



# Economic and Social Council

Distr.: General  
13 January 2023

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

**Sixty-fifth meeting**

Geneva, 4–8 November 2019

## Report of the Compliance Committee on its sixty-fifth meeting

### Contents

	<i>Page</i>
Introduction.....	2
A. Attendance.....	2
B. Organizational matters.....	2
I. Submissions, referrals and requests under the Convention.....	3
II. Communications from members of the public.....	3
III. Reporting requirements.....	10
IV. Follow-up on specific cases of non-compliance.....	11
V. Programme of work and calendar of meetings.....	13
VI. Other business.....	13
A. Modus operandi.....	13
B. Other matters.....	13
VII. Report and closure of the meeting.....	14

## Introduction

1. The sixty-fifth 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 4 to 8 November 2019 in Geneva.

### A. Attendance

2. Six of the nine Committee members were present throughout the meeting. Mr. Dmytro Skrylnikov was unable to attend the morning session on the first day but was present for the rest of the meeting. Ms. Fruzsina Bögös was unable to attend the first and second days of the meeting but was present for the rest of the meeting. Mr. Marc Clément was unable to attend the second half of the morning session and the afternoon session of the fifth day of the meeting but was present for the rest of the meeting. Members having declared a conflict of interest with respect to particular cases did not participate in the deliberations on those cases held in closed session.

3. Representatives of the Parties concerned and the communicants participated in the hearings to discuss the substance of communications ACCC/C/2017/156 (United Kingdom) and ACCC/C/2017/147 (Moldova), held on 5 November and 7 November 2019, respectively. A representative of the communicant participated in the hearing to discuss the substance of communication ACCC/C/2016/144 (Bulgaria). Despite being invited, no representative of the Party concerned took part in the hearing of communication ACCC/C/2016/144 (Bulgaria).

4. Representatives of the Parties concerned of communications PRE/ACCC/C/2019/169 (Hungary) and PRE/ACCC/C/2019/172 (Belgium) and the communicant of communication PRE/ACCC/C/2019/170 (Kazakhstan) took part in person in the open session on preliminary admissibility on 4 November 2019 and representatives of the Parties concerned and the communicants of communications PRE/ACCC/C/2019/168 (Iceland), PRE/ACCC/C/2019/169 (Hungary), PRE/ACCC/C/2019/171 (Albania), PRE/ACCC/C/2019/173 (Sweden) and PRE/ACCC/C/2019/174 (Sweden), as well as representatives of the Parties concerned of communications PRE/ACCC/C/2019/167 (Kazakhstan) and PRE/ACCC/C/2019/170 (Kazakhstan) and the communicant of communication PRE/ACCC/C/2019/172 (Belgium), took part by audioconference in the open session on preliminary admissibility on that date. Though invited, the communicants of PRE/ACCC/C/2019/167 (Kazakhstan) did not participate in the open session.

5. Representatives of Belarus, in person and by audioconference, and observer Mr. Jan Haverkamp, by audioconference, participated in the open session on the review of developments on the morning of 4 November 2019.

6. Participating as observers during all of the open sessions of the meeting was a representative of Earthjustice, who participated on behalf of European ECO Forum, and Ms. Joanna Cornelius, a doctoral candidate at the Department of Law, Lund University, Sweden. In addition, a representative of ClientEarth took part by audioconference as an observer in all the open sessions of the meeting. The communicant of communication ACCC/C/2019/170 (Kazakhstan) was present as an observer during the hearing of communication ACCC/C/2017/156 (United Kingdom) on 5 November 2019.

### B. Organizational matters

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

8. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2019/7.

9. The Chair reported that the Committee had held one virtual meeting since its sixty-fourth meeting (Geneva, 1–5 July 2019), on 20 September 2019, at which it had continued its deliberations on its draft findings on communications ACCC/C/2013/96 (European

Union), ACCC/C/2014/121 (European Union) and ACCC/C/2015/135 (France) in closed session.

10. Regarding communications received before 23 September 2019 (the deadline for receipt of communications for the sixty-fifth meeting), the Chair reported that he and Vice Chairs Mr. Alexander Kodjabashev and Ms. Áine Ryall had held a telephone conference on 7 October 2019 to determine which of the communications received by that 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/2019/170 (Kazakhstan), PRE/ACCC/C/2019/171 (Albania), PRE/ACCC/C/2019/172 (Belgium), PRE/ACCC/C/2019/173 (Sweden) and PRE/ACCC/C/2019/174 (Sweden) should be forwarded to the Committee for consideration of preliminary admissibility at its sixty-fifth meeting and had requested the secretariat to post those communications on the Committee's website in advance of the meeting.

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

11. Concerning submission ACCC/S/2015/2 (Belarus), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations through its electronic decision-making procedure with a view to completing its draft findings and, as appropriate, recommendations.

