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Third meeting of the Committee to Support Implementation and Compliance of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean

Santiago, 22 April 2024

WORKING MODALITIES OF THE COMMITTEE TO SUPPORT IMPLEMENTATION AND COMPLIANCE OF THE REGIONAL AGREEMENT ON ACCESS TO INFORMATION, PUBLIC PARTICIPATION AND JUSTICE IN ENVIRONMENTAL MATTERS IN LATIN AMERICA AND THE CARIBBEAN (ESCAZÚ AGREEMENT)

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I. PURPOSE AND NATURE

1. This document establishes the working modalities of the Committee to Support Implementation and Compliance of the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (Escazú Agreement), in accordance with the Rules relating to the structure and functions of the Committee to Support Implementation and Compliance.¹
2. The purpose of the working modalities is to organize the work of the Committee to Support Implementation and Compliance (hereinafter “the Committee”), as well as to define the details of its structure and functioning.
3. The present working modalities shall ensure the significant participation of the public of the countries in annex 1 of the Escazú Agreement, and pay particular attention to the national capacities and circumstances of States Parties.
4. In the application and interpretation of the modalities, consideration shall be given to the nature and functions of the Committee, as set forth in the Agreement and in the Rules relating to the structure and functions of the Committee, in accordance with its consultative, transparent, non-adversarial, non-judicial and non-punitive nature as a subsidiary body of the Conference of the Parties. The Committee shall endeavour to fulfil its mandate of support, giving equal importance to the implementation of and compliance with the Agreement.

II. STRUCTURE AND COMPOSITION

Chair and Vice-Chairs

1. The Committee shall elect from among its members one Chair and two Vice-Chairs.
2. In the election of these officers, the Committee shall ensure equitable geographical distribution of membership, gender parity and, to the extent possible, rotation among members.
3. The Chair and Vice-Chairs shall hold office for two years and may be re-elected once.
4. The Chair shall preside over all the meetings and activities of the Committee, ensuring that the objectives of meetings are met. The Chair shall declare meetings open when the required quorum has been met and close meetings, accord the right to speak, steer discussions, present matters for consideration, announce adopted decisions, and supervise the implementation of the Rules relating to the structure and functions of the Committee and the present working modalities.
5. The Chair shall also manage the conduct of the meetings, rule on points of order and ensure the maintenance of order during meetings. During the course of a debate, the Chair may propose a limitation on the time to be allowed to speakers and on the number of times each representative may speak on a question, as well as the closure of the list of speakers. Debate shall be confined to the question before the Committee, and the Chair may call a speaker to order if the speaker’s remarks are not relevant to the subject

¹ Decision I/3 adopted at the first meeting of the Conference of the Parties to the Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean.

under discussion. The Chair may also propose the suspension or adjournment of the debate on the item under discussion or of the meeting, stating the grounds for that decision.

6. If the Chair is temporarily absent from a meeting or any part thereof, a Vice-Chair shall be designated to act as Chair. A Vice-Chair acting as Chair shall have the same powers and duties as the Chair.

7. The Chair shall represent the Committee in all meetings and activities in which an invitation to participate has been received. If the Chair is unable to participate, a Vice-Chair shall be designated to attend. Where neither is available, another member of the Committee shall be selected to participate.

8. If the Chair or any of the Vice-Chairs ceases to be a member of the Committee, fails to fulfil the functions of office, is unable to continue performing the functions of the office or for any reason is no longer able to hold office, the following shall apply:

- (a) The Chair shall be replaced by one of the Vice-Chairs and the Committee shall elect one of its members to fill the vacancy in the Vice-Chair.
- (b) Any member of the Committee elected to fill a vacancy as Chair or Vice-Chair shall hold office for the remainder of the term of the member who vacated the seat.

III. MEETINGS AND WORKING METHODS

Meetings

1. The meetings of the Committee shall be open to the public, except when closed sessions are held in accordance with rule III.4, paragraphs (a), (b) and (c), of the Rules relating to the structure and functions of the Committee.

2. Open meetings of the Committee shall allow for the participation of national focal points and other representatives of States Parties, elected representatives of the public, members of the public and organizations or experts dealing with the matters covered by the Agreement.

3. The Committee shall convene three regular meetings every year, with at least one of those being in-person. Regular meetings shall be held at dates decided by the Committee in consultation with the Secretariat, taking into account its calendar of conferences and meetings.

