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Economic Commission for Europe

Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Fifth session

Maastricht, the Netherlands, 30 June and 1 July 2014

Item 5 (b) of the provisional agenda

Procedures and mechanisms facilitating the implementation of the Convention: compliance mechanism

Draft decision V/9g concerning compliance by the European Union with its obligations under the Convention

Prepared by the Bureau

The Meeting of the Parties,

Acting under paragraph 37 of the annex to its decision I/7 on the review of compliance,

Taking note of the report of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (ECE/MP.PP/2014/9), as well as the findings of the Committee on communication ACCC/C/2010/54 (ECE/MP.PP/C.1/2012/12 and Corr.1) in connection with Ireland's renewable energy programme and the Committee's report on the implementation of the recommendations contained in those findings (ECE/MP.PP/2014/16),

Encouraged by the European Union's willingness to discuss in a constructive manner the compliance issues in question with the Committee,

1. *Endorses* the following findings of the Committee with regard to communication ACCC/C/2010/54:

(a) That the Party concerned, by not having in place a proper regulatory framework and/or clear instructions to implement article 7 of the Convention with respect to the adoption of National Renewable Energy Action Plans (NREAPs) by its member States on the basis of Directive 2009/28/EC, has failed to comply with article 7 of the Convention;

(b) That the Party concerned, by not having properly monitored the implementation by Ireland of article 7 of the Convention in the adoption of Ireland's NREAP, has also failed to comply with article 7 of the Convention;

(c) That the Party concerned, by not having in place a proper regulatory framework and/or clear instructions to implement and proper measures to enforce article 7 of the Convention with respect to the adoption of NREAPs by its member States on the basis of Directive 2009/28/EC, has failed to comply also with article 3, paragraph 1, of the Convention;

2. *Welcomes* the recommendation made by the Committee during the intersessional period with respect to its findings on communication ACCC/C/2010/54 in accordance with paragraph 36 (b) of the annex to decision I/7;

3. *Also welcomes* the willingness of the Party concerned to accept the Committee's recommendation, namely, that it adopt a proper regulatory framework and/or clear instructions for implementing article 7 of the Convention with respect to the adoption of NREAPs. This would entail that the Party concerned ensure that the arrangements for public participation in its member States are transparent and fair and that within those arrangements the necessary information is provided to the public. In addition, such a regulatory framework and/or clear instructions must ensure that the requirements of article 6, paragraphs 3, 4 and 8, of the Convention are met, including reasonable time frames, allowing sufficient time for informing the public and for the public to prepare and participate effectively, allowing for early public participation when all options are open, and ensuring that due account is taken of the outcome of the public participation. Moreover, the Party concerned must adapt the manner in which it evaluates NREAPs accordingly;

4. *Expresses its concern* as to whether letters will provide "a proper regulatory framework and/or clear instructions for implementing article 7 of the Convention with respect to the adoption of NREAPs" and that it remains unclear how the Party concerned will "adapt the manner in which it evaluates NREAPs" in accordance with the recommendations of the Committee;

5. *Invites* the Party concerned to submit to the Committee periodically (on 31 December 2014, 31 October 2015 and 31 October 2016) detailed information on further progress in implementing the recommendations set out above;

6. *Undertakes* to review the situation at its sixth session.
