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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

#### Fifty-second meeting

Geneva, 8–11 March 2016

## Report of the Compliance Committee on its fifty-second meeting

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## Introduction

1. The fifty-second 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 8 to 11 March 2016 in Geneva, Switzerland.

### A. Attendance

2. All the Committee members were present throughout the meeting with the exception of Ms. Áine Ryall, who had indicated in advance that she would not be able to attend 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 Government of Belarus took part in the open session on 8 March 2016 on the review of developments regarding communications.

4. The communicants of communications ACCC/C/2013/107 (Ireland), ACCC/C/2014/100 (United Kingdom of Great Britain and Northern Ireland) and ACCC/C/2014/101 (European Union) and representatives of the respective Parties concerned took part in the hearings in open session on 9 and 10 March 2016 concerning those communications.

5. Representatives of the respective Parties concerned and the communicants of communications PRE/ACCC/C/2016/136 (United Kingdom) and PRE/ACCC/C/2016/137 (Germany) took part by audio conference in the open session on preliminary admissibility on 8 March 2016.

6. Representatives of the Government of Belarus took part in the open session on advisory request ACCC/A/2014/1 (Belarus).

7. Also participating, as observers during all open sessions of the meeting were representatives of the non-governmental organizations (NGOs) Earthjustice (Switzerland) and Resource and Analysis Center “Society and Environment” (Ukraine), both of which participated on behalf of the European ECO Forum. Representatives of the Geneva Academy of International Humanitarian Law and Human Rights and the Vermont Law School took part in the open sessions of the hearings on 9 and 10 March.

### B. Organizational matters

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

9. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2016/1.

10. The Committee confirmed the adoption of the edited version of its findings on communication ACCC/C/2012/76 (Bulgaria), as set out in document ECE/MP.PP/C.1/2016/3. It agreed that it would confirm the adoption of the edited version of its findings on communications ACCC/C/2013/85 (United Kingdom) and ACCC/C/2013/86 (United Kingdom) at its fifty-fourth meeting (Geneva, 27–30 September 2016).

11. The Chair reported on the outcomes of the Committee’s virtual meeting, held in closed session via Skype on 12 February 2016, in which all Committee members had taken part. During the virtual meeting, the Committee had continued its deliberations on communications ACCC/C/2008/32 (European Union), ACCC/C/2013/81 (Sweden) and ACCC/C/2013/88 (Kazakhstan) and had agreed to continue its deliberations on those draft findings through its electronic decision-making procedure.

## I. Submissions, referrals and requests under the Convention

12. With respect to submission ACCC/S/2015/2 (Belarus) submitted by Lithuania, the Committee noted that no new information had been received. However, it further noted that the activity in question — the construction of a nuclear power plant in Ostrovets (Belarus) — was also the subject of a parallel procedure under another United Nations Economic Commission for Europe (ECE) multilateral environmental agreement, the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention). At its upcoming thirty-fifth session (Geneva, 15–17 March 2016), the Implementation Committee under the Espoo Convention would invite Belarus and Lithuania to discuss the steps they had undertaken to implement the recommendations adopted at the Implementation Committee's twenty-seventh session<sup>1</sup> (Geneva, 12–14 March 2013) and the recommendations of the Meeting of the Parties to the Espoo Convention set out in decision VI/2.<sup>2</sup> The Compliance Committee therefore provisionally scheduled to hold the hearing of the submission at its fifty-fourth meeting.

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

14. No referrals had been made by the secretariat since the Committee's last meeting.

15. With respect to Meeting of the Parties request ACCC/M/2014/1 (former Yugoslav Republic of Macedonia), the Committee noted that the Party concerned had submitted its 2011 national implementation report on 22 December 2015. The 2014 national report had not been received to date.

16. Concerning advisory request ACCC/A/2014/1 (Belarus), representatives of the Party concerned took part in an open session to discuss the draft response prepared by the secretariat in accordance with the procedure outlined by the Meeting of the Parties at its fifth session (Maastricht, the Netherlands, 30 June–1 July 2014),<sup>3</sup> together with the written comments of the Party concerned dated 22 December 2015. The Committee took note of the oral comments received from the Party concerned and observers during the meeting and agreed to proceed with the preparation of its recommendations in closed session in accordance with paragraph 33 of the annex to decision I/7 of the Meeting of the Parties to the Convention.

## II. Communications from members of the public

17. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its fifty-third meeting (Geneva, 21–24 June 2016) would be 17 May 2016.

18. Concerning communication ACCC/C/2008/32 (European Union), the Committee agreed that its draft findings would be finalized through its electronic decision-making procedure after the meeting. It requested the secretariat to send the draft findings, once agreed, to the Party concerned and the communicant for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7. The Committee would take into account any comments received when finalizing the findings.

