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Case ACCC/C/2014/119

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Communicant's reaction to the response of the Party

Hereby we wish to provide further information and comments on response from Poland, dated on 1st March 2016.

1. **Insufficient evaluation of public consultation**

Evaluation of public consultation in Poland is very often problematic. Frequently there are discussions whether Authority takes public comments into consideration properly or not.

The Aarhus Convention was implemented into the polish law *inter alia* in Act on the Provision of Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (hereinafter called: Public Participation Act).

According to Art. 46 (1) of Public Participation Act, a strategic environmental assessment shall be required for, among others, spatial development plans. Article 54 (1) of the Public Participation Act states that the authority which prepares the draft of the document shall ensure the possibility of public participation, pursuant to the provisions of Part III, Chapters 1 and 3 of Public Participation Act, in the strategic environmental assessment.

As Art. 55 (3) of the Public Participation Act provides, a written summary containing a justification of the choice of the adopted document in relation to the alternatives considered as well as the information on the manner in which the following has been taken into account and to what extent it has been used shall be enclosed with the adopted document:

1) the findings of the environmental impact assessment

2) the opinions of the competent authorities referred to in Articles 57 and 58;

3) the submitted comments and suggestions;

4) the results of the procedure relating to the transboundary environmental impact, where it has been conducted;

5) proposals for the methods and frequency of monitoring the effects of the implementation of the provisions of the document.

Taking into account the above, in Communicant's opinion, Republic of Poland (hereinafter "the Party concerned") has not ensured proper application and implementation of the Art. 7, of the Aarhus Convention (in conjunction with applicable provisions of Article 6, para.3, 4, 8).

According to art. 7 of the Aarhus Convention each Party shall enable the public to participate during preparation of plans and programmes relating to the environment. According to art. 6 of the Aarhus Convention procedures shall include reasonable time-frames for the different phases, public consultations should take place when all options are open, so that the public can participate effectively. Party shall ensure that in the decision due account is taken of the outcome of the public participation (art. 6 (8) of the Aarhus Convention).

In this regard, the Communicant would also like to refer to a guidance on implementing Articles 6, 7 and 8 of the Aarhus Convention provided by the Aarhus Convention Compliance Committee in Maastricht Recommendations on Promoting Effective Public Participation in Decision – making in Environmental Matters[1]. According to these Recommendations, public participation should be seen by all parties as a prerequisite of effective action and an opportunity for real influence, not merely as a formal procedural requirement.

The public participation procedure should be designed in such way that both authorities and the public know the range of options to be discussed and decided at each stage, bearing in mind that the procedure should also be open enough to consider new options identified as a result of the public participation[2].

As it is mentioned in Maastricht Recommendations, there should be a clear obligation in the legal framework for the competent public authority itself to have to take due account of the outcome of the public participation (article 6 (8) of the Aarhus Convention). The process for taking the comments, information, analyses or opinions of the public into account should be fair and not discriminatory[3].

Taking due account of comments may result in:

(a) Amending the proposed decision in the light of the public's comments;

(b) Taking additional measures, for example, to mitigate or monitor potential harmful effects of the proposed decision;

(c) Selecting an alternative option on the basis of the public's input;

[1]Available at: http://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/tfwg/envppppdm/ppdm-recs.html
[2] Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters, page 6.
[3] Belarus ACCC/C/2009/44; ECE/MP .PP/C.1/2011/6/Add.1 19 September 2011, para. 84.

(d) Rejecting the proposed decision entirely.

The statement of reasons accompanying the final decision should include a discussion of how the public participation was organized and how its outcomes have been taken into account. It is recommended that the legal framework should therefore include a clear requirement that the statement of reasons include, as a minimum:

(a) A description of the public participation procedure and its phases;

(b) All comments received;

(c) How the comments received have been incorporated into the decision, identifying clearly which comments have been accepted in the final decision, where and why, and which have not and why not.

The obligation to take into account the outcome of the public participation should be interpreted as the obligation that the final written decision includes a discussion of how the public participation was taken into account[4]. The Committee has noted that a system where, as a routine, comments of the public were disregarded or not accepted on their merits, without any explanation, would not comply with the Convention[5].

Additionally, as it is pointed to in Maastricht Recommendations, preparing a table of the comments, without actually making any changes to the actual draft decision as a result of those comments, cannot be seen as taking due account of the outcomes of the public participation.

