

The following report is submitted on behalf of the Republic of Poland in accordance with decisions I/8, II/10 and IV/4.

Name of officer responsible for submitting the national report: **Jarosław Mielnik**

Signature:

Date: 12 December 2013

Implementation report

Please provide the following details on the origin of this report

Party: Poland

National Focal Point:

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I. Process by which the report has been prepared

Provide a brief summary of the process by which this report has been prepared, including information on the type of public authorities that were consulted or contributed to its preparation, how the public was consulted and how the outcome of the public consultation was taken into account, as well as on the material that was used as a basis for preparing the report.

Answer:

1. During the preparation of this report, consultations with the general public, nongovernmental organizations (NGOs) and administration bodies were conducted at two stages.

2. First, the Ministry of the Environment (MoE) announced on its webpage the Convention implementation report for the years 2008-2010 and invited interested parties to send comments on its content. The invitation was also sent in writing to the main nongovernmental organizations dealing with the environment and to the relevant administration bodies. The remarks sent enabled to identify institutional and legal changes within the regulations implementing the Convention which have occurred within the last three years.

3. Next, the Ministry of the Environment, on the basis of the remarks sent, prepared a project of the Convention implementation report which was sent for consultations once more. The range of the entities to which the invitation to the second stage of the consultations was sent was expanded, in comparison with the first stage. Together, in the first and in the second stage of the consultations, the following entities sent their remarks:

Representatives of the general public:

- Koalicja Klimatyczna
- Górnślaskie Towarzystwo Przyrodnicze
- Individual persons

Public institutions:

- The Minister of Justice
- The Ministry of Regional Development
- General Director of Environmental Protection with the regional directors of environmental protection.
- Chief Inspector of Environmental Protection with the voivodeship inspectors of environmental protection
- Polish Geological Institute - National Research Institute
- President of National Water Management Authority with regional directors of the National Water Management Authority
- The President of the National Atomic Energy Agency
- National Fund for Environmental Protection with the voivodeship funds for environment protection
- Institute of Meteorology and Water Management

II. Particular circumstances relevant for understanding the report

Report any particular circumstances that are relevant for understanding the report, e.g., whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Answer:

4. Poland ratified the Convention on 31 December 2001. Since then, it has become

part of the national law system. Regulations implementing the provisions of the Convention can be found in many legal acts, from among which the most important are:

- 1) the Act of 27 April 2001 Environmental Law (OJ 2013 item 1232), hereinafter referred to as: "Environmental Law." (POŚ - Prawo ochrony środowiska),
- 2) the Act of 3 October 2008 on facilitating the access to information about the environment and its protection, public participation in environmental protection and the environmental impact assessment (OJ 2013 item 1235), hereinafter referred to as: "the Act on access to information about the environment",
- 3) the Act of 14 June 1960 the Code of Administrative Procedure (OJ 2013 item 267), hereinafter referred to as: "the Code of Administrative Procedure" (KPA - Kodeks postępowania administracyjnego),
- 4) the Act of 30 August 2002 Law on Proceedings before Administrative Courts (OJ 2012 item 270 as amended) hereinafter referred to as: " Law on Proceedings before Administrative Courts." (PPSA - Prawo o postępowaniu przed sądami administracyjnymi).
5. The GMO Amendment was ratified by the Act on access to information about the environment.
6. The Amendment to the Protocol on Pollutant Release and Transfer Register was ratified by Poland on 24 December 2012.
7. The basic legal act of Poland regulating the issues related with the access to information about the environment and its protection is the Act on access to information about the environment.
8. Taking administrative decisions in individual cases is mainly the responsibility of the voivodeship marshal and the starost or the General Director of Environmental Protection and the Regional Directors of Environmental Protection, whereas the Minister of the Environment is rather responsible for preparing legal acts, national plans, programmes and policies related to the environment.

III. Legislative, regulatory and other measures implementing the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8

List legislative, regulatory and other measures that implement the general provisions in article 3, paragraphs 2, 3, 4, 7 and 8, of the Convention.

Explain how these paragraphs have been implemented. In particular, describe:

- (a) With respect to **paragraph 2**, measures taken to ensure that officials and authorities assist and provide the required guidance;
- (b) With respect to **paragraph 3**, measures taken to promote education and environmental awareness;
- (c) With respect to **paragraph 4**, measures taken to ensure that there is appropriate recognition of and support to associations, organizations or groups promoting environmental protection;
- (d) With respect to **paragraph 7**, measures taken to promote the principles of the Convention internationally; including:
 - (i) Measures taken to coordinate within and between ministries to inform

officials involved in other relevant international forums about article 3, paragraph 7, of the Convention and the Almaty Guidelines, indicating whether the coordination measures are ongoing;

(ii) Measures taken to provide access to information at the national level regarding international forums, including the stages at which access to information was provided;

(iii) Measures taken to promote and enable public participation at the national level with respect to international forums (e.g., inviting non-governmental organization (NGO) members to participate in the Party's delegation in international environmental negotiations, or involving NGOs in forming the Party's official position for such negotiations), including the stages at which access to information was provided;

(iv) Measures taken to promote the principles of the Convention in the procedures of other international forums;

(v) Measures taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums;

(e) With respect to **paragraph 8**, measures taken to ensure that persons exercising their rights under the Convention are not penalized, persecuted or harassed

Answer:

Article 3, paragraph 2

9. According to the Code of Administrative Procedure, administration bodies are obliged to inform the parties correctly and thoroughly about actual and legal circumstances which may influence their rights and obligations subject to the administrative proceedings. The administration bodies shall ensure that parties and other persons participating in the proceedings shall not suffer due to lack of legal knowledge and shall therefore provide them with any necessary clarifications and guidance.

10. The Ministry of the Environment runs "Ekoportal", an internet website the role of which is to present database of public documents about the environment and to carry out e-learning projects.

11. According to the Act on access to information about the environment, the administration bodies appoint people who deal with the provision of information on the environment and its protection.

Article 3, paragraph 3

12. Law on Environmental Protection (POŚ) requires including environmental protection issues into the curricula in all types of schools, as well as scientific institutions dealing with environmental protection. The media are obliged to create a positive public attitude towards environmental protection and popularize its principles in publications and radio broadcasts. Environmental education is part of the formal and informal education. The Ministry of the Environment and the National Fund for Environmental Protection and Water Management as well as voivodship funds for environmental protection and water management organize and finance promotional activities aimed at raising environmental awareness.

13. Public administration undertakes a number of activities in the field of environmental education, also in cooperation with NGOs. For example, the Ministry of the Environment conducted a nationwide public campaign on proper waste

management, energy saving, sustainable transport and sustainable shopping. In carrying out the campaign a wide range of media communication channels were used: television, radio, newspapers, Internet and ambient activities. General Directorate of Environmental Protection conducted a nationwide campaign to protect the areas of Natura 2000. It involved trainings on the protection of Natura 2000 areas and waste management. Chief Inspector of Environmental Protection carried out a nationwide educational and informational campaign entitled "Polska dla Bałtyku" ("Poland for Baltic") the aim of which was to raise public awareness about the issue connected with protection of the marine environment of the Baltic Sea. Different types of educational campaigns were also carried out by other bodies of public administration, also at the regional level.

14. The Environmental Information Centre, existing until 2012, undertook a number of activities aimed at promoting access to information about the environment and its protection and conducting education programmes addressed to both the government and society. These activities included informing the public of its rights with regard to access to environmental information and its protection and promoting access to environmental information via Ekoportal. Nowadays, activities in this field are carried out by the Ministry of the Environment. In 2011 and 2012, trainings were conducted on access to environmental information and on protection of the environment. Within its frameworks, a handbook for the society and a handbook for entrepreneurs regarding the rights and obligations related to the protection of the environment. In 2013, the Ministry of the Environment conducted trainings for the officials of the central administration bodies regarding the environmental information and protection of the environment.

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

16. The National Fund for Environmental Protection and Water Management secures financial support for the activities of ecological education - programmes regarding active ecological education and informational and educational campaigns, trainings, congresses, conferences and thematic workshops, competitions aimed at raising environmental awareness, activities aiming on the development of the base of the environmental education and actions regarding preventive health care of children and youth from areas where the environmental quality standards are exceeded. The Fund supports also radio, film and television productions, publications and websites and renovation and construction works, purchase of equipment and accessories for conducting trainings both, stationary and in the field.

17. The implementation of the Convention provisions, especially regarding public participation in the decision making process was strengthened by implementing into national law the provisions of Council Directive 85/337/EEC of 27 June 1985 on the assessment of impact of certain public and private projects on the environment (OJ EU L 175 of 5.7.1985, pp. 40—48, Special Polish edition: chapter 15, v. 01, pp. 248 – 256) subsequently replaced by the Directive of 13 December 2011 of the European Parliament and the Council 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (OJ EU L 26 of 28.1.2012, pp. 1—21). An essential role in providing access to decision-making for the public is also played by the Directive of the European Parliament and the Council 2001/42/EC of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment (OJ EU L 197 of 21.7.2001, pp. 30—37, Special Polish edition: chapter 15, v. 06, pp. 157—164). Article 6 of this Directive refers to the participation of the public in the development of the strategic documents, which is directly reflected in the Article 54 item 2 of the Act on access

to information about the environment.

