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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

Eightieth meeting

Geneva, 19–22 September 2023

Report of the Compliance Committee on its eightieth meeting

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Introduction

1. The eightieth 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 19 to 22 September 2023 in Geneva.

A. Attendance

2. Six of the nine Committee members were present in person throughout the entire meeting: Ms. Áine Ryall (Chair); Mr. Marc Clément (Vice-Chair); Ms. Heghine Grigoryan; Mr. Jerzy Jendroška (Vice-Chair); Mr. Peter Oliver; and Ms. Eleanor Sharpston. Mr. Dmytro Skrylnikov (Vice-Chair) participated virtually throughout the meeting. Ms. Fruzsina Bögös was unable to attend the meeting on 21 and part of 22 September but was present in person for the rest of the meeting. Mr. Thomas Schomerus 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. Mr. Michel Forst, the Special Rapporteur on environmental defenders under the Aarhus Convention, took part, through virtual means, in the open session on 19 September 2023 on relevant developments regarding his mandate.

4. Representatives of the Party concerned and the communicant of communication PRE/ACCC/C/2022/201 (Sweden) took part in the open session on preliminary admissibility on 19 September 2023, through virtual means. A representative of the Party concerned also took part in the open session on preliminary admissibility on 22 September 2023, through virtual means.

5. Representatives of the Party concerned and the communicant of communication PRE/ACCC/C/2023/202 (Italy) took part in the open session on preliminary admissibility on 19 September 2023, through virtual means.

6. Representatives of the Party concerned and the communicant of communication PRE/ACCC/C/2023/203 (Germany) took part in the open session on preliminary admissibility on 19 September 2023, through virtual means. Representatives of the communicant also took part in the open session on preliminary admissibility on 22 September 2023, through virtual means.

7. Representatives of the Party concerned and the communicant of communication PRE/ACCC/C/2023/204 (Ireland) took part in the open session on preliminary admissibility on 19 September 2023, through virtual means. A representative of the communicant also took part in the open session on preliminary admissibility on 22 September 2023, through virtual means.

8. Representatives of the Party concerned and the communicant of communication PRE/ACCC/C/2023/205 (Italy) took part in the open session on preliminary admissibility on 19 September 2023, through virtual means. A representative of the communicant also took part in the open session on preliminary admissibility on 22 September 2023, through virtual means.

9. Representatives of the Party concerned and the communicant of communication PRE/ACCC/C/2023/206 (Spain) took part in the open session on preliminary admissibility on 19 September 2023, through virtual means.

10. A representative of the Permanent Mission of the Republic of Panama also attended the open session on 19 September 2023, in person. A representative of the European Union took part in the open session on 19 September 2023, through virtual means.

11. A representative of the nongovernmental organization (NGO) Earthjustice took part in most open sessions of the meeting, as an observer, in person.

12. A representative of the communicant of communication ACCC/C/2023/200 (Italy) took part in the open session on 19 September 2023, as an observer, through virtual means. Representatives of the NGOs ClientEarth and Oekobuero also took part in the open session on 19 September 2023, as observers, through virtual means.

13. A representative of the NGO Justice and Environment took part in the open session on preliminary admissibility on 22 September 2023, as an observer, through virtual means.

B. Organizational matters

14. The Chair of the Compliance Committee, Ms. Ryall, opened the meeting.

15. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2023/5.

16. The Chair reported that since its seventy-ninth meeting (Geneva, 13–16 June 2023), the Committee had held two virtual meetings, in closed session, on 26 July and 25 August 2023, to continue its deliberations on its draft advice concerning request ACCC/A/2023/4 (Armenia), decision VII/8e (Czechia) and decision VII/8m (Netherlands).

17. Regarding communications received prior to 8 August 2023 (the deadline for receipt of communications for the eightieth meeting), the Chair reported that she and Vice-Chairs Mr. Clément and Mr. Jendroška had held a virtual meeting on 14 August 2023 to determine whether the seven communications received by the deadline sufficiently met the required format to be forwarded to the Committee for consideration as to their preliminary admissibility. At the virtual meeting, the Chair and Vice-Chairs had decided that six of the seven communications should be forwarded to the Committee for consideration of preliminary admissibility at its eightieth meeting and had requested the secretariat to post the communications on the Committee's website in advance of the meeting.

I. Submissions by Parties

18. The Committee noted that it had not received any submissions from Parties, either concerning their own compliance or concerning the compliance of another Party, since its seventy-ninth meeting.

II. Referrals by the Special Rapporteur on environmental defenders and other relevant developments

19. The Committee noted that it had, to date, received no referrals from Mr. Forst, the Special Rapporteur on environmental defenders.

