



## 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

**Sixty-second meeting**

Geneva, 5-9 November 2018

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

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## Introduction

1. The sixty-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 5-9 November 2018 in Geneva, Switzerland.

### A. Attendance

2. Seven of the nine Committee members were present throughout the entire meeting. Committee member Marc Clément was unable to attend the morning session on 6 November 2018 and Committee member Áine Ryall was unable to attend the meeting on 6-7 November 2018. Members who had declared a conflict of interest with respect to particular cases did not participate in closed sessions deliberating on those cases.

3. A representative of the communicant of communication PRE/ACCC/C/2018/158 (Poland) took part by audio conference in the open session on preliminary admissibility held on 5 November 2018. Though invited, the Party concerned did not take part. Representatives of the Parties concerned and the communicants of communications PRE/ACCC/C/2017/159 (Spain) and PRE/ACCC/C/2018/161 (Bulgaria) took part by audio conference in the open session on preliminary admissibility. A representative of the Party concerned took part in the open session on preliminary admissibility of communication PRE/ACCC/C/160/2018 (Germany). Though invited, the communicant in this case did not take part in the session.

4. Representatives of Belarus, Germany, Eco TIRAS and Earthjustice, on behalf of European ECO Forum, as well as two members of the public participated in the open session on the review of developments on 2 July 2018. Representatives of Belarus and Earthjustice on behalf of European ECO Forum also participated in the open session on the review of the implementation of decisions of the Meeting of the Parties on compliance on 2 July 2018.

5. A representative of Earthjustice and two members of the public also participated in person in the open sessions on the Committee's modus operandi and preparation of the revised Guide to the Committee on 5 November 2018. A representative of Austria, on behalf of the European Union and its member States, as well as a representative of the United Kingdom participated by audio conference in the open sessions on 5 November 2018 on the Committee's modus operandi and preparation of the revised Guide to the Committee.

6. Representatives of the Party concerned and the communicants participated in the hearings to discuss the substance of communications ACCC/C/2015/133 (Netherlands), ACCC/C/2016/141 (Ireland), and ACCC/C/2015/134 (Belgium) held on 6, 8 and 9 November 2018, respectively. A representative of Earthjustice on behalf of European ECO Forum participated as an observer in all three hearings. In addition, two members of the public participated as observers during the hearings of communications ACCC/C/2015/133 (Netherlands) and ACCC/C/2016/141 (Ireland) and a representative of the environmental non-governmental organization Irish Environmental Pillar also attended the hearing of communication ACCC/C/2016/141 (Ireland) as an observer.

### B. Organizational matters

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

8. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2018/5.

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

9. Regarding request ACCC/M/2017/2 (Turkmenistan), the Committee noted that on 5 September 2018 the ECE Executive Secretary had written to the Minister of Foreign Affairs of Turkmenistan enclosing questions from the Committee, with questions 1-6 to be answered by 1 October 2018 and questions 7-20 to be answered by 1 December 2018. On 1 October 2018, the Party concerned had provided its replies to questions 1-6 of the Committee on time. No comments on the replies of the Party concerned were received from communicants or observers.

10. With respect to request ACCC/M/2017/3 (European Union), the Committee noted that the Party concerned had provided its first progress report on time on 1 October 2018, and that comments had been received thereon from the communicants of communications ACCC/C/2010/54 and ACCC/C/2008/32. Committee member Mr. Oliver declared a conflict of interest in the case.

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

11. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its sixty-third meeting would be 28 January 2019.

12. With respect to communication ACCC/C/2013/90 (United Kingdom), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations with a view to completing its draft findings and, as appropriate, recommendations.

13. Concerning communication ACCC/C/2013/96 (European Union), the Committee had continued its deliberations on its draft findings in closed session at its virtual meeting on 4 October 2018. The Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations with a view to completing its draft findings and, as appropriate, recommendations.

