



Warszawa, 29, VI, 2018n.

MINISTER OF THE ENVIRONMENT

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**Ms Fiona Marshall
Secretary to the Aarhus Convention
Compliance Committee
UN Economic Commission for
Europe
Environment Division
Room 429-2
Palais des Nations
CH-1211 Geneva 10
Switzerland**

Dear Ms Marshall,

Further to the information about a new communication concerning Poland (PRE/ACCC/C/2018/158) I would like to present a position of the Polish Government on that issue.

I would like to underline that in accordance with paragraph 21 of decision I/7 and paragraph 5 bis of decision V/9 of the Meeting of the Parties, the Committee should take into account the exhaustion of national remedies. In this particular case the Communicant exemplified a number of proceedings related to plans and programs. In his opinion, access to justice for nongovernmental organizations is not ensured in these proceedings. However, the Communicant did not challenge any of these plans and programs before court. It did not even try to use any administrative remedy. Moreover, the communication only in case of hunting plans and acts of local governments presents a broader argumentation of the alleged noncompliance. In other cases there are only general allegations.

Therefore, I would like to ask the Compliance Committee to further examine the communication with special attention to its so called Charge B. Some of plans and programs enlisted there are already a subject to other communications against Poland. Forest management plans were reported in the communication ACCC/C/2017/154 and acts of local governments in the communication ACCC/C/2016/151. I believe that these two cases should be excluded from the communication PRE/ACCC/C/2018/158. In case of plans related to waste management, air quality and noise management the communication does not explain the nature of noncompliance of these plans. In my opinion that is not in line with the Guidance Document on the Aarhus Convention Compliance Mechanism which states in subparagraph titled "**Provisions of the Convention relating to the alleged non-compliance**" on page 34 that "the communication should contain all information which is considered essential to establish the alleged non-compliance, and should clearly state how the facts presented constitute a case of non-compliance with the Convention. The communication should mention the specific provisions of the Convention, which it alleges that the Party concerned failed to comply with, and make the necessary link between the facts presented

and the provisions of the Convention.” Therefore, in my opinion these plans should also be excluded from the consideration of the Committee.

Having the opportunity to comment on the communication PRE/ACCC/C/2018/158 I would like to express my concern in relation to the way that some communicants approach the compliance mechanism. I strongly believe that the mechanism is a unique tool that enables a high standard of protection of human rights related to the environment. However, communications should not become general complaints. Party concerned should be informed about the nature of alleged noncompliance. Also the Compliance Committee should have a comprehensive knowledge about all the allegations presented in the communication. Bearing in mind a growing burden of work for the Committee it would facilitate its proceedings.

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