19. With respect to communication ACCC/C/2008/38 (United Kingdom), the Committee considered the letter sent by the Party concerned on 10 October 2015, in which it requested

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<sup>1</sup> ECE/MP.EIA/IC/2013/2 and Corr.1, annex.

<sup>2</sup> ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1, paras. 51–64.

<sup>3</sup> ECE/MP.PP/2014/2, para. 53.

the Committee to clarify the current status of the communication in the light of paragraphs 88 and 89 of the findings on communication ACCC/C/2008/38:

88. The Committee notes the communicant's indication in its letter of 21 November 2010 that it has brought a Statutory Appeal under the Roads (Scotland) Act 1984 in respect of the Scottish Parliament's approval of the Schemes and Trunk Road Orders on 3 March 2010. The hearing of the Statutory Appeal is set for eight days commencing on 22 February 2011. The Committee also notes that the communicant has been granted an order to cap its potential liability for expenses with respect to the appeal at £40,000 on 20 January 2011.

89. In light of these developments, the Committee and awaiting further clarification from the communicant finds that it would be premature for it to consider the communicant's allegations regarding access to justice at this stage. It therefore decides to conclude its findings in respect of the other aspects of the communication.<sup>4</sup>

The Committee took note of the correspondence dated 28 July 2015 and 24 and 28 September 2015 between the communicant's legal representative and the Scottish Government. That correspondence recorded that, in return for the Scottish Government's acceptance of the sum proposed by the communicant in full and final settlement of all costs outstanding with respect to earlier court proceedings, no application to the Aarhus Convention Compliance Committee would be made and the matter would be at an end. In the light of the above, the Committee agreed to request the secretariat to write to the communicant to invite its comment on the above. The Committee agreed that it would decide on how to proceed in the light of the comments received.

20. Regarding communication ACCC/C/2012/71 (Czech Republic), the Committee agreed that its draft findings would be finalized through its electronic decision-making procedure after the meeting. It requested the secretariat to send the draft findings, once agreed, to the Party concerned and the communicants for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7. The Committee would take into account any comments received when finalizing the findings.

21. Regarding communication ACCC/C/2013/81 (Sweden), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its next virtual 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. The Committee would take into account any comments received when finalizing the findings.

22. With respect to communication ACCC/C/2013/87 (Ukraine), the Committee requested the secretariat to send letters to the communicant and the Party concerned requesting an English translation of the relevant parts of national legislation and also to ask the communicant to indicate, in the light of the Committee's ongoing follow-up on decision V/9m, which, if any, of the allegations raised in his communication he considered could not be adequately examined by the Committee in the context of its ongoing follow-up on decision V/9m.

23. Concerning communication ACCC/C/2013/88 (Kazakhstan), the Committee agreed to finalize its draft findings through its electronic decision-making procedure after the meeting. It requested the secretariat to send the draft findings, once agreed, to the Party concerned and the communicants for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7. The Committee would take into account any comments received when finalizing the findings.

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<sup>4</sup> ECE/MP.PP/C.1/2011/2/Add.10.

24. With respect to communication ACCC/C/2013/89 (Slovakia), the Committee agreed to finalize its draft findings through its electronic decision-making procedure after the meeting. It requested the secretariat to send the draft findings, once agreed, to the Party concerned and the communicants for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7. The Committee would take into account any comments received when finalizing the findings.
25. Concerning communication ACCC/C/2013/90 (United Kingdom), the communicant had provided additional information on 8 March 2016. The Committee requested the secretariat to ask the communicant to comment on the response of the Party concerned to the communication dated 27 November 2015 with respect to the issue of admissibility. The Committee would decide how to proceed in the light of the comments received.
26. With respect to communication ACCC/C/2013/91 (United Kingdom), the Committee continued its deliberations in closed session and agreed to continue those deliberations at its next virtual 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. The Committee would take into account any comments received when finalizing the findings.
27. With respect to communication ACCC/C/2013/92 (Germany), the Committee agreed to finalize its draft findings through its electronic decision-making procedure after the meeting. It requested the secretariat to send the draft findings, once agreed, to the Party concerned and the communicants for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7. The Committee would take into account any comments received when finalizing the findings.
28. Concerning communication ACCC/C/2013/93 (Norway), the Committee agreed to finalize its draft findings through its electronic decision-making procedure after the meeting. It requested the secretariat to send the draft findings, once agreed, to the Party concerned and the communicants for comment in accordance with the procedure set out in paragraph 34 of the annex to decision I/7. The Committee would take into account any comments received when finalizing the findings.
29. Concerning communication ACCC/C/2013/96 (European Union), the Committee noted that the deadline of 4 March 2016 for the response of the Party concerned to the questions from the Committee following the hearing at its fifty-second meeting had expired but the Party's response had not yet been received. The Committee requested the secretariat to follow up with the Party concerned regarding its response.
30. Concerning communication ACCC/C/2013/98 (Lithuania), the Committee agreed to send some questions to the Party concerned and to continue its deliberations on its draft findings at its fifty-third 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.
31. With respect to communication ACCC/C/2014/99 (Spain), the Committee agreed to continue its deliberations on its draft findings at its next virtual 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.
32. The Committee held the hearing to discuss the substance of communication ACCC/C/2014/100 (United Kingdom) in open session with the participation of the Party concerned and the communicant. At the end of the hearing, the parties were invited to address some additional questions in writing. Following the hearing, the Committee commenced deliberations on its draft findings and agreed to continue its deliberations at its fifty-fourth meeting with a view to their finalization.

