

# Compliance Mechanism under Aarhus Convention

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# Compliance procedures in international environmental law (Europe)

- Compliance mechanism under Aarhus Convention
- Implementation Committee under Espoo Convention
- Inquiry procedure under Bern Convention
- Compliance mechanism under PRTR Protocol
- Compliance mechanism under Water & Health Protocol
- Compliance mechanism under Water Convention



# The Aarhus Convention

- Compliance mechanism =  
Compliance Committee + Meeting of  
the Parties
- Compliance Committee:
  - 9 members
  - 4 meetings/year



# Legal basis

## ■ Article 15

“The Meeting of the Parties shall establish, on a consensus basis, optional arrangements of a non-confrontational, non-judicial and consultative nature for reviewing compliance with the provisions of this Convention. These arrangements shall allow for appropriate public involvement and may include the option of considering communications from members of the public on matters related to this Convention.”



# Legal basis

- Set up by the decision I/7 of the 1st Meeting of the Parties, 2002
- Modus Operandi (rules of procedure)



# Compliance Committee's functions

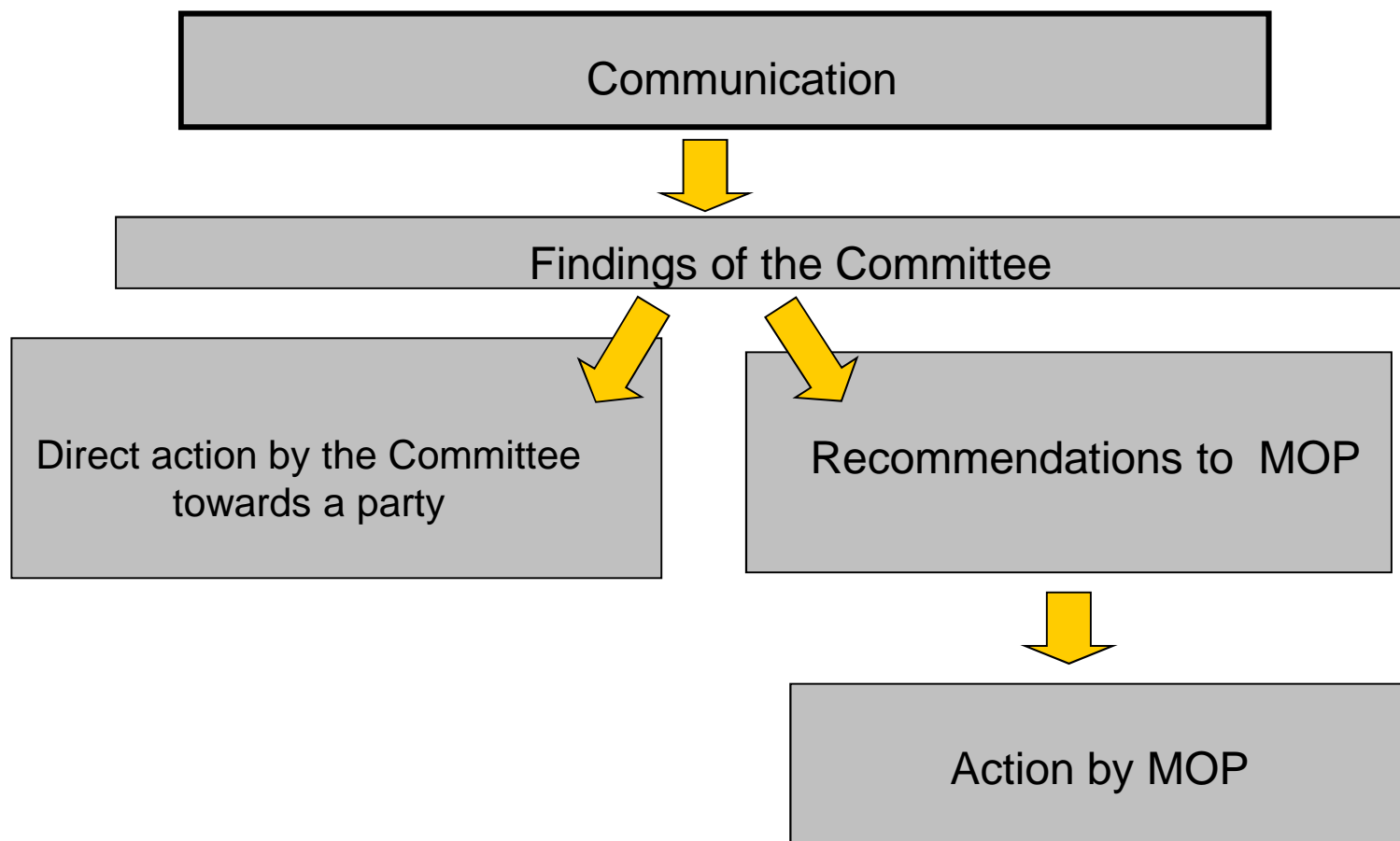
The Committee shall consider:

