

# Final Progress report on follow up to the findings in case ACCC/M/2021/4 (European Union) on State aid and access to justice

*1 October 2024*

In the spirit of finding an agreement, the Meeting of the Parties decided, by consensus, to postpone the decision-making on the Committee's findings and recommendations on communication ACCC/C/2015/128 (European Union) to the next ordinary session of the Meeting of the Parties to be held in 2025. The Meeting of Parties stressed that this exceptional decision shall in no way establish a practice under the Convention. The Meeting of the Parties also requested the Committee to review any developments that have taken place regarding the matter, and to report to the Meeting of the Parties accordingly.

The request of the Meeting of the Parties and any follow up to the request is available at: [https://unece.org/env/pp/cc/accc.m.2021.4\\_european-union](https://unece.org/env/pp/cc/accc.m.2021.4_european-union)

The Committee's findings on communication ACCC/C/2015/128 (European Union) are available at: <https://unece.org/env/pp/cc/communications-from-the-public>

In accordance with the Committee's procedure for follow-up during the current intersessional period, the European Union has been invited by the Committee to submit a plan of action, including a time schedule, to the Committee by 1 July 2022 regarding the implementation of the recommendation in paragraph 131 of the Committee's findings in communication ACCC/C/2015/128 (European Union). On 1 July 2022, the European Union submitted a draft action plan, which was updated based on the Compliance Committee's comments and its final version was agreed on 31 July 2022. The action plan, as well as the information about the EU's efforts to continuously monitor and ensure compliance with the Aarhus Convention, are available on the website of the European Commission ([europa.eu](http://europa.eu)). The European Union issued its first progress report on 26 September 2023. Observers provided comments on this report, which were published on 26 and 27 October 2023. Additionally, the ACCC released its first progress review on 19 February 2024. In the present document, due on 1 October 2024, the European Union submits its final progress report, outlining the steps made towards delivering on the action plan.



	<p>the concerns expressed and findings adopted by the Aarhus Convention Compliance Committee in case ACCC/C/2015/128 as regards state aid on 17 March 2021. The findings call on the EU to “take the necessary legislative, regulatory and other measures [...]”. The Commission is carrying out the necessary process in accordance with the EU Better Regulation rules, aiming to present to the ACCC new measures, ahead of the Meeting of the Parties in 2025.</p> <p>To avoid repetitions, this progress report does not discuss the progress that has already been outlined in the action plan itself. Instead, it will be limited to the steps that have been taken since.</p>
<p>Outline of the progress made and the steps taken to implement the proposed measures</p>	<p>The Commission Communication indicated that the Commission would analyse the impacts, including costs and benefits, of possible measures according to the Better Regulation rules. This would include scrutinising: (i) the instrument to be amended; (ii) the scope of State aid decisions subject to review; (iii) the duration of the procedures, in particular in cases where the implementation of the State aid decision is urgent and (iv) the resource implications for the EU institutions and bodies concerned.</p> <p>The Commission followed up on its Communication with a Call for Evidence<sup>2</sup> and a Targeted Consultation<sup>3</sup>.</p> <p>On 30 May 2024, the Commission published the Call for Evidence to inform the public and stakeholders about the ACCC’s findings and the Commission’s aim to address such findings within the EU legal landscape, in line with the special characteristics of State aid. The public was given the opportunity to provide feedback and participate effectively in the consultation process. The Call for Evidence ran until the 27 June 2024. The contributions received can be found under the following link <a href="https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14276-EU-environmental-and-State-aid-law-access-to-justice-in-relation-to-State-aid-decisions-regulation-/feedback_en?p_id=32894325">https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14276-EU-environmental-and-State-aid-law-access-to-justice-in-relation-to-State-aid-decisions-regulation-/feedback_en?p_id=32894325</a> and are summarized in Annex 1 to this document.</p>

<sup>2</sup> [EU environmental and State aid law – access to justice in relation to State aid decisions \(regulation\) \(europa.eu\)](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14276-EU-environmental-and-State-aid-law-access-to-justice-in-relation-to-State-aid-decisions-regulation/)

<sup>3</sup> [Targeted consultation - European Commission \(europa.eu\)](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/14276-EU-environmental-and-State-aid-law-access-to-justice-in-relation-to-State-aid-decisions-regulation-/feedback_en?p_id=32894325)

	<p>Additionally, on 1 July 2024, the Commission launched a Targeted Consultation to gather feedback from the business community and public authorities dealing with State aid and environmental matters on the impact of the proposed new procedure for access to justice in relation to specific decisions on State aid measures that allegedly contravene EU environmental law. This targeted consultation remained open until 6 September 2024 (few extensions were given until 13 September 2024). The answers received are summarized in Annex 2.</p> <p>In accordance with the Better Regulation rules, the feedback from both the Call for Evidence and the Targeted Consultation will inform the Commission’s further assessment, which will be published as a Staff Working Document and will be accompanying the proposed measures.</p>
Actors involved	<p>The Directorate General for Competition and Directorate General for Environment of the Commission have been working on the Commission Communication and the subsequent consultation processes, in consultation with other relevant Commission services. To facilitate and support this process, the Commission has established an Inter-Service Steering Group among the different services of the Commission, which meets regularly and contributes to the assessment.</p>
Final date by when implementation of recommendation will be completed	<p>As detailed in the Commission Communication, any adjustment of the existing framework should be designed to both preserve the efficiency of State aid control and complement in the most efficient manner the possibilities for review at national level, while simultaneously taking into account the EU’s obligations under the Aarhus Convention. This can be done only after a careful assessment of the implications of the possible adjustments identified by the Commission for all stakeholders concerned. Therefore, a thorough consultation process involving the public, but also the business community, public authorities and EU institutions is paramount. Following extensive consultations on possible options to implement the Committee’s recommendations, the European Commission is now analysing the results and will use the outcome to inform its decision on the new measures to be taken. The Commission is mindful of the Committee’s conclusions and the upcoming Meeting of the Parties in 2025.</p>