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**Procedure and mechanisms facilitating the implementation
of the Protocol: compliance procedure****Report of the Compliance Committee to the Meeting
of the Parties to the Protocol on Water and Health***Summary*

The present report by the Compliance Committee was prepared pursuant to decision I/2 of the first session of the Meeting of the Parties on review of compliance, through which the Parties to the Protocol established the Compliance Committee and agreed on its structure and functions and on procedures for the review of compliance (ECE/MP.WH/2/Add.3–EUR/06/5069385/1/Add.3). By the same decision, Parties required the Committee to report on its activities at each ordinary meeting of the Parties and to make such recommendations as it considers appropriate.

The report includes as an annex a draft decision on general issues of compliance prepared by the Committee for possible adoption by the Meeting of the Parties.

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Background and proposed action by the Meeting of the Parties	1–5	3
II. Issues related to the functioning of the compliance procedure and the Committee	6–33	3
A. Membership	6–10	4
B. Meetings held	11	4
C. Rules of procedure and guidelines for communications from the public.....	12–33	4
III. Submissions, referrals and communications concerning non-compliance with the Protocol	34–35	8
IV. Cooperation with the Office of the High Commissioner for Human Rights and the Independent Expert on issue of human rights obligation related to safe drinking water and sanitation.....	36–38	9
V. Reporting Requirements.....	39–66	9
A. Procedural aspects of the reporting process.....	40–45	9
B. Completeness of the summary reports in accordance with the requirements set out in the article 7 and the guidelines and template for summary reports .	46–58	10
C. Quality and accuracy of data in the reports.....	59–66	11
VI. General Compliance issues and recommendations	67–88	12
Annex		
Draft decision on general issues of compliance		15

I. Background and proposed action by the Meeting of the Parties

1. At its first session (Geneva, 17–19 January 2007), by its decision I/2 on the review of compliance, the Meeting of the Parties to the Protocol on Water and Health established the Protocol's Compliance Committee and agreed on its structure and functions, as well as procedures for the review of compliance (see ECE/MP.WH/2/Add.3–EUR/06/5069385/1/Add.3).
2. The main functions of the Committee in accordance with decision I/2 and its annex are to:
 - (a) Consider any submission, referral or communication made relating to specific issues of compliance;
 - (b) Prepare, at the request of the Meeting of the Parties, a report on compliance with or implementation of specific provisions of the Protocol; and
 - (c) Monitor, assess and facilitate the implementation of and compliance with the reporting requirements under article 7, paragraph 5, of the Protocol.
3. Moreover, the Committee shall report on its activities at each ordinary meeting of the Parties and make such recommendations as it considers appropriate.
4. The present report provides an overview of the Compliance Committee activities since its establishment. In the first intersessional period the Committee focused its work on the development of its rules of procedure and on the analysis of summary reports submitted by Parties and non-Parties in accordance with article 7, paragraph 5, of the Protocol. On the basis of such analysis the Committee has also prepared a draft decision on general issues of compliance for possible adoption by the Meeting of the Parties. The draft decision summarizes the Committee's findings and includes recommendations to strengthen implementation of and compliance with the Protocol.
5. The Meeting of the Parties may wish:
 - (a) To take note of the report of the Compliance Committee, recognizing the pivotal role of the compliance procedure for the implementation of the Protocol;
 - (b) Commend the Committee's members for their excellent work and their dedication;
 - (c) Discuss the recommendations by the Compliance Committee and adopt the draft decision on general issues of compliance.

II. Issues related to the functioning of the compliance procedure and the Committee

A. Membership

6. At its first session, the Meeting of the Parties elected the nine members of the Compliance Committee by consensus, taking into account the geographical distribution of membership, a balanced composition between technical experts and lawyers, and diversity of experience.
7. At its first meeting, the Committee elected Mr. Attila Tanzi (Italy) as its Chair and Ms. Drulyte (Lithuania) as Vice-Chair.

8. Mr. Mátyás Borsányi (Hungary), one of the Committee members elected by the Meeting of the Parties at the first session, could not fulfil his duties. The Committee, in accordance with paragraph 7 of the annex to Decision I/2, recommended to the Protocol's Bureau alternative candidates. The Bureau, taking into account the Committee's recommendations, appointed Ms. Magdalena Bar (Poland) as the new Committee member to replace Mr. Borsányi.

9. Another Committee member, Mr. Željko Dadić (Croatia), stepped down in January 2009 and was replaced in April of that year by Mr. Ilya Trombitsky (Republic of Moldova), in accordance with the same procedure.

