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**Tagung der Alpenkonferenz**  
**Réunion de la Conférence alpine**  
**Sessione della Conferenza delle Alpi**  
**Zasedanje Alpske konference**

**XV**

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## **AKTIVNOSTI ODBORA ZA PREVERJANJE 2016-2019**

**A Poročilo Odbora za preverjanje Alpski konferenci  
(dokument ImplAlp/2019/28/6/1)**

**B Predlog sklepa**

**Priloga:**

**I. Povzetek Stalnega sekretariata o razpravi na 27. seji Odbora za preverjanje o naslednjem rednem postopku preverjanja.**

## **A Poročilo Odbora za preverjanje Alpski konferenci**

### **1. Uvod**

V času avstrijskega predsedstva se je Odbor za preverjanje sestal na štirih sejah:

- a) 25. seja: St. Gallen, 9. in 10. marca 2017;
- b) 26. seja: Dunaj, 28. in 29. novembra 2017;
- c) 27. seja: Drobolje/Drobollach, 10. in 11. julija 2018;
- d) 28. seja: Dunaj, 6., 7. in 8. februarja 2019.

Na svojih sejah je Odbor za preverjanje obravnaval predvsem drugo fazo rednega postopka preverjanja v skladu s točko II.3.1.1. Mehanizma za preverjanje in zaključil poglobljeno preverjanje teme »varčna raba tal«, ki jo je začel obravnavati po nemškim predsedstvom. Podrobneje so bile izvedene naslednje aktivnosti:

### **2. Redni postopek: Poglobljeno preverjanje teme »varčna raba tal«**

Po tem, ko so pogodbenice in opazovalke določile prednostne teme za poglobljeno preverjanje teme »varčna raba tal«, in po razpravi o prispevkih obeh strokovnjakov iz Švice in Avstrije, je bilo marca 2017 na 25. seji Odbora za preverjanje v St. Gallnu sklenjeno, da se bo poglobljeno preverjanje teme »varčna raba tal« osredotočilo na naslednja tri prednostna področja:

- »Ustrezna in gospodarna omejitev poselitvenih območij vključno z ukrepi, ki zagotavljajo njihovo dejansko pozidavo« (črka a) 3. odst. 9. čl. Protokola »Urejanje prostora in trajnostni razvoj«),
- »Usmerjanje in zgostitev naselij ob prometnicah in/ali ob že obstoječi pozidavi kot tudi omejevanje gradnje sekundarnih bivališč« (črki e) in f) 3. odst. 9. čl. Protokola »Urejanje prostora in trajnostni razvoj«) in
- Omejevanje pozidave tal in rabe tal« (2. odst. 7. čl. Protokola »Varstvo tal«).

Po dokončanju s tem povezanega kataloga vprašanj poleti 2017 so bile pogodbenice pozvane, da posredujejo svoje odgovore ter zadevne primere izvedbe.

Ker se je pri prvi izvedbi poglobljenega preverjanja na temo »turizem« zelo dobro obneslo strokovno posvetovanje, so bili tudi tokrat na 26. sejo Odbora za preverjanje, novembra 2017 na Dunaju, povabljeni številni zunanji strokovnjaki. Na tej seji je potekala razprava o prispev-

kih strokovnjakov iz Italije, Avstrije, Švice in Slovenije, sprejet pa je bil tudi predlog Stalnega Sekretariata o strukturi osnutka poročila.

Do konca prvega polletja 2018 so bili predloženi odgovori pogodbenic na vprašanja Odbora za preverjanje, informacije pogodbenic o izvajanju 7. člena Protokola »Varstvo tal« in 9. člena Protokola »Urejanje prostora in trajnostni razvoj« ter podatki o rabi tal na posameznem območju uporabe Alpske konvencije.

Na podlagi teh razpoložljivih gradiv sta predsedstvo in Stalni sekretariat pripravila prvi osnutek poročila, ki ga je Odbor za preverjanje podrobneje obravnaval na svoji 27. seji v Droboljah/Drobollach. V drugem polletju 2018 sta predsedstvo in Stalni sekretariat ob upoštevanju še kasneje prejetih stališč pogodbenic in opazovalk ter rezultatov razprave v Droboljah preuredila in dopolnila ta osnutek poročila. Odbor za preverjanje je nato na svoji 28. seji februarja 2019 ta osnutek končnega poročila o poglobljenem preverjanju teme »varčna raba tal« začasno potrdil. V nadaljevanju je Odbor za preverjanje v pisnem postopku dokončno oblikoval osnutek skupaj s sklepi in priporočili in ga prek Stalnega odbora predložil v potrditev XV. Alpski konferenci (glej Prilogo 2 dokumenta AC15/B3 in tozadevni predlog sklepa).

