

The Climate Show Episode 20

[compliance.mp3](#)

Transcript

00:00:04 Linnea Nordlander

Hi and welcome to the Climate Show, a podcast that explores the law and politics of climate change.

00:00:09 Linnea Nordlander

This podcast is brought to you by the University of Copenhagen.

00:00:16 Beatriz Martinez

Hi we are Beatriz Martinez

00:00:18 Linnea Nordlander

And Linnéa Nordlander

00:00:19 Alessandro Monti

And Alessandro Monti.

00:00:20 Beatriz Martinez

And we are your hosts at the climate show.

00:00:25 Alessandro Monti

Compliance is an essential aspect of international environmental law. In today's episode. We're looking specifically at compliance with international climate change obligations.

00:00:35 Linnea Nordlander

In addition to all the tools generally available in international law, the climate change regime contains specific tools to ensure that all states.

00:00:42 Linnea Nordlander

Implement and comply with the rules that are contained within it. In this episode, we're talking specifically about the development of the Paris Agreement implementation and Compliance Committee. Enjoy the show.

00:00:57 Justine Bendel

Hello everyone and welcome to the climate show. I'm Justine Bendel. I'm a Marie Curie fellow at the University of Copenhagen Center for International Law and Governance. I am conducting here a project called InterFor where I look at the different aspects of international regulation of forests, and it is my pleasure.

00:01:14 Justine Bendel

Today, to welcome Professor Christina Voigt in this episode, which is going to focus on the issue of compliance in the climate regime.

00:01:24 Justine Bendel

Professor, Christina Voigt, he is a professor of law at the University of Oslo in Norway and the chair of the IUCN World Commission on Environmental Law. For over 10 years, she also worked as a legal advisor and negotiator for the Government of Norway in the UN climate negotiations, and she is currently the first Co-chair of the Paris Agreements Compliance and implementation.

00:01:46 Justine Bendel

So, starting from the beginning, I would like to ask you, building on your personal experience of both the climate negotiations and the work of the Compliance Committee, how is compliance exactly understood in the climate regime? What are the mechanisms in place to ensure that states enforce and comply with the Paris Agreement?

00:02:06 Christina Voigt

Well, first of all, thank you for having me. It's a pleasure being here to answer your question. How is compliance understood in the UN climate regime and particularly in the Paris Agreement?

00:02:19 Christina Voigt

It is not defined anywhere in any specific terms, but in general it's understood as parties acting in alignment with their legal obligations under the Paris Agreement and as we will perhaps know by now, the Paris agreement does contain legal obligations for parties.

00:02:39 Christina Voigt

But there are very few and far in between, and they're basically of procedural character. But those procedural obligations are really core legal obligations on which compliance really depends for the Paris agreement to function.

00:02:56 Justine Bendel

And if we go back in time, how would you describe the evolution of compliance and enforcement mechanisms since the beginning of the international climate framework before the Paris Agreement, the Kyoto Protocol also created a specific compliance committee. How do you see the new Compliance Committee evolving in this context?

00:03:15 Christina Voigt

Well, if we could even go one more step back to the Convention. Convention already included a mechanism to address issues of implementation. It did not use the word compliance, but it had an issue solving mechanism like I cannot remember right now what exactly it was called.

00:03:34 Christina Voigt

But the problem back then was that parties could never agree on the composition of that particular body, and because the composition was not so defined, it never entered into any type of operation. Now, with respect to the Kyoto Protocol, there was a compliance mechanism which consisted of.

00:03:54 Christina Voigt

A facilitative branch and an enforcement branch, and that compliance Mechanism Compliance Committee was quite active. It did address some issues of noncompliance of developed country parties with their.

00:04:10 Christina Voigt

Provided emission or reduction obligations, or in particular with their reporting and monitoring obligations, and was able to address some issues of noncompliance through their activities, reaching out to parties, sending letters, trying to find out what exactly was the reason for noncompliance and trying to bring.

00:04:31 Christina Voigt

Back into compliance now in the evolution of the international regime. When we came to the parents.

