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## 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

**Forty-eighth meeting**  
Geneva, 24–27 March 2015

## Report of the Compliance Committee on its forty-eighth meeting

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## **Introduction**

1. The forty-eighth meeting of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) was held from 24 to 27 March 2015 in Geneva, Switzerland.

### **A. Attendance**

2. All the Committee members were present throughout the meeting. Members having declared a conflict of interest with respect to particular cases did not participate in closed sessions deliberating on those cases.

3. Representatives of the Governments of Luxembourg and Ukraine took part in the open session on 24 March 2015 on the review of developments regarding communications. A representative of the United Kingdom of Great Britain and Northern Ireland also took part in that session by audio conference.

4. Representatives of the European Commission, representing the European Union, and the Governments of Bulgaria, Croatia and the United Kingdom, together with the communicants of communications ACCC/C/2010/54 (European Union) and ACCC/C/2011/58 (Bulgaria), took part by audio conference in the session on 24 March 2015 concerning the review of the implementation of decisions of the Meeting of the Parties on compliance.

5. The communicants of communications ACCC/C/2013/81 (Sweden) and ACCC/C/2014/98 (Lithuania) and representatives of the Governments of Sweden and Lithuania took part in the discussions in open session on 25 and 26 March 2015 concerning those communications.

6. Representatives of the Governments of Belgium, Hungary, Luxembourg, Poland, Spain and Ukraine took part in the open session on 27 March 2015 on preliminary admissibility. Representatives of the Governments of Germany, Ireland, Poland and the United Kingdom took part in that session by audio conference.

7. The communicants, or representatives thereof, of communications PRE/ACCC/C/2014/107 (Ireland); PRE/ACCC/C/2014/121 (European Union (EU)); PRE/ACCC/C/2014/122 (Spain); PRE/ACCC/C/2014/123 (EU); PRE/ACCC/C/2014/124 (Netherlands) and PRE/ACCC/C/2015/125 (Germany) took part by audio conference in the open session on 27 March 2015 on the preliminary admissibility of those communications.

8. Also participating, as observers during the open sessions of the meeting, were members of the public and representatives of a number of non-governmental organizations (NGOs), including: the Alliance of the Austrian Environmental Movement (OEKOBUERO) (Austria) and Earthjustice (Switzerland), which participated on behalf of the European ECO Forum; Green Network (Belarus); Centre for Civic Initiatives (Lithuania); FLIS (Sweden); and RES Platform (Turkey). Other observers included Public Health Partner (Denmark) and LITGRID (Lithuania).

### **B. Organizational matters**

9. The Chair of the Compliance Committee, Mr. Jonas Ebbesson, opened the meeting.

10. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2015/1.<sup>1</sup>

## **I. Submissions by Parties, referrals by the secretariat and requests from the Meeting of the Parties regarding compliance<sup>2</sup>**

11. The Chair reported that no new submissions had been made by Parties concerning compliance by other Parties.

12. The Chair announced that no submissions had been made by Parties concerning problems with their own compliance since the Committee's last meeting.

13. The secretariat acknowledged that it had made no referrals since the Committee's last meeting.

14. With respect to request ACCC/M/2014/1 (former Yugoslav Republic of Macedonia), the Chair reported that, at the Committee's request, on 5 March 2015 the United Nations Economic Commission for Europe (ECE) Executive Secretary had sent a letter to the Party concerned requesting the submission of its national implementation report for the fourth cycle by 5 June 2015.

## **II. Communications from members of the public**

15. The Committee agreed that the deadline for receipt of new communications to be considered for preliminary admissibility at its forty-ninth meeting (Geneva, 30 June–3 July 2015) would be 26 May 2015.

16. Concerning communication ACCC/C/2008/32 (EU), the Chair reported that, following the release in January 2015 of the judgement of the Court of Justice of the EU in case C-404/12 P,<sup>3</sup> the communicant had provided comments on that judgement on 23 February 2015 and the Party concerned had thereafter been invited to provide comments. On 18 March 2015 the Party concerned had requested an extension until 2 May 2015 to comment. The Committee agreed to grant that extension and to discuss the communication at its forty-ninth meeting.

17. With regard to communication ACCC/C/2010/55 (United Kingdom), the Chair reported that the decision of the Upper Information Tribunal had been issued on 16 February 2015 and he had thereafter requested the secretariat to ask the communicant whether it intended to withdraw or amend its communication in the light of that decision. On 23 March 2015, the communicant had asked for a short extension to reply to the Committee's question in order to first make certain that the decision would not be appealed. The Committee agreed to grant a short extension to the communicant and to consider how to proceed with the communication at its forty-ninth meeting.

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<sup>1</sup> Documentation for the meeting is available on the meeting web page (<http://www.unece.org/index.php?id=36724#/>).

<sup>2</sup> Information and documentation concerning individual requests, submissions, communications and referrals are made available on dedicated web pages, accessible from <http://www.unece.org/env/pp/cc.html>.

