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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/9m concerning compliance by Turkmenistan 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) and the report of the Compliance Committee on compliance by Turkmenistan with its obligations under the Convention (ECE/MP.PP/2014/21) examining implementation of decision IV/9g,

Encouraged by the willingness of Turkmenistan in recent months to discuss in a constructive manner the compliance issues in question with the Committee,

1. *Welcomes* the engagement of the Party concerned in the compliance review process during the intersessional period, including its efforts to implement decision IV/9g;
2. *Endorses* the finding of the Committee that, through article 4, paragraph 2, article 11, paragraphs 1 and 5, and article 18, paragraph 1, of the 2014 Act on Public

* The present document has been submitted late due to the short interval between the forty-fourth meeting of the Compliance Committee and the deadline for the submission of documents to the fifth session of the Meeting of the Parties, and the need for further consultation on the document before its submission.



Associations, the Party concerned has fulfilled decision IV/9g to the extent that it is no longer in non-compliance with article 3, paragraph 9, of the Convention with respect to the rights of non-citizens to found and participate in public associations;

3. *Also endorses* the finding of the Committee that, in the light of the recent legislative developments, the Party concerned has fulfilled decision IV/9g to the extent that it is no longer in non-compliance with the obligation in article 3, paragraph 1, of the Convention to provide a clear, transparent and consistent framework to implement the Convention with respect to the points of non-compliance set out in decision IV/9g;

4. *Furthermore endorses* the finding of the Committee that, while the recent legislative developments are welcome, in the light of the lack of clarity as to how the prohibition on activities of unregistered associations set out in article 7, paragraph 2, of the 2014 Act on Public Associations is to be applied in practice, it is not in a position to conclude that the Party concerned is no longer in non-compliance with article 3, paragraph 4, of the Convention and the Party concerned thus remains in non-compliance with that provision;

5. *Decides* to lift the caution that entered into force on 1 January 2013;

6. *Recommends* that by 30 November 2014 the Party concerned provide information through an official statement to confirm, to the satisfaction of the Committee, that:

(a) The concept of “citizen” in article 9, paragraph 2, of the 2014 Law on Nature Protection includes any natural person, i.e., also foreign citizens and persons without citizenship, and that the concept of “natural persons” in article 11, paragraph 1, of the 2014 Act on Public Associations includes foreign citizens and persons without citizenship;

(b) The intended interpretation of article 4, paragraph 2, of the 2014 Act on Public Associations is that foreign citizens and persons without citizenship may, in the same way as citizens of Turkmenistan, become founders of public associations;

(c) With respect to activities of non-registered associations within the scope of the Convention, article 9 of the 2014 Law on Nature Protection prevails over the prohibition on activities of non-registered associations in article 7, paragraph 2, of the 2014 Act on Public Associations and other relevant legislation (e.g. as *lex specialis*, in the form of a special law which prevails over a more general law);

7. *Invites* the Party to organize meetings (e.g., round tables, workshops or conferences) with broad public participation, open to all members of the public and dedicated to:

(a) Sharing experiences in activities carried out by associations, organizations and groups promoting environmental protection in the Party concerned;

(b) Ensuring the consistency of the national legal system of the Party concerned with the obligation set out in article 3, paragraph 4, of the Convention;

and to report on these meetings by 30 November 2015 as well as in its national implementation report to the sixth session of the Meeting of the Parties;

8. *Mandates* the Committee to confirm whether the Party concerned has sufficiently fulfilled the requirements of paragraph 6 above to the extent that it is no longer in non-compliance with article 3, paragraph 4, of the Convention;

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