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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

Fifth session

Maastricht, the Netherlands, 30 June and 1 July 2014

Item 5 (b) of the provisional agenda

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

Draft decision V/9d concerning compliance by Bulgaria with its obligations under the Convention

Prepared by the Bureau

The Meeting of the Parties,

Acting under paragraph 37 of the annex to its decision I/7 on the review of compliance,

Taking note of the report of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (ECE/MP.PP/2014/9), as well as the findings of the Committee on communication ACCC/C/2011/58 (ECE/MP.PP/C.1/2013/4) concerning access to justice on spatial plans and the Committee's report on the implementation of the recommendations contained in those findings (ECE/MP.PP/2014/13),

Encouraged by Bulgaria's willingness to discuss in a constructive manner the compliance issues in question with the Committee,

1. *Endorses* the following findings of the Committee with regard to communication ACCC/C/2011/58:

(a) By barring all members of the public, including environmental organizations, from access to justice with respect to General Spatial Plans, the Party concerned fails to comply with article 9, paragraph 3, of the Convention;

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(b) By barring almost all members of the public, including all environmental organizations, from access to justice with respect to Detailed Spatial Plans, the Party concerned fails to comply with article 9, paragraph 3, of the Convention;

(c) By not ensuring that all members of the public concerned having sufficient interest, in particular environmental organizations, have access to review procedures to challenge the final decisions permitting activities listed in annex I to the Convention, the Party concerned fails to comply with article 9, paragraph 2, in conjunction with article 9, paragraph 4, of the Convention;

2. *Welcomes* the recommendations made by the Committee during the intersessional period in accordance with paragraph 36 (b) of the annex to decision I/7, and the willingness of the Party concerned to accept them, namely that the Party concerned undertake the necessary legislative, regulatory and administrative measures to ensure that:

(a) Members of the public, including environmental organizations, have access to justice with respect to General Spatial Plans, Detailed Spatial Plans and (either in the scope of review of the spatial plans or separately) also with respect to the relevant strategic environmental assessment statements;

(b) Members of the public concerned, including environmental organizations, have access to review procedures to challenge construction and exploitation permits for the activities listed in annex I to the Convention;

3. *Also welcomes* the efforts made so far by the Party concerned to the extent they meet the recommendations of the Committee;

4. *Expresses* its concern that neither the legislative amendments adopted so far nor any other measures taken by the Party concerned specifically address the aspects of the Bulgarian legal system which the Committee has found to be in non-compliance with the requirements of the Convention, namely, the possibilities for members of the public concerned to challenge the legality of spatial plans and construction and exploitation permits;

5. *Also expresses* its concern that the Party concerned seems to maintain the position that implementing the recommendations of the Committee is not required for its full compliance with article 9, paragraphs 2 and 3, of the Convention;

6. *Invites* the Party concerned to submit to the Committee periodically (on 31 December 2014, 31 October 2015 and 31 October 2016) detailed information on further progress in implementing the recommendation set out above;

7. *Undertakes* to review the situation at its sixth session.