

**Economic and Social Council**Distr.: General  
xx XXXX 2020

Original: English

**Economic Commission for Europe**

Meeting of the Parties to the Convention on  
Access to Information, Public Participation in  
Decision-making and Access to Justice in  
Environmental Matters

**Compliance Committee****Sixty-sixth meeting**

Geneva, 9-13 March 2020

**Report of the Compliance Committee on its sixty-sixth meeting**

## Contents

	<i>Page</i>
Introduction.....	2
A. Attendance .....	2
B. Organizational matters.....	2
I. Submissions, referrals and requests under the Convention.....	3
II. Communications from members of the public.....	3
III. Reporting requirements.....	8
IV. Follow-up on specific cases of non-compliance .....	9
V. Programme of work and calendar of meetings.....	10
VI. Other business.....	10
A. Modus operandi .....	10
B. Other matters .....	11
VII. Report and closure of the meeting .....	12

## Introduction

1. The sixty-sixth 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 9-13 March 2020. In the light of the exceptional situation related to the ongoing coronavirus pandemic, members of the Committee and non-Geneva based delegates participated in the meeting through audio conference.

### A. Attendance

2. Seven of the nine Committee members were present throughout the entire meeting: Marc Clément, Jonas Ebbesson (Chair); Heghine Grigoryan; Jerzy Jendroška; Alexander Kodjabashev (Vice-Chair); Peter Oliver; and Dmytro Skrylnikov. Fruzsina Bögös was unable to attend the first and third days of the meeting but was present for the rest of the meeting. Áine Ryall (Vice-Chair) was unable to attend on the first, fourth and fifth days of the meeting but was present for the second and third days 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. Representatives of the Parties concerned and the communicants of communications PRE/ACCC/C/2020/175 (Croatia), PRE/ACCC/C/2020/176 (United Kingdom), PRE/ACCC/C/2020/177 (Bosnia and Herzegovina), and PRE/ACCC/C/2020/178 (Germany) took part by audio conference in the open session on preliminary admissibility on 9 March 2020. A representative of the communicant of communication PRE/ACCC/C/2019/179 (Serbia) also took part in that open session by audio conference. Though invited, no representative of the Party concerned of communication PRE/ACCC/C/2019/179 (Serbia) took part.

4. Representatives of Armenia, Austria, Belarus, Bulgaria, Czechia, the European Union, Kazakhstan, Romania, Spain, Slovakia, Turkmenistan, and the United Kingdom took part by audio conference, and representatives of Belarus and the European Union 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/2017/3, 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/8c (Belarus), the communicant of communication ACCC/C/2014/102, although this participation was disrupted, due to technical difficulties, as well non-governmental organization (NGO) Earthjustice, on behalf of the European ECO Forum, and Mr. Jan Haverkamp, as observers; on decision VI/8d (Bulgaria), a representative of the communicant of communications ACCC/C/2011/58 and ACCC/C/2012/76; on decision VI/8e (Czechia), observers OEKOBUERO, GLOBAL 2000, Greenpeace and Nuclear Transparency Watch; on decision VI/8h (Romania), a representative of the communicant of communications ACCC/C/2010/51 and ACCC/C/2012/69; on decision VI/8j (Spain), a representative of the communicant of communication ACCC/C/2008/24; on decision VI/8i (Slovakia), representatives of the communicants of communication ACCC/C/2013/89 (OEKOBUERO, GLOBAL 2000, and Greenpeace); on decision VI/8k, representatives of the communicants of communications ACCC/C/2008/33 (ClientEarth and Mr. Robert Latimer), ACCC/C/2010/53, ACCC/C/2013/85 and ACCC/C/2013/86, and observer Friends of the Earth (England, Wales and Northern Ireland).

5. Representatives of the Party concerned and the communicant took part by audio conference in the open session on the review of the implementation of the Committee's findings and recommendations on communication ACCC/C/2014/104 (Netherlands).

6. Participating in person as observers during open sessions of the meeting were a representative of Earthjustice, who participated on the behalf of the European ECO Forum, a representative of the Centre International d'Investissement (Switzerland), Mr. Florian Zeitner, from the Friedrich-Alexander Universität Erlangen-Nürnberg (Germany), and Ms. Lavinia Darie, a fellow at the Graduate Institute of International and Development Studies (Switzerland). In addition, a representative of the NGO ClientEarth took part by audio conference as an observer in several of the meeting's open sessions.

