UNITED NATIONS ECONOMIC COMMISSION FOR EUROPE

|  |
| --- |
| This is the first draft of the revised Guide to the Aarhus Convention Compliance Committee. This draft has been prepared for discussion in open session at the 47th meeting of the Compliance Committee (Geneva, 16-19 December 2014).  While the current first draft of the revised Guide focuses on updating the contents of the original Guide to reflect developments in the Committee’s working methods, it is proposed that subsequent drafts will also include some structural changes with a view to making the Guide as user-friendly as possible. Proposals for such changes will be invited and discussed at the 47th meeting of the Compliance Committee.  Written comments on the draft Guide are also welcome and should be sent, in track changes form, to [aarhus.compliance@unece.org](mailto:aarhus.compliance@unece.org) before **1 February 2015**. All comments received by that deadline will be taken into account in the preparation of the second draft of the revised Guide which will be discussed in open session at the 48th meeting of the Compliance Committee (Geneva, 25-29 March 2014). |

**Guide to the Aarhus Convention Compliance Committee**

UNITED NATIONS

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

This publication may be reproduced in whole or in parts and in any form for education or non-profit purposes, provided acknowledgement of the source is made. UNECE would appreciate receiving a copy of any publication that uses this publication as a source.

Convention on Access to Information, Public Participation

in Decision-making and Access to Justice in Environmental Matters

(Aarhus Convention)

Environment, Housing and Land Management Division United Nations Economic Commission for Europe Palais des Nations

CH-1211 Geneva 10

Switzerland

Phone: +41 22 917 4226

Fax: +41 22 917 0107

Email: [aarhus.compliance@unece.org](mailto:public.participation@unece.org)

Website: <http://www.unece.org/env/pp>/welcome.html

**Guide to the Aarhus Convention Compliance Committee[[1]](#footnote-2)**

**Table of contents**

[**Introduction** 1](#_TOC_250047)

**Composition, election and functions 4**

[Composition 5](#_TOC_250046)

[Election process 5](#_TOC_250045)

[Nomination 5](#_TOC_250044)

[Election 5](#_TOC_250043)

[Geographic representation 5](#_TOC_250042)

[Rotation 5](#_TOC_250041)

[Impartiality and conscientiousness 6](#_TOC_250040)

[Functions of the committee 6](#_TOC_250039)

[Powers of the committee 6](#_TOC_250038)

[Report to the Meeting of the Parties 6](#_TOC_250037)

[Measures by the Meeting of the Parties 6](#_TOC_250036)

[Inter-sessional measures by the Committee 7](#_TOC_250035)

**Modus operandi 8**

[General principles on the committee’s operation 9](#_TOC_250034)

[Decision-making 9](#_TOC_250033)

[Procedures for taking decisions by e-mail 9](#_TOC_250032)

[Conflict of interest 11](#_TOC_250031)

[Presence of the public and participation of observers 12](#_TOC_250030)

[Publication of meetings and documentation 13](#_TOC_250029)

[Working language 13](#_TOC_250028)

Processing communications from the public

Processing submissions, referrals and requests 14

[Submissions by Parties concerning other Parties 14](#_TOC_250027)

[Submissions by Parties concerning own compliance 15](#_TOC_250026)

[Referrals by the secretariat 15](#_TOC_250025)

[Determination of admissibility 17](#_TOC_250024)

[Response by the Party 18](#_TOC_250023)

Discussion and preparation of findings 19

[Discussion of submissions, referrals and communications 19](#_TOC_250022)

[Preparation and adoption of findings 20](#_TOC_250021)

[Consideration by the MOP 22](#_TOC_250020)

[Summary proceedings 22](#_TOC_250019)

Information gathering 23

[Considerations in information gathering 23](#_TOC_250018)

[Means of information gathering 24](#_TOC_250017)

[On-the-spot information gathering 25](#_TOC_250016)

[Role of the secretariat 26](#_TOC_250015)

**The NGOs and the compliance committee 27**

**Communications – useful information for the public and the party concerned 30**

[Key points 31](#_TOC_250014)

[Who can submit a communication 32](#_TOC_250013)

[What is the State concerned by the communication 32](#_TOC_250012)

[Timing of a communication and of the related facts 32](#_TOC_250011)

[Formal criteria of the communication 33](#_TOC_250010)

[Form of the communication 33](#_TOC_250009)

[Presentation of the facts of alleged non-compliance 34](#_TOC_250008)

[The nature of alleged non-compliance 34](#_TOC_250007)

[Provisions of the Convention relating to the alleged non-compliance 34](#_TOC_250006)

[Exhaustion of domestic remedies 34](#_TOC_250005)

[Confidentiality 35](#_TOC_250004)

[Supporting documentation 35](#_TOC_250003)

[Language of the communication and related documentation 35](#_TOC_250002)

[To whom should communications be addressed and how 36](#_TOC_250001)

[**Annex I - Compliance committee operation procedures 38**](#_TOC_250000)

**Annex II - Checklist for communications 39**

**Annex III - Chair’s introduction to formal discussions**

**on the substance of communications and submissions** 41

**Introduction**

Since the 1990s, there has been a growing trend in international treaty law-making to develop mechanisms that facilitate, promote and enforce compliance with the commitments undertaken by the Parties. Article 15 of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) requires the Parties to set up arrangements of a non-confrontational, non-judicial and consultative nature to review compliance with the Convention; such arrangements are required to allow for public involvement and may include the option of considering communications from members of the public on matters related to the Convention.

On the basis of this provision, the Meeting of the Parties (MOP) adopted decision I/7 on review of compliance at its first session (Lucca, October 2002). Decision I/7 establishes an advanced compliance mechanism for the Convention: it creates the Compliance Committee as the main body for the review of compliance and sets out the structure and functions of this body as well as the procedures to review compliance.

A review of a specific Party’s compliance may be triggered in five ways:

a) a Party may make a submission about compliance by another Party;

b) a Party may make a submission concerning its own compliance;

c) the secretariat may make a referral to the Committee;

d) members of the public may make communications concerning a Party’s compliance with the Convention;

e) the Meeting of the Parties may request the Committee to examine a Party’s compliance with the Convention.

The compliance mechanism of the Aarhus Convention is unique in international environmental law, as it allows members of the public to communicate their concerns about a Party’s compliance directly to a board of independent experts, the Compliance Committee, which has the mandate to examine the merits of the case. While the Committee cannot issue binding decisions, it may adopt findings and make recommendations either to the MOP, or, with its agreement, directly to the Party concerned.

The Committee may also examine compliance issues on its own initiative and make recommendations; prepare reports on compliance with or implementation of the provisions of the Convention at the request of the MOP; and monitor, assess and facilitate the implementation of and compliance with the reporting requirements under article 10, paragraph 2, of the Convention.

The Committee reviews Parties’ compliance with the provisions of the Convention and report to the MOP. So far, the MOP has endorsed all the Committee findings of non-compliance, and made decisions based on the Committee reports regarding parties found to be non-compliant.

This guidance document is intended to explain the functions of the Compliance Committee and its working methods, thus also facilitating for Parties, communicants and observers. It is divided into four sections. The first section provides some general information on the composition of the Committee and its competences. The second section set outs the Committee’s modus operandi, i.e. the working methods and procedures applied by the Committee. The third section includes some basic principles concerning the relationship between the Committee and the public. Finally, the fourth section highlights some critical information regarding communications from the public.

The information contained in this guidance document is primarily based on:

- the Convention, notably article 15;

- decisions I/7, II/5, III/6, IV/9 and V/9 of the Meeting of the Parties;

- the reports of the Committee’s meetings.

Further and updated information concerning the Compliance Committee and all relevant documentation is available at http://www.unece.org/env/pp/cc.html. Further information concerning the Convention is available on the Convention’s web site: [www.unece.org/env/pp/welcome.html.](http://www.unece.org/env/pp/welcome.html.)

**Composition, election and functions**

# Composition

The Compliance Committee consists of nine individuals serving in their personal capacity. The members are nationals of the Parties or Signatories to the Convention. They are required to be persons of high moral character and recognized competence in the areas to which the Convention relates, including persons with legal experience.

# Election process

**Nomination**

Parties, Signatories and non-governmental organizations falling within the scope of article 10, paragraph 5, of the Convention may nominate candidates for election as follows:

a) Nominations are to be sent to the secretariat in at least one of the official languages of the Convention at least twelve weeks before the opening of the session of the MOP at which the election is to take place.

b) Each nomination will be accompanied by a curriculum vitae (CV) of the candidate not exceeding 600 words and may include supporting material.

c) The secretariat then distributes the nominations, including the CVs, together with any supporting material.

**Election**

The MOP elects the members of the Committee by consensus or, failing consensus, by secret ballot.

**Geographic representation**

The Committee may not include more than one national of the same State. In the election of the Committee, consideration is given to the geographical distribution of membership and diversity of experience.

**Rotation**

A full term of office starts at the end of the ordinary session of the MOP at which the member is elected (or re-elected) and runs until the close of the second ordinary session of the MOP thereafter.

At its first session, the MOP elected four members to the Committee to serve until the end of its next ordinary session and four members to serve a full term of office. At its second session, the MOP agreed that the number of members of the Committee should be increased to nine; this change took effect at the third ordinary session of the MOP, at which five members were elected for a full term. At each ordinary session thereafter, the MOP elects four or five members, as appropriate, for a full term of office.

Outgoing members may be re-elected once for a further full term of office, unless the MOP decides otherwise. The Committee elects its own Chair and Vice-Chair.[[2]](#footnote-3)

If a member of the Committee for some reason can no longer perform his or her duties, the Bureau of the MOP appoints another member who fulfils the criteria described above to serve the rest of the term, subject to the approval of the Committee.

**Impartiality and conscientiousness**

Every member serving on the Committee shall, before taking up his or her duties, make a solemn declaration in a meeting of the Committee that he or she will perform his or her functions impartially and conscientiously. For the sake of clarity, the Committee requires incoming members to sign such a declaration.

**Functions of the Committee**

The Committee:

a) Considers any submission, referral or communication made in accordance with paragraphs 15 to 24 of decision I/7;

b) Prepares, at the request of the MOP, a report on compliance with or implementation of the provisions of the Convention;

c) Monitors, assesses and facilitates the implementation of and compliance with the reporting requirements under article 10, paragraph 2, of the Convention.

The Committee may examine compliance issues and make recommendations if and as appropriate.

