



COMMISSIONER FOR HUMAN RIGHTS

Warsaw, 4 May 2020

Adam Bodnar

V.0720.1.2020.LK

Mrs Karima Bennoune

**UN Special Rapporteur
in the field of cultural rights**

Dear Madam Special Rapporteur,

In response to your request for submissions concerning climate change impact on cultural rights, I hereby provide the following information. Please bear in mind that this information is based mainly on the institutional knowledge of the Commissioner for Human Rights of the Republic of Poland. In the broad range of environmental cases dealt with by my Office, the climate change impact on cultural rights has appeared mostly as a collateral issue. In order to fulfill your request, I addressed the Ministry of Internal Affairs and Administration and the Ministry of Culture to provide me with additional data concerning any governmental studies on the climate change impact on – respectively – rights of minority groups residing in Poland, and access to cultural goods (other than nature itself). The Ministry of Internal Affairs and Administration does not carry out research on the subject. The Ministry of Culture has unfortunately been unable to provide me with the requested information early enough to include it in this letter. Therefore, I will be able to provide you with the information from those institutions at a later date.

*The 2030 National Environmental Policy*¹ (hereinafter referred to as „the Policy”) is the government’s main environmental strategy document. It was prepared in accordance with the provisions of the Act on the Principles of the Pursuit of Development Policy². The objectives of the Policy include the management of natural and cultural heritage resources, including the improvement and protection of biological and landscape diversity, as well as climate change mitigation. One of the components of the Policy is the adaptation to climate

¹ Adopted by Resolution no. 67 of 16 July 2019 of the Council of Ministers https://bip.mos.gov.pl/fileadmin/user_upload/bip/strategie_plany_programy/Polityka_Ekologiczna_Panstwa/Polityka%20Ekologiczna%20Pa%C5%84stwa%202030%20ENG_wersja%20internet.pdf

² Act of December the 6th 2006 (OJ of 2019 item 1295).

change. It acknowledges the need of a locally based approach to the adaptation to climate change and provides for the implementation of local adaptation programmes. Such local programmes (in particular, for urban areas) are under development. The Policy and its components identify resources (i.e. waters, forests, landscape) crucial for the protection of cultural rights that are endangered by the climate change and aim at the protection of those resources. It acknowledges the risk of growing competition for natural resources and migration of populaces from endangered areas. The Policy, however, does not relate directly to the protection of cultural rights.

An example of a site of vast cultural significance, endangered by the climate change in Poland, is the Białowieża Forest. One of the main threats to the site is the risk of drought that might cause extensive fires. As a UNESCO World Heritage Site, the Białowieża Forest should be protected under an Integrated Management Plan. Such document has not yet been prepared for the Białowieża Forest. One of its parts, as stipulated in the decision of the UNESCO World Heritage Committee³, should be a comprehensive Forest Fire Prevention and Suppression Plan. The work on the Plan is still in progress.

Excessive development of farming industry (especially, industrial poultry and porcine farms) is considered as one of the factors contributing to the climate change. Limiting the proliferation of this industry is also essential for preserving the cultural heritage and enjoyment of cultural rights of rural people, including some ethnic minorities residing in Poland. Without effective legislation that could restraint the expansion of large-scale animal husbandry (sought by the Commissioner for Human Rights since 2006), even objects of significant cultural value, such as the Kruszyniany Mosque, might be in danger. Kruszyniany alongside Bohoniki is the traditional center of the Polish-Lithuanian Tatar Community (there are plans to include Tatar heritage areas of Poland, Belarus and Lithuania as the UNESCO World Heritage Site). Lately, some investors have been trying to locate large poultry farms as near as a few hundred meters from the site of the Kruszyniany Mosque. I formally joined the administrative proceedings on the matter in order to help the local community to save its unique heritage.

I note a serious threat to the universal right to use the environment⁴ due to massive droughts caused by the climate change. Fire hazard and low water levels might cause the introduction of a keep-out policy by public waters and forests management bodies.

National legislation⁵ provides citizens with the formal right to participate in the decision-making process as well as in the process of adoption of strategic documents concerning

³ Decision: 43 COM 7B.14.

⁴ The right is expressly granted in national legislation and includes the right to use state-owned waters and forests for leisure, tourism and sport.

⁵ Act of 3 October 2008 on sharing information about the environment and its protection, on public participation in environmental protection and on environmental impact assessment (Dz. U. [Journal of Laws] of 2020, item 283).

environmental protection. This includes the right to submit comments on the proposed decisions/strategic documents before they are formally adopted. However, the judicial control of the adopted decisions/strategic documents is insufficient as national legislation is not in full consistency with the Aarhus Convention (as shown in the case of the amendment of the Forest Management Plan for the Białowieża Forest: the complaint on the amendment, filed by me with Regional Administrative Court in Warsaw, was deemed inadmissible).

There is a risk of violations of the rights of persons involved in environmental protection. During the protests against extended logging of Białowieża Forest in 2017, many protesters were faced with criminal charges. The case was the subject of my investigation. Among other actions, I addressed the Police and Lasy Państwowe⁶ stating that the persons in question should not be persecuted for protesting against logging that has been ruled as violating the EU law⁷. Another example is the case, also investigated by me, of local activists from Wielkopolska region, who were being harassed with many legal (civil, penal and administrative) actions by an entrepreneur they fought against. In this case, I provided the NGO in question with legal assistance before civil courts.

Studies show⁸ that civil society activists are exposed to numerous emotional and health threats. An important issue is experiencing hostility and violence. Many activists are the subject of negative media (also public media) campaigns. A frequent source of experienced hostility is administration bodies and politicians.

Despite the above, I note a significant increase in social awareness of the impact of climate change as well as tertiary sector activities in mitigating that impact. Environmental education is a subject of public debate (on January 13th, 2020 I addressed the Minister of Education on the introduction of a special programme on climate changes to public schools). There is a growing number of legal professionals providing legal support to environmental NGOs and activists, which enables them to act more effectively.

In conclusion, I would like to express my gratitude for addressing the subject of climate change impact on cultural rights. Climate change is a focus of public debate. It was also one of the main topics of the 3rd Human Rights Congress organized by me in Warsaw in December 2019. The event included a debate with prof. Philip Alston, UN Special Rapporteur on extreme poverty and human rights, on climate change impact on human rights. Yet, threats posed by climate change to cultural rights are still relatively uncharted. I

⁶ „National Forests”, an entity managing state-owned forests in Poland.

⁷ Judgement of the Court of Justice of the European Union of 17 April 2018.

⁸ See a report by Marzena Cypryńska-Nezlek on the challenges and threats of working for NGOs and informal social movements: https://www.rpo.gov.pl/sites/default/files/Raport%20z%20badania%20Marzena%20Cypry%C5%84ska-Nezlek_0.pdf [Polish]. Employees of the Office of the Commissioner for Human Right participated in the works on the studies.

look forward to your report on the matter in the hope it would help in introducing a more comprehensive approach to tackling climate change implications.

With best regards,

Adam Bodnar

Commissioner for Human Rights of the Republic of Poland

/signed

electronically/

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