10. The current members of the Committee are: Ms. Magdalena Bar (Poland); Mr. Pierre Chantrel (France); Ms. Phani Daskalopoulou-Livada (Greece); Ms. Ilona Drulyte (Lithuania); Ms. Diana Iskрева-Idigo (Bulgaria); Mr. Truls Krogh (Norway); Mr. Attila Tanzi (Italy); Mr. Ilya Trombitsky (Republic of Moldova); and Mr. Serhiy Vykhryst (Ukraine).

B. Meetings held

11. Since its establishment, the Compliance Committee has held five meetings, all of which took place in Geneva. The reports for the meetings, listed below, are available on the Committee's website (www.unece.org/env/water/meetings/documents_CC.htm):

(a) First meeting (12 March 2008): ECE/MP.WH/C.1/2008/2–EUR/08/5069385/6;

(b) Second meeting (24–25 September 2008): ECE/MP.WH/C.1/2008/4–EUR/08/5086338/7;

(c) Third meeting (25–26 February 2009): ECE/MP.WH/C.1/2009/2–EUR/09/5086338/6;

(d) Fourth meeting (26–27 January 2010): ECE/MP.WH/C.1/2010/2–EUR/10/5086338/VIII;

(e) Fifth meeting (22–23 June 2010): ECE/MP.WH/C.1/2010/4–EUR/10/56335/16.

C. Rules of procedure and guidelines for communications from the public

12. Pursuant to the decision I/2 of the Meeting of the Parties (and para. 8 of the annex thereto), the Committee was to approve its rules of procedure taking into account the Rules of Procedure of the Meeting of the Parties to the Protocol, in particular Rule 21.

13. The rules of procedure were developed by the Compliance Committee during its first three meetings. The Committee developed its procedures on the understanding that they should be considered as an evolving document, to be supplemented or amended over time as necessary in the light of experience and taking into account the unique nature of the compliance mechanism.

14. In developing the rules of procedure, attention was paid to procedures developed under other relevant mechanisms, namely those of the Compliance Committee of the Kyoto Protocol to the United Nations Framework Convention on Climate Change and the modus operandi of the Compliance Committee of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention). For its first meeting the Committee invited members of the secretariats of the

committees dealing with compliance and implementation of three other United Nations Economic Commission for Europe (UNECE) conventions (i.e., the Secretary to the Convention on Long-range Transboundary Air Pollution; the Secretary to the Aarhus Convention; and the Secretary to the Convention on Environmental Impact Assessment in a Transboundary Context) to inform the Committee about their rules of procedure, modalities of working and experience with specific issues of non-compliance. The Committee considered that the *modus operandi* of the Aarhus Compliance Committee was of high relevance and a useful source of inspiration for its rules of procedure.

15. The main procedures developed by the Committee have been recorded in its meeting reports. The aim of this practice has been to ensure transparency. In addition, the compiled rules of procedure are available on the Committee's website.

16. The rules of procedure cover general principles of the Committee *modus operandi*: procedures for handling submissions, referrals and communications; the consideration of submissions, referrals and communications; and the preparation and adoption of draft findings, measures and recommendations; as well as the procedures for information gathering.

17. One of the cornerstone principles of the Compliance Committee, enshrined in its rules of procedure, is that each member of the Committee shall serve in his or her personal capacity and, with respect to any matter that is under consideration by the Committee, act in an independent and impartial manner, conscientiously, and avoid real or apparent conflicts of interest. Since the Committee members are elected in a strictly personal capacity, an absent Committee member is not entitled to designate a substitute. The Committee decided that if a Committee member considered himself or herself to have a possible conflict of interest, he or she would be expected to bring the issue to the Committee's attention and decision before consideration of that particular matter. It should be noted, however, that being a citizen of a State whose compliance is to be discussed would not in itself be considered as a conflict of interest. A member deemed to have a conflict of interest would be treated throughout the procedure as an observer and would not take part in formal discussions or participate in the preparation or adoption of findings, measures or recommendations with respect to the case in question.

18. The Committee also discussed the question of whether and in what capacity its members could or should participate in official meetings held under the auspices of the Protocol. It was agreed that, to avoid conflict of interest, members of the Committee could not represent Governments or organizations in meetings of other bodies of the Protocol. Technical expert meetings such as task forces were considered to form an exception. At the same time it was expressly mentioned that the members of the Committee might accept invitations to present the compliance mechanism at appropriate events, such as conferences and workshops.