4. The Committee may convene extraordinary meetings, either in-person or in virtual format. When the Committee is not in regular session, the Chair may, after consultation with the other Officers of the Committee and the Secretariat, convene extraordinary meetings to deal with matters of an urgent nature to be considered before the next regular meeting. Extraordinary meetings shall be held preferably in a virtual format.

5. The Secretariat shall notify the members of the Committee of the place and date of each meeting. This notification shall be sent at least eight weeks before the opening of the regular meetings and at least 10 working days before the opening of an extraordinary meeting.

6. Meetings of the Committee shall be announced on the Secretariat's website and through the regional public mechanism.

7. The Chair, in consultation with the members, may establish working subcommittees with a view to better and more efficient management of the work of the Committee. These shall comprise three members, one of whom shall serve as coordinator. The composition of each subcommittee shall be reviewed every two years, allowing for the rotation of its members.

8. In order to facilitate the effective performance of the functions of the Committee, the Chair, in consultation with the other members, may designate one or more of its members as rapporteur(s). The rapporteur shall assist in thematic areas as requested by the Chair. The Committee member acting as rapporteur shall be responsible for preparing drafts of the documents required for consideration by the Committee and any other specific tasks as requested by the Chair.

Agenda

9. The Secretariat, in consultation with the Chair, shall prepare the provisional agenda for regular meetings. The agenda shall include, at minimum:

- (a) Any item decided upon by the Committee at a previous meeting or the consideration of which has not been completed.
- (b) Any item proposed by the Chair of the Committee.
- (c) Any item proposed by at least four members of the Committee.
- (d) Any item relating to a function of the Committee that must be considered at a particular meeting in accordance with the Escazú Agreement, the Rules relating to the structure and functions of the Committee or the present working modalities.

10. The Secretariat shall circulate the provisional agenda and the working documents relating to each item on the agenda to the members of the Committee well in advance before the opening of the regular meeting in question.

11. The agenda of an extraordinary meeting shall include only those items that have prompted the holding of such a meeting.

12. At the beginning of each meeting, the provisional agenda shall be submitted to the Committee for adoption or amendment, as applicable.

Decision-making

13. Decisions of the Committee shall be made by consensus. In the absence of consensus, decisions shall be reached by a majority of two thirds of its members. The Committee may take decisions at in-person meetings or virtually or electronically, using appropriate technologies, with the support of the Secretariat.

14. As a general rule, the decision-making process shall be as follows:

- (a) The Chair, with the support of the Secretariat, shall transmit the text of the draft decision to members, allowing an appropriate period of time for comments. For cases that require rapid action because of their seriousness, urgent and strict deadlines shall be fixed. Committee members may indicate whether they agree with the proposed text or recommend amendments.

- (b) The draft shall be deemed adopted once the members of the Committee have indicated their agreement or have not expressed opposition to the latest text proposed by the Chair within the established time limit.
- (c) When the Chair, on the basis of the comments received, considers that the matter requires additional time for discussion, the Chair may postpone the taking of a decision and shall make the reasons for such postponement known.
- (d) Decisions taken shall be read out at the meetings of the Committee and the manner in which the decision was taken shall be recorded in the minutes.

15. The Committee shall take its decisions in a collegial manner, and its members shall assume collective responsibility for all decisions.

Languages

16. The working languages of the Committee shall be Spanish and English.

17. The Secretariat shall provide simultaneous interpretation for statements made and translations of official documents in both languages of the meetings of the Committee.

18. Any speaker addressing the Committee and using a language other than one of the working languages shall normally provide for interpretation into one of the working languages. When applicable, and in coordination with the Secretariat, arrangements may be made for translation or interpretation to facilitate the participation of vulnerable persons who have submitted communications.

19. All documentation must be submitted in one of the working languages to be considered by the Committee. States Parties or members of the public must provide translations of documents in other languages and submit them together with the original. Where warranted, the Committee may request from the State Party concerned such translation of documentation as relevant to the proceedings of a communication irrespective of who submits the documents, particularly in respect of legislation, case law or administrative matters.

Minutes

20. The Secretariat shall prepare the minutes of the Committee's meetings. The minutes shall be circulated at the earliest opportunity to members of the Committee, who shall have up to one week from their circulation in which to submit comments to the Secretariat.

21. The minutes of the public meetings of the Committee as finalized and, where appropriate, the recordings of public meetings shall be publicly accessible, except where, in exceptional circumstances, the Committee, by means of a reasoned decision, decides otherwise.

