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Guide to the Aarhus Convention Compliance Committee

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Guide to the Aarhus Convention Compliance Committee[1]

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[1] The Guide should be considered a living document and may be subject to further development.

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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, at its first session (Lucca, October 2002) the Meeting of the Parties (MOP) adopted decision I/7 on review of compliance. 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;[2]
e) the Meeting of the Parties may request the Committee to examine a Party's compliance with the Convention.[3]

In addition, a Party may make a request for advice or assistance.[4]

The compliance mechanism of the Aarhus Convention is one of the few in international environmental law which 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. The Committee adopts findings and if non-compliance is found, may make recommendations either to the MOP, or, with the Party's 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; provide advice or facilitate assistance to individual Parties regarding the implementation of the Convention; 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 reports

[2] The triggers in paragraphs (a)-(d) are described in paragraphs 15-18 of the annex to decision I/7.
[3] This trigger is not expressly referred to in the annex to decision I/7, but it follows from the MOP's general decision-making capacity.
[4] Paragraph 37(a) of the annex to decision I/7.

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to the MOP.

This Guide is intended to explain the functions of the Compliance Committee and its working methods for Parties, communicants and observers that may engage with the Committee's procedures. It is divided into six sections. The first section describes the composition of the Committee, the election process and the duties of members once elected. The second section set outs the Committee's functions and powers. The third section explains the Committee's working methods. The fourth section provides a step-by-step overview of the compliance review procedure. Finally, the fifth section highlights some useful information for members of the public when preparing a communication or for Parties when preparing a submission to the Committee.

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, V/9 and VI/8 of the Meeting of the Parties;
- the reports of the Committee's meetings.

All relevant documentation concerning the Compliance Committee 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.

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Composition and election

Composition

The Compliance Committee consists of nine individuals serving in their personal capacity. The members are required to be nationals of the Parties or Signatories to the Convention and must 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

Unless the MOP, in a particular instance, decides otherwise, the procedure for the nomination of candidates for the Committee is as follows:

(a) Candidates meeting the requirements described in the previous paragraph may be nominated by Parties, Signatories and non-governmental organizations falling within the scope of article 10, paragraph 5, of the Convention and promoting environmental protection.

(b) 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.

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

(d) 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.

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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-Chairs.

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 must, 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 this declaration in writing.

Functions and powers of the Committee

Consider any submission, referral, communication or request in order to examine compliance and implementation

In accordance with paragraph 13 of the annex to decision I/7, the Committee:

(a) Considers any submission, referral or communication concerning compliance by Parties with their obligations under the Convention;
(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.

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Report to the Meeting of the Parties

In accordance with paragraph 35 of the annex to decision I/7, the Committee submits a report on its activities at each ordinary session of the MOP, and makes such recommendations as it considers appropriate. The report provides an overview of the submissions, referrals, communications and requests considered by the Committee during the intersessional period as well as on the implementation of earlier decisions of the Meeting of the Parties on compliance by individual Parties. It also reports on general compliance issues identified by the Committee in its work as well as commenting on the Parties' implementation of the Convention's reporting requirements. The report annexes a table of provisions of the Convention alleged or found not to have been complied with during the intersessional period.

The Committee's draft report is discussed in open session and posted on the Committee's website 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.

Monitor reporting requirements

In accordance with paragraph 13 of the annex to decision I/7, the Committee's functions include to monitor, assess and facilitate the implementation of and compliance with the reporting requirements under article 10, paragraph 2, of the Convention.

Article 10, paragraph 2 of the Convention requires the Meeting of the Parties to keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties. In accordance with MOP decision I/8 and IV/4 on reporting requirements, the Parties are expected to report on the legislative, regulatory or other measures it has taken to implement the provisions of the Convention and their practical implementation. National implementation reports should be prepared through a transparent and consultative process involving the public. They should be submitted to the secretariat no later than 120 days before the session of the Meeting of the Parties for which they are submitted. In advance of each subsequent session of the Meeting of the Parties, each Party must review its report and submit an updated version of it to the secretariat. The secretariat is then tasked with preparing a synthesis report for each session of the Meeting of the Parties, summarizing the progress made and identifying significant trends, challenges and solutions. In carrying out its role to monitor the reporting requirements, the Committee, inter alia, reviews and provides comments on the draft synthesis report prepared by the secretariat.

Measures by the Meeting of the Parties to address compliance

Upon consideration of the Committee's report and recommendations concerning a Party's non-compliance, the MOP decides on appropriate measures to bring about full compliance with the Convention. Depending on the cause, degree and frequency of non-compliance, the MOP may

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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 to address compliance

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. In practice, most Parties who are subject to an examination by the Committee agree to receive recommendations directly from the Committee in this way, should they be found non-compliant.

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Committee's working methods

In addition to the rules on the Compliance Committee's working method set out in decision I/7, the Committee applies the rules of procedure of the MOP[5] mutatis mutandis. Rules 19, 20, 24 to 27, 29 to 42, 44, 46 and 48 of those rules are considered to be the most relevant to the Committee.[6]

Responsibilities of Committee members

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

To facilitate the efficient functioning of the Committee, the Chair assigns each case to a Committee member who thereafter acts as the Curator for the case. All cases - including communications, submissions, referrals, MOP requests or requests from a Party for advice or assistance – are assigned in this way. A curator is also assigned with respect to the Committee's follow-up on the implementation of MOP decisions on non-compliance by individual Parties.

The responsibilities of the Curator include drafting questions to be sent by the Committee to the parties in a case, taking the lead in proposing questions to the parties during the hearing of the case, preparing the draft findings and recommendations for the Committee's deliberations and, in cases where non-compliance is found, reviewing the implementation of the Committee's findings and recommendations by the Party concerned. While the Curator's work ensures the smooth progress of the case, any decision must be taken by the Committee.

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 guiding principles on the independence and impartiality of Committee members:[7]

[5] See the annex to decision I/1 of the MOP (ECE/MP.PP/2/Add.2).
[6] MP.PP/C.1/2003/2, para. 11, report of the first meeting of the Compliance Committee, 16 June 2003.
[7] ECE/MP.PP/C.1/2010/6, para. 6.

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a) The Committee members must 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 must 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.[8]

e) 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.

f) 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 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.[9]

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 queries 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 later on. For this reason, any compliance-related

[8] MP.PP/C.1/2003/2, para. 22.
[9] MP.PP/C.1/2004/6, para. 53, report of the fifth meeting of the Compliance Committee, 26 November 2004.

