

Aarhus Convention: Structure, practice & experience of the Compliance Committee

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Aarhus Convention: *Parties*

Albania
Armenia
Austria
Azerbaijan
Belarus
Belgium
Bosnia & Herzegovina
Bulgaria
Croatia
Cyprus
Czech Republic
Denmark
Estonia
European Union
Finland

France
Georgia
Germany
Greece
Hungary
Iceland
Ireland
Italy
Kazakhstan
Kyrgyzstan
Latvia
Lithuania
Luxembourg
Malta
Montenegro
Netherlands

Norway
Poland
Portugal
Republic of Moldova
Romania
Serbia
Slovakia
Slovenia
Spain
Sweden
Switzerland
Tajikistan
The FYROM
Turkmenistan
Ukraine
United Kingdom

= 47 Parties (including the European Union)

Aarhus Convention: Objective

- In order to contribute to the protection of the **right** of every person of present and future generations to live in an environment adequate to his or her health and well-being, **each Party shall guarantee the rights** of access to information, public participation in decision-making, and access to justice in environmental matters in accordance with the provisions of this Convention.

Aarhus Convention: *General Features*

- **Minimum standards** for:
 - (i) access to information,
 - (ii) public participation in decision-making, and
 - (iii) access to justice in environmental matters
- A clear, transparent and consistent **legal framework** required
- **Rights** of members of the **public**, including **NGOs**
- Broad notions of “the **public concerned**” and “**public authority**”
- **No discrimination** and **no harassments**
- Independent international **Compliance Committee**

Compliance Review – 1

- Aarhus Convention Compliance Committee
- International complaint procedure
- Non-confrontational, non-judicial and consultative nature
- Examining and facilitative function
- Fully independent from Parties; 9 members not employed by gvts
- Considers and reviews:
 - Communications from members of the public
 - Submissions by Parties,
 - Referrals by the secretariat, and
 - specific Requests by MOP

Compliance Review – 2

- So far about **140** Communications and **2** Submissions
- For Communications, first decision on **preliminary admissibility**
- Communication forwarded to **Party concerned** for comments
- Further **written** information from parties if needed
- A **hearing** in just about all cases with communicant(s) and Party concerned invited, plus observers
- Committee adopts **draft findings** and send to parties in the case
- Parties in the case make **comments** to be taken into account
- Committee adopts **final findings** – with recommendations if the Party concerned is found non-compliant

Compliance Review – 3

- **Compliance Committee reports** to the Meeting of the Parties (MOP)
- **General report** on compliance issues
- **Special report** for each Party in non-compliance; with findings and recommendations on measures to get in compliance
- **MOP decides** to endorse findings of non-compliance and to make recommendations for the Party concerned
- So far **all** Committee findings of non-compliance endorsed by MOP
- **After MOP5** there are **14 Parties** in non-compliance
- These Parties will have to **report on improvements** to the Committee
- **Compliance Committee** follows up on MOP decisions and reports

Compliance Review – 4

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

Compliance Review – 5

Budgetary aspects: key items for financial support

- Secretariat staff
- Travel, DSA for Committee members (9 x 4 times x 4 days per year)
- Travel, DSA for communicants invited to hearings
- Travel, DSA for staff missions (so far quite minor)
- Meeting room & facilities (interpretation, equipment, conf. services)
- Consultancy (eg translations outside UN, preparation required mtrl)
- Costs decided by MOP:
 - working programme for 3 years, MOP—MOP (average cost/year)
 - financial arrangements of principle

Compliance Review – 6

Crucial elements

- Integrity, independence and trust
- Effectiveness *and* fairness for parties
- Facilitative function
- Transparency and accessibility
- Confirmation through MOP decisions
- Follow up of MOP decisions
- Committee webpage: <http://www.unece.org/env/pp/cc.html>

Aarhus Convention: *Experiences*

- Huge variety of **legal/political/economic systems** and **administrative decision-making structures** among parties
- **Multilevel** regime applicable to **multilevel** decision-making
- More than 25 percent of the communications led to findings of **non-compliance** (by more than 15 Parties, from all regions)
- **Endorsements** of Compliance Committee findings by **MOPs**
- **Compliance reviews matter** on the ground. In many states:
 - Changes in **legislation** and regulations
 - Changes of the **jurisprudence** of courts
 - Increasing **awareness** of participatory rights & opportunities

Further information:

www.unece.org/env/pp/pubcom.html

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Aarhus Convention Implementation Guide (2nd ed.)

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