12. Regarding request ACCC/M/2017/2 (Turkmenistan), after receiving the replies to the Committee's questions 7–22 from the Party concerned on 25 April 2019 and, having received no comments thereon from either the communicant of communication ACCC/C/2004/5 (Turkmenistan) or observers, the Committee had adopted a supplementary first progress review through its electronic decision-making procedure on 16 August 2019. On 27 August 2019, the Executive Secretary of the United Nations Economic Commission for Europe (ECE) had sent a letter to the Minister for Foreign Affairs of Turkmenistan, enclosing the Committee's supplementary first progress review. In the same letter, the Executive Secretary had also forwarded the Committee's invitation, through paragraph 66 of the Committee's supplementary first progress review, for the Party concerned to provide its second progress report by 1 October 2019. The Committee noted that the Party concerned had, to date, failed to provide its second progress report. The Committee instructed the secretariat to write to the Party concerned to request that it provide its second progress report as soon as possible and by 10 December 2019 at the latest.

13. With respect to request ACCC/M/2017/3 (European Union), on 24 July 2019, the secretariat had sent a letter as a courtesy to remind the Party concerned of the Committee's invitation for the Party concerned to submit its second progress report by 1 October 2019. The Committee noted that the Party concerned had requested an extension of that deadline to 31 October 2019, which the Chair of the Committee had granted on the same day. The Committee noted that the Party concerned had submitted its second progress report on 28 October 2019, and that the deadline of 26 November 2019 for receiving comments thereon from communicants and observers had not yet passed.

## II. Communications from members of the public

14. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its sixty-sixth meeting would be 27 January 2019.

15. With respect to communication ACCC/C/2013/90 (United Kingdom), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

16. Concerning communication ACCC/C/2013/96 (European Union), the Committee had continued its deliberations on its draft findings in closed session at its virtual meeting on 20 September 2019. The Committee agreed to continue its deliberations through its electronic decision-making procedure with a view to completing its draft findings and, as appropriate, recommendations.

17. Regarding communication ACCC/C/2013/98 (Lithuania), the Committee agreed to continue its deliberations on its draft findings through its electronic decision-making procedure with a view to completing its draft findings and, as appropriate, recommendations.

18. With respect to communication ACCC/C/2014/105 (Hungary), the Committee noted that it was preparing questions to the Party concerned and that it would continue its deliberations on its draft findings taking into account the replies received.

19. Concerning communication ACCC/C/2014/106 (Czechia), the Committee had completed its draft findings through its electronic decision-making procedure on 26 August 2019. The draft findings had then been forwarded to the Party concerned and the communicant on 28 August 2019 for their written comments by 9 October 2019. The Party concerned had submitted comments on 9 October 2019. No comments had been received from the communicant. After taking into account the comments received from the Party concerned on its draft findings, the Committee had finalized and adopted its findings through its electronic decision-making procedure on 1 November 2019. It instructed the secretariat to prepare the adopted findings as an official pre-session document for its sixty-sixth meeting, ensuring their availability in the three official languages of ECE.

20. Regarding communication ACCC/C/2013/107 (Ireland), on 14 August 2019, the Party concerned, the communicant and the observer Irish Environmental Network had each submitted comments on the Committee's draft findings. After taking into account the comments received on its draft findings, the Committee had finalized and adopted its findings through its electronic decision-making procedure on 19 August 2019. It had instructed the secretariat to prepare the adopted findings as an official pre-session document for its sixty-fifth meeting, ensuring their availability in the three official languages of ECE. During the meeting, the Committee confirmed the edited version of its findings (ECE/MP.PP/C.1/2019/9).

21. With respect to communication ACCC/C/2014/112 (Ireland), on 22 October 2019, the Party concerned had submitted an update and, on 23 October 2019, the communicant had submitted comments thereon. The Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations at an upcoming meeting.

22. Concerning communication ACCC/C/2014/113 (Ireland), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

23. Regarding communication ACCC/C/2014/118 (Ukraine), the Committee noted that it was preparing questions to the Party concerned and the communicant, and that it had requested the Executive Secretary of ECE to forward the questions to the Minister of Foreign Affairs with a request that the questions be conveyed to the Minister of Energy. The Committee agreed that it would continue its deliberations on its draft findings taking into account the replies received.

24. Regarding communication ACCC/C/2014/119 (Poland), the Committee noted that it was preparing questions to the Party concerned and that it would continue its deliberations on its draft findings, taking into account the replies received.

25. With respect to communication ACCC/C/2014/120 (Slovakia), the Committee continued its deliberations on its draft findings in closed session and agreed to prepare questions to the Party concerned and the communicant and to thereafter continue its deliberations on its draft findings, taking into account the replies received.

26. Concerning communication ACCC/C/2014/121 (European Union), the Committee had continued its deliberations on its draft findings in closed session at its virtual meeting on 20 September 2019. The Committee resumed its deliberations in closed session and agreed to continue those deliberations through its electronic decision-making procedure with a view to completing its draft findings and, as appropriate, recommendations.

27. Regarding communication ACCC/C/2014/122 (Spain), the Committee agreed to continue its deliberations on its draft findings at an upcoming meeting.

28. With respect to communication ACCC/C/2014/124 (Netherlands), on 2 August 2019, the Party concerned had submitted an update. On 23 August 2019, the secretariat had invited the communicant to submit comments thereon and the communicant had done so on

13 September 2019. On 5 November 2019, the Party concerned had submitted comments on the communicant's comments. The Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations at an upcoming meeting.

