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ECONOMIC COMMISSION FOR EUROPE

Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

(Second meeting, Almaty, Kazakhstan, 25-27 May 2005)
(Item 6 (a) of the provisional agenda)

IMPLEMENTATION REPORT

Armenia^{*/}

Based on the reporting format annexed to decision I/8

1. Provide brief information on the process by which this report has been prepared, including information on which types of public authorities were consulted or contributed to its preparation, on how the public was consulted and how the outcome of the public consultation was taken into account and on the material which was used as a basis for preparing the report.

The following individuals took part in the preparation of the national report on the implementation of the Aarhus Convention in Armenia:

Armenia's Coordinator for the Aarhus Convention, Ms. Aida Iskoyan; representative of Armenia in the Working Group on Pollutant Release and Transfer Registers, Ms. N. Hovhanisyan; a leading specialist of the department of international relations of the Ministry of Nature Protection; members of the national team of the EU-TACIS project "Environmental Information, Education and Public Awareness"; several departments of the Ministry of Nature Protection;

^{*/} This document was submitted late due to the fact that various first-time problems had to be overcome as this is the first reporting cycle under decision I/8 of the Meeting of the Parties. This was compounded by the fact that a considerable volume of other documentation being prepared for the second meeting of the Parties had to be processed during the same period.

representatives from the Ministry of Health, the Ministry of Transport and Communication, the Ministry of Urban Construction, the Agency of Emergencies, the Ministry of Agriculture; as well as representatives from NGOs, and the science and business communities. Some of the most active NGOs were EPAC, the Association for Sustainable Human Development, Transparency International, Eco-Globe, Eco-tourism, Environmental Survival and Social-Environmental Association.

At the beginning the national team of the EU-TACIS programme under the guidance of the team leader and the Coordinator for the Convention prepared a draft national report, which was published together with the questionnaire on the web site of the Ministry of Nature Protection and the Armenian office of the Regional Environmental Centre (REC)-Caucasus. The questionnaire was translated into Armenian and the translation was also published on the website. The materials were disseminated through the Regional Information Center for Sustainable Development.

Public hearings were organized in the office of REC-Caucasus (Armenia) on 8 January 2005 with the participation of representatives from NGOs and different ministries to discuss the draft national report.

Suggestions from NGOs and other participants at the public hearings were sent in writing or electronically to the Coordinator for the Convention and after discussion some of them were included in the report.

The new draft was then submitted to the Ministry of Nature Protection for discussion and published on the websites of REC-Caucasus and the Aarhus Centre (www.rec-caucasus.org; www.armaarhus.am). After incorporation of new additions the report was finalized.

The following materials were used for the preparation of the report: printed materials from the ministries, guides on the Aarhus Convention for officials and civil society prepared in the context of the EU-TACIS project, printed materials from NGOs and REC, Armenian laws and information from questionnaires completed in the context of training courses on the Convention.

2. Report any particular circumstances that are relevant for understanding the report, e.g. whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

Armenia is facing some financial difficulties related to the implementation of the Convention: there is a lack of computers and photocopy machines; not enough is done to educate officials on the Convention's provisions; there is inertia in incorporating the provisions into national legislation; there is a lack of professionalism in this field and there are other obstacles to implementation.

According to the Constitution, the executive power is exercised by the Government, which shall ensure the implementation of State policies on science, education, culture, health, social security and environmental protection (art. 89). International agreements concluded on behalf of Armenia are applied only after ratification. Ratified international agreements are a composite part of the

judicial system of Armenia. If there are norms other than those envisaged by the laws, then the norms are applied. The Constitution has supreme juridical force and its norms are applicable directly (art. 6 of the Constitution).

The State shall ensure the protection and reproduction of the environment and the rational use of natural resources (art. 10 of the Constitution).

ARTICLE 3

3. List legislative, regulatory and other measures that implement the general provisions in paragraphs 2, 3, 4, 7 and 8 of article 3.

(a) In 2004 the Minister of Nature Protection issued two orders according to which different subdivisions of the Ministry provide environmental information to the Information Analytical Centre for publication on the Ministry's web sites (the list of that environmental information is approved and the order of its acquisition and dissemination is determined);

(b) In 2001, the law on Environmental Education of the Population was adopted. Practically, in almost all higher education institutions an ecology course is taught, taking into account the relevant specialization, including environmental law.

