

**Economic Commission for Europe**  
 Meeting of the Parties to the Convention on  
 Access to Information, Public Participation  
 in Decision-making and Access to Justice  
 in Environmental Matters

**Working Group of the Parties**

**Twentieth meeting**

Geneva, 15–17 June 2016

Item 4 (a) of the provisional agenda

**Note by the Chair of the Compliance Committee on promoting effective  
 compliance with the Convention<sup>1</sup>**

This note was prepared by the Chair of the Compliance Committee to facilitate preparation of the draft elements of the future work programme by the Bureau at its 37<sup>th</sup> meeting (Geneva, 25 February 2016). The note is intended to assist the Bureau and the Working Group of the Parties in their deliberations on future work on compliance matters.

**Introduction**

1. In this note, I focus on the two main components of the Committee's work: (i) review of compliance; and (ii) follow-up on decisions by the Meeting of the Parties (MOP) on compliance. My note describes a number of initiatives the Committee has introduced with respect to these two main aspects of its work during the current intersessional period in order to assist it to manage its workload more effectively, and which I recommend should be continued into the next intersessional period. In the note, I also propose further possible initiatives that might be taken to enhance the effectiveness of its work in these respects.

**I. Measures to promote the effective review of compliance**

2. The main task of the Compliance Committee, as set out by Decision I/7, is to review compliance by the Parties with their obligations under the Aarhus Convention. To date, the Committee has received more than 135 communications from members of the public, as well as two submissions by a Party concerning another Party's compliance,<sup>2</sup> one request from the Meeting of the Parties<sup>3</sup> and one request from a Party for advice.<sup>4</sup> The number of communications received in each intersessional period has been consistently increasing since the third session of the Meeting of the Parties: 48 of the 135 communications were received between the fourth and fifth sessions and more than 27 communications have been received since the fifth session to date.<sup>5</sup> The increasing number of communications to the Compliance Committee is an acknowledgement of the important role the Committee plays to support the implementation of the Convention at the national level.

<sup>1</sup> This document was not formally edited.

<sup>2</sup> Submission ACCC/S/ 2004/1 concerning Ukraine by Romania and submission ACCC/S/2014/2 concerning Belarus, submitted by Lithuania.

<sup>3</sup> Request ACCC/M/2014/1 concerning the former Yugoslav Republic of Macedonia.

<sup>4</sup> Advisory request ACCC/A/2014/1 from Belarus.

<sup>5</sup> Between the first and second session of the Meeting of the Parties, 13 communications were received; between the second and third sessions, 12 communications were received; between the third and fourth sessions, 35 communications were received; between the fourth and fifth session, 48 communications were received.

3. In the light of its growing caseload, since the fifth session of the Meeting of the Parties, the Committee has introduced a number of measures in order to efficiently manage its large workload, while at the same time enhancing the quality of its work. These include:

**(a) Virtual meetings**

4. Since its forty-ninth meeting (Geneva, 29 June – 3 July 2015), the Committee has held one half-day virtual meetings in closed session between each ordinary Committee meeting in order to expedite the processing of its caseload, in particular the preparation of its draft findings. I consider that these virtual meetings, which to date have been organized through web-conferencing, have been a useful mechanism through which the Committee can make additional progress on draft findings that are already at an advanced stage and have enabled the Committee to handle its increased caseload without increasing the length of its meetings. For the next intersessional period, *I recommend* that the Committee continues this practice and to consider increasing either the length or frequency of its virtual meetings if needed to further expedite the management of its caseload.

**(b) A required format for new communications**

5. In February 2015, the Committee agreed a required format for communications. Since that time, communications have not been accepted by the Committee unless their substance materially conforms to the content of the required format. The required format includes a maximum word length for communications as well as a maximum number of annexes. The required format for communications, together with the length and annex limit, are intended to make the task of preparing a response to a communication less onerous and time-consuming for the Party concerned as well as to facilitate the consideration of the communication by the Committee. I consider that the required format for communications has resulted in an improvement in the quality of communications received by the Committee and *I recommend* that the required communication format, length limit and annex limit be continued during the next intersessional period.

