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## Economic Commission for Europe

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

**Fourth session**
Chisinau, 29 June–1 July 2011
Item 5 (b) of the provisional agenda
**Procedures and mechanisms facilitating the implementation of the Convention: compliance mechanism**

# Report of the Compliance Committee

Contents

# Introduction

1. This report is prepared by the Committee pursuant to paragraph 35 of the annex to decision I/7, and paragraph 4 of decision III/6 of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). It covers the intersessional period between the third and fourth sessions of the Meeting of the Parties.

2. It should also be noted that the Committee's reports to the Meeting of the Parties at its second and third sessions included as addenda reports of the Committee on the evaluation reports by the Committee. These concerned evaluation of the progress achieved by individual Parties with regard to Committee recommendations made with the agreement of a Party pending consideration by the Meeting of the Parties (according to paragraph 36 (b) of the annex to decision I/7), and with regard to follow-up on decisions of non-compliance issued by the previous session of the Meeting of the Parties. To reduce the overall pre-session documentation submitted for the upcoming fourth session of the Meeting of the Parties, the Committee accepted the secretariat's proposal that the evaluation reports on follow-up on issues of non-compliance would be addenda to the reports of the thirty-first and thirty-second meetings of the Compliance Committee, as appropriate.

3. The final findings and recommendations of the Committee with regard to three communications by the public (ACCC/C/2009/43 (Armenia); ACCC/C/2009/37 (Belarus); and ACCC/C/2009/41 (Slovakia)) are contained in three addenda to the present report (ECE/MP.PP/2011/11/Add.1–3).

# I. Issues related to the functioning of the compliance mechanism and the Committee

**Membership**

4. The current members of the Committee are Mr. Merab Barbakadze (Georgia), Mr. Jonas Ebbesson (Sweden), Ms. Ellen Hey (Netherlands), Mr. Jerzy Jendroska (Poland), Mr. Alexander Kodjabashev (Bulgaria), Mr. Veit Koester (Denmark), Ms. Svitlana Kravchenko (Ukraine), Mr. Gerhard Loibl (Austria) and Mr. Vadim Ni (Kazakhstan). Mr. Koester has continued to serve as Chair and Ms. Kravchenko as Vice-Chair.

5. With regard to membership to the Aarhus Convention Compliance Committee, the Committee notes that decision I/7 on review of compliance is silent on the matter. It only states that the Committee members shall serve in their personal capacity. However, a firmly established practice — probably influenced by the negotiating history of the relevant provision of decision I/7 — demonstrates that there has been a common understanding of the Parties to the Convention that the members of the Committee must be independent, in the sense that none of the Committee members elected by the Parties so far has been part of or has represented the executive branch of the Government of a Party or Signatory. Furthermore, it was observed that when one member of the Committee had stepped down, because she had been appointed to service the ministry of a Government of a Party, that member had been substituted by the Bureau according to the procedure set out in paragraph 10 of the annex of decision I/7 by a member being independent (ECE/MP.PP/WG.1/2006/2, para. 55). More information on membership can be found in document ECE/MP.PP/WG.1/2011/7.

**Meetings**

6. Since its establishment, the Committee has held 31 meetings, with 1 taking place immediately before and 11 held since the third session of the Meeting of the Parties. This report covers the latter 12 meetings (twentieth to thirty-first meetings). The meeting reports are available on the Committee's website (http://www.unece.org/env/pp/ccMeetings.htm).

7. Two more meetings are scheduled to take place: from 11 to 14 April 2011; and in June 2011, back to back with the fourth session of the Meeting of the Parties.

8. According to paragraph 12 of decision I/7, the Committee shall, unless it decides otherwise, meet at least once a year. Due to an increasing workload, the length of the regular meetings of the Committee since the beginning of 2009 have been increased from three to four days, and for 2011 the Committee has scheduled five meetings, rather than its traditional four.

9. All Committee members attended all of the meetings during the period under review, with the exception of the five meetings, where one member was absent. At one meeting, two members were present only during part of the meeting and at two meetings one member was present only during part of the meeting. Members having expressed a conflict of interest did not participate in deliberations regarding the respective communications in closed session. A number of observers also attended, including from parties whose compliance was the subject of Committee discussions and from non-governmental organizations (NGOs).

**Processing of the reports and findings as official United Nations documents**

10. The agendas, reports and findings of the Committee are processed as official United Nations documents and are subject to the rules governing such documents, including length limits. Until its twenty-third meeting, the findings of the Committee had been produced as addenda to the report of the meeting at which they were adopted, with the length limits for documents being applied to each addendum separately. Early in 2009, the United Nations the Documents Management Section of the Conference Services Division started interpreting the rules in a more restrictive way (i.e., the number of words in each addenda went towards the total word count of the report), and refused to process and translate the reports and findings of the Committee into French and Russian. In effect, since the Committee normally adopts at least one set of findings at each meeting, the length of its report together with the findings consistently exceed the length limits, as interpreted since 2009.

11. At the meetings between the Documents Management Section and the Convention secretariat, the Section stressed their resource constraints and insufficient fund allocation in the United Nations budget for translation to service the United Nations Economic Commission for Europe (UNECE) bodies in general. During the greater part of 2009, the secretariat submitted waiver requests for the translation and reproduction of the pending post-session documentation, and repeatedly attempted to negotiate a standing agreement which would avoid the need for length waiver requests with representatives of Conference Services from Geneva and New York, without any success. Following this, the matter was referred to UNECE senior management, who reached the conclusion that each set of findings should be produced as a separate document, rather than as an addendum to the report. However, this approach was rejected by Conference Services, which even raised the question as to whether there was a mandate for any of the Committee's documentation to be produced as official United Nations documentation.

12. During this time, the Committee repeatedly expressed its deep concern at the fact that none of the reports or findings since its twenty-third meeting had yet been published.[1] The Committee considered that it would be completely unacceptable if the outcomes of the Committee's work could not be published as official United Nations documents nor be available to the parties concerned in the official UNECE languages.

13. Further to the request of the Committee at its twenty-sixth meeting (ECE/MP.PP/C.1/2009/8, paras. 8–9), the secretariat had informed the Chair of the Meeting of the Parties who considered that the matter merited the attention of the Meeting of the Parties at its extraordinary session (Geneva, 19 April 2010). The delegations at the extraordinary session decided that the secretariat should continue to produce the agendas, meeting reports and findings of the Compliance Committee as official documents so that they would be available in the three UNECE official languages (ECE/MP.PP/2010/2, paras. 21–27), and mandated the UNECE Executive Secretary to seek a solution with the Division of Conference Management. Accordingly, on 7 September 2010 the secretariat had submitted a waiver request for the pending documents of the Committee since its twenty-third meeting (31 March–3 April 2009) and invited the Documents Management Section to discuss a possible solution for the future. Eventually, on 5 January 2011, the requested waiver was granted and according to the Documents Management Section processing of all pending documents would be scheduled in January and February. However, no substantive progress has been noted for a possible solution for the future and, at the time of adoption of the present report, the report of the twenty-ninth meeting of the Committee was pending processing because the aggregate number of words of the report and its three addenda exceeded the set word limits.

14. The Committee finds it regrettable that during the last intersessional period, and pending consideration by the Meeting of the Parties, the delays since its twenty-third meeting in translating its reports into French and Russian, including 12 sets of findings, has considerably impeded the fulfilment of its mission to assist the Parties concerned to address compliance issues without delay.

**Modus operandi**

15. The Committee has continued to rely on the modus operandi it developed in the period 2002–2005 on the basis of decision I/7. During the current intersessional period, the Committee has made several adjustments to these procedures. These adjustments, recorded in the Committee's meeting reports and in the compilation of its operational rules maintained on the website, are outlined below.

16. Through decision II/5, the number of the members of the Committee was increased to nine, with effect from the third session of the Meeting of the Parties (ECE/MP.PP/2005/2/Add.6, para. 12). The Committee considered the implications which the increase in its membership had for the decision-making procedures. It agreed to modify the relevant paragraph of its modus operandi (MP.PP/C.1/2003/2, para. 12) to read as follows:

[1] See report of the twenty-fourth meeting of the Committee (ECE/MP.PP/C.1/2009/4), paras. 56-57; report of the twenty-fifth meeting of the Committee (ECE/MP.PP/C.1/2009/6), paras. 53-54; report of the twenty-sixth meeting of the Committee (ECE/MP.PP/C.1/2009/8), paras. 9-10; report of the twenty-seventh meeting of the Committee (ECE/MP.PP/C.1/2010/2), paras. 9-10; report of the twenty-eighth meeting of the Committee (ECE/MP.PP/C.1/2010/4), paras. 9-11; report of the twenty-ninth meeting of the Committee (ECE/MP.PP/C.1/2010/6), paras. 8-9; report of the thirtieth meeting of the Committee (ECE/MP.PP/C.1/2010/8), paras. 6-7).

> The application of the rules of procedure with respect to decision-making implies that the presence of five members of the Committee is required for any decisions to be taken. It also implies that decisions of a procedural nature can be taken by a simple majority of the members present and voting, and that decisions on substantive matters can only be taken with the support of seven out of nine members present and voting, six members out of eight members present and voting six out of seven members present and voting five out of six members present and voting and four out of five members present and voting. Notwithstanding this, the Committee is generally sympathetic to the view that at least five members should be in support of any substantive decision being taken. Since Committee members are elected in a strictly personal capacity, an absent Committee member is not entitled to designate a substitute.

(ECE/MP.PP/C.1/2008/6, para. 42).

17. The Committee discussed the issue of the point at which communications, whose admissibility had not yet been determined by the Committee, could be made available upon request. It agreed to keep the current procedure whereby the communication was not available upon request and was not placed on the website until it had been forwarded to the Party concerned. This would mean that the texts of the communication and any of its addenda would not be available to either members of the public or to the Parties concerned, including during the meeting at which the admissibility question was discussed in an open session. At the request of some of the NGOs present, it was agreed that the secretariat would routinely notify anyone wishing to receive notifications of new communications, once they have been deemed admissible and forwarded to the Party concerned, either by sending the communication itself or by providing a web link to it (ECE/MP.PP/C.1/2008/8, para. 40).

18. In light of its significant workload and its concerns with regard to the completeness, clarity and/or relevance of the information in several communications it had received, the Committee discussed the introduction of a de minimis principle and of summary proceedings in its modus operandi, as explained in the following paragraphs.

19. The Committee had from time to time received communications that, while they broadly appeared to fulfil the admissibility requirements of paragraph 20 of the annex to decision I/7, after careful consideration had been revealed to be inadmissible by interpretation and analogy regarding the criteria for admissibility set out in subparagraphs (b) on "abuse of the right to make such communications" and (c) regarding communications that were "manifestly unreasonable". With the purpose of focusing on communications that raised important aspects of non-compliance, the Committee discussed that matter at its twenty-eighth meeting; it decided to apply the criteria for admissibility of "abuse of the right to make such communications" and "manifestly unreasonable" in such a manner so that communications which the Committee deemed to be insignificant in light of their purpose and function would be determined inadmissible as de minimis.