<sup>3</sup> *Council and Commission v. Stichting Natuur en Milieu and Pesticide Action Network Europe* (13 January 2015), available from <http://curia.europa.eu/juris/liste.jsf?language=en&jur=C,T,F&num=404/12&td=ALL+#>,

18. Concerning communication ACCC/C/2012/69 (Romania), the Chair reported that the draft findings had been sent to the parties for comment on 23 February 2015, with a deadline of 23 March 2015. On the afternoon of 23 March 2015, the Party concerned had requested an extension of two months to comment on the grounds that the Rosia Montana mining project was very important for the Party concerned and it would take time for all the public authorities concerned to review the draft findings. On 26 March 2015, the Party concerned had sent a further letter repeating its request for an extension, for the same reasons. The Committee considered the Party concerned's requests and agreed that they were unacceptable. It was recalled that one month was the Committee's standard time frame for parties to comment on draft findings. The Committee also noted that in general all Parties were required to consult internally, and thus there were no special circumstances raised in the present case that justified an extension. However, the Committee agreed on an exceptional basis to grant both the Party concerned and the communicants a two-week extension to comment. The Committee stressed that, after the expiry of the two-week deadline, it would finalize and adopt its findings through its electronic decision-making procedure, whether or not any comments from the parties had been received.

19. Regarding communication ACCC/C/2012/71 (Czech Republic), the Committee continued its deliberations in closed session and agreed to continue them at its forty-ninth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant. Since the forty-sixth meeting (Geneva, 22–25 September 2014), when the communication had last been deliberated upon, a colleague in the law firm of Committee member Mr. Pavel Černý had begun to act for several NGOs involved in legal proceedings regarding the permit for the Temelin nuclear power plant. Mr. Černý therefore declared a conflict of interest from that date going forward and did not take part in the deliberations. The Committee agreed that Mr. Černý would henceforth participate in the proceedings of the communication as an observer only, and would not participate in any deliberations on the communication in closed sessions.

20. Concerning communication ACCC/C/2012/76 (Bulgaria), the Chair reported that, during the editing process on the draft findings after the forty-seventh meeting (Geneva, 16–19 December 2014), he had identified some substantive points requiring the Committee's further attention. The Committee agreed to continue its deliberations on the draft findings at its forty-ninth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

21. The Committee entered into open discussion on communication ACCC/C/2013/81 (Sweden) with the participation of the Party concerned and the communicants. It confirmed that the communication was admissible. At the end of the discussion, the parties were invited to address some additional questions in writing.

22. At its forty-seventh meeting, the Committee had completed its draft findings in closed session with regard to communications ACCC/C/2013/85 and ACCC/C/2013/86 (United Kingdom), save for some minor editing points which it had agreed to finalize using its electronic decision-making procedure. The draft findings had then been sent for comment to the Party concerned and the communicants on 23 February 2015. The communicant of communication ACCC/C/2013/86 had provided comments on 9 March 2015 and the Party concerned had provided comments on 23 March 2015. No comments had been received from the communicant of communication ACCC/C/2013/85. Taking into account the comments received, the Committee revised its draft findings and instructed the secretariat to send the revised draft findings to the parties for their brief comments. The Committee agreed that following the commenting period, it would take into account any comments received and then adopt its findings using its electronic decision-making procedure. It instructed the secretariat, once the findings were adopted, to prepare official

versions of the adopted findings as a formal pre-session document to its fiftieth meeting (Geneva, 6-9 October 2015), and to ensure their availability in the three official languages of ECE. Once adopted, the secretariat would send the findings to the Party concerned and the communicant.

23. With respect to communication ACCC/C/2013/87 (Ukraine), on 6 March 2015 the ECE Executive Secretary had written to the Ministry of Ecology and Natural Resources of Ukraine, at the Committee's request, expressing the Committee's concern at the failure of the Party concerned to respond to the communication by the deadline of 26 December 2013, or since that time, and requesting the Party to provide its response prior to the Committee's forty-eighth meeting. The letter had also informed the Party that if no response was received by the date stated in the reminder letter, the Committee would schedule the discussion of the communication notwithstanding the Party's lack of response. No response had been received. A representative of the Party concerned presented a statement during the opening session of the meeting, affirming that Ukraine fully recognized its commitments under the Convention and was making all possible efforts in order to ensure the submission of its response to the communication. The communication concerned a project for the construction of a biofuel and waste processing plant in the city of Donetsk, which was currently under occupation by illegal armed groups. The Government was, however, currently unable to prepare its response due to not having possession of the documentation necessary for its preparation. It asked the Committee to postpone its consideration of the communication. The Committee agreed to invite the communicant to comment on the Party concerned's statement and, if the Party concerned had still not submitted its response to the communication by the date of its forty-ninth meeting, to consider how to proceed at that meeting.

