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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

Forty-first meeting
Geneva, 25–28 June 2013

Report of the Compliance Committee on its forty-first meeting

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Introduction

1. The forty-first meeting of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held from 25 to 28 June 2013 in Geneva, Switzerland.

A. Attendance

2. All members were present during the meeting, with the exception of Mr. Gerhard Loibl, who participated in one closed session by videoconference, and Ms. Ellen Hey, who was not present on the fourth day of the meeting. Members having declared a conflict of interest with respect to particular cases did not participate in closed sessions deliberating on those cases. Representatives of the Government of the United Kingdom of Great Britain and Northern Ireland participated in the open sessions.

3. Also participating as observers during the open sessions were members of the public and representatives of non-governmental organizations (NGOs), including: Balkani Wildlife Society (Bulgaria); the Coordination Centre of Austrian Environmental Organizations (OEKOBUEO) (Austria); Earthjustice (Switzerland); Greenpeace Limited (United Kingdom); and the International Council of Environmental Law (Switzerland). In addition, a representative of ClientEarth participated via teleconference in a relevant session of the meeting.

B. Organizational matters

4. The Chair of the Compliance Committee, Mr. Jonas Ebbesson, opened the meeting.
5. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2013/5.

I. New submissions and referrals under the Convention

6. The secretariat informed the Committee that no new submissions had been made by Parties concerning compliance by other Parties.
7. The secretariat informed the Committee that no submissions had been made by Parties concerning problems with their own compliance since the Committee's last meeting.
8. No referrals had been made by the secretariat since the Committee's last meeting.

II. Communications from members of the public

9. With regard to communication ACCC/C/2008/31 (Germany), the Committee agreed to continue its deliberations on the matter at its next meetings with a view to completing its draft findings and, as appropriate, recommendations, which would then be sent for comment to the Party concerned and the communicant.
10. Concerning communication ACCC/C/2008/32 (European Union (EU)), the secretariat informed the Committee that no additional information had been received and

that the two cases relating to the communication¹ were still pending before the Court of Justice of the EU.

11. At its fortieth meeting (Geneva, 25–28 March 2013), the Committee had completed its draft findings in closed session with regard to communications ACCC/C/2010/45 and ACCC/C/2011/60 (United Kingdom) (joint findings). The findings had then been sent for comments to the Party concerned and the communicants on 1 May 2013. All had provided comments on 29 May 2013. The Committee finalized its findings, taking into account the comments received. It adopted its findings and instructed the secretariat to prepare official versions of the adopted findings on ACCC/C/2010/45 and ACCC/C/2011/60 as a formal pre-session document for its forty-third meeting (Geneva, 17–20 December 2013), and to ensure their availability in the three official United Nations Economic Commission for Europe (ECE) languages. The Committee requested the secretariat to send the finalized findings to the Party concerned and the communicant.

12. With regard to communication ACCC/C/2010/51 (Romania), the Committee recalled that at its thirty-ninth meeting (Geneva, 11–14 December 2012) it had completed its draft findings in closed session, and the draft had then been sent to the Party concerned and the communicant for comment. Further to the comments received on the draft from the parties, the Committee, at its fortieth meeting, noted that the comments received had indicated that some aspects of the facts had possibly been incorrectly reflected in the findings, and requested the secretariat to enquire with the parties in order to verify the information.

13. As decided at its previous meeting, the Committee at its forty-first meeting considered the relevant parts of its draft based on the replies received by the communicant and the Party concerned on 20 May and 7 June 2013, respectively. Due to the substantive change of the relevant parts of its draft, the Committee requested the secretariat to send the new draft findings to the Party concerned and the communicant for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7 of the Meeting of the Parties to the Convention. The Committee would take into account any comments when finalizing the findings at its forty-second meeting (Geneva, 24–27 September 2013).

14. With regard to communication ACCC/C/2010/55 (United Kingdom), the secretariat informed the Committee that no additional information had been received.