18. Strengthening the activities following the provisions of the Convention by the public administration was also connected with the funds from cohesion policy received by Poland from the European Union budget for 2007-2013. For all operational programmes (documents governing in detail the expenditures and the types of investments) containing the infrastructure investments, including those related to agriculture, strategic environmental assessment with a broad public consultation have been carried out. The documents have been consulted from the beginning of their preparation, and their consultations were attended not only by the public partners and NGOs, but also by the citizens of the Republic of Poland. Taking into account the amount of funds allocated for the implementation of the programmes (67 billion € from the EU budget and the required additional national contribution \geq 20 billion euro) it created a good practice on the public participation in decision-making process. The applicants for the projects based on the EU budget must also demonstrate that administrative decisions for the investment, before making them, were effectively consulted with the public. If the Contractor is unable to demonstrate evidence that consultations have been conducted, it is impossible to obtain financial support.

Article 3, paragraph 4

19. Nongovernmental organizations have got extensive possibilities of supporting financially the projects concerning environmental protection. At the central level, funding activities concerning creating environmental awareness of the society is possible thanks to the Priority Program implemented by the National Fund for Environmental Protection and Water Management, "Edukacja ekologiczna" ("Environmental education"). Support of the NGOs is conducted by the National Fund for Environmental Protection and Water Management, voivodeship funds for environment protection and water management, and Civic Initiatives Fund (managed by Ministry of Labour and Social Policy). Moreover, in 2013, an open call for motions under the PL02 Operational Programme *Protection of biodiversity and ecosystems* was organized. Notwithstanding the possibility of applying in the main call, within the above mentioned programme, a special allocation was separated (Small Grants Fund) exclusively for NGOs. Financial support can be used among others for activities aimed at raising public awareness on biodiversity and education in this field, in relation to climate change and economic value of ecosystems, as well as increased environmental potential of the NGOs to promote biodiversity. The funding expected is 85% of eligible costs for the main call, and 90% for co-financing from the Small Grants Fund.

20. NGOs could be supported within the framework of Operational Program Infrastructure and the Environment, of Priority V - Nature Conservation and shaping the basis of ecology, receiving 85% reimbursement of costs associated with the implementation of projects from the EU funds and obtaining the remaining 15% from the state budget. In the case of implementation of environmental projects by non-governmental organizations from the Instrument Life +, where the support of the EU funds does not exceed 75% of the project value and from the state budget, the organizations may receive additional funds for the equity contribution - thanks to this, these organizations have to ensure only 5% of equity.

21. The Ministry of the Environment cooperated with nongovernmental organizations within the frameworks of Partnership for Climate - a platform for cooperation, discussion and education.

22. The Code of Administrative Procedure and the Act of 17 November 1964 the

Code of Civil Procedure (OJ 43, item 296 as amended) hereinafter referred to as: the Code of Civil Procedure (KPC – Kodeks Postępowania Cywilneg), the Environmental Law and the Act on access to information about the environment, enable the nongovernmental organizations to participate in court and administrative proceedings related to the environment.

23. The Act of 24 April 2003 on Public Benefit and Volunteer Work (OJ 2010 234, item 1536, as amended) envisages that public authorities may perform public functions in cooperation with nongovernmental organizations and even delegate certain tasks to the nongovernmental organizations operating in the area of public affairs.

24. Nongovernmental environmental organizations have the right to elect their representatives to the supervisory boards of the National Fund for Environmental Protection and Water Management and to the voivodeship environmental funds for environmental protection and water management, having in dispose, among others, funds coming from the fees for the use of environment, administrative fines, the state and EU funds. They have a right to be represented also in the advisory bodies such as the GMO Commission and the National Council for the Protection of the Environment.

25. Pursuant to Article 45 of the Act on access to information about the environment, environmental organizations can cooperate in the field of environmental protection with the administration bodies.

Article 3, paragraph 7

26. The Republic of Poland supports processes and initiatives at the international level concerning the environmental protection e.g. in the Commission on Sustainable Development (CSD) and the High Level Political Forum on Sustainable Development (HLPF SD), in the United Nations Environment Programme (UNEP) or in the discussion concerning Sustainable Development Goals, works of the Economic Commission for Europe (ECE) and the Organization for Economic Cooperation and Development (OECD).

27. NGO representatives formed part of the Polish delegation to the 7th Ministerial Conference of the "Environment for Europe" programme, held in Astana in September 2011. It is a programme under the auspices of the UNECE. Polish nongovernmental organization - "Green Cross Poland" ("Zielony Krzyż Polska") became part of the Polish delegation to the United Nations Conference on Sustainable Development, held in Rio de Janeiro in June 2012.

28. The Republic of Poland has ratified the 1997 Espoo Convention on Environmental Impact Assessment in a Transboundary Context (OJ 96, item 1110) which indicates the necessity of conducting public consultations in cases where the investment is carried out in one country (the origin part), and the impact range includes the territory of another state (the exposed part) which could cause significant adverse environmental effects.

Article 3, paragraph 8

29. According to the Code of Administrative Procedure, no person should suffer any damage whatsoever or be accused due to submitting a complaint or a motion or providing a text for publication bearing characteristics of a complaint or a motion, should they have acted within the legal framework. Governmental authorities, local governmental authorities and other local authorities as well as social organizations' bodies shall prevent impeding criticism and other activities limiting the right to

submit complaints and motions or providing information to be published as a complaint or a motion.

IV. Obstacles encountered in the implementation of article 3

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 3 listed above.*

Answer:

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

31. There is insufficient funding for creating modern information campaigns on the promotion of laws and guidelines for access to environmental information.

V. Further information on the practical application of the general provisions of article 3

*Provide further information on the **practical application of the general provisions of article 3.***

Answer:

32. Some irregularities in the implementation of the law by the administration bodies have been pointed out. These problems were discussed in the explanation sections which refer to subsequent articles of the Convention.

VI. Website addresses relevant to the implementation of article 3

Give relevant website addresses, if available:

33.

www.ekoportal.pl - The Ministry of the Environment

www.mos.gov.pl - The Ministry of the Environment

www.gmo.mos.gov.pl - information on GMO

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

Websites of the regional directorates of 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 - information on the European Ecological Network
Natura 2000
www.gios.gov.pl - Chief Inspector of Environmental Protection
www.nfosigw.gov.pl - National Fund for Environmental Protection and Water Management
Websites of the voivodeship funds for environment protection and water management:
www.wfosigw.bialystok.pl;
www.wfosigw-gda.pl
www.wfosigw.katowice.pl
www.wfos.com.pl
www.wfos.krakow.pl
www.wfos.lublin.pl
http://new.wfosigw.lodz.pl
www.wfosigw.olsztyn.pl
www.wfosigw.opole.pl
www.wfosgw.poznan.pl
www.bip.wfosigw.rzeszow.pl
www.wfos.szczecin.pl
www.wfosigw.torun.pl
www.wfosigw.pl
www.wfosigw.wroclaw.pl
www.wfosigw.zgora.pl
www.dzieci.mos.gov.pl - the Ministry of the Environment, website concerning environmental education for children
www.zielonalekcja.pl – co-funded by the National Fund for Environmental Protection and Water Management, a website containing a database of educational materials (lesson plans) classified by age and subjects

VII. Legislative, regulatory and other measures implementing the provisions on access to environmental information in article 4

List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

Explain how each paragraph of article 4 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person may have access to information without having to state an

interest;

(ii) Copies of the actual documentation containing or comprising the requested information are supplied;

(iii) The information is supplied in the form requested;

(b) Measures taken to ensure that the time limits provided for in **paragraph 2** are respected;

(c) With respect to **paragraphs 3 and 4**, measures taken to:

(i) Provide for exemptions from requests;

(ii) Ensure that the public interest test at the end of paragraph 4 is applied;

(d) With respect to **paragraph 5**, measures taken to ensure that a public authority that does not hold the environmental information requested takes the necessary action;

(e) With respect to **paragraph 6**, measures taken to ensure that the requirement to separate out and make available information is implemented;

(f) With respect to **paragraph 7**, measures taken to ensure that refusals meet the time limits and the other requirements with respect to refusals;

(g) With respect to **paragraph 8**, measures taken to ensure that the requirements on charging are met.

Answer:

34. The basic legal act of Poland regulating the issues related with the access to information about the environment and its protection is the Act on access to information about the environment. In issues not regulated herein, the Act of 6 September 2001 on access to public information shall be applied (OJ 112, 1198 as amended), hereinafter referred to as the UDIP ACT ("Ustawa o Dostępie do Informacji Publicznej").

35. The Act on access to information about the environment defines the concept of information about the environment and its protection, and also specifies the rules for dissemination of such information.

36. A special kind of information about the environment is spatial information. Spatial information covers directly or indirectly approximately 90% of information about the environment and its protection. Issues connected with spatial information are regulated by the Directive 2007/2/EC of the European Parliament and the Council of 14 March 2007 establishing the infrastructure for spatial information in the European Community (INSPIRE) (OJ EU L 108 of 25.4.2007, pp. 1—14) and by the Act of 4 March 2010 on the infrastructure for spatial information (OJ 76, item 489, as amended)

Article 4, paragraph 1

37. According to Article 74 item 2 of the Constitution of the Republic of Poland, any person shall have the right to being informed about the state of the environment and on environment protection.

38. According to the Act on access to information about the environment, any person shall have the right to the information on the environment and on environmental protection. Administrative entities are obligated to provide any information about the environment and its protection that are in their possessions or are intended for them. Any person exercising the right to information about the environment and its protection shall not be required to prove any legal or actual

interest. Information about the environment and its protection shall be made available in the manner and form requested, unless the administration body holding the information is unable for technical reasons to make the information available in the manner and form requested. If the information about the environment and its protection cannot be made available in the manner and form requested, the administration body holding the information shall inform the applicant in writing within 14 days from receiving the request, of the reasons for not making the information available in the manner and form requested and shall inform the applicant of the manner and form in which the information can be made available.

