

**Presentation as member of Panel 1 at the High-level Segment of the Aarhus Convention MOP 3, Riga 13 June 2008**

1. Pacta sunt servanda is a central concept of international law. It means that treaties like other agreements must be complied with. Often, however, this is not the case. Compliance mechanisms were invented some 20 years ago in order to overcome such problems – to further compliance.
2. So, the establishment of the Aarhus Convention compliance mechanism as such is not a major achievement. The Convention is sharing this feature with many other MEAs. It is rather the fact that the mechanism is functioning, which is an achievement. And, why is it functioning? Simply because it may be triggered by civil society! Most other CMs may only be triggered by parties, but parties do not want to bother each other with complaints. A complaint may be considered as an unfriendly act and therefore parties normally only complain if their major interests are at stake.
3. I have been the chair – and I still am – of another MEA compliance mechanism since this mechanism became operational some 4 years ago. It is not unlikely that a large proportion of its more than 140 parties are not complying with their obligations and around 50 % even not with their reporting obligations. But the Compliance Committee cannot do anything, and some of the parties are even questioning whether the Committee is entitled to state in general terms that there is a situation of non-compliance.
4. Thus, no complaints are not a proof that an agreement is being complied with. Rather the opposite. Hence, I may confirm what was stated by Mr. Belka, Executive Secretary of UN/ECE, this morning. And this leads me to my another point: A compliance mechanism only functions well if it is respected by those being entitled to trigger the mechanism i.e. civil society, by individual parties and the governing body, the MOP. This is the case regarding the Aarhus Convention compliance mechanism. Parties comply with procedures and mostly, also with decisions. Individual parties targeted by complaints do their outmost to defend themselves. However, the essence of the compliance mechanism is that parties do not loose. At the end of the day they gain. And so does civil society.
5. The achievement, but of course not the only one, was and is the establishment of a compliance mechanism that functions and functions well. The lesson learned is that a compliance mechanism like the Aarhus Convention compliance mechanism is workable – so rather a lesson to be learned by other MEAs.
6. The challenge is, I believe, to secure and safeguard what has been achieved. The mechanism should not be seen as grated or guaranteed. It has to be taken care of and cherished both by parties and civil society.