

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

1 The process of report preparation

1. During the preparation of this report, consultations with the public, non-governmental organisations and administration authorities were conducted in two phases.

2. At the beginning, the Ministry of the Environment submitted for consultation to public administration units the report from years 2011 -2013 with a request to provide comments. Then, the Ministry published on its website a draft report from the implementation of the convention for the years 2014-2016 in three versions – in PDF format, in .doc format, with amendments in relation to the previous report from years 2011 -2013, marked in the "register changes" mode, and in .doc format without marked changes. The PDF version included the "register changes" mode. The Ministry invited to provide comments to the content of the draft report via the website. It is important to note that the consultations with the public with regard to the pure content of the report from years 2011 – 2013 were abandoned. The Ministry considered that consultation of the content of the previous report without the indication of the legislative changes that occurred in relation to the previous reporting period, may result in the fact that numerous comments of the public will concern issues that are already known to the authors of the report. Submitted comments enabled identification of institutional and legal changes regarding provisions implementing the convention that took place over the past three years, and the difficulties that appeared during the implementation of the Convention.

3. Subsequently, the Ministry of the Environment on the basis of received comments prepared a draft report from the implementation of the convention that was again sent for consultation to the public administration authorities. Then, after further amendments, a draft report was sent to the second phase of public consultations. During the consultations of the content of the draft report, comments were provided by the following entities:

- Minister of Justice
- General Director for Environmental Protection along with regional directors responsible for the environmental protection
- Chief Inspector of Environmental Protection along with voivodship environmental verifiers
- General Administration of the State Forests
- Polish Geological Institute – National Research Institute

- Institute of Environmental Protection - National Research Institute
- President of the National Water Management Authority
- President of the State Atomic Agency
- National Fund for Environmental Protection
- President of the State Mining Authority
- Institute of Meteorology and Water Management

Public representatives:

Fundacja Greenmind

Fundacja ClientEarth

WWF Polska

Towarzystwo na rzecz Ziemi

2 Determinants essential for understanding the report

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

1. the Act of 27 April 2001 - Environmental Protection Law (Journal of Laws of 2016, item 672, as amended), hereinafter referred to as: "EPL,"
2. the Act of 3 October 2008 on Facilitating the Access to Information on the Environment and its Protection, Public Participation in Environmental Protection and the Environmental Impact Assessment (Journal of Laws of 2016, item 353, as amended) hereinafter referred to as: "the Act on access to information about the environment,"
3. Act of 14 June 1960 - Code of Administrative Procedure (Journal of Laws of 2016, item 23, as amended), hereinafter referred to as: "CAP,"
4. the Act of 30 August 2002 - The Law of the Administrative Courts Procedure (Journal of Laws of 2016, item 718, as amended) hereinafter referred to as: "LACP."

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

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

7. In Poland the main legal act governing matters related to access to information on the environment and its protection is the Act on access to information about the environment.

8. Undertaking administrative decisions in individual cases for the most part falls within the competence of the Voivodeship Marshal and the poviast governor (starosta) or the General Director for Environmental Protection and regional directors responsible for the environmental protection. On the other hand, the Minister of the Environment is mainly responsible for preparation of legal acts, national plans, programmes and policies concerning environmental matters.

3 Legislation, regulations and other measures implementing the general principles included in the provisions of paragraphs 2, 3, 4, 7 and 8 of Article 3

Article 3, paragraph 2

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

10. The Ministry of the Environment runs "Ekoportaal," website presenting databases of public documents containing information on the environment and its protection, and performing e-learning functions.

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

Article 3, paragraph 3

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

13. Public administration undertakes a number of activities related to ecological education, and in cooperation with NGOs. General Directorate for Environmental Protection conducted a nationwide campaign regarding protection of the Natura 2000 areas. Training

courses with regard to protection of these areas are implemented. Various types of educational campaigns were also carried out by other public administration units, and at the regional level as well. The Chief Inspectorate of Environmental Protection launched a new version the Portal "Jakość Powietrza" (Air Quality) and a free application for mobile devices (1 and 2). These tools provide access to information on the current air quality directly originating from approx. 150 automatic measurement stations of the State Environment Monitoring Program. Broader access to information will contribute to a higher social awareness about problems concerning air protection in Poland and better care for air quality.

14. In 2014, as ordered by the Ministry of the Environment TNS Polska conducted a test on the access to information on the environment in Poland. The main objectives of the research were the following:

- 1) Verification, to what extent offices of public administration fulfil their obligations i.e.:
 - a. appointing persons responsible for publishing information on the environment;
 - b. conducting publicly available data lists.
- 2) Identification of social interest in submission of applications with regard to public information, and information on the environment and its protection, and the diagnosis of the nature of the answers granted (refusals, fees).
- 3) Identification of difficulties related to the application of regulations contained in the Act on access to information about the environment, including but not limited to problems associated with collecting fees for publishing of information.

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

15. The issues of the access to information on the environment and Ekoportal were popularised via the national press and public radio.

16. In 2015 and 2016, the Ministry of the Environment joined a European-wide initiative entitled European Sustainable Development Week (ESDW) in order to popularise the concept of sustainable development. The assumption of the project is supporting activities promoting the use of the principles of sustainable development with regard to all of its aspects – economic, social and environmental. The initiative is addressed to a wide group of entities, both in the national and private sector, inter alia, government agencies, local governments, research centres, educational institutions, museums, foundations, companies, non-governmental organisations, and individual citizens.

17. The National Fund for Environmental Protection and Water Management co-finances actions related to ecological education – programmes with regard to active ecological education, and cross-media campaigns, trainings courses, workshops and undertakings

popularising knowledge on ecology, competitions used to improve social ecological awareness, postgraduate studies. Co-financing was granted to radio, film and television productions, publications and websites, as well as for construction, expansion, adaptation, equipping and re-equipping of infrastructure for the purpose of ecological education both in terms of classroom teaching and outdoor classes.

18. Implementation of provisions of the Convention, especially with regard to public participation in the decision-making process was strengthened by the implementation into the national law of the provisions of the Council Directive of 27 June 1985 no. 85/337/EEC on the Assessment of the Effects of Certain Public and Private Projects on the Environment (Official Journal of EU L 175 of 5.7.1985, p. 40, Polish special edition: chapter 15, vol. 01, pp. 248 – 256), which was then replaced by the Directive of 13 December 2011 of the European Parliament and the European Council 2011/92/EU on the Assessment of the Effects of Certain Public and Private Projects on the Environment (Official Journal of EU L 26 of 28.1.2012, p. 1, as amended). An important role in ensuring public participation in the decision-making process was also played by the Directive of the European Parliament and the European Council 2001/42/EC of 27 June 2001 on the Assessment of the Effects of Certain Plans and Programmes on the Environment (Official Journal of EU L 197 of 21.7.2001, p. 30; *Polish special edition*: chapter 15, vol. 06, pp. 157 – 164). Article 6 of this Directive, refers to the participation of civil society during the preparation of strategic documents, which is directly reflected in Article 54(2) of the Act on access to information about the environment.

19. Strengthening of the activities implementing the provisions of the Convention by the public administration was also associated with the funds obtained by Poland from the cohesion policy from the budget of the European Union for the years 2007-2013 and 2014-2020. For all operational programmes (documents in detail regulating the manner of issuing the funds, and types of investments) that featured infrastructure investments, including those related to agriculture, strategic environmental impact assessments along with extensive public consultations were conducted. These documents were consulted from the beginning of their creation, and in consultations not only social partners and non-governmental organisations participated, but also citizens of the Republic of Poland. Considering the amount of funds allocated for implementation of the programmes (EUR 67 billion from the EU budget, and necessary additional national financing \geq EUR 20 billion), a good practice related to public participation in the decision-making process was established. The Applicants of the projects implemented on the basis of measures from the EU budget must demonstrate that administrative decisions allowing to commence the investment were, before their commencing, effectively consulted with the public. If the Contractor cannot demonstrate the evidence that consultations were held, financial support is impossible to obtain. Similar requirements with regard to publishing information on the environment also apply to the programmes and infrastructural projects which are planned to be executed under perspective 2014-2020.

