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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 5 (e) of the provisional agenda
Substantive issues: access to justice

DRAFT DECISION III/3

PROMOTING EFFECTIVE ACCESS TO JUSTICE

Draft decision prepared by the Bureau

The Meeting of the Parties,

Recalling the provisions of article 9 of the Convention,

Recalling also the eighth and the eighteenth preambular paragraphs of the Convention,

Recalling further decisions I/5 and II/2 on promoting effective access to justice,

1. *Notes with appreciation* the work undertaken by the Task Force on Access to Justice established pursuant to decision II/2, and expresses its gratitude to Sweden for its leadership of the Task Force;
2. *Welcomes* the information exchange which took place in the course of the work of the Task Force, including through the mini-conference on “Opening the Doors to Justice: the Challenge of Strengthening Public Access”, which was held within the framework of its second meeting;
3. *Notes with appreciation* the outcomes and recommendations of the subregional workshop for the high-level members of the judiciary from six countries of Eastern Europe and the Caucasus organized within the framework of the Task Force and held in Ukraine in June 2007;
4. *Welcomes* the progress in preparation of a similar workshop for the South-East European region and the intention to hold workshops for senior members of the judiciary from Central Asia in the context of a European Union-funded project;
5. *Also welcomes* other capacity-building initiatives by Parties, Signatories and international organizations aimed at promoting more effective implementation of article 9 of the Convention;
6. *Notes*, having regard to article 9, paragraphs 3 and 4, of the Convention and recalling section III of decision II/2, that establishing and applying criteria for standing and the provision of effective remedies, including injunctive relief, remain significant challenges;
7. *Also notes*, having regard to article 9, paragraph 5, of the Convention, that financial barriers, such as those associated with costs of expert opinion and legal advice as well as with the financial risk of initiating and carrying through proceedings, continue to pose a significant obstacle to access to justice in environmental matters;
8. *Recognizes* the lack of training materials on access to justice that is reflected in the conclusions of the analysis of available information, training and analytical materials carried out within the framework of the Task Force;
9. *Stresses* the crucial role played by the judiciary and other legal professionals in ensuring meaningful and effective access to justice, and in this regard notes the important contribution made by national and international associations of judges and other legal professionals as well as judicial training institutions towards capacity-building and information exchange;
10. *Recognizes* the significant role which public interest lawyers and non-governmental organizations play, inter alia, by initiating review procedures and providing professional assistance to members of the public and thus reducing the costs associated with attorneys’ fees, and the need to enhance and support that role;
11. *Notes* that the need for capacity-building on access to justice for public officials, the judiciary, other legal professionals and members of the public is imperative for the effective implementation of the third pillar of the Convention, and therefore remains a priority;

12. *Recognizes* the value of involving representatives of each of the aforementioned stakeholders, as well as representatives of ministries of justice, in the activities of the Task Force;
13. *Invites* Parties, Signatories and international and national organizations to carry out or provide support for trainings, information exchange and other capacity-building activities for the judiciary and other legal professionals at the national and local levels;
14. *Also invites* Parties, Signatories and relevant institutions to promote, as appropriate, the publication of articles on implementation of the third pillar of the Convention, in particular in professional journals;
15. *Decides* to extend the mandate of the Task Force on Access to Justice, under the authority of the Working Group of the Parties, to carry out further work with a practical focus in relation to the elements of this decision and taking into consideration the relevant work being undertaken by Parties, Signatories and other stakeholders;
16. *Requests* the Task Force, subject to the availability of resources:
 - (a) To continue to provide a platform for sharing of information, experiences and good practices [and development of guidance] related to access to justice, inter alia, by:
 - (i) Collecting in a systematic way and making available to Parties, Signatories and other stakeholders, e.g. through the Convention's website, the Aarhus Clearinghouse for Environmental Democracy and its national nodes, national profiles on access to justice or an updated compendium, information on relevant practices, in particular with regard to issues that constitute the main obstacles to effective access to justice as identified by earlier task forces as well as by Parties in their national implementation reports;
 - (ii) Developing a portal for the exchange of jurisprudence concerning the Convention for use by judges, legal professionals, academics and other stakeholders;
 - (b) To continue to plan and implement strategic and catalytic capacity-building activities and information exchange, in particular for senior members of the judiciary at the subregional level, building on the methodology and approach of the workshop referred to in paragraph 3, where appropriate in cooperation with the relevant judicial training institutions and associations of legal professionals;
 - (c) To consider means of facilitating training of trainers on access to justice in environmental matters, in particular in connection with activities of national judicial training institutions, liaising as appropriate with the Council of Europe to ensure synergies with its work with judicial training institutions;
 - (d) To develop training materials on implementation of article 9 of the Convention that are adaptable to national priorities and the needs of specific groups of legal professionals;

(e) To examine the way the issue of remedies is handled in a selection of representative countries, addressing issues such as:

- (i) Available remedies and typical situations in which they apply;
- (ii) The extent to which they work in practice;
- (iii) Obstacles;
- (iv) Prerequisites for efficiency of remedies;

(f) To continue the exchange of information and analytical work on the issue of criteria for standing, making full use of the information gathered by the previous Task Force;

(g) To continue the exchange of information on practices in establishment of assistance mechanisms to remove or reduce financial barriers pursuant to article 9, paragraph 5, of the Convention and in particular, further develop and update the analysis of practices carried out by the earlier Task Force with a view to identifying further good practice examples;

(h) To consider practical arrangements for increasing support for public interest lawyers and strengthening the capacities of non-governmental organizations;

(i) To identify good practice with respect to ensuring that sufficient scientific and technical expertise is available to review bodies dealing with environmental cases;

(j) To continue exploring the potential use of alternative dispute resolution mechanisms as a means to further the objectives of the Convention;

(k) To encourage the involvement of representatives of ministries of justice, the judiciary, other legal professionals, including public interest lawyers and non-governmental organizations specializing in litigation and legal advice on environmental matters, in its activities;

(l) To carry out such other tasks related to access to justice as the Working Group of the Parties may assign to the Task Force;

(m) To present the results of its work for consideration and appropriate action by the Working Group of the Parties;

17. *Stresses* the importance of prioritizing the activities of the Task Force, and that availability of sufficient resources is imperative for successful implementation of the Task Force's mandate in this regard;

18. *Therefore invites* Parties, Signatories, international and other organizations to allocate funds for the activities of the Task Force as well as relevant activities at the national level;

19. *Welcomes* the offer of [...] to lead the work of the Task Force.