14. Regarding communication ACCC/C/2013/98 (Lithuania), the Committee had continued its deliberations on its draft findings in closed session at its virtual meetings on 17 September and 4 October 2018. The Committee resumed its deliberations in closed session and agreed to continue those deliberations through its electronic decision-making procedure with a view to completing its draft findings and, as appropriate, recommendations.

15. Concerning communication ACCC/C/2014/100 (United Kingdom), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations through its electronic decision-making procedure with a view to completing its draft findings and, as appropriate, recommendations.

16. With respect to communication ACCC/C/2014/104 (Netherlands), after taking into account the comments received from the communicant of 22 June 2018 and the Party concerned of 3 July 2018 on its draft findings, the Committee had finalized and adopted its findings and recommendations at its virtual meeting on 4 October 2018. It instructed the secretariat to prepare the adopted findings as an official pre-session document for its sixty-third meeting, ensuring their availability in the three official languages of the ECE.

17. Concerning communication ACCC/C/2014/105 (Hungary), the Committee noted that it was preparing questions to the Party concerned and that it would continue its deliberations taking into account the replies received, with a view to completing its draft findings and, as appropriate, recommendations.

18. Concerning communication ACCC/C/2014/106 (Czechia), the Committee agreed to defer its deliberations on its draft findings until an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

19. With respect to communication ACCC/C/2013/107 (Ireland), the Committee noted that a request for additional information had been sent to the Party concerned on 8 November 2018.
20. Concerning communication ACCC/C/2014/112 (Ireland), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations with a view to completing its draft findings and, as appropriate, recommendations.
21. With respect to communication ACCC/C/2014/113 (Ireland), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations with a view to completing its draft findings and, as appropriate, recommendations.
22. Concerning communication ACCC/C/2014/118 (Ukraine), on 8 November 2018 the Party concerned provided its belated reply to the Committee's questions of 27 July 2018. The Committee provisionally scheduled that it would hold the hearing to discuss the substance of the communication at its sixty-third meeting.
23. Regarding communication ACCC/C/2014/119 (Poland), that the Committee was preparing questions to the Party concerned and that it would continue its deliberations taking into account the replies received, with a view to completing its draft findings and, as appropriate, recommendations.
24. Concerning communication ACCC/C/2014/120 (Slovakia), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.
25. Regarding communication ACCC/C/2014/121 (European Union), the Committee agreed to defer its deliberations on its draft findings to an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.
26. Concerning communication ACCC/C/2014/122 (Spain), the Committee to defer its deliberations on its draft findings to an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.
27. Regarding communication ACCC/C/2014/124 (Netherlands), the Committee noted that questions had been sent to the Party concerned on 5 October 2018 and the reply of the Party concerned had been received on 2 November 2018. The Committee continued its deliberations on its draft findings in closed session, taking the reply received into account. It agreed to continue those deliberations with a view to completing its draft findings and, as appropriate, recommendations.
28. With respect to communication ACCC/C/2015/126 (Poland), the Committee noted that questions had been sent to the communicant and Party concerned on 19 July 2018 and that both parties had provided their replies on 19 September 2018. On 16 October 2018, the Party concerned submitted comments on the communicant's reply to the Committee's questions and on 19 October 2018, the communicant submitted comments on the reply of the Party concerned to the Committee's questions. The Committee continued its deliberations on its draft findings in closed session, taking into account the replies and comments received. It agreed to continue those deliberations with a view to completing its draft findings and, as appropriate, recommendations.
29. Regarding communication ACCC/C/2015/128 (European Union), the Committee noted that on 20 and 21 July 2018, respectively, observer ClientEarth and the communicant submitted comments on the reply by the Party concerned of 26 June 2018 to the Committee's questions. On 26 October 2018, the Party concerned submitted comments on the communicant's comments of 21 July 2018 and on 1 February 2019, observer ClientEarth submitted comments on the Party's concerned's comments of 26 October 2018. The Committee continued its deliberations on its draft findings in closed session and agreed to

continue those deliberations with a view to completing its draft findings and, as appropriate, recommendations.