### **3. Naslednji redni postopek**

Na svoji 27. seji je Odbor za preverjanje obravnaval tudi okvir naslednjega rednega postopka preverjanja (glej povzetek razprave v prilogi). Na tej podlagi je oblikoval mnenje, da je za strokovno ustrezno preverjanje nujno, da se na vprašalnik, ki ga je izdelal Odbor za preverjanje glede določb Alpske konvencije in njenih izvedbenih protokolov, odgovori v celoti in da se konkretno odgovori na vprašanja glede učinkovitosti. Poleg tega je treba izvesti redni postopek preverjanja v skladu z veljavnim mehanizmom za preverjanje, kar ima za posledico, da morajo biti popolna nacionalna poročila v štirih jezikih Alpske konvencije predložena najkasneje do 1. septembra 2019. Pogodbenice pa se lahko v svojih nacionalnih poročilih omejujejo na to, da poročajo o spremembah glede na pretekla nacionalna poročila.

### **4. Izredni postopek**

Odbor za preverjanje je na svoji 26. seji ustavil izredni postopek preverjanja glede zahtevka opazovalke CAA za presojo domnevnega neupoštevanja 4. odst. 2. čl. Protokola Energija, ker pravni razlog za izvedbo projekta zaradi predložene tozadevne pravnomočne odločitve pristojnega italijanskega sodišča na najvišji ravni ne obstaja več. Sicer v času avstrijskega predsedstva ni bil izveden noben drug izredni postopek.

## **5. Preverjanje Deklaracije »Prebivalstvo in kultura«**

V skladu s sklepom VIII. Alpske konference velja tudi za Deklaracijo »Prebivalstvo in kultura« mehanizem za preverjanje. Na svoji 27. seji je Odbor za preverjanja obravnaval naslednje preverjanje te Deklaracije in sklenil, da je treba v skladu z mehanizmom preverjanja izvesti tudi to preverjanje, in da morajo pogodbenice predložiti popolna nacionalna poročila v štirih jezikih Konvencije prav tako najkasneje do 1. septembra 2019.

## **B Predlog sklepa**

Alpska konferenca se seznani s poročilom Odbora za preverjanje.



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**ANLAGE/ANNEXE/ALLEGATO/PRILOGA**

**1**

**INTERNAL NOTE OF THE PERMANENT SECRETARIAT  
REGARDING THE DISCUSSION  
ON THE NEXT ORDINARY COMPLIANCE PROCEDURE  
(CC27, AGENDA ITEM 6)**

**(23.08.2018)**

The topic of the scope and reporting interval of the next ordinary compliance procedure was raised in the 26<sup>th</sup> meeting of the Compliance Committee and discussed in detail under item 6 of the agenda of the 27<sup>th</sup> meeting of the Compliance Committee. This note gives an account of the main elements addressed and of the decision that ensued from the discussion.

**I. LEGAL FRAMEWORK OF THE CURRENT COMPLIANCE MECHANISM**

Decision ACXII/A1 as complemented by decision ACXIV/A7 lays down the legal basis of the current compliance mechanism of the Alpine Convention. This mechanism comprises provisions regarding the submission, publication and structure of the Contracting Parties' compliance reports (point I of the mechanism) as well as provisions concerning the composition and the functions of the Compliance Committee and the actual compliance procedure, which consists of two phases, the elaboration of a general compliance report and an in-depth review of specific possible deficiencies (point II of the mechanism). The rules of the mechanism are applied to ordinary compliance procedures based on the regular national compliance reports and *mutatis mutandis* to extraordinary procedures triggered by requests for reviewing of a supposed non-compliance with the Alpine Convention submitted by Contracting Parties and Observers.

The national compliance reports represent the starting point of the ordinary compliance procedure. These reports have to be produced on the base of a comprehensive questionnaire elaborated by the Compliance Committee and approved by the Permanent Committee in its 28<sup>th</sup> meeting on 27-29 September 2004 in Bolzano/Bozen (document ImplAlp/2004/3/6/1 Rev.1). The current ordinary compliance procedure already makes possible to simplify the reporting, as the Contracting Parties can revise their last national compliance report submitted by using the track change mode (point I.1.2. of the mechanism).

