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Meeting of the Parties to the Protocol on  
Water and Health to the Convention on  
the Protection and Use of Transboundary  
Watercourses and International Lakes

**Fourth session**

Geneva, 14–16 November 2016

Item 6 (f) of the provisional agenda

**Review of past activities and discussion of future activities in  
the different areas of work: compliance procedure****Report of the Compliance Committee to the Meeting of  
the Parties***Summary*

The present report by the Compliance Committee under the Protocol on Water and Health was prepared pursuant to decision I/2 of the Meeting of the Parties to the Protocol on review of compliance, through which the Parties 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 session of the Meeting of the Parties and to make such recommendations as it considered appropriate.

Annexed to the report are a draft decision on general issues of compliance, a draft decision on the competence of the Committee to address cases of non-compliance by specific Parties and a draft decision on non-compliance by Portugal with its obligation to report under article 7. The Meeting of the Parties is invited to consider the annexed draft decisions for adoption at its fourth session.



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## 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 Compliance Committee and agreed on its structure and functions as well as the procedure for the review of compliance (see ECE/MP.WH/2/Add.3–EUR/06/5069385/1/Add.3).
2. At its second session (Bucharest, 23–25 November 2010), by its decision II/1 on general issues of compliance, the Meeting of the Parties, *inter alia*, supported the decision of the Committee to enter into consultations with Parties that appeared to have problems in implementing the Protocol and encouraged Parties having difficulties to approach the Committee and to express interest in engaging in the consultation procedure (see ECE/MP.WH/4/Add.2–EUDHP1003944/4.2/1/Add.2).
3. At its third session (Oslo, 25–27 November 2013), by its decision III/1 on general issues of compliance, the Meeting of the Parties endorsed the rules established by the Compliance Committee governing the above Consultation Process (see ECE/MP.WH/11/Add.2–EUDCE/1206123/3.1/2013/MOP-3/06/Add.2). Furthermore, Parties supported the decision of the Committee that it may, based on its assessment of the result of the second reporting exercise under the Protocol or other information available to it, invite a Party or a small group of Parties having identical or almost identical implementation problems to engage in a consultation.
4. The present report provides an overview of the activities of the Compliance Committee since the third session of the Meeting of the Parties. In that period the Committee focused part of its work on preparing and holding consultations with a number of Parties under the Consultation Process.
5. The Compliance Committee furthermore considered its competence to take action in the case of possible non-compliance by a specific Party with its obligations under the Protocol. The Committee decided that it had such competence (see annex II), and addressed a specific case in accordance with its conclusions as to the failure of a Party to comply with its reporting obligations (see annex III).
6. The Committee also carried out an analysis of the provisions of the Protocol related to transboundary waters.<sup>1</sup> The analysis is available in the note “Interpretation of the provisions of the Protocol on Water and Health related to transboundary waters”. The Committee invites the Meeting of the Parties to take note of the analysis and recommends Parties and other States to apply its conclusions.
7. Finally, the Compliance Committee focused on the analysis of the summary reports submitted by Parties in accordance with article 7, paragraph 5, of the Protocol as well as reports submitted by other States.
8. On the basis of the outcomes of the work and the analyses referred to in paragraphs 4–6 above, the Compliance Committee prepared a draft decision on general issues of compliance for adoption by the Meeting of the Parties (annex I).
9. The Meeting of the Parties may wish to:
  - (a) Take note of the report of the Compliance Committee;

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<sup>1</sup> When finalized, the document will be made available on the web page for the Committee’s thirteenth meeting (<http://www.unece.org/index.php?id=41701#/>).

(b) Discuss the recommendations by the Compliance Committee and adopt the draft decisions annexed hereto on:

- (i) General issues of compliance, reflecting the concerns, findings and recommendations of the Committee;
- (ii) The competence of the Committee to address cases of non-compliance by specific Parties;
- (iii) Non-compliance by Portugal with its obligation to report under article 7.

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

### **A. Membership**

10. At its third session, the Meeting of the Parties re-elected by consensus four members of the Compliance Committee for another term of office: Pierre Chantrel; Oddvar Georg Lindholm; Ilya Trombitsky; and Serhiy Vykhryst. The Meeting of the Parties also elected Vadim Ni.

11. At its tenth meeting, the Committee confirmed its re-election of Veit Koester as the Chair for the period 2014–2016 through an electronic decision-making procedure in the interim period between the third session of the Meeting of the Parties and the first meeting of the Committee thereafter. The Committee also re-elected Diana Iskrevá-Idigo as Vice-Chair for the period 2014–2016.

12. The members of the Committee in the intersessional period were: Mr. Chantrel; Ilona Drulyte; Ms. Iskrevá-Idigo; Zsuzsanna Kocsis-Kupper; Mr. Koester; Mr. Lindholm; Mr. Ni; Mr. Trombitsky; and Mr. Vykhryst.

### **B. Meetings held**

13. In the intersessional period, the Compliance Committee held four meetings. The reports of these meetings, listed below, are available on the Committee's website:<sup>2</sup>

(a) Report of the tenth meeting (Geneva, 25 November 2014), document ECE/MP.WH/C.1/2014/2–EUDCE/1408105/1.10/2014/CC/06;

(b) Report of the eleventh meeting (Geneva, 24–25 March 2015), document ECE/MP.WH/C.1/2015/2–EUDCE/1408105/1.10/2015/CC/06;

(c) Report of the twelfth meeting (Geneva, 19–20 October 2015), document ECE/MP.WH/C.1/2015/4–EUDCE/1408105/1.10/2015/CC2/06;

(d) Report of the thirteenth meeting (Geneva, 27–28 June 2016), document ECE/MP.WH/C.1/2016/1–EUPCR/1611921/2.1/2016/CC/03.

14. The tenth, twelfth and thirteenth meetings of the Compliance Committee were held back to back with the seventh, eighth and ninth meetings of the Working Group on Water and Health, respectively, enabling the Chair of the Committee to attend those sessions of the Working Group.

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<sup>2</sup> See [http://www.unece.org/env/water/pwh\\_bodies/cc.html](http://www.unece.org/env/water/pwh_bodies/cc.html).

### C. Consultation Process of the Compliance Committee

15. At its tenth meeting, the Committee revised the terms of reference of the Consultation Process to reflect the decision it had taken at its ninth meeting (Geneva, 1–2 July 2013) — which had subsequently been supported by the Meeting of the Parties — that, based on its assessment of the results of the second reporting exercise or other information available to it, the Committee could invite a Party or a small group of Parties to engage in the Consultation Process. The revised terms of reference are annexed to the report of the tenth meeting, and a recommendation concerning the revised terms is included in the draft decision on general issues of compliance annexed hereto.

16. Based on decision III/1 on general issues of compliance, and building on the review of the outcomes of the second reporting exercise, the Committee at its tenth meeting also discussed its modus operandi in proposing the Consultation Process to a Party or a small group of Parties.

17. In particular, the Committee established the following criteria for consideration in selecting Parties that could be approached with a view to engaging them in a consultation:

- (a) The Party had difficulties in implementing the main obligations of the Protocol (e.g., setting targets and reporting under the Protocol);
- (b) No targeted assistance had been received so far by the Party under consideration;
- (c) The Party was eligible for funding with regard to the Consultation Process;
- (d) The country had been a Party for a considerable period of time vis-à-vis new Parties;
- (e) The Party or Parties represented different subregions;
- (f) The implementation problems at issue were faced by a group of Parties.

