

WGP 25

Agenda item 10: Compliance mechanism

Statement by the Chair of the Compliance Committee

Dear friends, I am glad to report on the Committee's work. We are in the middle of a very intensive time for the Committee in its preparations for the MOP 7.

General update

I will not go through and repeat the information that you can find in the report on the implementation of the work programme, about the Committee's workload from 1 April 2020 to 31 March 2021.

- Since 31 March 2021, the Committee has held its 70th meeting (12-16 April 2021) and six virtual meetings. The Committee has adopted one further set of findings and completed three draft findings. In addition, the Committee is right now working to complete a number of other findings in order that they may be reported to the seventh session of the Meeting of the Parties. To this end, it is expected to complete the draft findings through its electronic decision-making procedure in the course of the coming week. These draft findings will be sent to the parties for their comments. For any cases in which non-compliance is found, the Bureau, with the assistance of the secretariat, will then prepare draft decisions for transmission to the seventh session of the Meeting of the Parties.
- The Committee currently has 46 pending cases, including 45 communications, one submission by a Party concerning another's compliance. When comparing these figures with those that I presented at the WGP in 2017, a few months before MOP 6, I see that the number of pending cases is currently slightly lower.
- Since 31 March 2021, the Committee has received 2 new communications, one that was found inadmissible at the 70th meeting and one that will be considered for preliminary admissibility at the Committee's 71st meeting.
- In addition to its pending cases, the Committee is also engaged in reviewing the implementation by the Parties concerned of the 10 MOP decisions on compliance adopted at MOP6, the two specific requests on compliance made at MOP 6, and two cases completed since MOP 6 where the Parties have agreed that recommendations are made to them.
- To this end, the Committee is currently preparing its draft reports to MOP 7 on the implementation of decisions VI/8a-k and the MOP requests M2 and M3, and the two cases of follow-up on findings of noncompliance. The purpose of these reports is to examine the extent to which the Parties concerned has fully met the recommendations set out in the decisions, and to make recommendations as to what should be done to address the remaining points of non-compliance if any. These reports will need to be

completed by the second half of July in order to feed into the preparation of the draft decisions concerning those Parties that remain in non-compliance by the Bureau.

- Accordingly, the Committee's draft reports on the MOP decisions and requests and two other cases of follow-up will be completed at the end of June/first days of July. They will then be sent to the Parties concerned, communicants and observers for a two-week commenting period.
- During that commenting period, the Committee will hold its 71st meeting on 7-9 July. Please note, this is a rescheduling from the meeting's original date of 14-18 June. The reason for rescheduling this meeting is that it provides the Committee with more time to take into account the progress made by the various Parties concerned. Thus, it is expected that some matters of non-compliance in these cases may have been resolved by the Parties concerned before the Committee sends its report.
- At the 71st meeting, the Committee will hold an open session with each of the Parties subject to a MOP decision, request or other follow-up case, as well as the communicants and observers participating in the Committee's follow-up procedure, to hear any preliminary comments or answer any questions that the parties may have regarding the draft report.
- Following the deadline for written comments from the Parties concerned, communicants and observers, approximately one week after the meeting, the Committee will finalize its reports to MOP 7 taking into account the information received and adopt its reports to MOP7. It will thereafter adopt its general report to MOP7 also.

Committee's case management

- I think that in all my reports to the WGPs and at MOPs as the Committee Chair I have briefed you about the working load of the Committee and the secretariat, and about steps taken to manage the cases effectively, while maintaining due process and fair and high quality reviews of compliance. I will do so also today, in my last report to the WGP. It is fundamental for the Committee's work that the secretariat gets the necessary resources. The secretariat was half staffed between July and October last year, but I am glad that since then the support for the secretariat has improved, although it is only temporary. I call the WGP to ensure that adequate level of staff is maintained for a longer time.
- About two years ago, the Committee adopted its second version of the Guide to its work. This has been helpful for the Committee's work. Although the Committee has worked quite differently during the pandemic than it usually does during the COVID 19 pandemic, the routines set out in the Guide have been followed.

