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Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

Compliance Committee

Sixtieth meeting

Geneva, 11–15 March 2019

Report of the Compliance Committee on its sixty-third meeting

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Introduction

1. The sixty-third 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 11 to 15 March 2019 in Geneva.

A. Attendance

2. Seven of the nine Committee members were present throughout the entire meeting: Fruzsina Bögös; Marc Clément; Jonas Ebbesson (Chair); Jerzy Jendroška; Alexander Kodjabashev (Vice-Chair); Peter Oliver; and Dmytro Skrylnikov. Áine Ryall (Vice-Chair) was unable to attend the meeting. Heghine Grigoryan was only able to attend the first day of 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. The communicant of communication ACCC/C/2014/118 (Ukraine) and a representative of the Party concerned took part in the hearing of on the substance of that communication held in open session on 13 March 2019.

4. Representatives of the Parties concerned and the communicants of communications PRE/ACCC/C/2017/159 (Spain), PRE/ACCC/C/2019/162 (Denmark), PRE/ACCC/C/2019/163 (Austria), PRE/ACCC/C/2019/164 (Ireland) and PRE/ACCC/C/2019 (Portugal) took part by audio conference in the open session on preliminary admissibility on 11 March 2019. Representatives of the Party concerned also took part in the open session on preliminary admissibility of communication PRE/ACCC/C/2019/165 (Ireland) on that date. Though invited, the communicant of PRE/ACCC/C/2019/165 did not participate.

5. Representatives of Belarus and Romania participated in person in the open sessions on the review of any developments in relation to communications, submissions and requests; on preliminary admissibility; and on the Committee's modus operandi and preparation of the revised Guide to the Committee, all of which took place on 11 March 2019.

6. Representatives of Armenia, Austria, Belarus, Bulgaria, Czechia, the European Union, Kazakhstan, Romania, Spain, Slovakia and the United Kingdom of Great Britain and Northern Ireland took part by audio conference, and representatives of Belarus, Romania, Slovakia and Turkmenistan also took part in person, in the open sessions on the review of the implementation of requests and decisions of the Meeting of the Parties concerning the compliance of the respective Party concerned. In addition, the following members of the public participated by audio conference in the open sessions on the review of the implementation of requests and decisions of the Meeting of the Parties concerning compliance: regarding request ACCC/M/2017/2 (Turkmenistan), a representative of observer non-governmental organization (NGO) "Earthjustice"; with respect to request ACCC/M/2017/3 (European Union), representatives of the communicants of communications ACCC/C/2008/32 and ACCC/C/2010/54; on decision VI/8b (Austria), a representative of the communicant of communication ACCC/C/2010/48; on decision VI/8e (Czechia), a representative of the NGO OEKOBUERO as an observer; on decision VI/8i representatives of the communicants of communication ACCC/C/2013/89 (OEKOBUERO and GLOBAL 2000); on decision VI/8k (United Kingdom), representatives of the communicants of communications ACCC/C/2008/23, ACCC/C/2008/33 (ClientEarth), ACCC/C/2010/53, and ACCC/C/2013/85 and 86, as well as a representative of the Royal Society for the Protection of Birds as an observer. Furthermore, a representative of the communicant of communication ACCC/C/2014/102 participated in person in the open session on the implementation of decision VI/8c (Belarus).

7. Participating as an observer during all of the open sessions of the meeting was a representative of the NGO "Earthjustice", who participated on the behalf of European ECO Forum. Furthermore, a representative of the NGO ClientEarth took part by audio conference in the open session on the Committee's modus operandi and preparation of the revised Guide to the Committee on 12 March 2018. Representatives of the Espoo Convention Implementation Committee and the NGOs Environmental Law People and Ecohome, as well as other members of the public, participated in open sessions on the implementation of requests and decisions of the Meeting of the Parties concerning compliance.

B. Organizational matters

8. The Chair of the Compliance Committee opened the meeting.

9. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2019/1.