29. Concerning communication ACCC/C/2015/126 (Poland), on 25 July 2019, the Party concerned had submitted comments on the communicant's letter of 4 July 2019. On 30 July 2019, the secretariat, at the request of the Committee, had advised 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.

30. Regarding communication ACCC/C/2015/128 (European Union), the Committee noted 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 regarding Case C-594/18 P - *Austria v. Commission*, in the light of the relevance to the communication of that case.

31. With respect to communication ACCC/C/2015/130 (Italy), the Committee provisionally scheduled the hearing to discuss the substance of the communication for its sixty-sixth meeting.

32. Concerning communication ACCC/C/2015/131 (United Kingdom), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

33. Regarding communication ACCC/C/2015/132 (Ireland), the Committee noted that it was preparing questions to the parties and that it would decide how to proceed with the communication taking into account the information received.

34. With respect to communication ACCC/C/2015/133 (Netherlands), the Committee noted that it was preparing questions to the parties for their written reply and that it would continue its deliberations on its draft findings taking into account the replies received.

35. Concerning communication ACCC/C/2015/134 (Belgium), on 28 June 2019, the Committee 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 14 and 15 August 2019, respectively. The Committee continued its deliberations on its draft findings in closed session, taking into account the information received, and agreed to continue those deliberations at an upcoming meeting.

36. Regarding communication ACCC/C/2015/135 (France), the Committee had continued its deliberations on its draft findings in closed session at its virtual meeting on 20 September 2019 and had completed its draft findings through its electronic decision-making procedure on 1 November 2019. The draft findings had been sent to the Party concerned and the communicant on 6 November 2019 for their written comments by 18 December 2019. The Committee agreed that it would finalize and adopt its findings and, as appropriate, recommendations, taking into account any comments received.

37. With respect to communication ACCC/C/2016/137 (Germany), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

38. Concerning communication ACCC/C/2016/138 (Armenia), the Committee noted that it had agreed to proceed to commence its deliberations on the substance of the case without a hearing. To that end, on 14 October 2019, it had sent questions to the parties for their written reply by 8 November 2019 and had, at the same time, invited them to submit by the same date any final written submissions that they wished the Committee to consider in its deliberations on its draft findings. To date, neither the communicant nor the Party concerned had provided their replies to the Committee's questions or invitation for final written submissions. The Committee agreed to commence its deliberations on the substance of the case at its sixty-sixth meeting, taking into account any information received by that date. Committee member Ms. Heghine Grigoryan indicated that she might be perceived as having

a conflict of interest in the case and the Committee agreed to request the secretariat to ask the parties for their views on that matter.

39. Regarding communication ACCC/C/2016/139 (Ireland), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.

40. With respect to communication ACCC/C/2016/140 (Romania), the Committee provisionally scheduled the hearing to discuss the substance of the communication for its sixty-sixth meeting.

41. Concerning communication ACCC/C/2016/141 (Ireland), the Committee noted that it had received an update from the communicant on 21 August 2019. Despite being invited on 23 August 2019 to provide its comments thereon, no comments had been received from the Party concerned. The Committee continued its deliberations on its draft findings in closed session taking into account the information received and agreed to continue those deliberations at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

42. Regarding communication ACCC/C/2016/142 (United Kingdom), on 26 July 2019, the Party concerned had submitted comments on the communicant's comments of 29 June 2019 and the communicant had thereafter submitted comments on the comments of the Party concerned on the same day. The Committee agreed to decide how to proceed with the communication at an upcoming meeting taking into account the information received.

43. With respect to communication ACCC/C/2016/143 (Czechia), on 19 September 2019, the communicants had provided additional information. The Committee noted that it was preparing questions to the parties for their written reply and that it would continue its deliberations on its draft findings, taking into account the replies received.

44. Concerning communication ACCC/C/2016/144 (Bulgaria), on 21 August 2019, the secretariat, at the Committee's request, had written to the Party concerned and the communicant to invite them to participate in a hearing to discuss the substance of the communication to be held on 6 November 2019, during the sixty-fifth meeting. By email of 4 October 2019, the Party concerned had informed the Committee that, "due to administrative obstacles", no representative of the Party concerned would be able to attend the hearing, though it had expressed its readiness to provide written answers instead. The Committee held the hearing to discuss the substance of the communication in open session, with the participation of a representative of the communicant. The Committee expressed its grave concern that, despite being informed of the hearing in a timely manner, and despite the repeated outreach by the secretariat to the Ministry of Environment and Water and the Permanent Mission of the Republic of Bulgaria to the United Nations Office and other international organizations in Geneva, no representative of the Party concerned participated in the hearing. The Chair stressed that such a situation was not in keeping with the duty of a Party to the Convention to act in good faith, as well as being disrespectful to the compliance mechanism of the Convention and also to the communicant. The Committee accordingly agreed to ask the Executive Secretary of ECE to write to the Minister of Foreign Affairs of Bulgaria to express the Committee's grave concern regarding the uncooperative approach of the Party concerned and to remind the Party concerned that it was already under a caution pursuant to paragraph 5 (a) of decision VI/8d of the Meeting of the Parties.<sup>1</sup> A representative of Earthjustice, speaking on behalf of European ECO Forum, noted that the conduct of the Party concerned was not in keeping with the more cooperative approach it had taken in other international human rights forums and called on the Party concerned to engage properly in the Aarhus Convention context as well. Following the hearing, the Committee commenced its deliberations on its draft findings in closed session and agreed to send questions to the parties for their written reply and to thereafter continue its deliberations taking into account the replies received. Committee member Mr. Kodjabashev, having declared a conflict of interest in the case, did not take part in the Committee's deliberations in closed session.