22. The minutes of closed meetings shall be circulated to the members of the Committee. Notwithstanding the foregoing, and pursuant to rule III.4 of the Rules relating to the structure and functions of the Committee, the Committee may decide not to publish the minutes of closed meetings when: (a) the Committee deliberates on cases of non-compliance; (b) the Committee adopts concluding observations on such cases; (c) the Committee decides to hold closed sessions to prevent risks and damage to the integrity and safety of persons or to the environment.

IV. INFORMATION AND SUPPORT TO THE CONFERENCE OF THE PARTIES

Report of activities

1. The Committee shall present, at each ordinary meeting of the Conference of the Parties, a report on its activities carried out since the last meeting, including its observations in cases of non-compliance.
2. The report shall provide an overview of the sessions and activities undertaken, the implementation and compliance support functions performed between meetings of the Conference, including conclusions and recommendations made by the Committee on communications received, as well as the implementation of decisions relating to the Committee adopted by the Conferences of the Parties at its previous meetings.

Systemic report

3. The Committee shall submit to the Conference of the Parties, at least every second ordinary meeting of the Conference, a report on systemic issues in implementation of and compliance with the Agreement.
4. Systemic issues shall mean, inter alia: (i) structural aspects that may affect the implementation of the Agreement; (ii) recurring and general issues relating to implementation or compliance; and (iii) cross-cutting barriers to implementation and compliance that may affect the Agreement as a whole or a significant group of Parties.

Reports on any aspect of implementation and compliance

5. The Committee shall submit reports on any aspect of implementation of and compliance with the Agreement requested by the Conference of the Parties in a decision. The request shall indicate the deadline for submission, as well as the minimum content to be included in the report.
6. For the preparation of its reports, the Committee may request input from States Parties, elected representatives of the public, the public and organizations or entities with expertise in the subject matter of the Agreement. Drafts may be presented in open meetings, posted on the Secretariat's website or circulated for comment by Parties and the public. The Committee may also hold open dialogues with Parties and members of the public.
7. The final version of the report should be available at least eight weeks before the meeting of the Conference of the Parties at which it is to be considered.

V. ADVICE AND SUPPORT TO THE PARTIES

General comments

1. The Committee may decide to prepare and adopt general comments on specific subjects related to particular aspects of the Agreement, with a view to supporting the Parties in fulfilling their obligations under the Agreement.

2. The Chair shall invite the members of the Committee to propose topics for a general comment before work on the formulation of a general comment begins. The Committee shall select a topic from among the proposals and designate one or more members of the Committee to serve as rapporteurs to facilitate the preparation of the general comment.
3. The Chair or a person designated by the Chair shall submit an initial proposal for a general comment to the Committee, which shall review and amend it as necessary and authorize its circulation for consideration.
4. The Committee may receive input from States Parties, elected representatives of the public, the public and organizations or entities with expertise in the subject matter of the Agreement. The Committee may convene an open dialogue to discuss the topic of the general comment.
5. The Committee shall communicate the general comments adopted to the Parties, the elected representatives of the public and the public through the regional public mechanism. They shall also be made available on the Secretariat's website in the official languages.

Queries on interpretation of the Agreement

6. Any State Party may, through its designated national focal point, consult the Committee on the interpretation of the Agreement, with a view to facilitating its implementation and compliance. Likewise, representatives of the public, elected in accordance with paragraph 3 of rule XIV of the rules of procedure of the Conference of the Parties, adopted by decision I/1 of the Conference of the Parties, may also consult on the interpretation of the Agreement.
7. Queries on the interpretation of the Agreement shall be submitted in writing to the Secretariat, preferably by electronic means, and shall state precisely the specific questions on which the Committee's opinion is sought, specifying the relevant provisions of the Agreement and the considerations giving rise to the query.
8. Once the Committee receives a query, it shall circulate a copy thereof to all Parties and to the elected representatives of the public, and publish it on the Secretariat's website. The Chair shall set a reasonable deadline for those Parties and interested persons to submit, in writing, information and views or comments on the query.
9. The Committee may decide to convene an in person, virtual or hybrid public hearing, to be held in the framework of its meetings, and to invite any interested person or expert body to provide a written opinion on the queries submitted.
10. The Committee shall issue its opinion upon completion of the process described above.
11. Following adoption, the Committee's opinion shall be communicated to the submitter of the query and published on the Secretariat's website, unless the Committee provides a reasoned decision to the contrary.

Periodic consultations and dialogues with the Parties

12. The Committee shall engage in periodic consultations and dialogues with each of the Parties. Each Party shall participate in consultations and dialogues at least once every four years. At the last ordinary meeting of the year, the Committee shall invite States Parties wishing to open a consultation and dialogue with a view to planning activities for the following year.