15. At its fortieth meeting, the Committee had completed its draft findings in closed session with regard to communication ACCC/C/2011/61 (United Kingdom). The findings had then been sent for comments to the Party concerned and the communicant on 1 May 2013. Both provided comments on 7 June 2013. The Committee finalized its findings, taking into account the comments received. It adopted its findings and instructed the secretariat to prepare official versions of the adopted findings on ACCC/C/2011/61 as a formal pre-session document for its forty-third meeting, and to ensure their availability in the three official ECE languages. The Committee requested the secretariat to send the finalized findings to the Party concerned and the communicant.

16. At its fortieth meeting, the Committee had also completed its draft findings in closed session with regard to communication ACCC/C/2011/62 (Armenia). The findings had been sent for comments to the Party concerned and the communicant on 2 May 2013. The communicant had provided comments on 30 May and the Party concerned on 31 May 2013, respectively. The Committee finalized its findings, taking into account the comments received. It adopted its findings and instructed the secretariat to prepare official versions of the adopted findings on ACCC/C/2011/62 as a formal pre-session document for its forty-

¹ *Council v. Stichting Natuur en Milieu and Pesticide Action Network Europe*, case C-404/12 P and *Commission v. Stichting Natuur en Milieu and Pesticide Action Network Europe*, case C-405/12 P.

third meeting, and to ensure their availability in the three official ECE languages. The Committee requested the secretariat to send the finalized findings to the Party concerned and the communicant.

17. Concerning communication ACCC/C/2011/63 (Austria), the Committee completed its draft findings in closed session. It requested the secretariat to send the draft findings to the Party concerned and the communicants for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7. The Committee would take into account any comments when finalizing the findings at its forty-second meeting.

18. With regard to communication ACCC/C/2012/66 (Croatia), the Committee completed its draft findings in closed session. It requested the secretariat to send the draft findings to the Party concerned and the communicants for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7. The Committee would take into account any comments when finalizing the findings at its forty-second meeting.

19. At its fortieth meeting, the Committee had decided to send additional questions to the parties of communication ACCC/C/2012/68 (EU and United Kingdom). Both Parties concerned submitted their replies on 17 May 2013 and the communicant on 18 May 2013. The communicant had also sent additional information on 15 June 2013; and on 17 June 2013, the United Kingdom responded to the information submitted by the communicant on 18 May 2013. In addition, an observer, who had already submitted substantive information on 3 March 2013, submitted more information on 13 June 2013. The Committee took note of the information. It then completed its draft findings in closed session, with the exception of a few minor points that had been finalized by using the Committee's electronic decision-making procedure. It requested the secretariat to send the draft findings to the Party concerned and the communicants for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7. The Committee would take into account any comments when finalizing the findings at its forty-second meeting.

20. Concerning communication ACCC/C/2012/69 (Romania), the Committee took note of the information submitted by the Party concerned on 22 May 2013. It noted that the communicant was supposed to comment on the information submitted by the Party concerned by 31 May 2013. On 7 June 2013, the communicant had provided the Committee with a translation in English of a decision by the Bucharest Court of Appeal of 4 October 2012, however, to date, the Committee had not received any comments from the communicant on the information submitted by the Party concerned on 22 May 2013. The Committee instructed the secretariat to request the communicant to submit its comments by 20 July 2013. It agreed to continue its deliberations on the matter at its next meeting and, depending on the availability of information before it, the Committee would decide whether to complete its draft findings and, as appropriate, recommendations, which would then be sent for comment to the Party concerned and the communicant, or to close the case.

21. With respect to communication ACCC/C/2012/70 (Czech Republic), the Committee took note of the information submitted by the communicant and the Party concerned on 2 and 6 May 2013, respectively. It then agreed to continue its deliberations on the matter at its next meetings with a view to completing its draft findings and, as appropriate, recommendations, which would then be sent for comment to the Party concerned and the communicant.

22. On communication ACCC/C/2012/71 (Czech Republic), the Committee took note of the information submitted by the communicant on 14 May and by the Party concerned on 20 May 2013. On 26 May 2013, the communicant had responded to the information submitted by the Party concerned and, in turn, the Party concerned had reacted to the communicant's response on 13 June 2013. The communicant had responded to the Party's reaction on that same day. The Committee agreed to continue its deliberations on the matter at its next meetings with a view to completing its draft findings and, as appropriate,

recommendations, which would then be sent for comment to the Party concerned and the communicant.

