

Geneva, 14 May 2004

## **GREEN GROUPS CHALLENGE GOVERNMENTS OVER COMPLIANCE WITH TREATY OBLIGATIONS**

The United Nations Economic Commission for Europe's groundbreaking treaty on environmental democracy, the Aarhus Convention,<sup>i</sup> is facing a new test as its innovative compliance mechanism is presented with claims by non-governmental organizations (NGOs) that certain Parties to the Convention are failing to comply with their obligations. The Aarhus Convention's Compliance Committee is meeting in Geneva this week (13-14 May 2004) and the cases of alleged non-compliance brought before it by NGOs form a central part of its agenda.

The Convention requires its Parties to guarantee the rights of the public to have access to information, to participate in decision-making and to have access to justice in matters related to the environment. A compliance mechanism was put in place at the first meeting of the Parties<sup>ii</sup> and an independent Compliance Committee was elected to look into possible cases of non-compliance. The Aarhus compliance mechanism is unprecedented among multilateral environmental agreements in the extent to which it gives the public, including NGOs, a role in triggering a review of a Party's compliance. Several environmental organizations have taken advantage of this relatively open regime to challenge certain Parties over their compliance with the Convention.

So far, five communications have been submitted to the Compliance Committee, three of these since the beginning of May. These relate to:

- Alleged failure by the National Atomic Company in Kazakhstan to provide information on the economic justification for a proposal to import nuclear waste;
- Granting of a permit to construct a navigation canal through the Danube Delta, an internationally recognized wetland area in southern Ukraine, allegedly without adequate public participation in the permitting procedure;
- Alleged incompatibility of a new Hungarian law on motorways with the provisions of the Convention;
- Possible conflict between Turkmenistan's new law on public associations and the provisions of the Convention; and
- Construction of high-voltage power lines in Kazakhstan, allegedly without fulfilling the public participation requirements of the Convention.

.../

It will now be the task of the Compliance Committee to investigate these claims, initially through a process of dialogue with the Parties concerned. "It is important to emphasize that the Committee has not reached any conclusions as to whether any State is or is not in compliance with the Convention. At this point, we are simply asking questions – for instance, is the communication 'admissible'" said the Committee's Chairman, Prof. Veit Koester, a former civil servant from Denmark and distinguished veteran of negotiations on many international environmental treaties. "If and when the Committee does reach some conclusions, these will be referred to the Meeting of the Parties, which will be the final arbiter as to whether or not there is a case of non-compliance."

Mr. Kaj Bärlund, Director of the UNECE Environment and Human Settlements Division, expressed the hope that the mechanism would encourage Governments to take their obligations seriously and would thereby promote a high level of compliance. "Through responsible use of the compliance mechanism, the public and in particular NGOs can play an important role in stimulating more effective implementation of the Convention," he said. He stressed that the mechanism was designed to improve compliance and was not intended as a redress procedure for violations of individual rights. "The basic approach behind the compliance mechanism should be supportive rather than punitive. If Parties are having problems complying with the Convention, the mechanism should identify this and find ways to support them in coming into compliance."

In a separate but related development, the Working Group of the Parties, the main intersessional body of the Aarhus Convention, last week affirmed the importance of consulting the public during the preparation of national reports on the implementation of the Convention. The Working Group adopted an indicative timetable according to which drafts of the national implementation reports should be publicly available over a period of several weeks for the public to comment. The first round of reports will be presented at the second meeting of the Parties, which will take place in Almaty, Kazakhstan, in May 2005.

For more details, please visit [www.unece.org/env/pp/compliance.htm](http://www.unece.org/env/pp/compliance.htm) or contact:

Mr. Jeremy WATES, Secretary to the Aarhus Convention  
UNECE Environment and Human Settlements Division  
Palais des Nations  
CH - 1211 Geneva 10, Switzerland

Phone: +41 (0)22 917 23 84  
Fax: +41 (0)22 917 01 07  
E-mail: [jeremy.wates@unece.org](mailto:jeremy.wates@unece.org)

---

<sup>i</sup> The UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters was adopted in Aarhus, Denmark, in June 1998 and entered into force in October 2001. It now has 27 Parties: Albania, Armenia, Azerbaijan, Belarus, Belgium, Bulgaria, Cyprus, Estonia, France, Georgia, Hungary, Italy, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Malta, Norway, Poland, Portugal, Republic of Moldova, Romania, Tajikistan, the former Yugoslav Republic of Macedonia, Turkmenistan and Ukraine.

<sup>ii</sup> Lucca, Italy, October 2002.