

• **WHY A COMPLIANCE COMMITTEE?**

Following adoption of Decision IG.17/2 on Compliance Procedures and Mechanisms by the 15th Meeting of the Contracting Parties and the creation of the Compliance Committee (the Committee) in July 2008, as well as Decision IG.19/1 containing the Rules of Procedure adopted by the 16th Meeting of the Contracting Parties in November 2009, the Committee became **an official subsidiary body** of the Convention and its Protocols and of the Meeting of the Contracting Parties.

The procedures and mechanisms on compliance are a set of tools aimed to allow for the better implementation of the provisions of the Convention and its Protocols.

The role of the Committee is to provide advice and assistance to Contracting Parties to assist them comply with their obligations under the Barcelona Convention and its Protocols and to generally facilitate, promote, monitor and secure such compliance.

The Committee may take measures with a view to promoting compliance. It may make recommendations to the Meeting of the Contracting Parties, if it finds that such cases should be handled by it (the Meeting of the Contracting Parties).

The Meeting of the Contracting Parties may then decide further appropriate measures to bring about full compliance with the Convention and its Protocols.

• **MAIN FEATURES OF THE COMPLIANCE MECHANISM PROCEDURES ADOPTED BY THE COMMITTEE.**

The procedure:

- a. is non-adversarial, transparent, effective, preventive in nature and oriented in the direction of "helping" Parties to implement the Convention;
- b. has a facilitating orientation, the Committee providing advice and help to Contracting Parties facing problems in implementing the Barcelona Convention and its Protocols;
- c. takes into account the specific situation of each Contracting Party.

• **WHO ARE THE MEMBERS OF THE COMMITTEE?**

An independent Committee: The members of the Committee are elected in their personal capacity by meetings of the Contracting Parties and act independently in order to serve the interests of the Barcelona Convention and its Protocols.

An operational Committee: The Committee is composed of seven regular members and seven alternate members, broadly representative of the geographic spread of the countries in the region.

A competent Committee: Members and alternates are persons with recognized competence regarding the issues covered in the Barcelona Convention and its Protocols, particularly in scientific, technical, socio-economic, and legal expertise.

• **HOW DOES THE COMMITTEE INTERVENE?**

According to Decision IG 17/2, the Committee may consider an issue after a matter has been referred to it by the **Contracting Parties** or may likewise examine an issue

brought before it by the **Secretariat**. It may also examine **all general questions of non-compliance** or any problems in implementing the Barcelona Convention and its Protocols on the basis of the reports submitted by the Contracting Parties under Article 26 of the Barcelona Convention. It may also address any other non-compliance issues transmitted to it by meetings of the Contracting Parties.

The Committee's guiding rule is to spare no effort to reach conclusions on substantive issues by consensus. However, if consensus is not possible, the Committee's conclusions, measures and recommendations may be adopted by at least six members present and voting.

• **WHY REFER A MATTER TO THE COMMITTEE?**

1st case (Self-trigger):

A Contracting Party may bring its own actual or potential situation of non-compliance to the Committee's attention if it considers that, despite all its efforts, it is or will be unable to comply fully or to meet its obligations under the Convention and its Protocols.

2nd case (Party to Party trigger):

A Contracting Party may refer to the Committee any situation of non-compliance by another Contracting Party. Such a case may be envisaged when a Contracting Party is concerned or affected by a situation in which another Party fails to comply with its obligations under the Convention and its Protocols.

3rd case (Secretariat trigger):

The Secretariat, after contacting the Contracting Party concerned, where the difficulties faced cannot be overcome, may refer to the Committee any such problem or difficulties being encountered by the Contracting Party in complying with its obligations under the Barcelona Convention and its Protocols.

• **PROCEDURE FOR REFERRING A CASE TO THE COMMITTEE.**

Submissions concerning the alleged non-compliance of a party shall be addressed in writing to the Committee through the Secretariat, supported by substantiating information setting out the matter of concern and the relevant provisions of the Barcelona Convention and its protocols. The Secretariat shall within two weeks of receiving a submission, send a copy of that submission to the Party concerned.

