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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

Seventy-fourth meeting
Geneva, 15–18 March 2022

Report of the Compliance Committee on its seventy-fourth meeting*

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* The present document is being issued without formal editing.

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Introduction

1. The seventy-fourth 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 15–18 March 2022. In the light of the exceptional situation related to the ongoing coronavirus disease (COVID-19) pandemic, both the Committee and participants participated in the meeting virtually.

A. Attendance

2. Six of the nine Committee members were present throughout the meeting: Ms. Áine Ryall (Chair); Mr. Marc Clément (Vice Chair); Ms. Heghine Grigoryan; Mr. Thomas Schomerus; Ms. Eleanor Sharpston; and Mr. Dmytro Skrylnikov (Vice Chair). Mr. Peter Oliver was unable to attend the afternoon session on 18 March but was present for the rest of the meeting. Mr. Jerzy Jendrośka (Vice Chair) was unable to attend the morning session on 15 March and the morning and afternoon sessions on 18 March but was present for the rest of the meeting. Ms. Fruzsina Bögös was unable to attend 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. Representatives of Armenia and the communicants of communications ACCC/C/2016/140 (Romania) and ACCC/C/2017/147 (Moldova) took part in the open sessions on 15 March 2022. The non-governmental organizations (NGOs) ClientEarth, “Doma Sond” Fund, Oekobuero, Justice and Environment, and Earthjustice also took part in the open session as observers.

4. Fifteen of the twenty Parties invited to attend the Committee’s open session for Parties on preparing their plans of action on 17 March 2022 took part in the open session. A number of communicants and observers also took part in the open session. Further details are provided in sections III and VI of this report.

B. Organizational matters

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

6. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2022/1.

7. Regarding communications received before 1 February 2022 (the deadline for receipt of communications for the seventy-fourth meeting), the Chair reported that she and Vice-Chairs Mr. Clément, Mr. Jendrośka and Mr. Skrylnikov had held a virtual meeting on 7 February 2022 to determine which of the communications received by the deadline sufficiently met the required format to be forwarded to the Committee for consideration as to their preliminary admissibility. At the virtual meeting, the Chair and Vice-Chairs had decided that communication PRE/ACCC/C/2022/191 (Ukraine) should be forwarded to the Committee for consideration of preliminary admissibility at its seventy-fourth meeting and had requested the secretariat to post that communication on the Committee’s website in advance of the meeting.

I. Submissions by Parties

8. 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-third meeting (Geneva, 13–16 December 2021).

II. Referrals by the secretariat

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

III. Requests from the Meeting of the Parties

10. With respect to request ACCC/M/2021/4 (European Union), the Committee noted that, in advance of the meeting, the secretariat had invited the Party concerned, the communicants of communication ACCC/C/2015/128 and observers to attend an open session for Parties on preparing their plans of action to be held on 17 March 2022, during the current meeting (see section VI of the current report). Representatives of the Party concerned, the communicants of communication ACCC/C/2015/128 and the observers ClientEarth and Mr. Alistair McGlone took part in the open session on 17 March 2022. The Committee reminded the Party concerned that it looked forward to receiving its plan of action by 1 July 2022.

11. Concerning request ACCC/M/2021/5 (Republic of Moldova), the Committee commenced its deliberations on its draft findings and agreed to continue those deliberations at an upcoming meeting.

IV. Requests from Parties for advice or assistance

12. The Committee noted that it had not received any new request for advice or assistance outside the scope of its follow-up on specific cases of non-compliance since its seventy-third meeting.

V. Communications from members of the public

13. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its seventy-fifth meeting (Geneva, 14–17 June 2022) would be 2 May 2022.

14. Regarding communication ACCC/C/2014/113 (Ireland), the Committee noted that the Court of Appeal's judgment in *Heather Hill Management Company CLG v. An Bord Pleanála* had been handed down on 14 October 2021¹ but that further appeals of relevance to the communication were still being heard at the national level. The Committee agreed that, once the judgments on the further appeals were handed down, it would invite the parties to comment on their implications, if any, for the communication.

15. With respect to communication ACCC/C/2014/119 (Poland), the Committee continued its deliberations on its draft findings at the current meeting and agreed to continue those deliberations at an upcoming meeting.

