



Brussels, 26 February 2015

Aarhus Convention

Draft Protocol for processing communications pending determination of preliminary admissibility and Recommended format for communications by the Compliance Committee

- Contribution by the EU and its Member States -

The EU and its Member States welcome the development of the draft Protocol for processing communications pending determination of preliminary admissibility (hereafter – the Protocol) and the draft Recommended format of communications (hereinafter – Recommendation) by the Compliance Committee.

The draft documents constitute a constructive text. However we wish to make the following substantive comments to the Protocol:

1. In order to distinguish various successive stages of procedure for processing communications pending determination of preliminary admissibility we propose inserting headings.
2. Paragraph 6: we would like to clarify the secretariat's obligation to inform promptly the Party concerned about an upcoming meeting for consideration of a communication concerning its compliance. To this end we suggest inserting a time frame of "no later than three weeks prior to the Compliance Committee meeting". The duty to meet the time frame will provide sufficient time for the Party concerned to identify and involve relevant national institutions and to consider the communication.
3. Paragraph 7: we would like to apply a non-discriminatory approach towards communicants' interest to be informed promptly whether their communications will be considered for preliminary admissibility at the upcoming meeting of the Compliance Committee. Therefore it is suggested to insert identical provision of "no later than three weeks prior to the meeting" that is binding on secretariat when informing communicants of an upcoming meeting of the Compliance Committee.
4. Paragraphs 6, 7 and 9: we would like to stress that the decision of a communicant or a Party concerned to participate in the meeting in person or by audio-conference or to abstain from participation shall not cause any harmful effects of substantial or procedural nature in further proceedings before the Compliance Committee.

5. Paragraph 9: we would like to insert provisions on the communicant's and the Party's concerned representation. The Party concerned or communicant should be granted the right to express their brief initial view regarding the admissibility of the communication during meeting of the Compliance Committee. The right to make successive submission on the admissibility of a communication at any stage of procedure prior to the Compliance Committees final decision should be granted jointly for a communicator and the Party concerned.

We would like to emphasize the necessity of a provision stating that the absence of a statement by the Party at the meeting of the Compliance Committee to discuss preliminary admissibility does not preclude submissions on admissibility being made later.

6. Paragraph 15: for the purposes of transparency we would like to insert a new provision stating that the communicant or the Party concerned has the right to receive from the secretariat in two week's time the outcome of the Compliance Committee's discussion on preliminary admissibility in case of absence of representation in person or by audio-conference.

Moreover, we wish to propose certain amendments to the Recommendation.

We propose to include explanatory wording for Sections V, VI and VII regarding the nature of alleged non-compliance and use of domestic remedies.
