissions of natural persons in civil cases are subject to ~~consideration by the~~ cognition of common ~~court.~~ Protection of individual (civil) courts. The protection of the subjective rights of citizens ~~resulting from material~~ under substantive law ~~is carried out~~ takes place through ~~the~~ establishment of mechanisms ~~enabling to bring the proceedings in the court, and also indication of legitimacy of reported claim~~ that make it possible to initiate a case before a court, as well as to indicate, in the course of the proceeding ~~initiated~~ proceedings, the legitimacy of the demand made. To initiate ~~court~~ legal proceedings in civil cases, a sufficient

condition is the presentation of a claim and indication of the actual condition-facts to the judgement of the court is sufficient.—court.

185. Non-governmental organizations can file a Social organisations whose statutory objective is the protection of the environment (ecological organisations) may bring a civil action demanding the restoration of the initial conditionoriginal state of affairs in accordance with the law and the institution ofto take preventive measures in the public's best interest (if the detriment, in particular by installing installations or hazard applies to the environment as common good).

186. Civil proceeding is carried out in two instances. In some cases there is a possibility equipment to submit a cassation complaint to the Supreme Court. In civil cases concerning the environment considered by common courts the court fee amounts to 100 PLN (ca. € 25) in the first and the second instance. There is no obligation to be represented by a lawyer or a professional attorney. Such obligation applies to cases pending before the Supreme Court.

187. The person submitting a civil lawsuit may request the Court to oblige the person, with operations of which the pursued claim is connected, to provide information necessary to determine the scope of the liability, for instance information on emissions.

188. In accordance with the law, list of entities with the right to access to justice is identical with the one stated in Article 9, passage 2 and 3 of the Convention.

189. 189. The environmental protection authority is obliged to accept every report on occurrence of a direct prevent the threat of environmental damage or damage in the environment.or infringement. If this is impossible or excessively difficult, they may demand the cessation of the activity causing the threat of environmental damage or infringement (if the damage in the environmentor danger concerns the environment as a common good, public administration authority or environmental organisation can submit the report. Refusal to initiate the proceedings by the authority on the basis of the report can be issued through a proceeding, to which a complaint can be submitted. ).

190. Civil proceedings are two-instance. In some cases, it is possible to file a cassation complaint with the Supreme Court. In environmental civil cases heard by ordinary courts, the court fee is PLN 100 (approximately € 22) in the first and second instance. There is no obligation to be represented by a professional lawyer. Such an obligation applies to cases pending before the Supreme Court.

191. A person bringing a civil action may request that the court oblige the person or entity whose activities are the subject of the claim to provide information necessary to establish the extent of that liability, such as information on emissions. Ecological organisations may apply to the court to stop advertising or other promotion of a good or service if the advertising or other promotion contravenes Article 80 of the EPL.

192. According to the law, the list of subjects with a right of access to justice is identical to that listed in Article 9(2) and (3) of the Convention.

193. Pursuant to Article 24(1) of the Act of 13 April 2007 on the Prevention of Environmental Damage and its Remediation (Journal of Laws 2019, item 1862, as amended), the environmental protection authority is obliged to accept from anyone a notification of the occurrence of an imminent threat of environmental damage or damage to the environment. On the other hand, paragraph 6 of the same article provides that an

ecological organisation making a notification on the basis of which proceedings have been initiated (because the notification pursuant to paragraph 5 has been deemed justified) is entitled to participate in such proceedings on the rights of a party. The environmental authority may refuse to initiate proceedings in connection with the notification received by way of a decision, which may be appealed against, as provided for in Article 24 (7) of the Act on the Prevention of Environmental Damage and its Remediation.

#### **Article 9, paragraph 4-**

194. 190. In the administrative procedure, the submission of an appeal to the body of a higher instance automatically suspends the execution of the decision being the object of the appeal. appealed. In the court-administrative proceeding court proceedings, the person submitting lodging the complaint may simultaneously submit the applications same time apply to suspend the execution of the decision appealed decision against.

