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Economic Commission for Europe

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Meeting of the Parties to the Protocol on
Water and Health to the Convention on
the Protection and Use of Transboundary
Watercourses and International Lakes

Compliance Committee

Eleventh meeting

Geneva, 24 - 25 March 2015

Report of the Compliance Committee on its eleventh meeting

I. Organizational matters

1. The eleventh meeting of the Compliance Committee under the Protocol on Water and Health to the Convention on the Protection and Use of Transboundary Watercourses and International Lakes was held on 24 and 25 March 2015 in Geneva, Switzerland. The following members of the Committee attended: Mr. Pierre Chantrel (France); Ms. Ilona Drulyte (Lithuania); Ms. Diana Iskrevva-Idigo (Bulgaria); Mr. Veit Koester (Denmark) (Chair); Mr. Oddvar Georg Lindholm (Norway); Mr. Vadim Ni (Kazakhstan); Mr. Ilya Trombitsky (Republic of Moldova); and Mr. Serhiy Vykhryst (Ukraine). Mr. Yves Lador (EarthJustice) attended the meeting as an observer. The meeting was serviced by the United Nations Economic Commission for Europe (ECE) secretariat.

II. Adoption of the agenda

2. The Compliance Committee adopted its agenda as set out in document ECE/MP.WH/C.1/2015/1-EUDCE/1408105/1.10/2015/CC/03.

III. Consideration of submissions, referrals and communications

3. On 24 November 2014, the day before the Compliance Committee's tenth meeting (Geneva, 25 November 2014), the secretariat had received a communication from the non-governmental organization Earthjustice addressed to the Compliance Committee,

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alleging that Portugal was not in compliance with its obligations under articles 6 and 7 of the Protocol.¹ The communication had been received too late to be considered at the tenth meeting, at which the Committee had begun consideration of the question of Portugal's compliance with its reporting obligation, in accordance with article 7 (see ECE/MP.WH/C.1/2014/2–EUDCE/1408105/1.10/2014/CC/06, paras. 6 and 17–21; see also paras. 12–14 below).

4. In an e-mail exchange prior to its eleventh meeting, the Committee had determined on a preliminary basis that the communication was admissible. Pursuant to paragraph 20 of the Compliance Procedure (see ECE/MP.WH/2/Add.3–EUR/06/5069385/1/Add.3, annex), the communication had been forwarded to the Party concerned on 17 February 2015 with a deadline of 17 July 2015 for the Party to submit any written explanations or statements clarifying the matter referred to in the communication and describing any response that might have been made in the meantime. The Committee decided to consider the communication at its twelfth meeting, after the deadline for the Party to respond had elapsed.

5. The Committee noted the concern expressed by the communicant regarding the failure of the Party concerned to submit its summary report within the second reporting exercise and the alleged consequences thereof, as indicated in the communication.

IV. Relevant developments since the tenth meeting of the Compliance Committee

6. The Committee members reported on efforts to raise awareness about and promote the Protocol's compliance mechanism since the last meeting. Mr. Trombitsky noted that the compliance mechanism of the Protocol was regularly presented at national and local events on water and health organized in the Republic of Moldova. Ms. Iskrevka had had a meeting with the Directorate of International Affairs of the Ministry of Environment and Water of Bulgaria, among others, to encourage the accession of Bulgaria to the Protocol. Ms. Drulyte had been invited to present the compliance mechanism to the Ministry for Foreign Affairs of Lithuania in relation to a transboundary issue between Lithuania and Belarus.

7. The secretariat informed the Committee of its attendance at the first preparatory meeting of the twenty-third Economic and Environmental Forum of the Organization for Security and Cooperation in Europe (OSCE) (Vienna, 26–27 January 2015), noting that there was a possibility to use the OSCE Aarhus Centres to promote the work of the Protocol, particularly in the area of public participation.

V. Consultation with Parties to facilitate implementation of the Protocol

8. In accordance with the decision at its tenth meeting, the Committee had invited Albania, Azerbaijan and Croatia to engage in the Consultation Process. Taking into account the request for assistance submitted to the secretariat by Bosnia and Herzegovina, that country had been invited to join the Process as an observer.

¹ Information on this communication, including relevant documentation, is available from <http://www.unece.org/environmental/protocol-on-water-and-health/cc/communications/ecempwhcccom1.html>.

9. Albania and Azerbaijan had accepted the invitation to engage in the Consultation Process and Bosnia and Herzegovina had agreed to participate as an observer. No response had been received from Croatia.

10. The Committee discussed the preparations and the expected outcomes of the Consultation Process, inter alia, on the basis of an analysis by the Committee members of the summary reports of the Parties involved. The Committee noted that there were possible links between the Process and other assistance activities under the Protocol on Water and Health and stressed the need for coordination.

11. The Committee requested the secretariat to send a letter to the Parties involved introducing the main features of the Process and referring to the previous correspondence concerning the invitation to the twelfth meeting of the Committee, when the Consultation Process would be held.

