



## **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**

**Sixty-eighth meeting**  
23 – 27 November 2020

## **Report of the Compliance Committee on its sixty-eighth meeting**

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## Introduction

1. The sixty-eighth 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 23-27 November 2020. In the light of the exceptional situation related to the ongoing coronavirus disease (COVID-19) pandemic, both the Committee and participants participated in the meeting virtually.

### A. Attendance

2. Three of the nine Committee members were present throughout the entire meeting: Mr. Jonas Ebbesson (Chair); Mr. Peter Oliver; and Mr. Dmytro Skrylnikov. Mr. Alexander Kodjabashev (Vice-Chair) participated in all sessions except for the meeting on 24 November; Mr. Jerzy Jendrośka was unable to attend part of the morning and afternoon sessions on 23 November and part of the afternoon sessions on 27 November but was present for the rest of the meeting; Mr. Marc Clément was unable to attend part of the morning sessions on 23 November and the meeting on 24 November but was present for the rest of the meeting. Ms. Áine Ryall (Vice-Chair) was unable to attend the meeting on 24 November and the afternoon sessions on 25 November but was present for the rest of the meeting. Ms. Heghine Grigoryan was unable to attend the meeting on 25 November and the afternoon session on 27 November. Ms. Fruzsina Bögös was unable to participate in 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. The communicant of communication PRE/ACCC/C/2020/180 (United Kingdom), took part in the open session on preliminary admissibility on 23 November 2020.

4. Representatives of the respective Party concerned and the communicants of communications PRE/ACCC/C/2020/181 (Netherlands) and PRE/ACCC/C/2020/183 (Spain) took part in the open session on preliminary admissibility on 23 November 2020. Representatives of the Party concerned and the communicant of communication PRE/ACCC/C/2020/182 (Belarus) took part in the open session on preliminary admissibility on 27 November 2020.

5. Representatives of Belarus, the European Union and the communicant of communication ACCC/C/2017/147 (Republic of Moldova) took part in the open sessions on the review of any developments in relation to communications and submissions and on the review of any developments on the Committee's follow-up on decisions and requests of the Meeting of the Parties. In addition, Ms. Christina Voigt, Co-chair of the Paris Agreement Compliance Committee, participated as an observer in the session.

6. Representatives of the Party concerned, the communicant of communication ACCC/C/2015/130 (Italy) took part in the hearing to discuss the substance of that communication held on 24 November 2020. In addition, a representative of Nuclear Transparency Watch and the communicant of communication ACCC/2015/131 participated as observers in the hearing.

7. Representatives of the Party concerned and the communicant of communication ACCC/C/2015/131 (United Kingdom) took part in the hearing to discuss the substance of that communication held on 26 November 2020.

8. Representatives of the Party concerned and the communicants of communications ACCC/C/2008/32 (European Union) and ACCC/C/2010/54 (European Union) took part in the open session on request ACCC/M/2017/3 (European Union) held on 25 November 2020. In addition, the following observers participated in the session: representatives of the European Commission and the European Parliament, representatives of Germany on behalf of the Presidency of the Council of the European Union, representatives of Denmark, Finland,

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France, Luxembourg, the Netherlands and Portugal, members of the Geneva Academy and Mr. Ian Cottingham, a member of the public.

9. Representatives of Earthjustice and European Environmental Bureau, on behalf of the European ECO-Forum, and ClientEarth participated in all or most of the open sessions.

## **B. Organizational matters**

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

11. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2020/6.

12. The Chair reported that, since its sixty-seventh meeting (Geneva, 6-10 July 2020), it had held four virtual meetings, on 24 September, 22 October and 6 and 10 November 2020 to continue its deliberations on its pending cases.

13. Regarding communications received before 12 October 2020 (the deadline for receipt of communications for the sixty-eighth meeting), the Chair reported that he and Vice-Chairs Mr. Kodjabashev and Ms. Ryall had held a virtual meeting on 26 October 2020 to determine which of the communications received by the deadline sufficiently met the required format to be forwarded to the Committee for consideration as to their preliminary admissibility. The Chair and Vice-Chairs had decided that communications PRE/ACCC/C/2020/181 (Netherlands), PRE/ACCC/C/2020/182 (Belarus), and PRE/ACCC/C/2020/183 (Spain) should be forwarded to the Committee for consideration of preliminary admissibility at its sixty-eighth meeting and had requested the secretariat to post that communication on the Committee's website in advance of the meeting.

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

14. The Committee noted that it had not received any new submissions, referrals or requests since its last meeting.

15. With respect to submission ACCC/S/2015/2 (Belarus), the Committee noted that it would continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

16. Regarding request ACCC/M/2017/2 (Turkmenistan), the Committee noted that the Party concerned had not yet submitted its final progress report due on 1 October 2020 and requested the secretariat to send a reminder to the Party concerned.