45. 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

---

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

thereafter send questions to the parties for their written reply. The Committee agreed that it would decide how to proceed with the communication, taking into account the information received.

46. With respect to communication ACCC/C/2017/147 (Republic of Moldova), the Committee held a hearing to discuss the substance of the communication in open session, with the participation of representatives of the Party concerned and the communicant. Following the hearing, the Committee commenced its deliberations on its draft findings in closed session and agreed to send questions to the parties for their written reply and to thereafter continue its deliberations taking into account the replies received.

47. Concerning 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 taking into account the information received.

48. Regarding communication ACCC/C/2017/149 (Greece), the Committee noted that, on 1 November 2019, it had invited the communicant to comment, by 29 November 2019, on the submissions on admissibility made by the Party concerned in its response to the communication of 29 May 2018 and that the Party concerned would thereafter have four weeks to comment on the communicant's reply. The Committee agreed to decide how to proceed with the communication taking into account the replies received.

49. With respect to communication ACCC/C/2017/150 (United Kingdom), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.

50. Concerning communication ACCC/C/2016/151 (Poland), on 18 July 2019, the Party concerned and the communicant had provided their views on whether they considered that there were reasons for not considering communications ACCC/C/2016/151, ACCC/C/2017/154 and ACCC/C/2018/158 jointly. The Committee agreed to decide how to proceed with the communications at an upcoming meeting taking into account the replies received.

51. Regarding communication ACCC/C/2017/153 (Spain), on 7 October 2019, Ms. Tatjana Ždanoka, Ms. Diana Riba i Giner and Mr. Fernando Barrena Arza, three Members of the European Parliament, had submitted a statement as observers. 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 taking into account their reply and any comments received thereon.

52. With respect to communication ACCC/C/2017/154 (Poland), on 18 and 21 July 2019, respectively, the Party concerned and the communicant had provided their views on whether they considered that there were reasons for not considering communications ACCC/C/2016/151, ACCC/C/2017/154 and ACCC/C/2018/158 jointly. The Committee agreed to decide how to proceed with the communications at an upcoming meeting taking into account the replies received.

53. Concerning communication ACCC/C/2017/156 (United Kingdom), the Committee held a hearing to discuss the substance of the communication in open session, with the participation of representatives of the Party concerned and the communicant. The Chair explained that the Committee had agreed to hold the hearing during the current meeting out of fairness to the Party concerned, before the Committee adopted its draft findings on communication ACCC/C/2013/90 (United Kingdom), which also, inter alia, concerned the standard of judicial review in the Party concerned. Following the hearing, the Committee commenced its deliberations on its draft findings in closed session and agreed to send questions to the parties for their written reply and to continue its deliberations at an upcoming meeting taking into account the replies received.

54. Regarding communication ACCC/C/2017/157 (United Kingdom), on 4 November 2019, the secretariat had written to the Party concerned at the request of the Committee to inform it that, should it wish the Committee to consider in the context of communication ACCC/C/2017/157 information that the Party concerned had submitted in its second progress report on the implementation of decision VI/8k, it was invited to submit such information in

the context of communication ACCC/C/2017/157 by 2 December 2019 and the communicant would thereafter be given four weeks to submit comments thereon. The Committee agreed to decide how to proceed with the communication after taking into account the information received from the Party concerned and any comments from the communicant thereon.

55. With respect to communication ACCC/C/2018/158 (Poland), on 18 July and 5 August 2019, respectively, the Party concerned and the communicant had provided their views on whether they considered that there were reasons for not considering communications ACCC/C/2016/151, ACCC/C/2017/154 and ACCC/C/2018/158 jointly. The Committee agreed to decide how to proceed with the communications at an upcoming meeting taking into account the replies received.

56. Concerning communication ACCC/C/2017/159 (Spain), the Party concerned had submitted its response to the communication on 2 August 2019, on time. The Committee agreed to decide how to proceed with the communication at an upcoming meeting.

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

58. With respect to communication ACCC/C/2019/162 (Denmark), 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 for the texts of the relevant case law referred to in its response.

59. Concerning communication ACCC/C/2019/163 (Austria), the Party concerned had submitted its response to the communication on 22 August 2019, on time. The Committee agreed to decide how to proceed with respect to the communication at an upcoming meeting.