23. The Committee then entered into a discussion in open session on communications ACCC/C/2012/76 (Bulgaria) and ACCC/C/2012/77 (United Kingdom).

24. Concerning communication ACCC/C/2012/76 (Bulgaria), the discussion took place with the participation of the communicant. The Party concerned had responded to the communication on 28 March 2013. The Committee noted with concern that the Party concerned had chosen not to be present at the meeting without having informed the secretariat, and instructed the secretariat to convey its disappointment to the Party concerned. The communication alleged the failure of the Party concerned to properly apply article 9, paragraph 4, of the Convention and to ensure injunctive relief pending review of permits for activities that might impact on the environment. The Committee confirmed that communication ACCC/C/2012/76 was admissible. At the end of the discussion, the communicant was invited to address some additional questions in writing. It was agreed that questions would also be sent to the Party concerned.

25. With respect to communication ACCC/C/2012/77 (United Kingdom), both the Party concerned and the communicant participated in the discussions. The Party concerned had requested clarification on 28 March 2013 on the communication and had responded to the allegations on 31 May 2013. The communication alleged the failure of the Party concerned to comply with its obligation under article 9, paragraphs 4 and 5, of the Convention in view of the costs the communicant had incurred when its application for permission to seek judicial review of the designation by the Secretary of State for Energy and Climate Change of the National Policy Statement for Nuclear Power Generation was rejected. The Committee confirmed that communication ACCC/C/2012/77 was admissible. At the end of the discussion, parties were invited to address some additional questions in writing.

26. With respect to communication ACCC/C/2012/78 (Spain), the Committee noted that the Party concerned had provided its response on 12 June 2013. In its response, the Party concerned had admitted that the allegations concerning access to information had initially been founded, but affirmed that it had acted to redress the situation, which constituted an isolated case, immediately and the information had in the meantime been provided to the communicant. The Committee recalled that it had provisionally scheduled to discuss the substance of the communication at its forty-second meeting. However, given the response of the Party concerned indicating that the situation with regard to access to information had been redressed at the domestic level and also the fact that the allegations of the communication relating to access to justice would be considered under the summary proceedings procedure, in the context of the follow-up to decision IV/9f (Spain), the Committee considered that the case might be closed. It instructed the secretariat to seek the views of the parties and, depending on the responses received, the Committee agreed to decide at its forty-second meeting whether there was a need to discuss the substance of the communication at a subsequent meeting.

27. On communication ACCC/C/2013/81 (Sweden), the Committee noted that the deadline of 26 September 2013 for the Party to respond had not elapsed and the Party had not yet replied, nor had the communicant replied to the questions put by the Committee. The Committee provisionally scheduled to discuss the substance of the communication at its forty-second meeting.

28. At its fortieth meeting, the Committee had determined that communication ACCC/C/2013/82 (Norway) was not admissible on the basis of paragraph 20 (c) of the annex to decision I/7. The outcome of that meeting had been communicated to the communicant, who on 12 May 2013 sent additional substantive information to the Committee, requesting among others that the Committee give specific reasons for its decision that the communication was not admissible, and that the Committee disclose

correspondence with the Party concerned, the media editors and the Bar Association. The Committee recalled that it had determined the communication to be manifestly unreasonable because the communication had failed to provide for clear, obvious and evident reasons why the requests of the communicant to the media industry and the Bar Association fell within the ambit of the Convention. The Committee instructed the secretariat to send a letter to the communicant.

29. Concerning communication ACCC/C/2013/83 (United Kingdom), the Committee noted that the deadline of 2 October 2013 for the Party to respond had not elapsed and that the Party had not yet replied, nor had the communicant replied to the questions put by the Committee. The Committee provisionally scheduled to discuss the substance of the communication at its forty-second meeting.