13. The Committee shall publish the schedule of dialogues to be held and shall notify Parties that have been included in the organization of work.

14. Each Party and the Committee shall, in periodic consultations and dialogues, engage in open, constructive and interactive exchanges on any matters pertaining to the implementation of and compliance with the Agreement, seeking consensus on the agenda and subject matter. The Party or the Committee may propose a list of topics to be considered in the dialogue at least eight weeks before the session at which they are to be held. The Committee shall prepare for periodic consultations and dialogues, and may receive information from the State Party concerned through its national focal points, elected representatives of the public, the public and experts or organizations with relevant expertise within an appropriate timeframe established in advance.

15. The observations and reports received by the Committee shall be communicated to the Party for its consideration.

16. The Committee shall prepare a report of the consultation and dialogues and send it to the State Party for comments for a period of eight weeks. At the end of this period or upon receipt of observations, the comments shall be analysed with a view to drafting the final report of the consultation or dialogue, containing the Committee's conclusions and recommendations. The Committee shall follow up on its conclusions and recommendations on a regular basis.

17. On the proposal of a Party or at the request of the Committee with the consent of a Party, periodic consultations and dialogues with a Party may be held during the course of a visit to the territory of that Party. The Party and the Committee shall agree on the arrangements for conducting such activities, with the support of the Secretariat.

Open dialogues with Parties and members of the public

18. In accordance with rule IV, paragraph (c) (iv), of the Rules relating to the structure and functions of the Committee, the Committee may convene open dialogues with the Parties and the public at its meetings, on any item on the agreed agenda, indicating the time and place of such a dialogue and facilitating the participation of interested parties, which shall be open to the public.

VI. COMMUNICATIONS

Filing or submission of communications

1. Communications may be filed by a Party with respect to itself, a Party with respect to another Party or a member of the public.

2. A communication may request support for compliance or allege non-compliance of one or more provisions of the Agreement.

3. National focal points designated by each Party, as included in the list maintained by the Secretariat, shall be responsible for the filing of communications by a State Party with respect to itself.

4. Communications by a State Party with respect to another State Party shall be filed by those persons holding the corresponding powers granted by the Head of State, Head of Government or Minister for Foreign Affairs of the State Party concerned. Before submitting a communication, the author of the communication shall demonstrate that the State Party concerned was approached with a view to bringing any concerns to its attention and providing an opportunity for dialogue to resolve them beforehand.
5. Members of the public shall be natural or legal persons and the associations, organizations or groups established by those persons, who are nationals or are subject to the national jurisdiction of the State Party. They may act in an individual capacity or through a representative. Representation shall be recorded in writing and shall indicate the express consent of the person being represented. Where a legal person or an association, organization or group is represented, proof of the mandate shall be provided. Where appropriate, a community mandate shall be granted in accordance with its representative and culturally appropriate forms. In justified circumstances, a person may act on behalf of another person without the need for express consent.
6. The author of a communication may withdraw the same at any time during the procedure, and must communicate this in writing. Such withdrawal shall not preclude the filing of a new communication on the same or another case.
7. Communications shall be submitted in writing, in accordance with the present modalities and shall be well-founded. They shall be accompanied by all supporting documents and information relating to the communication.
8. The communication shall outline the grounds on which it is based and the relevant articles of the Escazú Agreement, without superfluous or excessive information. It shall contain a succinct account of the facts on which its claims are based and all information necessary for its consideration by the Committee, including any supporting documents that may substantiate it.
9. Communications shall be submitted in one of the working languages of the Committee, preferably the working language most commonly spoken in the State Party concerned.
10. A communication shall only be admissible if it contains the following essential elements:
 - (a) The full name, address and contact details of the author or legal representative in the case of legal persons, including telephone number and email address.
 - (b) The name of the State Party concerned.
 - (c) In the case of members of the public: proof of nationality, residence or subjection to the national jurisdiction of the State Party concerned and, where appropriate, proof of representation.
 - (d) In the case of representatives of a State Party: name of the State Party represented and credentials.
 - (e) Subject of the communication.
 - (f) The facts on which the communication is based and the information supporting it.
 - (g) The provision(s) of the Agreement in respect of which support is sought or non-compliance is alleged.
 - (h) Accompanying evidence that the facts referred to in the communication occurred after the date of entry into force of the Agreement for the State Party concerned, unless those facts predate the entry into force and continue to have an effect.