19. As for the responsibility of the joint secretariat, the importance of its liaison role between Parties, the public and the Committee was stressed. Reflecting work-sharing arrangements between UNECE and the World Health Organization Regional Office for Europe (WHO/EURO), it was formalized in the rules of procedure that, for the purpose of the compliance procedure, the joint secretariat services would be carried out by the UNECE secretariat, to which submissions, communications and other correspondence should be addressed. WHO/EURO would provide the necessary expert support.

20. In order to make its operation more efficient, the Committee decided that communications and consultations between the Committee and the joint secretariat might be conducted by e-mail and that decisions also might be taken by e-mail. In particular, in order to expedite the processing of communications from the public, preliminary determinations on the admissibility of communications and on which points should be

raised with the Party concerned when forwarding the communication might be taken by e-mail, unless one third of the Committee members asked otherwise. Moreover, it was agreed that granting observer status might also be done by e-mail. However, in order to maintain the balance between flexibility and credibility, e-mail decision-making should not be overused. In any case, the members agreed that all decisions taken by e-mail between Committee meetings would be reflected in the report of the following meeting.

21. With regard to the presence of the public and participation of observers in the meetings of the Compliance Committee, it was emphasized that, in accordance with paragraphs 24 to 31 of the annex to decision I/2, all meetings would normally be open to the public. On the other hand, the Committee interpreted the above paragraphs of decision I/2 as requiring the preparation and adoption of any findings, measures and recommendations to take place in closed session. Moreover, it was agreed that a meeting, or a part of a meeting, would be held in private when the Committee found it necessary to ensure the confidentiality of information, in accordance with paragraphs 25 to 27 of the annex to decision I/2. If the communicant requested that part of the communication be kept confidential, the Committee would decide whether the information that had not been designated confidential was sufficient to enable a meaningful discussion with the Party concerned in the process of review. It might also decide to consult with the communicant concerning the request for confidentiality if the Committee considered it to be necessary or appropriate.

22. The Committee agreed that non-governmental organizations (NGOs) possessing observer status with the Meeting of the Parties to the Protocol would have *ex officio* observer status with the Committee. Moreover, the Committee reserved the right to grant observer status on a case-by-case basis to other NGOs or members of the public that requested it. The Committee also noted that there were differences between the status of the public and that of observers in meetings. However, the Committee reserved the right to give the floor to the attending public, upon request, if it deemed this useful.

23. The Committee considers it to be important to actively facilitate the participation of the parties concerned — i.e., the Parties having made submissions and the communicants — in its discussions on submissions, referrals and communications, including through the provision of financial support where necessary, in accordance with the general rules of eligibility for financial support and subject to the availability of funds.

24. As for the general rules for considering submissions, referrals and communications the rules of procedure foresee that the Committee will consider the substance of a submission, referral or a communication at the earliest practicable meeting scheduled after the response from the Party concerned is received or, if no response is received, after the expiry of the relevant period, provided that such a meeting takes place at least four weeks thereafter. The consideration of the substance of a case of non compliance may take place over one or more meetings, depending on whether sufficient information is available and the discussion is completed. It was decided that the Committee would deal with the case on the basis of the information available to it, even in the absence of any response from the Party concerned. It was also agreed that, as a general rule, any substantial new information should be presented to the Committee at least two weeks in advance of the meeting at which it was to be discussed.

25. Having in mind the objectives of the compliance procedure as stated in decision I/2, the Committee notes that the compliance procedure was designed to improve compliance with the Protocol and is not a redress procedure for violations of individual rights. Consequently, the Committee does not consider itself restricted to the consideration of the legal or factual arguments presented by communicants, Parties making submissions or Parties concerned and would consider itself free to draw conclusions that go beyond the scope of those issues presented to it. For the same reason, it also considers itself free to

decide not to address all the arguments and assertions presented in submissions, referrals or communications, but rather to focus upon those that it considers most relevant.

26. Pursuant to section VII of the annex to decision I/2, in order to perform its functions the Committee may undertake information gathering. The Committee considers that “information gathering” includes the collection by the Committee of objective information, views and opinions, as well as advice, which are necessary for the performance of its functions under the said decision. The rules of procedure emphasize that “the need of acquisition for further and accurate information, under paragraph 23 (a) section VII, according to the decision I/2 should be conducted with a pragmatic and cost-effective approach, taking into account time and budget constraints”. Accordingly, the Committee should resort to easily accessible and free-of-cost or low-cost means of information gathering before resorting to more complex and costly means. The Committee agreed that it might decide to delegate information gathering activity to the joint secretariat, without the need for a mandate from the Committee to gather information through easily accessible and no-cost or low-cost means. Such means may include technical literature, Internet, international organizations with a field presence in the Party concerned and summary reports from the Parties submitted in accordance with article 7, paragraph 5, of the Protocol. The Committee may seek and request information: available in the public domain; in the knowledge of Committee’s members or the joint secretariat; from the Party concerned, the submitting Party or the communicant; from another Party; and from experts and advisers, from Governments, academia, consultations, intergovernmental and non-governmental organizations. Unsolicited information from the same sources may be considered by the Committee as it deems appropriate.