30. Concerning communication ACCC/C/2015/130 (Italy), the Committee noted that a request had been sent to the communicant and the Party concerned on 3 August 2018 requesting further documentation and translations. On 1 October 2018, the Party concerned had provided its reply to the Committee's request. After reviewing the Party concerned's reply, the Committee agreed to write to the parties seeking further information and clarification.

31. With respect to communication ACCC/C/2015/131 (United Kingdom), the Committee noted that questions had been sent to the communicant and the Party concerned on 5 November 2018. The Committee agreed that it would decide how to proceed with the communication taking into account the information received.

32. Regarding communication ACCC/C/2015/132 (Ireland), the Committee noted that it was preparing questions to the communicant and that it would decide how to proceed with the communication taking into account the information received.

33. Concerning communication ACCC/C/2015/133 (Netherlands), the Committee held a hearing to discuss the substance of the communication in open session with the participation of the Party concerned and the communicant. Following the hearing, the Committee commenced its deliberations on its draft findings and agreed to send questions to the Party concerned and the communicant for their written reply and to continue its deliberations taking into account the replies once received.

34. Concerning communication ACCC/C/2015/134 (Belgium), the Committee held a hearing to discuss the substance of the communication in open session with the participation of the Party concerned and the communicant. Following the hearing, the Committee commenced its deliberations on its draft findings and agreed to send questions to the communicant for its written reply and to thereafter continue its deliberations taking into account the reply received.

35. With respect to communication ACCC/C/2015/135 (France), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations with a view to completing its draft findings and, as appropriate, recommendations.

36. Regarding communication ACCC/C/2015/137 (Germany), the Committee agreed to defer its deliberations on its draft findings to an up-coming meeting.

37. Concerning communication ACCC/C/2016/138 (Armenia), on 23 May 2018 the Committee had written to the Party concerned and the communicant seeking their views on whether they considered a hearing was needed prior to the Committee commencing its deliberations on the substance of that case. On 8 June 2018, the communicant had replied that it did not consider that a hearing was required. Despite several reminders, no official reply had been received from the Party concerned. The Committee agreed to proceed to commence its deliberations on the substance of the case without a hearing. To this end, it agreed to invite both parties to submit any final written submissions and in that context to ask the Party concerned to clarify certain aspects of its legislation.

38. Regarding communication ACCC/C/2016/139 (Ireland), the Chair reported that on 4 November 2018, a request was sent to the communicant to provide additional information to clarify which of the permits listed in its reply to the Committee's questions of 5 September 2016 were subject to article 6 of the Convention. The Committee agreed to decide how to proceed with the communication in the light of the information received.

39. With respect to communication ACCC/C/2016/140 (Romania), the Committee agreed to decide how to proceed with the communication at its sixty-third meeting.

40. Concerning communication ACCC/C/2016/141 (Ireland), the Committee held a hearing to discuss the substance of the communication in open session with the participation of the Party concerned and the communicant. Following the hearing, the Committee commenced its deliberations on its draft findings and agreed to continue its deliberations. Committee member Ms. Ryall declared a conflict of interest in the case.

41. Regarding communication ACCC/C/2016/142 (United Kingdom), the Committee agreed to ask the communicant to comment, once the Committee had completed its first progress review on decision VI/8k, on the extent to which the allegations in his communication dealt with matters already under the Committee's review in the context of decision VI/8k and to thereafter decide how to proceed with the communication in the light of the comments received.

42. Concerning communication ACCC/C/2016/143 (Czechia), the Committee agreed to decide how to proceed with the communication at its sixty-third meeting.

43. With respect to communication ACCC/C/2016/144 (Bulgaria), the Committee agreed to decide how to proceed with the communication at its sixty-third meeting.

44. With respect to communication ACCC/C/2017/146 (Poland), on 2 July 2019, the Committee had sent a letter to the communicant inviting it to comment on the Party concerned's submissions on admissibility. On 1 August 2018, the communicant provided its comments. On 31 October 2018, the Party concerned submitted comments on the communicant's comments on the Party concerned's submission on admissibility. The Committee agreed to decide how to proceed with the communication, taking into account the information received, at its sixty-third meeting.