20. Also, the Committee had recently been confronted with allegations of non-compliance concerning a Party reflecting the same legal issues upon which it had already deliberated in a previous communication relating to the same Party (but not to the same facts). In that regard, the Committee noted that, the Party concerned had already worked with the Committee to fully meet compliance. Bearing in mind that according to the Convention the compliance review mechanism was not a redress mechanism, and on the basis of the freedom awarded to the Committee by the Meeting of the Parties to "consider any […] communications" according to paragraph 20 of the annex to decision I/7, without specifying the process, the Committee reflected upon its experience and the practical dimension of its role and decided that, in cases which were determined to be preliminarily

admissible, but where the legal issues raised by the communication had already been tackled by the Committee, summary proceedings could apply as follows:

(a) The Committee would send a letter to the communicant informing them about the process;

(b) The Committee would notify the Party concerned, reminding it of the previous findings and recommendations and requesting it to provide information on the progress achieved on the previous recommendations;

(c) The Committee would record the outcome of the process and its consideration in the report, focusing on the progress, if any, in the law and implementation of the Convention by the Party concerned.

21. Having considered draft guidance principles on the independence and impartiality of Committee members, which had been prepared by the Chair with the assistance of the secretariat in accordance with the Committee's instructions at its twenty-eighth meeting (ECE/MP.PP/C.1/2010/4, para. 7), the Committee agreed on the following text for such guidance:

(a) The Committee members shall exercise their functions independently and impartially, free from interference or influence by any source and from the appearance of interference or influence;

(b) The Committee shall decide cases impartially, on the basis of the facts of the case and the applicable law;

(c) In relation to pending cases, Committee members shall avoid situations that might give rise to a conflict of interest or which might reasonably be perceived by the Parties or by members of the public as giving rise to such a conflict;

(d) A Committee member shall disclose to the Committee, at the next meeting, or sooner if appropriate, any circumstances which could reasonably be considered as leading to a conflict of interest or which might reasonably be perceived by the Parties or by members of the public as giving rise to such a conflict. Such circumstances may include a Committee member's relationship with the Party concerned, with the communicant, or with an observer who has made submissions in the case. It may also include a Committee member's past dealings with the case itself;

(e) Upon the disclosure of a conflict of interest, the Committee will consider the information provided and take appropriate action. If in doubt as to whether or not a situation might give rise to an actual conflict or be perceived by a reasonable Party or member of the public as a conflict, Committee members should err on the side of caution. Being a citizen of the Party whose compliance is at issue does not in itself constitute a conflict of interest (ECE/MP.PP/C.1/2010/6, para. 6 (e)).

22. With respect to the publication of the documents on the Committee's website, it was decided that, at the end of the commenting period, subject to section VIII (confidentiality) of the annex to decision I/7, the draft findings and any recommendations and also any comments thereon would be published on the website (MP.PP/C.1/2004/8, para. 35, as subsequently modified ECE/MP.PP/C.1/2005/8, para. 25). However, during the last intersessional period, the practice had been that the draft findings and any recommendations of the Committee and the respective comments by the parties were posted on the Committee website a few days after they had been sent to the parties or received from the parties respectively.

23. As of October 2010, the guidance document on the compliance mechanism has been published as an electronic publication. It is available in the English language and, subject to availability of resources, it will be translated into French and Russian.

# II. Submissions, referrals and communications concerning non-compliance with the Convention

24. To date, no Party has opted out of the aspect of the compliance mechanism whereby communications from members of the public may be brought before the Committee.

25. Since its establishment, the Committee has received 1 submission from a Party with regard to compliance by another Party and 58 communications from the public, of which 35 were received and considered between the Committee's twentieth to thirty-first meetings. Nine of those communications were from individual members of the public and the others were submitted on behalf of civil society organizations, including NGOs and one local authority representing the public concerned. No Party has made a submission concerning its own compliance, and no referral has been made by the secretariat. A table showing which provisions have been the subject of allegations and/or findings of non-compliance is annexed to this report.

26. All communications were considered with respect to their admissibility. Of the 35 communications considered since the third session of the Meeting of the Parties,[2] 1 communication was deemed inadmissible for lack of completeness, clarity and relevance of the information (ACCC/C/2008/34 (Spain)), and for 4 communications (ACCC/C/2009/42 (Hungary); and ACCC/C/2010/47, ACCC/C/2010/49 and ACCC/C/2010/56 (United Kingdom)) the file was closed for lack of corroborating information, as required by paragraph 19 of the annex to decision I/7. Also, the file for one communication (ACCC/C/2010/52 (United Kingdom)) was closed when the communicant informed the Committee that it had applied for and successfully obtained leave to judicially review decisions in relation to the matter of the communication and that it would revert to the Committee on completion of those proceedings.

27. The Committee decided not to proceed with the review of one communication (ACCC/C/2008/25 (Albania)), as the issues raised in the communication had already been considered by the Committee under the review of communication ACCC/C/2005/12, and would therefore also be considered by Albania in the course of implementation of recommendations of the Committee made in connection with that communication.

28. One communication (ACCC/C/2010/46 (United Kingdom)) was deemed inadmissible because the communicant's allegations only related to the fact that some documents relevant for public participation had not been available in a timely manner in the Welsh language. Specifically, the Committee found that, while the principle of non-discrimination on the basis of citizenship, nationality or domicile was explicit in article 3, paragraph 9, of the Convention, the provision was silent on matters of discrimination on the basis of language. While the lack of availability of documentation in a particular language might under certain circumstances present an impediment to correct implementation of the Convention, nothing in the present communication suggested that such circumstances pertained. In addition, the Committee was not convinced that the possibility for domestic administrative and, in particular, judicial review had been adequately used by the communicant.

[2] Communication ACCC/C/2008/24 (Spain) was also submitted prior to the third session of the Meeting of the Parties, but as it was submitted shortly before that session, it was not reflected in the report of the Committee to that meeting, but is reflected in the numbers of the present report. The communication was considered by the Committee as per its preliminary admissibility at the Committee's twentieth meeting (Riga, 8–10 June 2008).

29. Two communications were considered preliminary admissible and then, during the formal discussions with the communicant and the Party concerned, deemed inadmissible on the grounds that they were manifestly unreasonable pursuant to paragraph 20 (c) of the annex to decision I/7: one communication because the communicant had failed to substantiate that it was not able to participate in the different stages of the environmental decision-making procedure or to what extent its important objections to the project were not considered during that procedure (ACCC/C/2009/39 (Austria)); and one because taking into account that legal aid had ultimately been granted, the communicant had not been persecuted in a way that would fall within article 3, paragraph 8, of the Convention (ACCC/C/2009/40 (United Kingdom)).

30. The communicants in two communications (ACCC/C/2009/37 (Belarus) and ACCC/C/2009/42 (Hungary)) asked that certain parts of the communications, including parts that could reveal their identity, should be kept confidential. The Committee honoured that request on the basis of paragraph 29 of decision I/7.

31. In the case of one communication (ACCC/C/2010/45 (United Kingdom)), the Committee identified that legal issues raised by the communication had already been dealt with by the Committee in light of its deliberations in previous communications concerning compliance by the Party concerned and decided that summary proceedings would apply, according to the procedural decision at the twenty-eighth meeting (ECE/MP.PP/C.1/2010/4, para. 46).

32. Up to its thirty-first meeting, the Committee has considered, and made findings and in some cases recommendations with respect to the substance of 15[3] communications, 3 of which[4] had been submitted prior to the preparation of (and therefore reflected in the numbers cited in) the Committee's report to the third session of the Meeting of the Parties. The Committee found non-compliance in nine cases.[5] All the decisions of the Committee to date have been made on the basis of consensus.

33. The remaining 13[6] cases are "pending" in the sense that the Committee has yet to reach any conclusions as to whether there is non-compliance, due to the fact that the Committee has not concluded the review of the communication or Parties concerned have not yet provided response and the deadlines for them to do so have not yet passed. These are not addressed further in this report apart from in the annex.

34. Paragraphs 37 to 60 below outline the main aspects of the communications, as well as the Committee's main findings.

35. Findings and recommendations with regard to communications ACCC/C/2007/21 (European Community), ACCC/C/2007/22 (France), ACCC/C/2008/23 (United Kingdom), ACCC/C/2008/24 (Spain), ACCC/C/2008/26 (Austria), ACCC/C/2008/27 (United Kingdom), ACCC/C/2008/29 (Poland), ACCC/C/2008/30 (Republic of Moldova), ACCC/C/2008/33 (United Kingdom), ACCC/C/2008/35 (Georgia), and ACCC/C/2009/36 (Spain) were adopted well in advance of the fourth session of the Meeting of the Parties. Having considered these in accordance with the procedure set out in decision I/7, the

[3] Relating to compliance by Armenia, Austria, Belarus, France, Georgia, Poland, the Republic of Moldova, Slovakia, Spain (two), the United Kingdom (four) and the European Community (as of 1 December 2009 the European Union has succeeded the European Community in its obligations arising from the Convention).

[4] Relating to compliance by France, the United Kingdom and the European Community.

[5] Relating to compliance by Armenia, Belarus, the Republic of Moldova, Slovakia, Spain (two) and the United Kingdom (three).

[6] Relating to compliance by Austria, Belarus, Bulgaria, the Czech Republic, Denmark (two), Germany, Romania, the United Kingdom (three) and the European Union (two).

Committee, in accordance with paragraph 36 (b) of decision I/7, agreed to put forward recommendations, as appropriate, to the Parties concerned subject to their agreement to the making of the recommendations. This was done to address the issues raised by the communications without delay and to be able to report to the Meeting of the Parties any progress made by the parties concerned in implementing the recommendations and, where necessary, improving compliance in the intersessional period. At its thirty-first meeting, the Committee reviewed the implementation of the recommendations made by it to the Parties concerned on the basis of information provided by them. The conclusions and recommendations resulting from this review are included in the relevant addenda to the report of the thirty-first meeting of the Committee (ECE/MP.PP/C.1/2011/2/Add.3, ECE/MP.PP/C.1/2011/2/Add.6, ECE/MP.PP/C.1/2011/2/Add.7 and ECE/MP.PP/C.1/2011/2/Add.9). The draft conclusions and recommendations of the Committee in these cases were circulated to the Party concerned and the communicants for their comment and the Committee, taking into consideration any comments received, finalized and adopted them.

