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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-fifth meeting
Geneva, 14–17 June 2022

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

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* The present document is being issued without formal editing.



Introduction

1. The seventy-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 14–17 June 2022 in Geneva, Switzerland.

A. Attendance

2. Seven of the nine Committee members were present in person throughout the meeting: Ms. Áine Ryall (Chair); Ms. Fruzsina Bögös, Mr. Marc Clément (Vice-Chair); Ms. Heghine Grigoryan; Mr. Peter Oliver; Mr. Thomas Schomerus and Ms. Eleanor Sharpston. Mr. Dmytro Skrylnikov (Vice-Chair) participated through virtual means throughout the meeting. Mr. Jerzy Jendrośka (Vice-Chair) was unable to attend the meeting on 16 and 17 June 2022 but was present in person for the rest of 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 the Party concerned and the communicants of communications ACCC/C/2016/151, ACCC/C/2017/154, ACCC/C/2018/158 (Poland) took part in a joint hearing, held on 16 June 2022, to discuss the substance of those communications. Representatives of the communicant of communication ACCC/C/2018/158 (Poland) also joined the hearing through virtual means.

4. Representatives of the Party concerned and the communicant of communication ACCC/C/2017/146 (Poland) took part in the hearing, held on 17 June 2022, to discuss the substance of the communication.

5. Representatives of Ireland participated as observers in the open sessions on 14 and 17 June 2022, through virtual means.

6. A representative of the non-governmental organization (NGO) Earthjustice participated as an observer in most open sessions, in person. Representatives of the Aarhus Centre of the Republic of Belarus and the NGO Justice and Environment participated as observers in most open sessions, through virtual means.

B. Organizational matters

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

8. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2022/3.

9. The Chair reported that, since its seventy-fourth meeting (Geneva, 15–18 March 2022), the Committee had held one virtual meeting, on 11 April 2022, at which it had continued its deliberations on its draft findings on communication ACCC/C/2014/119 (Poland).

10. Regarding communications received before 2 May 2022 (the deadline for receipt of communications for the seventy-fifth meeting), the Chair reported that she and Vice-Chairs Mr. Clément, Mr. Jendrośka and Mr. Skrylnikov had held a virtual meeting on 16 May 2022 to determine which communications received by the deadline sufficiently met the required format to be forwarded to the Committee for consideration as to their preliminary admissibility. At that virtual meeting, the Chair and Vice-Chairs had decided that there had been no communications received that sufficiently met the required format to be forwarded to the Committee for consideration of preliminary admissibility at its seventy-fifth meeting.

I. Submissions by Parties

11. 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-fourth meeting.

II. Referrals by the secretariat

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

III. Requests from the Meeting of the Parties

13. Concerning request ACCC/M/2021/4 (European Union), the Committee noted that, on 29 March 2022, the Party concerned, copying the Committee, had written to communicants and observers engaged in the Committee's follow-up on request ACCC/M/2021/4 enclosing its draft plan of action regarding the request.

14. With respect to request ACCC/M/2021/5 (Republic of Moldova), the Committee completed its deliberations on its draft findings at the current meeting and requested the secretariat to send the draft findings to the Party concerned for its comments.

IV. Requests from Parties for advice or assistance

15. 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-fourth meeting.

V. Communications from members of the public

16. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its seventy-sixth meeting (Geneva, 13-16 September 2022) would be 2 August 2022.

17. Concerning 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.

18. With respect to communication ACCC/C/2014/119 (Poland), the Committee finalized its findings in closed session at the current meeting, taking into account the comments on its draft findings received from the Party concerned and the communicant. The Committee adopted its findings on 15 June 2022 and agreed that they should be published as a formal pre-session document to its seventy-seventh meeting (Geneva, 13-16 December 2022). It requested the secretariat to send the findings to the Party concerned and the communicant.

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

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

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

¹ [2021] IECA 259.