27. Information gathering on the territory of a Party concerned, in accordance with paragraph 23 (b) of the annex to decision I/2, should be considered as a measure of last resort, to be taken only when a number of conditions set in paragraph 74 of the rules of procedures are met, namely that (a) the Committee has already enough information to open a file and the situation of alleged non-compliance appears to be serious; (b) essential information is lacking or presents serious complexities or inconsistencies needing for further clarification; and that (c) it is not possible to obtain the lacking elements by other less costly means. The costs of information gathering on the territory of the Party concerned should be borne by the Protocol Trust Fund. In using the information gathered, the Committee should take into account the reliability of the source and the interests and motivations of its provider.

28. Draft findings, measures and recommendations will be sent to the Party concerned and, if and as applicable, to the submitting Party or the communicant with an invitation for comments within a reasonable deadline, to be fixed by the Committee on a case-by-case basis.

29. The rules of procedure provide that meetings of the Committee will be publicized through the website, where the provisional agenda, meeting reports and other documents will be posted, without prejudice to the rules on confidentiality set out in chapter VIII of the annex to decision I/2. Discussion papers prepared by the joint secretariat for a meeting of the Committee will not be posted on the website in advance of the meeting, but will be available in the meeting room.

30. Without prejudice to the rules on confidentiality, essential information concerning each case will also be made available to the public through the website. This will include: a short summary of each case prepared by the joint secretariat; the text of any communication or submission; the preliminary determination on the admissibility of a communication, once transmitted to the Party concerned; and other significant documentation setting out the positions of the Committee, of the Party concerned and of the submitting Party or the

communicant. Findings and recommendations of the Committee and any relevant decisions of the Meeting of the Parties will also be made available on the website.

31. As a fundamental feature of the Protocol's compliance procedure is that it provides for the possibility of members of the public to make communications to the Committee on cases of alleged non-compliance, the Committee also developed guidelines for communications from the public. The objective of these guidelines is to assist members of the public intending to submit a communication to present the information in a clear and logical way that would facilitate the work of the Committee.

32. The guidelines are written in plain language that is intended to be easy for the general public to understand; where possible, sophisticated legal terminology has been avoided. As well as describing in the step-by-step approach the logistics of how communications could be made, the guidelines also outline the main objectives of the compliance procedure. The document provides a detailed explanation of the Committee's procedures for dealing with communications and provides guidance to members of the public on the criteria for admissibility of communications and practical arrangements for the submission of communications, including a checklist of the information required. The guidelines are available on the Committee's website.

33. Finally, recognizing that awareness of the compliance procedure is key to its impact and efficiency, and thereby to implementation and compliance with the Protocol, the Compliance Committee prepared a short leaflet on its work and the main features of the compliance procedure.

III. Submissions, referrals and communications concerning non-compliance with the Protocol

34. To date no Party has opted out of the aspect of the compliance mechanism whereby communications from members of the public may be brought before the Committee.

35. Since its establishment up to its fifth meeting, the Compliance Committee has not received any submission, referral or communication.

IV. Cooperation with the Office of the High Commissioner for Human Rights and the Independent Expert on the issue of human rights obligations related to safe drinking water and sanitation

36. The Committee has established exchange of information and cooperation with the secretariat of the Office of the High Commissioner for Human Rights (OHCHR) and with the Independent Expert on issue of human rights obligations related to safe drinking water and sanitation appointed by the Human Rights Council, Ms. Catarina de Albuquerque.

37. The programme of work of the Independent Expert until 2011 includes, inter alia: (a) the development of criteria for good practices related to access to safe drinking water and sanitation, and in this regard, the preparation of a compendium of best practices; (b) the clarification of human rights obligations relating to access to safe drinking water and sanitation; and (c) the development of recommendations that could help realize the Millennium Development Goals, in particular Goal 7.