36. The Committee concluded the review of three communications (ACCC/C/2009/38 (United Kingdom), ACCC/C/2009/41 (Slovakia), ACCC/C/2009/43 (Armenia) in late 2010 and early 2011. Having reviewed these in accordance with the procedure set out in decision I/7, it adopted its findings and, in some cases, recommendations with regard to compliance by these Parties. The findings with regard to communication ACCC/C/2009/38 (no non-compliance) are an addendum to the Committee's thirty-first meeting (ECE/MP.PP/C.1/2011/2/Add.10) and for communications ACCC/C/2009/41 and ACCC/C/2009/43 are contained in the relevant addenda to this report (ECE/MP.PP/2011/11/Add.1 and Add.3) In addition, the Committee decided to submit its findings and recommendations on communication ACCC/C/2009/37, adopted at the Committee's twenty-ninth meeting directly to the Meeting of the Parties and these are contained in the relevant addendum to this report (ECE/MP.PP/C.1/2011/2/Add.2).

**Armenia**

37. As previously noted, the findings and recommendations of the Committee on communication ACCC/C/2009/43 are contained in an addendum to this report (ECE/MP.PP/2011/11/Add.1).

**Austria**

38. Communication ACCC/C/2008/26 was made on 15 July 2008 by the Enns Valley Transit Route: Organization for a socially and environmentally responsible transport policy (*Nein Ennstal Transit-Trassel Verein fur menschen- und umweltgerechte Verkehrspolitik (NETT)*) with regard to compliance by Austria with its obligations under article 7, in conjunction with article 6, paragraphs 3, 4 and 8, article 8 and article 9, paragraphs 2, 3 and 4, of the Convention, in connection with the decision-making processes related to the consideration of alternative transport solutions in the Enns Valley in the Austrian Province of Styria, and to the proposed introduction of a 7.5 tonnage restriction for lorries on route B320. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee concluded that given the phase of the decision-making process that was put in question with the communication, the Party concerned had not failed to comply with the Convention.

39. The Committee noted, however, that at least in part its conclusion was related to the fact that the planning process in the case at issue had commenced well in advance of the entry into force of the Convention for the Party concerned. In that context, the Committee expressed its concern in respect of documents adopted in spring 2008 indicating a strong presumption in favour of the four-lane option, with the potential to de facto narrow down

the available options and thus to hamper participation at an early stage, when all options were still open and due account could be taken of the outcome of the public participation. The Committee emphasized that participation in accordance with article 6 and article 7, in conjunction with article 6, paragraphs 3, 4 and 8, of the Convention, should take place and that such participation not only required formal participation, but was to include public debate and the opportunity for the public to participate in such debate at an early stage of the decision-making process. The findings of the Committee are contained in an addendum to the report of the twenty-fifth meeting of the Committee (ECE/MP.PP/C.1/2009/6/Add.1).

**Belarus**

40. As previously noted, the findings and recommendations of the Committee on communication ACCC/C/2009/37 are contained in an addendum to this report (ECE/MP.PP/2011/11/Add.2). In the meantime, the Committee has been informed that the Belarusian Government is in the process to implementing a number of amendments to its legislation relating to the requirements of the Convention. Therefore, the recommendations of the Committee on the said communication should be seen in the light of the ongoing amendments.

**European Community**

41. Communication ACCC/C/2007/21 was made on 14 August 2007 by the Albanian NGO Civic Alliance for the Protection of the Bay of Vlora (Albania) with regard to compliance by the European Community, through the European Investment Bank, with its obligations under article 6 of the Convention by virtue of its decision to finance the construction of a thermopower plant in Vlora without ensuring proper public participation in the process. The communicant claimed that the project had not been carried out in accordance with the public participation requirements of the national legislation or those of the Convention, to which both the European Community and Albania were Parties. In addition, the communicant alleged that the European Community, through the European Investment Bank, had failed to comply with article 4 of the Convention, in connection with the release of information related to the loan agreements for the thermopower plant.

42. The communication was related to communication ACCC/C/2005/12, submitted earlier by the same communicant and alleging non-compliance by Albania with the Convention, inter alia, in relation to decision-making with respect to the thermopower plant in Vlora considered by the Committee in the period 2005–2007 (ECE/MP.PP/C.1/2007/4/Add.1 and ECE/MP.PP/2008/5, paras. 38-40). In that case, the Committee found that Albania had failed to comply with the requirements for public participation in the decision-making process.

43. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee did not find the Party concerned to be in non-compliance with the Convention. The findings of the Committee are contained in an addendum to the report of the twenty-third meeting of the Committee (ECE/MP.PP/C.1/2009/2/Add.1).

**France**

44. Communication ACCC/C/2007/22 was made on 21 December 2007 by three French associations, the Association for the Defence and Protection of the Fos-sur-Mer Golf Coastline (*L'Association de Défense et de Protection du littoral du Golfe de Fos*), the Citizens' Collective Health Environment of Port Saint Louis du Rhône (*Le Collectif Citoyen Santé Environnement de Port Saint Louis du Rhône)* and the Federation for Regional Action for the Environment (*Fédération d'Action Régionale pour l'Environnement*) with regard to compliance by France with its obligations under article 3, paragraph 1, article 6, paragraphs

1–5 and 8, and article 9, paragraphs 2 and 5, of the Convention, in connection with decisions-making processes and access to justice for the construction by the Urban Community of Metropolitan Marseille Provence (Communauté urbaine Marseille Provence Métropole) of a waste incinerator in Fos-sur-Mer. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee did not find that the matters examined in response to the communication established non-compliance by the Party concerned with its obligations under the Convention. The Committee noted, however, that the French decision-making procedures, as reflected in the case at issue, involved several other types of decisions and acts that might de facto affect the scope of options to be considered in a permitting decision under article 6 of the Convention. The findings of the Committee are contained in an addendum to the report of the twenty-fourth meeting of the Committee (ECE/MP.PP/C.1/2009/4/Add.1).

**Georgia**

45. Communication ACCC/C/2008/35 was made on 16 December 2008 by the Caucasus Environmental NGO Network (CENN) with regard to compliance by Georgia with its obligations under article 6, paragraphs 2 and 4, of the Convention, in connection with public participation in decision-making in issuing licences for long-term forest use. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee did not find that the Party concerned failed to comply with the Convention. However, the Committee found that the Georgian legislation relating to public participation in respect of forestry was rather unclear and complicated and, in the view of the Committee, that should be remedied. With the agreement of the Party concerned, and also noting with appreciation the ongoing work with the Georgian Environmental Code, the Committee recommended to the Party concerned to take the necessary steps so as to ensure that legislation with regard to public participation in respect of forests was clear. The findings of the Committee are contained in an addendum to the report of the twenty-eighth meeting of the Committee (ECE/MP.PP/C.1/2010/4/Add.1).

46. On 2 February 2011, the Party concerned provided the Committee with an update on the implementation of the recommendation. The measures undertaken to implement the Committee's recommendation included an amendment to the regulatory framework on forest use licences to require the competent authorities to start public administrative proceedings to determine the area and the quantity of timber to be logged and to make public all relevant information on their websites. The Party concerned also informed the Committee of the ongoing process to finalize the Georgian Environmental Code.

47. The Committee noted with appreciation the initiatives undertaken by the Party concerned to facilitate public participation in respect of forestry and considered them as effective means of following up on its recommendations made in the course of review of communication ACCC/C/2008/35. It also welcomed the constructive approach demonstrated by Georgia in the process of review of compliance.

48. The Committee's review of the implementation by Georgia of its recommendation is contained in report ECE/MP.PP/C.1/2011/2/Add.3.

**Republic of Moldova**

49. Communication ACCC/C/2008/30 was made on 3 November 2008 by the Moldovan NGO Eco-TIRAS International Environmental Association of River Keepers with regard to compliance by the Republic of Moldova with its obligations under article 3, paragraph 2, and article 4, paragraphs 1 and 2, of the Convention, in connection with access to information on contracts for rent of land of the State Forestry Fund. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee found that the Party concerned had failed to comply with

article 3, paragraphs 1 and 2, article 4, paragraphs 1, 2, 4 and 7, and article 9, paragraph 1, of the Convention. Noting that the Party concerned had agreed that the Committee take the measures listed in paragraph 37 (b) of the annex to decision I/7, the Committee, pursuant to paragraph 36 of the annex to decision I/7, made a number of recommendations to be undertaken in the period prior to the fourth session of the Meeting of the Parties. The Committee's findings and recommendations are contained in an addendum to the report of the twenty-fifth meeting of the Committee (ECE/MP.PP/C.1/2009/6/Add.3).

50. At its thirty-first meeting, the Committee reviewed the implementation by the Party concerned on the basis of the information provided by the Party in its national implementation report. After having completed its report at its thirty-first meeting, the Committee received additional information from the Party concerned. Having considered that information, the Committee found that, while some progress had been made in implementing the recommendations, the Party concerned had not as yet succeeded in overcoming certain issues of non-compliance. It made a number of recommendations to the Meeting of the Parties. The findings and recommendations of the Committee are contained in report ECE/MP.PP/C.1/2011/2/Add.6.

**Poland**

51. Communication ACCC/C/2008/29 was made on 20 October 2008 by the management board of the Zabianka Housing Cooperative and by Ms. Cholezińska, President of the Protest Committee, with regard to compliance by Poland with its obligations under articles 1, 4 and 6, paragraphs 2 and 8, of the Convention in connection with access to information and decision-making processes for the construction of a multifunctional sports hall in the city of Gdansk, Poland. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee, was not able to reach a conclusion regarding the alleged failure by the Party concerned with its obligations under the Convention in relation to the project in question. This was mainly due to lack of sufficient information made available to the Committee and to the fact that neither the Party concerned nor the communicant responded to the Committee's invitation to discuss the communication at its twenty-fourth meeting. The findings of the Committee are contained in an addendum to the report of the twenty-fifth meeting of the Committee (ECE/MP.PP/C.1/2009/6/Add.2).

**Slovakia**

52. As previously mentioned, the findings and recommendations of the Committee on communication ACCC/C/2009/41 are contained in an addendum to this report (ECE/MP.PP/2011/11/Add.3).

**Spain**

53. Communication ACCC/C/2008/24 was made on 13 May 2008 by the Spanish non-governmental organization Association for Environmental Justice (*Asociación para la Justicia Ambiental*) with regard to compliance by Spain with its obligations under article 4, paragraph 8, article 6, paragraphs 1, 2, 4 and 6, and article 9, paragraphs 2, 3, 4 and 5, of the Convention in connection with decision-making on a residential development project in the city of Murcia, Spain. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee found that Spain failed to comply with the requirements of article 4, paragraphs 1 (b), 2, and 8, article 6, paragraph 3, in conjunction with article 7, and article 9, paragraph 4, of the Convention. Noting that the Party concerned had agreed that the Committee take the measures listed in paragraph 37 (b) of the annex to decision I/7, the Committee, pursuant to paragraph 36 of the annex to decision I/7, made a number of recommendations to the Party concerned to be

undertaken in the period prior to the fourth Meeting of the Parties. The findings of the Committee are contained in an addendum to the report of the twenty-sixth meeting of the Committee (ECE/MP.PP/C.1/2009/8/Add.1).

