

AARHUS CONVENTION IMPLEMENTATION REPORT
CERTIFICATION REPORT

This report is submitted on behalf of the Republic of Poland in line with I/8 decision

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| Name of officer responsible for submitting the national report: | Andrzej Kraszewski – Minister of the Environment |
| Signature: | |
| Date: | |

IMPLEMENTATION REPORT

| Party | Poland |
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1 PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

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

2. First, the Ministry of the Environment (MoE) announced on its webpage that it was initiating preparations of the report and invited interested parties to send their comments on the implementation of the provisions of the Convention in Poland. In the second stage, the Ministry of the Environment published on its webpage the designed content of the report and invited interested parties to send their remarks. The following persons and organizations sent their remarks:

- Górnoląskie Towarzystwo Przyrodnicze
- WWF Poland
- Janusz Więclaw
- Stowarzyszenie Pracownia na Rzecz Wszystkich Istot
- Stowarzyszenie Przyjazna Komunikacja

2 PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

3. Poland ratified the Convention on 31 December 2001. Since then, it has become part of national law and is directly applicable pursuant to article 91 of the Constitution.

4. The GMO Amendment was ratified by the Act from 23 October 2008.

5. The basic legal act regulating the issues of access to environmental information is the Act of 3 October 2008 of facilitating the access to information about the environment and its protection, public participation in environmental protection and the environmental impact assessments.

6. Taking administrative decisions in individual cases (e.g. concerning the installation that may significantly affect the environment, including integrated permits) is the responsibility of the voivodship marshal, in other cases, it is the responsibility of the starost or the Regional Director of Environmental Protection. The Ministry for the Environment does not issue individual permits but is responsible for preparing legal acts, national plans, programmes and policies related to the environment.

3 LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

Article 3, paragraph 2

7. According to the Code of Administrative Procedure, public administration bodies are obliged to inform the parties correctly and thoroughly about actual and legal circumstances which may influence their rights and obligations subject to the administrative proceedings. The administration bodies shall ensure that parties and other persons participating in the proceedings shall not suffer due to lack of legal knowledge and shall therefore provide them with any necessary clarifications and guidance. 10. The MoE established the Environmental Information Centre, which is responsible for the system of access to environmental information at the central level, especially for creating "Ekoportal", internet website whose role is to present database of public documents about the environment and to carry out e-learning projects.

8. According to the Law on Access to Environmental Information the administrative offices appoint people who deal with the provision of information on the environment and its protection.

Article 3, paragraph 3

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

10. Public administration undertakes a number of activities in the field of environmental education in cooperation with NGOs. For example, the Ministry of Environment conducted a nationwide public campaign on proper waste management using a wide range of communication media: television, radio, newspapers, Internet and alternative measures. General Directorate of Environmental Protection conducted a nationwide campaign to protect areas of Natura 2000. It involved trainings on the protection of Natura 2000 areas and waste management.

11. Environmental Information Centre undertook a number of activities aimed at promoting access to information on the environment and its protection and conducting education programmes addressed to both the government and society. These activities included informing the public of its rights with regard to access to environmental information and its protection and promoting the access to environmental information via Ekoportal. A series of trainings were conducted on access to environmental information, attended by about 3,100 representatives of local administration. The training materials were available on the Internet. Approximately 100 workshops were conducted on managing publicly accessible database of documents containing information about the environment and its protection.

12. In 2010, a nationwide campaign called Eco-management in Business ("Ekozarządzanie w Przedsiębiorstwie") was conducted to promote the Community Management and Audit System (EMAS). In a series of regional conferences and seminars for entrepreneurs a section was devoted to access of information on the environment and its protection.

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

14. The National Fund for Environmental Protection and Water Management secures financial support for the activities of ecological education - social campaigns, green schools, thematic conferences and workshops and various competitions aimed at raising environmental awareness. It supports film productions, publications and websites.

15. Poland has strengthened the implementation of the Convention provisions by implementing into national law the provisions of Council Directive 85/337/EEC of 27 June 1985 on the assessment of impact of certain public and private projects on the environment - particularly with regard to the implementation of Article 6 directive mentioned above concerning public participation in decision-making process.