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correspondence or queries should be sent to the secretariat and not to individual members of the Committee.[10]

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.[11]

Members of the Committee may accept invitations to present the compliance mechanism at appropriate events, including conferences and workshops,[12] or to participate in capacity-building activities and projects related to the Convention, e.g. as expert consultants. Unless specifically agreed by the Committee, Committee members presenting or discussing the Compliance Committee or its work in such contexts act in their individual capacity and do not represent the Committee. 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 Committee member concerned is expected to notify the Committee of any potential conflict of interest.[13]

Access to information about cases before the Committee

In keeping with the Convention's focus on transparency, except as explained below, all documents and correspondence, including email messages, 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, under the relevant case reference.

For reasons of personal privacy, to the extent feasible, home addresses, telephone numbers and emails of private persons will be redacted from documents and correspondence received or issued by the Committee prior to posting on the website.

In addition, offensive or derisory language will not be posted on the website. Where the presence of such language comes to the attention of the Committee, it will be redacted and the rest of the document made available on the website.

Likewise, if a communicant, Party or member of the public considers that a document submitted to the Committee contains information that should be kept confidential in accordance with the exceptions from disclosure set out in article 4, paragraphs 3 and 4 of the Convention, they may request the Committee to redact the relevant information

[10] MP.PP/C.1/2003/4, para 8, report of the second meeting of the Compliance Committee, 15 October 2003.
[11] MP.PP/C.1/2004/6, para 49.
[12] MP.PP/C.1/2003/4, para. 30.
[13] ECE/MP.PP/C.1/2007/4 para. 28, report of the sixteenth meeting of the Compliance Committee, 31 July 2007.

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from the version of the document published on the website. Pending a determination by the [Committee] [Chair] on the request, the secretariat will promptly redact the information from the version of the document on the website in the meantime and invite the other party to comment on the requested non-disclosure. If, after taking into account the request and the comments thereon, the [Committee] [Chair] considers that the character of the information would indeed fall within the scope of an exception to disclosure in article 4, paragraphs 3 and 4 of the Convention, it will remain redacted from the version of the document made available on the website. Alternatively, if the Committee considers that the relevant information would not be of a character to come within the scope of those exceptions, the document will be re-published in full.

Finally, if a communicant, Party or member of the public considers that any person may be penalised, persecuted or harassed due to any reference identifying that person in any documents before the Committee, they may request the Committee to redact all references that would identify that person. If the Chair decides that such redactions should be made, the references to that person will be deleted entirely from the documentation, including the versions circulated to the Committee and the Parties as well as those posted on the website (see further “Confidentiality” below).

Procedures for examining compliance

Open sessions with public participation

Meetings of the Committee are open to Parties, communicants, and the public as observers, except for sessions of the meetings which, in accordance with paragraphs 26, 27, 29, 30 and 33 of the annex to decision I/7, may be closed.[14]

Specifically, hearings and discussions on particular cases are in general open to the public, and so are the open sessions concerning preliminary admissibility of new communications. Parties, communicants and observers may participate at all of these sessions.[15] Participation is broadly understood in the sense enshrined in the Convention, comprising the right to comment and the right to have comments taken into account by the Committee, within the framework of the procedures of the meeting.[16]

In addition to open sessions at its regular meetings, the Committee also from time-to-time holds 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.

[14] MP. PP/C.1/2003/2, para. 15.
[15] Annex to decision I/7, para. 32.
[16] MP.PP/C.1/2003/2, para. 16.

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NGOs and the Committee[17]

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

The Committee welcomes the engagement of the NGO community. Beyond the submission of communications on individual cases, NGOs can significantly contribute to the Committee's efforts to collect information. Paragraph 25 of the annex to decision I/7 does not make any distinction between information received from individuals, NGOs and Parties. NGOs may also contribute as "experts and advisers" whose services the Committee may seek. Most importantly, 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.

Use of audio conferencing to facilitate participation

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

The Committee offers Parties, communicants and observers the possibility to take part in its open sessions on preliminary admissibility of communications and the follow-up to decisions of the Meeting of the Parties on compliance through audio-conferencing.

The Committee has made clear, however, that audio conferencing, web conferencing and videoconferencing are not to be used for the hearing of a communication, submission or MOP request, and representatives of the Party concerned, submitting Party and the communicant(s) are therefore expected to attend the hearing of each communication, submission or request in person.[18]

Working language

English is the internal working language of the Committee.[19]

Publication of meetings and documentation

Meetings of the Committee are publicized through the website, with the provisional meeting agenda, provisional meeting timeline, meeting reports, official documents and any draft documents proposed for discussion in open session also being posted there.[20]

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[17] 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).

[18] MP.PP/C.1/2015/9, para. 80.

[19] MP.PP/C.1/2003/2, para. 21, see also further down on the language of the communications.

[20] MP.PP/C.1/2003/2, para. 18.

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All documentation submitted to or issued by the Committee, and all documentation submitted by the Parties concerned, the communicant and observers are made available on the website, other than that which is required to be kept confidential pursuant to Chapter VIII of the annex to decision I/7.

Once the Chair and Vice Chairs of the Committee have decided that a communication should be forwarded to the Committee for consideration as to its preliminary admissibility, the communication, together with any supporting documentation is published on the website and the Party concerned is informed (see section 2.5 below).

Publication on the website is intended to facilitate the public to access information relating to Parties' compliance with the Convention and does not imply endorsement of the content by the Committee or by the UNECE. Nor does the posting of any document provided by the Parties in any way prejudice the Committee's findings or indicate any particular view of the Committee.

Draft findings and recommendations agreed by the Committee are posted on the website once they have been transmitted to the Party concerned and/or 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.[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.

Closed sessions

The Committee's deliberations during the preparation and adoption of any findings (including determinations on preliminary admissibility and findings regarding the implementation of MOP decisions on compliance), measures or recommendations are generally closed.[22]

Virtual meetings

The Committee regularly holds virtual meetings between the ordinary Committee meetings in order to ensure the efficient management of its workload. During virtual meetings, the Committee may discuss any aspect of its work that would be discussed in closed session at its ordinary meeting, including the preparation, finalization and adoption of findings and recommendations and its reviews of MOP decisions on compliance.

