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9th Meeting of the Compliance Committee of Barcelona Convention
and its Protocols

Split, Croatia, 27-28 November 2014

Agenda Item 6: Criteria for the evaluation of reports by the Secretariat and the Compliance Committee to establish compliance

Draft note on criteria for the evaluation of reports by the Secretariat and the Compliance Committee to establish compliance, with comments received by the Secretariat

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Draft note on criteria for the evaluation of reports by the Secretariat and the Compliance Committee to establish compliance

The present guidelines and common criteria establish a common set of requirements for the evaluation of compliance by Contracting Parties (CPs) with the provisions of the Barcelona Convention and its related Protocols, as well as Decisions, Recommendations, measures, Programs and Action Plans adopted by the CPs, and attempt to standardize the evaluation of Reports submitted by the CPs.

If a CP fails to implement the Barcelona Convention and its Protocols properly it may be subject to proceedings in the Compliance Committee (CC) at the behest of the Secretariat or another C P. Failure by a CP to comply with a decision of the COP may result in the payment of an additional lump sum or penalty payments by the noncompliant CP.

The CC adopts the following guidelines and common criteria, to be submitted by its Chairman to the Meeting of the Contracting Parties.

Comment by CC member Nicos GEORGIADES:

If submission implies approval, then it would take a few more years before the criteria are put into effect. Do we really want this? I suggest we go ahead and endorse/ implement them.

Definitions

For the purpose of these guidelines and common criteria:

1. "In due time" means the submission of the Report by the Contracting Party in a date not later than [4] months after the formal date;
2. "Partial information" means information that does not allow the drawing of logical conclusions on the situation which the information in question is meant to provide light to.

A. Criteria for the evaluation by the Secretariat of Reports submitted by Contracting Parties

1. Types/common characteristics of formal cases of non-compliance to be considerate in the implementation of the Convention (**formal obligation**).
 - a. The legal basis and the relevant provisions of the Barcelona Convention that form the basis for raising the question of non-compliance [vis a vis the respective legal measures taken by the CP].
 - b. Non submission of the Report by the Contracting Party in due time....
2. Types/common characteristics of formal cases of non-compliance to be considerate in the implementation of the Protocols (**formal obligation**):
 - a. The legal basis and the relevant provisions of the Barcelona Convention and its related Protocols that form the basis for raising the question of non-compliance [vis a vis the respective legal measures taken by the CP].
 - b. Non submission of the Report by Contracting Parties in due time.
 - c. Partial or no information on procedural issues.
3. Types/common characteristics of difficulties faced by the Contracting Parties in procedural or substantive areas in the implementation of the Convention (**substantial obligation**):

- a. The legal basis and the relevant provisions of the Barcelona Convention that form the basis for raising the question of non-compliance.
 - b. Partial or no information on administrative, technical and enforcement issues.
 - c. Problems of interpretation concerning implementation of the provisions of the Convention:
 - (i)
 - (ii)
 - (iii)
4. Types/common characteristics of difficulties faced by the C Ps in procedural or substantive areas in the implementation of Protocols (**substantial obligation**), taking into account the date of ratification of the relevant Protocol by the concerned Party [**6 month - 1 year?**]:
- a. The legal basis and the relevant provisions of the Barcelona Convention and its related Protocols that form the basis for raising the question of non-compliance.
 - b. Partial information on administrative, technical and enforcement issues.
 - c. Problems of interpretation concerning implementation of the provisions of Protocols:
 - (i)
 - (ii)
 - (iii)
 - d. Consideration of issues raised by the MAP components on the implementation of the Protocols for which each regional activity centre is responsible:
 - (i)
 - (ii)
 - (iii)

B. Criteria for the evaluation by the CC of general compliance issues, such as recurrent non-compliance problems, including in relation to reporting, taking into account the Reports submitted by CPs; and of specific situations of actual or potential non-compliance by individual Parties with the provisions of the Convention and its Protocols.

1. Types/common characteristics of formal cases of non-compliance to be considerate in the implementation of the Convention (**formal obligation**).
 - a. The legal basis and the relevant provisions of the Barcelona Convention that form the basis for raising the question of non-compliance.
2. Types/common characteristics of formal cases of non-compliance to be considerate in the implementation of the Protocols (**formal obligation**):
 - a. The legal basis and the relevant provisions of the Barcelona Convention and its related Protocols that form the basis for raising the question of non-compliance.
 - b. Non submission of the Report by the C P in due time.
 - c. Partial or no information on procedural issues.

3. Types/common characteristics of difficulties faced by the C Ps in procedural or substantive areas in the implementation of the Convention (substantial obligation):
 - a. The legal basis and the relevant provisions of the Barcelona Convention that form the basis for raising the question of non-compliance.
 - b. Partial or no information on administrative, technical and enforcement issues.
 - c. Problems of interpretation concerning implementation of the provisions of the Convention:
 - (i)
 - (ii)
 - (iii)

4. Types/common characteristics of difficulties faced by the C Ps in procedural or substantive areas in the implementation of Protocols (**substantial obligation**), taking into account the date of ratification of the relevant Protocol by the concerned Party [**6 month - 1 year?**]:
 - a. The legal basis and the relevant provisions of the Barcelona Convention and its related Protocols that form the basis for raising the question of non-compliance.
 - b. Partial or no information on administrative, technical and enforcement issues.
 - c. Problems of interpretation concerning implementation of the provisions of Protocols:
 - (i)
 - (ii)
 - (iii)
 - d. Consideration of issues raised by the MAP components on the implementation of the Protocols for which each regional activity centre is responsible:
 - (i)
 - (ii)
 - (iii)

C. Assessment of the Report format to propose amendments and/or how to implement it

1. Consideration of issues raised by the MAP components on the implementation of the Protocols.
2. Proposal by CPs to utilise other information from other systems, e.g. from the Basel Convention data base.

In relation to Decisions IG.17/2 and IG. 19/1, subparagraphs [___], the Committee shall, in an annex to the recommendations to the COP, state how it has taken into account the cause, type, degree, duration and frequency of compliance difficulties, including the financial and technical capacities of the Party whose compliance is in question and the extent to which financial and technical assistance has previously been provided.

The Committee request the Secretariat to prepare a revised version of the draft guide based on the comments made during the meeting. The Committee also request the Secretariat to circulate this

revised draft guide to Compliance Committee's members and alternates, as well as UNEP/MAP components, and to invite to comment thereon by [.....]

The Committee also agreed to recommend that the Conference of the Parties, at its 18th meeting, include in the Committee's work programme for 2014-2015 the request to finalize the development of a Guidelines and common criteria for the evaluation of Reports to identify actual or potential situation of non-compliance, for the consideration and possible adoption by the 18th/19th meeting of the Conference of the Parties.

Comment by CC member Nicos GEORGIADES:

It is impossible for the CC to have even rudimentary knowledge of such factors.