24. Concerning communication ACCC/C/2013/88 (Kazakhstan), the Chair reported that on 6 March 2015 the ECE Executive Secretary had written to the Minister of Foreign Affairs of Kazakhstan, at the Committee's request, to, among others, inform him of the Committee's concern that Kazakhstan had chosen not to participate in the discussion of the communication held at the forty-seventh meeting. The Committee's questions to the Party concerned and the communicant following the discussion had been attached to the Executive Secretary's letter, with a deadline for the parties to respond to the questions by 1 April 2015. As the deadline for a response had not yet passed, the Committee agreed to defer its deliberations until its forty-ninth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent for comment to the Party concerned and the communicant.

25. With respect to communication ACCC/C/2013/89 (Slovakia), the Committee agreed to defer its deliberations until its forty-ninth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent to the Party concerned and the communicant for their comments.

26. In relation to communication ACCC/C/2013/90 (United Kingdom), the Committee had agreed at the forty-seventh meeting that it should be forwarded to the Party concerned for a response; however, due to an issue with the documentation supporting the communication, it had not yet been forwarded. The communication would be forwarded to the Party concerned shortly after the meeting.

27. With respect to communication ACCC/C/2013/91 (United Kingdom), the Committee agreed to defer its deliberations until its forty-ninth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent to the Party concerned and the communicant for their comments.

28. With respect to communication ACCC/C/2013/92 (Germany), on 27 January 2015 the Party concerned had provided its response to the Committee's questions, on 14 February 2015 the communicant had provided comments on the Party concerned's

response to the questions, and on 5 March 2015 the Party concerned had provided comments on the communicant's comments. The Committee agreed to defer its deliberations on its draft findings until its forty-ninth meeting.

29. Concerning communication ACCC/C/2013/93 (Norway), the Committee continued its deliberations in closed session and agreed to continue them at its forty-ninth meeting, with a view to completing its draft findings and, as appropriate, recommendations, which once agreed would be sent to the Party concerned and the communicant for their comments.

30. In relation to communication ACCC/C/2013/94 (Denmark), the Committee recalled that the communication had been suspended at its forty-second meeting (Geneva, 24–27 September 2013) pending the outcome of the communicant's ongoing court proceedings. By letter of 12 December 2014, the communicant had informed the Committee that a decision in its domestic proceeding was expected in January 2015. At the Committee's invitation, on 19 March 2015 the communicant had provided comments on the decision of the Copenhagen Court dated 6 March 2015. The communicant asked the Committee to continue its suspension of the communication pending the outcome of the proceedings before the Eastern High Court. The Committee agreed to continue the suspension of the communication. It would ask the communicant to indicate when the decision of the Eastern High Court was expected, and decide how to proceed at its forty-ninth meeting.

31. Concerning communication ACCC/C/2013/96 (EU), the Party concerned had provided its response to the communication on 12 December 2014 and the attachments to that response on 7 January 2015. On 17 February 2015, the communicant had provided a decision of the European Ombudsman concerning one of its two pending complaints. In the light of the submissions made by the Party concerned that the communicant had failed to exhaust all available domestic remedies (pages 5 and 6 of the Party's response to the communication), the Committee requested the secretariat to ask the communicant to comment on the Party concerned's submissions. The Committee provisionally scheduled that it would discuss the substance of the communication at its forty-ninth meeting.

32. The Committee entered into open discussion on communication ACCC/C/2013/98 (Lithuania), with the participation of the Party concerned and the communicants. It confirmed that communication ACCC/C/2013/98 was admissible. At the end of the discussion, the parties were invited to address some additional questions in writing.

33. Concerning communication ACCC/C/2014/99 (Spain), the Party concerned had provided its response to the communication on time on 5 February 2015. The Committee provisionally scheduled that it would discuss the substance of the communication at its forty-ninth meeting.

34. Regarding communication ACCC/C/2014/100 (United Kingdom), the Party concerned had provided its response to the communication on time on 9 February 2015 and the communicant had provided comments on that response on 17 March 2015. In the light of the submissions made by the Party concerned that one of the communicants, London Borough of Hillingdon, was a public authority within the definition of article 2, paragraph 2, of the Convention, and thus was not a member of the public within the scope of article 2, paragraph 4 (pages 3–8 of the Party's response to the communication), the Committee requested the secretariat to write to the communicants to invite them to give their view on the matter. The Committee agreed that it would consider how to proceed at its forty-ninth meeting.

35. In relation to communication ACCC/C/2014/101 (EU), the Party concerned had provided its response to the communication on 25 February 2015, after the deadline of 9 February 2015, and the communicant had provided comments on that response on 17 March 2015. In the light of the submissions made by the Party concerned that one of the communicants, London Borough of Hillingdon, was a public authority within the definition

of article 2, paragraph 2, of the Convention, and thus was not a member of the public or public concerned within the scope of article 2, paragraph 4 (page 3 of the Party's response to the communication), the Committee requested the secretariat to write to the communicants to invite them to give their view on the matter. The Committee agreed that it would consider how to proceed at its forty-ninth meeting.

