

**Draft protocol for processing communications pending determination of preliminary admissibility**

**- Proposals for amendments by the EU and its Member States -**

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**Preparation Phase**

1. Following receipt of a new communication, the secretariat checks it for completeness and determines whether it is sufficiently in the form of a communication to be brought to the attention of the Chair and Vice-Chair of the Compliance Committee. If not, the secretariat informs the communicant accordingly and invites the communicant to re-submit its communication in the recommended format [insert link once revised format agreed].
2. Approximately one month before each Committee meeting, the secretariat forwards all communications received since the last meeting that are sufficiently in the form of a communication to the Chair and Vice-Chair of the Committee for their review.
3. The Chair and the Vice-Chair, with the assistance of the secretariat, decide whether the forwarded communications are sufficiently well-prepared to be considered by the Committee at its next meeting for a preliminary determination on admissibility. If not, the secretariat informs the communicant accordingly and invites the communicant to re-submit the communication in the recommended format for communications.
4. The decision by the Chair and Vice-chair that a new communication should be forwarded to the Committee for consideration of preliminary admissibility does not in any way prejudice the forthcoming decision by the Committee as to whether the communication in question is preliminary<sup>ly</sup> admissible. Moreover, this decision does not prevent the Committee from deciding to request further clarification by the communicants before deciding on the question on preliminary admissibility.
5. The secretariat informs the Committee by email of the new communications once decided by the Chair and Vice-chair that they are to be considered for preliminary admissibility at the upcoming meeting.
6. The secretariat promptly thereafter, and no later than three weeks prior to the Compliance Committee meeting, informs the Party concerned that a communication concerning its compliance will be considered as to its preliminary admissibility at the next meeting and refers to the information to be posted at the Compliance Committee website. The Party concerned is informed that the preliminary admissibility will be discussed in open session at the upcoming meeting [and a representative of the Party is able to participate either by audio-conference or in person].

7. The secretariat also promptly informs the communicants whose communications will be considered as to their preliminary admissibility at the upcoming meeting of that fact, no later than three weeks prior to the meeting, and refers to the information to be posted at the Compliance committee website. The communicant is informed that the preliminary admissibility will be discussed in open session at the upcoming meeting [and the communicant is able to participate either by audio-conference or in person].
8. The communications which are forwarded to the Committee for its consideration as to their preliminary admissibility are then posted, together with any attachments, on the designated Compliance Committee website at least three weeks prior to the upcoming meeting.

#### **Procedure before the Compliance Committee**

9. At the Committee meeting, after inviting the curator of the communication to provide a brief introduction to the communication, the Chair gives the floor to any representatives of the Party concerned or communicant present either in person or via audio-conference that wishes to briefly state its initial view regarding the admissibility of the communication. This is without prejudice to the Party's right to make further submissions on the admissibility of the communication at any point prior to the Committee's final determination on admissibility at a subsequent meeting. The absence of a statement by the Party at the meeting to discuss preliminary admissibility does not preclude submissions on admissibility being made later.

~~9-10.~~ Observers are also given an opportunity to state their views on the admissibility of the communication. Any statements should be concise and strictly limited to the issue of admissibility, while leaving aside the substance of the communication. After hearing any statements made, the Committee discusses in open session and decides whether the communication is preliminary~~ly~~ly admissible or inadmissible, or whether the Committee wishes the communicant to clarify, further substantiate or re-structure its communication before it decides on preliminary admissibility.

~~10-11.~~ The Committee's determination of preliminary admissibility, its finding that the communication is inadmissible or alternatively, its decision to defer its determination to request further clarification or information are recorded in the report of the upcoming Committee meeting.

#### **Outcome before the Compliance Committee**

~~11-12.~~ If the communication is found preliminary~~ly~~ly admissible, the communication is given a case number and this is recorded in the meeting report. Following the meeting, the communication is formally forwarded by the secretariat to the Party concerned who will thereafter have five months to provide its response.

~~12~~.13. If the communication is found inadmissible, the case is considered to be closed. It is allocated a case number in the meeting report and the communication and datasheet are posted on the Committee website. However, communications that are found inadmissible are not forwarded to the Party concerned and no further action is taken.

14. If the Committee decides to defer its determination of preliminary admissibility in order to request the communicant to provide additional information, clarification or to re-structure its communication, the secretariat informs the communicant accordingly in writing after the meeting, copying the Party concerned. In keeping with the Committee's usual practice, all correspondence between the secretariat and the communicant and Party concerned is posted on the relevant webpage.

~~13~~.15. If either the Party concerned or the communicant is not able to be present by audio-conference or in person, they will be informed of the outcome of the Committee's discussion on preliminary admissibility by the secretariat within [two] weeks of the meeting.