**Powers of the Committee**

**Report to the Meeting of the Parties**

The Committee submits a report on its activities at each ordinary session of the MOP, which to date have taken place every three years, and makes such recommendations as it considers appropriate. The draft report is discussed in open session and observers are invited to provide their input. The Committee finalizes the report at least twelve weeks before the session of the MOP at which it is to be considered. Every effort is made to adopt the report by consensus, and if this is not possible, the report reflects the views of all the Committee members .

**Measures by the Meeting of the Parties**

The MOP may, upon consideration of a report and any recommendations of the Committee, decide upon appropriate measures to bring about full compliance with the Convention. To this end, depending on the particular question before it and considering the cause, degree and frequency of non-compliance, the MOP may decide to take one or more of the following measures:

a) Provide advice and facilitate assistance to individual Parties regarding the implementation of the Convention;

b) Make recommendations to the Party concerned;

c) Request the Party concerned to submit a strategy, including a time schedule, to the Compliance Committee regarding the achievement of compliance with the Convention and to report on the implementation of this strategy;

d) In cases of communications from the public, make recommendations to the Party concerned on specific measures to address the matter raised by the member of the public;

e) Issue declarations of non-compliance;

f) Issue cautions;

g) Suspend, in accordance with the applicable rules of international law concerning the suspension of the operation of a treaty, the special rights and privileges accorded to the Party concerned under the Convention;

h) Take other non-confrontational, non-judicial and consultative measures as may be appropriate.

**Inter-sessional measures by the Committee**

Pending consideration by the MOP and with a view to addressing compliance issues without delay, the Compliance Committee may, in consultation with the Party concerned, provide advice and facilitate assistance regarding the implementation of the Convention (measure (a) above). Also, the Committee may with the agreement of the Party concerned take the measures under (b)-(d) above.

**Modus operandi**

**General principles on the**

**Committee’s operation**

As a general rule, the rules of procedure of MOP[[3]](#footnote-4) shall be applied mutatis mutandis. Rules 19, 20, 24 to 27, 29 to 42, 44, 46 and 48 are considered to be the most relevant to the Committee.[[4]](#footnote-5)

**Responsibilities of Committee members**

The Committee takes its decisions collectively and the Committee members are thus collectively responsible for the Committee decisions. Every effort is made to take decisions by consensus and so far all Committee findings and recommendations have been thus adopted. This means that all Committee members are expected to read all relevant information for all cases.

As part of the Committee’s operation, its members are assigned the task as Curators for the different cases pending before the Committee. This includes cases were the Committee examines the Parties’ compliance based on communications, submissions or referrals, or through MOP decisions. It also includes cases where the Committee follows up on MOP decisions on non-compliance to examine whether the Party concerned is taking the necessary measures to get in compliance with the Convention.

The Curator is responsible for drafting the Committee’s questions to be sent the parties in a case, for being particularly active with questions during the discussions (hearings) with the parties, and for drafting findings and recommendations. Nevertheless, any decision is made by the Committee.

The Chair decides on who is to act as Curator for each case.

**Conflict of interest**

In a case where a Committee member finds himself or herself faced with a possible or apparent conflict of interest, that member is required to bring the issue to the Committee’s attention and decision before the Committee’s consideration of the case at issue.

Specifically, the Committee has agreed on the following guidance principles on the independence and impartiality of Committee members (ECE/MP.PP/C.1/2010/6, para. 6):

a) The Committee members shall exercise their functions independently and impartially, free from interference or influence by any source and from the appearance of interference or influence;

b) The Committee shall decide cases impartially, on the basis of the facts of the case and the applicable law;

c) In relation to pending cases, including cases following up on MOP decisions of non-compliance, Committee members shall avoid situations that might give rise to a conflict of interest or which might reasonably be perceived by the Parties or by members of the public as giving rise to such a conflict;

d) Being a citizen of the Party whose compliance is to be discussed will not in itself be considered as a conflict of interest.[[5]](#footnote-6)

d) A Committee member shall disclose to the Committee, at the next meeting, or sooner if appropriate, any circumstances which could reasonably be considered as leading to a conflict of interest or which might reasonably be perceived by the Parties or by members of the public as giving rise to such a conflict. Such circumstances may include a Committee member’s relationship with the Party concerned, with the communicant, or with an observer who has made submissions in the case. It may also include a Committee member’s past dealings with the case itself. Before bringing the issue to the attention of the Committee, the Committee member may consult with the Chair.

e) Upon the disclosure of a conflict of interest, the Committee will consider the information provided and take appropriate action. If in doubt as to whether or not a situation might give rise to an actual conflict or be perceived by a reasonable Party or member of the public as a conflict, Committee members should err on the side of caution.

Any member considered to have a possible conflict of interest will be able to attend sessions and access information in the same manner as an observer related to that particular matter. While the Committee member can thus attend the open sessions and discussions, he or she is then expected not to actively participate in the discussion. A Committee member who has a conflict of interest may not take part in closed sessions where the Committee is considering compliance or preparing or adopting findings, measures or recommendations).[[6]](#footnote-7)

The rules on conflict of interest also apply to any electronic decision-making procedure.

Committee members are not excluded from providing advice in response to requests from non-governmental organizations (NGOs) or others who consider submitting a communication to the Committee. However, it is recommended that the Committee member refer the person/NGO to the information available on the website or to the secretariat. This is to avoid Committee members specifically advising such individuals and/or organizations, which could, in some cases, lead to a conflict of interest for that member of the Committee. Any correspondence shall be sent to the secretariat and not to individual members of the Committee .[[7]](#footnote-8)

Committee members are at liberty to deal with requests for information about submissions, referrals and communications under consideration where such information is already in the public domain and subject to provisions of decision I/7 related to confidentiality. However, channelling such requests via the secretariat will ensure more up-to-date and complete information and is therefore recommended (MP.PP/C.1/2004/6, para 49).

Members of the Committee may accept invitations to present the compliance mechanism at appropriate events, including conferences and workshops (MP.PP/C.1/2003/4, para. 30), or to participate in capacity-building activities and projects related to the Convention, e.g. as expert consultants. The participation of Committee members in their individual capacity in such events and activities does not in itself create a conflict of interest, but it is possible that in some cases such involvement may lead to a conflict of interest at a later stage; such a case may for instance be created if a Committee member has provided expert assistance in the development of relevant legislation and a case relating to this legislation is later subject to review before the Committee. Should such situations arise, the standard procedures apply and the member concerned is expected to notify the Committee of any potential conflict of interest.[[8]](#footnote-9)

**Access to information about cases before the Committee**

In keeping with the Convention’s focus on transparency, all documents received by or issued by the Compliance Committee with respect to pending cases are posted on the Committee’s website, [www.unece.org/env/pp/cc.html](http://www.unece.org/env/pp/cc.html), under the relevant case reference.

**Procedure for examining compliance**

**Decision-making**

The presence of five members of the Committee is required for any decisions to be taken. The Committee makes every effort to reach its decisions by consensus. Decisions of a procedural nature can be taken by a simple majority of the members present and voting. Decisions on substantive matters can be taken only with the support of seven out of nine members present and voting; six out of eight members present and voting; six out of seven members present and voting; five out of six members present and voting; and four out of five members present and voting. Notwithstanding this, the Committee is generally sympathetic to the view that at least five members should be in support of any substantive decision being taken. Since Committee members are elected strictly in their personal capacity, an absent Committee member cannot designate a substitute.[[9]](#footnote-10)

**Electronic decision-making**

In order to expedite the processing of communications from the public,[[10]](#footnote-11) some of the Committee’s decisions, relating for instance to preliminary decisions[[11]](#footnote-12) on the admissibility of communications or on the points to be raised with the parties, may be taken by electronic mail (email).[[12]](#footnote-13)8

In this regard, depending on the nature of the decision to be made, the Committee will apply either a comprehensive or a streamlined procedure as set out in the following paragraphs.

The Committee may decide to use the electronic procedure for any inter-sessional decision-making that has significant substantive implications, such as preliminary decisions on the admissibility of communications and finalization of draft findings, conclusions and recommendations, in particular when the next meeting of the Committee will not take place for a long period of time. In this case, the following comprehensive procedure applies:

a) The Chair will prepare, with the assistance of the secretariat and, depending on the nature of the decision, the Curator a draft decision or decisions on the issue(s) to be decided inter-sessionally. The secretariat will circulate the draft(s) to the Committee members by email, specifying the deadline for response. b) Having carefully considered the communication, any supporting documentation, and the proposed decision(s) within the set deadline, each Committee member should indicate that he or she is satisfied with the text of the decision(s) proposed, or propose amendments (which may be in the form of an alternative text). Committee members may also comment on the earlier comments of other Committee members. All comments are sent by email to the secretariat and to all other Committee members.

c) If one or more Committee members request an amendment to the Chair’s text, the Chair will put forward an amended proposal with a view to reaching consensus. This may be in the form of an indication of support for an amendment, or a combination of amendments, put forward by other Committee members. The amended proposal will be circulated by the secretariat to the Committee members with a new deadline for comment.

d) With respect to decisions with significant substantive implications, if a deadline for commenting (first or subsequent) expires and all those who have responded have indicated their satisfaction with the Chair’s (latest) proposal but some Committee members have failed to respond, the secretariat will make an effort to contact those Committee members.

e) Once all Committee members have indicated their satisfaction with the Chair’s (latest) proposal, the proposal is deemed adopted by the Committee as a preliminary decision.

f) No preliminary decision may be adopted by email without all Committee members having affirmed their support for it. The procedure outlined in subparagraph (c) may be repeated until full support is achieved.

g) When the conditions in subparagraph (e) are met, the secretariat will circulate a note to the Committee confirming that the preliminary decision has been adopted, and, if necessary, attach the text of the preliminary decision.

h) The Chair decides on a suitable time period for replying.

The Committee may use a streamlined electronic procedure on an ad hoc basis for decisions that do not have significant substantive implications:

a) The Chair will prepare, with the assistance of the secretariat, a draft decision or decisions on the issue(s) to be decided inter-sessionally. The secretariat will circulate the draft(s) to the Committee members by email, specifying a deadline for response by Committee members.

b) The proposal circulated by the secretariat on behalf of the Chair will be considered adopted by default if no member of the Committee objects to it within a specified period following its circulation.

c) The Chair decides on a suitable time period for replying.

When applying either the comprehensive or streamlined electronic decisionmaking procedure, the Chair may at any stage decide that differences of opinion can be resolved only through discussion at a meeting of the Committee, and abandon the attempt to make a decision through email, in which case he or she will inform the Committee members accordingly.

