

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/8n
on compliance by the Republic of Moldova 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/8n on compliance by the Republic of Moldova 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 communicant of communication ACCC/C/2017/147 took part in the open session.

3. On 12 December 2021, the communicant of communication ACCC/C/2017/147 submitted a shadow national implementation report to the Committee regarding the implementation of the Convention in the Party concerned.

4. On 8 February 2022, on the Committee's instructions, the secretariat sent an information note and a template to the Party concerned to assist it to prepare its plan of action.

5. 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. The communicant of communication ACCC/C/2017/147 took part in the open session. Though invited, the Party concerned did not take part in that session.

6. On 4 July 2022, the Party concerned submitted its plan of action.

7. On 5 July 2022, the secretariat forwarded the Party concerned's plan of action to the communicant of communication ACCC/C/2017/147, inviting its comments by 2 August 2022.

8. Also on 5 July 2022, the communicant of communication ACCC/C/2017/147 submitted its comments on the plan of action.

9. On 3 December 2022, the secretariat wrote to the Party concerned to inform it that, having reviewed its plan of action, the Committee had concluded that the plan of action submitted by the Republic of Moldova appeared to be only partially appropriate. The Committee invited the Party concerned to attend an open session at its seventy-seventh meeting (Geneva, 13–16 December 2022) to discuss its plan of action.

10. On 8 December 2022, the secretariat wrote to the Party concerned, providing it with a summary of the Committee's concerns about its plan of action.

11. At its seventy-seventh meeting, the Committee held an open session to discuss the Party concerned's plan of action with the participation of the Party concerned and the communicant of communication ACCC/C/2017/147.

12. On 11 October 2023, the Party concerned submitted its first progress report on decision VII/8n, ten days after the deadline of 1 October 2023.

13. On 13 October 2023, the secretariat forwarded the Party concerned's first progress report to the communicant of communication ACCC/C/2017/147, inviting its comments by 10 November 2023.

14. On 10 November 2023, the communicant of communication ACCC/C/2017/147 submitted its comments on the Party concerned's progress report.

15. The Committee prepared its first progress review, taking into account the information received, and adopted it through its electronic decision-making procedure on 26 June 2024.

The Committee thereafter requested the secretariat to forward the first progress review to the Republic of Moldova and the communicant of communication ACCC/C/2017/147.

III. Considerations and evaluation by the Committee

16. In order to fulfil the requirements of paragraph 2 of decision VII/8n, the Republic of Moldova will need to provide the Committee with evidence that:

- (a) It has taken the necessary legislative, regulatory and other measures to establish a clear, transparent and consistent schedule of charges under article 4 (8) of the Convention for the supply of hydrometeorological information upon request, including by clearly setting out how any charges should be calculated, and to ensure that all charges, including total charges, are reasonable and properly justified;
- (b) It has provided training to officials of public authorities handling requests for access to hydrometeorological information to ensure that any charges are no more than reasonable, that they are calculated in a clear, transparent and consistent way and are properly justified.

General observations

17. The Committee welcomes the Party concerned's first progress report, while noting that it was submitted after the deadline of 1 October 2023 set by the Meeting of the Parties.

18. The Committee appreciates the overall level of engagement that the Party concerned has demonstrated so far in the Committee's follow-up on decision VII/8n, including the significant efforts made to amend its legislative framework on the supply of hydrometeorological information by the State Hydrometeorological Service.

19. The Committee, however, regrets that the Party concerned has failed to provide, together with its first progress report, the text, including an English translation, of the legislative measures it has to date taken to implement the recommendations in decision VII/8n. In particular, the Committee is referring to (a) the draft Law on Meteorological and Hydrological Activity; and (b) Government Decision no. 494/2023 for the approval of the Methodology for calculating tariffs for services rendered against payment and the Regulation on the manner of formation and use of revenues collected by the State Hydrometeorological Service (Government Decision no. 494/2023). The Committee reminds the Party concerned that, in order for the Committee to carry out its work to review the Party concerned's implementation of decision VII/8n effectively, the Committee must have before it the text of all legislative or other measures taken by the Party concerned to implement the recommendations in the decision.