36. Concerning communication ACCC/C/2014/102 (Belarus), the communication had been forwarded to the Party concerned on 19 February 2015 for its response by 19 July 2015. The Committee noted that the deadline for the response had not yet expired and the Party's response had not yet been received.

37. Regarding communication ACCC/C/2014/104 (Netherlands), the Party concerned had provided its response to the communication on time on 3 February 2015 and the communicant had provided comments on the Party concerned's response on 17 March 2015. The Committee provisionally scheduled that it would discuss the substance of the communication at its forty-ninth meeting.

38. Concerning communication ACCC/C/2014/105 (Hungary), the Party concerned had provided its response to the communication on 23 March 2015, after the deadline of 1 March 2015. The Committee expressed its concern that the Party concerned had failed to meet the five-month deadline set out in the annex to decision 1/7 of the Meeting of the Parties for responding to the communication. The Committee provisionally scheduled that it would discuss the substance of the communication at its forty-ninth meeting.

39. With respect to communication ACCC/C/2014/106 (Czech Republic), the communication had been forwarded to the Party concerned on 27 February 2015 for its response by 27 July 2015. The Committee noted that the deadline for the response had not yet expired and the Party's response had not yet been received.

40. Communication ACCC/C/2014/111 (Belgium), which had been found admissible at the forty-seventh meeting, had not yet been forwarded to the Party concerned, as only hard copies of the communication and its attachments had been received. The secretariat reported that the communicant had been requested to provide electronic versions of its attachments, but that they had not yet been received. The Committee requested the secretariat to send the communicant a reminder and to forward the communication, once received, to the Party concerned for its response.

41. Communication ACCC/C/2014/112 (Ireland) had been found admissible at the forty-seventh meeting; however, due to an issue with the supporting documentation, it had not been forwarded to the Party concerned for its response. The communication would be forwarded to the Party concerned shortly after the meeting.

42. Communication ACCC/C/2014/113 (Ireland) had been found admissible at the forty-seventh meeting; however, due to an issue with the supporting documentation, it had not been forwarded to the Party concerned for its response. The communication would be forwarded to the Party concerned shortly after the meeting.

43. Regarding communication ACCC/C/2014/115 (United Kingdom), which had been found admissible at the forty-seventh meeting, due to a minor issue with the supporting documentation, it had not been forwarded to the Party concerned. The communication would be forwarded for a response shortly after the meeting.

44. With respect to communications received since 16 November 2014 (the deadline for receipt of communications for the forty-seventh meeting), the Chair and Vice-Chair reported that they had held a telephone conference on 24 February 2015 to determine which of the materials received by the secretariat between 17 November 2014 and 24 February 2015 (the deadline for receipt of communications for the forty-eighth meeting) should be considered as communications to be forwarded to the Committee for consideration as to

their preliminary admissibility. During the telephone conference, the Chair and the Vice-Chair had decided that communications PRE/ACCC/C/2014/118 (Ukraine), PRE/ACCC/C/2014/119 (Poland), PRE/ACCC/C/2014/120 (Slovakia), PRE/ACCC/C/2014/121 (EU), PRE/ACCC/C/2014/122 (Spain), PRE/ACCC/C/2014/123 (EU), PRE/ACCC/C/2014/124 (Netherlands) and PRE/ACCC/C/2015/125 (Germany) should be forwarded to the Committee for consideration of their preliminary admissibility at the forty-eighth meeting. They had also requested the secretariat to post those communications on the Committee's website, together with the four communications which had previously been deferred for consideration of their preliminary admissibility.

45. In accordance with the above, the Committee considered the preliminary admissibility of four communications deferred from its forty-seventh meeting and eight communications received since that meeting (as set out below). It agreed to defer its preliminary determination of admissibility of one communications to its forty-ninth meeting (also set out below).

46. Communication ACCC/C/2013/107 (Ireland), submitted on 11 November 2013 by a member of the public, Mr. Kieran Cummins, alleged non-compliance with articles 6 and 7 of the Convention with respect to decision-making on the extension of a licence. At its forty-sixth meeting, the Committee had agreed to defer its preliminary determination of admissibility to its forty-seventh meeting and to ask the communicant to further substantiate its communication. On 19 December 2014, the Committee had received the communicant's response which had apparently been sent to the secretariat before the deadline of 17 December 2014, but had not been received due to a technical issue. Given that the response had reached the Committee only on the same day it had been scheduled to consider the communication's preliminary admissibility, the Committee had agreed to defer consideration of the communication to its forty-eighth meeting. After hearing the views of the Party concerned and the communicant (by audio conference), as well as those of the observers present, the Committee determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Ms. Elena Fasoli was confirmed as curator for the case.