Article 3, paragraph 4

20. Non-governmental organisations have a wide spectrum of possibilities in terms of financial support for the projects concerning environmental protection. At the central level, financial support for activities concerning shaping the society's ecological awareness is possible under the priority programme entitled "Ecological education" offered by the National Fund for Environmental Protection and Water Management. The support for non-governmental environmental organisations is conducted by the National Fund for Environmental Protection and Water Management, voivodeship funds for environmental protection and water management, and the Civil Initiatives Fund (the Ministry of Labor and Social Policy). It should be pointed out that the latter is intended not only for non-governmental ecological organisations and it does not have the areas of support strictly focused on activities related to environmental protection, biological diversity and ecological education. In addition, in 2013, open call for proposals was organized under the Operational Program PL02 *Biodiversity and Ecosystems Protection*. Regardless of the possibility of applying under the main call, under the aforementioned programme a special allocation was separated (Small Grants Fund) intended only for non-governmental organisations. Financial support could have been intended, inter alia, for actions focused on growth of social awareness about biodiversity and education in this field in connection with changes in climate conditions and economic value of ecosystems, as well as for increased ecological potential of non-governmental ecological organisations to promote biodiversity. The expected financial support is 85% of eligible costs in the case of the main call, and 90% in the case of financing from the Small Grants Fund.

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

22. The Ministry of the Environment cooperated with NGOs under Partnership for the climate – a platform for cooperation, discussion and education.

23. CAP and the Act of 17 November 1964 Code of Civil Procedure (Journal of Laws of 2016, item 1822), hereinafter referred to as: "CCP," as well as LACP and the Act on access to information about the environment, allow for the participation of non-governmental organisations in court and administrative proceedings concerning environmental matters.

24. The Act of 24 April 2003 on Public Benefit and Volunteer Work (Journal of Laws of 2016, item 1817) authorises public institutions to implement public tasks in cooperation with NGOs, and even allows contracting non-governmental organisations operating in the field of public matters for execution of public tasks.

25. Non-governmental ecological organisations have the right to elect their representatives for the supervisory boards of the National Fund for Environmental Protection and Water Management, and voivodeship funds for environmental protection and water management, handling, inter alia, money from payments for utilizing the environment, administrative penalty payments, the state budget, and EU funds. They have the right to be represented also in advisory bodies, such as, for example, the GMO Committee and National Environmental Protection Council.

26. According to Article 45 of the Act on access to information about the environment, ecological organisations may cooperate in the field of environmental protection with administration authorities.

Article 3, paragraph 7

27. The Republic of Poland takes part in many international processes concerning environmental matters and works of international organisations in cases related to the environment, inter alia, the "Environment for Europe" process, High-Level Political Forum on Sustainable Development (HLPF SD), United Nations Environment Programme (UNEP), Economic Commission for Europe (UNECE), and Organisation for Economic Co-operation and Development (OECD). In addition, Poland is involved, in the international forum, in the works on the implementation of Agenda 2030 for sustainable development.

28. In 1997, the Republic of Poland ratified the Convention on Environmental Impact Assessments in a transboundary context, prepared in Espoo on February 25, 1991 (Journal of Laws of 1999, item 1110), which indicates the need for conducting public consultations in cases when the investment implemented in one country (party of origin) impacts the territory of another state (affected party), being able to cause significant adverse effects for the environment. A Strategic Protocol was drawn up to the Espoo Convention in Kiev on May 21st 2003, whose provisions apply in relation to the drafts of strategic documents, namely plans, programmes, policies, in this case also including situations in which effects of implementation of such a document would become evident on the territory of another state.

Article 3, paragraph 8

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

4 Identified difficulties in implementing Article 3

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

There are ambiguities with regard to the application of the law on access to information on the environment with regard to other acts, namely on the spatial information infrastructure or on the re-use of public sector information.

31. Non-governmental organisations indicate that there are difficulties in using the funds allocated for ecological education. This is caused partially by the completion of issuing of funds from the previous budget perspective of the European Union and that the funds from the new perspective are yet to be released. In addition, non-governmental organisations informed in the course of consultations that a real concern to them are the possibilities of financing certain specific operations, in particular recurrent expenditures, not associated with specific projects. Other problems listed by these organisations were a small financial envelope allocated for protection of nature and ecological education, as well as the difficult to meet conditions of obtaining the subsidies.

5 Further information concerning practical implementation of provisions of Article 3

32. Certain irregularities were detected concerning implementation of the legal provisions by the administration authorities. These problems were discussed in explanation points relevant to the further articles of the Convention.

6 Web addresses relating to the implementation of Article 3

33.

www.ekoportal.gov.pl - the Ministry of the Environment

www.mos.gov.pl – the Ministry of the Environment

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

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

<http://www.bialystok.rdos.gov.pl/>

<http://bip.bydgoszcz.rdos.gov.pl/>

<http://bip.gdansk.rdos.gov.pl/>

<http://bip.gorzow.rdos.gov.pl/>

<http://bip.katowice.rdos.gov.pl/>

<http://bip.kielce.rdos.gov.pl/>

<http://bip.krakow.rdos.gov.pl/>

<http://bip.lublin.rdos.gov.pl/>

<http://bip.lodz.rdos.gov.pl/>

<http://bip.olsztyn.rdos.gov.pl/>
<http://bip.opole.rdos.gov.pl/>
<http://bip.poznan.rdos.gov.pl/>
<http://bip.rzeszow.rdos.gov.pl/>
<http://bip.szczecin.rdos.gov.pl/>
<http://bip.warszawa.rdos.gov.pl/>
<http://bip.wroclaw.rdos.gov.pl/>
www.natura2000.gdos.gov.pl – information on the European Ecological Network Natura 2000
www.gios.gov.pl - Chief Inspectorate of Environmental Protection
<http://powietrze.gios.gov.pl>
<http://www.wios.bialystok.pl>
<http://www.wios.bydgoszcz.pl>
<http://www.gdansk.wios.gov.pl>
<http://www.katowice.wios.gov.pl>
<http://kielce.pios.gov.pl>
<http://www.krakow.pios.gov.pl>
<http://www.wios.lublin.pl>
<http://www.wios.lodz.pl>
<http://www.wios.olsztyn.pl>
<http://www.opole.pios.gov.pl>
<http://www.poznan.wios.gov.pl>
<http://www.wios.rzeszow.pl>
<http://www.wios.szczecin.pl>
<http://www.wios.warszawa.pl>
<http://www.wroclaw.pios.gov.pl>
<http://www.zgora.pios.gov.pl>
www.nfosigw.gov.pl - the National Fund for Environmental Protection and Water Management
Internet sites of voivodeship funds for environmental 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.ekodzieciaki.mos.gov.pl - the Ministry of the Environment, website concerns ecological education for children

www.zielonalekcja.pl - subsidized by the National Fund for Environmental Protection and Water Management, the website contains database of educational materials (lessons scenarios) broken down by age and subject

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

34. The primary legal act governing the principles of access to information about the environment and its protection is the Act on access to information about the environment. In the not regulated cases, the Act of 6 September 2001 on Access to Public Information (Journal of Laws of 2016, item 1764), hereinafter referred to as: "AAPI," should be applied.

