

## 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

#### Seventh session

Geneva, 18–20 October 2021

Item 7 (b) of the provisional agenda

#### Procedures and mechanisms facilitating the implementation of the Convention: compliance mechanism

### **Draft decision VII/8 on general issues of compliance\***

#### **Prepared by the Bureau Adopted, as amended at the meeting**

*The Meeting of the Parties,*

*Having regard* to its decision I/7 on the review of compliance, and in particular to paragraph 37 of the annex thereto,<sup>1</sup>

*Having regard also* to decision VI/8 on general issues of compliance, decisions VI/8a, VI/8b, VI/8c, VI/8d, VI/8e, VI/8g, VI/8h, VI/8i, VI/8j and VI/8k<sup>2</sup> and requests ACCC/M/2017/2<sup>3</sup> and ACCC/M/2017/3<sup>4</sup> on compliance by individual Parties with their obligations under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention),

*Noting with appreciation* the reports by the Committee to the seventh session of the Meeting of the Parties and taking note of the Committee's reports on its meetings during the intersessional period,

*Noting with appreciation also* the findings and recommendations adopted by the Committee during the intersessional period,

*Recalling* decisions VII/8a, VII/8b, VII/8c, VII/8d, VII/8e, VII/8f, VII/8g, VII/8h, VII/8i, VII/8j, VII/8k, VII/8l, VII/8m, VII/8n, VII/8o, VII/8p, VII/8q, VII/8r and VII/8s, concerning compliance by, respectively, Armenia, Austria, Belarus, Bulgaria, Czechia, the European Union, Germany, Hungary, Ireland, Italy, Kazakhstan, Lithuania, the Netherlands, the Republic of Moldova, Romania, Spain, Turkmenistan, Ukraine and the United Kingdom of Great Britain and Northern Ireland, adopted in parallel with this decision,

1. *Welcomes* the reports of the Aarhus Convention Compliance Committee to the Meeting of the Parties at its seventh session on procedural matters and general issues of compliance;<sup>5</sup>

2. *Also welcomes* the way in which the Committee has been working and the further clarification of its procedures developed in the period 2017–2021 within the framework of decision I/7, as reflected in the second edition of the *Guide to the Aarhus Convention Compliance Committee*<sup>6</sup> and the reports of its meetings;

3. ~~*Invites*~~ *Calls upon* ~~*Encourages*~~ those Parties found to be in non-compliance in the coming intersessional period to agree to the Committee making its recommendations to

\* This document was submitted late owing to additional time required for its finalization.

<sup>1</sup> ECE/MP.PP/2/Add.8.

<sup>2</sup> ECE/MP.PP/2017/2/Add.1.

<sup>3</sup> Decision VI/8 on general issues of compliance, para. 19.

<sup>4</sup> ECE/MP.PP/2017/2, para. 63.

<sup>5</sup> ECE/MP.PP/2021/44 and ECE/MP.PP/2021/45.

<sup>6</sup> United Nations Economic Commission for Europe (Geneva, 2019).

them directly, in accordance with paragraph 36 (b) of the annex to decision I/7, in order to bring their legislation and practice into compliance with the Convention as soon as possible once specific issues of compliance have been identified, with a view to bringing about full compliance with the relevant provisions in the intersessional period, where possible;

4. *Urges* all Parties found to be in non-compliance to take measures as early as possible in the coming intersessional period to implement the recommendations made to them, with a view to having the non-compliance fully addressed in due time before the eighth session of the Meeting of the Parties;

5. *Requests* each Party to cooperate in a constructive manner with the Committee in connection with any review of its compliance;

6. *Appreciates* that recommendations, advice and expert assistance from the Committee to the Parties concerned in the intersessional period represent an effective means to facilitate Parties' compliance;

#### **Findings and recommendations on compliance in the period 2017–2021 and cooperation by the Parties**

7. *Welcomes* the constructive approach towards, and cooperation with, the Committee demonstrated by Armenia, Belarus, Belgium, Bulgaria, Czechia, the European Union, France, Germany, Hungary, Ireland, Italy, Lithuania, the Netherlands, the Republic of Moldova, Spain, Slovakia, Ukraine and the United Kingdom of Great Britain and Northern Ireland, whose compliance was the subject of review in the intersessional period 2017–2021;

8. *Also welcomes* the consideration and evaluation by the Committee with respect to the specific cases of alleged non-compliance set out in the findings and recommendations adopted by the Committee during the intersessional period;<sup>7</sup>

