

# REPORT

FROM THE IMPLEMENTATION OF THE CONVENTION

## **ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION IN DECISION-MAKING AND ACCESS TO JUSTICE IN ENVIRONMENTAL MATTERS**

### **FOR ~~2017-2020~~2021 – 2024**

#### **4. 1 The process of report preparation.**

4. 1. During the preparation of this report, consultations with the public, non-governmental organisations (NGOs) and administrative authorities were carried out in two phases.

~~2.~~ 2. At the beginning, the Ministry of Climate and Environment submitted for consultation to public administration units the report from years ~~2014-2016~~2017 – 2020 with a request to provide comments. Then, the Ministry published on its Public Information Bulletin <https://bip.mos.gov.pl/> the draft report from the implementation of the Convention for ~~2017 – 2020~~2021 – 2024 in doc format with the amendments in relation to the previous report from years ~~2014 – 2016~~2017 – 2020 marked in the mode ~~"register changes", 'changes'~~, and in PDF format, ~~2014 – 2016~~2017 – 2020 original version. The Ministry invited to provide comments to the content of the draft report via the Public Information Bulletin. ~~A relevant announcement was also published on the Ministry's website - https://www.gov.pl/web/klimat.~~ As was the case with the previous Report on the Implementation of the Aarhus Convention, the pure content of the ~~2014 – 2016~~2017 – 2020 report was not consulted with the public. The comments submitted ~~made it possible~~allowed to identify the institutional and legal changes in the provisions implementing the Convention that have taken place over the past four years and the difficulties that have arisen during the implementation of the Convention.

~~3.~~ 3. Then the Ministry of Climate and Environment on the basis of received comments prepared a draft report from the implementation of the Convention, ~~that~~which was again sent for consultations with public administration authorities. After further amendments were made, the draft report was sent for the second phase of public consultations. During the consultation on the content of the draft report, comments were provided by the following entities:

~~4.~~ Government institutions:

- ~~Minister~~Ministry of Justice,
- Ministry of the Environment (from 21 March 2020 to 8 October 2020 constituted a separate entity) Economic Development and Technology,
- Ministry of Infrastructure,
- General ~~Director~~Directorate for Environmental Protection along with regional ~~directors responsible~~directorates for environmental protection,

- Chief ~~Inspector of Inspectorate for~~ Environmental Protection along with voivodship ~~inspectors of inspectorates for~~ environmental protection,
- ~~President of~~ National Atomic Energy Agency,
- ~~President of the~~ National Fund for Environmental Protection and Water Management,
- ~~Minister of Maritime Economy and Inland Navigation.~~
- Polish Geological Institute,
- Forest Research Institute;

~~2.~~ Public representatives:

- ClientEarth ~~foundation~~ GmbH Foundation,
- Frank Bold ~~foundation,~~ Foundation.
- ~~Association Neighbours for Wesola (Stowarzyszenie Sąsiedzi dla Wesolej).~~

~~2.~~ **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, adopted in Aarhus on 25 June 1998 (Journal of Laws of 2003, item 706), hereinafter referred to as the "~~Convention~~". Convention'. On 16 May 2002, the Convention came into force with respect to Poland and was incorporated into the national legal system. Provisions implementing the Convention are included in many legal acts, of which the most important are the following:

~~4.~~ 1. the Act of 27 April 2001 on Environmental Protection Law (Journal of Laws of ~~2020~~2024, item ~~1219~~54, as amended), hereinafter referred to as the "~~EPL~~". EPL,

~~2.~~ 2. the Act of 3 October 2008 on Provision of Information about the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (Journal of Laws of ~~2020~~2024, item ~~2831~~112, as amended), hereinafter referred to as the "~~Act on Provision of Information about the Environment~~". Environment,

~~3.~~ 3. the Act of 14 June 1960 on the Code of Administrative Procedure (Journal of Laws of ~~2020~~2024, item ~~256,~~ as amended~~572~~), hereinafter referred to as the "~~CAP~~". CAP,

~~4.~~ 4. the Act of 30 August 2002 on the Law on Proceedings before Administrative Courts (Journal of Laws of ~~2019~~2024, item ~~2325~~935, as amended) hereinafter referred to as the "~~LPAC~~". LPAC,

~~5.~~ 5. the Act of 20 July 1991 on the Inspection for Environmental Protection (Journal of Laws of ~~2020~~2024, item ~~995,~~ as amended~~425~~), hereinafter referred to as the "~~IEP~~". IEP.

~~5.~~ 5. Amendment to the Convention, drawn up in Aarhus, of 25 June 1998 on Access to Information, Public Participation in Decision-Making, and Access to Justice in Environmental Matters, adopted at the second Meeting of the Parties to the Convention in Almaty on 25 ~~–~~ 27 May 2005 (~~GMO amendment~~) was ratified on 23

March 2009 and subsequently implemented through the *Act on Provision of Information about the Environment*.

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

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

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

~~9.~~ 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.~~ 1. the Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC, (OJ L 41, 14.2.2003, p 26-32);

~~2.~~ 2. 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, (OJ L 26, 28.1.2012, p. 1-21);

~~3.~~ 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, (OJ L 197, 21.7.2001, p. 30-37).

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

#### **Article 3, paragraph 2-**

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

~~11.~~ 11. The Ministry of Climate and Environment runs "~~Ekoportal~~", 'Ekoportal', a website presenting databases of public documents containing information about the

environment and its protection and performing e-learning functions.

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

### **Article 3, paragraph 3-**

13. The EPL imposes an obligation to include environmental protection and sustainable development issues in the core curriculum of all types of schools, as well as in scientific institutions dealing with environmental protection. The mass media are obliged to shape a positive attitude of the society to environmental protection and popularise the principles of such protection in publications and broadcasts. ~~Ecological~~The Ministry of Climate and Environment recognises education is as a part of basic prerequisite for changing social practices towards more sustainable and environmentally and climate-friendly ones. These activities are non-formal and informal types of education— that support the formal education provided by the education system, which remains the responsibility of the Ministry of National Education.

The activities undertaken by the Ministry of Climate and Environment are focused on:

1. Dissemination of reliable knowledge about the natural environment and climate, the relationship between the environment, global climate processes and socio-economic development, and issues directly affecting human life and health.

2. Presentation of good practices in the field of environmental and climate protection, as well as the mitigation of and adaptation to the effects of climate change.

3. Awareness of the impact of individual behaviour on the state of the climate and encouragement to get involved in environmental and climate protection activities.

~~13.~~ These include nationwide information and education campaigns on climate protection, a just energy transition and the conservation of biodiversity. The activities involve the broadcasting of TV and radio spots, the publication of articles in the press, the preparation and implementation of online information campaigns, and educational activities aimed at local authorities, as well as teachers and pupils at primary and secondary schools. The Ministry of Climate and Environment explains to the audience, among others, how the Earth's climate system works; how the greenhouse effect works; what climate change and its consequences are; what mitigation and adaptation to climate change are; what climate neutrality, renewable energy sources, low-carbon energy sources, energy efficiency, sustainable transport, sustainable consumption and the circular economy. The educational activities carried out by the Ministry of Climate and Environment are supported by projects and campaigns run by the ministry's institutes e.g., the Institute of Environmental Protection – National Research Institute as part of the KLimada 2.0 project. The National Fund for Environmental Protection and Water Management together with and the voivodship funds for environmental protection and water management conduct and finance promotional activities consisting in aimed at building social ecological/environmental awareness.

14. Public administration undertakes a number of activities in the field of ecological education, also in cooperation with NGOs. ~~The~~During the period covered by the report,

~~the~~ General Directorate for Environmental Protection (GDEP) ~~conducted a nationwide campaign on the~~ implemented a number of projects, including information and education activities to raise public awareness of environmental protection of Natura 2000 areas. ~~Trainings on the~~ and actions taken in this area, including e.g., Project LIFE15 GIE/PL/000758 entitled 'You have right to effective protection of nature' and POIS.02.04.00-00-0100/16 entitled Development of the rules for the control of invasive alien species with pilot actions and social education'. The target groups of these areas are still carried out. Various types of projects were both institutions and individuals involved in nature conservation activities (e.g., authorities responsible for enforcing nature conservation regulations) as well as the general public. Various educational campaigns were also conducted by other public administration units, including at the ~~local and~~ regional level. ~~In order to~~

To ensure access to ~~environmental~~ information about the environment and its protection and to improve the quality of ~~the data made available~~ provided, the Chief Inspectorate ~~of~~ Environmental Protection ~~in 2017-2020 was developing systems and tools for collecting, storing, and processing data~~ continued the task of making available information on air quality obtained as part of the implementation of the State Environmental Monitoring (SEM) Programme. ~~Pursuant to~~ in 2021-2023. This information was made available through dedicated GDEP IT tools: the 'Air Quality' portal with API (Application Programming Interface) services and 'Air Quality in Poland' mobile applications.

In 2023, the portal provided measurement data from 288 measuring stations operating in the State Environmental Monitoring network, distributed throughout the country, of which 215 are automatic stations, presenting current information on air quality based on the measurement results from the last full hour. Information on the current air quality was also presented on a map of current measurement data in the form of an Air Quality Index (AQI). The 'Air Quality' portal also provided e.g., notifications on the risk and occurrence of exceedances of the information or alert level for particulate matter PM10, messages on the current and forecast air quality, information about the measurement network, results of air quality assessments, analyses and reports from air quality studies carried out as part of the SEM Programme, information on adopted air protection programmes and many thematic maps, including maps of pollutant concentration distributions.

In accordance with the Regulation of the Minister of ~~the~~ Climate and Environment of 6 June 2018<sup>13</sup> November 2020 on the ~~Scope~~ scope and ~~Manner~~ method of Providing Information providing information on Air Pollution air pollution (Journal of Laws of 2018<sup>2020</sup>, item 1120), as of 1 January 2019, the "Air Quality" (*Jakość Powietrza*) portal run by the Chief Inspectorate of Environmental Protection presents<sup>2221</sup> and the replacing Regulation of the Minister of Climate and Environment of 15 February 2023 on the scope and method of providing information on air pollution (Journal of Laws of 2023, item 350) on the 'Air Quality' portal and in the 'Air Quality in Poland' mobile applications 3-day air quality forecasts on air pollution by PM<sub>10</sub> particulate matter, sulphur dioxide, nitrogen dioxide and tropospheric ozone in the form of static and dynamic maps for the whole of Poland, developed by the Institute of Environmental

Protection – National Research Institute (IOŚ-PIB) pursuant, were also published. In 2023, the Chief Inspectorate for Environmental Protection created a website to Article 88 (7) of the EPL. At the beginning of 2020, a present and share data on atmospheric deposition, operating within the 'Air Quality' portal. The creation of this website was one of the deliverables of the project 'Strengthening atmospheric deposition assessment in Poland based on Norwegian experience', implemented by the Chief Inspectorate for Environmental Protection in cooperation with a Norwegian partner - the Norwegian Climate and Environmental Research Institute (NILU), funded by the European Economic Area Financial Mechanism for the years 2014-2021 (EEA FM 2014-2021). The new version of the "Air Quality" portal website has been launched, expanded by, *inter alia*, the module of voivodship subpages. In 2020, a free mobile application "Air Quality in Poland", expanded by the module of Air Quality Forecasts, has also been publicly available since February 2024 at <https://powietrze.gios.gov.pl/depoz/>.

14. As part of the ongoing development work, in 2023, the extended API GDEP services were made available. These tools provide access to information on current air quality coming directly from about 190 automatic measurement stations of the State 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 increased public awareness on air protection problems in Poland and greater concern for air quality, expanding the scope of air quality data available in a machine-readable manner. The Ministry of Climate and Environment, taking into account bearing in mind the impact of public awareness on the effectiveness of measures actions taken in the area of air quality, is carrying out conducts a number of activities in this area as part of information, education, and promotion activities in this area. For example, i.e. in 2019 it continued the nationwide information and education campaign called 'Clean Air – a Healthy Choice!' (PL 'Czyste Powietrze – zdrowy wybór!'), which was launched in October/November 2018 and entitled "Clean Air – a healthy choice!", with the main objective of which is to make the citizens aware of goal to raise public awareness about the positive aspects of living in a clean environment where the air quality meets the required standards. This The campaign was also conducted carried out in 2020-2023.

15. 15. The issue of access to environmental information was popularised through the national press and public radio.

16. 16. The concept of sustainable development was has been popularised through the Ministry of the Environment's involvement, in 2015 and 2016, in a Europe-wide the pan-European initiative called European Sustainable Development Week (ESDW), since its first edition in 2015. The assumption aim of this project is to support stimulate and make visible activities promoting the use of sustainable development principles in all its aspects – economic, social, and environmental the implementation of the 2030 Agenda and its Sustainable Development Goals. The initiative is addressed to a wide range of entities in both the public and private sectors, including government agencies, self-government authorities, research centres, educational institutions, museums, foundations, companies, NGOs, and individual citizens.

~~17.~~ 17. The National Fund for Environmental Protection and Water Management (NFEP&WM) co-finances activities in the field of environmental education — programmes for active environmental education and cross-media campaigns, training courses, workshops and undertakings popularising ecological knowledge, competitions used to raise social ecological awareness, postgraduate studies. Co-financed are radio, film and television productions, publications, and websites, as well as the construction, expansion, adaptation, equipping and re-equipping of infrastructure facilities for environmental education, both for classroom teaching and outdoor classes. Information about the activities undertaken by the NFEP&WM is posted on its website ([www.nfosigw.gov.pl/](http://www.nfosigw.gov.pl/)) and in publications. In addition, the NFEP&WM carries out educational and promotional actions, training courses and webinars.

18. At the EU level, the basic legal act implementing the provisions of the Convention regarding access to information is Directive 2003/4/EC. Its provisions are implemented into Polish law through the Act on Provision of Information about the Environment.

~~18.~~ 19. Implementation of the provisions of the Convention, particularly those concerning public participation in the decision-making process, was and access to justice, has been strengthened by ~~implementation~~ the incorporation into national law of the provisions of the Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment (OJ L 175, ~~5.705.07.~~1985, p. 40, Polish ~~Special Edition: Chapters~~ special edition: chapter 15, ~~Vol. volume~~ 01, ~~pp. page~~ 248 ~~— 256~~), and subsequently ~~replaced by~~ 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 (OJ L 26, 28.1.2012, p. 1, as amended). An~~ replacing the Directive 85/337/EEC. Directive 2001/42/EC, which has been implemented into national law, also plays an important role in ensuring public participation in the decision-making process ~~is also played by 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 (OJ L 197, 21.7.2001, p. 30; Polish special edition: Chapter 15, Vol. 06, pp. 157 - 164).~~ The provisions of the aforementioned directives are currently being transposed into the Act on Provision of Information about the Environment.

~~19.~~ 20. 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 and 2021-2027. For all operational programmes (documents regulating in detail the way of spending the funds and the types of investments) ~~containing~~ concerning infrastructural investments, including those related to agriculture, strategic environmental impact assessments together with broad social consultations were carried out. These documents were consulted from the beginning of their creation, and consultations involved not only social partners and NGOs, but also citizens ~~of the Republic of Poland.~~ Given the amount of funds allocated to the programmes (€67 billion from the EU budget ~~and a necessary additional national contribution of ≥ €20~~ for the 2007-2013 period, €82 billion from the EU budget for the

2014-2020 period and €76 billion from the EU budget for the 2021-2027 period), this has created a good practice related to social participation in the decision-making process. Applicants of projects implemented on the basis of funds from the EU budget must demonstrate that the administrative decisions enabling the commencement of the investment were, prior to their adoption, effectively consulted with the public. Failure to demonstrate evidence of consultation by the Contractor makes it impossible to obtain financial support. Similar requirements regarding the publishing of environmental information apply also to the programmes and infrastructural projects planned for implementation under Perspective 2014-2020/2021-2027.