18. Having discussed various possible candidates, the Committee decided, based on the above criteria and subject to the availability of funds, to invite a small group of Parties to engage in the Consultation Process, namely Albania, Azerbaijan and Croatia. Taking into account the request for assistance submitted to the secretariat by Bosnia and Herzegovina, the Committee also decided to invite that country to join the consultation as an observer.

19. Accordingly, it was decided that Albania, Azerbaijan, Bosnia and Herzegovina and Croatia would be invited to engage in a consultation to be held at the twelfth meeting of the Compliance Committee in October 2015.

20. Following the acceptance of Albania and Azerbaijan and the agreement of Bosnia and Herzegovina to participate as an observer, letters were sent to the parties and the observer country introducing the main features of the process. No response to the invitation was received from Croatia.

21. Prior to its eleventh meeting, the Committee had carefully analysed the summary reports submitted by the parties and observer country within the second reporting cycle. At the meeting itself, the Committee identified a number of areas related to the Protocol's implementation for discussion with each country and discussed the expected outcomes of the consultations. The Committee also invited countries to identify any challenges related to the implementation of the Protocol as well as to provide background material for consultations.

22. In the framework of its twelfth meeting, consultations with Parties took place on 20 October 2015.<sup>3</sup> The two consultations and the discussion with the observer country were carried out as an open process, with representatives of different countries present throughout the discussions. Country presentations were particularly useful to understand how the Protocol was implemented in the countries involved as well as their challenges and needs. The Committee members prepared a number of discussion points and asked follow-up questions. The Committee then deliberated in closed session and at the end of the consultations and provided its advice on a provisional basis to each of the two parties and the observer.

23. Overall, the Consultation Process was considered to be successful, also thanks to the internal preparations made in the countries in advance of the process, and the advice provided by the Committee was positively received. The Committee and the countries, however, shared the view that having three consultations in one day was a rather demanding exercise and a longer meeting or a series of meetings complemented by country missions would be needed to provide informed and thorough advice.

24. Following the finalization of the advice by means of the Committee's electronic decision-making procedure, it was forwarded by the United Nations Economic Commission for Europe (ECE) secretariat to the competent ministers of the parties and the observer country and subsequently was made publicly available.

25. While the Committee decided that, due to a lack of resources, it would not monitor the implementation of the advice when reviewing the summary reports submitted by the countries involved within the third reporting cycle, it nevertheless notes that its advice is reflected to a certain extent in the respective summary reports. However, most of the Committee recommendations were not yet implemented, possibly due to the nature of the advice and the limited time between the two processes.

26. The Committee decided at its thirteenth meeting that at its first meeting after the fourth session of the Meeting of the Parties it would consider whether to invite another small group of Parties to engage in the Consultation Process. Such a decision would be based on the consideration of the Committee's criteria outlined in paragraph 17 above and would take into account the outcome of the third reporting cycle, as well as the availability of funds.

#### **D. Consideration by the Committee of its competence to address cases of non-compliance by specific Parties and related issues**

27. At its tenth and eleventh meetings, the Committee considered its competence to take action in cases of possible non-compliance by specific Parties with their obligations under the Protocol.

28. The Committee concluded that, based on paragraph 11 (c), read in conjunction with paragraph 12 of the Compliance Procedure (decision I/2, annex) the Committee had the competence not only to examine general issues of compliance, but also to take appropriate action in case of possible non-compliance by a specific Party with the obligation to report under the Protocol.

29. The Committee also considered that, based on paragraph 12 of the Compliance Procedure, it had the competence to examine, if it considered it appropriate, other clear and important compliance issues, i.e., non-compliance cases regarding grave failures or imperfections relating to the contents of summary reports with regard to their consistency,

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<sup>3</sup> See <http://www.unece.org/env/water/protocol/compliance-committee/consultation-process.html>.

transparency, accuracy and completeness. However, that mechanism should not be seen as competing with the ordinary mechanisms established in paragraph 11 (a) of the Compliance Procedure, and should only be used in cases related to individual Parties that involved important compliance issues where there was a clear indication of non-compliance and when there was no expectation that the ordinary mechanism would be used.

30. The Committee, furthermore, considered that its competence to examine compliance issues under paragraph 12 of the Compliance Procedure did not extend, *inter alia*, to the examination of the target areas selected and the nature of targets set by Parties.

31. Pursuant to its general task to examine compliance issues, the Committee invited one of its members to examine article 7, paragraphs 4 to 6, of the Protocol in relation to links between the obligation to set targets under article 6 and the obligations to report under article 7. The findings of the above analysis<sup>4</sup> were endorsed by the Committee at its thirteenth meeting as establishing the legal basis for the decisions of the Committee referred to in paragraphs 29 and 30 above.

32. Concerning procedures in the event of the initiation by the Committee of a specific case of possible non-compliance by a Party, the Committee decided to apply, *mutatis mutandis*, the relevant rules of the Compliance Procedure, specifically the deadline for a reply of three months indicated in paragraph 14 and the principles set out in paragraphs 20–22 and 30–32 of the Compliance Procedure, taking into account that any procedure should be governed by the spirit of the compliance mechanism under the Protocol.

33. At its thirteenth meeting, the Committee decided that there was no need to amend its rules of procedure to reflect the above decision since it was sufficiently clear.

34. Finally, the Committee considered that, according to paragraph 15 of the Compliance Procedure, as well as paragraph 34 of the Committee's rules of procedure, the secretariat had no mandate to make a referral to the Committee if a Party did not submit a national summary report. At its thirteenth meeting, however, the Committee added that, in its view, it did not belong to the competence of the Committee to decide on the mandate of the secretariat to make such referrals and that the interpretation of this issue was ultimately within the competence of the Meeting of the Parties.

35. Recommendations reflecting the conclusions of the Compliance Committee as set out in paragraphs 28–30 and 32–33 above are included in the draft decision on the competence of the Committee to address cases of non-compliance by specific Parties.

## **E. Consideration of submissions, referrals and communications**

36. Before its tenth meeting, the Committee received a communication from the non-governmental organization Earthjustice (ECE/MP.WH/CC/COM/1) alleging that Portugal was in non-compliance with its reporting obligations under article 6 and 7 of the Protocol.

37. In an e-mail exchange prior to its eleventh meeting, the Committee had determined on a preliminary basis that the communication was admissible. Pursuant to paragraph 20 of the Compliance Procedure, the communication was forwarded to the Party concerned on 17 February 2015 with a deadline of 17 July 2015 for the Party to submit any written explanations or statements clarifying the matter referred to in the communication and describing any response that might have been made in the meantime. The Party, however, did not submit any explanations or statements.

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<sup>4</sup> See <http://www.unece.org/env/water/protocol/compliance-committee/13th-meeting.html>.

38. Since the legal issue raised in the communication was the same as that raised in the case the Committee had initiated itself concerning possible non-compliance by Portugal with its reporting obligations (see section F below), the Committee decided to close its consideration of the communication.

39. The Committee did not receive any submissions or referrals during the intersessional period.

## **F. Cases of possible non-compliance by specific Parties initiated by the Committee**

40. In accordance with its conclusion on the competence of the Committee to initiate cases regarding possible non-compliance by specific Parties (see section D above), the Committee at its tenth meeting decided to initiate a case regarding Portugal — the only Party that had failed to submit its national summary report within the second reporting exercise.

