
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

Seventh session
Geneva, 18–20 October 2021
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 during the preparations for the seventh session of the Meeting of the Parties (MOP) to inform Parties and stakeholders about issues related to the work of the Compliance Committee 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:

- (a) The findings and recommendations adopted by the Compliance Committee since the sixth session of the Meeting of the Parties and, where applicable, the Committee's reports on the progress made by the Parties concerned to implement the Committee's recommendations in those findings;
- (b) The Committee's reports on the progress made by the Parties concerned to implement the decisions and requests of the Meeting of the Parties on compliance adopted at its sixth session.

To date, the Meeting of the Parties, in its decisions on compliance, has endorsed all findings of the Compliance Committee but one, which was postponed.¹ It is important that the practice of endorsing all findings of the Committee continues.

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. An identical reporting schedule applies for all but one² of the nineteen 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 will find the Party to be no longer in non-compliance. This is in accordance with the mandate and functions of the Committee to promote and improve compliance with the Convention, as set out in decision I/7.

At the same time, the Committee has made clear that a finding that a Party has fulfilled the requirements of a MOP decision does not preclude the Committee from again examining that Party's compliance (including legislation and practice) concerning the same issue in a future case. Such a review could be made if evidence is put before the Committee which indicates that the relevant legislation does not in fact meet all the requirements

¹ In the spirit of reaching consensus, considering exceptional circumstances, at its sixth session the Meeting of the Parties decided by consensus to postpone the decision-making on draft decision VI/8f concerning the European Union to the next ordinary session of the Meeting of the Parties to be held in 2021 (see para. 62 of the report of the sixth session of the Meeting of the Parties, ECE/MP.PP/2017/2, https://unece.org/fileadmin/DAM/env/pp/mop6/English/ECE_MP.PP_2017_2_E.pdf)

² Given the gravity of the Committee's finding of non-compliance with article 3 (8) of the Convention, draft decision VII/8c concerning Belarus requests the Party concerned to provide an additional progress report on its progress in implementing the recommendations concerning article 3 (8) of the Convention.

of the Convention or that the practice of public authorities or courts is not in accordance with the requirements of the Convention.

If any new information regarding the matters addressed in the MOP decision is submitted to the Committee after it 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, the Committee may potentially examine that information through one of the following three ways:

- (a) 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.
- (b) 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 Committee may examine the new information as part of a new communication (by a member of the public) or submission (by a Party).
- (c) In certain] situations, the Committee may examine the new information on the basis of a specific request by the Meeting of the Parties pursuant to paragraphs 13 (b) and (c) of the annex to decision I/7.³

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 to the dedicated email address: aarhus.compliance@un.org. No Party or stakeholder should send information to, or in any other way approach, members of the Committee directly on matters related to a Party's compliance with the Convention.

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 four Parties. In three of those four cases, the Committee subsequently found that the Party concerned made substantial progress and recommended that the caution be lifted or to not enter into effect. The fourth caution, which was issued by the Meeting of the Parties at the sixth session of the Meeting of the Parties, currently remains in effect.

Parties that have met the requirements of the MOP6 decision concerning their compliance

For any Party concerned that was found by the Committee, in its report to the Meeting of the Parties, to have met the requirements of the MOP6 decision concerning its compliance, the Bureau does not prepare a separate draft decision. Rather, the actions taken by that Party concerned to fully address the recommendations contained in the decision concerning its compliance are welcomed by the Meeting of the Parties in the draft decision on general issues of compliance (see para. 16 of draft decision VII/8 on general issues of compliance, ECE/MP.PP/2021/23).

³ For example, the request by the Meeting of the Parties to the Compliance Committee concerning the compliance of Turkmenistan (see para. 19 of decision VI/8 on general issues of compliance, ECE/MP.PP/2017/2/Add.1, https://unece.org/fileadmin/DAM/env/pp/mop6/English/ECE_MP.PP_2017_2_Add.1_E.pdf) and the request by the Meeting of the Parties concerning the compliance of the European Union (see para. 63 of the report of the sixth session of the Meeting of the Parties, ECE/MP.PP/2017/2, https://unece.org/fileadmin/DAM/env/pp/mop6/English/ECE_MP.PP_2017_2_E.pdf).