195. 191. In the Act of 7 July 1994 -on Building Law (Journal of Laws of 20162020, item 2901333, as amended), hereinafter referred to as: the "-Building Law", there is a requirement to establish a deposit to secure the claims of the an investor due to suspension of the execution of a decision is stipulated, which may constitute a barrier for submission of the to lodging an appeal and suspension of execution of a the decision. In accordance with Pursuant to Article 35a of the Building Law "if, in the event of a complaint is made to the an administrative court against the a decision on the construction a building permit, the suspension of the execution of appealed decision on building permit, due to the request of the complainant, the court may make the suspension of such of such decision's execution, as requested by the applicant, conditional upon based on the applicant's submitting a security deposit for the investor's made by the complainant in order to secure the claims relating to of the investor for such suspension of the decision's execution. If the complaint is recognised as legitimate in whole or in part, the security deposit shall be returned. If the complaint is dismissed, the security deposit shall be allocated for satisfaction of the investor's used to satisfy the claims of the investor. The relevant provisions of the Code of civil procedure CCP on securing the claims shall apply to cases related to accordingly in the case of security deposit deposits.

196. 192. In the civil procedure, the courts can provide protection, which consists may grant security in application of remedial measures, such manner as withholding a they consider appropriate in the circumstances, without excluding the means provided for securing money claims. In particular, the court may suspend specific action for the term of actions and standardise the rights and obligations of the parties or participants in the proceedings: for the duration of such proceedings.

197. 193. In the court-administrative proceeding court proceedings, the principle where that the losing party that lost incurs bears the costs of the successful party that won only applies only when if the winners successful party is the party questioning person challenging the decision. If the person loses the case, no he/she shall not bear the costs are incurred.

~~198. 194.~~ Decisions of ~~the~~ authorities and court ~~statements are~~ rulings shall be delivered in writing (~~the Code of Administrative Proceedings, Law of the Administrative Courts Procedure, the Code of Civil Proceedings~~). Court ~~statements and administrative see CAP, LPAC and CCP~~). However, such decisions are provided and rulings may also be delivered by means of electronic communication. Court rulings and administrative decisions shall be made available upon request, excluding personal data (~~respective~~ relevant parts of the documents are ~~anonymous~~). ~~When anonymised~~). In case the number of parties ~~to~~ in the ~~proceeding~~ proceedings exceeds ~~2010~~, the parties may be ~~informed about~~ notified of the authority's decisions of the by means of a notice, in Public Information Bulletin website of the respective public authority through an or in another way of public announcement or in other customarily adopted way in a given place; in these locality. In such cases notice the notification or delivery is considered as completed shall be deemed to have been made after the expiry of fourteen days from the date of public announcement.

## Article 9, paragraph 5.

~~199. 195.~~ Information ~~about on~~ the appeal procedure is ~~submitted~~ provided to ~~the~~ interested parties, for example during trainings organized for ~~non-governmental organizations, part NGOs, some~~ of which ~~is are~~ financed by the National Fund for Environmental Protection and Water Management and ~~voivodeship funds for environmental protection and water management. What is more/ or the Voivodship Funds for Environmental Protection and Water Management. In addition,~~ persons who have ~~not received been refused~~ access to information on the environment and its protection, have ~~the~~ access to information (~~at www.ekoportal.gov.pl~~) via www.ekoportal.gov.pl) on the principles of ~~access to~~ sharing information ~~on about~~ the environment and its protection.

## ~~29. 29~~ Identification of identified difficulties in implementation of implementing Article 9

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~~196. Non-governmental organizations NGOs~~ point out that in Polish ~~regulations law there is a lack temporary of interim~~ measures in proceedings requiring public participation. ~~Because of that This causes,~~ in their opinion, that access to justice is ~~in practice~~ often illusory. ~~It results from in practice. This is due to~~ the fact that if a non-governmental ~~organization organisation~~ is not ~~admitted allowed~~ to participate in ~~the~~ proceedings, even if it appeals ~~to against~~ such ~~negative decision a refusal,~~ the ~~concerned proceeding proceedings in question~~ will continue and ~~can be finished may end~~ with a final decision. Even if ~~a non-governmental organization receives an NGO will obtain a favourable sentence of administrative court on the participation in the proceeding and then challenges the decision in the primary proceeding and judgment from the administrative court finds in its favour, then the court will be able to issue sentence in~~

which decision with the violation of the law will be stated. In the opinion of non-governmental organizations this situation makes the access to justice ineffective.

197. Non-governmental organizations pay attention to limited number of parties in proceedings for issuing the so-called integrated permits. Non-governmental organizations acknowledge such permits as decisions having significant influence on the environment and claim that they should be approved to participate in such proceedings.

