

Chair's note for open session on Committee's working methods at the eighty-fourth meeting of the Aarhus Convention Compliance Committee (Geneva, 17-20 September 2024)

1. Items for information:

(a) Indicative timeline for preparation of the Committee's reports to the eighth session of the Meeting of the Parties on decisions and requests of the Meeting of the Parties on non-compliance

See Table 2 on pages 5-6 of the [Note on the preparatory timeline for the eighth session of the Meeting of the Parties](#) (AC/WGP-28/Inf.8).

(b) Closed sessions on how to proceed on pending communications

Beginning at its seventy-seventh meeting (Geneva, 13-16 December 2022), the Committee has introduced the practice to include as a regular item in its timeline a closed session on how to proceed with respect to one or more pending communications.

The inclusion of such a session in the timeline does not indicate a change in the Committee's working methods, but rather a more structured and transparent way to indicate the stage of the Committee's procedure that a particular pending communication has reached.

At its closed session on how to proceed with respect to a pending communication, the Committee considers the following:

- (a) Does the Committee consider a hearing is required¹ before the Committee commences its deliberations on its draft findings?
- (b) Are any written clarifications, documentation, legislation or translations required before the Committee holds its hearing (if it considers one is required before commencing its deliberations) or commences its deliberations (if it considers no hearing is required).

Should the Committee consider that further clarifications, documentation and so forth are required before the Committee holds its hearing or commences its deliberations, it will instruct the secretariat to write to the parties to request the relevant information or documentation.

If it is the Committee's preliminary view at the closed session that a hearing is not required before it commences its deliberations on its draft findings, the Committee will instruct the secretariat to invite the views of the parties to the case on whether they consider a hearing would be needed.² The Committee will thereafter consider the views received from the parties at a similar closed session at a future meeting.

2. Items for discussion:

(a) Proposal to redact, exceptionally and upon request, the communicant's name from documents on website due to risk of persecution, penalization or harassment

To date, the name of a communicant has always been disclosed in any documents regarding the communication posted on the Committee's website and in the public domain, including the communication itself, related correspondence and the Committee's findings.

¹ In accordance with paragraph 184 of the [Guide to the Aarhus Convention Compliance Committee](#), "in deciding in each case whether a hearing should be held, the Committee will consider the following criteria: (a) Whether there is no, or very limited, disagreement between the parties on the facts of the case; and (b) Whether the underlying legal issues are well defined."

² See para. 186 of the [Guide to the Aarhus Convention Compliance Committee](#).

The Committee has recently received a request from a communicant that, in order to prevent them being subject to possible persecution, penalization and harassment, their name be withheld.

Pursuant to paragraph 20 (a) of the annex to [decision I/7](#) of the Meeting of the Parties, the Committee shall consider any communication submitted to it unless it determines, inter alia, that the communication is “anonymous”.

However, paragraph 254 of the [Guide to the Aarhus Convention Compliance Committee](#) provides that:

If the communicant is concerned that the disclosure of information submitted to the Committee could result in his or her being penalized, persecuted or harassed, he or she is entitled to request that such information, including any information relating to his or her identity, be kept confidential.

Issues for discussion:

- (i) So long as the communication submitted to the Committee is not anonymous, is it in line with paragraph 20 (a) of the annex to decision I/7 and paragraph 254 of the Guide that, in order to prevent a particular communicant being subjected to possible penalization, persecution or harassment, the name of the communicant may, upon their request, be exceptionally withheld, for all time, from any documentation related to the case posted on the website, including the communication itself and the Committee’s eventual findings?
- (ii) It is proposed that, in such a case:
 - a. The communicant would be required to provide appropriate written justification for the consideration and decision of the Chair and Vice-Chairs at their meeting on new communications for their consideration and decision.³
 - b. In order for the Party concerned to be able to properly respond to the allegations of non-compliance against it, unless the alleged non-compliance was entirely unrelated to the identity of the communicant (for example, the alleged non-compliance concerned a systemic matter such as a legislative act or an event in which the communicant was not themselves involved), the identity of the communicant would be redacted only from the website and documents and correspondence forwarded to observers but not from the version of the communication, documents and correspondence provided to the Party concerned.
 - c. If the Chair and Vice-Chairs decide that, in an exceptional case and in accordance with paragraph 254 of the Guide, it is appropriate for the identity of the communicant to be withheld, the identity of the communicant would be denoted by an alphabetic reference, such as “AA” or “XX” in documents published on the website and otherwise in the public domain, including in the Committee’s findings and reports.

³ See para. 88 and 89 of the [Guide to the Aarhus Convention Compliance Committee](#).