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

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

18. With respect to communication ACCC/C/2015/133 (Netherlands), the Committee continued its deliberations on its draft findings at the current meeting and agreed to continue those deliberations at an upcoming meeting.

19. Regarding communication ACCC/C/2016/139 (Ireland), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting.

20. Concerning communication ACCC/C/2016/140 (Romania), the Committee continued its deliberations on its draft findings at the current meeting and agreed to continue those deliberations at an upcoming meeting.

21. Regarding communication ACCC/C/2017/146 (Poland), the Committee discussed how to proceed with the communication and agreed to invite the parties to a hearing to discuss

¹ [2021] IECA 259.

the substance of the communication at its seventy-fifth meeting. It also agreed to send questions to the parties for their written reply in advance of the hearing.

22. With respect to communication ACCC/C/2017/148 (Greece), the Committee noted that it had agreed to send questions to the parties for their written reply. It agreed to defer its deliberations on its draft findings to an upcoming meeting and to take into account the replies once received.

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

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

25. With respect to communication ACCC/C/2016/151 (Poland), the Committee discussed in closed session how to proceed with communications ACCC/C/2016/151, ACCC/C/2017/154 (Poland) and ACCC/C/2018/158 (Poland) and agreed to invite the communicants and the Party concerned to a joint hearing to discuss the substance of the communications at its seventy-fifth meeting. It also agreed to send questions to the parties for their written reply in advance of the hearing.

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

27. Concerning communication ACCC/C/2017/154 (Poland), the Committee discussed in closed session how to proceed with communications ACCC/C/2016/151, ACCC/C/2017/154 (Poland) and ACCC/C/2018/158 (Poland) and agreed to invite the communicants and the Party concerned to a joint hearing to discuss the substance of the communications at its seventy-fifth meeting. It also agreed to send questions to the parties for their written reply in advance of the hearing.

28. 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.

29. Concerning communication ACCC/C/2018/158 (Poland), the Committee discussed in closed session how to proceed with communications ACCC/C/2016/151, ACCC/C/2017/154 (Poland) and ACCC/C/2018/158 (Poland) and agreed to invite the communicants and the Party concerned to a joint hearing to discuss the substance of the communications at its seventy-fifth meeting. It also agreed to send questions to the parties for their written reply in advance of the hearing.

30. 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.

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

32. 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.

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

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

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

36. With respect to communication ACCC/C/2019/173 (Sweden), the Committee noted that it had agreed to send questions to the Party concerned for clarification and that it would

decide how to proceed with the communication at an upcoming meeting, taking into account the information received.

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

38. 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.

39. 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 2019 and to decide how to proceed with the communication at an upcoming meeting, taking into account the information received.

40. Regarding communication ACCC/C/2020/179 (Serbia), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

41. Concerning communication ACCC/C/2020/181 (Netherlands), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

42. With respect to communication ACCC/C/2020/182 (Belarus), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

43. Regarding communication ACCC/C/2020/183 (Spain), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

44. Concerning communication ACCC/C/2021/186 (Portugal), the secretariat had forwarded the communication to the Party concerned on 5 November 2021 for its response. The deadline of 5 April 2022 for the response of the Party concerned had not yet expired, and its response had not yet been received.

45. With respect to communication ACCC/C/2021/187 (Netherlands), the secretariat had forwarded the communication to the Party concerned on 13 December 2021 for its response. The Committee noted that the deadline of 13 May 2022 for the response of the Party concerned had not yet expired and its response had not yet been received.

46. Regarding communication ACCC/C/2021/189 (Bosnia and Herzegovina), the secretariat had forwarded the communication to the Party concerned on 21 February 2022 for its response. The Committee noted that the deadline of 21 July 2022 for the Party concerned's response had not yet expired and its response had not yet been received.

