

# Compliance Committee of the Alpine Convention

## Working procedures and impacts

As an observer organisation, CIPRA International has participated in the work of the Compliance Committee since 2005. In 2014, the organisation submitted for the first time a request for reviewing a presumed non-compliance with the Alpine Convention. Many member organisations and partners of CIPRA International ask about the function of the Compliance Committee and mechanism and its impact. To answer these questions, this factsheet summarises the experience and learning's made by CIPRA International in the past years. This paper aims at helping to use the Compliance mechanism in the most effective and efficient way in order to contribute to improve the implementation of the Alpine Convention.

### 1. What is the Compliance Committee?

The Compliance Committee was established by the VII<sup>th</sup> Alpine Conference in Merano, IT (2002), “with the conviction that a mechanism for reviewing compliance with the Alpine Convention and its Implementation Protocols may contribute significantly to the efficient application of the obligations assumed by the Contracting Parties” (see 8AC07<sup>1</sup>). It is a body that monitors if the legal commitments and obligations resulting from the Alpine Convention are complied with. The XII<sup>th</sup> (see ACXII/A1<sup>2</sup>) Alpine Conference in Poschiavo, CH (2012) decided upon modifications and updates of the compliance procedure.

The committee is composed of a maximum of two persons per contracting party and observer organisation. Only the contracting parties bound by the concerned obligation have a right to vote. Experts may be invited to take part from case to case. Decisions are generally taken by consensus, should all efforts to reach a consensus have been exhausted by a ¾-majority. The meetings and materials are confidential and can only be published after decision of the Alpine conference or as a result of a written procedure of the Ministers.

In short, the Compliance Committee:

- is not a law court or prevention instrument but rather an instrument to facilitate a better implementation of the Convention and its protocols;
- can help strengthen the compliance with the Convention and its protocols through self discipline;
- addresses difficulties in compliance as well as progress and good examples;

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<sup>1</sup>[www.alpconv.org/en/organization/complianceCommittee/Documents/AC07VII4de.pdf](http://www.alpconv.org/en/organization/complianceCommittee/Documents/AC07VII4de.pdf)

<sup>2</sup>[www.alpconv.org/en/organization/complianceCommittee/Documents/AC12\\_Compliance%20Mechanism\\_en.pdf](http://www.alpconv.org/en/organization/complianceCommittee/Documents/AC12_Compliance%20Mechanism_en.pdf)



- Substantiates the interpretation of the Convention and its protocols.

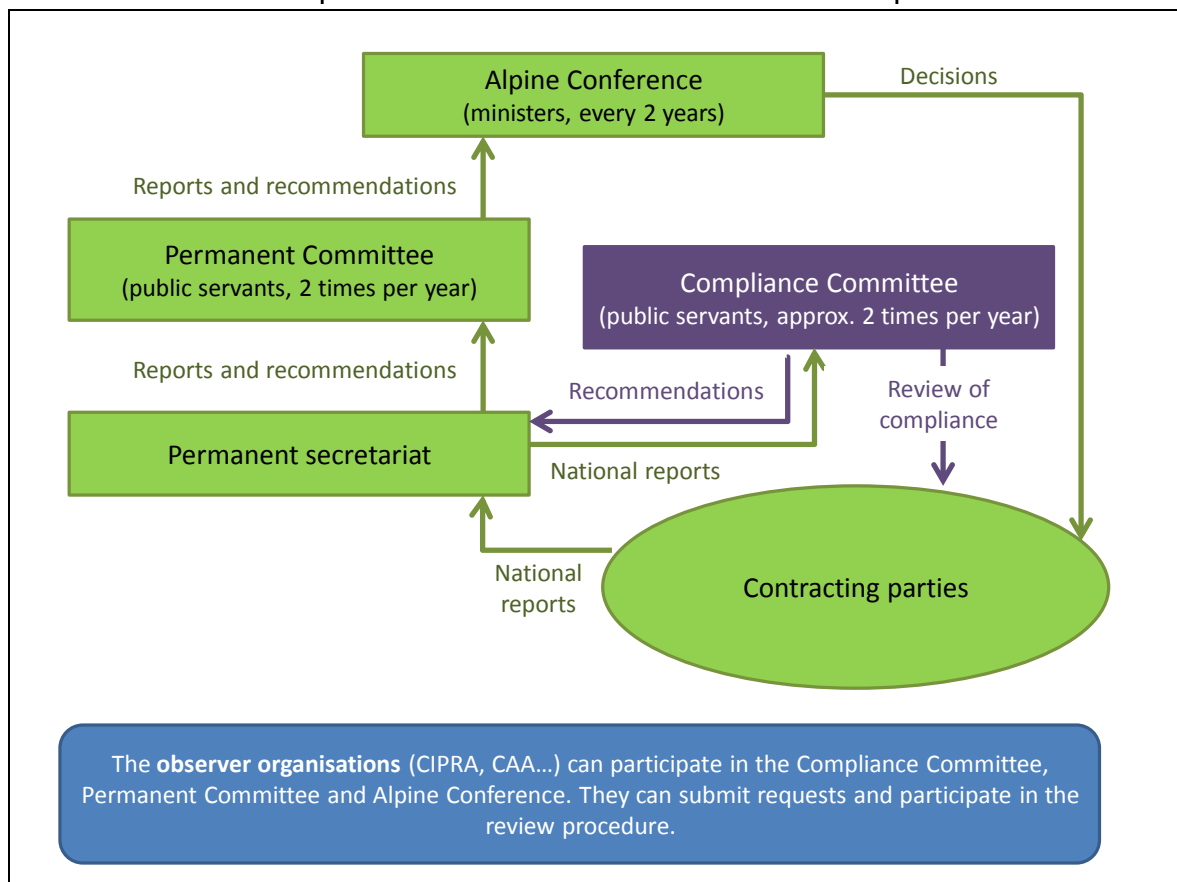
## 2. How does the Compliance Committee work?

