



# Economic and Social Council

Distr.: General  
18 December 2015

Original: English

## 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

#### Forty-ninth meeting

Geneva, 30 June–3 July 2015

## Report of the Compliance Committee on its forty-ninth meeting

### Contents

	<i>Paragraphs</i>	<i>Page</i>
Introduction .....	1–10	2
A. Attendance .....	2–8	2
B. Organizational matters .....	9–10	2
I. Submissions, referrals and requests under the Convention .....	11–14	3
II. Communications from members of the public .....	15–60	3
III. Reporting requirements .....	61	10
IV. Follow-up on specific cases of non-compliance .....	62–64	10
V. Programme of work and calendar of meetings .....	65	11
VI. Other business .....	66–72	11
A. Modus operandi .....	66	11
B. Other matters .....	67–72	12
VII. Adoption of the report and closure of the meeting .....	73	13



## **Introduction**

1. The forty-ninth 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 30 June to 3 July 2015 in Geneva, Switzerland.

### **A. Attendance**

2. All the Committee members were present throughout the meeting. Members having declared a conflict of interest with respect to particular cases did not participate in closed sessions deliberating on those cases.

3. A representative of the Government of Belgium took part in the open session on 30 June 2015 on the review of developments regarding communications. A representative of the United Kingdom of Great Britain and Northern Ireland also took part in that session by audio conference.

4. The communicants of communications ACCC/C/2008/32 (European Union) and ACCC/C/2014/99 (Spain) and representatives of the European Commission, representing the European Union, and Spain took part in the respective discussions in open session on 1 and 2 July 2015 concerning those communications. A representative of the European Environmental Bureau (Belgium) also took part in the discussion in open session on communication ACCC/C/2008/32.

5. A representative of the Government of Belgium and a representative of the United Kingdom (the latter by audio link) took part in the open session on 30 June 2015 on the preliminary admissibility of new communications.

6. A representative of the communicant of communication PRE/ACCC/C/2015/130 (Italy) also took part in the open session on preliminary admissibility on 30 June, as did representatives of the communicants of PRE/ACCC/C/2015/126 (Poland) and PRE/ACCC/C/2015/128 (European Union), who participated by audio link.

7. A representative of the Government of Ukraine together with the communicant of communication ACCC/C/2004/3 (Ukraine) attempted to take part in the audio conferences with the Committee on 30 June 2015 and 3 July 2015 to discuss the implementation of decision V/9m of the Meeting of the Parties concerning compliance by Ukraine. However, owing to a failure of the conferencing equipment provided in the meeting room, the parties were unable to join the audio conference. A representative of the Government of the United Kingdom also attempted to take part by audio conference in the session on 3 July 2015 but was likewise unable to do so owing to the failure of the conferencing equipment provided in the meeting room.

8. Also participating as observers during all open sessions of the meeting were members of the public and representatives of two non-governmental organizations (NGOs), Earthjustice (Switzerland) and Resource and Analysis Center "Society and Environment" (Ukraine), participating on behalf of the European ECO Forum.

### **B. Organizational matters**

9. The Chair of the Compliance Committee, Mr. Jonas Ebbesson, opened the meeting.

10. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2015/4.

## I. Submissions, referrals and requests under the Convention

11. The Chair informed the Committee that one new submission, ACCC/S/2015/2, had been received since the Committee's last meeting. The submission had been submitted on 25 March 2015 by Lithuania concerning compliance by Belarus. It alleged that Belarus had failed to comply with the provisions of the Convention in connection with the possibilities for the public in Lithuania to participate in the decision-making on the Ostrovets nuclear power plant. The submission had been forwarded to Belarus on 8 April 2015 for its response by 8 July 2015. To date, no response had been received.

12. The Chair informed the Committee that no submissions had been made by Parties concerning problems with their own compliance since the Committee's last meeting.