While the procedures specified above reflect the practice of the Committee, it determines on how to use this tool to its best convenience, including by deciding to extend the email procedure to other types of decisions. The Committee may decide to do so electronically, using the procedure itself.

At the instigation of the Chair, the Committee may use other forms of communication, such conference telephone calls, possibly in combination with email.

**Open sessions with presence of the public and participation of observers**

In principle, meetings of the Committee are open to the public as observers but, in accordance with paragraphs 26, 27, 29, 30 and 33 of the annex to decision I/7, some sessions of meetings may be closed to the public.[[13]](#footnote-14)

Specifically, hearings and discussions on particular cases are in general open to the public, who may participate as observers, as well as to the Party concerned and the submitting Party and/or the communicant (the “parties concerned”).[[14]](#footnote-15) Participation is broadly understood in the sense in which the concept is enshrined in the Convention, comprising in particular the right to comment, the right to be heard and the right to have comments taken into account by the Committee, within the framework of the procedures of the meeting.[[15]](#footnote-16)

The deliberations on the preparation of any decision on findings, recommendations and other considerations of compliance are generally closed.[[16]](#footnote-17)

In addition to open sessions at its regular meetings, the Committee also from time-to-time will hold Open Dialogue Sessions, for example, at sessions of the Meeting of the Parties, during which Parties, members of the public and other stakeholders will be invited to make proposals as to how the Committee’s working methods may be improved.

**Use of audio conferencing and videoconferencing**

With the dual aims of making its processes more participatory and reducing costs, the Committee is increasingly using audio conferencing and videoconferencing to facilitate the participation of Parties, communicants and observers in its meetings.

**Publication of meetings and documentation**

As described above, meetings of the Committee are publicized through the website, with the provisional agenda, meeting reports and other official documents (other than confidential items) also being posted there.[[17]](#footnote-18)

All documentation submitted to or issued by the Committee in a case, other than that which is required to be kept confidential pursuant Chapter VIII of the annex to decision I/7, will be available through the website. In addition, the secretariat makes a short summary of each case for this purpose.[[18]](#footnote-19) Communications are put on the website and, without prejudice to the confidentiality of certain documentation, all documentation relating to the positions of the Committee, the Parties concerned and the communicant are made available on the web site. This includes preliminary determinations on admissibility, after their transmission to the Party concerned.[[19]](#footnote-20)

Draft findings and recommendations made by the Committee will be publicly available once they had been transmitted to the Party concerned and the submitting Party and/or the communicant (i.e. the parties concerned). Similarly, any comments provided by the parties concerned or third parties will be made publicly available on the website. Once sent to the parties or received from them, respectively, and at the latest at the end of the commenting period, subject to chapter VIII of the annex to decision I/7, the draft findings and any recommendations and also any comments thereon will be published on the web site.[[20]](#footnote-21)

As far as possible, informal discussion papers prepared by the secretariat for a meeting of the Committee will be posted on the webpage for that meeting approximately one week in advance of the meeting.

**Working language**

English is the internal working language of the Committee.[[21]](#footnote-22)

**Processing submissions and**

**referrals[[22]](#footnote-23)**

**Submissions by Parties concerning other Parties**

The secretariat informs the Committee of any submissions that it receives and circulates any such submissions to the Committee at the same time as they are forwarded to the Party concerned.

As a general rule, the secretariat forwards a copy of the submission to the Party concerned within the two week time limit even if it considers that the submission is not complete and essential information is lacking. When forwarding such submission, the secretariat will send the copies of the submission and the covering letter to the members of the Committee. For the purposes of paragraph 26 of the annex to decision I/7, such information will be considered as held by the Committee once it had been forwarded to it.

When forwarding the submission, the secretariat will in a cover letter request the Party concerned to acknowledge receipt of the submission and remind it of its obligation under decision I/7 to reply within three months or such longer period as the circumstances of the particular case may require, but no later than six months from the date the submission was forwarded. The deadline is calculated from the date at which the documentation was sent from the secretariat; and the response from the Party concerned should reach the secretariat by the end of the relevant period by email, though it would be acceptable for the posted original to arrive after the deadline provided that it had been posted before the deadline. The cover letter from the secretariat invites the Party concerned to indicate whether, due to the circumstances of the particular case, it envisages any difficulty in providing the reply within three months, and if so, to indicate when a reply would be sent. In the first instance, it is for the Party concerned to determine whether more than three months is necessary to provide a reply.

When a substantive reply is received by the secretariat, this is forwarded without delay to the Committee.

If no substantive reply is received from the Party concerned after three months or such longer period as may have been specified by the Party concerned, the secretariat sends a reminder to the Party concerned. The reminder will point out that following the expiry of the six-month period, the Committee will be required to deal with the case on the basis of the information available to it, even in the absence of any response from the Party concerned. If necessary, a further and final reminder may also be sent to the Party concerned towards the end of the six-month period.

If no response has been received within six months, the secretariat informs the Committee accordingly, and notifies the Party concerned that it has done so.

In some cases, the Committee may be content to base its deliberations solely upon the information included in the submission and the reply; in other cases, it may decide to use its discretion to gather information from other sources in accordance with paragraph 25 of the annex to decision I/7.

The Parties involved in a matter are notified of any meeting of the Committee at which it will be discussed and of their right to be represented in such meetings in accordance with paragraph 32 of the annex to decision I/7. Subject to financial resources, financial support will be provided where needed to assist eligible government representatives from the Parties concerned to participate.

**Submissions by Parties concerning own compliance**

With regard to submissions by a Party concerning its own compliance (paragraph 16 of the annex to decision I/7), the following procedures apply:

The secretariat informs the Committee of any such submissions that it receives and circulates them to the Committee without delay.

As a general rule, the secretariat circulates the submission to the Committee without delay even if it considers that the submission is not complete and essential information is lacking.

In some cases, the Committee may be content to base its deliberations solely upon the information included in the submission; in others, it may decide to use its discretion to gather information from other sources in accordance with paragraph 25 of the annex to decision I/7.

The Party which has made the submission is notified of any meeting of the Committee at which the matter will be discussed and of its right to be represented at such meetings in accordance with paragraph 32 of the annex to decision I/7. Subject to financial resources, financial support will be provided where needed to assist eligible government representatives from the Parties concerned to participate.

**Referrals by the secretariat**

With regard to referrals by the secretariat,[[23]](#footnote-24) the following procedures are recommended:

When in doubt about the situation in a country, the secretariat may request information from the Party concerned as part of its general work or in preparing the synthesis report according to decision I/8 on reporting.

The secretariat may consult the Committee before requesting information from a Party in the context of the compliance mechanism, if it considers this to be useful. In some cases, this may result in the Committee requesting the secretariat to seek the information from the Party.

While the secretariat may become aware of possible non-compliance in various ways other than through consideration of the reports (e.g. correspondence, conversations, newspapers, etc.), formal referrals by the secretariat are based only upon information which is published or transmitted to it in written form.

If letters from the public concerning possible non-compliance are addressed to the secretariat rather than to the Committee and it is unclear whether or not the letter is intended as a communication in the sense of paragraph 18 of the annex to decision I/7, the secretariat clarifies the matter with the correspondent, and, if it transpires that the letter is intended to be a communication in that sense, it deals with it in the normal manner for such communications. If it is immediately clear, or is subsequently made clear, that such a letter is not intended as a communication in that sense, the secretariat informs the correspondent of the availability of the procedure for consideration of communications from the public, where he or she does not appear to be aware of it, and invites him or her to consider the possibility of using that procedure.

If such correspondents indicate that they do not wish to submit a communication in the sense of paragraph 18, the secretariat has various options available to it, including consulting the Committee, seeking corroborating information from other sources or taking no action (e.g. on the grounds that its resources should be allocated to other matters having higher priority, that the information is insufficiently solid, that the alleged non-compliance is not of sufficient gravity, etc.). The secretariat uses its discretion in choosing among these options, taking into account the nature of the particular case.

The secretariat may, instead of making a referral in accordance with paragraph 17 of the annex to decision I/7, invite a Party to consider making a submission in accordance with paragraph 16 of that annex.

The secretariat informs the Committee when it has requested information about possible non-compliance from a Party in the context of a referral under the compliance mechanism.

Any Party which is the subject of a referral by the secretariat is notified of any meeting of the Committee at which the matter will be discussed and of its right to be represented at such meetings in accordance with paragraph

32 of the annex to decision I/7. Subject to financial resources, financial support will be provided where needed to assist eligible government representatives from the Parties concerned to participate.

**Processing communications from the public[[24]](#footnote-25)**

Upon receiving a communication addressed to the Committee, the secretariat will register it. The secretariat will then send an acknowledgement of the receipt.

The secretariat will verify that all necessary information is provided in the communication, and will circulate the communication and supporting documents to the members of the Committee. If the communication lacks certain mandatory or essential information, the secretariat will resolve any problems by contacting and discussing them with the communicant before forwarding the communication to the Committee. If a communication, or an essential part of the supporting documentation, is not in English, the secretariat may delay forwarding it to the Committee until an English version is available.

The data sheet, including a

150-word summary of the communication, will be posted on the web site. The communicant may provide comments to the information presented in the datasheet. The data sheet will be regularly updated and the Committee may make changes to it.

The Committee will, in accordance with paragraph 22 of the annex to decision I/7, ensure that communications are brought to the attention of the Party concerned “as soon as possible”. A communication received before any given meeting of the Committee should at the latest be forwarded before the following meeting of the Committee. Electronic decision-making will be used to expedite the processing of communications.

The Committee will consequently: a) make a preliminary determination as to whether the communication fulfils the admissibility criteria; and b) decide the points, if any, that should be raised (i) with the Party concerned, when forwarding the communication, or (ii) with the communicant to clarify the facts and/or allegations of the communication.

If the communicant has requested that part of the communication be kept confidential, the Committee will need to decide whether the information that has not been designated confidential is sufficient for it to be able to process the communication. It may decide to enter into a dialogue with the communicant concerning the request for confidentiality if it considers that this will facilitate the processing of the communication.

If translation of the supporting material is required, the Committee will need to decide on the extent to which more material, other than that which is already available in English, should be translated, taking into account both the costs of translation and the delay involved. The Committee may also request the communicant to provide an English translation of some documents.

When the secretariat is relaying questions or requests from the Committee to the communicant, it may at its discretion clarify unclear responses or pose further clarifying questions with a view to gathering more complete information for the Committee. This also applies at a later stage when corresponding with the Party concerned.

