



**Economic and Social
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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

Compliance Committee

REPORT ON THE SEVENTH MEETING

1. The seventh meeting of the Compliance Committee took place in Geneva on 16-18 February 2005. All its members were present. Representatives of the United Nations Environment Programme and the non-governmental organization (NGO) Earthjustice participated as observers.
2. The meeting was opened by the Chairman, Mr. Veit Koester.

I. ADOPTION OF THE AGENDA

3. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2005/1.

**II. RELEVANT DEVELOPMENTS
SINCE THE PREVIOUS MEETING OF THE COMMITTEE**

4. The secretariat informed the Committee of the discussions on compliance that had taken place at the fourth meeting of the Working Group of the Parties (ECE/MP.PP/WG.1/2005/2, paras. 34 - 38). The Committee took note of the information.
5. The secretariat also informed the Committee about the process of developing a compliance mechanism under the Protocol on Pollutant Release and Transfer Registers (PRTRs). A paper was being prepared by the secretariat on options for a compliance mechanism, which would be presented at the second meeting of the Working Group on PRTRs in April 2005.

III. OTHER MATTERS ARISING FROM THE PREVIOUS MEETING

6. The secretariat informed the Committee that the compilation of materials related to the Committee's modus operandi and available from the Committee's web site had been updated to reflect the outcome of its previous meeting.

IV. SUBMISSIONS BY PARTIES CONCERNING OTHER PARTIES

7. The Committee finalized and adopted its findings and recommendations on those aspects of the submission from the Government of Romania concerning compliance by the Government of Ukraine with its obligations under article 6, paragraph 2 (e), of the Convention (ACCC/S/2004/01) that it had decided to consider. A joint paper prepared on this submission and communication ACCC/C/2004/03 is set out in addendum 3 to this report.

V. SUBMISSIONS BY PARTIES CONCERNING THEIR OWN COMPLIANCE

8. The secretariat informed the Committee that no submissions had been made by Parties concerning problems with their own compliance.

VI. REFERRALS BY THE SECRETARIAT

9. No referrals had been made by the secretariat.

VII. COMMUNICATIONS FROM MEMBERS OF THE PUBLIC

10. The Committee finalized and adopted its findings and recommendations on communications ACCC/C/2004/01, ACCC/C/2004/02, ACCC/C/2004/03, ACCC/C/2004/04 and ACCC/C/2004/05 and submission ACCC/S/2004/01. In doing so, it took into account comments provided by the Parties concerned and the communicants as required under paragraph 34 of the annex to decision I/7, following the procedure that it had agreed upon at its previous meeting (MP.PP/C.1/2004/8, para. 36). If any substantive inconsistencies in the full set of documentation were identified in the course of finalizing this report in accordance with paragraph 25 below, these would be resolved through electronic consultation with the whole Committee. The findings and recommendations of the Committee are contained in the addenda to this report. The Committee requested the secretariat to make them publicly available and to ensure that they were distributed to the Parties concerned and the communicants as soon as practically feasible.

11. One communication (ACCC/C/2004/10) had been pending since the previous meeting. One new communication from the public had been received. It had been submitted by the Belgian non-governmental organization Bond Beter Leefmilieu Vlaanderen VZW and concerned compliance by Belgium with article 9, in conjunction with article 2, paragraph 5, of the Convention. The communicant alleged, in particular, that Belgian case law and legislation failed to provide for wide access to justice, in particular with regard to NGO standing in public interest

cases, providing a number of examples intended to substantiate this claim. The communication was assigned the reference number ACCC/C/2005/11.

12. The Committee took note that, in accordance with its procedures, the communications had been distributed to curators in advance of the meeting as follows:

- ACCC/C/2004/10: Ms. Eva Kruzikova;
- ACCC/C/2005/11: Mr. Laurent Mermet.

13. The Committee discussed each of the cases, addressing the following points:

- Whether the information contained in the data sheet was accurate or needed modifying;
- Whether, on preliminary examination, the communication appeared to fulfil the admissibility criteria; and
- Which points should be raised with the Party concerned.