17. Concerning request ACCC/M/2017/3 (European Union), the Committee noted that the Party concerned had submitted its final progress report on 30 September 2020 on time. On 14 October 2020, the Party concerned had provided the Committee with the text of the European Commission's proposal amending the Aarhus Regulation<sup>1</sup> and the accompanying Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions<sup>2</sup>. On 26 October 2020, the communicant of communication ACCC/C/2010/54 submitted comments on the Party concerned's final progress report. On the same date, the Council of Bars and Law Societies of Europe submitted comments as an observer on the Party concerned's final progress report.

<sup>1</sup> Proposal for a Regulation of the European Parliament and of the Council on amending Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies.

<sup>2</sup> Communication from the Commission to the European parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. Improving access to justice in environmental matters in the EU and its Member States.

On 28 October 2020, the communicant of communication ACCC/C/2008/32 submitted comments on the final progress report. On 5 November 2020, the Party concerned wrote to confirm that it would like to take up the Committee's offer to provide advice and guidance regarding the above-mentioned legislative proposal and its progress with respect to the Committee's findings in ACCC/2008/C/32 (Part II). On 12 November 2020, the Committee wrote to the Party concerned confirming its willingness to provide the requested advice and proposed to hold an open session regarding request ACCC/M/2017/3 at its sixty-eighth meeting in order to hear the views of the Party concerned, communicants and observers on the extent to which the legislative proposal, and accompanying Communication, would fulfil the requirements of the Committee's findings on communication ACCC/C/2008/32 (Part II). On 25 November 2020, the communicant of communication ACCC/C/2008/32 submitted its statement for the open session at the sixty-eighth meeting. At the meeting, the Committee held an open session with the participation of the Party concerned, the communicant of communication ACCC/C/2008/32, the communicant of communication ACCC/C/2010/54 and observers. Following the open session, the Committee commenced its deliberations on its draft advice in closed session and agreed to request the Party concerned and the communicant of communication ACCC/C/2008/32 to send practical examples to assist the Committee in its deliberations. On 25 and 26 November 2020, respectively, the communicant of communication ACCC/C/2008/32 and the Party concerned sent practical examples as requested by the Committee. The Committee agreed to continue its deliberations on its draft advice at an upcoming meeting, taking into account the information received.

## **II. Communications from members of the public**

18. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its sixty-ninth meeting would be 14 December 2020.

19. Regarding communication ACCC/C/2013/90 (United Kingdom), the Committee agreed that it would continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

20. Concerning communication ACCC/C/2013/98 (Lithuania), the Committee noted that it had completed its draft findings through its electronic decision-making procedure on 25 August 2020. In accordance with paragraph 34 of the annex to decision I/7, the draft findings were then forwarded to the Party concerned and the communicant on 1 September 2020 with an invitation to provide any comments thereon by 13 October 2020. On 12 October 2020, the Party concerned requested an extension until 20 October 2020, which was granted by the Chair to both parties on the same day. On 20 October 2020, the Party concerned and the communicant each provided their comments on the draft findings. On 22 October 2020, the communicant provided a factual clarification regarding the Party concerned's comments which was confirmed by the Party concerned on the same day. The Committee had continued its deliberations on its draft findings in closed session at its virtual meeting on 22 October 2020 and 6 November 2020 and thereafter at the present meeting taking into account the information received. It agreed to continue its deliberations at an upcoming meeting, with a view to finalizing and adopting its findings and, as appropriate, recommendations.

21. Concerning communication ACCC/C/2014/105 (Hungary), the Committee agreed that it would continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

22. With respect to communication ACCC/C/2014/112 (Ireland), the Committee agreed that it would continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

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23. Regarding communication ACCC/C/2014/113 (Ireland), the Committee noted that it would continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.
24. With respect to communication ACCC/C/2014/118 (Ukraine), the Committee noted that it had agreed to prepare questions to the Party concerned and the communicant, and that it would continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.
25. Concerning communication ACCC/C/2014/119 (Poland), the Committee noted that it had agreed to prepare questions to the Party concerned and the communicant and that it would continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.
26. With respect to communication ACCC/C/2014/120 (Slovakia), the Committee noted that it had agreed to prepare questions to the Party concerned and the communicant and that it would continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.
27. Regarding communication ACCC/C/2014/122 (Spain), the Committee noted that it had sent questions to the communicant on 14 July 2020 for its written reply by 28 July 2020 and that on 27 July 2020 the communicant had submitted its reply to the Committee's questions. The Committee completed its draft findings through its electronic decision-making procedure on 21 August 2020. In accordance with paragraph 34 of the annex to decision I/7, the draft findings were then forwarded to the Party concerned and the communicant on 26 August 2020 with an invitation to provide any comments thereon by 7 October 2020. On 6 and 8 October 2020, respectively, the Party concerned and the communicant submitted their comments on the draft findings. The Committee had continued its deliberations on its draft findings in closed session at its virtual meeting on 22 October 2020 taking into account the information received. It agreed to continue its deliberations at an upcoming meeting, with a view to finalizing and adopting its findings and, as appropriate, recommendations.
28. With respect to communication ACCC/C/2014/124 (Netherlands), the Committee agreed that it would continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.
29. Regarding communication ACCC/C/2015/126 (Poland), the Committee noted that it had agreed to defer its deliberations on its draft findings to an upcoming meeting in order to review the voluminous information received from both the Party concerned and the communicant in the case.
30. Concerning communication ACCC/C/2015/128 (European Union), the Committee recalled that, at its sixty-fourth meeting, it had agreed to defer its deliberations on its draft findings pending the ruling by the Court of Justice of the European Union on Case C-594/18 P - *Austria v. Commission*, in the light of the relevance of that case to the present communication. On 6 November 2020, the communicant OEKOBUERO and observer ClientEarth had submitted a joint update regarding the ruling by the Court of Justice of the European Union on Case C-594/18 P - *Austria v. Commission* which was published on 22 September 2020. On 23 November 2020, the secretariat wrote to the Party concerned requesting its comments on the implications of that judgement for the Committee's deliberations on the substance of the communication. The Committee agreed that it would resume the deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