60. Regarding communication ACCC/C/2019/164 (Ireland), the Party concerned had submitted its response to the communication on 22 August 2019, on time. The Committee noted that, in its response, the Party concerned had challenged the admissibility of the communication. The Committee agreed to invite the communicant to comment on the submissions of the Party concerned on admissibility and to decide how to proceed with the communication taking into account the information received from both parties.

61. Communication PRE/ACCC/C/2019/167 (Kazakhstan) had been submitted on 26 June 2018 by the environmental association Green Salvation. The communication alleged a failure by the Party concerned to comply with articles 2 (5) and 9 (2), (3) and (4) of the Convention in connection with the proposed construction of a road to the Kok Zhailau ski resort. At its sixty-fourth meeting, the Committee had decided to defer its determination of preliminary admissibility to its sixty-fifth meeting in order to seek further information from the parties. On 27 August 2019, the communicant had provided additional comments regarding the preliminary admissibility of the communication and, on 7 October 2019, the Party concerned had submitted comments thereon. On 17 October 2019, the communicant had submitted further comments on the comments of the Party concerned. During the meeting, the Committee heard the views of the Party concerned, as well as those of the observers present, on the preliminary admissibility of the communication. After considering in closed session the information received, the Committee determined the communication to be inadmissible in accordance with paragraph 20 (d) of the annex to decision I/7 of the Meeting of the Parties due to a failure to demonstrate that the allegations made in the communication fell within the scope of the provisions of the Convention.

62. Communication PRE/ACCC/C/2019/168 (Iceland) had been submitted on 25 February 2019 by environmental association Eldvötn-samtök um náttúruvernd í Skaftárhreppi and seven other associations. The communication alleged a failure by the Party concerned to comply with articles 6, 8 and 9 of the Convention in connection with legislation on fish farming. At its sixty-fourth meeting, the Committee had agreed to defer its determination of preliminary admissibility to its next meeting, in order to seek further information from the parties regarding ongoing court proceedings at the domestic level. On 8 October 2019, the secretariat had written to the communicant and the Party concerned with questions from the Committee for their reply and, on 1 November 2019, the Party concerned and the communicant had each provided their answers to the Committee's questions. On 2 November 2019, the communicant had submitted additional information regarding



admissibility. During the meeting, the Committee heard the views of the Party concerned and the communicants by audioconference, as well as those of the observers present, on the preliminary admissibility of the communication. After considering in closed session the information received, the Committee determined that the communication was preliminarily admissible. It requested the secretariat to forward the communication to the Party concerned for its response. Committee member Mr. Skrylnikov was appointed curator for the case.

63. Communication PRE/ACCC/C/2019/169 (Hungary) had been submitted on 20 May 2019 by Österreichisches Ökologie-Institut, a non-governmental research institution, together with four other non-governmental organizations and two members of the public. The communication alleged a failure by the Party concerned to comply with articles 3 (8), 6 and 9 of the Convention in connection with the construction of the Paks II nuclear power plant. At its sixty-fourth meeting, the Committee had agreed to defer its determination of preliminary admissibility to its next meeting, in order to seek further information from the parties, especially with regard to domestic remedies. On 4 October 2019, the secretariat had written to the communicants and the Party concerned with questions from the Committee for their reply and, on 28 and 31 October 2019, respectively, the communicants and Party concerned had provided their replies to the Committee's questions. During the meeting, the Committee heard the views of the Party concerned and the communicants by audioconference, as well as those of the observers present, on the preliminary admissibility of the communication. After considering in closed session the information received, the Committee determined the communication to be inadmissible in accordance with paragraphs 20 (d) and 21 of the annex to decision I/7 of the Meeting of the Parties due to a failure to use domestic remedies.

64. Communication PRE/ACCC/C/2019/170 (Kazakhstan) had been submitted on 30 January 2018 by Mr. Pavel Krasovitsky, a member of the public. The communication alleged a failure by the Party concerned to comply with articles 4 (1) and (7), 6 (6) and 9 (1) of the Convention in connection with public hearings relating to the construction of the Kok Zhailau mountain ski resort and a related road. On 23 September 2019, prior to the communication being forwarded to the Committee, the Chair and Vice-Chairs had sent questions to the communicant, who had submitted his replies on 3 October 2019. During the meeting, the Committee heard the views of the Party concerned via audioconference and the communicant in person, as well as those of the observers present, on the preliminary admissibility of the communication. After considering in closed session the information received, the Committee determined the communication to be inadmissible in accordance with paragraph 20 (d) of the annex to decision I/7 of the Meeting of the Parties due to a failure to demonstrate that the allegations made in the communication fell within the scope of the provisions of the Convention.