41. At its eleventh meeting, the Compliance Committee prepared draft findings with regard to the case. In accordance with paragraph 32 of the Compliance Procedure, the draft findings were then forwarded for comments to the Party on 20 April 2015, with the invitation to provide comments by 15 May 2015. No comments were received by the deadline. The Committee proceeded to finalize its findings on 8 June 2015, with all Committee members giving their agreement by e-mail by 15 July 2015. At its twelfth meeting, the Committee confirmed the adoption of the findings and agreed that they would be annexed to the report of that meeting.<sup>5</sup>

42. In its findings, the Committee concluded that Portugal had failed to comply with article 7, paragraph 5, of the Protocol since it had not submitted its summary report within the second reporting exercise.

43. Accordingly, the Committee, pursuant to paragraph 34 (d) of the Compliance Procedure, issued a caution to Portugal including a warning to the effect that the Committee would recommend to the Meeting of the Parties that it issue a declaration of non-compliance pursuant to paragraph 35 (d) of the Compliance Procedure if Portugal had not submitted its summary report within the second reporting exercise, in good faith and in accordance with the guidelines and template for summary reports adopted by the Meeting of the Parties, prior to the fourth session of the Meeting of the Parties (see annex III).

## **III. General issues of compliance**

44. The Committee is a subsidiary body of the Meeting of the Parties without any supervisory power vis-à-vis other subsidiary bodies. Hence, the Committee considers that it is not its task to monitor whether the Working Group on Water and Health implements the decisions of the Meeting of the Parties based on the recommendations of the Committee, as reflected in particular in paragraph 1 of decision III/1 on general issues of compliance.

45. The Committee has, however, a mandate, according to paragraphs 11 (c) and 12 of the Compliance Procedure, to monitor, assess and facilitate implementation of and compliance with the reporting requirements under article 7, paragraph 5, of the Protocol and to examine compliance issues, whereby it has the duty to draw the attention of the

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<sup>5</sup> See ECE/MP.WH/C.1/2015/4–EUDCE/1408105/1.10/2015/CC2/06.

relevant organs of the Protocol to issues and problems that may affect proper implementation of and compliance with the provisions of the Protocol.

46. Accordingly, the Committee noted, at its eleventh meeting, that the *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting*<sup>6</sup> adopted by the Meeting of the Parties did not indicate clearly enough that Parties had the obligation to submit their summary reports no later than 210 days prior to the following session of the Meeting of the Parties. The Committee therefore recommended that the Bureau consider the issue and prepare a draft decision on reporting, including the revised guidelines and template for summary reports, for consideration by the Meeting of the Parties at its fourth session, clearly stating that Parties were obliged to submit their summary reports within the above-mentioned deadline.

47. At its thirteenth meeting, the Committee observed that the above decision could be generalized to cover not only the forthcoming reporting cycle but also all further reporting cycles. The draft decision was prepared by the Bureau of the Protocol for adoption by the the Meeting of the Parties at its fourth session (ECE/MP.WH/2016/4–EUPCR/1611921/2.1/2016/MOP-4/10).

48. At its tenth meeting, the Committee noted that there might be a general issue of compliance with regard to the Parties to the Protocol that were also members of the European Union. It therefore requested the Working Group on Water and Health to consider whether it would be useful to analyse the target areas under the Protocol vis-à-vis the relevant European Union directives in order to clarify under which target areas and in what way it would be acceptable to refer to the European Union legislation in the national summary reports.

49. The Working Group, at its seventh meeting (Geneva, 26–27 November 2014), decided to undertake the above analysis, subject to the availability of funds. However, having reviewed the request, the Bureau decided not to embark on such an analysis, taking into account the lack of funds and the availability of an earlier study on the matter. Nevertheless, the Committee considers that since the scope and objective of the previous study does not coincide with the analysis recommended by the Committee, such an analysis or a more detailed guidance on the matter are still needed. Accordingly, a recommendation to that effect is included in the draft decision on general issues of compliance annexed to the present report.

50. The Committee also points out that the *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting* should clearly state the obligation to set targets and target dates for all Parties to the Protocol, irrespective of whether they are European Union member States and whether they complied with relevant European Union legislation.

51. The Committee, reviewing its recommendations to the Meeting of the Parties at its third session, notes that some recommendations, particularly those reflected in paragraphs 5 and 6 of decision III/1, were misleading. Revised recommendations by the Committee to replace the above paragraphs are included in paragraphs 5 and 6 of the draft decision on general issues of compliance annexed to the present report.

52. The Committee also examined the implications of the provisions of the Protocol related to transboundary waters with a view to assessing the implementation of and compliance with the requirements of the Protocol in that respect.

53. The analysis is available in the note “Interpretation of the provisions of the Protocol on Water and Health related to transboundary waters” (see para. 6 above).

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<sup>6</sup> United Nations publication, Sales No. E.10.II.E.12. Available from <http://www.unece.org/env/water/publications/pub.html>.

## IV. Cooperation with human rights bodies

54. The issue of cooperation with human rights bodies was addressed in detail in section IV of the Committee's report to the Meeting of the Parties at its third session (see ECE/MP.WH/2013/4–EUDCE/1206123/3.1/2013/MOP-3/11).

55. In the above report the Committee noted that, in spite of willingness and good intentions from all sides, it was difficult to develop cooperation and synergies with the work of human rights bodies dealing with the human rights to water and sanitation. The Committee nevertheless remained open to opportunities for cooperation.

56. The Chair of the Committee met informally with the chairs of the human rights treaty bodies on 26 June during their annual meeting (Geneva, 23–27 June 2014).<sup>7</sup> At the meeting, the Chair requested that they explore the possibility of establishing links between the compliance mechanisms of the ECE multilateral environmental agreements and those of the human rights treaties. However, no response was received from the chairs of the human rights treaty bodies.

57. The Committee therefore concluded that, despite common interests and a certain level of cooperation established between the secretariats, there was no possibility to establish a close and firm cooperation with the human rights bodies. Accordingly, the Committee at its thirteenth meeting, with regret, decided to abandon its endeavours in that respect.

## V. Reporting requirements

58. At its eighth meeting (Geneva, 21–22 October 2015), the Working Group on Water and Health endorsed the revised template for summary reports (ECE/MP.WH/WG.1/2015/L.1–EUDCE/1408105/1.10/2015/WGWH/08)<sup>8</sup> and recommended it for use by Parties and other States in the third reporting cycle. In accordance with the template, Parties were to submit their summary reports by 18 April 2016, 210 days before the fourth session of the Meeting of the Parties.

59. In accordance with its mandate under paragraph 11 (c) of the Compliance Procedure, the Committee reviewed the implementation of and compliance with the reporting requirements under article 7, paragraph 5, of the Protocol in the third reporting cycle. Specifically, it looked into whether and how the Parties had prepared their national summary reports, whether reports were submitted in a timely manner, the quality and the accuracy of the data and information provided and the consultations undertaken in preparing the reports.

### A. Procedural aspects of the reporting process

60. The Committee has a generally positive impression of the reports received within the third reporting cycle. Most of the Parties took their obligation to report seriously, with all Parties to the Protocol having submitted their summary reports. Moreover, six reports were received from States that were not Parties, four of which were submitting reports for the first time. In that regard, the Committee took the approach to analyse reports from non-Parties in the same way as the reports submitted by Parties, using the word "Parties" in the

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<sup>7</sup> The minutes of the meeting are available on the web page for the Committee's tenth meeting (<http://www.unece.org/index.php?id=34454#/>).

