

Position in the case
ACCC/C/2017/146

Parties to the proceeding

- Article 401(1) of the Act – Water Law: the party to the proceeding in the cases pertaining to water permits is the applicant and the entities affected by the intended use of water or entities in the range of impact of the water devices planned to be used.
- Identification of all parties to the proceeding rests each time upon the authority examining the individual administrative case.
- Identification of the parties to the proceeding constitutes one of the conditions for correctness of an administrative proceeding.

Judgments of the Supreme Administrative Court

- The judgments of the Supreme Administrative Court are not binding in any other cases however constitute a significant component of interpretation taken into account by the lower courts in analogical cases.
- The Polish Party also brought up the amendments introduced by the Act of 30 March 2021 amending the Act on access to information on the environment and environmental protection, public participation in environmental protection and on environmental impact assessments and certain other acts (Journal of Laws item 784). The Act added paragraph 2 to Article 402 of the Water Law.
- Legal state ensures relevant access to justice to the members of the public when issuing the water permit.

Public participation in the proceedings

- The process of issuing the development consents in Poland is multi-tiered.
- Public participation is provided for at the stage of issuing the decision on environmental conditions. At this stage all options are still available, however at the same time the concept of the project must be specified enough to ensure that the environmental impact assessment is reliable.
- An environmental organisation, similarly as the party to the proceeding on issuing the decision on environmental conditions, has the right to appeal to the administrative court against non-compliance of the follow-up decision (e.g. water permit) with the decision on environmental conditions issued upon the environmental impact assessment.
- The established scope of appeal results from the two-tiered process of issuing the water permit referred to above, in which in the first place and with public participation, including of the environmental organisations, the environmental conditions of the project binding the competent authority to issue the follow-up decision – water permit - are determined
- The Aarhus Convention does not impose the manner, in which the investment process is to be organised i.e. whether it should be single-, or multi-tiered
- Thus, there is no substantive justification, both on the basis of the Aarhus Convention and EIA directive, to grant the organisations with the special procedural rights in the scope going beyond the environmental protection aspects in the proceeding on issuing the water permit.

Thank you for your attention