So far, the ordinary compliance procedure has been carried out twice on the basis of national reports that were to be submitted in 2005 and in 2009. The experience made during these procedures lead the Alpine Conference in its 12<sup>th</sup> meeting in 2012 to amend the compliance mechanism in force at that time by extending the reporting period from four to ten years and by introducing the in-depth review phase. As a consequence, the deadline for submission of the next national compliance reports was fixed at end of August 2019 (point I.1.1. of the mechanism).

Any amendments to the compliance mechanism would require a decision by the Alpine Conference.

## **II. THREE BASIC CONSIDERATIONS CONCERNING POSSIBLE CHANGES TO THE ORDINARY COMPLIANCE PROCEDURE**

The discussion was structured along three basic considerations concerning possible changes to the compliance procedure of the Alpine Convention addressed by the Secretary General. These considerations relate to (1) the purpose of the procedure, (2) the credibility of the compliance system and (3) the management of the procedure.

### **II.1. PURPOSE OF THE COMPLIANCE PROCEDURE**

The ordinary compliance procedure serves three main objectives: a) to regularly remind the administrations of the Contracting Parties of their obligations under the Alpine Convention and its Protocols, b) to safeguard that the non-reciprocal obligations are complied with and c) to create an added value by contributing to an improved implementation of the provisions.

The current two-phase approach is valuable, as it allows to identify within the in-depth review concrete remedies to possible deficiencies found during the regular review of the whole body of provisions of the Alpine Convention and its Protocols.



A uniform reporting date guarantees the comparability of the different measures taken by the Contracting Parties.

## II.2. CREDIBILITY OF THE COMPLIANCE SYSTEM

To be credible the Alpine Convention requires a sound compliance mechanism. Credibility is usually rooted in a reasonable frequency of reviewing compliance with the provisions and in the thoroughness of the procedures applied. In comparison to other international treaties, the reporting period of ten years in the Alpine Convention is rather long. However, this finds an explanation in the considerable number of obligations contained in the Convention and the Protocols.

What matters more is that since the adoption of the new compliance mechanism in 2012 the ordinary compliance procedure has not been carried out a single time, as the Contracting Parties have to submit their national compliance reports “for the first time by end of August 2019” (point I.1.1. of the mechanism). Extending the reporting interval and thus postponing the next ordinary compliance procedure could put in question the credibility of the Alpine Convention’ compliance mechanism, in particular as regards the external perception. Any such proposal would therefore need to ensure that these credibility concerns are addressed adequately.

## II.3. MANAGEMENT OF THE COMPLIANCE PROCEDURE

The question of manageability relates to the management on the side of the Contracting Parties and to the management on the side of the Permanent Secretariat. The Contracting Parties and the Permanent Secretariat would need to carefully assess the impacts that different possible amendments could likely have for them.

Changing the current ten year reporting interval for the comprehensive national compliance reports covering the Alpine Convention and all Protocols to a system of biannual reports on two Protocols each could have the effect of redefining the nature of the work load over time. The substantial effort once in a decade could turn into one that would be less substantial at any given point in time, but continuous for both, Contracting Parties and Permanent Secretariat.

## III. FURTHER ASPECTS MENTIONED

Carrying out only in-depth reviews cannot replace the comprehensive overview gained through a general compliance report.

The elaboration of coherent draft compliance reports by the Permanent Secretariat would be even more difficult in a setting of biannual reporting than in the current ten year reporting, if delays in submitting the national compliance reports occur, as this was frequently observed in the past.

Using the track change mode in national compliance reports would allow concentrating on updates rather than realizing a new full reporting. This, however requires that the initial report is completed.

The reporting should be focused on the effectiveness of the measures implemented.

#### **IV. CONCLUSION**

After having considered all arguments the Compliance Committee adopted the following decision:

The Compliance Committee takes the view that the next ordinary compliance procedure should be guided by the following aspects:

- a) The purpose of the procedure is to review compliance with the Alpine Convention and its Protocols. In order to carry out properly this review, it is necessary that the questionnaire elaborated by the Compliance Committee (document ImplAlp/2004/3/6/1 Rev.1) be entirely filled in and the questions relating to the effectiveness be concretely answered;
- b) The ten years deadline foreseen in the compliance mechanism in force has to be kept. With that, the national compliance reports have to be submitted entirely in the four languages of the Alpine Convention by 1 September 2019 at the latest;
- c) The ordinary compliance procedure has to be carried out according to the compliance mechanism laid down in decision ACXII/A1 as completed by decision ACXIV/A7;
- d) The Contracting Parties are free to report only about changes to previous national compliance reports.