## **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.1/2020/1.

9. The Chair reported that the Committee had held three virtual meetings since its sixty-fifth meeting, on 3, 10, and 20 February 2020, which were dedicated to preparing the Committee's second progress reviews of the implementation of requests and decisions from the Meeting of the Parties, as well as to preparing the Committee's first progress review on the implementation of its findings and recommendations on communication ACCC/C/2014/104 (Netherlands).

10. Regarding communications received before 27 January 2020 (the deadline for receipt of communications for the sixty-sixth meeting), the Chair reported that he and Vice Chairs Mr. Kodjabashev and Ms. Ryall had held a virtual meeting on 6 February 2020 to determine which of the communications received by the deadline sufficiently met the required format to be forwarded to the Committee for consideration as to their preliminary admissibility. The Chair and Vice Chairs had decided that communications PRE/ACCC/C/2020/175 (Croatia), PRE/ACCC/C/2020/176 (United Kingdom), PRE/ACCC/C/2020/177 (Bosnia and Herzegovina), PRE/ACCC/C/2020/178 (Germany), and PRE/ACCC/C/2020/179 (Serbia) should be forwarded to the Committee for consideration of preliminary admissibility at its sixty-sixth meeting and had requested the secretariat to post these communications on the Committee's website in advance of the meeting.

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

11. Concerning submission ACCC/S/2015/2 (Belarus), the Committee noted that it had agreed to continue its deliberations through its electronic decision-making procedure with a view to completing its draft findings and, as appropriate, recommendations.

12. Regarding request ACCC/M/2017/2 (Turkmenistan), the Committee noted that the secretariat, on its instructions, had written to the Party concerned on 11 November 2019 to request it to provide its second progress report as soon as possible and by 10 December 2019 at the latest, and that the Party concerned had provided its second progress report on 24 December 2019. After taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned, the communicant of communication ACCC/C/2004/5 and the registered observers on 2 March 2020. During the meeting, the Committee reviewed the implementation of request ACCC/M/2017/2 in open session with the participation via audio conference of representatives of the Party concerned and observer Earthjustice on behalf of the European Eco Forum. Though invited, the communicant of communication ACCC/C/2004/5 did not take part in the session.

13. With respect to request ACCC/M/2017/3 (European Union), the Committee noted that on 25 November and 13 December 2019, respectively, the communicants of communications ACCC/C/2008/32 and ACCC/C/2010/54 had submitted comments on the second progress report of the Party concerned. After taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned, the communicants of communications ACCC/C/2008/32 and ACCC/C/2010/54 and the registered observers on 26 February 2020. On 6 March 2020, the Party concerned had submitted an update and on the same date observer Justice and Environment had submitted additional information. During the meeting, the Committee reviewed the implementation of request ACCC/M/2017/3 in open session with the participation, in person and via audio conference, of representatives of the Party concerned and the communicants of communications ACCC/C/2008/32 and ACCC/C/2010/54, via audio conference.

## II. Communications from members of the public

14. The Committee agreed that the deadline for the receipt of new communications to be considered for preliminary admissibility at its sixty-seventh meeting would be 25 May 2020.

15. With respect to communication ACCC/C/2013/90 (United Kingdom), 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.

16. Concerning communication ACCC/C/2013/96 (European Union), the Committee agreed to continue those deliberations through its electronic decision-making procedure with a view to completing its draft findings and, as appropriate, recommendations.

17. Regarding communication ACCC/C/2013/98 (Lithuania), the Committee agreed to continue its deliberations on its draft findings through its electronic decision-making procedure with a view to completing its draft findings and, as appropriate, recommendations.

18. With respect to 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 on its draft findings, taking into account the replies received.

19. Concerning communication ACCC/C/2014/106 (Czechia), the Committee confirmed the edited version of its findings (ECE/MP.PP/C.1/2020/3).

20. With respect to communication ACCC/C/2014/112 (Ireland), 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.

21. Concerning communication ACCC/C/2014/113 (Ireland), 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.

22. Regarding communication ACCC/C/2014/118 (Ukraine), the Committee noted that the communicant had provided updates on 17 December 2019 and during the meeting, on 11 March 2020. The Committee noted that it was preparing questions to the Party concerned and the communicant, and that it had requested the Executive Secretary of the Economic Commission for Europe to forward the questions to the Minister of Foreign Affairs with a request that the questions be also conveyed to the Minister of Energy. The Committee agreed that it would continue its deliberations on its draft findings taking into account the replies once received.