30. At its fortieth meeting, the Committee had deferred determination on the preliminary admissibility of three communications — ACCC/C/2013/84, ACCC/C/2013/85 and ACCC/C/2013/86 — to its forty-first meeting.

31. Communication ACCC/C/2013/84 (United Kingdom), submitted by Residents Against Turbines Scotland, alleged non-compliance by the Party concerned with the provisions of the Convention in connection with the planning application for industrial wind turbines in Scotland. The Committee had already deferred the communication in order to clarify several issues with the communicant, who had not responded to the Committee's request. The Committee determined that the case was not admissible for lack of corroborating information on the basis of paragraph 20 (d) in conjunction with paragraph 19 of the annex to decision I/7.

32. Communication ACCC/C/2013/85 (United Kingdom), submitted by the Environmental Law Foundation, alleged non-compliance by the Party concerned with the provisions of the Convention on access to justice in connection with a new act, in force since April 2013, which would result in prohibitively expensive costs in private nuisance proceedings, when they fell under the scope of the Convention, because it would no longer be possible for successful claimants to recover the premium for after-the-event insurance. The Committee determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Mr. Pavel Černý was designated as curator for the case.

33. Communication ACCC/C/2013/86 (United Kingdom), submitted by Ms. Alyson Austin, alleged non-compliance by the Party concerned with the provisions of the Convention on access to justice for failure of the Party concerned to consider that private nuisance cases fell within the scope of the Convention and, as such, the provisions of the Convention for non-prohibitive costs would apply. The Committee decided that the communication was admissible on a preliminary basis. The Committee considered that further to its discussion with representatives of the Party concerned with regard to decision IV/9i (see below), the Party concerned appeared to interpret the recommendations of the Committee in a restrictive way and as not relevant to private nuisance proceedings. The Committee noted that paragraph 3 (a) of decision IV/9i concerned costs for all court procedures covered by article 9 and thus stressed that it did not agree with the position of the Party concerned, but in the light of the position of the Party concerned in relation to costs in private nuisance proceedings as not covered by decision IV/9i, it agreed to consider the present communication under the ordinary, and not the summary, proceedings procedure. The Committee requested the secretariat to forward the communication to the Party concerned. Mr. Pavel Černý was designated as curator for the case. The Committee also considered that it would possibly consider the communication jointly with communication ACCC/C/2013/85 (United Kingdom), as that communication related to aspects of non-compliance that were partly raised in the present case.

34. The Committee had also received seven new communications since its previous meeting. It considered the preliminary admissibility of three new communications (as set out below). It decided to defer its decision on preliminary admissibility of three new communications to its forty-second meeting, in order to seek further clarification by the communicants, in particular with respect to the use of domestic remedies. It also decided to defer its decision on preliminary admissibility of a communication received during the meeting, owing to a lack of time to properly examine its preliminary admissibility.

35. Communication ACCC/C/2013/87 (Ukraine), submitted by Mr. Alexandr Lapin, alleged non-compliance by the Party concerned with the provisions of the Convention on access to information and public participation in relation to the decision-making process for the construction of biofuel and waste incineration plants. The Committee decided that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. It also agreed that the Party concerned be requested to provide information on applicable legislation. Ms. Haghine Hakhverdyan was designated as curator for the case.

36. Communication ACCC/C/2013/88 (Kazakhstan), submitted by several members of the public, including the NGO Green Salvation, alleged non-compliance by the Party concerned with the provisions of the Convention on public participation in relation to the preparation of a plan for a ski resort in the Kok Zhailau area, located in Ile-Alatau state national nature park. During the discussion, Ms. Dana Zhandaeva declared a conflict of interest with respect to the case, due to an involvement in the project that could reasonably be considered as leading to a conflict of interest or which might reasonably be perceived by the Parties or by members of the public as giving rise to such a conflict. The Committee agreed that Ms. Zhandaeva would participate in the proceedings of the communication as an observer only and would thus not participate in any deliberations on the communication in closed sessions. The Committee then determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Ms. Haghine Hakhverdyan was designated as curator for the case.