Due to the joint efforts of public institutions, NGOs and the scientific-academic sector, and support from the Organization for Security and Co-operation in Europe (OSCE), the United Nations and the United States Agency for International Development (USAID) and other international organizations, numerous ecological courses, seminars and summer schools for major population groups were held – starting from school children to decision makers. Corresponding training materials, eco-bulletins, placards, video films were issued and competitions for environmental journalists held.

In 2002-2004, the EU-TACIS programme “Environmental Information, Education and Public Awareness” was implemented. Its main goal was to improve environmental decision-making through the creation of mechanisms to take into account public opinion. Its main results are:

- A summary of the implementation process of the Aarhus Convention was prepared;
- A national team whose members were taught to conduct training and other educational activities related to the Convention was created. The training was designed for officials as well as NGOs, the mass media and public representatives;
- Officials and civil society (in total 90 people) studied the provisions of the Convention. National guides on its implementation for both officials and civil society on the national and local levels were published;
- To increase the level of implementation nationwide and locally, national and local pilot projects for the development of procedures and practical mechanisms for implementation were carried out;
- More coverage of the issues related to the Convention was given by the mass media as a result of the training given to journalists.

(c) Article 25 of the Constitution ensures everyone's right to form associations with other persons, including the right to form or join trade unions. A law on non-governmental organizations has also been adopted and State structures cooperate with NGOs in the field of environmental protection;

(d) The public structures organize more often public hearings of publications and reports prepared for presentation in international forums. Representatives from the Ministry as well as NGOs take part in international forums. In all the programmes related to environmental protection two provisions of the Convention are stressed and exercised: the right to access to information and the right for the public to participate.

Since the above-mentioned EU-TACIS programme and as a result of the training conducted for officials of other ministries, awareness of the Convention has increased. The commitment to further implementing the Convention on an international level has also increased;

(e) According to article 16 of the Constitution, all are equal before the law and shall be given equal protection under the law without discrimination. Article 24 ensures everyone's right to freedom of speech, including the freedom to disseminate information (including environmental).

4. Describe any obstacles encountered in the implementation of any of the paragraphs of article 3 listed above.

The number of lawsuits concerning the violation of legislation on access to environmental information and public participation has increased.

There is a lack of financing to expand and improve environmental education for the population.

5. Provide further information on the practical application of the general provisions of the Convention.

Many NGOs base their activity on the provisions of the Convention. Its provisions are included in all the laws under discussion.

Courts make decisions with reference to the Convention. Court claims by citizens related to access to environmental information or participation in decision-making also refer to the Convention.

6. Give relevant web site addresses, if available:

www.mnpiac.am, www.nature.am, www.gov.am

ARTICLE 4

7. List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

The Foundations for Legislation on Nature Protection (1991) states that “Everyone is entitled to demand and receive universal and trustworthy information on the state of the environment, in due time” (art. 11).

The Law on Environmental Impact Expertise (Assessment) (1995) makes it the responsibility of the authorized body to inform officials of the municipality concerned and the public of a proposal for an activity within seven days (art. 6, paras. 3-4) of receiving a notice from the proponent.

The officials of the municipality concerned and the proponent inform the public through the mass media about the planned activity, the place and time of public hearings. According to the Law, the public is informed about the professional conclusion on the planned project as well.

The Law on Sanitary-Epidemic Safety of the Population (1992) ensures “citizens’ rights to receive correct and full information about the sanitary-epidemic situation” (art. 10).

The Law on Urban Construction (1998) entitles the public to receive trustworthy information related to urban construction as well as to planned activity in residential areas (art. 13).

The Law for Population Protection in Emergencies (1998) provides for the notification of the population about a threat, the organization of and provision with the necessary means of individual protection of the population in the disaster area, and the protection of the population against radiation from chemical and other substances (art. 5, paras. a, b and c).

The Law for the Safe Use of Atomic Energy for Peaceful Purposes (1998), in its article 12 (Right to Receive Information on Nuclear Energy Use), states that legal and physical entities of Armenia are entitled to receive from competent State bodies information on the safety of nuclear energy installations in their design, construction, exploitation and decommissioning, as well as information on the radiation level in the country, unless this information is a State or official secret.

According to article 20 of the Water Code (2002), an authorized State body will notify the public and organize public participation on issues related to water policy, programmes, water basin management, permits for water use, etc.

The Law on Standardization (1999) indicates among the goals of standardization the surrounding environment, its safety and does not set any restrictions to access to such information. According to article 2 of the Law on Hydrometeorological Activity (2001) urgent information on hydrometeorological phenomena and processes, i.e. factual information or forecasts about natural disasters and detrimental levels of environmental pollution, is announced, in a prescribed order, immediately after obtaining and processing.