Article 4, paragraph 2

39. The Act on access to information about the environment requires that the authorities provide information about the environment and its protection without delay and no later than one month from the date of the receipt of the request. This period may be extended to 2 months due to the complexity of the case. The requesting entity is informed of any extension period.

40. The documents the data of which is published in publicly accessible registers containing information about the environment, shall be made available on the day of request issuance.

Article 4, paragraph 3 and 4

41. According to the Act on access to information about the environment, administration body does not give information about the environment and its protection, if the information concerns:

- individual data gathered in statistic studies of public statistics and protected by statistical secrecy provisions;
- information on matters which are subject to criminal or disciplinary enquiry, if the disclosure disturbs the course of the proceedings;
- information on matters which are covered by copyrights and patent rights, if the disclosure violates these rights;
- personal data concerning third parties when providing the information would violate the provisions on the protection of personal data of 29 August 1997 on protection of personal data (OJ 2002 101, item 926, as amended) hereinafter referred to as the Act on personal data protection;
- documents or data supplied by a third party, if party not being under a legal obligation to do so, and if they cannot be burden with such an obligation, and who provided the data voluntarily, made a reservation of non-disclosure;
- documents or data the availability of which could pose a threat to the environment or ecological security of the country;
- information of commercial value, including technological data, provided by third parties and companies covered by commercial secret if the access to such information could infringe competitive position of those people and they have made a justified request to exempt such information from disclosure;
- projects that may significantly affect the environment, carried out in enclosed areas which are not subject to proceedings with public participation;
- national defence and security;

- public security.

42. The administrative entity may refuse to provide information on the environment and its protection, if:

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

43. Policies requiring the administrative entities of all pending proceedings to take public interest into account, are contained in the Code of Administrative Procedure. Administration entities are required to proceed in view of the public interest and the legitimate interest of citizens, and increase citizens' trust in the states authorities. These policies are the basic regulations of administration in Poland, operating regardless of the subject matter, and therefore covering the issues of disclosing environmental information.

Article 4, paragraph 5

44. According to the Law on Public Access to Information, if the request relates to the information which is not held by the public authority, the authority shall immediately forward the request, not later than 14 days from receiving it, to a administrative entity which holds the requested information, notifying the applicant, and if the administrative entity cannot be established, the request is returned to the applicant.

Article 4, paragraph 6

45. The practice of interpreting by public authorities in Poland the provisions on public information, including information on the environment, is based on providing the part of information that can be made available. For example, the applicant receives the documents with personal information blackened because its disclosure could infringe the provisions of the Law on Personal Data Protection.

Article 4, paragraph 7

46. According to the Act on access to information about the environment, refusal of a request for information about the environment and its protection shall be made in the form of an administrative decision. For the complaints investigated in the proceedings for disclosure of information about the environment and its protection, the provisions of the Code of Administrative Procedure shall be applied.

Article 4, paragraph 8

47. Regulation of the Minister of the Environment of 12 November 2010 on fees for providing information on the environment (OJ 215, item 1415) hereinafter referred to as the Regulation on the fees, regulates the rates of the fees for providing information on the environment and its protection. These fees are equivalent to costs incurred for the preparation of copies of documents.

48. Fees for providing information on the environment and its protection are the following

(the payments are presented in approximation, in €, at the exchange rate of 13 September 2013):

- for finding up to 10 documents - 1.20 €;

- for finding each subsequent document - 0.12 €;
- for scanning of documents - 0.02 € per page;
- for a black-and-white photocopy of a document - 0.03 € per page;
- for a colour photocopy of a document - 0.03 € per page;
- for a CD or DVD - not more than 0.3€.

49. The information made available in electronic form via the Internet is free of charge.

VIII. Obstacles encountered in the implementation of article 4

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 4.*

Answer:

50. There are cases of failure to appoint a person responsible in the administration body for providing information about the environment and its protection.

51. Occasionally and rarely, administration bodies do not inform about proceedings conducted.

52. In the case of providing access to documents the data of which are published in publicly accessible registers containing information about the environment, and which shall be made available on the day of request issuance, it is sometimes impossible to fulfil this requirement. In particular, this applies to documents which are in the archives and extracting them from the archive is necessary before providing access to them.

53. Interpretative difficulties in the case of the necessity to provide access to parts of information have been indicated. There are cases of failing to provide access to all information by the authorities, despite the fact that only part of the information is excluded from provision. However, this is interpreting the law by the administration bodies against citizens which is in opposition to the Code of Administrative Procedure and is a prerequisite to submit a complaint to the administrative court.

54. Individual entities have indicated that there is no clear statement in the Act on access to information about the environment, if the access to information about the environment and its protection is subject to prior payment of a fee, or if it is independent from the prior payment. Nongovernmental organizations also indicate that there are problems with the interpretation of the Regulation on the fees which do not apply to the manner of calculating the fees if information is obtained from electronic databases possessed by the administration bodies - there is no settlement on what "finding a document" means.

55. Individual entities also pointed out the lack of clear conflict-of-laws rules which would clearly demonstrate when to apply the provisions of the Law on Public Access to Information about the Environment, and when the provisions of the UDIP Act.

56. Environmental organizations (Górnośląskie Towarzystwo Przyrodnicze) point out that there are situations in which the quality of the information about the environment and its protection provided by the administration bodies raises objections.

IX. Further information on the practical application of the provisions of article 4

Provide further information on the practical application of the provisions on access to information in article 4, e.g., are there any statistics available on the number of requests made, the number of refusals and the reasons for such refusals?

Answer:

57. In 2011, The Environmental Inspection (Chief Inspector of Environmental Protection and voivodeship inspectors of environmental protection) considered 6 345 requests for information about the environment and its protection, and in 2012 – 6 765. By observing this growing trend of requests for information about the environment and its protection, it can be assumed that in 2013, the Environmental Inspection will give approximately 7 000 pieces of such information. In 2011, the Environmental Information Centre on behalf of the Minister of the Environment, considered 84 requests for information about the environment and its protection. In 2012, 108 such requests were considered. In 2013, the expected number of requests considered by the Minister of the Environment will exceed 200. Also here the growing trend in the use of the right to the access to information about the environment and its protection by the society is visible. General Director of Environmental Protection considered in 2011 - 82 requests for information about the Environment and its protection, in 2012 - 109 requests, by the half of 2013 - 84 requests. Regional director of environmental protection considered in 2011 a total of 3321 requests for information about the environment and its protection, in 2012 - 3917 requests, and by the half of 2013 - 2949 of such requests. President of National Water Management Authority considered in the years 2011-2013 a total of 34 requests for information about the environment and protection. Directors of regional boards of water management considered in 2011 566 of such requests, in 2012 - 715 requests, and by the half of 2013 - 433 requests. Between 2011 and mid-2013, President of the State Mining Authority considered a total of 1708 requests for information about the environment and its protection. Between 2011 and 2013, President of the National Atomic Energy Agency did not received any requests for information about the environment.

58. The report of a study on the environmental awareness of Poles carried out at the end of 2013 shows that 74% of the Polish society never sought information on the environment. The remaining part sought information about the environment mainly in the Internet. This study also shows that the majority of the society draws information about the environment and its protection mainly from the mass media. The study indicates however that the role of the social campaigns is increasing. 21% of respondents indicated that they draw information about the environment from these campaigns. In 2012, only 7% of respondents gave a similar answer.

X. Website addresses relevant to the implementation of article 4

Give relevant website addresses, if available:

59.
www.ekoportal.pl - The Ministry of the Environment
www.mos.gov.pl - The Ministry of the Environment

www.gmo.mos.gov.pl - information on GMO
www.gdos.gov.pl - General Directorate of Environmental Protection
www.gios.gov.pl - Chief Inspector of Environmental Protection
www.kzgw.gov.pl - National Water Management Authority
www.natura2000.gdos.gov.pl - information on the European Ecological Network Natura 2000
www.isap.sejm.gov.pl - Internet System of Legal Acts

XI. Legislative, regulatory and other measures implementing the provisions on the collection and dissemination of environmental information in article 5

List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

Explain how each paragraph of article 5 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Public authorities possess and update environmental information;
 - (ii) There is an adequate flow of information to public authorities;
 - (iii) In emergencies, appropriate information is disseminated immediately and without delay;
- (b) With respect to **paragraph 2**, measures taken to ensure that the way in which public authorities make environmental information available to the public is transparent and that environmental information is effectively accessible;
- (c) With respect to **paragraph 3**, measures taken to ensure that environmental information progressively becomes available in electronic databases which are easily accessible to the public through public telecommunications networks;
- (d) With respect to **paragraph 4**, measures taken to publish and disseminate national reports on the state of the environment;
- (e) Measures taken to disseminate the information referred to in **paragraph 5**;

(f) With respect to **paragraph 6**, measures taken to encourage operators whose activities have a significant impact on the environment to inform the public regularly of the environmental impact of their activities and products;

(g) Measures taken to publish and provide information as required in **paragraph 7**;

(h) With respect to **paragraph 8**, measures taken to develop mechanisms with a view to ensuring that sufficient product information is made available to the public;

(i) With respect to **paragraph 9**, measures taken to establish a nationwide system of pollution inventories or registers.

Answer:

Article 5, paragraph 1

Article 5, paragraph 1 (a)

60. Public administration authorities, under the Act on access to information about the environment, are obliged to maintain publicly available registers of data containing information on public documents and environmental studies, as well as procedures related to projects which may affect the environment.

