

Aarhus Convention Compliance Committee: Report to MOP5

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Aarhus Convention MOP5
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“Annotated provisional agenda”

- Committee members
- Committee figures
- Committee integrity
- Nature of non-compliance
- Issues highlighted in the Committee report
 - Access to justice
 - Public participation
 - Access to justice
- Implementation of MOP decisions
- Future Committee challenges



Compliance Committee members

- Pavel Černý (Czech Republic)
- Ion Diaconu (Romania)
- Jonas Ebbesson (Sweden)
- Heggine Hakhverdyan (Armenia)
- Ellen Hey (Netherlands)
- Jerzy Jendroska (Poland)
- Alexander Kodjabashev (Bulgaria)
- Svitlana Kravchenko (– February 2012) (Ukraine)
- Gerhard Loibl (Austria)
- Dana Zhandaeva (March 2012 –) (Kazakhstan)

Compliance Committee figures

- **12** meetings since MOP4 (Chisinau); each meeting **4** days
- **40** communications during current reporting period
(**98** communications in all, **35** previous reporting period)
- **10** communications inadmissible
- **3** communications closed without findings
- **14** cases with findings of non-compliance
- **No** backlog of cases
- **9** follow-ups of MOP decisions (WGP: **14** coming period)



Integrity of Compliance Committee

- Non-confrontational, non-judicial and consultative
- Committee members shall “serve in their *personal* capacity”
- Committee members shall be persons of “high moral character and recognized competence”
- Settled practice: Committee members shall be *independent*; no member is part of government while in the Committee
- Settled practice: Committee members shall continuously consider possible conflicts of interest
- So far, all findings of non-compliance *endorsed* by MOP
- **That is: a *unique* compliance mechanism**



Nature of non-compliance

- **General failure** by a Party to take the necessary legislative, regulatory and other measures to implement the Convention
- **Failure of legislation**, regulations, other measures or jurisprudence to meet specific Convention requirements
- **Specific events, acts, omissions or situations** demonstrating a failure by public authorities or courts to comply with or enforce the Convention



Issues in Report: Access to information

- Material in the course of completion
- Raw data
- Internal communications



Issues in Report: Public participation

- Outcomes of EIA screening processes as determinations under Art 6(1b)
- Early public participation when all options are open
- The role of private actors/developers in public participation procedures
- Closed group consultations and public participation



Issues in Report: Access to justice

- Access to justice and tiered decision-making
- Access to justice regarding EIA screening decisions and determinations under Art 6(1b)
- Standing criteria under Art 9(2)
- Standing criteria under Art 9(3)



Implementation of MOP decisions

- Increasing number of Parties found in non-compliance
- How ensure *proper reviews* of implementation?
- Information gathering; cf. Decision I/7 para. 25
- Information from Party concerned, communicants and observers; in writing at meetings, via video- and audio-links
- Other means (e.g. missions)?
- How ensure *adequate implementation* between MOPs?
- ACCC and MOP should consider improvements



Future Committee challenges

- Increasing attention e.g. to:
 - Transboundary public participation
 - Private actors with public functions and responsibilities
 - Public participation and informal procedures for decision-making
- Effective review of communications
- Effective review of MOP decisions
- Adequate support from secretariat
- Positive working relation with Parties, communicants and observers (not least NGOs)
- Integrity and due process



Thanks to:

Committee members – for commitment and creativity

Secretariat – for enthusiastic and crucial support

Observers – for keeping an eye on the Committee

Parties – for keeping the Committee busy

Communicants – for keeping the Committee busy

MOP5 – for attention