VI. Implementation of and compliance with the reporting requirements

12. At its tenth meeting, the Committee had discussed different possibilities to address the failure of some Parties to comply with the reporting requirements under the Protocol. It had concluded that, based on paragraph 11 (c) read in conjunction with paragraph 12 of the Compliance Procedure, it did have the competence to not only examine general issues of compliance but also to take appropriate action in case of possible non-compliance by a specific Party with its obligation to report (see ECE/MP.WH/C.1/2014/2–EUDCE/1408105/1.10/2014/CC/06, paras. 17–20).

13. Accordingly, the Committee had decided to initiate a case regarding possible non-compliance by Portugal with its obligation to report, as it had failed to submit its summary report within the second reporting exercise — the only Party that had failed to do so (ibid., para. 21).

14. Specifically, the Committee considered that Portugal had failed to comply with article 7 of the Protocol. The Committee prepared draft findings and requested the secretariat to forward them for comments to the focal point of the Party concerned with a deadline of 15 May 2015 for the Party to respond. The draft findings would subsequently be made publicly available, including for comments.

15. The Committee noted that it had adopted the procedural rules governing the above case on a provisional basis at its tenth meeting, with a view to considering whether those rules should also apply to similar cases in the future. The Committee concluded that the rules were appropriate, and therefore decided that the same rules would apply in future cases.

16. With regard to the current reporting cycle, the Committee noted that the *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting*² adopted by the Meeting of the Parties did not clearly indicate that Parties had the obligation to submit their summary reports not later than 210 days prior to the following session of the Meeting of the Parties. The Committee therefore recommended that the Bureau consider that issue and prepare a draft decision for the fourth session of the Meeting of the Parties, clearly stating that Parties were obliged to submit their summary reports within the above-mentioned deadline. The draft decision should also include a formal adoption of the relevant guidelines and template for summary reports. The Committee recommended that such a decision be adopted at each ordinary session of the Meeting of the Parties.

² United Nations publication, Sales No. E. 10.II.E.12; available from <http://www.unece.org/index.php?id=11644>.

VII. Compliance with the obligation to set targets and target dates

17. The secretariat informed the Committee about the relevant outcomes of the seventh meeting of the Working Group on Water and Health (Geneva, 26–27 November 2014) and the thirteenth meeting of the Bureau of the Meeting of the Parties (Geneva, 28 November 2014), specifically with regard to the general issue of compliance by Parties to the Protocol that were also members of the European Union (EU).

18. The Working Group had supported the decision of the Compliance Committee to invite a group of Parties to engage in the Consultation Process under the Committee. In response to a request by the Chair of the Committee, the Working Group had also decided to undertake an analysis, subject to the availability of funds, to examine the target areas under the Protocol vis-à-vis the relevant EU directives in order to clarify under which target areas and in what way it would be as acceptable to refer to the relevant EU legislation in the national summary reports.

19. However, the Bureau had subsequently decided not to embark on such an analysis, in particular owing to a lack of funds for that activity. In making that decision, the Bureau had also considered relevant that a similar study had already been prepared by an expert from Hungary.

20. The Committee took note of the above-mentioned study, but concluded that its objective did not coincide with the scope of the analysis requested by the Committee, thus not providing an answer to the Committee's concerns.

21. The Committee, still convinced that such an analysis was needed, requested the secretariat to convey its conclusions to the Bureau and the informal review group under the Task Force on Target Setting and Reporting.

22. At its tenth meeting, the Committee had noted that its recommendations addressing target setting in accordance with article 6 of the Protocol, as incorporated in decision III/1 of the Meeting of the Parties (see ECE/MP.WH/11/Add.2–EUDCE/1206123/3.1/2013/MOP-3/06/Add.2), were somewhat misleading. The Committee identified the main issues in paragraphs 5, 6 and 7 of decision III/1 and decided to postpone to its twelfth meeting the discussion on how those paragraphs might be reformulated in connection with the Committee's recommendation to the fourth session of the Meeting of the Parties (Bern, 14–16 November 2016).

23. In the above context, the Committee decided also to examine article 7, paragraphs 4 to 6, of the Protocol, in relation to links between the obligation to set targets under article 6 and the obligation to report under article 7.

VIII. Calendar of future meetings

24. The Committee agreed to hold its twelfth meeting in Geneva on 19 and 20 October 2015. The Committee took note of the dates preliminarily reserved for its thirteenth meeting (23–24 March 2016), with the understanding that the meeting might be reduced to one day depending on the expected workload.

IX. Financial situation

25. The secretariat informed the Committee that there were no funds available to support the Committee's activities and asked for suggestions on possible sources of financing. The Bureau had agreed that the present meeting of the Committee be financed

from reserves in the ECE trust fund for the Protocol, which was not a solution in the longer term.

X. Adoption of the report

26. The Committee adopted its report and requested the secretariat to make editorial changes as appropriate.