37. Communication ACCC/C/2013/89 (Slovakia), submitted by Greenpeace Slovensko, Via Iuris and Global 2000/Friends of the Earth Austria, alleged non-compliance by the Party concerned with the provisions of the Convention on public participation and access to justice in relation to the decision-making process for the extension of the nuclear power plant in Mochovce. The Committee recalled that it had already examined the issue of public participation in connection to the same project and that it was currently following up with the recommendations of the Meeting of the Parties in decision IV/9e, but the present communication seemed to raise different issues. The Committee then determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Mr. Alexander Kodjabashev was designated as curator for the case.

III. Reporting requirements

38. The secretariat informed the Committee that the former Yugoslav Republic of Macedonia remained the only Party to the Convention that had still failed to submit its implementation report, initially due in December 2010. In the meantime, several reminders had been sent to the Party. No response had been received. The Working Group of the Parties at its sixteenth meeting (Geneva, 19–21 June 2013) had expressed its dissatisfaction.

39. The Committee also considered the process of the preparation of its own report to the fifth session of the Meeting of the Parties (Maastricht, the Netherlands, 29 June–6 July 2014). It discussed how it would address its findings and, where appropriate, recommendations, with regard to compliance by individual Parties, including the issue of

how to deal with findings that it had made early in the intersessional period as compared with those reached immediately before the next session of the Meeting of the Parties. The Committee provisionally agreed to follow the format used in its previous report to the Meeting of the Parties, while ensuring that any progress made by the Parties concerned during this intersessional period was properly reflected in the reports and the individual sets of findings and recommendations. The Committee agreed to discuss a first draft of its report at its forty-second meeting. It also instructed the secretariat to send letters to the Parties that had agreed with the recommendations of the Committee to report on the progress achieved.

IV. Follow-up on specific cases of non-compliance

40. The Committee reviewed progress in the implementation of decisions IV/9 and IV/9a–i adopted at the fourth session of the Meeting of the Parties (see ECE/MP.PP/2011/2/Add.1).

41. With respect to decision IV/9a (Armenia), the Committee noted that on 31 May 2013 the Party concerned had submitted a translation in English of the draft Law of the Republic of Armenia on Environmental Impact Assessment and Expert Examination. The Committee observed that the draft law seemed to address the issues raised in paragraph 4 (a) to (d) of the decision, but agreed to review the situation in detail at its forty-second meeting. It instructed the secretariat to request the Party to provide a timeline for the adoption of the draft law by 1 September 2013 and considered that, if needed, it would discuss the matter with the Party concerned and interested observers (in person or by teleconference or videoconference) at its next meeting. In the meantime, the Party concerned had confirmed its availability for such a discussion. A letter should also be sent to the communicant inviting it to comment on the draft law. At that meeting, the Committee would also consider its recommendations to the Meeting of the Parties at its fifth session.

42. With respect to decision IV/9b (Belarus), the Committee recalled that the Party concerned was expected to provide concrete information by 31 July 2013 about the exact dates of the different stages of the legislative process to reach the objectives set in the action plan, originally submitted on 30 March 2012. That should include information on how the relevant recommendations in the Committee's findings on communication ACCC/C/2009/44 (ECE/MP.PP/C.1/2011/6/Add. 1, para. 90, in particular subparagraphs (a), (b) and (c), which referred to the Committee's recommendations on communication ACCC/C/2009/37 (ECE/MP.PP/2011/11/Add.2), and to which the Party concerned had agreed), had been addressed, as well as information on the alleged arrest and detentions of environmental activities in response to the Committee Chair's letter of 5 October 2012. It instructed the secretariat to remind the Party concerned of the upcoming deadline and the requested information and considered that, depending on the information received, it would discuss the matter with the Party concerned and interested observers (in person or by teleconference or videoconference) at its next meeting. It would then also consider its recommendations to the Meeting of the Parties at its fifth session.

