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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/9n concerning compliance by Ukraine 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) and the report of the Compliance Committee on compliance by Ukraine with its obligations under the Convention, examining implementation of decision IV/9h (ECE/MP.PP/2014/22),

Encouraged by the willingness of Ukraine throughout most of the current intersessional period to discuss in a constructive manner the compliance issues in question with the Committee,

1. *Welcomes* the constructive engagement of the Party concerned throughout most of the intersessional period with respect to the follow-up on decision IV/9h;

* The present document has been submitted late due to the short interval between the forty-fourth meeting of the Compliance Committee and the deadline for the submission of documents to the fifth session of the Meeting of the Parties, and the need for further consultation on the document before its submission.



2. *Endorses*, however, the finding of the Committee with respect to decision IV/9h that, as the legislative measures proposed by the Party concerned during the intersessional period to fulfil the requirements of paragraph 2 of decision II/5b have not been adopted and no longer exist even in draft form, Ukraine has failed to meet the requirements of both decision II/5b and paragraph 5 of decision IV/9h of the Meeting of the Parties;

3. *Also endorses* the finding of the Committee that the Party concerned thus remains in non-compliance with article 4, paragraph 1, of the Convention on access to information, numerous provisions of article 6 concerning public participation in decision-making and article 3, paragraph 1, requiring a clear, transparent and consistent framework to implement the Convention;

4. *Expresses* its deep concern at the absence of concrete progress by the Party concerned in implementing decision IV/h during this intersessional period;

5. *Reiterates* paragraph 5 of decision IV/9h and calls upon the Party concerned to implement the measures requested by the Meeting of the Parties in decision II/b as a matter of urgency, namely for the Party to bring its legislation and practice into compliance with the provisions of the Convention, and in particular:

(a) To provide for public participation of the kind required by article 6 of the Convention (article 6, paragraph 1 (a), and, in connection with this, article 6, paragraphs 2 to 8, and article 6, paragraph 9 (second sentence));

(b) To ensure that information is provided by public authorities upon request (article 4, paragraph 1);

(c) To address the lack of clarity with regard to public participation requirements in environmental impact assessment and environmental decision-making procedures for projects, such as time frames and modalities of a public consultation process, requirements to take its outcome into account and obligations with regard to making information available in the context of article 6, in order to ensure a clear, transparent and consistent framework for the implementation of the Convention (article 3, paragraph 1);

6. *Decides* to:

(a) Maintain the caution currently in place since the fourth session of the Meeting of the Parties;

(b) Provide for the caution to be lifted if the Party concerned has adopted the necessary measures to bring its legislation into full compliance with the provisions of the Convention, in particular fully satisfying the conditions set out in paragraph 5 above, and has notified the secretariat of this fact by 31 December 2015;

7. *Requests* the Compliance Committee to establish the successful fulfilment of the conditions set out in paragraph 5 above;

8. *Also requests* the Compliance Committee to report to the Meeting of the Parties at its sixth session on whether the Party concerned has fulfilled the conditions set out in paragraph 5 above, with a view to assisting the Meeting of the Parties in deciding whether to suspend the special rights and privileges accorded to Ukraine under the Convention;

9. *Invites* the Party concerned to provide detailed progress reports to the Committee:

(a) By 30 November 2014, regarding the proposed process of legislative reform, including the steps taken so far and future steps to be taken, the proposed timetable for doing so and the consultation plan;

- (b) By 1 March 2015, enclosing the text of the draft law(s);
 - (c) By 31 October 2016, regarding the results achieved in the further implementation of the above recommendations;
10. *Undertakes* to review the situation at its sixth session.
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