45. Concerning communication ACCC/C/2017/147 (Republic of Moldova), the Chair reported that no reply had been received to the letter of 29 June 2018 from the Director of the ECE Environment Division to the State Secretary of the Ministry of Agriculture, Regional Development and Environment conveying the Committee's serious concern at the failure by the Party concerned to provide its response to the communication due on 19 September 2017. After hearing the views of the communicant present in person regarding the Party concerned's failure to respond to the communication, the Committee agreed to ask the Executive Secretary of the UNECE to write to the Ministry of Foreign Affairs to draw his attention at the Party concerned's ongoing failure to provide its response to the communication.

46. With respect to communication ACCC/C/2017/148 (Greece), the Committee agreed to decide how to proceed with the communication at its sixty-third meeting.

47. Concerning communication ACCC/C/2017/149 (Greece), the Party concerned had provided its response to the communication on 29 May 2018 on time. The Committee agreed to ask the Party concerned to clarify whether its response challenged the admissibility of the communication. The Committee agreed to decide how to proceed in the light of this clarification.

48. Regarding communication ACCC/C/2017/150 (United Kingdom), the Committee agreed to invite the communicant to comment on the submissions on admissibility made by the Party concerned in its response to the communication of 29 June 2018. It agreed to decide how to proceed with the communication taking into account the comments received.

49. With respect to communication ACCC/C/2016/151 (Poland), the Party concerned had provided its response on 22 August 2018 on time. The response of the Party concerned submitted that the communication should be admissible only with respect to air quality plans. On 31 October 2018, the communicant submitted comments on the Party concerned's response. The Committee determined, taking into account the information received, that the communication remained preliminarily admissible. It agreed to send questions to the parties seeking their views on the possible overlap between communications ACCC/C/2016/151,

ACCC/C/2017/154 and ACCC/C/2018/158 and to decide how to proceed with the communication taking into account the comments received.

50. Concerning communication ACCC/C/2017/153 (Spain), on 23 August 2018, the Party concerned provided its response to the communication. It submitted its annexes to the response on 28 August 2018. In its response, the Party concerned challenged the admissibility of the communication. The Committee agreed to invite the communicant to comment on the Party concerned's submissions regarding admissibility and to decide how to proceed with the communication taking into account the comments received.

51. Regarding communication ACCC/C/2017/154 (Poland), on 22 August 2018, the Party's response had been received. The Committee agreed to send questions to the parties seeking their views on the possible overlap between communications ACCC/C/2016/151, ACCC/C/2017/154 and ACCC/C/2018/158 and to decide how to proceed with the communication taking into account the comments received.

52. With respect to communication ACCC/C/2017/156 (United Kingdom), the Party concerned had submitted its response to the communication on 21 August 2018 on time. On 3 October 2018, the communicant submitted comments on the Party concerned's response. The Committee agreed to decide how to proceed with the communication at its sixty-third meeting.

53. Regarding communication ACCC/C/2017/157 (United Kingdom), on 20 August 2018, the Party concerned submitted information and on 12 September 2018 the Party concerned sent a letter clarifying that the information provided on 20 August 2018 was intended as a courtesy update on the progress of the case and that the formal response to the communication would be provided in due course. The Committee expressed its concern that the United Kingdom had failed to comply with the five month deadline set out in the annex to decision I/7 for providing its response to the communication. During the audio conference on 5 November 2018, the Committee asked the Party concerned to explain why it had failed to provide its response by the prescribed deadline. On 7 November 2018 the Party concerned submitted a letter indicating that it would provide its response to the communication by the end of December 2018.