47. Communication PRE/ACCC/C/2022/191 (Ukraine) had been submitted on 24 December 2021 by Ecoclub, an environmental NGO. The communication alleged non-compliance with articles 6 (4) and (6) (e) and 7, in conjunction with article 3 (1), of the Convention, in connection with the Kronospan wood processing plant. On 4 March 2022, the secretariat had informed the Party concerned and communicant that, out of fairness to both the Party concerned and the communicant, in the light of the ongoing military offensive against Ukraine, the Committee proposed to postpone its session on the preliminary admissibility of the communication until its seventy-fifth meeting unless both the Party concerned and the communicant considered themselves to be in a position to proceed with the session at the seventy-fourth meeting. On 8 March 2022, the communicant had replied that it agreed that, under the current circumstances, the Committee's session on the preliminary admissibility of the communication be postponed to the seventy-fifth meeting. On 11 March 2022, the secretariat had written to the Party concerned and the communicant to confirm that, after inviting the views of the Party concerned and the communicant and having received the views of the communicant, the Committee had decided to postpone its session on the preliminary admissibility of the communication to its seventy-fifth meeting.

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

A. Review of developments

48. The Committee noted that, after taking into account the comments and questions received at the open session for Parties on preparing their plan of action held at the seventy-third meeting, it had published the presentation delivered by the secretariat at the seventy-third meeting in the form of an information note.² In addition, in the light of the questions received at the open session at the seventy-third meeting, the Committee had prepared a sample template to assist each Party concerned in preparing its plan of action. In early February 2022, the information note and sample template were sent to each Party concerned, copying the communicants and observers engaged in the Committee's follow-up.

49. The Committee noted that there had been no other developments since its seventy-third meeting regarding decisions VII/8a (Armenia), VII/8b (Austria), VII/8d (Bulgaria), VII/8e (Czechia), VII/8f (European Union), VII/8g (Germany), VII/8h (Hungary), VII/8i (Ireland), VII/8j (Italy), VII/8k (Kazakhstan), VII/8l (Lithuania), VII/8m (Netherlands), VII/8n (Republic of Moldova), VII/8o (Romania), VII/8p (Spain), VII/8q (Turkmenistan), VII/8r (Ukraine) and VII/8s (United Kingdom).

50. With respect to decision VII/8c (Belarus), the Committee noted that, on 21 December 2021, the UNECE Executive Secretary had written to the Minister of Natural Resources and Environmental Protection of the Party concerned in reply to his letter of 26 November 2021. On 24 January 2022, the Committee had completed its draft report on the implementation by the Party concerned of paragraph 7 of decision VII/8c through its electronic decision-making procedure and, on 28 January 2022, the draft report was forwarded to the Party concerned, communicants and observers with an invitation to provide comments by 11 February 2022. On 11 February 2022, representatives of the communicant of communication ACCC/C/2014/102 had submitted comments on the Committee's draft report together with an update on recent legislative developments. No comments were received from the Party concerned. After taking into account the comments received, the Committee had finalized and adopted its report on the implementation of paragraph 7 of decision VII/8c through its electronic decision-making procedure on 22 February 2022 and agreed that the report should be published as a formal pre-session document to its seventy-fifth meeting.

B. Open session for Parties on preparing their plans of action

51. The Chair recalled that each Party subject to a decision or request of the Meeting of the Parties concerning its compliance was requested to submit a plan of action, including a time schedule, to the Committee by 1 July 2022 regarding the implementation of the recommendations in the decision or request concerning its compliance. In advance of the current meeting, the secretariat had written to each Party subject to a decision or request by the Meeting of the Parties concerning its compliance, as well as the communicants and observers engaged in the Committee's follow-up on the decision or request, inviting them to attend the open session on preparing the plans of action on 17 March 2022. Following on from the open session on preparing the plans of action held at the seventy-third meeting, the purpose of the open session at the current meeting was to answer any more specific questions that Parties may have regarding the format or content of their plan of action, including any that may have arisen in the course of its preparation.

52. The Committee noted that the following Parties, communicants and observers took part in the open session on preparing the plans of action on 17 March 2022:

(a) Regarding decision VII/8a (Armenia), representatives of the Party concerned and the observer "Dalma-Sona" Fund;

² Available at: https://unece.org/sites/default/files/2022-02/Information_note_for_Parties_on_preparing_their_plan_of_action.pdf.