31. With respect to communication ACCC/C/2015/130 (Italy), a hearing was held during the meeting to discuss the substance of the communication in open session with the participation of the Party concerned and the communicant. The Committee noted that on 7 October 2020 it had written to the Party concerned and the communicant seeking their views on whether they considered a hearing was needed prior to the Committee commencing its deliberations on the substance of the case. On 21 October 2020, the communicant had replied that it did not consider that a hearing was required. No reply was received from the Party concerned. Given the ongoing lack of engagement of the Party concerned with regard to this communication, the Committee decided at its virtual meeting on 22 October 2020 that a hearing was indeed necessary and on 8 November 2020 a letter was sent to the parties informing them of the Committee's decision and inviting them to a hearing to discuss the substance of communication to be held during the Committee's sixty-eighth meeting. On 20 November 2020, the Party concerned replied that it did not consider a hearing necessary and asked to postpone the hearing scheduled for the 24 November 2020. On the same day the secretariat, on the instructions of the Chair, informed the parties that the hearing would go ahead as scheduled given the very late stage at which the request was received and the lack of valid reasons for justifying the postponement of the hearing. Following the hearing, the Committee commenced its deliberations on its draft findings and agreed to send questions to the parties for their written replies. It further agreed that it would continue its deliberations on its draft findings, taking into account the information received, at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

32. Regarding communication ACCC/C/2015/131 (United Kingdom), a hearing was held during the meeting to discuss the substance of the communication in open session with the participation of the Party concerned and the communicant. The Committee noted that on 6 October 2020 it had written to the Party concerned and the communicant seeking their views on whether they considered a hearing was needed prior to the Committee commencing its deliberations on the substance of the case. On 19 October 2020, the communicant replied that she did not consider that a hearing was required. On 20 October 2020, the Party concerned requested an extension until 6 November 2020 to reply on the need for a hearing. On 29 October 2020, the Chair granted an extension to both parties until 5 November 2020 and invited the parties to provide a written update on any relevant developments in the case by 20 November 2020. On 5 November 2020, the Party concerned replied that it did consider a hearing necessary given the degree of disagreement of the parties on the facts of the communication. During its virtual meeting on 6 November 2020 the Committee agreed to hold a hearing and on the same date a letter was sent to the parties informing them of the Committee's decision and inviting them to a hearing to discuss the substance of communication at the sixty-eighth meeting. On 20 November 2020, the Party concerned submitted its oral statement for the hearing to be held at the sixty-eighth meeting and the communicant provided her final written submission on the same date. Following the hearing, the Committee commenced its deliberations on its draft findings in closed session and agreed to send questions to the Party concerned for its written reply. The Committee agreed that it would continue its deliberations on its draft findings, taking into account the information received, at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

33. Concerning communication ACCC/C/2015/132 (Ireland), the Committee noted that on 6 October 2020 it had invited the views of the parties on whether they considered a hearing to be needed prior to the Committee commencing its deliberations on the substance of the case. On 20 October 2020 the Party concerned and the communicant had each replied that they did not consider a hearing was necessary. During its virtual meeting on 22 October 2020 the Committee had agreed to commence its deliberations on its draft findings without a hearing. To this end, it agreed to send questions to the Party concerned and the communicant for their written reply and, in that context, to submit any final written submissions.