54. Communication PRE/ACCC/C/2018/158 (Poland) had been submitted on 22 May 2018 by Stowarzyszenie Pracownia na rzecz Wszystkich Istot, an environmental non-governmental organization in Poland. The communication alleges systemic non-compliance with article 7 of the Convention concerning public participation in the preparation of hunting plans, and a general failure by the Party concerned to implement article 9(3) of the Convention due to a lack of standing for non-governmental organizations, and very limited standing for individuals, to challenge plans and programmes relating to the environment. At its sixty-first meeting the Committee had decided to defer its determination of preliminary admissibility to its next meeting in order to request the communicant to more clearly specify the types of plans within the scope of its communication. On 19 August 2018, the communicant provided its reply to the Committee's questions. On 16 October 2018, the Party concerned submitted comments on preliminary admissibility. During the meeting, the Committee heard the views of the communicant by audio conference, as well as observers present, on the preliminary admissibility of the communication. The Committee also asked the communicant its views regarding the possible overlap between the communication and communications ACCC/C/2016/151 and ACCC/C/2017/154, both also concerning Poland. After considering in closed session the information received, the Committee determined that the communication was preliminarily admissible. It requested the secretariat to forward the communication to the Party concerned for its response. It also agreed to ask the Party concerned for its views as to the possible overlap between the communication and communications ACCC/C/2016/151 and ACCC/C/2017/154. Committee member Mr. Kodjabashev declared a conflict of interest in the case.

55. Regarding communications received before 1 October 2018 (the deadline for receipt of communications for the sixty-second meeting), the Chair reported that he and the Vice-Chairs Mr. Kodjabashev and Ms. Ryall had held a telephone conference on 12 October 2018 to determine which of the communications received sufficiently met the required format to be forwarded to the Committee for consideration as to their preliminary admissibility. In that regard, the Chair and the Vice-Chairs had decided that communications PRE/ACCC/C/2017/159 (Spain), PRE/ACCC/C/2018/160 (Germany) and PRE/ACCC/C/2018/161 (Bulgaria) should be forwarded to the Committee for consideration of preliminary admissibility at its sixty-second meeting and had requested the secretariat to post these communications on the Committee's website.

56. Communication PRE/ACCC/C/2017/159 (Spain) had been submitted on 3 August 2017 by environmental non-governmental organizations ClientEarth and Instituto Internacional de Derecho y Medio Ambiente (IIDMA). The communication alleges a failure to comply with article 7 and article 6 (3), (4) and (8) in relation to Spain's Transitional National Plan under the Industrial Emissions Directive. With respect to the preliminary admissibility of the communication, the Committee heard the views of the Party concerned and the communicants by audio conference. After considering in closed session the information received, the Committee agreed to defer its determination of preliminary admissibility to its next meeting in order to seek further information from the parties regarding the communicant's proposed appeal to the Constitutional Court.

57. Communication PRE/ACCC/C/2018/160 (Germany) had been submitted on 9 April 2018 by the Environmental Association of German Environmental Aid (DUH). The communication alleges noncompliance with article 9 (3) due to a lack of access to justice with respect to product regulations for vehicle emissions. During the meeting, the Committee heard the views of the Party concerned on the preliminary admissibility of the communication. After considering in closed session the information received, the Committee determined that the communication was inadmissible in accordance with paragraphs 20 and 21 of the annex to decision I/7 due to the court proceedings still ongoing at the domestic level.

58. Communication PRE/ACCC/C/2018/161 (Bulgaria) had been submitted on 1 October 2018 by Za Zemiata, a Bulgarian non-governmental organization. The communication alleges non-compliance with article 3 (1) and (8), article 8 and article 9 (1), (2), (3), (4) and (5), of the Convention with respect to certain legislative amendments, court practice denying standing to challenge air quality plans and allegedly derogatory public statements of high officials with regards to environmental non-governmental organizations. During the meeting, the Committee heard the views of the Party concerned and the communicant by audio conference, as well as of observers present, on the preliminary admissibility of the communication. Committee member Mr. Kodjabashev declared a conflict of interest in the case. After considering in closed session the information received, the Committee determined that the communication was preliminarily admissible and requested the secretariat to forward the communication to the Party concerned for its response.