13. No referrals had been made by the secretariat since the Committee's last meeting.

14. With respect to request ACCC/M/2014/1 (former Yugoslav Republic of Macedonia), the Committee recalled that the United Nations Economic Commission for Europe (ECE) Executive Secretary had written on 5 March 2015 to the former Yugoslav Republic of Macedonia asking the Party concerned to submit its national implementation reports for the third and fourth cycles by 5 June 2015; however, the national implementation report had still not been received nor had there been an official reply to the Executive Secretary's letter. The secretariat reported that it had received informal information from the Ministry of Environment of the Party concerned indicating that the report would be submitted by the end of 2015.

## II. Communications from members of the public

15. The Committee agreed that the deadline for receipt of new communications to be considered for preliminary admissibility at its fiftieth meeting (Geneva, 6–9 October 2015) would be 2 September 2015.

16. The Committee entered into open discussion on communication ACCC/C/2008/32 (European Union) with the participation of the Party concerned and the communicants. At the start of the discussion, Committee member, Mr. Pavel Černý, declared a conflict of interest, due to his law firm's involvement in proceedings before the courts of the Party concerned on legal points similar to those raised in the current communication. The Committee agreed that Mr. Černý would henceforth participate in the proceedings of the communication as an observer only, and would not participate in any deliberations on the communication in closed sessions. Following the discussion, the Committee commenced deliberations on its draft findings and agreed to continue its deliberations at its fiftieth meeting with a view to their finalization.

17. With regard to communication ACCC/C/2010/55 (United Kingdom), the communicant had informed the Committee on 20 April 2015 that since no appeal to the decision of the Upper Tribunal had been filed, it wished to withdraw its communication. The Committee agreed to close the case.

18. Concerning communication ACCC/C/2012/69 (Romania), the Chair confirmed that the Committee had adopted its findings using its electronic decision-making procedure on 26 June 2015. It instructed the secretariat to prepare the official version of the adopted findings as a formal pre-session document to its fifty-first meeting (Geneva, 15–18 December 2015), and to ensure their availability in the three official languages of the United Nations Economic Commission for Europe (ECE). The Committee also requested the secretariat to send the adopted findings to the Party concerned and the communicant.

19. Regarding communication ACCC/C/2012/71 (Czech Republic), the Committee completed its draft findings in closed session, save for some minor points which it agreed to finalize using its electronic decision-making procedure. It requested the secretariat to send the draft findings, once agreed, 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 fiftieth meeting.

20. Concerning communication ACCC/C/2012/76 (Bulgaria), the Committee completed its draft findings in closed session, save for some minor editing points which it agreed to finalize using its electronic decision-making procedure. It requested the secretariat to send the draft findings, once agreed, 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 fiftieth meeting.

21. Regarding communication ACCC/C/2013/81 (Sweden), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its fiftieth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant. The Committee decided to consider Mr. Bernd Stümer the sole communicant in the case, since the original communication had been submitted only in his name, while the organization FLIS, which Mr Stümer had subsequently stated that he represented, might act as an observer in the case if it wished to do so. The Committee asked the secretariat to request the Party concerned to translate the two decisions by the county board (Länsstyrelsen Södermanlands län) dated 4 January 2012 and 23 March 2012 regarding the building permit, to provide a full list of the persons who appealed the decision by the Strängnäs municipality to grant the building permit for the wind turbines in question, and to inform the Committee whether the communicant was indeed one of the persons who had appealed the building permit in his own name. The secretariat should also request the communicant to clarify whether he had appealed the building permit in his own name or only as a representative of another individual.

22. Concerning communications ACCC/C/2013/85 and ACCC/C/2013/86 (United Kingdom), the Chair confirmed that the Committee had adopted its findings using its electronic decision-making procedure on 17 June 2015. It instructed the secretariat to prepare the official version of the adopted findings as a formal pre-session document to its fifty-second meeting (Geneva, 8-11 March 2016), and to ensure their availability in the three official languages of ECE. The Committee also requested the secretariat to send the adopted findings to the Party concerned and the communicant.