- (i) Information on the steps taken in the State Party concerned to resolve the case or, failing that, an explanation of the absence thereof.
 - (j) Information on whether the case is being heard or has been ruled on through another international procedure of a binding nature.
 - (k) Indication of whether the author objects to disclosure of the author's identity or of the communication to third parties and the reasons for such objection.
11. Legal representation shall not be required to file a communication.
 12. The Committee shall undertake to protect the identity and privacy of those who request it.
 13. The Committee shall not receive communications that:
 - (a) Concern a State that is not Party to the Agreement
 - (b) Are filed less than one year after the entry into force of the Agreement for that State Party
 - (c) Have not been submitted in writing
 - (d) Are anonymous.
 14. The Secretariat may provide guidance to Parties and the public on procedures on and requirements for the admissibility of communications.

Transmission and receipt of communications

15. The Secretariat shall transmit to the Committee, in accordance with the rules relating to its structure and functions and the present working modalities, communications that have been submitted for its consideration by a State Party or members of the public.
16. The Secretariat shall acknowledge receipt of any new communication received. It shall verify that the communication is in the required format and has been duly completed.
17. If the communication does not contain the requisite elements or is not in the required format, the author of the communication shall be invited to resubmit the corrected communication or to clarify or provide additional information to resolve these issues within an appropriate period of time, failing which the communication shall be deemed inadmissible.

Registration of cases

18. All cases containing the essential elements set forth in these modalities shall be included in the register of cases maintained by the Secretariat. Where there is any doubt, the opinion of the Committee shall be consulted.
19. The decision not to register a case, which is final and unappealable, shall be conveyed to the author of the communication. However, a new communication on the same facts that contains the essential elements and complies with the required format may be filed.
20. Each registered case shall be assigned a registration number, which shall be indicated at all stages of the procedure.

21. The registration of a case shall be notified to the person filing the case and to the State Party concerned, through its designated national focal points as listed by the Secretariat.

Admissibility procedure

22. The Secretariat shall forward all registered communications and related documentation to the Committee for analysis and a preliminary examination of admissibility, with or without a hearing, and an examination on the merits.

23. In cases where the author of a communication has requested confidentiality, the Secretariat shall make this clear when transmitting the communication to the Committee. Authors of communications may be requested to provide a publicly accessible version of the corroborating documents, in which references to their identity or other information deemed confidential have been removed. Where appropriate, the Secretariat shall prepare a summary that can be made available for public use.

24. The Committee shall consider the admissibility of communications on the basis of the criteria set forth in rule V.5 of the Rules relating to the structure and functions of the Committee in the order in which they are received by the Secretariat, unless the Committee decides otherwise in view of the circumstances and issues involved. The Committee may change the order in which the admissibility of communications is considered in line with the rapid response mechanism or by giving preference to communications requesting support for compliance in order to prevent possible non-compliance, among others.

25. When assessing the steps taken in the State Party concerned in relation to the communication, the following may be considered:

- (a) Written exchanges between the author of the communication and the State Party.
- (b) Administrative judicial and extrajudicial actions that have been carried out or available and their status.
- (c) The availability and use of alternative dispute resolution mechanisms.
- (d) The alleged absence of domestic legislation protecting the right in question.
- (e) The denial of the exercise of the right or access to domestic remedies.
- (f) There have been unreasonable delays in the decision on domestic remedies or such remedies have been ineffective.
- (g) Any other relevant steps proved to have been taken.

26. Both the State Party concerned and the author of the communication shall have the right to request a hearing before the Committee on the admissibility of a communication. This request must be included in the original communication, along with details justifying the request. The State Party concerned by the communication may also request a hearing within six weeks of being notified of the registration of the communication. The Committee shall decide whether it accedes to such request or not.

27. The purpose of the admissibility hearing shall be to clarify questions of fact and law relating to the criteria set forth in rule V.5 of the Rules relating to the structure and functions of the Committee. In each case, the Committee shall examine the documentation to determine whether a hearing is necessary. To that end, it may request clarification or further information from the author of the communication or the State Party concerned.

28. A hearing may take place in person or in virtual format. The author of communications and State Party shall ensure that representatives taking part in the hearing have the necessary competence to answer the Committee's questions within the scope of the case. In some instances, this may include participating in the hearing of relevant ministries or local authorities. The Committee shall guide the procedure at the hearing and may ask questions, request statements be made by both parties and include comments from observers.