23. 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 replies received, with a view to completing its draft findings and, as appropriate, recommendations.

24. With respect to communication ACCC/C/2014/120 (Slovakia), the Committee noted that it had agreed to prepare questions to the Party concerned and the communicant, and that it would continue its deliberations on its draft findings, taking into account the replies received.

25. Concerning communication ACCC/C/2014/121 (European Union), the Committee noted that it had completed its draft findings through its electronic decision-making procedure on 1 December 2019, which had then been forwarded on 2 December 2019 to the Party concerned and the communicant for their comments by 20 January 2020. On 17 January 2020 the communicant had provided its comments on the draft findings, and on the same day, the Party concerned had requested an extension to 17 February 2020 of the deadline to provide its comments on the draft findings, which was granted by the Chair. On 20 January 2020, the communicant had provided comments objecting to the extension of the deadline for the Party concerned to comment on the draft findings, and on 6 February 2020, the secretariat wrote to the parties to explain that, in accordance with the Committee's standard practice, the extension of time applied equally to both the Party concerned and the communicant. On 17 February 2020, the Party concerned provided its comments on the Committee's draft findings. During the meeting, the Committee considered the comments received from the Party concerned and the communicant on the draft findings and agreed to continue its deliberations, with a view to finalizing and adopting its findings and, as appropriate, recommendations, at an upcoming meeting.

26. Regarding communication ACCC/C/2014/122 (Spain), the Committee continued its deliberations on its draft findings in closed session and agreed to send questions to the communicant and to thereafter continue its deliberations taking into account the information received, with a view to completing its draft findings and, as appropriate, recommendations.

27. With respect to communication ACCC/C/2014/124 (Netherlands), the Committee noted that on 4 February 2020, the communicant had submitted comments on the comments of the Party concerned of 5 November 2019. The Committee agreed to continue its deliberations, taking into account the information received, at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.

28. Concerning communication ACCC/C/2015/126 (Poland), the Committee noted that at its sixty-fourth meeting it had agreed to defer its deliberations on its draft findings to an upcoming meeting in order to first review the voluminous information received from both the Party concerned and the communicant in the case.

29. Regarding communication ACCC/C/2015/128 (European Union), the Committee recalled that at its sixty-fourth meeting it had agreed to defer its deliberations on its draft findings pending the ruling by the European Court of Justice on Case C-594/18 P - *Austria v Commission*, in light of the relevance of that case to the present communication. On 12 March 2020, the communicants and observer ClientEarth submitted a written statement expressing their concern that the Committee had not invited the parties' views prior to its decision to defer its deliberations and urging the Committee to reconsider that decision and to resume its deliberations.

30. With respect to communication ACCC/C/2015/130 (Italy), the Committee agreed that, since it was not possible to hold the hearing scheduled to take place on 10 March 2020 during the meeting, due to the exceptional situation of the coronavirus pandemic, the hearing should be postponed to an upcoming meeting.

31. Concerning communication ACCC/C/2015/131 (United Kingdom), the Committee agreed that it would decide how to proceed with the communication at an upcoming meeting.