Impact of COVID-19 pandemic on Committee's workload – and deadlines

- As you may understand from what I have just explained, the Committee will complete its work in accordance with the timeframe set out in decision I/7, but later than the indicative timeline prepared for WGP24. The indicative timeline was prepared in the first part of 2020, when we had not yet experienced the impact of COVID on the Committee's work. Since then, we have seen that more time has been needed to complete the Committee's findings and reports. This has come from several directions.
- In quite a few cases, Parties and communicants have requested considerable extensions due to not being able to access relevant documents or coordinate with other ministries due to COVID restrictions. These extensions have usually been granted.
- COVID has also affected the Committee's members in their regular work outside the scope of the Committee in ways that we could not have foreseen, but which has had striking consequences for the Committee. For the practising lawyers and judges in the Committee, court dates have been entirely rescheduled, so that those members have often had unavoidable court commitments at the time of Committee meetings. For the university professors, the shifts in the dates of university semesters due to COVID has meant that those members were giving online lectures to students when they would have otherwise been taking part in the Committee meetings. Without going to any details, Committee members have also been affected more directly and in the private lives by the pandemic. The impact of COVID on the availability of Committee members for meetings has been marked. At some virtual meeting, the Committee has been down to only four members present – whereas in the past it was very unusual if even one member was absent. This doesn't affect the formal decision-making, because all decisions are adopted electronically unless all members were present at a meeting. Still, it delays the preparation of findings and other matters. The Committee members are as committed, hardworking and dedicated as ever, but it is important that you understand these circumstances for the Committee, and that these consequences were not possible to predict and are outside of our control. Just like I think you have experiences in your own private and professional contexts. While I have been informed that in some other MEAs, the compliance and implementation bodies simply halted their work entirely. We have not done so, but rather have worked extra hard to try to still deliver our mandate in a tough situation. I am very grateful for your understanding. As an indication of that, the Committee is having more than ten half days virtual meetings between its 70th and 71st meetings.
- So again, the Committee intends to complete its work in accordance with the timeframe set out in decision I/7, but later than the indicative timeline prepared for WGP24.
- One last point about the COVID-19 pandemic, I want to remind the Parties and members of the public about the Committee's Statement on the application of the Convention during the pandemic and in the economic recovery phase. I also want to stress that while certain extra measures may be needed to ensure that the standards

are met, the Convention applies in full both during and after the pandemic. Please check again the Statement which is available at the Committee's website.

Closing remarks

- Finally a few positive points.
- I am very pleased to see how well the Committee's dialogue works with the Parties with which it is in contact. Most Parties follow the deadlines set and if needed they request extensions, which are usually granted.
- I also see that some Parties are taking effective measures rather soon when found non-compliant, which is a good sign of commitment to the Convention. As I said, in addition to the follow-up of MOP decisions and requests, the Committee is also following up progress made by two Parties who were found non-compliant during this intersessional period.
- Quite recently, the younger sibling to the Aarhus Convention, the Escazu Agreement, entered into force, and I have participated both at meetings with the signatories to inform them about the Committee's work, and had the opportunity to speak to governments and officials in some of the countries involved. The Aarhus Convention community has much to be proud of in how it is looked upon elsewhere.
- We also see how it is referred to by other reviewing bodies. You may be aware that the European Court of Human Rights, in one of its pending climate change cases, asked the states concerned to present how they ensure effective participation as required by the Aarhus Convention in their work and regulations concerning climate change.
- So, this is the last time that I address the WGP in my capacity as the Chair of the Compliance Committee. I have served in the Committee for 16 years, and as its Chair for 10 years. It has been an important part of my working life – and personal life. I will of course continue to follow the work for the Convention, and hopefully be engaged in one way or another.
- I would like to thank the Committee members who spend so much time on the work for the Committee and the issues achieved by the Convention.
- Last but not least I want to thank the secretariat for its continuing and endless support to the Committee's work, and in particular I want to personally thank Fiona Marshall, the secretary to the Committee for her energy, her commitment, her humour and capacity in supporting the Committee and my work as the Chair. I will not go into detail about our work, but just as an illustration inform you that we had several talks also late in the evenings during the last weekend to make sure that the Committee does what you expect it to do. So thank you Fiona.
- By that I finish for now. I look forward to seeing you all at MOP 7. Thank you.