54. On 2 March 2009, the Platform against the contamination of Almendralejo (*Plataforma Contra la Contaminación de Almendralejo*), submitted communication ACCC/C/2009/36 with regard to compliance by Spain with its obligations under article 3, paragraph 8, article 4, paragraphs 1 and 2, article 6, paragraphs 4 and 5, and article 9, paragraphs 1 and 5, of the Convention in connection with general failure of the public authorities in Spain to implement the Convention. The communication presented a number of examples in Almendralejo in support of its allegations. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee found that the Party concerned failed to comply with article 3, paragraph 8, article 4, paragraph 1 (b) and 2, article 6, paragraphs 3 and 6, and article 9, paragraphs 4 and 5, of the Convention. Noting that the Party concerned had agreed that the Committee take the measure listed in paragraph 37 (b) of the annex to decision I/7, the Committee, pursuant to paragraph 36 of the annex to decision I/7, made a number of recommendations and reiterated some of its recommendations in respect of communication ACCC/C/2008/24. The Committee's findings and recommendations are contained in an addendum to the report of the twenty-eighth meeting of the Committee (ECE/MP.PP/C.1/2010/4/Add.2).

55. At its thirty-first meeting, the Committee reviewed the implementation by the Party concerned on the basis of the information provided by the Party in its national implementation report and its report of 8 February 2011. Having considered that information and the submissions of the communicants, the Committee found that, while progress had been made in implementing the recommendations, the Party concerned had not as yet succeeded in overcoming certain issues of non-compliance, in particular with respect to access to justice. The Committee therefore made a number of recommendations to the Meeting of the Parties. The findings and recommendations of the Committee are contained in its report ECE/MP.PP.C.1/2011/2/Add.7.

**United Kingdom**

56. Communication ACCC/C/2008/23 was made on 21 February 2008 by Mr. Morgan and Ms. Baker with regard to compliance by the United Kingdom with its obligations under article 9, paragraph 4, of the Convention in connection with the availability of fair, equitable, timely and not prohibitively expensive review procedures in their private nuisance proceedings against the operator Hinton Organics (Wessex) Ltd seeking an injunction to prohibit offensive odours arising from the operator's waste composting site near their homes. Following the cancellation of an interim relief, the communicants were ordered to pay the costs of the operator and public authorities/added parties to the proceedings, and the communicants alleged that demands from the public authorities for their costs to be paid forthwith and not to await the outcome of the trial amounted to non-compliance of the Party concerned with article 3, paragraph 8, of the Convention. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee found that the Party concerned stricto sensu failed to comply with the requirement for fair remedies under article 9, paragraph 4, of the Convention. However, taking into consideration that no evidence had been presented to substantiate that the non-compliance with article 9, paragraph 4, was due to a system error, the Committee refrained from presenting any recommendations. The findings of the Committee are contained in an addendum to the report of the twenty-ninth meeting of the Committee (ECE/MP.PP/C.1/2010/6/Add.1).

57. On 18 August 2008, Cultra Residents' Association submitted communication ACCC/C/2008/27 with regard to compliance by the United Kingdom with its obligations under articles 3, 7 and 9 of the Convention in connection with the decision-making procedure to expand Belfast City Airport operations and the rights with respect to the costs charged upon the communicant following the dismissal of its application for judicial review proceedings. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee found that the Party concerned was not in compliance with the requirements for fair and non-prohibitively expensive remedies under article 9, paragraph 4, of the Convention. Noting that the Party concerned had agreed that the Committee take the measure listed in paragraph 37 (b) of the annex to decision I/7, the Committee, pursuant to paragraphs 36 of the annex to decision I/7, made a recommendation to be undertaken in the period prior to the fourth session of the Meeting of the Parties. The Committee's findings and recommendations are contained in an addendum to the report of the twenty-ninth meeting of the Committee (ECE/MP.PP/C.1/2010/6/Add.2).

58. On 2 December 2008, ClientEarth, the Marine Conservation Society (MCS) and Mr. Robert Latimer submitted communication ACCC/C/2008/33 with regard to compliance by the United Kingdom with its obligations under article 9, paragraphs 2, 3, 4 and 5, of the Convention in connection with the lack in general of substantive review in procedures for judicial review, the prohibitively expensive costs of judicial review proceedings, the lack of rights of action against private individuals for breaches of environmental laws and the restrictive time limits for judicial review; and in particular in connection with access to justice to challenge a Government licence issued to the Port of Tyne in northern England that allowed for the disposal and protective capping on of highly contaminated port dredge materials at an existing marine disposal site called "Souter Point", approximately four miles off the coast. Given the wide-ranging and systemic issues raised by the more general aspects of the communication, the Committee decided to address its findings to the communicant's submissions which related to the legal system in England and Wales in general. The Committee accordingly decided not to develop findings in respect of the Port of Tyne case. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee found that the Party concerned failed to comply with article 9, paragraphs 4 and 5, as well as with article 3, paragraph 1, of the Convention. Noting that the Party concerned had agreed that the Committee take the measure listed in paragraph 37 (b) of the annex to decision I/7, the Committee, pursuant to paragraphs 36 of the annex to decision I/7, made a number of recommendations to be undertaken in the period prior to the fourth session of the Meeting of the Parties. The Committee's findings and recommendations are contained in an addendum to the report of the twenty-ninth meeting of the Committee (ECE/MP.PP/C.1/2010/6/Add.3).

59. On 7 May 2009, Road Sense submitted communication ACCC/C/2009/38 with regard to compliance by the United Kingdom with its obligations under the preamble and articles 1, 3, 4, 5, paragraph 1, article 6, paragraphs 2, 4, 5, 7 and 9, and article 9, paragraphs 2 and 3, of the Convention in connection with the procedures adopted in the promotion of the proposed construction of a road by-pass around the Scottish city of Aberdeen, known as the Aberdeen Western Peripheral Route (AWPR). The communication alleged that the Party concerned had failed to provide information on the state of the environment and the status of protected species which would be impacted by the AWPR and that the Party concerned had failed to seek public comment on the proposed route for the AWPR in an open way; the communication also alleged that the lack of access for the public in Scotland to an open and inexpensive review procedure before a court of law and/or other independent and impartial body established by law to challenge the substantive and procedural legality of the proposed AWPR was in breach of the Convention's provisions on access to justice. Having considered the communication in accordance with

the procedure set out in section VI of the annex to decision I/7, the Committee did not find that the matters examined in response to the communication established non-compliance by the Party concerned with its obligations under article 3, paragraph 2, article 4, article 5, paragraph 1 (c), articles 6 or 7 of the Convention. Due to the pending Statutory Appeal brought by the communicant under the Roads (Scotland) Act 1984 in respect of the Scottish Parliament's approval of the Schemes and Trunk Road Orders and the pending application by the communicant for an order to cap its potential liability for expenses with respect to the appeal, the Committee found that it would be premature for it to consider the communicant's allegations regarding access to justice at that stage. The Committee's findings and recommendations are contained in an addendum to the report of the Committee's thirty-first meeting (ECE/MP.PP/C.1/2011/2/Add.10).

60. At its thirty-first meeting, the Committee reviewed the implementation by the Party concerned on the basis of the information provided by the Party in its national implementation report and its letter of 15 February 2011. Having considered this information and the submissions of the communicants, the Committee found that, while certain progress had been made in implementing the recommendations, the Party concerned had not as yet succeeded in bringing about compliance with the Convention. The Committee has therefore made a number of recommendations to the Meeting of the Parties. The findings and recommendations of the Committee are contained in its report ECE/MP.PP/C.1/2011/2/Add.9.

**General conclusions with regard to the process of review of communications**

61. During this intersessional period, the Committee received an unprecedented number of communications, three times more than in the previous intersessional periods (35 from its third to its fourth sessions, compared with 12 in the intersessional period from its second to third sessions and 11 in the intersessional period from its first to second sessions). In addition, communications have become much more complex: in the past, the subject matter of a communication typically was a specific case and the Committee would take the opportunity to review the systemic issues that might have triggered non-compliance, whereas recent communications have targeted the national system with respect to compliance with the Convention in general.

62. As a result of the excessive workload and the increased complexity of the cases and some times their interrelationship, the Committee has taken longer to establish findings. In the past, after the conclusion of formal discussions and when the Committee considered that it had a sufficiently complete picture of the situation, it moved to the preparation of draft findings, measures or recommendations without delay and the conclusion of the discussion and the preparation of draft findings, measures or recommendations would happen at the same meeting or the next meeting after the discussion. In practice, due to the increased number of communications and their complexity, the preparation of draft findings, measures or recommendations has expanded to four or five successive meetings and the deliberations on some communications have been pending before the Committee for longer than one year. In addition, while the average length of findings until the third session of the Meeting of the Parties was 3,700 words, the average length of findings during the last intersessional period has doubled to 7,545 words.

63. To manage its excessive workload, the Committee has increased the days of its meetings from three to four, has scheduled five meetings for 2011 (the Committee has typically held four meetings per year), has been coordinating a lot of issues by using the electronic decision-making process and has introducing summary proceedings in its modus operandi.

64. The Committee notes with appreciation the services provided by the secretariat to assist it to manage its workload, and considers it critical that the secretariat be staffed

according to the workload, so as to be able to substantially support the work of the Committee.

65. The Committee notes that in general the quality of the communications by the members of the public in this intersessional period was good. In some cases, where the Committee noted that communications lacked certain information essential for the preliminary determination of its admissibility; it then deferred its decision on the preliminary admissibility of the communication until its next meeting, and in the meantime requested the communicant to provide details on the facts and the allegations of non-compliance. Communicants had been responsive to those requests, and the resubmitted communications had been much improved in terms of structure and content.

66. The Committee also welcomes the fact that the working relationship with Parties concerned in the review of compliance triggered by communications has been positive. With few exceptions, the Committee notes with appreciation that Parties have respected the deadlines set out in decision I/7 and have notified the Committee in advance when they requested an extension of a deadline. In cases where the Party concerned fails to comply with its obligations under the Convention as related to paragraph 23 of the annex to decision I/7, the Committee wishes to emphasize that it is of utmost importance for the effectiveness and credibility of the compliance mechanism that the procedural rules laid down in decision I/7 are complied with by the Parties.