16. Strengthening the activities following the provisions of the Convention by the public administration was also connected with the funds from cohesion policy received by Poland from the European Union budget for 2007-2013. For all programs (documents governing the expenditures and the types of investments) containing the infrastructure investments, including those related to agriculture, strategic environmental assessment with a broad public consultation have been carried out (in 2006-2007). The documents have been

consulted from the beginning of their preparation, and their consultations were attended not only by the social partners and NGOs, but also citizens of the Republic of Poland. Taking into account the amount of funds allocated for the implementation of the programs (67 billion € from the EU budget and the required additional national contribution \geq 20 billion) it created a good practice relating to social participation in decision-making process. The continuation of this good practice was a public campaign conducted throughout the country by the Ministry of Regional Development in 2008 under the name "New ways of development: man, nature and infrastructure." („Nowe drogi rozwoju: Człowiek, natura i infrastruktura”). The aim of the campaign was to make the Polish people aware of various environmental aspects related to the implementation of infrastructure projects, including those related to issues of access to environmental information and issues related to public consultation. E.g. a textbook titled "Investments in infrastructure-social communication and conflict resolution" („Inwestycje infrastrukturalne-komunikacja społeczna i rozwiązywanie konfliktów”) was prepared. This publication brings local governments closer to the issues related to the proper conduct of public consultations, keeping the database information on the environment, and addresses the provisions of the Aarhus Convention. In addition, the campaign was supported by commercial broadcasted on national television and training activities throughout the country. Information concerning the campaign is available on www.nowedrogirozwoju.pl. The applicants for the projects based on the EU budget must also demonstrate that administrative decisions for the investment, before making it, were effectively consulted with the public. If the Contractor is unable to demonstrate evidence that consultations have been conducted it is impossible to obtain financial support. Given that virtually every local government in Poland implements projects with EU funds, it must be assumed that the knowledge of the duties resulting from the above mentioned article is common.

17. In the case of environmental education at the turn of 2008 and 2009, trainings for the beneficiaries of EU programs and the staff of the General Directorate for Environmental Protection and the regional directorates of environmental protection were carried out nationwide. They concerned the procedures for environmental impact assessment, taking into account issues of public consultation and access to public information. The trainings were attended by approximately 2,000 people.

Article 3, paragraph 4

18. Nongovernmental organizations have extensive possibilities of supporting financially the projects concerning environmental protection. At the central level funding is possible thanks to the Priority Program supporting nongovernmental eco-organizations implemented by the National Fund for Environmental Protection and Water Management, Civic Initiative Fund (Ministry of Labour and Social Policy) and special competitions organized by national and regional environmental protection funds.

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

20. In 2008-2010 the Ministry worked with NGOs in the framework of Partnership for Climate - a platform for cooperation, discussion and education.

21. The Code of Administrative Procedure and the Code of Civil Procedure and Law on Environmental Protection, allow NGOs to participate in judicial and administrative proceedings relating to the environment.

22. The Act on Public Benefit and Volunteer Work envisages that public authorities may perform public functions in cooperation with NGOs and even delegates certain tasks to the so-called public benefit organizations. In 2010 for the first time, five organizations carried out activities in the field of environmental education funded by the Ministry of Environment.

23. NGOs have the right to elect their representatives to the supervisory boards of national and regional environmental funds for environmental protection and water management overseeing the disposal of funds coming from the fees for the use of environment, administrative fines, the state and EU funds. They have a right to be represented also in the advisory bodies such as the GMO Commission.

Article 3, paragraph 7

24. Poland supports initiatives and processes at the international level concerning the environmental protection e.g. in the Commission on Sustainable Development (CSD), in the United Nations Environment Programme (UNEP) or in the discussion and works concerning International Environmental Governance, United Nations Economic Commission for Europe (UNECE) and Organisation for Economic Cooperation and Development (OECD).

25. NGO representatives have been part of the Polish governmental delegation at COP 14 in Poznan in 2008. Polish nongovernmental organizations and the private sector will be part of Polish delegation to the Ministerial Conference "Environment for Europe", to be held in Astana in September of 2011

26. In the context of the provisions of this article it is worth complementing the material with the information relating to the Espoo Convention on Environmental Impact Assessment in a Transboundary Context, which was ratified by Poland in 1999 (Journal of Laws of 3 December 1999), which points to the need to conduct public consultations in the exposed country, in the case of projects that may have transboundary impact.

Article 3, paragraph 8

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

4 OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

28. According to the analysis of the Supreme Chamber of Control ("Information on the audit results on the assurance of public participation in proceedings related to the environment", May 2010) 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.