#### **Article 3, paragraph 4.**

21. The non-governmental organisations have a wide spectrum of possibilities ~~in terms of to obtain~~ financial support for environmental protection projects. At the central level, co-financing of activities concerning shaping the environmental awareness of society is possible within the framework of the priority programme entitled ~~"Ecological Education"~~Education offered by the National Fund for Environmental Protection and Water Management ~~(NFEP&WM)~~. Support was also directed within the framework of the programme dedicated to non-governmental organisations entitled *Strengthening Local Community Action for Sustainable Development* (2015-2016). Support for environmental NGOs is conducted by the NFEP&WM, voivodship funds for environmental protection and water management, and ~~the~~ Civil Initiatives Fund Government Grant Programme (Ministry of ~~the~~ Family, Labour and Social Policy). It should be noted, however, that the latter as well as the priority programme ~~"Ecological Education"~~Education are not intended only for ecological NGOs and there are no areas of support strictly focused on activities related to environmental protection, biodiversity, and ecological education. In addition, in 2013 an open call for proposals was organised under the Operational Programme PL02 ~~"the"~~Protection of the Biological Diversity and Ecosystems. Regardless of the possibility to apply under the main call, a special allocation (Small Grants Fund) intended exclusively for NGOs was separated under the above-mentioned programme. Financial support could have been intended, ~~inter alia~~among others, 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.

20. The expected co-financing was 85% of eligible costs for the main call, and 90% for the Small Grants Fund.

The implementation of PL02 projects lasted until 2017, while in 2020, as part of the third edition of the Norwegian and EEA Grants, further calls for proposals were announced, including one dedicated to NGOs: the Small Grants Fund within the Environment area. The subject matter was similar to previous editions of the Norwegian and EEA funds in the scope of Programme PL02 (conducting active protection of endangered species and habitats, combating invasive alien species and preventing their spread, mapping and assessing ecosystem services, raising public

awareness about ecosystems, their role and the services they provide), and the co-financing in this call for applications was also 90%.

~~21.~~ 22. The NGOs could be supported under Measure 2.4, project types 5b (Capacity Building and Integration) and 5c (Education for the Community of Protected Areas) of the Operational Programme Infrastructure and Environment 2014-2020. They may also apply for financing of their own contribution from the national funds of NFEP&WM (up to 10% in the form of grants, loans for own contribution and liquidity). In the case of implementation of environmental projects by non-governmental organisations under the LIFE Programme, support from EU funds does not exceed 75% of the project's value, while from NFEP&WM funds the organisations may receive additional financing for their own contribution from 20 to ~~35~~30%, depending on the priority area. In addition, NGOs within the priority programme "Co-financing of the LIFE Programme"~~"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. In the period from 2021 to 2027, non-governmental organisations can apply for funding under the FEnIKS (European Funds for Infrastructure, Climate, Environment) and EFEP (European Funds for Eastern Poland) programmes. These programmes aim to support various projects related to environmental protection, adaptation to climate change and infrastructure development in Poland. NGOs can apply for funding under FEnIKS from:

- measure FENX.01.04 (Waste management and circular economy), in which the maximum EU co-financing level is 85%;
- measure FENX.01.05 (Nature conservation and development of green infrastructure) type: 1 (In-situ or ex-situ conservation of threatened species and natural habitats), 3 (Control of invasive alien species), 5a (Green and blue infrastructure and associated facilities), 8 (Education on nature conservation), where the maximum co-financing rate for the measure is also 85%; and
- measure FENX.02.04 (Adaptation to climate change, disaster prevention) type 10 (Education on climate issues, adaptation to climate change and protection of water resources), where the maximum EU co-financing level in the project is 79.71%.

Under the EFEP measure EFEP.02.03 (Biodiversity), non-governmental organisations can apply for funding for projects to raise environmental awareness and promote pro-environmental attitudes at a rate of 85% of the EU contribution.

~~22.~~ 23. The Ministry of Climate and Environment cooperated with NGOs within the framework of the Partnership for Climate ~~–~~ a platform for cooperation, discussion, and education.

~~23.~~ The 24. Provisions of the LPAC, CAP and the Act of 17 November 1964 on the Code of Civil Procedure (Journal of Laws of ~~2016~~2023, item ~~4822~~1550, as amended), hereinafter referred to as the "CCP,""CCP", as well as the LPAGEPL and the *Act on Provision of Information about the Environment*, allow for the participation of non-governmental organisations in court and administrative proceedings concerning environmental matters.

~~24.~~ 25. The Act of 24 April 2003 on Public Benefit and Volunteer Work (Journal of Laws of ~~2020~~2023, item ~~4057~~571, as amended) 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.~~ 26. 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 voivodship funds for environmental protection and water management, handling, ~~inter alia, e.g.,~~ money from environmental charges, administrative fines, the state budget, and European Union funds. They also have the right to be represented ~~also~~ in advisory bodies, such as, the Commission for ~~example,~~ ~~the GMO Committee~~Microorganisms and Genetically Modified Organisms and the State Council for Nature Conservation. The Youth Climate Council operates under the Ministry of Climate and Environment.

~~26.~~ 27. Pursuant to Article 45(1) of the *Act on Provision of Information about the Environment*, ecological organisations may cooperate in the field of environmental protection with administration authorities.

### **Article 3, paragraph 7:**

~~27.~~ 28. 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~~among others, the "'Environment for ~~Europe~~"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 international efforts to implement the 2030 Agenda for Sustainable Development.

~~28.~~ 29. In 1997, the Republic of Poland ratified the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention), prepared in Espoo on 25 February 1991 (Journal of Laws of 1999, item 1110), which indicates the necessity of conducting public consultations in cases where a project implemented in the territory of one State (~~"('Party of Origin')Origin'~~) may have its impact on the territory of another State or States (~~"('Affected Parties'),Parties'~~), causing significant negative environmental effects. The Protocol on Strategic Environmental Assessment to the Espoo Convention, drawn up in ~~Kiev~~Kyiv on 21 May 2003, which provisions apply to draft strategic documents, 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. 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.~~ 30. 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 authorities, local government units and social organisation bodies are 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.~~ 31. There are ambiguities in the application of the right of access to environmental information in relation to other acts, e.g., Act on Spatial Information Infrastructure or Act on Reuse of Public Sector Information.

~~31.— NGOs indicate that there are difficulties in using funds allocated for environmental education. In addition, NGOs reported during the consultation that the ability to finance certain specific activities, including in particular recurrent expenditure not associated with specific projects, was a problem for them. Other problems mentioned by these organisations were the small envelope of funds allocated for nature protection and environmental education as well as the difficult conditions for obtaining subsidies.~~

~~32. NGOs argue that in their opinion there have been cases of repression in Poland in recent years against people exercising their rights guaranteed by the Convention. The report by the UN Special Rapporteur on Environmental Defenders, published in February 2024 and entitled 'State repression of environmental protest and civil disobedience: a major threat to human rights and democracy', points to cases of repression.~~

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

~~32.~~ 33. NGOs claim that there are some irregularities regarding the implementation of the provisions of law by administrative authorities. These problems are addressed in the explanatory paragraphs related to the subsequent articles of the Convention.

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

~~33.—~~

~~[www.ekoportal.gov.pl](http://www.ekoportal.gov.pl)—34.~~

~~[www.ekoportal.gov.pl](http://www.ekoportal.gov.pl) – Ministry of Climate and Environment~~

~~<https://www.gov.pl/web/klimat> –<https://www.gov.pl/web/klimat> – Ministry of Climate and Environment~~

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

~~[www.gdos.gov.pl](http://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.natura2000.gdos.gov.pl) - information on the European Ecological Network Natura 2000  
[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://www.nfosigw.gov.pl) <https://www.gov.pl/web/edukacja-ekologiczna> - subpage of the Ministry of Climate and Environment concerning environmental education  
<https://gmo.ekoportal.pl> - information on GMOs  
<https://www.gov.pl/web/gdos> - General Directorate for Environmental Protection  
<https://www.gov.pl/web/rdos-bialystok> <https://www.gov.pl/web/rdos-bydgoszcz>  
<https://www.gov.pl/web/rdos-gdansk>  
<https://www.gov.pl/web/rdos-gorzow-wielkopolski> <https://www.gov.pl/web/rdos-katowice> <https://www.gov.pl/web/rdos-kielce>  
<https://www.gov.pl/web/rdos-krakow>  
<https://www.gov.pl/web/rdos-lublin>  
<https://www.gov.pl/web/rdos-lodz>  
<https://www.gov.pl/web/rdos-olsztyn>

<https://www.gov.pl/web/rdos-opole>  
<https://www.gov.pl/web/rdos-poznan>  
<https://www.gov.pl/web/rdos-rzeszow>  
<https://www.gov.pl/web/rdos-szczecin> <https://www.gov.pl/web/rdos-warszawa>  
<https://www.gov.pl/web/rdos-wroclaw> <https://www.gov.pl/web/gdos> – General  
Directorate for Environmental Protection <https://crfop.gdos.gov.pl/CRFOP/> – Central  
Register of Nature Conservation Forms  
<https://geoserwis.gdos.gov.pl/mapy/?usedesktop=true> – Geoserwis  
<https://www.gov.pl/web/gios> – Chief Inspectorate for Environmental  
Protection <https://powietrze.gios.gov.pl>  
[www.nfosigw.gov.pl](http://www.nfosigw.gov.pl) - National Fund for Environmental Protection and Water  
Management  
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, subsidized by the National Fund for Environmental  
Protection, websites of voivodship funds for environmental protection and Water  
Management, containing a database of educational materials (lesson scenarios)  
broken down by age and subject 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)

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

~~34.~~ 35. The basic legal act regulating the rules of access to information about the environment and its protection is the *Act on Provision of Information about the Environment*. In unregulated matters, the Act of 6 September 2001 on Access to Public Information (Journal of Laws of ~~2019~~2022, item ~~1429, as amended~~902), hereinafter referred to as the "~~AAP~~"'AAPI' shall apply.

~~35.~~ 36. The *Act on Provision of Information about the Environment* defines the notion of information about the environment and its protection, and also specifies the principles of its publishing and release.

~~36.~~ 37. Spatial information is a special kind of information on the environment. Spatial information directly or indirectly covers the vast majority of information about the environment and its protection. 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) ( OJ L 108, 25.04.2007, p. 1) and by the Act of 4 March 2010 on Spatial Information Infrastructure (Journal of Laws of ~~2020~~2021, item ~~177, as amended~~214).

### **Article 4, paragraph 1.**

~~37.~~ 38. Pursuant to Article 74(2) of the Constitution of the Republic of Poland, everyone has the right to be informed about the condition and protection of the environmental.

~~38.~~ 39. According to the *Act on Provision of Information about the Environment*, everyone has the right to access the information about the environment and its protection. Public authorities (according to the amendment that entered into force on 1 January 2017, the concept of administrative authority, in relation to access to environmental information, has been replaced by the concept of "'public authority'")'authority' are obliged to make available to everyone information about the environment and its protection in their possession or which are intended for them. An entity demanding information about the environment and its protection is not required to demonstrate a legal or factual interest. Environmental and protective information shall be made available in the manner and form specified in the request unless the technical means at the disposal of the public authority do not allow environmental and protective information to be made available in such manner. If information 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 such information, within 14 days from the date of the receipt of the application, of reasons why publishing of information according to the request is not possible as well as indicates in what manner or form the information can be made

available.

#### **Article 4, paragraph 2-**

~~39.~~ 40. The Act on Provision of Information about the Environment requires public authorities to disclose information about the environment and its protection without unnecessary delay, no later than within one month from the date of receipt of the application. The deadline for providing access to environmental information due to the complexity of the case may be extended to 2 months. The applicant ~~is~~ shall be informed ~~of~~ about any extension of the deadline. The *Act on Provision of Information about the Environment*, in the scope in which it refers to Article 36(1) of the CAP, thus enabling the authority 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 these provisions, the two-month deadline for making information available is a final time limit, and the public authority which is obliged to make information available cannot extend this deadline once again, while Article 36 of the CGPCAP 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.~~ 41. Documents ~~for~~ about which data are included in publicly ~~accessible~~ available lists containing environmental information shall be made available without delay, but ~~not~~ not later than within 3 days after the request.

~~41.~~ 42. 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,~~ paragraph 3 and 4-**

~~42.~~ 43. 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 20192022, item 1231, ~~Journal of Laws of 2020, item 2882509, as amended~~) or in the Act of 30 June 2000 on Industrial Property Law (Journal of Laws of 20202023, item 286, ~~as amended1170~~),

- 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.~~ 44. 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 fulfilled,
- the request is formulated in too general manner.

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

~~44.~~ 45. According to the *Act on Provision of Information about the Environment*, if an application relates to the information not being in the possession of the public authorities, these authorities shall immediately, but no later than within 14 days from the date of receipt of the application, forward the application to the competent entity in whose possession the requested information is held and shall notify the applicant thereof or, if the competent entity cannot be defined, return the application to the applicant.

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

~~45.~~ 46. The practice for the interpretation by public administration authorities of the Polish regulations concerning public information, including information about the environment and its protection relies on providing this part of the information that is not subjected to secrecy. Since 1 January 2017, pursuant to Article 19(4) of the *Act on Provision of Information about the Environment*, if it is possible to separate the part of the information subject to exclusion from disclosure for the reasons referred to in Article

16 of ~~the~~this Act, the remaining part of the information shall be made available.

#### **Article 4, paragraph 7:**

~~46.~~ 47. Pursuant to the *Act on Provision of Information about the Environment*, a refusal to provide access to information about the environment and its protection is made by way of an administrative decision. The provisions of the LPAC apply to the complaints examined in the court-administrative proceedings and related to the provision of access to information about the environment and its protection.

#### **Article 4, paragraph 8:**

~~47.~~ 48. 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~~2022, item ~~1415~~) ~~amended by the Regulation of the Minister of the Environment of 12 December 2016 (Journal of Laws of 2016, item 2089/120)~~, hereinafter referred to as the "Regulation on ~~Fees~~", Fees', determines the rates of fees for providing ~~access to~~ information about the environment and its protection. These fees correspond to the costs incurred for ~~making copies of~~searching, copying and sending documents.

~~48.~~ 49. Fees for providing information about the environment and its protection are as follows (in the approximated € amounts converted according to the exchange rate of 25 June 2020):

- for searching up to 10 documents ~~– 1.42~~17 €,
- for searching each additional document – EUR 0.~~44~~12 €,
- for scanning a document ~~– 0.02~~ € for one page of the copy,
- for black and white photocopy of a document ~~– 0.03~~ € for one page of the copy,
- for ~~a~~-colour photocopy of a document ~~– 0.3~~ € for one page of the copy,
- for recording a CD or DVD – no more than EUR 0.3 €.

~~49.~~ 50. The information actively provided on the website are free of charge.

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

~~50.~~ 51. Pursuant to Article 4(2) of the ~~Aarhus~~-Convention and Article 3(2) of the 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~~Act on Provision of Information about the Environment 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.

52. NGOs point out that it is rare for information to be provided in less than a week. Another problem, according to NGOs, is the refusal to provide public information for

the reasons listed in Article 4(4) of the Convention. Refusal is often granted due to the protection of company interests, but in a given case, the authority does not analyse the potential impact of granting information on the company. As a result, refusals can be granted 'out of proportion', which does not serve the public interest.

53. NGOs note that although Article 4(3) of the Convention has been transposed fairly correctly, there is a noticeable lack of emphasis on the social interest in disclosing environmental information, which would allow for the request to disclose such information to be met in a situation where the legitimacy of the refusal is not obvious in the scope of documents or data:

a) that are in the process of being developed,

b) intended for internal communication.

~~51.~~ 54. Pursuant to Article 4(7) of the ~~Aarhus~~-Convention and Article 4(5) of the 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 the 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~~shall take 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~~preventing the lodging of 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.~~ 55. Similarly, NGOs claim that ~~in case of exclusion~~when some information is excluded from disclosure ~~of part of the information~~ due to the ~~existence~~occurrence of one of the exceptions ~~set out~~specified 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~~decisions refusing 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 as well as~~ from the provisions of the ~~Aarhus~~-Convention (Article 9(1)) and the 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. NGOs have noted that, according to the definition of the administration authority that is obliged to provide environmental information, as stated in Article 3(1)(9) of the Act on Provision of Information about the Environment, the term 'obligated entity' also includes those entities that perform public

tasks concerning the environment and its protection, and therefore also SF National Forest Holding. The information presented during the public consultation of the Report shows that in the years 2021-2024, ecological organisations submitted a number of requests for access to environmental information to various units of the SF National Forest Holding, resulting in at least several dozen administrative court proceedings due to the inaction of the authority (either by not providing the requested information because it was considered not to be an 'environmental information' or by not issuing a refusal decision when required by law) or due to the issuance of refusal decisions. The vast majority of court rulings upheld the organisations' complaints and obliged the State Forests National Forest Holding to provide the requested information, which, however, did not always happen, meaning that it was necessary to initiate new administrative court proceedings due to the inaction of the authority in enforcing court rulings.

