

Compliance Committee to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters (Aarhus Convention)

**First progress review of the implementation of decision VII/8h
on compliance by Hungary with its
obligations under the Convention**

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I. Introduction

1. At its seventh session (Geneva, Switzerland, 18-21 October 2021), the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision VII/8h on compliance by Hungary with its obligations under the Convention (see ECE/MP.PP/2021/2/Add.1).

II. Summary of follow-up

2. At its seventy-third meeting (Geneva, 13–16 December 2021), the Committee held an open session to provide guidance on preparing the plan of action that each Party subject to a decision or request of the Meeting of the Parties was requested to submit by 1 July 2022. Representatives of the Party concerned and the observer Greenpeace took part in the open session. Though invited, the communicants did not take part in that session.

3. On 7 February 2022, on the Committee's instructions, the secretariat sent an information note and a template for its plan of action to the Party concerned to assist it to prepare its plan of action.

4. At its seventy-fourth meeting (Geneva, 15–16 March 2022), the Committee held a further open session on the preparation of Parties' plans of action. The purpose of the session was to answer any specific questions from Parties regarding the format or content of their plan of action. A representative of the Party concerned took part in the open session. Though invited, neither the communicants nor the registered observer took part in that session.

5. Through paragraph 3 (a) of decision VII/8h, the Meeting of the Parties requested the Party concerned to submit a plan of action, including a time schedule, to the Committee by 1 July 2022 regarding the implementation of the recommendations in that decision.

6. The Party concerned did not submit its plan of action by the deadline of 1 July 2022 set by the Meeting of the Parties in paragraph 3 (a) of decision VII/8h.

7. On 26 July 2022, the secretariat, on the Committee's instructions, requested the Party concerned to provide an update on the submission of its outstanding plan of action.

8. On 29 July 2022, the Party concerned submitted an update on its plan of action.

9. On 14 October 2022, the secretariat wrote to the Party concerned to inform it that, as of that date, the Committee had still not received its plan of action due on 1 July 2022, and invited the Party concerned to submit it as soon as possible.

10. On 3 December 2022, the secretariat, on the Committee's instructions, invited the Party concerned to attend an open session at its seventy-seventh meeting (Geneva, 13–16 December 2022) to discuss its outstanding plan of action.

11. On 7 December 2022, the Party concerned informed the Committee that it would be unable to attend the meeting due to ongoing challenges in its public administration.

12. On 12 December 2022, the secretariat wrote to the Party concerned to provide a detailed explanation of the Committee's follow-up procedure on decision VII/8h and to invite the Party concerned to reconsider its decision not to attend the Committee's open session.

13. On 13 December 2022, the Party concerned reiterated its inability to participate in the open session at the Committee's seventy-seventh meeting for the reasons stated above. It also stated that a detailed explanation of the reasons why, in its view, Hungary was in full compliance with the Convention had been provided to the Committee in the summer of 2021 and that, if that was not the case, it would resubmit the explanation.

14. On 21 December 2022, the Party concerned submitted a detailed explanation as to why, in its view, it was in full compliance with the Convention and accordingly did not need to submit the plan of action that the Meeting of the Parties, through paragraph 3 (a) of decision VII/8h, had requested it to submit by 1 July 2022.

15. On 14 March 2023, the Committee invited the communicants and observers to submit any comments they might have on the detailed explanation of the Party concerned. No comments were received.

16. At its seventy-eighth meeting (Geneva, 21-24 March 2023), the Committee considered the detailed explanation provided by the Party concerned and requested the secretariat to inform the Party concerned that the information provided did not address the content of the Committee's findings on communication ACCC/C/2014/105 (Hungary) nor of the recommendation made to the Party concerned by the Meeting of the Parties through paragraph 2 of decision VII/8h.