38. The Committee recognizes the close linkages between the work conducted under the Protocol and water and sanitation issues tackled by the Independent Expert and the Office of the High Commissioner for Human Rights. Further to consultation with the Independent

Expert, who attended the meeting of the Committee, the Committee recognizes that there is room for reinforcing each other's work. It therefore agreed on ways and means for future cooperation, including regular exchange of information that could support each other's work, mutual promotion, possible joint country missions and lobbying by the Independent Expert vis-à-vis non-Parties to ratify the Protocol as a useful means to implement the human right to water and sanitation.

V. Reporting requirements

39. In accordance with its mandate under decision I/2 (annex, para. 11 (c)), the Committee reviewed the implementation and compliance by Parties with the reporting requirements under article 7, paragraph 5, of the Protocol. Specifically, it looked into whether and how the Parties had prepared their national implementation reports, whether reports were submitted in a timely manner, the quality and the accuracy of data and information provided and the consultations undertaken in preparing the reports.

A. Procedural aspects of the reporting process

40. The Working Group on Water and Health at its second meeting (Geneva, 2–3 July 2009) agreed on the format and practicalities for the first pilot reporting cycle under the Protocol. Accordingly, Parties were to submit their summary reports by 30 March 2010.

41. The general view of the Committee on the reports received within the first reporting cycle is positive. Most of the Parties took their obligation to report seriously, with 21 of the Protocol's 24 Parties having submitted their summary reports. Moreover, four reports have been received from non-Parties, which the Committee considers a very positive sign.

42. The Committee notes that 16 reports were submitted on time or with a slight delay (up to two weeks). The Committee notes with concern that nine reports were submitted with a delay of over one month. Of these, one report¹ was submitted so late that it was impossible to take it into account in the preparation of the present report. Three Parties — Albania, Luxembourg and Spain² — failed to submit their reports.

43. Failure to submit summary reports or to submit reports within the specified deadlines constitutes non-compliance with the reporting requirements under the Protocol. The Committee recommends the Meeting of the Parties to strongly urge Parties to comply with their reporting obligations. It also recommends that the Meeting call on all Parties that failed to submit their summary reports to submit their reports to the joint secretariat, *inter alia*, for forwarding to the Committee, by 28 February 2011.

44. The Committee notes with appreciation that the majority of the reports submitted were close to the suggested length of 50 pages. A couple of reports were extremely short, and two reports were excessively long. The Committee also notes that the disparity in the length of the reports leads to a disparity in the level of details and difficulties in their analysis by the Committee.

¹ Report submitted by Portugal.

² The Committee noted that Spain had only ratified the Protocol in September 2009 and has until September 2011 to set its targets and target dates, and that it was therefore more complicated for Spain to report. It considered nonetheless that a short report with an update of the progress achieved would have been adequate.

45. It was visible that Parties which had established a mechanism for coordination between concerned water and health authorities had used the coordination mechanism also to prepare the summary report with positive consequences on the quality and completeness of the summary report. Conversely, where no specific actions to implement the Protocol had been taken, the report was prepared by the focal points alone or with inputs from few institutions, without consultation and consolidation of findings and conclusions.

B. Completeness of the summary reports in accordance with the requirements set out in the article 7 and the guidelines and template for summary reports

46. The Committee, taking into account the fact that this was the first pilot reporting exercise, notes that the overall level of completeness of information provided in the reports is relatively satisfactory. However, the information provided is of varying quality. Some Parties provided clear and accurate answers, others submitted reports which were confusing and very difficult to analyse. Certain reports did not provide sufficient information to enable an assessment of implementation.

47. The majority of Parties provided information on the general aspects and the procedural questions (Part I of the template). Parties provided information about the preparation process for reports, including information on which public authorities had the main responsibilities and which other stakeholders had been involved.

48. The Committee regrets that information on cost-benefit analysis and actions taken to ensure public participation in the process of setting targets were among the most commonly missing elements in Part I of the reporting template.

49. Although all Parties filled in Part II of the template (common indicators), the Committee deplores that many provided figures without giving information on how those figures had been calculated or the methodology and definition used, thus hindering understanding of the significance of the data provided.

50. Due to the fact that in many Parties the process of setting targets is still ongoing, the completeness of information with regard to Part III (targets and target dates set and assessment of progress) varies significantly. In some cases very detailed information was provided, whereas one Party left Part III of the reporting template totally empty.

51. The Committee considers it particularly commendable that, in line with the spirit of cooperation and exchange of information of the reporting exercise, some Parties which were in the process of setting targets but had not officially adopted them had provided information on their draft targets and on the considerations that were guiding the target-setting process.