200. 198. Non-governmental organizations claim that the Polish law limits the possibility to participate in the proceedings, and then will challenge the plans and programs concerning environmental protection. It mainly originates from the need of the complainant to demonstrate that such plans infringe their legal interest. Environmental organizations usually are not willing to demonstrate that. What is more, the provisions of the Building Law stipulate that in the case of a complaint submitted to a decision in the original proceedings and the administrative court will agree with it, the administrative court against the decision on the construction permit, the suspension of such decision's execution, as requested by the complainant, is conditional upon the applicant's submitting a security deposit for the investor's claims relating to the suspension of the decision's execution. This constitutes, in the opinion of non-governmental organizations, an important restriction in access to justice. will be able to issue only a judgment stating that the decision has been issued in violation of the law. At the time of the report's preparation, work was underway to amend the Act on Provision of Information about the Environment to introduce amendments to the use of interim measures.

201. 198'. According to non-governmental organizations, NGOs, access to justice is sometimes obstructed by the costs of court-administrative ~~proceeding are an obstacle in access to the system of justice. proceedings.~~ In their opinion, the costs of appeal proceedings concerning cases related to the Building Law building law or spatial planning development (PLN 500) are too high. Another limitation for them is They are also the attorney and counsellor constrained by the obligation to have a lawyer when submitting the filing a cassation appeal complaint to the Supreme Administrative Court. They claim that numerous many non-governmental organizations cannot organisations are not able to afford the remuneration fees for the counsellor an advocate or an attorney a legal advisor, and only a few have relevant appropriate specialists. in their staff. At the same time, the courts rarely grant them financial assistance to them, though there is such a, although this legal possibility exists.

202. 30. Moreover, the NGOs argue that neither the provisions of the Act on Provision of Information about the Environment nor the provisions of the Regulation of the Minister of the Environment on fees, issued on the basis of Article 28 of the Act on Provision of Information about the Environment, regulate the mechanism of appealing against improperly calculated fee for providing access to environmental information. Pursuant to Article 9(1) of the Convention and Article 6 of Directive 2003/4, an appeal procedure must be available whenever an application is improperly considered or otherwise treated in a manner inconsistent with the regulations (and thus also by improperly charging a fee).



203. NGOs indicate that in their opinion the number of parties in some administrative proceedings is too limited. This applies in particular to the so-called emission permits, including integrated permits. Article 185(1) of the EPL states that parties are not e.g., neighbours of the installation in a situation where the so-called limited use area has not been established. According to non-governmental organisations, such a provision does not meet the requirement of Article 9(2) of the Convention.
204. NGOs claim that, in their opinion, the circle of parties defined in Article 74(3a) of the Act on Provision of Information about the Environment is too limited. This article concerns proceedings aimed at issuing an environmental decision. According to its provisions, a party to the proceedings is the entity who has the property right to the real estate located in the area which will be affected by the project, and by this area are understood the plots located within the range of such a significant impact of the project, that may introduce limitations to the current development of the real estate. According to NGOs, this definition of the circle of parties is narrower than that provided for in the Aarhus Convention and in Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment.
205. Another problem reported by NGOs with regard to the implementation of Article 9(2) of the Convention is the lack of access to court in the case of follow-up decisions for projects for which an environmental impact assessment has been carried out. This mainly concerns the following follow-up decisions:
- building permit (for projects for which an environmental decision had been previously issued). The circle of parties in such proceedings under Article 28(2) of the Building Law is extremely limited, while the participation of ecological organisations is excluded at all, as Article 28(3) of the Building Law disclaims the possibility of applying Article 31 of the CAP,
  - water permits issued for projects for which an environmental decision had been previously issued and an environmental impact assessment had been carried out. The participation of ecological organisations is excluded under Article 402 of the Water Law, which disclaims the application of Article 31 of the CAP,
  - geological and mining licence (issued for projects for which an environmental decision had been previously issued), during the issuance of which the participation of environmental organisations is excluded (Article 33 of the Geological and Mining Law disclaims the application of Article 31 of the CAP).
206. In the opinion of NGOs, the above-mentioned regulations violate Article 9(2) of the Convention, as the entitled members of the public concerned do not have the right to appeal against the final decision approving the execution of a project in relation to which a public participation procedure was required. It should be assumed that the non-governmental organisations believe that the above-mentioned decisions may set out environmental conditions for carrying out the investment which are inconsistent with the environmental decision preceding it.
207. The social organisations also point out that, in their view, social control of the Air Protection Programmes is impossible. Despite the importance of these plans for individual areas as well as for investments and health of people in the whole country, the necessity to prove the legal interest results in the fact that the only entities that can complain about the Air Protection Programmes, according to the jurisprudence of the administrative courts, are the entrepreneurs who produce pollution. As a result, the



courts only accept complaints concerning the "restrictiveness" of the plans from the polluter's point of view - there are no legal means, in the NGOs' opinion, to complain about air plans that do not protect citizens' health sufficiently and do not comply with environmental goals and obligations binding on Poland.

