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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

Compliance Committee

Eighteenth meeting
Geneva, 28–30 November 2007

**REPORT OF THE COMPLIANCE COMMITTEE
ON ITS EIGHTEENTH MEETING**

INTRODUCTION

1. The eighteenth meeting of the Compliance Committee took place in Geneva from 28 to 30 November 2007. All members were present. In addition, representatives of the Governments of Denmark and Slovenia, and of the non-governmental organizations Earthjustice, and, within the framework of European ECO-Forum, European Environmental Bureau, Civic Alliance for the Protection of Vlora Bay (Albania), Center for Regional Development (Armenia), Oekobuero (Austria), ECOSCOPE (Azerbaijan), Eco Pravo (Belarus), Birds of Prey Protection Society (Bulgaria), FEEO (Cyprus), Terra Cypria - the Cyprus Conservation Foundation (Cyprus), Arnika - Center for Citizen Support (Czech Republic), France Nature Environment (France), Clean Air Action Group (Hungary), Green Salvation (Kazakhstan), Independent Environmental Assessment (Kyrgyzstan), Association Kazokiskes Community (Lithuania), Eco-TIRAS International Environmental Association of River Keepers (Moldova), Quercus - Associação Nacional de Conservação de Natureza (Portugal), Institute for Information Freedom Development (Russian Federation), Tajik Socio-ecological Union (Tajikistan), International charitable organization-“Environment People Law” (Ukraine), RACSE (Ukraine), ClientEarth

(United Kingdom), Bank Information Center (United States of America) and Environmental Law Center “Armon” (Uzbekistan), as well as three individuals, participated as observers during the open sessions.

2. The Chairperson, Mr. Veit Koester, opened the meeting.

I. ADOPTION OF THE AGENDA

3. The Committee adopted its agenda as set out in document ECE/MP.PP/C.1/2007/7.

II. RELEVANT DEVELOPMENTS SINCE THE PREVIOUS MEETING OF THE COMMITTEE

4. Members of the Committee exchanged information on various meetings and conferences related to the Convention or compliance issues that had taken place since its previous meeting.

III. OTHER MATTERS ARISING FROM THE PREVIOUS MEETING

5. At the request of the Chairperson, Mr. Jerzy Jendroska made a presentation on the legislative and institutional governance structure of the European Community.

IV. SUBMISSIONS BY PARTIES CONCERNING OTHER PARTIES

6. The secretariat informed the Committee that no new submissions had been made by Parties concerning compliance by other Parties.

V. SUBMISSIONS BY PARTIES CONCERNING THEIR OWN COMPLIANCE

7. The secretariat informed the Committee that no submissions had been made by Parties concerning problems with their own compliance.

VI. REFERRALS BY THE SECRETARIAT

8. No referrals had been made by the secretariat.

VII. COMMUNICATIONS FROM MEMBERS OF THE PUBLIC

9. The Committee proceeded to prepare draft findings and possible recommendations on communication ACCC/C/2005/15 (Romania) in a closed session. As agreed at its previous meeting, in view of the uncertainty surrounding the timetable for the completion of any licensing

procedure for the Rosia Montana plant, the Committee addressed only the issue of the confidentiality of environmental impact assessment (EIA) studies. It agreed that the draft findings and, if any, recommendations would be sent to the Party concerned and the communicant for comment (decision I/7, annex, para. 34).

10. The Committee resumed its preparation of draft findings and possible recommendations with respect to communication ACCC/C/2006/16 (Lithuania) in a closed session. The Committee agreed that the draft findings and, if any, recommendations would be sent to the Party concerned and the communicant for comment (decision I/7, annex, para. 34).

11. The Committee proceeded to prepare draft findings and possible recommendations on communication ACCC/C/2005/17 (European Community) in a closed session. It agreed that, once completed through the electronic consultation process between the Committee members in the intersessional period, the draft findings and, if any, recommendations would be sent to the Party concerned and the communicant for comment (decision I/7, annex, para. 34). The Committee would take into account any comments when finalizing the draft findings and possible recommendations, either intersessionally using its electronic decision-making procedure, or at its next meeting.