20. In his update to the Committee on relevant developments concerning his mandate, Mr. Forst reported that since the Committee's seventy-ninth meeting, he had received five new complaints from members of the public. Mr. Forst reported that two of the complaints received so far were public and accessible on the website of the Special Rapporteur on environmental defenders, while the others remain confidential.

21. Mr. Forst reported that, since the Committee's seventy-ninth meeting, he had held meetings to discuss potential areas of cooperation with several bodies involved in the protection of human rights, including the Council of Europe and the European Court of Human Rights. Mr. Forst also reported on his meetings with environmental defenders, including a closed-door workshop on civil disobedience in the context of environmental activism held in Paris on 19 July 2023, and his participation in various events and meetings

with Parties, other States, and intergovernmental and non-governmental organizations to raise awareness of his mandate and the situation of environmental defenders. Mr. Forst further reported that he had provided comments on various initiatives relevant to the protection of environmental defenders, including the proposed Directive of the European Parliament and of the Council on protecting persons who engage in public participation from manifestly unfounded or abusive court proceedings (“Strategic lawsuits against public participation”) (SLAPPs); the proposed Recommendation of the Committee of Ministers on Countering SLAPPs; and the proposal for a Directive of the European Parliament and of the Council on Corporate Sustainability Due Diligence. He also reported on his activities to date to raise further funds to support his mandate.

III. Referrals by the secretariat

22. The Committee noted that it had to date received no referrals from the secretariat.

IV. Requests from the Meeting of the Parties

23. Regarding request ACCC/M/2021/4 (European Union), on 18 September 2023, the Committee had written to the Party concerned to remind it that, at its seventy-seventh meeting (Geneva, 13-16 December 2022), it had invited the Party concerned to provide a progress report by 1 October 2023 on its progress to implement the recommendations in paragraph 131 of the Committee’s findings on communication ACCC/C/2015/128 (European Union).

24. The Committee noted that there had been no developments since its seventy-ninth meeting with respect to request ACCC/M/2021/5 (Republic of Moldova)¹ of the Meeting of the Parties.

V. Requests from Parties for advice or assistance

25. Regarding request for advice ACCC/A/2023/4 (Armenia), at its virtual meeting on 25 August 2023 the Committee had continued its deliberations on its draft advice. On 21 September 2023, the Committee agreed its draft advice through its electronic decision-making procedure and requested the secretariat to forward it to the Party concerned and observers for their comments.

VI. Communications from members of the public

26. The Committee agreed that the deadline for receipt of new communications to be considered for preliminary admissibility at its eighty-first meeting (Geneva, 12–15 December 2023) would be 31 October 2023.

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

28. Concerning communication ACCC/C/2015/126 (Poland), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

29. With respect to communication ACCC/C/2015/132 (Ireland), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

30. Regarding communication ACCC/C/2015/133 (Netherlands), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

¹ ECE/MP.PP/2021/2, para. 45.

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31. With respect to communication ACCC/C/2016/139 (Ireland), the Committee continued its deliberations on its draft findings at the current meeting and agreed to continue those deliberations through its electronic decision-making procedure, with a view to completing its draft findings as soon as possible.
 32. Concerning communication ACCC/C/2016/140 (Romania), the Committee agreed to continue its deliberations through its electronic decision-making procedure, with a view to completing its draft findings as soon as possible.
 33. Regarding communication ACCC/C/2017/146 (Poland), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.
 34. With respect to communication ACCC/C/2017/148 (Greece), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.
 35. Regarding communication ACCC/C/2017/149 (Greece), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
 36. Concerning communication ACCC/C/2017/150 (United Kingdom), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.
 37. With respect to communication ACCC/C/2016/151 (Poland), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.
 38. Concerning communication ACCC/C/2017/154 (Poland), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.
 39. With respect to communication ACCC/C/2017/156 (United Kingdom), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.
 40. Concerning communication ACCC/C/2018/158 (Poland), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.
 41. 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.
 42. Regarding communication ACCC/C/2018/161 (Bulgaria), the Committee held an initial discussion on how to proceed with the communication at the current meeting and agreed to invite the parties to a hearing to discuss the substance of the communication at its eighty-first meeting. It also agreed to send questions to the parties for their written reply in advance of the hearing.
 43. Concerning communication ACCC/C/2019/162 (Denmark), the Committee noted that it had agreed to ask the Party concerned to submit the texts of relevant case law referred to in its response to the communication and to invite the parties to a hearing to discuss the substance of the communication at a future meeting.
 44. With respect to communication ACCC/C/2019/163 (Austria), the Committee held a hearing in open session to discuss the substance of the communication on 20 September 2023, during the current meeting. Representatives of both the Party concerned and the communicant participated in the hearing. 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.
 45. Regarding communication ACCC/C/2019/164 (Ireland), the Committee held an initial discussion on how to proceed with the communication at the current meeting and agreed to send questions to the parties for their written reply.
 46. Concerning communication ACCC/C/2019/168 (Iceland), the Committee held an initial discussion on how to proceed with the communication at the current meeting and agreed to send questions to the parties for their written reply.