23. With respect to communication ACCC/C/2013/87 (Ukraine), the Committee noted it had still not received a response from the Party concerned to the communication, originally due on 26 December 2013, nor an update from the Party concerned since its statement at the Committee's forty-eighth meeting stressing that it had been making all possible efforts to ensure the submission of its response. The Committee underlined that regardless of the current occupation of Donetsk, the Party concerned should provide its response to the communication, addressing all those aspects on which it was in a position to do so. The Committee agreed to send questions to the Party concerned in that regard and would consider how to proceed after receiving the response from the Party concerned.

24. Concerning communication ACCC/C/2013/88 (Kazakhstan), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its fiftieth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

25. With respect to communication ACCC/C/2013/89 (Slovakia), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its fiftieth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

26. Concerning communication ACCC/C/2013/90 (United Kingdom), the Committee noted that the communication had been forwarded to the Party concerned on 29 June 2015 for its response; however, the deadline of 29 November 2015 for the Party's response had not yet expired and its response had not yet been received.

27. With respect to communication ACCC/C/2013/91 (United Kingdom), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its fiftieth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

28. With respect to communication ACCC/C/2013/92 (Germany), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its fiftieth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

29. Concerning communication ACCC/C/2013/93 (Norway), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its fiftieth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

30. In relation to communication ACCC/C/2013/94 (Denmark), the communicant had provided an update on 11 June 2015 regarding its domestic court proceedings. The Committee agreed to continue the suspension of the communication, to ask the communicant to indicate when the decision of the Eastern High Court was expected, and to decide how to proceed at its fiftieth meeting.

31. Concerning communication ACCC/C/2013/96 (European Union), the communicant had provided further information on its use of domestic remedies on 21 June 2015. After taking into account the information received, the Committee reconfirmed its earlier determination of preliminary admissibility with respect to the allegations concerning article 7 of the Convention. With respect to the allegations concerning article 4, the Committee requested the secretariat to ask the Party concerned to provide examples of the costs for cases on access to information at all instances before European Union courts, and to invite the communicant to comment on the information provided. The Committee agreed that it would decide how to proceed in the light of the information received.

32. Concerning communication ACCC/C/2013/98 (Lithuania), the Committee agreed to defer its deliberations until its fiftieth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

33. The Committee entered into open discussion on communication ACCC/C/2014/99 (Spain) with the participation of the Party concerned and the communicant. The Committee welcomed the agreement of the Party concerned that it would accept recommendations from the Committee in accordance with paragraph 36 of the annex to decision I/7. The Committee confirmed that communication ACCC/C/2014/99 was admissible. At the end of the discussion, the parties were invited to address some additional questions in writing.

34. Concerning communication ACCC/C/2014/100 (United Kingdom), the Committee had requested the communicants to respond to the contention of the Party concerned, in its response to the communication, that one of the communicants, London Borough of Hillingdon, was a public authority within the definition of article 2, paragraph 2, of the Convention, and thus was not a member of the public within the scope of article 2, paragraph 4, of the Convention.<sup>1</sup> On 4 June 2015, the communicants had provided their views. After taking into account the communicants' views, as well as those of the Party concerned expressed by audio conference, the Committee considered that, since the London Borough of Hillingdon exercised administrative decision-making powers, it was a "public authority" within the definition of article 2, paragraph 2 (a), of the Convention. While under the domestic law of Parties municipalities might exercise their right to self-government and other subjective rights, even before courts, in the context of the Convention and international law in general, a "public authority" under article 2, paragraph 2 (a), of the Convention was an emanation of the Party concerned. Hence, an allegation brought to the Committee by the communicant would give rise to an internal dispute between authorities of a Party concerned, which was not within the remit of the Committee. The Committee therefore found that the London Borough of Hillingdon was not a member of the public for the purposes of article 15 of the Convention and was thus unable to submit a communication to the Committee under paragraph 18 of the annex to decision I/7. It reconfirmed its earlier determination of preliminary admissibility with respect to the other two communicants.