The Law on State Statistics (2002) states that the body which collects State statistics is the National Statistical Service and its local territorial and functional bodies (art. 6). Statistical data envisaged by the programme for exercising observations must be provided free of charge to entities in the prescribed order (art. 12). The Law on Self-governments defines that the community council (a body of the local self-government) is entitled to demand from state bodies and civil servants the release of information regarding the problems of the community that is not qualified by law as confidential.

According to article 24 of the Constitution, everyone is entitled to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, regardless of State borders.

(a) The Law on Freedom of Information (art. 4) defines the main principles of securing information freedom as: definition of unified procedure to record, classify and maintain information; insurance of freedom to seek and get information; insurance of information access; publicity.

The Information Analytical Centre of the Ministry of Nature Protection is developing a system which should facilitate access to environmental information. It collects, stores and classifies environmental information, analyses and saves it in databases and disseminates it in the form of general reports, as well as national reports both in printed and in electronic versions.

Environmental information is provided also through bulletins of different ministries and agencies, for instance, the National Statistical Service, national reports and reports of the Ministry of Nature Protection, international organizations working in the country on environmental protection, the mass media on different levels. Moreover, the Public Environmental Information Centre, or “Aarhus Centre”, under the Ministry of Nature Protection, provides environmental information to the public free of charge. The Centre was created with the help of OSCE in the context of a memorandum between the Minister of Nature Protection and OSCE. Its board consists equally of representatives of both the Ministry and NGOs. The Ministry of Urban Construction has its own Public Information Centre on household waste. Separate bulletins and information leaflets on surface water condition as well as atmospheric air in cities are issued. The newspaper “Nature” of the Ministry of Nature Protection publishes data obtained from various public bodies, scientific organizations and NGOs;

(b) Deadlines are regulated by the Law on the Procedure of Consideration of Citizens’ Appeals and Complaints (1999). Article 6 sets a general deadline of 1 month from the date of submission of a request. However, when additional studies and verifications are not required, then it is 15 days. The request must be registered by the authorized body to ensure that the request is met;

(c) State or official secrets, as described in the Law on State and Official Secret (1996), are exempt. The Law defines what kind of information can be regarded as State and official secret and what kind cannot be regarded as such (art. 10). The following do not qualify as State and official secrets:

- Information about disasters threatening the security or health of citizens, as well as natural disasters (including those that are officially predicted), and their consequences;

- Information about the general economic situation and information reflecting the real situation in the field of environmental protection, public health, education, internal trade, culture;
- Information about restrictions of rights and freedoms of citizens, crimes and results of sociological surveys;
- Information which, if it were recognized as a secret, might adversely affect the execution of State and industrial programmes of socio-economic, scientific-technical and cultural-spiritual development.

The Law on Environmental Impact Expertise (Assessment) (1995) refers to commercial secret protection as well.

The Ministry of Nature Protection may refuse to provide if a request is defined only generally, not clearly stated or refers to documents that are still being prepared. Public interest criteria in access to information, mentioned at the end of paragraph 4, are not elaborated;

(d)-(e) If the public authority does not possess the requested data, then, in accordance with the Law on the Procedure of Consideration of Citizens' Appeals and Complaints, it is obliged within five days to inform the applicant about the body that does possess the information or to transfer the request of that body and inform the applicant accordingly;

(f) See subparagraph (b) above;

(g) According to article 2 of the Law on Hydrometeorological Activity, the following is provided free of charge:

- Urgent hydrometeorological information and hydrometeorological information of general interest, the list of which is confirmed by the Government;
- Data and information envisaged for provision to State bodies;
- Data on availability and conditions of provision of information on hydrometeorological phenomena and processes.

Governmental decision N349 of 18 March 2004 lists the urgent hydrometeorological phenomena and processes as well as hydrometeorological information of general interest.

The National Statistical Service sends its statistical reference book to the State bodies quarterly and free of charge (data on this book can be found on the website www.armstat.am).

According to the Law on Freedom of Information, no fee is paid in the following cases:

- In response to an oral request;
- When the information does not exceed 10 printed pages;
- When information is provided through the Internet.

A fee is due, except for State bodies, for the services related to the extracting, copying, distributing, mailing by regular post or through other systems of information which is of general interest and related to hydrometeorological phenomena and processes.