47. With respect to communication ACCC/C/2019/173 (Sweden), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
48. Regarding communication ACCC/C/2019/174 (Sweden), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
49. Concerning communication ACCC/C/2020/177 (Bosnia and Herzegovina), the Committee noted that it had agreed to ask the Party concerned to expand upon its response of 23 November 2020 and also to clarify whether it challenged the admissibility of the communication. The Committee agreed that it would decide how to proceed with the communication at an upcoming meeting, taking into account the information received.
50. With respect to communication ACCC/C/2020/178 (Germany), 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 13 August 2020 and to decide how to proceed with the communication at an upcoming meeting, taking into account the information received.
51. Regarding communication ACCC/C/2020/179 (Serbia), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
52. Concerning communication ACCC/C/2020/181 (Netherlands), the Committee continued its deliberations on its draft findings at the current meeting and agreed to continue those deliberations at an upcoming meeting.
53. Regarding communication ACCC/C/2020/183 (Spain), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
54. Concerning communication ACCC/C/2021/186 (Portugal), the Committee noted that it had agreed to send questions to the Party concerned for its written reply and to decide how to proceed with the communication at an upcoming meeting, taking into account the information received.
55. With respect to communication ACCC/C/2021/187 (Netherlands), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
56. Regarding communication ACCC/C/2021/189 (Bosnia and Herzegovina), the Committee noted that it had agreed to ask the Party concerned to clarify whether the information that it had submitted on 21 March 2023 was its response to the communication and to decide thereafter how to proceed with the communication at an upcoming meeting.
57. Concerning communication ACCC/C/2022/191 (Ukraine), the secretariat had forwarded the communication to the Party concerned for its response on 17 May 2023. The deadline of 17 October 2023 for the response of the Party concerned has not yet expired and its response has not yet been received.
58. With respect to communication ACCC/C/2022/192 (Belgium), the Party concerned had submitted its response to the communication on 12 May 2023, on time. The Committee agreed to decide how to proceed with the communication at an upcoming meeting.
59. Regarding communication ACCC/C/2022/194 (United Kingdom), the Party concerned had submitted its response to the communication on 12 May 2023, on time. The Committee agreed to decide how to proceed with the communication at an upcoming meeting.
60. Communication ACCC/C/2022/195 (Spain), the secretariat had forwarded the communication to the Party concerned for its response on 1 September 2023. The deadline of 1 February 2024 for the response of the Party concerned has not yet expired and its response has not yet been received.
61. Regarding communication ACCC/C/2022/196 (United Kingdom), the Party concerned had provided its response to the communication on 21 July 2023, on time. The

Committee agreed to decide how to proceed with the communication at an upcoming meeting.

62. With respect to communication ACCC/C/2022/197 (France), the Party concerned had provided its response to the communication on 21 July 2023, on time. The Committee agreed to decide how to proceed with the communication at an upcoming meeting.

63. Concerning communication ACCC/C/2023/198 (Ireland), on 16 May 2023 the secretariat had forwarded the communication to the Party concerned for its response. The deadline of 16 October 2023 for the response of the Party concerned had not yet expired and its response had not yet been received.

64. Regarding communication ACCC/C/2023/199 (Ireland), on 16 September 2023 the secretariat had forwarded the communication to the Party concerned for its response. The deadline of 16 February 2024 for the response of the Party concerned had not yet expired and its response had not yet been received.

65. With respect to communication ACCC/C/2023/200 (Italy), on 16 September 2023 the secretariat had forwarded the communication to the Party concerned for its response. The deadline of 16 February 2024 for the response of the Party concerned had not yet expired and its response had not yet been received.

66. Communication ACCC/C/2023/201 (Sweden) had been submitted on 4 May 2023 by Semisjaur-Njarg Sami Village. The communication alleged non-compliance with articles 9 (3) and (4) of the Convention in connection with logging activities in an area allegedly used by the Sami Village of Semisjaur-Njarg for reindeer husbandry. The Committee heard the views of the communicant on the preliminary admissibility of the communication in open session. A representative of the Party concerned also participated in the open session and indicated that the Party concerned had no comments at that point. After considering in closed session the information received, the Committee determined that the communication was admissible on a preliminary basis and requested the secretariat to forward the communication to the Party concerned for its response.