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

56. In 20172021, the Ministry of Climate and Environment received 69515 applications for disclosure of information about the environment and its protection and issued 47 decisions on refusal to make such information available. In 2018, the Ministry2022, it received 56410 requests and issued 3-decisions1 decision on the refusal to release such information. In 20192023, the Ministry received 426482 requests and issued 3 refusals. 8 decisions of refusal. In 2017, the Inspectorate of Environmental Protection (2024, by June, the Ministry received 293 applications and issued 4 refusals.

In 2021, the Chief Inspector of Environmental Protection and voivodship inspectors of environmental protection) provided 8907responded to 11,899 applications for disclosure of information about the environment and its protection, within the scope and form indicated by the applicants. In 2018, 9624 requests formost of which (8,854) concerned air quality (of which 8,498 concerned background substances in the air).

In 2022, 12,558 applications for disclosure of information about the environment and its protection have already been processed, and in 2019 – 12169. Observing the increasing tendency of requests for environmental information, it can be assumed that in 2020 the Inspectorate of Environmental Protection will grant about 15000 of such information. In 2019, the vast majority of applications (nearly 11500) concerned the state of the environment, among which the dominant requests were for information on air pollution (just over 7300, including 6672 information on answered, of which the largest number (9,208) also concerned air quality (of which 8,520 concerned background substances in the air).

In 2023, the Chief Inspector of Environmental Protection responded to 11,942 applications, most of which (8,904) concerned air quality (of which 8,541 concerned background substances in the air), surface and underground water quality, transport and industrial noise pollution, environmental quality).

In addition to the most commonly provided information about background substances in municipalities and on the intensity of electromagnetic radiation, as well as in the field

~~of nature the air, the air monitoring. Information was also information provided about the also included current air quality, operation and location of measuring stations, 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 air quality measurements, air emissions, and air quality monitoring of municipal waste landfills, quantities, and types of imported and exported waste. In 2017 data resources.~~

~~In 2017, the General Directorate for Environmental Protection received 738 applications for disclosure of environmental information. Over the years, their number has increased significantly – in 2023, the General Directorate for Environmental Protection received 1,612 applications. Decisions on refusal to provide access to environmental information represent a negligible fraction of the cases considered. This is a total of 6 decisions on refusal to grant access to information.~~

~~53. In 2020 and 2022, the President of the National Atomic Energy Agency did not receive any request application for disclosure of environmental information. In 2021 he received one such application, in 2018 – two requests 2023 - three, and in 2019 – also two requests 2024, by June, one application for disclosure of environmental information was received for consideration by the President of the National Atomic Energy Agency.~~

~~54. 57. Between 2017 2021 and 2020 2023, trainings on sharing environmental information were conducted on behalf of the Ministry of Environment/Ministry of Climate/Ministry of Climate and Environment. These training courses were intended for employees of administrative authorities that disclose environmental information.~~

~~55. 58. The Regulation on Fees Ordinance provides that the 14-day period for payment of the fee is calculated from the date of receipt of the fee notice.~~

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

~~56. 59.~~

~~<https://www.gov.pl/web/klimat> – Ministry of Climate and Environment;  
[www.ekoportal.gov.pl](http://www.ekoportal.gov.pl) – [www.ekoportal.gov.pl](http://www.ekoportal.gov.pl) – Ministry of Climate and Environment;  
<http://gmo.mos.gov.pl> – <https://gmo.ekoportal.pl> – information on GMO;  
[www.gdos.gov.pl](http://www.gdos.gov.pl) – <https://www.gov.pl/web/gdos> – General Directorate for Environmental Protection;  
[www.gios.gov.pl](http://www.gios.gov.pl) – <https://www.gov.pl/web/gios> – Chief Inspectorate of Environmental Protection;  
[www.wody.gov.pl](http://www.wody.gov.pl) – <http://www.gov.pl/web/wody-polskie> – 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) – <https://www.gov.pl/web/gdos> – General Directorate for Environmental Protection <https://crfop.gdos.gov.pl/CRFOP/> – Central Register of Nature Conservation Forms <https://geoserwis.gdos.gov.pl/mapy/?usedesktop=true> – Geoserwis [www.isap.sejm.gov.pl](http://www.isap.sejm.gov.pl) – Online Database of Polish Legislation;  
<http://www.dziennikustaw.gov.pl> – <http://www.dziennikustaw.gov.pl> – Journal of Laws of the Republic of Poland.~~

**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. 60. Public administration authorities, by virtue of the Act on Provision of Information about the Environment, are obliged to maintain publicly available data lists containing, ~~inter alia~~among others, information on public environmental documents and analyses, as well as on proceedings related to projects that may affect the environment. The manner in which the data list shall be maintained is set out in the Regulation of the Minister of the Environment of 22 September 2010 on the formula, content and layout of the publicly available data list on documents containing information on the environment and its protection (Journal of Laws of 2010, item 1249) (hereinafter referred to as the 'Regulation on the List').

58. ~~In the field of climate change~~61. Regarding adaptation to climate change, the KLIMADA 2.0 website (~~www.klimada.mos.gov.pl~~https://klimada2.ios.gov.pl) ~~has been launched is in 2013 operation~~. It is an official a website coordinated by the Ministry of Climate with a database of information and news, which serves, among other things, to popularise topics concerning the issue of adaptation to climate change. Additionally, the website provides materials and scientific studies prepared 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 past decades of the 21st century. Apart from the information contained on the website, the Ministry of the Environment commissioned the preparation of a package of infographics on climate change as well as on adaptation to climate change in individual sectors (cities, agriculture, energy, transport, the Baltic Sea) and prepared a brochure in Polish and English on adaptation to climate change in Poland. All materials are available on the website 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 "run by the Institute of Environmental Protection - National Research Institute under the project 'Knowledge base on climate change and adaptation to its effects and channels of 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 threats', co-financed from EU funds under Measure 2.1 of the Operational Programme Infrastructure and Environment 2014-

~~2020. The project included e.g., creation of a central database of emissions, creating database, creation of a decision support system, developing development of climate scenarios, developing development of a knowledge base on adaptation to climate change. Within the 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, informational, promotional and educational activities, which will be implemented through were also carried out, viz: 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/>; training courses; information materials; factual studies.~~

59. ~~62.~~ As regards improvement of air quality, a "Clean Air" tab has been created on the ~~website of the~~ Ministry of Climate and Environment ~~website~~. 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", "Air", 'Stop Smog', '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~~ This website also contains a number of infographics illustrating the main sources of air pollution in Poland. ~~In addition, the~~ The website ~~has links~~ is also linked to the Chancellery of the Prime Minister ~~web~~. 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 ~~Climate and~~ 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)~~ IEP 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 amending the Atomic Law Act and certain other acts (Journal of Laws of 2011, item 766) added 63. The provision of Article 35a to of the Act of 29 November 2000 on the Atomic Law (Journal of Laws of 2019, item 1792, and of 2020, item 283, as amended). This provision stipulates, inter alia 2024, item 1277), hereinafter referred to as the 'Atomic Law Act', provides, among others, that the President of the National Atomic Energy Agency publishes shall make available information on the state of nuclear safety and radiological radiation protection of nuclear~~

facilities, their impact on human health and the environment;<sup>60</sup> information on the size amount and isotopic composition of ~~releases of~~ radioactive substances released from nuclear facilities into the environment;<sup>61</sup> information on ~~incidents or accidents in a~~ events at the nuclear facility causing a hazard;<sup>62</sup> information on permits issued ~~licences~~ for nuclear facilities and annual ~~safety~~ assessments of the safety status of supervised nuclear facilities. The Act of 13 June 2019 amending the Atomic Law Act and the Fire Protection Act (Journal of Laws, item 1593, as amended) extended the catalogue of information ~~made available provided~~ by the President of the National Atomic Energy Agency ~~has been extended in Article 35a of the Atomic Law Act~~ to include a Statenational report on the review ~~on certain of specific~~ technical and organisational aspects related to the operation of nuclear ~~installations and a facilities, the results of the analysis of this report and on the~~ national action plan ~~to improve for increasing~~ the level of nuclear safety ~~level and security of domestic national~~ nuclear ~~installations (to be drawn up when facilities (developed in justified).~~ The Act of 4 April 2014 amending the Atomic Law Act and certain other acts (Journal of Laws, item 587) amended Article ~~cases).~~ Regulation 25(1)(9) of the Act on Provision of Information about the Environment. ~~This amendment expanded the catalogue of information stipulates~~ that the President of the National Atomic Energy Agency shall ~~make available by provide e.g.,~~ information on the condition state of radiological radiation protection of radioactive waste ~~dumps repositories,~~ their ~~effect impact~~ on people's human health and the environment, information on the size and isotopic composition of releases of radioactive substances from radioactive landfills waste repositories into the environment,<sup>63</sup> and information on ~~the key events in the at~~ radioactive waste ~~dumps repositories~~ causing ~~creation of a hazard —excluding— with the exception of~~ information concerning the physical protection and protections security of nuclear materials, as well as information constituting a business secret, ~~as defined in within the meaning of~~ the regulations on counteracting combating unfair competition.

~~60.~~ This information is published in the Public Information Bulletin (*Biuletyn Informacji Publicznej, 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~~ In addition, this Public Information Bulletin shall keep a register of documents containing information about the environment and its protection ~~is conducted in the form of information sheets compliant, in accordance~~ 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).~~ this register.

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

~~61.~~ 64. Administrative authorities obliged to carry out monitoring studies are required to share and publish information about the environment and its protection, free of charge.

~~62.~~ 65. Pursuant to the EPL, the operators of the installation and users of the device, are under an obligation to periodically measure the volume of emissions as well as the amount of water and energy consumed. In the case of significant quantities of

substances or energy, monitoring shall be continuous.

~~63.~~ 66. 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 Inspector of Environmental Protection.

~~64.~~ 67. In the case of use of the environment for which fees are charged (water abstraction, sewage emissions, etc.), information ~~is~~shall be submitted to the Marshall of the Voivodship and the Voivodship Inspector of Environmental Protection.

~~65.~~ 68. Information about upper-tier establishments or establishments with a high risk of a major industrial accident must be reported to the State Fire Service. The operator of such establishment shall prepare a major incident and accident prevention programme, in which 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.

~~66.~~ 69. The Act of 14 December 2012 on Waste (~~-~~Journal of Laws of ~~2020~~2023, item ~~797~~1587, as amended) imposes on landfill site operators an obligation to monitor the landfill site and to send the results to the Voivodship Inspector of Environmental Protection on an annual basis. The Voivodship Inspector of Environmental Protection must be immediately notified of any changes in the observed parameters indicating the possibility of occurrence or emergence of threats to the environment.

#### **Article 5, paragraph 1-(c)-)**

~~67.~~ 70. The principles of dealing with emergency situations are regulated in numerous legal acts. They indicate the obligation of the relevant authorities at each level to cooperate, depending on the type of natural disaster.

~~68.~~ 71. The editors-in-chief of journals and broadcasters of radio and television programmes are obliged, at the request of the administrative authorities, to publish or post, free of charge, without delay, communications of these authorities related to activities aimed at preventing or remedying the effects of a natural disaster.

~~69.~~ 72. The Inspection for Environmental Protection informs the public about the state of the environment and keeps a register of major accidents. Other authorities are obliged to contact the mass media without delay and to distribute information accordingly, depending on the situation.

~~The Voivodship Governors (the Voivodes)~~73. In the event of an industrial accident, public administration authorities and entities listed in the so-called external operational and rescue plan are obliged to inform people exposed to its effects.

~~70.~~ 74. The Voivodes are obliged to announce smog warning states containing an appeal to inhabitants to behave appropriately in order to minimise the causes and effects of the occurrence thereof.

#### **Article 5, paragraph 2-**

~~71.~~ 75. The principles of making available and disseminating information about the environment and its protection are set out in the *Act on Provision of Information about*

*the Environment*. Pursuant to this Act, documents and data on documents containing information about the environment and its protection are placed in publicly available lists, in Public Information Bulletins and electronic databases.

~~72.~~ 76. Administrative authorities are obliged to designate persons responsible for publishing information about the environment.

~~73.~~ 77. Most databases are accessible via the Internet. Access to them is free of charge. If a database is not accessible via the Internet, then information from that database is available upon request.

~~74.~~ 78. The AAPI imposes on public authorities and entities managing public funds the obligation to maintain on the Internet a Public Information Bulletin containing electronic copies of public information.

79. Based on the Act of 14 December 2012 on Waste, in 2018 a publicly accessible Database on Products and Packaging as well as on Waste Management (BDO) was created, administered by the minister in charge of climate (bdo.mos.gov.pl). This database contains information on waste management in Poland and allows users to search for waste management entities (including those introducing products, packaged products, batteries and accumulators). The functionalities of the BDO enable comprehensive collection and management of information on waste management based on annual reports and ensure that entities can fulfil their statutory (registration, record-keeping and reporting) obligations electronically. Currently, more than 630,000 entities are registered in the BDO. BDO enables public administration authorities indicated in the Act on Waste to generate summaries on waste management, which significantly facilitates the control of waste management entities in Poland and streamlines the process of sharing information as part of requests for access to environmental information.

### **Article 5, paragraph 3.**

~~75.~~ 80. Pursuant to the *Act on Provision of Information about the Environment*, public administration authorities post information on policies, plans, programmes, maps, and analyses, as well as other documents concerning environmental protection, in publicly available data lists and in the Public Information Bulletin.

~~76.~~ 81. Pursuant to the Act of 20 July 2000 on Promulgation of Normative Acts and some other Legal Acts (Journal of Laws of 2019, item 1461, as amended), the Journal of Laws of the Republic of Poland (~~Journal of Laws, in Polish: PL~~ *Dziennik Ustaw*) is published by the Prime Minister with the assistance of the Government Legislation Centre. Since 1 January 2012, the Journal of Laws is published also in electronic form, maintaining the sequence of items in a given calendar year. The Journal of Laws publishes normative acts and other legal acts. It is available at <http://www.dziennikustaw.gov.pl/DU>.

~~77.~~ 82. The Minister of Climate and Environment maintains the website [www.ekoportal.gov.pl](http://www.ekoportal.gov.pl), through which each office can make information on its documents containing environmental information freely available. The Publicly Available Data List maintained on Ekoportal gathers information published by over 1500 offices 2,000 administration authorities from all over Poland, which translates into

over 5000 users. ~~Ekoportal has over 13000 hits per month~~10,000 user accounts managing the data. So far, nearly 3 million information sheets have been published in this system. Offices not using the Ekoportal maintain publicly accessible data lists using their own tools.

~~78.~~ 83. Documents relating to particular authorities are available on the websites of their Public Information Bulletins.

~~The~~84. GMM and GMO registers, together with all relevant information, including resolutions of the GMM and GMO Committee, are available at <http://gmo.mos.gov.pl>; <https://gmo.klimat.gov.pl/>.

~~79.~~ A list of databases on the environment is available on Ekoportal in the form of a guide and search engine (<https://ekoportal.gov.pl/dane-o-srodowisku/srodowiskowebazysrodowiskowe-bazy-danych>).