In Communicant's opinion Provisions of the Public Participation Act do not ensure that the public comments will be effectively taken into account in the decision-making on environmental matters. It is result of the fact, that Public Participation Act obligates the Authority to explain in summary only which comments were taken into account and to what extent they were accepted. Public Participation Act doesn't obligate the Authority to explain **why** some comments were accepted in final decision and, what is more, **why some comments were not accepted**. It may lead to a rather cursory and superficial analysis of comments, done pro-forma without further assessment. If the Authority is not obligated to present the reasons why it did not accept some comments, the public does not have any evidence that comments were actually considered by the Authority. Furthermore, the public does not have any information why comments were not accepted and what were the reasons behind such decision. Such outcome does not support the objectives of the Aarhus Convention – the improved public participation in decision-making, which enhances the quality and the implementation of decisions, contributes to public awareness of environmental issues and gives the public the opportunity to express its concerns and enables public authorities to take due account of such concerns.

In Communicant's opinion, these provisions of the Public Participation Act do not ensure compliance with the Aarhus Convention. The summary of reasons accompanying the decision should include a discussion of how the public participation was organized and its outcomes taken into account. It is recommended that the legal framework should therefore include a clear requirement that the statement of reasons include, as a minimum, *inter alia*, how the comments received have been incorporated into the decision, identifying clearly which comments have been accepted in the final decision, **where and why, and which have not and why not.** Polish Act does not fulfil these requirements.

[4] Spain ACCC/C/2008/24; ECE/MP.PP/C.1/2009/8/Add.1, 30 September 2010, para.100

[5] Spain ACCC/C/2008/24; ECE/MP.PP/C.1/2009/8/Add.1, 30 September 2010, para.101

In Communicant's opinion, flaws of Polish implementation of the provisions of the Aarhus Convention are reflected in already presented procedure of adopting changes to voivodeship spatial development plan[6]. In this procedure several comments were filled by the public. At the end of procedure these comments were presented in a form of table. To every comment a letter from A to E was assigned stipulating whether the comment was accepted or not. Comments marked with letter D were not accepted because they were in contrary to the voivodeship's policy. Additionally, for some of the comments, short justification was provided in the table, while for the rest of the comments there were supposed to be separate justifications provided according to the information presented in the table.

Firstly, the Communicant notes that not all justifications were published by the Authority. Regardless of the above, for comments stated as being in contrary to the voivodeship's policy there were no reasons for their not acceptance at all. Elaborated Authority's reasoning to a comment of "Stowarzyszenie Nie kopalni odkrywkowej'" concerned only part of comments marked with letter E and B, not D. Authority didn't explain why it did not accept comments marked with letter D. Information that it is in contrary to voivodeship's policy is not sufficient. Authority did not explain exactly what kind of policy it referred to. It is the effect of lack of general obligation in the Public Participation Act to provide further explanation why comments were not accepted.

If polish law would have provided regulation obligating Authority to explain why public comments were not accepted, Authority would explain in adequate way why these comments were not accepted, without referring to general statement that it is in contrary to voivodeship's policy.

Taking into account the above, in Communicant's opinion, it follows that Art. 7, art. 6(3), art. 6(4) and art. 6(8) of the Aarhus Conventions are not sufficiently implemented in polish legal order.

2. Restrictions to access to justice.

The Communicant sustains that access to justice concerning complaints for resolutions of a local government is highly restrictive to individuals as well as to non–governmental organisations. In Communicant's opinion, it results in non-compliance with Art. 9(3) of the Aarhus Convention.

2.1. General regulations.

According to art. 90 (1) of the Voivodeship Self–Government Act[7] (hereinafter: Voivodeship Act), any person whose legal interest or right is violated by local law, issued in administrative matter, may bring an action. This action can be brought to administrative court after an ineffective demand to stop the violation.

Art. 91 (1) of the Voivodeship Act states that, art. 90 is adequately applied when voivodeship authorities violates anybody's legal rights by legal or actual action.

Thus, in order to contest successfully voivodeship authority's local law or legal or physical action, violation of legal interest must be proved. The legal interest, according to jurisdiction and doctrine, must be concrete, individual, actual and objective. Violation of legal interest must by actual, not occurring only in the future, not potential or possible.