[21] 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.

[22] MP.PP/C.1/2003/2, para. 17 and paragraph 33 of the annex to decision I/7.

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. Since Committee members are elected strictly in their personal capacity, an absent Committee member cannot designate a substitute.[23]

Decision-making by email

In order to ensure the efficient management of its workload, the Committee may take various decisions between its meetings by email.[24] Generally, the Committee's electronic decision-making procedure is used for decisions that do not require extensive further discussion by the Committee. Depending on the particular circumstances, such decisions may include, inter alia, the preparation and completion of draft findings; and the finalization and adoption of the final findings, the adoption of meeting reports, determinations on the admissibility of communications, and the drafting of questions to be raised with the parties to a case.

The Committee's electronic decision-making procedure is as follows:

a) The Chair prepares, with the assistance of the secretariat and, depending on the nature of the decision, the curator, the draft text to be decided through electronic decision-making. The Chair decides on a suitable time period for the Committee members' to respond. The secretariat circulates the draft text to the Committee members by email, specifying the deadline for response.

b) Committee members are asked to reply by a given date whether he or she is satisfied with the text proposed, or to propose amendments (which may be in the form of an alternative text).

c) Once all Committee members have indicated their satisfaction with the Chair's (latest) proposal, or alternatively, if no member of the Committee objects to it by a specified deadline, the proposal is deemed adopted by the Committee.

d) If it turns out that the matter is not suitable for electronic decision-making, the Chair may decide to postpone the decision-making procedure to the next ordinary or virtual meeting of the Committee.

At the instigation of the Chair, the Committee may also use other forms of communication, such as conference telephone calls, possibly in combination with email, to take decisions to ensure the Committee's efficient functioning between meetings.

[23] 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.

[24] In this context, the term "decisions" encompasses "determinations". MP.PP/C.1/2004/4, para. 41, Report of the fourth meeting of the Compliance Committee, 19 July 2004.

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Missions

To assist the performance of its functions and subject to availability of resources, the Committee may from time to time undertake a mission to the territory of a Party or another State. Such missions will only be undertaken with the agreement of that Party or State. Missions may be undertaken to gather information to assist the Committee in its examination of compliance (see further section 7.2 of this Guide).[25] They may also be undertaken after the adoption of findings and recommendations, in order to provide advice and facilitate assistance to individual Parties regarding the implementation of the Convention.[26] Finally, the Committee may undertake missions at the invitation of a Party to provide information on the Convention and the Committee's activities.

Role of the secretariat

According to decision I/7, the "secretariat shall arrange for and service the meetings of the Committee".[27] 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.

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[25] Paragraph 25(b) of decision I/7.
[26] Paragraph 37(a) of decision I/7.
[27] Paragraph 12.

Compliance review – step-by-step

1 Processing reviews of compliance

As described above, the Committee's review of a 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[28]

Thus far the vast majority of the Committee's caseload has been triggered by communications from the public. This section first describes how such communications are processed, followed by descriptions of the process for Party submissions, referrals by the secretariat, and requests by the MOP regarding a Party's compliance.

2 Communications from the public

Communications may be brought before the Committee by one or more members of the public concerning a Party's compliance with the Convention. The communication shall be addressed to the secretariat in writing using the required format,[29] and should be submitted in electronic form supported by corroborating information.

2.1 Upon receipt of a new communication

Following receipt of a new communication, the secretariat sends an acknowledgement of receipt. The secretariat checks it for completeness and determines whether it is sufficiently in the form of a communication to be brought to the attention of the Chair and Vice-Chairs of the Compliance Committee. If not, the secretariat informs the communicant accordingly and invites the communicant to re-submit its communication in the required format.[30]

[28] This trigger is not expressly referred to in the annex to decision I/7, but it follows from the MOP's general decision-making capacity.
[29] See annex I to this Guide.
[30] The required format is available at http://www.unece.org/fileadmin/DAM/env/pp/compliance/Format_for_communications_v13.02.2015.docx

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2.2 Decision by Chair and Vice Chairs to forward communication to Committee for review

Approximately five weeks before each Committee meeting, the secretariat forwards all communications received since the last meeting that are sufficiently in the form of a communication to the Chair and Vice-Chairs of the Committee for their review.

The Chair and the Vice-Chairs, with the assistance of the secretariat, decide whether the forwarded communications are sufficiently well-prepared to be considered by the Committee at its next meeting for a preliminary determination on admissibility. If not, the secretariat informs the communicant accordingly and invites the communicant to re-submit the communication in the required format for communications.

The decision by the Chair and Vice-Chairs that a new communication should be forwarded to the Committee for consideration of preliminary admissibility does not in any way prejudice the Committee's finding on whether the communication in question is preliminarily admissible. Moreover, the decision to forward a communication to the Committee does not prevent the Committee from deciding to request further clarification by the communicant before deciding on the question on preliminary admissibility.

Each communication forwarded to the Committee for consideration of preliminary admissibility will be allocated a case reference, in the format "PRE/ACCC/C/[Year]/[Number of communication]". The prefix "PRE" indicates that the Committee's determination of the preliminary admissibility of that communication has not yet been made.

The Committee agrees at each meeting the cut-off date, at least five weeks before the next Committee meeting, by which the Committee will receive communications to be considered for the next meeting. This date will be recorded in the meeting report and then posted on the communications webpage. Only communications submitted to the secretariat by this date will be considered by the Chair and Vice-Chairs for the next Committee meeting. Communications received after the five week cut-off date may be considered for preliminary admissibility at the following meeting.

2.3 Translation

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. In this regard, the Committee may request the Party concerned and communicant to provide an English translation of relevant documents.

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2.4 Determination of admissibility

New communications published on the website and Party concerned notified

Not later than three weeks before each Compliance Committee meeting, the communications to be considered for preliminary admissibility by the Committee at that meeting will be posted, together with any attachments, on the webpage for communications, http://www.unece.org/env/pp/cc/com.html

Also no later than three weeks before the meeting, the secretariat informs the Party concerned that a communication concerning its compliance will be considered as to its preliminary admissibility at the next meeting and provides a link to where the communication is posted on the Compliance Committee website. The Party concerned is informed that the preliminary admissibility will be discussed in open session at the upcoming meeting and, though there is no requirement that it do so, a representative of the Party concerned may participate either by audio-conference or in person in that session.