47. Communication ACCC/C/2014/108 (United Kingdom) had been submitted on 22 January 2014 by a member of the public, Mr. Alan Rundle. It alleged non-compliance with article 3, paragraph 8, article 4, paragraph 2, article 6, paragraphs 3 and 4, article 7 and article 9, paragraph 5, of the Convention with respect to urban development. Mr. Ion Diaconu had provisionally been designated as curator for the case. At its forty-sixth meeting, the Committee had agreed to defer its preliminary determination of admissibility to its forty-seventh meeting in order to request the communicant to further substantiate his communication. At the forty-seventh meeting, the secretariat had informed the Committee that the communicant had indicated he was preparing a revised version of his communication and the Committee had agreed to defer its preliminary determination of admissibility to its forty-eighth meeting. The Committee then heard the views of the representatives of the Party concerned via audio conference, as well as those of the observers present. Taking into consideration those statements, as well as the written statements provided by both the Party concerned and the communicant in advance of the session, the Committee determined that the communication was inadmissible under paragraph 20 (d) in conjunction with paragraph 19 of the annex to decision I/7. The communication was found to lack corroborating information, by failing to provide relevant information to explain how the allegations it contained amounted to breaches of the provisions of the Convention in a manner that would make it possible for the Committee to duly examine them.

48. Communication ACCC/C/2014/109 (Hungary) had been submitted on 5 February 2014 by a member of the public, Mr. Ferenc Tibor Zsák. The communication alleged non-compliance with article 3, paragraph 8, and articles 8 and 9 of the Convention. At its forty-

fifth meeting (Maastricht, the Netherlands, 29 June–2 July 2014), the Committee had agreed to defer its preliminary determination of admissibility in order to seek further clarification from the communicant. Mr. Alistair McGlone had provisionally been designated as curator for the case. At its forty-sixth meeting, the Committee had agreed to defer its preliminary determination of admissibility to its forty-seventh meeting and to send a reminder to the communicant, informing him that if his response was not received his communication might be found inadmissible. On 9 December 2014, the communicant had submitted a revised version of his communication. At its forty-seventh meeting, the Committee had agreed to defer its preliminary determination of admissibility to its forty-eighth meeting. At the meeting, the Committee heard the views of the representatives of the Party concerned and the observers present. It determined that the communication was admissible on a preliminary basis with respect to the allegations concerning article 3, paragraph 8, of the Convention. However, all the other allegations were inadmissible under paragraph 20 (d) in conjunction with paragraph 19 of the annex to decision I/7, for lack of corroborating information, since the communication failed to link those allegations to the provisions of the Convention and to provide relevant information that would enable the Committee to duly examine them. The Committee requested the secretariat to forward the communication to the Party concerned for its response on the allegation concerning article 3, paragraph 8, of the Convention. Mr. McGlone was confirmed as curator.

49. Communication ACCC/C/2014/117 (Belgium, Luxembourg and the Netherlands), submitted on 5 September 2014 by the NGO “Coalition Nature”, alleged non-compliance with article 3, paragraphs 1 and 7, of the Convention for failing to ensure that the Benelux Union complied with the provisions of the Convention. At its forty-seventh meeting, after hearing the views of the Parties concerned and the observers present, the Committee had agreed to defer its preliminary determination of admissibility to its forty-eighth meeting in order to request the communicant to further substantiate its communication. Ms. Fasoli had provisionally been designated as curator for the case. By letter of 19 February 2015, the communicant had been requested to further substantiate its communication by 16 March 2015. No response had been received within the requested time frame. By letter of 27 March 2015, the communicant had stated that it did not intend to provide examples to further substantiate its communication, as it considered that its communication concerned a general failure to implement article 3, paragraphs 1 and 7, of the Convention. The Committee heard the views of the Party concerned and the observers present. Thereafter, it determined that the communication was inadmissible under paragraph 20 (d) in conjunction with paragraph 19 of the annex to decision I/7, for lack of corroborating information, since the communicant had failed to provide relevant information that would enable the Committee to duly examine the alleged breaches.

50. Communication ACCC/C/2014/118 (Ukraine) had been submitted on 18 November 2014 by the NGO Environment-People-Law. The communication alleged non-compliance with articles 3, 4, 6 and 9 of the Convention with respect to a production-sharing agreement for the Yuzivska oil field. After hearing the views of the Party concerned and the observers present, the Committee determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Ms. Dana Zhandaeva was confirmed as curator for the case.