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

In the course of the report consultations, the non-governmental organizations (WWF Poland) drew attention to the results of the Supreme Chamber of Control report, which

pointed out, among others, that as a result of audit, in 6 of 51 inspected offices, there were no designated individuals, responsible for providing information on the environment. In the course of the report consultations, the non-governmental organizations (WWF Poland, Górnośląskie Towarzystwo Przyrodnicze) also indicated examples of difficulties in access to documents containing information on the environment (e.g. denial of access due to copyright protection of the experts preparing them, reluctance to release documents without undue delay, misinterpretation of the legislation).

5 FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3[U7]

30. In the course of inspections carried out by the Supreme Chamber of Control in administrations concerning the implementation of the Aarhus Convention, some irregularities in the implementation of the law by the offices have been pointed out. These problems were discussed in the explanation sections which refer to subsequent articles of the Convention.

6 WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

31. www.ekoportal.pl - Environmental Information Centre
www.mos.gov.pl – Ministry of Environment
gmo.mos.gov.pl - information on GMOs
www.gdos.gov.pl - General Directorate for Environmental Protection
natura2000.gdos.gov.pl - information on the European Ecological Network Natura 2000
www.nfosigw.gov.pl - The National Fund for Environmental Protection and Water Management
www.dzieci.mos.gov.pl - environmental education for children, Ministry of Environment website
www.zielonalekcja.pl - partially funded by the National Fund for Environmental Protection and Water Management, a website containing a database of educational materials (lesson plans) classified by age and subjects
<http://www.nik.gov.pl/kontrole/wyniki-kontroli-nik/kontrole,6570.html> – the Supreme Chamber of Control report

7 LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

32. The basic legal act regulating the issues of access to environmental information is the Act of October 2008 of facilitating the access to information about the environment and its protection, public participation in environmental protection and the environmental impact assessments.

33. The Act defines the concept of information about the environment, and also specifies the rules for its dissemination.

Article 4, paragraph 1

34. According to Republic of Poland Constitution: "Any person shall have the right to information on the state of the environment and on environmental protection".

35. According to the Law on Public Access to Information: "Any person shall have the right to information on the environment and on environmental protection". Administrative entities are obligated to provide any information about the environment and its protection that are in their possessions or are intended for them. Any person exercising the right to public information about the environment and its protection shall not be required to prove any legal or actual interest. Public information about the environment and its protection shall be made available in the manner and form requested, unless the entity holding the information is unable for technical reasons to make the information available in the manner and form requested. If the information about the environment and its protection cannot be made available in the manner and form requested, the entity holding the information shall inform the applicant in writing within 14 days from receiving the request, of the reasons for not making the information available in the manner and form requested and shall inform the applicant of the manner and form in which the information can be made available.

36. In 2010 Minister of the Environment has amended the executive regulations for the Act, simplifying the procedure for payment of fees for providing information and taking into account technological changes in the dissemination of public information.

Article 4, paragraph 2

37. The Law on Public Access to Information requires authorities to provide information about the environment and its protection without delay and no later than one month from the date of receipt of the request. This period may be extended to 2 months due to the complexity of the case. Requesting entity is informed of any extension period.

38. The documents which the data are published in publicly accessible registers containing information about the environment, are made available on the day of request issuance.

Article 4, paragraph 3 and 4

39. According to the Law on Access to Public Information authority does not give information about the environment and its protection, if the information concerns:

- individual data gathered in statistics studies of public statistics and protected by statistical secrecy provisions,
- information on matters which are subject to criminal or disciplinary enquiry, if the disclosure disturbs the course of the proceedings;
- information on matters which are covered by copyrights and patent rights, if the disclosure violates these rights;
- personal data concerning third parties when providing the information would violate the provisions on the protection of personal data;
- documents or data supplied by a third party, without that party being under a legal obligation to do so, and cannot be burden with such an obligation, and provided them voluntarily and made a reservation of non-disclosure;
- documents or data, the availability of which could pose a threat to the environment or ecological security of the country;
- information of commercial value, including technological data, provided by third parties and companies covered by commercial secret if the access to such information could infringe competitive position of those people and they have made a justified request to exempt such information from disclosure;

- projects that may significantly affect the environment, carried out in enclosed areas which are not subject to proceedings with public participation;
- national defence and security.

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

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

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

Article 4, paragraph 5

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

Article 4, paragraph 6

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

Article 4, paragraph 7

44. According to the the Law on Public Access to Information about the environment and its protection and the assessment of environmental impact, the refusal of a request for information is made in the form of an administrative decision. For the complaints investigated in the proceedings for disclosure of information on the environment and its protection, the provisions of the Code of Administrative Procedure are applied.

