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19<sup>th</sup> Meeting of the Compliance Committee of the Barcelona Convention and its Protocols

Athens, Greece, 4-5 July 2023

**Agenda Item 9: Conclusions and Recommendations**

**Conclusions and Recommendations**

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**19<sup>th</sup> Meeting of the Compliance Committee of the Barcelona Convention and its Protocols**

Athens, Greece, 4-5 July 2023

**Conclusions and Recommendations**

*(Advanced edited version)*

**Agenda Item 2: Adoption of the Agenda and Organization of Work****Agenda Item 3: Adoption of the Report of the 18<sup>th</sup> Compliance Committee Meeting****Agenda Item 4: Status of reporting****a) 2020-2021 National Implementation Reports under Article 26 of the Barcelona Convention: Submission, Timeliness, Completeness and Information on Implementation**

- 1) *The Committee expressed satisfaction for the submission of reports by 9 Contracting Parties, including the European Union and expressed deep concern for the low rate of submission of implementation reports as indicated by the Secretariat including recurring non submission of reports from a number of Contracting Parties.*
- 2) *The Committee agreed that the draft decision to COP 23 should contain a strong call to those Contracting Parties who have not yet submitted their national implementation reports for the biennium 2018-2019 and the biennium 2020-2021 to do so, as soon as possible and by the 2<sup>nd</sup> of April 2024 the latest.*
- 3) *It was also agreed that there is a need to enhance country capacities for the preparation and submission of national reports considering the complex obligations under the Barcelona Convention and its Protocols.*
- 4) *The Committee recommended to implement Decision IG. 21/1 in order to comply with Article 26 of the Barcelona Convention; in particular, the Contracting Parties which repeatedly failed to abide by their reporting obligations may receive a caution addressed by the Meeting of the Parties in accordance with paragraph 34 (a) of Decision IG. 17/2.*
- 5) *The Committee highlighted the importance of INFO/RAC ensuring a smooth operation of the online reporting system as well as the online availability of the data included in the Reports in order to allow the accessibility and transparency of environmental information.*

**b) Follow-up progress on the implementation of the Compliance Committee Findings, Measures and Recommendations regarding the case of Mar Menor**

- 1) *The Committee notes with satisfaction the receipt of information from the Party Concerned in response to its findings and recommendations concerning the communication on the case of Mar Menor.*
- 2) *The Committee notes the extensive work done by both the Government of Spain and the Regional Government of Murcia to advance compliance with the Barcelona Convention and the relevant protocols (the SPA/BD Protocol, the ICZM Protocol, the LBS Protocol and the Dumping Protocol).*

- 3) *The Committee wishes* to congratulate the Government of Spain for enacting the new legislation for the recognition of legal personality of Mar Menor and its basin (Law 19/2022, of September 30<sup>th</sup>, 2022) which grants a new legal status recognizing of Mar Menor as a subject of rights and allowing for its autonomous governance. The Committee considers this legislative development as a major qualitative step towards the effective ecosystemic legal protection and participatory governance of the Mar Menor,
- 4) *The Committee welcomes* the progress reflected in the reports. At the same time, the Committee requests further information and some clarifications with regard to the following points:
  - a) An assessment to be provided regarding the conformity of the existing and evolving regulatory framework with the specific provisions of the Barcelona Convention and its Protocols (the SPA/BD Protocol, the ICZM Protocol, the LBS Protocol and the Dumping Protocol). In this context, the concrete implementing measures should be specified.
  - b) Regarding the information provided by the Region of Murcia in their response to the Findings and Recommendations (paragraph 3.2), the Committee would request a summary of the contents of the aforementioned websites, the information and data provided and an assessment of whether the websites provide information in an adequate, timely, effective, accessible and continuous manner, as per the Findings and Recommendations adopted by the Committee.
  - c) In addition to the detailed quantitative description provided in the Spanish response to the Findings and Recommendations regarding the meetings of the coordinative bodies of Mar Menor, the Compliance Committee would request an assessment to reflect the specific public participation procedures and outcomes of the participatory processes as described.
- 5) With regards to future annual progress reports to be submitted, the Compliance Committee would request a consolidated single report by Spain (not exceeding 10 pages).