43. Concerning decision IV/9c (Kazakhstan), at its thirty-ninth meeting, the Committee had agreed that at its present meeting it would review the material in detail and also whether the Party concerned had adopted all the necessary legislation to comply with decision III/6c of the Meeting of the Parties and whether it would recommend to the Meeting of the Parties to issue a new caution at its fifth session. The Committee observed that the Party concerned had failed to submit the requested information relating to the measures taken to comply with the decision of the Meeting of the Parties and the list of relevant case-law by 10 June 2013. It noted that observers had submitted information on that date, which included relevant information about implementation by the Party concerned of the decision, but also other allegations concerning the failure of the Party

concerned to comply with the provisions of the Convention on access to information and public participation and also article 3, paragraph 8.

44. The Committee considered that, based on the information received from the observers, the Party concerned appeared to be in non-compliance with article 9, paragraphs 3 and 4, of the Convention and that, despite the engagement demonstrated at the beginning of the intersessional period, the Party concerned had not shown any progress. The Committee was considering recommending to the Meeting of the Parties that it issue a caution to Kazakhstan at its fifth session. It requested the secretariat to inform the Party concerned about the outcome of the meeting and to invite it to provide the requested information as soon as possible. The Committee agreed to review the situation at its forty-second meeting. It also requested the secretariat to explore suitable opportunities for members of the Committee to go on mission to the country.

45. With respect to decision IV/9d (Republic of Moldova), the Committee recalled that additional questions had been sent to the Party concerned in order to clarify specific actions described in the report on the action plan, submitted by the Party concerned on 3 December 2012. It instructed the secretariat to remind the Party concerned of the upcoming deadline and the requested information, and considered that it would discuss the matter with the Party concerned and interested observers (in person or by teleconference or videoconference) at its next meeting, as needed. It would then also consider its recommendations to the Meeting of the Parties at its fifth session.

46. With regard to decision IV/9e (Slovakia), the Committee took note of the information provided by the Party on 14 June 2013 and by the communicant of communication ACCC/C/2009/41 and other supporting NGOs on 26 June 2013, and observed that the Party concerned had still failed to provide clear information with respect to old permits. The Committee instructed the secretariat to urge the Party concerned to clarify the issue. It agreed that it would review the information again at its forty-second meeting. It would then also consider its recommendations to the Meeting of the Parties at its fifth session. The Committee also agreed that due to the relevance of new communication ACCC/C/2013/89 (Slovakia) (see above), the curator for the decision would be Mr. Kodjabashev.

47. With respect to decision IV/9f (Spain), the Committee recalled that the Party concerned would have to report six months before the fifth session of the Meeting of the Parties. However, in view of the new communication ACCC/C/2012/78, the Committee had requested the secretariat to invite the Party to inform it about the steps it had already taken to address the recommendations of the decision, along with its response to the communication, which was due to be sent by 24 June 2013. The Committee took note of the information received from the communicant of communication ACCC/C/2009/36 on 12 May 2013, as well as the report submitted by the Party concerned on 12 June 2013. It agreed that it would review the information again at its forty-second meeting. It would then also consider its recommendations to the Meeting of the Parties at its fifth session.

48. Concerning decision IV/9g (Turkmenistan), the Committee recalled that the caution had re-entered into effect on 1 January 2013 and that the Party concerned had to report to the Committee on the progress made to fulfil the conditions set by the decision on 1 June and 1 November 2013. The Committee noted that, despite the reminder sent by the secretariat, no information had been received from the Party concerned. It instructed the secretariat to urge the Party concerned to provide the information as soon as possible. It agreed that it would review the information again at its forty-second meeting. It would then also consider its recommendations to the Meeting of the Parties at its fifth session, which could include a recommendation that the issued caution should remain in effect.