<sup>8</sup> Available from [http://www.unece.org/env/water/8th\\_wgwh\\_2015.html#/](http://www.unece.org/env/water/8th_wgwh_2015.html#/).

present report indistinctly for all countries that have submitted their reports, including within the tables included in the document.

61. The Committee notes that 17 reports were submitted on time (2 of them from non-Parties) and 10 reports with a delay of up to six weeks (3 from non-Parties). It notes with concern that five reports (i.e., from Belgium, Luxembourg, Monaco, Portugal and Ukraine) were submitted with a delay of over six weeks and it was consequently not possible to analyse them for the preparation of the present report.

62. The Committee notes with appreciation that almost all the reports submitted are close to the suggested length of 50 pages. Four reports are extremely short (less than 25 pages), consequently some of them lack information, and two reports are excessively long (over 60 pages). The Committee also notes that the disparity in the length of the reports in most cases led to a disparity in the level of detail and to difficulties in analysis by the Committee.

63. It was clear that most Parties that had established a mechanism for coordination between the concerned water and health authorities had also used that mechanism to prepare the summary report, with positive consequences for the quality and completeness of the summary report. Conversely, where no such mechanism was established, the reports were prepared by the focal points alone or with inputs from a few institutions, without consultation and consolidation of findings and conclusions.

64. The Committee observes that within the third reporting cycle the use of an interministerial coordination mechanism and the involvement of non-governmental stakeholders in preparing the summary reports has improved compared with the previous reporting cycle. However, it also notes with concern that the involvement of the public in the preparation of the reports is still missing in the majority of cases.

65. The draft decision on general issues of compliance includes some elements addressing the findings and concerns of the Committee.

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

66. The Committee notes that the overall level of completeness of information provided in the reports is satisfactory, and overall there has been progress in this regard as compared with the second reporting exercise. However, the information provided was of varying quality. Many Parties provided clear and accurate answers and many reports included target areas that were not reported previously, whereas some reports were difficult to analyse because they did not provide the full information, but only referenced other sources. Approximately one fifth of the reports did not provide the full information requested. Certain reports did not provide sufficient information on all target areas to enable an assessment of implementation.

67. The majority of Parties provided information on general aspects and procedural questions (part one 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 were involved.

68. A number of summary reports were prepared by public authorities with the involvement of other stakeholders. At the same time, the Committee notes with concern that most summary reports were prepared without due involvement of the public. It therefore calls upon Parties to follow the *Guide on Public Participation under the Protocol*

on *Water and Health*<sup>9</sup> and the *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting* more precisely in this respect.

69. With regard to the question on the cost-benefit analysis, the Committee notes that Parties generally considered that there was no need to perform such an analysis. At the same time, most Parties considered some financial implications in the target-setting process. Some Parties pointed out that since access to water was a human right, considering financial implications was not appropriate. The Committee, however, notes that this is not a good approach, as considering financial implications is crucial for effective target setting and, ultimately, for proper implementation of the Protocol.

70. Many countries addressed in their reports the relationship between target setting and climate change as an emerging issue. A few Parties also considered the issue of micropollutants by describing specific actions that they had undertaken in that regard. As an important threat to human health, micropollutants are seen by the Committee as an important issue to be addressed in the reporting template.

71. Very few Parties referred to the polluter-pays principle in their reports.

72. The completeness and quality of data provided in part two of the template had improved as compared with the second reporting exercise owing to the greater availability of statistical data. However, in some instances no explanations were provided although the report showed a decrease in access to water and/or sanitation. The Committee notes the importance of the comparability of data and recommends that the issue be considered in future work under the Protocol.

73. In addition, some Parties failed to report on compliance with the established chemical parameters for drinking water quality and did not provide information on additional chemical substances. Some European Union countries did not provide data to cover all sizes of the water supplies, which in the Committee's view prevented it from being able to assess the full picture, as foreseen in the reporting template.

74. The Committee acknowledges that its previous recommendation to clarify whether incidents or outbreaks of reported diseases were water-related or if other routes of exposure had also been included in the data has now been taken into account by most Parties, as reflected in the summary reports.

75. In line with its previous report to the Meeting of the Parties, the Committee notes that Parties still misunderstood the definition of the occurrence of discharges of untreated storm water overflows from wastewater collection systems (art. 6, para. 2 (g) (ii)). Some Parties erroneously considered the issue to be applicable also to separate systems of collection of wastewater and storm water, while it applies only to combined sewer systems (a combined sewer system is a sewage collection system that is designed to also collect surface runoff. Combined sewers overflows can occur in wet weather when flows exceed capacities of sewage treatment plants).

76. In addition, on the issue of waters used for aquaculture or for the production or harvesting of shellfish (art. 6, para. 2 (j)), some Parties still did not treat the term "aquaculture" as related to freshwater, brackish water and seawater, as well as to ponds and other areas of fish production. In the opinion of the Committee, the use of water for the production of fish by aquaculture or for the production or harvesting of shellfish may affect the quality of water. In case such water bodies are also used for other purposes (e.g., recreation) this may result in water-related disease. Thus, the "quality of waters" refers to quality that is protective of human health. Hence, in some cases Parties still did not pay proper attention to the aspect of the impact of aquaculture on the quality of waters that are used as sources for drinking water and for bathing, but instead concentrated primarily on the issue of water quality for fish and invertebrates used in aquaculture, and have not set

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<sup>9</sup> ECE/MP.WH/9, available from <http://www.unecce.org/env/water/publications/pub.html>.

respective targets in this area. The summary reports demonstrated that the point raised in the previous report of the Committee to the Meeting of the Parties is still relevant and therefore should be looked into, taking into account the above considerations.

77. Regarding the target area on the application of recognized good practice in the management of enclosed waters generally available for bathing (art. 6, para. 2 (k)), a number of Parties still misunderstood the definition of the enclosed bathing waters, i.e., swimming pools and thermal baths, despite the clarification provided in the *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting* (Guidelines).

78. The Committee strongly recommends that Parties make use of the Guidelines and to follow the instructions provided in the reporting template as well as in other existing and future guidance documents.

79. The Committee notes with satisfaction that the recommendation to revise the targets once the initial targets are reached has been followed by the relevant Parties.

80. Although, in line with the reports submitted within the previous reporting cycle, a number of Parties provided a full and satisfactory account regarding the overall implementation of the Protocol in part four of the reporting template, including information on transboundary cooperation, the Committee regrets that many countries did not provide sufficient information under part four.

81. In general, the Committee notes that the reporting template requires Parties to carry out self-assessment of the progress achieved under each target area as compared with the baseline or the previous reporting cycle as well as, under part four of the template, the overall self-assessment of the progress achieved in the implementation of the Protocol, rather than only providing information on the action taken in the country in the area of water, sanitation and health. Very few Parties fulfilled this requirement. A relevant recommendation is included in the draft decision on general issues of compliance.

82. The Committee stresses that the information provided under different parts of the reporting template should be consistent throughout the report.

83. The draft decision on the general issues of compliance includes some elements addressing the above concerns, findings and recommendations of the Committee.

### **C. Analysis of targets and target dates set and assessment of progress**

84. As a considerable amount of information was provided under part three of the template, which varied in quality and completeness for different Parties and target areas, the Committee decided to provide more detailed suggestions and recommendations. The following analysis concerns mostly the compliance aspects and is complementary to a substantive overview contained in the regional report on the status of implementation of the Protocol (ECE/MP.WH/2016/3–EUPCR/1611921/2.1/2016/MOP-4/9).

