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ECONOMIC COMMISSION
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Ref: ACCC/C/2014/119

14 June 2016

Mr. Jaroslaw Mielnik
Chief specialist
Department of Environmental Information
Ministry of Environment
Poland

Dear Mr. Mielnik,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Poland with the provisions of the Convention in connection with the Development Plan for the province of Lubuskie (ACCC/C/2014/119)

I refer to your emails of 4 and 9 June 2016 and Ms. Kur's letter of 13 June 2016 in which the Government of Poland has submitted that the Committee should consider the comments provided by the communicant on 30 May 2016 to be inadmissible or otherwise to defer the hearing of communication ACCC/C/2014/119 to be held at the Palais des Nations on Wednesday, 22 June 2016.

Your emails of 4 and 9 June 2016 and letter of 13 June 2016 were duly forwarded to the Committee for its consideration.

The Chair of the Committee has asked me to inform you that the hearing scheduled for next Wednesday, 22 June 2016 will go ahead as scheduled.

The Committee takes a dim view of new allegations being introduced after a communication is submitted. However, in this case, the communicant in its communication of 28 November 2014 already alleged that the Government of Poland was in non-compliance with article 6, paragraph 8 in connection with article 7 in the decision-making on the Development Plan for Lubuskie Voivodship.

Therefore, irrespective of the communicant's letter of 30 May 2016, the Committee would in any event examine the applicable provisions of Polish legislation as an essential step in examining the allegation concerning article 6, paragraph 8 and article 7 with respect to the decision-making on the Development Plan for Lubuskie Voivodship.

The Committee considers that examining the applicable provisions of the Party concerned's legal framework is a fundamental step in considering any communication, whether the communication concerns a "one-off event" or an alleged systemic issue, in order for the Committee to gain a clear and accurate understanding of the facts at issue in the case.

In this regard, it has been the Committee's consistent practice in every case since February 2011 that all findings have a section on the Party concerned's legal framework (see Part II, Section A "Legal Framework" in all findings adopted since February 2011). This practice applies irrespective of whether the communicant claimed that the legal framework was in non-compliance or not. The same approach will therefore apply to the current case.

In the present case, the Committee understands that the Government of Poland seems not to have appreciated the fact that the applicable legislation will necessarily form part of the Committee's review. The Committee does not consider that this presents a ground for deferring the hearing. Rather, at the hearing the Government of Poland is invited to present its substantive response to the communicant's allegations in the manner that it considers will best demonstrate to the Committee that it is fully in compliance with the Convention, including with respect to the applicable legislation. If the Government considers it would like to provide additional information after the hearing, it is entitled to do so. Moreover, it is the Committee's usual practice to invite the parties to respond to further questions in writing after the hearing, and the Government of Poland will thus have an opportunity to further expand on its views as to how the relevant legislation fully meets the requirements of the Convention at that time.

I hope the above satisfies your concerns. Please do not hesitate to contact me if you have any questions about the above.

Yours sincerely,



Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of the Republic of Poland to the United Nations Office and other international organizations in Geneva
Katarzyna Lichwa, Frank Bold Foundation, representing the communicant of communication
ACCC/C/2014/119