The State Committee of Real Estate Cadastre of the Government provides information on real estate, including land allotments, against payment. The electronic database of Armenian legislation also provides information on laws in electronic form against payment. In some cases, when additional preparation is required, information is provided against payment. The Ministry of Nature Protection has not yet set criteria for the payment for information.

8. Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.

State bodies do not always indicate a reason for refusing to provide the information requested. Sometimes they do not respect the deadlines or they do not respond to a request at all. The monopolization of the production of this type of information is often an obstacle to information access. It is necessary to create conditions and to achieve a balanced development of State, commercial and non-governmental sector producers of this type of information. An anti-monopolization and competitive environment will improve access to information and, which is no less important, improve the quality and trustworthiness of the information.

Statistical data on the number of requests responded to or refused are not available.

9. Provide further information on the practical application of the provisions on access to information, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

10. Give relevant web site addresses, if available:

www.armaarhus.am, www.nature.am, www.gov.am, www.armstat.am

ARTICLE 5

11. List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

See also question 7.

(a) Environmental information is brought together and updated by the Information Analytical Centre of the Ministry of Nature Protection and is regulated by Ministerial Order N 86-I of 4 April 2004 on the List of Information Provided by Subdivisions and Organizations of the Ministry of Nature Protection to the Non Profit Organization Information Analytical Centre. It is based on the Convention (art. 4) and the Law on Freedom of Information (art. 7, para. 1).

The Information Analytical Centre must process information obtained and publish it on the website of the Ministry.

Furthermore, upon approval by the Minister of Nature Protection, through the press service of the Minister, the Information Analytical Centre publishes the information which should be disseminated on the website of the Ministry (www.mnpiac.am). Such information is updated

according to the Ministerial Order; for example, water- and air-related information is updated monthly. The news section is updated weekly.

Simultaneously, similar information is delivered to the Aarhus Centre with the purpose of providing it to the wider public. In Armenia, dissemination of information on emergencies is done by the Ministry of Nature Protection, the Agency of Emergencies, which currently also includes the National Seismic Service, as well as the Ministry of Health, the Ministry of Agriculture, the mayor and the State Committee of Water through all available mass media. Such information can contain, in particular, recommendations on safety measures, prognosis of the threat's progress, results of investigations, reports on measures for eliminating the threat's consequences or preventive measures, etc.

Furthermore, the Law on Freedom of Information (art. 7) envisages that:

- The holder of information, in an order prescribed by law, develops and publishes his procedure for providing information, filing the information in a way that ensures its wide availability;
- Immediately publishes or through other means informs the public of available information that may prevent danger to State and public property, public order, health and rights of society, rights and freedoms of others, the environment, property, individuals;

(b) With financial support from international organizations the Ministry of Nature Protection and NGOs have issued three reference books on environmental information holders. In 2004 in the context of EU-TACIS the book "Where and How to Receive Environmental Information from State Structures of Armenia" was issued in Russian and Armenian;

(c) See subparagraph (a) above (www.armaarhus.am);

(d) National reports on environmental conditions are published and disseminated by the Ministry of Nature Protection and posted on its website. In 2003, the second national report was published. Experts from different ministries, science and NGO representatives take part in the preparation of these national reports;

(e) Information on laws and by-laws is published in the journal "Official News of the Republic of Armenia". Specialized NGOs widely use unofficial issues (for example, EPAC has prepared and issued "A collection of Environmental Legislation of Armenia" and the Water Code in Russian). The Law on Legal Acts (2002) ensures that the public is informed of pending legal acts through official messages, press conferences, the mass media, interviews, publication of articles and information, television and radio programmes. The public is informed of the essence of legal acts, peculiarities of their application, entry into effect, terms, order, etc. An electronic information database of laws, by-laws, regulations of the Prime Minister and the Government has been created.

With assistance of the World Bank, TACIS, the Global Environment Facility (GEF), UNDP, USAID and other organizations, national plans of actions related to environmental protection (NPAEP) (NEAP, NEHAP) and the policy framework for the use and protection of water resources, biodiversity, desertification, climate change have been developed.

Several nature protection conventions are translated into the national language and published. Information on international agreements that Armenia has signed is available on the web site of the Ministry. With support of OSCE the Aarhus Centre has been created. Non-governmental organizations and citizens may freely, in accordance with the internal procedure of the Centre, receive general environmental information and take part in public hearings on law drafts and programmes on environmental policy.