**Determination of admissibility**

Upon receiving a new communication, the Committee will consider its admissibility. If one or more of the formal criteria for admissibility are not fulfilled (e.g. the communication is anonymous or manifestly unreasonable, see paragraph 20 of decision I/7), the Committee will either dismiss the communication or decide that a further opportunity be given to the communicant to fulfil these criteria (e.g. if it is not clear whether the communication concerns matters falling within the scope of the Convention). If the Committee decides that the communication does not fulfil the formal criteria and that it does not intend to pursue the matter further, it will inform the communicant accordingly no later than three months after that decision was taken.

The Committee from time to time receives communications that, while they broadly appear to fulfil the admissibility requirements of paragraph 20 of the annex to decision I/7, after careful consideration have been revealed to be inadmissible by interpretation and analogy regarding the criteria for admissibility set out in subparagraphs (b) on “abuse of the right to make such communications” and (c) regarding communications that were “manifestly unreasonable”. With the purpose of focusing on communications that raise important aspects of non-compliance, the Committee discussed that matter at its twenty-eighth meeting; it decided to apply the criteria for admissibility of “abuse of the right to make such communications” and “manifestly unreasonable” in such a manner so that communications which the Committee deemed to be insignificant in light of their purpose and function would be determined inadmissible as de minimis.[[25]](#footnote-26)

**Exhaustion of domestic remedies**

The Committee will take into account, at all relevant stages, any available domestic remedy unless the application of the remedy is unreasonably prolonged or obviously does not provide an effective and sufficient means of redress. It is at the discretion of the Committee to decide not to examine the substance of a communication if in its view the communicant has not sufficiently explored the domestic administrative or judicial procedures.

Upon learning of the existence of a pending domestic procedure, the Committee will ask the communicant to promptly provide it with clear reasons as to why, notwithstanding the pending domestic procedure, the Committee should provisionally admit or uphold its earlier determination of provisional admissibility (depending on the stage of the communication). The Committee will thereafter consider any reasons provided by the communicant in the light of paragraphs 20 and 21 of the annex to decision I/7 and, if it considers the reasons provided do not meet the thresholds set out in those paragraphs, might determine the communication to be inadmissible.

**Following preliminary determination of admissibility**

If the Committee determines a communication to be inadmissible, the communication will not be forwarded to the Party concerned for its response.

If the Committee determines that all formal criteria for admissibility are fulfilled, it will provisionally decide that the communication is admissible and open a “file”. The communication will be forwarded to the Party alleged to be in non-compliance for its response. The Committee may at this stage, on the basis of a preliminary consideration of the matters covered by the communication, make such points or raise such questions as it sees fit in the covering letter to the Party.

The secretariat will send all the documents related to the communication, together with the cover letter, to the Aarhus Convention’s national focal point of the Party concerned with a copy to that Party’s Permanent Mission to the United Nations in Geneva and to the communicant.

Once the communication and the supporting documentation have been forwarded to the Party concerned, they will be posted on the web site, without any amendments or editorial intervention. Publication on the web site is intended to facilitate access of the public to information relating to Parties’ compliance with the Convention and does not imply endorsement of the content by the Committee or by the UNECE.

The secretariat will routinely notify anyone wishing to receive notifications of new communications, after these have been deemed admissible and forwarded to the Party concerned, either by sending the communication itself or by providing a web link to it.[[26]](#footnote-27)

Communications determined to be inadmissible are not posted on the web site but are available from the secretariat upon request.

**Response by the Party**

When the Party receives a letter from the secretariat forwarding a communication, it should as soon as possible, but in any case no later than five months from the date of the secretariat’s letter, submit written explanations or statements clarifying the matter and responding to the allegations.[[27]](#footnote-28) In its response the Party concerned should explicitly comment on the allegations of the communication and also address any questions and other points raised by the Committee at the time the communication was forwarded.

The Party concerned may also submit comments with respect to the admissibility of the communication. If a Party contests the admissibility of the communication, it should inform the Committee as soon as possible, but no later than five months from the date the communication was forwarded.

The five-month deadline for response is calculated from the date the communication and any relevant documentation were forwarded from the secretariat (date of the cover letter). The response from the Party concerned should reach the secretariat by the end of the five-month period by email. The posted original may arrive after the lapse of the five-month period, as long as it was posted before the lapse of the deadline.

Upon receipt of the response from the Party concerned, the Committee will consider any comments with respect to the admissibility of the communication. If it is convinced by any arguments of the Party that the communication is inadmissible or that there are serious doubts concerning its admissibility, the Committee may reverse or suspend its preliminary decision. It will then inform the communicant accordingly and provide it the opportunity to comment, and, where necessary seek further information to enable it to reach a decision on the admissibility. If the Party concerned does not respond within the five-month deadline, the Committee will confirm the admissibility of the communication and consider the substance of the file.

**Discussion and preparation of**

**findings[[28]](#footnote-29)**

When the Committee has received the response to a submission,[[29]](#footnote-30) communication or referral from the Party concerned, or, if no response is received, when the final deadline for receiving such a response has passed, it will:

a) Consider whether sufficient information is available for it to be able to consider the substance of the case, and if not, identify what further information is needed;

b) If sufficient information is available, schedule the formal discussion on the substance of the case in open session (paragraph

32 of the annex to decision I/7);

c) If the discussion is completed, prepare draft findings, measures and recommendations in closed session (paragraph 33 of the annex to decision I/7). In doing so, it may request additional information from the parties concerned or other sources; and

d) Finalize its draft findings and send this to the parties concerned for their comments;

e) Adopt its findings and recommendations taking account of any comments received from the Parties concerned and/or the communicant and observers.

If the Committee determines that the information submitted by the parties does not provide sufficient information for the Committee to consider all aspects of the matter, the Committee may take one or more of the following steps:

a) Request additional information from the communicant/submitting   
Party/secretariat, the Party concerned, or other sources;

b) With the agreement of the Party concerned, proceed to on-the-spot information gathering;

c) Seek the services of experts and other advisers; and

d) Decide to hold a hearing/discussion.

The Committee may determine at any stage in the process that further information should be gathered, including in the period before the Party concerned has responded. In order to avoid last minute provision of information, the Committee may impose a deadline by which information to be considered at a particular meeting must be supplied. Its procedures regarding information-gathering are discussed in more detail further down in this section.

**Discussion of submissions, referrals and communications**

As a general rule, the Committee aims to start the formal discussion on a particular communication, submission or referral as soon as possible, usually at one of the two meetings following either the receipt of a response to the communication, submission or referral from the Party concerned or the applicable deadline (the six-month deadline in the case of submissions and referrals) if no response has been received by then.

The Committee does not begin the formal discussion on a particular submission, referral or communication at any meeting that takes place before a response has been received from the Party concerned or the applicable deadline for responding has passed.

When it is known that the Committee will discuss the substance of any submission, referral or communication at a particular meeting, the secretariat notifies the Party concerned, and the submitting Party and/ or the communicant, that the matter will be discussed and of their right to participate in the discussion in accordance with paragraph 32 of the annex to decision I/7.

In general, any substantial new information should be presented to the Committee by any party at least two weeks in advance of the meeting at which it will be discussed, in order for the Committee and the other party to consider it.

The discussion involves a formal hearing, meaning that the Party concerned and the submitting Party and/or the communicant will be invited to come and present information and opinions on the matters under consideration. The Committee puts questions to the parties on matters that, despite written information, do not appear clear to the Committee. This may involve factual as well as legal matters.

Subject to financial resources, financial support will be provided where needed to assist a representative of the communicant and eligible government representatives from the Party concerned and, where applicable, the submitting Party to participate.

The discussion of any submission, referral or communication generally takes the following form:

Introduction and opening of the discussion by the Chair;

a) Short presentation of the case by the curator;[[30]](#footnote-31)

b) Presentations by the communicant, submitting Party or secretariat (if a referral), and by the Party concerned, including possible joint proposals;

c) Questions from the Committee, responses from the Party concerned and, as applicable, the communicant, the submitting Party, or the secretariat;

d) Comments from observers at the invitation of the Chair;

e) Final comments by the submitting Party, communicant or secretariat (if a referral);

f) Final comments by the Party concerned.

g) Closure with information from the Chair or Curator of any further request for clarification information to be provided by the parties.

**Preparation and adoption of findings**

When the Committee considers that it has a sufficiently complete picture of the situation, it will move to the preparation of draft findings, measures or recommendations without delay. To the extent possible, the conclusion of the discussion and the start of the preparation of draft findings, or recommendations should happen at the same meeting, though the Committee may continue its deliberations on its draft findings at subsequent meetings as needed. In practice, due to the increased number of communications the Committee receives, the preparation of draft findings may be concluded several meetings after the discussion of the case.

As mentioned, the Committee prepares its draft findings and recommendations in closed session.[[31]](#footnote-32) It normally starts by considering and drawing appropriate conclusions as to whether or not the Party concerned is in compliance. It may distinguish at this point between failure to establish the necessary implementing measures and failure to apply such measures.

The Committee will take into account all elements of the case, including the cause and frequency of the non-compliance as well as the capacity of the Party concerned to implement the Convention and its socio-economic conditions.

If the Committee finds that the Party in question is not in compliance, it then considers and agrees upon possible measures or recommendations. “Measures” in the sense of paragraphs 33 and 34 of the annex to decision I/7 are understood to refer to measures that the Committee is entitled to take in accordance with paragraph 36 of the annex to decision I/7, pending consideration by the MOP (which may include recommendations to the Party concerned). ‘Recommendations’ are understood to refer to recommendations to the MOP (which may include recommendations to take one or more of the measures listed in paragraph 37 of the annex to decision I/7). In this regard, paragraphs 36 and 37 should not be interpreted as requiring a specific sequence in which these measures could be recommended or undertaken.

If the Committee wishes to take inter-sessional measures pending consideration by the MOP, it consults with or, as appropriate, seeks the agreement of the Party concerned. If a significant amount of time remains before the next session of the MOP (e.g. one or two years), the Committee usually, in consultation with or, as appropriate, with the agreement of the Party concerned, takes inter-sessional measures with a view to providing an opportunity for the Party concerned to address the problems identified. If only a few months remain before the next session of the MOP, the Committee may decide to prepare recommendations for the MOP than to take such measures.

Once prepared, the draft findings with any measure or recommendation are transmitted to the parties concerned with an invitation for them to comment within a reasonable deadline. If necessary, to assist the parties, the secretariat may arrange for the draft to be translated into another UNECE language.