### III. Reporting requirements

59. The Committee noted that the Meeting of the Parties, at its sixth session, had urged Parties that had not yet submitted their national implementation reports — i.e., Armenia, Bosnia and Herzegovina, the Netherlands, the Republic of Moldova, the former Yugoslav Republic of Macedonia, Ukraine and the United Kingdom — to do so in the required format by 1 November 2017 at the latest.<sup>1</sup> Notwithstanding this, none of the aforementioned Parties had submitted their national implementation reports to the secretariat by 1 November 2017. The secretariat reported that to date Bosnia and Herzegovina, the Netherlands, the former

<sup>1</sup> Report of the sixth session of the Meeting of the Parties, ECE/MP.PP/2017/2, para. 46.



Yugoslav Republic of Macedonia, Ukraine and the United Kingdom had submitted their reports. Armenia and the Republic of Moldova had not yet submitted their reports.

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

60. The Committee took note of the developments since its sixty-first meeting with respect to decisions VI/8a-e and g-k of the Meeting of the Parties, and in particular the deadline of 1 October 2018 for the submission by the Parties concerned of their first progress reports. In this regard, the Committee welcomed the fact that all but two of the Parties concerned had submitted their first progress reports on time. The other two Parties concerned had submitted their reports one day after the deadline.

61. With respect to decision VI/8a (Armenia), the Party concerned submitted its first progress report on 1 October 2018, on time.

62. Regarding decision VI/8b (Austria), on 28 September 2018, the communicant in ACCC/C/2010/48 submitted a written statement and on 2 October 2018, the Party concerned submitted its first progress report, one day after the deadline. On 30 October 2018, the communicants of communications ACCC/C/2010/48 and ACCC/C/2011/63 each submitted comments on the Party concerned's first progress report. On 1 November 2018, the communicant of communication ACCC/C/2010/48 provided an update on recent legislative developments relevant to decision VI/8b.

63. Concerning decision VI/8c (Belarus), the Party concerned submitted its first progress report on 2 October 2018, one day after the deadline. On 2 November 2018, the communicant of communication ACCC/C/2014/102 submitted comments on the Party concerned's first progress report.

64. With respect to decision VI/8d (Bulgaria), on 1 October 2018, the Party concerned submitted its first progress report on decision VI/8d on time. On 1 November 2018, the communicant of communications ACCC/C/2011/58 and ACCC/C/2012/76 submitted comments on the Party concerned's first progress report.

65. Concerning decision VI/8e (Czechia), on 1 October 2018, the Party concerned submitted its first progress report on decision VI/8e on time. On 31 October 2018, the communicant of communication ACCC/C/2012/71 submitted comments on the Party concerned's first progress report.

66. With respect to decision VI/8g (Kazakhstan), on 1 October 2018, the Party concerned submitted its first progress report on decision VI/8g on time. On 2 November the communicant of communication ACCC/C/2013/88 submitted comments on the first progress report.

67. With respect to decision VI/8h (Romania), on 12 July 2018, the secretariat wrote to the Party concerned enclosing the advice to the Party concerned on possible measures to implement decision VI/8h prepared by the Committee at the Party's request. On 1 October 2018, the Party concerned submitted its first progress report on decision VI/8h on time.

68. Regarding decision VI/8i (Slovakia), on 1 October 2018, the Party concerned submitted its first progress report on decision VI/8i on time.

69. Concerning decision VI/8j (Spain), on 22 August 2018, the secretariat wrote to the Party concerned enclosing the advice to the Party concerned on paragraph 7 of that decision prepared by the Committee at the Party's request. On 28 September 2018, the Party concerned submitted its first progress report on decision VI/8j on time. On 8 October 2018, the communicant of communication ACCC/C/2009/36 provided comments on the first progress report. On 31 October 2018 the communicants of communication ACCC/C/2008/24 and ACCC/C/2014/99 each provided comments on the first progress report.