67. It is also important that Parties, when requested, provide all relevant information to the Committee, so that its deliberations are informed. When the communication is brought to the attention of the Party concerned in accordance with paragraph 22 of the annex to decision I/7, the Committee, in order to facilitate further consideration of the communication, usually invites the Party concerned to address a number of questions as well as to comment on the communication and the allegations contained therein, according to paragraph 23 of the annex to decision I/7. The Committee notes that, in some cases, the Party concerned has limited its response to the questions put by the Committee without providing information addressing the communication in general. In providing their response pursuant to paragraph 23 of the annex to decision I/7, the Committee urges Parties to explicitly comment on the communication itself and the allegations contained therein, as well as addressing the questions raised by the Committee, so that it can perform its task in a timely and effective manner.

68. The communicant and the Party concerned are also invited to provide any supplementary information which would be necessary to substantiate their arguments. At the same time, parties are encouraged to avoid submitting to the Committee excessive documentation, which is not strictly relevant to the subject matter of the communication.

69. According to paragraph 32 of the annex to decision I/7, parties are entitled to participate in the discussions of the Committee with respect to a communication. The Committee notes with appreciation that, with few exceptions, the Parties have responded to the invitation of the Committee to participate in the discussions. Out of the 18 communications for which formal discussions were held, in only 4 cases did the Party concerned not exercise its right to participate (ACCC/C/2008/24 (Spain), ACCC/C/2008/29 (Poland), ACCC/C/2008/30 (Republic of Moldova) and ACCC/C/2009/37 (Belarus)). The Committee notes with regret that in one case (ACCC/C/2008/29 (Poland)), neither the Party concerned nor the communicant responded to its invitation for discussion. However, two Parties in respect of which communications were made, although they did not respond to the Committee's invitation to discuss these communications (ACCC/C/2008/24 (Spain) and ACCC/C/2009/37 (Belarus)), responded to the Committee's invitation to discuss subsequent communications concerning their compliance (ACCC/C/2009/36 (Spain) and ACCC/C/2009/44 (Belarus)). In the view of the Committee, although Parties are free to exercise the right awarded through paragraph 32 of the annex to decision I/7, given the

inherent consultative and participatory nature of the review mechanism, it strongly encourage Parties to participate so as to promote the effective conduct of the Committee's work.

70. In one of the five cases in which the Committee found that there was no non-compliance, it nonetheless proposed putting forward a recommendation to the Party concerned, pursuant to paragraph 36 (b) of the annex to decision I/7 (ACCC/C/2008/35 (Georgia)). This was done with the agreement of the Party concerned, considering that the compliance mechanism, being of a facilitative and non-judicial character, can contribute to promoting more effective implementation of the Convention, even where the Committee concludes that there is no non-compliance.

71. Only in one of the nine cases in which the Committee found that there was non-compliance, did it not proceed to present recommendations to the Party concerned, because the Committee found that there was no evidence to substantiate that the non-compliance was due to a systemic error (ACCC/C/2008/23 (United Kingdom)). In all the other eight cases, the Committee proceeded with making recommendations and/or other measures, as appropriate, pursuant to paragraphs 37 (b) and (c) of the annex to decision I/7, and the Parties have agreed with the Committee taking these measures (paragraph 36 (b) of decision I/7). Only in the context of one communication (ACCC/C/2009/41 (Slovakia)), did the Party concerned express strong disagreement with the findings of the Committee and challenge the mandate and task of the Committee to consider the way the Party concerned interpreted and implemented the Convention at the national level. The Committee appreciates a cooperative spirit in its working relation with the Parties, and finds it regrettable if Parties object in principle to the Committee making recommendations.

72. In one case (ACCC/C/2008/29 (Poland)), the Committee was not able to reach a conclusion regarding the alleged failure by the Party concerned with its obligations under the Convention in relation to the project in question, because of insufficient information before it.

**Recommendations to the Meeting of the Parties with regard to compliance by individual Parties**

73. The Committee, pursuant to paragraph 35 of the annex to decision I/7, recommends that the Meeting of the Parties:

(a) Take note of the main facts of the communications and welcome the consideration and evaluation by the Committee set out in the following reports and addenda of the Committee's meetings: ECE/MP.PP/C.1/2009/6/Add.1 (Austria); ECE/MP.PP/C.1/2009/2/Add.1 (European Community); ECE/MP.PP/C.1/2009/4/Add.1 (France); ECE/MP.PP/C.1/2010/4/Add.1 (Georgia); ECE/MP.PP/C.1/2009/6/Add.3 (Republic of Moldova); ECE/MP.PP/C.1/2009/6/Add.2 (Poland); ECE/MP.PP/C.1/2009/8/Add.1 and ECE/MP.PP/C.1/2010/4/Add.2 (Spain); and ECE/MP.PP/C.1/2010/6/Add.1–3 and ECE/MP.PP/C.1/2011/2/Add.10 (United Kingdom); and in three addenda to this report (ECE/MP.PP/2011/11/Add.1–3 (Armenia, Belarus and Slovakia);

(b) Welcome the acceptance by those Parties concerned found by the Committee to not be in compliance, and one Party concerned not found by the Committee not to be in compliance, of the Committee's recommendations made in accordance with paragraph 36 (b) of the annex to decision I/7 and the progress made by the Parties concerned in the intersessional period;

(c) Endorse the Committee's main findings with regard to compliance and adopt the Committee's recommendations, as set out in documents ECE/MP.PP/2011/11/Add.1–3 (concerning Armenia, Belarus and Slovakia), as well as in documents

ECE/MP.PP/C.1/2011/2/Add.6, Add.7 and Add.9 (concerning the Republic of Moldova, Spain and the United Kingdom);

(d) Undertake to review, at its fifth meeting, the implementation of those recommendations adopted with respect to specific Parties, if appropriate, on the basis of input from the Committee.

# III. Implementation of earlier decisions of the Meeting of the Parties on compliance by individual Parties

74. At their third meeting, the Parties to the Convention adopted decision III/6 on general issues of compliance (ECE/MP.PP/2008/2/Add.8), as well as the following decisions: decision III/6a with respect to compliance by Albania (ECE/MP.PP/2008/2/Add.9); decision III/6b with respect to compliance by Armenia (ECE/MP.PP/2008/2/Add.10); decision III/6c with respect to compliance by Kazakhstan (ECE/MP.PP/2008/2/Add.11); decision III/6d with respect to compliance by Lithuania (ECE/MP.PP/2008/2/Add.12); decision III/6e with respect to compliance by Turkmenistan (ECE/MP.PP/2008/2/Add.13); and decision III/6f with respect to compliance by Ukraine (ECE/MP.PP/2008/2/Add.14).

75. The Meeting of the Parties undertook to review the implementation of the measures with respect to the specific Parties referred to in decisions III/6a, b, c, d, e and f at its fourth ordinary meeting and, with that in mind, requested the Committee to examine those matters in advance of that meeting and to describe the progress made in its report.

76. At its thirty-first meeting, the Committee considered the matter, inter alia, on the basis of the information provided by five Parties (Armenia, Albania, Kazakhstan, Lithuania and Ukraine) on measures taken and progress achieved in implementation of the respective decisions on compliance. The Committee's draft reports were sent to the Parties concerned and the communicants for comments. Taking into account any comments received, the Committee finalized its reports. The Committee's conclusions are set out in the addenda to its thirty-first meeting (ECE/MP.PP/C.1/2011/2/Add.1 (Albania), ECE/MP.PP/C.1/2011/2/Add.2 (Armenia), ECE/MP.PP/C.1/2011/2/Add.4 (Kazakhstan), ECE/MP.PP/C.1/2011/2/Add.5 (Lithuania) and ECE/MP.PP/C.1/2011/2/Add.8 (Ukraine)).

77. The Committee invites the Meeting of the Parties to take note of the updated information, endorse the conclusions and implement the recommendations contained in the five addenda.

78. With respect to decision III/6e (Turkmenistan), the Committee decided that, in view of its scheduled mission in Turkmenistan from 17 to 19 April 2011, it would be premature to make recommendations to the Meeting of the Parties at the time the present report was finalized. The Committee will prepare its progress report and recommendations to the Meeting of the Parties after the scheduled mission.

# IV. General compliance issues

**Entry into force of the Convention and application of its obligations**

79. The Committee acknowledges that in some cases a decision-making process may be lengthy and multiphase, and may span a period before the entry into force of the Convention for a Party until the final decision for a project (ACCC/C/2008/24 (Spain), ACCC/C/2008/26 (Austria), ACCC/C/2008/27 (United Kingdom)). In such cases, even if the final decision concerning an activity has actually been taken by a public authority after

the entry into force of the Convention, the Committee in its considerations examines whether the significant events of a procedure, i.e., events that are essential for the final decision, took place before or after the entry into force of the Convention. Hence, in the view of the Committee, if such significant events take place before the entry into force of the Convention for a said Party, but the decision is dated after the entry into force of the Convention, the Committee should not render findings on those events.

80. In some cases, a decision for the carrying out of an activity might have been taken long before the entry into force of the Convention, but the actual implementation of the activity, with any updates or reconsideration of the original permit, as necessary, began after the entry into force of the Convention. The Committee has considered that this does not, as such, prevent the Convention from being applicable to subsequent reconsiderations and updates by public authorities of the conditions for the activity in question, and to possible permits given for extensions of the activity, after the entry into force of the Convention for the Party concerned (ACCC/C/2009/41 (Slovakia), para. 44).

**International financial institutions and public functions related to provision of information and public participation**

81. The Committee has considered in the past the role of international financial institutions with respect to the implementation of the Convention (ACCC/C/2005/12 (Albania) and ECE/MP.PP/2008/5, para. 67). The Committee was called to consider the nature of financing agreements in relation to the Convention, as well as the nature of information contained in such agreements in the context of communication ACCC/C/2007/21 (European Community) (see paras. 36 and 30 (b), respectively). The Committee considered that, in general, a decision of a financial institution to provide a loan or other financial support is legally not a decision to permit an activity, as is referred to in article 6 of the Convention. However, the Committee found that financing agreements, even though not listed explicitly in the definition of environmental information under article 2, paragraph 3 (b), may sometimes amount to "measures … that affect or are likely to affect the elements of the environment" as set out in article 2 (b) of the Convention. This is because, by including a list of examples of types of "activities or measures" preceded by the word "including", the Convention text implies that the list is not exhaustive. For example, if a financing agreement deals with specific measures concerning the environment, such as the protection of a natural site, it is to be seen as containing environmental information. Therefore, whether the provisions of a financing agreement are to be regarded as environmental information cannot be decided in a general manner, but has to be determined on a case-by-case basis.

82. In this context, the question of confidentiality of information has been raised (see also ECE/MP.PP/2008/5, para. 55) with regard to "commercial and industrial information, where such confidentiality is protected by law in order to protect a legitimate economic interest" (art. 4, para. 4 (d) of the Convention). The Committee points out that this exemption may not be read as meaning that public authorities are only required to release environmental information where no harm to the interests concerned is identified. The exemptions of the Convention under article 4, paragraph 4, are to be interpreted in a restrictive way, taking into account the public interest served by disclosure. Thus, in situations where there is a significant public interest in disclosure of certain environmental information and a relatively small amount of harm to the interests involved, the Convention would require disclosure (ACCC/C/2007/21 (European Community), para. 30 (c)).

