



Warsaw, 13 June 2016

MINISTER OF THE ENVIRONMENT

025-IV.048.7.2016

Ms Fiona Marshall
Secretary to the Aarhus Convention
Compliance Committee
UN Economic Commission for Europe
Environment Division
Room 429-2
Palais des Nations
CH-1211 Geneva 10
Switzerland

Dear Ms Marshall,

Further to the clarification letter dated 30 May, 2016 concerning communication ACCC/C/2015/119 the Government of the Republic of Poland would like to present its position on the above mentioned document.

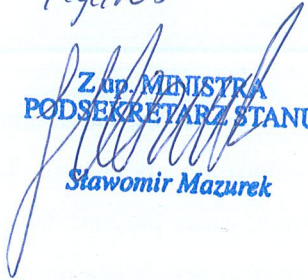
In the opinion of the Government of the Republic of Poland clarifications provided for by the Frank Bold Foundation should not be regarded as admissible at this stage of proceedings before the Committee since they are beyond the scope of the original communication. The communicant *inter alia* presents new allegation that Act of 3 October 2008 on the Public Access to Information on the Environment and Its Protection, the Public Participation in Environmental Protection and Environmental Impact Assessments fails to comply with the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

In accordance with the “*Guidance Document on Aarhus Convention Compliance Mechanism*”: “The communication should **contain all information which is considered essential to establish the alleged non-compliance** and should clearly state how the facts presented constitute a case of non-compliance with the Convention. A communication may concern: a) a general failure by a Party to take the necessary legislative, regulatory or other (e.g. institutional, budgetary) measures necessary to implement the Convention as required under its article 3, paragraph 1; b) a failure of specific

legislation, regulations or other measures implementing the Convention to meet specific requirements of its provisions; c) Specific events, acts, omissions or situations that demonstrate a failure of the public authorities to comply with or enforce the Convention.” Moreover, the annex to the Guidance Document stipulates the necessary information to be included in the communication - “(...) detail the facts and circumstances of the alleged non-compliance. Include all matters of relevance to the assessment and consideration of your communication. Explain how you consider that the facts and circumstances described represent a breach of the provisions of the Convention.”

In the opinion of the Government of the Republic of Poland, Frank Bold Foundation clarifications present new substantial allegations in comparison to the original communication. Allowing the admissibility of clarification letter might deprive the Republic of Poland of the possibility to address these new allegations thoroughly with fair chance to provide detailed answer to the communication.

Taking the abovementioned arguments into account, the Government of the Republic of Poland request that the clarifications presented by Frank Bold Foundation in relation to the communication ACCC/C/2014/119 should not be regarded admissible at this stage of the proceedings before the Committee or, if the Committee would decide otherwise, additional time limit should be established for the response to the new allegations presented by the Foundation. As regards these arguments it seems reasonable to postpone the scheduled hearing to the next session of the Compliance Committee.

regards

Zdr. MENISTRA
PODSEKRETARZ STANU
Stawomir Mazurek