61. The Law on Environment Protection establishes the National Environmental Monitoring System which is a system of measurements, assessments and forecasts of the environment quality, which collects, processes and disseminates information on the environment. The National Environmental Monitoring System is carried out on the basis of multiannual National Environmental Monitoring System programmes by the Chief Inspector of Environmental Protection and 16 voivodship monitoring programmes approved by the Minister of The Environment and approved by the Chief Inspector of Environmental Protection.

62. The Act of 13 May 2011 amending the Atomic Act and certain other Acts (OJ 2011, No 132 item 766) introduced amendments to Article 35a of the Atomic Act. This amendment assumes among other things that the President of the National Atomic Energy Agency shall provide information on the state of nuclear safety and radiation protection of nuclear facilities and their impact on human health and the environment; information about the size and isotopic composition of radioactive releases from nuclear facilities to the environment; information about incidents in nuclear facilities causing hazard; information on the permits issued regarding nuclear facilities and annual assessments of security status of nuclear facilities supervised.

Article 5, paragraph 1 (b)

63. Administrative entities obliged to perform monitoring studies are required to mutual and free of charge dissemination of information on environment.

64. The Law on Environmental Protection requires installation operators and device users to monitor their emissions and monitor water and energy consumption. In the case of significant quantities of substances or energy used, the monitoring is continuous.

65. The results of some measurements, due to the need for systematic monitoring of emission levels or other conditions of the environment use, are mandatory and are regularly submitted to the authority of environmental protection and voivodship inspector of environmental protection.

66. In the case of the use of the environment for which fees are collected (e.g. water consumption, water emission etc.) information is to be forwarded to the

voivodeship marshals or voivodeship inspector of environmental protection.

67. Information on high-risk factories must be reported to the State Fire Department. Operators of factories must prepare a programme for preventing serious industrial accidents, in which they present a safety system protecting people and the environment, which is submitted to the State Fire Department and to the voivodeship inspector of environmental protection.

68. The Act of 14 December 2012 on waters (OJ 2013 item 21) requires waste holders to monitor waste and submit annual waste reports to voivodeship inspector of environmental protection. Voivodship inspector of environmental protection must be immediately notified of the changes in observed parameters, indicating the possibility of environmental hazards.

Article 5, paragraph 1 (c)

69. Provisions concerning emergencies are included in many legal acts. They indicate the obligation for cooperation between authorities at all levels, depending on the type of natural disaster.

70. Chief editors and broadcasters of radio and television programs are required, at the request of the government authorities to, immediately and free of charge, publish or post messages from these authorities associated with actions to prevent the effects of natural disasters or removing them.

71. The Environmental Inspectorate is responsible for informing the public of the environment condition and establishing the register of emergencies that have the characteristics of serious accidents or are serious accidents. Other authorities must immediately contact the mass media and forward information properly, depending on the situation.

72. The voivodes are required to promptly inform the public of the smog alerts and appeal to the residents about appropriate behaviour in order to minimize the causes and consequences of the disaster.

Article 5, paragraph 2

73. The principles of disclosing and disseminating information on environment are specified by the Act on access to information about the environment. According to this act, documents and data on documents containing information on the environment and its protection are to be included in a publicly available registers, in the Public Information Bulletins, and by using electronic databases.

74. Administrative entities are obliged to designate the persons responsible for providing information on the environment.

75. Most of the databases are accessible via the Internet. The access to databases is free of charge. If the database is not available via the Internet, information from the given database are made available on request.

76. The Law on Public Access to Information requires public offices and bodies administering public funds, running the Public Information Bulletin on the Internet containing electronic copies of public information.

Article 5, paragraph 3

77. According to the Act on access to information about the environment, public authorities publish information on environmental legislation, policies, plans, programmes, maps and analysis, as well as other documents relating to environmental protection, in publicly available registers of data and in the Public

Information Bulletin.

78. According to the Act of 20 July 2000 on publication of normative acts and certain other legal acts (OJ 2011 No 197, item 1172, as amended), the Journal of Laws of the Republic of Poland (Journal of Laws) issued by the Prime Minister with the assistance of the Government Legislation Centre. Since 1 January 2012, the Journal of Laws is issued in an electronic form, maintaining the order of items in a given calendar year. In the Journal of Laws, normative acts and other legal acts are published.

79. The Ministry of the Environment runs a website: www.ekoportal.gov.pl through which each office, free of charge, can provide information on documents it holds which contain information about the environment. Publicly Available Data List run on the Ekoportal gathers information shared by over 1500 offices, which implies over 5000 users. Ekoportal receives over 13000 entries on the webpage per month. Offices not using Ekoportal conduct publicly accessible lists of data using their own tools.

80. Documents concerning various bodies are available on the website of their Public Information Bulletins.

81. GMOs registers with all relevant information including the decisions of the Commission for GMO is available on gmo.mos.gov.pl.

82. Furthermore, various bodies of the central administration dealing with matters related with the environment conduct their own databases. Examples:

- General Directorate of Environmental Protection conducts among others the Central Register of Nature Protection Forms, a website "geoserwis" and runs a register of the areas Natura 2000;
- The Polish Geological Institute - Polish Geological Institute maintains conducts dozens of databases containing information about inanimate environment within performing tasks of the Polish Geological Survey and Polish Hydrogeological Survey. Most of these databases is available on-line for free. The most important are: Central Geological Database, Anti-landslide Protection System (SOPO - System Osłony Przeciwsuwiskowej), HYDRO Geological Data Bank (Centralna Baza Danych Hydrogeologicznych Bank HYDRO), MIDAS Computing System with information on mineral resources (System Gospodarki i Ochrony Bogactw Mineralnych MIDAS), INFOGEOKARB, Register of Mining Areas, Central Register of geosites of Poland. Information resources are supplemented with geological, geochemical, hydrogeological, geological-engineering and geoenvironmental maps available on the geoportal IKAR, published annually Polish balance of mineral resources and announcements, warnings and reports of PSH (Polish Hydrogeological Survey).

83. The infrastructure for spatial information plays an increasingly important role in gathering and disseminating information about the environment. Directive 2007/2/EC of the European Parliament and the Council of 14 March 2007 establishing the infrastructure for spatial information in the European Community (INSPIRE) (OJ EU L No 108 of 25.4.2007, pp. 1—14) and the Act of 4 March 2010 on the infrastructure for spatial information implementing the Directive to the Polish legal system (OJ 76, item 489, as amended) define the rules for infrastructure for spatial information.

Article 5, paragraph 4

84. The Chief Inspector for Environmental Protection prepares reports on the state of the environment not less frequently than once every four years, including particularly the data from the National Environmental Monitoring System. The Chief Inspector of Environmental Protection updated a long-term assessment of the state of the environment in the country and prepared a report entitled "The state of the environment in Poland. Signals 2011" ("Stan środowiska w Polsce. Sygnały 2011"). The report presents the state of selected components of the environment: nature, air, water, and acoustic climate. Individual chapters have been prepared in a manner similar to the information contained in the publication: "Report on the state of the Environment in Poland 2008" and constitutes its update. Voivodeship reports are prepared annually or every two years by the voivodeship inspectorates of environmental protection. These reports provide analysis of the environmental problems in the voivodeship in term of cause and effect. The reports are generally available in a printed and electronic form, also through websites of the Environmental Inspection authorities.

Article 5, paragraph 5

85. The Act on access to information about the environment requires publishing data on the documents containing information about the environment in the Internet.

86. The Minister of the Environment runs Ekoportal, a database of documents containing information on the environment.

87. The Parliament (Sejm) website contains all existing legislation acts in Poland, they are also published in the Journal of Laws and Official Journals. Since 1 January 2012, the Journal of Laws is issued in electronic form, maintaining the order of items in a given calendar year. In the Journal of Laws, normative acts and other legal acts are published.

Article 5, paragraph 6

88. Environmental declarations concerned with obtaining EMAS certificates are made available through Internet register.

Article 5, paragraph 7

89. The websites of the Parliament, the Senate, the Government Legislation Centre, and all other offices - within their competence, contain databases with all the valid legal acts, as well as copies of legal acts projects, including justifications.

90. Administrative entities participating in the law-making process are required to publish on the Internet drafts of legal acts, including the justification and regulation impact assessment.

91. Administrative entities publish on the Internet and in the Public Information Bulletin information about the functions they perform.

Article 5, paragraph 8

92. According to the Law on Environmental Protection, a product introduced to the market should meet the requirements of environmental protection. The product should be labelled with information concerning the consumption of fuel or other materials, the size of emissions related to product use, environmentally safe use, dismantling, re-use or disposal of the product. The products vendor must also

make information available at the point of sale.

93. According to the Law on Environmental Protection, advertisements or other means of promoting a product or service should not contain contents promoting the consumption model in conflict with the principles of environmental protection and sustainable development, in particular the use of wildlife images to promote products and services, that may have negative impact on the natural environment.

Article 5, paragraph 9

94. A National Register of Pollutant Release and Transfer Register was created as part of a European Pollutant Release and Transfer Register established by Regulation (EC) No 166/2006 of the European Parliament and Council on establishing European Register of Pollutant Release and Transfer Register amending the Directive of the Council 91/689/EEC and 96/61/EC (OJ L 33 of 4.2.2006, p. 1—17). The register is run by the Chief Inspector of Environmental Protection in the form of a publicly available database.

95. Administrative entities are required to collect data on entities that emit pollution and make them publicly available in registers.

XII. Obstacles encountered in the implementation of article 5

Describe any obstacles encountered in the implementation of any of the paragraphs of article 5.