Draft findings and recommendations drawn up by the Committee and comments by the parties concerned will be posted on the website once they had been transmitted to the parties concerned (on this matter see the section on publication of meetings and documentation above). All comments should be submitted through the secretariat. When submitting comments to the secretariat for the attention of the Committee, parties are strongly encouraged to copy the other party. Any comments to the draft findings and recommendations should not include information that could have been provided at an earlier stage of the process.

At its next meeting after the deadline for comments, the Committee will consider any comments received, and, if possible, review and finalize the draft findings with any/possible measures or recommendations.

The final version will be prepared as an official document available in the three UNECE languages and transmitted to the parties concerned. The advance copy of the final version of the findings is uploaded on the Committee’s web site shortly after the findings have been communicated to the parties. Until the production of the document as an official United Nations document, editorial or minor substantive changes (that is changes which are not part of the editorial process and aim at correcting errors in the argumentation, but have no impact on the findings and conclusions) may take place.

If, at the time of preparing its report to the MOP, an issue which prompted the Committee to adopt findings and take measures under paragraph 36 of the annex to decision I/7 remains unresolved, the Committee will reformulate its earlier findings and measures as findings and recommendations to the MOP, which will be included as an addendum to its report to the MOP.

**Consideration by the MOP**

The MOP will make the final decision on specific measures aimed at bringing about full compliance with the Convention. The MOP may broadly address issues of non-compliance as long as the proposed measures are non-confrontational, non-judicial and consultative, and in accordance with international law. The MOP decisions are communicated directly to the parties and made public. In its decision, the MOP may mandate the Committee to monitor the implementation. The Committee will report on the monitoring of the follow-up measures to the MOP.

In several instances, the Committee further to a request from, and with the consent of the Party concerned, may undertake a mission to the territory of the Party concerned with the objective of providing advice and assisting the Party concerned on matters of compliance. The Committee considers that paragraph 25 of the annex to decision I/7 provides the mandate for such a mission.

**Summary proceedings**

Bearing in mind that according to the Convention the compliance review mechanism is not a redress mechanism, and on the basis of paragraph 20 of the annex to decision I/7, in cases which have been determined to be preliminarily admissible, but where the legal issues raised by the communication had already been tackled by the Committee, summary proceedings could apply as follows:

a) The Committee will send a letter to the communicant informing them about the process;

b) The Committee will notify the Party concerned, reminding it of the previous findings and recommendations and requesting it to provide information on the progress achieved on the previous recommendations;

c) The Committee will record the outcome of the process and its consideration in the report, focusing on the progress, if any, in the law and implementation of the Convention by the Party concerned.[[32]](#footnote-33)

A communicant whose communication was subject to summary proceedings will be included in any follow-up on the earlier case in which non-compliance on those issues were found, and given the opportunity to comment, together with the communicants of the earlier case.

**Information gathering[[33]](#footnote-34)**

Paragraph 25 of the annex to decision I/7 provides that “to assist the performance of its functions, the Committee may:

a) Request further information on matters under its consideration;

b) Undertake, with the consent of any Party concerned, information gathering in the territory of that Party;

c) Consider any relevant information submitted to it; and

d) Seek the services of experts and advisers as appropriate”.

The provisions apply to all functions of the Committee, as stated in paragraph 13 of the annex to decision I/7, including the consideration of submissions, referrals and communications. In practice, the Committee may apply the provisions on gathering information in different ways depending on the general or specific character of the compliance issue and on its trigger (communication, submission or referral).

**Considerations in information gathering**

In considering information gathering, the Committee may evaluate the following elements:

*a) Type of information needed*

The missing information may be:

• Background and contextual information, including texts of legislation/regulations in general of the Party concerned and legislation transposing the Convention, facts related to the particular case, such as dates, exact text of a decision, etc.

• Views and opinions, e.g. on how national legislation works in practice, the underlying reasons for specific problems, etc; and

• Advice, for instance, on how to solve a continuous problem with the application of existing legislation, and on how to influence the practices of members of the public or public administration, etc.

*b) Possible sources of the required information*

Depending on the type of the missing information, the sources may vary and may include:

• Requests to the government of the Party concerned, usually through the national focal point and the relevant public authorities, or to the communicant;

• Requests to the NGO and scientific communities, and academia;

• Literature and other research and analytical material;

• The public;

• The secretariat.

*c)Time and cost implications of information gathering*

In principle, the Committee’s approach to information gathering is pragmatic and cost-effective, and aims to facilitate the smooth carrying out of its tasks. A pragmatic approach to information gathering also means that the Committee may avoid being overloaded with too much information, and may only seek additional information when it deems necessary for the consideration of a specific matter. If the required information can be made easily available by the Committee members or the secretariat, there may be no need to request such information from the Party concerned or the communicant.

**Means of information gathering**

The means for information include the following three groups:

a) Easily accessible and no-cost or low-cost means of obtaining information, including, but not limited to: reports from the Parties submitted in accordance with decision I/8; a request to a communicant at the stage of submission of the communication; Committee members; literature; Internet, including information made available through the Aarhus Clearinghouse; international organizations active on the field in the Party concerned.

b): Obtaining information by contacting external sources, which depending on the circumstances may require a decision by the Committee to do so, such as requests to the Party concerned (under paragraph 17 of the annex to decision I/7 or otherwise); requests to the communicant(s); information/opinions/ advice from national and international experts from governments, academia, private sector and non-governmental organizations. A list of experts who have agreed to provide information to the Committee might be established on the basis of experience of the Committee and input from the Committee members.

c): Costly and more complicated means, which require a specific decision by the Committee to do so, for instance invitations to experts to meetings of the Committee and visits by Committee members and/or the secretariat to carry out on-the-spot information gathering and appraisals.

These means of information apply in particular in relation to communications from the public. They may apply differently in the context of submissions by Parties and referrals by the secretariat.[[34]](#footnote-35) For example, the secretariat has a mandate to request Parties to furnish necessary information about a matter, without instructions by the Committee.[[35]](#footnote-36) In other words, when requesting information the Committee from the Party concerned through paragraph17, the Committee already has a mandate to use the second group of sources in that context.

Unless specifically mandated by the Committee to collect information, information should not be gathered at meetings of the secretariat or of the members of the Committee with any of the parties concerned. The appropriate way for the parties concerned to submit any information for consideration is to address it formally to the Committee through the secretariat.[[36]](#footnote-37)

**On-the-spot information gathering**

According to paragraph 25 of the annex to decision I/7, the Committee may “undertake, with the consent of any Party concerned, information gathering in the territory of that Party” to assist in the performance of its functions. Through on-the-spot information gathering the Committee may collect information by experts travelling to the territory of a State to establish facts and assess the situation of alleged non-compliance.

On-the-spot information gathering may be undertaken by the Committee or the secretariat and may be facilitated by international/ sub-regional organizations (such as OSCE and UNDP) that are present in the territory of the Party concerned and familiar with the Convention. The Committee will ensure that persons mandated to undertake on-the-spot information gathering understand that they act on behalf and under the instruction of the Committee and that the mission is governed by the principles laid down in article 15 of the Convention (“non-confrontational, non-judicial and consultative nature”).

A mission for on-the-spot information gathering is undertaken only if the Committee has consulted with and received the consent of the Party concerned. The Committee may decide to undertake such a mission if it deems it necessary for the consideration of the matter and the information required cannot be obtained through other means. The Committee will consider the following criteria, namely whether:

a) The Committee has enough information already to open a file and the situation of alleged non-compliance is and continues to be serious;

b) The Committee lacks essential information or the case presents serious uncertainties or difficulties as to the appropriate measures that should be recommended; and

c) It is not possible to obtain the missing elements by other less costly means.

For each information-gathering mission, the Committee will prepare terms of reference and share the draft terms of reference with the parties concerned for their possible comment.

**Role of the secretariat**

According to decision I/7, the “secretariat shall arrange for and service the meetings of the Committee”.[[37]](#footnote-38) Hence, the secretariat has the task of ensuring that meetings are well prepared and documented, including that the Committee has access to the information related to the issues on its agenda. During the preparation of Committee meetings, the secretariat may identify missing information and may make efforts to obtain such information in order to facilitate the Committee’s work. In carrying out this task, the secretariat will take account of the elements identified above.

After the receipt of a communication, submission or referral, the secretariat will endeavour to gather information to facilitate the Committee’s work as required.

**NGOs and the Compliance Committee[[38]](#footnote-39)**

The fundamental role played by NGOs in the drafting of the Convention, as well as the role they play now in implementing it, is acknowledged, inter alia, in article 2, paragraphs 4 and 5, of the Convention. NGOs can trigger the Aarhus compliance mechanism under paragraph 18 of the annex to decision I/7 like any other member of the public.

The Committee has a particular interest to cooperating with the NGO community. Beyond the submission of communications on individual cases, NGOs can significantly contribute to the Committee’s efforts to collect information. Under paragraph 25 of the annex to decision I/7, the Committee does not make any distinction between information received by individuals, NGOs and States. NGOs may also contribute as “experts and advisers” whose services the Committee may seek. A number of other ways in which NGOs may cooperate with the Committee are discussed below.

The practice of other bodies in the field of international human rights law[[39]](#footnote-40) in cooperating with the NGO community may be observed, but there is a distinction to make: the primary mandate of most bodies established by human rights treaties is to review the periodic reports of the Parties, pursue constructive dialogue and make recommendations; the examination of individual communications, like in the case of the Aarhus Committee, may be a secondary mandate.

The Committee is cognisant that the NGO community does not have fixed governance and that NGOs represent diverse views and that this may impede their smooth cooperation with the Committee. The European ECO Forum[[40]](#footnote-41) is a good starting point for NGO cooperation, in terms of representativeness and expertise on the Convention, but there may be others with whom cooperation should be explored.

*a) Public Sessions*

In principle the Committee’s sessions are open to the public. This is a fundamental feature to promote transparency, access to information and participation, as called for by the Convention. NGOs can benefit by understanding better the function of the Committee and its jurisprudence.

*b) Special meetings for NGOs*

At the request of a Party to the Convention, the Committee may meet the Party to discuss issues related to its compliance with the Convention. The Committee may also meet with NGOs to discuss general issues related to the work of Committee. The Committee may also decide to invite representatives of NGOs that are present at a meeting to raise, at the beginning of a session, compliance issues to be considered by the Committee. The Committee may consider dedicating time at its meetings to open discussions with NGOs on issues of non-compliance not specifically linked to communication under process. Such discussions may also be part of Open Dialogue session initiated by the Committee. Parties are also invited to such sessions.

