

19 July 2018

Jarosław Mielnik
Chief specialist
Department of Environmental Information
Ministry of Environment
Warsaw, Poland

Mirosław Przyborowski
The 'Healthy Municipality' Association
(Stowarzyszenie 'Zdrowa Gmina')
Bakałarzewo, Poland

Dear Mr. Mielnik,
Dear Mr. Przyborowski,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Poland with the Convention in connection with public participation in decision-making and access to justice regarding overhead powerlines (ACCC/C/2015/126)

During the hearing of the above communication at its sixtieth meeting (Geneva, 12-15 March 2018), the Compliance Committee indicated that it would send further questions for the written reply of the communicant and the Party concerned in due course. Please find **enclosed** the Committee's questions for the reply of each party.

I would be grateful to receive your replies to the enclosed questions on or before **19 September 2018**. Please send your replies to aarhus.compliance@unece.org, copying the other party.

The other party will have **one month** from the receipt of your answer to provide the Committee with any comments it wishes to make on your reply.

Please do not hesitate to contact the secretariat if you have any questions regarding the above.

Yours sincerely,



Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of Poland to the United Nations Office and other international organizations in Geneva

Enc: Questions from the Compliance Committee to the communicant and the Party concerned

Questions to both parties:

1. Does the Polish legislation expressly require that submitted comments be reasoned? Is there any formal requirements for the form in which comments may be submitted? **To the Party concerned:** Please provide the text of the relevant provisions, together with an English translation thereof.
2. Can a Substitute Order/Local Spatial Development Plan be appealed or challenged? On what grounds? Can a Substitute Orders/Local Spatial Development Plan be contested on the ground that comments received from the public were not taken into account?

Questions to the communicant:

3. Please provide the Committee, both in Polish and with English translations thereof:
 - (a) The objections and comments (including any requests to involve experts in the proceeding) you submitted during the EIA procedure which you allege were not taken into account in the decision-making. Please ensure that the date of each comment, who submitted it and who it was submitted to, is visible;
 - (b) The official answers to these objections and comments received during the public participation procedure from (i) the investor; and (ii) the competent public authority.
4. Please provide the Committee, both in Polish and with English translations thereof:
 - (a) The comments you submitted during the adoption of the Local Spatial Development Plan (Substitute Order) which you allege were not taken into account in the decision-making. Please ensure that the date of each comment, who submitted it and who it was submitted to, is visible;
 - (b) The official answers to these comments received either from the investor or from the competent public authority.
5. On page 10 of the re-submitted communication, you assert that “Polish authorities explained that it is the EU that forced them to hasten project realization under the pressure of losing EU funds.” If you wish the Committee to consider your assertion, please provide any evidence you have that shows the precise content of what was said by the Polish authorities in this regard.
6. On page 11 of the re-submitted communication, you refer to “intimidation by employees of the Internal Security Agency”. If you wish the Committee to consider this aspect, please provide further details of the alleged intimidation and any evidence you have to support your allegation.

Questions to the Party concerned:

7. Please provide the following, in Polish together with an English translation thereof:
 - (a) Appeal decision of 16 December 2013 ref. No. DOOS-OAI.4202.3.2013AL7, issued by General Directorate for Environment Protection;
 - (b) Judgment of 25 September 2014, ref. No. IV SA/WA 308/14, issued by Voivodeship Administrative Court in Warsaw;
 - (c) Judgment of 28 July 2016 issued by the Supreme Administrative Court, regarding the appeal from the above case;
 - (d) Substitute Order (16 July 2014) of the Voivodeship of Podlaskie Voivodeship on the adoption of a Local Spatial Development Plan on Bakalerzewo;
 - (e) All notices issued by the Regional Directorate for Environmental Protection about the possibility for the public to participate, to submit their comments and about access to EIA report. In addition to providing a copy of each notice, please also specify how each was published;
 - (f) The non-technical summary of the EIA report, and the outline of the main alternatives studied by the investor.
8. Was the Local Spatial Development Plan subject to public participation prior to its adoption through the Substitute Order? If so, please describe the public participation procedure carried out, including all relevant timeframes. How was the public participation procedure announced?
9. Please specify when and how the public was notified of the adoption of the Substitute Order after its adoption.
10. It appears from the decision of the Regional Director for Environment Protection in Bialystok, ref. No. WOOS-II.4202.1.2012.AS provided to the Committee at the hearing, that it analysed six variants plus the “zero” variant and the cable variant. Was the public notified of the existence of all these variants and informed of their opportunities to comment on each of them? If yes, please specify how and when the public were notified regarding each variant. Please provide (both in Polish and English translations thereof) the relevant documents in which the public was informed of these eight variants and their opportunities to comment on them.
11. With regard to the EIA decision, you state on page 10 of the response to the communication that the Regional Department for Environmental Protection sent a letter to the Municipality asking that a notice be published on the bulletin board and in any other manner accepted in the municipality. Please provide a copy of this notice, in both Polish together with an English translation thereof, and specify where and when (including where relevant the beginning and end dates of publication) this notice was published by the Municipality.