65. Communication PRE/ACCC/C/2019/171 (Albania) had been submitted on 29 May 2018 by Mr. Artan Manushaqe, Mr. Andi Tepelena and Mr. Ervin Goci, three members of the public. The communication alleged a failure by the Party concerned to comply with articles 6 and 9 (2) and (3) of the Convention in connection with the construction of a playground in a park in Tirana. On 29 April, 29 May, 4 June and 4 October 2019, the communicant had submitted further information concerning domestic remedies. During the meeting, the Committee heard the views of the Party concerned and communicants via audioconference, as well as those of the observers present, on the preliminary admissibility of the communication. On 4 November 2019, the Party concerned and the communicants submitted written versions of the statement they made during the open session on preliminary admissibility. After considering in closed session the information received, the Committee determined the communication to be inadmissible under paragraph 20 (d) of the annex to decision I/7 for being incompatible with the provisions of the Convention on the grounds that: (a) the communicants had failed to demonstrate that the children's playground was an activity listed in annex I of the Convention, and thus subject to article 6, and thereby article 9 (2) of the Convention; and (b) since the Administrative Court of First Instance of Tirana, in its judgment No. 3578 of 12 May 2016, had considered the communicants' challenge regarding the children's playground on its merits, the communicants had failed to demonstrate how they had been denied access to judicial procedures under article 9 (3) of the Convention.

66. Communication PRE/ACCC/C/2019/172 (Belgium) had been submitted on 13 May 2019 by Avala, an environmental association. The communication alleged that the Party concerned had failed to comply with article 9 (3) and (4) of the Convention with respect to a judgment of the Council of State on an application to annul an order banning the cutting of hedges and trees during bird breeding and nesting seasons and the legal costs associated with bringing the application. On 30 October 2019, the Party concerned had submitted a statement on the preliminary admissibility of the communication. During the meeting, the Committee heard the views of the Party concerned in person and the communicant via audio-conference, as well as those of the observers present, on the preliminary admissibility of the communication. After considering in closed session the information received, the Committee determined the communication to be inadmissible in accordance with paragraph 20 (d) of the annex to decision I/7 of the Meeting of the Parties to the Convention on the ground that the communication did not pass a threshold of *de minimis* with respect to its relevance and importance in the light of the purpose and functions of the Committee. In that regard, the Committee recalled that it was not a redress mechanism and that the communication expressly stated that it concerned a single specific case of alleged non-compliance and did not allege that there was a wider problem with the legal framework or judicial practice of the Party concerned with respect to the implementation of article 9 (3) and (4) of the Convention.

67. Communication PRE/ACCC/C/2019/173 (Sweden) had been submitted on 3 July 2019 by Mr. Staffan Dahllöf, a member of the public. The communication alleged that the Party concerned had failed to comply with article 4 of the Convention in relation to a request for access to information regarding a draft pesticide report. On 29 October 2019, the communicant had submitted an update. During the meeting, the Committee heard the views of the Party concerned and the communicant via audioconference, as well as those of the observers present, on the preliminary admissibility of the communication. On 4 November 2019, the Party concerned submitted a written version of the statement it had made during the open session on preliminary admissibility. 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. Committee member Ms. Grigoryan was appointed curator for the case.

68. Communication PRE/ACCC/C/2019/174 (Sweden) had been submitted on 19 September 2019 by the foundation Fundacja ClientEarth Prawnicy dla Ziemi. The communication alleged that the Party concerned failed to comply with articles 3 and 9 of the Convention with respect to access to justice for foreign environmental organizations. During the meeting, the Committee heard the views of the Party concerned and communicant via audioconference, as well as those of the observers present, on the preliminary admissibility of the communication. On 4 November 2019, the Party concerned submitted a written version of the statement it had made during the open session on preliminary admissibility. 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. Committee member Ms. Ryall was appointed curator for the case. Committee member Mr. Jerzy Jendroška declared a conflict of interest in the case.

### III. Reporting requirements

69. The Committee noted that the Meeting of the Parties, at its sixth session (Budva, Montenegro, 11–13 September 2017), had urged Parties that had not yet submitted their national implementation reports — i.e., Armenia, Bosnia and Herzegovina, the Netherlands, North Macedonia, the Republic of Moldova, Ukraine and the United Kingdom of Great Britain and Northern Ireland— to do so in the required format by 1 November 2017 at the latest.<sup>2</sup> Notwithstanding that, none of the above-mentioned Parties had submitted their national implementation reports to the secretariat by 1 November 2017. The secretariat reported that, to date, Bosnia and Herzegovina, North Macedonia, the Netherlands, Ukraine

---

<sup>2</sup> ECE/MP.PP/2017/2, para. 46.

and the United Kingdom had submitted their reports. Armenia and the Republic of Moldova had not yet submitted their reports.

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

70. The Committee took note of the developments since its sixty-fourth 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 communication ACCC/C/2014/104 (Netherlands).

71. With respect to decision VI/8a (Armenia), on 24 July 2019, the secretariat had written as a courtesy to the Party concerned to remind it of its obligation under that decision to submit its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations in the decision. Despite that reminder, the Party concerned had failed to submit its second progress report by that date. On 15 October 2019, the secretariat had again written to the Party concerned, reminding it that the deadline of 1 October 2019 had been set by the Meeting of the Parties and thus could not be extended, and requesting the Party concerned to submit its second progress report by return. The Committee expressed its serious concern that the Party concerned had, despite the reminders and explanations from the secretariat, to date failed to provide its second progress report. It agreed that the failure of the Party concerned to submit its second progress report by the time stipulated in paragraph 4 (a) of decision VI/8a of the Meeting of the Parties would be reported by the Committee to the seventh session of the Meeting of the Parties. It instructed the secretariat to write to the Party concerned as a matter of urgency to request that it provide its second progress report as soon as possible and by 10 December 2019 at the latest.