10. The Chair reported that the Committee had held four virtual meetings since its sixty-second meeting. These took place on 10 December 2018, 4, 14 and 20 February 2019 and were dedicated in the main to preparing the Committee's first progress reviews of the implementation of requests and decisions from the Meeting of the Parties. In addition, at the virtual meeting on 10 December 2018, the Committee had continued its deliberations on its draft findings on communication ACCC/C/2013/90 (United Kingdom).

11. Regarding communications received before 28 January 2019 (the deadline for receipt of communications for the sixty-third meeting), the Chair reported that he and Vice Chair Mr. Kodjabashev had held a telephone conference on 8 February 2019 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. Vice Chair Ms. Ryall was unable to take part in the telephone conference. The Chair and Mr. Kodjabashev had decided that communications PRE/ACCC/C/2019/162 (Denmark), PRE/ACCC/C/2019/163 (Austria), PRE/ACCC/C/2019/164 (Ireland), PRE/ACCC/C/2019/165 (Ireland) and PRE/ACCC/C/2019/166 (Portugal) should be forwarded to the Committee for consideration of preliminary admissibility at its sixty-third meeting and had requested the secretariat to post these communications on the Committee's website.

I. Submissions, referrals and requests under the Convention

12. Concerning submission ACCC/S/2015/2 (Belarus), 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. With respect to requests from the Meeting of the Parties concerning the compliance of individual Parties, the Chair explained in open session that if a Party concerned, by the time of its final progress report, due on 1 October 2020, has demonstrated to the Committee that it is fully in compliance with respect to the matters within the scope of the request of the Meeting of the Parties concerning its compliance, the Committee will report that fact to the seventh session of the Meeting of the Parties. There would then be no need for a further request or a decision on the compliance of that Party concerned to be adopted at the seventh session.

14. Regarding request ACCC/M/2017/2 (Turkmenistan), the Committee noted that on 7 December 2018, the Party concerned had submitted additional information, on 17 January 2019, the Party concerned had submitted an update and on 19 February 2019, the Party concerned had submitted its replies to questions 1-6 of the questions sent by the Committee

on 5 September 2018. The Committee noted that on 8 March 2019, the Executive Secretary of the UNECE had sent a letter to the Deputy Chairman of the Cabinet of Ministers and Minister for Foreign Affairs enclosing the Committee's first progress review, and that on 15 March 2019, the Party concerned had submitted some additional information including the text of some relevant legislation. The Committee reviewed the implementation of request ACCC/M/2017/2 in open session with the participation in person of representatives of the Party concerned and a representative of observer Earthjustice on behalf of European ECO Forum. Though invited, the communicant of communication ACCC/C/2004/5 did not take part in the session. The Chair reminded the Party concerned of paragraph 21 of the Committee's first progress review, which provides that the Party concerned should submit its answers to questions 7-22 of the Committee's questions dated 5 September 2018 "as a matter of urgency". The Committee reiterated the need for the Party concerned to fully engage the Committee and provide answers to its questions. The Chair also reiterated that the secretariat and the Committee were ready to engage in dialogue. In this regard, the Chair requested that the representative of the Party concerned convey the Committee's concerns to all relevant authorities. The Party concerned, represented by its Permanent Mission to the United Nations in Geneva, agreed to do so and to deal with the matter swiftly.

15. With respect to request ACCC/M/2017/3 (European Union), the Committee noted that on 26 February 2019, the secretariat had sent the Committee's first progress review to the Party concerned. On 5 March 2019, the communicant of communication ACCC/C/2008/32 submitted additional information to the Committee. The Committee reviewed the implementation of the request by the Meeting of the Parties in open session with the participation by audio conference of representatives of the Party concerned and the communicants of communications ACCC/C/2008/32 and ACCC/C/2008/54.

II. Communications from members of the public

16. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its sixty-fourth meeting would be 20 May 2019.

17. With respect to communication ACCC/C/2013/90 (United Kingdom), the Committee noted that it had continued its deliberations on its draft findings at its virtual meeting on 10 December 2018. In light of the curator not being present at the sixty-third meeting, 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.

18. Concerning communication ACCC/C/2013/96 (European Union), 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. Regarding communication ACCC/C/2013/98 (Lithuania), 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.