12. As had been agreed at its sixteenth meeting, the Committee entered into discussions on communication ACCC/C/2007/18 (Denmark) submitted by Mr. Søren Wium-Andersen concerning compliance by Denmark with certain provisions of the Convention. Specifically, the communication alleged, *inter alia*, that the local police, the office of the public prosecutor and the Nature Protection Board of Appeals had refused his appeals against a decision by the local municipality, acting in its capacity of landowner to cull rooks in a particular nesting period. Thus, according to the communicant he did not have proper access to review and appeal procedures concerning the alleged non-compliance of the Danish legislation with the European Community (EC) directive 79/409/EEC of 2 April 1979 on the conservation of wild birds.

13. Before the discussion, the Chair reminded those present of the statement he had made when the communication was first received to the effect that even though he had been a civil servant working in the Danish Forest and Nature Agency under the Ministry for the Environment and had been involved in, *inter alia*, the implementation of the EC Birds Conservation Directive, he did not consider that he had a conflict of interest, and that this statement had been accepted by the Committee. Notwithstanding this fact, to avoid any possible misconceptions he invited the Vice-Chairperson, Ms. Svitlana Kravchenko, to chair the discussion on the communication.

14. In general, discussions on the communication proceeded in accordance with the form decided on by the Committee at its fifth meeting (MP.PP/C.1/2004/6, para. 40). They included interventions by representatives of Denmark, by the communicant and by observers. The Committee confirmed that the communication was admissible. The Committee then deliberated on the communication in a closed session (decision I/7, annex, para. 33). It agreed to finalize its draft findings and, if any, recommendations through an electronic procedure with a view to sending them for comment to the Party concerned and the communicant, in accordance with paragraph 34 of the annex to decision I/7, in February 2007.

15. With regard to communication ACCC/C/2007/19 (United Kingdom), further information had been received from the communicant, which pointed out that an inquiry on the matter in question was currently under way. The Committee therefore agreed that although it considered that the criteria of paragraph 20 of the annex to decision I/7 had been met, it would exercise the discretion given to it under paragraph 21 of the annex to decision I/7 not to consider the communication further, as the matter was subject to an ongoing inquiry. The file would therefore be closed. It noted, however, that if in the future the communicant still wished to bring the matter before the Committee due to the outcome or length of the review procedure, he could do so.

16. Further information was provided by the communicant with regard to matters relevant to communication ACCC/C/2007/20 (Kazakhstan). In accordance with its earlier decision (ECE/MP.PP/C.1/2007/4, para. 21), the Committee discussed the matter under the agenda item on follow-up on specific cases of non-compliance.

17. Further information had been received from the communicant with regard to communication ACCC/C/2007/21 (European Community; ECE/MP.PP/C.1/2007/6, para. 20). The new information concerned, inter alia, issues of access to information under article 4 of the Convention.

18. The Committee determined on a preliminary basis that the communication was admissible, but did not draw any conclusions regarding the compliance issues raised in it. The Committee also agreed upon a set of issues to be raised with the communicant and the Party concerned.

19. No new communications had been received since the Committee's seventeenth meeting.

VIII. OTHER INFORMATION RECEIVED BY THE COMMITTEE RELEVANT TO POSSIBLE CASES OF NON-COMPLIANCE

20. The Committee had received no additional information relevant to other possible cases of non-compliance.

IX. FOLLOW-UP ON SPECIFIC CASES OF NON-COMPLIANCE

21. The Committee discussed progress with regard to implementation of decisions II/5, II/5a, II/5b and II/5c of the Meeting of the Parties (ECE/MP.PP/2005/2/Add. 6–9). No new information had been received from the relevant Parties.

22. With regard to implementation of decision II/5a, the Committee requested the secretariat to draw the attention of the Government of Kazakhstan to the invitation to submit a report to the Meeting of the Parties, through the Compliance Committee, no less than four months before the third meeting of the Parties, i.e. 11 February 2008, on the measures taken to implement the recommendations in paragraph 7 of the decision. The Committee, in accordance with the agreement reached with the Party concerned in the course of discussion on its findings and recommendations with regard to communication ACCC/C/2004/06 (ECE/MP.PP/C.1/2006/4/Add.1), noted that the report would also need to address the way in

which those recommendations had been addressed. Furthermore, the Committee confirmed its invitation to the Government of Kazakhstan to address the substantive issues raised in communication ACCC/C/2007/20 in the report (ECE/MP.PP/C.1/2007/6, para. 19) and to also address issues raised in the new information provided by the communicant on 9 November 2007 (see para. 16).