34. Regarding communication ACCC/C/2015/133 (Netherlands), the Committee noted that it had agreed to send questions to the Party concerned and the communicant, and that it



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would continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

35. Regarding communication ACCC/C/2015/134 (Belgium), the Committee noted that it had received additional information from the communicant on 7 October and 9 November 2020 and had continued its deliberations on its draft findings at its virtual meeting on 6 November 2020. The Committee agreed to continue its deliberations at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

36. Concerning communication ACCC/C/2016/137 (Germany), the Committee noted that it had continued its deliberations on its draft findings at its virtual meetings on 24 September, 22 October and 6 November 2020. The Committee agreed to continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

37. With respect to communication ACCC/C/2016/138 (Armenia), the Committee noted that on 16 November 2020 it had requested additional information from the communicant by 23 November 2020 but the communicant had not yet replied. The Committee continued its deliberations on its draft findings in closed session at the present meeting and agreed to continue its deliberations at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

38. Regarding communication ACCC/C/2016/139 (Ireland), on 29 August 2020 the Committee had written to the Party concerned and the communicant seeking their views on whether they considered a hearing was needed prior to the Committee commencing its deliberations on the substance of the case. On 13 and 20 October 2020, respectively, the Party concerned and the communicant had each replied that they did not consider that a hearing was required. During its virtual meeting on 22 October 2020 the Committee agreed to commence its deliberations on the substance of the case without a hearing. To this end, it agreed to send questions to the Party concerned and the communicant for their written reply and, in that context, to submit any final written submissions.

39. Concerning communication ACCC/C/2016/140 (Romania), the Committee noted that it had agreed to send questions to the parties for their written replies, and that it would thereafter continue its deliberations on its draft findings at an upcoming meeting, taking into account the replies received.

40. With respect to communication ACCC/C/2016/141 (Ireland), the Committee noted that it had completed its draft findings through its electronic decision-making procedure on 5 August 2020. In accordance with paragraph 34 of the annex to decision I/7, the draft findings were then forwarded to the Party concerned and the communicant on 7 August 2020 with an invitation to provide any comments thereon by 25 September 2020. On 17 September 2020, the Party concerned requested an extension of the deadline until 20 October 2020 to submit comments which was granted by the Chair to both parties on 18 September 2020. On 20 October 2020, the communicant and the observer Irish Environmental Network had each provided comments on the draft findings and on 21 October 2020, the Party concerned had provided its comments. The Committee continued its deliberations at its virtual meeting on 22 October 2020, taking into account the comments received, and finalized and adopted its findings through its electronic decision-making procedure on 9 November 2020. The Committee agreed that the findings should be published as a formal pre-session document to its seventieth meeting (12–16 April 2021).

41. Regarding communication ACCC/C/2016/142 (United Kingdom), the Committee noted that on 21 August 2020 it had sent questions to the parties for their written reply. The communicant and the Party concerned had submitted their replies to the Committee's questions on 21 August and 11 September 2020, respectively. On 29 September 2020, the Committee had written to the Party concerned and the communicant seeking their views on whether they considered a hearing was needed prior to the Committee commencing its

deliberations on the substance of the case. On 29 September and 13 October 2020, respectively, the communicant and the Party concerned replied that they did not consider that a hearing was required. During its virtual meeting on 22 October 2020, the Committee agreed to commence its deliberations on the substance of the case without a hearing. To that end, on 29 October 2020 the Committee invited both parties to submit any final written submissions and, in that context, had also sent questions to the Party concerned for its written reply. On 30 October 2020, the communicant submitted comments on the Committee's questions. On 5 and 9 November 2020, respectively, Mr. Peter Silverman and Mr. George Niblock each submitted statements as observers. On 25 November 2020, the Party concerned submitted its reply to the Committee's questions together with its final written submissions. On 26 November 2020, the communicant submitted his final written submissions and on 27 November 2020, Mr. Niblock and Mr. Silverman each submitted comments as observers. At the present meeting, the Committee commenced its deliberations on its draft findings in closed session and agreed to continue its deliberations at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

42. Concerning communication ACCC/C/2016/143 (Czechia), the Committee noted that the communicants had submitted additional information on 19 September and 13 November 2020. The Committee also noted that it had agreed to prepare questions to the Party concerned for its written reply. It agreed that it would continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

43. With respect to communication ACCC/C/2016/144 (Bulgaria), the Committee noted that on 13 July 2020, the Party concerned had replied to the Committee's questions and on 17 September and 8 October 2020 the communicant submitted comments on the Party concerned's reply. The Committee agreed to continue its deliberations on its draft findings at an upcoming meeting, taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

44. Regarding communication ACCC/C/2017/146 (Poland), the Committee noted that it had agreed to ask the Party concerned to provide translations of relevant legislation and to thereafter send questions to the parties for their written reply. The Committee agreed that it would decide how to proceed with the communication at an upcoming meeting, taking into account the information received.

45. Concerning communication ACCC/C/2017/147 (Republic of Moldova), the Committee noted that on 19 November 2020 it had sent questions to the Party concerned for its written reply and that on 25 November 2020, the Party concerned had sent a partial reply to the Committee's questions. On the same day, the communicant provided an update. The Committee continued its deliberations on its draft findings in closed session at the present meeting, taking into account the information received, and agreed to continue its deliberations at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

46. With respect to communication ACCC/C/2017/148 (Greece), the Committee noted that it had agreed to send questions to the parties for their written reply and that it would decide how to proceed with the communication at an upcoming meeting, taking into account the information received.