00:04:37 Christina Voigt

And it's quite interesting because the mandate for the Paris Agreement, the Durban mandate from 2011 for saw a number of elements which then, you know, defined the

architecture of the Paris Agreement, but it did not say anything about compliance. So when we started carefully.

00:04:58 Christina Voigt

Very slightly to mention that maybe compliance the compliance mechanism might be interesting to think about in the context of the Paris agreement.

00:05:07 Christina Voigt

Several parties were really concerned, they said. Oh no, we can't have that because it goes against the bottom of nature agreement. It is something that doesn't, is not prescribed in the mandate. But you know the good arguments prevailed in the end and now in Article 15.

00:05:27 Christina Voigt

The implementation and compliance mechanism is established, which consists of an implementation and Compliance Committee.

00:05:36 Justine Bendel

So my next question is specifically about the role of this new Paris Agreement implementation and Compliance Committee or the PAICC towards specifically the transparency and accountability goals of the Paris Agreement, which is a specificity of this compliance committee when compared to other multilateral and environmental agreements.

00:05:56 Justine Bendel

Compliance committees. Could you explain a little more how the PAICC can further this specific goals of transparency and accountability?

00:06:06 Christina Voigt

Maybe if you allow me, we take one little step back to say first what this this committee actually does and what its mandate is. So it is established to facilitate implementation and promote compliance. It's very important that it's established with that facilitative.

00:06:25 Christina Voigt

Nature in mind, it's not a dispute settlement mechanism. It can.

00:06:29 Christina Voigt

Not establish sanctions or penalties on parties, but it has this facilitative nature and the way the committee can become active is basically based on three different avenues. One is that a party can.

00:06:50 Christina Voigt

Always come to the committee, a party that has any issue with implementation or compliance could always come to the committee and say please help us in resolving our difficulties, whether that's ever going to happen remains to be seen. The likelihood is limited, but the possibility is.

00:07:07 Christina Voigt

The 2nd way the committee can become active is through its own initiation. The committee has access as everyone else to publicly available information about parties and decrease, parties, reporting obligations, whether they comply with them.

00:07:28 Christina Voigt

And the committee can become active on the basis of that information and initiate proceedings.

00:07:36 Christina Voigt

And the 3rd way is connected to the transparency framework in cases of significant and persistent inconsistency of a party with its reporting obligations.

00:07:49 Justine Bendel

Thank you so much. And another question I have is how the PAICC the committee is.

00:07:56 Justine Bendel

Perceived within the climate regime in comparison with the other bodies of the climate regime, do you see the PAICC as a sort of counter power, for example, to keep states in check towards states? Or what about its relationship with the cop or with the secretary at how do you how does this situation or how does it work?

00:08:18 Christina Voigt

Well, I mean, the PAICC as we call it, you're right, the Paris Agreement implementation and Compliance Committee, PAICC is a constituted body under the Paris Agreement. It's part and parcel of the architecture of the Paris Agreement and it has a concrete mandate. The mandate came from the governing body of the Paris agreement, the.

00:08:37 Christina Voigt

Hmm.

00:08:38 Christina Voigt

So it functions in a very legitimate space which is clearly defined, and you know, depends and react to what parties wanted it to be, and now they have to live with it in a way they wanted it. They defined the rules and now they should use it and should not be surprised.

00:08:58 Christina Voigt

Through the committee starts acting and the interesting development that we had this year was that last year the COP in.

00:09:09 Christina Voigt

In Egypt, the governing by the adopted the Rules of Procedure for the Compliance Committee and with those Rules of Procedure in place, the committee could finally become operational and that led to the situation that earlier this year, in April, we had a committee meeting and we discovered that two parties did not.

00:09:29 Christina Voigt

Had not submitted information that is mandatory for them.

00:09:34 Christina Voigt

I cannot say who these parties were or what information they did not submit, but there were two issues that the committee looked upon and reached out to those parties with a friendly letter basically saying.