Article 4, paragraph 8

45. In 2010, the regulation on fees for providing information on the environment was amended, the rates correspond to the costs of producing copies of documents.

46. The information made available in electronic form via the Internet are free of charge.

8 OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

47. Following an inspection in 2010 the Supreme Chamber of Control found that in 6 (11.8%) out of 51 government-controlled entities, in spite of duty, did not designate persons responsible for providing information on the environment and its protection. Compared to previous inspections the scale of irregularities were reduced.

48. The showed that only sporadically inspected entities did not inform about the proceedings. No information disclosure was recorded in 1.8% of 902 analysed proceedings.

9 FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4

49. withdrawn.

50. Supreme Chamber of Control indicates the need to take educational and informational actions to promote among the local community the way to get access to information concerning the environment, to participate in decision making and to prepare strategic documents.

10 WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

51. www.ekoportal.pl - Environmental Information Centre

www.mos.gov.pl – Ministry of Environment

gmo.mos.gov.pl - information on GMOs

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

natura2000.gdos.gov.pl - information on the European Ecological Network Natura 2000

www.isap.sejm.gov.pl - Internet System of Legal Acts

11 LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5

Article 5, paragraph 1

Article 5, paragraph 1 (a)

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

Article 5, paragraph 1 (b)

53. The Law on Environment Protection is established by the National Environmental Monitoring System which is a system of measurements, assessments and forecasts of the environment quality, which collects, processes and disseminates information on the environment.

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

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

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

57. In case of the use of the environment for which fees are collected (e.g. water consumption, water emission etc.) information is to be forwarded to voivodeship marshals or voivodship inspector of environmental protection.

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

59. The Waste Act requires waste holders to monitor waste and submit annual waste reports to voivodeship inspector of environmental protection. Voivodship inspector of environmental protection must be immediately notified of the changes in observed parameters, indicating the possibility of environmental hazards.

Article 5, paragraph 1 (c)

60. Provisions concerning emergencies are included in several legal acts. They indicate the obligation for cooperation between the relevant authorities, depending on the type of natural disaster.

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

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

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

Article 5, paragraph 2

64. The principles of disclosing and disseminating information on environment are specified by the Law on Public Access to Information on the environment and its protection, public participation in environmental protection and the assessment of environmental impact. According to the Law on Public Access to Information documents and data on documents containing information on the environment and its protection are to be included in a publicly available registers, in the Public Information Bulletins, and by using electronic databases.

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

66. Databases records are accessible via the Internet. The access to databases is free of charge.

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

Article 5, paragraph 3

68. According to the Law on Public Access to Information on environment and its protection, public participation in environmental protection and environmental impact assessment public authorities publish information on environmental legislation, policies, plans, programs, maps and analysis, as well as other documents relating to environmental protection, in publicly available registers of data and in the Public Information Bulletin.

69. Environmental Information Centre runs a website: www.ekoportal.gov.pl through which each office, free of charge, can provide information on documents it holds which contain information about the environment.

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

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

72. The National Geological Institute maintains the Central Geological Database available on the Internet, the HYDRO Geological Data Bank and the MIDAS Computing System with information on mineral resources, register of mining areas and other databases associated with geology.

Article 5, paragraph 4

73. The Chief Inspector for Environmental Protection prepares reports on the state of the environment not less frequently than once every four years, including data from state environmental monitoring. The latest report on the state of the environment has been prepared by the Chief Inspectorate for Environmental Protection (GIOS) in 2010. Voivodship reports are prepared every year or every two years by the voivodship inspectorates for environmental protection. The reports are widely available both in hard and electronic copies on inspectorates for environmental protection websites.

Article 5, paragraph 5

74. The law on disseminating information about the environment and its protection, public participation in environmental protection and environmental impact assessment requires publishing data of documents containing information on the environment on the Internet.

75. Minister of the Environment created Environmental Information Centre, which runs Ekoportal website, a database of documents containing information on the environment.

76. The Sejm (the Parliament) website contains content of all existing legislation acts in Poland, they are also published in the Journal of Laws and Official Journals. The Act on promulgation of normative acts and some other legal acts of 1 January 2010 introduced a duty of electronic publication of legal acts.

Article 5, paragraph 6

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

Article 5, paragraph 7

78. The websites of the Sejm, the Senate and all other offices contain databases with all the the valid legal acts, as well as copies of legal acts projects, including experts' opinions.

