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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**

Third meeting

Riga, 11–13 June 2008

Item 6 (b) of the provisional agenda

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

REPORT BY THE COMPLIANCE COMMITTEE

Addendum

**COMPLIANCE BY BELGIUM WITH ITS OBLIGATIONS UNDER
THE CONVENTION**

This document is prepared by the Compliance Committee in accordance with the its mandate set out in paragraph 35 of the annex to decision I/7 of the Meeting of the Parties.

1. Communication ACCC/C/2005/11 was made by the Belgian non-governmental organization Bond Beter Leefmilieu Vlaanderen VZW on 3 January 2005 with regard to compliance by Belgium with its obligations under article 2, paragraph 5, article 3, paragraph 1, and article 9, paragraphs 1 to 4, of the Convention in connection with requirements for standing for environmental non-governmental organizations (NGOs) before the Belgian judicial bodies in cases concerning construction permits and planning decisions.

GE.08-22513

2. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee was not convinced that Belgium had failed to comply with the Convention, in particular since all the court decisions submitted by the communicant referred to cases initiated before the entry into force of the Convention for Belgium.

3. The Committee, however noted that if the jurisprudence of the relevant courts was not altered, Belgium would fail to comply with article 9, paragraphs 2 to 4, of the Convention. With the agreement of the Party concerned, the Committee therefore recommended at its twelfth meeting (June 2006) that the Party concerned:

(a) Undertake practical and legislative measures to overcome the previous shortcomings reflected in the jurisprudence of the Council of State in providing environmental organizations with access to justice in cases concerning town planning permits as well as in cases concerning area plans;

(b) Promote awareness of the Convention, in particular the provisions concerning access to justice, among the Belgian judiciary.

4. The above findings and recommendations of the Committee are contained in the addendum to the report of the twelfth meeting of the Committee (ECE/MP.PP/C.1/2006/4/Add.2).

5. On 27 February 2008, the Government of Belgium provided the Committee with an update on the implementation of these recommendations.

6. With regard to legislative measures, a round table discussion on access to justice for associations was organized in April 2006 with members of the Parliament, *inter alia*, to address the matters raised in the review of the communication. Furthermore, a legislative initiative was launched at the end of 2006 resulting in a proposal for a new bill aimed at modifying legislation on the Council of State with a view to granting NGOs the right to introduce a collective court action. The legislative process was somewhat delayed by parliamentary elections in the summer of 2007. However, in early 2008, the bill was reintroduced to the new Parliament on the initiative of the Ministry of the Environment and with the active support of NGOs, and is currently in the legislative process in the Parliament. In addition, another legislative initiative is being considered by the Ministry of Environment with regard to modifications of the law concerning a right of action in environmental matters, *inter alia*, by extending access to justice for NGOs to appeal infringements of environmental law in accordance with article 9, paragraph 3, of the Convention.

7. The Federal Ministry of Environment, in collaboration with the Ministry of Justice, has also taken measures to promote awareness of the Convention among the judiciary. These included introducing the Convention into the training programme for magistrates and legal trainees for 2006 and 2007 and providing the trainees with the relevant materials. The programmes will also continue in 2008.

8. The Committee discussed these developments at its nineteenth meeting (5–7 March 2008). It expressed its appreciation of the information provided by Belgium.
9. The Committee welcomed the initiatives undertaken by Belgium to facilitate implementation of the Convention in the field of access to justice, and considered them as effective means of following up on its recommendations made in the course of review of communication ACCC/C/2005/11.
10. In preparation of this document, the Committee invited the Government of Belgium and the communicant to provide their comments on the draft. The Committee appreciates a number of clarifications provided by the Party concerned with regard to dates and subject matters of events described above. It also takes note of the concern expressed by the communicant that the aforementioned legislative initiatives should be finalized as soon as possible and should lead to changes in the jurisprudence of the Council of State in providing environmental organizations with access to justice.
11. The Committee recommends to the Meeting of the Parties to:
 - (a) Endorse the original findings and recommendations of the Committee as adopted at its twelfth meeting;
 - (b) Take note of the information on the implementation by Belgium of the recommendations made by the Committee;
 - (c) Welcome the constructive approach demonstrated by Belgium in the process of review of compliance and the efforts undertaken by Belgium in the context of implementing the recommendations of the Committee.
