



**Meeting of the Parties to the Aarhus Convention and to the Protocol on PRTRs,
Budva, Montenegro**

Agenda item 8 (a) – Accession to the Convention by States from outside the United Nations Economic Commission for Europe region: statement by the European ECO Forum

Thank you for the opportunity to make this statement. We welcome the interest from Guinea-Bissau and other non-ECE countries in acceding to the Convention.

Addendum to Decision II/9 on accession of non-ECE member states adopted in Almaty in 2005. Para 2 of this:

“Stresses that an expression of intent to accede to the Convention by a State Member of the United Nations is a sovereign decision of the state and the approval of the Meeting of the Parties as provided for in paragraph 3 of article 19 of the Convention should not be interpreted as implying a substantive review, by the Meeting of the Parties, of that State’s national legal system and administrative practices.”

Decision IV/5 on accession to the Convention by non-ECE member states- says

Para 2- Minimum legal and other appropriate measures required to implemented the convention should be in place so that the state concerned is in a position to comply with its obligations” at the time the Convention comes into force.

Paragraph 4 of the decision sets out a process where the secretariat stays in regular communication with the state that has expressed interest in acceding, provides advisory support to it and reports to the bureau and the working group, before the state makes a written expression of intention to accede along with description of activities already undertaken or planned to be undertaken to comply with the Convention up til that point.

In this context a report has been prepared in relation to Guineau-Bissau. It contains a detailed assessment of the institutional, policy and legal framework of that country. The report states that Guinea-Bissau is not ready to prepare the required documents- so this report is not the description of activities undertaken or planned to be undertaken s mentioned in paragraph 4 but is described as a “preliminary assessment.”-[though the report and any updates would accompany any written expression of intention to proceed.]

It is clear from the report that there are existing laws and institutions within Guinea that fall within the scope of the kinds of laws on access to information , public participation and access to justice needed to enact the Aarhus Convention- for example there is right of participation of NGOs in environmental management and there is an environmental

evaluation law including and environmental impact study with a non technical summary and public consultation. There are also provisions on access to justice, including a provision that access to justice cannot be denied due to insufficient economic means. However the report finds that there are gaps in relation to article 5 and articles 9 (2) and (3) of the Convention. The report ends with recommendations as to methods for “strengthening implementation of the Convention”. This includes a proposal for 6 new pieces of legislation including in relation to environmental crime and a legal instrument on environmental NGOs in order to “further implement the right to participate”. The report then states at para 43 that “the timeline for adoption of the new proposed legislation identified under the previous subsection should occur within the next two years (2017-2019).”

While we welcome all forms of support to enable a party from outside the UNECE to accede to the Convention, it seems to us that the recommendations in the report go beyond a requirement of “minimal legal measures” as set out in paragraph 2 of decision IV/5 and instead veer into substantive review of that state’s national legal system and administrative practices- exactly what para 2 of decision II/9 excludes. It may be that on occasion a state may welcome suggestions of further ways of implementing the Convention prior to accession, beyond minimal legal measures, but the way in which the recommendations are presented in the report implies that they are requirements for accession – particularly as a timeline is set out for their adoption.

Questions of double standards and compliance have been live issues in the past days and it is clear that very many parties to the Convention, including major developed countries, have yet to fully implement its provisions . As a result we must be extra careful to avoid expecting a party to be in full compliance with the Convention before it has even joined. This is even more so when that party is outside the UNECE and is already subject to a more complex system of accession than ECE members. Instead of compounding the difficulties for states from outside the UNECE to accede to the Convention, we call on the Secretariat and Parties to make every effort to ensure that Guinea-Bissau, after years of extraordinarily patient engagement with MOP processes, is able to accede to the Convention as quickly as possible, including through removing unnecessary hurdles and additional requirements. Indeed, rather than requiring it to wait till 2020 to have another opportunity to accede, it should either be enabled to accede now, at this MOP if it so wishes or some other route, such as a short extraordinary general MOP should be created to fulfil this function.

As Eco Forum we also call on states and the Secretariat to streamline the accession procedure so that it is not more onerous for states outside the UNECE region to join than those within. We reiterate our call to parties to put in place a process to amend Article 19(3), removing the requirement for removal by the MOP, and make the Convention open to accession by all on an equal footing. This would enable the Aarhus Convention finally to lose the tag of being a “European” Convention and be understood as truly presenting for all at the global level.