85. Out of the summary reports analysed by the Committee, 14 countries (13 Parties and 1 non-Party) reported they had set targets and an additional 5 countries (4 Parties and 1 non-Party) reported they were in the process of setting their targets. Four Parties indicated that they have revised their targets within the third reporting cycle. In nine cases, while countries reported that they had set targets, it was not clear whether the targets had been set in accordance with article 6 of the Protocol.

86. The Committee, therefore, recommends that all Parties, especially those that have been Parties for a long time, set targets under the Protocol and communicate them to the joint secretariat for wider dissemination. The recommendation is included as an element in the draft decision on general issues of compliance.

### Quality of the drinking water supplied

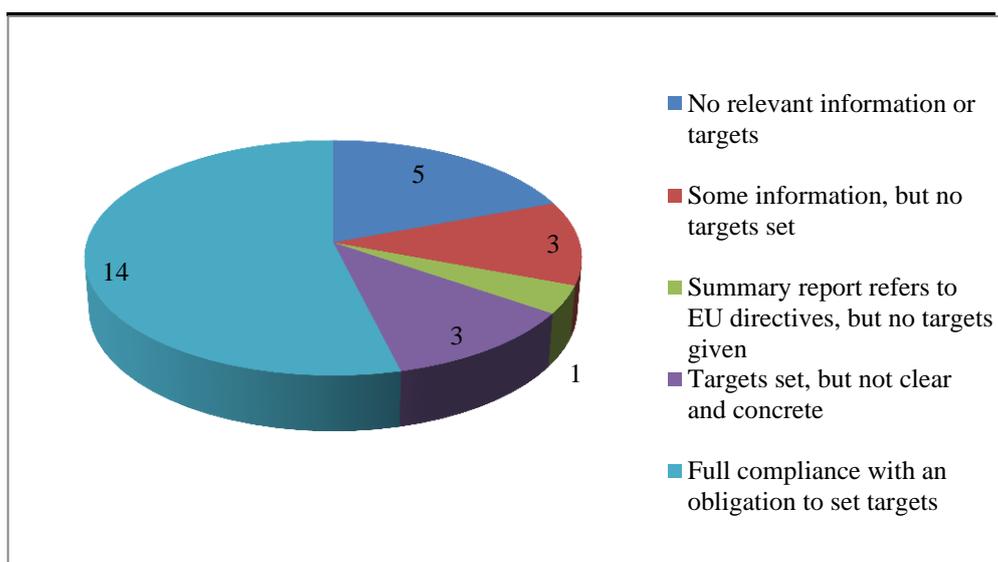
87. As a priority target area for most of the countries, the quality of drinking water supplied (art. 6, para. 2 (a)) was addressed in almost all the reports. However, some Parties failed to clearly describe their targets. Some reports describe the progress even without setting targets. In addition, some reports contain a lot of descriptive information that is not directly related to targets and fail to reflect the measures taken to implement the targets. In some instances, Parties referred either to implementation of European Union legislation or to their previous reports without providing information on the current situation and the progress achieved.

### Reduction of the scale of outbreaks

88. The situation of outbreaks and incidents of water-related disease (art. 6, para. 2 (b)) was addressed in the majority of reports and the majority of Parties achieved full compliance with the obligation to set targets. However, a few Parties failed to clearly identify targets. Some reports describe the progress even without setting targets. In some instances, Parties referred either to the implementation of European Union legislation or to their previous reports without providing information on the current situation and the progress achieved. As an illustration of the situation with regard to the scale of outbreaks and incidents of water-related disease, please see table 1 below.

Table 1  
**Overview of situation with regard to the scale of outbreaks and incidents of water-related disease**

<i>Description of situation</i>	<i>Number of countries</i>
No relevant information or targets	5
Some information, but no targets set	3
Summary report refers to European Union directives, but no targets given	1
Summary report refers to national law, but no targets given	—
Targets set but not clear and concrete	3
Full or partly compliance with obligation to set targets	14



### Access to drinking water

89. The target area on access to drinking water (art. 6, para. 2 (c)) was closely linked to the common indicator for this area (part two of the template). Most Parties provided general information on the situation with access to drinking water but failed to report on setting the targets as well as on measures taken to achieve the progress. The comparability of data was particularly challenging for the Committee. Overall, the Committee notes that thanks to the revision of the reporting template, which includes additional explanations and clarifications for questions related to the present target area, the quality of information provided by Parties has improved.

### Access to sanitation

90. Regarding access to sanitation (art. 6, para. 2 (d)), the European Union countries still mostly reported on their implementation of the Urban Waste Water Directive.<sup>10</sup> As the requirements of this Directive are based on the size of agglomerations above 2,000 inhabitants, the reports focused on these agglomerations and the situation in small settlements was reported in very different ways, sometimes being poorly described. Overall, some reports, however, included targets for small sanitation systems, including ecological and innovative ones, which could promote cost-effectiveness, energy efficiency and other positive results.

91. A few countries reported on action taken to achieve equitable access to sanitation. The Committee notes with satisfaction that the issue of equitable access is specifically reflected in the revised draft template for summary reports in accordance with article 7 for the fourth reporting cycle and beyond (ECE/MP.WH/WG.1/2016/4–EUPCR/1611921/2.1/2016/WGWH/08, annex II) to be considered by the Meeting of the Parties for adoption at its fourth session.

### Levels of performance of collective systems and other systems for water supply and sanitation

92. While more countries achieved full or partial compliance with the obligation to set targets as compared with the previous reporting cycle, the majority of countries still have not set clear and concrete targets for the levels of performance of collective systems and other systems for water supply and sanitation (art. 6, para. 2 (e)). As an illustration of the situation for sanitation systems, please see table 2 below.

Table 2  
**Overview of situation with regard to levels of performance of collective systems and other systems for sanitation**

<i>Description of situation</i>	<i>Number of countries</i>
No relevant information or targets	7
Some information, but no targets set	5
Summary report refers to European Union directives, but no targets given	4
Summary report refers to national law, but no targets given	4
Targets set, but not clear and concrete	1
Full and partly compliance with obligation to set targets	11

<sup>10</sup> Council Directive 91/271/EEC of 21 May 1991 concerning urban waste-water treatment.

93. The problems already described in the previous report remain. Some countries failed to recognize that the concerned target areas also cover the consideration of the infrastructure of pipes and pipe networks for water supply and sanitation and the performance of such infrastructure. Thus, many Parties ignored setting possible concrete targets, such as the percentage of water losses and leakages, minimum renewal rates of the network and maximum pipe failures per kilometre and year.

94. Since the level of performance of collective systems and other systems for water supply and sanitation is directly related to the quality of infrastructure and the capacity of the personnel managing such systems, the Committee recommends that Parties set targets addressing these issues.

95. The Committee finally recommends setting clear and concrete targets for the levels of performance of collective systems and other systems for water supply and sanitation, as well as to report on the progress achieved using figures.