72. Regarding decision VI/8b (Austria), on 24 July 2019, the secretariat had written as a courtesy to the Party concerned to remind it of its obligation under that decision to submit its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations in the decision. On 1 October 2019, the Party concerned had submitted its second progress report, on time. On 2 October 2019, the secretariat had written to the communicants of communications ACCC/C/2010/48 and ACCC/C/2011/63 inviting them to provide their comments on the second progress report of the Party concerned by 30 October 2019 and, on 28 and 30 October 2019, respectively, the communicants of communications ACCC/C/2010/48 and ACCC/C/2011/63 had submitted their comments thereon.

73. Concerning decision VI/8c (Belarus), on 9 August 2019, the Executive Secretary of ECE had written to the Minister of Foreign Affairs at the request of the Committee as a courtesy to remind the Party concerned of its obligation under that decision to provide its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations in the decision. On 1 October 2019, the Party concerned had submitted its second progress report, on time. On 7 October 2019, the secretariat had written to the communicants of communications ACCC/C/2009/37, ACCC/C/2009/44 and ACCC/C/2014/102 inviting them to provide their comments on the second progress report of the Party concerned by 4 November 2019. On 4 November 2019, the communicant of communication ACCC/C/2014/102 had submitted comments thereon. During the meeting, a representative of the Party concerned, participating via audioconference, reiterated the willingness of the Party concerned to address all aspects of the decision and agreed to provide further information regarding the training that it had carried out in accordance with paragraph 6 (a)–(c) of the decision.

74. With respect to decision VI/8d (Bulgaria), on 9 August 2019, the Executive Secretary of ECE had written to the Deputy Prime Minister and Minister of Foreign Affairs of Bulgaria at the request of the Committee as a courtesy to remind the Party concerned of its obligation under that decision to submit its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations of the decision. On 30 September 2019, the Party concerned had submitted its second progress report, on time. On 1 October 2019, the secretariat had written to the communicant of

communications ACCC/C/2011/58 and ACCC/C/2012/76 inviting it to provide its comments on the second progress report of the Party concerned by 29 October 2019. On 29 October 2019, the communicant of communications ACCC/C/2011/58 and ACCC/C/2012/76 had submitted comments thereon.

75. Concerning decision VI/8e (Czechia), on 24 July 2019, the secretariat had written as a courtesy to the Party concerned to remind it of its obligation under that decision to submit its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations in the decision. On 1 October 2019, the Party concerned had submitted its second progress report, on time. On 2 October 2019, the secretariat had written to the communicants of communications ACCC/C/2010/50, ACCC/C/2012/70 and ACCC/C/2012/71 inviting them to provide their comments on the second progress report of the Party concerned by 30 October 2019. On 28 October 2019, the communicant of communication ACCC/C/2012/71, and on 30 October 2019, observers OEKOBUERO and GLOBAL 2000 had submitted comments on the second progress report of the Party concerned.

76. With respect to decision VI/8g (Kazakhstan), on 24 September 2019, the Deputy Director of the ECE Environment Division had written as a courtesy to the Vice-Minister of Ecology, Geology and Natural Resources of the Party concerned at the request of the Committee as a courtesy to remind the Party concerned of its obligation under the decision to submit its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations in the decision. On 3 October 2019, the Party concerned had submitted its second progress report, two days after the deadline. Though invited by the secretariat on 3 October 2019 to do so, no communicants had submitted comments thereon.

77. With respect to decision VI/8h (Romania), on 24 July 2019, the secretariat had written as a courtesy to the Party concerned to remind it of its obligation under that decision to submit its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations in the decision. On 30 September 2019, the Party concerned had submitted its second progress report, on time. Though invited on 1 October 2019 to do so by the secretariat, no communicants had submitted comments thereon.

78. Regarding decision VI/8i (Slovakia), on 9 August 2019, the Executive Secretary of ECE had written to the Minister of Foreign Affairs of Slovakia at the request of the Committee as a courtesy to remind the Party concerned of the deadline established by that decision to submit its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations in the decision. On 30 September 2019, the Party concerned had submitted its second progress report, on time. On 2 October 2019, the secretariat had written to the communicants of communication ACCC/C/2013/89 and observer Mr. Jan Haverkamp inviting them to provide their comments on the second progress report of the Party concerned by 30 October 2019. On 30 October 2019, Mr. Haverkamp had submitted comments thereon.

79. Concerning decision VI/8j (Spain), on 24 July 2019, the secretariat had written as a courtesy to the Party concerned to remind it of its obligation under that decision to submit its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations in the decision. On 1 October the Party concerned had submitted its second progress report, on time. On 2 October 2019, the secretariat had written to the communicants of communications ACCC/C/2008/24, ACCC/C/2009/36 and ACCC/C/2014/99 inviting them to provide their comments on the second progress report of the Party concerned by 30 October 2019. On 30 October 2019, the communicants of communications ACCC/C/2014/99 and ACCC/C/2008/24 had each submitted comments thereon.