NGO participation to the Committee meetings is encouraged and financial support may be provided to facilitate NGO presence.

*c) Consultations on drafts*

The Committee’s draft findings, measures and recommendations are published on the website. NGOs and members of the public are welcome to consult the documents and submit comments.[[41]](#footnote-42)

*d) Implementation of measures*

The Committee may invite intergovernmental organizations, regional environmental centres, NGOs and other organizations with knowledge and experience to assist a Party concerned to implement measures recommended by the Committee and decisions on that Party’s compliance adopted by the Meeting of the Parties.

*e) Review of a country situation*

The number of communications received concerning non-compliance by a Party and the nature of non-compliance may indicate that the Committee review the general compliance in the country. Such a review may be requested by the MOP as well. Such an exercise should be publicised broadly and early enough to allow the Committee to benefit from various sources, such as human rights treaties monitoring bodies that review the Parties’ periodic reports and NGOs, and may include formal or informal “hearings” with different stakeholders.

*f) Interpretation of the Convention*

The jurisprudence of the human rights treaty bodies has increasingly evolved over the last years and provides useful insights for the definition of the rights and obligations deriving from the treaties. As the practice of the Committee accumulates, its jurisprudence also develops. The jurisprudence relating to the interpretation of the Convention provisions are the outcome of a rich discussion, where the participation of the public can be crucial.

*g) Follow up on non-compliance*

NGOs can make an important contribution to the follow-up of Committee findings and MOP decisions of non-compliance, in particular by providing relevant and timely information on the extent to which the recommendations set out in the findings or MOP decision have been implemented by the Party concerned.

**Communications – useful information for the public and the Party concerned**

**Key points**

|  |
| --- |
| • The compliance mechanism entered into force with regard to communications from the public on 23 October 2003. Communications may concern facts that occurred before this date, so long as the Party concerned was a Party to the Convention at the date those facts occurred. |
| • Only Parties to the Convention have legal obligations under it, and therefore issues of compliance arise only with respect to Parties. Signatories and other States which are not Parties to the Convention do not have legal obligations under it and any communication addressing the extent to which they apply the Convention or their failure to do so falls outside the competence of the Compliance Committee. |
| • Except by way of background information, communications should address only actions, omissions, events or situations which occurred when the State in question was under a legal obligation under the Convention, i.e. after it became a Party. |
| • In considering any communication from the public, the Compliance Committee will take into account the extent to which any domestic remedy (i.e. review or appeals process) was available to the person making the communication, except where such a remedy would have been unreasonably prolonged or inadequate. Before making a communication to the Committee, the member of the public should consider whether the problem could be resolved by using such domestic remedies. |
| • Communications to the Committee may concern either a general failure by a Party to introduce the necessary legislative, regulatory and other measures to implement the Convention; specific deficiencies in the measures taken; or specific instances of a person’s rights under the Convention being violated; or a combination of these. For communications concerning a person’s rights under the Convention, it must be stressed that the compliance procedure is designed to improve compliance with the Convention and is not a redress procedure for violations of individual rights. |
| • The compliance mechanism aims to facilitate compliance by Parties with their obligations under the treaty. It is not intended as a redress mechanism. The mechanism itself and any measures undertaken in the course of or as a result of Compliance Committee’s operation are by their nature non-confrontational, non-judicial and consultative. |

**Who can submit a communication**

Any member of the public, i.e. any natural or legal person, may submit a communication to the Committee. The person filing a communication (the communicant) is not required to be a citizen of the Party concerned, or, in the case of an organization, to be based in the Party concerned.[[42]](#footnote-43)

The communication should provide basic information – name and contact details – on the identity of the communicant, whether this is an individual or an organization. If the communicant is a registered organization, the communication should be signed by a person legally authorized to sign for the organization and the name and contact details of that person should be provided. If the communication is made by a group of persons, a contact person should be designated to correspond on behalf of the group and the personal information provided for that person. The Committee will not consider anonymous communications.

It is not necessary that the communicant be represented by a lawyer or have the communication prepared with legal assistance. However if some legal knowledge is available to the communicant, this may improve the quality of the communication and thus facilitate the work of the Committee. In cases where a communicant is represented by someone else (lawyer or other representative), the communicant is required to confirm in writing to the Committee that it had authorized this person to represent it in connection with the communication in question.[[43]](#footnote-44)

**What is the Party concerned by the communication**

The communication should clearly identify the Party to the Convention (the “Party concerned”) whose compliance is the subject of the communication. Where a person wishes to draw the attention of the Committee to what he or she considers to constitute non-compliance by more than one Party, a separate communication should be submitted for each Party involved.

A communication may be made concerning any Party to the Convention, provided that:

a) The Convention is in force for that Party. The Convention enters into force for a State only on the ninetieth day after the date on which it has deposited its instrument of ratification, acceptance, approval or accession.[[44]](#footnote-45)

b) The Party has not “opted out” of the compliance mechanism with respect to communications from members of the public.[[45]](#footnote-46) While this opportunity exists, to date no Party has opted out.

**Timing of a communication and of the related facts**

Communications may be made concerning States which were Parties on 23 October 2002. Concerning other Parties, communications may be made one year or more after the date of the entry into force of the Convention for that Party. In other words, during the first year after the entry into force of the Convention for a Party, there is a grace period during which the Committee may not consider communications from members of the public with respect to that Party.

Example: State X deposits its instrument of ratification on 1 July 2009. The Convention enters into force for that State 90 days later, i.e. on 28 September 2009. Communications may be made with respect to that Party from 28 September 2010.

Importantly, this does not mean that the Convention is not binding for the Party during the one-year grace period; after the one-year grace period is over, communications may be submitted concerning events which occurred during the first year after the entry into force of the Convention in the Party concerned.

If the significant events giving rise to a communication which occurred before the entry into force of the Convention for that Party, the Committee is likely to determine that it will not consider the communication, as the State had no legal obligations under the Convention at the time of the events.

Communications should be submitted no later than one month before the meeting at which they will be considered for preliminary admissibility (the dates of all upcoming meetings are listed on the Committee’s web site). Communications received after this time will be considered for preliminary admissibility at the following meeting.

The Committee considers all admissible communications, but it may decide to consider communications in a different order than the order they have been received, on the basis of the need for adequate review of compliance by the Parties and the Committee’s workload.

**Formal criteria of the communication**

In accordance with paragraph 20 of the annex to decision I/7, the Committee will not consider any communication that it determines to be:

a) Anonymous.

b) An abuse of the right to make such a communication.

c) Manifestly unreasonable.

d) Incompatible with the decision on review of compliance (decision I/7) or with the Convention.

e) Concerning a State which is not a Party to the Convention, or where the significant events with which the communication is concerned occurred before the Convention had entered into force for the Party.

f) Concerning a Party which has opted out.

There are no formal criteria for the assessment of the conditions under b) – d) above. The Committee evaluates their fulfilment on a case-by-case basis.

**Exhaustion of domestic remedies**

The communication should clearly specify which, if any, steps have been taken to use domestic remedies. A failure to provide this information may result in the communication being found inadmissible.

If no domestic procedures have been used or if there are other domestic remedies still available, the communication must explain why they have not been used, for example because no remedies were available or because they were prohibitively expensive or unreasonably prolonged. If it is claimed that the domestic remedies are either too expensive or prolonged, the communication should provide sufficient evidence to show the typical cost or timeframe for such cases. If remedies were sought in connection with the matter which is the subject of the communication, or in a closely related case, by a person other than the communicant, this should also be stated in the communication.

**Form of the communication**

A communication must be in writing and should follow the format provided in annex II to this guidance document, also available on the Committee’s website.

Communications should be as concise as possible. The communicant should avoid including information that is not necessary to establish the existence and nature of the alleged non-compliance. If the communication is inevitably lengthy due to the complexity of the matter and the volume of the related information, it is recommended that the communicant include a three-page (maximum) summary with the main facts of the case.

If the secretariat receives information from a member of the public which purports to be a communication to the Committee, but which is not in the format of a communication or which does not refer to and clearly does not concern compliance with the Convention, the secretariat, in consultation with the Chair and Vice Chair, will inform the member of the public that the information cannot be treated as a communication and explain the requirements for communications to the Committee.

**Presentation of the facts of alleged non-compliance**

The communication should set out, in chronological order, the facts on which the communication is based.

**Provisions of the Convention relating to the alleged non-compliance**

The communication should list the specific provisions (articles, paragraphs and sub-paragraphs) of the Convention, which the communicant alleges that the Party concerned has failed to comply with.

**The nature of alleged non-compliance**

For each of the provisions with which the communicant alleges the Party concerned has not complied, the communication should clearly explain how the Party concerned has breached that provision based on the facts of the case. The communication should contain all in formation which is considered essential to establish the alleged non-compliance.

All key supporting documentation that will help to substantiate the communicant’s allegations should be attached to the communication.

A communication may concern:

a) A general failure by a Party to take the necessary legislative, regulatory or other (e.g. institutional, budgetary) measures necessary to implement the Convention as required under its article 3, paragraph 1;

b) A failure of specific legislation, regulations or other measures implementing the Convention to meet specific requirements of its provisions;

c) Specific events, acts, omissions or situations that demonstrate a failure of the public authorities to comply with or enforce the Convention.

**Use of other international procedures**

The communication should include information on whether the subject matter has been submitted to other international procedures, including the steps taken, when they were taken and what were the results were.

**Confidentiality**

If the communicant is concerned that the disclosure of information submitted to the Committee could result in his or her being penalized, persecuted or harassed, he or she is entitled to request that such information, including any information relating to his or her identity, be kept confidential. The same applies if the communicant is concerned that the disclosure of information submitted to the Committee could result in the penalization, persecution or harassment of any other person.

In the absence of a clear request for confidentiality, no information submitted to the Committee will be treated as confidential.

If the communicant requests any information to be kept confidential, the communication should clearly highlight all information for which confidentiality is claimed, and also provide a second version of the communication with the confidential information redacted. The communicant is also invited to provide a short explanation of why confidentiality is claimed.

While the Committee respects requests for confidentiality, it is important that there is enough information in the communication for the Committee to process the case, and for the Party concerned to understand the case it should answer. In some cases, if the request for confidentiality relates to a lot of information, this may impede the processing of the case. Finally, if the communicant requests that his or her identity be kept confidential, it is strongly recommended that he or she indicates a representative, such as a lawyer or NGO. Therefore, while there is no restriction in requesting confidentiality, this right should be exercised only when it is considered absolutely necessary.