- ☐ Submission by the parties
- ☐ Referrals by the Secretariat
- ☐ Communications by the public

about party's compliance with its obligations  
under the Convention



# Overall process



# Main Procedural Steps of Communication Consideration by ACCC





# What's Admissibility of a case ?

- Formal requirements
- First Step in Consideration
- Basis: Decision I/7, para 20-21



# Determination of admissibility

- Initial – by Secretariat
  - Preliminary by the Committee
  - Final by the Committee
- 
- Communication gets a number
  - Case opened
  - Case becomes public



# Response by a Party

- Forwarding communication
  - After preliminary admissibility
  - May include specific questions
  - May include questions to communicant
- Response within 5 months from the date of forwarding
- May raise the issue of admissibility



# Public hearing

- Allows a discussion in open session
- Equal opportunities for parties concerned
- Has critical importance on case outcomes
- Maybe complicated by confidentiality



# Draft findings & recommendations

- Are prepared by the curator
- Discussed and approved by the whole Committee
- Are sent to parties concerned for comments



# Draft findings & recommendations

- Structured:
  - Introduction
  - Summary of facts
  - Consideration and evaluation by the committee
  - Conclusions
    - Findings
    - Recommendations



## Final decision by the committee

- Findings and Recommendations
- Adopted at a ACCC meeting
- Annexed as Addendum to ACCC's meeting report
- Case is closed (followed up, though)



# MOP's competence

- a) Provide advice and facilitate assistance to individual Parties regarding the implementation of the Convention;
- b) Make recommendations to the Party concerned;
- c) Request the Party concerned to submit a strategy, including a time schedule, and to report on the implementation of this strategy;
- d) In cases of communications from the public, make recommendations to the Party concerned on specific measures to address the matter raised by the member of the public;
- e) Issue declarations of non-compliance;
- f) Issue cautions;
- g) Suspend the special rights and privileges accorded to the Party concerned under the Convention;
- h) Take such other non-confrontational, non-judicial and consultative measures as may be appropriate.



## 2<sup>nd</sup> MOP (2005)

- Almaty 2005
  - Kazakhstan
  - Ukraine
  - Turkmenistan
- No consideration of findings
- Issue-based titles
- First experience