**(c) Screening of new communications by Chair and Vice Chair**

6. In accordance with the new procedure for communications agreed at the Committee's fiftieth meeting (15-18 December 2015), the Chair and the Vice-Chair, with the assistance of the secretariat, review all communications received at least five weeks before the upcoming Committee meeting and decide whether those communications received are sufficiently well-prepared to be considered by the Committee at its next meeting for a preliminary determination on admissibility. With respect to communications that the Chair and Vice-Chair decide are not sufficiently well-prepared, the secretariat informs the communicants of this fact and invites the communicants to re-submit their communications in the required format for communications. I consider that the screening procedure, coupled with the required format for communications, has increased the quality of communications put before the Committee and *I recommend* that the practice of screening new communications by the Chair and Vice Chair be continued during the next intersessional period.

---

**(d) Open sessions on preliminary admissibility and communications posted on the website prior to determination of preliminary admissibility**

7. Following the Committee's dialogue with Parties and observers at the fifth session of the Meeting of the Parties, in this intersessional period the Committee has introduced a practice of posting the communications to be considered for preliminary admissibility at each meeting on its website three weeks before the meeting and inviting the Parties concerned and communicants to take part in the open session on preliminary admissibility at that meeting. The Parties concerned and communicants may participate in the open session either in person or through audio conference. The Committee then makes its determination on preliminary admissibility in closed session in the usual way. I consider that these open sessions have enhanced the information available to the Committee regarding the admissibility of communications, especially with respect to domestic remedies, and *I recommend* that the Committee continues this practice in the next intersessional period.

**(e) Audio-conferencing and web-conferencing**

8. As mentioned above, through the convening of virtual meetings between its ordinary sessions in Geneva, the Committee has expanded its use of web-conferencing with respect to its preparation of draft findings.

9. In addition, with the dual aims of making its processes more participatory and reducing costs, the Committee has been increasingly using audio-conferencing to facilitate the participation of Parties, communicants and observers in its meetings. In this regard, the Committee provides Parties and observers the opportunity to participate in the open sessions at each meeting reviewing developments with respect to communications, submissions and requests, as well as the sessions on preliminary admissibility of communications and the follow-up to MOP decisions on compliance. The Committee has indicated, however, that audio-, web- or video-conferencing are not appropriate for the hearing of a communication or submission and thus representatives of the Party concerned and communicant are expected to attend the hearing of each communication or submission in person. While the Committee may exceptionally consider that a hearing in a particular case is not required (e.g. if the Committee considers that the facts and legal situation are sufficiently clear for preparing findings without a hearing), unless the Committee expressly so decides, both the Party concerned and communicant are expected to attend the hearing in person. With the notable exception of hearings, for which participation by the Party concerned and communicant in person is expected, the use of audio-conferencing has enhanced the participation of Parties and communicants in the Committee's work. *I therefore recommend* that the Committee continues to offer Parties and communicants the opportunity to participate upon request by audio-conferencing in open sessions of Committee meetings.

**(f) Implementing Committee recommendations without delay**

10. The endorsement of the Committee findings by the Meeting of the Parties gives weight to the Committee's work, and adds normative status to its findings. At the same time, a number of Parties concerned significantly delay the implementation of the Committee's recommendations even after the endorsement of the findings by the Meeting of the Parties.

11. Given the long intersessional periods it is important that the Committee can address the Party concerned directly, while awaiting the MOP decisions with endorsement of the Committee findings. With very few exceptions, Parties concerned have agreed to date with the Committee making recommendations to them directly in most cases. Still, many Parties concerned start following up in earnest only after the MOP decision. This causes unsatisfactory and unnecessary delays in the achievement of compliance. In order to reduce such delays, *I propose* that the Meeting of the Parties, through the general decision on compliance, sends a strong message to Parties concerned requesting them to: (a) agree with the Committee making recommendations to them directly and (b) implement recommendations without any delay.