32. Regarding communication ACCC/C/2015/132 (Ireland), the Committee noted that it was preparing questions to the parties and that the Committee would decide how to proceed with the communication taking into account the information received.
33. With respect to communication ACCC/C/2015/133 (Netherlands), the Committee noted that it was preparing questions to the parties for their written reply and that it would continue its deliberations on its draft findings, taking into account the replies once received.
34. 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 thereafter completing its draft findings and, as appropriate, recommendations.
35. Regarding communication ACCC/C/2015/135 (France), the Committee noted that it had received comments on the draft findings from the communicant and Party concerned on 29 November and 17 December 2019, respectively. After taking into account the comments received on its draft finding, the Committee finalized and adopted its findings in closed session. It instructed the secretariat to forward the adopted findings to the Party concerned and the communicant and agreed that they should be published as an official pre-session document for its sixty-eighth meeting (Geneva, 23-27 November 2020).
36. With respect to communication ACCC/C/2015/137 (Germany), the Committee continued its deliberations on its draft findings in closed session and agreed to continue those deliberations at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.
37. Concerning communication ACCC/C/2016/138 (Armenia), the Committee noted that on 9 November 2019 the communicant had submitted its replies to the Committee's questions of 14 October 2019, one day after the deadline of 8 November 2019. It noted further that the Party concerned had submitted its replies to the Committee's questions of 14 October 2019 on 19 January 2020, more than ten weeks after the 8 November 2019 deadline. The Committee commenced its deliberations on its draft findings in closed session taking into account the information received and agreed to continue those deliberations at an upcoming meeting with a view to completing its draft findings and, as appropriate, recommendations.
38. Regarding communication ACCC/C/2016/139 (Ireland), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
39. With respect to communication ACCC/C/2016/140 (Romania), the Committee noted that on 11 February 2020 it had sent questions to the parties for their replies by 9 March 2020. On 9 March 2020, the Party concerned had submitted its replies by the stipulated deadline and on the same date the communicant had requested an extension of the deadline for it to provide its replies to the Committee's questions. The Committee agreed that, since it was not possible to hold the hearing scheduled to take place on 12 March 2020 during the meeting, due to the exceptional situation of the coronavirus pandemic, the hearing should be postponed to an upcoming meeting.
40. Concerning communication ACCC/C/2016/141 (Ireland), the Committee agreed to continue its deliberations at an upcoming virtual meeting with a view to completing its draft findings and, as appropriate, recommendations.
41. Regarding communication ACCC/C/2016/142 (United Kingdom), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
42. With respect to communication ACCC/C/2016/143 (Czechia), the Committee noted that it was preparing questions to the Party concerned for its written reply and that it would continue its deliberations on its draft findings, taking into account the reply and any comments received thereon.
43. Concerning communication ACCC/C/2016/144 (Bulgaria), the Committee noted that it had agreed to send questions to the parties for their written reply and to thereafter continue its deliberations taking into account the replies received. The Committee noted further that it

had agreed to ask the Executive Secretary of the Economic Commission for Europe to write to the Minister of Foreign Affairs of Bulgaria to expressing the Committee's grave concern regarding the uncooperative approach of the Party concerned with respect to its failure to participate in the hearing to discuss the substance of the communication held at the Committee's sixty-fifth meeting, and to remind the Party concerned that it is already under a caution pursuant to paragraph 5(a) of decision VI/8d of the Meeting of the Parties.<sup>1</sup>

44. Regarding communication ACCC/C/2017/146 (Poland), the Committee noted that it had agreed to ask the Party concerned to provide translations of relevant legislation and to thereafter send questions to the parties for their written reply. The Committee agreed that it would decide how to proceed with the communication, taking into account the information received.

45. With respect to communication ACCC/C/2017/147 (Republic of Moldova), the Committee noted that on 27 February 2020 the communicant had provided an update. The Committee noted that it was preparing questions to send to the parties for their written reply and that it would continue its deliberations on its draft findings, taking into account the replies once received.

46. Concerning communication ACCC/C/2017/148 (Greece), the Committee noted that it had agreed to send questions to the parties for their written reply and that it would decide how to proceed with the communication taking into account the information received.

47. Regarding communication ACCC/C/2017/149 (Greece), the Committee noted that on 29 November 2019, the communicant had submitted its comments on the submissions on admissibility made by the Party concerned in its response of 29 May 2018 to the communication. After considering the submissions on admissibility received from both the Party concerned and the communicant, the Committee agreed to reconfirm its earlier determination of preliminary admissibility.

48. With respect to communication ACCC/C/2017/150 (United Kingdom), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.

49. Concerning communication ACCC/C/2016/151 (Poland), the Committee noted that it had agreed to decide how to proceed with the communication after taking into account the replies received from the Party concerned and communicant.

50. Regarding communication ACCC/C/2017/153 (Spain), the Committee noted that it had agreed to send questions to the communicants to clarify various aspects of their claims and to decide how to proceed with the communication taking into account their reply and any comments received thereon.

51. With respect to communication ACCC/C/2017/154 (Poland), the Committee noted that it had agreed to decide how to proceed with the communication after taking into account the replies received from the Party concerned and communicants.

52. Concerning communication ACCC/C/2017/156 (United Kingdom), the Committee noted that it had agreed to send questions to the parties for their written reply and to thereafter continue its deliberations taking into account the replies received.

53. Regarding communication ACCC/C/2017/157 (United Kingdom), the Committee noted that it had received an update from the Party concerned on 12 November 2019, that the communicant had submitted comments thereon on 10 December 2019 and that on 17 December 2019 the Party concerned had submitted comments on the communicant's comments of 10 December 2019. The Committee agreed to decide how to proceed with the communication after taking into account the information received from the Party concerned and the communicant.