35. Concerning communication ACCC/C/2014/101 (European Union), the Committee had requested the communicants to respond to the contention of the Party concerned, in its response to the communication, that one of the communicants, London Borough of Hillingdon, was a public authority within the definition of article 2, paragraph 2, of the Convention, and thus was not a member of the public within the scope of article 2, paragraph 4, of the Convention.<sup>2</sup> On 4 June 2015, the communicants had provided their views. After taking into account the communicants' views, the Committee considered that, since the London Borough of Hillingdon exercised administrative decision-making powers, it was a "public authority" within the definition of article 2, paragraph 2 (a), of the Convention. While under the domestic law of Parties municipalities might exercise their right to self-government and other subjective rights, even before courts, in the context of the Convention and international law in general, a "public authority" under article 2, paragraph 2 (a), of the Convention was an emanation of the Party concerned. Hence, an allegation brought to the Committee by the communicant would give rise to an internal dispute between authorities of a Party concerned, which was not within the remit of the Committee. The Committee therefore found that the London Borough of Hillingdon was not a member of the public for the purposes of article 15 of the Convention and was thus unable to submit a communication to the Committee under paragraph 18 of the annex to decision I/7. It reconfirmed its earlier determination of preliminary admissibility with respect to the other two communicants.

36. Concerning communication ACCC/C/2014/102 (Belarus) the Committee noted that the communication had been forwarded to the Party concerned on 19 February 2015 for its

---

<sup>1</sup> See response of the Party concerned received 9 February 2015, pp. 3–8, available from <http://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/ftwg/envppcc/envppcccom/acccc2014101-european-union.html>.

<sup>2</sup> See response of the Party concerned received 25 February 2015, p. 3, available from <http://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/ftwg/envppcc/envppcccom/acccc2014101-european-union.html>.

response; however, the deadline of 19 July 2015 for the Party's response had not yet expired and its response had not yet been received.

37. Regarding communication ACCC/C/2014/104 (Netherlands), the Committee noted that the Party concerned had provided its response to the communication on time on 3 February 2015 and the communicant had provided comments on the Party concerned's response on 17 March 2015. The Committee provisionally scheduled that it would discuss the substance of the communication at its fiftieth meeting.

38. Concerning communication ACCC/C/2014/105 (Hungary), the Committee noted that the Party concerned had provided its response to the communication on 23 March 2015, after the deadline of 1 March 2015. The Committee expressed its concern that the Party concerned had failed to meet the five-month deadline set out in the annex to decision 1/7 for responding to the communication. The Committee provisionally scheduled that it would discuss the substance of the communication at its fiftieth meeting.

39. With respect to communication ACCC/C/2013/106 (Czech Republic), the Committee noted that the communication had been forwarded to the Party concerned on 27 February 2015 for its response; however, the deadline of 27 July 2015 for the Party's response had not yet expired and its response had not yet been received.

40. Regarding ACCC/C/2013/107 (Ireland), the Committee noted that the communication had been forwarded to the Party concerned on 29 June 2015 for its response; however, the deadline of 29 November 2015 for the Party's response had not yet expired and its response had not yet been received.

41. On communication ACCC/C/2014/109 (Hungary), the Committee noted that the communication had been forwarded to the Party concerned on 29 June 2015 for its response; however, the deadline of 29 November 2015 for the Party's response had not yet expired and its response had not yet been received.

42. Concerning communication ACCC/C/2014/111 (Belgium), the Committee noted that the communication had been forwarded to the Party concerned on 5 June 2015 for its response; however, the deadline of 5 November 2015 for the Party's response had not yet expired and its response had not yet been received. The representative of Belgium confirmed that Belgium's response would be submitted on time.

43. With regard to communication ACCC/C/2014/112 (Ireland), the Committee noted that the communication had been forwarded to the Party concerned on 29 June 2015; however, the deadline of 29 November 2015 for the Party's response had not yet expired and its response had not yet been received.