35. The Act on access to information about the environment defines the notion of information on the environment and its protection, as well as specifies the principles of its publishing and release.

36. Spatial information is a special kind of information on the environment. Spatial information in a direct or indirect manner includes approx. 90 % of information on the environment and its protection. Issues of spatial information are regulated by the Directive 2007/2/EC of the European Parliament and the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (Official Journal of EU L 108 of 25.4.2007, p. 1), and by the Act of 4 March 2010 on the Spatial Information Infrastructure (Journal of Laws, item 489, as amended).

Article 4, paragraph 1

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

38. According to the Act on access to information about the environment, everyone has the right to access the information on the environment and its protection. Administration authorities (in accordance with the amendment, which entered into force on 1 January 2017, the notion of an administration authority, with regard to the access to information on the environment shall was replaced with the term "public authorities") are obliged to publish all information on the environment and its protection in their possession or which are intended for them. An entity demanding the information on the environment and its protection is not required to demonstrate a legal or actual interest. Publishing information on the environment and its protection occurs in a manner and the form specified in the application, unless technical measures, which are at the disposal of the administration

authority, do not allow publishing of information on the environment and its protection in a manner and the form specified in the application. If information on the environment and its protection cannot be made available in a manner or in the form specified in the application, the administration authority notifies in writing the entity requesting the information within 14 days from the date of the receipt of the application of reasons why publishing of information according to the application is impossible, and indicates how or in what form the information will be published.

Article 4, paragraph 2

39. The Act on access to information about the environment requires the administration authorities to publish information on the environment and its protection without unnecessary delay, no later than within one month after the day of the receipt of the application. The deadline for publishing information on environment due to the complexity of the case may be extended up to 2 months. The applicant is notified on each and every extension of the deadline.

40. Documents, the data about which are published in the publicly available lists containing information about environment, are made available on the day of submitting the application.

Article 4, paragraphs 3 and 4

41. According to the Act on access to information about the environment, the administration authority will not enclose information on the environment and its protection, if the information relates to:

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

- projects that may significantly affect the environment, implemented in enclosed areas, with regard to which there are no proceedings involving public participation;
- the defence and security of the state;
- public safety.

In accordance with the amendment, which entered into force on 1 January 2017, the aforementioned premises for the refusal to make information available will change their nature from obligatory to optional. When refusing to make information available, public authorities would also have to consider public interest served by disclosure the information. In addition, the amendment introduces a deadline for submission by third parties of the application for excluding information from being published. It is 14 days from providing the information to the public authorities.

42. The administration authority may refuse publishing of 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.

Article 4, paragraph 5

43. According to the Act on access to information about the environment, if the application relates to the information not being in the possession of an administration authority, such an authority immediately but not later than within 14 days from the date of the receipt of the application, transfers the application to the competent administration authority, which holds the required information, and notifies the applicant of this fact or, if the competent authority cannot be defined, returns the application to the Applicant.

Article 4, paragraph 6

44. The practice for the interpretation by public administration authorities of the Polish regulations concerning public information, including information on the environment and its protection relies on providing this part of the information that is not subjected to secrecy. For instance, the applicant receives documents with anonymised personal data, whose disclosure would breach the provisions of the Act on Personal Data Protection. The amendment of the Act on access to information about the environment, which came into force on 1 January 2017, provides new wording of Article 19(4), according to which if it will be possible to separate a part of the information subjected to exclusion from being published for reasons referred to in Article 16 of the Act (finally amended), the remaining part of the information will be published.

Article 4, paragraph 7

45. According to the Act on access to information about the environment, refusal to publish information on the environment and its protection is imposed by way of an

administrative decision. The provisions of LACP apply to complaints considered in the proceedings related to publishing information on environment and its protection.

Article 4, paragraph 8

46. Regulation of the Minister of the Environment of 12 November 2010 on Fees for Publishing Information on the Environment (Journal of Laws of 2010, item 1415) hereinafter referred to as: "Regulation on Fees," regulates fees for publishing information on the environment and its protection. These fees correspond to the costs incurred for drawing up copies of documents.

47. Fees for publishing information on the environment and its protection are as follows (in the approximated Euro amounts converted according to the exchange rate of 14 March 2017):

- for searching up to 10 documents – EUR 1.16;
- for searching each additional document – EUR 0.11;
- for scanning a document – EUR 0.02 for one page of the copy;
- for black-white copy of a document – EUR 0.03 for one page of the copy;
- for a colour copy of a document – EUR 0.3 for one page of the copy;
- for a CD or DVD – no more than EUR 0.3.

48. Information proactively published on web pages are free.

8 Identified difficulties in implementing Article 4

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

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

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

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

52. NGOs claimed that the Act on access to information about the environment does not currently contain any provision that obliges public authorities, handling disclosed information, to examine whether it is possible to separate a part of the information without

breaching the confidentiality of the excluded information and to publish the remaining part. So far this was a tacit practice, not always applied in the Polish law.

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

9 Further information concerning practical implementation of provisions of Article 4

53. In 2014, the Ministry of the Environment received 104 applications for disclosure of information on environment and its protection, and issued 1 refusal to make such information available. In 2015, the Ministry received 62 applications, none of which resulted in a negative decision. In 2016, the Ministry of received 50 applications and issued 5 refusals to make the information on the environment and its protection available. In 2014, Environmental Protection Inspection (the Chief Inspector of Environmental Protection, and voivodeship environmental verifiers) considered 8,201 applications for publishing information on environment and its protection, and in 2015 - 9,166. Observing an increasing tendency of requests for provision of information concerning environment, it can be assumed that in 2016 the Environmental Protection Inspection will grant approx. 10,000 pieces of such information. The majority of applications made available by the Environmental Protection Inspection was concerned with information on the condition of the environment from the State Environment Monitoring Program. According to the data reports received consulting process, the Voivodship Environmental Protection Inspectorates alone in 2014 received 2,793 applications for publishing information on environment, and the Inspectorates did not refuse once. In 2015, voivodeship inspectorates received 3,405 applications, of which two cases ended in refusal to make the information available. In 2016, voivodeship inspectorates received 3,346 applications and refused to publish information in 4 cases. Similar data with regard to the Regional Directorates for Environmental Protection are as follows: In 2014, they received 3,055 applications and issued 4 refusals, in 2015 - 3,671 applications and 4 refusals, in 2016 - 3,480 applications and 8 refusals. In the period from 2014 to May 2016, the President of the State Mining Authority, hereinafter referred to as "SMA" has examined a total of 2,059 applications for publishing information on environment and its protection. In addition, in the aforementioned scope, in SMA 1 proceeding concerning publishing information on environment involving non-governmental organisations was conducted, and administrative courts did not receive any complaints in connection with the applications and the current court proceedings. In the period from January 2014 to May 2016, the President of the National Atomic Energy Agency did not receive any application for publishing information on environment. General Directorate of State Forests (GDSF) keeps the register of applications from 2015, with 118 received applications that year. In 2016 there were 39 such applications. DGSF did not issue even one refusal related to access to information

on the environment and its protection. In 2014, the National Water Management Authority (NWMA) received 11 applications for disclosure of information on environment and its protection. In 2015 -29 applications, while in 2016 -26 applications. NWMA did not issue even one refusal related to access to information on the environment and its protection. In 2014, the Inspectorate for Environmental Protection (IEP) - National Research Institute received 17 applications, in 2015 -21 applications and in 2016 - 15 applications. In not one single case IEP refused to disclose information.

