



European Ecoforum: Attracta Uí Bhroin

Agenda Item 6(a)(i) Compliance Committee

Note – text in [italics] omitted in delivery due to time constraints

Good afternoon Chair, Madame Chair of the Aarhus Convention Compliance Committee, Distinguished delegates, Fellow Participants,

I plan to reserve our thanks to the Committee and the secretariat to the end of my remarks, as we wish to leverage our contribution to try to address some practical suggestions for us to collectively reflect our support for the invaluable work the Committee do.

Today, in speaking on the Committee, I feel obliged to speak frankly and yet hopefully constructively on how some Parties engage with the Committee. Yes, of course the fundamental role of the Committee is to assist the Parties with their Compliance. But all Parties, and the public, must meet the Committee half way, and avoid what could be avoidable burdening and overhead. When Parties fail to do so, in addition to Parties effectively undermining their own commitment to an International Convention which they have ratified, that type of negative and disingenuous approach operates to do a further disservice to those other Parties seeking to engage constructively with the Committee.

So we would urge the following:

1. Where the Committee has made findings for other Parties which clarify the nature of obligations, we urge Parties to proactively examine these and their own implementation to determine what further steps they too may need to take.
[We are finding this is not always the case, and effectively communications on the same issue need to be made in respect of other Parties, [despite initial representations at national level].
2. In these instances, and indeed in all communications, we would encourage Parties to be open to considering the adequacy of their compliance, and to the benefits of early and constructive engagement to acknowledge where there is an issue. This is so that the impact on the Committee's time can be lessened where appropriate and possible.
[Too often strident denial and defence is often the default response, as a holding strategy for some, a delaying tactic for others and I speak with specific instances in mind].
[Of course this is not always the case.]
Sometimes of course, complex legal issues do need to be teased out. But it is important to ensure we collectively engage the Committee's time for this.
3. By the same token we urge efficiencies to all considering and engaging in submitting Communications. We reflect on the invaluable work that was done by the external

compliance support team who engaged with communicants, often highlighting why a communication was not appropriate or inadequately supported, and helped structure communications more effectively, thus reducing the burden for the Parties, Committee and secretariat in engaging with it.

In this regard, we welcome the fact that an EU LIFE+ project may be considering some commitment which would re-establish this support structure albeit to a smaller and lesser degree. We urge other Parties to consider engaging to further support this, and would be happy to discuss how this might be achieved.

4. On MoP follow-up, it should not be the case that the Committee has to address serious basic deficiencies in action plans, and chase and deal with clearly inadequate progress reports. *[In some cases, the Party Concerned did not even provide the Committee with a copy of new legislation being relied upon, and has clearly disregarded the Committee's advice prepared for another party on the same matter, even though the relevance of that advice was highlighted to the Party concerned.]*
5. On National Implementation Reports *[further to the suggestions of my colleague Magdi yesterday, when we were discussing this item yesterday,]* we urge Parties to use these as an opportunity to self-scrutinise, to examine proactively where there may be issues in their compliance, rather than engaging defensively on their implementation choices and approach, *[and to in particular examine how their implementation supports compatibility across the pillars, how they monitor and enforce in accordance with Article 3(1).]*
6. Compliance with the Convention's rights and obligations, is the first and best way to support Environmental Defenders. The Committee is therefore central to this as the body vested with responsibility to interpret the Convention, and with a clear path for findings and all the practical and legal implications arising when those findings are endorsed by the Meeting of the Parties. It is therefore of significant concern given the expertise and experience in its secretariat, it is increasingly being called on to support the work of the Special Rapporteur on Environmental Defenders under the Aarhus Convention impacting on their already inadequate capacity to support the work of the Compliance Committee. Both are needed, so it is imperative that further funding is provided to directly support recruitment of experienced lawyers to the Committee's secretariat.

These are but a few suggestions. *[In summary we are calling on Parties to engage in their Article 3(1) obligations and consider how they can improve their own vigilance, monitoring and self-scrutiny on compliance, and improve the possibilities for engagement with the Committee. But we wish to be clear, as we will be tomorrow, all Parties will need to own the responsibility to the Compliance Mechanism in funding it appropriately, and engaging it with*

appropriately. Otherwise the thanks and the acknowledgements here are hollow, and ultimately compromise the commitment to the Convention signalled by a Party's ratification.]

