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ОБЪЕДИНЕННЫЕ НАЦИИ
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ДЛЯ ЕВРОПЫ

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9 March 2009

Ms. Hanna GOSHOVSKA
Department for Public Participation Issues and Communications
Ms. Yuliya ZAVALISHYNA
Department for International Cooperation and European Integration
Ministry of Environmental Protection
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03035 Kiev
Ukraine
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Dear Ms. Goshovska and Ms. Zavalishyna,

Re: Decision III/6f of the Meeting of the Parties to the Aarhus Convention concerning compliance by Ukraine with its obligations under the Convention

The Compliance Committee under the Aarhus Convention has noted with appreciation the Report of the Government of Ukraine on fulfilment of the conditions of decision III/6f of the Meeting of the Parties to the Aarhus Convention and the Action Plan submitted by Ukraine pursuant to paragraph 5 of decision III/6f.

At its upcoming 23rd meeting (31 March – 3 April 2009), the Committee is expected to consider, pursuant to paragraph 5 of decision III/6f, whether the conditions set out in that paragraph have been successfully fulfilled.

Having preliminarily considered the information contained in the Report and the Action Plan provided by Ukraine, the Committee is not convinced that the above conditions have been fulfilled. It has some concerns in particular with regard to the very general nature of the plan and lack of clarity as to the specific step-by-step activities that the implementation of the Plan might involve.

In this regard, the Committee would appreciate if you could provide to it in writing in advance of the upcoming meeting, and at the latest by **27 March 2009**, information concerning:

1. Clear activities to resolve the problems identified by the Committee in its original findings and recommendations (ECE/MP.PP/C.1/2005/2/Add.3), and in

particular paragraphs 29 to 35 of that document, including which general activities set out in the Action Plan are aimed at which of the issues identified in those paragraphs and what specific activities are envisaged under each of these items;

2. The concrete scope of the amendments to legal acts proposed under section 1 of the Action Plan. In this regard, please specify in detail which legal acts will be amended and how specifically will these amendments address the issues outlined by the Committee in its findings and recommendations with regard to compliance by Ukraine (ECE/MP.PP/C.1/2005/2/Add.3. paras. 29-35) in order to:

- (a) ensure that public authorities possess information relevant to their functions, including that on which they base their decisions, in accordance with article 5, paragraph 1, of the Convention, and make it available to the public;
- (b) ensure that information within the scope of article 4 of the Convention is provided regardless of its volume;
- (c) ensure that timeframes for the public consultation process are sufficient for the public to study the information on projects and prepare and submit comments;
- (d) ensure that sufficient time is available to the relevant public officials to take any comments into account in a meaningful way, as required under article 6, paragraph 8, of the Convention;
- (e) prevent short-cutting in the decision-making procedure whereby parts of the Environmental Impact Assessment (EIA) are provided for evaluation and approval by the decision-making authority throughout the course of EIA development and prior to any information being publicly available;
- (f) ensure that public authorities responsible for environmental decision-making do not limit provision of information under article 6, paragraph 6, and article 4 of the Convention to publication of an environmental impact statement but that they provide the public concerned with an opportunity to examine relevant details so that public participation is informed and therefore more effective;
- (g) clarify that information provided by developers to public authorities in the course of decision-making and while being under an obligation to do so is not protected from disclosure based on the "ownership" and that disclosure of EIA studies in their entirety is considered as the rule, with the possibility for exempting parts of them being an exception to the rule (see ECE/MP.PP/2008/5/Add.7, para. 30);
- (h) ensure that texts of decisions, along with the reasons and considerations on which they are based, are publicly available.

3. The concrete scope of the proposed regulations on access to information and on public participation (section 1 of the Action Plan) and, in particular, how they will address each of the issues listed under items (a) to (h) of paragraph 2 above;

4. The specific list of acts to which the Action Plan proposes to introduce amendments through the draft law on amendments to Laws of Ukraine concerning the obligations under the Aarhus Convention (section 1 of the Action Plan);

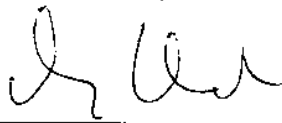
5. The list, scope and target audiences of publications (such as methodological handbooks and manuals) proposed under section 6 of the Action Plan;

6. The concrete procedure which the Action Plan should establish to ensure its implementation in a transparent manner and in full consultation with civil society (see paragraph 5, subparagraph (c) of decision III/6f).

The Committee welcomes the willingness of Ukraine to participate in the discussion on the matter at the upcoming 23rd meeting and considers that an exchange of information at the meeting can provide a useful opportunity for any other clarifications with regard to the implementation of the Action Plan.

Please do not hesitate to contact the secretariat (public.participation@unece.org) if you require any further information.

Yours sincerely,



Jeremy Wates
Secretary

Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

Cc: Permanent Mission of Ukraine to the United Nations Offices in Geneva