[6] See point III. 1.1. of the Communication.
[7] Ustawa z dnia 5 czerwca 1998 r. Samorząd województwa. (t.j. Dz. U. z 2016 r. poz. 486).

Above-listed requirements for the complaint are applied also to municipality government's resolution and county government's resolution:

Art. 101 (1) of the Municipality Self – governments Act[8] states that, any person whose legal interest or right is violated by resolution or ordinance, issued in administrative matter, may contest to administrative court after an ineffective demand to stop the violation.

Art. 87 (1) of the County Self – governments Act[9] states that, any person whose legal interest or right is violated by resolution, issued in administrative matter, may contest to administrative court after an ineffective demand to stop the violation.

2.2. Limited access to justice for NGOs

Non – governmental organisations, including ecological organisations, are acting in public interest. Their actions are based on the act regulating activity of this type of organisations and on their internal statutes. NGO usually serve common social interest of the community and so their actions are often neither related directly to their own legal interest, nor based on violation of their own legal interest.

For these reasons, existing rules of polish law[10], according to which in order to contest voivodeship, county or municipality government's resolution a complainant must prove violation of his or hers own legal interest, exclude NGOs from taking action and appealing against the resolution in common social interest. In Communicant's opinion, these criteria present an excessive limitation to access to justice for NGOs in environmental matters.

Case examples:

1. Voivodeship Administrative Court in Warsaw in the judgement of 30 September 2005, no. IV SA/Wa 338/05, stated that it is **impossible for NGO** to appeal against the municipality government's resolution being local law, if this resolution does not concern directly NGO's legal interest or legal duties, but concerns only NGOs' statutory objectives.
2. Supreme Administrative Court in the verdict of 15 may 2006, no. II OSK 1457/05 stated that, there is **no possibility for NGO** to appeal against local law which does not concern NGOs' legal interest or legal duties, but concern only NGO statutory objectives.
3. Voivodeship Administrative Court in Białystok in the verdict of 23 June 2010, no. II SA/Bk 171/10, found that, for stipulating that NGO has a legal standing to appeal against the local law it is not enough to link the content of contested resolution with NGO's statutory objectives, without linking the content with violation of NGO's own legal right. NGO cannot appeal against municipality government's resolution on the bases of art. 101 of the Municipality Self – governments Act solely pointing to NGO's statutory objectives. In such case NGO is not acting against violation of its own legal interest, but is acting to serve common social interest. **Serving common social interest is not a base for a claim** on the basis of art. 101 (1) of the Municipality Self – governments Act.

[8] Ustawa z dnia 8 marca 1990 r. o samorządzie gminnym. (t.j. Dz. U. z 2016 r. poz. 446).
[9] Ustawa z dnia 5 czerwca 1998 r. o samorządzie powiatowym. (t.j. Dz. U. z 2015 r. poz. 1445 z późn. zm.).
[10] Art. 90 (1) and Art. (1 (1) of the Voivodeship Self–Government Act, Art. Art. 101 (1) of the Municipality Self – governments Act and Art. 87 (1) of the County Self – governments Act

Above-mentioned judgements present most common opinion among administrative courts which excludes NGOs from taking action and appealing against the resolution of voivodeship, county or municipality government's resolution not concerning NGO's own legal interest, but only common social interest.

As it was stipulated by Compliance Committee, the Parties may not take the clause "*where they meet criteria, if any, laid down in its national law*" as a justification for introducing or maintaining so strict criteria that they effectively bar all or almost all environmental organisation from challenging acts or omissions that contravene national law relating to the environment[11].

Accordingly, the phrase "*the criteria, if any, laid down in national law*" indicates a self-restraint on the parties not to set too strict criteria. Access to such procedures should thus be the presumption, not the exception. One way for the Parties to avoid a popular action ("actio popularis") in these cases, is to employ some sort of criteria (e.g. of being affected or of having an interest) to be met by members of the public in order to be able to challenge a decision. However, this presupposes that such criteria do not bar effective remedies for members of the public[12].

In Communicant's opinion provisions of polish law effectively bar all environmental organisations from challenging municipality/country/voivodeship government's resolutions that contravene national law relating to the environment.

The Communicants is therefore convinced that Republic of Poland is not in compliance with the requirement of Art. 9 (3) od the Aarhus Convention.