29. In reaching a decision on whether to address the question of admissibility with a hearing, the Committee shall take into account the following criteria:

- (a) The need to clarify questions of fact and law that cannot be resolved solely on the basis of the written documentation submitted.
- (b) The special complexity of the case.
- (c) The gravity or urgency of the case, when the information available is deemed to indicate the existence of situations of risk and damage to the integrity and safety of persons or to the environment.

30. If the Committee decides that a hearing is necessary to determine admissibility, both the State Party concerned and the author of the communication shall be invited to participate. Hearings shall be held in the framework of the meetings of the Committee.

31. When the Committee decides that a communication is inadmissible, it shall notify the author and the State Party concerned of its reasoned decision.

32. The Committee may revise its decision on the admissibility of the case, if the background so warrants, up to the time of deliberating on the merits. The author of the communication and the State Party concerned shall be informed of the new decision.

Observations from the State Party concerned, another Party, or a member of the public

33. Once a communication has been declared admissible, it shall be brought to the attention of the State Party concerned, which shall be requested to submit a written reply within four months of being notified of the admissibility of the communication. The State Party concerned shall have the opportunity to provide information and observations on the allegations of non-compliance, including the measures taken to that effect. If the circumstances so warrant, and provided that this does not unduly delay consideration of the communication, the Committee may request the author of the communication to present a reply to the State Party's observations and invite the State Party concerned to submit a rejoinder, indicating the deadlines for submission. The reply and rejoinder shall focus on issues that have not yet been resolved.

34. A period of two months from the date on which admissibility is declared shall be provided to allow for:

- (a) Other Parties to present written observations on the interpretation of the Agreement;
- (b) Members of the public, including the elected representatives of the public and organizations and bodies with expertise in matters covered by the Agreement, to present written comments on the case

Deliberation on the merits

35. The Committee shall examine the merits of communications in the order in which they are declared admissible, unless it decides otherwise in view of the circumstances and the issues involved.

36. Once a communication has been admitted, both the State Party concerned and the author of the communication may request a hearing before the Committee on the merits of the case. To this end, the request must be made within six weeks of being notified of the admissibility of the communication. The Committee shall decide whether it accedes to such request or not, in which case the hearing shall be held at one of its meetings. In the event that the Committee agrees, it may send in advance a list of issues and questions to be addressed, both to the State Party concerned and to the author of the communication.

37. The Committee may, if it deems it appropriate, decide to examine two or more communications jointly, indicating in its decision a deliberation on whether to hold a hearing or joint hearings.

38. The Committee shall not consider the merits of a communication whose factual and legal grounds are identical to or essentially of the same nature as those on which the Committee has already taken a decision, whether in relation to the same or other parties of the communication. In such cases, the Committee may refer to the final observations of previous cases and make such recommendations as it deems appropriate, *mutatis mutandis*.

39. The Committee may discontinue consideration of a communication when the information available suggests that the grounds for its submission have ceased to exist.

40. In its deliberations on the merits of the communications submitted, the Committee may seek information directly and request or accept relevant information from third parties with a view to taking an appropriate decision on the communication. The Committee may adopt guidelines on the requirements for the submission of information by third parties. The Committee shall circulate the information submitted by third parties to the parties to the communication, who shall have the right to respond by means of written observations and comments. Third-party persons or entities shall not be considered parties to the communication.

Specific measures for persons or groups in vulnerable situations

41. In accordance with the rules relating to its structure and functions and the present working modalities, the Committee shall ensure that guidance and assistance is provided to persons and groups in vulnerable situations. It may, in turn, establish differentiated procedures with a view to balancing the asymmetries that may exist in order to guarantee their rights, within the rules of due process and equal treatment of the parties to a case.

42. When applicable, and in coordination with the Secretariat, arrangements may be made for translation or interpretation to facilitate the participation of vulnerable persons who have submitted communications. Arrangements for interpretation may be made by the State Party concerned or a third party.

Rapid response mechanism

43. In cases where a situation of possible risk, attack, threat or intimidation exists for members of the public who have filed communications, the Committee may adopt one or more of the following measures:

(a) Priority processing of cases:

- (i) Change the order of consideration of registered cases in order to process them as a matter of priority.
- (ii) Suspend an ongoing consideration of a communication to deal with a communication concerning a person or group of persons at risk.