At the same time, the secretariat also informs the communicants whose communications will be considered as to their preliminary admissibility at the upcoming meeting of that fact and refers to the information to be posted on the Compliance Committee website. The communicant is informed that the preliminary admissibility will be discussed in open session at the upcoming meeting and, though there is no requirement that it do so, the communicant may participate either by audio-conference or in person in that session.

Also at this time, the secretariat informs the Committee that the communications to be considered for preliminary admissibility at its next meeting have been posted.

Criteria for determining preliminary admissibility

Paragraph 20 of the annex to decision I/7 states that ”the Committee shall consider any such communication unless it determines that the communication is:

(a) Anonymous;
(b) An abuse of the right to make such communications;
(c) Manifestly unreasonable;
(d) Incompatible with the provisions of decision I/7 or with the Convention.”

In addition, the communication must be supported by corroborating information (paragraph 19 of the annex to decision I/7).

The Committee should also at all relevant stages take into account 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 (paragraph 21 of the annex to decision I/7).

In the light of the purpose and the functions of the Committee to promote and improve compliance by the Parties with the Convention, the Committee may determine that a communication, while broadly appearing to fulfil the admissibility requirements of paragraph 20 of the annex to decision I/7, after careful consideration does not pass the *de minimis* threshold. In such cases, the Committee may find the communication inadmissible under paragraph 20(d) of the annex to decision I/7 on the ground that by not

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passing the *de minimis* threshold with respect to the relevance and importance of the communication in the light of the purpose and functions of the Committee, the communication is incompatible with the provisions of decision I/7. This criterion has developed in the Committee's practice and it has been confirmed by the MOP.

Procedure for determining preliminary admissibility

The Committee's procedure for determining preliminary admissibility during a meeting follows the sequence of the Committee's procedure for discussing the substance of a communication. This means that the Committee first discusses the communications in open session, and then deliberates in closed session.

During the open session, after inviting the curator of the communication to provide a brief introduction to the communication, the Chair gives the floor to any representatives of the Party concerned and communicant present either in person or via audio-conference that wish to briefly state their view regarding the admissibility of the communication. This is without prejudice to the Party concerned's right to make further submissions on the admissibility of the communication at any point prior to the Committee's final determination on admissibility (see below). The absence of a statement by the Party at the meeting to discuss preliminary admissibility does not preclude it making submissions on admissibility later.

Observers may also be given a short opportunity to state their views on the admissibility of the communication.

At this stage, all statements should be concise and strictly limited to the issue of admissibility, leaving aside the substance of the communication. Statements should be no more than 2-3 minutes in length.

Following the short statements, the Committee may put questions to representatives of the Party concerned or communicant or to observers participating in the session.

The Committee then deliberates upon each communication in closed session. During that session, it may proceed to prepare its preliminary determination of admissibility or adopt a finding that the communication is not admissible. Alternately, it may agree to defer its determination of preliminary admissibility in order to request the communicant to clarify, further substantiate or re-structure its communication prior to the next meeting or to seek clarification from the Party concerned, e.g. regarding the availability of further domestic remedies.

Once a communication is determined to be preliminarily admissible or found to be inadmissible, the prefix "PRE" is removed from its case reference.

The Committee's determination of preliminary admissibility, its finding that the communication is inadmissible or its decision to defer its determination to request further clarification or information is announced in open session during the meeting – usually in its last session – and recorded in the meeting report.

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If the Committee finds the communication to be inadmissible under paragraphs 19, 20 or 21 of the annex to decision I/7, the reasoning on which the Committee's finding is based is recorded in the meeting report.

Party concerned and communicant notified of outcome

No later than two weeks after the meeting, the secretariat informs the Party concerned and communicant whether the communication was determined to be preliminarily admissible or found to be inadmissible, or that the Committee decided to defer its determination of preliminary admissibility to its next meeting. If the communication was found to be inadmissible, the communicant and the Party concerned will also be informed of the reason why.

If the communication was determined to be preliminarily admissible, the communication is formally forwarded by the secretariat to the Party concerned, which will have five months from the date it was notified of the Committee's determination of preliminary admissibility (see paragraph above) to provide its response.

If the communication is found inadmissible, the case is considered to be closed. The communication and all related correspondence will remain available on the website.

Timeframe for final determination of admissibility

The Committee may reconsider its determination that the communication is preliminary admissible at any stage during its examination until it sends its draft findings of the communication to the parties for their comments. The sending of the draft findings to the parties for their comments signals that the Committee's final determination of admissibility has been made.

Request for reconsideration of determination of inadmissibility If the communicant considers that the Committee's determination that the communication is inadmissible was based on a manifest error, the communicant may request a reconsideration of the Committee's determination of inadmissibility. Any such request must be submitted to the secretariat, with a reasoning of no more than 1200 words (2 pages A4 size), no later than five weeks after the communicant was informed of the Committee's determination of inadmissibility, together with its reasons. The communicant's request for reconsideration will be forwarded by the secretariat to the [Chair and Vice-Chairs who will consider whether the communicant's request for reconsideration identifies a possible manifest error. If they consider that the request for reconsideration does not identify a possible manifest error, the communicant will be informed accordingly and the Committee's earlier determination of inadmissibility will stand. If, however, the Chair and Vice-Chairs consider that the request for reconsideration may indeed identify a possible manifest error, the communicant's request will be sent to the] Party concerned which will thereafter have three weeks to comment on the request. The Committee will thereafter make its decision on the communicant's request, taking into acount any comments received from the Party concerned, at its next meeting. The Committee's decision on the communicant's request will be final and not subject to review or appeal.

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Following a finding of inadmissibility

The Committee's finding that a communication is inadmissible is final and not subject to appeal or review.

2.5 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 and to determine a communication to be inadmissible under paragraphs 20 and 21 of the annex to decision I/7 if in its view the communicant has not sufficiently ~~explored~~ used the available domestic administrative or judicial review procedures.

If other members of the public have already exhausted the domestic remedies available to challenge the alleged non-compliance, then the communicant should provide the Committee with the final outcomes of the proceedings brought by those other person as these may [in certain cases] fulfil the requirement to show that the available domestic remedies have been exhausted.