51. Communication PRE/ACCC/C/2014/119 (Poland) had been submitted on 28 November 2014 by the NGO “Frank Bold Foundation”. The communication alleged non-compliance with articles 8 and 9 of the Convention with respect to the development plan for Lubuskie Province. After hearing the views of the Party concerned (by audio conference) and the observers present, as well as taking into account the written comments received from the Party concerned, the Committee agreed to defer its determination of preliminary admissibility and to request the secretariat to ask the communicant to clarify which aspects, if any, of its communication were not subject to the ongoing proceedings

before the Supreme Court. Mr. Diaconu was provisionally confirmed as curator for the case. Mr. Černý and Mr. Jerzy Jendroška declared conflicts of interest, due to relationships with the communicant and/or the communication. The Committee agreed that Mr. Černý and Mr. Jendroška would henceforth participate in the proceedings of the communication as observers only, and would not participate in any deliberations on the communication in closed sessions.

52. Communication ACCC/C/2014/120 (Slovakia) had been submitted on 8 December 2014 by the NGO Via Iuris. The communication alleged non-compliance with article 8 of the Convention with regard to the Forest Act and non-compliance with article 9 in relation to access to justice to enforce rules defining public participation in the preparation of generally binding legal regulations. As the Party concerned was unable to participate via audio conference owing to technical issues, and had only been able to send its comments by e-mail during the session, the Committee agreed to defer its preliminary determination of admissibility, which it would undertake through its electronic decision-making procedure. Mr. Alexander Kodjabashev was provisionally confirmed as curator for the case.

53. Communication ACCC/C/2014/121 (EU), submitted on 12 December 2014 by the NGO "IIDMA", alleged non-compliance with article 6 of the Convention with respect to the provisions of the EU Industrial Emissions Directive<sup>4</sup> on the reconsideration or update of an installation's operating conditions. After hearing the views of the communicant (by audio conference) and the observers present, and taking into account the written comments received from the Party concerned, the Committee determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Mr. Jendroška was confirmed as curator for the case.

54. Communication ACCC/C/2014/122 (Spain), submitted on 12 December 2014 by IIDMA, alleged non-compliance with article 6 of the Convention with respect to the First Transitional Provision of Law 16/2002, of 1 July 2002, on Integrated Prevention and Pollution Control. After hearing the views of the communicant (by audio conference) and the observers present, the Committee determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Ms. Haghine Hakhverdyan was confirmed as curator for the case.

55. Communication ACCC/C/2014/123 (EU), submitted on 22 December 2014 by the NGO Justice and Environment, alleged non-compliance with articles 2, 3 and 9 of the Convention owing to the alleged failure to fully transpose article 9 of the Convention into EU law, and in particular on matters other than EU internal procedures and in the draft directive on access to justice in environmental matters. After hearing the views of the communicant and the United Kingdom (by audio conference) and the observers present, the Committee determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Mr. McGlone was confirmed as curator for the case. Mr. Černý declared a conflict of interest, due to a past involvement in the substance of the communication. The Committee agreed that Mr. Černý would henceforth participate in the proceedings of the communication as an observer only and would not participate in any deliberations on the communication in closed sessions.

56. Communication ACCC/C/2014/124 (Netherlands), submitted on 22 December 2014 by the NGO "Stichting Greenpeace Netherlands", alleged non-compliance with articles 2 and 4 of the Convention with respect to access to information regarding two proposed coal-fired power plants in Groningen. After hearing the views of the communicant (by audio

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<sup>4</sup> Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions (integrated pollution prevention and control).

conference) and the observers present, the Committee determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned. Ms. Fasoli was confirmed as curator for the case.

57. Communication ACCC/C/2015/125 (Germany), submitted on 19 February 2015 by the Altrip Municipality, alleged non-compliance with articles 6 and 9 of the Convention in general, and in particular with respect to the proposed construction of a flood retention scheme on the Upper Rhine. Mr. Černý was provisionally confirmed as curator for the case. The Committee heard the views of the representatives of the Party concerned and the communicant via audio conference, as well as those of the observers present, and took into account the written comments received from the Party concerned, the EU and the United Kingdom. Thereafter, the Committee determined that the communication was inadmissible under paragraph 20 (d) of the annex to decision I/7, as not being compatible with the provisions of the Convention and decision I/7. It agreed that it would provide its reasoning as to why the communication was found inadmissible in the report of its forty-ninth meeting.

### III. Reporting requirements

58. The Committee noted that, at its fifth session (Maastricht, the Netherlands, 30 June–1 July 2014), the Meeting of the Parties had urged those Parties that had not yet submitted their national implementation reports — i.e., Portugal, the former Yugoslav Republic of Macedonia and Turkmenistan — to do so by 1 October 2014.<sup>5</sup> To date, only Portugal had submitted its report.

### IV. Follow-up on specific cases of non-compliance

59. The Committee reviewed developments since its forty-seventh meeting with respect to decisions V/9a–n, and in particular the first progress reports received from the Parties concerned on the implementation of those decisions, together with the comments received from communicants and observers on those reports.

