



Warszawa, dnia 7, 09, 2017 r.

MINISTER ŚRODOWISKA

D25-IV.078.12.2017.JM

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 information about a new communication concerning Poland (PRE/ACCC/C/2017/146) I would like to present a position of the Polish government on that issue.

I would like to underline that in accordance with paragraph 21 of decision I/7 and decision V/9 of the Meeting of the Parties, the Committee should take into account the exhaustion of national remedies. In this particular case the Communicant indicated that non-governmental organizations cannot participate in proceeding regarding water permits. I do not share that approach.

All matters enlisted in points 10,11 and 13 of Annex I to the Aarhus Convention are subject to the Environmental Impact Assessment. According to the Regulation of the Council of Ministers of 9 November 2010 on projects which are likely to have significant effects on the environment (Official Journal of 2009 item 71) all activities under points 10, 11 and 13 of the Annex are always likely to have significant effects on the environment. Therefore, in accordance with article 59 of the Act of 3 October 2008 on Facilitating the Access to Information on the Environment and its Protection, Public Participation in Environmental Protection and the Environmental Impact Assessment (Official Journal of 2017 item 1405) before starting proceedings leading to issuing a water permit there must be carried out an environmental impact assessment procedure. In accordance with article 44 of the above mentioned Act on access to information on the environment, non-governmental organizations can participate in such proceedings as a party.

All matters related to the environment are decided on a stage of EIA proceedings. And all options at this stage are available. The water permit itself defines only the aim, the scope and obligations related to manner in which the water resources would be utilized.

The Communicant should in the first place use the opportunity to take part in EIA proceedings which are giving non-governmental organizations an effective access to decision making process and consequently an access to justice. The Communicant did not use that opportunity. That is why in my opinion the communication PRE/ACCC/C/2017/146 should be deemed as a not admissible.

Yours sincerely,
Z up. MINISTRA
PODSEKRETARZ STANU

Mariusz Gajda