9. *Endorses* the main findings with regard to compliance contained in the findings and recommendations adopted by the Committee during the intersessional period, as referred to in the footnote to paragraph 8 above;

10. *Notes* the Committee's conclusions in its findings on communication ACCC/C/2016/138<sup>8</sup> that Armenia had not failed to comply with the provisions of the Convention in that case; in its findings on communication ACCC/C/2013/106<sup>9</sup> that Czechia had not failed to comply with the provisions of the Convention in that case; in its findings on communication ACCC/C/2015/135<sup>10</sup> that France had not failed to comply with the provisions of the Convention in that case; in its findings on communication ACCC/C/2014/120<sup>11</sup> that Slovakia had not failed to comply with the provisions of the Convention in that case; and in its findings on communication ACCC/C/2014/100<sup>12</sup> that the United Kingdom of Great Britain and Northern Ireland had not failed to comply with the provisions of the Convention in that case;

<sup>7</sup> ECE/MP.PP/C.1/2019/3 (Netherlands), ECE/MP.PP/C.1/2019/6 (United Kingdom), ECE/MP.PP/C.1/2019/9 (Ireland), ECE/MP.PP/C.1/2020/3 (Czechia), ECE/MP.PP/C.1/2020/8 (European Union), ECE/MP.PP/C.1/2020/9 (France), ECE/MP.PP/C.1/2021/3 (European Union), ECE/MP.PP/C.1/2021/7 (Spain), ECE/MP.PP/C.1/2021/8 (Ireland), ECE/MP.PP/C.1/2021/13 (Belarus), ECE/MP.PP/C.1/2021/14 (United Kingdom), ECE/MP.PP/C.1/2021/15 (Lithuania), ECE/MP.PP/C.1/2021/16 (Hungary), ECE/MP.PP/C.1/2021/17 (Ireland), ECE/MP.PP/C.1/2021/18 (Ukraine), ECE/MP.PP/C.1/2021/19 (Slovakia), ECE/MP.PP/C.1/2021/20 (Netherlands), ECE/MP.PP/C.1/2021/21 (European Union), ECE/MP.PP/C.1/2021/22 (Italy), ECE/MP.PP/C.1/2021/23 (United Kingdom), ECE/MP.PP/C.1/2021/24 (Belgium), ECE/MP.PP/C.1/2021/25 (Germany), ECE/MP.PP/C.1/2021/26 (Armenia), ECE/MP.PP/C.1/2021/27 (United Kingdom), ECE/MP.PP/C.1/2021/28 (Czechia) ECE/MP.PP/C.1/2021/29 (Bulgaria) and ECE/MP.PP/C.1/2021/30 (Republic of Moldova).

<sup>8</sup> ECE/MP.PP/C.1/2021/26.

<sup>9</sup> ECE/MP.PP/C.1/2020/3.

<sup>10</sup> ECE/MP.PP/C.1/2020/9.

<sup>11</sup> ECE/MP.PP/C.1/2021/19.

<sup>12</sup> ECE/MP.PP/C.1/2019/6.

11. *Also notes* the conclusions of the Committee in its findings on communication ACCC/C/2015/134<sup>13</sup> that Belgium had failed to comply with articles 4 (2) and (7) and 9 (1) and (4) of the Convention but, taking into consideration that no evidence had been put before it to demonstrate that the non-compliance found was of a wide or systemic nature, the Committee refrained from making any recommendations in that case;

12. *Further notes* the conclusions of the Committee in its findings on communication ACCC/C/2014/122<sup>14</sup> that Spain had failed to comply with article 6 (10) of the Convention but, bearing in mind the circumstances outlined in paragraph 100 of those findings, the Committee refrained from making recommendations;

13. *Welcomes* the agreement by most of the Parties found not to be in compliance to the Committee making recommendations to them directly in accordance with paragraph 36 (b) of the annex to decision I/7;

14. *Also welcomes* the constructive efforts made by Ireland and the Netherlands in the intersessional period to address the recommendations made by the Committee in accordance with paragraph 36 (b) of the annex to decision I/7 in its findings on communications ACCC/C/2013/107 (Ireland),<sup>15</sup> ACCC/C/2016/141 (Ireland)<sup>16</sup> and ACCC/C/2014/104 (Netherlands);<sup>17</sup>