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

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

Article 5, paragraph 8

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

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

Article 5, paragraph 9

83. A National Register of Pollutant Release and Transfer Register was created as part of a European Pollutant Release and Transfer Register established by Regulation (EC) No 166/2006 of the European Parliament and Council. The register is run by the Chief Inspector of Environmental Protection in the form of a publicly accessible database.

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

12 OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

85. In 58.5% of units inspected by the Supreme Chamber of Control there were irregularities in keeping the register of publicly available data on documents containing information on the environment, which was required by the Law on Environmental Protection and the Law on Public Access to Information on environment and its protection, public participation in environmental protection and environmental impact assessment. In relation to the situation five years ago the improvement was insufficient. Irregularities included: the lack of publicly available register, not entering the data of parts of documents to the register, entering the data with a few months delay and the wrong form of the register.

In the opinion of non-governmental organizations (Stowarzyszenie Pracownia na rzecz Wszystkich Istot) the above mentioned irregularities result from absence of legal sanctions to be imposed on offices for failure to comply with applicable regulations.

13 FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

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

87. Environmental Information Centre provides authorities with an application allowing to conduct a publicly accessible register of data on documents containing information on the environment and its protection and their presentation on Ekoportalu. This option is currently used by more than 1,250 offices, in particular by the Ministry of Environment, as well as voivodship offices, marshal offices, district (powiat) offices and commune (gmina) offices. [continuation withdrawn]

14 WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

88. www.ekoportal.pl,
www.mos.gov.pl,
www.gios.gov.pl,
www.gdos.gov.pl,
www.gmes.info,
www.pgi.gov.pl.
www.prtr-portal.gios.gov.pl

15 LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

89. Under the Law on Public Access to Information on environment and its protection, public participation in environmental protection and environmental impact assessment, everyone has the right to submit comments and motions in the proceedings requiring public participation. Administrative bodies competent to issue a decision or develop draft documents are obliged to ensure possibility for public participation before such a decision or its amendment, and prior to the adoption of these documents or their amendment.

90. Established procedures apply to a decision on issuing a permission for such projects listed in Annex I and I bis to the Convention.

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

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

Article 6, paragraph 1

93. Policies for preparing environmental impact assessments are established by Law on Public Access to Information on the environment. The Act lists the types of projects for which the assessment is to be prepared.

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

Article 6, paragraph 2

95. Under the Law on Public Access to Information on environment and its protection, public participation in environmental protection and environmental impact assessment, the authority preparing a draft document requiring public participation, without delay, makes a public announcement about:

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

Necessary documentation of the case includes draft document or its objectives and annexes required by the policies and other bodies standpoints, if they are available within the time limit for submitting comments and motions.

96. Under the Law on Public Access to Information on the environment, before issuing or amending the decision requiring public participation, the authority competent to make the decision, without delay, makes a public announcement about:

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

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

Article 6, paragraph 3

97. The deadline for submitting comments can not be less than 21 days.

Article 6, paragraph 4

98. As indicated in the explanatory section of article 6, paragraph 2, public participation process begins even before the decision is issued or the document prepared.

Article 6, paragraph 5

99. The law on public participation impose obligations on the relevant public authorities. However, within the framework of project's environmental impact assessment, the direct and indirect impact of the project on the health and living conditions of people is being specified, analysed and evaluated.

Article 6, paragraph 6

100. The application and accompanying documentation are available in the publicly accessible data register (see the explanatory section of Article 5, paragraph 2).

Article 6, paragraph 7

101. Any person can submit comments and motions, in writing and orally or by means of electronic communication media.

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

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

Article 6, paragraph 8

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

105. The authority preparing the draft document requiring public participation, shall consider comments and motions, and attach justification containing information about public participation in the proceedings, about how they were taken into account and about the comments and motions submitted in connection with public participation.

Article 6, paragraph 9

106. The authority preparing a draft document requiring public participation makes public announcement of information about the adoption of the document and the possibilities to become familiar with its content, justification and summary. The authority competent to issue the decision shall inform the public about the decision and the possibilities to become familiar with its contents.

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

Article 6, paragraph 10

108. Conducting a strategic environmental impact assessment is also required for changes to already approved document, which ensures a possibility of public re-participation.

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

109. The provisions contained in the Code of Administrative Procedure shall determine the issue of disclosure of information to the parties in connection with the proceeding. The provisions of the Environmental Protection Act relating to the public participation procedure provide sharing of information in regard to the proceeding lead by the authority – the procedure of public participation. The usage of this procedure, in accordance with the Environmental Protection Act, is required for the issuance of certain administrative decisions, such as decisions on the environmental conditions, integrated permit, decisions issued under the Act on Genetically Modified Organisms (Journal of Laws of 2007, No. 36, item 233). The above provisions are also applied to develop certain plans and programs.