67. Communication ACCC/C/2023/202 (Italy) had been submitted on 3 July 2023 by Mr. Giuseppe Dini, a member of the public. The communication alleged non-compliance with articles 6 (2) and (6)–(8) and 8 of the Convention in connection with a proposed photovoltaic plant in the municipality of Sant'Angelo in Vado. The Committee heard the views of the communicant and the Party concerned on the preliminary admissibility of the communication in open session. After considering in closed session the information received, the Committee considered that the proposed activity was not an activity listed in paragraphs 1–19 of annex I of the Convention, nor was it required to undergo an environmental impact assessment procedure under national legislation, in accordance with paragraph 20 of annex I. For that reason, the Committee determined that the communication was inadmissible in accordance with paragraph 20 (d) of the annex to decision I/7 of the Meeting of the Parties to the Convention for being incompatible with the Convention, on the ground that the activity did not fall within the scope of article 6 or article 8 of the Convention.

68. Communication ACCC/C/2023/203 (Germany) had been submitted on 10 July 2023 by the NGO Deutsche Umwelthilfe e.V.. The communication alleged non-compliance with article 8 of the Convention in connection with a draft amendment to the Climate Protection Act. The Committee heard the views of the communicant and the Party concerned on the preliminary admissibility of the communication in open session. After considering in closed session the information received, the Committee determined that the communication was admissible on a preliminary basis and requested the secretariat to forward the communication to the Party concerned for its response.

69. Communication ACCC/C/2023/204 (Ireland) had been submitted on 1 August 2023 by the organization Right to Know CLG. The communication alleged non-compliance with articles 3 (1), 4 (1), 9 (1), and 9 (4) of the Convention in connection with requests for

environmental information. The Committee heard the views of the communicant and the Party concerned on the preliminary admissibility of the communication in open session. After considering in closed session the information received, the Committee determined that the communication was admissible on a preliminary basis and requested the secretariat to forward the communication to the Party concerned for its response.

70. Communication ACCC/C/2023/205 (Italy) had been submitted on 5 August 2023 by the NGO A Sud Ecologia e Cooperazione Odv ETS. The communication alleged non-compliance with articles 3 (1), 5 (2) (b) (i), 5 (3) (c), 5 (5) (a), 6 (2)–(4) and (8) and 7 of the Convention in connection with the Party concerned’s draft updated national energy and climate plan. The Committee heard the views of the communicant and the Party concerned on the preliminary admissibility of the communication in open session. After considering in closed session the information received, the Committee noted that the updated national energy and climate plan was currently still in draft form and was yet to undergo a strategic environmental assessment procedure, including public participation, prior to the submission of the final updated plan to the European Commission in June 2024. For that reason, the Committee determined that the communication was inadmissible in accordance with paragraph 20 (d) of the annex to decision I/7 of the Meeting of the Parties to the Convention for being incompatible with decision I/7, since the preparation of the plan had not yet been completed.

71. Communication ACCC/C/2023/206 (Spain) had been submitted on 7 August 2023 by the association “Salvar La Tejita”. The communication alleged non-compliance with articles 4(1), 5(1) (a), 6 (1) (a), 6 (2) - (8), 7 and 8 in connection with the proposed Tenerife motor circuit. The Committee heard the views of the communicant and the Party concerned on the preliminary admissibility of the communication in open session. After considering in closed session the information received, the Committee determined that the communication was inadmissible under paragraphs 20 (d) and 21 of the annex to decision I/7 of the Meeting of the Parties to the Convention, for failure to demonstrate that the available domestic remedies had been used and completed. Specifically, with respect to the allegations within the scope of the communicant’s complaint to the Ombudsman, the Committee considered those allegations to be inadmissible due to the Ombudsman’s procedure still being ongoing. Regarding any allegations outside the scope of the complaint to the Ombudsman, the Committee considered that the communicant had not shown that any available remedies had been used and completed.

VII. Follow-up on specific cases of non-compliance

72. The Committee reported that, on 1 September 2023, the secretariat had written at the Committee’s request to Parties subject to MOP decisions VII/8a, VII/8b, VII/8d, VII/8f, VII/8g, VII/8i-VII/8l, VII/8n-VII/8s to remind them of the deadline of 1 October 2023 to submit their first progress report on the measures they had by that date taken, and the results achieved, to implement the recommendations set out in the respective decision concerning their compliance.

73. The Committee took note of the developments since its seventy-ninth meeting with respect to decisions VII/8a (Armenia), VII/8b (Austria), VII/8i (Ireland), and VII/8s (United Kingdom).