60. With respect to decision V/9a (Armenia), the Party concerned had submitted its first progress report on 26 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicants of communications ACCC/C/2004/8, ACCC/C/2009/43 and ACCC/C/2011/62, as well as to an observer who had taken part in the follow-up on decision IV/9a, for their comments by 23 January 2015. No comments had been received. The Committee then discussed the first progress report on decision V/9a in open session, taking into account the comments received from the observers present. Thereafter, the Committee prepared its first progress review of decision V/9a in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned, the communicants and the observer.

61. With respect to decision V/9b (Austria), the Party concerned had submitted its first progress report on 22 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicants of communications ACCC/C/2010/48 and ACCC/C/2011/63 for their comments by 23 January 2015. The communicant of communication ACCC/C/2011/63 had provided comments on 19 January 2015 and the communicant of communication ACCC/C/2010/48 on 23 January 2015. The Committee

<sup>5</sup> See ECE/MP.PP/2014/2, para. 26.

discussed the first progress report on decision V/9b in open session, taking into account the comments received from the communicants and from the observers present. It then prepared its first progress review of decision V/9b in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned and the communicants.

62. Regarding decision V/9c (Belarus), the Party concerned had submitted its first progress report on 24 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicants of communications ACCC/C/2009/37 and ACCC/C/2009/44 for comments by 23 January 2015. The communicants had provided joint comments on 23 January 2015. The Committee discussed the first progress report on decision V/9c in open session, taking into account the comments received from the communicants and from the observers present. It then prepared its first progress review of decision V/9c in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Minister of Ecology of the Party concerned and the communicants.

63. With respect to decision V/9d (Bulgaria), on 31 December 2014, before the Party concerned had submitted its report, the communicant of communication ACCC/C/2011/58 had provided comments on the Party concerned's implementation of the decision. The Party concerned had subsequently submitted its first progress report on decision V/9d on 6 January 2015, after the 31 December deadline. The communicant had then revised its comments, to take into account the progress report, and had resubmitted them on 30 January 2015. The Committee discussed the report in open session with the participation by audio conference of the Party concerned and the communicant, taking into account also comments received from the observers present. It then prepared its first progress review of decision V/9d in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned and the communicant.

64. Regarding decision V/9e (Croatia), the Party concerned had submitted its first progress report on 30 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicant of communication ACCC/C/2012/66 for comment by 23 January 2015. No comments had been received from the communicant. The Committee discussed the first progress report on decision V/9e in open session, with the participation by audio conference of the Party concerned, taking into account also the comments received from the observers present. It then prepared its first progress review of decision V/9e in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned and the communicant.

65. Regarding decision V/9f (Czech Republic), the Party concerned had submitted its first progress report on 30 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicants of communications ACCC/C/2010/50 and ACCC/C/2012/70 for comments by 23 January 2015. The communicant of communication ACCC/C/2012/70 had provided comments on 22 January 2015. No comments had been received from the communicant of communication ACCC/C/2010/50. The Committee discussed the first progress report on decision V/9f in open session, taking into account the written comments received as well as those from the observers present. It then prepared its first progress review of decision V/9f in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned and the communicants.

66. With respect to decision V/9g (EU), the Party concerned had submitted its first progress report on 18 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicant of communication ACCC/C/2010/54 for comments by 23 January 2015. The communicant had provided comments on 12 January 2015. The Committee discussed the first progress report on decision V/9g in open session with the participation by audio conference of the Party concerned and the communicant. It then prepared its first progress review of decision V/9g in closed session, taking into account the comments received from the Party concerned, the communicant and the observers present at the meeting. The Committee adopted its first progress review, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned and the communicant.

67. With respect to decision V/9h (Germany), the Party concerned had submitted its first progress report on 16 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicants of communication ACCC/C/2008/31 for comments by 23 January 2015. No comments had been received. The Committee discussed the first progress report on decision V/9h in open session, taking into account the comments received from the observers present. It then prepared its first progress review of decision V/9h in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned and the communicant.

68. Regarding decision V/9i (Kazakhstan), the Party concerned had submitted its first progress report on 30 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicants of communications ACCC/C/2004/1, ACCC/C/2004/2, ACCC/C/2004/6 and ACCC/C/2011/59 for comments by 23 January 2015. Due to a technical failure, the message to the communicant of communication ACCC/C/2004/6 had not been received and it had been resent on 7 January 2015 with a short extension of the commenting time. The communicant of ACCC/C/2004/1 and ACCC/C/2004/2 had provided comments on 29 January 2015 and the communicant of communication ACCC/C/2004/6 on 2 February 2015. No other comments had been received. The Committee discussed the first progress report on decision V/9i in open session, taking into account the comments received from the communicants and the observers present. It then prepared its first progress review of decision V/9i in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Minister of Foreign Affairs of the Party concerned and the communicants.