**Agenda Item 5: Formal response of the concerned Contracting Party following communication dated September 9th, 2022, received by Law firm “Huglo Lepage” on a possible case of non-compliance**

The Committee agreed as follows:

- a) The communication should have been shared in 2 weeks from receipt by the Secretariat with both France and the Compliance Committee.
- b) The committee requested the Secretariat to share the communication with the Committee as soon as possible.
- c) Compliance Committee member Samira HAMIDI to become the rapporteur for this case and share with the Committee members a short summary on its admissibility criteria.

**Agenda Item 6: Effective Functioning of the Compliance Committee**

• **Revised Rules of Procedure of Compliance Committee**

- 1) The Committee requested the Secretariat to revise the Rules of Procedures following the adoption of the Procedures and Mechanisms of Compliance at COP 23 and present them

to the next Compliance Committee meeting; to this end, the Committee also, requested the revision of the Rules of Procedures to be included in the workplan of the Committee for the next biennium.

- 2) The Committee requested the Secretariat to share with the Committee the full report of the Consultation Meeting held on 31 January 2023 including the latest agreed version of the amendments to the Procedures and Mechanisms of Compliance.

- **Follow-up Mechanism on the Status of Implementation of the Decisions of the Compliance Committee**

The Committee stressed the importance of possible collaboration with Compliance Committee mechanisms of other Multilateral Environmental Agreements and particular interest was expressed for the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention)

### **Agenda Item 7: Draft 2024-2025 Programme of Work of the Compliance Committee**

The meeting agreed on the Programme of Work of the Compliance Committee as presented in the annex I to these conclusions and recommendations.

### **Agenda Item 8: Draft Decision proposed by the Compliance Committee to COP 23, including Elements of the 2022-2023 Activity Report of the Compliance Committee for COP 23**

- 1) The meeting agreed on the main blocks/elements of the Draft decision as follows:

- Adoption of the Procedures and Mechanisms on Compliance
- Adoption of Compliance Committee Activity Report for the Biennium 2022-2023
- Status of Reporting
- Compliance Committee Programme of Work 2024-2025
- Paragraph on the case of Mar Menor
- Composition of Compliance Committee

- 2) The very first draft of the Compliance Committee decision is attached as Annex II to these conclusions and recommendations.

### **Agenda Item 9: Place and dates of the 20<sup>th</sup> Meeting of the Compliance Committee**

The next meeting of the Compliance Committee will be held in Athens in April 2024.

### **Agenda Item 10: Other Matters**

### **Agenda Item 11: Conclusions and Recommendations**

The Committee agreed to adopt its conclusions and recommendations through electronic means.

### **Agenda Item 12: Closing of the Meeting**

**Annex I**

**Draft Programme of Work of the Compliance Committee for the biennium 2024-2025**

<b>Draft Programme of Work of the Compliance Committee for the biennium 2024-2025</b>		
<b>Activity</b>	<b>Lead/Who</b>	<b>Timetable/When</b>
<b>Specific submissions under Section V of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocol</b>		
1. To consider any submissions and/or referrals in accordance with Section V of the Procedures and Mechanisms on Compliance	Compliance Committee	20 <sup>th</sup> and 21 <sup>st</sup> Compliance Committee Meetings
<b>General issues of compliance under the Barcelona Convention and its Protocols</b>		
2. To consider specific situations of actual or potential non-compliance by individual Parties in accordance with Section IV of the Procedures and Mechanisms on Compliance	Compliance Committee	20 <sup>th</sup> and 21 <sup>st</sup> Compliance Committee Meetings
3. At the request of the Meeting of the Contracting Parties, to consider general compliance issues in accordance with Section IV of the Procedures and Mechanisms on Compliance	Compliance Committee	20 <sup>th</sup> and 21 <sup>st</sup> Compliance Committee Meetings
4. To consider any other issues as requested by the Meeting of the Contracting Parties in accordance with Section IV of the Procedures and Mechanisms on Compliance	Compliance Committee	20 <sup>th</sup> and 21 <sup>st</sup> Compliance Committee Meetings
<b>Enhanced effectiveness of the compliance mechanism</b>		
5. To facilitate assistance, in coordination with MAP components, to address non-compliance situations	CU, MAP Components, Compliance Committee	20 <sup>th</sup> and 21 <sup>st</sup> Compliance Committee Meetings
6. Revise the Rules of Procedures for the Compliance Committee Meetings based on the approved compliance procedure mechanism by COP 23 for adoption by COP 24	CU, Compliance Committee	20 <sup>th</sup> and 21 <sup>st</sup> Compliance Committee Meetings
7. Develop follow-up mechanism for the implementation of the decisions of the CC, regulation of the flow of work between 2 meetings of the CC as well as inputs for communication purposes of the work of the CC and its outcome, including dissemination.	Compliance Committee,	20 <sup>th</sup> and 21 <sup>st</sup> Compliance Committee Meetings
8. Develop a mechanism to assess the effectiveness of the implementation of measures taken by the Contracting Parties under the Barcelona Convention, including indicator-based approaches	Compliance Committee;	20 <sup>th</sup> and 21 <sup>st</sup> Compliance Committee Meetings
9. To continue building and strengthening synergies, with other Compliance Committee's Multilateral Environmental Agreements (MEAs), including holding joint sessions.	Compliance Committee	20 <sup>th</sup> and 21 <sup>st</sup> Compliance Committee Meetings
10. Undertake reflection on ways and means to promote implementation of Article 15 (on public information and participation) of the Barcelona Convention considering the procedures and the best practices under other multilateral environmental agreements		