47. Regarding communication ACCC/C/2017/149 (Greece), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

48. Concerning communication ACCC/C/2017/150 (United Kingdom), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

49. With respect to communication ACCC/C/2016/151 (Poland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.



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50. Regarding communication ACCC/C/2017/153 (Spain), the Committee noted that, in the light of the voluminous information received, it had agreed to send questions to the communicants to clarify various aspects of their claims and to decide how to proceed with the communication at an upcoming meeting taking into account their reply and any comments received thereon.

51. Concerning communication ACCC/C/2017/154 (Poland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

52. With respect to communication ACCC/C/2017/156 (United Kingdom), the Committee noted that on 20 July 2020 the communicants had requested the opportunity to comment on the Party concerned's reply of 29 June 2020. On 21 July 2020, the secretariat replied explaining that the commenting period had already expired, but that the communicant could ask the Chair if an extension could be granted. On the same day, the communicants requested an extension of the commenting deadline until the end of the week. On 23 July 2020, the secretariat informed the parties that the Chair had granted an extension until 24 July 2020 to both parties. On 24 July 2020, the Party concerned requested a further extension until 7 August 2020 which was granted by the Chair on 28 July 2020. On 29 July 2020, the communicants sent their comments on the Party concerned's reply of 29 June 2020. On 4 August 2020, the communicants submitted additional information. On 7 August 2020, the Party concerned submitted its comments on the communicants' reply of 29 June 2020 to the Committee's questions and on 19 August 2020 it submitted comments on the additional information sent by the communicant on 4 August 2020. The Committee agreed to request the Party concerned and the communicant to refrain from submitting additional information unless requested to do so by the Committee, as the voluminous information submitted hampered the Committee's efficient handling of the case. The Committee agreed to defer its deliberations on its draft findings to an upcoming meeting in order to enable it to review the information received.

53. Regarding communication ACCC/C/2017/157 (United Kingdom), the Committee noted that on 15 November 2020 it had invited the communicant's views on whether, in the light of a 2019 amendment, the Party concerned's cost protection rules now applied to statutory reviews under section 288 of the Town and Country Planning Act 1990. On 22 November 2020, the communicant replied that he was satisfied that such claims would benefit from the cost protection rules as amended. The Committee agreed that it would decide how to proceed with the communication at an upcoming meeting, taking into account the information received.

54. Concerning communication ACCC/C/2018/158 (Poland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

55. With respect to communication ACCC/C/2017/159 (Spain), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

56. Regarding communication ACCC/C/2018/161 (Bulgaria), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

57. Concerning communication ACCC/C/2019/162 (Denmark), the Committee noted that the Party concerned had submitted its response to the communication on 20 August 2019, on time. The Committee requested the secretariat to ask the Party concerned to submit the texts of the relevant case-law referred to in its response.

58. With respect to communication ACCC/C/2019/163 (Austria), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

59. Regarding communication ACCC/C/2019/164 (Ireland), the Committee noted that it had agreed to invite the communicant to comment on the submissions on admissibility made by the Party concerned in its response to the communication dated 22 August 2019 and to decide how to proceed with the communication at an upcoming meeting, taking into account the information received.

60. Concerning communication ACCC/C/2019/168 (Iceland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

61. With respect to communication ACCC/C/2019/173 (Sweden), the Committee noted that on 23 August 2020 the communicant had submitted comments on the Party concerned's response to the communication dated 18 June 2020. The Committee agreed to send questions to the Party concerned and to decide how to proceed with the communication at an upcoming meeting taking into account the information received.

62. Regarding communication ACCC/C/2019/174 (Sweden), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

63. Concerning communication ACCC/C/2020/177 (Bosnia and Herzegovina), the Committee noted that on 15 November 2020 the secretariat had sent an email to the Party concerned to point out that the five month deadline set out in the annex to decision I/7 of the Meeting of the Parties for the Party concerned to submit its response had expired on 23 August 2020 and urging the Party concerned to submit its response prior to the Committee's sixty-eighth meeting. On 23 November 2020, the Party concerned sent a letter stating that the communicant had not exhausted available domestic remedies regarding the matters addressed in the communication. The Committee requested the secretariat to ask the Party concerned to expand its response and to clarify whether it challenged the admissibility of the communication. It further agreed to invite the communicant to comment on the reply of the Party concerned once received.

64. With respect to communication ACCC/C/2020/178 (Germany), the Committee noted that on 13 August 2020 the Party concerned had submitted its response to the communication challenging its admissibility. The Committee agreed to invite the communicant to comment on the submission made by the Party concerned on that issue and to decide how to proceed with the communication at an upcoming meeting taking into account the information received.

65. Regarding communication ACCC/C/2020/179 (Serbia), the Committee noted that on 13 August 2020 the Party concerned sent a letter requesting an extension of the deadline to provide a response to the communication in light of the difficulties linked to the COVID-19 pandemic. The Chair granted the extension so long as Serbia's response was not unduly delayed. On 10 November 2020, the Party concerned submitted its response to the communication. The Committee agreed to decide how to proceed with the communication at an upcoming meeting.