52. The Committee regrets that, in general, in Part III of the reports Parties have provided elaborate information for target areas related to article 6, paragraph 2, subparagraphs (a) to (d) (quality of drinking water, reduction of water-related disease, access to water and sanitation), but information is scarcer for areas linked to the following subparagraphs of article 6, paragraph 2, and in some areas hardly any Parties have set targets and failed to explain why the national/local situation made these areas not relevant for target setting.

53. Among the areas which were often omitted were: disposal or reuse of sewage sludge from collective systems of sanitation or other sanitation installations (art. 6, para. 2 (i), first part), and quality of wastewater used for irrigation purposes (art. 6, para. 2 (ii), second part). Many Parties stated that national legislation forbids these practices, in particular on the reuse of sludge; however, the Parties did not report on the disposal of sludge.

54. With regard to the issue of the quality of waters used for aquaculture or for the production or harvesting shellfish (art. 6, para. 2 (j), third part), the Committee notes that Parties seem to not fully understand the term “aquaculture”. This term refers not only to sea species and seawater but also to freshwater and applies to both vertebrate and invertebrate species. The Committee notes that in many Parties this is a “grey area”, where many chemicals are being used for pond aquaculture, thus appropriate attention should be given to it and targets need to be set.

55. The Committee also notes that the application of recognized good practice in the management of enclosed waters generally available for bathing (art. 6, para. 2 (k)) is another misunderstood and rather poorly covered area, despite the fact that “enclosed waters” are defined in the Protocol.³ This is a topic which is not covered by European Union (EU) directives and therefore setting targets in this area should be particularly relevant for both EU and non-EU member States.

56. The above — and other — misunderstandings in filling in the template could have been easily avoided by making use of the guidelines on the setting of targets, evaluation of progress and reporting. The Committee strongly recommends Parties to make use of these guidelines, as well as the other guidance documents developed under the Protocol, in future reporting cycles.

57. Moreover, very few Parties provided information on the identification and remediation of particularly contaminated sites (art. 6, para. 2 (l)).

58. The Committee regrets that many Parties did not complete Part IV (overall evaluation of progress achieved in implementing the Protocol) and responses on this part were generally weak. Some Parties provided information on their international cooperation and mentioned their international assistance projects (art. 11); however, very few Parties mentioned transboundary cooperation in this area.

C. Quality and accuracy of data in the reports

59. Also, the quality and accuracy of data in the summary report is varied. The Committee regrets that many Parties did not provide clear and accurate answers and in particular did not address the actual questions, especially with regard to targets set and progress achieved (Part III). The Committee is concerned by the fact that some countries seem to be only formally trying to complete the template without addressing the questions raised. That is particularly the case for Parties which have not yet set their targets in accordance with the Protocol. In these cases, on the basis of the vague information provided, the Committee cannot assess whether any progress has been made on the implementation of the Protocol in general and, in particular, whether progress has been achieved towards the setting of targets.

60. The Committee also regrets that the information provided in the reports mostly focuses on the description of the existing situation, in particular on the existing related legislation, and very little information has been provided on the measures taken to reach the targets, on the challenges encountered in the process and on the progress achieved. That approach is at odds with the forward-looking, action-oriented approach of the Protocol. The Committee therefore strongly recommends that in future reporting Parties provide adequate information on the measures implemented to achieve the Protocol’s targets and on the assessment of their efficiency.

³ The Protocol defines “enclosed waters” as “artificially created water bodies separated from surface freshwater or coastal water, whether within or outside a building” (art. 2, para. 4).

61. Moreover, the Committee deplors that, when reporting on targets, some Parties have listed their national legislation, policies and strategies without specifying whether these strategies were elaborated following the approach of the Protocol and whether within these strategies any specific actions to implement the Protocol are foreseen.
62. The Committee considers that many of the targets set by some Parties are too vague to be able to measure progress to achieve them and to reach the overall objectives of the Protocol.
63. It was clear from the reports that implementation of EU legislation is an important and solid cornerstone for the Protocol's implementation among the EU member States. While recognizing the important synergies between EU legislation and the Protocol, the Committee considers that implementation of the Protocol goes beyond implementation of the different EU directives and encourages EU Parties to look into the additional requirements and opportunities under the Protocol.
64. The Committee considers a bad practice the fact that some Parties reported the same information for different subparagraphs of article 6, paragraph 2, or just made a cross-reference. It stresses that the areas identified under each of the subparagraphs are indeed related, but different, and that they all deserve distinct targets and related actions.
65. The Committee considers unacceptable that a few Parties did not follow the template for reporting, as this hampers the preparation of a regional assessment and the direct exchange of experience between Parties.
66. To facilitate future reporting exercises and to ensure a better quality of the information provided in the summary reports, the Committee made some concrete suggestions to amend Parts I and III of the template to make the questions more straightforward and to allow for gathering basic information on the process of setting targets. Such amendments are already included in the draft guidelines and template for summary reports in accordance with article 7 submitted for adoption to the Meeting of the Parties (ECE/MP.WH/2010/L.5–EUDHP1003944/4.2/1/7).