Upon learning of the existence of a pending domestic review procedure, the Committee will ask the communicant to promptly provide it with clear reasons as to why, notwithstanding the pending domestic review procedure, the Committee should (depending on the stage of the communication) provisionally admit the communication or, if the communication was already determined preliminary admissible, uphold its earlier determination of ~~provisional~~ preliminary admissibility. The Committee will thereafter consider any reasons provided by the communicant and any comments thereon from the Party concerned in the light of paragraphs 20 and 21 of the annex to decision I/7 and if it considers that the thresholds set out in those paragraphs have not been met, it may determine the communication to be inadmissible.

For clarity, domestic remedies are the remedies provided by the legal system of the Party concerned. If the communicant is from a country outside the Party concerned, it is still expected to use those domestic remedies that are available to it in the legal system of the Party concerned.

2.6 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 have already been addressed by the Committee, the Committee may decide to apply its summary proceedings procedure. In such cases:

a) The Committee will send a letter to the communicant informing it 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.[31]

d) The Committee will report the communication to the MOP as decided through its summary proceedings procedure.

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

2.7 Response by the Party concerned

When the Party receives a letter from the secretariat forwarding a communication for its response, 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.[32] In its response the Party concerned should explicitly comment on the allegations made in 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 to the Party concerned by the secretariat for its response. 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 expiry 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 admissibility. If the Party concerned does not challenge the admissibility of the communication, or the Committee does not find the Party concerned's arguments on this point to be persuasive, the Committee will consider whether any further information should be requested from either party, and then provisionally schedule the

[31] ECE/MP.PP/C.1/2010/4, para. 45.
[32] Annex to decision I/7, para. 23.

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communication for a hearing at an upcoming meeting of the Committee.

If the Party concerned does not respond within the five-month deadline, the Committee will likewise proceed to consider the substance of the file, on the basis of the information before it.

3 Submissions by Parties concerning other Parties

A submission may be brought before the Committee by one or more Parties that have reservations about another Party's compliance with its obligations under the Convention. Such a submission shall be addressed in writing to the secretariat and supported by corroborating information. Within two weeks of receiving a submission, the secretariat shall send a copy of it to the Party whose compliance is at issue.

3.1 Upon receipt of a new submission

As a general rule, the secretariat forwards a copy of the submission to the Party concerned within the two week time limit.

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.

3.2 Response from the Party concerned

The deadline for the Party concerned's response is calculated from the date at which the documentation was sent by the secretariat; and the response from the Party concerned should reach the secretariat by the end of the relevant period by email. The cover letter from the secretariat invites the Party concerned to indicate whether, due to the circumstances of the particular case, the Party concerned 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.

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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 a hearing will take place 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.

3.3 Translation

If translation of the supporting material to the submission or Party concerned's response 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 parties concerned to provide an English translation of some documents.

4 Submissions by Parties concerning own compliance

A submission may be brought before the Committee by a Party concerning its own compliance with its obligations under the Convention. Such a submission shall be addressed in writing to the secretariat and supported by corroborating information.[33]

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.

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 a hearing will take place on the matter 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.

[33] Paragraph 16 of the annex to decision I/7.

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5 Referrals by the secretariat

The secretariat may refer a case to the Committee if it has reservations about a Party's compliance with its obligations under the Convention.[34] Such a referral shall be addressed in writing to the Committee and supported by corroborating information.

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 decision by the secretariat on whether to refer a case to the Committee under paragraph 17 is final and not subject to appeal.

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.

[34] Annex to decision I/7, para. 17.

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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.

6 Requests by the Meeting of the Parties

The MOP may request the Compliance Committee to examine compliance issues. For example, the MOP may request the Committee to prepare a report on compliance with or implementation of the provisions of the Convention. It may also ask the Committee to monitor, assess and facilitate the implementation and compliance with the Convention's reporting requirements.

7 Common elements for compliance review procedures

7.1 A hearing with the parties concerned

Unless the Committee in a particular case determines otherwise, after having received the reply from the Party concerned and considers it has sufficient written information before it, the Committee will hold a hearing in open session to discuss the substance of the case.

If the Committee holds a hearing in a case, it is expected that both the Party concerned and the communicant or submitting Party will participate in the hearing in person. Each party should ensure that its representative(s) taking part in the hearing have the necessary competence to answer the Committee's questions within the scope of the case. In certain cases, this may require the participation in the hearing on the part of the Party concerned of other relevant ministries or local authorities.

The Committee has the discretion to commence its deliberations on a case without holding a hearing (paragraph 24 of the annex to decision I/7). In deciding whether to proceed without a hearing, the Committee will consider, inter alia, whether there is no or very limited disagreement between the parties on the facts of the case and whether the underlying legal issues are well defined. Before deciding to proceed in this manner, the Committee will invite the views of the parties to the case and observers will be free to submit their comments, though the ultimate decision on whether to proceed in this manner will always rest with the Committee. If the Committee decides to proceed to commence its deliberations without holding a hearing, the parties will be notified and invited to submit any final written submissions if they wish to do so.

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When the Committee has decided to hold a hearing to discuss the substance of any submission, referral or communication at a particular meeting, the secretariat notifies the Party concerned, and the submitting Party or the communicant, that the hearing will be held and invites them to participate in the hearing in accordance with paragraph 32 of the annex to decision I/7.

Any substantial new information should be presented to the Committee by a Party, communicant or observer at least two weeks in advance of the meeting at which it will be discussed, in order for the Committee to consider it.

At the hearing, the Party concerned and the submitting Party or the communicant will be invited to attend and to 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 resources, financial support will be provided where needed to assist a representative of the communicant and, for eligible countries, a representative from the Party concerned and, if applicable, the submitting Party, to participate.

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

a) Introduction and opening of the discussion by the Chair;
b) Short presentation of the case by the curator;
c) Opening statements by the communicant, submitting Party or secretariat (if a referral), and by the Party concerned, including possible joint proposals;
d) Questions from the Committee, responses from the Party concerned and the communicant or the submitting Party,
e) Comments from observers at the invitation of the Chair;
f) Final comments by the communicant or submitting Party;
g) Final comments by the Party concerned.
h) Closure with information from the Chair and/or curator of any further request for information to be provided by the parties.

