

4 May 2022

Mr. Jaroslaw Mielnik  
Ministry of Climate  
Poland

Ms. Agata Szafraniuk  
ClientEarth  
Poland

Dear Mr. Mielnik,  
Dear Ms. Szafraniuk,

**Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Poland regarding access to justice in connection with forest management plans (ACCC/C/2017/154)**

I refer to my letter of 5 April 2022 inviting the Party concerned and the communicants to participate in the joint hearing to discuss the substance of communications ACCC/C/2016/151, ACCC/C/2017/154 and ACCC/C/2017/158 to be held at the Palais des Nations, Geneva, on Thursday, 16 June 2022.

In preparation for the hearing, the Committee has identified a number of questions upon which it seeks clarification from the Party concerned and the communicants of communication ACCC/C/2017/154 in writing prior to the hearing. To this end, please find **enclosed** the questions prepared by the Committee for your attention.

In accordance with the Committee's usual timeframe, the Party concerned and the communicants will have four weeks to prepare their written replies to the Committee's questions. The Committee would accordingly be grateful to receive your replies to the enclosed questions by **Wednesday, 1 June 2022**. Please send your replies to [aarhus.compliance@un.org](mailto:aarhus.compliance@un.org), copying the other party.

Please do not hesitate to contact the secretariat if you have any questions.

Yours sincerely,



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Fiona Marshall  
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of the Republic of Poland to the United Nations  
Communicants of communications ACCC/C/2016/151 and ACCC/C/2017/158

Enc: Questions from the Committee to the Party concerned and communicants

**Questions to the Party concerned:**

1. At page 3 of its response to the communication, the Party concerned states that a forest management plan is “not an act of a general applicable law”. Please explain what the legal effects of a forest management plan are, if any, in the Polish legal system.

**Questions to the communicants:**

1. Please provide the text of the act of 25 March 2016 approving the annex to the forest management plan of the Białowieża forest and the annex itself, in Polish, together with an English translation of the relevant parts, including any text on how the act approving the annex could be appealed.
2. Please provide the text in Polish of the following judgments, along with an English translation of the relevant parts:
  - (a) Judgment no. IV SA/Wa 2787/16 of the District Administrative Court dated 14 September 2017;
  - (b) Judgment no. II OSK 2336/17 of the Supreme Administrative Court dated 19 October 2017;
  - (c) Judgment no. II OSK 649/20 of the Supreme Administrative Court dated 18 March 2020.
3. At page 2 of your update of 18 February 2022, you state that a proposed amendment to the Forest Act is pending in the High Chamber of the Polish Parliament.
  - (a) Please provide an update on the legislative process to adopt the draft amendment. Please also provide the text, in Polish, of the draft legislative amendment as it currently stands together with an English translation thereof.
  - (b) Please confirm whether, if enacted in its current form, the proposed amendment would fully address the communicants’ allegations that the Party concerned fails to provide for access to justice under article 9 (3) of the Convention for environmental NGOs and individuals to challenge forest management plans that contravene national law relating to the environment.
4. At page 11 of the communication, you state that on 22 September 2016, the Polish Ombudsman filed a complaint to the District Administrative Court in Warsaw against the “decision” of the Minister of the Environment approving the annex to the Białowieża FMP and that two of the communicants, ClientEarth and Pracownia na rzecz Wszystkich Istot supported the complaint and participate in the proceedings before both the District Administrative Court and the Supreme Administrative Court. Please specify the legislative provisions on the basis of which the communicants participated in the court proceedings. Unless these are already before the Committee, please also provide the texts of the relevant legislative provisions in Polish, together with an English translation thereof.

5. At page 11 of the communication, you claim that the Ombudsman, ClientEarth and Pracownia na rzecz Wszystkich Istot, each filed “separate cassation appeals” before the Supreme Administrative Court against the judgment of the District Administrative Court no. IV SA/Wa 2787/16 dated 14 September 2017. Please specify the legislative provisions on the basis of which the communicants filed these appeals. Unless these are already before the Committee, please also provide the texts of the relevant legislative provisions in Polish, together with an English translation thereof.
  
6. At page 8 of the communication, you state that each administrative decision contains legal instructions on the appeal procedure for that specific decision and that “typically” an unsuccessful motion to revise the decision under article 127 (3) of the Code of Administrative Procedure enables filing a complaint to the District Administrative Court which then may be appealed before the Supreme Administrative Court.
  - (a) Please clarify which “regulations regarding appeals against decisions” article 127 (3) of the Code of Administrative Procedure refers to (see annex 4 to the communication).
  
  - (b) Please clarify whether, in the case of a forest management plan, article 127 (3) enables a claimant to submit a motion under article 127 (3) and, if that motion is unsuccessful, to appeal the unsuccessful motion to the District Administrative Court and Supreme Administrative Court.
  
  - (c) Does an appeal to the District Administrative Court against an unsuccessful motion under article 127 (3) enable the claimant to challenge the substance of the administrative decision or only the unsuccessful motion for internal review itself?