69. With respect to decision V/9j (Romania), the Party concerned had submitted its first progress report on 29 January 2015, after the deadline of 31 December 2014. On the same day, the progress report had been forwarded to the communicants of communication ACCC/C/2010/51 for comments by 19 February 2015. No comments had been received. The Committee expressed its concern that the first progress report on decision V/9j had been received so long after the deadline. It discussed the report in open session, taking into account the comments received from the observers present. It then prepared its first progress review of decision V/9j in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned and the communicants.

70. With respect to decision V/9k (Spain), the Party concerned had submitted its first progress report on 31 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicants of communications ACCC/C/2008/24 and ACCC/C/2009/36 for comment by 23 January 2015. No comments had been received. The Committee discussed the first progress report on decision V/9k in open session, taking into

account the comments received from observers present. It then prepared its first progress review of decision V/9k in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned and the communicants.

71. Regarding decision V/9l (Turkmenistan), the Party concerned had submitted its first progress report on 1 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicant of communication ACCC/C/2004/5 for comment by 23 January 2015. No comments had been received. The Committee discussed the first progress report on decision V/9l in open session, taking into account the comments received from observers present. It then prepared its first progress review of decision V/9l in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Minister of Foreign Affairs of the Party concerned and the communicant.

72. With respect to decision V/9m (Ukraine), the Party concerned had submitted its first progress report on 9 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicant of communication ACCC/C/2004/3 for comment by 23 January 2015. No comments had been received. The Committee discussed the first progress report on decision V/9m in open session, taking into account the comments received from observers present. It then prepared its first progress review of decision V/9m in closed session and adopted it, save for some minor editorial changes to be agreed through the electronic decision-making process. The secretariat was requested to forward the first progress review, once adopted, to the Minister of Foreign Affairs of the Party concerned and the communicant.

73. Regarding decision V/9n (United Kingdom), the Party concerned had submitted its first progress report on 29 December 2014 on time. On 2 January 2015, the report had been forwarded to the communicants of communications ACCC/C/2008/23, ACCC/C/2008/27, ACCC/C/2008/33, ACCC/C/2010/53, ACCC/C/2011/64, ACCC/C/2012/65 and ACCC/C/2012/68, as well as to the observers that had participated in the follow-up on decision IV/9i, for comments by 23 January 2015. Comments had been received from the communicants of communications ACCC/C/2010/53, ACCC/C/2012/68 and an observer (CAJE) on 22 January 2015. On 23 January 2015, comments had been received from the communicant of communication ACCC/C/2008/33 (Client Earth) and two observers, a law firm (Richard Buxton) and an observer whose name was withheld on request. Comments had been received from a communicant of communication ACCC/C/2008/33 (Robert Latimer) on 5, 23, 25 and 28 January 2015. The Committee discussed the first progress report on decision V/9n in open session, taking into account the written comments received from the communicants and the observers, as well as from the observers present at the meeting. It then prepared its first progress review of decision V/9n in closed session and provisionally adopted it, save for some further editorial changes to be agreed through the electronic decision-making procedure. The secretariat was requested to forward the first progress review, once adopted, to the Party concerned, the communicants and the registered observers.

## **V. Programme of work and calendar of meetings**

74. The Committee agreed to hold its forty-ninth, fiftieth and fifty-first meetings in Geneva from 30 June to 3 July 2015, 6 to 9 October 2015 and 15 to 18 December 2015, respectively.

## **VI. Other business**

### **A. Modus operandi and the draft revised Guide to the Compliance Committee**

75. The Chair presented the draft procedure for new communications (version dated 17 March 2015) prepared by the Chair with the assistance of the secretariat. The draft took into account the comments received from the EU and its member States on 26 February 2015 on the earlier draft (version dated 18 September 2014), as well as the comments received at the forty-sixth and forty-seventh meetings.

76. The Committee revised the draft procedure taking into account the comments received at the meeting and adopted it. It agreed to publish the procedure for new communications on its website prior to its forty-ninth meeting. It also agreed that, for the efficient functioning of the Committee, those aspects of the procedure that had already been agreed would have immediate effect.

77. The Committee agreed that the draft revised Guide to the Compliance Committee would be made available on the web page of the fiftieth meeting prior to that meeting.

### **B. Other matters**

78. The secretariat informed the Committee that it had submitted comments to the World Bank in the context of the Bank's current consultation process on its draft new environmental and social framework.

79. The secretariat also reminded the Committee of the opportunity to comment on the Access-to-Information Policy for the United Nations Environmental Programme, which had an extended deadline for comments of 31 March 2015.

80. An observer, Earthjustice, reported on matters arising from the twenty-eighth regular session of the Human Rights Council (Geneva, 2–28 March 2015), including the work being carried out by the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John Knox, and the possible extension of his mandate; the panels held during the session on human rights and climate change; and a side event organized by Earthjustice together with the World Resources Institute on environmental democracy.

## **VII. Adoption of the report and closure of the meeting**

81. The Committee adopted the report of the meeting. The Chair then officially closed the forty-eighth meeting.

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