• **A TRANSPARENT AND PARTICIPATORY PROCEDURE.**

a. Unless the Committee and the Contracting Party whose compliance is at issue decide otherwise, meetings to examine matters referred to the Committee are open to other Contracting Parties and to observers;

b. The Contracting Party whose compliance is at issue is invited to take part in the Committee's consideration of the matter. The Party, other Parties and observers do not, however, participate in the preparation and adoption of the Committee's findings, measures and recommendations;

c. The Contracting Party whose compliance is at issue may submit replies and/or comments at any stage of the proceedings, in accordance with the Committee's rules of procedure, in particular the principle of due process. It may also submit comments on the Committee's findings, measures and recommendations; the Committee will include these comments in the report it submits to the Contracting Parties or the Secretariat as the case may be.

• **WHAT MEASURES CAN THE COMMITTEE TAKE?**

The purpose of any measure that may be taken by the Committee is:

(i) To help the Contracting Party concerned comply with its commitments under the Barcelona Convention and its Protocols and

(ii) To examine any potential cases of non-compliance, taking into account the capacity of the Party concerned and the cause, nature, level and frequency of the non-compliance issue.

These measures are of an incentive and gradual nature:

a. the Committee may give advice and, if necessary, facilitate the provision of assistance; this assistance could be through recommendations on the interpretation of legal texts or on technical or administrative methodology;

b. depending on the case, the Committee may invite and / or assist the Contracting Party concerned to draw up a plan of action to bring the Party into compliance within a period to be agreed between the Committee and the Party concerned;

c. the Committee may invite the Contracting Party concerned to submit progress reports on its efforts to bring it into compliance with its obligations under the Barcelona Convention and its Protocols;

d. the Committee may make recommendations to meetings of the Contracting Parties on cases of non-compliance, if it considers that such cases should be handled by the meeting of the Contracting Parties.

• **THE ROLE OF THE SECRETARIAT**

Le Comité se réunit normalement une fois par an et c'est au Secrétariat conformément à la Règle 11 de la Décision IG. 17/2 de prendre toute disposition pour l'organisation et le bon déroulement des réunions du Comité en assurant les prestations nécessaires. A ce titre; il lui incombe de notifier les réunions aux membres titulaires et suppléants du Comité de respect des obligations. Il appartient au Secrétariat de rédiger l'ordre du jour provisoire de chaque réunion du Comité, de préparer et d'adresser dans les délais requis les documents de travail et d'appui de chaque réunion du Comité. Il revient, en outre, au Secrétariat de consigner, en qualité de rapporteur, les délibérations du Comité de respect des obligations et de faire rapport de chacune de ses réunions. Enfin le Secrétariat remplit les autres fonctions qui lui sont confiées par le Comité de respect des obligations.

• **What measures can the meetings of the Contracting Parties take?**

The meeting of the Contracting Parties may decide to act as follows, in cases of non-compliance, basing itself on the recommendations set out in the report submitted to it by the Committee:

a. assist a particular Party to comply with the Committee's recommendations and provide assistance, including capacity-building, where appropriate;

b. make recommendations to the Contracting Party concerned;

c. request the Party concerned to submit progress reports on compliance with its obligations under the Barcelona Convention and its Protocols;

d. as a last resort, publish cases of non-compliance.

In the event of a serious, on-going or repeated situations of non-compliance by a Party, the meeting of the Contracting Parties may either issue a caution or publish a report on non-compliance by the Party concerned or, lastly, take any additional action necessary in order to achieve the objectives of the Convention and its Protocols.

Measures taken by meetings of the Contracting Parties must in all cases take into account the capacity of the Contracting Party concerned, as well as other factors such as the cause, type and degree of non-compliance.

• **THE COMMITTEE: MAKING PROPOSALS FOR IMPROVEMENT.**

The Committee transmits to each meeting of the Contracting Parties a report in which it makes the necessary recommendations and proposals, to facilitate and improve the implementation of the Barcelona Convention and its Protocols. It is up to the meeting of the Parties, based on these recommendations and proposals, to examine the effectiveness of the compliance mechanism and to take any appropriate measures needed.

For further information on the Barcelona Convention and its Protocols and on compliance procedures and mechanisms, see the MAP web site www.unepmap.org or contact the Coordinating Unit of the Mediterranean Action Plan:

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