00:09:47 Christina Voigt

Where is that information? Can we help? What is the issue and that letter alone was enough for both parties to pretty much immediately send their required information, one within a couple of days. The other one took another month and 1/2.

00:10:01 Christina Voigt

But basically, based on that careful letter by the committee, the Parties were made aware of, you know, that they did not submit what was required of them and turned around and submitted that information, which I would say proves that the committee works.

00:10:18 Justine Bendel

That's really interesting and I think this is a nice.

00:10:22 Justine Bendel

Introduction for my next question, which you know you will know that I mean very much interested in this issue is about the relationship between the PAICC, the Paris Agreement implementation and compliance committee

00:10:34 Justine Bendel

And other litigation and other international courts, or more formal dispute settlements. So especially in this podcast, we have had many other episodes focusing specifically on climate litigation, climate change litigation. So how do you see this relationship going forward, if at all?

00:10:54 Justine Bendel

And how do what are your predictions for the interactions between the PAICC and other international courts on the issue of climate?

00:11:05 Christina Voigt

That's a very interesting question. I mean, if the committee becomes active, that does of course not prevent a similar issue be taken up by a domestic court or even an international court. But as I said, the issues of compliance concern the core legal obligations of parties.

00:11:24 Christina Voigt

Which are for example, does the party have an NDC? Has it communicated in NDC?

00:11:29 Christina Voigt

Has a party submitted its biannual transparency report? These are procedural obligations of providing information at particular intervals, and so far, international climate cases. You know, they did not concern that, that place and where the party had an NDC or not. There are more about the level of ambition.

00:11:50 Christina Voigt

In NDC, isn't that something that the Paris Agreement Compliance Committee from the outset is really not working?

00:11:58 Christina Voigt

But there may be other linkages which are actually quite interesting to explore, and there are in relation to some of the more recent free trade agreements, where in free trade agreements we see more and more often chapters on the environment or sustainable development, or even specifically on climate change.

00:12:17 Christina Voigt

Where parties that engage in free trade, bilateral relations say that in order to be eligible to, to enter in, that that contractual relationship, you have to comply with your obligations under the Paris Agreement.

00:12:35 Christina Voigt

And that determination is in some of the free trade agreements linked to whether the Compliance Committee has acted or not, which is interesting. You know, it suddenly becomes a whole new dimension of the importance of its work.

00:12:50 Justine Bendel

That's very interesting and finally my last question is a bit more personal. It's about what are your hopes for the Paris Agreement Implementation Compliance Committee?

00:13:03 Christina Voigt

Yeah, well, in a way, that word compliance has really stuck to it and everybody thinks, oh.

00:13:08 Christina Voigt

God, these are lawyers.

00:13:09 Christina Voigt

That, you know, come and comes with some penalties or whatever. What I really hope is that that anxiety disappears and that its facilitative nature becomes clearer to parties. I think it is still.

00:13:22 Christina Voigt

A little bit.

00:13:22 Christina Voigt

Unknown because it you know, it's an Article 15 of the Paris agreement that's quite in the back of the agreement. It only started operating in 2023. So, it is quite new in the way it operates. But I really hope that the parties will make use of it in order to, you know, facilitate.

00:13:42 Christina Voigt

Their effective implementation of the Paris agreement, if they have challenges, it can be technological challenges. Capacity challenges may be financial challenges that they would actually come to the committee and use it for all its worth and also for the

committee to see how we can support parties and facilitate implementation of the agreement. You know, rather than deal with cases of noncompliance.

00:14:04 Christina Voigt

Because we all understand that it's much better to prevent noncompliance than dealing with it once it has happened.

00:14:12 Justine Bendel

Great. Thank you so much, Christina, for taking the time to be here at the climate show and for sharing your thoughts on this very important topic of climate change law. And thank you everyone, for listening. I hope you enjoyed this episode of the Climate Show and see you soon in the next episode.

00:14:33 Beatriz Martinez

Thank you for listening to this episode. To learn more about Professor Voigt's work, check out the information in the show notes and stay tuned for our next episode.