VI. General issues of compliance and recommendations

67. The Committee reviewed general matters of compliance pursuant to its mandate set out in decision I/2. For this purpose, it reviewed, to the extent possible, the information contained in the summary reports and identified a number of general issues (i.e., not limited to a particular country) that it considers worth bringing to the attention of the Meeting of the Parties.
68. The Protocol on Water and Health requires each Party, within two years of becoming a Party, to establish and publish national and/or local targets for the standards and levels of performance that need to be achieved or maintained for a high level of protection of human health and well-being, as well as for the sustainable management of water resources. Paragraph 2 (a) to (n) of article 6 of the Protocol identifies the general areas within which the targets should be set. The process of target setting is the key pillar of the Protocol's implementation and the main tool to reach the Protocol's objectives.
69. To reach the targets Parties need to establish national or local arrangements for coordination between their competent authorities and also to establish and maintain arrangements for monitoring, promoting the achievement of and, where necessary, enforcing the other standards and levels of performance for which targets are set.
70. On the basis of the analysis of the summary reports submitted by Parties, the Committee notes with concern that only a minority of Parties have set targets and dates to

achieve them in accordance with article 6 and the principles and provisions stipulated under the Protocol. Consequently, the Committee notes with great concern that several Parties are currently in non-compliance with the Protocol.

71. The Committee recommends to the Meeting of the Parties that it urge these Parties to speed up and finalize the process of target setting and, in doing so, to make use of the existing guidance material, in particular the guidelines on setting targets, evaluation of progress and reporting developed by the Task Force on Indicators and Reporting.

72. Many EU member States consider the transposition of and obligation to implement the relevant EU directives as equivalent to setting targets as required by the Protocol. Only a few EU member States acknowledge the need to set targets in addition to the obligations required by the directives and are currently in the process of target setting. The Committee underlines that while setting targets on the basis of national strategies and/or EU legislation is a good practice, this cannot represent the only objective of the Protocol's implementation which by its nature is action and forward oriented, promoting continuous, step-by-step progress.

73. The Protocol puts a great emphasis on public participation in the decision-making process and contains a number of provisions on public participation and access to information. Moreover, it requires Parties to implement measures enhancing public awareness on the relationship and linkages between the environment, water management and public health. Above all, in accordance with article 6, when setting targets under the Protocol, Parties shall make appropriate provisions for public participation within a transparent and fair framework and shall ensure that due account is taken of the outcome of such participation.

74. The Committee notes with concern the limited information provided in the national reports on public participation in the process of target setting and specifically on how the outcome of public participation was taken into account in the final targets set. The Committee advocates coordinated efforts by the Parties with a view to facilitating implementation of the provisions related to public participation, in particular through involving the public in the process of target setting.

75. On the basis of the analysis of the summary reports, the Committee recognizes that a number of Parties are facing difficulties in complying with the Protocol, in particular with its core obligation to set targets and target dates. To respond to that situation, the Committee has decided to enhance its facilitation and assistance functions. Thus, in accordance with Decision I/2, in its future work, the Committee will provide advice and assistance to Parties in order to facilitate, promote and aim to secure their compliance with the obligations under the Protocol (ECE/MP.WH/2/Add.3–EUR/06/5069385/1/Add.3, Annex, para. 1 (b)).

76. To that end, the Committee has decided that it will enter into consultations with a number of Parties which, on the basis of the national summary reports, appear to have problems in implementing the Protocol.

77. Those consultations will allow the Committee to gather additional information, in particular through exchanges with focal points and other authorities responsible for the implementation of the Protocol, in order to better understand the kind of difficulties that have emerged. If required by the concerned Party, consultations may also include information gathering in the territory of that Party.

78. Through such consultations, the Committee aims to offer effective, tailor-made advice to implement and apply the Protocol's provisions of a scientific, technical, legal and administrative nature. The consultations will not be of an inquisitive nature; their objective will not be to ascertain/declare whether a Party is in non-compliance.

79. In its consultations, the Committee will seek the cooperation of the Task Force on Surveillance, the Task Force on Indicators and Reporting and the Project Facilitation Mechanism.