44. Concerning communication ACCC/C/2014/113 (Ireland), the Committee noted that the communication had been forwarded to the Party concerned on 15 April 2015; however, the deadline of 15 September 2015 for the Party's response had not yet expired and its response had not yet been received.

45. Further to communication ACCC/C/2014/115 (United Kingdom), the Committee noted that the communication had been forwarded to the Party concerned on 29 June 2015; however, the deadline of 29 November 2015 for the Party's response had not yet expired and its response had not yet been received.

46. With respect to communication ACCC/C/2014/118 (Ukraine), the Committee noted that the communication had been forwarded to the Party concerned on 29 June 2015; however, the deadline of 29 November 2015 for the Party's response had not yet expired and its response had not yet been received.

47. Concerning communication ACCC/C/2014/120 (Slovakia), the Committee noted that the communication had been forwarded to the Party concerned on 28 June 2015;

however, the deadline of 28 November 2015 for the Party's response had not yet expired and its response had not yet been received.

48. Regarding communication ACCC/C/2014/121 (European Union), the Committee noted that the communication had been forwarded to the Party concerned on 28 June 2015 for its response; however, the deadline of 28 November 2015 for the Party's response had not yet expired and its response had not yet been received.

49. Concerning communication ACCC/C/2014/122 (Spain), the Committee noted that the communication had been forwarded to the Party concerned on 28 June 2015 for its response; however, the deadline of 28 November 2015 for the Party's response had not yet expired and its response had not yet been received.

50. On communication ACCC/C/2014/123 (European Union), the Committee noted that the communication had been forwarded to the Party concerned on 28 June 2015 for its response; however, the deadline of 28 November 2015 for the Party's response had not yet expired and its response had not yet been received.

51. Further to communication ACCC/C/2014/124 (Netherlands), the Committee noted that the communication had been forwarded to the Party concerned on 28 June 2015 for its response; however, the deadline of 28 November 2015 for the Party's response had not yet expired and its response had not yet been received.

52. Communication ACCC/C/2015/125 (Germany) had been submitted on 19 February 2015 by the Altrip Municipality. The communication alleged non-compliance with articles 6 and 9 of the Convention in general and in particular with respect to the proposed construction of a flood retention scheme on the Upper Rhine. At its forty-eighth meeting (Geneva, 24–27 March 2015), the Committee had heard the views of the representatives of the Party concerned and the communicant by audio conference, as well as the observers present, and had also taken into account written comments received from the Party concerned, the European Union and the United Kingdom. Thereafter, the Committee had determined that the communication was inadmissible under paragraph 20 (d) of the annex to decision I/7 for not being compatible with the provisions of the Convention and that decision, and had agreed to provide its reasoning for finding the communication inadmissible in the report of its forty-ninth meeting. The Committee considered that since it exercised administrative decision-making powers, the communicant was a public authority within the definition of article 2, paragraph 2 (a), of the Convention. While under the domestic law of Parties municipalities might exercise their right to self-government and other subjective rights, even before courts, in the context of the Convention and international law in general, a "public authority" under article 2, paragraph 2 (a), of the Convention was considered an emanation of the Party concerned. Hence, an allegation brought to the Committee by the communicant would give rise to an internal dispute between authorities of a Party concerned, which was not within the remit of the Committee. The Committee therefore found that the communicant was not a member of the public for the purposes of article 15 of the Convention and was thus unable to submit a communication to the Committee under paragraph 18 of the annex to decision I/7.

53. With respect to new communications, the Chair and Vice-Chair reported that they had held a telephone conference on 3 June 2015 to determine which of the submissions received by the secretariat between 24 February 2015 (the deadline for receipt of communications for the previous meeting) and 26 May 2015 (the deadline for the present meeting) should be forwarded to the Committee for consideration as to preliminary admissibility. They had decided that communications PRE/ACCC/C/2015/126 (Poland), PRE/ACCC/C/2015/127 (Belgium), PRE/ACCC/C/2015/128 (European Union), PRE/ACCC/C/2015/129 (Ireland) and PRE/ACCC/C/2015/130 (Italy) should be forwarded to the Committee for consideration of preliminary admissibility at its forty-ninth meeting.