33. The Committee held the hearing to discuss the substance of communication ACCC/C/2014/101 (European Union) in open session with the participation of the Party concerned and the communicant. At the end of the hearing, the parties were invited to address some additional questions in writing. The Party concerned indicated that, at the time of sending its written response to the Committee's questions following the hearing, it would inform the Committee as to whether, should the Committee find non-compliance, it agreed to the Committee making recommendations to it directly in accordance with paragraph 36 of the annex to decision I/7. Following the hearing, the Committee commenced its deliberations on its draft findings and agreed to continue its deliberations at its fifty-fourth meeting with a view to their finalization.

34. Regarding communication ACCC/C/2014/102 (Belarus), the Committee agreed to defer its deliberations on its draft findings until its fifty-fourth 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.

35. With respect to communication ACCC/C/2014/104 (Netherlands), on 20 January 2016 the communicant had provided comments on the response of the Party concerned dated 13 November 2015 to the questions from the Committee following the hearing at the fiftieth meeting (Geneva, 6–9 October 2015). The Party concerned had provided additional information on 19 February 2016. The Committee agreed to defer its deliberations until its fifty-third 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.

36. Concerning communication ACCC/C/2014/105 (Hungary), at the request of the communicant the Committee had agreed to grant an extension to the deadline of 24 February 2016 for the parties to provide their replies to the questions sent by the Committee following the hearing at the fiftieth meeting until 9 March 2016. Both the communicant and the Party concerned had provided their responses on time. The Committee agreed to defer its deliberations until its fifty-third 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.

37. Concerning communication ACCC/C/2014/106 (Czech Republic), the Committee agreed to defer its deliberations on its draft findings until its fifty-fourth 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.

38. The Committee held the hearing to discuss the substance of communication ACCC/C/2013/107 (Ireland) in open session with the participation of the Party concerned and the communicant. The Party concerned confirmed that, should the Committee find non-compliance, it agreed to the Committee making recommendations to it directly in accordance with paragraph 36 of the annex to decision I/7. At the end of the hearing, the parties were invited to address some additional questions in writing. Following the hearing, the Committee commenced deliberations on its draft findings and agreed to continue its deliberations at its fifty-fourth meeting with a view to their finalization.

39. Regarding communication ACCC/C/2014/109 (Hungary), the Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its fifty-fourth meeting. It requested the curator to prepare questions to the communicant for its reply in advance of the hearing.

40. Concerning communication ACCC/C/2014/111 (Belgium), the Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its fifty-third meeting.

41. With respect to communication ACCC/C/2014/112 (Ireland), the Committee noted that the communicant had provided additional information regarding recent developments on 2 January 2016 and 6 March 2016. An observer, Mr. Francis Clauson, had submitted a statement in support of the communication on 3 February 2016. The Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its fifty-third meeting.

42. With respect to communication ACCC/C/2014/113 (Ireland), the Committee agreed to defer its deliberations on its draft findings until its fifty-third 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.

43. Concerning communication ACCC/C/2014/115 (United Kingdom), the communicant had provided its comments on the response of the Party concerned of 13 January 2016. The Party concerned had provided additional information on 2 March 2016. After considering the information received, the Committee determined the communication to be inadmissible under paragraphs 20 (d) and 21 of the annex to decision I/7, for the following reasons:

(a) With respect to the allegations concerning article 4 of the Convention, the communicant had made no attempt to use domestic remedies — including the internal review procedure of the respective public authority or an appeal to the Information Commissioner — nor had he explained why those remedies would not provide an effective and sufficient means of redress. The Committee therefore found that the allegations concerning article 4 of the Convention were inadmissible under paragraph 21 of the annex to decision I/7;