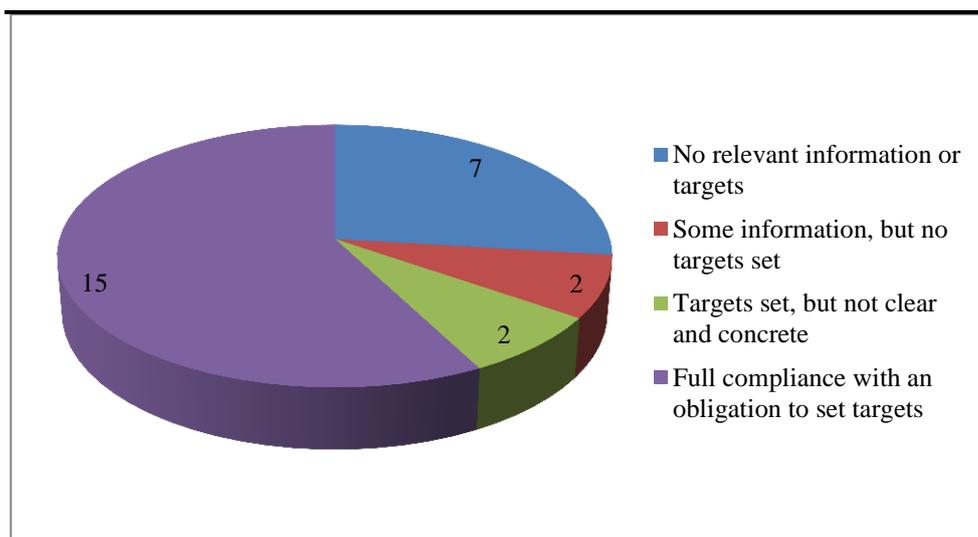
### **Application of recognized good practices to the management of water supply and sanitation**

96. Some Parties failed to establish targets and target dates on the application of recognized good practices to the management of water supply and sanitation (art. 6, para. 2 (f)). Overall, in this area, 15 countries complied fully with the requirement to set targets, 7 countries did not provide any information on the targets, 2 countries did not set targets but described the situation and 2 countries set targets but the information provided was not clear. As an illustration of the situation regarding the management of water supply, see table 3 below.

Table 3

### **Overview of situation with regard to the application of recognized good practices to the management of water supply**

<i>Description of situation</i>	<i>Number of countries</i>
No relevant information or targets	7
Some information, but no targets set	2
Targets set, but not clear and concrete	2
Full and partly compliance with obligation to set targets	15



### **Occurrence of discharges of untreated wastewater**

97. Regarding the reporting on the occurrence of discharges of untreated wastewater (art. 6, para. 2 (g) (i)), the Parties could be divided into two groups: those that had set strict targets and implemented high-quality measures; and those that mostly ignored setting targets in this area and failed to provide relevant information. In addition, under this area, most Parties addressed not only the occurrence of discharges of untreated wastewater but also reported on the occurrence of discharges of untreated storm water overflows and referred to the weaknesses in treatment.

### **Occurrence of discharges of untreated storm water overflows from wastewater collection systems to waters within the scope of the Protocol**

98. Fourteen countries could be considered to be in full or part compliance with the setting of targets for the occurrence of discharges of untreated storm water overflows from wastewater collection systems to waters within the scope of the Protocol (art. 6, para. 2 (g) (ii)), which demonstrates progress as compared with the previous reporting cycle, where only a few Parties had done so. However, many countries still misunderstood the scope of the article 6, paragraph 2 (g) (ii) (see para. 75 above).

### **Quality of discharges of wastewater from wastewater treatment installations to waters within the scope of the Protocol**

99. Regarding the quality of discharges of wastewater from wastewater treatment installations to waters within the scope of the Protocol (art. 6, para. 2 (h)), the Committee notes that the reports of some Parties focused only on the quantity of discharges of water while they should have also monitored the quality of discharges and focused on the results of such monitoring in their reporting. Accordingly, Parties should not simply provide the number and capacities of wastewater treatment facilities, which by itself cannot provide information on the actual quality of discharges.

### **Disposal or reuse of sewage sludge from collective systems of sanitation or other sanitation installations and quality of wastewater used for irrigation purposes**

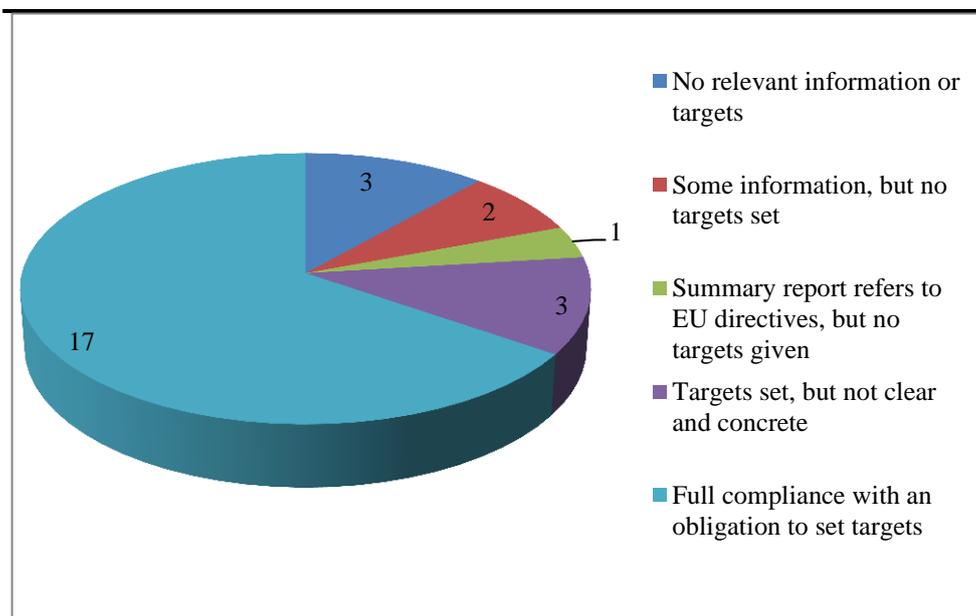
100. Disposal or reuse of sewage sludge from collective systems of sanitation or other sanitation installations (art. 6, para. 2 (i)) continued to be one of the most challenging target areas to report on. A number of Parties reported on practising reuse of sewage sludge, while some Parties still noted that such a practice is forbidden by national legislation. As in the previous reporting round, the same situation also existed in the target area on the quality of wastewater used for irrigation purposes, where even fewer countries set targets. The Committee notes that with growing water scarcity this area will be of increasing importance for target setting.

### **Quality of waters used as sources for drinking water**

101. Most of the Parties provided good quality information on the target area on the quality of waters used as sources for drinking water (art. 6, para. 2 (j)), which demonstrates progress with regard to the previous reporting cycle. Table 4 provides an overview of the level of compliance of Parties with setting targets in this area.

Table 4  
**Overview of the situation with regard to the quality of waters used as sources for drinking water**

<i>Description of situation</i>	<i>Number of countries</i>
No relevant information or targets	3
Some information, but no targets set	2
Summary report refers to European Union directives, but no targets given	1
Targets set but not clear and concrete	3
Full or partly compliance with obligation to set targets	17



#### **Quality of waters used for bathing**

102. Twenty-two Parties set targets regarding the quality of waters use for bathing and complied fully or partly with the reporting requirements.

#### **Quality of waters used for aquaculture or for the production or harvesting of shellfish**

103. In some cases Parties still did not pay proper attention to the aspect of the impact of aquaculture on the quality of waters that are used as sources for drinking water and for bathing and have not set respective targets in this area (see also para. 76 above), but instead concentrated primarily on the issue of water quality for fish and invertebrates used in aquaculture.

