

Guide to the Aarhus Convention Compliance Committee



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Guide to the Aarhus Convention Compliance Committee

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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

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

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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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