

## 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 d~~Decision V/9 on general issues of compliance\*<sup>1</sup>

#### [As adopted by the Meeting of the Parties]

*The Meeting of the Parties,*

*Having regard* to its decision I/7 on the review of compliance, and in particular to paragraph 37 of the annex thereto,

*Having regard also* to decision IV/9 on general issues of compliance and decisions IV/9a, IV/9b, IV/9c, IV/9d, IV/9e, IV/9f, IV/9g, IV/9h and IV/9i on compliance by individual Parties with their obligations under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention),

*Recalling* decisions V/9a, V/9b, V/9c, V/9d, V/9e, V/9f, V/9g, V/9h, V/9i, V/9j, V/9l, V/9m, V/9n and V/9o concerning compliance by Armenia, Austria, Belarus, Bulgaria, Croatia, the Czech Republic, the European Union (EU), Germany, Kazakhstan, Romania, Spain, Turkmenistan, Ukraine and the United Kingdom of Great Britain and Northern Ireland, adopted in parallel with this decision and containing the findings and recommendations of the Meeting of the Parties concerning specific Parties found to be in non-compliance, as well as the outcome of the review of implementation of decisions IV/9a, IV/9b, IV/9c, IV/9d, IV/9e, IV/9f, IV/9g, IV/9h and IV/9i,

\* 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.

<sup>1</sup> This document was not formally edited.

1. *Welcomes* the report of the Aarhus Convention Compliance Committee to the Meeting of the Parties at its fifth session;<sup>2</sup>
2. *Also welcomes* the way in which the Committee has been working and the further clarification of its procedures developed in the period 2011–2014 within the framework of decision I/7, as reflected in the reports of its meetings;
3. *Considers* that the implementation of measures to bring legislation or practice of a Party into compliance with the Convention should commence as soon as possible once specific problems with compliance have been identified, with a view to already bringing about full compliance with the relevant provisions in the intersessional period, where possible;
4. *Appreciates* that recommendations, advice and expert assistance from the Committee to the Parties concerned in the intersessional period contributes to the effectiveness of facilitating their compliance;
5. *Urges* each Party to cooperate in a constructive manner with the Committee in connection with any review of its compliance;

5 (bis) Notes:

a) the need for the Committee to ensure transparency and due process for both communicants and the Parties concerned in respect of communications received from members of the public (including informing the Party concerned, at an early stage, of the receipt of a communication by the Committee);

b) that the Committee ensure that where domestic remedies have not been utilised and exhausted, it takes account of such remedies, in accordance with paragraph 21 of the Annex to decision I/7;

**Findings and recommendations in 2011–2014 and cooperation by the Parties**

6. *Welcomes* the constructive approach and cooperation demonstrated by Austria, Belarus, Bulgaria, Croatia, the Czech Republic, Denmark, the EU, Germany, Kazakhstan, Romania and the United Kingdom, whose compliance was the subject of review in the intersessional period 2011–2014;
7. *Also welcomes* the consideration and evaluation by the Committee with respect to the specific cases of alleged non-compliance set out in the findings and recommendations adopted by the Committee during the intersessional period;<sup>3</sup>

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<sup>2</sup> ECE/MP.PP/2014/9.

<sup>3</sup> ECE/MP.PP/C.1/2013/14 (Armenia); ECE/MP.PP/C.1/2012/4 and ECE/MP.PP/C.1/2014/3 (Austria); ECE/MP.PP/C.1/2011/6/Add.1 (Belarus); ECE/MP.PP/C.1/2013/4 (Bulgaria); ECE/MP.PP/C.1/2014/4 (Croatia); ECE/MP.PP/C.1/2012/11 and ECE/MP.PP/C.1/2014/9 (Czech Republic); ECE/MP.PP/C.1/2012/7 (Denmark); ECE/MP.PP/C.1/2011/4/Add.1 and ECE/MP.PP/C.1/2012/12 and Corr.1 (EU); ECE/MP.PP/C.1/2014/5 (EU and United Kingdom); ECE/MP.PP/C.1/2014/8 (Germany); ECE/MP.PP/C.1/2013/9 and Corr.1 (Kazakhstan); ECE/MP.PP/C.1/2014/12 (Romania), forthcoming; ECE/MP.PP/C.1/2013/3, ECE/MP.PP/C.1/2013/12 and ECE/MP.PP/C.1/2013/13 (United Kingdom).

8. *Endorses* the main findings with regard to compliance contained in the findings and recommendations adopted by the Committee during the intersessional period;<sup>4</sup>

9. *Notes* the conclusions by the Committee in its findings on communications ACCC/C/2008/32 (Part I)<sup>5</sup> and ACCC/C/2012/68<sup>6</sup> that the European Union had not failed to comply with the provisions of the Convention in those cases; its findings on communications ACCC/C/2010/45 and ACCC/C/2011/60<sup>7</sup> and ACCC/C/2011/61<sup>8</sup> that the United Kingdom had not failed to comply with the provisions of the Convention in those cases; and its finding on communication ACCC/C/2010/53<sup>9</sup> that the United Kingdom no longer failed to comply with the provisions of the Convention in that case;

10. *Welcomes* the recommendations by the Committee during the intersessional period 2011–2014, in accordance with paragraph 36 (b) of the annex to decision I/7, with regard to compliance by individual Parties, and the acceptance by most of the Parties found not to be in compliance of the Committee making such recommendations to them;