80. Considering capacity and resource limitations, the Committee recognizes that it will not be able to enter into consultations with all Parties showing difficulties with compliance, but will need to focus its efforts on a limited number of Parties. These will be selected on the basis of the information available to the Committee and in consultation with the Bureau of the Protocol. The Committee welcomes expressions of interest from Parties to voluntarily engage in this procedure.

Annex

Draft decision on general issues of compliance

The Meeting of the Parties,

Considering its decision I/2 on the review of compliance,

Welcoming the progress made by the Compliance Committee in establishing its procedures as well as in addressing general issues of compliance,

Taking note with appreciation of the report of the Compliance Committee to the Meeting of the Parties and endorsing its findings (ECE/MP.WH/2010/3–EUDHP1003944/4.2/1/9),

Setting targets in accordance with the article 6 of the Protocol

1. *Recognizes* that by failing to establish and publish national and/or local targets and dates for achieving them several Parties are not in compliance with article 6, paragraphs 2 to 5 of the Protocol;

2. *Urges* Parties therefore to speed up and finalize the process of target setting and, in doing so, *recommends* making use of the existing guidance material, in particular the Guidelines on the setting of targets, evaluation of progress and reporting (ECE/MP.WH/5–EUDHP1003944/4.2/2/1);

3. *Recommends* that Parties establish a strong mechanism for coordination between water, health and other concerned authorities as the key prerequisite for an effective implementation of the Protocol, and *also recommends* that Parties involve their national coordination mechanism in the preparation of the summary reports;

4. *Calls on* Parties which are members of the European Union (EU) to build on the synergies between the Protocol and EU legislation, in particular to make use of the Protocol and the setting target process to comply with EU directives;

5. *Also recognizes* that the Protocol implementation cannot be limited to the transposition of EU legislation and encourages EU Parties to implement the Protocol beyond EU legislation, for instance by setting targets in areas which are not regulated by EU legislation;

6. *Stresses* that targets set under the Protocol should be clear and measurable to allow Parties to keep under scrutiny the progress achieved;

Reporting under the Protocol in accordance with the article 7

7. *Underlines* the importance of complying with the Protocol's reporting requirements including the importance of timeliness of reporting, and *recognizes* that failure to submit summary reports or to submit reports within the specified deadlines constitutes non-compliance with the article 7 of the Protocol;

8. *Recalls* that summary reports are an important tool for the exchange of experience between Parties and the promotion of harmonized progress in implementing the Protocol in the region;

9. *Recommends*, therefore, that in future reporting exercises Parties follow the adopted template for reporting, that they provide clear and accurate answers to all the questions on it and, when omitting information, specify the reasons for the omission, and

that they include information on the measures implemented to reach the targets, the challenges encountered in the process and the progress achieved;

10. *Requests* those Parties that failed to submit their national implementation reports to submit their reports to the joint secretariat, inter alia, for forwarding to the Committee, by 28 February 2011;

11. *Commends* those non-Parties which have submitted summary reports and *welcomes* participation of those and other non-Parties in the future reporting cycles;

Public Participation

10. *Recognizes* the importance of access to information and public participation for an effective implementation of the Protocol together with the widespread difficulties of Parties in complying with the relevant Protocol obligations, in particular related to the participation of the public in setting targets and target dates;

11. *Requests* Parties to undertake coordinated efforts with a view to facilitate implementation of the provisions related to public participation, in particular on involving the public in the process of target setting;

Facilitative role of the Committee

12. *Welcomes* the decision of the Committee to respond to a situation of general non-compliance by providing advice and assistance to Parties in order to facilitate, promote and aim to secure their compliance with the obligations under the Protocol;

13. *Supports* the decision of the Committee to enter into consultations with a number of Parties, which, on the basis of the national summary reports, appear to have problems in implementing the Protocol, recognizing that through such consultations the Committee aims to offer effective, tailor-made advice to implement and apply the Protocol's provisions of a scientific, technical, legal and administrative nature and that the consultations are not of an inquisitive nature and that their objective is not to ascertain/declare whether a Party is in non-compliance;

15. *Encourages* Parties having difficulties with compliance to approach the Committee and to express interest in engaging in that procedure;

Working methods of the Committee

16. *Welcomes* the way in which the Committee has been working and the procedures that it has developed, as reflected in the reports of its meetings;

17. *Recognizes* the need for clear information for the public on the compliance mechanism and therefore welcomes the guidelines on communications from the public elaborated by the Committee.
