



Executive Secretary
Under-Secretary-General

Ref.: 2020/OES/150/ENV/95

16 June 2020

Excellency,

I have the honour to write to you at the request of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

As you may be aware, at its sixty-fifth meeting (Geneva, 4-8 November 2019), the Aarhus Convention Compliance Committee held the hearing to discuss the substance of communication ACCC/C/2016/144 concerning compliance by Bulgaria with its obligations under the Aarhus Convention. By letter of 21 August 2019, the Government of Bulgaria had been invited to take part in the hearing at the sixty-fifth meeting, which took place on Wednesday, 6 November 2019.

The Aarhus Convention Compliance Committee has asked me to convey to you its serious concern that, despite the repeated reminders and even an offer to hold the hearing on an alternative date in order to facilitate its attendance, the Government of Bulgaria chose not to participate in the hearing, which was the sole opportunity for the Committee to have heard from the Party concerned and the communicant in each other's presence.

The failure by the Government of Bulgaria to participate in the hearing is all the more grave, given that it is already under a caution pursuant to paragraph 5(a) of decision VI/8d of the Meeting of the Parties.¹

Her Excellency
Ms. Ekaterina Zakharieva
Minister of Foreign Affairs
Sofia

¹ ECE/MP.PP/2017/2/Add.1.

The Committee has asked me to inform you that it will notify the Working Group of the Parties to the Convention at its upcoming twenty-fourth meeting on 1-3 July 2020 of Bulgaria's failure to attend the hearing of communication ACCC/C/2016/144. It will also report Bulgaria's non-attendance to the seventh session of the Meeting of the Parties to the Aarhus Convention in October 2021.

In the meantime, in order that it can progress in its deliberations on communication ACCC/C/2016/144, the Committee has asked me to convey the questions annexed to this letter for the Government of Bulgaria's written reply. The Government of Bulgaria is invited to provide its replies to the enclosed questions as soon as possible, and by no later than **Friday, 10 July 2020**. Please send the replies to aarhus.compliance@un.org, copying the communicant. The communicant will thereafter have two weeks to provide its comments on those replies.

I invite you to forward my letter to the Ministry of Environment and Water, the Ministry of Regional Development and Public Works and the Ministry of Justice, as well as to the Municipality of Plovdiv.

On behalf of the United Nations Economic Commission for Europe, I would like to express the willingness of the secretariat to work with the Government of Bulgaria in meeting its obligations under the Aarhus Convention. Please do not hesitate to contact the secretariat (aarhus.compliance@un.org) if you require any further information.

Please accept, Excellency, the assurances of my highest consideration.



Olga Algayerova

Cc: Permanent Mission of the Republic of Bulgaria to the United Nations Office and other international organizations in Geneva
Ms. Rositza Karamfilova, national focal point for the Aarhus Convention, Ministry of Environment and Water
Mr. Hristo Stoev, Ministry of Environment and Water
Non-profit association "Civil Control – Animal Protection", communicant of communication ACCC/C/2016/144

Enc: Questions to the Party concerned

Questions to the Party concerned

Relevant legal framework

1. Please provide the text of the following laws as in force in the period from December 2013 to March 2015, together with an English translation thereof:
 - (a) Ordinance on the conditions and order for implementation of environmental assessment of plans and programs.
 - (b) Articles 62, 125, 127, 215 of the Spatial Development Act.
 - (c) Articles 82, 87, 158 and 160 of the Environmental Protection Act.
 - (d) Article 31 of the Act on Biological Diversity.
 - (e) Article 45 of the Local Government and Local Administration Act
2. If any of the above provisions have since been amended, please also provide the text of the amended provisions as currently in force, together with an English translation thereof.
3. What provisions of primary and secondary law regulated the public participation procedure carried out in December 2013 on the draft amendment to the General Spatial Development Plan (GSDP) of Plovdiv? Please provide the text of those provisions as in force in December 2013, together with an English translation thereof. If any of those provisions have since been amended, please also provide the text of the amended provisions as currently in force, together with an English translation thereof.
4. Does the submission of a proposal or alert under Chapter 8 of the Administrative Procedure Code mean that the competent authority is **required** to undertake a review of the substance of the proposal or alert? Alternatively, does it rest within the competent authority's **discretion** as to whether or not to undertake a substantive review following the submission of a proposal or alert under Chapter 8? Please refer to the relevant legislative provisions in your reply.
5. With respect to variant 1.1. of the table in its response to the communication, the Party concerned states that "there are legal bases to impose a CAM suspension of the implementation of GSDP/GSDP amendment until completion of the EA procedure". Please clarify the following, referring to the relevant legislative provisions in your replies:
 - (a) If a CAM is issued, could it only **suspend** the implementation of an illegal GSDP/GSDP amendment, or could a CAM be issued to **quash or annul** that GSDP/GSDP amendment?
 - (b) Is there any legal mechanism through which an illegal GSDP/GSDP amendment can be quashed or annulled? If so, who can request that the illegal GSDP/GSDP amendment be quashed or annulled? Can this request be made by members of the public?

Article 7 – Plovdiv GSDP amendment

6. On what date(s) was the notice of the public hearings published? In what places and media were the notices published?
7. Other than the information contained in the public notice itself, what information was made available to the public prior to the hearings on 12, 13 and 14 December 2013? Was the text of the draft amended plan made available to the public prior to the hearing? Where was this information available to the public? How was the public informed where it could access this information?
8. Please provide Decision Is PV-3-EC I 08.05.2014 of the Director of RIEW Plovdiv, together with an English translation thereof.
9. Please provide documentary evidence to show how the outcomes of the hearings on 12, 13 and 14 December 2013 were taken into account, in a transparent and traceable way, in the decision-making on the amendment to the GSDP.

Article 9 – Plovdiv GSDP amendment

10. Please provide the text of the judgment of the Supreme Administrative Court Decision No. 5969 of 15 May 2017 on administrative case No. 14187/2015, together with an English translation thereof.
11. In its response to the communication, the Party concerned states that, in the light of the 2017 decision of the Supreme Administrative Court regarding the Plovdiv GSDP, “the case falls into the hypothesis of Variant 1.1.”. According to the table provided by the Party concerned, the legal effect of Variant 1.1 is that:

“it should be considered that there is no obligatory element of the factual aspects for it, namely entered into force EA decision/opinion (pursuant to Art. 125, para. 7 of the SDA and Art. 82, para. 4 of the EPA)”.

What, if any, action has been taken by the Party concerned since the 2017 decision of the Supreme Administrative Court to rectify the illegality of the amended Plovdiv GSDP?