~~80.~~ 85. Individual central administration authorities dealing with environmental matters maintain their own databases. Examples:

- The Chief Inspectorate of Environmental Protection (CIEP) maintains the following databases and datasets: ~~the~~ monitoring of the chemistry of Polish arable soils (MCG), ~~the~~ air quality monitoring (JPOAT), monitoring of species and natural habitats (MSGP), Monitoring of Polish Birds (MPP), monitoring of marine species and their habitats, ~~the~~ (MGiSM), environmental noise monitoring (EHAŁAS), the EHAŁAS-P), strategic noise maps and environmental noise protection programmes (EHAŁAS-M), electromagnetic fields ~~field~~ monitoring (JELMAG), ~~monitoring of~~ surface water quality monitoring (JWODA), ~~monitoring of the~~ ozone layer monitoring, Geoportal CIEP INSPIRE — a node of ~~Infrastructure for Spatial Information and the spatial information infrastructure and an~~ IT portal of the Chief Inspectorate of Environmental Protection, ~~which allows enabling~~ the public to access information on the findings of inspections carried out and ~~on the~~ post-inspection ~~activities undertaken. Access to some measures taken. Some of the~~ data from certain databases ~~is possible~~ can be accessed via the website. The ~~Chief Inspectorate of Environmental Protection~~ CIEP disseminates the results of ~~the~~ Corine Land Cover (CLC) projects ~~through~~ via the <http://clc.gios.gov.pl/> portal ~~http://clc.gios.gov.pl/~~. It should be noted that the ~~above-mentioned~~ CIEP resources ~~of the Chief Inspectorate of Environmental Protection are~~ have also been described ~~on~~ as part of the open data portal — <https://dane.gov.pl/>;
- The General Directorate for Environmental Protection maintains, ~~inter alia,~~ Central Register of the Forms e.g., central register of forms of Nature Protection, ~~the~~ "geoserwis" nature conservation, Geoserwis website, ~~a~~ database of environmental impact assessments ~~and a~~ register of Natura 2000 sites, historical land contamination and register of direct threats of environmental damage and environmental damages occurred, as well as the Central Register of IAS (Invasive Alien Species) Data and the Natural Resource Database;
- The Polish Geological Institute — National Research Institute ~~within, as part of its duties as the framework of tasks of the Polish Geological Survey and the Polish Hydrogeological Survey~~ national geological and hydrogeological service,

maintains several ~~dozens of dozen~~ databases containing information on the inanimate environment. ~~Almost all of these databases are available on-line, free of charge.~~ The most important of these include: Central Geological Database, Landslides Counteracting System SOPO, Central Hydrogeological Data Bank ~~called~~ HYDRO Bank, Groundwater Monitoring, System of Management and Protection of Mineral Resources in Poland MIDAS, Central Geological Database INFOGEO SKARB, Register of Mining Areas, Geo-environmental Database, Central Register of Polish Geo-sites. Most of these databases are available online free of charge. The main way in which ~~resources~~ are supplemented by geological, geochemical, hydrogeological, geological-engineering, and geo-environmental maps is made available ~~on the IKAR geoportal, annually~~ is through web services, specialised applications dedicated to various fields of geology, and map applications and portals. Data is also published ~~a Balance of Mineral Resources Deposits in Poland and announcements, warnings, in cyclical quarterly and reports of the Polish Geological Survey annual publications.~~

- The infrastructure for spatial information The Institute of Meteorology and Water Management – National Research Institute provides access to historical meteorological and hydrological measurement and observation data collected by the State Hydrological and Meteorological Service of the Institute of Meteorology and Water Management.
- The Institute of Soil Science and Plant Cultivation – National Research Institute operates an Agricultural Drought Monitoring System that identifies areas where drought has caused crop losses and provides information on areas at risk of agricultural drought for individual crops in selected periods.

86. Spatial information infrastructure plays an increasingly important role in the collection and dissemination of environmental information. ~~The INSPIRE 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) (OJ L 108, 25.04.2007, p. 1, as amended) and the Act of 4 March 2010 on Spatial Information Infrastructure (Journal of Laws of 2020, item 177, as amended),~~ which implements ~~this Directive~~ INSPIRE into the Polish legal system, define the principles for the creation of ~~the infrastructure for~~ spatial information. Fulfilling infrastructure. In fulfilment of the INSPIRE objectives, the Ministry of Climate and Environment (MC&E) maintains a spatial information system, the MC&E Geoportal (<https://iip.ekoportal.gov.pl/>). In particular, priority spatial data sets are made available through the above-mentioned system, for the preparation of which the Minister of Climate and Environment is directly responsible. Source data and harmonised sets are published on the Ministry of Climate and Environment Geoportal. The Ministry also maintains a metadata catalogue integrated into the national and European infrastructure.

84. In fulfilling the obligations ~~under~~ arising from the Act of 4 March 2010 on Spatial Information Infrastructure, the Chief Inspector of Environmental Protection, as the leading authority for the ~~subject matter "devices for monitoring of the environment",~~

~~operates the Geoportal CIEP INSPIRE (topic of 'environmental monitoring equipment', carried out activities in the field of maintenance and development of the CIEP INSPIRE spatial information infrastructure node. Within the framework of the spatial information infrastructure, harmonised spatial data sets and metadata were updated and published using web services, and the range of spatial data adapted to the requirements of the INSPIRE Directive was expanded and made available. At the same time, within the framework of the CIEP INSPIRE Geoportal, the metadata catalogue, and the CIEP INSPIRE information portal (<http://inspire.gios.gov.pl/portal/>) — a branch service constituting a node of Infrastructure for Spatial Information in the scope of environmental monitoring devices.), relevant updates and additions were made to provide information on the extended scope of spatial data sets (e.g., INSPIRE-compliant resources were visualised, metadata in the metadata catalogue and information about new resources in the aforementioned information portal were updated). INSPIRE-compliant spatial data sets and metadata are also available on the national geoportal and the European geoportal. In addition, harmonised data sets and web services have been described as part of the open data portal <https://dane.gov.pl/pl>.~~

#### **Article 5, paragraph 4-**

~~82. The Chief Inspector of Environmental Protection prepares, according~~<sup>87.</sup> Pursuant to Article 25b of the IEP, at least once every ~~4~~<sup>four</sup> years, ~~the Chief Inspector of Environmental Protection prepares~~ a report on the state of the environment in Poland, taking into account, in particular, data from ~~the State Environmental Monitoring. The state environmental monitoring. In 2022, the~~ Chief Inspector of Environmental Protection ~~in 2018 developed~~<sup>prepared</sup> and published the report "~~Condition~~<sup>'2022 State of the Environment in Poland. 2018 Report'</sup> for Poland" (~~[http://www.gios.gov.pl/images/dokumenty/pms/raporty/Stan\\_srodowiska\\_w\\_PolsceR\\_aport\\_2018.pdf](http://www.gios.gov.pl/images/dokumenty/pms/raporty/Stan_srodowiska_w_PolsceR_aport_2018.pdf)~~<sup><https://www.gov.pl/web/gios/raporty-o-stanie-srodowiska-w-polsce></sup>). This report presents the ~~state~~<sup>status</sup> of all environmental components covered by the ~~State Environmental Monitoring~~<sup>state environmental monitoring</sup>: nature, air, ~~waters,~~ soils, ~~taking into account noise exposure,~~ ~~water, soil, including the acoustic status of the environment, the level of~~ electromagnetic fields, and ~~ionizing~~<sup>ionising</sup> radiation. ~~In~~ addition, by the end of 2018, the voivodship inspectorates 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 a cause-and-effect analysis of environmental problems in the voivodship and are widely available in printed and electronic form, including through the websites of the environmental protection inspection authorities.~~

#### **Article 5, paragraph 5-**

~~83.~~ <sup>88.</sup> The *Act on Provision of Information about the Environment* requires to publish on the Internet data on documents containing information about the

environment.

~~84.~~ 89. The Minister of Climate and Environment maintains the Ekoportal, a website which contains, among ~~other things~~others, a database of documents containing information on the environment.

~~85.~~ 90. The website of the Sejm of the Republic of Poland (Polish ~~Sejm~~Parliament) contains the ~~content~~texts of all binding legal acts in Poland as published in the Journal of Laws and in the Polish Official Gazette (~~in Polish: 'Monitor Polski'~~Polski). Since 1 January 2012, the Journal of Laws is published also in electronic form, ~~preserving~~maintaining the ~~order~~sequence of items in a given calendar year. The Journal of Laws publishes the most important normative acts and some other legal acts. Acts of local law and legal acts of internal character are published in official journals maintained by individual public authorities.

#### **Article 5, paragraph 6.**

~~86.~~ 91. Article 21(2)(32) of the *Act on Provision of Information about the Environment* states that the data on environmental declarations, referred to in the Act of 15 July 2011 on the National Community Eco-management and Audit Scheme (EMAS) (Journal of Laws of ~~2020, item 634, as amended~~2022, item 2013), shall be placed in the publicly available lists. On the other hand, Article 21(2)(23)(m) of the *Act on Provision of Information about the Environment* states that the data on environmental reviews (eco-audits), performed pursuant to the EPL, shall be placed in the publicly available lists.

#### **Article 5, paragraph 7.**

~~87.~~ 92. The websites of the Polish Sejm, Polish Senate, the Government Legislation Centre, as well as all offices ~~—~~ within the scope of their competences ~~—~~ contain databases with valid legal acts, as well as copies of draft legal acts with justifications.

~~88.~~ ~~Administrative~~93. Administration authorities participating in the law-making process are obliged to publish on the Internet drafts of legal acts together with their justification and impact assessment.

~~89.~~ ~~Administrative~~94. Administration authorities shall publish information on their functions on the Internet e.g., in the Public Information Bulletin.

#### **Article 5, paragraph 8.**

~~90.~~ 95. Pursuant to Article 167 of the EPL, the entity placing a product on the market should ensure that ~~the~~this product meets the environmental protection requirements. The product should be provided with information concerning fuel or consumables consumption, emissions connected with the use of the product and environmentally safe use, dismantling, re-use, or disposal of the product. The seller of the product shall ensure that such information is also displayed ~~at the points of sale of~~in places where the product is sold.

~~91.~~ 96. Pursuant to Article 80 of the EPL, advertising or any other type of promotion of goods or services should not contain content that promotes a consumption model

contrary to the principles of environmental protection and sustainable development, and in particular use the image of wild nature to promote products and services that have a negative impact on the natural environment.

#### **Article 5, paragraph 9.**

~~92.~~ 97. The Polish Pollutant Release and Transfer Register has been created as an element of the European Pollutant Release and Transfer Register (E-PRTR), established by the Regulation (EC) 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 (OJ L 33, 4.2.2006, p. 1). This register is maintained by the Chief Inspector of Environmental Protection in the form of a publicly available database. In ~~2017-2020~~terms of the requirements arising from the INSPIRE Directive, the Chief Inspectorate of Environmental Protection ~~implemented actions~~has taken steps to adapt this ~~database~~resource to ~~the requirements of the INSPIRE~~INSPIRE requirements. The harmonised spatial data set and metadata have been updated and made available via web services, in accordance with INSPIRE requirements.

~~The administrative~~Access to the CIEP INSPIRE spatial information infrastructure information portal is provided at the following address <https://inspire.gios.gov.pl/portal/>.

~~93.~~ 98. Administration authorities are obliged to collect data on entities emitting pollution and make them available in publicly accessible lists.

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

~~94.~~ 99. There are irregularities in maintaining a publicly accessible list of data on documents containing environmental information, as required by the provisions of the ~~EPL and the Act on Provision of Information about the Environment~~. These irregularities consist in lack of a publicly accessible list, failure to enter data on some documents into the list, entering data with a delay of many months and improper form of the list.

~~95.~~ 100. 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.

101. The publication of information in Public Information Bulletins sometimes takes place with a long delay, and the form of the published information is not accessible to everyone. It is difficult to find specific information.

~~96.~~ 102. The problem is the heterogeneity of the form of the publicly available data lists due to the use of different ICT tools.

~~97.~~ 103. According to NGOs, the Republic of Poland in principle correctly transposed Article 5(8) of the Convention, ensuring that the public is sufficiently informed about products in a manner that will enable consumers to make conscious choices regarding their environmental effects. However, in NGOs opinion, doubts may be raised by the limited material scope of the regulation issued pursuant to Article 167

of the EPL<sup>1</sup> and the lack of other implementing regulations which are relevant for the transposition of this article of the Convention.

~~98.~~ 104. 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 particularly to local authorities. The situation is better for authorities specialised in environmental decision-making.

~~99.~~ 105. NGOs noted that publicly available data lists sometimes contain incomplete information. Also, the form in which the information on documents is made available is, in their view, archaic or illegible.

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

~~100.~~ 106. The Minister of Climate and Environment provides interested ~~administrative~~administration authorities with an application for maintaining a publicly accessible list of data on documents containing information about the environment and its protection and their presentation on the Ekoportal. This possibility is currently used by more than ~~1500~~2000 offices.

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

~~101.~~

~~[www.ekoportal.gov.pl](http://www.ekoportal.gov.pl)~~ 107.

~~[www.ekoportal.gov.pl](http://www.ekoportal.gov.pl)~~ – Ministry of Climate and Environment,

~~<https://www.gov.pl/web/klimat>~~ – Ministry of Climate and Environment,

~~[www.klimada.mos.gov.pl](http://www.klimada.mos.gov.pl)~~ – Ministry of Climate and Environment,

~~[www.klimada2.ios.gov.pl](http://www.klimada2.ios.gov.pl)~~ [www.klimada2.ios.gov.pl](http://www.klimada2.ios.gov.pl) – Institute of Environmental Protection,

~~[www.gios.gov.pl](http://www.gios.gov.pl)~~ <https://www.gov.pl/web/gios> – Chief Inspectorate ~~of~~for Environmental Protection,

~~[www.gdos.gov.pl](http://www.gdos.gov.pl)~~ <https://www.gov.pl/web/gdos> – General Directorate for Environmental Protection,

~~[www.gmes.info](http://www.gmes.info)~~ [www.gmes.info](http://www.gmes.info) – Earth observation component of the European Union's Earth Observation Programme "Copernicus",

~~[www.pgi.gov.pl](http://www.pgi.gov.pl)~~ [www.pgi.gov.pl](http://www.pgi.gov.pl) – Space programme 'Copernicus' [www.pgi.gov.pl](http://www.pgi.gov.pl) – Polish Geological Institute – National Research Institute,

~~[www.paa.gov.pl](http://www.paa.gov.pl)~~ and ~~[www.bip.paa.gov.pl](http://www.bip.paa.gov.pl)~~ [www.gov.pl/web/paa](http://www.gov.pl/web/paa) and

[gov.pl/web/paa/mapa-strony?show-bip=true](http://gov.pl/web/paa/mapa-strony?show-bip=true) – National Atomic Energy Agency,

~~[www.gios.gov.pl/prtr/portal](http://www.gios.gov.pl/prtr/portal)~~ [www.gios.gov.pl/prtr/portal](http://www.gios.gov.pl/prtr/portal) – Chief Inspectorate ~~of~~for Environmental Protection.

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<sup>1</sup> Ordinance of the Minister of Economy and Labour of 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), which concerns the obligation to provide appropriate information only 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 Ordinance.

[bdo.mos.gov.pl](http://bdo.mos.gov.pl) – Database on products, packaging and waste management  
<https://danepubliczne.imgw.pl> – Institute of Meteorology and Water Management – NRI  
<https://susza.iung.pulawy.pl> – Institute of Soil Science and Plant Cultivation – NRI

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

~~102.~~ 108. Pursuant to Section III of the Act on Provision of Information about the Environment, everyone has the right to submit comments and proposals in proceedings that require public participation. The ~~administrative~~administration authorities competent to issue decisions are obliged to properly provide the possibility of the participation of the public before issuing or amending such decisions.

~~103. The established procedures shall apply to decisions on projects listed in Annex I to the Convention and in Annex II to the Directive 2011/92/EU.~~

109. Among the proceedings requiring public participation is the procedure for issuing a decision on environmental conditions, as part of which an assessment of the impact of the project on the environment shall be conducted. According to the Act on Provision of Information about the Environment, obtaining a decision on environmental conditions is required for planned projects that may always significantly affect the environment and projects that may potentially significantly affect the environment. On the other hand, an environmental impact assessment is required for planned projects which may always significantly affect the environment and planned projects which may potentially significantly affect the environment, if the obligation to conduct an environmental impact assessment of a project has been established in a relevant procedure, or if an entity planning to undertake a project located in areas covered by forms of nature protection referred to in the Act of 16 April 2004 on nature protection (Journal of Laws of 2023, item 1336, as amended), hereinafter referred to as the 'Act on nature protection', applies for such an assessment. Therefore, the established procedures apply to decisions issued for projects listed in Annex I and Annex II of the Directive 2011/92/EU. In the justification of the decision on environmental conditions, the authority is obliged to provide information on the public participation conducted in the proceedings and how the comments and requests made in connection with the public participation were taken into account and to what extent they were taken into account.

An exception is made for planned projects likely to have a significant impact on the environment, the exclusive purpose of which is defence and state security or conducting rescue operations and ensuring civil security in connection with counteracting or removing an imminent threat to the population. For these projects, a decision on environmental conditions shall not be issued if its issuance would adversely affect these objectives. In addition, the authority conducting the proceedings may, by way of a decision, exclude the application of the Section III provisions (relating to public participation in environmental protection) with respect to projects carried out

in closed areas, if the application of these provisions could have an adverse impact on the objectives of state defence and security. The provisions of Section III also do not apply, in exceptional cases, to the implementation of strategic investments defined by way of a decree, pursuant to Article 103a(2) of the Act on Provision of Information about the Environment, if, in addition, the conditions indicated in this article are met. Then the entitled ecological organisations shall have the right to participate on the rights of a party, including the right to appeal against the decision and to complain to the administrative court, and the content of the relevant documentation and decision shall be made public.