2.3. Limited access to justice for individuals

Term *legal interest* and *violation of legal interest* is very strictly and rigidly interpreted by administrative courts in Poland. Additionally, courts very rigidly stipulate the circumstances under which violation of legal interest may be stated.

As already mentioned, in administrative court's opinion, legal interest must be concrete, individual, actual and objective. The legal interest is concrete when there is a specific, distinct legal provision which grants a person legal rights. Furthermore, the legal interest is individual when the contested authority's legal action influences complainant's own legal status. Above-listed criteria are interpreted by administrative courts in a strict and narrow manner.

Usually the only individuals who can prove violation of their legal interest by voivodeship's/county's/municipality's resolution are entities whose property right may be affected by the resolution. Other individuals, who can be affected by those resolutions in other than property right, e.g. right for protection of the health or right for favourable environment, are not recognised as affected.

The Communicant points out, that a requirement to prove violation of legal interest causes that private entities can appeal against the resolution concerning environmental issues only by linking the resolution to their ownership of the real estate which is directly influenced by the resolution. In practice this is the only way to prove violation of legal interest. Existing law indisposes members of the public concerned about environmental issues to file an appeal proving with success violation of legal interest, without referring to ownership of real estate.

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[11] Belgium, ACCC/C/2005/11, ECE/MP.PP/C.1/2006/4/Add.2, 28 July 2006.

[12] Belgium, ACCC/C/2005/11, ECE/MP.PP/C.1/2006/4/Add.2, 28 July 2006.

Case examples:

I.

Judgement of Voivodeship Administrative Court in Białystok of 28 February 2012, no. II SA/Bk 891/11.

Resident of Białystok, owner of dogs, appealed against municipality government's resolution ordering walking dogs only on a leash and muzzled.

Voivodeship Administrative Court in Białystok found that challenged resolution does not violate any legal interest of this complainant, that could find grounds in any legal provisions.

Additionally, Court pointed that, right to appeal against municipality government's resolution is not *actio popularis*. Even if resolution is contrary to the law, it does not give someone's right to appeal against it, if this resolution does not violate this person's legal interest.

II.

Verdict of Voivodeship Administrative Court in Wrocław of 27 February 2013, no II SA/Wr 788/12.

In this verdict Court stated that, allegations to resolutions, pointed by appellant, concerning:

- environmental issues,
- impact of windmills on human settlement,
- landscape degradation,
- land price drop in the area,
- farm performance degradation
- farm price drop

show that appeal was filled in public interest, not in appellant's concrete interest, what is illegal and so it was dismissed.

Art. 9(3) of the Arhus Convention states that members of the public who meet the potential criteria stipulated by national law, have a right to access to administrative or judicial procedures. It follows that criteria stipulated by national law should be adequate, should not put excessive limitation on members' of the public right to access to administrative or judicial procedures.

In Communicant's opinion criteria stipulated by polish law are not adequate. Requirement to prove violation of legal interest and restricted interpretation of term *violation of legal interest* causes that significant amount of members of the public do not have access to justice in environmental matters.

A strict application of this principle in matters of access to justice under the Convention would imply non-compliance with article 9, paragraph 3, of the Convention, since many

contraventions by public authorities would not be challengeable unless it could be proven that the contravention infringes a particular legal interest.[13]

The Communicants is therefore convinced that Republic of Poland is not in compliance with the requirement of Art. 9 (3) of the Aarhus Convention.

3. Response to opinion presented by the Party concerned in Reply to Communication ACCC/C/2014/119

3.1. Evaluation of public consultation.

Republic of Poland claims that during procedure of the adoption of the Spatial Development Plan of the Voivodeship, Authority sufficiently addressed the comments in the course of the public consultation process. In Republic of Poland's opinion, comments were not rejected automatically and exhaustive replies were given to them. As it was already explained[14], these statements in Communicant's opinion are not true.

In this procedure to every comment a letter from A to E was assigned stipulating whether the comment was accepted or not. Comments marked with letter D were not accepted because they were in contrary to the voivodeship's policy.

Communicant notes that not all justifications were published by Authority. Regardless of the above, comments stated as being in contrary to the voivodeship's policy were not reasoned at all. Authority didn't explain why it did not accept comments marked with letter D. General information that it is in contrary to voivodeship's policy should not be considered as sufficient. Authority did not explain which specific policy does it refer to or is it changeable or not policy. It is the effect of lack of obligation in the Public Participation Act to explain why comments were not accepted.