Answer:

96. There are irregularities in keeping the register of publicly available data on documents containing information on the environment, which was required by the Law on Environmental Protection and the Law on Public Access to Information about the environment. Irregularities include: the lack of publicly available register, not entering the data of parts of documents to the register, entering the data with a few months delay and the wrong form of the register.

97. Polish Geological Institute - National Research Institute has identified a problem with the transmission of information about the environment to the society which relies not on lack of data, but on their containment which requires time-consuming familiarization with the instruction on finding databases and definitions of terms which are used within the data. For regular users (local governments, planning offices, public administration offices) regular trainings are conducted. However, an average user can be discouraged by the necessity to learn how to use this information. Another problem is the insufficient awareness of the fact that the Institute offers a vast amount of information about the state of the environment and its protection, despite active popularization of its maps and databases and despite encouraging to use this knowledge. It can be assumed that similar problems concern other databases run by other institutions.

98. There are irregularities in respect of the provision of information in electronic databases. According to individual entities, there are cases in which the authorities require charge for providing information about the environment and its protection despite the fact that this information can be found in electronic databases and finding it should not be charged.

99. The problem lies in the lack of homogeneity of the form of conducting publicly available lists of data resulting from the use of various ICT tools.

100. Individual entities have also highlighted the fact that there is no publicly

available lists of data on soft law texts, such as, for example, statements and resolutions adopted at international meetings. Individual entities also point out that not all analyzes which can be considered relevant and important in framing major policy proposals in relation to the environment are available.

XIII. Further information on the practical application of the provisions of article 5

Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g., are there any statistics available on the information published?

Answer:

101. Supreme Chamber of Control indicates the need for proper conducting and updating the publicly available register of data on documents containing information on the environment and its protection.

102. The Minister of the Environment provides interested authorities with an application allowing to conduct a publicly available register of data on documents containing information on the environment and its protection and their presentation on Ekoportal. This option is currently used by more than 1500 offices.

XIV. Website addresses relevant to the implementation of article 5

Give relevant website addresses, if available:

103.

www.ekoportal.pl - The Ministry of the Environment

www.mos.gov.pl - The Ministry of the Environment

www.gios.gov.pl - Chief Inspector of Environmental Protection

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

www.gmes.info - European Earth Observation Programme "Copernicus"

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

www.paa.gov.pl - National Atomic Energy Agency

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

XV. Legislative, regulatory and other measures implementing the provisions on public participation in decisions on specific activities in article 6

List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

Explain how each paragraph of article 6 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) The provisions of article 6 are applied with respect to decisions on whether to permit proposed activities listed in annex I to the Convention;
 - (ii) The provisions of article 6 are applied to decisions on proposed activities not listed in annex I which may have a significant effect on the environment;
- (b) Measures taken to ensure that the public concerned is informed early in any environmental decision-making procedure, and in an adequate, timely and effective manner, of the matters referred to in **paragraph 2**;
- (c) Measures taken to ensure that the time frames of the public participation procedures respect the requirements of **paragraph 3**;
- (d) With respect to **paragraph 4**, measures taken to ensure that there is early public participation;
- (e) With respect to **paragraph 5**, measures taken to encourage prospective applicants to identify the public concerned, to enter into discussions, and to provide information regarding the objectives of their application before applying for a permit;
- (f) With respect to **paragraph 6**, measures taken to ensure that:
 - (i) The competent public authorities give the public concerned all information relevant to the decision-making referred to in article 6 that is available at the time of the public participation procedure;
 - (ii) In particular, the competent authorities give to the public concerned the information listed in this paragraph;
- (g) With respect to **paragraph 7**, measures taken to ensure that procedures for public participation allow the public to submit comments, information, analyses or opinions that it considers relevant to the proposed activity;
- (h) With respect to **paragraph 8**, measures taken to ensure that in a decision due account is taken of the outcome of the public participation;
- (i) With respect to **paragraph 9**, measures taken to ensure that the public is promptly informed of a decision in accordance with the appropriate procedures;
- (j) With respect to **paragraph 10**, measures taken to ensure that when a public authority reconsiders or updates the operating conditions for an activity referred to in paragraph 1, the provisions of paragraphs 2 to 9 are applied, making the necessary changes, and where appropriate;

(k) With respect to **paragraph 11**, measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment.

Answer:

104. Under the Act on access to information about the environment, everyone has the right to submit comments and motions in the proceedings requiring public participation. Administrative bodies competent to issue a decision are obliged to provide the society the possibility of participation accordingly, prior to the adoption of these documents or their amendment.

105. Established procedures apply to decisions issued for projects listed in Annex I and I bis to the Convention.

106. On the basis of the Act on access to information about the environment, environmental organizations which, referring to their statutory objectives, declare desire to participate in a particular proceeding requiring the participation of the public, shall participate in it as a party. Environmental organization has the right to appeal against the decision made in the proceedings requiring public participation, if it is justified by the statutory objectives of the organization, even if it did not participate in a particular proceeding requiring public participation carried out by the first instance entity. Introducing such an appeal is tantamount to a declaration of a desire to participate in such proceedings. In the appeal proceedings, the organization participates as a party.

107. Environmental organization has the right to complain to the administrative court, about the decision made in the proceedings requiring public participation, if it is justified by the statutory objectives of the organization, even if it did not participate in a particular proceeding requiring public participation.

Article 6, paragraph 1

108. Policies for preparing environmental impact assessments are established by the Law on Public Access to Information about the environment. Particular types of projects for which assessments are made are named in the Regulation of the Council of Ministers of 9 November 2010 on projects which can significantly influence the environment (OJ No 213, item 1397 and of 2013 item 817).

109. Law on Environmental Protection stipulates that the operation of installations, whose performance, because of the nature and scale of its activity, may cause significant pollution of various elements of the natural environment or the environment as a whole requires an integrated permit. The Minister of the Environment specifies types of installations which may cause significant pollution of the various elements of the natural environment or the environment as a whole.

110. The Act on access to information about the environment stipulates that participation of the society is not carried out in relation to projects realised in enclosed areas where the participation of the public could have a negative impact on the defence and security of the State.

Article 6, paragraph 2

111. Under the Act on access to information about the environment, public participation in environmental protection and environmental impact assessment, the authority preparing a draft document requiring public participation, without

delay, makes a public announcement about:

- the accession to the preparation of the draft document and its subject;
- the initiation of proceedings;
- the subject of the decision which is to be issued in the case;
- the authority competent to issue a decision and authorities competent to issue an opinion and make arrangements;
- the opportunities to get acquainted with the necessary documentation of the case and the location at which it is available for inspection;
- the possibility to submit comments and motions;
- how and where to submit comments and motions, pointing at least a 21-day deadline for their submission;
- the authority competent to examine the comments and motions;
- the date and place of the administrative hearing open to public, if it is conducted;
- the proceeding on transboundary environmental impact if it is conducted.

Communication to the public means:

- a) Making information of the authority competent in a given matter available on the website of the Public Information Bulletin,
- b) announcing information, in a customary manner, in the seat of the authority competent in a given matter,
- c) announcing information by notice in a customary manner in the place of the project planned,
- d) if the seat of the authority competent in a given matter is the area of a commune different from the commune with territorial jurisdiction with regard to the subject matter - also by announcing in press or in a customary manner in the place or places with regard to the subject matter.

Necessary documentation of the case includes: request for a decision along with the required annexes, as well as the provisions required by the policies of the authority competent to issue decisions and standpoints of other bodies, if they are available within the time limit for submitting comments and motions.

Article 6, paragraph 3

112. The deadline for submitting comments and motions requiring participation of the public is 21 days.

Article 6, paragraph 4

113. As indicated in the explanatory section of Article 6, paragraph 2, public participation process begins even before the decision is issued.

Article 6, paragraph 5

114. The provisions of law do not impose on public authorities nor the investors the obligation to identify the range of interested society and providing it with information before making the request.

Article 6, paragraph 6

115. Information on the request and on the accompanying documentation is available in the publicly accessible data register (see the explanatory section of Article 5, paragraph 2). According to Article 33 item 1 point 5 of the Act on access

to information about the environment, the necessary documentation of the given matter will be available for inspection at the place indicated by the authority competent to issue a decision.

Article 6, paragraph 7

116. Any person can submit comments and motions, in writing and orally to the protocol or by means of electronic communication media, without the necessity to affix an electronic signature.

117. Environmental organizations which, referring to their statutory objectives, declare the will to participate in a particular proceeding requiring the participation of the public, shall participate in it as a party.

118. Environmental organization has the right to appeal against the decision issued in the proceedings requiring public participation, if it is justified by the statutory objectives of the organization, even if it did not participate in a particular proceeding requiring public participation carried out by the first instance entity; introducing an appeal is tantamount to declaration of a desire to participate in such proceedings. In the appeal proceedings, the organization participates as a party.

Article 6, paragraph 8

119. The authority conducting the proceedings shall consider comments and motions, and in the justification of the decision specify the information about public participation in the proceedings, about how they were taken into account and the extent to which comments and motions submitted in connection with public participation, were taken into account.

Article 6, paragraph 9

120. The authority competent to issue a decision communicates to the public the information on issuing the decision and on the possibilities of becoming acquainted with its content.

121. According to the Code of Administrative Procedure, the decision should include: the identification of the administrative authority, issuance date, the identification of other party or parties, legal basis, verdict, factual and legal reasoning, instructions on whether and how appeals can be lodged, and a signature with the name and position of the person entitled to issue the decision. The decision in respect to which proceedings may be brought to the general court or complaints to the administrative court, should also include instruction on the admissibility of proceedings or complaints.