Proceedings requiring public participation are also administrative proceedings in which an assessment of the environmental impact of a project is conducted again according to the provisions of Chapter 4 in Section V of the Act on Provision of Information about the Environment.

~~404.~~ 110. Pursuant to the *Act on Provision of Information about the Environment*, ecological organisations which, relying on their statutory objectives, declare willingness to participate in certain proceedings requiring public participation, participate in such proceedings as a party if they carry out statutory activities in the field of environmental or nature protection for a minimum of 12 months prior to the date of initiation of such proceedings. An ecological organisation has the right to appeal against a decision taken in a public participation procedure if this is justified by the statutory objectives of that organisation, including where it did not participate in a given public participation procedure conducted by an authority of first instance. Filing an appeal shall be equivalent to expressing a desire to participate in such a procedure. In the appeal proceedings, the organisation participates as a party.

~~405.~~ 111. An ecological organisation can challenge a decision in a public participation procedure before an administrative court if this is justified by the statutory objectives of that organisation, including where it did not participate in the public participation procedure in question.

112. In addition, an ecological organisation referring to its statutory objectives, if it has been conducting statutory activities in the field of environmental or nature protection for a minimum of 12 months prior to the date of initiation of the proceedings concerning the investment permit, also in the event that it did not participate in the proceedings conducted by the authority of the first instance, or the party to the proceedings for the issuance of a decision on environmental conditions has the right to appeal against the investment permit, preceded by a decision on environmental conditions issued in the proceedings requiring public participation. In the appeal proceedings, the ecological organisation participates as a party. An appeal is possible to the extent that the authority competent to issue an investment permit is bound by the decision on environmental conditions.

In the above-mentioned scope, an appeal to the administrative court against the investment permit, preceded by the decision on environmental conditions issued in the proceedings requiring public participation, also applies to an ecological organisation or a party in the case when the organisation or party did not participate in the proceedings for the issue of the investment permit.

## Article 6, paragraph 1.

~~406.~~ 113. The rules for carrying out environmental impact assessments are set out in the *Act on Provision of Information about the Environment*. The opportunity for public participation is provided before the issuance of a decision on environmental conditions, in the proceedings in which the environmental impact assessment of the project is carried out, as well as before the issuance of some investment permits, as part of the so-called reassessment of the environmental impact. Particular types of projects for which assessments shall be carried out are listed in the Regulation of the Council of Ministers of 10 September 2019 on projects likely to have a significant impact on the environment (Journal of Laws of 2019, item 1839), as amended. Exceptions are described above.

~~407.~~ The114. Article 201(1) of the EPL provides that the operation of an installation which, due to the type and scale of 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 (Journal of Laws of 2014, item 1169).

~~408. The Act on Provision of Information about the Environment stipulates that public participation shall not be carried out with respect to projects carried out in closed areas if public involvement could have an adverse impact on the objectives of state defence and security.~~

## Article 6, paragraph 2.

~~409.~~ 115. Pursuant to the *Act on Provision of Information about the Environment*, before issuing or amending a decision requiring public participation, the authority competent to issue such a decision shall, without undue delay, announce to the public information on:

- the commencement of an assessment of the environmental impact of the project,
- the initiation of proceedings,
- the subject matter of the decision to be issued in the case,
- the authority competent to issue the decision and the authorities competent to issue opinions and make arrangements,
- the possibility of familiarising with the necessary documentation of the case and the place where it is displayed for inspection,
- the possibility to submit comments and proposals,
- the manner and place for submitting comments and proposals, indicating at the same time the 30-day deadline for their submission,
- the authority competent to consider comments and proposals,
- the date and place of the administrative hearing open to the public, if any,
- the proceedings on transboundary environmental impacts, if any.

The necessary case documents include the application for a decision with the required attachments, as well as the legally required decisions of the competent authority and the positions of other authorities, if the positions are available at the time of the submission of comments and proposals.

The term "announce to the public" 'information' shall be understood as:

- a) a) making the information available on the website of the Public Information Bulletin of the authority competent in the matter,
- b) b) announcement of the information, in the usual manner, in the seat of the authority competent in the matter,
- c) c) announcement by means of a notice, in the usual manner, in the place of the planned project,
- d) d) where the seat of the authority competent in the matter is situated in a municipality other than the municipality with jurisdiction over the subject matter of the proceedings, also by announcement in the press or in the usual manner in the locality or localities with jurisdiction over the subject matter of the proceedings.

~~The necessary documentation for the case includes: the application for a decision together with the required attachments, as well as the decisions of the authority competent to issue the decision required by law and the positions of other authorities, if such positions are available within the deadline for submitting comments and applications.~~

In the case of proceedings for issuing a decision on environmental conditions, the authority competent to issue such a decision (at the latest by the end of the working day following the day on which the circumstances justifying the publication of this information occurred), as well as the municipal authority competent for the subject matter of the proceedings for issuing the decision on environmental conditions (at the latest by the end of the working day following the day of delivery of the request for disclosure of information to the public by the authority competent to issue such decision), shall publish the above information on their websites in the Public Information Bulletin. The authorities shall make the information available on their subject pages in the Public Information Bulletin for a period of not less than one year. In addition, the municipal authority with jurisdiction over the subject matter of the proceedings for issuing the decision on environmental conditions shall make this information public in the local customary manner (at the latest by the end of the working day following the day of delivery of the request for disclosure of information to the public by the authority competent to issue such decision), and shall make it available in the manner customary in a given locality for a period of 30 consecutive days from the date of the first provision of information. In the event of an interruption in the availability of this information in the manner specified above, the 30-day period shall not be interrupted, provided that the information remains available on the entity page in the Public Information Bulletin by at least one of the authorities.

### **Article 6, paragraph 3-**

~~110.~~ 116. The deadline for submitting comments and applications ~~to the planned decision before issuing and amending decisions~~ requiring public participation is 30

days.

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

~~111. As indicated in the explanations to Article 6, paragraph 2, the public participation procedure starts even before the decision is issued.~~

117. Public participation shall be ensured prior to the submission of an application for the investment decisions listed in Article 72(1) of the Act on Access to Information on the Environment and the notification referred to in Article 72(1a) of that Act. This is because it is first necessary to obtain a decision on environmental conditions. This, in turn, constitutes a decision requiring public participation in the case of proceedings requiring an environmental impact assessment. Public participation is also carried out in the case of a reassessment of the environmental impact. As indicated in the explanations to Article 6(2), the public participation procedure begins even before the issuance and amendment of decisions requiring public participation.

#### **Article 6, paragraph 5.**

~~112.~~ 118. 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.~~ 119. Information on the application and the accompanying documentation is available through publicly accessible data lists (vide explanations on Article 5, paragraph 2). Pursuant to Article 33(1)(5) of the *Act on Provision of Information about the Environment*, the necessary documentation of the case shall be made available for inspection at the place indicated by the authority competent to issue the decision, as part of the public participation process.

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

~~114.~~ 120. Comments and proposals may be submitted by anyone in writing, orally into the record and by means of electronic communication without signing them using a safe electronic signature. In addition, the authority competent to issue a decision may conduct an administrative hearing open to the public. If it is likely that in addition to the parties called to participate in the proceedings, there may be other parties in the case unknown to the public administration authority, the authority shall announce the date, place and subject matter of the hearing in the form of a public announcement, in another form of public announcement customarily accepted in a given locality or by making the notification available in the Public Information Bulletin on its subject page.

~~115.~~ 121. Ecological organisations that by invoking their statutory objectives, report a desire to participate in a specific 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.~~ 122. An ecological organisation has the right to file an appeal against a 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~~organisation participates ~~having the rights of~~as a party.

#### **Article 6, paragraph 8-**

~~117.~~ 123. The authority conducting the proceedings examines the comments and 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~~proposals submitted in connection with ~~the~~ public participation ~~have been considered~~were taken into account.

#### **Article 6, paragraph 9-**

~~118.~~ 124. The authority responsible for issuing the decision requiring public participation announces to the public information about the issuance of the decision and the possibilities of familiarising with its content.

~~119.~~ 125. Pursuant to the CAP, a decision should contain: an indication of a public administration authority, the date of issuance, an indication of a party or parties, reference to the legal basis, a decision, a factual and legal justification, an instruction as to whether and in what manner an appeal may be lodged against it, a signature stating the forename and surname and an official position of the person authorised to issue the decision. A decision which may be challenged before a common court or appealed against before an administrative court should also contain an 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 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.

~~The Act on Provision of Information about the Environment provides that a~~126. The Act on Provision of Information about the Environment also stipulates that the authority competent to issue a decision on environmental conditions granted after conducting an environmental impact assessment of the project shall, immediately after its issue, make public the information on the issued decision and on the possibilities of becoming acquainted with its content and with the case documentation, including the arrangements and opinions of the authorities, and shall make the content of this decision available for a period of 14 days in the Public Information Bulletin on the website of the office serving it. The information shall indicate the date on which the

content of the decision will be made available. The provision shall apply accordingly to decisions on environmental conditions issued without carrying out an assessment of the project's impact on the environment.

~~120.~~ The decision on environmental conditions requires justification. In addition, the Act lists the necessary elements of such a decision. These include, *inter alia* among others, information on the conducted proceedings requiring public participation and on how and to what extent the comments and proposals made in connection with public participation have been taken into account. The ~~act~~Act also provides that the justification of the decision on environmental decision conditions should include information on how and to what extent have been considered:

- the findings contained in the report on the impact of the project on the environment,
- the arrangements and opinions of the authorities referred to in Article 77(1) of the Act,
- the results of the 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 follow-up decisions).

In addition, the authority competent to issue decisions listed in Article 72(1) of the Act on Access to Public Information (AAPI) concerning projects that may significantly affect the environment shall, immediately after issuing the decision, make public information about such decision and the possibility to familiarise oneself with its content and the case documentation, and also makes the content of this decision available for a period of 14 days in the Public Information Bulletin on the subject page of the office serving it. The information shall indicate the date on which the content of the decision will be made available. The aforementioned case documentation is shared in accordance with the provisions of Section II of the AAPI.

#### **Article 6, paragraph 10-**

~~121.~~ 127. An environmental impact assessment with public participation is also required when amending ~~ana decision on~~ environmental ~~decision conditions.~~

Furthermore, public participation is also ensured within the framework of the re-evaluation of the decision on environmental conditions. Before issuing the relevant decision, the General Director for Environmental Protection or the competent regional director for environmental protection shall request the authorities indicated in Article 90(2) of the Act on Access to Information on the Environment to ensure the possibility of public participation pursuant to Articles 33-36 and Article 38 of this Act. The authorities forward the comments and motions submitted by the public, as well as the minutes of the administrative hearing open to the public, if any, to the competent regional director for environmental protection (and, in the case of investments in the construction of a nuclear power plant, to the General Director for Environmental Protection) for consideration.

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

~~122.~~ 128. The provisions of the CAP determine the issue of ~~making information available~~access to case files for parties in connection with ~~the pending ongoing~~ proceedings. The provisions of the *Act on Provision of Information about the Environment* concerning the public participation procedure provide for ~~making the provision of~~ information available in connection with ~~the~~ proceedings conducted by the authority. ~~Pursuant~~According to the CAP, Act on Access to Information on the application of Environment, the ~~above-mentioned~~forementioned procedure is required when issuing certain administrative decisions, ~~such as the~~ e.g., ~~integrated permit~~permits, decisions issued ~~under~~pursuant to the Act of 22 June 2001 on ~~Microorganisms and Genetically Modified Organisms~~micro-organisms and genetically modified organisms (Journal of Laws of ~~2020~~2022, item ~~322~~546), hereinafter referred to as the "GMM and GMO Act", ~~Act~~, or ~~with respect to decisions~~a decision on environmental conditions, ~~at the stage of issuing of which an environmental impact assessment is carried out~~. The ~~provisions that~~regulations included in the Amendment to the Aarhus Convention on ~~Genetically Modified Organisms~~contains genetically modified organisms are also reflected in the provisions of the GMM and GMO Act. At the same time, Article 14a of the GMM and GMO Act precisely defines the information on GMMs and GMOs that ~~shall be made available~~. is subject to disclosure. The public has the right and opportunity to ~~become acquainted with~~review the application and documentation. This is done through the GMM and GMO registers ~~that operate, which are available~~ on ~~the website of~~ the Ministry of Climate and ~~Environment~~Environment's website.

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

~~123.~~ 129. ~~There~~According to NGOs, there are incidental cases where administrative authorities do not properly inform the public about proceedings requiring public participation.

~~124.~~ 130. As regards the method of notifying the public about conducted proceedings, ~~objections are~~NGOs sometimes ~~raised by~~have reservations about the content and type of ~~communicated~~ information, ~~applied channels of~~ provided, the communication channels used and the ~~deadline for~~ notification deadline. The authorities often do not apply all the methods of notification required by the provisions of law, thus limiting the circle of recipients of the notice and potential participants of the proceedings.

~~125.~~ 131. NGOs indicate that, in their opinion, Article 6 of the Convention has not been fully implemented into Polish law in the Act of 18 July 2001 on Water Law (Journal of Laws of ~~2020~~2024, item ~~340~~1087, as amended), hereinafter referred to as the "~~Water Law~~". Water Law. They claim that water permits issued under this Act do not sufficiently ensure public participation in decision-making. This particularly applies to non-governmental organisations. ~~They point in particular to the lack of possibility to appeal against water permit approvals~~In particular, they point to the lack of possibility

to appeal against issued water law permits for which a decision has been issued stating that it is not necessary to conduct an environmental impact assessment, which decision (the so-called negative screening decision) under Polish regulations cannot be appealed against by ecological organisations. In their opinion, this solution does not fulfil the requirements of Article 6(1)(b) of the Convention. It should be noted that the NGOs did not specify which water permits were concerned, as it is possible to challenge water permits if the permit in question was issued before the decision on environmental conditions together with the environmental impact assessment, with public participation and for which the decision on environmental conditions must be attached. There are 3 types of water permits: a water permit for the construction of water facilities, a water permit for water regulation and a water permit for the extraction of stone, gravel, sand and other materials from water.

126. 132. As regard the Article 6(5) of the Convention, the NGOs claim that there are no provisions in Polish law that oblige or encourage potential applicants to examine the scope of the public interest or to provide information about the planned project.

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

128. 134. According to NGOs, it is wrong that Article 38 of the *Act on Provision of Information about the Environment* does not include a requirement for the authority to inform about the issuance of the decision immediately. In practice, they have to use the access mode to information about the environment. In addition, NGOs point out that the authorities, when informing the public about the commencement of the development of a document, often immediately start public consultations on the draft document also. According to NGOs, this is a violation of Article 39(1) of the *Act on Provision of Information about the Environment*. However, it should be noted here that Article 39 of the Act on Provision of Information about the Environment refers to the development of a document ~~does~~ not ~~fall under the category of public participation into~~ decision-making. This remark seems to apply to strategic documents for the development of which public participation is provided for, in particular in the area of strategic environmental impact assessments.

~~129. The problem for NGOs is that the legislation does not specify how they are admitted to the proceedings. Therefore, they are sometimes not aware that they can act as a party once they have sent their notification.~~

130. 135. According to NGOs, their comments and requests submitted during the proceedings were rarely reflected in the adopted decisions. In addition, according to these organisations, the responsible authority often fails to attach to the adopted document a justification containing information about public participation in the proceedings and how all comments and requests submitted in relation to public participation have been taken into account and incorporated. In the opinion of non-governmental organisations, often an authority does not inform the public about the adoption of a document and the possibility to familiarise with its content, justification, and summary.

~~131. 136.~~ Non-governmental organisations indicate that there are problems with the lack of information about proceedings being conducted, especially at the level of regional and local administration. In their opinion, information about conducted proceedings often appears with a delay or is provided in an indefinite or generally inaccessible place (this applies both to the websites of offices, including public information bulletins, as well as information boards). The concept of "usual places"~~'places'~~ as those where such information should appear raises numerous problems as regard the efficient notification of procedure participants.