(b) With regard to the allegations concerning article 6, the Committee found that the communicant had not shown how the events complained of related to any decision to permit a specific activity falling within the scope of article 6 of the Convention. While it might have been open to the communicant to argue that the forest management plan was a plan relating to the environment within the scope of article 7 of the Convention, he had not done so. While the fact that the communicant had not expressly referred to article 7 would not, as such, prevent the admissibility of his allegations concerning public participation, he had not shown that he made any attempt to use any domestic remedies with respect to those allegations. Nor had he explained why those remedies would not provide an effective and sufficient means of redress. In that context, the Committee found that the allegations concerning public participation were inadmissible under paragraph 21 of the annex to decision I/7 for failure to exhaust domestic remedies. Moreover, the Committee found that, in the light of the purpose and the functions of the Committee to promote and improve compliance by the Parties with the Convention the allegations concerning public participation did not pass the threshold of *de minimis*. The Committee thus also found the allegations concerning public participation inadmissible under paragraph 20 (d) of the annex to decision I/7 on the ground that by not passing the threshold of *de minimis*, they were incompatible with the provisions of that decision;

(c) Finally, with respect to the allegations concerning article 9 of the Convention and the lack of “impartial and independent arbitration”, the Committee noted that, while article 9 did not exclude the possibility of using arbitration in environmental disputes, there was no obligation under article 9 for a Party to the Convention to provide for arbitration. The Committee thus found the allegations concerning article 9 to be incompatible with the provisions of the Convention and thus inadmissible under paragraph 20 (d) of the annex to decision I/7.

44. Concerning communication ACCC/C/2014/118 (Ukraine), the Committee noted that the deadline of 29 November 2015 for the response of the Party concerned had expired, but the Party’s response had not yet been received. The Committee requested the secretariat to follow up with the Party concerned regarding its outstanding response.

45. Concerning communication ACCC/C/2014/119 (Poland), the Party concerned had provided its response to the communication on time, on 2 March 2016. The Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its fifty-third meeting.
46. Concerning communication ACCC/C/2014/120 (Slovakia), the Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its fifty-fourth meeting.
47. Regarding communication ACCC/C/2014/121 (European Union), the Committee requested the secretariat to ask the communicant to provide its comments on the submissions made by the Party concerned in its response to the communication dated 27 November 2015 regarding the admissibility of the communication. The Committee agreed that it would decide how to proceed once the communicant's comments were received.
48. With respect to communication ACCC/C/2014/122 (Spain), the Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its fifty-fourth meeting.
49. Concerning communication ACCC/C/2014/123 (European Union), the Committee requested the secretariat to seek the views of the Party concerned and the communicant on whether, given the substance of the communication, they would consider it appropriate for the Committee to commence its deliberations on the substance of the communication without holding a hearing. The Committee would take into account the comments received from the parties on that procedural point when deciding how to proceed at its fifty-third meeting.
50. With respect to communication ACCC/C/2014/124 (Netherlands), on 20 January 2016 the communicant had provided comments on the response of the Party concerned to the communication dated 27 November 2015. The Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its fifty-fourth meeting.
51. With respect to communication ACCC/C/2015/126 (Poland), the Committee noted that the communication had been forwarded to the Party concerned on 11 March 2016 for its response. It further noted that the deadline of 11 August 2016 for its response had not yet expired and the Party's response had not yet been received.
52. Regarding communication ACCC/C/2014/128 (European Union), the Committee noted that, following technical difficulties with its original transmission, the communication had been re-forwarded to the Party concerned for its response. The extended deadline for the submission of a response by the Party concerned was 22 May 2016.
53. With respect to communication ACCC/C/2015/129 (Ireland), the Committee noted that the further questions the Committee proposed to send to the communicants prior to forwarding the communication to the Party concerned for its response had not yet been sent, but that they would be sent prior to the Committee's fifty-third meeting. Once the communicants' reply to the Committee's questions was received, the communication would be sent to the Party concerned for its response.
54. Concerning communication ACCC/C/2014/130 (Italy), the Committee noted that the deadline of 5 March 2016 for the response of the Party concerned had expired, but the Party's response had not yet been received. The Committee requested the secretariat to follow up with the Party concerned regarding its outstanding response.
55. With respect to communication ACCC/C/2015/131 (United Kingdom), the Committee noted that the communication had been forwarded to the Party concerned on 14 December 2015 for its response. It further noted that the deadline of 14 May 2016 for its response had not yet expired and the Party's response had not yet been received.

56. Regarding communication ACCC/C/2015/132 (Ireland), the Committee noted that the communication had been forwarded to the Party concerned on 11 March 2016 for its response. It further noted that the deadline of 11 August 2016 for its response had not yet expired and the Party's response had not yet been received.

57. With respect to communication ACCC/C/2015/133 (Netherlands), the Committee noted that the communication had been forwarded to the Party concerned on 11 March 2016 for its response. It further noted that the deadline of 11 August 2016 for its response had not yet expired and the Party's response had not yet been received.

58. Concerning communication ACCC/C/2015/134 (Belgium), the Committee noted that the communication had been forwarded to the Party concerned on 11 March 2016 for its response. It further noted that the deadline of 11 August 2016 for its response had not yet expired and the Party's response had not yet been received.