The work of the Compliance Committee includes two types of procedures:

- The **ordinary procedure (reporting procedure)**, in which the Contracting parties first have to present a report concerning the implementation of the Convention and its Protocols every ten years. The committee reviews the national reports and further available information. In a second phase, so called in-depth review, the Compliance Committee focuses on certain topics, chosen on the basis of the results of the first phase.
- In the frame of an **extraordinary procedure** the Compliance Committee processes the requests for reviewing supposed non-compliance with the Convention and its Protocols submitted to it by the Contracting Parties and Observers.

In both procedures, the Compliance Committee generates reports and resolutions which can for example include recommendations for the improvement of the reporting and of the compliance with the Convention and its Protocols, support in the development of a compliance strategy or the presentation of best practice examples. The reports and resolutions are submitted for adoption to the Alpine Conference and then published.

## 3. How is the Compliance Committee embedded within the Alpine Convention?





#### 4. What has the Compliance Committee done since 2002?

##### Ordinary procedure

- **National reports 2005:** Based on decision VII/4 of the VII. Alpine Conference, the Contracting parties were asked to fill in a standardised form including questions on the general aspects of the Alpine Convention and on each of the protocols.<sup>3</sup>
- **National reports 2009:** Based on decision VII/4 of the VII. Alpine Conference, the Contracting parties were asked to fill in a standardised form including questions on the general aspects of the Alpine Convention and on each of the protocols.<sup>4</sup>
- **National reports 2009 on the implementation of the Declaration on "Population and Culture".**<sup>5</sup>
- **In depth review of the implementation of the Alpine Convention in the field of tourism.** The focus on tourism as the first topic for the in depth review phase was decided upon in the 18<sup>th</sup> Compliance Committee, 9<sup>th</sup>-10<sup>th</sup> April 2013, and finalised in 2016. Following activities were carried out:
  - Review of the compliance with various tourism relevant articles of the protocols on tourism and on transport; this was based on the national reports, a questionnaire addressed to the contracting parties, input from the observer organisations and from the working group on tourism and a discussion with experts;
  - Elaboration of guidelines for the interpretation of art. 6(3) of the tourism protocol in view of a coordinated implementation in the Alps.
- **In depth review of the implementation of the Alpine Convention in terms of economical use of space and land.** The focus on this issue as the second topic for the in depth review phase was decided upon in the 17<sup>th</sup> Compliance Committee, 2012. This work has been initiated in 2016 with a first collection of information and data and will be pursued in the coming years.

##### Extraordinary procedure: Requests for reviewing of supposed non-compliances with the Alpine Convention<sup>6</sup>

Request	Submitted when and by whom?	Decision of Compliance Committee	Decision of Alpine Conference
Request for reviewing a supposed non-compliance with art. 11(1) of the protocol on "nature protection"	CIPRA International, June 30 <sup>th</sup> 2014	22 <sup>nd</sup> meeting of the Compliance Committee, 16 <sup>th</sup> -17 <sup>th</sup> December 2015, Benediktbeuern, DE.	The final report and recommendations will be presented for adoption to the XIV <sup>th</sup> Alpine Conference,

<sup>3</sup> [www.alpconv.org/de/organization/complianceCommittee/2005/default.html](http://www.alpconv.org/de/organization/complianceCommittee/2005/default.html)

<sup>4</sup> [www.alpconv.org/de/organization/complianceCommittee/2009/default.html](http://www.alpconv.org/de/organization/complianceCommittee/2009/default.html)

<sup>5</sup> [www.alpconv.org/de/organization/complianceCommittee/2009Nationalreports/default.html](http://www.alpconv.org/de/organization/complianceCommittee/2009Nationalreports/default.html)

