



**Economic and Social  
Council**

Distr.  
GENERAL

ECE/MP.PP/C.1/2005/4  
4 July 2005

ORIGINAL: ENGLISH

---

**ECONOMIC COMMISSION FOR EUROPE**

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

**REPORT ON THE EIGHTH MEETING**

1. The eighth meeting of the Compliance Committee took place in Almaty from 22 to 25 May 2005. Seven of its members were present. Representatives of the Governments of Armenia and Kazakhstan, as well as a number of non-governmental organizations (NGOs), participated as observers. Several individual observers were also present.
2. The meeting was opened by the Chairman, Mr. Veit Koester.

**I. ADOPTION OF THE AGENDA**

3. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2005/3.

**II. RELEVANT DEVELOPMENTS  
SINCE THE PREVIOUS MEETING OF THE COMMITTEE**

4. The secretariat informed the Committee of the discussions on implementation and reporting that had taken place during the Espoo Convention Working Group on Environmental Impact Assessment, in April 2005 in Geneva. The Chairperson of the Implementation Committee under the Espoo Convention had reported on that Committee's work and changes in its composition. She had also outlined the changes to the reporting format under the Convention as proposed by the Implementation Committee. More information was available in the report of the meeting (MP.EIA/WG.1/2005/2).

5. The secretariat also informed the Committee about the preparatory work on compliance and rules of procedures undertaken by the Working Group on Pollutant Release and Transfer Registers (PRTR). The Working Group was in the process of developing proposals for the mechanism and the rules of procedure for submission to the first Meeting of the Parties of the Protocol on PRTR (ECE/MP.PP/AC.1/2005/2, paras. 14-21).

6. The Chairman informed the Committee about the work of the new Compliance Committee under the Cartagena Protocol on Biosafety of which he was also the Chairman.

7. The secretariat further informed the Committee about the discussions that had taken place during the Round Table on Promoting Compliance with Environmental Treaties, held by the Geneva Environment Network on 20 April 2005, in Geneva. Experts from the United Nations, Framework Convention on Climate Change, the United Nations Environment Programme, including from the secretariat of the Convention on International Trade in Endangered Species (CITES), and the University of Geneva were among the speakers. Mr. Koester, who had also participated, had presented the experience of the Aarhus Convention Compliance Committee.

### **III. OTHER MATTERS ARISING FROM THE PREVIOUS MEETING**

8. The Committee discussed several issues that had been raised at some of its previous meetings. The matters discussed pertained to the Committee's modus operandi and are described in paragraphs 29-33 below.

### **IV. SUBMISSIONS BY PARTIES CONCERNING OTHER PARTIES**

9. The secretariat informed the Committee that no submissions had been made by Parties concerning compliance by other Parties.

### **V. SUBMISSIONS BY PARTIES CONCERNING THEIR OWN COMPLIANCE**

10. No submissions had been made by Parties concerning problems with their own compliance.

### **VI. REFERRALS BY THE SECRETARIAT**

11. No referrals had been made by the secretariat.

### **VII. COMMUNICATIONS FROM MEMBERS OF THE PUBLIC**

12. As agreed at its seventh meeting, the Committee entered into discussions on the substance of communications ACCC/C/2004/06 and ACCC/C/2004/08.

13. The Chairman began by reminding all those present, which included both the Parties concerned and the communicants in the two cases, of how the discussions would be conducted as

well as the process of finalizing the findings (see MP.PP/C.1/2004/8, paras.17-18). He also reminded the Meeting, including the observers, that any member of the Committee having declared a conflict of interest with a particular submission or communication would take on the status of observer, and would therefore be excluded from the preparation of draft findings, measures or recommendations. Mr. Ni declared a possible conflict of interest with regard to communication ACCC/C/2004/06.

14. The Committee confirmed that both communications were admissible and expressed its appreciation to the Governments of Armenia and Kazakhstan for their willingness to assist it in the discussions on the substance of the cases.