208. On the basis of Article 9(2) in conjunction with Article 9(4) of the Convention, NGOs point to problems with the implementation of the Convention's provisions and the lack of possibility to appeal against the decision on the absence of the need to carry out an environmental impact assessment.

209. NGOs argue that there should be an appeal route in case the competent authority decides not to carry out an environmental impact assessment.

210. According to NGOs, the problem in access to justice in the case of the development of environmentally relevant plans and programmes is the need to demonstrate a violation of a legal interest. NGOs claim that they are unable to demonstrate this, which is also due to the narrow interpretation of legal interest applied by administrative courts. They also argue that the understanding of the concept of violation of a legal interest is too narrow in relation to non-governmental organisations, as it is reduced to the protection of ownership or other property right to real estate that will be affected by the implementation of an environmental plan or programme.

211. The NGOs point out that with regard to the implementation of Article 9(3) of the Convention, it is important to note the limited access to review procedures for certain individual decisions (other than those covered by Article 9(2) of the Convention). Among the decisions on which access to justice has been narrowed, NGOs include water permits, concerning projects other than those for which an environmental impact assessment has been carried out. Article 402 of the Water Law excludes the possibility of participation of social organisations, by eliminating the application of Article 31 of the CAP. Thus, no organisation, including ecological organisations, has the right to join the pending proceedings on the water permit as a party, including appeal against already issued permit.

212. NGOs claim that they have problems in obtaining information on the initiation and conduct of certain types of proceedings. For some environmental decisions, authorities are not obliged to make public information on the initiation of proceedings. Such decisions include, in particular, water-law assessments as referred to in the Water Law, permits for the removal of trees issued under the Nature Conservation Act or decisions revoking prohibitions on the protection of plant, animal and fungi species issued under the Nature Conservation Act. NGOs postulate, in this respect, the introduction of a legal obligation to notify the public of the commencement of proceedings on decisions concerning the environment, even if the issuance of this decision does not require public participation.

### **30. Further information concerning practical implementation of provisions of article 9.**

213. ~~199.~~ The Ministry of Justice keeps statistics ~~of~~ civil and ~~economiecommercial~~ cases, the object of which are involving claims concerning the "protection of the natural human environment". ~~In 2014 a total of 913 of such cases were submitted to the~~ In 2017, district ~~court~~ courts received a total of 698 such cases, and ~~only 536~~ 253 were dealt

~~withsettled~~. District courts (as courts of the first instance in civil and economiccommercial departments) ~~in 2014 received 827 cases and only 629 were settled. The same year, the Courts of Appeals received 32124 cases of this category in 2017, and only 19361 were settled. In 2015,~~ while district courts ~~received 91 cases and 174 were settled. District courts (as courts of first~~ the second instance in civil and economiccommercial departments) ~~in 2015 received 116 cases in 2017, and 113 were settled. Courts of appeal, during the same year, received 193311 cases of this category and 417 were settled. In 2018, district courts received 1974 cases, and 322 were settled. District courts (as courts of the first instance in civil and commercial departments) received 115 cases concerning environmental protection in 2018, and only 528241 were settled. In 2015 Courts of Appeals received 114 cases District courts (as courts of the second instance in civil and commercial departments) received 149 cases concerning environmental protection in 2018, and 160 were settled. Courts of appeal received 307 cases in 2018 of this category and only 24185 were settled.~~

~~200. A small number of cases before the civil courts apply to environmental damages as a common good. In the opinion of non-governmental organisations collected during the consultation of the content of the report, it is connected with difficulty of demonstration of legal interest of the complainant to submit cases in defence of common good.~~

~~214. 201.~~ As examples of good practices may be given rulings of the Supreme Administrative Court (SAC) issued during the period under consideration and concerning: 1) assessing the correct transposition of the Aarhus Convention and the relevant provisions of the referred Directive No 2011/92/EU in the context of interpreting the provisions correctly in specific cases, 2) a broad interpretation of the standard of the right to a court (in the sense of access to justice in environmental matters) and, 3) setting standards for good practices applied by administrative authorities.