**Private entities and public functions related to provision of information and public participation**

83. In several cases, the Committee had to review legal systems in which many of the functions of public authorities with respect to access to information and public participation are delegated to private entities. The Committee considers that it is not a conflict with the Convention when national legislation delegates some functions related to maintenance and distribution of environmental information to private entities. Such private entities, depending on the particular arrangements adopted in the national law, should be treated for the purpose of access to information as falling under the definition of a "public authority", in the meaning of article 2, paragraph 2 (b) or (c) (ACCC/C/2009/37 (Belarus), para. 67). Delegating should not be an excuse for not having information that is relevant for their functions.

84. Similarly, in the context of public participation, national legislation sometimes makes the developer/investor responsible for the public participation process. The Committee recognizes that to ensure proper conduct of the public participation procedure the administrative functions related to its organization may be delegated to bodies or persons who are quite often specializing in public participation or mediation, are impartial and do not represent any interests related to the proposed activity being subject to the decision-making. This differs, however, from relying solely on the developer for public participation (see also ACCC/C/2009/37 (Belarus) and previous findings for ACCC/C/2006/16 (Lithuania), para. 78). While developers (project proponents) may hire consultants specializing in public participation, neither the developers themselves nor the consultants hired by them can ensure the degree of impartiality necessary to guarantee proper conduct of the public participation procedure in compliance with the Convention. In this context the Committee finds the following features of such systems as being not in compliance with the Convention:

(a) Making the developers (project proponents) rather than the relevant public authorities responsible for organizing public participation, including for making available the relevant information to the public and for collecting comments;

(b) Not establishing mandatory requirements for the public authorities that issue the *expertiza*[7] conclusion to take into account the comments of the public;

(c) Not establishing appropriate procedures to promptly notify the public about the environmental *expertiza* conclusions and not establishing appropriate arrangements to facilitate public access to these conclusions.

85. The observations of the Committee regarding the role of the developers should not be read as excluding the involvement of any private entities in the process. The public authorities should maintain control of the involvement of such private entities in the organization, for instance, of public hearings, or imposing fees to cover the costs related to public participation.

**The distinction between decisions under articles 6, 7 or 8 of the Convention**

86. The Convention distinguishes between decisions on specific activities (art. 6), plans, programmes and policies relating to the environment (art. 7) and executive regulations and/or generally applicable legally binding normative instruments (art. 8). The degree of public participation requirements of the Convention for each type of act is different

[7] "State environmental review" or "ecological expertise" mechanism formally established in the former Soviet Union in the second half of the 1980s. See also paragraphs 99–101.

87. The Committee has already in the previous intersessional period (ACCC/C/2004/8 (Armenia), ACCC/C/2005/11 (Belgium), ACCC/C/2005/12 (Albania) and ACCC/C/2006/16 (Lithuania)), as well as in the most recent intersessional period (ACCC/C/2008/24 (Spain), ACCC/C/2008/27 (United Kingdom) and ACCC/C/2009/43 (Armenia)), had to decide the nature of acts and decisions and then determine the extent to which the public participation provisions of the Convention applied. The distinction between article 6 and article 7 decisions is in particular problematic, because the Convention does not establish a precise boundary between decisions under article 6 and those falling under article 7. The Committee observes that when determining how to categorize a decision under the Convention, its label in the domestic law of the Party is not decisive, but rather the Committee looks on a contextual basis at the legal effects and functions of a decision — i.e., on whether it amounts to a permit to actually undertake an activity.

88. Taking into account, however, that different interpretations are possible with respect to these issues, the Committee has chosen in some cases not to actually decide on whether a decision is a decision falling under article 6 or article 7, but to focus on those aspects of the case where the obligations of the Party concerned were most clear cut. In this respect, the public participation requirements for decision-making on an activity covered by article 7 are a subset of the public participation requirements for decision-making on an activity covered by article 6. Regardless of whether a decision is considered to fall under article 6 or article 7, the requirements of paragraphs 3, 4 and 8 of article 6 apply and the Committee would decide to examine the way in which those requirements have or have not been met.

**Reasonable time frames**

89. The Committee recalls its earlier observation that there are considerable differences in time frames provided in national legal frameworks for the public to get acquainted with the documentation and to submit comments (ECE/MP.PP/2008/5, para. 60). In this context, some of the findings of the Committee may have a general application:

(a) The Committee appreciates a flexible approach to setting the time frames, aiming to allow the public to access the relevant documentation and prepare itself, and considers that while a minimum of 30 days between the public notice and the start of public consultations is a reasonable time frame, the flexible approach allows to extend this minimum period as may be necessary taking into account, inter alia, the nature, complexity and size of the proposed activity (ACCC/C/2009/37 (Belarus), para. 89);

(b) The Committee, however, does not consider appropriate a flexible approach, whereby only the maximum time frame for public participation procedures is set, in relation to the time frames for public consultations and submitting the comments. Such an approach, regardless of how long the maximum time frame is, runs the risk that in individual cases time frames might be set which are not reasonable. Thus, such an approach, whereby only maximum time frames for public participation are set, cannot be considered as meeting the requirement of setting reasonable time frames under article 6, paragraph 3, of the Convention (ACCC/C/2009/37 (Belarus), para. 90);

(c) The Committee considers that the provision of “a period of approximately six weeks for the public to inspect the documents and prepare itself for the public inquiry” in order to “to exercise its rights under article 6, paragraph 6”, and provision of “45 days for public participation and for the public to submit comments, information, analyses or opinions relevant to the proposed activity” under article 6, paragraph 7, “in this case meet the requirements of these provisions in connection with article 6, paragraph 3, of the Convention” (ACCC/C/2007/22 (France), para. 44);

(d) The Committee finds that a period of 20 days for the public to prepare and participate effectively cannot be considered reasonable if such period includes days of general celebration in the country, as in the case where the public notice was made on 22 December, providing a time frame of 20 days for the public to submit comments on a file consisting of more than 1,000 pages and on many plans related to the construction of 23 buildings containing 1,390 apartments (ACCC/C/2008/24 (Spain), para. 92).

**Private contracts**

90. During this intersessional period, the Committee had to consider the nature of private agreements as decisions subject to the requirements of the Convention on the occasion of its deliberations for two communications (ACCC/C/2007/22 (France) and ACCC/C/2008/24 (Spain)).

91. In the context of communication ACCC/C/2007/22, on 13 May 2005, the *Communauté urbaine Marseille Provence Métropole* (CUMPM) approved by way of a resolution the choice of concessionaire for the waste treatment public service together with a draft concession contract, authorizing the Chairman of CUMPM to sign the contract. The resolution defined the modalities for the processing of the waste. Soon after, on 4 July 2005, the contract between CUMPM and the private operator was signed. The Committee considered that when deciding to establish a public tender, to approve the choice of concessionaire and to enter into a contract with the private operator, CUMPM in practice also narrowed down its scope of considerations of relevant forms of waste treatment. However, the question was whether any of these steps and decisions, together or in isolation, had the effect of "closing" different options in the decision-making process. Similarly, in the context of communication ACCC/C/2008/24, the Murcia City Council concluded an agreement between a private company and Council to enable urbanization of land near Murcia.

92. The Committee, after examining the legal effects of these contracts and their timing (before the entry into force of the Convention), did not find in any of these cases non-compliance with the Convention. However, the Committee noted that entering into agreements relevant to the Convention that would foreclose options without providing for public participation may be in conflict with article 6 of the Convention.

**Public participation and environmental impact assessment**

93. In the context of the communications submitted for its review, public participation is often identified with the procedure for environmental impact assessment (EIA).

94. Article 6, paragraph 1 (a), of the Convention applies to decisions on whether to permit proposed activities in annex I to the Convention. Paragraphs 1–19 of the Convention describe activities and sectors for which the public participation provisions would apply. Paragraph 20 of the annex also includes all activities that according to domestic law require EIA with public participation. The Committee observes that the determination of whether an activity falls within the ambit of paragraph 20 of annex I to the Convention depends on three elements, namely: (i) public participation; (ii) EIA in the context of which public participation takes place; and (iii) domestic legislation providing for EIA.

95. The Committee notes that even if paragraph 20 of annex I to the Convention refers to the taking place of an EIA, national legislation may provide for a process that includes all basic elements for an EIA, without naming the process by the term "EIA". Such a de facto EIA process should also fall within the ambit of annex I, paragraph 20. It is critical, however, to define the extent to which the de facto EIA process qualifies as an EIA process, even if it is not termed as such (ACCC/C/2008/35, Georgia, paras. 43 and 46).

96. In the context of one case (ACCC/C/2008/24 (Spain), paras. 80–83), the Committee was called to consider allegations of non-compliance with article 6, paragraph 1 (a), of the Convention, as related to screening decisions in the framework of the EIA process. The Committee notes that, in general, it cannot address the adequacy or result of an EIA screening procedure because the Convention does not make the EIA a mandatory part of public participation; it only requires that when public participation is provided for under an EIA procedure in accordance with national legislation (paragraph 20 of annex I to the Convention), such public participation must apply the provisions of its article 6. Thus, under the Convention, public participation is a mandatory part of the EIA, but an EIA is not necessarily a part of public participation. Accordingly, the factual accuracy, impartiality and legality of screening decisions are not subject to the provisions of the Convention, in particular decisions that there is no need for environmental assessment, even if such decisions are taken in breach of applicable national or international laws related to environmental assessment, and cannot thus be considered as failing to comply with the Convention.

97. The Committee, however, in principle acknowledges the importance of environmental assessment, whether in the form of EIA or in the form of strategic environmental assessment (SEA), for the purpose of improving the quality and the effectiveness of public participation in taking permitting decisions under article 6 or decisions concerning plans and programmes under article 7 of the Convention.

98. The Committee also considered the nature of the development control system followed in many countries of the region, whereby the decision-making procedure includes the EIA procedure carried out by the developer (*Оценка воздействия на окружающую среду* (OVOS)) and the expertise assessment (*expertiza*) issued by the competent authority. In the view of the Committee, OVOS and the *expertiza* in this system should be considered jointly as the decision-making process constituting a form of an EIA procedure: the procedure starts with the developer submitting to the competent authorities the "declaration of intent" (*zajavka*), which includes the development of the EIA documentation and the carrying out of the public participation process and ends with the issuance of the conclusions by the competent authorities, which, together with the construction permit, is the decision of permitting nature. In the end, it is the conclusions of the environmental *expertiza* that are considered as a decision whether to permit a project (ACCC/C/2009/37 (Belarus), para. 74).

