

Format for communications to the Aarhus Convention Compliance Committee

I. Information on correspondent submitting the communication

Full name of organization or person(s) submitting the communication:

NGO SaveDnipro

[REDACTED] Dnipro district, Dnipropetrovsk region 52005, Ukraine

Address for correspondence/authorized representative:

Iryne Chernysh, Head NGO SaveDnipro

[REDACTED] Dnipro district, Dnipropetrovsk region 52005, Ukraine

II. Party concerned

Ukraine

III. Facts of the communication

Introduction

1. This communication arises from a failure by Ukraine to comply with Articles 3, 4, 9 and 15 of the Convention by:

a. Requiring requests for access to environmental information to be made in writing or electronic form.

b. Since the beginning of the full-scale invasion of the Russian Federation of the territory of Ukraine on February 24, 2022, the access of Ukrainian citizens to environmental information has been denied, become partial, and/or after appropriate identification of a person. In their official messages, administrators of information refer to the military threat which is a direct violation of Article 4 of the Convention.

c. Alternatively, providing that the Commissioner for Environmental Information has limited jurisdiction and therefore cannot rule on all issues of law and fact arising when a person exercises their right to a review procedure established by Article 9 of the Convention.

Relevant Law

2. Ukraine signed and ratified the Convention 07/06/1999 entry into force for Ukraine: 10/30/2001. Parties to this Convention, referring to the principle of the 1st Stockholm Declaration on the environment around a person, referring also to the 10th Rio de Janeiro principle declarations on the environment and development, referring further to General Assembly resolution 37/7 of October 28, 1982 on the World Charter of Nature and 45/94 no December 14, 1990 on the need to ensure healthy the environment in the interests of people's well-being, referring to the European Environmental Charter and health care, which was adopted by the First European conference "Environment and Health" of the World healthcare organizations in Frankfurt am Main, Germany, December 8, 1989.

3. The Convention, in its recitals, recognizes that public authorities hold environmental information in the public interest and that every person has the right to live in an environment adequate to his or her health and has a duty both individually and in association with others to protect and improve the environment for the benefit of present and future generations. The Convention also recognizes that citizens must have access to information and access to justice to assert these rights and duties.

4. The AIE Directive acknowledges in recital 9 the necessity that public authorities make available and disseminate environmental information to the general public to the widest extent possible, in particular by using information and communication technologies.

Background to this Communication

5. The Aarhus Convention and Art protects access to information on environmental matters. 50 of the Constitution of Ukraine. Therefore, environmental information cannot be hidden/inaccessible in whole or in part. First, we started working with the Ministry of Digital Transformation of Ukraine on amendments to Resolution No. 835 "On the approval of the Regulation on data sets to be made public in the form of open data", where we submitted proposals for finding a compromise solution regarding the most important sets of environmental data. The main issue, due to which access to information is currently closed, is the issue of the addresses of the location of industrial facilities and energy facilities, which the Russian Federation can potentially use for further attacks on these facilities.

6. An appeal was made to the members of the Committee of the Verkhovna Rada of Ukraine on Digital Transformation, where the importance of re-opening the data from Resolution No. 835 "On Approval of the Regulations on Data Sets to be Published in the Form of Open Data" was stated.

7. An open appeal of public organizations on preserving access to ecological open data was prepared to the Ministry of Environmental Protection and the Ministry of Digital Transformation from Working Group 3 "Environment, Climate Change and Energy Security" of the Ukrainian National Platform of the Civil Society Forum of the Eastern Partnership and

Working Group 5 "Energy, transport, environment and climate change" of the Ukrainian side of the Ukraine-EU Civil Society Platform.

IV. Provisions of the Convention with which non-compliance is alleged

Articles 3, 4, 9 and 15

V. Nature of alleged non-compliance

8. These restrictions on access to information on environmental matters for citizens of Ukraine constitute several risks both in the short and long term. In particular, without having operational data on the state of such components of the environment as air and atmosphere, water, soil, land, or factors such as radiation level, citizens are deprived of the opportunity to:

- (a) independently make decisions on reducing the burden on one's own health and life safety;
- (b) fully or partially participate in permitting procedures, the decisions of which will have an impact on the environment.

9. Without access to environmental information and without exercising their right to participate in permitting procedures, citizens will not have access to justice in environmental matters.

10. Without access to environmental information and without exercising their right to participate in permitting procedures, citizens will not have access to justice in environmental matters.

11. Taking into account the risks posed by the Russian Federation on the territory of Ukraine, a separate focus should be placed on information about the radiation background level at Ukrainian nuclear power plants, which since the beginning of the full-scale war are completely unavailable to citizens. It is neither freely accessible, nor it is possible to get it via information requests.

12. In the light of the foregoing, and by Article 15 of the Aarhus Convention, we appeal to the Committee to consider the facts of Ukraine's non-compliance with the Aarhus Convention outlined in the notice and to provide the Government of Ukraine with recommendations on restoring the violated rights of Ukrainian citizens.

VI. Use of domestic remedies

13. In official messages, administrators of information refer to the military threat and Art. 8 of the Law of Ukraine "On the Legal Regime of Martial Law", Decree of the President of Ukraine dated February 24, 2022, No. 64 "On the Introduction of Martial Law in Ukraine", as well as Resolution of the Cabinet of Ministers of Ukraine dated March 12, 2022, No. 263 on "Certain issues of ensuring the functioning of information-communication systems, electronic communication systems, and public electronic registers in the conditions of martial law",

where it is provided that administrators of information (including on environmental matters) can take the following additional measures:

- (a) place state information resources and public electronic registers on cloud resources and in data processing centers located outside of Ukraine, and register domain names in the gov.ua domain for such placement;
- (b) create additional backup copies of state information resources and public electronic registers in compliance with the requirements for integrity, confidentiality, and availability established for such resources;
- (c) store backup copies of state information resources and public electronic registers in encrypted form, in particular outside of Ukraine, on cloud resources and/or certain data media, and/or in an isolated segment of data processing centers in compliance with the requirements for integrity, confidentiality, and availability established for such resources;
- (d) to stop and limit the operation of information, information and communication, and electronic communication systems, as well as public electronic registers.

VII. Use of other international procedures

14. Not requested

VIII. Confidentiality

15. Not requested

IX. Supporting documentation (copies, not originals)

16. See attached Annexes

X. Signature

Ukraine, 30 April 2024



XI. Sending the communication

1. Send the communication by email to the Secretary to the Compliance Committee at the following address: aarhus.compliance@un.org
2. In the exceptional case that you do not receive an acknowledgement of receipt from the secretariat by email within one week, send the communication by registered post to the following address: Secretary to the Aarhus Convention Compliance Committee United

Nations Economic Commission for Europe Environment Division Palais des Nations
CH-1211 Geneva 10, Switzerland