20. Concerning communication ACCC/C/2014/100 (United Kingdom), the Committee had completed its draft findings through its electronic decision-making procedure on 26 November 2018. The draft findings had then been forwarded to the Party concerned and the communicant on 30 November 2018 for their comments by 11 January 2019. The communicant's comments had been received on 10 January 2019, and the comments of the Party concerned on 11 January 2019. The Committee continued its deliberations in closed session, taking into account the comments received, and finalized and adopted its findings unchanged. The Committee requested the secretariat to prepare the findings as an official document for the Committee's sixty-fourth meeting, ensuring their availability in the three official languages of ECE.

21. With respect to communication ACCC/C/2014/104 (Netherlands), the Committee confirmed the edited version of its findings (ECE/MP.PP/C.1/2019/3).
22. 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.
23. 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.
24. With respect to communication ACCC/C/2013/107 (Ireland), the Committee noted that on 27 November 2018, it had received a reply from the Party concerned to its request for information sent on 8 November 2018. The Committee continued its deliberations in closed session and agreed to continue its deliberations at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.
25. Concerning communication ACCC/C/2014/112 (Ireland), 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.
26. With respect to communication ACCC/C/2014/113 (Ireland), 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.
27. Concerning communication ACCC/C/2014/118 (Ukraine), the Committee noted that it had received answers to its questions from the Party concerned on 8 November 2018. On 28 January 2019, the communicant had submitted additional information. 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. Committee member Dmytro Skrylnikov declared a conflict of interest in the case and the Committee agreed that Mr. Skrylnikov would henceforth participate in the proceedings on the communication as an observer only and would not participate in any deliberations on the communication in closed sessions or in the preparation or adoption of any findings, measures or recommendations. Both the Party concerned and the communicant considered that Committee member Jerzy Jendroška had no conflict in the case. Following the hearing, the Committee commenced its deliberations on its draft findings and agreed to send questions to the Minister of Foreign Affairs of the Party concerned, with a copy to its Minister of Energy, for a written reply. The Committee also agreed to submit questions to the communicant for its written reply. The Committee agreed that it would thereafter continue its deliberations taking into account the replies received.
28. Regarding communication ACCC/C/2014/119 (Poland), the Committee noted that it was preparing questions to the Party concerned and that it would continue its deliberations taking into account the reply received, with a view to completing its draft findings and, as appropriate, recommendations.
29. 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.
30. Regarding communication ACCC/C/2014/121 (European Union), the Committee continued its deliberations on its draft findings in closed session. It agreed to continue its deliberations at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

31. Concerning communication ACCC/C/2014/122 (Spain), the Committee agreed to continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

32. Regarding communication ACCC/C/2014/124 (Netherlands), the Committee noted that on 22 November 2018, the Party concerned had provided a translated judgment to supplement its reply of 2 November 2018 to the Committee's questions of 5 October 2018. The Committee continued its deliberations on its draft findings and agreed to continue its deliberations on its draft findings at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

33. With respect to communication ACCC/C/2015/126 (Poland), the Committee noted that it had received comments from the communicant on 16 November 2018 and 17 February 2019, and comments from the Party concerned on 19 December 2018. The Committee continued its deliberations on its draft findings and agreed to continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

34. Regarding communication ACCC/C/2015/128 (European Union), the Committee noted that on 1 February 2019, observer ClientEarth had submitted comments on the comments from the Party concerned of 26 October 2018. The Committee continued its deliberations on its draft findings in closed session and agreed to continue its deliberations on its draft findings at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

35. Concerning communication ACCC/C/2015/130 (Italy), the Committee noted that it had agreed to write to the parties seeking further information and clarification and that it would consider how to proceed with the communication, taking into account the information received.

36. With respect to communication ACCC/C/2015/131 (United Kingdom), the Committee noted that on 3 December 2018, the communicant had submitted its reply to the Committee's questions of 5 November 2018 and that the Party concerned had submitted its reply to the Committee's questions on 31 January 2019. Thereafter, on 12 February 2019, the communicant had submitted comments on the reply of the Party concerned of 31 January 2019 and on 21 February 2019 the Party concerned had submitted an explanatory note concerning some information it had submitted on 31 January 2019. The Committee agreed to consider how to proceed with the communication, taking into account the information received at its sixty-fourth meeting.