70. With respect to decision VI/8k (United Kingdom), On 1 October 2018, the Party concerned submitted its first progress report on decision VI/8k on time. On 31 October 2018 the communicant of communication ACCC/C/2008/33 (ClientEarth) with observers RSPB and Friends of the Earth England, Wales and Northern Ireland and Friends of the Earth Scotland submitted comments on the Party concerned's first progress report. On 2 November 2018, the communicant of communication ACCC/C/2008/33 (ClientEarth) separately submitted further comments on the Party concerned's first progress report. On 9 November 2018, the communicant of communication ACCC/C/2013/91 submitted comments on the first progress report.

## V. Programme of work and calendar of meetings

71. The Committee agreed to hold three virtual meetings to continue its deliberations on draft findings and consider the information received with regards to submissions, referrals and requests under the Convention, as well as follow-up on specific cases of noncompliance, in closed session prior to its sixty-third meeting.

## VI. Other business

### A. Modus operandi

72. The Chair presented a revised proposal on "Ensuring a fair and effective compliance mechanism with an increasing caseload" which proposed that in each case, prior to scheduling a hearing, the Committee would first consider whether a hearing was in fact needed in order for it to commence its deliberations.<sup>2</sup> The Chair noted that the Committee had already agreed such a procedure at its fifty-fourth meeting (Geneva, 27-30 September 2016)<sup>3</sup> and reported on it in its report to the sixth session of the Meeting of the Parties,<sup>4</sup> but to date it had been applied on an ad hoc basis. His proposal was that, rather than being applied in an ad hoc manner, the procedure agreed at the fifty-fourth meeting should become a routine step in the Committee's management of each case. Austria, on behalf of the European Union and its member States,<sup>5</sup> and Earthjustice, on behalf of European ECO Forum, made statements on the Chair's proposal. While not disagreeing with the proposal as a whole, the European Union and its member States reiterated the view they had expressed at the Committee's sixty-first meeting that if either party considers a hearing is needed, a hearing should indeed be held. The European ECO Forum thanked the Chair for the proposal and agreed with his proposal that the Committee should have the final say in determining whether or not a hearing is needed, noting that the workability of the procedure can be evaluated at the next session of the Meeting of the Parties. Committee members reaffirmed their support for the Chair's proposal in general. After hearing the comments from Committee members, Parties and observers, the Committee agreed to the Chair's proposal.

73. The Chair further discussed in open session how to effectively manage cases which are clearly inadmissible so that there is a formal yet fair and transparent way to close such cases. Austria, on behalf of the European Union and its member States,<sup>6</sup> took note of the

<sup>2</sup> Available on the webpage for the Committee's sixty-third meeting, <http://www.unece.org/index.php?id=49360>.

<sup>3</sup> ECE/MP.PP/C.1/2016/7, para. 69.

<sup>4</sup> ECE/MP.PP/2017/31, para. 22.

<sup>5</sup> Available on the webpage for the Committee's sixty-third meeting, <http://www.unece.org/index.php?id=49360>.

<sup>6</sup> Available on the webpage for the Committee's sixty-third meeting, <http://www.unece.org/index.php?id=49360>.

explanations given by the Chair and the secretariat, viewing this as an important issue to discuss and consider further. Earthjustice, on behalf of European ECO Forum, and Committee members suggested possible procedural considerations and steps for the management of such cases. The Chair concluded by proposing that a draft proposal be prepared and that discussions on this issue resume at its sixty-third or sixty-fourth meeting.

74. The Committee took note of the proposals of the European Union and its member States that the deadline for distribution of draft decisions on compliance before each session of the Meeting of the Parties be extended to at least 3 months and that only cases concluded at least 6 months before a Meeting of the Parties be included in the Committee's report. The Chair explained that draft decisions are not prepared by the Committee but the Convention's Bureau and that the annex to decision I/7 already established a deadline for the Committee's report to the Meeting of the Parties. Earthjustice, on behalf of European ECO Forum, agreed that the discussion regarding these timeframes should take place within the Bureau, whilst expressing the concern that restricting the timeframes could reduce the effectiveness of the Committee.

75. The Committee discussed further possible changes to its draft revised Guide to the Committee in open session with the participation of representatives of the European Union and its member States and the European ECO Form. It agreed that the draft revised Guide incorporating the changes discussed at the meeting and any further edits would be posted on the Committee's website in order for Parties and observers to have an opportunity to consider the text prior to its adoption.