54. In 2014, Fundacja Greenmind conducted ¹ a research essential for this report, which covered a representative sample of gminas and all regional directorates for environmental protection (Chylarecki P., Wiśniewska M., Engel J. 2014)². The purpose of the study was the public control of public administration practices with regard to ensuring: access to information on the environment and its protection, and the public participation in decisions-making regarding environmental matters. The research report indicates some irregularities that occurred in the course of examination of some applications for publishing information on environment.

The most important conclusions:

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

55. In 2016, as ordered by the Ministry of the Environment, training courses with regard to publishing information on the environment were conducted. The training courses were intended for employees of administration authorities that publish information on the environment.

56. Draft of the amendment of the Regulation on Fees envisages that the deadline to provide fees, which is 14 days, will be calculated from the day of receiving the notice on the amount of the fee.

10 Web addresses relating to the implementation of Article 4

57.

www.ekoportal.gov.pl – the Ministry of the Environment

www.mos.gov.pl – the Ministry of the Environment

¹ under the project "Aarhus Convention in practice – the civic monitoring of public administration and dialogue for changes"

² <http://greenmind.pl/wp-content/uploads/2014/09/Greenmind_RaportAarhus.pdf>

<http://gmo.mos.gov.pl> – information on GMO
www.gdos.gov.pl - General Directorate for Environmental Protection
www.gios.gov.pl – Chief Inspectorate 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 database of legal documents
<http://www.dziennikustaw.gov.pl> is - Journal of Laws of the Republic of Poland

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

Article 5, paragraph 1

Article 5, paragraph 1 (a)

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

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

Apart from information contained on the website, as ordered by the Ministry of the Environment, a package of infographics has been prepared relating to the issue of climate change and adaptation to the climate change in particular sectors (cities, agriculture, power sector, transport, the Baltic sea), and a brochure was prepared in Polish and English language on adapting to the climate change in Poland. All materials are available on the website klimada.mos.gov.pl

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

voivodship environmental protection inspector and approved by the Chief Inspector of Environmental Protection.

61. Act of 13 May 2011 on Law Amending the Nuclear Law and Amending Certain Other Laws (Journal of Laws of 2011, item 766) added Article 35(a) to the Act of 29 November 2000 - Nuclear Law (binding text of the Act: Journal of Laws of 2014, item 1512, as amended). This provision assumes, inter alia, that the President of the National Atomic Energy Agency publishes information on the state of the nuclear safety, and radiological protection of nuclear facilities, their effect on people's health and the natural environment; information on the size and isotopic composition of releases of radioactive substances from nuclear facilities into the environment; information about events in the nuclear facility resulting in creation of a hazard; information on the issued permits concerning nuclear facilities and annual safety assessment of the supervised nuclear facilities. Act of 4 April 2014 Law Amending the Nuclear Law and Amending Certain Other Laws (Journal of Laws, item 587) introduced changes to the Article 25(1) point 9 of the Act on access to information about the environment. This change expanded the catalogue of information which the President of the National Atomic Energy Agency publishes on the condition of radiological protection of radioactive waste dumps, their effect on people's health and the environment, information on the size and isotopic composition of releases of radioactive substances from radioactive landfills into the environment, and information on the key events in the radioactive waste dumps causing creation of a hazard – excluding information concerning physical protection and protections of nuclear materials, as well as information constituting a business secret, as defined in the regulations on counteracting unfair competition.

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

Article 5, paragraph 1 (b)

62. Administration authorities obliged to perform monitoring research are required to share and publish information on the environment and its protection free of charge.

63. Pursuant to EPL, the operators of the installation and users of the device, are under an obligation concerning periodical measurements of the volume of emission and measurements of the quantity of abstracted water and energy intake. In the case of significant quantities of substances or energy monitoring is continuous.

64. Results of some measurements, due to the need to provide systematic control of the volume of emissions or other conditions of the use of the environment, are obligatorily and regularly presented to the environmental protection authority and the voivodship environmental protection inspector.

65. In case of the use of the environment for which fees are collected (water abstraction, emission of sewage, etc.), information are submitted to the Voivodeship Marshal and the voivodship environmental protection inspector.

66. Information on upper-tier establishments must be reported to the State Fire Department. The operator prepares the programme to prevent major industrial breakdowns, in which he or she presents safety system that guarantees protection of people and the environment to the State Fire Department and the voivodship environmental protection inspector.

67. Act of 14 December 2012 on Waste (Journal of Laws of 2013, item 21, as amended) imposes on landfill site operators an obligation to monitor the landfill and provide results for the voivodship environmental protection inspector on an annual basis. The voivodeship environmental protection inspector must be immediately notified about of the confirmed changes of the observed parameters that indicate a possibility of occurrence of hazards for the natural environment.

Article 5, paragraph 1 (c)

68. The principles of proceeding in hazardous situations are described in numerous legal acts. They indicate responsibility for cooperation with competent authorities of each level, depending on the type of the natural disaster.

69. Editors-in-chief of journals and broadcasters of radio and television programmes are obliged to, at the request of administration authorities, to immediately and free of charge publish or post messages of these authorities related to activities, which are aimed at preventing the effects of a natural disaster or recovery from it.

70. Environmental Protection Inspection informs the public about the condition of the environment and keeps the register on the prerequisites of serious accidents. Other authorities are obliged to immediately contact the mass media and properly distribute the information, depending on the situation.

71. Voivodship Marshals are obliged to announce smog warnings, featuring an appeal to the residents for appropriate behaviour in order to minimize the reasons and effects of the occurrence of smog.

Article 5, paragraph 2

72. The principles of sharing and distributing information on the environment and its protection are determined by the Act on access to information about the environment. According to the Act on access to information about the environment, documents and data about the documents containing information about the environment and its protection are included in the publicly available lists, in Public Information Bulletins, and electronic databases.

73. Administration authorities are obliged to appoint persons responsible for publishing information on the environment.

74. The majority of the databases are available on the Internet. Access to them is free of charge. If a database is not available via the Internet, then information from this database are made available upon request.

75. The AAPI Act imposes on offices and entities possessing public funds the obligation to keep the on-line Public Information Bulletin containing electronic copies of public information.

Article 5, paragraph 3

76. According to the Act on access to information about the environment, public administration authorities post information on policies, plans, programmes, maps and analyses, as well as other documents concerning environmental protection in the publicly available data lists and in the Public Information Bulletin.

77. Pursuant to the Act of 20 July 2000 on Publication of Normative Acts and Certain Other Legal Acts (Journal of Laws of 2016, item 296, as amended), the Journal of Laws of the Republic of Poland (Journal of Laws) is issued by the Prime Minister by means of the Governmental Legislation Centre. From 1 January 2012, the Journal of Laws has been issued in an electronic form, with due observance of the order of the items in the given calendar year. Normative acts and other legislation are announced in the Journal of Laws.

78. Minister of the Environment maintains the www.ekoportal.gov.pl website, through which, each and every office may publish information on the documents containing information on the environment that are in their possession, free of charge. Publicly Available Data List kept on the Ekoportal gathers information published by more than 1,500 offices, which translates into more than 5,000 users. Ekoportal records more than 13,000 monthly visits on the website. Offices not using the Ekoportal maintain publicly available data lists with use of their own tools.