22. Regarding 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 at an upcoming meeting.
23. 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.
24. Regarding communication ACCC/C/2017/146 (Poland), the Committee held a hearing to discuss the substance of the communication in open session on 17 June 2022, during the current meeting. Representatives of 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. It agreed to send questions to the parties for their written reply and to continue its deliberations on its draft findings at an upcoming meeting taking into account the replies received.
25. 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.
26. Regarding communication ACCC/C/2017/149 (Greece), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
27. Concerning communication ACCC/C/2017/150 (United Kingdom), the Committee discussed how to proceed with the communication and agreed to invite the parties to a hearing to discuss the substance of the communication at its seventy-sixth 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/2016/151 (Poland), the Committee held a joint hearing to discuss the substance of communications ACCC/C/2016/151, ACCC/C/2017/154 and ACCC/C/2018/158 in open session on 16 June 2022, during the current meeting. Representatives of the Party concerned and the communicants participated in the joint hearing. Following the hearing, the Committee commenced its deliberations on its draft findings in closed session. It agreed to send questions to the parties for their written reply and to continue its deliberations on its draft findings at an upcoming meeting taking into account the replies received.
29. 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.
30. Concerning communication ACCC/C/2017/154 (Poland), the Committee held a joint hearing to discuss the substance of communications ACCC/C/2016/151, ACCC/C/2017/154 and ACCC/C/2018/158 in open session on 16 June 2022, during the current meeting. Representatives of the Party concerned and the communicants participated in the joint hearing. Following the hearing, the Committee commenced its deliberations on its draft findings in closed session. It agreed to send questions to the parties for their written reply and to continue its deliberations on its draft findings at an upcoming meeting taking into account the replies received.
31. With respect to communication ACCC/C/2017/156 (United Kingdom), the Committee agreed to defer its deliberations on its draft findings at an upcoming meeting.
32. Concerning communication ACCC/C/2018/158 (Poland), the Committee held a joint hearing to discuss the substance of communications ACCC/C/2016/151, ACCC/C/2017/154 and ACCC/C/2018/158 in open session on 16 June 2022, during the current meeting. Representatives of the Party concerned and the communicants participated in the joint hearing. Following the hearing, the Committee commenced its deliberations on its draft findings in closed session. It agreed to send questions to the parties for their written reply and to continue its deliberations on its draft findings at an upcoming meeting taking into account the replies received.

33. 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.
34. Regarding communication ACCC/C/2018/161 (Bulgaria), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
35. 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.
36. 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.
37. 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.
38. Concerning communication ACCC/C/2019/168 (Iceland), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
39. 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.
40. Regarding communication ACCC/C/2019/174 (Sweden), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
41. 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.
42. 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.
43. Regarding communication ACCC/C/2020/179 (Serbia), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
44. Concerning communication ACCC/C/2020/181 (Netherlands), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
45. 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.
46. Regarding communication ACCC/C/2020/183 (Spain), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.
47. Concerning communication ACCC/C/2021/186 (Portugal), the secretariat had forwarded the communication to the Party concerned on 5 November 2021 for its response by 5 April 2022. On 4 April 2022, the Party concerned had submitted its response, on time. The Committee noted that, in its response, the Party concerned had challenged the admissibility of the communication. The Committee agreed to decide how to proceed with the communication at an upcoming meeting.
48. 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 by 13 May 2022. On 13 May 2022, the Party concerned had submitted its response, on time. The Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

49. 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 deadline of 21 July 2022 for the response of the Party concerned had not yet expired and the response had not yet been received.

50. 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. The Committee noted that, upon the instructions of the Chair, the secretariat had written to the Party concerned and the communicant on 7 June 2022 to inform them that, out of fairness to both parties, in the light of the ongoing war against Ukraine, the Committee proposed to further postpone its session on the preliminary admissibility of the communication until its seventy-sixth meeting.

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

51. The Committee noted that there had been no developments since its seventy-fourth 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/8n (Republic of Moldova), VII/8o (Romania), VII/8p (Spain), VII/8q (Turkmenistan), VII/8r (Ukraine) and VII/8s (United Kingdom).

52. Regarding decision VII/8c (Belarus), the Committee confirmed the edited version of its report on the implementation of paragraph 7 of decision VII/8c (ECE/MP.PP/C.1/2022/5).

53. With respect to decision VII/8m (Netherlands), the Committee noted that, on 22 April 2022, the Party concerned had submitted a request for advice to the Committee regarding the implementation of paragraph 3 (a) of the decision. At the meeting, the Committee commenced its deliberations on its draft advice and agreed to continue its deliberations at an upcoming meeting.

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-sixth meeting on 13–16 September 2022. The Committee also agreed to schedule a virtual meeting prior to that meeting in order to continue its deliberations on its pending cases.

VIII. Other business

A. Reporting requirements

55. 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.

B. Protection of environmental defenders in Ukraine in the context of the ongoing military offensive by the Russian Federation

56. 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 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.² 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.³ The Committee noted that, on 6 May 2022, the European Union had written to the Chairs of the Committee and the Meeting of the Parties expressing the commitment of the European Union and its Member States to provide all necessary support to people exercising their rights in conformity with the provisions of the Convention and to offer shelter and protection to environmental defenders in need and their families.⁴

IX. Report and closure of the meeting

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

² Available on the webpage of the seventy-fourth meeting, see <https://unece.org/environmental-policy/events/seventy-fourth-meeting-aarhus-convention-compliance-committee>.

³ Ibid.

⁴ Available on the webpage of the seventy-fifth meeting, see <https://unece.org/environmental-policy/events/seventy-fifth-meeting-aarhus-convention-compliance-committee>.