~~132. 137.~~ 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) (OJ L 334, 17.12.2010, p. 17-119) 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 AGCC/C/2014/121 – European Union is pending before the~~ The Aarhus Convention Compliance Committee (AGCC). The case concerns confirmed the incompatibility of the provisions of the Industrial Emissions Directive on public participation in decisions on amendments to permits integrated permits with the Convention (ACCC/C/2014/121 – European Union), which in turn led to their revision. 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. 138.~~ NGOs consider that it is necessary to introduce screening for decisions other than decisions on environmental conditions for planned ~~non-Annex I~~ projects likely not covered by Annex I to have a significant effect on the Convention which may significantly affect the environment. The ~~requested~~ screening postulated would ~~have the purpose of demonstrating~~ be to demonstrate whether public participation in decision-making would be required for planned projects. In particular, according to NGOs, this ~~applies to~~ concerns permits for ~~gas~~ the introduction of gases and dust ~~emissions to~~ into the air issued ~~under~~ on the basis of the EPL, water-~~law~~ permits, and water-~~law~~ assessments referred to in Article 388 of the Water Law<sup>2</sup>, as well as decisions ~~repealing bans~~ overruling prohibitions on ~~species~~ the protection of species of plants, animals and fungi issued ~~under~~ pursuant to the Nature Conservation Act<sup>3</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

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<sup>2</sup> Act of 20 July 2017 on Water Law (Journal of Laws of 2020, item 310).

<sup>3</sup> Act of 16 April 2004 on the Nature Conservation (Journal of Laws of 2020, item 55).

~~must be "effective".<sup>139</sup> According to NGOs, this sometimes results in the authorities takingsometimes take a mechanical approach to posting notices to the public, without much thought as to whether thesuch 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. 140.~~ 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. 141.~~ 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) 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.~~

~~142. NGOs consider that the July 2023 amendment to the Act on Provision of Information about the Environment<sup>4</sup> limited the possibility of public participation in the implementation of a number of projects defined by the Act as 'strategic investments', introducing for 'strategic investments' from Section VA a significantly simplified environmental impact assessment procedure excluding habitat assessment. According to NGOs, this amendment violates the Convention and European Union law, including Directive 2011/92/EU, Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (OJ L 206, 22.7.1992, p. 7), hereinafter referred to as the 'Habitats Directive') and Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds (OJ L 20, 26.1.2010, p. 7-25), hereinafter referred to as the 'Birds Directive').~~

~~143. NGOs point out that, in their opinion, Polish law only to a small extent provides for public participation in decision-making on planned projects not covered by Annex I to the Convention. In this category, the only type of decision for which Polish law requires public participation is the habitat assessment. According to NGOs, the catalogue of such projects should be broader.~~

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<sup>4</sup> Provisions added by the Act of 13.07.2023 (Official Journal of 2023, item 1890), which entered into force on 16.10.2023, especially Article 59a and Section VA.

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

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

~~138.~~

~~[www.gdos.gov.pl](http://www.gdos.gov.pl)~~~~144.~~

~~<https://www.gov.pl/web/gdos> – General Directorate for Environmental Protection,~~  
~~[www.nik.gov.pl](http://www.nik.gov.pl) – [www.nik.gov.pl](http://www.nik.gov.pl) – Supreme Audit Office.~~

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

~~139.~~ 145. The Act on Provision of Information about the Environment states that the administrative authorities competent for preparing draft documents in cases where legal regulations require providing the possibility of public participation, shall ensure the possibility of public participation accordingly before adopting these documents or amending them.

~~140.~~ 146. The following projects require a strategic environmental impact assessment:

~~1)~~ 1) ~~a draft concept of the national spatial development, the study of conditions and directions general plan~~ of the municipality ~~spatial development, the and a~~ spatial development plan, ~~and the development strategy,~~ setting the framework for the subsequent implementation of projects ~~likely to have a significant impact on~~ that may significantly affect the environment, as well as the national development concept, development strategy, programme, public policy and programme document in the field of development policy, setting the framework for the subsequent implementation of projects that may significantly affect the environment;

~~2)~~ 2) policies, strategies, plans and programmes in the field of industry, energy, transport, telecommunications, water management, waste management, forestry, agriculture, fisheries, tourism, and land use, developed or adopted by administrative authorities, setting a framework for the subsequent implementation of projects likely to have a significant impact on the environment,

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

~~141.~~ 147. A strategic environmental impact assessment is also required ~~in the case of changes for a draft amendment~~ to the ~~draft~~ documents referred to above ~~and in the case of their amendment~~. In special cases, it is possible to waive this assessment, including the waiver of public participation proceedings, if, in ~~agreement~~ consultation

with the competent authority, the authority preparing the ~~project establishes draft amendment to the document determines~~ that the implementation of the provisions of the ~~given document or its amendment may will not~~ cause a significant environmental 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.~~ 148. 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 the document or its amendment may 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.~~ 149. A strategic environmental impact assessment shall not be required for draft documents referred to in point ~~139~~140(1) and (2) and for draft amendments to such documents, as well as for projects referred to in point ~~141~~142:

1) 1) that are prepared exclusively for national defence or civil defence purposes,

2) 2) that are financial or budgetary, except for a project the implementation of which may have a significant impact on a Natura 2000 site.

~~144.~~ 150. The authority preparing draft documents referred to in point ~~139~~140(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 the provisions of 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~~140(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 such amendment will not have a significant impact on Natura 2000 sites.

~~145.~~ 151. Pursuant to the *Act on Provision of Information about the Environment*, the authority preparing a draft document requiring public participation shall, without undue delay, announce information on:

- the intention to prepare a draft document and its subject matter,
- the possibility of familiarising with the necessary documentation of the case and the place where it is ~~available~~displayed for ~~viewing~~inspection,
- the possibility ~~of submitting to submit~~ comments and proposals,
- the manner and place of submitting comments and proposals, indicating at the same time at least 21-day deadline for their submission,
- the authority competent to consider comments and proposals,
- the proceedings on transboundary environmental ~~impact~~impacts, if any<sub>7.</sub>

Special provisions, ~~inter alia, the Act of 20 July 2017 on e.g.,~~ 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 case of flood risk management plans, drought mitigation plans or river basin management plans, the deadline for submitting comments is 6 months.

~~146.~~ 152. The principles of law-making in Poland require ensuring public participation during the legislative process. In the case of draft acts and regulations, as a rule, it is mandatory to conduct public consultations and an assessment of the effects of 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 'Monitor Polski' of ~~2016~~2024, item ~~1006, as amended~~806). 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".~~Act~~.

~~147.~~ 153. The law requires the participation of NGOs in many advisory bodies, including those playing a role in the decision-making process related to the development of environmentally relevant plans and programmes, such as the State Council for Nature Conservation and the GMM and GMO Committee. Representatives of NGOs are also invited to the bodies deciding on the allocation of financial resources for the development of environmentally relevant plans and programmes.

~~148. The~~154. According to the Act on Provision of Information about the Environment, the deadline for submitting comments on a draft document requiring public participation is at least 21 days.

~~149.~~ 155. The public participation procedure starts even before the development of a document requiring public participation, as pursuant to Article 39(1) of the *Act on Provision of Information about the Environment*, the body preparing the document shall, without undue delay, announce to the public the commencement of the development of the draft document and its subject.

~~150.~~ 156. The authority preparing a draft document requiring public participation shall consider comments and proposals and shall attach to the adopted document a justification containing information on the public participation in the procedure and on how the comments and proposals submitted in connection with public participation have been taken into account and considered. In addition, the authority must inform the public about the adoption of the document and about the possibility of reading its content, justification, and summary.

## **20 Opportunities for public participation in developing environmental policies under Article 7.**

~~151.~~ 157. The obligation to carry out a strategic environmental impact assessment, in which public participation is ensured, also applies to the development of certain policies.

## **21. 21 Identified difficulties in implementing Article 7.**

~~152. NGOs consider~~158. Non-governmental organisations point out that for some plans and programmes "of environmental importance", ~~asignificance'~~ no public participation procedure is ~~not~~ required in Poland. ~~They point~~ In their opinion, this applies 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 multi-annual hunting~~ breeding plans and annual hunting plans drawn up ~~under Chapter~~based on chapter 3 of the Act of 13 October 1995 on Hunting Law (Journal of Laws of ~~2020, item 67~~),2023, item 1082) (the issue of the lack of public participation in the development of hunting plans is the subject of a case currently pending before the Aarhus Convention Compliance Committee: ACCC/C/2018/158), the annual plans of inspection activities of the Inspection of the Voivodship Inspectorates for Environmental Protection, control activities referred to in Article ~~54~~(4)(2) and Article 5a of the IEP, and the annual control plans of inspections concerning observance of compliance with regulations on ~~prevention of industrial incidents and accidents~~accident prevention.

159. In addition, non-governmental organisations argue that in light of the need to implement the CJEU judgment of 2 March 2023 (case C-432/21) with regard to forests, the national forest programme referred to in Article 5b of the Act of 28 September 1991 on Forests (Journal of Laws of 2024, item 530, as amended) should become a mandatory document. They believe that a strategic environmental impact assessment procedure should apply to this programme, and that the forest management plan (and simplified forest management plan) should be treated as a project within the meaning of the Act on Provision of Information about the Environment and be subject to the environmental impact assessment procedure appropriate for the project referred to in Article 59(2)(1) of this Act.

160. NGOs believe that the 21-day period for submitting comments and applications provided for in Poland is too short. It should be noted, however, that the Act on Provision of Information about the Environment provides for at least a 21-day period for submitting comments and applications. The authority may therefore set a longer deadline, if justified.

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

~~153.~~ 161. Public participation in the preparation of plans, programmes and policies is widely used in public administration, which results from the obligation of public consultation.

~~154.~~ 162. The Minister of Climate and Environment ensures public participation in the development of plans, programmes, and policies for which public participation is required. In addition, the Minister of Climate and Environment, to the extent allowed by national and supranational regulations, ensures public participation in making strategic decisions with regard to international agreements concluded by the Republic

of Poland.

~~155.~~ 163. In addition to the opportunity to submit written and electronic comments, interested NGOs and business organisations are also consulted. The comments submitted are considered. Information on the results of the consultation is available in the project documentation and on the office's website. It is also sent to interested partners.

~~156.~~ 164. Public participation is guaranteed, at various levels, in the development of plans, programmes, policies and strategies for environmental education, Natura 2000 management and the conservation of endangered species.

~~157. The General Directorate for Environmental Protection has introduced an Information and Communication Platform (PIK) to support the development of conservation tasks plans for Natura 2000 areas, including the implementation and handling of public consultations.~~

~~158.~~ 165. Public participation in the development of various types of strategic documents is also ensured, inter alia, by all central administrative authorities developing documents of strategic nature for which a strategic environmental impact assessment is carried out.

166. To ensure better public participation in the development of plans and programmes, tools such as specially created websites and online forms for submitting comments are used.

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

~~159.~~

~~[www.ekoportal.gov.pl](http://www.ekoportal.gov.pl)~~ – 167.

~~[www.ekoportal.gov.pl](http://www.ekoportal.gov.pl)~~ – Ministry of Climate and Environment,

~~<https://www.gov.pl/web/klimat>~~ – <https://www.gov.pl/web/klimat> – Ministry of Climate and Environment,

~~[www.gdos.gov.pl](http://www.gdos.gov.pl)~~ – <https://www.gov.pl/web/gdoswww.gdos.gov.pl> – General Directorate for Environmental Protection (GDEP),

~~<http://projekty.gdos.gov.pl/plany-zadan-ochronnych-platforma-informacyjno-komunikacyjna>~~ –

<http://projekty.gdos.gov.pl/plany-zadan-ochronnych-platforma-informacyjno-komunikacyjna> – Information and Communication Platform (PIK) operated by GDEP.

## **~~24.~~ 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~~effect on ~~the~~ environment in accordance with Article 8.**

~~160. Both the general provisions~~ 168. The regulations concerning ~~establishment~~the enactment of legal acts and government documents provide for public participation in

~~the drafting of the aforementioned acts and documents in the form of public consultations. The provisions of the Act on Provision of Information about the Environment provide for public participation in establishing executive regulations and other the development of certain policies, plans and programmes (including those adopted by generally binding norms applicable legal acts). The public, including non-governmental organisations, must be informed about planned solutions –at\_ what stage the project is \_at\_, what are its subsequent successive versions are, and what comments have been submitted to made on it. Public participation in the process of preparing normative acts is guaranteed by a number of legal acts, as well as voluntarily adopted practices (good legislative practices) concerning the implementation of the general principle of public consultations by. In addition, offices serving central government administration authorities, self-government administration and the Sejm are obliged, among others, to publish legislative work programmes or draft legal acts together with their justification and regulatory impact assessment.~~

~~161. 169. The principles of public participation in the process of drafting developing government documents, in particular draft normative acts, are indicated have been defined, among others, in the Lobbying Act lobbying law, as well as in the regulations concerning the organisation of government works. Offices are obliged, among others, to publish programmes of legislative work or draft legal acts together with justifications and an assessment of their effects work.~~

~~162. 170. Acts governing the functioning of local government at all levels provide for consultations with residents on issues important to the area and define the procedure and principles for conducting consultations.~~

~~163. 171. Representatives of NGOs have the right to participate in the meetings of parliamentary committees and subcommittees. NGOs that are known to be interested in a particular topic are invited to delegate their representatives. Other organizations organisations may apply for participation of their representatives in the meeting. In practice, NGOs actively participate in the meetings of the majority of parliamentary subcommittees preparing draft legislation by asking questions, commenting on analyses, and presenting proposals for new solutions.~~

## **25. 25 Identified difficulties in implementing Article 8.**

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

~~172. According to NGOs, public consultations on draft legislation often give the impression of being illusory. The deadlines for conducting them are sometimes too short to allow for a thorough examination of the document and the submission of comments. Furthermore, comments submitted in public consultations are rarely taken into account, according to NGOs. NGOs believe it would be good practice to oblige the institutions responsible for conducting the consultation to address all comments made. There are still cases where public consultations are not communicated widely enough. This can exclude some interested parties from the opportunity to comment on projects.~~

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

~~165.~~ 173. The Ministry of Climate and Environment ~~applies~~uses three main methods ~~of consultation of~~when consulting draft ~~legal acts~~legislation:

a) a) simultaneously with inter-ministerial arrangements, draft acts are sent for consultation and opinion to interested entities (administrative authorities other than competent ministers, representative trade unions, and employers' organisations, entrepreneurs' organisations and other industry organisations, and NGOs). Drafts are also consulted with representatives of self-governments, and with the self-governmental side of the Joint Commission of Government and Local Authorities, if they concern matters related to local government;

b) b) draft legislativelegal acts, together with their justification and regulatory impact assessment, are made available on the website of the Government Legislative Process (~~www.rpl.gov.pl~~)(rpl.gov.pl) with information on the deadline for submitting comments and the address of the person ~~in charge of~~handling the case. After considering the comments, the Ministry prepares a report on the consultations and opinions, containing a summary of the comments together with ~~an explanation of its position on them, in particular explaining~~ those cases in which the comments ~~have~~were not ~~been~~ accepted;

c) c) if necessary, other informal forms of consultation, ~~such as~~ are used in the form of debates or seminars, to which stakeholdersinterested parties are invited or ~~to~~ which admission is free, are open to the public. Bilateral or multilateral meetings with the parties that submitted comments may also ~~used~~be held to clarify these comments.

~~166.~~ 174. Representatives of some NGOs constantly participate in meetings ~~related to~~on the legislative process in the Sejm, at the Sejm invitation of the Chancellery of the Sejm. At their request, a number of solutions ~~have been~~were adopted ~~into their~~ legal systemregulations.

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

~~167.~~

~~<http://orka.sejm.gov.pl/projustall6.htm> – the Sejm's website containing draft legal acts,~~  
~~<http://www.senat.gov.pl/k7/pos/pracet.htm> – the Senate website containing draft legal acts,~~

~~<http://legislacja.rcl.gov.pl/> – 175.~~

~~<http://orka.sejm.gov.pl/projustall6.htm> – website of the Sejm (lower house of the Polish parliament) containing draft legislation;~~

~~<http://www.senat.gov.pl/k7/pos/pracet.htm> – website of the Senate, containing draft legislation.~~

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

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

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

~~168. Currently, 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. 176. The right of access to justice in environmental matters is guaranteed in administrative proceedings, as well as in judicial-administrative and civil proceedings. The177. As a rule, the CAP guarantees the right to appeal against an administrative decision to a higher-level authority. This right is guaranteed to the parties to the proceedings, that is, any person whose legal obligations or interests are affected by the proceedings. The appeal is free of charge. With regard to environmentalIn some cases, a party dissatisfied with a decision may ask the authority to reconsider the case (the same authority that issued the decision).~~

~~For a decision issued by an authority that cannot be appealed to a higher authority, but only requested to be reconsidered, a party may file a complaint directly with an administrative court. It does not have to file a request for reconsideration beforehand.~~

~~178. An appeal against a decision issued by a higher authority or a decision issued based on a request for reconsideration may be lodged with a voivodship administrative court.~~

~~A decision or judgement of the voivodship administrative court may be appealed to the Supreme Administrative Court, which may amend or repeal the decision of the voivodship administrative court. Each of the above-mentioned decisions, should include instructions on the available remedies and the party's rights.~~

~~The right to lodge a complaint is guaranteed to anyone who has a legal interest and to non-governmental organisations that have participated in connection with the amendment of the the administrative proceedings. Decisions of the voivodship administrative courts that have not been appealed are binding upon the case.~~

~~Pursuant to the *Act on Provision of Information about the Environment*, from 1 January 2018, the parties to the proceedings on the a refusal to provide access to information about the environment and its protection is made by way of a decision. Therefore, the above rules guarantee an appropriate appeal procedure within administrative and~~

judicial-administrative proceedings. If the request for access to environmental information and its protection has not been processed, the applicant has the right to file a complaint with the administrative court regarding the inaction of the administration authority.