- (iii) Convene an extraordinary meeting to consider the case.
 - (iv) Exceptionally, consider admissibility and merits of a case simultaneously.
 - (v) Request the State Party concerned to submit information and views within a shorter period of time than that established in paragraph (b) of rule V.7 of the Rules relating to the structure and functions of the Committee.
 - (vi) Issue preliminary and final observations on the case as a matter of priority.
- (b) Adequate protection of members of the public:
- (i) Protect the identity of authors of communications during the procedure and in case documents, to ensure their safety.
 - (ii) Keep information and documents related to the case confidential, in accordance with the objectives of the Agreement and the rights of individuals.
 - (iii) Recommend to the author of the communication to have recourse to a national or international protection mechanism or system.
 - (iv) Recommend in advance that the State Party concerned take the necessary measures to protect members of the public at risk and their immediate family, prior to the issuance of its final observations.
 - (v) Inform the Presiding Officers of the Escazú Agreement, the national focal points designated by the State Parties to the Escazú Agreement, the United Nations country team and United Nations agencies, funds and programmes present in the State Party, national protective services, national human rights institutions or other known protection mechanisms of the situation.
 - (vi) Call for the abstaining from or immediate cessation of any action that may amount to possible attacks, threats or intimidation of the member of the public concerned.
 - (vii) Issue public statements and press releases, as appropriate.

Prior to taking an appropriate protective measure, the Committee shall consult with the author of the communication. For this purpose, the Committee shall take into account the contextual analysis of the situation described by the author and a personalized and comprehensive analysis shall be carried out in order to assess the alleged risk.

44. The author of the communication shall provide background information that gives reasonable grounds to believe that the risk referred to in the communication exists. The author shall report all material facts and events relevant to the risk, as well as any changes in the circumstances giving rise to the risk.

45. When necessary, confidentiality measures and measures to protect the identity of author of the communication shall be implemented.

46. In assessing the measures to be taken, the Committee shall take into account the particular conditions of the affected persons and their family, ensuring that the measures cause no harm and adopt an intersectional, intercultural and gender-based approach.

Amicable solutions

47. At the request of either party with the consent of the other, at any time between the receipt of a communication and the adoption of a decision on the merits, the Committee may decide to make its good offices available to the parties with a view to reaching an amicable solution of the matter, on the basis of respect for and good faith compliance with the obligations under the Agreement.

48. The procedure for reaching an amicable solution shall be conducted on the basis of the free and express consent of the parties to a case and within the timeframes established by the Committee.

49. The Committee may designate one or more of its members to facilitate exchanges between the parties.

50. Proceedings regarding an amicable solution shall be confidential and shall be without prejudice to any comments made by the parties to the Committee. During the consideration of the communication by the Committee, no written or oral statements or offers or concessions made with a view to reaching an amicable solution may be used against the other party.

51. The Committee may discontinue facilitation of the amicable solution procedure if it concludes that it is unlikely to resolve the matter, if there is flawed consent, or if either party does not consent to the solution reached, decides to withdraw from the procedure, or fails to show the necessary goodwill to reach an amicable solution on the basis of respect for the obligations set forth in the Agreement.

52. Once both parties have expressly agreed to an amicable solution, the Committee shall adopt a decision stating the facts and the solution reached. The decision shall be conveyed to the interested parties and included in the case file. Before adopting its decision, the Committee shall ascertain that the author of the communication has accepted the amicable solution. In all cases, the amicable solution must be based on the respect of the obligations established in the Agreement.

53. Any amicable solution shall bring the consideration of a communication by the Committee to an end. If no amicable solution is reached, the Committee shall continue its consideration of the communication in accordance with the established procedure.

54. The emergence of new facts may give rise to the filing of a new communication.

Adoption of conclusions and recommendations

55. After analysis and deliberation on a communication, the Committee shall adopt its preliminary observations, which may include specific recommendations on compliance or non-compliance. Preliminary observations shall be transmitted to the State Party concerned and to the author of the communication, and a period of two months shall be granted for written comments. After such period has elapsed, the Committee shall adopt its final observations.

Follow-up to final observations, recommendations and amicable solutions

56. The Committee shall monitor the implementation of its recommendations by the State Party concerned and prepare the appropriate reports in that regard for consideration by the next meeting of the Conference of the Parties.

57. Within six months of the date of transmission by the Committee of its final observations or, in the event that a friendly solution has been reached, its decision to terminate consideration of the communication, the Committee shall request the State Party concerned to send a written response, including information on any measures that it has taken. The Committee may further request such clarification and information as it deems appropriate from the State Party concerned.

58. The Committee shall periodically inform both the author of the communication and the State Party concerned of the status of implementation of the conclusions and recommendations, and may additionally propose such measures as it deems necessary to strengthen such implementation. In the register of cases, any relevant information in this regard shall be updated and made accessible to the public in accordance with rule X of the Rules relating to the structure and functions of the Committee.