The provisions included in the Amendment are also reflected in the provisions of the Act of 22 June 2001 on genetically modified organisms. Pursuant to the Article 29 of this Act, public participation in the proceeding, the object of which is to issue a permit for a deliberate release of GMOs into the environment or a permit for placing on the market of GMOs, is regulated by the provisions on the public participation in the proceeding on the environment. However, Article 14(a) precisely determines information on GMOs which is subject to publication.

The public has the right and opportunity to become familiar with the application and documentation.

This is done by means of the GMOs registers which are already operating on the webpage of the Ministry of Environment.

16 OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

110. The Supreme Chamber of Control inspection of proceedings concerning the prepared documents and issuance of the decision, requiring the public participation procedure, showed that only occasionally - in 16 out of 902 analysed proceedings, i.e. 1.8%, the authorities failed to inform about their conduct.

111. In terms of informing the public about the proceedings, the Supreme Chamber of Control objections focused on: the content and nature of the information, communication channels used and the date of notification. In 134 (15.1%) cases out of 886, of which the information was made public, the content and form of the notification did not meet the requirements set by the policies. Introduced on 15 November 2008, new regulations in this area have not been fully applied. There were cases of reporting false information and confirming events inconsistent with the facts. Inspected entities often did not use all the means of communication required by law, thereby limiting the circle of notification recipients and potential participants in the proceedings.

112. The inspection found that policies concerning the provision of time for the public to prepare for participation in the proceedings, were not respected. The inspection found that 64.3% of proceedings concerning the issuance of the decision, the notification date was also the starting day for submission of comments and motions. According to the Supreme Chamber of Control the reason for this were unclear legal regulations.

In the course of the report consultation, the non-governmental organizations (WWF, Górnośląskie Towarzystwo Przyrodnicze) indicated the practice of sharing documents only in paper form and making public the information about the place (room no.) and time (opening hours), where one can access the documentation of the case.

In the course of the report consultation, the non-governmental organizations (WWF, Górnośląskie Towarzystwo Przyrodnicze) indicated that in their opinion the authorities reject remarks and request submitted by the public, accepting the arguments of the investor or the applicant, without sufficiently examining the actual state of the case. In their assessment, it is often due to a low level of knowledge of the representatives of environmental authorities.

Górnośląskie Towarzystwo Przyrodnicze, in relation to the indicated difficulty in monitoring webpages and bulletin boards informing about the commencement of proceedings in environmental matters, proposes creation of public newsletters relating to environmental issues.

17 FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

113. 2010 post-inspection conclusions of Supreme Chamber of Control for the local government units have shown the need to use all information channels to disseminate data of the proceedings and ensure adequate time for preparation and active participation of society in the proceedings.

18 WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

114. www.gdos.gov.pl

19 PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

115. Public participation requirements in the preparation of plans and programmes relating to the environment are determined by obligatory procedures concerning certain plans and programmes.

116. Conducting a strategic environmental impact assessment require:

- concept designs of spatial development of the country, a study of conditions and directions of spatial development of communes (gminas), spatial development plans and regional development strategies,
- policies, strategies, plans or programs in the fields of industry, energy, transport, telecommunications, water management, waste management, forestry, agriculture, fisheries, tourism and land use, developed or adopted by the public authorities that set the framework for subsequent implementation of projects that may significantly impact the environment;
- policies, strategies, plans or programs, whose implementation may have significant impact on the Natura 2000 area if they are not directly related to the protection of Natura 2000 area or not the result of this protection.

117. Conducting a strategic environmental impact assessment is required for projects documents, if they determine the framework for subsequent implementation of projects that may significantly affect the environment and the implementation of the provisions of these documents may cause a significant impact on the environment.

118. Principles of law in Poland require the assurance of public participation in the process of legislation. In the case of act and regulations projects public consultation and regulation impact assessment is mandatory.

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

20 OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7

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

21 OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

121. According to the Supreme Chamber of Control the inspected authorities often did not use all the means required by law to inform the public, thereby limiting the circle of public recipients of notification and potential participants in the proceedings. The percentage of procedures for which all the communication channels specified by the policies were used, was 34% in the case of documents and 41% in the case of decisions.

