



**Aarhus Convention**  
**Sixty-Second meeting of the Compliance Committee**  
**(Geneva, 5 – 9 November 2018)**

**Statement by the EU and its Member States on the proposal by the Chair of the Aarhus Convention Compliance Committee for a modus operandi on ensuring a fair and effective compliance mechanism with an increasing caseload and on the fifth draft revised Guide to the Aarhus Convention Compliance Committee**

**Agenda item 3: Matters arising from previous meetings**

The EU and its Member States express understanding and suggest their willingness to work in close cooperation with the Committee for further increasing the effectiveness and timeliness of the compliance mechanism, while keeping its consultative, interactive, fair and non- confrontational nature.

The EU and its Member States would like to thank the Chair of the Aarhus Convention Compliance Committee (hereinafter – ‘the Committee’) for his revised proposal for a procedure to examine the cases more effectively while ensuring due process and timely and fair procedures.

In this context, we note the text of decision V/9 which highlights the ‘need for the Committee to ensure transparency and due process for both communicants and the Parties concerned in respect of communications received from members of the public’ and reiterate once again our proposals for audio conferencing, webinars and video conferencing to be used also for the hearing instead of attendance in person, when the parties prefer such approach.

During the 61<sup>st</sup> meeting of the Committee, the EU and its MS have already stated that hearings play a vital role within the Committee’s proceedings as an important tool for exercising the participatory right and for safeguarding the consultative nature of the compliance mechanism. Against this background, the EU and its Member States suggested that the Committee should consult with the parties (the Communicant or the Party concerned) when the Committee considers that a hearing is not needed: if one of the parties or both consider however that a hearing is necessary, the hearing should be held.

With his revised proposal the Chair of the Committee suggests a procedure that should become a more regular part of the Committee’s caseload management by applying two criteria for consideration by the Committee whether a hearing is needed. If the criteria are met, however, parties would have to provide a brief but further explanation on the necessity of a hearing and it will be for the Committee to finally decide to hold a hearing in a given case.



The EU and its MS appreciate that the Chair has revised his proposal responding to the concerns not only raised by the EU and its MS but also by environmental NGOs during the open session at the last Committee meeting. We consider the careful approach proposed by the Chair as an improvement in the handling of a fair and effective compliance mechanism. In addition, the EU and its Member States propose that the Committee, when arrangements for a hearing in a specific case are to be made, puts forward questions or requests for contributions to both parties well in advance of the hearing. With this, we believe that the organisation of the hearings could be further streamlined with a view to make the best use of discussions on a specific case and the information needed for consideration by the Committee.

However, we confirm that any decision not to hold a hearing should only be taken with the prior consent by the Party concerned and the Communicant, with respect for the general principles of environmental democracy and the rule of law and in view of the important practical relevance of the hearings.

With regard to manifestly inadmissible new communications, the EU and its Member States take well note of the explanations given by the Chair of the Committee/the Secretariat with a view to manage them effectively. We see this as an important issue to discuss and to consider further with regard to paragraph 20 (d) of decision I/7 on matters outside the scope of the Convention.

The EU and its Member States would like to thank the Committee for its revised fifth draft version of the Guide to the Aarhus Convention Compliance Committee. We are aiming to provide written comments on the latest revised version of the guide given the fact that this draft version has been made available only recently.

We welcome and appreciate the Committee's continued engagement on the use of domestic remedies and audio and video conferencing in view of the workload of both the Secretariat and the Committee. In this respect, we encourage the UNECE to provide the necessary equipment which would allow further use of audio and video conferencing by the Committee.

The EU and its MS States would like to recall its contribution on the Compliance mechanism delivered during the 22nd Working Group of Parties and its suggestions made at the Sixth session of the MoP.

With regard to the fifth draft of the revised Guide we reiterate our suggestions on the procedural aspects and timelines relating to the functioning of the Compliance Mechanism, namely:



- The deadline for distribution of draft decisions on compliance before MoP to be extended to at least 3 months.
- Only cases concluded at least 6 months before a MoP to be included in the Committee's report.

Furthermore, taking into account the time needed for implementing internal formal consultation procedures with regard to the compliance, we propose some of the deadlines for Parties to react in the different stages of the compliance procedure to be determined as follows:

- at least 6 weeks for informing the Party concerned that a communication concerning its compliance will be considered as to its preliminary admissibility at the next meeting of the Committee;
- at least 3 months for written comments by the Party to new submissions by the Communicant in the framework of a pending compliance case, to additional questions by the Committee or in reaction to draft findings of the Committee.

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