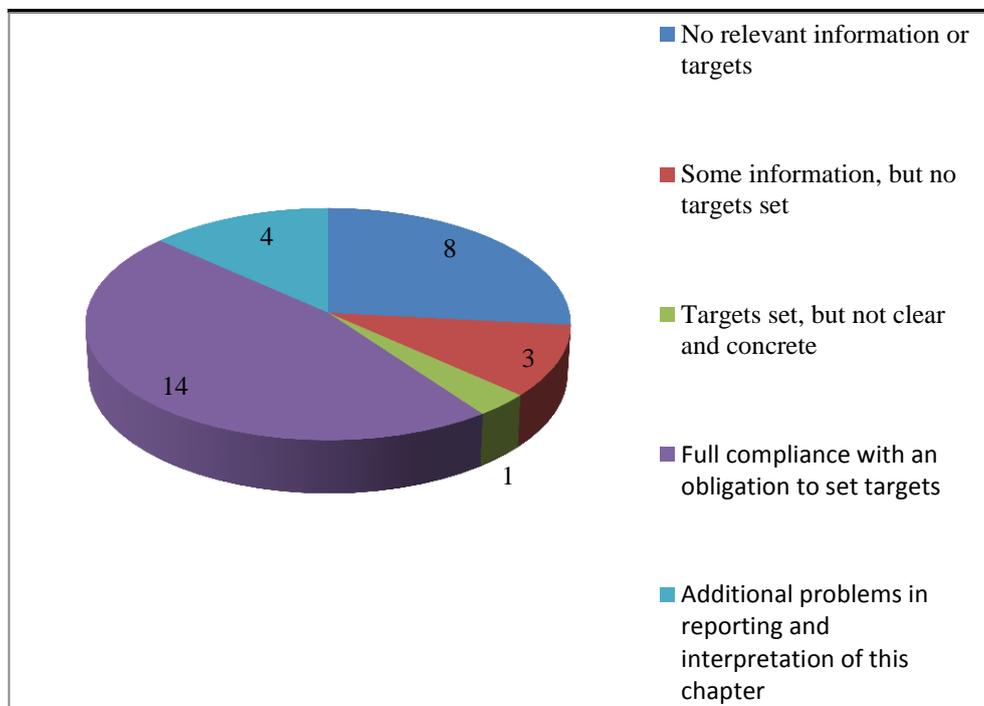
#### **Application of recognized good practice in the management of enclosed waters generally available for bathing**

104. The application of recognized good practice in the management of enclosed waters generally available for bathing (art. 6, para. 2 (k)) was addressed in the majority of reports and the majority of the Parties (14 countries) achieved full compliance with the obligation to set targets. However, eight Parties failed to clearly identify targets. Three Parties

described the progress even without setting targets. Four Parties seemed to face problems with the definition of enclosed waters or reported in another section of the report (see para. 77 above). Table 5 provides an overview of the level of compliance of Parties with setting targets in this area.

Table 5  
**Overview of situation with regard to management of enclosed waters generally available for bathing**

<i>Description of situation</i>	<i>Number of countries</i>
No relevant information or targets	8
Some information, but no targets set	3
Targets set but not clear and concrete	1
Full compliance with obligation to set targets	14
Additional problems in reporting and interpretation of this section of the template	4



#### **Identification and remediation of particularly contaminated sites**

105. The Committee notes that a number of Parties have set targets on the identification and remediation of particularly contaminated sites (art. 6, para. 2 (l)). While the quality of the information provided by Parties varied, some reports could be commended and used as possible best practices. Countries have also used different definitions and approaches in reporting under this area. The Committee thus proposes to clarify the definition of particularly contaminated sites in the guidance documents under the Protocol.

### **Effectiveness of systems for the management, development, protection and use of water resources**

106. Information on the effectiveness of systems for the management, development, protection and use of water resources reported both by European Union and non-European Union countries varied greatly in terms of its content and relation to the Protocol's implementation. The Committee notes that in European Union countries and countries that were following the European Union Water Framework Directive,<sup>11</sup> the target setting on the effectiveness of systems for the management, development, protection and use of water resources (art. 6, para. 2 (m)) is strongly related to that Directive.

107. For other States, the Committee reiterates the recommendation that Parties consider explaining the main essence of the strategy implemented in the field of water resources management, the key objectives of the strategy, the dates for the objectives to be reached and the difficulties encountered.

108. Elements reflecting the above recommendation have been included in the draft decision on general issues of compliance.

## **VI. Conclusions and recommendations**

109. Following its examination of decision III/1 on general issues of compliance, the Committee concludes that almost all its elements continue to be relevant, in spite of the progress acknowledged in section V above. As these elements are directly or indirectly addressed in the new draft decision on general issues of compliance, once the latter decision is adopted, decision III/1 could be considered as superseded by the new decision on issues of compliance.

110. The Committee analysed also its report to the third session of the Meeting of the Parties to identify concerns that might be relevant also in respect of the third reporting cycle. The Committee, however, concludes that almost all concerns have directly or indirectly been addressed by the present report. Thus, no specific follow-up actions are needed.

111. The conclusions and recommendations of the Committee are reflected in the present report and are, furthermore, to the extent that the Committee found this relevant, included as elements in the Committee's draft decision on general issues of compliance.

112. In order to establish a clear relationship between the report and the draft decision on general issues of compliance, including with a view to facilitating the consideration by the Meeting of the Parties of the draft decision, the Committee developed table 6 below, which shows the correspondence between the paragraphs in the draft decision and the related paragraphs of the present report.

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<sup>11</sup> Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy.

Table 6  
**Overview of the correspondence between relevant paragraphs of the draft decision on general issues of compliance and the Committee’s report to the Meeting of the Parties**

<i>Paragraphs of the draft decision</i>	<i>Paragraphs of the Committee’s report</i>
1	50
2 and 3	85, 86
4	63, 64
5 and 6	48–50
7	80, 81, 82, 85, 86
8 and 9	60
10	61
11	62
12	63, 64
13	81
14–17	64, 68
18–20	15–26

113. The Committee notes that some of its recommendations are of a rather technical nature and, in addition, are sufficiently clearly reflected in the existing guidance documents. Hence, the Committee does not consider it appropriate to include those recommendations in its draft decision on compliance. Reference is made, inter alia, to paragraphs 72, 75–77, 92–94, 97 and 103–105 of the present report.

114. A number of reports are recommended to be used as examples and good practices by other Parties such as the reports of Belarus, the Czech Republic, Finland, Norway and Romania, among others.

## Annex I

### Draft decision on general issues of compliance

*The Meeting of the Parties,*

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

*Taking note with appreciation* of the report of the Compliance Committee to the Meeting of the Parties<sup>12</sup> and endorses its findings,

1. *Requests* the Working Group on Water and Health, through the Task Force on Target Setting and Reporting, to consider the *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting*,<sup>1</sup> and to introduce appropriate changes therein in any future revision of the Guidelines with a view to addressing the issue raised by the Compliance Committee in paragraph 50 of the Committee's report;

#### Setting targets in accordance with article 6 of the Protocol

2. *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 on Water and Health;

3. *Urges* Parties, especially those that have been in a situation of non-compliance for a considerable time, 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* and the *Collection of Good Practices and Lessons Learned on Target Setting and Reporting*;<sup>13</sup>

4. *Recommends* that Parties establish a strong mechanism for coordination between water, health and other concerned authorities as a 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;

5. *Recognizes* that the European Union countries that are Parties to the Protocol are under a legal obligation to set targets under article 6 of the Protocol, irrespective of whether they comply with the relevant European Union legislation;

6. *Requests* the Working Group on Water and Health to provide further guidance in this respect, i.e., by undertaking an analysis on the target areas under the Protocol vis-à-vis the relevant European Union directives;

7. *Stresses* in relation to the targets that:

(a) Targets should be clear and measurable to allow Parties to monitor the progress achieved;

(b) Parties should explicitly indicate that targets have been set under the Protocol;

(c) Targets should be communicated to the joint secretariat for wider dissemination;

(d) When a target has been reached, Parties should consider whether to establish a new target or to maintain the present level and report accordingly in their summary reports;

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<sup>12</sup> See ECE/MP.WH/2016/5–EUPCR/1611921/2.1/2016/MOP-4/11.