They had also requested the secretariat to post those communications on the Committee's website together with the communications which had previously been deferred for consideration of preliminary admissibility. With respect to PRE/ACCC/C/2015/129 (Ireland), the Chair and the Vice-Chair had requested the secretariat to ask the communicants to provide further information regarding their use of domestic remedies and to clarify the legal basis for their allegations under article 6, paragraph 1 (b), of the Convention.

54. In accordance with the above, the Committee considered the preliminary admissibility of one communication deferred from its forty-eighth meeting and four communications received since that meeting, and agreed to defer its preliminary determination of admissibility of three communications to its fiftieth meeting (as set out below).

55. Communication ACCC/C/2014/119 (Poland) had been submitted on 28 November 2014 by the NGO "Frank Bold Society". The communication alleged non-compliance with articles 8 and 9 of the Convention with respect to the Development Plan for Lubuskie Province. At its forty-eighth meeting, the Committee had deferred its determination of admissibility in order to request the communicant to clarify the ongoing domestic proceedings. The communicant had provided its response on 28 April 2015 and the Party concerned had provided comments on that response on 21 May 2015. After taking into account the responses received from the parties as well as the views of the observers present, 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. Diaconu was confirmed as curator for the case.

56. Communication PRE/ACCC/C/2015/126 (Poland) had been submitted on 26 January 2015 by an NGO, Healthy Municipality Association (Poland). The communication alleged non-compliance with article 6 of the Convention with respect to the construction of overhead power lines. Mr. Jendroška declared a conflict of interest, due to the fact that a partner in his law firm had at an earlier stage provided a legal opinion regarding the legality of the project in question. The Committee agreed that Mr. Jendroška would henceforth participate in any proceedings of the communication as an observer only, and would not participate in any deliberations on the communication in closed sessions. After hearing the views of a representative of the communicants (by audio conference) and the Party concerned and the observers present, the Committee agreed to defer its determination of preliminary admissibility, and to request the secretariat to ask the communicant to provide further information regarding the case pending before the Supreme Administrative Court and to clarify how that proceeding related to the allegations made in the communication. The Committee also asked the secretariat to invite the communicant to redraft its communication in line with the Committee's format for communications, and in particular to focus only on alleged breaches of the provisions of the Convention. The Committee also took note of the request in the communicant's letter of 2 July 2015 for the Party concerned to provide its responses in Polish as well as English. Mr. Diaconu was provisionally confirmed as curator for the case.

57. Communication PRE/ACCC/C/2015/127 (Belgium) had been submitted on 6 February 2015 by members of the public, Henry Maquoi and Clare Dalemans. The communication alleged non-compliance with the Convention with respect to article 9, paragraphs 3 and 4, with respect to the cost of access to justice. After hearing the views of the Party concerned and the observers present, the Committee agreed to defer its preliminary determination of admissibility and to request the secretariat to ask the communicant to further substantiate the allegations with respect to the following issues: (a) how the communication concerned provisions of national law relating to the environment within the scope of article 9, paragraph 3, of the Convention; and (b) the

extent to which regulation of judicial costs under Coordinated Laws on the Conseil d'Etat (Council of State) was applicable to cases within the scope of article 9, paragraph 3, of the Convention, supporting that answer with relevant statistics and case law. Ms. Hakhverdyan was provisionally confirmed as curator for the case.

58. Communication ACCC/C/2015/128 (European Union) had been submitted on 9 March 2015 by two Austrian NGOs, Global 2000 and Oekobuero. The communication alleged non-compliance with articles 9, paragraphs 3 and 4, of the Convention with respect to the European Commission decision to grant State aid to the United Kingdom with respect to the proposed construction of a new nuclear reactor, Hinkley Point C. After hearing the views of a representative of the communicants (by audio conference) and the observers present, and taking into account the written statement submitted by the United Kingdom on 29 June 2015, the Committee determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Ms. Fasoli was confirmed as curator for the case.