37. Regarding communication ACCC/C/2015/132 (Ireland), the Committee noted that questions would shortly be sent to the parties and that the Committee would decide how to proceed with the communication once the replies to its questions were received.

38. With respect to communication ACCC/C/2015/133 (Netherlands), the Committee continued its deliberations on its draft findings in closed session. The Committee agreed to write to both parties with questions 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.

39. Concerning communication ACCC/C/2015/134 (Belgium), 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.

40. 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 its deliberations on its draft findings at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.

41. Regarding communication ACCC/C/2015/137 (Germany), 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.
42. Concerning communication ACCC/C/2016/138 (Armenia), the Committee noted that it had agreed to proceed to commence its deliberations on the substance of the case without a hearing. To this end, it had agreed to invite both parties to submit any final written submissions and in that context to ask the Party concerned to provide translations of relevant court decisions and legislation.
43. Regarding communication ACCC/C/2016/139 (Ireland), the Committee noted that on 7 December 2018, the communicant had submitted its reply to the Committee's request for clarification and on 11 February 2019 the Party concerned had submitted its comments on the communicant's clarification. The Committee agreed that it would decide how to proceed with the communication at its sixty-fourth meeting in the light of the information received.
44. With respect to communication ACCC/C/2016/140 (Romania), the Committee agreed to decide how to proceed with the communication at its sixty-fourth meeting.
45. With respect to communication ACCC/C/2016/141 (Ireland), the Committee continued its deliberations on its draft findings in closed session and agreed to continue its deliberations on its draft findings at an upcoming meeting, with a view to completing its draft findings and, as appropriate, recommendations.
46. Regarding communication ACCC/C/2016/142 (United Kingdom), the Committee noted that it 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 concerned matters already under the Committee's review in the context of decision VI/8k. The Committee agreed to decide how to proceed with the communication in the light of the comments received.
47. Concerning communication ACCC/C/2016/143 (Czechia), the Committee provisionally agreed to schedule a hearing at its sixty-fourth meeting to discuss the substance of the communication.
48. With respect to communication ACCC/C/2016/144 (Bulgaria), the Committee agreed to decide how to proceed with the communication at its sixty-fourth meeting.
49. With respect to communication ACCC/C/2017/146 (Poland), the Committee considered in closed session the information received from the Party concerned, on 19 February and 31 October 2018, and the communicant, on 1 August 2018, regarding the preliminary admissibility of the communication. After taking into account the information received, the Committee determined that the communication remained admissible on a preliminary basis.
50. Concerning communication ACCC/C/2017/147 (Republic of Moldova), the Committee noted that on 13 March 2019 a letter from the Executive Secretary of the UNECE was sent to the Ministry of Foreign Affairs to draw his attention to the ongoing failure of the Party concerned to provide its response to the communication.
51. With respect to communication ACCC/C/2017/148 (Greece), the Committee agreed to decide how to proceed with the communication at its sixty-fourth meeting.
52. Concerning communication ACCC/C/2017/149 (Greece), the Committee noted that on 9 March 2019 it had written to the Party concerned to clarify whether it had challenged the admissibility of the communication in its response of 29 May 2018. The Committee agreed to decide how to proceed once the clarification from the Party concerned was received.

53. Regarding communication ACCC/C/2017/150 (United Kingdom), the Committee noted that on 21 November 2018, the communicant had submitted comments on the response of the Party concerned. In its comments the communicant had requested that, given that the legislation at issue had since been adopted, the Committee reconsider its determination that certain parts of the communication were inadmissible under paragraph 20(d) of the annex to decision I/7. After deliberating on the communicant's request for reconsideration in closed session, the Committee confirmed its earlier determination of inadmissibility with respect to parts of the communication because the request for reconsideration had been submitted after the five-week deadline set out in the Guide to the Committee for such requests.

