

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

Excerpt from the addendum to the report of the fifth session of the Meeting of the Parties (ECE/MP.PP/2014/2/Add.1)*

Decision V/9h on compliance by Germany

Adopted by the Meeting of Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters at its fifth session

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/2008/31 (ECE/MP.PP/C.1/2014/8, forthcoming) concerning access to justice for environmental non-governmental organizations (NGOs),

Encouraged by Germany'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/2008/31:

(a) By imposing a requirement that to be able to file an appeal under the Environmental Appeals Act an environmental NGO must assert that the challenged decision contravenes a legal provision "serving the environment", the Party concerned fails to comply with article 9, paragraph 2, of the Convention;

(b) By not ensuring the standing of environmental NGOs in many of its sectoral laws to challenge acts or omissions of public authorities or private persons which contravene provisions of national law relating to the environment, the Party concerned fails to comply with article 9, paragraph 3, of the Convention;

2. *Recommends* to the Party concerned that it take the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that:

* The full text of addendum to the report of the fifth session of the Meeting of the Parties (ECE/MP.PP/2014/2/Add.1) is available in English, French and Russian at http://www.unece.org/env/pp/aarhus/mop5_docs.html#.

(a) NGOs promoting environmental protection can challenge both the substantive and procedural legality of any decision, act or omission subject to article 6 of the Convention, without having to assert that the challenged decision contravenes a legal provision “serving the environment”;

(b) Criteria for the standing of NGOs promoting environmental protection, including standing with respect to sectoral environmental laws, to challenge acts or omissions by private persons or public authorities which contravene national law relating to the environment under article 9, paragraph 3, of the Convention are revised, in addition to any existing criteria for NGO standing in the Environmental Appeals Act, the Federal Nature Conservation Act and the Environmental Damage Act;

3. *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;

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