7.2 Information gathering

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 involved 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;
• 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 NGOs 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 efficient and effective discharge of its tasks. This also means that the Committee may avoid being overloaded with too much information, and may only seek additional information when it deems it 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 of information gathering include the following three groups:
a) Easily accessible and no-cost or low-cost means of obtaining information, including, but not limited to: requests to the Party concerned, communicant or submitting party for additional information; reports from the Parties submitted in accordance with decision I/8; Committee members; literature; Internet, including information made available through the Aarhus Clearinghouse.

b) Obtaining information by contacting external sources, which, depending on the circumstances, may require a decision by the Committee to do so, such as seeking information/opinions/advice from national and international experts, from governments, academia, private sector and non-governmental organizations as well as international

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organizations working in the Party concerned. A list of experts who have agreed to provide information to the Committee may 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 gathering 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.[35]

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 assigning experts to travel 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.

[35] For example, the secretariat has a mandate to request Parties to furnish necessary information about a matter, without instructions by the Committee. In other words, when requesting information from the Party concerned through paragraph17, the Committee already has a mandate to use the second group of sources in that context.

7.3 Preparation of draft findings

When the Committee has received the response to a submission,[36] 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, consider whether a hearing is necessary and, if so, schedule a hearing to discuss the substance of the case in open session, or decide to commence its deliberations without a hearing (see section 7.1 above);

c) After the hearing, if held, or otherwise when the Committee considers it has sufficient information before it, prepare draft findings, measures and recommendations in closed session (paragraph 33 of the annex to decision I/7). In doing so, it may at any time request additional information from the parties concerned or other sources; and

d) Finalize its draft findings and, if applicable, recommendations and send them to the parties concerned for their comments;

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

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 (generally, two weeks before the meeting) by which information to be considered at a particular meeting must be supplied. If one of the parties to a case considers it requires additional time to prepare its reply to the Committee's request for additional information, it may ask for additional time. The Committee generally accommodates requests for at least some additional time and, for fairness, the timeframes for the other parties to the case will be similarly extended. The Committee's procedures regarding information-gathering are discussed in more detail in section 7.2 above.

The Committee will start the preparation of its draft findings and, where applicable, recommendations as soon as it considers that it has a sufficiently complete picture of the case. The Committee will take into account all elements of the case, including the cause and frequency of any non-compliance.

As mentioned, the Committee prepares its draft findings and recommendations in closed session.[37]

If the Committee finds that the Party concerned 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 (a) and (b) of the annex to decision I/7, pending consideration by the MOP. Of these measures, it is the Committee's standard practice at the time of sending its draft findings to the parties for

[36] 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.

[37] 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),

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their comments to invite a Party concerned found to be in non-compliance to agree that the Committee may make its recommendations to it directly in accordance with paragraph 36 (b) of the annex to decision I/7 (see also section 8.1 below).

Once prepared and agreed by the Committee, the draft findings with any measures or recommendations are transmitted to the parties concerned with an invitation for them to comment within a reasonable timeframe. It is the secretariat's practice to notify the parties to a case by email before the draft findings are sent.

Draft findings and, if applicable, recommendations drawn up by the Committee and comments by the parties concerned are posted on the website once they have been transmitted to the parties concerned. 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.

Comments on the draft findings and recommendations should not include information that could have been provided at an earlier stage of the process; such information will not be able to be taken into account. Likewise, the Committee will generally not be in a position to examine legislative or other developments in the Party concerned brought to the Committee's attention after the draft findings have been sent to the parties for their comments. Rather, the Committee will examine any relevant developments in its review of the implementation of the findings and recommendations and any related decision of the Meeting of the Parties on compliance. If in a particular case the Committee exceptionally considers that it would be necessary to examine the legislative or other developments before adopting its findings in the case, the Committee will prepare revised draft findings taking those developments into account. The revised draft findings will be sent to the parties for their comment and thereafter posted on the website.

7.4 Adoption of findings and recommendations

After having taken the comments on the draft findings received by the set deadline into account, the Committee will review, finalize and adopt the draft findings and, if applicable, its 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. An advance unedited copy of the adopted findings is uploaded on the Committee's website 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.

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8 Follow-up on findings of non-compliance

8.1 Recommendations directly to the Party concerned

If the Committee adopts findings of non-compliance, with a view to addressing compliance issues without delay pending the next session of the Meeting of the Parties it may, subject to the agreement of the Party concerned, make recommendations to the Party concerned directly in accordance with paragraph 36(b) of the annex to decision I/7. This is to provide an opportunity for the Party to address the problems identified in advance of the next session of the Meeting of the Parties.

The Committee will thereafter invite the Party concerned to provide progress reports on its implementation of the Committee's findings and recommendations. Communicants, submitting Parties and observers will be given the opportunity to comment on the Party's progress to implement the Committee's finding and recommendations.

After taking into account the information received, the Committee will prepare a report to the next session of the Meeting of the Parties on the Party's progress to implement the Committee's findings and recommendations during the intersessional period.

If the Party concerned does not agree that the Committee may make recommendations to it in accordance with paragraph 36(b) of the annex to decision I/7 or if only a few months remain before the next session of the MOP, the Committee will instead transmit its recommendations to the MOP directly (see section 8.2 below).

8.2 Consideration by the MOP and adoption of a MOP decision

Prior to each session of the Meeting of the Parties, the Committee transmits each of its findings and, where applicable, recommendations adopted during the intersessional period to the Meeting of the Parties for its endorsement. Regarding the Parties found to be in non-compliance, in preparation for the upcoming session of the MOP, the Bureau to the Convention[38] prepares a draft decision concerning the compliance of each Party concerned based on the findings and recommendations of the Committee and submits the draft decision to the Meeting of the Parties for its consideration and possible adoption.

The MOP will make the final decision on specific measures aimed at bringing about full compliance with the Convention. The MOP decisions are communicated directly to the parties and made public. In its decision on compliance, the MOP will request the Party concerned to provide reports to the Committee at regular intervals (generally once per year) during the next intersessional period on its progress to implement the measures set out in the decision. During the intersessional period, the Committee will examine the progress made by the Party concerned and report to the next session of the MOP on the extent to which the Party concerned has fully implemented the measures set out in the decision (see sections 8.3 and 8.4 below).

[38] See http://www.unece.org/env/pp/bureau.html.

