

Communications from the public to the Compliance Committee of the Protocol on Water and Health

Overview of the system

The Protocol on Water and Health

The **Protocol on Water and Health** is a treaty currently binding upon **26 countries** of the pan-European region. It requires Parties, in essence, to exercise due diligence in ensuring access to water and sanitation and protecting water bodies within their **jurisdiction** and within this general duty:

- (a) to set targets relating to water, sanitation and health, and to monitor them;
- (b) to develop systems to respond to emergencies;
- (c) to gather, develop and provide relevant information to the public; and
- (d) to cooperate with each other in these matters.

The Protocol's Compliance Review Mechanism

To ensure that Parties diligently meet their obligations, the Meeting of the Parties to the Protocol¹ has established, on the basis of an **explicit mandate** in the Protocol, a **Compliance Committee** consisting of nine independent members serving in their personal capacity. One important feature of the Protocol's compliance mechanism is that it allows members of the public to file individual or collective complaints (communications) to the Compliance Committee in case a State does not comply with its obligations under the **Protocol**.

Who can submit a communication?

Communications may be submitted to the Committee by any member of the public, a term broadly understood as including any natural or legal persons and, in accordance with national legislation or practice, their associations, organizations or **groups**. The **member of the public** filing the communication does not need to be a citizen of the State Party concerned or to be based in its territory.² Moreover, the member of the public does not need to demonstrate injury or to be specifically affected in order **to submit a communication**. Furthermore, the communicant does not need to be represented by or seek advice from a lawyer, although legal assistance may be useful.

State object of the communication

The communication must concern a State Party.³ A State becomes a Party to the Protocol only when the Protocol enters into force for that State, namely **on the ninetieth day** after the date on which it has deposited its instrument of ratification, acceptance, approval or accession.⁴

¹ The additional one-year time requirement and four-year opting-out possibility envisioned in paragraph 16 of decision I/2 have elapsed for all 26 States Parties.

² The time requirements in paragraph 16 of decision I/2 apply to new Parties. For the calculation of the deadline of one year after the date of entry into force of the Protocol for that Party or, if a declaration is made, of the additional four-year period.

Admissibility of communications

For a communication to be admissible, it must not be: (a) anonymous; (b) an abuse of the right to make such communications; (c) manifestly unreasonable; or (d) incompatible with the provisions of the compliance procedure or with the Protocol. The Committee takes into account **available domestic remedies**, but their **exhaustion is not a formal requirement** for the admissibility of communications.

Matters of non-compliance that could be raised in communications

Communications may address any or a combination of the following situations (the list is not exhaustive) that occur or are still ongoing after the entry into force of the Protocol for the relevant Party (see **para. 1**):

- A general failure by a Party to take the necessary legislative, regulatory, institutional, administrative, operational, budgetary/financial, technical, infrastructural, management, enforcement or other measures necessary to implement the Protocol in a manner which is in conformity with its objectives and provisions;
- Failure of such legislative, regulatory, institutional, administrative, operational, budgetary/financial, technical, infrastructural, management, enforcement or other measures to meet the requirements of the Protocol's provisions;
- Specific events, acts, omissions or situations, which demonstrate a failure of the State authorities to comply with or enforce the Protocol;
- **Specific instances** of the violation of rights of individuals under the Protocol.

Steps that the public should take when submitting communications

Format

A communication to the Committee must be **in writing** and must clearly identify **the Party concerned**. Communications should be kept as concise as possible. A template with the relevant headings to be covered in a communication appears in the annex to the Guidelines on Communications from the Public.

Identification

Basic information on the identity of the communicant must be provided, i.e., full name, relevant address, telephone, email and a contact person where a group or non-governmental organization is the author of the communication.

Language

Communications and/or supporting documentation **may be submitted in the English, French, German or Russian languages**. It is recommended to submit communications in English as this will considerably speed up its consideration. To minimize delays, documents important to the matter of the communication, which are not available in one of the official

³ The Meeting of the Parties is the governing body of the Protocol. Representatives of States Parties participate in sessions of the governing body at regular intervals (normally every three years) to make decisions on matters concerning the Protocol, including on implementation and compliance.

⁴ Decision I/2, annex, para. 16, refers to communications "by one or more members of the public concerning [a] Party's compliance with the Protocol" without introducing any additional requirements in terms of citizenship or location.

languages, should be translated into English by the communicant, even if not as a certified translation, and submitted in both English and the original language.

Confidentiality

If the disclosure of information submitted could result in communicants being penalized, persecuted or harassed, he or she is entitled to request that such information be kept confidential. The communicant may elaborate on why such a request is being made but **this is not a requirement**.

Content

The communication must provide the facts on which it is based and the **explicit links between the facts and the provisions** of the Protocol allegedly not complied with. It must clearly explain how the communicant considers that the Party concerned has failed to comply with each provision mentioned. The communication must also mention in detail any **domestic remedies or international procedures** that the communicant has resorted to, when, which claims were made, with what results and whether there are any other domestic remedies available.

Supporting documentation

Copies (not originals) of all the documentation strictly relevant to the communication, including any pertinent legislative and administrative acts, have to be submitted as corroborating material. In the course of the procedure the Committee may ask the communicant to provide **additional information**.

Signature

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

Address

Communications must be addressed to the Committee through the joint secretariat at the following address (**in writing and by email**) and should clearly indicate:

Communication to the Compliance Committee on the Protocol on Water and Health:

Co-Secretary of the Protocol on Water and Health

United Nations Economic Commission for Europe

Environment Division

Palais des Nations

CH-1211 Geneva 10, Switzerland

Tel.: +41 22 917 10 32

email: protocol.water_health@unece.org

Website: https://www.unece.org/env/water/pwh_text/text_protocol.html