74. The Committee noted that there had been no developments since its seventy-ninth meeting with respect to decisions VII/8d (Bulgaria), VII/8f (European Union), VII/8g (Germany), VII/8j (Italy), VII/8k (Kazakhstan), VII/8l (Lithuania), VII/8n (Republic of Moldova), VII/8o (Romania), VII/8p (Spain), VII/8q (Turkmenistan) and VII/8r (Ukraine).

75. Regarding decision VII/8a (Armenia), the Committee continued its deliberations on its draft advice on paragraph 2 (a) and (b) of the decision at the current meeting and agreed

to continue those deliberations through its electronic decision-making procedure, with a view to completing its draft advice as soon as possible.

76. With respect to decision VII/8e (Czechia), the Committee had continued its deliberations on its draft advice on paragraph 2 (b) (i) and (ii) of the decision at its virtual meetings on 26 July and 25 August 2023. At the current meeting, the Committee agreed to continue its deliberations through its electronic decision-making procedure, with a view to completing its draft advice as soon as possible.

77. Concerning decision VII/8h (Hungary), on 18 September 2023, the Committee had written to the Party concerned to inform it that, at its seventy-eighth meeting, the Committee had considered the detailed explanation provided by the Party concerned on 21 December 2022 and had concluded that the information it had provided did not address the content of its findings on communication ACCC/C/2014/105 (Hungary) nor of its recommendation in paragraph 2 of decision VII/8h. In its letter, the Committee also reminded the Party concerned of the upcoming deadline of 1 October 2023 to submit its first progress report on decision VII/8h.

78. Regarding decision VII/8m (Netherlands), at its virtual meeting on 25 August 2023 the Committee had continued its deliberations on its advice on paragraph 3 (a) of the decision, taking into account the comments on its draft advice received from the Party concerned, other Parties and observers. The Committee continued its deliberations on its advice at the current meeting and agreed to continue those deliberations through its electronic decision-making procedure, with a view to finalizing and adopting its advice as soon as possible.

79. With respect to findings of non-compliance adopted by the Committee since the seventh session of the Meeting of the Parties (Geneva, 18–20 October 2021), and regarding which the Party concerned had agreed that the Committee would take the measures requested in paragraph 36 (b) of the annex to decision I/7,² the Committee noted that it looked forward to receiving updates on the progress made by the Party concerned in implementing the Committee's findings and recommendations on communication ACCC/C/2014/119 (Poland)³. In that regard, the Committee invited the Party concerned to submit a progress report to the Committee by 1 October 2023, in line with the deadline for all progress reports concerning the Committee's follow-up on the implementation of decisions and requests of the Meeting of the Parties adopted at its seventh session.

VIII. Programme of work and calendar of meetings

80. The Committee noted that it had agreed, subject to the availability of conference services, to hold its eighty-first meeting from 12 to 15 December 2023.

IX. Other business

A. Reporting requirements

81. The Committee noted that the Meeting of the Parties, at its seventh session, had urged Parties that had not yet submitted their national implementation reports – i.e. Azerbaijan, Malta, the Netherlands, the Republic of Moldova and Tajikistan – to do so by 1 December 2021 at the latest, and in the required format.⁴ The secretariat informed the Committee that three of those five Parties had subsequently submitted their reports (i.e.: Azerbaijan, on 19 October 2021; Malta, on 11 November 2021; and Republic of Moldova, on 2 December

² ECE/MP.PP/C.1/2022/9, para. 22.

³ ECE/MP.PP/C.1/2022/10.

⁴ ECE/MP.PP/2021/2, para. 44.

2021). At the time of the meeting, only the Netherlands and Tajikistan had failed to submit their national implementation reports for the 2021 reporting cycle.

B. Resourcing of the Committee

82. The Chair noted that the Committee had a very significant number of communications pending before it and that, in addition to its work on those communications, it was also engaged in the follow-up on 20 decisions and requests of the Meeting of the Parties on compliance and one finding of non-compliance. The Committee was also working to complete one request received from Parties for advice and assistance outside its follow-up procedure and three requests received from Parties for advice within the context of its follow-up on decisions of the Meeting of the Parties. It stressed that it currently had very limited resources to support that important area of work. The Chair emphasized that, notwithstanding its very limited resources, the Committee was doing its best to carry out its work. The Chair acknowledged the current lengthy timeframe for the Committee to complete its findings on pending communications but noted that, without significant additional resources, the current delays would increase. The Chair urged all Parties to reflect on the current situation of the Committee and provide further resources as a matter of urgency to support its important work.

X. Report and closure of the meeting

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