# 2<sup>nd</sup> MOP (2005), 4<sup>th</sup> MOP (2008) and 5<sup>th</sup> MOP (2011)



## ■ 2005

- ☐ Kazakhstan
- ☐ Ukraine
- ☐ Turkmenistan

## ■ 2008

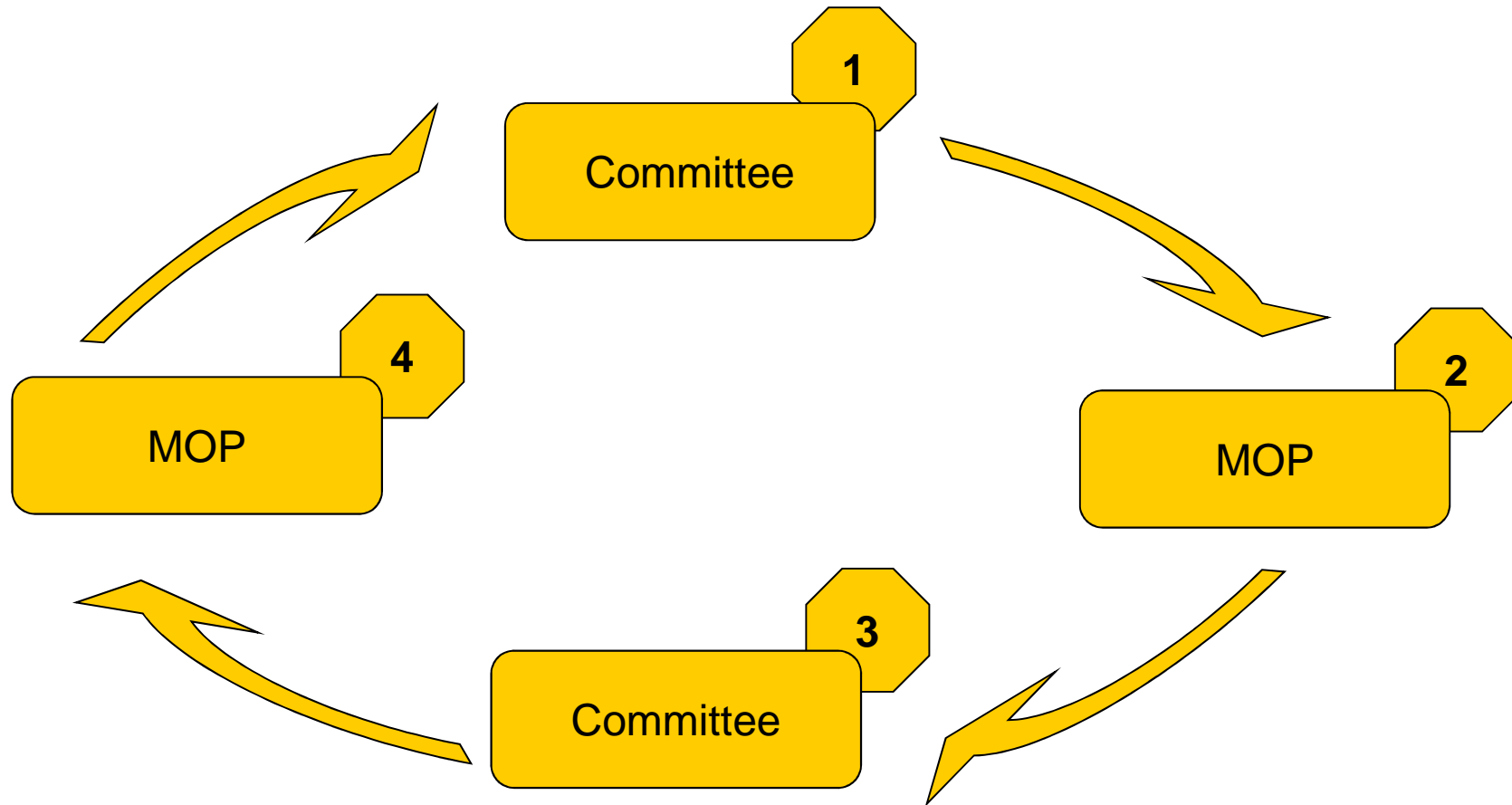
- ☐ Albania
- ☐ Armenia
- ☐ Lithuania
- ☐ UA, TM, KZ

## ■ 2011

- ☐ Belarus
- ☐ Moldova
- ☐ Slovakia
- ☐ Spain
- ☐ United Kingdom
- ☐ UA, TM, KZ, AR



# Compliance Case Circle





# Follow-up within Aarhus Process

## ■ Albania

- Decision III/6a – June 2008

- Reporting:

- Nov 2008
- Nov 2009
- Nov 2010



# Follow-up within Aarhus Process

## ■ Albania

- ☐ Reminder to Government – Oct 2008
- ☐ Second reminder – Feb 2009
- ☐ 1<sup>st</sup> Interim report by Gov't – Feb 2009
- ☐ Committee's reaction – May 2009
- ☐ Reminder to Gov't – Nov 2009
- ☐ Request for delay – Dec 2009
- ☐ 2<sup>nd</sup> Report by Gov't – Jan 2010



# Working with the Government

- National campaign
- Approaching other fora/processes
- No implementation without NGOs
- Keep putting pressure



# Thank you for attention!



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