~~215. Correct implementation of the Aarhus Convention by administrative courts comes down to a friendly (pro-convention) interpretation of provisions of national law, which is of particular importance in the situation where the way the provisions of both the Convention and Directive No 2011/92/EU are formulated excludes their direct application. This is a derivative of the more general principle of pro-EU (pro-European) interpretation. The SAC, in its judgment of 15 November 2019, ref. no. II OSK 3276/17, stressed that "the regulations contained in the aforementioned legal acts [the Aarhus Convention and Directive No. 2011/92/EU – reminder of the report's preparer] were implemented into the Polish legal order first by the Act of 27 April 2001 on Environmental Protection Law (...), and presently by the Act on Provision of Information about the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments. The way the provisions of both the Convention and the Directive are formulated precludes their direct application. However, in a situation where these provisions were implemented into the Polish legal order, their interpretation may not lead to conclusions that are obviously contradictory to the unambiguously formulated provisions of the implementing act". This ruling expressly formulates an interpretative directive for conforming (pro-conventional) interpretation, indicating at the same time that the letter of the law constitutes the limit of such interpretation.~~

216. In the judgment, ref. no. II OSK 3276/17, the SAC stated that "there is no doubt that the procedural solutions in force in the Polish legal order ensure due control over the decisions of the competent administrative authorities to withdraw from carrying out the environmental impact assessment to entities that demonstrate a legal interest (parties to the proceedings), both in the administrative course of instance and in the administrative court proceedings. The decisions shall contain reasons, the parties to the proceedings shall have the right to appeal against the decision issued in the first instance and to file a complaint with the administrative court.
217. Bearing in mind, however, the "equating" of NGOs (ecological organisations) with the interested public (parties to proceedings) as regards the right to challenge decisions concerning the environment, derived from Articles 1(2) and 10a (now Article 11) of the Directive and from Article 2(5) of the Convention, it should be stated that ecological organisations, under the general rules laid down in Article 31 of the CAP may acquire the rights of parties to proceedings. As stated in the introductory part of the Court's considerations, they therefore have the right to lodge an appeal against the decision of the first instance authority finding that there is no need to carry out an environmental impact assessment, provided that they first lodge a request to initiate proceedings or request to participate in the proceedings pursuant to Article 31(1) of the CAP, and the administrative authority will then issue a decision on admitting them to participate in such proceedings. Importantly, a refusal to institute proceedings at the request of a social (also ecological) organisation or a refusal to allow it to participate in the proceedings is subject to one instance court review".
218. Administrative courts, when controlling the legality of activity of the public administration, implement the Aarhus Convention - at the stage of application of law - indirectly, within the framework of the binding provisions of national law, as the way the provisions of the Convention are formulated excludes its direct application. However, there is no doubt that the interpretation of national provisions (of Polish law) in line with the Aarhus Convention, which is well established in the jurisprudence of administrative courts, is in itself an example of good practice in terms of implementation of the provisions of the Convention.
219. Persons without sufficient ~~measures~~financial means may ~~ask~~apply for exemption of ~~the~~from costs (fees and expenses) for ~~proceeding~~proceedings before ~~the~~-civil and administrative courts. This exemption does not apply to the obligation to ~~cover~~ ~~thereimburse~~ costs of the opposite side in the case of lost civil case to the opposing party if the civil case is lost. In particularly justified cases, in civil cases, the court may award only part of such costs or not charge the losing party with the costs at all.
202. ~~It is important to notice that there is a problem of responsibility of non-governmental organizations for environmental effects of their actions, also these caused by their opinions and remarks.~~

**31. ~~34~~ Web addresses related to the implementation of Article 9.**

220. ~~203.~~ [www.ekoportal.gov.pl](http://www.ekoportal.gov.pl).

**32. ~~32~~** Impact of implementation of the Convention on the protection of right of each person, of the present and future generations, to life in the environment appropriate for their health and prosperity and obligation, both personally and in collaboration with others, to protect and improve the environment for the good of the present and the future generations.

**221. ~~204.~~** ~~In accordance with Environmental Protection Law~~ According to the EPL everyone shall be entitled to the common use of the environment and this includes the use of the environment, without the use of installations, to satisfy personal and household needs, including leisure and sports. Those who undertake actions having potentially negative impact on the environment, are obliged to prevent it.

**33. ~~33~~** — Measures and actions concerning compliance with the ~~convention~~ Convention.

**222. ~~205.~~** ~~The Neither the Aarhus Convention~~ Compliance Committee ~~or (ACCC) nor the~~ Meeting of the Parties ~~of~~ to the Convention have so far ~~have not determined particular~~ actions for ~~ordered~~ Poland ~~in order to adjust the~~ to take specific measures to bring Polish law ~~to~~ into line with the Aarhus Convention ~~of Aarhus.~~