



Council of the
European Union

157204/EU XXV. GP
Eingelangt am 09/10/17

Brussels, 9 October 2017
(OR. en)

12930/17

ENV 809
JUR 467
DEVGEN 222
RELEX 830
ONU 127

NOTE

From: General Secretariat of the Council
To: Delegations

Subject: - Sixth session of the Meeting of the Parties (MOP 6) to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention),
(Budva, Montenegro, 11–13 September 2017)
- Joint High-Level Segment under the Meetings of the Parties to the Aarhus Convention and its Protocol on PRTRs,
(Budva, Montenegro, 14 September 2017)
- Third session of the Meeting of the Parties (MOPP 3) to the Protocol on Pollutant Release and Transfer Registers,
(Budva, Montenegro, 15 September 2017)
= Information from the Presidency and the Commission

Delegations will find in the Annex an information note from the Presidency and the Commission on the above subject, to be dealt with under "Any other business" at the Council (Environment) meeting on 13 October 2017.

Sixth session of the Meeting of the Parties (MOP 6) to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), (Budva, Montenegro, 11–13 September 2017)

Joint High-Level Segment under the Meetings of the Parties to the Aarhus Convention and its Protocol on PRTRs, (Budva, Montenegro, 14 September 2017)

Third session of the Meeting of the Parties (MOPP 3) to the Protocol on Pollutant Release and Transfer Registers, (Budva, Montenegro, 15 September 2017)

- Information from the Presidency and the Commission -

Event:

The Sixth Meeting of the Parties to the Aarhus Convention (MOP 6) and the Third Meeting of the Parties to the PRTR Protocol (MOPP 3) took place in Budva, Montenegro, from 11 to 15 September 2017.

The EU, the EU Member States and most other Parties to the Convention and its Protocol participated, plus various UN agencies, NGOs and stakeholders. The Government of Montenegro and the city of Budva provided the necessary logistic support as well as the framework to ensure a successful meeting.

The EU and its Member States were broadly satisfied with the outcome of the two meetings, and in particular with the Budva Declaration and the decisions adopted. Further discussions will be held on compliance case C-32 regarding access to justice in environmental matters at EU level, which was postponed to the next MOP in 2021.

Budva Declaration:

During the joint High-Level Segment, MOP 6 and MOPP 3 adopted the Budva Declaration on "*Environmental Democracy for Our Sustainable Future*"¹. The Budva Declaration is a short policy-oriented document which reflects the valuable contribution by the Convention and its Protocol to the 2030 Agenda for Sustainable Development.

New Decisions:

MOP 6 and MOPP 3 took stock of the implementation of the Convention and the PRTR Protocol, compliance by the Parties, provided the necessary orientation for the next inter-sessional period, reviewed the financial arrangements, established the future work programme and reviewed the work of the different Task Forces under the Convention.

As for the financial arrangements, the Aarhus MOP decided to retain the current interim scheme of voluntary contributions, as there was no consensus to move towards a scheme of mandatory contributions based on the UN scale of assessments. The EU and its Member States suggested to raise the minimum contribution to the Convention from 500 to 1,000 USD, but there was no unanimity on this proposal. In an effort to align the MOP and MOPP financial arrangements, the minimum contribution to the Protocol also remains at 500 USD.

As regards membership of the Aarhus Convention, a progress report on Guinea-Bissau's accession suggests that Guinea-Bissau could become the first non-UNECE country to accede to the Aarhus Convention should the MOP so decide at its next session in 2021.

Compliance case concerning the EU:

The Aarhus Convention Compliance Committee found that the EU did not correctly implement the Convention's provisions on access to justice in environmental matters, in so far as access by citizens and NGOs to the EU Courts and to administrative review of EU acts would be too narrow.

¹ See <http://www.unece.org/index.php?id=45699>.

The Commission pointed to the EU Treaty system of judicial remedies, where national courts are equally responsible to verify the correct application of EU law, and to the independence of the European Courts in interpreting the Treaty rules on access to justice.

At the Aarhus MOP, in line with Council Decision (EU) 2017/1346 of 17 July 2017 ² on the position to be adopted, on behalf of the EU, at the MOP 6 as regards compliance case C-32, the EU proposed to "take note" of the non-compliance finding instead of "endorsing" them as done in the past by the MOP, together with other amendments to the relevant draft Decision VI/8f. There was however no support to the EU proposal of "taking note" of the non-compliance findings, and the EU was severely criticised for not endorsing it. Finally, the MOP decided unanimously to postpone consideration of this matter to the next MOP in 2021.

In the meantime, the EU will continue to explore ways and means to comply with the Aarhus Convention in a way that is compatible with the fundamental principles of the Union legal order and with its system of judicial review, taking into account concerns expressed within the Convention.

Nominations:

New members, among them representatives from the EU, were elected to the respective Bureaus of the Convention and its Protocol and to the Aarhus Convention Compliance Committee and Protocol Compliance Committee.

Evaluation of the PRTR Protocol:

In response to a recommendation in the Compliance Committee's Synthesis report, the Secretariat tabled a proposal to develop indicators for evaluating the effectiveness and success of the PRTR Protocol. The Bureau was requested to consider the resource implications of such an evaluation and if appropriate present a proposal for the next meeting of the Working Group.

² OJ EU L 186 of 19.7.2017, p. 15.

The Working Group of the Parties in November 2018 will consider a formal mandate for the Compliance Committee to undertake the respective work. Such a mandate would only be endorsed at the next MOPP in 2021.