54. Regarding communication ACCC/C/2016/151 (Poland), the Committee agreed to send a letter to the parties in this communication and in ACCC/C/2017/154 and ACCC/C/2018/158, seeking their views as to whether they see reasons why these cases should not be considered jointly.

55. Concerning communication ACCC/C/2017/153 (Spain), on 16 November 2018 the secretariat forwarded a letter to the communicant requesting their comments on the submissions of the Party concerned regarding admissibility. On 13 December 2018, the communicants submitted their comments. On 25 January 2019, the Party concerned submitted its comments on the communicants' submission of 13 December 2018. Thereafter, on 4, 5 and 7 February 2019 five different observers submitted comments. The Committee considered the information received in closed session and agreed to defer its determination regarding the submissions of the Party concerned on preliminary admissibility pending a more thorough review of the voluminous information received and assessment as to whether or not further questions are needed to clarify the use of available domestic remedies with respect to each of the communicant's various allegations.

56. Concerning communication ACCC/C/2017/154 (Poland), the Committee agreed to send a letter to the parties in this communication and in ACCC/C/2016/151 (Poland) and ACCC/C/2018/158 (Poland), seeking their views as to whether they see reasons why these cases should not be considered jointly.

57. With respect to communication ACCC/C/2017/156 (United Kingdom), the Committee agreed to decide how to proceed with the communication at its sixty-fourth meeting.

58. Regarding communication ACCC/C/2017/157 (United Kingdom), the Committee took note of the response to the communication submitted on 21 December 2018 and the update submitted on 8 March 2019. The Committee agreed to decide how to proceed with the communication at its sixty-fourth meeting in light of the information received.

59. Concerning communication ACCC/C/2018/158, the Committee agreed to send a letter to the parties in this communication and in ACCC/C/2016/151 and ACCC/C/2017/154, seeking their views as to whether they see reasons why these cases should not be considered jointly.

60. Communication PRE/ACCC/C/2017/159 (Spain) had been submitted on 3 August 2017 by NGOs ClientEarth and Instituto Internacional de Derecho y Medio Ambiente. 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. 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.

61. Regarding communication ACCC/C/2018/161 (Bulgaria), the secretariat had forwarded the communication to the Party concerned on 18 January 2019. The deadline of

18 June 2019 for its response had not yet expired and the Party's response had not yet been received.

62. Communication PRE/ACCC/C/162 (Denmark) had been submitted on 14 March 2017 by Mr. John Damm Sørensen. The communication alleges a failure to comply with article 9 of the Convention in relation to standing of members of the public concerned to challenge decision-making subject to article 6 of the Convention. 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.

63. Communication PRE/ACCC/C/163 (Austria) had been submitted on 29 October 2018 by the Liechtenstein Citizens' Group "mobil ohne Stadttunnel". The communication alleges a failure to comply with articles 2(4) and (5), 3(1), (7) and (9), 6(4), (7) and 9(2) of the Convention in relation to the participation and access to justice rights of foreign citizens' groups. 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.

64. Communication PRE/ACCC/C/164 (Ireland) had been submitted on 25 January 2019 by the Irish Raptor Study Group. The communication alleges a failure to comply with articles 3(1), 5(10), 6(6) and (7) and 9(2) and (3) of the Convention in relation to disclosure of sensitive environmental information and access to justice to challenge the publication of such information. 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.

65. Communication PRE/ACCC/C/165 (Ireland) had been submitted on 25 January 2019 by Mr. Neil Foulkes. The communication alleges a failure to comply with articles 6(2) and 3(2) of the Convention as a result of inadequate notification and consultation and generally a failure endeavour to ensure that it is facilitating public participation in decision-making and that the public is sufficiently aware of its rights to seek access to justice with respect to forestry and tree felling. After considering in closed session the information received, the Committee agreed to defer its determination of preliminary admissibility to its sixty-fourth meeting in order to seek clarification from the communicant concerning the scope of his communication and his use of available domestic remedies.