While developing the projects of documents the administrative authorities may, in consultation with competent authorities, retract from performing a certain proceeding on the environmental impact assessment, when they consider that the implementation of those documents will not result in significant environmental impact. According to environmental organizations (WWF Poland) opinion, expressed during the public consultations on the report, this means that in effect not all plans and programs concerning the environment are being elaborated with an adequate public participation.

According to environmental organizations (WWF Poland) opinion, expressed during the public consultation of the report, sending information on the results of the consultation to interested partners in not an effective rule.

22 FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 7

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

123. Ministry of Environment provides public participation in preparing plans, programs and policies.

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

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

126. Public participation in the preparation of different kinds of strategic documents is also ensured by, amongst others, the Ministry of Regional Development, Ministry of Economy, Labour and Social Policy, Ministry of Infrastructure, Ministry of Agriculture and Rural Development, as well as the National Forests.

23 WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

127. www.ekoportal.gov.pl

www.mos.gov.pl

www.gdos.gov.pl

24 EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

128. Both the general policies on lawmaking, as well as the Law on Public Access to Information on the environment and its protection, public participation in environmental protection and environmental impact assessment, point out the obligation carry out public consultation. The public, including NGOs, must be informed of the planned solutions - at what stage the project is, what are its successive versions, and what comments were reported. Public participation in the preparation of normative acts is provided for by a number of legal acts as well as by voluntary practical arrangements connected with the general principle of conducting public consultations by central administration bodies, local governmental bodies and the Parliament (Sejm).

129. Public participation in drawing up government documents, including in particular draft normative acts, is provided for in the Act on Lobbying in Law-Making as well as in regulations concerning the conduct of governmental work. Individual offices are obligated to, among others, publish programs og legislative works, or projects of legal acts together with substantiation and evaluation of the results of the regulation. Administrative offices are also elaborating their own detailed rules in this regard.

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

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

25 OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

132. No irregularities were reported.

26 FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

133. The MoE applies three main methods of consultations of draft acts:

a. Along with the interdepartmental agreements, draft acts are sent with a request for comment to interested entities (e.g. public authorities, trade unions, business associations and NGOs). Drafts are also consulted with representatives of local governments, particularly with the local party of the Joint Committee of the Central Government and Territorial Governments;

Draft acts along with their justifications and regulation impact assessment are made available to the public on the MoE website, with information regarding the deadline for submitting comments and the e-mail address of the relevant official. After considering the comments, the MoE prepares a report to explain the cases in which comments were not taken into account and the reasons for this.

C. Other forms of consultation may also be used as needed, most often in the form of a public debate or seminar to which interested entities are invited and the participation is free of charge.

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

27 WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

135. www.mos.gov.pl/kategoria/2225_projekty_aktow_prawnych/ - Ministry of Environment subpage including information on draft acts

<http://orka.sejm.gov.pl/projustall6.htm> - the Parliament (Sejm) sub page containing draft acts;

<http://www.senat.gov.pl/k7/pos/pracet.htm> - Senate sub page, including draft acts proposals.

28 LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

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

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

138. NGOs have the right to act as party in the environmental proceedings requiring public participation. The appeal is free of charge. The decision of the authority of second instance can be challenged in provincial administrative court. The verdict of the provincial court can be challenged in the Supreme Administrative Court, which can annul it. The right to participate in the proceedings is granted to anyone having a legal interest and to the NGOs which participated in the administrative procedure.

139. In the case of challenges brought to administrative courts the fixed court fee is PLN 100 (€ 30). In civil cases concerning the access to information, the court fee is PLN 30 (€ 7.50); in cases concerning the environment PLN 100 (€ 30).

140. Court verdicts and decisions not challenged in courts are binding in a given case. The above rule applies also to challenges brought against the authorities lack of action. A complaint to an administrative authority in the second instance may be filed by the person who requested action to be taken. If the authority considers the complaint to be justified, it will set a further date for considering the case. If the deadline is missed, a complaint can be submitted to the provincial administrative court.

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

Article 9, paragraph 1

142. 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.

143. For the complaints investigated in the proceedings for disclosure of information on the environment and its protection, the provisions of the Code of Administrative Procedure are applied.

144. In cases where the refusal referred the information concerning:

- - individual data gathered in statistics studies of public statistics and protected by statistical secrecy provisions,
- - documents or data supplied by a third party, without that party being under a legal obligation to do so, and cannot be burden with such an obligation, and provided them voluntarily and made a reservation of non-disclosure;
- - information of commercial value, including technological data, provided by third parties and companies covered by commercial secret if the access to such information could infringe competitive position of those people and they have made a justified request to exempt such information from disclosure;

provisions of the Law on Public Access to Information are used.