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

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

The list of databases of the Ministry of the Environment is available on Ekoportal in the form of a manual and a search engine (<http://www.ekoportal.gov.pl/informacja-o-srodowisku/bazy-danych-resortu-srodowiska/>)

81. Particular authorities of the central administration involved in issues related to the environment keep their own databases. Examples:

- Chief Inspectorate of Environmental Protection keeps the following databases and data sets: monitoring of soils chemistry (MCG), monitoring of air quality (JPOAT), monitoring of species and natural habitats (MSGP), monitoring of birds of Poland (MPP), monitoring bottom sediments in rivers and lakes (OSADY), monitoring noise (EHALAS), monitoring of electromagnetic fields (JELMAG), monitoring of surface waters (JWODA), monitoring of air pollutants backgrounds at EMEP stations, monitoring of precipitation, monitoring of the ozone layer, Corine Land Cover. Access to some parts of data is possible through a website;

- The General Directorate for Environmental Protection keeps, inter alia, the Central Register of Nature Protection Forms, the "geoserwis" website and register of the Natura 2000 sites;
- Polish Geological Institute – National Research Institute under the performance of tasks of Polish Geological Survey and Polish Hydrogeological Survey maintains a few dozen databases, containing information on the inanimate environment. Most of these databases are available on-line, free of charge. The most important include: Central Geological Database, Landslides Counteracting System SOPO, Central Hydrogeological Database, HYDRO Bank, Underground Waters Monitoring, System of Management and Protecting of Polish Mineral Raw Materials MIDAS, INFOGEO SKARB, Register of Mining Areas, Geoenvironmental Database, Central Register Geolocalities of Poland. Resources are supplemented by geological, geochemical, hydrogeological, engineering-geological and geo-environmental maps made available on IKAR geoportal, Balance of Raw Material of Poland mines issued every year, and announcements, warnings and statements of the State Fire Department.

82. Infrastructure of spatial information play a more and more important role in collection and dissemination of information on the environment. Directive 2007/2/EC of the European Parliament and the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (Official Journal of EU L 108 of 25.4.2007, p. 1, as amended) and Act of 4 March 2010 on Spatial Information Infrastructure (Journal of Laws, item 489, as amended), which implemented the Directive into the Polish legal system, define the principles of creating infrastructure of spatial information.

While executing obligations arising from the Act on Spatial Information Infrastructure, the Chief Inspector of Environmental Protection as the leading authority for the subject matter "devices for monitoring of the environment", runs the GIOŚ INSPIRE Geoportal (<http://inspire.gios.gov.pl/portal/>) - trade website constituting a centre of Infrastructure of Spatial Information with regard to devices for environment monitoring.

Article 5, paragraph 4

83. The Chief Inspector of Environmental Protection prepares, no less frequently than once every 4 years, the report on the condition of the environment in Poland, particularly taking account of the data from the State Environmental Monitoring. In 2014, the Chief Inspector of Environmental Protection prepared and published the "Condition of the Environment in Poland. 2014 Report." The report presents the condition of all environmental components covered by State Environmental Monitoring: nature, air, waters, soils, including exposure to noise, electromagnetic fields and ionizing radiation. Reports of the voivodeship are prepared no less frequently than once every 3 years by the voivodeship inspectorates of environmental protection. These reports constitute an analysis of the environmental problems in the voivodeship with cause - and - effect approach. The reports are commonly available in a printed and electronic form, including the Internet sites of the authorities of environmental protection inspection.

Article 5, paragraph 5

84. The Act on access to information about the environment requires to publish on the Internet data on the documents containing information on the environment.

85. Minister of the Environment maintains Ekoportal, a database on the documents containing information on the environment.

86. Website of the Sejm of the Republic of Poland contains the content of all binding legal acts in Poland published in the Journal of Laws and the Monitor Polski (Official Gazette of the Republic of Poland). Since 1 January 2012, the Journal of Laws has been issued in an electronic form, with due observance of the order of the items in the given calendar year. In the Journal of Laws the most important normative acts and other certain legislation are announced. The local legal acts and internal legal acts, produced by individual public authorities, are published in the Official Journals.

Article 5, paragraph 6

87. The Article 21(2) point 32 of the Act on access to information about the environment states that in data on environmental declarations, referred to in the Act of 15 July 2011 on state eco-management and audit scheme (EMAS) (Journal of Laws, item 1060, as amended), shall be placed in the publicly available lists; on the other hand, Article 21(2) point 23(m) of the Act on access to information about the environment states that data on eco-auditing issued by virtue of the LACP Act shall be placed in the publicly available lists.

Article 5, paragraph 7

88. Websites of the Sejm, the Senate, the Governmental Legislation Centre, as well as all the offices – within their competences, contain the database with binding legal acts and copies of drafts of legal acts along with justification for their introduction.

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

90. Administration authorities publish information on functions they perform on the Internet and in the Public Information Bulletin.

Article 5, paragraph 8

91. According to LACP, the entity placing a product on the market should ensure that the product meets the environmental requirements. The product should be provided with information concerning fuel consumption or consumables, the volume of emissions related to the product utilisation, environmentally safe usage, dismantling, recycling or rendering

the product harmless. The Seller of the products should ensure that such information is also available at the points of sale of the product.

92. According to LACP, advertising or a different type of promotion of a product or a service should not contain contents propagating a consumption model contradictory to principles of the environmental protection and sustainable development, and in particular use the imagery of wild nature to promote products and services negatively affecting the natural environment.

Article 5, paragraph 9

93. The Pollutant Release and Transfer Register was created as a part of the European Pollutant Release and Transfer Register, established in the Regulation (EC) no. 166/2006 of the European Parliament and the Council of 18 January 2006 concerning the establishment of a European Pollutant Release and Transfer Register and amending Council Directives 91/689/EEC and 96/61/EC (Official Journal of EU L 33 of 4.2.2006, p. 1). The register is kept by the Chief Inspector of Environmental Protection in the form of a publicly available database.

94. Administration authorities are obliged to collect the data on entities emitting pollutants and publishing it in the publicly available lists.

12 Identified difficulties in implementing Article 5

95. There are irregularities concerning keeping the publicly available documents containing information on the environment, as required by provisions of LACP and the Act on access to information about the environment. Irregularities involve: the lack of publicly available list, not entering the data on some of the documents into the list, entering data with a delay of many months and improper form of the list.

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

97. The problem is the heterogeneity of the form of conducting publicly available data lists resulting from the application of various data communication tools.

98. According to non-governmental organisations Poland in principle transposed the Article 5(8) of the Convention correctly, ensuring public's access to a sufficient amount of information on products, in a manner that will enable consumers to make conscious choices with regard to their environmental effects. However, in their opinion, doubts may be raised by the limited material scope of the Regulation issued on the basis of the Article 167 of the Environmental Protection Law (EPL)³ and the lack of other implementing ordinances, essential for transposition of this article of the Convention.

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

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

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

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

13 Further information concerning practical implementation of provisions of Article 5

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

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

14 Web addresses relating to the implementation Article 5

103.

www.ekoportal.gov.pl – the Ministry of the Environment

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

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

www.gdos.gov.pl – the 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 and bip.paa.gov.pl – National Atomic Energy Agency

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

15 Legislation, regulations and other measures implementing the implementation of the principle of public participation in decision-making concerning special service activities included in Article 6

104. Pursuant to the Act on access to information about the environment, each and every person has the right to submit comments and requests in the proceedings requiring public participation. Administration authorities competent for issuing the decisions are required to properly provide the possibility of the participation of the public before issuance of these decisions or their change.

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

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

105. Established procedures refer to decisions issued for projects listed in Appendix 1 and I bis to the Convention.

106. On the basis of the Act on access to information about the environment, ecological organisations, which by invoking their statutory objectives, report a desire to participate in a specific proceedings requiring participation of the public, participate in such proceedings as a party, if they perform statutory activities with regard to environmental or nature protection, for minimum 12 months before initiation of this procedure. An ecological organisation has the right to file an appeal against a decisions issued in the proceedings requiring public participation, if it is justified by the statutory objectives of this organisation, and also in the event when such an organisation did not participate in a specific proceedings requiring participation of the public, conducted by the first instance body. Filing an appeal is equivalent to declaring willingness to participate in such proceedings. In the appeal proceedings the organization participates having the rights of a party.