122. The Act on access to information about the environment states that the decision about the environmental conditions requires justification. Moreover, the Law lists the essential elements of such a decision. Among them is inter alia the information on the conducted proceedings requiring public participation and about how they were taken into account, and to what extent comments and proposals submitted in connection with public participation were taken into account.

Article 6, paragraph 10

123. Conducting environmental impact assessment in the frameworks of which public participation takes place is also required for changes of decisions on

environmental conditions.

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

124. The provisions contained in the Code of Administrative Procedure shall determine the issue of disclosure of information to the parties in connection with the proceeding. The provisions of the Law on Public Access to Information about the environment relating to the public participation procedure provide sharing of information in regard to the proceeding lead by the authority. According to the Code of Administrative Procedure, the usage of the procedure mentioned above is required for the issuance of certain administrative decisions, such as integrated permit, decisions issued under the Act on Genetically Modified Organisms of 22nd June 2001 (OJ 2007 and 2009 No 18, item 97), hereinafter referred to as the GMO Act, or in relation to the decision on environmental conditions. The provisions included in the Amendment to the Aarhus Convention on the GMOs are also reflected in the provisions of the GMO Act. Pursuant to Article 29 of this Act, public participation in the proceeding, the object of which is to issue a permit for a deliberate release of GMOs into the environment or a permit for placing GMOs on the market is regulated by the provisions of the public participation in the proceeding on the environment. At the same time, Article 14(a) of the GMO Act precisely determines information on GMOs which is subject to publication. The public has the right and opportunity to become familiar with the application and documentation. This is done by means of the GMOs registers which are already operating on the webpage of the Ministry of the Environment.

XVI. Obstacles encountered in the implementation of article 6

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6.*

Answer:

125. The Supreme Chamber of Control showed that there are incidental cases in which the administration bodies fail to inform properly the public on conducting proceedings requiring public participation.

126. In terms of the manner of informing the public about the proceedings, objections are occasionally raised in the field of the content and nature of the information communicated, communication channels used and the date of notification. There were cases of reporting false information and confirming events inconsistent with the facts. Inspected entities often did not use all the means of communication required by law, thereby limiting the circle of the recipients of the notification and potential participants in the proceedings.

127. According to individual entities, there are also cases of non-compliance with regulations concerning providing the public the time to prepare for participation in the proceedings. Individual entities have also criticized the time limit of 21 days to submit comments on the procedure of environmental impact assessment, as according to them, the time limit is too short. Environmental organizations (Górnośląskie Towarzystwo Przyrodnicze) inform that there are cases of not allowing them to participate in the proceedings, which they believe has an impact on issuing wrong environmental decisions.

XVII. Further information on the practical application of the provisions of article 6

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g., are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

Answer:

128. The follow-up conclusions of the Supreme Chamber of Control inspection addressed to the local governments indicate the need to use all the information channels for publicizing the data on the proceedings conducted and ensuring adequate time for preparation and active participation of the public in the proceedings conducted.

XVIII. Website addresses relevant to the implementation of article 6

Give relevant website addresses, if available:

129.

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

www.nik.gov.pl - The Supreme Chamber of Control

XIX. Practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment pursuant to article 7

List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment, pursuant to article 7. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

130. The Act on access to information about the environment states that the administration bodies competent to develop projects of documents, in the cases in which the provisions of law require ensuring the possibility of public participation, ensure public participation adequately before adoption of these documents or before their change.

131. Conducting a strategic environmental impact assessment in which public participation is implemented, require projects:

- spatial development concept, the study of conditions and directions of

spatial management of a commune, spatial management planes and regional development strategies,

- policies, strategies, plans or programmes in the fields of industry, energy, transport, telecommunications, water management, waste management, forestry, agriculture, fisheries, tourism and land use, developed or adopted by the public authorities that set the framework for subsequent implementation of projects that may significantly impact the environment;
- policies, strategies, plans or programs, the implementation of which may have significant impact on the Natura 2000 areas if they are not directly related to the protection of Natura 2000 areas or are not the result of this protection.

132. Conducting a strategic environmental impact assessment is required for drafts of documents, if they determine the framework for subsequent implementation of projects that may significantly affect the environment and the implementation of the provisions of these documents may cause a significant impact on the environment. The Authority may, in the case of developing certain documents that require a strategic environmental assessment, in consultation with the relevant administrative bodies, withdraw from its conducting, if it considers that the implementation of the provisions of the document does not result in a significant impact on the environment. Even then, withdrawing from the strategic environmental assessment can only refer to minor changes in relation to the existing documents.

133. Under the Act on access to information about the environment, the authority developing the project of the document requiring public participation, without delay, makes a public announcement about:

- accession to the development of the project of the document and about its subject;
- the opportunities of getting acquainted with the necessary documentation of the case and the location at which it is available for inspection;
- the possibility to submit comments and motions;
- the manner and place of submitting comments and motions, pointing at least a 21-day deadline for their submission;
- the competent authority to examine the comments and motions;
- the proceeding on transboundary environmental impact if it is conducted.

134. Principles of lawmaking in Poland require public participation in the legislation process. In the case of projects of laws and regulations, conducting public consultation and regulation impact assessment is mandatory.

135. The law requires the participation of NGOs in a number of advisory bodies, including those playing part in the decision making process related to the development of plans and programs concerning the environment, such as the State Nature Conservation Council and Committee on GMO. NGO representatives are also invited to the bodies governing the allocation of financial resources for developing plans and programs concerning the environment.

136. The deadline for submitting comments on the draft document that requires less public participation is at least 21 days.

137. Public participation procedure begins even before the development of the document requiring public participation because, pursuant to Article 39 item 1 of the Law on Public Access to Information about the environment, the Authority developing the document, without delay, communicates the information on proceeding with the project development of the document and its object to the public.

138. The Authority preparing the project of the document that requires public

participation considers comments and requests and adds to the adopted document justification containing information about the public participation in the procedure and about how the observations and conclusions reported in relation to public participation were taken into account. Moreover, the authority must inform the public about the adoption of the document and the opportunity to get familiar with its content, justification and summary.

XX. Opportunities for public participation in the preparation of policies relating to the environment provided pursuant to article 7

Explain what opportunities are provided for public participation in the preparation of policies relating to the environment, pursuant to article 7.

Answer:

139. The obligation to develop a strategic environmental impact assessment, including related public participation procedures, applies also to the preparation of policy.

XXI. Obstacles encountered in the implementation of article 7

Describe any obstacles encountered in the implementation of article 7.

Answer:

140. Individual entities have stated that administration bodies often do not use all the means of communication required by law, thereby limiting the circle of notification recipients and potential participants in the proceedings. They indicated that there is no guarantee of public participation in the legislative proceedings at the level of local government units. Public hearings are provided only for government projects, under strict conditions. Furthermore, it was pointed out that there is no guarantee of early and effective participation, and although the Law on Public Access to Information about the environment provides that publicizing includes information about the accession to the development of the project of the document and its subject, in practice, the finished project together with the forecast is made public.

141. Administration bodies developing projects of documents can, in consultation with competent authorities, withdraw from conducting a specific procedure for environmental impact assessment if they consider that implementation of these documents will not cause significant environmental impacts. In the opinion of environmental organizations, this means that, as a result, not all plans and programmes relating to the environment are being elaborated with the provision of adequate public participation.

142. In the opinion of environmental organizations, distribution of information on results of consultation to interested partners is not a rule.

XXII. Further information on the practical application of the provisions of article 7

Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

Answer:

143. The practice of undertaking public participation during the preparation of plans, programs and policies is widely used at the administrative level, which results from the obligation of subjecting all documents to public consultation.

144. The Ministry of the Environment provides public participation in preparing plans, programmes and policies for which such participation is required. Furthermore, the Minister of the Environment, to the extent defined by national and transnational provisions and organizational capabilities, provides public participation in strategic decision-making in relation to international agreements concluded by the Republic of Poland.

145. Apart from the possibility of commenting in writing or electronic form, consultations are conducted with interested NGOs and with entrepreneurs. The reported comments are considered. Information on the outcome of the consultations is available in the drafts of documents and on the office website. It is also sent out to the interested partners.

146. The public is involved in preparation of various plans, programmes, policies and strategies relating to environmental education at various levels, as well as relating to management of Natura 2000 programme and to the protection of endangered species.

147. General Directorate of Environmental Protection has introduced an information and communication platform (PIK - platforma informacyjno-komunikacyjna) to support the development plans of tasks for protecting the Natura 2000 areas, including the implementation and operation of public consultation.

148. Public participation in the preparation of different kinds of strategic documents is also ensured, amongst others, by all the central administration bodies developing strategic documents for which environmental impact strategic assessment is conducted.

XXIII. Website addresses relevant to the implementation of article 7

Give relevant website addresses, if available:

149.

www.ekoportal.pl- The Ministry of the Environment

www.mos.gov.pl - The Ministry of the Environment

www.pzo.gdos.gov.pl - General Directorate of Environmental Protection

XXIV. Efforts made to promote public participation during the preparation of regulations and rules that may have a significant effect on the environment pursuant to article 8

Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment, pursuant to article 8. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

Answer:

150. Both, the general policies on lawmaking, as well as the Law on Public Access to Information about the environment, provide public participation in making executive regulations and other generally applicable standards. The public, including NGOs, must be informed of the planned solutions - at what stage the project is, what are its successive versions, and what comments were reported. Public participation in the preparation of normative acts is provided for by a number of legal acts as well as by voluntary practical arrangements connected with the general principle of conducting public consultations by central administration bodies, local governmental bodies and the Parliament.