<sup>1</sup> ECE/MP.PP/2017/2/Add.1.

54. With respect to communication ACCC/C/2018/158 (Poland), the Committee noted that it had agreed to decide how to proceed with the communication after taking into account the replies received from the Party concerned and communicant.
55. Concerning communication ACCC/C/2017/159 (Spain), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
56. Regarding communication ACCC/C/2018/161 (Bulgaria), the Committee noted that on 20 February 2020 the communicant has submitted additional information. The Committee agreed to decide how to proceed with the communication at an upcoming meeting taking into account the information received.
57. With respect to communication ACCC/C/2019/162 (Denmark), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
58. Concerning communication ACCC/C/2019/163 (Austria), the Committee agreed to decide how to proceed with the communication at an upcoming meeting.
59. Regarding communication ACCC/C/2019/164 (Ireland), the Committee noted that in its response to the communication on 22 August 2019, the Party concerned had challenged the admissibility of the communication and that it had agreed to invite the communicant to comment on the submissions of the Party concerned and to decide how to proceed with the communication taking into account the information received.
60. With respect to communication ACCC/C/2019/168 (Iceland), the Committee noted that the communication had been forwarded to the Party concerned on 15 November 2019. The deadline of 15 April 2020 for its response had not yet expired and the response of the Party concerned had not yet been received.
61. Concerning communication ACCC/C/2019/173 (Sweden), the Committee noted that the communication had been forwarded to the Party concerned on 15 November 2019. The deadline of 15 April 2020 for its response had not yet expired and the response of the Party concerned had not yet been received.
62. Regarding communication ACCC/C/2019/174 (Sweden), the Committee noted that the communication had been forwarded to the Party concerned on 15 November 2019. The deadline of 15 April 2020 for its response had not yet expired and the response of the Party concerned had not yet been received.
63. Communication PRE/ACCC/C/2020/175 (Croatia) had been submitted on 30 May 2019 by the Local Committee Kuciste and Association for Nature, Environment and Sustainable Development "Sunce". The communication alleged that the Party concerned had failed to comply with article 7 of the Convention with respect to the 2010 Urbanistic Development Plan for the port of Perna. On 20 January 2020, prior to the communication being forward to the Committee, the Chair and Vice-Chairs had sent questions to the communicants for their written reply. The communicants had provided their replies on 10 February 2020. During the meeting, the Committee heard the views of the Party concerned and the communicant by audio conference. On 9 March 2020, the communicant provided a written version of its replies to the questions asked of it by the Committee during the open session on preliminary admissibility. After considering in closed session the information received, the Committee determined that the communication was inadmissible under paragraph 20(d) of the annex to decision I/7, since it was incompatible with the purpose and functions of the Committee, as set out in article 15 of the Convention and decision I/7, to submit a communication to the Committee alleging non-compliance with respect to the adoption of an Urban Development Plan more than nine years after its adoption without providing any persuasive reasons to justify the delay.
64. Communication PRE/ACCC/C/2020/176 (United Kingdom) had been submitted on 14 October 2019 by Mr. Declan Donnelly, a member of the public. The communication alleged the Party concerned had failed to comply with article 9(4) of the Convention with

respect to the communicant's application for judicial review of a development consent to extend an opencast mine. On 4 March 2020, the Party concerned submitted a statement on preliminary admissibility. During the meeting, the Committee heard the views of the Party concerned and the communicant by audio conference. After considering in closed session the information received, the Committee determined the communication to be inadmissible in accordance with paragraph 20(d) of the annex to decision I/7 of the Meeting of the Parties to the Convention on the ground that the matters raised in the communication, despite their understandable importance for the communicant, did not pass the threshold of *de minimis* with respect to their relevance and importance in the light of the purpose and functions of the Committee. In this regard, the Committee noted that it was not a redress mechanism and also that the communication did not allege that there was a wider problem with the legal framework or judicial practice of the Party concerned with respect to the implementation of article 9(4) of the Convention.