107. Ecological organization can use a complaint to the administrative court as to the decision issued in the proceedings requiring public participation, if it is justified by statutory goals of this organization, also in the event when it did not participate in the specified the proceedings requiring public participation.

Article 6, paragraph 1

108. The principles of preparation of environmental assessments are established in the Act on Publishing of Information on the Environment. The particular types of activities for which assessment is prepared is listed in the Regulation of the Council of Ministers of 9 November 2010 on Projects that May Significantly Affect the Environment, (Journal of Laws of 2016, item 71).

109. Pursuant to EPL, an installation whose operation, given the type and scale of the activity conducted therein, is likely to cause substantial pollution of the particular natural elements or the environment as a whole, requires an integrated permit. The Minister of the Environment determines the types of installation that could cause substantial of the particular natural elements or the environment as a whole.

110. The Act on access to information about the environment envisages that public participation is not carried out in relation to projects implemented in enclosed areas, if participation of the public could have unfavourable effect on the defence and security objectives of the state.

Article 6, paragraph 2

111. Pursuant to the Act on access to information about the environment, before issuing and changing decisions that require public participation, the authority competent for issuing the decision, without unnecessary delay, announces to the public information on:

- proceeding with the assessment of the impact of the project on the environment;
- initiating proceedings;
- the subject of the decision that is to be issued in the case;

- authority competent for issuing the decision and authorities competent to issue opinions and conclude agreements;
- possibilities of familiarising with any necessary documentation of the case and the place where it is available;
- possibilities of submitting comments and requests;
- method of and the place for submitting the comments and the requests, at the same time indicating the 21-day time limit for their submission;
- authority competent for examination of the comments and the requests;
- the date and the place of a public administrative hearing, if the hearing is held;
- a proceeding on the cross-border environmental effect, if the proceeding is held.

Communication to the public is defined as:

- a) publishing of information on the website of the Public Information Bulletin of the authority competent for the case,
- b) announcement of the information, in the customarily adopted manner, in the seat of the authority that is competent for the case,
- c) announcement of the information by way of notification in the customarily adopted manner at the place of the planned project,
- d) in the case when the seat of the office of the authority competent for the case is located within the area of a gmina (commune) other than the gmina locally competent with regard to the subject matter of the proceedings – also by announcement in the press or in the customarily adopted manner in the town of or towns competent with regard to the subject matter of the proceedings.

The necessary documentation of a case includes the following: the application for issuing the decisions along with required appendices, as well as the requirements, required by the provisions, of the authority competent for the issuance of the decision and the stance of the other authorities, if the standpoints are available within the period of submitting comments and requests.

Article 6, paragraph 3

112. The deadline for submitting comments and requests to the planned decision requiring public participation is 21 days.

Article 6, paragraph 4

113. As indicated in the explanations relating to Article 6(2), procedure of public participation begins even before the issuance of the decision.

Article 6, paragraph 5

114. The legal provisions do not impose on the public authorities, nor on the investors an obligation to examine the scope of the public interest or to grant information prior to submission of the application.

Article 6, paragraph 6

115. Information on the application and the attached documentation can be accessed by means of publicly available data lists (see explanations concerning Article 5, paragraph 5). Pursuant to Article 33(1) point 5 of the Act on access to information about the environment, the necessary documentation of the case shall be rendered available at a place indicated by the authority competent for issuing the decision.

Article 6, paragraph 7

116. The comments and the requests can be submitted by each and every person in a written form, orally to be included in the records and by means of electronic communication, without signing them with a safe electronic signature.

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

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

Article 6, paragraph 8

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

Article 6, paragraph 9

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

121. According to CAP the notification should contain: the name of the public administration body, the date of issue, the name(s) of the party or parties, the legal authority referred to, a ruling, a factual and legal justification, an advisory notice as to whether and how an appeal may be brought and the signature, name and position of the person authorised to issue the decision. Any decision which may be challenged by a

petition to the civil court or a complaint to the administrative court should contain an advisory notice that such a petition or complaint may be brought.

122. The Act on access to information about the environment states that the decision on environmental conditions requires substantiation. Additionally, the Act lists the necessary elements of such a decision. They, *inter alia*, include information on the conducted procedure requiring public participation, and how and to what extent the submitted comments and requests submitted in connection with the public participation were taken into consideration.

Article 6, paragraph 10

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

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

124. Provisions included in CAP define the issue of publishing information to parties in connection with the existing proceeding. The provisions of the Act on access to information about the environment with regard to the procedures concerning public participation envisage publishing of information in connection with a proceeding conducted by an authority. According to CAP the use of the aforementioned procedures is required upon issuing certain administrative decisions, namely the integrated permit, decisions issued on the basis of the Act of 22 June 2001 on genetically modified organisms and genetically modified micro-organisms (Journal of Laws of 2015, item 806), hereinafter referred to as "the GMO Act" or with regard to the decision on environmental conditions. Provisions that are included in the Amendment to the Aarhus Convention concerning the genetically modified organisms, are also reflected in the provisions of the GMO Act. At the same time, Article 14a of the GMO Act precisely determines the information regarding GMO that are subject to being published. The public has the right and a possibility to become familiar with the request and the documentation. This takes place by way of GMO registers that operate on the website of the Ministry of the Environment.

16 Identified difficulties in implementing Article 6

125. As a result of control conducted by the Supreme Chamber of Control it has been stated that there are incidental cases when administration authorities do not properly inform the public on conducting proceedings that require public participation.

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

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

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

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

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

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

132. According to non-governmental organisations, it is a mistake that in Article 38 of the Act on access to information about the environment does not include the requirement for an authority to immediately inform about issuing a decision. In practice for this reason they must use the access mode to information on the environment. In addition, NGOs indicate that the authorities often when making an information on preparation of a document publicly available, they usually begin public consultations of the draft document straightaway. In opinion of non-governmental organisations it is a breach of Article 39(1) of the Environmental Protection Act.

133. The NGOs observed weaknesses in the application of the legal provisions relating to public participation in decisions-making, in the course of conducted research.

134. The fact that the provisions do not state as who they are admitted to the proceedings is a problem for the NGOs. For this reason, occasionally the NGOs are not aware of the fact that after the submission they can act as a party.

135. According to non-governmental organisations, their comments and requests, submitted during the administrative proceedings are rarely reflected in the adopted decisions. Furthermore, according to these organisations the responsible authority frequently does not enclose to the document a substantiation containing information on the public participation in the proceedings, and how and to what extent the submitted comments and requests submitted in connection with the public participation were taken into consideration. In the opinion of non-governmental organisations, oftentimes the authority does not inform the public of adopting a document and the possibilities to familiarise with its content, and justification and summary.

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

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

137 The non-governmental organisations indicate that there are problems with the lack of information on conducted proceedings, especially at the level of regional and local administration. Information on conducted proceedings frequently appears with a delay, or is provided at indefinite place or commonly inaccessible one (this applies both to websites of the offices, including Public Information Bulletins, as well as information boards). The notion of "places customarily adopted" as those where such information should be provided creates numerous problems for effective information and for participants of the proceedings.

17 Further information concerning practical implementation of provisions of Article 6

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

18 Web addresses relating to the implementation of Article 6

139. www.gdos.gov.pl – the General Directorate of Environmental Protection
www.nik.gov.pl – the Supreme Audit Office

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

140. The Act on access to information about the environment states that administration bodies competent to develop draft documents, in cases where legal regulations require provision of possibility of participation of society, provide the possibility of the society's participation accordingly prior to acceptance of these documents or their change.