151. The principles of public participation in the development of government documents, in particular the projects of normative acts have been codified in the Act of 7 July 2005 on lobbying activities in the lawmaking process, (OJ No 169, item 1414, as amended), as well as in regulations concerning organization of the government's work. Offices are obligated, among others, to publish programmes of legislative works, or projects of legal acts together with justification and evaluation of the results of the regulation. Administrative offices are also elaborating their own detailed rules in this regard.

152. Acts regulating the principles for territorial self-government at all levels, provide an opportunity to consult inhabitants on matters vital to a given region and to define the mode and principles of such consultations.

153. NGO representatives have the right to participate in the sessions of the Parliament committees and subcommittees. NGOs known to be interested in the subject matter, are invited to delegate their representatives. Other organizations can ask their representatives to participate in the session. In practice, NGOs actively participate in the majority of the Parliament's subcommittees which work on draft legislative acts, by asking questions, commenting the analysis and even presenting suggestions for new solutions.

XXV. Obstacles encountered in the implementation of article 8

Describe any obstacles encountered in the implementation of article 8.

Answer:

154. Individual entities have indicated that environmental organizations are not always allowed to speak during the parliamentary committee on laws related to environmental regulations.

XXVI. Further information on the practical application of the provisions of article 8

Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

Answer:

155. The Ministry of the Environment applies three main methods of consultations of draft acts:

- a) Along with the interdepartmental agreements, draft acts are sent with a request for comment to interested entities (e.g. public authorities, trade unions, business associations and NGOs). Drafts are also consulted with representatives of local governments, particularly with the local party of the Joint Committee of the Central Government and Territorial Governments;
- b) Draft acts along with their justifications and regulation impact assessment are made available to the public on the Ministry of the Environment website, with information regarding the deadline for submitting comments and the e-mail address of the relevant official. After considering the comments, the Ministry of the Environment prepares a report to explain the cases in which comments were not taken into account;
- c) other forms of consultation may also be used as needed, most often in the form of a public debate or seminar to which interested entities are invited and the participation is free of charge.

156. NGO representatives regularly participate in the legislative works in the Parliament. At their initiative, a number of provisions were included in the law system.

XXVII. Website addresses relevant to the implementation of article 8

Give relevant website addresses, if available:

154.

www.mos.gov.pl/kategoria/2225_projekty_aktow_prawnych/ - the Ministry of the Environment webpage with information on drafts of legal acts

<http://orka.sejm.gov.pl/projustall6.htm> - webpage of the Parliament containing drafts of legal acts;

<http://www.senat.gov.pl/k7/pos/pracet.htm> - webpage of the Senate containing drafts of legal acts.

<http://legislacja.rcl.gov.pl> - Government Legislative Process

XXVIII. Legislative, regulatory and other measures implementing the provisions on access to justice in article 9

List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

Explain how each paragraph of article 9 has been implemented. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9. Also, and in particular, describe:

- (a) With respect to **paragraph 1**, measures taken to ensure that:
 - (i) Any person who considers that his or her request for information under article 4 has not been dealt with in accordance with the provisions of that article has access to a review procedure before a court of law or another independent and impartial body established by law;
 - (ii) Where there is provision for such a review by a court of law, such a person also has access to an expeditious procedure established by law that is free of charge or inexpensive for reconsideration by a public authority or review by an independent and impartial body other than a court of law;
 - (iii) Final decisions under this paragraph are binding on the public authority holding the information, and that reasons are stated in writing, at least where access to information is refused;
- (b) Measures taken to ensure that, within the framework of national legislation, members of the public concerned meeting the criteria set out in **paragraph 2** have access to a review procedure before a court of law and/or another independent and impartial body established by law, to challenge the substantive and procedural legality of any decision, act or omission subject to the provisions of article 6;
- (c) With respect to **paragraph 3**, measures taken to ensure that where they meet the criteria, if any, laid down in national law, members of the public have access to administrative or judicial procedures to challenge acts and omissions by private persons and public authorities which contravene provisions of national law relating to the environment;
- (d) With respect to **paragraph 4**, measures taken to ensure that:
 - (i) The procedures referred to in paragraphs 1, 2 and 3 provide adequate and effective remedies;
 - (ii) Such procedures otherwise meet the requirements of this paragraph;
- (e) With respect to **paragraph 5**, measures taken to ensure that information is provided to the public on access to administrative and judicial review.

Answer:

157. The right of access to justice in environmental matters is guaranteed mainly in administrative proceedings but also in judicial-administrative proceedings and in civil proceedings.

158. The Code of Administrative Procedure grants the right to appeal to the authority of second instance against administrative decisions. This right is granted to the parties of the proceedings, that is, any person whose legal interests or duties are affected by the proceedings. Appealing is free of charge.

159. NGOs have the right to act as party in the proceedings requiring public participation. The decision of the authority of the second instance can be challenged in voivodship administrative court. Decisions or judgments of the voivodship administrative court can be challenged in the Supreme Administrative Court, which can change or annul it. The right to participate in the proceedings is granted to anyone having a legal interest and to the NGOs which participated in the administrative procedure.

160. In the case of challenges brought to administrative courts the fixed court fee is PLN 100 (approximately € 25). In cases concerning the environment, the court fee is PLN 200 (approximately € 50).

161. Administrative court verdicts and decisions not challenged in courts are

binding in a given case.

162. Complaint to an administrative authority in the second instance may be filed by the person who requested action to be taken. If the authority considers the complaint to be justified, it will set a further date for considering the case. If the deadline is missed, a complaint can be submitted to the voivodeship administrative court.

163. All parties and persons with parties' rights have an equal right to the appeal procedures. The same rule also applies to criminal and civil proceedings.

Article 9, paragraph 1

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

165. if the authority does not respond to a request for environmental information, or if it provides incomplete information, the applicant is entitled to file a complaint to the administrative court for the inactivity of the administration.

166. For the complaints investigated in the proceedings for disclosure of information about the environment and its protection, the provisions of the Code of Administrative Procedure shall be applied.

167. Law on Public Access to Information about the environment provides the access to appeal procedure similar to the above mentioned procedures regulated in the Code of Administrative Procedure and the Law on the Proceedings. However, the Law on Public Access to Information about the environment provides a 15 days period to transfer the complaint and the answer to the complaint by the competent authority to the administrative court. The administrative court is to consider complaint in 30 days from the date of the receipt of the file with the response to the complaint.

Article 9, paragraph 2

168. The decisions referred to in Article 6 of the Convention are administrative decisions which may be appealed and challenged in court. Parties to the proceedings always have the right to challenge a decision. NGOs have got similar rights in the cases of decisions requiring public participation. Each person has the right to participate in proceedings concerning the decisions referred to in article 6 of the Convention, however, the right to access to appeal procedure is granted only to those with a legal interest in a given case and to NGOs.

169. Access to participation in proceedings and consequently access to justice for NGOs, is excluded if the competent authority decides not to carry out a full environmental impact assessment procedure.

Article 9, paragraph 3

170. Challenges to actions or lack of actions of public authorities may be undertaken in administrative and judicial-administrative proceedings. The list of parties may differ from case to case (e.g. in the case of a permit for waste water emission, the parties are those persons having a permit for water use; in the case of environmental impact assessment decision, these will consist of neighbouring residents).

171. Proceedings related to actions or lack of actions of natural persons are undertaken in civil court. According to the general principles of civil law (as defined in the Civil Code), such proceedings may be initiated by persons whose legal

interests have been violated.

172. NGOs can file a civil claim asking for the restoration of the original state in compliance with the law and the institution of preventive means in the public interest (if the damage or threat concerns the environment as a common good).

173. Civil proceedings take place in two instances. In some cases, it is also possible to appeal to a third instance - the Supreme Court. In civil environmental cases, court fee is 100 PLN (approximately € 25). In the first and second instances. There is no obligation to be represented by a solicitor. This obligation applies to cases before the Supreme Court.

174. A person filing a civil claim may request of the court to oblige the defendant to disclose, at his/her own expense, the information necessary to establish the scope of his/her responsibility, such as, for instance, the information on emissions.

175. According to the law, the list of entities with the right to access to justice is identical to that under article 9, paragraphs 2 and 3, of the Convention.

176. The competent authority for environmental protection, is obliged to accept each notification of environmental damage or threat. If the environmental damage or threat concern the environment as a common good, a notification may be submitted by an administrative authority or an environmental organisation. Refusal by competent authority to initiate proceedings resulting from the notification may be made based on the decision to which the appeal applies.

Article 9, paragraph 4

177. In administrative proceedings, filing an appeal to the authority of second instance automatically suspends the implementation of the decision being the subject of the appeal. In judicial-administrative proceedings, a person filing a complaint can simultaneously submit a motion for suspension.

178. In the Act of 7 July 1994 - Construction Law (OJ 2010 No 243, item 1623, as amended) hereinafter referred to as: "the Construction Law", a requirement has been provided to establish a deposit to secure the claims of the investor due to the suspension of a decision that may constitute a barrier to an appeal and suspend implementation of the decision. Pursuant to Article 35a of the Construction Law, "in the case of a complaint to the administrative court for a decision on the permit for construction, suspension of execution of the decision at the request of the applicant, can be made by the court subject to making by the applicant a bail securing the claims of the investor due to the suspension of a decision. If the complaint is legitimate, in whole or in part, the bail is refundable. In the case of dismissing the complaint, the bail shall be allocated to satisfy the claims of the investor. In matters connected with bail, the provisions of Code of Civil Procedure Security on securing claims shall be applied".