<sup>13</sup> See ECE/MP.WH/14.

### **Reporting under the Protocol in accordance with article 7**

8. *Notes* with appreciation that all Parties to the Protocol submitted their national summary reports within the third reporting cycle;

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

10. *Emphasizes*, in line with paragraph 7 of decision II/1, the importance of the timeliness of reporting, and notes that the failure to submit summary reports within the specified deadlines, i.e., 210 days before the next session of the Meeting of the Parties, does not fully correspond with the requirements of the Protocol;

11. *Reiterates* the importance of using the revised guidelines and template for summary reports in accordance with article 7 of the Protocol, including with respect to the length of reports, providing clear and accurate answers to all the questions and, when omitting information, specifying the reasons for the omission, and using the suggested baseline year to the extent possible;

12. *Requests* Parties to involve all relevant stakeholders in the reporting process in accordance with the *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting*<sup>14</sup> adopted by the Meeting of the Parties;

13. *Urges* Parties to carry out a self-assessment of their progress in achieving targets, as well as in the overall implementation of the Protocol, and to reflect information on the measures implemented, the challenges encountered in the process and the progress achieved in their summary reports;

### **Public participation**

14. *Recognizes* the importance of access to information and public participation for the effective implementation of the Protocol, in particular in the processes of setting targets and preparing summary reports;

15. *Urges* Parties to comply with the provisions related to public participation in the process of setting targets and target dates;

16. *Encourages* Parties to involve the public also in the preparation of the summary reports;

17. *Recommends* that Parties follow the *Guide to Public Participation under the Protocol on Water and Health*<sup>15</sup> and the *Guidelines on the Setting of Targets, Evaluation of Progress and Reporting* more precisely in this respect;

### **Consultation process**

18. *Notes* with appreciation the consultations held by the Committee with two Parties as well as the participation of another Party in the Consultation Process as an observer;

19. *Endorses* the terms of reference governing the Consultation Process, revised by the Compliance Committee to the effect that the Committee may, based on its assessment of the results of the summary reports submitted by Parties to the Protocol or other information available to the Committee, invite a Party or a small group of Parties having identical or almost identical implementation problems to engage in a consultation;

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<sup>14</sup> United Nations publication, Sales No. E.10.II.E.12. Available from <http://www.unece.org/env/water/publications/pub.html>.

<sup>15</sup> ECE/MP.WH/9.

20. *Encourages* Parties facing challenges in implementing the Protocol to engage in discussions with the Committee on the opportunities offered by the Consultation Process.

## Annex II

### **Draft decision on the competence of the Committee to address cases of non-compliance by specific Parties**

*The Meeting of the Parties,*

*Considering* its decision I/2 on review of compliance, in particular paragraph 11 (c), read in conjunction with paragraph 12, of the annex to decision I/2,

*Recognizing* the competence of the Compliance Committee to monitor, assess and facilitate the implementation of and compliance with the reporting requirements under article 7, paragraph 5, of the Protocol on Water and Health,

*Also recognizing* the competence of the Committee to examine compliance issues and make recommendations or take measures if and as appropriate,

1. *Endorses* the Committee decision that it has the competence not only to examine general issues of compliance but also to take appropriate action in case of possible non-compliance by a specific Party with the obligation to report under the Protocol;

2. *Also endorses* the finding of the Committee to the effect that, in accordance with the paragraph 12 of the annex to the decision I/2 on the review of compliance, the Committee has the competence to examine other clear and important compliance issues, i.e., cases involving grave failures or imperfections relating to the contents of summary reports as regards their consistency, transparency, accuracy and completeness;

3. *Emphasizes* that the above mechanism is not to be seen as competing with the ordinary mechanisms established in paragraph 11 (a) of the annex to the decision I/2 on the review of compliance, and is to be used only in cases related to individual Parties that involve important compliance issues where there is a clear indication of non-compliance and when there is no expectation that the ordinary mechanism would be used;

4. *Also emphasizes* that the competence of the Committee to examine compliance issues under paragraph 12 of the annex to the decision I/2 does not extend to the examination of the target areas selected and the nature of targets set by Parties;

5. *Endorses* the decision of the Committee to apply, in the event of the initiation by the Committee of a specific case of possible non-compliance by a Party, *mutatis mutandis*, the relevant rules of the Compliance Procedure contained in the annex to decision I/2, specifically the deadline for a reply of three months indicated in paragraph 14 and the principles set out in paragraphs 20–22 and 30–32, taking into account that any procedure should be governed by the spirit of the compliance mechanism under the Protocol.

## Annex III

### **Draft decision on compliance by Portugal with its obligation to report under article 7 of the Protocol**

*The Meeting of the Parties,*

*Acting* under paragraph 11 (c), read in conjunction with paragraph 12, of the annex to its decision I/2 on the review of compliance,

*Taking note* of the report of the Compliance Committee,<sup>16</sup> as well as the Committee's findings and recommendations with regard to the case initiated by the Committee concerning compliance by Portugal<sup>17</sup> and the communication on the same legal issue,

*Noting with regret* that no response to either the case initiated by the Committee or the communication was provided by the Party concerned pursuant to the requirements set out in the annex to decision I/2,

1. *Endorses* the finding of the Compliance Committee that the Party concerned has failed to comply with article 7, paragraph 5, of the Protocol on Water and Health since it has not submitted its summary report within the second reporting exercise;

2. *Takes note* of the caution issued by the Committee to the Party concerned, pursuant to paragraph 34 (d) of the annex to decision I/2, including the warning to the effect that the Committee recommends to the Meeting of the Parties to issue a declaration of non-compliance if the Party concerned has not submitted its summary report within the second reporting exercise prior to the fourth session of the Meeting of the Parties;

#### **Option 1**

[3. *Decides* to issue a declaration of non-compliance pursuant to paragraph (d) of the annex to decision I/2;

4. *Requests* the Party concerned to submit its summary report within the second reporting exercise by no later than 1 February 2017;

5. *Requests* the Compliance Committee to take appropriate action within the framework of its mandate if the Party concerned has not complied with the above request and to report accordingly to the Meeting of the Parties at its fifth session.]

#### **Option 2**

[3. *Notes with satisfaction* that the Party concerned submitted its summary report within the second reporting exercise;

4. *Decides* that no further action is needed.]

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<sup>16</sup> See ECE/MP.WH/2016/5–EUPCR/1611921/2.1/2016/MOP-4/11.

<sup>17</sup> See the annex to the report of the Compliance Committee on its twelfth meeting (ECE/MP.WH/C.1/2015/4–EUDCE/1408105/1.10/2015/CC2/06).