59. Communication PRE/ACCC/C/2015/129 (Ireland) had been submitted on 26 April 2015 by members of the public, Jim Redmond and Mary Redmond. The communicants alleged non-compliance with article 6, paragraphs 1 (b) and 2, and article 9, paragraphs 4 and 5, of the Convention with respect to public participation in decision-making on the sale of forestry land. The Committee agreed to defer its determination of preliminary admissibility to its fiftieth meeting in order to take into account the communicants' response to the questions put to them by the Chair and Vice-Chair (see para. 53 above), and any comments received from the Party on that response. Mr. Kodjabashev was provisionally confirmed as curator for the case.

60. Communication ACCC/C/2015/130 (Italy) had been submitted on 12 May 2015 by the NGO, WWF Italia. It alleged non-compliance with article 3, paragraph 8, and article 9, paragraphs 4 and 5, of the Convention with respect to access to justice. After hearing the views of the communicant and the observers present, 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. McGlone was confirmed as curator for the case.

### **III. Reporting requirements**

61. The Committee noted that, at its fifth session (Maastricht, the Netherlands, 30 June–2 July 2014), the Meeting of the Parties had urged those Parties that had not yet submitted their national implementation reports — i.e., Portugal, the former Yugoslav Republic of Macedonia and Turkmenistan — to do so by 1 October 2014.<sup>3</sup> To date, Portugal and Turkmenistan had submitted their reports. The former Yugoslav Republic of Macedonia had informally notified the secretariat that it was currently working to finalize its report by the end of November 2015 (see para. 14 above).

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

62. The Chair provided a brief update on the first progress reviews on the implementation of decisions V/9a-n of the Meeting of the Parties on compliance, which had been adopted by the Committee at its forty-eighth meeting save for some minor edits to be agreed through its electronic decision-making procedure. The Committee planned to send

---

<sup>3</sup> See ECE/MP.PP/2014/2, para. 26.

the first progress reviews, once finalized, to the Parties concerned in sufficient time that Parties could take them into account when preparing their second progress reports, due by 30 November 2015.

63. Regarding decision V/9l (Turkmenistan), on 27 June 2015 the Ministry of Nature Protection of Turkmenistan had submitted a draft of the statement to be provided in accordance with paragraph 6 of decision V/9l, and had asked the Committee for feedback as to whether the draft fulfilled the requirements of that paragraph. The Committee welcomed the draft statement and agreed that, if properly submitted in the form of an official statement by the Minister of Foreign Affairs, it would indeed meet the requirements of the decision. However, the Committee requested the secretariat to invite the communicant of communication ACCC/C/2004/5 to provide possible substantive comments it might have on the draft statement within two weeks. If the communicant had no comments on the draft proposal or was satisfied with the draft statement, the secretariat should thereafter inform the Party concerned that it might wish to proceed with submitting an official statement from the Minister of Foreign Affairs. If the communicant provided comments on the draft statement, the Committee would take those into account before making its final decision, using its electronic decision-making procedure, as to whether the statement met the requirements of decision V/9l. The Committee also underlined that the official statement by the Minister of Foreign Affairs should be made public throughout the territory of the Party concerned, as it would be important to inform both members of the public and officials of the Party concerned that the Law on Nature Protection and the Act on Public Associations were to be applied in practice in accordance with the statement. It also recalled that the Party concerned was expected to submit its report on the meetings it had organized to fulfil the requirements of paragraph 7 of the decision by 30 November 2015. The Committee agreed to review the official statement by the Minister of Foreign Affairs regarding paragraph 6 and the Party's report regarding paragraph 7 at its fifty-first meeting.