66. Communication ACCC/C/2020/180 (United Kingdom) had been submitted on 25 May 2020 by Mr. Gordon Duff, a member of the public. The communication alleged violations of article 9(2), (4), and (5) of the Convention in connection with the rule in Northern Ireland that a private company must be represented by a solicitor in order to seek judicial review. At its sixty-seventh meeting, the Committee had decided to defer its determination on the preliminary admissibility of the communication until its sixty-eighth meeting in order to seek further information from the communicant. On 11 November 2020, the Committee had sent questions to the communicant for his written reply and the communicant submitted an update on the communication along with his answers on 20 November 2020 and a further submission on 25 November 2020. During the meeting the Committee heard the views of the communicant on the preliminary admissibility of the communication. After considering in closed session the information received, the Committee determined that, to the extent that it concerned the allegedly prohibitive expensive nature of judicial review procedures in the Party concerned, the communication was admissible on a preliminary basis. The Committee recalled that in its findings on communication ACCC/C/2008/33 (United Kingdom), it had already found the Party concerned to be in noncompliance with article 9(4) for its failure to ensure that such procedures are not prohibitively expensive and that, in its follow-up on decision VI/8k, the Committee was examining the progress made by the Party concerned to address its findings and the related

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recommendations. In these circumstances, the Committee agreed to apply its summary proceedings procedure to those parts of the communication that concerned the cost of judicial review procedures in the Party concerned and to invite the communicant to take part in the follow-up on decision VI/8k and any decision of the Meeting of the Parties that may supersede it. The Committee determined that the rest of the communication was inadmissible under paragraph 20 (d) of the annex to decision I/7, on the grounds that it was incompatible with the provisions of the Convention.

67. Communication ACCC/C/2020/181 (Netherlands) had been submitted on 17 August 2016 by the communicants Mr. Dercksen and others but due to an administrative error it had not been processed. The communication alleged a failure to comply with article 6 (2), (4), (8) and article 7 of the Convention with respect to public participation in decision-making on wind farms. On 27 May 2020, the Chair and Vice Chairs sent questions to the communicants for their written reply which was received on 14 October 2020. During the meeting, the Committee heard the views of the Party concerned and the communicant. After considering in closed session the information received, the Committee determined that the communication was preliminarily admissible and requested the secretariat to forward the communication to the Party concerned for its response.

68. Communication ACCC/C/2020/182 (Belarus) had been submitted on 24 May 2020 by Ecohome, an environmental non-governmental organisation. The communication alleged a failure to comply with articles 6 (2), (3), (4) and (9) of the Convention with respect to public participation in decision-making regarding a battery plant in Brest. On 19 October 2020, the Chair and Vice-Chairs had sent questions to the communicant for its written reply with a view to clarify some aspects of the communication and the communicant had submitted its reply on 25 October 2020. At its sixty-eighth meeting, the Committee heard the views of the Party concerned and the communicant. After considering in closed session the information received, the Committee determined that the communication was preliminarily admissible and requested the secretariat to forward the communication to the Party concerned for its response.

69. Communication ACCC/C/2020/183 (Spain) had been submitted on 9 October 2020 by Pessoas – Animais – Natureza (PAN), a Portuguese political party. The communication alleged a failure to comply with article 6 of the Convention on public participation in decision-making in connection with the lifetime extension of the Almaraz nuclear power plant. During the meeting, the Committee heard the views of the Party concerned and the communicant. After considering in closed session the information received, the Committee determined that the communication was preliminarily admissible and requested the secretariat to forward the communication to the Party concerned for its response.

### **III. Reporting requirements**

70. The Committee noted that the Meeting of the Parties, at its sixth session (Budva, Montenegro, 11–14 September 2017), had urged Parties that had not yet submitted their national implementation reports to do so in the required format by 1 November 2017 at the latest (ECE/MP.PP/2017/2, para. 46). The secretariat reported that the Republic of Moldova was the only Party that had not yet submitted its report.

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

71. The Committee took note of the developments since its sixty-seventh meeting with respect to decisions VI/8a–e and g–k of the Meeting of the Parties, as well as regarding the follow-up procedure concerning the Committee’s findings and recommendations on communications ACCC/C/2014/104 (Netherlands) and ACCC/C/2013/107 (Ireland).

72. With respect to decision VI/8a (Armenia), the Committee noted that the Party concerned had submitted its final progress report on 18 November 2020, after the deadline of 1 October 2020. The Committee requested the secretariat to invite the communicants and observers registered to take part in the follow-up on that decision to provide their comments on the Party concerned's final progress report. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8a taking into account the information received.

73. Regarding decision VI/8b (Austria), the Committee noted that the Party concerned had submitted its final progress report on 1 October 2020 on time. The final progress report had been forwarded on that date to the communicants and observers registered to take part in the follow-up on that decision for their comments by 29 October 2020. Comments had been received from the communicant of communication ACCC/C/2010/48, OEKOBUERO, on 30 October 2020. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8b taking into account the information received.