141. The following drafts require strategic evaluation of influence on the environment, under which the participation of the society is carried out:

- the National Spatial Development Concept, study of conditions and directions for land planning in the municipal area, spatial development plans and regional development strategies,
- policies, strategies, plans or programs in the field of industry, energy, transport, telecommunication, water management, waste management, forestry, agriculture, fishery, tourism and land distribution developed or accepted by administration

bodies defining frameworks for future implementation of undertakings that may significantly influence the environment;

- policies, strategies, plans or programs implementation of which may result in significant influence on the Natura 2000 site unless they are directly related to protection of Natura 2000 site or do not result from this protection.

142. Execution of strategic evaluation of influence on the environment is required also in the case of draft documents, if these set forth the frameworks for future implementation of undertakings that may significantly influence the environment or if implementation of provisions of these documents may result in significant impact on the environment. The authority may, in the case of development of certain documents requiring strategic evaluation of influence on the environment, having agreed with appropriate administration bodies, withdraw from its execution if the organ considers that implementation of provisions of a given document will not cause significant influence on environment. However, even then termination of execution of strategic evaluation of influence on the environment may apply only minor changes in relation to already existing documents.

143. In accordance with the Act on access to information about the environment the authority developing the draft document requiring public participation announces, without unnecessary delay, the information on:

- preparation of draft document and about its scope;
- possibilities of familiarizing with necessary documentation of the case and place, where it is available;
- possibilities of submitting comments and requests;
- method and place to report remarks and applications, at the same time indicating at least 21-day deadline for their submission;
- authority competent for examination of the comments and the requests;
- a proceeding on the cross-border environmental effect, if the proceeding is held.

144. Law making principles in Poland require provision of public participation in the process of legislation. In the case of draft acts and regulations it is mandatory to conduct public consultations and evaluation of effects of the regulation, in accordance with the principles of the governmental legislative process regulated in

145. The law requires participation of non-governmental organizations in numerous advisory bodies, also these taking part in the decision-making process related to development of plans and programs connected with the environment such as Polish State Council for Nature Protection and the Commission for GMO. Representatives of non-governmental organizations are also invited to bodies making decisions on spending the funds on development of plans and programs connected with the environment.

146. The deadline for submission of remarks to the draft document requiring public participation shorter amounts to at least 21 days.

147. Procedure of public participation starts even before the development of a document requiring public participation, since as it is stated in Article 39, passage 1 of the Act on Provision of Information on the Environment, the authority developing the document announces, without unnecessary delay, preparation of draft document and its scope.

148. The authority developing the draft document requiring public participation considers the remarks and applications and also attaches to the adopted document a reasoning containing information on the participation of society in the proceedings and on how the remarks and applications submitted under the participation of the society have been taken into account. What is more, the authority must inform the society about acceptance of the document and about opportunity to read its content along with the reasoning and summary.

20 Possibilities of social participation in development of policies relating to environment in accordance with Article 7

149. The obligation to conduct strategic evaluation of influence on the environment, under which the participation of the society will be conducted also applies to the development of policies.

21 Identified difficulties in implementation of Article 7

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

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

22 Further information concerning practical implementation of provisions of Article 7

152. Participation of the society in development of plans, programs and policies is widely applied in public administration, which results from the obligation to conduct social consultations.

153. Minister of the Environment ensures participation of the society in development of plans, programs and policies for which participation of the society is required. What is more, the Minister of the Environment, to the extent allowed by national and supranational regulations and organizational possibilities, provides participation of the society in making strategic decisions with regard to international agreements concluded by the Republic of Poland.

154. Apart from the possibility to report remarks in writing and electronically, consultations are also conducted with interested non-governmental organizations and organizations of entrepreneurs. Submitted remarks are considered. Information about the results of consultations is available in documentation of the projects and on the web site of the office. It is also sent to interested partners.

155. The society is provided with participation in development of plans, programs, policy and strategy concerning ecological education at different levels, management of Natura 2000 and protection of endangered species.

156. General Directorate for Environmental Protection introduced information and communication platform (PIK) to support development of plans of protection tasks of Natura 2000 areas, including implementation and service of social consultations.

157. Participation of the society in development of various kinds of strategic documents is also provided, among others, by all central administration bodies developing strategic documents for which strategic evaluation of the impact on environment is concluded.

23 Web addresses related to implementation of the Article 7

158.

www.ekoportal.gov.pl – the Ministry of the Environment

www.mos.gov.pl – the Ministry of the Environment

www.pzo.gdos.gov.pl – General Directorate for Environmental Protection

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

159. Both general provisions concerning establishment of legal acts and the Act on Provision of Information on the Environment state the participation of the society in development of executive regulations and other commonly binding standards. Public opinion, including non-governmental organizations, must be informed about planned solutions – about the current stage of the project, about its subsequent versions and remarks thereto. Participation of the society in the process of development of normative acts is guaranteed in numerous legal acts, as well as voluntarily adopted practices concerning implementation of general principle to conduct public consultations by central administration bodies, self-government administration and the Sejm.

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

161. Acts governing principles of functioning of local government of all levels stipulate consultations with the inhabitants on issues important for a given area and also define the procedure and principles of consultations.

162. Representatives of non-governmental organizations have the right to participate in meetings of the commission and parliamentary sub-committee. Non-governmental organizations, which are interested in a given matter, are invited to delegate their representatives. Other organizations may apply for participation of their representatives in the meeting. In practice, non-governmental organizations actively participate in meetings of most parliamentary sub-committees preparing draft legal acts, asking questions, commenting analysis, and presenting proposals of new solutions.

25 Identification of difficulties in implementation of Article 8

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

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

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

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

26 Further information concerning practical implementation of provisions of article 8

167. The Ministry of the Environment applies three main methods of consultation of draft legal acts:

- a) simultaneously with interministerial arrangements draft acts are sent out for consultation to interested entities (administration bodies, trade unions, business alliance and non-governmental organizations). Drafts are also consulted with representatives of local governments, in particular with local administration party of the Joint Commission of the Government and Local Government;
- b) draft legal acts along with reasoning and evaluation of influences of the regulation are provided on the website of the Ministry of the Environment or on a website of the Governmental Legislative Process with the information about the deadline within which remarks shall be submitted and address of a person conducting the case. After concerning the remarks the Ministry of the Environment develops summary of remarks along with reasoning of these cases, in which remarks have not been approved;

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

168. Representatives of some non-governmental organizations constantly participate in meetings related to the legislative process in the Sejm. Upon their request, a number of solutions have been admitted to the law system.

27 Web addresses related to implementation of the Article 8

169.

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

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

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

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

170. Right of access to justice in cases concerning environment is guaranteed in administrative proceedings, court-administrative and civil proceedings.

171. CAP guarantees the right to appeal the administrative decision to the body of higher instance. This right is guaranteed to the parties of the proceedings, namely each person, whose obligations and legal interests are influenced by the proceeding. The appeal is exempt from fees.

172. Ecological organisations have the right to act as a party in the proceedings requiring participation of the public. Decision of the body of higher instance may be challenged to a voivodeship administrative court. Decision or a sentence of voivodeship administrative court can be challenged to the Supreme Administrative Court that can change or repeal the settlement of voivodeship administrative court. The right to participate in the proceedings is guaranteed to everyone who has legal interest and to non-governmental organizations, which participated in administrative procedure.

173. In the case of a complaint submitted in administrative court, a fee amounting to 100 PLN (ca. € 25) shall be paid. In cases concerning protection of environment and nature the court fee amounts to 200 PLN (ca. € 50).

