
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

Sixth session

Budva, Montenegro, 11–13 September 2017

Item 7 (b) of the provisional agenda:

**Procedures and mechanisms facilitating the implementation of the Convention:
Compliance mechanism**

INFORMATION NOTE

Prepared by the Chair of the Compliance Committee with support from the secretariat

This note was prepared in response to questions raised by a number of Parties and stakeholders during the preparations for the sixth session of the Meeting of the Parties (MOP). The note aims to inform Parties and stakeholders about several issues related to the work of the Compliance Committee that may be relevant for agenda item 7 (b). The note is intended to facilitate the consideration of this agenda item.

Draft decisions on compliance

The draft decisions on compliance were prepared by the Bureau of the Aarhus Convention on the basis of the findings and recommendations adopted by the Compliance Committee. To date, the Meeting of the Parties, in its decisions on compliance, has endorsed all findings of the Compliance Committee. It is important that this practice remains.

The reporting schedule proposed in each draft decision is structured so as to enable the Committee to work closely with each Party throughout the intersessional period, while enabling the Committee to manage its large caseload in an efficient manner. The same reporting schedule applies to all the eleven Parties subject to a draft decision on compliance.

Key aspects of the Committee's working methods with respect to the follow-up on MOP decisions

The Committee makes its findings with respect to its follow-up on MOP decisions on the basis of the evidence before it. If that evidence shows that the requirements of the Convention have been met, in the absence of any evidence to the contrary, the Committee should find the Party to be no longer in non-compliance. To do otherwise, would be neither fair nor in accordance with due process.

At the same time, the Committee has repeatedly made clear that a finding that a Party has fulfilled the requirements of a MOP decision in no way precludes the Committee from again examining that Party's legislation or practice concerning the same issue in a future case if evidence is put before it to show that that legislation does not in fact meet all the requirements of the Convention or is not being applied in practice in accordance with the requirements of the Convention.

If any new information is submitted after the Committee has finalized its report to the upcoming session of the Meeting of the Parties on the implementation by the Party concerned of the decision concerning its compliance, there are two possibilities:

- (i) If a further MOP decision concerning that Party's compliance is to be adopted at the upcoming session of the Meeting of the Parties, and the new information relates to the remaining points of non-compliance within the scope of that decision, the Committee will examine the new information provided in the course of its follow-up on the new MOP decision during the next intersessional period.
- (ii) If there is no MOP decision concerning that Party's compliance to be adopted at the upcoming session of the Meeting of the Parties or the new information relates to matters outside the scope of the new MOP decision, the new information may be submitted in the form of a communication (by a member of the public) or submission (by a Party).

In addition, the Meeting of the Parties may request the Committee to act pursuant to paragraphs 13 (b) and (c) of the annex to decision I/7.¹

It is the responsibility of the Party concerned, communicants and observers to inform the Committee in good faith of any relevant developments in the law or practice of the Party concerned. The Committee receives any correspondence only through the secretariat by post or at the dedicated email address: aarhus.compliance@unece.org. No Party or stakeholder should approach members of the Committee directly. This is to ensure that there is no pressure on members of the Committee from any third party.

Issuance of cautions

In exceptional circumstances, the Compliance Committee may, after taking into account for example the attitude and lack of serious engagement of a Party concerned to address its outstanding non-compliance, recommend that the Meeting of the Parties issue a caution to a Party concerned (see para. 37 (f) of the annex to decision I/7). Since its first findings were reported to the second session of the Meeting of the Parties (Almaty, 2005), the Committee has recommended that the Meeting of the Parties issue a caution to three Parties. In each case, the Committee subsequently found that the Party concerned made substantial progress and recommended that the caution be lifted (or in one case, not to enter into effect).

Parties that have met the requirements of the MOP5 decision concerning their compliance

For those Parties concerned that were found by the Committee, in its report to the Meeting of the Parties, to have met the requirements of the MOP-5 decision concerning their compliance, the Bureau does not prepare a separate draft decision. Rather, the actions taken by those Parties concerned to fully address the recommendations contained in the decisions concerning their compliance are welcomed by the Meeting of the Parties in the draft decision on general issues of compliance (see para. 15 of draft decision VI/8 on general issues of compliance, ECE/MP.PP/2017/19).

¹ For example, the request by the Meeting of the Parties to the Compliance Committee regarding the failure by the former Yugoslav Republic of Macedonia to submit its national implementation report for the third cycle; see para. 27 of the report of the fifth session of the Meeting of the Parties, ECE/MP.PP/2014/2, http://www.unece.org/fileadmin/DAM/env/pp/mop5/Documents/Post_session_docs/ece_mp.pp_2014_2_eng.pdf.