66. Communication PRE/ACCC/C/166 (Portugal) had been submitted on 28 January 2019 by "Plataforma Algarve Livre de Petróleo". The communication alleges a failure to comply with articles 4(2), 4(4), 4(8) and 6(8) of the Convention in connection to oil exploration, research, development and production contracts. After considering in closed session the information received, the Committee agreed to defer its determination of preliminary admissibility to its sixty-fourth meeting in order to seek further information from the communicant concerning pending procedures and the availability of domestic remedies.

67. Marc Clement was appointed as the curator for communication ACCC/C/2017/159 (Spain), Fruzsina Bögös as curator for communication ACCC/C/2019/162 (Denmark), Dmytro Skrylnikov as curator for communication ACCC/C/2019/163 (Austria) and Peter Oliver as the curator for communication ACCC/C/2019/164 (Ireland).

III. Reporting requirements

68. 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.¹ 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, North 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

69. The Committee took note of the developments since its sixty-second meeting with respect to decisions VI/8a–e and g–k of the Meeting of the Parties, in particular the information received from the Parties concerned on the measures they had taken to implement the decisions concerning their compliance and the comments received from the communicants and observers on those measures. During the open sessions held on each decision during the meeting, the Chair reminded each Party concerned that its second progress report on the measures that it had by then taken to implement the decision concerning its compliance were due on 1 October 2019.

70. The Chair also reminded each Party concerned that all measures to implement the decisions concerning its compliance must be implemented and reported on by 1 October 2020 in order to be taken into consideration by the Committee in its report to the seventh session of the Meeting of the Parties.

71. The Chair also explained that if a Party concerned demonstrates to the Committee that it has fully implemented the requirements of the decision concerning its compliance by the time of its final progress report, due on 1 October 2020, the Committee will report that fact to the seventh session of the Meeting of the Parties. There would then be no need for a further decision on the compliance of that Party concerned to be adopted at the seventh session. The same approach will apply with respect to any findings of non-compliance adopted by the Committee in the present intersessional period. If a Party concerned demonstrates that it has fully implemented the Committee's recommendations by the time of that Party's final progress report, which will also be 1 October 2020, the Committee will report this fact to the seventh session of the Meeting of the Parties. There would then be no need for a decision on the compliance of that Party concerned to be adopted at the seventh session.

72. With respect to decision VI/8a (Armenia), the Committee noted that its first progress review had been sent to the Party concerned on 25 February 2019. The Committee reviewed the implementation of decision VI/8a in open session with the participation by audio conference of a representative of the Party concerned. Though invited, neither the communicants of communications ACCC/C/2004/8, ACCC/C/2009/43 and ACCC/C/2011/62, nor the registered observer took part in the open session.

73. Regarding decision VI/8b (Austria), on 18 December 2018, the Committee had received comments on recent legislative developments from the communicant of communication ACCC/C/2010/48. The Committee had also received on 21 December 2018 the text of the relevant legislation from the Party concerned. The Committee noted that its first progress review had been sent to the Party concerned on 25 February 2019. The Committee reviewed the implementation of decision VI/8b in open session with the participation by audio conference of representatives of the Party concerned and the communicant of communication ACCC/C/2010/48.

74. Concerning decision VI/8c (Belarus), on 7 January 2019, the secretariat had sent a letter to the Party concerned enclosing questions from the Committee. On 31 January 2019,

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

the Party concerned had submitted its reply to the Committee's questions. On 14 February 2019, the communicant of communication ACCC/C/2014/102 had submitted additional information. The Committee noted that its first progress review had been sent to the Party concerned on 27 February 2019. The Committee reviewed the implementation of decision VI/8c in open session with the participation in person of representatives of the Party concerned and the communicant of communication ACCC/C/2014/102. In the open session a representative of the Party concerned indicated its interest in benefiting from the Committee's expertise in order to assist it to fulfil the requirements of decision VI/8c. The Chair of the Committee informed the Party concerned that the Committee would welcome any request for assistance, and also mentioned the possibility of a mission to engage in a dialogue on the matter, noting that the Committee had had similar requests from other Parties and had undertaken missions to Turkmenistan, the United Kingdom, the European Union and Armenia with a view to assisting the Parties concerned to implement the decision concerning their compliance.