80. With respect to decision VI/8k (United Kingdom), on 31 July 2019, the secretariat had written as a courtesy to the Party concerned to remind it of its obligation under that decision to submit its second progress report by 1 October 2019 on the measures it had taken by that date, and the results achieved, to implement the recommendations in the decision. On 30 September 2019, the Party concerned had submitted its second progress report, on time.

On 2 October 2019, the secretariat had written to the communicants and the registered observers inviting them to provide their comments on the second progress report of the Party concerned by 30 October 2019. On 8 October 2019, the communicants of communications ACCC/C/2013/85 and ACCC/C/2013/86, on 9 October 2019, the communicant of communication ACCC/C/2010/53, on 29 October 2019, observers the Royal Society for the Protection of Birds, Friends of the Earth (England, Wales and Northern Ireland) and Friends of the Earth (Scotland), on 30 October 2019, observer (Environment Links UK), and on 31 October 2019, the communicant of communication ACCC/C/2008/33 (ClientEarth), had each submitted comments on the second progress report of the Party concerned.

81. With respect to the follow-up on its findings on communication ACCC/C/2014/104 (Netherlands), on 27 August 2019, the Committee had sent a letter to the Party concerned inviting it to provide its first progress report by 1 October 2019 on the measures it had taken by that date, and results achieved, to implement the recommendation in the Committee's findings. On 1 October 2019, the Party concerned had submitted its first progress report, on time and, on 30 October 2019, the communicant had submitted comments thereon.

## V. Programme of work and calendar of meetings

82. The Committee agreed to hold its sixty-sixth meeting in Geneva from 9 to 13 March 2020. It also agreed to schedule three virtual meetings prior to its sixty-sixth meeting, in order to prepare its progress reviews on the decisions and requests of the Meeting of the Parties concerning the compliance of individual Parties as well as on the findings of non-compliance it had adopted since the sixth session of the Meeting of the Parties. Subject to the availability of meeting rooms and services, the Committee further agreed to hold its sixty-seventh meeting from 6 to 10 July 2020, and its sixty-eighth meeting from 23 to 27 November 2020, both in Geneva.

## VI. Other business

### A. Modus operandi

83. The Chair informed the meeting that the United Nations had recently launched an online platform that enabled any member of the public to connect to listen to any open session of any public meeting held at the Palais des Nations.<sup>3</sup>

### B. Other matters

84. The Chair reported that, following his participation in the International Seminar on Participatory Rights in International Environmental Law (Tehran, 13 April 2019), he had been in regular contact with an Iranian academic who was translating the Convention into Farsi. He welcomed further initiatives to translate the Convention into other languages not yet available on the Convention's website.

85. Committee member Ms. Ryall reported on a recent decision by the Irish High Court on Ireland's 2017 National Mitigation Plan.<sup>4</sup>

86. Committee member Ms. Grigoryan reported on legislative developments in Armenia regarding the laws on environmental information and on environmental policy, which were expected to be published soon.

87. Committee member Mr. Peter Oliver reported on developments concerning Brexit with respect to environmental matters.

<sup>3</sup> Available at <https://listen-live.unog.ch/>.

<sup>4</sup> High Court of Ireland, *Friends of the Irish Environment CLG v. The Government of Ireland, Ireland and the Attorney General*, Case No. [2019] IEHC 747, Judgment, 19 September 2019.

88. The secretariat reported on the outcomes of the sixth meeting of the Task Force on Access to Information (Geneva, 2–4 October 2019). Among other things, the Task Force had discussed: the active dissemination of information, including in the context of an imminent threat to health and the environment; restrictions on access to information; and the protection of whistle-blowers. The secretariat also reported that, at the request of the Meeting of the Parties at its sixth session, the Task Force was currently revising the Recommendations on the More Effective Use of Electronic Information Tools to Provide Public Access to Environmental Information adopted through decision II/3 of the Meeting of the Parties.<sup>5</sup> The Recommendations were being revised through an open and participatory process with the possibility for Parties, other interested States and stakeholders to submit comments. It was expected that the draft revised text of the Recommendations would be considered by the Working Group of the Parties at its twenty-fourth meeting (Geneva, 1–3 July 2020). It would be then made available for a further round of comments with a view to finalizing the draft for approval by the Working Group of the Parties at its twenty-fifth meeting in 2021 and subsequent submission to the Meeting of the Parties at its seventh session in October 2021 for adoption.

89. The secretariat also reported on its participation as a speaker at various side events on climate change and human rights convened in the context of the Pre-Conference of the Parties on Climate Change (San José, 8–10 October 2019) and at the first session of the Meeting of the Signatories of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (San José, 11 and 12 October 2019), the latter of which had involved presenting in plenary the Convention's rules of procedure and compliance mechanism.

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

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

---

<sup>5</sup> ECE/MP.PP/2005/2/Add.4, annex.