

21 July 2022

Ms. Alla Loboda  
Ministry of Environmental Protection and Natural Resources  
Ukraine

Dear Ms. Loboda,

**Re: Request for advice by Ukraine (ACCC/A/2022/3)**

I refer to Ukraine's request of 27 June 2022 to the Compliance Committee of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) for advice on whether its adoption of certain measures in connection with the military aggression of the Russian Federation against Ukraine is compatible with its obligations as a Party to the Aarhus Convention.

The Chair of the Compliance Committee confirms the readiness of the Committee to provide the requested advice, in accordance with paragraphs 14, 36 (a) and 37 (a) of the annex to decision I/7.<sup>1</sup> The Committee expresses its appreciation to Ukraine for its proactive approach in reaching out to the Committee on this important matter.

The Chair of the Committee has asked me to write to explain the Committee's procedure for preparing its advice.

In accordance with its established procedure, Ukraine's request for advice has been published on the Committee's website at <http://www.unece.org/env/pp/cc/assistance.html> and has been given the case reference ACCC/A/2022/3, which you are invited to cite in future correspondence on the matter.

Also in line with its established procedure,<sup>2</sup> in order for members of the public to have an opportunity to provide any comments they may have on the substance of the request, European ECO Forum, representing an international network of environmental non-governmental organizations (NGOs) following the Convention and the work of the Committee, will be informed of Ukraine's request. Members of the public will thereafter have one week, i.e. until **Thursday, 28 July 2022**, to submit to the Compliance Committee any written comments they may have on the request.

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<sup>1</sup> ECE/MP.PP/2/Add.8, available at:

<https://unece.org/DAM/env/pp/documents/mop1/ece.mp.pp.2.add.8.e.pdf>

<sup>2</sup> See, for example, the secretariat's email to Kazakhstan on 25 May 2020 regarding request ACCC/A/2020/2 (Kazakhstan), available at: [https://unece.org/env/pp/cc/accc.a.2020.2\\_kazakhstan](https://unece.org/env/pp/cc/accc.a.2020.2_kazakhstan)

The Committee encourages Ukraine in parallel to reach out to Ukrainian environmental NGOs and other members of the public to invite them to send any comments they may have on Ukraine's request to [aarhus.compliance@un.org](mailto:aarhus.compliance@un.org) by **Thursday, 28 July 2022** also.

In this regard, on 4 July 2022, the Ukrainian environmental NGO, Environment-People-Law, submitted comments on Ukraine's request for advice at its own initiative. These comments have been published on the Committee's website at: <http://www.unece.org/env/pp/cc/assistance.html>. The Committee will consider these comments along with other possible comments to be received by the above deadline.

Please note that, in accordance with paragraphs 14, 36 (a) and 37 (a) of the annex to decision I/7,<sup>3</sup> it is for the Committee, in consultation with the Party concerned, to decide the scope of its draft advice in the light of any comments received from members of the public.

In addition to any comments that may be received from members of the public, in order for the Committee to carry out its deliberations on the draft advice, the Committee has identified certain matters upon which it would appreciate further clarification by the Party concerned. To this end, please find enclosed a number of questions prepared by the Committee for your attention. The Committee would be grateful to receive your reply to the enclosed questions on or before **Monday, 29 August 2022**. Please send your reply to [aarhus.compliance@un.org](mailto:aarhus.compliance@un.org).

Following the receipt of Ukraine's reply to the enclosed questions and any comments from members of the public on Ukraine's request for advice by the above deadlines, the Committee will continue its deliberations on its draft advice taking into account the information received. Once completed, the draft advice will thereafter be sent to Ukraine and any persons who have submitted comments for a commenting period of four weeks. The draft advice will be posted on the Committee's website at the same time.

Upon the expiration of the commenting period on its draft advice, the Committee will promptly finalize and adopt its advice taking into account any comments received. The Committee's advice once adopted will be posted on the website.

Thus, the major steps as described above are:

1. Interested environmental NGOs and members of the public, especially those from Ukraine, have one week, i.e. until **Thursday, 28 July 2022**, to comment on the substance of the request.
2. Ukraine provides its replies to the Committee's enclosed questions on or before **Monday, 29 August 2022**.
3. The Committee completes its draft advice, sends it to Ukraine and makes it available on the website. Ukraine and interested NGOs and members of the public thereafter have four weeks to comment on the draft advice.