59. With respect to communication ACCC/C/2015/135 (France), the Committee noted that the communication had been forwarded to the Party concerned on 11 March 2016 for its response. It further noted that the deadline of 11 August 2016 for its response had not yet expired and the Party's response had not yet been received.

60. Regarding communications received since 10 November 2015 (the deadline for receipt of communications for the fifty-first meeting (Geneva, 15–18 December 2015)), the Chair and Vice-Chair reported that they had held a telephone conference on 16 February 2016 to determine which submissions received by the secretariat between 10 November 2015 and 2 February 2016 (the deadline for receipt of communications for the fifty-second meeting) should be forwarded to the Committee for consideration as to its preliminary admissibility. The Chair and the Vice-Chair had decided that communications PRE/ACCC/C/2016/136 (United Kingdom) and PRE/ACCC/C/2016/137 (Germany) should be forwarded to the Committee for consideration of preliminary admissibility at its fifty-second meeting, and had requested the secretariat to post those communications on the Committee's website.

61. In accordance with the above, the Committee considered the preliminary admissibility of two communications (as set out below).

62. Communication ACCC/C/2016/136 (United Kingdom) had been submitted on 13 July 2015 and then resubmitted on 12 February 2016 by Ms. Caroline Robertson, a member of the public. The communication alleged non-compliance with articles 6 and 9 of the Convention with respect to public participation in decision-making and access to justice generally, and in relation to the proposed construction of a railway between Oxford and Bicester. Mr. Jendroška was provisionally designated as curator for the case. With respect to the preliminary admissibility of the communication, the Committee heard the views of the communicant and the Party concerned by audio conference, and also took into account the written comments received from the communicant and the Party concerned. Thereafter, the Committee determined that the communication was inadmissible under paragraphs 20 (d) and 21 of the annex to decision I/7. In making its determination, the Committee considered the substance of the communication and the allegations contained therein. It found that in the context of the case the allegations concerning public participation did not pass the threshold of *de minimis* in the light of the purpose and the functions of the Committee to promote and improve compliance by the Parties with the Convention. The Committee thus found the communication inadmissible under paragraph 20 (d) of the annex to decision I/7 on the ground that by not passing the threshold of *de minimis*, it was incompatible with the provisions of that decision. In addition, with respect to paragraph 21 of the annex to decision I/7, the Committee was not sufficiently persuaded that the communicant had used all the domestic remedies available.

63. Communication ACCC/C/2015/137 (Germany) had been submitted on 26 January 2015 by an NGO, the World Wide Fund for Nature (WWF) (Germany). The communication alleged non-compliance with article 9 of the Convention with respect to standing of environmental NGOs. After hearing the views of the Party concerned and the communicant by audio conference, the Committee determined that the communication was admissible on a preliminary basis. It requested the secretariat to forward the communication to the Party concerned for its response. Ms. Hakhverdyan was confirmed as curator for the case.

### **III. Reporting requirements**

64. The Committee noted that, at its fifth session, 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, Portugal and Turkmenistan had submitted their reports. As noted in paragraph 15 above, the former Yugoslav Republic of Macedonia had previously notified the secretariat that it was working to finalize its 2014 report by the end of November 2015, but to date it had not been received.

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

65. The Committee took note of the developments since its fifty-first meeting with respect to decisions V/9a–n of the Meeting of the Parties, and in particular the second progress reports of the Parties concerned on the implementation of those decisions, together with the comments from communicants and observers on those reports received to date.

66. With respect to decision V/9a (Armenia), the Party concerned had submitted its second progress report on time, on 22 December 2015. On 29 January 2016, 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 “Dalma-Sona” Human Rights and Environmental Protecting Fund, an observer, for comments by 19 February 2016. One of the communicants of communications ACCC/C/2004/8 and ACCC/C/2009/43, NGO “Transparency International Anticorruption Center”, and an observer, NGO “Ecological Right”, provided joint comments (dated 19 February 2016) on 21 February 2016. The Committee discussed the second progress report of the Party concerned on decision V/9a, and the comments received on that report, in open session with the participation by audio conference of the Party concerned and the observer, NGO “Ecological Right”. The Party concerned and the observer were invited to submit their oral comments in writing within one week after the meeting. They were also informed that they might expand upon their oral comments in the written version should they wish to do so. The Committee then prepared its second progress review of decision V/9a in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned, the communicants and registered observers.

67. With respect to decision V/9b (Austria), the Party concerned had submitted its second progress report on time, on 22 December 2015. On 29 December 2015, the report had been forwarded to the communicants of communications ACCC/C/2010/48 and ACCC/C/2011/63 for comments by 20 January 2016. The communicant of communication ACCC/C/2010/48 had provided comments on 20 January 2016. No comments had been received from the communicant of communication ACCC/C/2011/63. The Committee discussed the second

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

progress report of the Party concerned on decision V/9b, and the comments received on that report, in open session with the participation by audio conference of the Party concerned and the communicant of communication ACCC/C/2010/48. The Party concerned and communicant were invited to submit their oral comments in writing within one week after the meeting. They were also informed that they might expand upon their oral comments in the written version should they wish to do so. The Committee then prepared its second progress review of decision V/9b in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned and the communicants.