3.2. Restricting the rights of environmental organisations and private persons to access to justice

3.2.1.

The Party concerned stated that the voivodeship spatial development plan does not directly shape the manner in which the ownership right to the real estate is exercised. Such obligation can only be imposed by the local development plan.

The Communicant agrees that it is true that the manner of exercising the ownership of the real estate is mainly shaped by local spatial development plan. However, voivodeship spatial development plan forms a basis for a local spatial plan, hence has such an impact on local spatial development plan, that it is obvious that voivodeship spatial development plan shape the manner of exercising the ownership of the real estate.

According to art. 10 (2.7) of the Spatial Planning and Development Act[15], areas where public utility investments are located, according to voivodeship spatial development plan, shall be stipulated in the study (Study of the Conditions and Directions of Spatial Development of Municipality).

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[13] Germany ACCC/C/2008/31; ECE/MP.PP/C.1/2014/8, 4 June 2014, para. 95

[14] See part. 1, page 4.

[15] Ustawa z dnia 27 marca 2003 r. Planowanie i zagospodarowanie przestrzenne. (t.j. Dz. U. z 2015 r. poz. 199 z późn. zm.).

Art. 12 (3) of the Spatial Planning and Development Act states that, if the Municipality council does not pass the study, does not change the study or does not stipulate in the Study areas where public utility investments are located, according to voivodeship spatial development plan or different listed programmes, Voivode shall demand from Municipality council to pass the study or to change the study. This demand is made after consulting with required under the law entities term of conducting the investments and conditions of implementations this investment into the study. If such demand is not followed by the Municipality, Voivode prepares local spatial development plan or it's changed for the area affected by Municipality negligence. Prepared plan or it's change should be in range indispensable for realisation of public utility investment. Voivode issues replacement ordinance with prepared plan or it's change.

Furthermore, according to art. 15 (3.4b) of the Spatial Planning and Development Act, if needed, borders of areas where public utility investments are located, according to voivodeship spatial development plan, shall be stipulated in local spatial development plan.

Provisions cited above show that if voivodeship spatial development plan stipulates public utility investment, Municipality is not allowed to fully define a function of the area where public utility investments are planned. Municipality is obligated to include public utility investment into study of the conditions and directions of spatial development of municipality and into local spatial development plan. Furthermore, after including public utility investment in voivodeship spatial development plan, Municipality is obligated to pass the study or to change the study accordingly, so that it includes public utility investment. Municipality does not have any freedom in such case. A decision whether to include public utility investment in the Municipality and where exactly, is made in voivodeship spatial development plan. So it is not accurate to conclude, as Party concerned has claimed, that voivodeship spatial development plan does not shape the manner of exercising the ownership of the real estate.

3.2.2.

The Party concerned stated that the parties will still have another possibility, after adopting voivodeship spatial development plan, of expressing their views on the provisions of the local land use plan, which provides for wider possibilities for public participation.

It is true that during the procedure of adopting the Study or adopting the local spatial development plan, members of the public have the possibility to file their comments. These comments may concern planned utility public investment. However, because of the fact that Municipality does not have any effective influence on the decision about public utility investment after a voivodeship spatial development plan is adopted, these comments are not going to be taken into consideration and cannot have impact on public utility investments included in local spatial development plan, hence being ineffective and only formal. Therefore, the Communicant does not agree with the position presented by the Party that after adopting voivodeship spatial development plan, members of the public will have another possibility of expressing their views on the provision of the local land use.

3.2.3.

Comment to the verdict of Supreme Administrative Court of 21 March 2012, no. XXII/191/12.

Supreme Administrative Court, as well as, Voivodeship Administrative Court in Gorzów Wielkopolski dismissed the case. Supreme Administrative Court stated that appellant's legal interest was not violated. Additionally, Supreme Administrative Court pointed that challenged resolution is general and there is no specific provision stipulating the construction of a strip mine. Court recognized area defined as "lignite deposit complex in the Gubin and Brody

municipalities" as a problematic area that requires detailed, separate analysis and decisions conducted in addition to the planning activities related to the voivodeship development plan. The court also noticed that "*Gubin" lignite deposit, location Gubin municipality, Brody municipality* was listed as a public utility investment of a supra-local importance.