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8.3 Committee's review of the implementation of the MOP decision

In order to effectively examine the follow-up to decisions of the MOP concerning compliance by individual Parties, the Committee prepares [regular][periodic] progress reviews which examine the extent to which the Party concerned has by that date fulfilled the recommendations set out in the MOP decision. Prior to preparing each progress review, the Committee will invite any communicant or Party that has submitted a communication or submission giving rise to that MOP decision, and any observers who have registered their interest with the secretariat to take part in the follow-up on the MOP decision, to comment on the progress of the Party concerned. This may include comments on the most recent progress report submitted by the Party concerned or the progress to that date made by the Party concerned to implement the MOP decision more generally. The Committee will take into account all information received within the scope of the MOP decision in the preparation and finalization of its progress review.

The progress review may include recommendations to the Party concerned on the further actions it may wish to take in order to demonstrate that it has fully met the measures set out in the MOP decision. Once finalized, the Committee's progress reviews are sent to the Party concerned, communicants and submitting Party and any registered observers and posted on the website.

The Party concerned, communicants, submitting Party and registered observers will thereafter be invited to take part in an open session at a meeting of the Committee to discuss the progress made by the Party concerned and the findings and recommendations contained in the Committee's progress review.

~~devotes a considerable part of one of its meetings each year to a discussion of the implementation of MOP decisions concerning the compliance of individual Parties.[39] In advance of the session, any communicant or Party that has submitted a communication or submission giving rise to that MOP decision and any observers who have registered their interest with the secretariat to take part in the follow-up on the MOP decision will be invited to comment on the progress of the Party concerned.~~

At the meeting, the Party concerned, communicants or submitting Parties and observers will be invited to participate in the discussion and to provide information on the progress made and the remaining challenges in implementing the MOP decision. Where possible, the Committee will use audio conferencing ~~and/or videoconferencing~~ to facilitate the participation of Parties, communicants and observers. The Committee will take into account any comments received on the progress review, and any findings and recommendations contained therein, in the preparation of its next progress review or, if the intersessional period is coming to an end, its final report to the Meeting of the Parties

When appropriate, the Committee may seek the services of experts and advisers, as set out in paragraph 25 (d) of the annex to decision I/7 to assist it in its review of the implementation of MOP decisions.

~~Following the session, the Committee prepares a progress review examining the extent to which the Party concerned has by that point in time fulfilled the measures set out in the MOP decision on compliance. The progress review may include recommendations to the Party concerned on the further actions it may wish to take in order to demonstrate that it has fully met the measures set out in the MOP decision. Once finalized, the Committee's progress reviews are sent to the Party concerned, communicants and submitting Party~~

~~[39] Compliance Committee's report to the fifth session of the Meeting of the Parties, ECE/MP.PP/2014/9, para. 18.~~

~~and any registered observers and posted on the website. The Committee will take into account any comments received on the progress review, and any findings and recommendations contained therein, in the preparation of its next progress review or, if the intersessional period is coming to an end, its final report to the Meeting of the Parties.~~

8.4 Report to MOP on implementation of MOP decision

In advance of each session of the MOP, the Committee prepares its final report on the Party's progress during the intersessional period to implement the MOP decision concerning its compliance. The report will set out the Committee's findings on the extent to which the Party concerned has met each of the measures set out in the MOP decision. The Committee's final report builds upon its progress reviews during the intersessional period, taking into account the further progress made by the Party concerned since the Committee's most recent progress review and the comments received from the submitting Party, communicants and registered observers. If the Committee finds that the Party concerned remains in non-compliance, the Committee's report will also include recommendations on how that non-compliance should be addressed. Once finalized, the report is sent to the Party concerned, communicants or submitting Parties and observers, transmitted to the Meeting of the Parties for its consideration and posted on the website.

The Committee makes its findings with respect to its follow-up on MOP decisions on the basis of the evidence before it. If that evidence shows that the requirements of the Convention have been met, in the absence of any evidence to the contrary, the Committee should find the Party to be no longer in non-compliance.

The Committee has however repeatedly made clear that a finding that a Party has fulfilled the requirements of a MOP decision in no way precludes the Committee from again examining that Party's legislation or practice concerning the same issue in a future case if relevant evidence is put before it to show that that legislation does not in fact meet all the requirements of the Convention or is not being applied in practice in accordance with the requirements of the Convention.

8.5 Any developments subsequent to the finalization of the Committee's report to MOP

If any new information is submitted after the Committee has finalized its report to the upcoming session of the Meeting of the Parties on the implementation by the Party concerned of the decision concerning its compliance, either:

(a) If a further MOP decision concerning that Party's compliance is to be adopted at the upcoming session of the Meeting of the Parties, and the new information relates to the remaining points of non-compliance within the scope of that decision, the Committee will examine the new information provided in the course of its follow-up on the new MOP decision during the next intersessional period; or

(b) If there is no MOP decision concerning that Party's compliance to be adopted at the upcoming session of the Meeting of the Parties or the new information relates to matters outside the scope of the new MOP decision, the new information may be submitted in the form of a communication (by a member of the public) or submission (by a Party).

In addition, the Meeting of the Parties may request the Committee to act pursuant to paragraphs 13 (b) and (c) of the annex to decision I/7.1

It is the responsibility of the Party concerned, communicants and observers to inform the Committee in good faith of any relevant developments in the law or practice of the Party concerned.

8.6 Issuance of a caution

[In exceptional circumstances, t] [The Compliance Committee may, after taking into account for example the attitude and lack of serious engagement of a Party concerned to address its outstanding non-compliance, recommend that the Meeting of the Parties issue a caution to a Party concerned (see para. 37 (f) of the annex to decision I/7). Since its first findings were reported to the second session of the Meeting of the Parties (Almaty, 2005), the Committee has recommended that the Meeting of the Parties issue a caution to four Parties.

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Communications – useful information for the public and the Party concerned

Summary of key points[40]

• Only Parties have legal obligations under the Convention, and therefore issues of compliance can arise only with respect to Parties. Accordingly, Signatories and other States which are not Parties to the Convention fall outside the competence of the Compliance Committee.
• A State's legal obligations under the Convention commence from the moment it became a Party. Except by way of background information, communications should address only actions, omissions, events or situations which occurred when the State in question had legal obligations 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 remedies (i.e. domestic review or appeals processes) are available to address the issues raised in the communication, except where such a remedy would be unreasonably prolonged or obviously would not provide an effective and sufficient means of redress. In every case, before making a communication to the Committee, the member of the public should consider whether the problem could be resolved by using any 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 Convention. It is not intended as a redress mechanism. The mechanism itself and any measures undertaken in the course of, or as a result of, the Compliance Committee's operation are by their nature non-confrontational, non-judicial and consultative.