11. *Also welcomes* the measures taken by Denmark during the intersessional period ~~to address the recommendations made by the Committee~~ with respect to the point of non-compliance identified ~~in the Committee's in its~~ findings on communication ACCC/C/2011/57, and notes the Committee's finding in its report ~~on the implementation of those recommendations~~ that Denmark was no longer in non-compliance;<sup>10</sup>

12. *Notes* the efforts that have been made by Austria, Belarus, Bulgaria, the Czech Republic, the EU and Kazakhstan during the intersessional period to address the recommendations made to those Parties by the Committee with respect to the points of non-compliance identified, respectively, in the Committee's findings on communications ACCC/C/2010/48, ACCC/C/2009/44, ACCC/C/2011/58, ACCC/C/2010/50, ACCC/C/2010/54 and ACCC/C/2011/59, while also noting the Committee's findings in its reports on the implementation of those recommendations that further work was needed by each Party to fully address the outstanding points of non-compliance;<sup>11</sup>

#### **Implementation of decisions on compliance by individual Parties**

13. *Takes note* of the reports of the Committee on the implementation of decisions IV/9a,<sup>12</sup> IV/9b,<sup>13</sup> IV/9c,<sup>14</sup> IV/9d,<sup>15</sup> IV/9e,<sup>16</sup> IV/9f,<sup>17</sup> IV/9g,<sup>18</sup> IV/9h<sup>19</sup> and IV/9i;<sup>20</sup>

<sup>4</sup> Ibid.

<sup>5</sup> ECE/MP.PP/C.1/2011/4/Add.1.

<sup>6</sup> ECE/MP.PP/C.1/2014/5.

<sup>7</sup> ECE/MP.PP/C.1/2013/12.

<sup>8</sup> ECE/MP.PP/C.1/2013/13.

<sup>9</sup> ECE/MP.PP/C.1/2013/3.

<sup>10</sup> ECE/MP.PP/2014/15.

<sup>11</sup> ECE/MP.PP/2014/11 (Austria), ECE/MP.PP/2014/12 (Belarus), ECE/MP.PP/2014/13 (Bulgaria), ECE/MP.PP/2014/14 (Czech Republic), ECE/MP.PP/2014/16 (EU) and ECE/MP.PP/2014/17 (Kazakhstan).

<sup>12</sup> ECE/MP.PP/2014/10 (Armenia).

<sup>13</sup> ECE/MP.PP/2014/12 (Belarus).

14. *Welcomes* the Republic of Moldova's and Slovakia's committed action to fully address the recommendations made by the Meeting of the Parties through decisions IV/9d and IV/9e, respectively, and to bring their legislation and practice into compliance with the Convention;

15. *Also welcomes* the constructive efforts made by Armenia, Belarus, Kazakhstan, Spain, Turkmenistan and the United Kingdom to address the recommendations made by the Meeting of the Parties through decisions IV/9a, IV/9b, IV/9c, IV/9f, IV/9g and IV/9i, respectively, to bring their legislation and practice into compliance with the Convention, while recognizing that further work is needed by each Party to fully address the outstanding points of non-compliance;

16. *Expresses its deep concern* at the absence of concrete progress by Ukraine in implementing decision IV/h, which urged Ukraine to implement the measures requested by the Meeting of the Parties at its second session (Almaty, Kazakhstan, 25–27 May 2005) through decision II/5b “as soon as possible”;

17. *Requests* the Committee, with the support of the secretariat, to provide advice and assistance and, where appropriate, to make recommendations to the Parties concerned to support the implementation of decisions V/9a–o<sup>21</sup> concerning their compliance;

18. *Undertakes* to review the implementation of decisions V/9a–o<sup>22</sup> at its sixth ordinary session, as well as the more general recommendations contained in the following paragraphs, and, with this in mind, requests the Committee to examine these matters in advance of that meeting and to submit reports on the implementation of those decisions and recommendations to it for consideration at its sixth session;

#### **Resources**

19. *Invites* all Parties and other interested States and organizations in a position to do so to provide countries with economies in transition with ~~financial and technical~~ assistance aimed at improving implementation of, and compliance with, the Convention;

20. *Notes* that the workload of both the secretariat and the Committee related to the functioning of the compliance mechanism has significantly increased during the intersessional period 2011–2014 and is expected to increase further, and requests the Working Group of the Parties, the Bureau and the secretariat, in their respective roles, to ensure that sufficient human and financial resources are made available for this purpose;

<sup>14</sup> ECE/MP.PP/2014/17 (Kazakhstan).

<sup>15</sup> ECE/MP.PP/2014/18 (Republic of Moldova).

<sup>16</sup> ECE/MP.PP/2014/19 and ECE/MP.PP/2014/19/Add.1 (Slovakia).

<sup>17</sup> ECE/MP.PP/2014/20 (Spain).

<sup>18</sup> ECE/MP.PP/2014/21 (Turkmenistan).

<sup>19</sup> ECE/MP.PP/2014/22 (Ukraine).

<sup>20</sup> ECE/MP.PP/2014/23 (United Kingdom).

<sup>21</sup> There is no draft decision V/9k. On adoption, the numbering of the decisions on compliance will be corrected to run sequentially.

<sup>22</sup> *Ibid.*

21. *Requests* the secretariat to continue to produce the agendas, reports, findings and other documents prepared by the Compliance Committee as official documents and to make them available in time in the three official languages of ECE, without recourse to additional extrabudgetary resources.

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