It is true that in resolution of the Lubuskie Voivodeship Council no. XXII/191/12, "*Gubin" lignite deposit, location Gubin municipality, Brody municipality* was listed as a public utility investment of supra-local importance (page no. 258). But the resolution did not explain in that part what exactly this investment means and how it is going to be realised.

According to art. 6 (8) of the Real Property Management Act[16], public utilities are prospecting exploration and exploitation of minerals.

Communicant states that analysis of all content of the resolution and its attachments shows that in Gubin Municipality and Brody municipality construction of a strip mine is planned. This is indicated by the following:

- In the description of the main problematic areas it is mentioned that problematic area will be the area of possible mining of lignite's deposit Gubin and Gubin 1 and possible location of power plant of the capacity of 3000 MW. This area is protected from any building and infrastructure development with the exception of development related to mining industry.
- Map no. 8 entitled "Synteza – ocena uwarunkowań i możliwości rozwoju województwa" (Synthesis – evaluation of conditions and capabilities of voivodeship's development) presents the area of strategic resources – lignite deposit "Gubin". According to map no. 8 the same area accommodates location of lignite power plant of the capacity of 3000 MW. Similar contents concerning lignite deposit and lignite power plant are presented on maps no. 9, 10 and 11.
- Map no. 13 entitled "Plan struktury funkcjonalno – przestrzennej – kierunki polityki przestrzennej. Strefa ekonomiczno - gospodarcza" (Plan of the spatial and functional structure – guidelines for spatial development policy. Economic zone.) presents the area of mining for natural resources which overlaps with the area of lignite's deposit Gubin and Gubin 1, presented on maps no. 8, 9, 10 and 11.
- Also Map no. 16 entitled "Plan struktury funkcjonalno – przestrzennej – kierunki polityki przestrzennej. Strefa obronności i bezpieczeństwa" (Plan of the spatial and functional structure – guidelines for spatial development policy. Defence and safety zone.) presents the area of mining for lignite. This area also overlaps with the area of lignite's deposit Gubin and Gubin 1, presented on maps no. 8, 9, 10 and 11.
- Map no. 17 entitled "Plan struktury funkcjonalno – przestrzennej – kierunki polityki przestrzennej" (Plan of the spatial and functional structure – guidelines for spatial development policy) presents economic zone related to mining industry. This zone in protected from any building and infrastructure development not related to mining industry. This zone also overlaps with the area of lignite's deposit Gubin and Gubin 1, presented on maps no. 8, 9, 10 and 11.

All areas mentioned above and shown on maps no. 8, 9, 11, 13, 16 and 17 overlap with the area called Lignite deposit "Gubin" and "Gubin 1". This area is presented on map no. 18 entitled "Plan struktury funkcjonalno – przestrzennej – kierunki polityki przestrzennej. Inwestycje celu publicznego." (Plan of the spatial and functional structure – guidelines for spatial development policy. **Public utility investments**). Therefore, the statement of the Supreme Administrative Court should not be considered as accurate, that voivodeship spatial

[16] Ustawa z dnia 21 sierpnia 1997 r. o gospodarce nieruchomościami. (t.j. Dz. U. z 2015 r. poz. 1774 z późn. zm.).

development plan does not indicate the construction of a strip mine in the area where appellant's real estate is located. The content of the resolution and the content of the resolution's attachments clearly indicate that voivodeship spatial development plan involves public utility investment consisting of lignite strip mine.

Error in the judgement made by Supreme Administrative Court results from a rigid and strict interpretation of the term *violation of legal interest.* Otherwise Supreme Administrative Court would not require clear information about construction of strip mine in the text part of the plan. Instead, Supreme Administrative Court would consider the whole content of the resolution and the content of the resolution's attachment and would come to the conclusion that appellant's legal interest is violated by public utility investment – lignite strip mine.

3.2.4.

It is true that the Communicant has not presented evidence of filling own complaint to Administrative Court against resolution of the Lubuskie Voivodeship Council no. XXII/191/12. In Communicant's opinion it was superfluous because of common opinion among the administrative courts that it is **impossible for NGO** to appeal against the municipality/county/voivodeship government's resolution, if this resolution does not concern directly NGO's legal interest or legal duties, but concerns NGOs' statutory objectives.

In Communicant's opinion taking this action would only needlessly prolong the procedure.

Kraków, 30 May 2016

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