On some rare occasions, the [secretariat]/[Committee] upon reviewing the communication, may consider that the communication contains information that may place another person or persons at risk of being penalized, persecuted or harassed. In such circumstances, the secretariat in consultation with the communicant will prepare a redacted copy of the communication and/or supporting documentation for forwarding to the Party concerned and for public use.

**Supporting documentation**

Copies of all documents relevant to the communication, especially applicable legislation, administrative measures, court or administrative decisions, and which are necessary as background information, should be submitted as corroborating material to facilitate the Committee’s work. Any judgments in support of the arguments of the communicant or of the Party concerned should be dated after the Convention entered into force for the Party concerned.

**Language of the communication and related documentation**

Communications should be submitted in one of the official languages of the Convention, i.e. English, French or Russian. If a communication is made in Russian or French, the secretariat will arrange for its translation into English. The communicant will be offered the opportunity to comment on the accuracy of the translation if he or she so wishes. A similar procedure will apply to responses received from the Party concerned in the official languages other than English and the Party concerned will be invited to comment on the accuracy of the translations of official documents originating from a different source, e.g. legal acts, letters from public authorities.

Supporting documentation is also translated unless it is very bulky. In such circumstances, a member of the Committee familiar with the specific language could summarize the information and/or identify those parts of the documentation which it would be essential to translate into English. Also, in order for the Committee to consider documents in other languages than the official UNECE languages, the communicant should provide a translation, i preferably in English and submit it together with the original. Certified translations are preferable to unofficial. In some situations the Party concerned may be asked by the Committee to provide the translation, particularly of legislation.

The need for translation of any supportive documentation submitted in languages other than the official ones will be considered on an ad hoc basis. When informing the public of its right to make a communication, it should be made clear that if a communication is not submitted in English, this may considerably slow down the process of its consideration.

**To whom should communications be addressed and how**

Communications should be addressed to the Committee but sent to the secretariat at the address indicated at the end of the annex to this paper.

It is recommended to send the communication by email, preferably with the enclosures attached. In addition, a signed copy of the communication, together with any corroborating material, should be sent by post or otherwise delivered to the secretariat.

Communications should not be sent to the individual members of the Committee or to its Chair; the secretariat will forward communications to the members.

The communicants are encouraged to forward the communications to the government of the Party concerned at the same time as submitting them to the Committee.

**ANNEX I - Compliance Committee**

**Operation Procedures**



|  |
| --- |
| **Processing Submissions and Referrals** |
| The secretariat ***informs the Committee of submis- sions*** it receives and circulates them to Committee and the Party concerned within 2 weeks.  The secretariat also ***may refer cases of to the Committee*** based on published information |
| The secretariat ***requests that the Party con- cerned acknowledge receipt*** and reply within 3 months, or up to 6 months in special circumstances |
| If no reply is received after 3 months, the secretariat ***sends a reminder, and then a final reminder*** near the end of the 6 month period |
| If no response is received within 6 months, the sec- retariat ***informs the Committee and notifies the Party concerned*** that it has done so |
| The Committee may base its deliberations solely upon information in the submission and reply, or may decide to gather further information at its discretion |
| The Secretariat ***notifies the Parties of any meet- ing discussing their case*** and explicitly invites representatives of the Parties if it is important that they participate |

|  |
| --- |
| **Processing Communications from the Public** |
| The secretariat ***registers*** the communication, sends an ***acknowledgement*** of the receipt, and ***veri- fies that the communication contains required information*** prior to sending to the Committee |
| The secretariat provides a ***summary*** of the commu- nication (about 150 words), which is posted on the web site when ***forwarding to the Committee*** |
| The Committee makes a ***preliminary determina- tion*** regarding ***the communication’s admissibility*** |
| The Committee ***opens a “file”***, posts the commu- nication and supporting documentation on the ***web site***, and ***informs the Party concerned*** |
| The Party concerned should ***explicitly comment on the allegations within 5 months*** of the secre- tariat’s letter, and may also comment on admissibility of the communication |
| The Committee ***considers any comment on admissibility*** by the Party concerned, and either confirms admissibility or suspends its earlier admis- sibility decision |

|  |
| --- |
| **Discussion and Preparation of Findings** |
| When the Committee has received a response to a submission or communica- tion, or if no timely response is received, it may begin ***formal discussions*** of the case’s substance |
| The secretariat ***notifies the parties if a submission or communication will be discussed*** at the Committee’s meeting, and substantial new information may be presented at least 2 weeks before the meeting |
| ***Discussion of the case includes a formal hearing*** to which the Parties are invited, and financial support may be available to help them attend |
| The Committee ***prepares draft findings or recommendations in closed session*** within one or two meetings after discussion of the case, and invites the parties to comment within a reasonable deadline (generally 4 weeks) |
| The Committee ***considers comments and then finalizes its findings***, which are published on the web site in addendum to the Committee’s report adopted after its meeting. Recommendations may be made subject to agree- ment of the Party concerned. |
| ***The MoP makes the final decision on specific measures*** to bring about full compliance with the Convention as long as such measures are non-judicial and comply with international law |

**ANNEX II - Format for communications**

**I. Information on correspondent submitting the communication**

Full name of organization or person(s) submitting the communication:   
Permanent address:

Address for correspondence on this matter, if different from permanent address:

Telephone:

Email:

If the communication is made by a group of persons, provide the above information for each person and indicate one contact person.

If the communication is submitted by an organization, please provide a letter provide the following information for the contact person authorized to represent the organization in connection with this communication:

Name: Title/Position:  
Telephone:  
Email:

If the communication is submitted by a group of persons, please provide a letter containing the name and signature of each of those persons, together with the date of signature, indicating their agreement that the contact person represent them for the purposes of the communication.

If the communicant(s) will be represented by legal counsel, or another representative, please provide a letter containing the name and signature of each communicant, together with the date of signature, indicating their agreement to be so represented.

**II. Party concerned**

Name of the Party concerned by the communication:

**III. Facts of the communication**

Detail the facts and circumstances of the alleged non-compliance. Include all matters of relevance to the assessment and consideration of your communication. Explain how you consider that the facts and circumstances described represent a lack of compliance with the provisions the Convention:

**IV. Provisions of the Convention relevant for the communication**

List as precisely as possible the provisions (articles, paragraphs, subparagraphs) of the Convention that the Party concerned is alleged to not comply with:

**V. Nature of alleged non-compliance**

For each of the above provisions which you allege to be in non-compliance, please clearly explain how you consider that the Party concerned has failed to comply with that provision based on the facts of your case. (Please provide as attachments to your communication any key supporting documentation that will help to substantiate your allegations):

Also indicate whether the communication concerns a specific case of a person’s rights of access to information, public participation or access to justice being violated as a result of the non-compliance of the Party concerned or whether it relates to a general failure by the Party concerned to implement, or to implement correctly, the said provisions of the Convention by the Party concerned. If you consider that the non-compliance concerns a general failure by the Party concerned, please provide as attachments to your communication any key supporting documentation that will help to substantiate that it is a general failure:

**VI. Use of domestic remedies**

Describe which, if any, domestic procedures have been invoked to address the particular matter of non-compliance which is the subject of the communication. Specify which procedures were used, when, which claims were made, what the results were and whether there are any other domestic remedies available.

If no domestic procedures have been invoked or if there are other domestic remedies available, explain why they have not been used. This information will be important for the Compliance Committee’s decision on admissibility of the case.

**VII. Use of other international procedures**

Indicate if any international procedures besides the Aarhus Convention Compliance Committee have been invoked to address the issue of non-compliance which is the subject of the communication. If so, specify which procedures were used, when, which claims were made and what the results were:

**VII. Confidentiality**

Unless you expressly request it, none of the information contained in your communication will be kept confidential. If you are concerned that you may be penalized, harassed or persecuted, you may request that information contained in your communication, including the information on your identity, be kept confidential. In making such a request, it is helpful for the Committee to know why confidentiality is requested. If you request any information to be kept confidential, you should clearly mark which information, and provide a second version of your communication with that information redacted.

**VIII. Supporting documentation (copies, not originals)**

• Relevant national legislation, highlighting the most relevant provisions.

• Decisions/results of other procedures.

• Relevant pieces of correspondence with the authorities.

• Any other documentation substantiating the information provided under section V above.

Avoid including extraneous or superfluous documentation and, if it is necessary to include bulky documentation, endeavour to highlight the parts which are essential to the case.

Provide all documents in the original language, together with a legal standard English translation thereof, or if that is not possible, a legal standard translation in either Russian or French.

**IX. Summary**

Attach a two to three-page summary of all the relevant facts of your communication.

**X. Signature**

The communication should be signed and dated. If the communication is submitted by an organization, a person authorized to sign on behalf of that organization must sign it.

**Address**

Please send the communication by email AND by registered post to the following address:

Secretary to the Aarhus Convention Compliance Committee

United Nations Economic Commission for Europe Environment and Human Settlement Division Room 332, Palais des Nations

CH-1211 Geneva 10, Switzerland

Phone: +41 22 917 4226

Email: [aarhus.compliance@unece.org](mailto:public.participation@unece.org)

Clearly indicate:

“Communication to the Aarhus Convention Compliance Committee”

**ANNEX III - Chair’s introduction to**

**formal discussions on the substance of communications and submissions[[46]](#footnote-48)**

The Committee is going to discuss the substance of communication/submission number (ref. number).

The Committee was established at the first Meeting of the Parties in Lucca, Italy, in October 2002.

The work of the Committee, its functions and procedures are governed by Decision I/7 of the Meeting of the Parties on Review of Compliance.

This decision was taken pursuant to Article 15 of the Convention providing for non-confrontational, non-judicial, and consultative arrangements for reviewing compliance with the provisions of the Convention.

So, what we are entering is not a trial or a lawsuit. There is no plaintiff, no defendant, and the findings of the Committee will not be a judgment. Nobody will gain, and nobody will lose. The Convention is the heart of the matter.

Furthermore, the arrangements are of a non-confrontational nature. This means that the meeting should not be seen as a confrontation between the communicant and the Party concerned. The Committee is aiming at a constructive and amicable meeting.

The arrangements are of a consultative nature. Therefore, the meeting is a consultation with a view to assisting the Committee in its upcoming deliberations on whether there are problems of compliance and if so, how those problems might be remedied in the future.