17. On 18 September 2023, the secretariat wrote to the Party concerned to inform it that the Committee had considered the detailed explanation provided by the Party concerned on 21 December 2022 and concluded that it did not address the content of the Committee's findings on communication ACCC/C/2014/105 (Hungary) nor of the recommendation in paragraph 2 of decision VII/8h. In its letter, the secretariat also reminded the Party concerned of the upcoming deadline of 1 October 2023 for the Party concerned's first progress report on decision VII/8h.

18. The Party concerned did not submit its first progress report by the deadline of 1 October 2023 set by the Meeting of the Parties in paragraph 3 (b) of decision VII/8h.

19. On 6 December 2023, the Committee invited the Party concerned to attend an open session at its eighty-first meeting (Geneva, 12-15 December 2023) to discuss its outstanding first progress report on decision VII/8h. No reply was received from the Party concerned.

20. On 6 February 2024, the Committee invited the Party concerned to attend an open session on 21 February 2024, at its eighty-second meeting (Geneva, 20-23 February 2024), to discuss its outstanding plan of action, due on 1 July 2022, and its outstanding first progress report on decision VII/8h, due on 1 October 2023.

21. On 20 February 2024, the Party concerned submitted its plan of action on decision VII/8h. It also stated that it would not participate in the open session on decision VII/8h to be held at the Committee's eighty-second meeting.

22. On 26 February 2024, the Committee invited communicants and observers to submit any comments they might have on the Party concerned's plan of action. No comments were received.

23. After taking into account the information received, the Committee prepared its first progress review on decision VII/8h and adopted it through its electronic decision-making procedure on 7 June 2024. The Committee thereafter requested the secretariat to forward the first progress review to the Party concerned, the communicant of communication ACCC/C/2014/105 and registered observer.

III. Considerations and evaluation by the Committee

24. In order to fulfil the requirement of paragraph 2 of decision VII/8h, Hungary will need to take the necessary legislative, regulatory, administrative and practical measures to ensure that "assessments analyses" of policies relating to the environment prepared under articles 43 (1) and 44 (2) of the Environmental Code, or any legislation that supersedes them, are made available to the public so that the public can effectively exercise its opportunities to participate under article 7, final sentence, of the Convention.

General observations

25. The Committee expresses its serious concern at the lack of constructive engagement demonstrated by the Party concerned in the Committee's follow-up on decision VII/8h to date.

26. The Committee welcomes the Party concerned's plan of action, while regretting that it was submitted more than a year and a half after the deadline of 1 July 2022 set by the Meeting of the Parties in paragraph 3 (a) of decision VII/8h.

27. The Committee points out that the Party concerned's first progress report, due on 1 October 2023, remains outstanding. The Committee reminds the Party concerned that this deadline was set by the Meeting of the Parties through paragraph 3 (b) of decision VII/8h and was therefore not a flexible deadline.

28. The Committee moreover expresses its serious disappointment that the Party concerned failed to take up the Committee's invitation to attend the open sessions scheduled at the Committee's seventy-seventh, eighty-first and eighty-second meetings to discuss the Party concerned's progress to implement decision VII/8h, and that the Party concerned failed to respond at all to the Committee's invitation to its eighty-first and eighty-second meetings. The Committee reminds the Party concerned that, through paragraph 3 (d) of decision VII/8h, the Meeting of the Parties has explicitly requested the Party concerned to "participate (either in person or by virtual means) in the meetings of the Committee at which the progress of the Party concerned in implementing the above recommendation is to be considered".

29. The Committee underlines the importance of the Party concerned actively engaging in the Committee's follow-up procedure on decision VII/8h, especially given that less than four months now remain before the final deadline of 1 October 2024 for the Party concerned to demonstrate that it has fulfilled paragraph 2 of decision VII/8h. Should the Party concerned fail to demonstrate that it has fully met paragraph 2 of decision VII/8h by that deadline, the Committee will have to report to the Meeting of the Parties that the Party concerned remains in non-compliance. The Party concerned will then be subject to a further follow-up procedure before the Committee during the next intersessional period also.