#### **Recommendations on requests for advice or assistance**

15. *Further welcomes* the proactive approach by Kazakhstan with regard to its request ACCC/A/2020/2 for advice and assistance, in accordance with paragraphs 14, 36 (a) and 37 (a) of the annex to decision I/7, and welcomes the recommendations by the Committee with regard to that request;<sup>18</sup>

#### **Implementation of decisions and requests on compliance by individual Parties**

16. *Endorses* the main findings with regard to compliance contained in the report of the Committee on the implementation of decision VI/8i concerning the compliance of Slovakia,<sup>19</sup> and welcomes the committed action by the Party concerned to fully address the recommendations made by the Meeting of the Parties and to bring its legislation and practice into compliance with the Convention;

17. *Welcomes* the constructive efforts made by Austria, Belarus, Kazakhstan, Romania, Spain and the United Kingdom of Great Britain and Northern Ireland to address the recommendations made by the Meeting of the Parties through decisions VI/8b, VI/8c, VI/8g, VI/8h, VI/8j and VI/8k, respectively, to bring their legislation and practice into compliance with the Convention, while recognizing that further work is needed by these Parties to fully address the outstanding points of non-compliance;

18. *Also welcomes* the constructive efforts made by the European Union to address the non-compliance that was the subject of request ACCC/M/2017/3, while recognizing that further work is needed by the Party concerned to fully address the outstanding points of non-compliance with regard to paragraph 3 of decision V/9g;

19. *Appreciates* the engagement with the Committee by Armenia, Czechia and Turkmenistan during the intersessional period, but expresses concern at the lack of concrete action by these Parties to address the recommendations made by the Meeting of the Parties through decisions VI/8a and VI/8e, and the non-compliance that was the subject of request ACCC/M/2017/2, respectively;

20. *Also appreciates* the engagement with the Committee by Bulgaria during the intersessional period, but expresses its deep concern that the Party concerned continues to

<sup>13</sup> ECE/MP.PP/C.1/2021/24.

<sup>14</sup> ECE/MP.PP/C.1/2021/7.

<sup>15</sup> ECE/MP.PP/C.1/2019/9.

<sup>16</sup> ECE/MP.PP/C.1/2021/8.

<sup>17</sup> ECE/MP.PP/C.1/2019/3.

<sup>18</sup> ECE/MP.PP/C.1/2021/6.

<sup>19</sup> ECE/MP.PP/2021/56 (Slovakia), forthcoming.

maintain the position that implementing the recommendations in paragraph 3 (a) and (b) of decision VI/8d is not required for its full compliance with article 9 (2) and (3) of the Convention, and recalls that it had already expressed its concern at the position of Bulgaria on this matter in paragraph 17 of decision VI/8;

21. *Notes with concern* that, notwithstanding the constructive cooperation of Belarus with the Committee, there have been recent reports of actions by state authorities in Belarus against environmental organizations in that country that, on the face of it, would appear to represent violations of article 3 (8) of the Convention and therefore requests the Committee, when evaluating the implementation by the Party concerned of the recommendations in paragraph 3 of decision VII/8c, to take into account any information submitted to it about incidents of alleged penalization, persecution or harassment contrary to article 3 (8) of the Convention;

22. *Requests* the Committee, with the support of the secretariat, to provide advice and assistance and, where appropriate, to make recommendations to the Parties concerned to support the implementation of decisions VII/8a–s concerning their compliance;

23. *Undertakes* to review the implementation of decisions VII/8a–s at its eighth ordinary session and, with this in mind, requests the Committee to examine these matters in advance of that meeting and to submit reports on the implementation of those decisions for consideration at its eighth session;

### **Resources**

24. *Invites* all Parties and other interested States and organizations in a position to do so to provide countries with economies in transition with financial and/or technical assistance aimed at improving implementation of, and compliance with, the Convention;

25. *Further invites* all Parties and other interested States and organizations in a position to do so to provide environmental non-governmental organizations with relevant expertise with financial support to enable them to support members of the public in making effective use of the compliance mechanism;

26. *Notes* that the workload of both the secretariat and the Committee related to the functioning of the compliance mechanism has significantly increased during the intersessional period 2017–2021 and is expected to increase further, and requests the Working Group of the Parties, the Bureau and the secretariat, in their respective roles, to ensure that sufficient human and financial resources are made available for this purpose;

27. *Requests* the secretariat to continue to produce the agendas, reports, findings and other documents prepared by the Compliance Committee as official documents and to make them available in time for consideration at the relevant meetings in the three official languages of the United Nations Economic Commission for Europe, without recourse to additional extrabudgetary resources.

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