99. The peculiar features which differentiate the regulatory framework for development control in the above systems from the EIA procedure in most other countries may be summarized in the following: that in the OVOS/*expertiza* system it is usually the responsibility of the developer to organize public participation at the OVOS stage of the procedure, while at the *expertiza* stage the possibility for public participation is usually provided only through the public environmental *expertiza*.

100. In this context, the Committee finds that organization of public environmental *expertiza* is not a mandatory part of the decision-making, and therefore it cannot be considered as a primary tool to ensure implementation with the provisions of article 6 of the Convention. It may, however, play a role as an additional measure to complement the public participation procedure required as a mandatory part of the decision-making.

**Direct effect of the Convention and national legislation**

101. The Committee has noted that the Parties may implement the Convention in different ways, e.g., by fully transposing the provisions into its national legislation or by, to some extent, relying on notions of direct effect. However, the provision of the Convention encouraging the exchange of information between permit applicants and the public (art.6,

para. 5) cannot be complied with unless reflected in the national law of the Parties (ACCC/C/2007/22 (France), para. 49).

**Reconsideration or change of activities**

102. With regard to the application of the public participation requirements in article 6, paragraphs 2 to 9, of the Convention in activities that are reconsidered or changed, the Committee noted that a decision for such change, regardless of whether it involves any significant change or extension of the activity, amounts to a reconsideration and update of the operating conditions by a public authority of an activity and, thus, in accordance with article 6, paragraph 10, of the Convention, the Party concerned is obliged to ensure that the provisions of article 6, paragraphs 2 to 9, are applied, "mutatis mutandis, and where appropriate". In this context, the Committee stresses that, although each Party is given some discretion in these cases to determine where public participation is appropriate, the clause "mutatis mutandis, and where appropriate" does not imply complete discretion for the Party concerned to determine whether or not it was appropriate to provide for public participation.

103. The Committee considers that the clause "where appropriate" introduces an objective criterion to be seen in the context of the goals of the Convention, recognizing that "access to information and public participation in decision-making enhance the quality and the implementation of decisions, contribute to public awareness of environmental issues, give the public the opportunity to express its concerns and enable public authorities to take due account of such concerns" and aiming to "further the accountability of and transparency in decision-making and to strengthen public support for decisions on the environment". Thus, the clause does not preclude a review by the Committee on whether the above objective criteria were met and whether the Party concerned should have therefore provided for public participation in a present case. The conclusions of the Committee that a reconsideration or update of the operating conditions of an activity of such nature and magnitude and of serious public concern, as the nuclear power project that was brought before the Committee, are not countered by the fact that all or most changes introduced lead to stricter safety requirements (ACCC/C/2009/41 (Slovakia), paras. 55–57).

**Access to justice (article 9, paragraph 3)**

104. The Committee was called to review the nature of actions challenged under article 9, paragraph 3, of the Convention. It noted that that provision, as opposed to article 9, paragraph 2, of the Convention does not explicitly refer to either substantive or procedural legality. Instead it refers to "acts or omissions […] which contravene its national law relating to the environment". Clearly, the issue to be considered in such a review procedure is whether the act or omission in question contravened any provision — be it substantive or procedural — in national law relating to the environment. (ACCC/C/2008/33 (United Kingdom), para. 124)

105. In addition, the Committee considered that the application of a "proportionality principle" by the courts in England and Wales could provide an adequate standard of review in cases within the scope of the Aarhus Convention. A proportionality test requires a public authority to provide evidence that the act or decision pursued justifies the limitation of the right at stake, is connected to the aim(s) which that act or decision seeks to achieve and that the means used to limit the right at stake are no more than necessary to attain the aim(s) of the act or decision at stake. While a proportionality principle in cases within the scope of the Aarhus Convention may go a long way towards providing for a review of substantive and procedural legality, the Party concerned must make sure that such a principle does not generally or prima facie exclude any issue of substantive legality from a review. (ACCC/C/2008/33 (United Kingdom), para. 126).

**Access to justice (article 9, paragraphs 4 and 5)**

106. One issue dealt with by the Committee with respect to several communications submitted during the last intersessional period was on minimum standards applicable to access to justice procedures and remedies in article 9, paragraph 4, of the Convention, including fair and equitable procedures, injunctive relief and costs.

107. The Committee notes that, while injunctive relief is theoretically available in a national system, it is not always available in practice to the citizens. In one case relating to changes in the urbanization plan and the implementation of a construction project (ACCC/C/2008/24 (Spain), paras. 103–104), the national court held that the request for suspension of the modification was too early and that there would be no irreversible impact on the environment, because the construction could not start without an additional decision. Later, when the decision on the urbanization project was approved and the applicants requested suspension of the decision until the court hearing was completed, the national court ruled that the request for suspension was too late, because neither of the courts in the previous instances had suspended the decision. This kind of reasoning creates a system where citizens cannot actually obtain injunctive relief early or late. While the laws provide for the possibility of suppressive effect, this is not easily awarded by national courts.

108. Similarly with costs derived from the use of national remedies, while national legislation in some cases does not appear to prevent decisions concerning the cost of appeal from taking fully into account the requirements of article 9, paragraph 4, i.e., that procedures be fair, equitable and not prohibitively expensive, in practice natural or legal persons may be charged with high costs. For instance, in one case (ACCC/C/2008/24 (Spain), para. 110), a non-governmental organization lost in the court of first instance against a public authority and on appeal, it lost again, and the related costs were imposed on the appellant. In a different case (ACCC/C/2009/36 (Spain), para. 66), the system of legal aid was such that in practice small NGOs would hardly ever qualify to benefit from the assistance mechanisms available.

109. The Committee also stresses that “fairness” of remedies in judicial review cases under article 9, paragraph 4, refers to what is fair for the claimant, not the defendant, a public body. The Committee, moreover, finds that in determining fairness in cases of judicial review where a member of the public is pursuing environmental concerns that involve the public interest and loses the case, the fact that the public interest is at stake should be accounted for in allocating costs (ACCC/C/2008/27 (United Kingdom), para. 45).

110. The Committee is of the view that it is not sufficient if the Parties merely to ensure that the requirements of article 9, paragraphs 4 and 5, are reflected in national legislation. The Parties, in keeping with the objective of the Convention to provide effective access to justice, should also look carefully at how these provisions are actually implemented. In that regard, while the requirements set by law may not as such be problematic under the Convention, the Party concerned cannot rely on judicial discretion of the courts to ensure that the rules for timing of judicial review applications, for instance, meet the requirements of article 9, paragraph 4 (see ACCC/C/2008/33 (United Kingdom), paras. 138–139). In the view of the Committee, reliance of such discretion may result in inadequate implementation of the provisions of the Convention and clear time limits should be set by the Party concerned.

# V. Reporting requirements

111. In accordance with its mandate under decision I/7 (annex, para. 13 (c)), the Committee has monitored and assessed the implementation by Parties of their obligations under article 10, paragraph 2, of the Convention, and with the specific reporting

requirements elaborated in decision I/8, in the current reporting cycle. Due to the workload related to compliance, the Committee was not able to review in detail all national implementation reports submitted and has focused more on national implementation reports by Parties the compliance of which has been under consideration before the Committee. However, the Committee has looked into whether and how the Parties prepared their national implementation reports, whether reports were submitted in a timely manner, the quality of the information provided and the level of transparency and consultation in preparing the reports.

112. In general, the Committee considered that the reporting mechanism is working well and that the guidance document prepared by the Committee on the implementation of the reporting requirements in decisions I/8 and II/10 with respect to the second reporting cycle has been followed by the Parties.

113. To facilitate the compliance review mechanism, Committee members suggested that the format of the national implementation reports be amended, so that in the future Parties would be requested to include information about follow-up on specific cases of non-compliance. At its thirtieth meeting, the Committee suggested that the format of the national implementation reports be amended, so that in the future Parties would be requested to include information about follow-up on specific cases of non-compliance. The Committee asked the secretariat to bring that proposal to the attention of the Working Group of the Parties at its next meeting, scheduled to take place from 9 to 11 February 2011. At its thirty-first meeting, the Committee was informed that the Working Group had only partly accepted a change in the reporting format, to require Parties to submit information on follow-up in individual issues of compliance only if there has been a decision of the Meeting of the Parties to this effect, but not if there have been findings and recommendations of the Committee with the agreement of the Party concerned (according to paragraph 36 (b) of decision I/7) during the intersessional period.

114. In reviewing national implementation reports, the Committee found extremely useful the track changes methodology to indicate changes since the last reporting cycle. It noted, however, that some Parties did not use this function. It encourages Parties to follow this methodology when preparing their reports for the next reporting cycle.

115. The Committee finds it disappointing that only 7 out of 44 Parties submitted their reports on time. Late submission of reports poses practical problems for the secretariat and for the Committee itself when it finalizes its recommendations to the Meeting of the Parties. Many Parties began the participatory process for the preparation of their reports quite late.