49. With regard to decision IV/9h (Ukraine), the Committee recalled that at its fortieth meeting it had discussed the matter via teleconference with a representative of the Party

concerned, who had informed the Committee of its ongoing internal procedures for the approval of legislative amendments in order to reach compliance with the Convention, including the draft law “On amending certain laws of Ukraine in connection to implementation of the Convention on Environmental Impact Assessment in a Transboundary Context” subject to parliamentary proceedings and the amendment of the Law concerning Development Construction, which was also pending. During that discussion, an observer had expressed its concern at the slow progress demonstrated by the Party, the apparent weaknesses of the draft law and the flawed process for its adoption, which lacked the possibility for public participation. The Party concerned was expected to comment on the statement made by the observer and to submit an advance copy of the new draft law, after its approval by all the relevant ministers, and before it was submitted for parliamentary approval. The Committee agreed to review the situation at its next meeting, when the information expected by the Party concerned by 31 July 2013 had been provided. It requested the secretariat to remind the Party of its obligation to respond.

50. The Committee then entered into discussion on decision IV/9i (United Kingdom), with representatives of the United Kingdom, the Coalition for Access to Justice for the Environment — which in the meantime had submitted additional information on 21 May 2013 — and the communicants of communications ACCC/C/2008/23 and ACCC/C/2008/33, as well as with observers. During the discussion, the Party concerned reported on the measures on civil procedure rules that had entered into force in April 2013, further to a consultation process, in order to address the recommendations of the decision. The observers noted that, while the progress achieved was significant, there were still concerns as to the compliance by the Party concerned with the Convention, because of the limited scope of application of the new measures to judicial review only, the still prohibitively expensive caps set for individuals and organizations and the introduction of new measures in the planning processes that would create new obstacles for access to justice. The Party concerned observed that the measures taken should be evaluated by the Committee in the context of the recommendations of the decision only and not beyond the scope of the communications that had initially triggered the review of compliance, which in the view of the Party concerned did not include costs in private nuisance cases. The Committee thanked the participants for the information and noted that it would now start considering its recommendations to the Meeting of the Parties at its fifth session in that connection.

V. Programme of work and calendar of meetings

51. The Committee recalled that it would hold its forty-second meeting from 24 to 27 September and its forty-third meeting from 17 to 20 December 2013. It also confirmed that it would hold its forty-fourth meeting from 24 to 28 March 2014, i.e., for five days rather than four days, in order to allow for more time to finalize any pending matters with the Committee’s present composition. The forty-fifth meeting would be held back to back with the fifth session of the Meeting of the Parties, scheduled to take place in the Netherlands from 29 June to 6 July 2014; the forty-sixth meeting would be held from 23 to 26 September and the forty-seventh meeting from 16 to 19 December 2014.

VI. Other business

52. The secretariat informed the Committee that the Netherlands, the host country for the fifth session of the Meeting of the Parties, had confirmed that the meeting would be held in Maastricht, and that, in addition to the forty-fifth meeting of the Committee, the fifth session would also be held back to back with the second session of the Meeting of the Parties to the Protocol on Pollutant Release and Transfer Registers

53. The secretariat also reported on the other meetings of Convention bodies that had been held since the fortieth meeting of the Committee: the sixth meeting of the Task Force on Access to Justice (17–18 June 2013), which had been held back to back with the sixteenth meeting of the Working Group of the Parties (19–21 June 2013), and the thirty-first meeting of the Bureau (21 June 2013). All three meetings had taken place in Geneva. The Working Group of the Parties had, for the second time, included a thematic session on promoting the principles of the Convention in international forums. The session had focused on concrete actions Parties could take to promote the principles of the Convention in the new United Nations Environment Assembly, and also on the policies of several international financial institutions, which were currently undertaking policy reviews. Participants in the thematic session also discussed public participation in the processes of the United Nations Framework Convention on Climate Change, the new High-level Political Forum on Sustainable Development and the new European forests agreement.

54. The secretariat also updated the Committee on the publication of the second edition of the Aarhus Convention Implementation Guide. A text-only version of the English version of the final edited text had been available on the Convention's website since April 2013.² The hardcopy of the official publication would be published shortly and the Russian version was also currently being translated. The secretariat also updated the Committee on the development of the Convention's Recommendations on Public Participation in Environmental Decision-making, which had been developed under the auspices of the Task Force on Public Participation in Decision-making during the present intersessional period; the third draft of the Recommendations had been circulated for comments to Parties and stakeholders and posted on the Convention's website in March 2013, with a deadline for comment of 15 April 2013. A large number of comments had been received from various stakeholders and they were currently being taken into account in the preparation of the fourth and final draft.