15. In general, the discussions on the communications proceeded in accordance with the form decided on by the Committee at its fifth meeting (MP.PP/C.1/2004/6, para. 40) and included interventions by the parties concerned and observers.

16. The discussion on communication ACCC/C/2004/06 took place with the participation of representatives of the Government of Kazakhstan, one of the communicants, Mrs. Gatina, and her lawyer.

17. The discussion on communication ACCC/C/2004/08 took place with the participation of representatives of the Government of Armenia and one of the communicants, the Center for Regional Development / Transparency International, Armenia.

18. Following the discussion of the communications, the Committee proceeded to prepare draft findings and draft recommendations in closed session (decision I/7, annex, para. 33). It was agreed that the draft findings and draft recommendations would be sent to the Party concerned and the communicant inviting them to comment (decision I/7, annex, para. 34). The Committee would take into account any comments when finalizing the draft findings and draft recommendations. The timing of the commenting period would be determined by the Chairman in consultation with the secretariat. The modalities for the commenting procedure discussed at the Committee's sixth meeting would apply (MP.PP/C.1/2004/8, para. 36).

19. As regards communication ACCC/C/2005/11, which had on a preliminary basis been determined to be admissible at the Committee's previous meeting, no response had yet been received from the Party concerned. The deadline for response was 10 August 2005. The Committee agreed to enter into discussions on the substance of the communication at its ninth meeting, which would take place in September or October 2005 in Geneva. It requested the secretariat to notify the Party concerned and the communicant of this and of their right to participate (decision I/7, annex, para. 32).

20. Two new communications had been received since the previous meeting. Communication ACCC/C/2005/12 had been submitted by the Civil Society Development Centre of Vlora, Albania, regarding compliance by Albania with the provisions of article 3, paragraph 2; article 6, paragraph 2, and article 7. The communicant alleged that the Albanian authorities had failed to comply with the requirements of the Convention to properly notify on a timely basis and consult the public concerned in a decision-making process concerning planning of an industrial park comprising, inter alia, oil and gas pipelines, installations for the storage of petroleum, three thermal power plants and a refinery in the protected area near the lagoon of Narta, Albania. The

communicant also maintained that the Party had failed to make appropriate provisions for public participation in accordance with article 7 of the Convention.

21. Communication ACCC/C/2005/13 had been submitted by the Hungarian NGO Clean Air Action Group, concerning compliance by Hungary with the provisions of articles 6, paragraphs 4 and 7, and article 9, paragraphs 2 and 3. The communicant alleged that the Hungarian Act XII/2005 on the amendment of Act CXXVIII/2003 on Public Interest and Development of the Expressway Network in the Republic of Hungary, went further in reducing public participation and access to justice opportunities as compared to the original Act, challenged in communication ACCC/C/2004/04. The amendments to the Act had been referred to but were not considered in the Committee's findings and recommendations on ACCC/C/2004/04.

22. In accordance with its procedures, the Committee agreed upon the following distribution of the communications to curators:

- ACCC/C/2005/12: Ms. Svitlana Kravchenko;
- ACCC/C/2005/13: Mr. Vadim Ni.

23. The Committee discussed each of the cases in turn, addressing the following points:

- Whether the information contained in the data sheet was accurate or needed modifying;
- Whether, on preliminary examination, the communication appeared to fulfil the admissibility criteria; and
- Which points should be raised with the Party concerned.

24. The Committee determined on a preliminary basis that both communications were admissible but did not, at this stage, draw any conclusions on the compliance issues raised in them. The Committee also agreed on a set of issues to be raised with either the Party concerned or the communicant.

