

AARHUS CONVENTION COMPLIANCE COMMITTEE: HOW CAN YOU PROTECT YOUR ENVIRONMENTAL RIGHTS?

Guide for NGOs and practitioners

Last Update: February 2010

1. What is the Aarhus Convention's Compliance Committee (ACCC)?

The Aarhus Convention has set up a “**compliance mechanism**” to monitor the implementation of the Convention. For that purpose a “compliance committee” has been mandated to discuss and decide on possible violations of the Convention. The compliance committee itself, but even more the possibility for the public (individuals, NGOs etc) to directly communicate possible violations of the Convention to the committee, is **unique in international environmental law**.

2. What do proceedings at the ACCC look like?

1. Individuals or organizations may submit a “**communication**” to the ACCC on alleged violations of the Convention.
2. Then the ACCC starts to examine the case.
3. In an official ACCC meeting the Committee decides about the **admissibility** of the complaint.
4. In a later ACCC meeting (**public hearing**) the Committee discusses the cases and decides later on the merits (substance) of the case (“**findings and recommendations**” of the ACCC)
5. The findings and recommendations is submitted to the **Meeting of the Parties** (meeting of states that have ratified the Convention).
6. The Meeting of the Parties may adopt the recommendation and decide on measures regarding the Party concerned.

3. What can be brought to the ACCC?

Any violation of obligations under the Convention by a state that has ratified the Convention can be brought to the attention of the Committee. This can concern **specific issues** of non-compliance (such as the denial of information or the refusal to allow the public to participate in decision-making) as well as **general issues** (e.g., lack of national legislation implementing the Convention or improper national practice). It does not matter whether the Government itself, a Ministry or any other governmental body is responsible for a specific violation: the Committee will be able to consider the communication.

4. What can the Committee do?

The Committee can:

- a) Find that a country was in **non-compliance** with the Convention in a **specific case** or find that the country is **generally in non-compliance** with the Convention (regarding specific obligations). In one case the Committee found that a country failed to establish a clear, transparent and consistent framework to implement public participation procedures required under the Convention;

b) Develop **recommendations and other measures** to be adopted by the Meeting of the Parties. If the country concerned agrees, the Committee can directly provide such recommendations (and take some other soft measures).

The **Meeting of the Parties of the Convention** (MOP) is the highest decision-making body in the compliance procedure. It adopts the Committee's findings and measures. It is **only the MOP** who can take hard measures regarding a country, including declarations of non-compliance, cautions and, as a last resort, the suspension of the country's participation in the treaty. So far MOP has never used hard measures.

5. Who can approach the Committee?

Any **individual or group of individuals** (including NGOs) can approach the Committee, even regarding a foreign country (not a country of residence/citizenship).

6. Reasons to address the Committee

We recommend you to approach the Committee:

- if you **failed or have no trust** in solving the issue on national level;
- if you think the country has **general problems** with the implementation of the Convention;
- if you or your colleagues have **security concerns** when raising the issue on national level.

7. Check-list for applicants

Before you start developing your communication to the Committee, please bear in mind that:

- it should address a country that is **Party to the Convention**;
- it should address the facts that happened **after the Convention entered into force** for the country concerned and that your communication is submitted at least **one year after the entry in force**;

If you decide to develop the communication, please carefully read the "Modus Operandi" (rules of procedure) and the "Guide for Public" developed by the Committee. Pay attention to the admissibility rules described there.

8. UNECE sources on Aarhus Compliance

Decision I/7 of MOP-2 establishing the compliance mechanism:

- <http://unece.org/env/pp/documents/mop1/ece.mp.pp.2.add.8.e.pdf>

Modus Operandi:

- <http://unece.org/env/pp/compliance/manualv8.doc>

Guide for Public:

- <http://unece.org/env/pp/compliance/Pubcom1109.doc>

Compliance Mechanism web-site:

- <http://unece.org/env/pp/compliance.htm>

List of ratifications and dates of entry into force:

- <http://unece.org/env/pp/ratification.htm>