68. Regarding decision V/9c (Belarus), the Party concerned had submitted its second progress report (dated 27 October 2015) on time, on 28 October 2015. On 6 November 2015, the report had been forwarded to the communicants of communications ACCC/C/2009/37 and ACCC/C/2009/44 for comments by 27 November 2015. No comments had been received from the communicants. An observer, the public association "Ecohome", provided comments on 27 November 2015. On 10 February 2016, the Party concerned provided additional information. The Committee discussed the second progress report of the Party concerned on decision V/9c, and the comments received on that report, in open session with the participation by audio conference of the Party concerned. Owing to technical difficulties in joining the audio conference, the communicant of communication ACCC/C/2009/44 and the observer of communication ACCC/C/2009/44 were not able to participate in the audio conference. The Party concerned, the communicant and the observer were invited to submit their comments in writing within one week after the meeting. The observer of communication ACCC/C/2009/44 provided the written version of its statement on 8 March 2016. The Committee then prepared its second progress review of decision V/9c in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned, the communicant and the observer.

69. With respect to decision V/9d (Bulgaria), the Party concerned had submitted its second progress report on time, on 28 October 2015. On 6 November 2015, the report had been forwarded to the communicant of communication ACCC/C/2011/58 for comments by 27 November 2015. The communicant had provided comments on 27 November 2015. The Committee discussed the second progress report of the Party concerned on decision V/9d, and the comments received on that report, in open session with the participation by audio conference of the Party concerned and the communicant. The Party concerned and communicant were invited to submit their oral comments in writing within one week after the meeting. They were also informed that they might expand upon their oral comments in the written version should they wish to do so. The Committee then prepared its second progress review of decision V/9d in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned and the communicant.

70. Regarding decision V/9e (Croatia), the Party concerned had submitted its second progress report (dated 28 October 2015) on time, on 10 November 2015. On 27 November 2015, the report had been forwarded to the communicant of communication ACCC/C/2012/66 for comments by 18 December 2015. The communicant had not provided comments. The Committee discussed the second progress report of the Party concerned on decision V/9e in open session. The Committee expressed its regret that, despite the Committee's invitation, the Party concerned had not participated in the open session. The Committee then prepared its second progress review of decision V/9e in closed session. The Committee agreed to finalize its second progress review at its next virtual meeting. The

secretariat was requested to forward the second progress review, once adopted, to the Party concerned and the communicant.

71. Regarding decision V/9f (Czech Republic), the Party concerned had submitted an update on its progress on 30 October 2015, indicating that its second progress report would be provided by 31 December 2015, as requested. On 6 November 2015, the progress update of the Party concerned had been forwarded to the communicant of communications ACCC/C/2010/50 and ACCC/C/2012/70 for comments by 27 November 2015. The communicant of communications ACCC/C/2010/50 and ACCC/C/2012/70 had provided its comments on 27 November 2015. On 30 December 2015, the Party concerned had provided its second progress report. The communicant of communications ACCC/C/2010/50 and ACCC/C/2012/70 had provided comments on the progress report, requested by 22 January 2016, on time. The Committee discussed the second progress report of the Party concerned on decision V/9f, and the comments received on that report, in open session with the participation by audio conference of the Party concerned and the communicant of communications ACCC/C/2010/50 and ACCC/C/2012/70. The Party concerned and the communicant were invited to submit their oral comments in writing within one week after the meeting. They were also informed that they might expand upon their oral comments in the written version should they wish to do so. The Committee then prepared its second progress review of decision V/9f in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned and the communicant.

72. With respect to decision V/9g (European Union), the Party concerned had submitted its second progress report on time, on 29 October 2015. On 6 November 2015, the report had been forwarded to the communicant of communication ACCC/C/2010/54 for comments by 27 November 2015. The communicant had provided comments on 22 November 2015. The Committee discussed the second progress report of the Party concerned on decision V/9g, and the comments received on that report, in open session with the participation by audio conference of the Party concerned and the communicant. The Party concerned and communicant were invited to submit their oral comments in writing within one week after the meeting. They were also informed that they might expand upon their oral comments in the written version should they wish to do so. The Committee then prepared its second progress review of decision V/9g in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned and the communicant.