75. With respect to decision VI/8d (Bulgaria), the Committee noted that its first progress review had been sent to the Party concerned on 25 February 2019. The Committee reviewed the implementation of decision VI/8d in open session, with the participation by audio conference of a representative of the Party concerned. Though invited, the communicant of communications ACCC/C/2011/58 and ACCC/C/2012/76 did not take part in the open session.

76. With respect to decision VI/8e (Czechia), the Committee noted that its first progress review had been sent to the Party concerned on 25 February 2019. The Committee reviewed the implementation of decision VI/8e in open session, with the participation by audio conference of representatives of the Party concerned and observer OEKOBUERO. Though invited, the communicants of communications ACCC/C/2010/50, ACCC/C/2012/70 and ACCC/C/2012/71 did not take part in the open session.

77. Regarding decision VI/8g (Kazakhstan), the Committee noted that its first progress review had been sent to the Party concerned on 25 February 2019. The Committee reviewed the implementation of decision VI/8g in open session, with the participation by audio conference of representatives of the Party concerned. Though invited, the communicant of communication ACCC/C/2013/88 did not take part.

78. Concerning decision VI/8h (Romania), the Committee noted that its first progress review had been sent to the Party concerned on 25 February 2019. The Committee reviewed the implementation of decision VI/8h in open session, with the participation in person and by audio conference of representatives of the Party concerned. Though invited, the communicant of communication ACCC/C/2010/51 and ACCC/C/2012/69 did not take part.

79. With respect to decision VI/8i (Slovakia), the Committee noted that its first progress review had been sent to the Party concerned on 26 February 2019. The Committee reviewed the implementation of decision VI/8i in open session, with the participation by audio conference of representatives of the Party concerned and the communicants of communication ACCC/C/2013/89 (OEKOBUERO and GLOBAL 2000).

80. Concerning decision VI/8j (Spain), the Committee noted that its first progress review had been sent to the Party concerned on 26 February 2019. The Committee reviewed the implementation of decision VI/8j in open session, with the participation by audio conference of a representative of the Party concerned. Though invited, the communicants of communications ACCC/C/2008/24, ACCC/C/2009/36, or ACCC/C/2014/99 did not take part.

81. With respect to decision VI/8k (United Kingdom), observer Royal Society for the Protection of Birds (RSPB) had submitted further information on 29 November 2018, and observer Ms. Brigitte Artmann had submitted comments on 25 February 2019. The

Committee noted that its first progress review had been sent to the Party concerned on 26 February 2019. The Committee reviewed the implementation of decision VI/8k in open session, with the participation by audio conference of the Party concerned, the communicants of communications ACCC/C/2008/23, ACCC/C/2008/33 (ClientEarth), ACCC/C/2010/53, ACCC/C/2013/85 and ACCC/C/2013/86 and observer RSPB.

V. Programme of work and calendar of meetings

82. The Committee agreed to hold its sixty-fourth meeting in Geneva from 1 to 5 July 2019. It also agreed to schedule two virtual meetings to continue its deliberations on draft findings in closed session prior to its sixty-fourth meeting. Subject to the availability of meeting rooms and services, the Committee further agreed to hold its sixty-fifth meeting from 4 to 8 November 2019, its sixty-sixth meeting from 16-20 March 2020, its sixty-seventh meeting from 29 June-3 July 2020, and its sixty-eighth meeting from 16-20 November 2020, all in Geneva.

VI. Other business

A. Modus operandi

83. The Committee discussed in open session the sixth draft of the revised Guide to the Compliance Committee, which included changes made to the fifth draft in response to the comments submitted on 27 November 2018 by the European Union and its member States. Romania, on behalf of the European Union and its member States and observer Earthjustice, on behalf of the European ECO Forum, participated in person in the discussions. Observer ClientEarth participated by audio conference.

84. The Chair presented his reflections on the comments by the European Union and its member States, which reflections had been made available on the webpage of the sixty-third meeting in advance of the meeting. He explained that the Guide is an informal living document of the Committee to facilitate its interaction with Parties and members of the public in a transparent way. He proposed that the Committee would work on the basis of procedures set out in the Guide until the seventh session of the Meeting of the Parties. In accordance with its usual practice, in the context of preparing its report to the seventh session, the Committee would review its working methods and would take any comments received thereon from Parties, communicants and observers into consideration at that time.