74. Concerning decision VI/8c (Belarus), the Committee noted that on 7 September 2020, the European EcoForum had submitted an update under paragraph 7 of decision VI/8c concerning the arrest and detention of Ms. Irina Sukhiy, the head of Ecohome, the communicant of communication ACCC/C/2014/102, asking the Committee to take urgent measures to secure her release from detention. On the same date, observers Nuclear Transparency Watch, Greenpeace Netherlands and WISE International provided a statement regarding the same incident and asked the Committee to seek clarifications on the matter with the Party concerned and to seek guarantees for her safety. On 9 September 2020, the Committee Chair wrote to the Party concerned inviting it to clarify the circumstances of Ms. Sukhiy's arrest. On 18 September 2020, the Party concerned replied that, based on the information available, the arrest and detention of Ms. Sukhiy were not related to the exercise of her rights in conformity with the Convention and in particular with her activities to oppose the Ostrovets nuclear power plant. On 30 September 2020, the Party concerned had submitted its final progress report on decision VI/8c on time. On 1 October 2020, the final progress report had been forwarded to the communicants and observers registered to take part in the follow-up on that decision for their comments by 29 October 2020. No comments had been received. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8c taking into account the information received.

75. With respect to decision VI/8d (Bulgaria), the Committee noted that the Party concerned had submitted its final progress report on 30 September 2020 on time. On 1 October 2020, the final progress report had been forwarded to the communicants and observers registered to take part in the follow-up on that decision for their comments by 29 October 2020. On 28 October 2020, the communicant of communications ACCC/C/2011/58 and ACCC/C/2012/76 had submitted comments thereon. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8d taking into account the information received.

76. Regarding decision VI/8e (Czechia), the Committee noted that the Party concerned had submitted its final progress report on 1 October 2020 on time and that the final progress report had been forwarded on that date to the communicants and observers registered to take part in the follow-up on decision VI/8e for their comments by 29 October 2020. Comments had been received from OEKOBUERO, an observer, on 29 October 2020. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8e taking into account the information received.

77. Concerning decision VI/8g (Kazakhstan), the Committee noted that the Party concerned has submitted its final progress report on 13 October 2020, after the deadline of 1 October 2020. On 17 October 2020, the final progress report was forwarded to the communicants and observers registered to take part in the follow-up on decision VI/8g for their comments by 14 October 2020. On 12 November 2020, the communicant of communications ACCC/C/2004/1 and ACCC/C/2004/2 had submitted comments on the final

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progress report. On 18 November 2020, the Party concerned had submitted comments on the communicant's comments. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8g taking into account the information received.

78. With respect to decision VI/8h (Romania), the Committee noted that the Party concerned has submitted its final progress report on 30 September 2020, on time, and that the final progress report had been forwarded on 1 October 2020 to the communicants registered to take part in the follow-up on decision VI/8h for their comments by 29 October 2020. No comments had been received. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8h taking into account the information received.

79. Regarding decision VI/8i (Slovakia), the Committee noted that the Party concerned has submitted its final progress report on 1 October 2020 on time and had been forwarded on that date to the communicants and observers registered to take part in the follow-up on decision VI/8i for their comments by 29 October 2020. No comments had been received. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8i taking into account the information received.

80. Concerning decision VI/8j (Spain), the Committee noted that the Party concerned had submitted its final progress report on 6 October 2020, after the deadline of 1 October 2020. On 9 October 2020, the final progress report had been forwarded to the communicants and observers registered to take part in the follow-up on decision VI/8j for their comments by 6 November 2020. On 26 October 2020, the communicant of communication ACCC/C/2014/99 submitted comments and on 5 November 2020 the communicants of communication ACCC/C/2009/36 and communication ACCC/C/2008/24 each submitted comments. On 26 November 2020, comments were received from the Party concerned on the comments of the communicant of communication ACCC/C/2014/99. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8j taking into account the information received.

81. With respect to decision VI/8k (United Kingdom), the Committee noted that on 14 August 2020, ClientEarth, one of the communicants of communication ACCC/C/2008/33 had provided an update and that on 30 September 2020, the Party concerned had submitted its final progress report on time. On 1 October 2020, the final progress report had been forwarded to the communicants and observers registered to take part in the follow-up on decision VI/8k for their comments by 29 October 2020. On 15 and 29 October 2020, respectively, the communicants of communication ACCC/C/2013/85 and ACCC/C/2013/86 and ClientEarth had submitted comments. Also on 29 October 2020, joint comments on the final progress report were submitted by the following observers: RSPB, Friends of the Earth, Friends of the Earth (Scotland), Environmental Rights Centre for Scotland, Benjamin Christman and C&J Black Solicitors. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on decision VI/8k taking into account the information received.

82. With respect to the follow-up on its findings on communication ACCC/C/2014/104 (Netherlands), the Committee noted that the Party concerned had submitted its final progress report on 1 October 2020 on time and that the final progress report had been forwarded on that date to the communicant and observers for their comments by 29 October 2020. On 28 October 2020, the communicant and WISE Nederland as observer submitted joint comments. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on the progress made by the Party concerned to implement the Committee's findings and recommendations taking into account the information received.