Paragraph 2 of decision VII/8h

30. In its plan of action, the Party concerned states that "the scope of the Committee's findings on communication ACCC/C/2014/105 (Hungary) as well as recommendation in paragraph 2 of decision VII/8h was already addressed in Hungary in 2016 according to the provisions of the Decree No. 12/2016 (29.04) of the Prime Minister Office."¹

31. The Party concerned has not however put before the Committee any provision of Decree No. 12/2016 that requires that the "assessments analyses" of policies relating to the environment prepared under articles 43 (1) and 44 (2) of the Environmental Code must be made available to the public.

32. In its plan of action, the Party concerned also states that:

"Based on provisions of para 43 (1) of the [Environmental Code], a special document, assessment analysis, should be prepared by the developer according to para 44 point (2) item a) of the [Environmental Code] and to be submitted to the National Environmental Protection Council, requesting its opinion on the environmental issues of the proposal...the proposals under review are published on [the National Environmental Protection Council's] website (<https://www.oktt.hu>), indeed, its analyses are also made available for the public not only for a limited period in time but basically there is a collection of all time reviews."²

33. From its review of articles 43 and 44 of the Environmental Code,³ the Committee understands that the "analyses" that the Party concerned is referring to in the above paragraph is in fact the "evaluation" that the National Environmental Protection Council (NEPC) is required, under article 44 (2), to prepare within 30 days of receiving the drafts and accompanying "assessment analysis". NEPC's evaluation is therefore an entirely different document to the "assessment analysis" that the proponent of the draft proposal is required to prepare under article 43 (1) and submit to the NEPC for its evaluation.

¹ Party concerned's plan of action, p. 1.

² Party concerned's plan of action, p. 2.

³ Communication, annex 12.

34. The Committee points out that the recommendation in paragraph 2 of decision VII/8h requests the Party concerned to take the necessary measures to ensure that “assessment analyses” prepared under article 43 (1) of the Environmental Code are made available to the public.

35. The Committee therefore regrets that the Party concerned has not to date provided any evidence to the Committee that it has taken any measures to ensure that “assessment analyses” prepared under article 43 (1) are made available to the public.

36. In the absence of any such evidence, the Committee concludes that the Party concerned has not yet met the requirement of paragraph 2 of decision VII/8h.

37. The Committee urges the Party concerned to fully and actively engage with the Committee’s follow-up procedure on decision VII/8h and to take the measures necessary to implement paragraph 2 of decision VII/8h as soon as possible in order that the Party concerned can demonstrate to the Committee, in its final progress report due on 1 October 2024, that it is no longer in non-compliance.

IV. Conclusions

38. The Committee welcomes the Party concerned’s plan of action, while regretting that it was submitted more than a year and a half after the deadline of 1 July 2022 set by the Meeting of the Parties in paragraph 3 (a) of decision VII/8h.

39. The Committee points out that the Party concerned’s first progress report, due on 1 October 2023, remains outstanding. The Committee reminds the Party concerned that this deadline was set by the Meeting of the Parties through paragraph 3 (b) of decision VII/8h and was therefore not a flexible deadline. The Committee requests the Party concerned to submit its outstanding first progress report as a matter of urgency.

40. The Committee considers that the Party concerned has not yet met the requirement of paragraph 2 of decision VII/8h.

41. The Committee calls on the Party concerned to take the necessary measures to implement paragraph 2 of decision VII/8h as soon as possible and to provide, together with its final progress report due on 1 October 2024, the text of the measures it has by that date taken to fulfil paragraph 2 of decision VII/8h, together with an English translation thereof.

42. The Committee reminds the Party concerned that all measures necessary to implement decision VII/8h must be completed by, and reported upon, no later than 1 October 2024, as that will be the final opportunity for the Party concerned to demonstrate to the Committee that it has fully met the requirements of decision VII/8h.
