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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/9a concerning compliance by Armenia 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,

Mindful of the conclusions and recommendations set out in decision III/6b (ECE/MP.PP/2008/2/Add.10) and decision IV/9a (see ECE/MP.PP/2011/2/Add.1) with regard to compliance by Armenia,

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 Committee on the implementation of decision IV/9a concerning compliance by Armenia (ECE/MP.PP/2014/10), as well as the findings of the Committee on communication ACCC/C/2011/62 (ECE/MP.PP/C.1/2013/14) concerning access to justice for environmental non-governmental organizations (NGOs),

* 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.

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

1. *Takes note* of the progress made by the Party concerned in implementing decision IV/9a of the Meeting of the Parties, including the new practice of posting notifications and conclusions of environmental expertise on the website of the Ministry of Nature Protection;

2. *Regrets* the continued slow progress by the Party concerned to finalize and adopts a law on environmental impact assessment (EIA) which would fully implement the Convention and shares the Compliance Committee's concern with the continued non-implementation by Armenia of its obligations under the Convention;

3. *Endorses* the finding of the Committee with regard to decision IV/9a that since the relevant legislative measure proposed by the Party concerned to meet the requirements of that decision have not to date been adopted, Armenia has not yet met the requirements of decision IV/9a. This means the Party concerned remains in non-compliance with article 6 of the Convention on public participation and article 3, paragraph 1, requiring a clear, transparent and consistent framework to implement the Convention;

4. *Reiterates* its decision IV/9a and, in particular:

(a) Encourages the Party concerned to continue its constructive dialogue with the Committee;

(b) Urges the Party concerned to accelerate the process for the new legislation on environmental impact assessment (EIA), including the procedures on public participation contained in it, to be finalized and come into effect;

(c) Invites the Party concerned to take the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that:

(i) Thresholds for activities subject to an EIA procedure, including public participation, are set in a clear manner;

(ii) The public is informed as early as possible in the decision-making procedure, when all options are open, and that reasonable time frames are set for the public to consult and comment on project-related documentation;

(iii) The responsibilities of different actors (public authorities, local authorities, developers) in the organization of public participation procedures are defined as clearly as possible;

(iv) A system of prompt notification of the public concerned of the final conclusions of environmental expertise is arranged, e.g., through the website of the Ministry of Nature Protection;

5. *Invites* the Party concerned to:

(a) Prior to their adoption and no later than 1 September 2014, provide the Committee with an English translation of the text of the draft EIA law and other legislative measures as they stand on that date for the Committee's review;

(b) Provide the Committee with evidence that the draft EIA law and other legislative measures that have been proposed by the Party concerned to meet the requirements of decision IV/9a have been adopted;

6. *Endorses* the finding of the Committee with regard to communication ACCC/C/2011/62 that, while the wording of the legislation of the Party concerned does not run counter to article 9, paragraph 2, of the Convention, the decision of the Court of Cassation of 1 April 2011, by declaring that the environmental NGO did not have standing,

failed to meet the standards set by the Convention. Thus the Party concerned fails to comply with article 9, paragraph 2, of the Convention;

7. *Invites* the Party concerned to:

(a) Review and clarify its legislation, including the law on NGOs and administrative procedures, so as to ensure compliance with article 9, paragraph 2, of the Convention with regard to standing;

(b) Take the measures necessary to raise awareness among the judiciary to promote implementation of domestic legislation in accordance with the Convention;

8. *Requests* the Party concerned to provide detailed progress reports to the Committee by 31 December 2014, 31 October 2015 and 31 October 2016 on the measures taken and the results achieved in implementation of the above recommendations;

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