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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

Sixth session

Budva, Montenegro, 11–13 September 2017

Item 7 (b) of the provisional agenda

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

Draft decision VI/8e concerning compliance by Czechia 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 (ECE/MP.PP/2/Add.8),

Mindful of the conclusions and recommendations set out in its decision V/9f with regard to compliance by Czechia (see ECE/MP.PP/2014/Add.1),

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 on the implementation of decision V/9f concerning compliance by Czechia with its obligations under the Convention (ECE/MP.PP/2017/38), and the findings of the Committee on communication ACCC/C/2012/71 (ECE/MP.PP/C.1/2017/3) concerning the possibility for members of the public in Germany to participate in the decision-making regarding the Temelín nuclear power plant,

Encouraged by the willingness of Czechia to discuss in a constructive manner with the Committee the compliance issues in question,

1. *Endorses* the finding of the Committee that the Party concerned has met the requirements of paragraph 4 (a), (b), (c) and (d) of decision V/9f;

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2. *Also endorses* the finding of the Committee that the Party concerned has not yet fully met the recommendations set out paragraph 4 (e) and paragraph 6 of decision V/9f, but welcomes the steps taken by the Party concerned in that direction;

3. *Reaffirms* decision V/9f and requests the Party concerned to take the necessary legislative, regulatory and administrative measures to ensure that:

(a) Members of the public are granted access to administrative or judicial procedures to challenge acts and omissions by an operator or competent authority when an operator contravenes provisions of national law relating to noise;

(b) The Party concerned, in future, submits plans and programmes similar in nature to the National Investment Plan to public participation as required by article 7, in conjunction with the relevant paragraphs of article 6, of the Convention;

4. *Endorses* the following findings of the Committee with regard to communication ACCC/C/2012/71:

(a) That by not providing a clear requirement in its legal framework to ensure that public authorities, when selecting means of notifying the public, are bound to select such means which, bearing in mind the nature of the proposed activity, would ensure that all those who potentially could be concerned, including the public outside the territory of the Party concerned, have a reasonable chance to learn about the proposed activity, the Party concerned has failed to comply with article 6, paragraph 2, of the Convention with respect to its legal framework;

(b) Regarding the decision-making on the Temelín nuclear power plant, that if the public participation procedure on the environmental impact assessment stage were to remain the last possibility for the public concerned, including the public concerned in Germany, to participate in the permitting procedure for the Temelín nuclear power plant, the Party concerned would fail to comply with article 6, paragraphs 2 (d) (ii), 3, 4, 6 and 7, of the Convention;

5. *Welcomes* the recommendations made by the Committee during the intersessional period with respect to its findings on communication ACCC/C/2012/71 in accordance with paragraph 36 (b) of the annex to decision I/7;

6. *Also welcomes* the willingness of the Party concerned to accept the Committee's recommendations, namely, that the Party concerned provide:

(a) A legal framework to ensure that when selecting means of notifying the public under article 6, paragraph 2, public authorities are required to select such means as will ensure effective notification of the public concerned, bearing in mind the nature of the proposed activity and including, in the case of proposed activities with potential transboundary impacts, the public concerned outside the territory of the Party concerned;

(b) The necessary arrangements to ensure that:

(i) When conducting transboundary procedures in cooperation with the authorities of affected countries, the competent public authorities make the necessary efforts to ensure that the public concerned in the affected countries is in fact notified in an effective manner;

(ii) There will be proper possibilities for the public concerned, including the public outside the territory of the Party concerned, to participate at the subsequent stages of the multistage decision-making procedure regarding the Temelín nuclear power plant;

7. *Requests* the Party concerned:

(a) To submit to the Committee detailed progress reports on 1 October 2018, 1 October 2019 and 1 October 2020 on the measures taken and the results achieved in the implementation of the above recommendations;

(b) To provide such further information as the Committee may request in order to assist it to review the progress of the Party concerned in implementing the above recommendations;

(c) To participate (either in person or by audio conference) in the meetings of the Committee at which the progress of the Party concerned in implementing the above recommendations is to be considered;

8. *Undertakes* to review the situation at its seventh session.
