**Aarhus Convention**

**Preparation of the Seventh session of the Meeting of the**

**Parties to the Aarhus Convention (MOP 7, Geneva, 18-21 October 2021)**

**EU + MS comments**

**Draft decision on the future work programme for 2022–2025 (revised version of ECE/MP.PP/WG.1/2020/7)**

The EU and its Member States would like to thank the Bureau and the Secretariat for preparing a draft decision on the future work programme for 2022–2025 with a draft work programme for 2022–2025 (annex I); draft estimated costs of activities for the work areas listed in the work programme for 2022–2025 (annex II); and an example of the possible distribution of different meetings under the Convention for the period 2022–2025 (annex III), with revised draft elements of the work programme for 2022–2025 (ECE/MP.PP/WG.1/2020/7) considered by the Working Group at its twenty-fourth meeting (Geneva, 1–3 July and 28-29 October 2020).

Regarding a new mechanism under the work area on the compliance mechanism to function in addition to the Compliance Committee to deal exclusively with urgent response to matters related to article 3 (8) of the Convention we address it the Draft revised note on a rapid response mechanism to deal with cases related to article 3 (8) of the Aarhus Convention (revised version of ECE/MP.PP/WG.1/2020/7).

**Draft revised note on a rapid response mechanism to deal with cases related to article 3 (8) of the Aarhus Convention (revised version of ECE/MP.PP/WG.1/2020/7)**

The EU and its Member States would like to thank the Bureau for the explanatory Note regarding the Draft note on a rapid response mechanism to deal with cases related to article 3 (8) of the Aarhus Convention prepared in response to the latest comments by the EU and its Member States by the UNECE Secretariat in consultation with the Bureau.

We recognize that environmental human rights defenders face increasing threats, violence, and other safety problems because of their work and we fully support efforts to protect them, and to ensure respect of their fundamental rights. Therefore, the EU and its Member States support the proposal to establish a rapid response mechanism, to better respond to cases when environmental human rights defenders are penalized, persecuted or harassed in any way for their peaceful work promoting and exercising their human rights.

Having analyzed the clarification given about the options 2b) and 3), the EU and its Member States are now in a position to communicate to the Bureau and the Secretariat their preference for option 3), which it is considered to be better in the budgetary level and in maintaining the regular and impartial functioning of the ACCC and the system of separation of powers within the Convention.

The EU and its Member States consider that the new mechanism must be consistent, swift, reliable, and accessible. In order to contribute to the efficiency and the effectiveness of the rapid response mechanism to be implemented under the option 3), the EU and its Member States would like to make some constructive suggestions to the functioning of the Rapporteur described in the Annex I of the *Draft Note* prepared by the Bureau, as follows:

1. In the context of option 3, it is foreseen that the rapporteur will be elected by the MOP at an extraordinary session. We would very much appreciate if an alternative solution could be found (e.g. election by the WGP), taking into account the background of COVID-19 and additional burden;
2. In point 8) of the Annex I:

The possibility that the Rapporteur could issue protection measures to “Relevant judicial bodies of the Party concerned” is potentially problematic, considering the principle of the independence of the judiciary. Considering this, we propose that these bodies should not be included in the scope of potential addressees of protection measures to be issued by the Rapporteur;

Also, the inclusion in this list of “any body of the executive branch of the government” in the latest version of the Annex I is questionable. The reason is that: i) it is unclear the scope and the definition of this expression and ii) the Rapporteur mechanism, especially when diplomatic measures are involved, is better addressed the administration at the ministry or governmental level, as it was proposed in the original version of the Annex I;

We also find that if the proposal establishes that the Rapporteur could address “any body of executive branch of the government”, there is no reason to separately include on the list “the Minister of the Environment” or “the Minister of Foreign Affairs”. These two bodies might be mentioned as examples of executive bodies, in a wording such as: “any body of the executive branch of the government, especially ministers responsible for environment and foreign affairs of the Party concerned”.

We suggest the addition of a provision establishing that whenever a Rapporteur would address a body of the executive branch, he/she would also inform the Focal Point of the Aarhus Convention about it. Such provision would ensure that there is no information missing in the process of communication which might be especially important when, for example, the body addressed by the Rapporteur is not a body of central government.

1. We find the way that the points 9) and 10) of the Annex I were formulated makes them rather explanatory of when and under what circumstances immediate or ongoing protection measures could be issued. However, they do not define which measures can be considered “immediate protection measures” or “ongoing protection measures”. We believe that it should be further clarified;
2. In point 14) of the Annex I, we should clarify from which “pool” a new rapporteur can be appointed. We would think the nominations of the previous round can be reconsidered and a new rapporteur can be appointed from that pool. To avoid going through a completely new round of nominations again.

Besides these suggestions, the EU and its Member States also attach (in Annex) a number of wording amendments on the Draft revised note on a rapid response mechanism to deal with cases related to article 3 (8) of the Aarhus Convention.

The EU and its Member States will continue to work tightly with the Secretariat and the Bureau in the implementation of a rapid response mechanism under Article 3, paragraph 8, of the Aarhus Convention.