## **B. Other matters**

76. The Chair reported on his participation in an event in New York on 27 September 2018 to celebrate the signing of the Escazu Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean. The Chair also reported on the presentation he had made on article 3(8) of the Convention via video-link to the eighth meeting of the Task Force on Public Participation in Decision-making (Geneva, 8-9 October 2018).

77. Committee member Áine Ryall informed the meeting of her participation in the conference "Celebrating and reflecting on the Aarhus Convention on the 20th anniversary of its adoption", which was held in Dublin on 14 July 2018. The event was organized by the Irish Environmental Network and Ms. Ryall had delivered the keynote address. Ms. Ryall reported that a session of the conference had been chaired by the Chief Justice of the Supreme Court and the conference had been attended by senior government officials, barristers, academics, environmental organizations and members of the public, as well as a representative of the secretariat. Ms. Ryall also reported that she had spoken on the Committee's work at a roundtable event at the European University Institute in Florence, Italy. Finally, Ms. Ryall informed the meeting of the expert statement submitted by the Special Rapporteur in the context of *Friends of the Irish Environment CLG v. the Government of Ireland, Ireland and the Attorney General*, an application for judicial review of Ireland's national climate change mitigation plan. The expert statement discussed the right to life and took the view that the Government of Ireland had positive human rights obligations to mitigate climate change by rapidly reducing its greenhouse gas emissions.<sup>7</sup>

78. Committee member Dmytro Skrylnikov reported on his moderation of a session of the eighth meeting of the Convention's Task Force on Public Participation in Decision-making (Geneva, 8-9 October 2018). He observed that a number of countries are currently updating their legislation on environmental impact assessment and strategic environmental assessment (SEA). He emphasised the importance of keeping the principles of the Maastricht

<sup>7</sup> See <https://www.ohchr.org/Documents/Issues/Environment/FriendsIrishEnvironment25Oct2018.pdf>

Recommendation on Promoting Effective Public Participation in Environmental Matters in mind when doing so. Mr. Skrylnikov noted that the meeting also highlighted the need to consider how to promote the Maastricht Recommendations to ensure that the Convention is taken into account in practice. Mr. Skrylnikov also reported on his participation in a panel on multilateral environmental agreements held in the context of a training in Central Asia on green development, which had provided an opportunity to highlight the Aarhus and Espoo Conventions and the SEA Protocol.

79. The secretariat also reported on the eighth meeting of the Task Force on Public Participation in Decision-making, including its session on article 3 (8) of the Convention, in which partners such as the United Nations Environment Programme and the Office of the High Commissioner of Human Rights had participated. The secretariat also reported that a representative of the International Code of Conduct for Private Security Providers' Association had made a presentation during the meeting on security for industrial installations and artificial intelligence. The secretariat further reported on the Global Round Table on Pollutant Release and Transfer Registers (PRTRs) (Geneva, 7-8 November 2018), which was organized under the auspices of the United Nations Economic Commission for Europe and the Organization for Economic Co-operation and Development, in cooperation with the United Nations Environment Programme and the United Nations Institute for Training and Research. Finally, the secretariat reported on the sixth meeting of the Working Group of the Parties to the Protocol on PRTRs (Geneva, 9 November 2018), which considered among other subjects the further development of the Protocol.

80. A representative of Earthjustice reported on the appointment of Mr. David Boyd as the new Special Rapporteur on human rights and the environment and the reports presented by the Special Rapporteur to the 39<sup>th</sup> session of the Human Rights Council (10-28 September 2018) and to the General Assembly in the beginning of October 2018. Earthjustice also highlighted the significance of the expert statement made by the Special Rapporteur in the context of the Irish climate change litigation (see para. 77 above).

## **VII. Report and closure of the meeting**

81. The Committee agreed to adopt its report through its electronic decision-making procedure after the meeting. The Chair then officially closed the sixty-second meeting.

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