

Position in the cases

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Introduction

- 1) meeting the formal prerequisites;
- 2) diversified nature of the acts of law selected by the Committee to examine in the cases;
- 3) Polish legal solutions in context of access to justice i.e. meeting the requirements of Article 9 (3) of the Aarhus Convention.

1) meeting formal prerequisites

- Pursuant to the decision I/7, the Communicant should support its charges with relevant information, including demonstrating the use of the available local remedies in the specific case.
- Only their exhaustion could form the basis to draw the conclusions on compliance of national law with the Aarhus Convention
- In context of the discussed cases this condition is not met. The communications provide only general judgments of administrative courts passed with regard to the selected environmental protection plans/programmes. This means that the formal condition (exhaustion of local remedies) to initiate the proceeding before the Aarhus Committee is not met.

2) diversified nature of the acts of law selected by the Committee to examine in the cases

The differences between the acts that the three cases refer to are particularly visible, when describing them in context of three criteria:

- an authority adopting a document (local government unit: commune or voivodeship; governmental administration authority)
- legal status (act of generally applicable law, act of local law issued by the local government units, internal document)
- task/function in their domain (determine the rights or obligations of third parties; technical document).

3) Polish legal solutions in context of access to justice i.e. meeting the requirements of Article 9 (3) of the Aarhus Convention

- Law on proceedings before administrative courts
- Article 33(2)
- Taking part as a participant may be also submitted for by a private individual, who did not participate in the administrative procedure, provided that the result of this procedure is linked to its legal interests, including also a community-based organisation in the cases of the other private individuals, provided that the case is related to the scope of its statutory activity
- The community-based organisation, which participated in the judicial proceeding in the case on the basis of the appeal of the other entity against the resolution, is entitled to lodge a cassation appeal also when the appellant does not execute its right to appeal.

Thank you for your attention