**Annex II**

**Draft Decision 26/1: Compliance and Reporting**

### **Note by the Secretariat**

The present draft decision is prepared by the Secretariat on the basis of its mandate regarding the governance aspects of the implementation of Decisions IG.17/2, IG.20/1 and IG.21/1 on Compliance Procedures and Mechanisms under the Barcelona Convention and its Protocols as well as on Reporting under Article 26 of the Barcelona Convention and other relevant Articles of the Protocols on reporting requirements. A number of paragraphs of the present draft decision have been prepared and/or agreed by the Compliance Committee or are in the process of consultation with the Compliance Committee.

The present draft decision addresses the following main elements:

#### **1. Amendments to Procedures and Mechanisms on Compliance and Status of Reporting**

The 22<sup>nd</sup> Meeting of the Contracting Parties (Antalya, Türkiye, 7-10 December 2021) reviewed the proposed amendments by the Compliance Committee to the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols. Decision IG 25/2, entitled “Compliance Committee” requested the Secretariat “to undertake a consultation process as soon as possible and not later than January 2023 with the Contracting Parties to review the proposed amendments and report on the outcome at COP 23” (UNEP/MED IG 25/27).

The consultation meeting was held via teleconference on 31 January 2023 and the final version of the revised Compliance Procedures and Mechanisms as agreed by the Meeting are presented as Annex 1 of the present draft decision. The Secretariat has provided a number of clarifications as footnotes to facilitate the review of the proposed amendments and their discussion during the MAP Focal Points meeting to be held in September 2023.

For ease of reference, the Secretariat has maintained the numbering of paragraphs in Annex I, as agreed by the consultation meeting of 31 January 2023, and will be updated with sequential paragraph numbering after the review by MAP Focal Points Meeting, and as appropriate COP 23.

It should be noted that there are 13 square brackets in Annex I, to be discussed by the Meeting. The main issues covered include the number of members of the Compliance Committee, the quorum, the maintenance or not of the alternate members, the reference to developing countries, the application of the “due process” not only in the Compliance Committee’s objectives but also in the way it operates, as well as the discussion for a possible expansion of the competence of assigning work to the Compliance Committee also to the Secretariat and individual Contracting Parties, while at the moment this competence is strictly given to the COP only.

The present draft decision also contains consideration and provisions about the status of reporting and on non-timely reporting.

#### **2. Activity report of the Compliance Committee during the biennium 2022-2023 and Draft 2024-2025 Programme of Work of the Compliance Committee**

The present draft decision contains provisions and two annexes, one on the 2022-2023 Activity Report by the Compliance Committee that should be submitted directly to COP23 (not yet finalized) and the Programme of Work of the Compliance Committee for 2024-2025 attached as Annex 3.

The draft Programme of Work is structured around three sections addressing:

- a) Specific submissions under Section V of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocol: This covers submissions and referrals



under Paragraphs 18 to 23.bis of the Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols;

- b) General issues of compliance under the Barcelona Convention and its Protocols: This deals with Paragraph 17 of the Procedures and Mechanisms on Compliance; and
- c) Enhanced effectiveness: This covers activities a) facilitating coordinated assistance to Contracting Parties to address difficulties in implementation as well as actual or potential non-compliance situations; b) reinforcing synergies with other Compliance Committee's Multilateral Environmental Agreements (MEAs), including holding joint sessions where appropriate, as well as c) working in assessing the effectiveness of measures taken by the Contracting Parties for the implementation of the Convention and its Protocols.