179. In civil proceedings, courts can provide protection by applying preventative measures such as abstaining from a particular action for the duration of the trial.

180. In administrative and judicial proceedings, the principle according to which the party having lost the case covers the costs of the successful party, is only valid when the successful party is the person challenging the decision. If the person loses the case, he or she does not bear the costs.

181. Decisions of the authorities and court verdicts are delivered in writing (Code of Administrative Procedure, Law on the Proceedings before Administrative Courts, Code of Civil Procedure). Court decisions and administrative decisions are made available upon a motion with the reservation of personal data (relevant sections of the documents are blackened). If the number of pages in the proceeding does not exceed 20, the parties may be notified on the decisions by the authority by means

of an official announcement or in another customary manner of public announcement in the community. In those cases, the notice or the delivery shall be considered executed after the expiration of fourteen days from the date of the public announcement.

Article 9, paragraph 5

182. Information on the appeal procedure is provided to the parties concerned, for instance during NGO training, a part of which is financed by the National Fund for Environmental Protection and Water Management and voivodeship funds for environment protection and water management. Moreover, persons whose requests for information were refused are provided with the information on the legal provisions of disseminating the information (on www.ekoportal.gov.pl).

XXIX. Obstacles encountered in the implementation of article 9

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 9.*

Answer:

183. The media inform about situations in which, according to journalists, the organisations were paid by investors for withdrawing from appeal proceedings and protesting against a given project. This gives rise to a tendency to limit the scope of public participation and access to justice in the course of an investment process:

- a) limiting the group of persons considered as parties in the proceedings;
- b) limiting the list of cases in which NGOs may participate with the rights of parties and consequently have a right to appeal against the decisions;
- c) introduction of a requirement to file a deposit while requiring the court to suspend a construction project;
- d) limiting the time frames for NGOs to notify their participation in the proceedings with the rights of a party.

184. The aforementioned proposals are aimed at actions that go beyond the rights granted to the public and NGOs by the Convention.

NGO (Climate Coalition) drew attention to the statements of some politicians that it believes undermine the principle of access to justice for environmental organizations. During the consultations of the report, individual entities pointed out that national provisions of law limit or exclude the right to appeal (and complaints against decisions) in the following cases:

- Article 20 item 2 of the Act of 29 June 2011 on the preparation and implementation of investments in the field of nuclear power facilities and associated investments (OJ No 135, item 789, as amended), according to which "as a party in the proceedings, only those environmental organizations that have received an entry in the appropriate register no earlier than one year prior to the initiation of proceedings to issue a decision on the environmental conditions for a nuclear facility may attend"- which fundamentally changes the criteria adopted for the definition of 'the public concerned' of Article 2 point 5 of the Convention;

Furthermore, an opinion was presented according to which the Polish legislation has a lack involving the inability to make a challenge by non-governmental

organizations, what does not meet the requirement of Article 101 of the Act of 8 March 1990 on commune local government (OJ 2013 item 594, as amended) - Resolutions of the legislative body of the commune (e.g. the adoption of a local development plan or study) to the administrative court. There are also no appealing paths for decisions of public authorities, not bearing the nature of administrative decision such as withdrawing from the conducting strategic environmental impact assessments provided in the Law on Public Access to Information about the environment and its protection.

185. Environmental organization, Górnośląskie Towarzystwo Przyrodnicze, noticed that the court fees at the level of approximately 120 € are high for environmental organizations. Such fees shall be provided in the Construction Law in the case of a complaint to the voivodship administrative court. The Association also indicates that in such cases the courts do not grant legal aid by exemption (also partial) from registration. This causes that environmental organizations sometimes forgo the opportunity to complain to the administrative decisions of the administrative courts.

XXX. Further information on the practical application of the provisions of article 9

Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g., are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

Answer:

186. The Ministry of Justice keeps statistics in civil and commercial matters the subject of which are claims regarding "the protection of the natural environment of man". According to the information provided by the Ministry of Justice in 2011, the district courts (civil and commercial department) received a total of 39 cases of this kind, and settled 24. The district courts (the courts of first instance in civil and commercial departments) received 24 cases concerning the protection of the natural human environment, and settled 49. In 2011, appeal courts received 31, and settled 33 cases in this category. In 2012, district courts (civil and commercial departments) received a total of 76 cases of this kind, and 31 were settled. The district courts (the courts of first instance in civil and commercial departments) received a total of 33 cases concerning the protection of the natural human environment, and settled 60. In 2012, appeal courts received 11, and settled 14 cases in this category.

187. Very few cases brought to civil courts concern environmental damage as a common good. In the opinion of the non-governmental organizations developed in the course of the consultations on the content of the report, this is due to difficulties in proving the plaintiff's right to submit a case in protection of a common good.

188. Persons without sufficient financial means can request an exemption from proceedings costs before civil or administrative courts. Such an exemption does not include the obligation to reimburse the costs to the opposite party in the event of losing a civil trial.

189. In 2011, complaints to the Voivodeship Administrative Court in Warsaw were submitted on 86 decisions of Chief Inspector for Environmental Protection. From the judgments of this court, parties lodged 15 cassation appeals to the Supreme Administrative Court. In 2012, the corresponding figures are 165 complaints and

18 cassation appeals.

XXXI. Website addresses relevant to the implementation of article 9

Give relevant website addresses, if available:

190.
www.ekoportel.gov.pl – Ministry of the Environment

Articles 10-22 are not for national implementation.

XXXII. General comments on the Convention's objective

If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

Answer:

191. According to the Law on Environmental Protection the widespread use of environment is vested by law and includes any use of the environment, without using the installation, to meet personal and household needs, including leisure and sports activities. Anybody who acts to the detriment of the environment, is obliged to prevent this detrimental action.

XXXIII. Legislative, regulatory and other measures implementing the provisions on genetically modified organisms pursuant to article 6 bis and Annex I bis

Concerning legislative, regulatory and other measures that implement the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis, describe:

- (a) With respect to **paragraph 1 of article 6 bis** and:
 - (i) **Paragraph 1** of annex I bis, arrangements in the Party's regulatory framework to ensure effective information and public participation for decisions subject to the provisions of article 6 bis;
 - (ii) **Paragraph 2** of annex I bis, any exceptions provided for in the Party's regulatory framework to the public participation procedure laid down in annex I bis and the criteria for any such exception;
 - (iii) **Paragraph 3** of annex I bis, measures taken to make available to the public in an adequate, timely and effective manner a summary of the notification introduced to obtain an authorization for the deliberate release or placing on the market of such genetically modified organisms, as well as the assessment report where available;

(iv) **Paragraph 4** of annex I bis, measures taken to ensure that in no case the information listed in that paragraph is considered as confidential;

(v) **Paragraph 5** of annex I bis, measures taken to ensure the transparency of decision-making procedures and to provide access to the relevant procedural information to the public including, for example:

- a. The nature of possible decisions;
- b. The public authority responsible for making the decision;
- c. Public participation arrangements laid down pursuant to paragraph 1 of annex I bis;
- d. An indication of the public authority from which relevant information can be obtained;
- e. An indication of the public authority to which comments can be submitted and of the time schedule for the transmittal of comments;

(vi) **Paragraph 6** of annex I bis, measures taken to ensure that the arrangements introduced to implement paragraph 1 of annex I bis allow the public to submit, in any appropriate manner, any comments, information, analyses or opinions that it considers relevant to the proposed deliberate release or placing on the market;

(vii) **Paragraph 7** of annex I bis, measures taken to ensure that due account is taken of the outcome of public participation procedures organized pursuant to paragraph 1 of annex I bis;

(viii) **Paragraph 8** of annex I bis, measures taken to ensure that the texts of decisions subject to the provisions on annex I bis taken by a public authority are made publicly available along with the reasons and the considerations upon which they are based;

(b) With respect to **paragraph 2 of article 6 bis**, how the requirements made in accordance with the provisions of annex I bis are complementary to and mutually supportive of the Party's national biosafety framework and consistent with the objectives of the Cartagena Protocol on Biosafety to the Convention on Biodiversity.

Answer:

All available information was provided in answer to question number XV

XXXIV. Obstacles encountered in the implementation of article 6 bis and annex I bis

*Describe any **obstacles encountered** in the implementation of any of the paragraphs of article 6 bis and annex I bis.*

Answer:

XXXV. Further information on the practical application of the provisions of article 6 bis and annex I bis

*Provide further information on the **practical application of the provisions on public participation in decisions on the deliberate release into the environment and placing on the market of genetically modified organisms in article 6 bis**, e.g., are there any statistics or other information available on public participation in such decisions or on decisions considered under paragraph 2 of annex I bis to be exceptions to the public participation procedures in that annex?*

Answer:

XXXVI. Website addresses relevant to the implementation of article 6 bis

Give relevant website addresses, if available, including website addresses for registers of decisions and releases related to genetically modified organisms:

Answer:

XXXVII. Follow-up on issues of compliance

If, upon consideration of a report and any recommendations of the Compliance Committee, the Meeting of the Parties at its last session has decided upon measures concerning compliance by your country, please indicate (a) what were the measures; and (b) what specific actions your country has undertaken to implement the measures in order to achieve compliance with the Convention.

Please include cross-references to the respective sections, as appropriate.

Answer:

192. Neither the Executive Committee nor the Meeting of the Parties to the Convention have not yet ordered Poland to take specific actions in order to adjust Polish law to the Aarhus Convention.