59. The Committee may consult and meet with duly accredited representatives of the State Party concerned, and may seek information directly from the author of the communication and from elected representatives and members of the public, as well as from other relevant sources, in order to determine the status of implementation of the conclusions and recommendations.

60. The Committee may request appropriate United Nations country teams, or agencies, funds and programmes of the United Nations with a presence in the State Party concerned, to provide support in following up on the implementation of the conclusions and recommendations.

VII. COOPERATION AND CAPACITY-BUILDING

1. Pursuant to the provisions of rule IX of the Rules relating to the structure and functions of the Committee, the Committee may enter into dialogue and consultations with other multilateral agreements, institutions and processes, at the global or regional level, to seek synergies for the full implementation of access rights and other matters covered by the Agreement.

2. To that end, the Committee, in coordination with the Secretariat, shall support the development of capacity-building and cooperation programmes to improve compliance with the objectives of the Agreement.

3. In the area of cooperation, the Committee will pursue mechanisms to strengthen its capacities, in coordination with the Secretariat, without compromising its independence and impartiality.

VIII. STANDARDS OF HIGH MORAL STANDING, INDEPENDENCE AND IMPARTIALITY

1. The members of the Committee shall perform their functions with impartiality, moral standing, independence, honesty and responsibility.

2. The members of the Committee, upon making the solemn declaration before the assumption of their duties, shall commit to abiding by the Rules relating to the structure and functions of the Committee and the present modalities. Each member shall sign said declaration and agree to remove himself or herself from the consideration of any communication that presents a conflict of interest.

3. The members of the Committee shall serve in an exclusively personal capacity, recognizing that their independence and impartiality are essential to the fulfilment of their duties and responsibilities. They shall not accept any direction, influence or pressure, nor shall they seek or accept instruction from anyone regarding the performance of their duties.
4. During their term of office, the members of the Committee shall remain independent from the executive, legislative and judicial branches of government of the countries included in annex 1 to the Agreement.
5. The decisions taken by members of the Committee, whether virtually or in person, shall be independent, impartial, objective and based on the relevant facts and applicable rules. Committee members shall ensure equal treatment and non-discrimination in their proceedings and in the exercise of their functions.
6. Any situation that may generate a conflict of interest must be avoided.
7. Observance of the above guidelines falls first and foremost within the individual responsibility of each member of the Committee and the member's own conscience and integrity. Being a national of a State Party concerned or having been an official thereof shall not, in itself, constitute a conflict of interest. If for any reason a member of the Committee considers that there may be a potential conflict of interest, the member shall promptly inform the Committee. Ultimately, the Committee as a whole shall take any measures deemed necessary to safeguard the requirements of independence and impartiality of its members.
8. Any member of the Committee deemed to present a conflict of interest may attend public meetings of the Committee, but may not actively participate in its discussions. Nor may that member participate in closed sessions, deliberations on the case or the adoption of observations by the Committee.
9. Committee members may accept invitations to present on matters of implementation and compliance with regard to the Agreement at appropriate events, including conferences and workshops, or to participate in capacity-building activities and initiatives. Unless expressly agreed by the Committee, members participating in such activities shall act in their individual capacity and shall not represent the Committee.
10. Members of the Committee shall safeguard the confidentiality of its discussions and deliberations, closed sessions, and documents and information designated as confidential. This duty of confidentiality shall extend beyond the term of office.
11. Committee members shall avoid making statements or giving interviews on cases under consideration or pending consideration, or on any non-public actions or functions of the Committee. However, they may refer to conclusions, recommendations and reports that are public, as well as the mandate, functions and procedures of the Committee. In such statements or interviews, Committee members shall act in their individual capacity and shall not represent the Committee, except under the circumstances established in point II.7 of the present working modalities.
12. These standards of conduct, independence and impartiality also apply to the exercise of functions by virtual or electronic means.

IX. ADMINISTRATIVE AND FINANCIAL MATTERS

1. The Committee shall prepare a biennial workplan establishing the activities to be carried out to facilitate the consideration of the technical and financial support necessary to fulfil its objectives.

X. CONTINUOUS REVIEW AND AMENDMENTS

1. The Committee shall continuously review the implementation of the present modalities, with a view to improving their implementation and effectiveness.

2. These working modalities may be revised at any time by decision of the Committee giving eight weeks' prior notice and informing of the date of entry into force. Any draft revision of the working modalities shall be submitted, in coordination with the Secretariat, to State Parties and elected representatives and members of the public for observations.