145. Law on Public Access to Information provides the access to appeal procedure similar to the above-mentioned procedures regulated in the Code of Administrative Procedure and the Law on the Proceedings before Administrative Courts. However, the Law on Public Access to Information introduces some modifications, in particular, decisions on admissibility regarding appeals are taken within 14 days (under the Code of Administrative Procedure it is 30 days), and 15 days for complaints to administrative courts (there is usually no deadline for courts admissibility verdict).

Article 9, paragraph 2

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

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

Article 9, paragraph 3

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

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

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

151. Civil proceedings take place in two instances. In some cases it is also possible to appeal to a third instance - the Supreme Court. In civil environmental cases, court fee is 100 PLN (€ 30). In the first and second instances, there is no obligation to be represented by a solicitor. This obligation applies to cases before the Supreme Court.

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

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

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

Article 9, paragraph 4

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

156. In civil proceedings, courts can provide protection (the Code of Civil Procedure) by applying preventative measures such as abstaining from a particular action for the duration of the trial.

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

158. Decisions of the authorities and court verdicts are delivered in writing (Code of Administrative Procedure, Law on the Proceedings before Administrative Courts, Code of Civil Procedure). Court decisions and administrative decisions are made available upon a motion with the reservation of personal data (relevant sections of the documents are blackened). If the number of pages in the proceeding does not exceed 20, the parties may be notified on the decisions by the authority by means of an official announcement or in another customary manner of public announcement in the community. In those cases, the notice or the delivery shall be considered executed after the expiration of fourteen days from the date of the public announcement.

Article 9, paragraph 5

159. Information on the appeal procedure is provided to the parties concerned, for instance during NGO training, of which part is financed by the national and regional environmental protection funds and water management funds. Moreover, persons whose requests for information were refused are provided with the information on the legal provisions of disseminating the information (on www.ekoportal.gov.pl).

29 OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

160. The press documents instances in which, according to journalists, the organisations were paid by investors for withdrawing from appeal proceedings and protesting against a given project. Investors want to avoid losses connected with blocking their projects. This gives rise to a tendency to limit the scope of public participation and access to justice in the course of an investment process:

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

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

In the course of the report consultation, the non-governmental organizations (Górnośląskie Towarzystwo Przyrodnicze) indicated that the reason of this state of affairs may also be a poor quality of documents assessing the impact of the projects on the environment.

In the course of the report consultation, the non-governmental organizations (WWF Poland) indicated that in practice, the request submitted to the court, because of its specialized nature, must be prepared by a lawyer or a legal counsel. The cost of those services may be even several thousand zlotys (about € 1000).

In the course of the report consultation, the non-governmental organizations (WWF Poland) indicated that it is impossible to appeal against a decision on the construction permit for investments for the proceedings of which on the stage of construction permit, environmental impact assessment is not carried out (e.g. large bodies of water). Where the authority conducting the administrative proceeding finds no obligation to carry out an environmental impact assessment, an ecological organization has no right to a judicial verification of correctness of such ruling.

In the course of the report consultation, the non-governmental organizations (WWF Poland) indicated that there are exceptions to the rule of automatic suspension of executing a decision under appeal. It is possible to impose the order of immediate enforceability on the decisions or to proceed in the mode of special purpose act (e.g. Act on Preparations for the Final Tournament of the UEFA European Football Championship 2012).

In the course of the report consultation, the non-governmental organizations (Górnośląskie Towarzystwo Przyrodnicze) indicated the prolixity of judicial procedures, which may lead to issuance of an unfavourable verdict for the administration authority after the completion of the investment.

30 FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 9

162. Public statistics do not reflect appeals to authorities of the second instance and court proceedings, and there is no comprehensive database allowing for an assessment of the total number of such cases.

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

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

31 WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

165. www.ekoportal.gov.pl/opencms/opencms/ekoportal/informacje_o_srodowisku/udostepnianieinformacji/index.html

32 CONTRIBUTION OF THE IMPLEMENTATION OF THE CONVENTION TO THE PROTECTION OF THE RIGHT OF EVERY PERSON OF PRESENT AND FUTURE GENERATIONS TO LIVE IN AN ENVIRONMENT ADEQUATE TO HIS OR HER HEALTH AND WELL-BEING

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