65. Communication PRE/ACCC/C/2020/177 (Bosnia and Herzegovina) had been submitted on 26 January 2020 by Association "Aarhus Center in BiH" and Center for Ecology and Energy – Aarhus Center Tuzla. The communication alleged that the Party concerned failed to comply with articles 2(5), 3(9) and 9(2) of the Convention with respect to the refusal of access to justice on the basis of an environmental organization's seat of registration. During the meeting, the Committee heard the views of the Party concerned and the communicant by audio conference. 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. Committee member Heggine Grigoryan was appointed curator for the case.

66. Communication PRE/ACCC/C/2020/178 (Germany) had been submitted on 27 January 2020 by Ms. Brigitte Artmann, a member of the public, on behalf of the Aarhus Konvention Initiative. The communication alleged that the Party concerned failed to comply with articles 9(2), (3) (4), and 3(1) of the Convention with respect to access to justice in the context of tiered decisions and plans. On 5 March 2020, the Party concerned had submitted a statement on preliminary admissibility. During the meeting, the Committee heard the views of the Party concerned and the communicant by audio conference. 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. Committee member Jerzy Jendroška was appointed curator for the case.

67. Communication PRE/ACCC/C/2020/179 (Serbia) had been submitted on 27 January 2020 by Centar za ekologiju i održivi razvoj and ClientEarth. The communication alleged that the Party concerned failed to comply with article 6(4) and (8) of Convention with respect to the Kostolac B3 coal-fired thermal power plant project, and article 9(4) of the Convention regarding access to injunctive relief in general. During the meeting, the Committee heard the views of the communicant by audio conference. Though invited, the Party concerned did not take part in the open session. 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. Committee member Dmytro Skrylnikov was appointed curator for the case.

### **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.<sup>2</sup> Notwithstanding this, none of the aforementioned Parties

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

had submitted their national implementation reports to the secretariat by 1 November 2017. The secretariat reported that Armenia, Bosnia and Herzegovina, the Netherlands, the former Yugoslav Republic of Macedonia, Ukraine and the United Kingdom had now submitted their reports. The Republic of Moldova had not yet submitted its report.

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

69. The Committee took note of the developments since its sixty-fifth meeting with respect to decisions VI/8a-e and g-k of the Meeting of the Parties, as well as regarding the follow-up procedure concerning the Committee's findings and recommendations on communication ACCC/C/2014/104 (Netherlands).

70. The Chair also reminded each Party concerned that all measures to implement the decision or request of the Meeting of the Parties concerning its compliance would need to 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. He noted that the same deadline applied to the findings of noncompliance adopted by the Committee since the sixth session of the Meeting of the Parties, including ACCC/C/2014/104 (Netherlands) and ACCC/C/2013/107 (Ireland).

71. With respect to decision VI/8a (Armenia), the Committee noted that on 15 November 2019, the secretariat had, at its request, written to the Party concerned for a third time to remind it of the deadline of 1 October 2019 for it to have submitted its second progress report in accordance with paragraph 4(a) of decision VI/8a and of the fact that this deadline is set by the Meeting of the Parties and cannot therefore be extended. The secretariat had requested that the Party concerned submit its second progress report as soon as possible and by 10 December 2019 at the latest. On 21 November 2019, the Party concerned had submitted its second progress report. Though invited by the secretariat to do so, no communicants or observers had submitted comments thereon. On 19 December 2019, the Committee had sent questions to the Party concerned to clarify various aspects of its second progress report for its reply by 16 January 2020. On 23 January 2020, the Party concerned had submitted its replies to the Committee's questions. Though invited by the secretariat to do so, no communicants or observers had submitted comments thereon. After taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned, the communicants of communications ACCC/C/2004/8, ACCC/C/2009/43 and ACCC/C/2011/62 and Ecological Right, the registered observer, on 26 February 2020. During the meeting, 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. The Committee expressed its serious concern that the Party concerned had, despite multiple reminders, failed to submit its second progress report by the time stipulated in paragraph 4(a) of the Meeting of the Parties, and abide by the deadlines provided by the Committee. It called upon the Party concerned to abide by all deadlines set by the Committee and the Meeting of the Parties in the future.

72. Regarding decision VI/8b (Austria), after taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned and the communicants of communications ACCC/C/2010/48 and ACCC/C/2011/63 on 2 March 2020. During the meeting, 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. On 11 March 2020, the Party concerned and the communicant each provided written versions of the statements they had made during the open session.