73. With respect to decision V/9h (Germany), the Party concerned had submitted its second progress report on time, on 27 October 2015. On 6 November 2015, the report had been forwarded to the communicants of communication ACCC/C/2008/31 for comments by 27 November 2015. A communicant of communication ACCC/C/2008/31 (ClientEarth) had provided comments on 18 December 2015. The Committee discussed the second progress report of the Party concerned on decision V/9h, and the comments received on that report, in open session with the participation by audio conference of the Party concerned. The Party concerned was invited to submit its oral comments in writing within one week after the meeting. It was also informed that it might expand upon its oral comments in the written version should it wish to do so. The Committee then prepared its second progress review of decision V/9h in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned and the communicants.

74. Regarding decision V/9i (Kazakhstan), the Party concerned had submitted its second progress report on time, on 4 November 2015. On 7 November 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 27 November 2015. On 24 November 2015, the communicants of communication ACCC/C/2004/6 had provided their comments. On 1 December 2015, the communicant of communications ACCC/C/2004/1 and ACCC/C/2004/2 had provided its comments. No comments had been received from the communicant of communication ACCC/C/2011/59. The Committee discussed the second progress report of the Party concerned on decision V/9i, and the comments received on that report, in open session with the participation of the Party concerned. The Party concerned was invited to submit its oral comments in writing within one week after the meeting. It was also informed that it might expand upon its oral comments in the written version should it wish to do so. In addition, the Committee requested the Party concerned to submit the text of the relevant draft legislation currently before the parliament. The Committee then prepared its second progress review of decision V/9i in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned and the communicant

75. With respect to decision V/9j (Romania), by letter of 9 November 2015 the Party concerned indicated that it would provide the second progress report by 31 December 2015, which it had done. On 7 January 2016, the report had been forwarded to the communicants of communication ACCC/C/2010/51 for comments by 28 January 2016. No comments had been received from the communicants. The Committee discussed the second progress report of the Party concerned on decision V/9j in open session, with the participation of the Party concerned both by audio conference and in person. The Committee then prepared its second progress review of decision V/9j in closed session. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned and the communicant.

76. With respect to decision V/9k (Spain), the Party concerned had submitted its second progress report (dated 15 October 2015) on time, on 21 October 2015. On 6 November 2015, the report had been forwarded to the communicants of communication ACCC/C/2008/24 and ACCC/C/2009/36 for comments by 27 November 2015. The communicant of communication ACCC/C/2009/36 had provided its comments on 12 December 2015. The communicant of communication ACCC/C/2008/24 had provided its comments on 6 March 2016 (due to the technical problem the communicant had not received the secretariat's original e-mail inviting it to comment on the second progress report; therefore, at the invitation of the secretariat, the communicant had provided its comments later). The Committee discussed the second progress report of the Party concerned on decision V/9k, and the comments received on that report, in open session with the participation by audio conference of the Party concerned and the communicant of communication ACCC/C/2008/24. The Party concerned and the communicant of communication ACCC/C/2008/24 were invited to submit their oral comments in writing within one week after the meeting. They were also informed that they might expand upon their oral comments in the written version should they wish to do so. The Committee then prepared its second progress review of decision V/9k in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned and the communicant.

77. Regarding decision V/9l (Turkmenistan), the Committee held an open session with the participation of the Party concerned. The Committee expressed its concern that neither the official statement of the Minister of Foreign Affairs of the Party concerned nor the report due by 30 November 2015 in accordance with paragraphs 6 and 7 of decision V/9l,

respectively, had been received to date. The Party concerned informed the Committee that the official statement of the Minister of Foreign Affairs would be provided as soon as possible. The Party concerned was invited to submit its oral comments in writing within one week after the meeting. It was also informed that it might expand upon its oral comments in the written version should it wish to do so. The Committee requested the Party concerned to submit both the statement and the report by the end of March 2016.

78. With respect to decision V/9m (Ukraine), the Committee held an open session with the participation of the Party concerned by audio conference. The Committee noted that on 20 January 2016 the ECE Executive Secretary had written to Mr. Yatsenyuk, Prime Minister of Ukraine, Mr. Groysman, Chair of the Verkhovna Rada (i.e., the parliament) of Ukraine and Ms. Herashchenko, Chair of the Parliamentary Committee on issues of European integration. The letters recalled that paragraph 6 of decision V/9m provided for the caution in place since the fourth session of the Meeting of the Parties (Chisinau, 29 June–1 July 2011) to be lifted if Ukraine had adopted the necessary measures to bring its legislation into full compliance with the Convention, in particular fully satisfying the conditions set out in paragraph 5 of the decision, and had notified the secretariat of that fact by 31 December 2015. To date, the Party concerned had not replied to the letters. The Party concerned was invited to submit its oral comments in writing within one week after the meeting. It was also informed that it might expand upon its oral comments in the written version should it wish to do so. In addition, the Committee requested the Party concerned to submit the text of the relevant draft legislation currently before the parliament. The Committee agreed that it would take into account the information received when finalizing its progress review at its fifty-third meeting regarding whether the conditions in paragraph 5 of decision V/9m had been fulfilled. The secretariat was requested to forward that review, once adopted, to the Party concerned and the communicant of communication ACCC/C/2004/3.

