



# **The Aarhus Convention Compliance Committee**

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**Aarhus Convention**  
**1998 Convention on Access to Information, Public Participation and Access to Justice in Environmental Matters**

- **Compliance Mechanism**

- Structure and methods of work
- Functions
- Outcome/impact and the MOP
- Effectiveness of the mechanism
- The role of CSO

- **PRTR Protocol (in force since 2009)**  
**PRTR compliance committee**



# Compliance Mechanism

## Article 15

The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of considering communications from members of the public on matters related to this Convention.

MOP dec. I/7 (with minor revisions through II/5 and III/6)



# Structure and methods of work

- Compliance Committee of **nine independent members** elected to serve in personal capacity (solemn declaration)
- Candidates are:
  - nationals of Parties or Signatories
  - nominated by Parties, Signatories or environmental NGOs
  - elected by MoP
- Full term of office = from the end of an ordinary MOP and until the second MOP thereafter
  - eg MoP-3 until MoP-5, with possibility for re-election once until MoP-7
- CC normally meets four times/year for a period of four days
- Working language: English



# Compliance Mechanism - Functions

## The Committee

- Reviews compliance of an individual Party, triggered by:
  - Submission by Party about another Party
  - Submission by Party about itself
  - Referrals by secretariat
  - **Communications by the public**

## It also

- ◆ prepares reports at request of MoP
- ◆ oversees reporting mechanism
- ◆ may examine compliance issues on own initiative



# Communications - basic info

- ***Who may submit?***
  - ◆ Any member of the public – *lawyer?* Not necessary
- ***What is the State concerned?***
  - ◆ A Party to the Convention, as long as it has not opted out
- ***Can data be kept confidential?***
  - ◆ YES
- ***What is the content and form of the communication?***
  - ◆ In writing, no specific form, but recommended
  - ◆ Include necessary facts and provisions
  - ◆ *What happens with general information (does the Committee take any “initiative”? (Belarus case))*



# Processing communications ordinary proceedings procedures

- Receipt and acknowledgment
- **Preliminary admissibility** (anonymous, abuse of right, manifestly unreasonable, irrelevant, domestic remedies, *de minimis*)
- Response from the Party concerned (within five months after forwarding); additional questions may be put for clarification by the communicant
- **Admissibility** and formal **discussions** (OPEN to the public)
- Deliberations (CLOSED to the public)
- **Draft findings** and, as appropriate, recommendations
- **Findings** and, as appropriate, recommendations
- **MOP endorsement – MOP decision on non-compliance by individual Parties**



# Findings

- Non-compliance *or* no non-compliance
- Recommendations: subject to agreement of the MoP or of the Party concerned
- All Committee findings of non-compliance so far endorsed by MOP (3 Parties at MOP-2, 6 Parties at MOP-3, 9 Parties at MOP-4)
- The MOP *takes note* of the Committee findings on no non-compliance





# Nature of non-compliance

- General failure by a Party to take the necessary legislative, regulatory and other measures (eg institutional, budgetary) necessary to implement the Convention (art 3, para 1)
- A failure of specific legislation, regulations or other measures implementing the Convention to meet specific requirements of its provisions (systemic)
- Specific events, acts, omissions or situations that demonstrate a failure by the public authorities to comply with or enforce the Convention



## The MOP may *inter alia*:

- Make recommendations to the Party concerned;
- Issue cautions;
- 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;
- Take such other **non-confrontational, non-judicial and consultative** measures as may be appropriate.



## Effectiveness of the mechanism

- Parties considered the mechanism a valuable tool to receive input on how to improve compliance
- For example: Albania and Lithuania, United Kingdom
- Problematic cases of persistent non-compliance, often due to political instability
- Proposal by the Chair on how to improve the effectiveness of the mechanism



# Communications/submissions in numbers (June 2013)

- 88 communications from public received, 1 submission (merged with a communication)
- 58 communications have been determined admissible and five will be considered as for the preliminary admissibility at the June 2013 meeting
- 39 sets of findings
  - Non-compliance: 23
  - No non-compliance: 19
- Two cases closed because the issues had been addressed at the domestic level, two cases have been considered under the *summary proceedings procedure* and for two communications the Committee prepared joint findings.
- 19 cases pending (at different stages of the process)



# Role of CSO

- Communications: the engine of the mechanism
- Multi-stakeholder processes (human rights aspect)
  - negotiations of the Convention
  - observer at the Bureau
  - NGOs that “specialize” on Aarhus (training activities, publications)
- Funding to one representative of the communicant to participate in the discussion with the Committee
- Regular observers at the CC meetings / Important contribution in the discussions / considerations



# Useful information on compliance

- <http://www.unece.org/env/pp/cc.html>
- **Implementation Guide** (*updated version under publication*)
- **Compliance Committee Guidance Document** (*includes modus operandi*)