64. With respect to decision V/9m (Ukraine), on 26 June 2015 the Party concerned had provided a brief update on the draft legislation which it had proposed to fulfil the requirements of decision V/9m, together with the text of one of the two alternative draft laws on environmental impact assessment (EIA) and the draft law on strategic environmental assessment. The communicant of communication ACCC/C/2004/3 had also provided a brief update on 23 June 2015. At the invitation of the Committee, the Party concerned and the communicant of communication ACCC/C/2004/3 attempted to take part in the open sessions on 30 June and 3 July 2015 by audio conference to discuss the implementation of decision V/9m, and in particular the timeline for the adoption of the draft EIA law. However, on both occasions, due to the failure of the conferencing equipment provided in the meeting room (see para. 7 above) the parties were unable to join the audio conference.

## **V. Programme of work and calendar of meetings**

65. The Committee agreed that its fiftieth, fifty-first and fifty-second meetings would be held in Geneva, from 6 to 9 October 2015, 15 to 18 December 2015 and 8 to 11 March 2016, respectively.

## **VI. Other business**

### **A. Modus operandi**

66. The Committee noted that its procedure on new communications was now available on the web page for communications. It agreed that it would discuss paragraph 22 of the procedure at its fiftieth meeting in open session.

### **B. Other matters**

67. Ms. Zhandaeva informed the Committee that on 19 May 2015 she had notified the Chair and the secretariat that she would resign her membership in the Committee at the end of the forty-ninth meeting. The secretariat informed the Committee that the Bureau had appointed Ms. Áine Ryall as the member to replace Ms. Zhandaeva for the remainder of Ms. Zhanadaeva's term. After inviting Parties and observers present and participating by audio conference in the session for their views, the Committee considered Ms. Ryall's appointment in closed session and approved her appointment to the Committee.

68. The Chair reported on the outcomes of the third meeting of the informal network of chairs of the compliance and implementation bodies under the ECE multilateral environmental agreements, which had been held in Geneva on 29 June 2015. At the closed morning session of that meeting, participants had discussed methods and processes for examining non-compliance; reactions and follow-up to findings and recommendations by Parties and stakeholders; and transboundary obligations and dimensions of compliance. The open session in the afternoon had been organized as a workshop to discuss a possible compliance mechanism for the Industrial Accidents Convention, as well as how the compliance and implementation bodies might cooperate when considering common or related issues and cases. The participating chairs had unanimously expressed their appreciation for the opportunities for exchange provided by the meetings of informal network and had agreed that a fourth meeting should be convened in June 2016.

69. The secretariat reported on recent meetings held under the auspices of the Convention, including the eighth meeting of the Task Force on Access to Justice (Geneva, 15–17 June 2015) and the nineteenth meeting of the Working Group of the Parties (Geneva, 17–19 June 2015). With respect to the latter, the secretariat also reported on the thematic session on promoting the Convention's principles in international forums, held in the framework of the nineteenth meeting. The thematic session had included discussions on good practices and challenges regarding transparency and public participation in climate-related and international trade negotiations, as well as in the processes to develop the Sustainable Development Goals and the policies of the United Nations Environment Programme on access to information and stakeholder engagement.

70. The secretariat informed the Committee that it had submitted comments on the new access to information policy for the United Nations Environment Policy. It also reported that, in the light of the comments received on the policy, the United Nations Environment Programme had indicated that it would prepare a draft revised policy, followed by an opportunity for public comment.

71. Mr. Jendroška provided an update on the process to develop a regional instrument in Latin America and the Caribbean on the application of Principle 10 of the Rio Declaration on Environment and Development. The Committee welcomed the recent developments and reiterated its support for the establishment of a legally binding instrument in the region on Principle 10.

72. Ms. Fasoli informed the Committee about her contribution to an ongoing study concerning the possibility for NGOs promoting environmental protection in France, Italy, the Netherlands and Portugal to claim damages on behalf of the environment.

## **VII. Adoption of the report and closure of the meeting**

73. The Committee agreed to adopt its report through its electronic decision-making procedure after the meeting. The Chair then officially closed the forty-ninth meeting.

---