

**Stowarzyszenie Pracownia na rzecz Wszystkich Istot - Association Workshop for All Beings**  
represented by Magdalena Bar, attorney-at-law

2 May 2024

Ms. Fiona Marshall  
Secretary to the Aarhus Convention Compliance Committee  
UN Economic Commission for Europe  
Environment Division

**Re: case ACCC/C/2018/158 (Poland) - comments by the communicant on the Party concerned replies**

Dear Ms. Marshall,

In response to the replies by the Party concerned (dated 21 April 2024) to the Committee's question of 19 February 2024 (hereinafter: **the Party concerned Reply**), the communicant hereby presents their comments on these replies.

**Re acts of generally applicable law (i.e. Regulations adopted by Ministers and acts of local law)**

1. The Party concerned indicates that plans that are "acts of generally applicable law" are not covered by Article 9(3) as they are covered by Article 8 of the Convention.
2. The communicant disagrees with this interpretation and maintains its position set out in its letter of 2 April 2024 that:
  - these plans shall be considered being subject to Article 7 rather than Article 8 of the Convention (see paras 12-27 of the communicant's letter of 2 April),
  - even if these plans fell under Article 8 (and not Article 7), this would still not mean that they were excluded from the scope of Article 9(3) (see para 28 of the communicant's letter of 2 April).

**Re noise management action plans**

3. The Party concerned explains that the 'noise management action plan' is an act of local law and therefore is an act of generally applicable law (page 2, second paragraph of the Party concerned Reply).

4. Indeed, although it is not crystal clear from the provisions of the Polish law, the communicant agrees that these plans should be considered acts of generally applicable law - and therefore the communicant corrects paras 29-31 of their letter of 2 April 2024.

5. Consequently, all the remarks provided by the communicant above (paras 1-2) and in the letter of 2 April 2024 regarding acts of generally applicable law which shall be regarded as falling under Article 9(3) of the Convention do apply to the noise management action plans.

#### **Re Plans of internal nature**

6. The Party concerned indicates that plans of internal nature are not covered by Article 9(3) as they do not result in any effects on the public concerned (as defined by Article 2(5)).

7. The communicant disagrees with this interpretation.

8. Even if the plans listed on page 3 of the Party concerned Reply set out duties and tasks for the public administration only (and for private parties), they still are "acts by public authorities" and their content and process of adoption still may "contravene provisions of the national law relating to the environment".

9. Moreover, Article 9(3), unlike Article 9(2), does not refer to the "public concerned". Article 9(3) grants standing to "members of the public" not limiting it to the public concerned. Article 9(3) is not meant to protect one's subjective rights; it enables challenging act and omissions which unlawfully (contravening provisions relating to the environment) affect the environment.

10. Waste management plans deciding how waste is to be handled on a given territory, or landscape park protection plans determining how the landscape park will be managed and protected, even if they set tasks for the public administration only, do have an influence on the environment.

11. Therefore the "plans of internal nature" as listed in the Party concerned Reply shall be regarded being subject to Article 9(3) of the Convention.

Magdalena Bar

