

Guide to the Aarhus Convention Compliance Committee



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Guide to the Aarhus Convention Compliance Committee

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Convention on Access to Information, Public Participation in Decision-making
and Access to Justice in Environmental Matters
(Aarhus Convention)
Environment Division
United Nations Economic Commission for Europe
Palais des Nations
CH-1211 Geneva 10
Switzerland
Phone: +41 22 917 4226

Email: aarhus.compliance@un.org

Website: <http://www.unece.org/env/pp/welcome.html>

Preface

This Guide is intended to explain the functions and working methods of the Aarhus Convention Compliance Committee for Parties, communicants and observers that may engage with the Committee's procedures. The Committee's working methods are framed by decision I/7 of the Meeting of the Parties (adopted at its first session in Lucca, October 2002), which established the Committee.

This is the second edition of the Guide. The first edition, entitled the Guidance Document on the Aarhus Convention Compliance Mechanism, was adopted in 2009.

In the decade since then, in order to respond to the needs of its evolving caseload and to improve the efficiency and effectiveness of its work, while at all times ensuring fairness and due process, the working methods of the Committee have developed considerably. The second edition of the Guide provides a clear and easy-to-follow explanation of how the Committee carries out each aspect of its work.

The second edition of the Guide was prepared through a thorough, transparent and participatory process between the Committee's 47th meeting (16-19 December 2014) and the 63rd meeting (11-15 March 2019). During this period, six drafts were prepared, with each draft published on the Committee's website prior to the Committee meeting at which it was to be discussed. At each meeting, Parties and observers had the opportunity to comment on the text and also to send written comments to the secretariat after the meeting. The comments received on each draft were then taken into account in the preparation of the subsequent draft. The Guide was adopted at the Committee's 63rd meeting.

On behalf of the Committee, I hope that the Guide will be a user-friendly tool to facilitate the engagement of Parties and members of the public in the Committee's work.

Jonas Ebbesson

Chair of the Compliance Committee

Contents¹

I. Introduction	6
II. Functions and powers of the Committee	8
Consider any submission, referral, communication or request	8
Provide advice and facilitate assistance to individual Parties	8
Report to the Meeting of the Parties	8
Monitor reporting requirements	9
Measures by the Meeting of the Parties to address compliance issues	9
Inter-sessional measures by the Committee to address compliance issues	10
III. Committee's working methods	11
Access to information about cases before the Committee	11
Open sessions with public participation	12
NGOs and the Committee	12
Use of audio-conferencing and video-conferencing	13
Working language	13
Translation	13
Use of hyperlinks	14
Publication of meetings and documentation	14
Closed sessions	15
Virtual meetings	15
Decision-making	15
Decision-making by e-mail	16
Missions	16
Role of the secretariat	17
IV. Composition and election of the Committee	18
Composition of the Committee	18
Election of Committee members	18
Nomination	18
Election	18
Geographic representation	19
Rotation	19
V. Responsibilities of Committee members	20
Impartiality and conscientiousness	20
Decision-making by consensus	20
The role of curator	20
Conflict of interest	20
VI. Overview of compliance review – step by step	23
Triggering compliance review	23
Determination of preliminary admissibility	23
Response by the Party concerned	23
Information gathering	23
Where needed a hearing with the parties concerned	23
Preparation of findings	24
Follow-up if non-compliance found	24

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

VII. Triggering review of compliance	25
Types of compliance cases	25
a. Communications from the public	26
Upon receipt of a new communication	26
Decision by Chair and Vice-Chair(s) to forward communication to Committee for review	26
Determination of admissibility	27
Use of domestic remedies	30
Summary proceedings	31
Response by the Party concerned	32
b. Submissions by Parties concerning other Parties	34
Upon receipt of a new submission	34
Response from the Party concerned	35
c. Submissions by Parties concerning own compliance	36
d. Referrals by the secretariat	37
e. Requests by the Meeting of the Parties	39
VIII. Common elements for all compliance review procedures	40
Information gathering	40
Comments and information submitted during the proceeding	42
Where needed, a hearing with the parties concerned	43
Preparation of draft findings	45
Adoption of findings and recommendations	46
IX. Follow-up if non-compliance found	47
Recommendations directly to the Party concerned	47
Consideration by the Meeting of the Parties	47
Committee's review of the implementation of decision of the Meeting of the Parties	48
Report to the Meeting of the Parties on the implementation of its decision on compliance	49
Any developments subsequent to the finalization of the Committee's report to the Meeting of the Parties	50
Issuance of a caution	50
X. Preparing a communication – useful information	52
Summary of key points	52
Who can submit a communication	53
Specify the Party concerned by the communication	53
Timing of a communication and of the related facts	54
Form of the communication	55
Presentation of the facts of alleged non-compliance	55
The nature of alleged non-compliance	55
Provisions of the Convention relating to the alleged non-compliance	56
Use of domestic remedies	56
Use of other international procedures	56
Confidentiality	56
Supporting documentation	57
Language of the communication and related documentation	58
To whom communications should be addressed and how	58
Annex 1: Format for communications and submissions	59

I. Introduction

1. 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.

2. On the basis of this provision, at its first session (Lucca, October 2002) the Meeting of the Parties adopted decision I/7 on the 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.

3. The Committee reviews Parties' compliance with the provisions of the Convention and reports to the Meeting of the Parties.

4. 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

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

6. The compliance mechanism of the Aarhus Convention is one of the few such mechanisms 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 Meeting of the Parties, or, with the Party's agreement, directly to the Party concerned.

7. The Committee may also examine compliance issues on its own initiative⁵ and

² The triggers in paragraphs (a)-(d) are described in paras. 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 Meeting of the Parties' general decision-making capacity.

⁴ Annex to decision I/7, para. 37(a).

⁵ Annex to decision I/7, para. 14.

make recommendations; prepare reports on compliance with or implementation of the provisions of the Convention at the request of the Meeting of the Parties; 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(2) of the Convention.

8. 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 ten sections and one annex. Following the introduction to the Committee in the present section, section II set outs the Committee's functions and powers and section III describes the Committee's working methods. Section IV explains the composition of the Committee and the procedure through which Committee members are elected and section V sets out the responsibilities of Committee members. Section VI provides a step-by-step overview of the compliance review procedure and section VII explains how the Committee's review of compliance may be triggered. Section VIII describes the elements of the Committee's procedure for reviewing compliance which apply to all the types of cases in its caseload. Section IX explains the procedure for following-up on a finding that a Party is in non-compliance. Finally, section X highlights some useful information for members of the public when preparing a communication to the Committee and the annex contains the required format for a communication.

9. The information contained in this guidance document is primarily based on:

- (a) The Convention, notably article 15;
- (b) Decisions I/7, II/5, III/6, IV/9, V/9 and VI/8 of the Meeting of the Parties;
- (c) The reports of the Committee's meetings.

10. All relevant documentation concerning the Compliance Committee is available at <http://www.unece.org/env/pp/cc.html>.

11. Further information concerning the Convention is available on the Convention's website: www.unece.org/env/pp/welcome.html.

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