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<sup>3</sup> ECE/MP.PP/2/Add.8, available at:

<https://unece.org/DAM/env/pp/documents/mop1/ece.mp.pp.2.add.8.e.pdf>

4. The Committee finalises the draft advice taking into account the comments received and adopts it.
5. The final advice is sent to Ukraine and published on the website.

Please do not hesitate to contact the secretariat if you have any questions regarding the above.

Yours sincerely,



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Fiona Marshall  
Secretary to the Aarhus Convention Compliance Committee

- Cc: Permanent Mission of Ukraine to the United Nations Office and other international organizations in Geneva  
Yelyzaveta Aleksyeyeva, Environment-People-Law, as observer
- Enc: Questions from the Committee to the Party concerned

**Questions from the Committee to the Party concerned:**

1. The Committee notes that the specific measures to which you refer in your email of 27 June 2022 relate specifically to the EIA procedure. In the final paragraph of your email however you ask for “recommendations on the ways and means of respecting the public rights provided for in the Convention during hostilities”. Please specify any other points upon which Ukraine seeks the Committee’s advice, also taking into consideration the points that members of the public may raise in their comments due by 28 July 2022.
2. Please provide the following texts, together with an English translation thereof:
  - (a) Articles 30-34, 38, 39, 41-44 and 53 of the Constitution of Ukraine;
  - (b) Article 8 of the Law of Ukraine “On Martial Law”;
  - (c) The text of the Government’s decision suspending “the operation of information and communication systems, electronic communication systems, public electronic registers”;
  - (d) The text of the Government’s decision, or other measure, pursuant to which the activities of the Unified Environmental Impact Assessment Register were resumed on 15 June 2022, albeit “in a limited form”.
3. Were EIA procedures entirely suspended from 24 February 2022 (or from some other date, in which case please specify) until 15 June 2022? If not, what procedures were in place to enable the public to have access to information and to participate in the EIA procedure?
4. Please specify which of the requirements of article 6 (2) – (10) of the Convention the Unified Environmental Impact Assessment Register:
  - (a) Fulfilled prior to the imposition of martial law on 24 February 2022. (For example, notification of the public (article 6 (2)); access to the information relevant to the decision-making (article 6 (6)); submission of comments by the public (article 6 (6)), notification of the final decision (article 6 (9)) etc.);
  - (b) Fulfills in its current “limited form”.
5. In order to effectively prepare their comments on a proposed activity, members of the public may wish to view the EIA documentation concerning other proposed and/or existing activities, for example, to assess potential cumulative environmental effects or to see the environmental conditions that have been imposed on similar activities in the past. How may the public at present request access to the EIA documentation on other pending or existing activities? Is it, for example, possible to request a list of all proposed or existing activities in the register of a particular type or in a particular locality?

6. Besides the Unified Environmental Impact Assessment Register, please specify which, if any, other “information and communication systems, electronic communication systems, public electronic registers” relevant to Ukraine’s implementation of articles 2 – 9 of the Aarhus Convention were suspended through the imposition of martial law. Do these remain suspended or did their operation also recommence on 15 June 2022?
7. You state that “during the martial law regime” the Ministry offered a number of options for the implementation of the public rights to access information and to participate in decision-making, in particular in the environmental impact assessment (EIA) procedure. Please clarify if the three measures listed in that paragraph were implemented from 24 February to 15 June 2022, or rather, from 15 June 2022 onwards.
8. You state that Ukraine currently offers the provision of EIA documentation upon request and “only after identification”. Please specify what identification requirements are imposed. Does the requester have to provide Ukrainian identity documents?
9. You state that the timeframe for public discussion of EIA cases has been extended, “taking into account the period when the operation of the Register was suspended”. Please clarify the following:
  - (a) What is the standard timeframe set out in Ukraine’s legislation for the public to provide comments during the EIA procedure, and, by how many days has the timeframe been extended?
  - (b) Has this timeframe been extended for all pending and upcoming EIA procedures, or rather only those for which the period for public comments commenced prior to 15 June 2022?
  - (c) In each case in which the period for public comments was extended, how was the public notified of the extension of the period?
10. Regarding the publication of the notice on the planned activity in the mass media and local self-government bodies, please clarify the following:
  - (a) Were there any further means of notification regularly used by public authorities to notify the public of planned activities prior to the imposition of martial law which are currently not being used?
  - (b) What means of notification are currently being used to notify the public in other countries in the case of proposed activities subject to a transboundary EIA procedure?
  - (c) Has the war meant that some regions are not adequately served by mass media (e.g. the newspapers in which such notices are generally published have ceased circulation) or the offices of the local self-government bodies are closed? In such cases, which alternative means of notification are used?