83. Regarding the follow-up on its findings on communication ACCC/C/2013/107 (Ireland), the Committee noted that the Party concerned had submitted its progress report on 1 October 2020 on time and that the progress report had been forwarded on that date to the



communicant and observers registered to take part in the follow-up for their comments by 29 October 2020. On 31 October 2020, the communicant had submitted his comments. The Committee agreed that it would prepare its report to the seventh session of the Meeting of the Parties on the progress made by the Party concerned to implement the Committee's findings and recommendations taking into account the information received.

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

84. The Committee noted that, subject to the availability of conference services, it had agreed to hold its sixty-ninth meeting from 25 to 29 January 2021 and that, in the light of the ongoing COVID-19 pandemic, the sixty-ninth meeting would be held virtually. The Committee also agreed to schedule virtual meetings at an increased frequency in the coming months in order to hasten the completion of findings on pending cases in order that the findings may be transmitted to the seventh session of the Meeting of the Parties for endorsement.

## **VI. Other business**

### **A. Modus operandi**

85. The Chair expressed his appreciation for the proactive efforts made by the secretariat both before and throughout the meeting to enable the meeting to proceed smoothly despite the logistical challenges caused by the on-going COVID-19 pandemic. In that regard, he made clear that, whilst he welcomed the possibility to hold the hearing to discuss the substance of communications ACCC/C/2015/130 (Italy) and ACCC/C/2015/131 (United Kingdom) via virtual means, this did not change the Committee's longstanding practice that, if the Committee scheduled a hearing to discuss the substance of a case, the Party concerned and the communicant, as well as any observer seeking to make a statement, were expected to attend the hearing in person.

86. In continuance of the open session on effective case management held at its sixty-seventh meeting, the Committee held an open session on Friday, 27 November 2020 to hear views and discuss further possible means to facilitate the Committee's effective case management.

### **B. Statement on the application of the Convention during the COVID-19 pandemic and in the subsequent economic recovery phase**

87. The Committee noted that, following its sixty-seventh meeting, the Committee's draft statement on the application of the Convention during the COVID-19 pandemic and in the subsequent economic recovery phase had been published on the webpage of the sixty-seventh meeting and Parties and members of the public had been invited to provide any comments they might have on the draft advice by 21 August 2020. Comments had been received from European ECO Forum, Society and Environment (Ukraine) and Irish Environmental Network. After taking into account the comments received, the Committee finalized and adopted its statement on 2 September 2020. The Committee noted that a press release regarding the statement, together with the statement itself, had been published on the Convention's webpage. The statement was also published as an addendum to the report of the sixty-seventh meeting.

### **C. Other matters**

88. The Chair reported that he had been interviewed for an article in the Chilean newspaper *Le Tercera* on 8 October 2020 on the importance for Chile to ratify the Regional



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Agreement on Access to Information, Public Participation in Decision-making and Access to Justive in Environmental Matters in Latin America and the Caribbean (Escazu Agreement).

89. The Chair also reported that, on 19 November 2020, Ms. Eleanor Sharpston, former Advocate General at the Court of Justice of the European Union, had given a lecture at the University of Stockholm entitled “From ‘Do trees have rights?’ to wondering about ecocide – drawing on the rule of law to protect our environment” which had included references to the Aarhus Convention.

90. The secretariat reported on the twenty-fourth meeting of the Working Group of the Parties, which due to the ongoing COVID-19 pandemic was held in two sessions: from 1–3 July 2020 and a resumed session on 28-29 October 2020. The Working Group had discussed the draft note prepared by the Bureau on the establishment of a rapid response mechanism to deal with cases related to article 3 (8) of the Convention among other documents.<sup>3</sup> In order to facilitate the work of the Bureau, the Working Group had requested Parties and interested stakeholders to indicate their preference of the options presented in the Bureau’s draft note by 1 December 2020.

91. The secretariat reported that the seventh meeting of the Task Force on Access to Information had been held from 16 to 17 November 2020.

92. The secretariat also reported that, due to circumstances related to the current ongoing COVID-19 pandemic, Georgia had indicated that it would not be able to host the seventh session of the Meeting of the Parties as planned. The seventh session was therefore likely to take place in Geneva, unless another Party offered to host it in the meanwhile.

93. With respect to the promotion of the Convention, the secretariat reported that, on 5 October 2020, it had delivered a presentation at a high level conference organized by the European Court of Human Rights entitled “Human Rights for the Planet”, On 12 November 2020, the secretariat had spoken at a webinar for young activists organized by the Center for International Environmental Law on the use of the Aarhus Convention and the Escazu Agreement in promoting the voice of youth in international environmental negotiations.

## **VII. Report and closure of the meeting**

94. The Committee agreed to adopt its report through its electronic decision-making procedure after the meeting. The Chair then officially closed the sixty-eighth meeting.

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<sup>3</sup> ECE/MP.PP/WG.1/2020/13.