



REPUBLIC OF BULGARIA
MINISTRY OF ENVIRONMENT AND WATER

Ref.: Decision VI/8d of the Meeting of the Parties on compliance by Bulgaria with its obligations under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)

Dear Ms. Marshall,

With regard the received draft report to the seventh session of the Meeting of the Parties on the progress by the Party concerned to implement decision VI/8d, Bulgaria presents the following comments:

1. As regards the Communicant's statement made during the open session of the Committee on 08.07.2021 and concerning paragraph 3 (a) of Decision VI/8d, that: *"the Constitutional Court recently has adopted one very restrictive decision to further limit the circle of persons with standing (locus standi) to appeal territorial and spatial plans"* we would like to specify that the referred Decision № 14 of 15.10.2020 of the Constitutional Court on constitutional case № 2/2020 does not restrict the access to justice with regard to the spatial plans, but on the contrary – the decision proclaimed the unconstitutionality of Art. 215, para. 6 of the Spatial Planning Act, which provides for non-appealability of the general spatial development plans (GSDP) and their amendments. In pursuance of the decision, an Act amending and supplementing the Spatial Planning Act (SPA) was adopted (promulgated, SG No.16/23.02.2021, effective 27.02.2021), which established new provisions in Art. 127, para. 12 and, para. 13, determining the circle of the entities authorized to appeal the GSDP. According to the new provision of Art. 127, para. 12 of the SPA, the GSDP may be appealed under Art. 215, para. 1 within 14 days from the promulgation in the State Gazette of the act for approval or acceptance, by the owners of real estates, directly affected by its provisions. The appeal does not stop the implementation of the plan. And the new norm of art. 127, para. 13 of the SPA stipulates that real estates directly affected by the provisions of the GSDP are the estates for which is planned construction of objects – public property of the state or municipality, or for which property restrictions are established in order to protect public interests – protection of the environment and human health, protection of agricultural, forest and protected areas and protected sites.

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2. In the light of the Committee's considerations on paragraph 8 (c) of Decision VI/8d, we would like to make the following clarifications to the information provided by Bulgaria in the three national progress reports:
- a. As the Committee has already been informed, between 3 and 13 December 2018, the National Institute of Justice (NIJ) conducted an e-learning on "The Challenges of the Aarhus Convention in Law Enforcement". The training is in the format of "case study" and includes work with lecture material on "Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention)" and discussion of a practical case related to the problems in filing a complaint with a request for suspension of construction and installation works, the admissibility of the requests, the legal possibilities for protection against illegal administrative acts in the course of construction.
 - b. In the period 5-19.11.2019, a second edition of the e-learning "Challenges of the Aarhus Convention in law enforcement" was held. During the training, the lecture "Challenges of the Aarhus Convention" was updated and a new practical case was discussed, which raised the issues of the applicant's legal interest, the challenge of acts, the stages of the proceedings at which the challenge takes place, the admissibility of the claims. As part of the training materials, the report on Bulgaria's progress in implementing the Aarhus Convention was provided, as well as a brief roadmap of the relevant documents.
 - c. By the end of 2021, the NIJ will conduct the following trainings in electronic format: "Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). Analysis of the Case Law" and "Environmental Legislation" – a webinar, which will discuss issues related to the assessment of the risk of environmental damage and the motivation of court decisions, taking into account the public interest in environmental protection and the need for precautions to prevent environmental damage.

Yours sincerely,

Asen Lichev

*Minister of Environment
and Water*