- (b) Concerning decision VII/8b (Austria), representatives of the Party concerned, the communicant of communication ACCC/C/2010/48 and the observer Justice and Environment;
- (c) Regarding decision VII/8c (Belarus), representatives of the communicant of communication ACCC/C/2014/102 and the observer Justice and Environment;
- (d) With respect to decision VII/8d (Bulgaria), a representative of the Party concerned;
- (e) Concerning decision VII/8e (Czechia), representatives of the communicants of communications ACCC/C/2012/71 and ACCC/C/2016/143 and the observer Justice and Environment;
- (f) Regarding decision VII/8f (European Union), representatives of the Party concerned, the communicants of communications ACCC/C/2008/32 and ACCC/C/2010/54 and the observer Justice and Environment;
- (g) With respect to decision VII/8g (Germany), a representative of the Party concerned;
- (h) Concerning decision VII/8h (Hungary), a representative of the Party concerned;
- (i) Regarding decision VII/8i (Ireland), representatives of the Party concerned and the communicants of communication ACCC/C/2014/112;
- (j) With respect to decision VII/8j (Italy), a representative of the communicant of communication ACCC/C/2015/130;
- (k) Concerning decision VII/8k (Kazakhstan), representatives of the Party concerned;
- (l) Regarding decision VII/8l (Lithuania), representatives of the Party concerned;
- (m) With respect to decision VII/8m (Netherlands), a representative of the Party concerned;
- (n) Concerning decision VII/8n (Republic of Moldova), a representative of the communicant of communication ACCC/C/2017/147;
- (o) Regarding decision VII/8o (Romania), representatives of the Party concerned and the communicant of communications ACCC/C/2010/51 and ACCC/C/2012/69;
- (p) With respect to decision VII/8p (Spain), representatives of the Party concerned;
- (q) Regarding decision VII/8q (Turkmenistan), representatives of the Party concerned;
- (r) Concerning decision VII/8s (United Kingdom), representatives of the Party concerned, the communicants of communications ACCC/C/2013/85, ACCC/C/2013/86 and ACCC/C/2013/90 and the observers Royal Society for the Protection of Birds and Environmental Rights Centre for Scotland.

53. Though invited, the Parties concerned regarding decisions VII/8c (Belarus), VII/8e (Czechia), VII/8j (Italy) and VII/8n (Republic of Moldova), did not take part in the open session on 17 March 2022 on preparing their plans of action.

VII. Programme of work and calendar of meetings

54. The Committee noted that it had agreed, subject to the availability of conference services, to hold its seventy-fifth meeting on 14–17 June 2022. It also agreed to schedule a virtual meeting prior to that meeting in order to continue its deliberations on pending cases.

VIII. Other business

A. Modus operandi

55. The Chair expressed her appreciation for the proactive efforts made by the secretariat both before and throughout the meeting to enable the meeting to proceed smoothly despite the logistical challenges caused by the on-going COVID-19 pandemic.

B. Reporting requirements

56. The Committee noted that the Meeting of the Parties, at its seventh session (Geneva, 18–20 October 2021), 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. 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 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.

C. Protection of environmental defenders in Ukraine during the ongoing military offensive by the Russian Federation

57. The Committee recalled that, on 27 February 2022, the Chair had written on behalf of the Committee to the Ministers of Foreign Affairs of the forty-seven Parties to the Convention, copying each Party's national focal point, calling on each Party to do all possible within its means to fulfil its obligations under article 3 (8) of the Convention to ensure that environmental defenders in Ukraine in the potential occupied territory would not be persecuted.³ The Committee also recalled that, on 1 March 2022, the Chair of the Meeting of the Parties to the Convention had written, on behalf of the Bureau, to the Ministers of Foreign Affairs of the forty-seven Parties in support of the Committee's letter.⁴ The Committee noted that, on 2 March 2022, Mr. Ferenc Dancs, Deputy State Secretary for Migration Challenges and North American Relations of the Ministry of Foreign Affairs and Trade of Hungary had written to the Chair of the Committee to assure her that Hungary would provide humanitarian assistance and safe passage to Ukrainian environmental defenders and their families.⁵

IX. Report and closure of the meeting

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

³ Available on the webpage of the seventy-fourth meeting, see <https://unece.org/environmental-policy/events/seventy-fourth-meeting-aarhus-convention-compliance-committee>.

⁴ Ibid.

⁵ Ibid.