[40] This section builds on text in the previous parts of the Guide.

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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 submitting a communication (the communicant) does not have to be a citizen of the Party concerned, or, in the case of an organization, to be based in the Party concerned.[41]

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 that the communication is 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 (e.g. a lawyer or other representative), the communicant is required to confirm in writing to the Committee that it has authorized this person to represent it in connection with the communication in question. The Committee may request a full power or other document to show that the person duly represents the organization or group of persons.

Specify 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 the Committee to examine alleged non-compliance by more than one Party, a separate communication should be submitted for each Party concerned. The Committee may decide that related communications be managed jointly.

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 on the ninetieth day after the date on which it has deposited its instrument of ratification, acceptance, approval or accession.[42]
b) The Party has not "opted out" of the compliance mechanism with respect to communications from members of the public.[43] (While this opportunity exists, to date no

[41] 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 Union.
[42] 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.
[43] 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

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 2017. The Convention enters into force for that State 90 days later, i.e. on 28 September 2017. Communications may be made with respect to that Party from 28 September 2018.

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 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 five weeks before the meeting at which they may be forwarded to the Committee for a determination of preliminary admissibility (the dates of all upcoming meetings are listed on the Committee's website). Communications received after the five week cut-off date may 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

For information about criteria for admissibility etc, see section 2.4 above.

Form of the communication

A communication must be in writing and should follow the format for communications

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.

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provided in annex I to this Guide. The format for communications is also available on the Committee's website.

Communications should be as concise as possible. The communicant should avoid including any information that is not essential to establishing the existence and nature of the alleged non-compliance.

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-Chairs, 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.

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 the information that would be needed to establish the alleged non-compliance.

Any 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 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.

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.

Exhaustion of domestic remedies

As mentioned above, when determining whether the communication is preliminarily

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admissible, the Committee will assess whether the domestic remedies have been exhausted before the case was brought to the Committee. The communication thus 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 remedies 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 by a person other than the communicant, or by another person in a closely related case, this should also be stated in the communication.

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 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.

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On some rare occasions, the secretariat or the Committee 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, after informing the Chair, the secretariat in consultation with the communicant will prepare a redacted copy of the communication 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 or decisions of other review bodies 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.

Other than key legislation and decisions, it is recommended that there be no more than five attachments to the communication (one document per attachment).

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 may 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 may comment on the accuracy of the translations of official documents provided by the other party, e.g. legal acts, letters from public authorities.

Supporting documentation will also be translated as the Committee considers necessary and subject to available resources.

As English is the working language of the Committee, if a communication or other documentation is not submitted in English, this may considerably slow down the process of its consideration.

In order for the Committee to consider documents in languages other than the official UNECE languages, the communicant should provide a translation, 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 supporting documentation submitted in languages other than the official ones will be considered on an ad hoc basis.

To whom communications should be addressed and how

Communications should be addressed to the Committee but sent to the secretariat at the

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address indicated at the end of annex I of this Guide.

The communication should be sent by email, with the enclosures attached. If the total file size of the communication and attachments is more than 10 megabytes, then the files should be sent via a free file transfer software, such as wetransfer.com.

The receipt of a communication should be swiftly acknowledged by the secretariat. If the communicant does not receive acknowledgement of receipt within one week, he/she is encouraged to send an email to check if the communication was safely received. If the communicant does not receive a response to this further email within the next week, he/she is encouraged to send his/her communication in hardcopy by registered mail. This is to make sure that communications are not lost due to any technical difficulties that may occur in their transmission.

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

Communicants are encouraged to forward their communications to the Party concerned's Aarhus Convention national focal point[44] at the same time as submitting them to the Committee.

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[44] The contact details of all national focal points ~~is~~ are available on the Convention's website at http://www.unece.org/env/pp/nfp.html

ANNEX I – Format for communications and submissions

Important note:
The communication should be no more than 6,000 words (ten A4 pages). If in an exceptionally complex case more than ten pages are required, in no circumstances should the communication be longer than 12,000 words (twenty A4 pages).

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:
E-mail:

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, provide the following information for the contact person authorized to represent the organization in connection with this communication:
Name:
Title/Position:
Telephone:
E-mail:

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 with which non-compliance is alleged

List as precisely as possible the provisions (articles, paragraphs, subparagraphs) of the Convention that you allege the Party concerned has not complied with.

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V. Nature of alleged non-compliance

For each of the provisions with which you allege non-compliance, clearly explain how you consider that the Party concerned has failed to comply with that provision based on the facts of your case. (Provide as attachments to your communication the 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 alleged 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 provisions of the Convention. If you consider that the non-compliance concerns a general failure by the Party concerned, 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 remedies have been invoked to address the particular matter of non-compliance which is the subject of the communication. Specify which domestic remedies were used, when they were used, what claims were made, what the results were and whether there are any other domestic remedies available.

If no domestic remedies 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 they were used, what claims were made and what the results were.

VIII. Confidentiality

Note that 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 information on your identity, be kept confidential. If you request any information to be kept confidential, clearly indicate which information. It is also helpful for the Committee to know why confidentiality is requested.

IX. Supporting documentation (copies, not originals)

Avoid including extraneous, superfluous or bulky documentation. Attach only documentation essential to your case, including:

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- Relevant national legislation, highlighting the most relevant provisions.
- Relevant decisions/results of other review procedures, highlighting the most relevant sections.
- Relevant correspondence with the Party concerned's authorities or other documentation substantiating your allegations of non-compliance, highlighting the most relevant sections.

For documents other than key legislation and decisions, there should be no more than **five** attachments (one document per attachment).

For all documentation, highlight those parts which are essential to your case.

Provide all documentation 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.

X. Signature

Sign and date the communication. If the communication is submitted by an organization, a person authorized to sign on behalf of that organization must sign it.

XI. Sending the communication

Send the communication by **e-mail** and, in case receipt is not promptly acknowledged, **by registered post** to the following address:

Secretary to the Aarhus Convention Compliance Committee
United Nations Economic Commission for Europe
Environment Division
Palais des Nations
CH-1211 Geneva 10, Switzerland

E-mail: aarhus.compliance@unece.org

Clearly indicate:
"Communication to the Aarhus Convention Compliance Committee" *or*
"Submission to the Aarhus Convention Compliance Committee" *as applicable.*

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