



Aarhus Convention
Sixth session of the Meeting of the Parties to the Aarhus Convention MOP 6
(Budva, Montenegro, 11 - 13 September 2017)

- Draft contribution by the EU and its Member States–

Agenda item 7 (b): Compliance mechanism

Draft Decision VI/8 on General issues of compliance

The EU and its Member States would like to thank the Secretariat and the Bureau for the preparation of the draft Decision on General issues of compliance, and the Compliance Committee (ACCC) for the preparation of the reports on General issues of compliance and on Procedural matters and for its hard work during the last intersessional period.

First, we would like to reiterate the suggestions we made at the 21st session of the WGP, namely:

- We echo the call upon the UN to provide reliable audio and video equipment which would allow further use of audio and video conferencing with regard to the ACCC with the full support of UN translation services. These audio and video connections would make it possible to make better use of experts in other locations, while saving travel costs.
- With regard to the second version of the guide on Compliance, we submitted a proposal to include realistic response times for Parties that take into account the time needed to translate documents from the ACCC in local languages and to coordinate between relevant institutions. Specifically, we refer to the deadline set by the Compliance Committee for comments by the parties concerned to the draft findings and recommendations.

We welcome that the new Guide on Compliance has a separate section dedicated to exhaustion of remedies and that the ACCC is taking this into account in their proceedings in accordance with paragraph 21 of decision I/7 and decision V/9.

Second, on this occasion we would also like to make the following points:

- Each Party is obliged to guarantee effective implementation of rights enshrined in the Aarhus Convention, particularly those related to the fundamental human rights. We note with regret that in some countries that are Parties to the Convention, there still are reported cases of harassment, penalization and persecution of the members of the public for exercising their rights guaranteed by the Convention. We condemn such practices and encourage these Parties to take all necessary measures in order to ensure that such situations do not happen in the future.

- Compliance cases concerning individual Parties to the Aarhus Convention have so far been grouped in a single draft decision to be submitted to the Meeting of the Parties. This can create procedural problems in case the Party concerned intends to propose to the MoP different follow-up to the individual compliance cases. We therefore suggest to separate individual compliance decisions in the future upon request by a Party.
- The current deadline for distribution of documents before MoP is 6 weeks (decision I/1, rule 10). Considering in particular the compliance cases it has proven to be an extremely short deadline for proper preparations for the MoP. We urge the parties to consider that this deadline be extended to at least 10 or 12 weeks. In addition, we suggest to consider a new deadline for compliance cases that can be discussed at a MoP - for instance, only cases concluded at least 6 months before MoP should be included in the ACCC report.
- We encourage the ACCC to consider audio conferencing, web conferencing and video-conferencing to be used for the hearing of a communication or submission, even though para 29 of the Report on procedural matters indicates otherwise.
- We welcome the continuing practice of open dialogue sessions at each session of the MoP.
- We welcome the availability of ACCC members, in a form of a mission to a Party, to increase dialogue between the ACCC and a Party that has been found in non-compliance, as set out in para 27 of the Report on procedural matters.
- The ACCC provides an important function within the Convention. We would like to underline that focusing on matters within the scope of the Convention, whilst fully respecting the autonomy of compliance mechanisms and bodies under other agreements, such as the Espoo Convention, is the best way for the ACCC to fulfil its mandate.
- Since there is no document system where UNECE documents could be found by their UNECE reference numbers, we invite the Secretariat to include cross-references to individual compliance case numbers in draft decisions concerning compliance whenever referring to them. This would facilitate finding relevant background documents.

With regard to the draft decision VI/8 on General issues of compliance, we propose the following amendments to be made:

- Recalling our comments at the 20th Working Group of the Parties, regarding implementation of the Committee's findings during intersessional period, we would like to propose the following addition to paragraph 3 of the draft decision: after "where possible" insert the following text "and where the Party concerned has agreed that the Committee makes recommendations to them directly";
- In relation to communication ACCC/C/2008/32, we note that the Committee has made recommendations relating to the judiciary of the Party concerned. We stress that in view of the separation of powers it is not possible to give direct instructions to judiciary. In that respect we propose that:

footnote 3 should read as follows

ECE/MP.PP/C.1/2015/3 (United Kingdom), ECE/MP.PP/C.1/2015/10 (Romania),
ECE/MP.PP/C.1/2016/3 (Bulgaria), ECE/MP.PP/C.1/2016/10 (United Kingdom),
ECE/MP.PP/C.1/2017/3 (Czechia), ECE/MP.PP/C.1/2017/4 (Sweden),
ECE/MP.PP/C.1/2017/8 (the former Yugoslav Republic of Macedonia),
ECE/MP.PP/C.1/2017/12 (Kazakhstan), ECE/MP.PP/C.1/2017/13 (Slovakia),
ECE/MP.PP/C.1/2017/14 (United Kingdom), ECE/MP.PP/C.1/2017/15 (Germany),
ECE/MP.PP/C.1/2017/16 (Norway), ECE/MP.PP/C.1/2017/17 (Spain),
ECE/MP.PP/C.1/2017/18 (European Union), ECE/MP.PP/C.1/2017/19 (Belarus),
ECE/MP.PP/C.1/2017/20 (Belgium) and ECE/MP.PP/C.1/2017/21 (European Union).

- A new sentence is added in paragraph 8: “Takes note of the finding of the Compliance Committee with regard to communication ACCC/C2008/32 (part II) ECE/MP.PP/C.1/2017/7”.
- We propose that the last sentence of paragraph 16 should read as follows: “while recognizing that further work is needed on some aspects by these Parties to fully address the outstanding points on non-compliance.”
- With regard to paragraph 20, we propose to delete the words “financial and technical”. This leaves more flexibility for the Parties as to the nature of the offered assistance, and moreover it reflects the language of Decision V/9 taken at the 5th Meeting of the Parties.