79. Regarding decision V/9n (United Kingdom), the Party concerned had submitted its second progress report on time, on 13 November 2015. On 27 November 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 and ACCC/C/2012/68, inviting them to send any comments they wished to make by 18 December 2015. Comments had been received from the communicants of communications ACCC/C/2010/53 on 8 December 2016, ACCC/C/2008/33 (Mr. Robert Latimer) on 18 December 2015, ACCC/C/2008/33 (ClientEarth) on 18 December 2015 and ACCC/C/2012/68 on 12 January 2016. Comments had also been received from observers: from the Royal Society for the Protection of Birds and Friends of the Earth, on 17 December 2015; and from Richard Buxton Lawyers, on 18 December 2015. The Committee discussed the second progress report of the Party concerned, and the comments received on that report, in open session with the participation by audio conference of the Party concerned and the communicants of communications ACCC/C/2008/23, ACCC/C/2008/33, ACCC/C/2010/53 and ACCC/C/2012/68, as well as the observers representing the Royal Society for the Protection of Birds, Friends of the Earth and Richard Buxton Lawyers. Following the discussion, the Party concerned, the communicants and the observers were invited to submit their oral comments in writing within one week after the meeting. They were also informed that they might expand upon their oral comments in the written version should they wish to do so. The Committee then prepared its second progress review of decision V/9n in closed session, taking into account the comments received. The Committee agreed to finalize its second progress review at its next virtual meeting. The secretariat was requested to forward the second progress review, once adopted, to the Party concerned, the communicants and the observers.

## V. Programme of work and calendar of meetings

80. It was announced that the Committee's fifty-third, fifty-fourth and fifty-fifth meetings would be held in Geneva, from 21 to 24 June, 27 to 30 September<sup>6</sup> and 6 to 9 December 2016, respectively.

## VI. Other business

### A. Modus operandi

81. The Chair noted that the draft revised Guide to the Compliance Committee (version of 8 December 2015) was available on the web page for the fifty-second meeting, and invited all the meeting participants to send any comments on the draft text before 1 August 2016. The Committee agreed that it would discuss the draft revised Guide incorporating the comments received at its fifty-fourth meeting.

### B. Other matters

82. The secretariat informed the Committee about the main outcomes of the thirty-seventh meeting of the Bureau of the Meeting of the Parties to the Convention (Geneva, 25–26 February 2016).

83. The secretariat reported that, at its sixth meeting (Geneva, 10–11 February 2016), the Task Force on Public Participation in Decision-making under the Convention had discussed, among others: identification and notification of the public concerned; early public participation; decisions on proposed activities not listed in annex I of the Convention (in accordance with article 6, paragraph 1 (b)); and the use of the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters. The meeting also featured a thematic session on energy-related planning. The presentations from the meeting were available on the meeting's web page.<sup>7</sup>

84. The secretariat also mentioned that it had made a presentation on public participation in energy-related decision-making at the "Energy — Transparency Centre of Knowledge" (E-Track) workshop on Public Participation and Transparency in the Implementation of Energy Policies (Belgrade, 25–26 February 2016), organized by the Directorate-General for Energy and the Joint Research Centre of the European Commission.

85. In addition, the secretariat had participated in two side events during the thirty-first session of the Human Rights Council (Geneva, 29 February–24 March 2016): on "Procedural Rights and the Environment: The Principle 10 Negotiations in Latin America and the Caribbean"; and an event dedicated to the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment (A/HRC/31/53).

86. Ms. Fasoli informed the Committee that she had participated in the conference on "Combating Environmental Crime: Priorities and Opportunities for Further EU Action" (Brussels, 17–18 February 2016), the final conference of the European Union Action to Fight Environmental Crime (EFFACE) project. She also noted that a study on the possibilities for environmental NGOs to claim damages in relation to the environment, which she had co-authored, was available on the website of the Convention's Task Force on Access to Justice.

<sup>6</sup> The fifty-fourth meeting was previously scheduled to be held from 26 to 29 September 2016.

<sup>7</sup> See <http://www.unece.org/index.php?id=41356#/>.

She had also made a submission to the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment.

87. Ms. Hakhverdyan informed the Committee about a new e-platform on public participation in Armenia developed by NGOs. The platform would contain all draft legal documents developed by public agencies and allow all members of the public who created a profile on the platform to submit comments electronically through the platform.

88. Mr. McGlone emphasized the important role of public participation for the successful implementation of the Paris Agreement on Climate Change.

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

89. The Committee presented the draft report in open session and agreed to adopt its report through its electronic decision-making procedure after the meeting, taking into account the comments received on the report at the meeting. The Chair then officially closed the fifty-second meeting.

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