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Ref: Follow-up on ACCC/C/2010/50

ОБЪЕДИНЕННЫЕ НАЦИИ

ЕВРОПЕЙСКАЯ ЭКОНОМИЧЕСКАЯ  
КОМИССИЯ

UNITED NATIONS

ECONOMIC COMMISSION  
FOR EUROPE

Palais des Nations, Room 348  
CH-1211 GENEVA 10

15 July 2013

Marie Petrová  
Ministry of the Environment  
65, Vršovická  
10010 Prague 10, Czech Republic

Dear Ms. Petrová,

**Re: Follow-up on communication ACCC/C/2010/50**

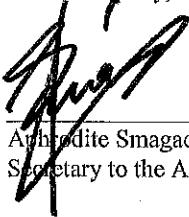
We refer to the findings and recommendations of the Aarhus Convention Compliance Committee with regard to communication ACCC/C/2010/50. The Committee, pursuant to paragraph 36 (b) of the annex to decision I/7 and noting the agreement of the Czech Republic that the Committee take the measure referred in paragraph 37 (b) of the annex to decision I/7, had made a number of recommendations with regard to its findings on the communication.

You are now invited to submit information on progress by the Czech Republic in implementing the recommendations of the Committee on the above referenced communication no later than **16 September 2013**. On the basis of this information, the Committee at its forty-second meeting (24 – 27 September 2013) will prepare its draft report, including the draft recommendations, to be considered by the Meeting of the Parties at its fifth session (Maastricht, the Netherlands, 30 June – 2 July 2014). The draft report will subsequently be shared with the Party concerned and the communicant(s) for comment, and then finalized and adopted by the Committee at its forty-third meeting (17 – 20 December 2013).

For your convenience, the findings and recommendations of the Committee are also annexed to this letter.

Please do not hesitate to contact the secretariat if you require further information.

Yours sincerely,



Annette Smagadi  
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of the Czech Republic to the United Nations Office and international organizations in Geneva  
Martin Fadrný, Ekologický právní servis, Brno, Czech Republic

Annex

**Findings and recommendations**  
**with regard to Communication ACCC/C/2010/50**  
**concerning compliance by the Czech Republic (ECE/MP.PP/C.1/2012/11)**  
(paras. 88 – 90)

#### IV. Conclusions and recommendations

88. Having considered the above, the Committee adopts the findings and recommendations set out in the following paragraphs.

##### A. Main findings with regard to non-compliance

89. The Committee finds that:

(a) Through its restrictive interpretation of “the public concerned” in the phases of the decision-making to permit activities subject to article 6 that come after the EIA procedure, the system of the Party concerned fails to provide for effective public participation during the whole decision-making process, and thus is not in compliance with article 6, paragraph 3 of the Convention (see para. 70 above);

(b) By failing to impose a mandatory requirement that the opinions of the public in the EIA procedure are taken into account in the subsequent stages of decision-making to permit an activity subject to article 6, and by not providing opportunity for all members of the public concerned to submit any comments, information, analyses or opinions relevant to the proposed activities in those subsequent phases, the Party concerned fails to comply with the requirement in article 6, paragraph 8, of the Convention to ensure that in the decision due account is taken of the outcome of the public participation (see para. 71 above);

(c) The rights of NGOs meeting the requirements of article 2, paragraph 5, to access review procedures regarding the final decisions permitting proposed activities, such as building permits, are too limited, to the extent that the Party concerned fails to comply with article 9, paragraph 2, of the Convention (see para. 78 above);

(d) By limiting the right of NGOs meeting the requirements of article 2, paragraph 5, to seek review only of the procedural legality of decisions under article 6, the Party concerned fails to comply with article 9, paragraph 2 of the Convention (see para. 81 above);

(e) To the extent that the EIA screening conclusions serve also as the determination required under article 6, paragraph 1 (b), members of the public should have access to a review procedure to challenge the legality of EIA screening conclusions. Since this is not the case under Czech law, the Party concerned fails to comply with article 9, paragraph 2, of the Convention (see para. 82 above);

(f) By not ensuring that members of the public are granted standing to challenge the act of an operator (private person) or the omission of the relevant authority to enforce the law when that operator exceeds some noise limits set by law, the Party concerned fails to comply with article 9, paragraph 3. Similarly, in cases of land-use planning, by not allowing members of the public to challenge an act, such as a land-use plan, issued by an authority in contravention of urban and land-planning standards or other environmental protection laws, the Party concerned fails to comply with article 9, paragraph 3, of the Convention (see para. 85 above).

## **B. Recommendations**

90. The Committee, pursuant to paragraph 36 (b) of the annex to decision I/7 and noting the agreement of the Party concerned that the Committee take the measures requested in paragraph 37 (b) of the annex to decision I/7, recommends the Party concerned to undertake the necessary legislative, regulatory, administrative and other measures to ensure that:

(a) Members of the public concerned, including tenants and NGOs fulfilling the requirements of article 2, paragraph 5, are allowed to effectively participate and submit comments throughout the decision-making procedure subject to article 6;

(b) Due account is taken of the outcome of public participation in all phases of the decision-making to permit activities subject to article 6;

(c) NGOs fulfilling the requirements of article 2, paragraph 5, have the right to access review procedures regarding any procedures subject to the requirements of article 6, and in this regard they have standing to seek the review of not only the procedural but also the substantive legality of those decisions;

(d) To the extent that the EIA screening process and the relevant criteria serve also as the determination required under article 6, paragraph 1 (b), on whether a proposed activity is subject to the provisions of article 6, the public concerned as defined in article 2, paragraph 5, is provided with access to a review procedure to challenge the procedural and substantive legality of those conclusions;

(e) Members of the public are provided with access to administrative or judicial procedures to challenge acts of private persons and omissions of authorities which contravene provisions of national law relating to noise and urban and land-planning environmental standards.