Paragraph 2 (a) of decision VII/8n

Draft Law on Meteorological and Hydrological Activity

20. In its progress review the Party concerned states that, on 26 July 2023, the Cabinet of Ministers provided a favourable opinion on the draft Law on Meteorological and Hydrological Activity and that, as a next step, it will be reviewed and approved in the Parliament.¹

21. The Committee notes that article 24 of the draft Law provides that:

Depending on the level of processing, meteorological and hydrological information is classified into the following categories:

- (a) Primary meteorological and hydrological information – information on meteorological and hydrological conditions and phenomena, as well as climate

¹ Party concerned's first progress report, 11 October 2023, pp. 3-4.

changes, obtained as a result of the final verification and validation of raw meteorological and hydrological data;

(b) Specialized meteorological and hydrological information – information on meteorological and hydrological conditions and phenomena, as well as climate changes, which require the application of additional effort in obtaining, processing, analyzing and synthesizing them and are provided on the basis of service contracts in accordance with requests users.²

22. Article 25 (2) of the draft Law provides that:

The interested public has [...] free access to the meteorological data included in the National Meteorological Data Fund in the case of selecting the data in person, or for a fee in the case of selecting the data by the staff of the national meteorology and hydrology authority.³

23. The Committee recalls that, in its findings on communication ACCC/C/2017/147 (Republic of Moldova), it held:

The Committee underlines that any charges for supplying environmental information ... while they may include a contribution towards the material costs for supplying the environmental information, they must not include the cost of the initial production, collection or acquisition of the information itself or any other indirect cost. Thus, information held by public authorities should be provided for free or at no more than the reasonable material costs of supplying the requested information (e.g. postage or copying costs).⁴

24. In line with its above findings, the Committee makes clear that imposing a charge on members of the public for accessing information already contained in the National Meteorological Data Fund if they are assisted by the staff of the State Hydrometeorological Service, as envisaged in article 25 (2) of the draft Law on Meteorological and Hydrological Activity, is not in line with article 4 (8) of the Convention. In order to comply with article 4 (8) of the Convention, information held by public authorities should, as a rule, be provided free of charge. If a charge is applied, this must not include the cost of the initial production, collection or acquisition of the information itself nor any other indirect cost and should be no more than the reasonable material cost of supplying the information requested, such as postage or copying costs.

25. Based on the foregoing, the Committee considers that, if article 25 (2) of the draft Law on Meteorological and Hydrological Activity were to be adopted in its proposed form, it would not fulfil paragraph 2 (a) of decision VII/8n.

Government Decision no. 494/2023

26. In its first progress report, the Party concerned states that, on 12 July 2023, the Cabinet of Ministers approved Government Decision no. 494/2023.⁵

27. Annex 1 of Government Decision no. 494/2023 provides the methodology for calculating the rates for the services provided by the State Hydrometeorological Service.⁶

28. Annex 1, point 4, stipulates that the cost structure of the services provided includes direct costs, indirect costs and the costs of operational activities. The lists of “direct costs”, “indirect costs” and “costs of operational activities” set out in points 7-9 of annex 1 include, inter alia, staff costs (including health and social insurance premiums), training costs, costs

² See <https://particip.gov.md/ro/document/stages/anunt-cu-privire-la-initierea-consultarilor-publice-asupra-proiectului-de-lege-cu-privire-la-activitatea-meteorologica-si-hidrologica/10544>.

³ Ibid.

⁴ ECE/MP.PP/C.1/2021/30, para. 89.

⁵ Party concerned's first progress report, 11 October 2023, p. 4.

⁶ See Annex 1, point 2, available at: https://www.legis.md/cautare/getResults?doc_id=138347&lang=ro.

for information technology, maintenance, servicing and repair, costs of security services and the cost for renting of premises.⁷

29. Annex 2 of Government Decision no. 494/2023 lists the types of information to be provided by the State Hydrometeorological Service upon payment of a charge, as well as the charge for each type of information. The list includes various types of “primary” and “specialized” meteorological, agrometeorological and hydrological information.