23. With regard to implementation of decision II/5b on compliance by Ukraine with the provisions of the Convention, the Committee expressed a number of concerns. In particular, it took note of the fact that the implementation strategy which was due to have been provided by the Government of Ukraine by 31 December 2005 pursuant to decision II/5b had not as yet been provided to the Committee; nor, as far as the Committee was aware, had it been developed. The Committee also took note of information submitted by the Government of Romania to the Standing Committee under the Convention on the Conservation of the European Wildlife and Natural Habitats as part of the follow-up to Recommendation No. 111 (2004) for the Ukrainian Danube-Black Sea Navigation Route Restoration Project (Danube Delta, Ukraine), which, inter alia, alleged failure by Ukraine to conduct effective an public consultation process in the decision-making on the above project, in particular in a transboundary context, in the period 2006-2007. In the Committee's opinion, this information indicated that despite the request made by the Meeting of the Parties through decision II/5b, Ukraine had not taken measures to bring about compliance with the Convention. The Committee agreed to invite the Government of Ukraine to provide the Committee with information on any progress made with regard to implementation of specific recommendations contained in decision II/5b, including with regard to the development of the implementation strategy, in advance of its next meeting. It also agreed to emphasize that it would consider recommending, in accordance with paragraph 35 of the annex to decision I/7, that the Meeting of the Parties decide on further and stricter measures with regard to Ukraine in accordance with paragraph 37 (e)-(h) of the annex to decision I/7.

24. With regard to implementation of decision II/5c, the Committee requested the secretariat to send a letter reminding the Government of Turkmenistan of the invitation contained in paragraph 6 of decision II/5c regarding the report on implementation of the decision, which was due to be submitted to the Meeting of the Parties through the Committee by 11 February 2008.

25. The Committee noted with appreciation the action plan for implementing the recommendations contained in its findings and recommendations with regard to compliance by Albania (ECE/MP.PP/C.1/2007/4/Add.1) submitted by the Government of Albania in accordance with paragraph 99 of the findings. The Committee resolved to review any progress made by the Party with respect to implementation of the recommendations, inter alia, on the basis of the report to be submitted by the Party (ECE/MP.PP/C.1/2007/4/Add.1, para.100) at the next meeting, with a view to reflecting this progress in its report to the Meeting of the Parties. In this regard, the Committee noted that it had extended the deadline for the Party to submit the action plan to 3 November 2007. It therefore decided to extend the deadline set out in paragraph 100 of the findings and recommendations to 11 February 2007 so as to allow the Party to make further progress in the implementation of the recommendations. It requested the secretariat to communicate the above to the Government of Albania.

X. REPORTING REQUIREMENTS

26. The Committee considered the process of preparation of its own report to the Meeting of the Parties and the synthesis report to be prepared by the secretariat pursuant to decision I/8.

27. With regard to the synthesis report, the Committee made several suggestions to the secretariat regarding issues to which the latter should pay special attention when preparing the report. These included: (a) the practice of applying article 7 of the Convention in relation to programmes, plans and policies other than those which, pursuant to national legislation, are subject to strategic environmental assessment; (b) practice with regard to designating bodies responsible for the public participation procedure carried out in accordance with article 6 of the Convention, in particular where this responsibility is delegated to the developer; and (c) national application of the requirement to inform the public concerned in an adequate, timely and effective manner (art. 6, para. 2). The Committee also suggested that when preparing the synthesis report, the secretariat should consider whether the information contained in the reports continued to indicate that implementation of article 9 of the Convention remained one of the most problematic areas. The synthesis report should also reflect whether the Parties had applied the methodology put forward in the guidance document on reporting prepared by the Committee and endorsed by the Working Group of Parties at its seventh meeting (ECE/MP.PP/WG.1/2007/L.4).

XI. PROGRAMME OF WORK AND CALENDAR OF MEETINGS

28. The Committee confirmed that it would hold its nineteenth meeting in Geneva from 5 to 7 March 2008. Its twentieth meeting would be held in Riga from 8 to 10 June 2008 and its twenty-first meeting would take place from 17 to 19 September 2008 in Geneva. The twenty-second meeting was provisionally scheduled for 17 to 19 December 2008.

XII. ADOPTION OF THE REPORT AND CLOSURE OF THE MEETING

29. The Committee adopted the draft report prepared by the Chairperson and the secretariat. The Chairperson then closed the meeting.