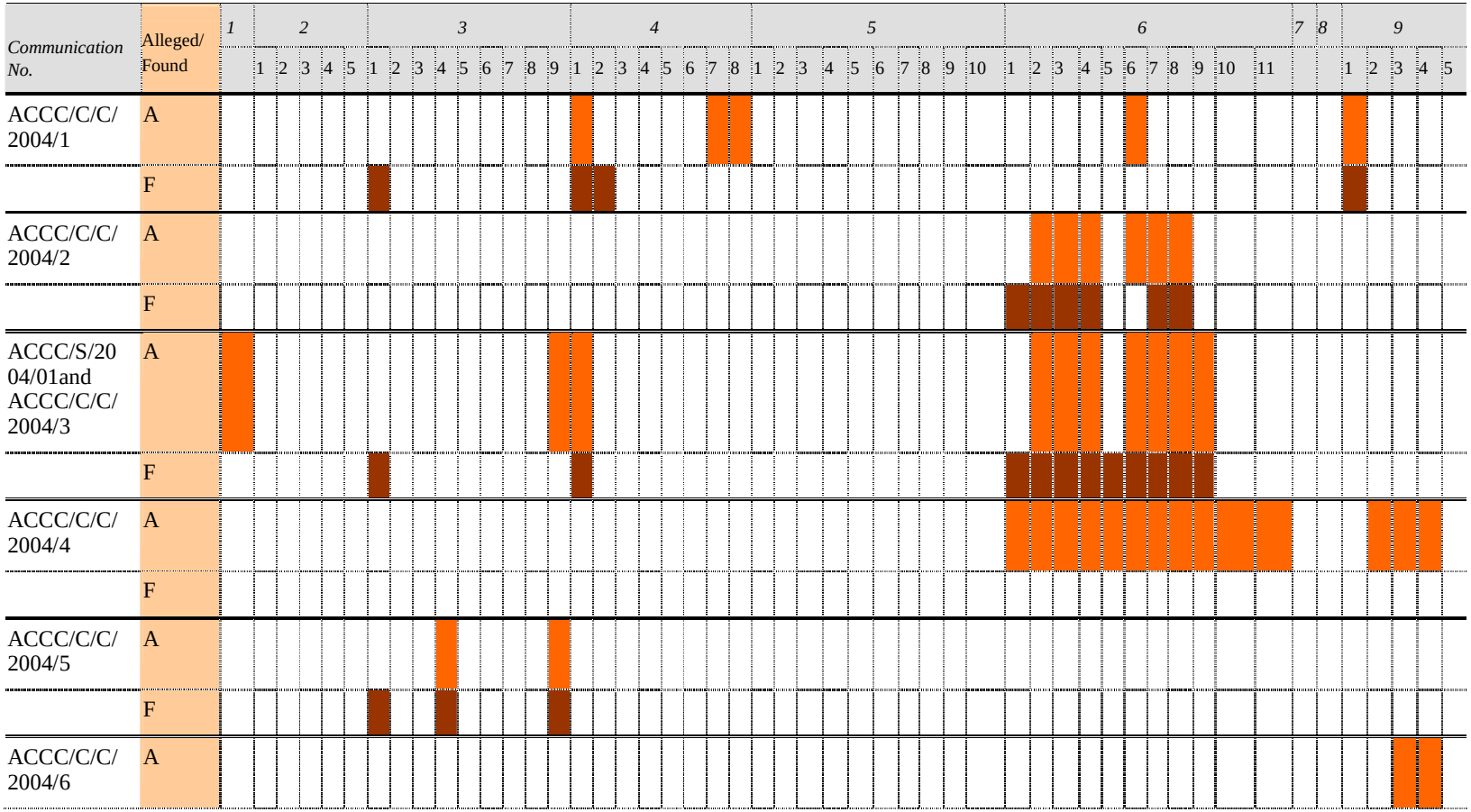
116. The Committee therefore recommends that the Meeting of the Parties underline the importance of complying with the reporting requirements to initiate the process for the national implementation reports well in advance of the upcoming Meeting of the Parties, so as to ensure adequate public participation in the process. In the light of the clear obligations in the Convention to submit national reports on a regular basis, the Committee recommends that the Meeting of the Parties recognize that Parties having not submitted such reports are not in compliance with article 10, paragraph 2, as implemented by decisions I/8, II/10 and III/5 of the Meeting of the Parties.

117. The Committee also recommends that the Meeting requests those Parties that failed to submit their national implementation reports, and that were Parties at the time of the deadline for submission of the implementation reports, to submit their reports to the secretariat, inter alia, for forwarding to the Committee, within three months of the date of the fourth session of the Meeting of the Parties.

# Annex

## Provisions of the Convention alleged or found not to have been complied with[a]

**(by article and paragraph of the Convention)**




[a] The information contained in this table addressed only submissions and those communications that have been deemed preliminary admissible and therefore considered on merit.

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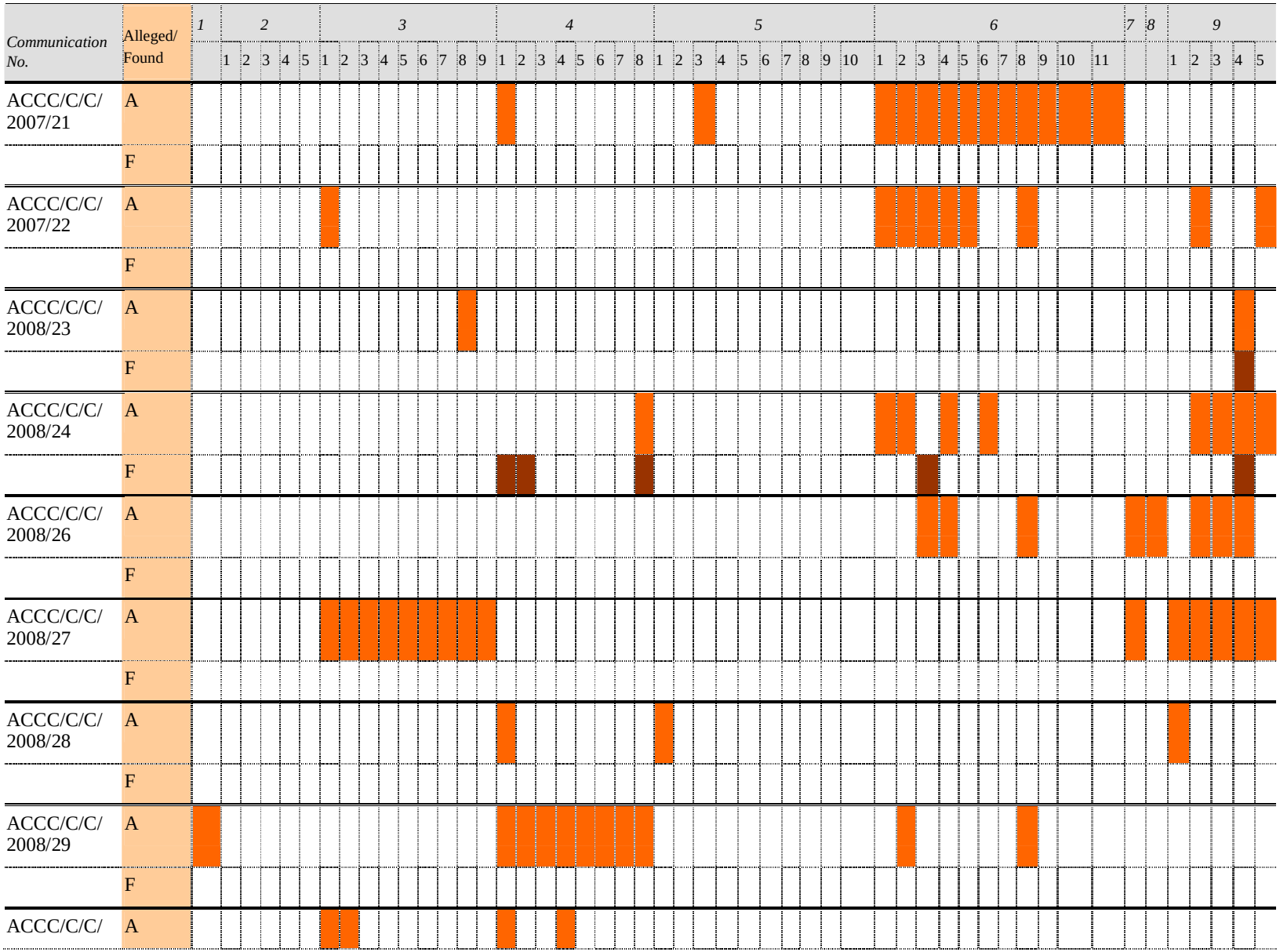
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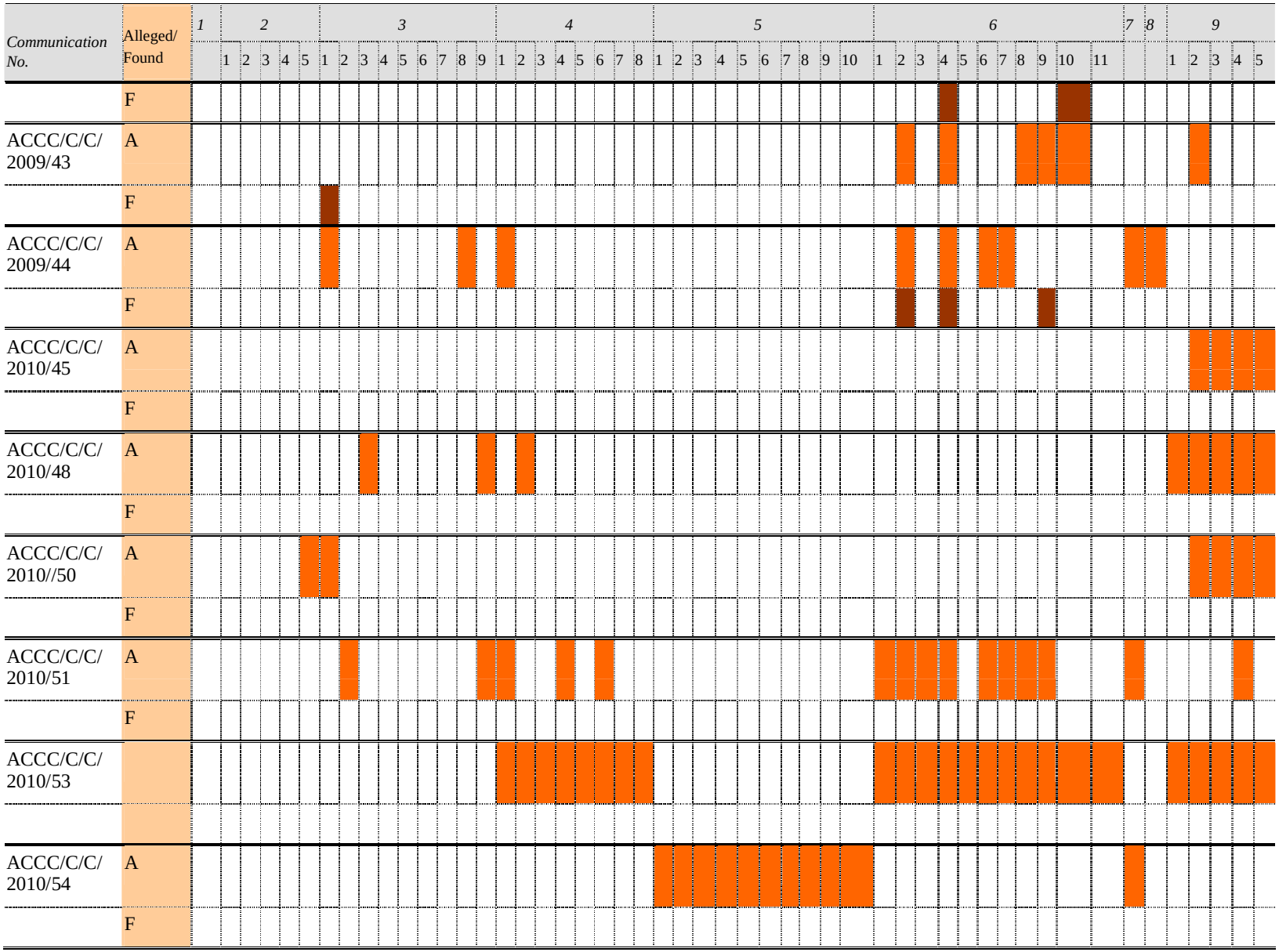
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| ACCC/C/C/ 2010/55 | A | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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| ACCC/C/C/ 2010/57 | A | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | F | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| ACCC/C/C/ 2010/58 | A | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
| | F | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

A: Alleged by the communicant or the submitting Party not to have been complied with

F: Found by the Committee not to have been complied with