~~174. With regard to the decision on environmental conditions are no longer determined according to, the right to appeal against such a decision is guaranteed, as a rule, by the general rules arising from principles of the Code of Administrative Procedure and the Act on Provision of Information about the Environment. The provision of Article 28 of the CAP. Article 3374(3a) 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 in rem to the real-estate property located in the area that will be affected by the project. This Said area shall be understood as:~~

~~1) 1) the intended/anticipated area of land on/in which the project will be carried out/implemented, and the area within 100 m of metres from the boundaries of that/this area;~~

~~2) the/2) plots on which/of land where environmental quality standards would be exceeded as a result of the implementation or operation of the project;~~

~~3) the/3) plots located/of land within the range of the-significant impact of the project, which may impose/introduce restrictions on the development of the property, in accordance with its current intended use.~~

~~Ecological organisations have the right to act as parties. Furthermore, in proceedings requiring public participation. A e.g., concerning the issuance of a decision by a higher authority and a decision issued on environmental conditions, within 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, framework of 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. 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 (SAC), which may change or overrule the decision of the VAC. The right to the environment shall be conducted, authorised ecological organisations have the right to participate as parties.~~

~~For an ecological organisation to exercise its rights under the Act on Provision of Information about the Environment, it must have been engaged in statutory environmental or nature conservation activities for at least 12 months prior to the date of initiation of the proceedings. If the organisation does not meet these conditions, it is obliged, according to the provisions of the Code of Administrative Procedure, to demonstrate that its participation in the proceedings is guaranteed to everyone who has a legal justified by the organisation's statutory objectives and is in the public interest and to non-governmental.~~

~~According to the Act on Provision of Information about the Environment, authorised ecological organisations have the right to appeal against a decision issued in a~~

proceeding requiring public participation, even if they did not participate in a specific proceeding requiring public participation conducted by the authority of first instance. In the appeal proceedings, the organisations participate as a party.

Furthermore, ecological organisations may appeal to the administrative court against a decision issued in a proceeding requiring public participation, if it is justified by the statutory objectives of these organisations, also in the event that participated in the administrative— they did not participate in a specific proceeding requiring public participation.

The Act on Provision of Information about the Environment also stipulates that ecological organisations or a party to the proceedings for issuing a decision on environmental conditions have the right to appeal against a building permit, preceded by a decision on environmental conditions issued in a procedure. As a rule, each of requiring public participation. The appeal is possible to the extent that the authority competent to issue an investment permit is bound by the decision on environmental conditions.

In the above-mentioned scope, an appeal to the administrative court against the investment permit, preceded by the decision on environmental conditions issued in the proceedings requiring public participation, also applies to an ecological organisation or a party in the case when the organisation or party did not participate in the proceedings for the issue of the investment permit.

In certain cases, the court may, at the request of an ecological organisation or a party who has lodged a complaint, issue an order to suspend the execution of the contested decision in whole or in part.

The Act on Provision of Information about the Environment also indicates that ecological organisations have the right to participate as parties in proceedings for issuing a decision referred to in Article 72(1) items 1, 6, 10, 11, 14, 15, 17-18a, 20-23, 25 and 27, for a strategic investment specified in the regulations issued pursuant to Article 103a(2) of this Act. The organisations have the right to appeal against the above decisions—contains an instruction about the—, if it is justified by the statutory objectives of these organisations, also in the case when they did not participate in this procedure conducted by the authority of the first instance. These organisations may also appeal to the administrative court against the decisions referred to above, if this is justified by the statutory objectives of the organisation, even if it did not participate in the administrative proceedings.

175- 179. Decisions issued by administration authorities and administrative courts generally include instructions on available legal remedies means of appeal and the rights of the party.

176- 180. If a complaint ~~is has been~~ made to an administrative court, a fee of 100 PLN (approx. € ~~2524~~) is payable. In environmental and nature conservation cases, the court fee is PLN 200 (approx. € ~~5048~~).

177. Judgments of Voivodship Administrative Courts, which have not been appealed, are binding on the case.

178. 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.~~

~~179.~~ 181. All parties and persons participants with the party rights ~~of parties~~ have an equal right to appeal. The same principle rule applies to ~~proceedings in~~ civil and criminal matters proceedings.

~~180.~~ 182. 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.~~ 183. 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).~~

~~182.~~ 184. In a situation where a given authority fails to respond to a request for access to environmental information or provides incomplete information, the applicant has the right to file a complaint to the administrative court for inaction of the administration authority.

~~183.~~ 185. To complaints examined in proceedings for sharing information about the environment and its protection the provisions of the LPAC shall apply.

~~184.~~ 186. The *Act on Provision of Information about the Environment* provides access to an appeal procedure similar to the previously described procedures established in the CAP and the LPAC. However, the difference is that the *Act on Provision of Information about the Environment*, pursuant to Article 20, provides for a deadline of 15 days for the competent authority to forward the complaint and the response to it to the administrative court. The administrative court has 30 days to examine the complaint counted from the day of receiving the file together with the response to the complaint.

### **Article 9, paragraph 2-**

~~185.~~ 187. 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 administrative court. As a rule, the parties to the proceedings have the right to appeal against the decision. Ecological organisations also have a similar right in cases requiring public participation. Every person has the right to participate in the proceedings related to the decisions referred to in Article 6 of the Convention, but the right of access to the appeal procedure is available only to those with a legal interest as well as to ecological organisations that meet the requirements specified by law.

~~186.~~ Access to ~~188.~~ If the competent authority decides not to conduct a full environmental impact assessment procedure, access to participation in the procedure administrative proceedings for issuing a decision, and consequently access to justice, for ecological organisations, is ~~excluded if the competent authority decides~~

~~not to carry out a full environmental impact assessment procedure. The decision may be appealed against subject to the provisions of the Code of Administrative Procedure.~~

### **Article 9, paragraph 3-**

~~187. 189.~~ Appeals against actions or omissions ~~of administrative by administration~~ authorities may be ~~taken in lodged as part of~~ administrative ~~or administrative court~~ proceedings. The ~~list~~group of parties ~~other than the entity in favour of which a decision has been issued~~ may vary ~~depends~~depending on the case (for example, ~~in the case of if~~ a permit ~~is required to emit~~discharge wastewater ~~into water or soil~~, the parties ~~involved~~ are those who ~~hold permits to use water, in the case of an environmental impact assessment, they will be the neighbours of affected by the area on which intended use of the investment for which such evaluation is being carried out is located~~water).

~~188. 190.~~ Cases concerning acts or omissions of natural persons in civil cases are subject to the cognition of common (civil) courts. The protection of the subjective rights of citizens under substantive law takes place through the establishment of mechanisms that ~~make it possible~~allow cases to ~~initiate a case~~be brought before ~~at the~~ court, as well as ~~to indicate, in the course of the initiated proceedings, by indicating~~ the legitimacy of the ~~demand made~~claim during the proceedings. To initiate legal proceedings in civil cases, a sufficient condition is the presentation of a claim and indication of the facts to the court.

~~189. 191.~~ Social organisations whose statutory objective is the protection of the environment (ecological organisations) may bring a civil action demanding the restoration of the original state of affairs in accordance with the law and to take preventive measures, in particular by installing installations or equipment to prevent the threat or infringement. If this is impossible or excessively difficult, they may demand the cessation of the activity causing the threat or infringement (if the damage or danger concerns the environment as a common good).

~~190. 192.~~ 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 € ~~2223~~) 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. 193.~~ A person bringing a civil action may request ~~that the court to~~ 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. 194.~~ 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. 195.~~ 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 of 2020~~, item ~~1862, as amended~~2187), 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.

196. o ensure better public access to justice, a number of legal changes were introduced by the Act of 30 March 2021 amending the Act on Provision of Information about the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, and Certain Other Acts (Journal of Laws of 2021, item 784).

For example, the following changes to the regulations have been introduced in the Water Law:

in Article 402, the following paragraph 2 has been added:

'2. The provisions of Article 86f(6), art. 86g and art. 86h of the Act of 3 October 2008 on Provision of Information about the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments, shall apply to the procedure concerning the water permit, preceded by the decision on environmental conditions.'

2) the following Article 402a has been added:

'Article 402a. The provisions of Article 72(6) and (6a) of the Act of 3 October 2008 on Provision of Information about the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments shall apply to the water permit, preceded by the decision on environmental conditions.'

Thanks to the introduction of the above changes, social organisations can challenge water permits in appeal and court proceedings, which are preceded by a decision on environmental conditions. This solution ensures better access to justice for ecological organisations.

#### **Article 9, paragraph 4.**

~~194.~~ 197. In administrative procedure, the submission of an appeal to a higher instance automatically suspends the execution of the decision being appealed. In administrative court proceedings, the person lodging the complaint may at the same time apply to suspend the execution of the decision appealed against.

~~195.~~ 198. In the Act of 7 July 1994 on Building Law (Journal of Laws of ~~2020~~2024, item ~~4333~~725, as amended), hereinafter referred to as the "Act on Building Law",~~Law~~, there is a requirement to establish a deposit to secure the claims of an investor due to suspension of a decision which may constitute a barrier to lodging an appeal and suspension of the decision. Pursuant to Article 35a of the Act on Building Law, in the event of a complaint to an administrative court against a decision on 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 conditional based on the deposit made by the complainant in order to secure the claims of the investor for such suspension. If the complaint is recognised as legitimate in whole or in part, the deposit shall be returned. If the complaint is dismissed, the deposit shall be used to satisfy the claims of the investor. The provisions of the CCP on securing claims shall apply accordingly in the case of security deposits.

~~196.~~ 199. In civil procedure, the courts may grant security in such manner as they consider appropriate in the circumstances, without excluding the means provided for securing money claims. In particular, the court may suspend specific actions and standardise the rights and obligations of the parties or participants in the proceedings for the duration of such proceedings.

~~197. In administrative court proceedings, the principle that the losing party bears the costs of the successful party only applies if the successful party is the person challenging the decision. If the person loses the case, he/she shall not bear the costs.~~

200. The basic principle on the issue of costs of proceedings before administrative courts is expressed in Article 199 of the Act of 30 August 2002 on the Law on Proceedings before Administrative Courts (Journal of Laws of 2024, item 935, as amended), hereinafter referred to as the 'LPAC', which provides that the parties shall bear the costs of the proceedings related to their participation in the case, unless a specific provision provides otherwise.

A special provision relating to the reimbursement of costs between the parties in the first-instance administrative court proceedings is Article 200 of the LPAC, according to which, if the complaint is upheld by the court of first instance, the complainant is entitled to reimbursement of the proceedings' costs necessary to vindicate his/her rights from the authority that issued the contested act or took the contested action, or committed inaction or protracted conduct of the proceedings. This provision thus means that if the court upholds the applicant's complaint, the authority that infringed the law by its decisions is obliged to reimburse the applicant for the costs. If, on the other hand, the court does not uphold the complaint, the complainant bears its own costs but cannot be obliged to reimburse the costs incurred by the authority as a result of his/her complaint. It is important to underline that the above regulations apply only to proceedings before the first instance. In the case of an appeal in cassation, by contrast, there is a fundamental change.

The rules for the reimbursement of the costs of the cassation proceedings if the cassation complaint is upheld or dismissed are set out in the provisions of Articles 203 and 204 of the LPAC. These regulations no longer protect the applicant from being obliged to pay the costs incurred by the authority and other parties, both if, as a result of the upholding of the cassation complaint, the judgement of the court of first instance upholding the complaint is overturned and if the cassation complaint is dismissed, if the judgement of the court of first instance dismissing the complaint is appealed against.

~~198.~~ 201. Decisions of authorities and ~~court rulings~~judgments of courts shall be ~~delivered~~served in writing (~~see CAP~~, LPAC and, CCP). ~~However, such decisions~~

~~Decisions and rulings may also be delivered~~ be served in paper form or electronically, by means of electronic communication. Court rulings and administrative decisions ~~shall be~~ made available upon request, excluding personal data (relevant parts of the documents are anonymised). In ~~case~~ cases specified in the regulations, parties may be notified about administrative decisions by public announcement, making the letter available in the Public Information Bulletin on the subject website of the competent public administration authority or in another form of public announcement customary in a given locality. In particular, if the number of parties in the proceedings to the proceedings on the issuance of a decision on environmental conditions or other proceedings related to the decision exceeds 10, the parties may other than the entity planning to undertake the project shall be notified of in the authority's decisions by means form of a notice, in public announcement at the seat of the authority competent in the case and by making the letter available in the Public Information Bulletin on the subject website of the respective public authority or in another way of public announcement customarily adopted in a given locality that authority. In ~~such~~ these cases, the notification or delivery shall be deemed to have been made ~~after the expiry of fourteen days from~~ after the ~~date of~~ public announcement.

At <https://orzeczenia.nsa.gov.pl/>, the Central Database of Administrative Court Judgments is available, which contains an extensive library of case law that can be searched both by accessing a specific judgement (identified, for example, by the file number of the case and the adjudicating court) and by subject headings, provisions cited in the judgement, or words or phrases appearing therein ('keywords'). Access to the database is possible via the Internet and is free of charge.

#### **Article 9, paragraph 5-**

~~199.~~ 202. Information on the appeal procedure is provided to interested parties, for example during trainings organized for NGOs, some of which are financed by the National Fund for Environmental Protection and Water Management and/or the Voivodship Funds for Environmental Protection and Water Management. In addition, persons who have been refused access to information on the environment and its protection have access to information (via [www.ekoportal.gov.pl](http://www.ekoportal.gov.pl)) on the principles of sharing information about the environment and its protection.

#### **~~29.~~ 29 Identified difficulties in implementing Article 9.**

~~200.~~ NGOs point out that in Polish law there is a lack of interim measures in proceedings requiring public participation. This causes, in their opinion, that access to justice is often illusory in practice. This is due to the fact that if a non-governmental organisation is not allowed to participate in proceedings, even if it appeals against such a refusal, the proceedings in question will continue and may end with a final decision. Even if an NGO will obtain a favourable judgment from the administrative court on its participation in the proceedings, and then will challenge the decision in the original proceedings and the administrative court will agree with it, the administrative court 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. According to NGOs, access to justice is sometimes obstructed by the costs of court-administrative proceedings. In their opinion, the costs of appeal proceedings in cases related to the building law or spatial development (PLN 500) are too high. They are also constrained by the obligation to have a lawyer when filing a cassation complaint to the Supreme Administrative Court. They claim that many non-governmental organisations are not able to afford the fees for an advocate or a legal advisor, and only a few have appropriate specialists in their staff. At the same time, the courts rarely grant them financial assistance, although this legal possibility exists.
202. 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.

Another 203. NGOs consider that the lack of access to justice with regard to so-called screening decisions constitutes a violation of the Convention. In doing so, they note that Article 31 of the CAP is not sufficient to ensure the Convention-compliant rights of organisations in this respect. Here, the inclusion of an organisation to the proceedings is subject to the discretion of the authority (it must consider that 'the public interest

warrants it'). In addition, the organisation should have had time to join the proceedings before the decision was issued.

204. NGOs point out that the special permit procedure for 'strategic' investments, contained in Section Va introduced by the amendment to the Act on Provision of Information about the Environment dated 15 September 2023, excluding the application of the provisions of Sections III and V of the aforementioned act, does not provide for the participation in the proceedings of local residents or landowners in the area of the planned investment (that is, members of the 'concerned community' within the meaning of the Convention), and thus deprives them of access to justice, thereby violating Article 9(2) of the Convention, as well as Article 6(3) of the Habitats Directive and Article 11 of the Directive 2011/92/EU.