**(g) Preparation of a revised Guide to the Compliance Committee**

12. The Committee is currently preparing a new edition of the Guide to the Compliance Committee in order to reflect developments in the Committee's working methods since the first edition was published in 2009. The draft revised Guide will be discussed in open session at the Committee's 52<sup>nd</sup> and 53<sup>rd</sup> meetings. The latest draft will be posted on the meeting webpage prior to each meeting and it will also be possible to send written comments. *I propose* that henceforth the Guide be considered a living document, and to be updated once each intersessional period in order to take into account relevant developments in that period.

**(h) Database of Compliance Committee findings**

13. In order to assist Parties and members of the public to more easily search the Committee's findings, eg with respect to particular provisions of the Convention or issues, the secretariat has prepared a compilation, in pdf format, of all the Committee's findings adopted to date. This compilation is posted on the Committee's website and is updated on an ongoing basis as the edited versions of new findings are issued.<sup>6</sup>

14. Given the ever-growing number of communications received and findings adopted, I consider that it would be timely for the Committee's findings to be made available in a more user-friendly searchable database. To this end, *I propose* that the secretariat initiates the organization of the Committee's findings in a database, including an advanced word search. Synergies for this exercise might be explored with partner organizations (such as Ecolex with UNEP/FAO/IUCN).<sup>7</sup>

**(i) Informal network of the Chairs of the implementation and compliance bodies of the UNECE multilateral environmental agreements**

15. In 2013, I initiated an informal network of the Chairs of the implementation and compliance bodies of the UNECE multilateral environmental agreements (MEA). The Chairs, supported by members of the respective secretariats, have since meet three times on an annual basis to exchange information and of lessons learned and ultimately explore ways for improved implementation and effectiveness of the implementation/compliance mechanisms in the region. The meetings include both closed and open sessions in order to enable the Chairs to exchange openly with one another and also to enable valuable exchange with observers. The Chairs of all the UNECE MEA implementation and compliance bodies currently actively participate in the network. The fourth meeting of the network is scheduled to be held in June 2016, back to back with the Compliance Committee's 53<sup>rd</sup> meeting. I consider that the informal network has provided a valuable forum for exchange and sharing of good practices and *I recommend* that the informal network be continued in the next intersessional period.

**II. Measures to promote effective follow up of decisions of the Meeting of the Parties on compliance**

16. In order to provide greater assistance to the Parties concerned in their implementation of MOP decisions on compliance, whilst at the same time efficiently managing the increased number of decisions without increasing costs, the Committee has introduced a more rigorous and participatory procedure for reviewing the implementation of decisions on compliance in this intersessional period. This includes:

- (a) Dedicating a significant part of one meeting per year to review the implementation of the decisions on compliance. At that meeting, the Committee holds open sessions regarding each MOP decision

---

<sup>6</sup> See [http://www.unece.org/fileadmin/DAM/env/pp/compliance/Compilation\\_of\\_CC\\_findings.pdf](http://www.unece.org/fileadmin/DAM/env/pp/compliance/Compilation_of_CC_findings.pdf)

<sup>7</sup> Ecolex is the biggest worldwide database of environmental law sources.

on compliance, in which Parties concerned, communicants and registered observers are entitled to participate either in person or by audio-conference.

- (b) Inviting, depending on identified need, Parties concerned, communicants and registered observers to participate either in person or by audio conference at other meetings during the year if the Committee considers that such a dialogue would assist the implementation of a particular decision on compliance.
- (c) Preparing regular progress reviews to assist Parties concerned in a timely manner with their implementation of MOP decisions on compliance throughout the intersessional period. This is a change from past practice in which the Committee would prepare a single report on the implementation of each MOP decision on compliance only at the end of the intersessional period. In this intersessional period, to ensure that Parties receive timely and targeted guidance throughout the period, the Committee prepares a progress review of each progress report submitted by the Party concerned. In preparing its progress reviews, the Committee takes into account comments received from communicants and observers on the Party concerned's progress report. The Committee's progress reviews examine the extent to which the Party concerned has to date taken the necessary measures to meet the requirements of the MOP decision, and provides guidance on what further needs to be done to fulfil the MOP decision.

17. I consider that the introduction of the above initiatives has significantly enhanced the effectiveness and transparency of the Committee's follow-up on MOP decisions on compliance and *I recommend* that each of the above practices be continued during the next intersessional period.

---