At a later stage the present draft decision will be completed with the Annex IV which would contain the proposed nominations of candidates to sit in the Committee as members and/or alternate members. It has to be noted that the Secretariat will share with the MAP Focal Points an information document explaining the situation of the membership of the current members/alternate members to the Compliance Committee in relation to the different scenarios agreed in principle with regards to the number and functions of its composition (document UNEP/MED WG.568/Inf.20).

The implementation of this decision is linked to all Outcomes of the Foundational Programme 5 on "Governance" of the MTS and of the proposed Programme of Work 2024-2025. It has budgetary implications on MTF and external resources, reflected in the proposed budget for activities 5.1.1, 5.1.3 and 5.2.4.

**Decision IG. 26/1**  
**Compliance and Reporting**

*The Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) and its Protocols at their 23rd Meeting,*

*Recalling* the United Nations General Assembly resolution 70/1 of 25 September 2015, entitled “Transforming our world: the 2030 Agenda for Sustainable Development”,

*Recalling also* the United Nations General Assembly resolution 67/296 of July 2022, entitled “Our Ocean, Our future, Our responsibility”,

*Recalling* decision IG.25/2 of COP 22 (Antalya (Türkiye), 7-10 December 2021) requesting the Secretariat to undertake a consultation process as soon as possible and not later than January 2023 with the Contracting Parties with a view to review the proposed amendments to procedures and mechanisms on compliance and report on the outcome at COP 23,

*Having regard to* the Barcelona Convention, in particular Articles 26 and 27 thereof, about reports and compliance control, respectively, and the relevant articles of its Protocols,

*Recalling* Decision IG.17/2 of the 15th Meeting of the Contracting Parties (COP 15) (Almeria, Spain, 15-18 January 2008) on Procedures and Mechanisms on Compliance under the Barcelona Convention and its Protocols, as amended by Decision IG.20/1 of the 17th Meeting of the Contracting Parties (COP 17) (Paris, France, 8-10 February 2012) and Decision IG.21/1 of the 18th Meeting of the Contracting Parties (COP 18) (Istanbul, Türkiye, 3-6 December 2013),

*Emphasizing* the Compliance Committee’s unique role in facilitating and promoting compliance by the Contracting Parties with the obligations under the Barcelona Convention and its Protocols,

*Stressing the importance of* the timely submission of national implementation reports by the Contracting Parties, for the COP to keep under review the implementation of the Barcelona Convention and its Protocols,

*Appreciating* the progress made by Contracting Parties in implementing the Barcelona Convention and its Protocols, acknowledging at the same time the challenges and difficulties faced in this complex process,

*[Noting with concern that several Contracting Parties continue their recurrent practice of non-submission of national implementation reports for the last three biennia],*

*Aware of* the need to ensure that, in coordination with MAP components, where appropriate, adequate action is taken to facilitate and promote compliance through capacity building activities with regards to submissions of the National Implementation Reports as resources allow,

*Appreciating* the work carried out by the Compliance Committee during the biennium 2022-2023 in addressing general and specific cases of difficulties in the implementation of the Barcelona Convention and its Protocols,

*Having regard to* the report of the Consultation Meeting of the Contracting Parties held on 31 January 2023, on the proposed amendments to the Procedures on Mechanisms of Compliance,

*[Having considered* the reports of the 18th and 19th meetings of the Compliance Committee and its Activity report for the biennium 2022-2023,]

1. *Adopt* the amendments to the Procedures and Mechanisms on Compliance, set out in Annex I to this present Decision,
2. *Adopt* the Activity Report of the Compliance Committee for the Biennium 2022-2023, including its findings and recommendations, set out in Annex II to this present Decision,]
3. *Adopt* the Programme of Work of the Compliance Committee for the Biennium 2024-2025, set out in Annex III to the present Decision,

4. *Urge* the those Contracting Parties who have not yet submitted their national implementation reports for the biennium 2018-2019 (8 Contracting Parties) and the biennium 2020-2021 (13 Contracting Parties) to do so, as soon as possible by 2nd April 2024 at the latest,

[5. *Appreciate* the actions taken by Spain to implement the findings and recommendations by the Compliance Committee for the case of Mar Menor and further *encourages* their efforts to achieve full compliance with the requirements and obligations of the Barcelona Convention and its Protocols following recommendations of the Compliance Committee and report.]

6. *Elect* the candidates nominated by the Contracting Parties listed in Annex IV to this present Decision [as members and alternate members of the Compliance Committee respectively].]