73. Concerning decision VI/8c (Belarus), after taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned and the communicants of communications ACCC/C/2009/37, ACCC/C/2009/44 and ACCC/C/2014/102 on 9 March 2020. During the meeting, the Committee reviewed the implementation of decision VI/8c in open session with the participation by audio conference of representatives of the Party concerned in person and by audio conference, and observers Earthjustice, in person, and Jan Haverkamp, via audio conference. Due to technical difficulties the communicant of communication ACCC/C/2014/102 was unable to participate in the session by audio conference. It immediately provided a written version of its statement which the secretariat forwarded during the open session to the Committee, the Party concerned and observers, and the Chair of the Compliance Committee provided an oral summary of the main points of the communicant's statement for other participants present at the meeting.

74. With respect to decision VI/8d (Bulgaria), after taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned and the communicant of communication ACCC/C/2011/58 and ACCC/C/2012/76 on 4 March 2020. During the meeting, the Committee reviewed the implementation of decision VI/8d in open session with the participation by audio conference of representatives of the Party concerned and the communicant of communications ACCC/C/2011/58 and ACCC/C/2012/76. On 13 March 2020, the Party concerned provided a written version of the statement it had made during the open session.

75. Concerning decision VI/8e (Czechia), after taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned, the communicants of communications ACCC/C/2010/50, ACCC/C/2012/70 and ACCC/C/2012/71 and the registered observers on 3 March 2020. During the meeting, the Committee reviewed the implementation of decision VI/8e in open session with the participation by audio conference of the Party concerned and observers OEKOBUERO, GLOBAL 2000, and Nuclear Transparency Watch, the latter also representing the communicant of communication ACCC/C/2012/71. Though invited, the communicant of communications ACCC/C/2010/50 and ACCC/C/2012/70 did not take part in the open session. On 13 March 2020, OEKOBUERO and Global 2000, jointly, and Nuclear Transparency Watch provided written versions of the statements they had made during the open session.

76. With respect to decision VI/8g (Kazakhstan), the Committee noted that on 29 December 2019 and 19 February 2020, the Committee had requested information from the Party concerned and that the Party concerned had provided additional information on 10, 14 January and 20 February 2020, respectively. After taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned and the communicants of communications ACCC/C/2004/6, ACCC/C/2011/59 and ACCC/C/2013/88 on 6 March 2020. During the meeting, 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, no communicants or observers participated in the open session.

77. With respect to decision VI/8h (Romania), after taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned and the communicants of communication ACCC/C/2010/51 and ACCC/C/2012/69 on 5 March 2020. During the meeting, the Committee reviewed the implementation of decision VI/8h in open session with the participation by audio conference of representatives of the Party concerned and the communicant of communications ACCC/C/2010/51 and ACCC/C/2012/69.

78. Regarding decision VI/8i (Slovakia), the Committee noted that on 20 January 2020, it had requested the text of a recent legislative amendment from the Party concerned. The Party concerned had promptly provided the requested legislation in Slovak language on the

same day, and an English translation thereof on 4 February 2020. Also, on 4 February 2020, a communicant of communication ACCC/C/2013/89 (Greenpeace) had submitted comments on the legislation provided by the Party concerned. After taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned, the communicants of communication ACCC/C/2013/89 and the registered observers on 3 March 2020. During the meeting, 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 (OEKOBUEO, GLOBAL 2000, and Greenpeace). On 13 March 2020, OEKOBUEO and GLOBAL 2000, jointly, and Greenpeace provided written versions of the statements they had made during the open session.

79. Concerning decision VI/8j (Spain), after taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned and communicants of communications ACCC/C/2008/24, ACCC/C/2009/36 and ACCC/C/2014/99 on 2 March 2020. During the meeting, the Committee reviewed the implementation of decision VI/8j in open session with the participation by audio conference of representatives of the Party concerned and the communicant of communication ACCC/C/2008/24. On 11 March 2020, the Party concerned provided a written version of the statement it had made during the open session.