55. With regard to the meetings, the Chair informed the Committee that he had participated as a speaker to the sixth meeting of the Task Force on Access to Justice, making two presentations on the recent findings of the Committee on the issues of standing, costs and remedies.

56. The Chair also informed the Committee of the ad hoc informal meeting he had held with the EU and some of its member States in Geneva on 18 June 2013. During the meeting, the Chair had had the opportunity to discuss the possible measures he had already suggested in his note to be considered by the Meeting of the Parties at its next session in order to promote effective compliance with the Convention,³ and in particular the more systematic use of experts, on the basis of paragraph 25 of the annex to decision I/7 of the Meeting of the Parties. The Chair informed the Committee that he had requested the Chair of the Meeting of the Parties to inform Parties at the next meeting of the Working Group of the Parties about that ad hoc meeting, and also his willingness to meet with any other Party that might wish to meet under similar conditions.

57. The Committee agreed that the use of such a mechanism should be for purposes of gathering information only in order to assist in the exercise of following up with the implementation of the decisions of the Meetings of the Parties on compliance in an objective manner.

² *The Aarhus Convention: An Implementation Guide*, 2nd ed., text only version available from <http://www.unece.org/index.php?id=32764>.

³ AC/WGP-16/Inf.7 submitted to the sixteenth meeting of the Working Group of the Parties. This document is available from <http://www.unece.org/env/pp/aarhus/wgp16.html>.

58. Observers commented that such a mechanism should be of technical nature only and should by no means undermine the authority of the Committee.

59. The Committee took note of the information and mandated the Chair, with the assistance of the secretariat, to prepare terms of reference to be considered at its forty-second meeting and then submitted to the Bureau for its consideration.

60. The Chair also informed the Committee that he had received an invitation from the Department of Environment, Food and Rural Affairs of the United Kingdom, and considered that a country visit could be beneficial for information gathering in the context of follow-up to decision IV/9i, on the basis of paragraph 25 of the annex to decision I/7.

61. The Chair then recalled that the first meeting of the informal network of the chairs of the compliance and implementation bodies of the ECE multilateral environmental agreements had taken place on 25 March 2013, just prior to the Committee's fortieth meeting. The Chair's brief had then been circulated to the participants and subsequently posted on the ECE Environment Division website at the end of May, along with a revised version of the background note prepared for the meeting. In mid-June, the Chair had received an e-mail from the Chair of the Implementation Committee under the Convention on Long-range Transboundary Air Pollution and its protocols, who had been represented at the meeting by the Chair of the Compliance Committee under the Protocol on Pollutant Release and Transfer Registers, requesting changes in the Chair's brief on the grounds that the Implementation Committee had been misrepresented at the meeting and noting that she would probably not participate in any future activities of the network. As the comments had been received late, the Chair of the Compliance Committee had not agreed to make any changes, but had offered to record her disagreement with the report at the next meeting of the network.

62. A member of the Committee, Mr. Jendroska, then reported on a number of relevant recent developments, including: efforts undertaken in the Russian Federation with a view to that country's becoming a Party to the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and the Aarhus Convention; ongoing discussions for the revision of the EU Directive on environmental impact assessment⁴ and its improved compatibility with the Convention; and the comparative studies undertaken under the auspices of the Espoo Convention to analyse the OVOS/expertiza systems in several countries of Eastern Europe and Central Asia and to propose measures for their enhanced alignment with the Espoo and Aarhus Conventions.

63. Finally, an observer reported on the work of the Human Rights Council's Independent Expert on human rights and the environment and on the increased relevance of the Convention in the context of the deliberations within the Human Rights Council.

64. The Committee took note of the information.

VII. Adoption of the report and closure of the meeting

65. The Committee adopted the report of the meeting. The Chair then officially closed the forty-first meeting.

⁴ Directive 85/337/EEC, as amended; see Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment (codification).