14. The Committee determined on a preliminary basis that communication ACCC/C/2005/11 was admissible, but did not, at this stage, draw any conclusions on the compliance issues raised in it. The Committee also agreed on a set of issues to be raised with the Party concerned when forwarding the communication.

15. The Committee determined that communication ACCC/C/2004/10 was inadmissible because it did not appear to relate to the procedures and obligations regulated by the Aarhus Convention, but rather dealt with substantive environmental issues. The only provision that might have been of some relevance was article 9, paragraph 3, but the Committee considered that the communication did not relate to a denial of access to administrative or judicial procedures but rather reflected dissatisfaction with their outcome. As it was not the first time that a communicant had appealed to the Committee out of dissatisfaction with court decisions, the Committee considered that it would be worthwhile to include some examples in the information sheet on communications of cases which would not be admissible.

16. As regards communications ACCC/C/2004/06 and ACCC/C/2004/08 received before the fifth meeting, no responses had yet been received from the Parties concerned. The deadlines for responses were 22 March 2005 and 20 March 2005, respectively. The Committee therefore agreed not to enter into discussions on the substance until its next meeting. It did, however, decide that the substance of the communications would be considered at that meeting and requested the secretariat to notify the Parties concerned and the communicants of this and of their right to participate in accordance with chapter IX of the annex to decision I/7.

VIII. OTHER INFORMATION RECEIVED BY THE COMMITTEE RELEVANT TO POSSIBLE CASES OF NON-COMPLIANCE

17. The Committee had received no additional information relevant to possible cases of non-compliance.

IX. MODUS OPERANDI

18. The Committee did not have time to discuss any new aspects of its modus operandi.

X. REVIEW OF COMPLIANCE WITH REPORTING REQUIREMENTS

19. The secretariat informed the Committee of the status of the submission and processing of national implementation reports, i.e. which countries had submitted reports and when, the extent to which the reports met the various formal requirements, the quality of the information provided in the reports and the progress in preparation of the synthesis report. Individual reports had been circulated to various members of the Committee prior to the meeting but no member had received all the reports that had come in. The Committee discussed the extent to which the formal requirements of decision I/8 had been met and agreed to reflect its findings and recommendations in its report to the Meeting of the Parties.

20. A consultant to the secretariat, Ms. Tatiana Zaharchenko, presented the first draft of the synthesis report. The Committee commented both on the structure and the context of the report. It also discussed the extent to which its own report to the Meeting of the Parties would use the information from the national implementation reports and the synthesis report. It decided, in addition to the review of compliance with the reporting requirements, to address some of the general issues of compliance and implementation emerging from the synthesis report, in particular those corroborated by the information gathered by the Committee in the course of its work.

XI. PREPARATION OF THE COMMITTEE'S REPORT TO THE MEETING OF THE PARTIES

21. The Committee discussed its report to the Meeting of the Parties on the basis of draft elements prepared by the secretariat. It agreed to structure the report more or less in accordance with the outline prepared at its second meeting (MP.PP/C.1/2003/4, annex). The report would cover:

- (a) Some of the main aspects of its modus operandi,
- (b) The status of submissions, communication and referrals, including its main findings and recommendations;
- (c) Its conclusions and recommendations with regard to some of the general issues related to compliance and implementation of the Convention; and
- (d) Its findings, conclusions and recommendations based on the review of compliance with reporting requirements.

22. The Committee then adopted the report, subject to editorial changes to be made by the secretariat in cooperation with the Chairman.

XII. PROGRAMME OF WORK AND CALENDAR OF MEETINGS

23. The Committee confirmed that it would hold its eighth meeting in Almaty, Kazakhstan, on 22-24 May 2005, in parallel with the fifth meeting of the Working Group of the Parties.
24. The meeting would commence in the afternoon of 22 May 2005. The ninth meeting of the Committee was preliminarily scheduled to take place on 14-16 September 2005 in Geneva.

XIII. ADOPTION OF THE REPORT AND CLOSURE OF THE MEETING

25. The Committee adopted the draft report of the meeting prepared by the Chairman and the secretariat, and requested the secretariat in cooperation with the Chairman to finalize it. The Chairman then closed the meeting.