174. Administrative courts' decisions which have not been challenged are binding in a given case.

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

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

Article 9, paragraph 1

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

178. When a given body will not respond to the application for access to information on environment, or will provide incomplete information, the applicant is entitled to submit a complaint to the administrative court on idleness of the administration body.

179. Regulations of law of the administrative court procedure are applied to complaints considered in the proceeding on access to information on environment and its protection. .

180. The Act on Provision of Information on the Environment provides access to the appeal procedure similar to previously described procedures established in the code of administrative proceedings and law of the administrative courts proceedings, however, with the difference that the Act on Provision of Information on the Environment states the term of 15 days within which a complaint and answer to the complaint shall be submitted by a competent body to the administrative court. The administrative court considers the complaint within 30 days from the date of receipt of the files along with the answer to the complaint.

Article 9, paragraph 2

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

182. Possibility to participate in the procedure, and, as a consequence, access to justice for environmental organizations, is disabled, if the competent body decides not to conduct a full procedure of evaluation of impact on the environment.

Article 9, paragraph 3

183. Appeals to acts or omissions of administration bodies may be adopted in administrative or court-administrative proceedings. The list of the parties may be different depending on the case (for example, the parties in the case of permission for emission of effluents are those persons who are authorised to use water; in the case of evaluation of influence on environment the parties to the proceeding are those neighbouring with the area of the investment, for which evaluation of influence on environment is conducted).

184. Cases concerning actions or omissions of natural persons in civil cases are subject to consideration by the common court. Protection of individual rights of citizens resulting from material law is carried out through establishment of mechanisms enabling to bring the proceedings in the court, and also indication of legitimacy of reported claim in the

course of the proceeding. To initiate court proceedings in civil cases, presentation of claim and indication of the actual condition to the judgement of the court is sufficient.

185. Non-governmental organizations can file a civil action demanding restoration of the initial condition in accordance with the law and the institution of preventive measures in the public's best interest (if the detriment or hazard applies to the environment as common good).

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

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

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

189. The environmental protection authority is obliged to accept every report on occurrence of a direct threat of environmental damage or damage in the environment. If the threat of environmental damage or damage in the environment concerns the environment as a common good, public administration authority or environmental organisation can submit the report. Refusal to initiate the proceedings by the authority on the basis of the report can be issued through a proceeding, to which a complaint can be submitted.

Article 9, paragraph 4

190. In the administrative procedure submission of appeal to the body of higher instance automatically suspends the execution of the decision being the object of the appeal. In the court-administrative proceeding the person submitting the complaint may simultaneously submit the application to suspend the execution of the appealed decision.

191, In the Act of 7 July 1994 - Building Law (Journal of Laws of 2016 item 290), hereinafter referred to as: the " Building Law", the requirement to establish a deposit to secure claims of the investor due to suspension of the execution of a decision is stipulated, which may constitute a barrier for submission of the appeal and suspension of execution of a decision. In accordance with Article 35a of the Building Law "if a complaint is made to the administrative court against the decision on the construction permit, the court may make the suspension of such of such decision's execution, as requested by the applicant, conditional upon the applicant's submitting a security deposit for the investor's claims relating to the suspension of the decision's execution. If the complaint is recognised as legitimate in whole or in part, the security deposit shall be returned. If the complaint is dismissed the security deposit shall be allocated for satisfaction of the investor's claims. The relevant provisions of the Code of civil procedure on securing the claims shall apply to cases related to the security deposit.

192. In the civil procedure the courts can provide protection, which consists in application of remedial measures, such as withholding a specific action for the term of the proceedings.

193. In the court-administrative proceeding, the principle where the party that lost incurs costs of the party that won applies only when the winner is the party questioning the decision. If the person loses the case, no costs are incurred.

194. Decisions of the authorities and court statements are delivered in writing (the Code of Administrative Proceedings, Law of the Administrative Courts Procedure, the Code of Civil Proceedings). Court statements and administrative decisions are provided upon request, excluding personal data (respective parts of the documents are anonymous). When the number of parties to the proceeding exceeds 20, the parties may be informed about decisions of the authority through an announcement or in other customarily adopted way in a given place; in these cases notice or delivery is considered as completed after fourteen days from the date of public announcement.

Article 9, paragraph 5

195. Information about the appeal procedure is submitted to the interested parties, for example during trainings for non-governmental organizations, part of which is financed by the National Fund for Environmental Protection and Water Management and voivodeship funds for environmental protection and water management. What is more, persons who have not received access to information on the environment and its protection, have the access to information (at www.ekoportal.gov.pl) on the principles of access to information on the environment and its protection.

29 Identification of difficulties in implementation of Article 9

196. Non-governmental organizations point out that Polish regulations lack temporary measures in proceedings requiring public participation. Because of that, in their opinion, access to justice is in practice often illusory. It results from the fact that if a non-governmental organization is not admitted to participate in the proceedings, even if it appeals to such negative decision, the concerned proceeding will continue and can be finished with a final decision. Even if a non-governmental organization receives favourable sentence of administrative court on the participation in the proceeding and then challenges the decision in the primary proceeding and administrative court finds in its favour, then the court will be able to issue sentence in which decision with the violation of the law will be stated. In the opinion of non-governmental organizations this situation makes the access to justice ineffective.

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

198. Non-governmental organizations claim that the Polish law limits the possibility to challenge the plans and programs concerning environmental protection. It mainly

originates from the need of the complainant to demonstrate that such plans infringe their legal interest. Environmental organizations usually are not willing to demonstrate that. What is more, the provisions of the Building Law stipulate that in the case of a complaint submitted to the administrative court against the decision on the construction permit, the suspension of such decision's execution, as requested by the complainant, is conditional upon the applicant's submitting a security deposit for the investor's claims relating to the suspension of the decision's execution. This constitutes, in the opinion of non-governmental organizations, an important restriction in access to justice.

198'. According to non-governmental organizations, sometimes the costs of court-administrative proceeding are an obstacle in access to the system of justice. In their opinion costs of appeal proceedings concerning cases related to the Building Law or spatial planning (PLN 500) are too high. Another limitation for them is also the attorney and counsellor obligation when submitting the cassation appeal to the Supreme Administrative Court. They claim that numerous non-governmental organizations cannot afford the remuneration for the counsellor or an attorney, and only a few have relevant specialists. At the same time, the courts rarely grant financial assistance to them, though there is such a legal possibility.

30 Further information concerning practical implementation of provisions of article 9

199. The Ministry of Justice keeps statistics of civil and economic cases, the object of which are claims concerning "protection of the natural human environment". In 2014 a total of 913 of such cases were submitted to the district court, and only 536 were dealt with. District courts (as courts of first instance in civil and economic departments) in 2014 received 827 cases and only 629 were settled. The same year, the Courts of Appeals received 32 cases of this category and only 19 were settled. In 2015, district courts received 91 cases and 174 were settled. District courts (as courts of first instance in civil and economic departments) in 2015 received 193 cases concerning environmental protection and only 528 were settled. In 2015 Courts of Appeals received 114 cases of this category and only 24 were settled.

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

201. Persons without sufficient measures may ask for exemption of the costs (fees and expenses) for proceeding before the civil and administrative courts. This exemption does not apply to the obligation to cover the costs of the opposite side in the case of lost civil case.

202. It is important to notice that there is a problem of responsibility of non-governmental organizations for environmental effects of their actions, also these caused by their opinions and remarks.

31 Web addresses related to implementation of Article 9

203. www.ekoportal.gov.pl

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

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

33 Measures and actions concerning compliance with the convention.

205. The Compliance Committee or Meeting of the Parties of the Convention so far have not determined particular actions for Poland in order to adjust the Polish law to the Convention of Aarhus.