85. The European Union and its member States thanked the Chair for the explanations made in the open session and welcomed that some of their proposals were taken into account in the sixth draft. The European ECO Forum thanked the Chair for the open process in discussing the Guide and welcomed its adoption by the Committee as a positive step. Observer ClientEarth also welcomed the Guide as a whole and the initiative of the Chair, agreeing in substance with most points made.

86. After hearing the comments from Committee members, the European Union and its member States and observers on the sixth draft of the Guide, the Committee made some minor changes to take into account the comments received and thereafter adopted the Guide. It instructed the secretariat to promptly publish the final adopted version on the Committee's website. The Chair noted that the Guide would in due course be made available on the Committee's website in all three ECE languages.

B. Other matters

87. The Chair reported on his involvement in an event entitled “The Aarhus Convention – 20 years on”, held on 22 November 2018 in Dublin and organized by the Irish Centre for European Law.

88. Ms. Grigoryan reported on her involvement in an initiative in Armenia aimed at providing for the participation of affected communities with respect to applications for water use permits not subject to environmental impact assessment.

89. Mr. Jendroška reported on his participation in the intermediary sessions of the Meetings of the Parties to the Espoo Convention and its Protocol on Strategic Environmental Assessment, held on 5-7 February 2019 in Geneva. In that context, he also reported on his involvement in a side event organized by ClientEarth entitled “Transboundary environmental impact assessment of coal and lignite-related activities”, which had taken place on 6 February 2019.

90. The secretariat reported on the twenty-fourth session of the UNECE Committee on Environmental Policy, held on 29 to 31 January 2019 in Geneva, which considered the role of different measures in promoting sustainable development and discussed how the Sustainable Development Goals, particularly Goal 16, can be met.

91. The secretariat also reported on the forty-third meeting of the Bureau to the Convention, held on 26 February 2019 in Geneva. The Bureau had discussed preparations for the upcoming twenty-third meeting of the Working Group of the Parties (Geneva, 26-28 June 2019). The Bureau had also discussed a provisional timeline for the preparation of draft decisions to be submitted to the seventh session of the Meeting of the Parties, including those on compliance matters. In the light of that timeline, the Bureau will propose that the seventh session of the Meeting of the Parties take place in September/October of 2021.

92. The secretariat further reported on the twelfth meeting of the Task Force on Access to Justice, held on 28 February to 1 March 2019 in Geneva, which had focused on access to justice in cases relating to air quality. The secretariat also reported on the 2019 Judicial Colloquium, which had been held on 27-28 February 2019, back to back with the twelfth meeting of the Task Force on Access to Justice. The objective of the Colloquium was to strengthen the judiciary’s capacity to effectively handle cases related to environmental matters and to apply constitutionally-entrenched environmental rights, with a view to supporting attainment Sustainable Development Goal 16, and in particular its target 16.3 which aims to promote the rule of law at the national and international levels and ensure equal access to justice for all.

93. The secretariat also reported on the upcoming Regional Forum on Sustainable Development for the UNECE Region, which would take place on 21-22 March 2019 in Geneva. The secretariat is organising a peer learning round table at the Regional Forum, in cooperation with the United Nations Environment Programme, International Telecommunication Union and the World Health Organization Regional Office for Europe. The round table is expected to showcase the role of the Convention and its Protocol on Pollutant Release and Transfer Registers in assisting Governments to advance the environmental dimension of SDG 16.

94. The secretariat further reported that it had submitted comments on the draft public information policy of the European Bank for Reconstruction and Development, as well as on the zero draft of a legally binding instrument to regulate, in international human rights law, the activities of transnational corporations and other business enterprises being prepared by the open-ended intergovernmental working group on transnational corporations and other business enterprises with respect to human rights, which had been established through resolution 26/9 of the United Nations Human Rights Council.

VII. Report and closure of the meeting

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

Advance unedited