The fact that our proceedings will not follow the adversarial model also means that the Committee will not feel constrained to only examine those arguments presented by a communicant, by the secretariat, by a submitting Party or by a Party concerned. Since the Committee’s initial purpose in each case is to establish whether there appears to be non-compliance, it may formulate its own arguments and draw conclusions which go beyond the scope of those presented by the parties concerned and communicant.

The ultimate task of the Committee is to facilitate resolving problems, if any, and not to condemn a Government for acts committed in the past. We intend to start from the assumption that any non-compliance with international obligations is not due to a will or intention not to comply. Furthermore, the main powers to take measures to address non-compliance, where it exists, are vested in the Meeting of the Parties itself, and the primary role of the Committee, particularly at this meeting and the next one, will be to prepare recommendations to the next session of the MOP.

The Committee has indicated in the letter inviting you to this meeting how we are going to proceed. Our time is limited:

1) 10-15 minutes presentation of the subject matter by the curator.

2) 10-15 minutes intervention by the communicant.

3) 10-15 minutes intervention by the Party concerned.

4) 30 minutes discussion by the Committee – questions and answers.

5) 10 minutes comments from observers.

6) 5-10 closing comments by the communicant

7) 5-10 closing comments by the Party concerned.

8) 5 minutes close of the open session.

I appeal to everybody to comply with the time-schedule.

After the first part of the discussion of the communication today, the Committee will begin its deliberations in closed session. It will also discuss whether there are any further points upon which it wishes to seek clarification in open session.

Following this deliberation, the Committee will re-convene the open session to inform the parties concerned of the next steps in the procedure and, should the Committee consider it necessary, to clarify any points of substance with the parties concerned.

The main body of the discussion today will be included or reflected in summarized form in the draft findings of the Committee, which following the meeting will be sent to the parties concerned (with a small “p”) for comment. The Report on the Meeting is only going to state the fact that a discussion took place and who attended or participated in the discussion. So, the Report will be the report of the Committee and will not be submitted for your approval.

As mentioned, our draft findings and recommendations will be presented to those directly involved for comments before being finalized. Please be prepared that you will not get a lot of time to comment, because we will be aiming to adopt the findings at the meeting after the meeting in which the draft findings will be adopted.

Before we start to address the different cases one by one, I would like to make a couple of general points.

Many points and arguments are usually raised in the correspondence pertaining to communications and submissions. Some of these are of central importance to the question of compliance; others, less so. Some put forward specific interpretations of the meaning of the Convention. If the Committee was required to address each of these arguments put forward, our task would be even more challenging than it is, and our documents would be very lengthy. Therefore, the Committee may decide not to address all of the arguments or assertions made, and the fact that it does not explicitly refute any given assertion or argument in the correspondence, whether made by a communicant, a submitting Party or by a Party concerned, should not be taken to imply that it endorses such arguments or assertions.

I should also inform you that Committee members are under a general obligation to declare any conflict of interest, and any such member will take on the status of observer with respect to the case in question (and therefore be excluded from the preparation of draft findings and recommendations). Where this is the case for a particular communication or submission, it will be announced at the beginning of the discussion on that communication or submission.

I will now invite the curator to introduce the communication/submission.

1. The Guide should be considered a living document and may be subject to further development. [↑](#footnote-ref-2)
2. At its eighth meeting, the Committee agreed that in order to be able to ensure its smooth operation, the procedure of taking decisions by email, as described below in this Guidance Document, could be used for the election of the Chairperson and the Vice-Chairperson. This facilitates preparation of the first meeting of the Committee that takes place after a session of the Meeting of the Parties. In this case, the functions of the Chairperson involving the initiation and coordination of the electronic decision-making process would be performed by the secretariat (ECE/MP.PP/C.1/2005/4, para. 29). [↑](#footnote-ref-3)
3. See the annex to decision I/1 of the MOP (ECE/MP.PP/2/Add.2). [↑](#footnote-ref-4)
4. MP.PP/C.1/2003/2, para. 11, report of the first meeting of the Compliance Committee, 16 June 2003. [↑](#footnote-ref-5)
5. MP.PP/C.1/2003/2, para. 22 [↑](#footnote-ref-6)
6. MP.PP/C.1/2004/6, para. 53, report of the fifth meeting of the Compliance Committee, 26 November 2004. [↑](#footnote-ref-7)
7. MP.PP/C.1/2003/4, para 8, report of the second meeting of the Compliance Committee, 15 October 2003. [↑](#footnote-ref-8)
8. ECE/MP.PP/C.1/2007/4 para. 28, report of the sixteenth meeting of the Compliance Committee, 31 July 2007. [↑](#footnote-ref-9)
9. MP.PP/C.1/2003/2, para.12; ECE/MP.PP/C.1/2008/6, para. 41. The document ECE/MP.PP/C.1/2008/6 of 8 October 2008 refers to the report of the twenty-first meeting of the Compliance Committee. [↑](#footnote-ref-10)
10. The procedure applies mutatis mutandis to submissions and referrals [↑](#footnote-ref-11)
11. In this context, the term “decisions” encompasses “determinations”. [↑](#footnote-ref-12)
12. MP.PP/C.1/2004/4, para. 41 report of the fourth meeting of the Compliance Committee, 19 July 2004. [↑](#footnote-ref-13)
13. MP. PP/C.1/2003/2, para. 15. [↑](#footnote-ref-14)
14. Annex to decision I/7, para. 32. [↑](#footnote-ref-15)
15. MP.PP/C.1/2003/2, para. 16. [↑](#footnote-ref-16)
16. MP.PP/ C.1/2003/2, para. 17 and paragraph 33 of the annex to decision I/7. [↑](#footnote-ref-17)
17. MP.PP/C.1/2003/2, para. 18. [↑](#footnote-ref-18)
18. MP. PP/C.1/2003/4, para. 20. [↑](#footnote-ref-19)
19. MP.PP/C.1/2004/8, para. 33, report of the sixth meeting of the Compliance Committee, 25 January 2005. [↑](#footnote-ref-20)
20. MP.PP/C.1/2004/8, report of the sixth meeting, para. 35, as subsequently modified ECE/MP.PP/C.1/2005/8, para. 25, report of the tenth meeting of the Compliance Committee, 22 December 2005. [↑](#footnote-ref-21)
21. MP.PP/C.1/2003/2, para. 21, see also further down on the language of the communications. [↑](#footnote-ref-22)
22. This section is based on discussions carried out at the second meeting of the Compliance Committee (18-19 September 2003) on the basis of draft informal documents (see MP.PP/C.1/2003/4, para. 15). [↑](#footnote-ref-23)
23. Annex to decision I/7, para. 17, [↑](#footnote-ref-24)
24. This section is based on discussions carried out at the second meeting of the Compliance Committee (18-19 September 2003) on the basis of draft informal documents (see MP.PP/C.1/2003/4, para. 11). [↑](#footnote-ref-25)
25. ECE/ MP.PP/C.1/2010/4, para. 44. [↑](#footnote-ref-26)
26. ECE/MP.PP/C.1/2008/8, para. 40, report of the twenty-second meeting of the Compliance, of 6 January 2009. [↑](#footnote-ref-27)
27. Annex to decision I/7, para. 23. [↑](#footnote-ref-28)
28. This section is based on discussions carried out at the first and second meetings of the Compliance Committee (17-18 March 2003 and 18-19 September 2003) on the basis of draft informal documents (see MP.PP/C.1/2003/2, paras. 23-24 and 31; MP.PP/C.1/2003/4). [↑](#footnote-ref-29)
29. References to submissions in this section should generally be understood to refer to submissions made by a Party about another Party’s compliance, in accordance with paragraph 15 of the annex to decision I/7, rather than submissions by a Party about its own compliance. [↑](#footnote-ref-30)
30. General content of the Chair’s introduction is included in Annex III to this Guidance Document. [↑](#footnote-ref-31)
31. In accordance with paragraph 33 of the annex to decision I/7 and earlier decisions of the Committee (MP.PP.C.1/2003/2, para. 17), [↑](#footnote-ref-32)
32. ECE/MP.PP/C.1/2010/4, para. 45. [↑](#footnote-ref-33)
33. This section is based on discussions carried out at the first and second meetings of the Compliance Committee (17-18 March 2003 and 18-19 September 2003) on the basis of draft informal documents (see MP.PP/C.1/2003/2, paras. 32-33 and P.PP/C.1/2003/4, paras. 23-26). [↑](#footnote-ref-34)
34. Annex to decision I/7, paras. 15-17. [↑](#footnote-ref-35)
35. Annex to decision I/7, para. 17. [↑](#footnote-ref-36)
36. MP.PP/ C.1/2004/6, para. 50. [↑](#footnote-ref-37)
37. Paragraph 12. [↑](#footnote-ref-38)
38. This section is based on discussions carried out at the second meetings of the Compliance Committee (18-19 September 2003) on the basis of draft informal documents (see MP.PP/C.1/2003/4, paras. 27 and 33). [↑](#footnote-ref-39)
39. For instance, the Human Rights Committee, the Committee on the Elimination of Racial Discrimination, or the Committee on the Elimination of Discrimination against Women. [↑](#footnote-ref-40)
40. See the web site at <http://www.eco-forum.org/>(26 November 2009). [↑](#footnote-ref-41)
41. Annex to decision I/7, paragraph 34. [↑](#footnote-ref-42)
42. Unless the context indicates otherwise, the term “State” is understood to also cover any regional economic integration organization that is entitled to become a Party to the Convention under its article 19, such as the European Community. [↑](#footnote-ref-43)
43. ECE/MP.PP/C.1/2009/4, Report of the twenty-fourth meeting of the Committee, 30 June-3 July 2009, para.58. [↑](#footnote-ref-44)
44. The list of States that have ratified, accepted, approved or acceded to the Convention can be found at http://www.unece.org/env/pp/ratification.html. [↑](#footnote-ref-45)
45. When a Party has “opted out”, it means that it has notified the Secretary-General of the United Nations that it does not accept the consideration of communications from the public for a period of up to four years, as allowed for in decision I/7 (annex, para. 18). Such a notification should be made before 23 October 2003 for States that were Parties at the time when the decision was adopted; for other States, the notification should be made no later than one year after the entry into force of the Convention for that State. If a Party has made such a notification, it is not possible to make a communication concerning that Party for a period of five years after the entry into force of the Convention for that State or such shorter period as may be specified in the notification to the Depositary. [↑](#footnote-ref-46)
46. The present text constitutes the approximate standard introduction made by the Chair of the Committee at the beginning of formal discussions of a communication/submission with the parties. The Chair may change the content of this introduction as appropriate. [↑](#footnote-ref-48)