80. With respect to decision VI/8k (United Kingdom), after taking into account the information received, the Committee had prepared and adopted its second progress review which had been sent to the Party concerned, the communicants of communications ACCC/C/2008/23, ACCC/C/2008/27, ACCC/C/2008/33, ACCC/C/2010/53, ACCC/C/2011/64, ACCC/C/2011/65, ACCC/C/2012/68, ACCC/C/2012/77, ACCC/2013/85, ACCC/C/2013/86 and ACCC/C/2013/91 and registered observers on 6 March 2020. During the meeting, the Committee reviewed the implementation of decision VI/8k in open session with the participation by audio conference of representatives of the Party concerned and the communicants of communications ACCC/C/2008/33 (ClientEarth and Mr. Robert Latimer), ACCC/C/2010/53, ACCC/C/2013/85 and ACCC/C/2013/86, and observer Friends of the Earth (England, Wales and Northern Ireland). On 11 March 2020, observers (Mr. Chris Murphy and Ms. Doris Noe) submitted a written statement. On 13 March 2020, the Party concerned and the communicants of communications ACCC/C/2013/85 and ACCC/C/2013/86 submitted written versions of the statements they had made during the open session. Also on 13 March 2020, observers RSPB, Friends of the Earth (England, Wales and Northern Ireland) and Friends of the Earth Scotland submitted comments on the Committee's second progress review on decision VI/8k.

81. With respect to the follow-up on its findings on communication ACCC/C/2014/104 (Netherlands), the Committee noted that, after taking into account the information received, the Committee had prepared and adopted its first progress review which had been sent to the Party concerned and the communicant of communication ACCC/C/2014/104 on 26 February 2020. On 10 March 2020, the Party concerned had submitted comments on the Committee's first progress review. During the meeting, the Committee reviewed the implementation of the Committee's findings and recommendations on communication ACCC/C/2014/104 in open session with the participation by audio conference of representatives of the Party concerned and the communicant.

## V. Programme of work and calendar of meetings

82. The Committee noted that, subject to the availability of meeting rooms and services, it had agreed to hold its sixty-seventh and sixty-eighth meetings in Geneva from 6-10 July

2020 and 23-27 November 2020, respectively. It also agreed to schedule two virtual meetings before its sixty-seventh meeting to continue its deliberations on pending cases.

## **VI. Other business**

### **A. Modus operandi**

83. The Chair expressed his appreciation of the proactive efforts made by the secretariat both before and throughout the meeting to enable the meeting to proceed smoothly despite the logistical challenges caused by the current coronavirus pandemic. In this regard, he noted that the possibility for the Committee members and non-Geneva based delegates to take part in the meeting via audio conference had enabled the Committee to carry out all the work foreseen in the agenda for the meeting, except for the scheduled hearings to discuss the substance of communications ACCC/C/2015/130 and ACCC/C/2016/140. In this regard, the Chair welcomed the use of audio conferencing as a constructive tool for Parties and observers to participate in the open sessions of the meeting. He made clear, however, that this did not change the Committee's longstanding practice that, if the Committee schedules a hearing to discuss the substance of a case, the Party concerned and the communicant, as well as any observer seeking to make a statement, are expected to attend the hearing in person.

84. Earthjustice expressed its support of the Committee's requirement that the Parties concerned and communicants to participate in hearings in person. It stated that the substantial number of technical problems and incidents of poor sound quality experienced during the audio conferences held at the meeting highlighted the importance that the Party concerned and communicant indeed participate in hearings in person.

85. The Chair noted that the Committee was constantly working to progress its high caseload as efficiently as possible, while at all times ensuring fairness and due process. In furtherance of this objective, he indicated that it was his intention to present a proposal for discussion in open session at the Committee's sixty-seventh meeting of some further ways that the Committee might more efficiently manage its caseload within its mandate as set out in decision I/7.

86. With respect to the Committee's procedure, Earthjustice emphasised that, to prevent misunderstanding or resistance by observers, it was essential that any proposal for any possible change to the Committee's working methods be discussed from the very outset by the Committee in open session.

### **B. Other matters**

87. The secretariat reported on the forty-sixth meeting of the Bureau, which took place on 25 and 26 February 2020. The Bureau discussed preparations for the upcoming twenty-fourth meeting of the Working Group of the Parties to be held on 1-3 July 2020. In this regard, the Bureau, among other matters, discussed the preparation of a draft note examining possible options for establishing a rapid response mechanism under the Convention to deal with matters relevant to article 3(8) of the Convention. The secretariat reported that it was expected that the draft note would be submitted to the Working Group of the Parties for its consideration at its twenty-fourth meeting.

88. The secretariat reported that Georgia had expressed its preliminary interest in hosting the seventh session of the Meeting of the Parties and the secretariat was presenting working with Georgia to prepare the host country agreement to that end. The seventh session of the Meeting of the Parties was scheduled to take place on 18-21 October 2021.

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

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

Advance unedited