#### **VIII. OTHER INFORMATION RECEIVED BY THE COMMITTEE RELEVANT TO POSSIBLE CASES OF NON-COMPLIANCE**

25. The Committee had received no additional information relevant to possible cases of non-compliance.

#### **IX. REPORT TO THE MEETING OF THE PARTIES**

26. The Chairman presented the outline of his report to be presented to the second meeting of the Parties on 26 May 2005. The oral report would generally follow the Committee's written report to the Meeting of the Parties (ECE/MP.PP/2005/13) with the main emphasis put, however, on some issues not addressed in the written report, such as lessons learnt and the possibility of additional measures being available to the Committee during the intersessional period.

## **X. COMPOSITION OF THE COMMITTEE**

27. Since the seventh meeting, two members of the Committee, Ms. Elizabeth France and Mr. Laurent Mermet, had notified the Chairman and the secretariat that they could no longer perform their duties as members of the Committee. In accordance with paragraph 10 of the annex to decision I/7, the Bureau had put forward the candidatures of Mr. Gerhard Loibl, a national of Austria, and Mr. Jonas Ebbesson, a national of Sweden, to serve for the remainder of the term. Both candidates had been nominated by the Netherlands on behalf of the European Union, and in the case of Mr. Loibl also by Austria. The proposed substitution would take effect from the end of the second meeting of the Parties. The Committee discussed the matter and approved the Bureau's proposal.

28. The Committee expressed its gratitude to the departing members for their excellent service and their important contribution to its work.

## **XI. MODUS OPERANDI**

29. The Committee discussed the need to extend the scope of decision-making by electronic mail, agreed at the Committee's fourth meeting (MP.PP/C.1/2004/4, paras. 39 and 40). It agreed that the procedure could be applied to finalizing draft findings, conclusions and recommendations, following the discussion on a submission, communication or referral at a meeting, in particular where the next meeting was not taking place for a long period of time. It also agreed that, in order to be able to ensure a smooth operation of the Committee, the procedure could be used for electing the Chairperson and Vice-Chairperson of the Committee. In such a case, the functions of the Chairperson of initiating and coordinating electronic decision-making would be performed by the secretariat.

30. The Committee revisited the issue of giving general guidance as to how specific provisions of the Convention could or should be interpreted (MP.PP/C.1/2003/2, para. 41). It felt that the provision of general guidance was within the mandate of the Committee, as outlined in paragraph 14 of the annex to decision I/7. The Committee was prepared to undertake such a task if it identified a particular need.

31. The Committee considered whether there was at this stage a need to elaborate any specific materials, such as a glossary or plain language guidance on the work of the Committee, as discussed at its second meeting (MP.PP/C.1/2003/4, para. 13). Taking into consideration that no request for a glossary had been made, the Committee decided not to undertake such a task at this stage. It also decided that non-governmental organizations were in a better position to elaborate any additional plain language guidance material about the compliance mechanism and how to make communications, should they consider it necessary.

32. The Committee discussed how to handle the information provided in the reports on implementation submitted by non-governmental organizations, and available as information materials for the Meeting of the Parties. It decided that it could take such information into consideration as general information received outside the scope of submissions, referrals and

communications, in particular in the context of review of compliance with the reporting requirements (MP.PP/C.1/2005/2).

33. With regard to other 'general' information submitted to it outside the scope of specific communications, referrals and submissions, such as research articles and positions, the Committee decided that if such information was already available in the public domain, it would make reference to it, when taking it into account. To ensure transparency of the Committee's considerations, other non-confidential information provided directly to the Committee and considered in the context of its work should be made available on its website.

## **XII. PROGRAMME OF WORK AND CALENDAR OF MEETINGS**

34. The Committee confirmed that it would hold its ninth meeting in Geneva, in September or October 2005. The exact dates of the meeting would be confirmed at a later stage, taking into account the availability of the incoming new members of the Committee.

## **XIII. ADOPTION OF THE REPORT AND CLOSURE OF THE MEETING**

35. The Committee adopted the draft report prepared by the Chairman and the secretariat, and requested the secretariat in cooperation with the Chairman to finalize it. The Chairman then closed the meeting.

-----