

**National Workshop on the UNECE-WHO/Europe Protocol on Water and  
Health for Kazakhstan, 23-24 April 2014, Borovoe, Kazakhstan**

**Veit Koester  
Chair of the Compliance Committee**

**Compliance review mechanism under the Protocol  
and its facilitative role**

## I. Overview of presentation

- What is compliance and why compliance mechanisms?
- Basis of the Protocol's compliance mechanism (CM)
- Some key features of the CM
- The Consultation Process
- Some final remarks

## II. What is compliance and why compliance mechanisms?

- Definition
- Article 26 of the Vienna Convention on the Law of Treaties
- Do Parties comply?
- and if not, why not?
- compliance mechanisms?

### III. Basis of the Protocol's compliance mechanism

#### *1. Article 15 of the Protocol: Review of Compliance:*

The Parties shall review the compliance of the Parties with provisions of this Protocol on basis of the reviews and assessments referred to in Article 7. Multilateral arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance shall be established by Parties at their first meeting. These arrangements shall allow for appropriate public involvement.

### III. Basis of the Protocol's compliance mechanism

#### *2. Decision I/2. Compliance Procedure under the Protocol on Water and Health*

- adopted at the first Meeting of the Parties (MOP) in 2007
- includes a basic decision and an Annex on the compliance procedure

### **III. Basis of the Protocol's compliance mechanism**

3. Both Article 15 and Decision I/2 are modelled closely after, respectively, a provision in the Aarhus Convention to a large extent similar to Article 15 of the Protocol, and the decision on compliance procedures adopted by the governing body of the Aarhus Convention.

4. Both CMs differ from almost all other CMs in respect of their openness to members of the public, including NGOs.

## IV. Some key features of the CM of the Protocol

### *1. The Compliance Committee*

- Composition
- Election of members
- In which capacity do they serve?
- Who are they?

## IV. Some key features of the CM of the Protocol

### 2. *Triggering of the CM*

- a submission by a Party with respect to itself
- a submission by a Party vis-à-vis another Party
- referrals by the Secretariat, or
- a communication by a member of the public including NGOs



## IV. Some key features of the CM of the Protocol

### 3. *Functions of the CC*

- The most important functions of the CC are
  - to consider submissions, referrals and communications, and
  - to monitor compliance with MOP recommendations on non-compliance response measures

## IV. Some key features of the CM of the Protocol

### 4. *Powers of the CC and the Meeting of the Parties (MOP)*

The CC may

- provide advice, facilitate assistance or itself assist a Party having compliance problems
- it may also make recommendations
- and issue cautions
- while it is in the hands of the MOP whether to apply stronger non-compliance measures

## IV. Some key features of the CM of the Protocol

### 5. *Procedures*

- there is a number of procedural rules in the Annex of Decision I/2
- aiming at ensuring that procedures are fair and transparent
- in addition the CC has adopted rather detailed rules of procedure being available on the website of the Protocol
- the time afforded to my presentation is not sufficient to enable me to present the rules in any detail

## IV. Some key features of the CM of the Protocol

### *6. Additional duties of the CC and decision by the MOP*

- Additional duties :
  - To review compliance with reporting obligations
  - To identify general issues of compliance
  - To report to the MOP and recommend actions
- Decision by the MOP

## V. The Consultation Process of the CC

- Objectives
- Nature and governing rules
- Basic idea
- Endorsed by the MOP

## VI. Some final remarks

- Differences between the operation of the Aarhus Convention CM and that of the Protocol
- What differences?
- Why?