<sup>6</sup> [www.alpconv.org/en/organization/complianceCommittee/default.html](http://www.alpconv.org/en/organization/complianceCommittee/default.html)



<p>and landscape conservation”, due to 20 modifications of the decree regarding the protected landscape of “Egartenlandschaft um Miesbach” (Landkreis Miesbach, Bavaria, DE).</p>			<p>October 2016, Grassau, DE.</p>
<p>Request for reviewing a supposed non-compliance with art. 6(3) of the protocol on “tourism”, due to the authorisation of the construction of a cable car on the Piz Val Gronda (Tirol, AT).</p>	<p>Club Arc Alpin, March 20<sup>th</sup> 2013</p>	<p>20<sup>th</sup> meeting of the Compliance Committee, 23<sup>rd</sup>-24<sup>th</sup> July 2014, Genoa, IT</p>	<p>XIII<sup>th</sup> Alpine Conference, November 2014, Torino, IT</p>
<p>Request for reviewing a supposed non-compliance with art. 2(4) of the protocol on “energy”, due to the planned construction of the Sattelberg wind park in the municipality Brenner, IT, bordering with the protected landscape of Nösslachjoch-Obernberger See-Tribulaune in Tirol/AT and very close to the Natura 2000 habitat Valsertal, (Tirol, AT).</p>	<p>Club Arc Alpin, 16<sup>th</sup> April 2012</p>	<p>No decision of the Compliance Committee so far, deferral of the procedure until final verdict of Italian law court resp. administrative authority or change of factual situation.</p>	<p>No decision so far</p>

## 5. How to present a request to the Compliance Committee?



The extraordinary procedure of the Compliance Committee has been used for three cases since 2012. Based on these three cases, here is a step-by-step summary of what is to be done when presenting a request to the committee.

Contracting parties and observers (represented by registered representative and upon notification by specific experts) of the Convention are at any time entitled to present a written request for reviewing of a presumed non-compliance with the Alpine Convention. This applies to CIPRA International as an observer organisation. The minimal criteria for the presentation of a request were agreed upon in the 16<sup>th</sup> meeting of the Compliance Committee:

- A complete presentation of the case
- Description of the state of the procedures (at regional/national level) regarding the case
- A map of the region in adequate scale
- Relevant photos

Additional relevant information (e.g. court decisions) can be included into the request. A two-page summary of the request is of advantage.

These documents must be presented to the president of the Compliance Committee (with copy to the Permanent Secretariat of the Alpine convention) in the four alpine languages. They will then be forwarded to the members of the Compliance Committee.

There is no specific deadline for the presentation of a request, however, for a request to be treated in a meeting of the Compliance Committee, the complete written documentation should be sent to the presidency of the Compliance Committee and to the secretariat at least eight weeks prior to the meeting.

For the preparation of the documents and oral presentations, it is important to take into consideration the fact that the members of the Compliance Committee are from diverse cultural and juridical backgrounds. Therefore it is important to give attention to a clear and precise presentation.

The role of the Compliance Committee is clearly defined in the various decisions of the Alpine conferences and must be taken into consideration while preparing the requests. Following points are particularly relevant:

- The committee cannot deal with a request on the compliance with specific articles of the Convention or protocols in general, but based on a very specific case;
- The committee does not take position on how the concerned contracting party ensures compliance with the Convention and protocols but on whether the party has complied or not, based on results and proof material;
- The committee considers only events/decisions that have occurred since the date of ratification of the Convention/protocols by the concerned contracting party;
- The exhaustion of local remedies is not a mandatory precondition for lodging a request;
- It is realistic to consider that two years are needed to treat each request and to come to a decision;



## 6. In which cases may CIPRA International present a case to the Compliance Committee?

**Criteria** for the presentation of requests to the Compliance Committee by CIPRA International:

- Cases with alpine-wide relevance such as cases that represent distinct trends (e.g. expansion of skiing areas, conflicts with protected areas, conflicts between renewable energy generation and nature protection, expansion of traffic routes of international importance as well as others);
- Requests to the Compliance Committee should be aligned with the strategic foci of CIPRA International, including follow-up activities for the dissemination and implementation of procedure results (e.g. recommendations, decision on specific case, interpretation of AC articles);
- Availability of human and financial resources within CIPRA International;
- Availability of human and financial resources within national CIPRA and/or local member/environmental organisation/experts (incl. necessary knowledge and know-how, in particular legal) who can contribute manpower, necessary knowledge and arguments for the presentation of the request are identified;
- The cases should focus on open questions where the Compliance Committee is in a position to answer;
- In its pre-evaluation (with juridic assessment) CIPRA International has concluded that the case certainly or likely does not comply with the Alpine Convention;
- The discussion, the decisions and the output of the procedure should help to prevent future projects/decisions which don't comply with the Alpine Convention.

Claire Simon, October 2016