And so finally to my thanks and acknowledgement:

Chair, I beg your indulgence here, as while I would like pause to name and invite us all to acknowledge and thank each of the Committee members in turn, but I am conscious of time. It is too simple to just refer to them as “the Committee”, and to glaze over the fact that they each are individuals with extensive personal and professional commitments who are giving of their time and expertise in a voluntary capacity to assist the Parties move forward with their compliance to a Convention whose objective is intended to have profound benefit to each one of us as human beings, so I would ask you to simply pause yourselves and consider each of them in turn.

[So - to the Committee Chair, Áine Ryall; The Committee's Vice Chairs: Marc Clément, Jerzy Jendrośka, Dmytro Skrylnikov; the Committee members: Fruzsina Bögös, Heghine Grigoryan, Peter Oliver, Thomas Schomerus and Eleanor Sharpston]

There are no words sufficient to thank you for your diligence and commitment, across what the Committee Chair has earlier highlighted in respect of review of Parties compliance, *[including*

- *determinations on communications,*
- *the increasingly important function of providing advice to Parties,*
- *follow-up on MoP decisions, which assist the Parties in realising the adjustments necessary in aspects of their implementation of the Convention to bring them into Compliance,] and*
- **for your further work as ambassadors for the Convention in so many fora, bringing greater awareness and understanding around the Convention.**

Central of course to the Committee's work is the support of its tiny, but deeply committed secretariat, Fiona, Anastasia, Teresa when possible, and Katri, and of course the Convention Secretariat - Ella and colleagues, who hold the show on the road with the knife-edge budget.

Thank you

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Annex I – for reference only:

From the Conventions webpage on the Committee Members [here](#) as accessed at 3rd July 2024.

Áine Ryall is a Professor at the School of Law, University College Cork, Ireland, where she is Co-Director of the Centre for Law & the Environment. A qualified barrister, she has been a member of the Compliance Committee since 2015 and served as Vice-Chair from 2017-2021. She was elected Chair of the Compliance Committee in December 2021.

Vice-Chairs:

Marc Clément is presiding judge at the Administrative Court of Lyon. He is a member of the French Environmental Authority, an independent body in charge of delivering opinions on environmental impact studies for plans and projects and a member of the Ethics Commission of the Institut de Radioprotection et de Sûreté Nucléaire. He has been a member of the Compliance Committee since 2017 and was elected as a Vice-Chair in December 2021.

Jerzy Jendrośka (LL.M, dr.habil) is a Professor of European Law at Opole University (Poland) and of Environmental Law at Riga Graduate School of Law (Latvia), and the Managing Partner at Jendrośka Jerzmański Bar and Partners, Environmental Lawyers. He has been a member of the Compliance Committee since 2006 and was elected as a Vice-Chair in December 2021.

Dmytro Skrylnikov is an attorney and head of the nongovernmental organization, Bureau of Environmental Investigation, in Ukraine. He has been a member of the Compliance Committee since 2017 and was elected as a Vice-Chair in December 2021

Committee members:

Fruzsina Bögös is a judge at the Supreme Court of Hungary (Curia). She has been a member of the European Forum of Judges for the Environment since 2010 and has served as the Secretary General of the Forum since 2015. She has been a member of the Compliance Committee since 2017.

Heghine Grigoryan is a Professor at the Faculty of Law, Yerevan State University, Armenia. A consultant on environmental and climate policy and law at the United Nations Development Programme in Armenia, she has been a member of the Compliance Committee since 2011.

Peter Oliver is a Visiting Professor at the Université Libre de Bruxelles in Belgium and a Visiting Fellow at the Bingham Centre for the Rule of Law in London. He is a qualified barrister, but spent nearly all his career in the Legal Service of the European Commission where he rose to be a Legal Advisor, and has written widely about European Union law. He has been a member of the Compliance Committee since 2017

Thomas Schomerus is a Professor of Public Law, specialising in environmental and energy law, at Leuphana University Lueneburg, Germany. A qualified lawyer, he started his career as civil servant for the City of Hamburg, and he is a former judge of the Higher Administrative Court for the State of Lower Saxony. He was elected to the Compliance Committee in 2021.

Eleanor Sharpston KC is a former advocate general at the Court of Justice of the European Union (2006-2020), barrister, and academic. She holds visiting positions at Trinity College Dublin, Ireland, and the Riga Graduate School of Law, Latvia. She is serving as the Arthur Goodhart Visiting Professor in Legal Science at Cambridge University in 2023-2024. She was elected to the Compliance Committee in 2021.