30. Based on the limited information before the Committee, it is not clear whether the Party concerned intends the charges in annex 1 and 2 of Government Decision no. 494/2023 to be applied when members of the public request access to environmental information already held by the State Hydrometeorological Service. The Committee, however, notes the recent example cited by the communicant of communication ACCC/C/2017/147 in which the communicant was informed by the State Hydrometeorological Service that access to the environmental information it had requested would cost 922 lei (approximately 48 euro), even though the requested environmental information was already held by the State Hydrometeorological Service and was of small enough volume to fit on two A4 pages.⁸ In the light of this example, it appears to the Committee that, whether or not it was the government drafters’ intention, the charges in annex 1 and 2 of Government Decision no. 494/2023 are in practice being applied to requests by the public for access to environmental information already held by the State Hydrometeorological Service.

31. The Committee once again draws the attention of the Party concerned to paragraph 89 of its findings on communication ACCC/C/2017/147 (Republic of Moldova) (see para. 23 above).

32. In keeping with those findings, the Committee make clear that a charge for access to environmental information already held by the State Hydrometeorological Service which includes any costs not limited to the material costs of supplying the requested information (e.g. postage or copying costs) is not in line article 4 (8) of the Convention.

33. Based on the foregoing, the Committee considers that the Party concerned has not yet demonstrated that it has met the requirements of paragraph 2 (a) of decision VII/8n and, rather, appears to have taken a step in the wrong direction with regard to its compliance with article 4 (8) of the Convention.

Paragraph 2 (b) of decision VII/8n

34. The Party concerned reports that, between August and September 2022, staff of the State Hydrometeorological Service underwent a training course focused on the application of the methodology for service provision and the calculation of tariffs for climate and hydrometeorological services, as well as for the provision of hydrometeorological information classified as environmental information.⁹

35. The Committee notes that, until the Party concerned has addressed the recommendation in paragraph 2 (a) of decision VII/8n, it will not be in a position to meet the recommendation in paragraph 2 (b) of the decision either. The Committee also reminds the Party concerned that, in order to demonstrate that it has fulfilled paragraph 2 (b) of decision VII/8n, the Party concerned will need to provide detailed information about the trainings it has conducted, including (a) their specific content and programme; and (b) the number of staff who have attended the trainings.

36. Given the foregoing, the Committee considers that the Party concerned has not yet demonstrated that it has fulfilled the requirements of paragraph 2 (b) of decision VII/8n.

⁷ See Annex 1, points 7-9, available at: https://www.legis.md/cautare/getResults?doc_id=138347&lang=ro.

⁸ Comments by communicant of communication ACCC/C/2017/147 on Party concerned’s first progress report, 5 November 2023, p. 1.

⁹ Party concerned’s first progress report, 11 October 2023, p. 4.

IV. Conclusions

37. The Committee welcomes the Party concerned's first progress report on decision VII/8n, while noting that it was submitted after the deadline of 1 October 2023 set by the Meeting of the Parties in decision VII/8n.

38. The Committee welcomes the significant efforts made by the Party concerned to amend its legal framework on the supply of hydrometeorological information by the State Hydrometeorological Service. The Committee however regrets that it appears that, in the process, the Party concerned has taken a step in the wrong direction with regard to its compliance with article 4 (8) of the Convention. The Committee considers that the Party concerned has therefore not yet demonstrated that it has met the requirements of paragraph 2 (a) of decision VII/8n.

39. Since the Party concerned has not yet met the requirements in paragraph 2 (a), it has not yet met the requirements in paragraph 2 (b) of decision VII/8n either.

40. The Committee invites the Party concerned, as soon as possible and at the latest together with its final progress report, to provide the text, together with an English translation thereof, of all legislative, regulatory, administrative and other measures that it has by then taken to fulfil paragraph 2 (a) of decision VII/8n.

41. With respect to paragraph 2 (b) of decision VII/8n, the Committee invites the Party concerned in its final progress report to provide information on the trainings it has by then conducted for officials of public authorities handling requests for access to hydrometeorological information to ensure that any charges are no more than reasonable, that they are calculated in a clear, transparent and consistent way and are properly justified, including (a) the specific content and programme of the trainings, and (b) the number of staff of the total staff of the State Hydrometeorological Service who have attended the trainings.

42. The Committee reminds the Party concerned that all measures necessary to implement decision VII/8n 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/8n.