~~205.~~ 205. The main problem reported by NGOs with regard to the effective implementation of Article 9(2) and (4) of the Convention is the lack of ~~access to court~~ effective legal remedies 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 national legal system that the non-governmental organisations believe that the above-mentioned decisions may set out environmental conditions for carrying out would actually enable the affected community to stop 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 before its 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. First of all, the fact that environmental decisions are immediately enforceable, and, on this basis, proceedings are initiated for the issuance of a follow-up decision aimed at granting a permit for the investment, means that appealing against the environmental decision does not have a suspensive effect on the parallel proceedings for the issuance of a permit for the investment.

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.

The solution to this situation is to introduce provisions in the Act on Provision of Information about the Environment that would enable an appeal authority to suspend

the immediate enforcement of the decision on environmental conditions in administrative appeal proceedings, or to suspend the enforcement of this decision by an administrative court as a result of a motion attached to a complaint filed against this decision. However, it follows from the wording of these provisions that even the suspension of the implementation of an environmental decision has a limited effect on pending proceedings for follow-up decisions.

206. In the event of a suspension of the execution of an environmental decision, the suspension of the proceedings for the issuance of follow-up decisions shall only apply to certain proceedings concerning investment permits, as explicitly listed in Article 86f(5) and (6) of the Act on Provision of Information about the Environment. However, according to NGOs, the suspension of proceedings in the event of a suspension of the implementation of an environmental decision should also cover other follow-up decisions listed in Article 72(1), and not just investment permits.

The current regulations do not include decisions on land development conditions, location decisions issued under the so-called special acts (they have different names in different special acts), permits for the construction of nuclear facilities issued under the Atomic Law Act (after which a building permit is required). According to NGOs, excluding the suspension of proceedings on siting decisions and - implicitly - leaving this option only at the stage of building permits may lead to a situation in which certain facts will already have been established (e.g., trees will have been removed) on the basis of the location decision, so even appealing (or even later repealing) the environmental decision and suspending the building permit proceedings will not be sufficient here.

207. According to NGOs, the possibility of suspending the enforceability of an environmental decision by an administrative court has been significantly limited. Although Article 86f(1) of the *Act on Provision of Information about the Environment* states that the difficult-to-reverse effects, understood as the consequences of undertaking a project that may significantly affect the environment, should be considered as a prerequisite for suspending the execution of a decision under Article 61(3) of the LPAC, the difficult-to-reverse effects, understood as the consequences of undertaking a project that may significantly affect the environment for which the contested decision was issued, should be considered paragraph 2a in the aforementioned Article 86f introduces an additional premise to the wording of Article 61(3) of the LPAC, according to which the court may suspend the execution of the decision on environmental conditions if it is substantiated that the difficult-to-reverse effects referred to in paragraph 1 will occur as a consequence of the violation of law or legal interest specified in the complaint. NGOs believe that the introduction of such a premise is not in accordance with the provisions of the Convention, in particular Article 9(2) and Article 9(4), according to which effective remedies (including effective interim measures) are available to members of the affected community, and thus to environmental organisations and members of the public with sufficient interest or impairment of rights. The requirement for an environmental organisation to prove that the effects of implementing an environmental decision, which are difficult to reverse, will occur as a consequence of a violation of the law or a legal interest specified in the

complaint, constitutes, in the opinion of NGOs, a premise that is not justified under the Convention, as the implementation of an environmental decision has irreversible consequences for the environment, not for the legal interest of the organisation defending it or members of the community concerned. In practice, it seems unrealistic to prove this condition before the court, making the interim measure illusory and in violation of Article 9(4) of the Convention. Moreover, even if the execution of the decision on environmental conditions is effectively suspended by the appellate authority or administrative court, this measure is meaningless if a final investment permit has already been issued, in accordance with the wording of Article 86f(8) of the Act on Provision of Information about the Environment, which states that the issuance of a decision to suspend the execution of the decision on environmental conditions does not suspend the execution of the final investment permit.

208. According to non-governmental organisations, the possibility of appealing against an investment permit has been limited only to its non-compliance with an environmental decision (Article 86g(3) of the Act on Provision of Information about the Environment) which is immediately enforceable, and therefore the standard of review is the environmental decision, in respect of which administrative appeal or administrative court proceedings may be pending in parallel, thus significantly limiting the scope of appeal available to members of the affected community (including ecological organisations) and thus violating the standards of appeal established by Article 9(2) of the Convention.

209. NGOs point out that there is an unresolved situation in which the repeal of an environmental decision by a court occurs after the issuance of a follow-up decision (this can happen, for example, because the court denied the request to suspend the execution of the environmental decision).

210. NGOs complain that, in their opinion, Polish law does not guarantee them access to justice with regard to environmental plans and programmes. This issue is currently the subject of three separate cases being considered by the Aarhus Convention Compliance Committee: ACCC/C/2016/151, ACCC/C/2017/154, ACCC/C/2018/158. Furthermore, it is evident that other members of the public have limited access to justice in this respect due to the requirement to demonstrate a violation of a legal interest or right.

According to NGOs, this applies, among others, to the clean air programme. According to the regulations, the complainant must prove a legal interest that has been violated by the clean air programme. However, residents who are most affected by the clean air policy in a given area, according to administrative courts, have no legal interest in challenging these programmes. According to social organisations, this limits the right of these residents to go to court in environmental matters.

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

211. The Ministry of Justice keeps statistics on civil and commercial cases involving ~~claims~~ concerning the "protection of ~~the natural~~ human environment". In 2017, district

in common courts received a total. The table below shows the number of 698 such cases, and 253 that were filed and settled. District by district courts (as, regional courts and courts of the first instance in civil and commercial departments) received 124 cases in 2017, and 361 were settled, while district courts (as courts of the second instance in civil and commercial departments) received 116 cases in 2017, and 113 were settled. Courts of appeal, during the same year, received 311 cases in the years 2019-2023.

DETAILS		DISTRICT COURTS		DISTRICT COURTS OF 1ST INSTANCE		REGIONAL COURTS OF 2ND INSTANCE		COURTS OF APPEAL	
		IMPACT	RESOLVED	IMPACT	RESOLVED	IMPACT	RESOLVED	IMPACT	RESOLVED
<u>2019</u>									
Protecting the natural environment	<u>civil cases</u>	442	859	95	184	133	100	160	116
	<u>economic cases</u>	25	42	9	52	12	18	31	57
<u>2020</u>									
Protecting the natural environment	<u>civil cases</u>	122	763	61	94	88	104	73	146
	<u>economic cases</u>	3	11	16	48	10	14	32	45
<u>2021</u>									
Protecting the natural environment	<u>civil cases</u>	88	466	59	92	54	94	47	95
	<u>economic cases</u>	4	7	23	58	7	7	40	41
<u>2022</u>									
Protecting the natural environment	<u>civil cases</u>	64	383	103	105	101	87	42	46
	<u>economic cases</u>	4	8	22	59	2	5	43	51
<u>2023</u>									
Protecting the natural environment	<u>civil cases</u>	36	278	55	74	93	116	79	32
	<u>economic cases</u>	0	1	47	87	0	1	41	33

212. The National School of Judiciary and Public Prosecution, as the entity responsible for the central training of the judiciary in Poland, organised a series of this category and 417 were settled. In 2018, district courts received 1974 cases, and 322 were settled. District courts (as courtstraining courses in 2017-2024 dedicated to judges, prosecutors, court assessors, prosecutor's assessors, court clerks, assistant judges and assistant prosecutors, the subject of the first instancewhich was related to improving operations or access to justice in civil and commercial departments) received 115 cases concerning environmental protection in 2018, and 241 were settled. District courts (as courtsenvironmental matters. As part of the second instance in civil and commercial departments) received 149 cases concerning continuing education programme, the following training courses were held, with a total of 1,108 participants:

- 213. a series of training courses entitled 'Criminal law aspects of environmental protection in 2018, and 160 were settled. Courts of appeal received 307 cases in 2018 of this category and 185 were settled.protection' (reference numbers K20/19, K15/20, K13/21), which covered, among others, such issues as: methodology of conducting proceedings against environment crimes, transboundary movement of waste, legal status of waste management in the country, patterns of illegal waste management – examples of violations, current threats to the environment – scale of the phenomenon, effects of pollution and environmental degradation, modern detection methods for environmental offences;
- As examples of good practices may be given training course entitled 'Legal remedies against violation of the right to a clean environment' (reference

number C24/21) – specific issues that were addressed during the training included: legal remedies against the threat of environmental pollution (negative, possessory and compensation claims, claims arising from the protection of personal rights); taking of evidence; premises for awarding and criteria for determining the amount of compensation; review of selected case law of the Supreme Court and appeal courts;

- training project entitled ‘Environmental Protection Law for the Judiciary’ implemented in 2022-2023 – specific issues that were addressed included: nature conservation, including species under protection and endangered species; the issue of protecting the environment against alien (invasive) species in the light of Polish legislation; selected types of offences related to illegal waste management, initiation and course of preparatory proceedings in cases of offences against the environment – methodology of conducting proceedings; evidence proceedings, the role and significance of expert opinions.

213. As part of international cooperation, the National School of Judiciary and Public Prosecution enabled Polish judges and prosecutors to participate in the following international events concerning environmental issues:

- training entitled ‘EU Waste Legislation and Protection of the Environment through Criminal Law’,
- training entitled ‘Introduction to EU Environmental Law’,
- training entitled ‘Legal language training in cooperation in environmental law’,
- training entitled ‘Judicial Cooperation in Criminal Matters: Practical Cas-Based Simulation 11.2020 Environmental Cases’,
- training entitled ‘EU Aarhus Aquis’,
- training entitled ‘Environmental Law’,
- training entitled ‘EU Environmental Law’, conference entitled ‘Annual Conference on European Environmental Law 2022’,
- conference entitled ‘EU Waste Legislation and Combating Waste Crime: Workshop for judges and prosecutors’,
- conference entitled ‘Environmental Crimes’.

214. The National School of Judiciary and Public Prosecution, as part of the initial training conducted in the form of a judicial and public prosecutor's application, conducts classes on environmental crimes and the protection of personal rights, as well as classes in administrative law covering the participation of a prosecutor in administrative law cases, concerning, among others, construction law, taking into account the necessary environmental protection institutions.

215. The programmes for the judicial apprenticeship and the supplementary judicial apprenticeship do not directly provide for training in improving operations or access to justice in environmental matters. However, the programmes for both types of application include classes on environmental protection, and what is more, training in this area can also take place as part of classes devoted to the broadly understood protection of personal rights.

214. 216. Best practice examples include the rulings of the Supreme Administrative Court (SAC) issued during the period under ~~consideration and~~ review concerning: 1)

~~assessing the assessment of~~ the correct transposition of the Aarhus Convention and the relevant provisions of the ~~referred~~ Directive No-2011/92/EU in the context of ~~correctly~~ 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~~ practice by ~~administrative administration~~ authorities.

215. ~~Correct~~ 217. The ~~correct~~ implementation of the Aarhus Convention by administrative courts ~~comes boils~~ down to a friendly (pro-convention Convention) interpretation of ~~provisions of~~ national law, which is of particular importance ~~in the situation where the way the provisions when the wording~~ of both the Convention and the Directive No-2011/92/EU ~~are formulated~~ excludes their direct application. This is a ~~derivative consequence~~ of the more general principle of pro-EU (pro-European) interpretation. The SAC, ~~in~~ its ~~judgment~~ judgement of 15 November 2019, ~~case~~ ref. no. II OSK 3276/17, ~~stressed that~~ "the Supreme Administrative Court emphasised that 'the regulations contained in the ~~mentioned legal acts [the Aarhus Convention and the Directive No-2011/92/EU — reminder of the report's preparer]~~ were implemented into the Polish legal order first implemented into the Polish legal system by the Act of 27 April 2001 on Environmental Protection Law (...), EPL and presently are now implemented by the Act on Provision of Information about the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments.'. The ~~way wording of~~ the provisions of both the Convention and the Directive ~~are formulated precludes~~ 2011/92/EU ~~excludes the possibility of~~ their direct application. However, ~~in a situation where~~ On the other hand, ~~once~~ these provisions ~~were have been~~ implemented into the Polish legal ~~order system~~, their interpretation ~~may not cannot~~ lead to conclusions that ~~are~~ obviously ~~contradictory to the unambiguously formulated provisions contradict the unambiguous wording~~ of the implementing act". This ruling ~~expressly clearly~~ formulates an ~~interpretative directive for conforming (pro-conventional) interpretation, indicating at the same time guideline on how to interpret in accordance with the provisions of the Convention (pro-Convention), while emphasising~~ that the letter of the law constitutes the limit of such interpretation.

216. 218. In the ~~judgment, judgement of 15 November 2019, file~~ ref. no. II OSK 3276/17, the ~~SAC stated~~ Supreme Administrative Court ruled that "there is no doubt that the procedural solutions in force in the Polish legal ~~order system~~ ensure ~~due proper~~ control over the decisions of the competent ~~administrative administration~~ authorities to ~~withdraw refrain~~ from ~~carrying out the environmental conducting~~ impact assessment to entities that demonstrate a legal interest (assessments'. The decisions include a ~~justification, the 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~~ 219. Considering the provisions of

Articles 1(2) and 10a (now Article 11) of the Directive [2011/92/EU](#) and ~~from~~ Article 2(5) of the Convention, ~~it should be stated that ecological 'equating' non-governmental organisations (ecological organisations) with the interested community (parties to the proceedings) in terms of the right to challenge environmental decisions, it must be concluded that environmental~~ organisations, under the general rules ~~laid down~~provided for in Article 31 of the ~~CAP may acquire~~Code of Administrative Procedure, may obtain the rights of parties to ~~the~~ proceedings. As ~~stated~~inferred in the ~~introductory~~preliminary part of the Court's considerations, they therefore have the right to ~~lodge an~~ appeal against the decision of the first instance authority ~~finding~~stating that there is no need ~~to carry out for~~ an environmental impact assessment, provided, ~~however,~~ that they first ~~lodge a request to initiate~~apply for the initiation of proceedings or ~~request for admission~~ to participate in the proceedings pursuant to Article 31(~~§ 1~~) of the CAP, and the ~~administrative~~administration authority will ~~then~~ issue a decision on ~~admitting them~~admission to participate in ~~such~~the proceedings. ~~Importantly, What is important is that~~ a refusal to ~~institute~~initiate proceedings at the request of a social (~~also ecological~~) organisation (including an ecological organisation) or a refusal to ~~allow~~admit it to participate in the proceedings is subject to ~~one~~ instance ~~court~~and judicial review".

218. ~~Administrative courts, when controlling the~~ 220. When reviewing the legality of ~~activity of the~~ public administration, ~~implement the Aarhus~~ activities, administrative courts apply the Convention ~~at~~indirectly in the ~~stage of~~ application stage of ~~the~~ law - ~~indirectly,~~ within the framework of ~~the binding provisions of~~applicable national law, as the ~~way the provisions~~wording of the Convention ~~are formulated~~ excludes its direct application. ~~However, there~~There is no doubt that the consistent interpretation of national ~~provisions (of regulations (Polish law) in~~ lineaccordance with the Aarhus Convention, ~~which is well as~~ established in the jurisprudencecase law of administrative courts, is in itself an example of good practice in ~~terms of~~the implementation of the Convention's provisions ~~of the Convention~~.

221. The Court of Justice of the European Union also indirectly monitors the implementation of the Convention by controlling the implementation of EU regulations that implement the Convention into EU law.

219. 222. Persons without sufficient financial means may apply for exemption from costs (fees and expenses) for proceedings before civil and administrative courts. This exemption does not apply to the obligation to reimburse costs 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.

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

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

223.

[https://environment.ec.europa.eu/law-and-governance/environmental-implementation-review\\_en](https://environment.ec.europa.eu/law-and-governance/environmental-implementation-review_en)

**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.~~ 224. 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.**

~~222. Neither~~225. At the time of writing, 6 proceedings for violation of the Convention are pending before the Aarhus Convention Compliance Committee (The Committee has issued conclusions in one of the cases, numbered ACCC/C/2014/119. The conclusions have not yet been endorsed by the Meeting of the Parties to the Convention have so far ordered Poland to take specific measures to bring Polish law into line with the Aarhus Convention.