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Subject: 2015 Report to Aarhus Convention Compliance Committee on follow-up in Case ACC/C/2010/54

The Commission services have taken due note of the findings and recommendations of the Aarhus Convention Compliance Committee (ACCC), as adopted by the Meeting of the Parties to the Aarhus Convention (MoP) in Decision V/9g, concerning compliance by the European Union with provisions of the Convention in connection with the Irish National Renewable Energy Action Plan (NREAP), and hereby, submit to the Aarhus Convention Secretariat the second report on the progress achieved by the Union in implementing these recommendations. The first report was submitted by the Commission in December 2014.

The Commission services also took due notice of the "First progress review of the implementation of decision V/9g on compliance by the European Union with its obligations under the Convention" dated 13 October 2015 ("First progress review"), and would like to stress that they are committed to fully implement it, in particular its points 10 (a) – (d) and 16.

The Commission services would like to recall that the MoP recommended to the European Union to "adopt a proper regulatory framework and/or clear instructions for implementing article 7 of the Convention with respect to the adoption of NREAPs. This would entail that the Party concerned ensure that the arrangements for public participation in one of its member States are transparent and fair and that within those arrangements the necessary information is provided to the public. In addition, such a regulatory framework and/or clear instructions must ensure that the requirements of article 6, paragraphs 3, 4 and 8, of the Convention are met, including reasonable time frames, allowing sufficient time for informing the public and for the public to prepare and participate effectively, allowing for early public participation when all options are open, and ensuring that due account is taken of the outcome of the public participation. Moreover, the Party concerned must adapt the manner in which it evaluates NREAPs, accordingly."

The Commission notes that the MoP decision does not require the European Union to adopt new regulatory measures, nor to modify existing ones. According to the said recommendations, the European Union can decide to adopt "clear instructions". As explained in this report, the Commission undertook relevant activities that, we trust, fully satisfy the implementation of this recommendation.

The instruction that, in compliance with the MoP decision, the Commission has given to Member States can be described as follows:

1. Firstly, at the Plenary Meeting of the Concerted Action on Renewable Energy Sources Directive (CA RES), held in Dublin on 20-21 May 2015, the Commission services have repeatedly recalled to all Member States' delegates their country's obligation as signatories of the Aarhus Convention to ensure that its provisions, and notably those on public participation, are duly implemented and fully respected at their decision-making processes, especially when it comes to National Renewable Energy Action Plans (NREAPs).

The CA RES is part of the Intelligent Energy Europe Programme and aims at supporting the implementation of the RES Directive and the achievement of the national targets. It involves the organisations in charge of the national transposition and implementation of this Directive. Generally, these are the responsible ministries and expert bodies nominated to work on them by those Ministries.

This Concerted Action provides a forum for confidential and structured discussions and cross learning between these organisations in all EU Member States. This exchange of views, approaches and experiences concentrates on key requirements of the Directive according to the needs of Member States and the European Commission (Concerted Action on Renewable Energy).

2. Secondly, on the 14 October 2015, the Commission services have formally asked the Member States, by letter signed by the Director-General of Energy, Mr D. Ristori, addressed to the Member States Permanent Representatives to the European Union to include, in their 2015 National Renewable Energy Progress Reports , a detailed description of, and reference to, the measures and procedures in force that ensure public participation in the decision-making processes, in accordance with the requirements of Article 7, and in conjunction with Article 6, paragraphs 3, 4 and 8, of the Aarhus Convention . The same was requested for the case that Member States have to send updates of their National Renewable Energy Plans (NREAPS).

The Commission will report on the replies received from the Member States in the next biannual Renewable energy progress report from the Commission to the European Parliament and Council which is due in the autumn of 2016.

These measures, in the Commission services' view, respond to points 10 (a) – (d) of the First progress review. Point 10 (d) will be enforced by the following measure:

The Commission services will be particularly attentive in case there is any amendment of the Member States NREAPs, as provided for by Article 4(4) of the Renewable Energy Directive. The Commission services will assess the NREAPS against the Aarhus Convention in order to guarantee that public participation measures and procedures are observed in accordance with the requirements of Article 6, paragraphs 3, 4 and 8, of the Convention referred to in Article 7.

In light of point 16 of the First progress review, a plan of action for 2016, namely the rules on public participation will contain the following actions:

1. In 2016, there will be two Plenary Meetings of the Concerted Action on Renewable Energy Sources Directive (CA RES) . In those meetings the Commission services will again stress the need for compliance of the Member States NREAP's with

Article 6, paragraphs 3, 4 and 8, of the Convention referred to in Article 7, and will give appropriate instructions where needed.

2. In the first quarter of 2016, the Commission will assess the progress reports of Member States in the promotion and use of energy from renewable sources that will be submitted by Member States by 31 December 2015. In this assessment the Commission services will evaluate:

i) If the arrangements for public participation relating to the NREAPs notified by Member States are transparent and fair and if within those arrangements the necessary information is provided to the public.

ii) If the measures and procedures in force that ensure public participation in the decision-making process are in accordance with the requirements of Article 6, paragraphs 3, 4 and 8, of the Convention referred to in Article 7, including if Member States have reasonable time frames, allowing sufficient time for informing the public and for the public to prepare and participate effectively, allowing for early public participation when all options are open, and ensuring that due account is taken of the outcome of the public participation related to plans adopted under Directive 2009/28/EC relating to the environment.

We consider that also these points respond to points 10 (a) – (d), in particular point (d), of the First progress review.

Finally, the Commission services are also pleased to inform on other ongoing, very relevant, policy developments. To begin with, the Communication “A Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy” foresaw the adoption of a new governance process for an integrated governance and monitoring process, to make sure that energy-related actions at European, regional, national and local level all contribute to the Energy Union's objectives. One of the underlining purposes of such process will be to ensure an energy dialogue with stakeholders to best inform policy-making and support an active engagement of all parties in managing the energy transition. The envisaged dialogue will concern all the initiatives foreseen by the Energy Union strategy. Also, and with specific reference to the field of renewable energy, the Energy Union communication announced a new Renewable Energy Package in 2016-2017.

Information on those policy developments set in the context of the creation of a resilient and climate forward looking Energy Union will be provided by the Commission in its next progress report to the Aarhus Convention Secretariat on 31 October 2016.



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Cc: Delegation Geneva UN; Mr P. Swords, Angelika Wiedner (DG ENV D.4)