In 2004 in the context of a local TACIS-funded pilot project, the “Procedure of Public Participation in the Process of Preparation and Environmental Decision-making” was prepared with the help of the public. It has been accepted by the mayor of Hrazdan after public hearings. The procedure describes in detail how to inform the public in the early stages of draft decision preparation and the different forms and methods of public participation (informing at early stage through mass media, interviews with responsible persons, surveys, involvement of the public in working groups, round tables, public hearings, submission of written comments, etc.).

All these mechanisms were tested in practice; for representatives of local authorities and the public different training courses on the provisions of the Convention were held. A special section is devoted to the mechanism of accounting for citizens’ comments when a final decision is made;

(f) Armenia’s legislation does not foresee any special measures to encourage operators whose activity may impact substantially the environment to inform the public;

(g) The Ministry of Nature Protection publishes information and analyses of problems of biodiversity, forest protection, desertification and other nature protection issues. Periodically round tables, seminars, press conferences, public hearings on draft laws are organized jointly with NGOs;

(h) The Ministry of Trade and Economic Development, in particular its National Institute of Standards, deals with information issues related to the food industry. Many commercial organizations have also obtained the international product certification rights, for example the Agency of Medicines and Medical Technologies. As to genetically modified products (GMOs), currently the Ministry of Agriculture is discussing a package of amendments to the Law on Food Product Safety. In particular, the marking of GMOs is envisaged. Amendments to the Law on Consumer Rights Protection are also being discussed.

In recent years some NGOs have taken part in the development and implementation of voluntary ecomarking systems (for example, for ecologically safe agricultural products);

(i) Armenia took an active part in the preparation of the Protocol on Pollutant Release and Transfer Registers (PRTRs) which the Government signed in May 2003. During 2002-2004 three feasibility studies on the creation of registers for the public and regional or national seminars on PRTRs were prepared. They were submitted for financing to the secretariat of the Convention and other international organizations.

The Protocol has been translated into the national language. In the context of the EU-TACIS programme the Protocol on PRTRs has also been issued in Armenian and Russian with comments. Training and discussions on exercising of the provisions of the Protocol in Armenia have been held.

A brochure on “Where and How to Receive Environmental Information from State Structures of Armenia” has been published.

12. Describe any obstacles encountered in the implementation of any of the paragraphs of article 5.

Insufficient awareness on the part of State officials of their responsibilities under the Convention, necessity of standards and legal changes, inadequate technical base, inadequate standards base, unwillingness of enterprise owners to provide information about pollutant emissions.

A metabase of data on publications relevant to nature protection can be found on the website of the Ministry of Nature Protection or in the Aarhus Centre.

13. Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?

Information Analytical Centre of the Ministry of Nature Protection publishes statistical data, obtained from the Centre of Environmental Monitoring.

14. Give relevant web site addresses, if available:

www.armaarhus.am, www.gov.am

ARTICLE 6

15. List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

(a) Armenia adopted the Law on Environmental Impact Expertise (Assessment) in 1995. It regulates the legal, economic and organizational foundations of environmental impact expertise. Its definitions do not match the Convention’s definitions (art. 2, para. 5). For example, the definition of “the public concerned” is not the same.

According to the Law, if the planned activity may seriously impact the environment (the law provides a list of planned activities which should be assessed by the expertise), the authorities must inform the public and conduct public hearings. However, very often the expertise is conducted after the planned activity has already started and public hearings are not always held. Recently, there have been some positive changes: the public is informed, public hearings are held and NGOs, defined by article 2, para. 5, of the Convention as “the public concerned”, are involved.

Currently, a new draft Law on environmental impact expertise has been prepared. Experts from State structures and NGOs took part in its preparation. Public hearings on the draft were held.

According to article 20 of the Water Code (2002), an authorized State body informs the public about:

- Draft national water policy general concepts,
- Draft national water programme,
- Draft water basin management plans,
- Pending water use permits,
- Pending water system use permits,
- Draft water standards,
- Draft water tariff strategy.

A decision on whether or not to assess the environmental impact of the planned activity is also influenced by the Government regulation of 30 March 1999 on limiting levels of the planned activity subjected to environmental impact assessment. The decision is discussed with the public (first public hearings).

According to the above-mentioned regulation, publication and discussion of the documents relevant to the expertise are restricted for reasons of State, industrial or commercial secret and are regulated by legislation. If the planned activity concerns defence of the State, the authorized body (art. 11, para. 7) is obliged to provide the expert conclusion after discussion with the corresponding State bodies.

In view of paragraph 1 of article 6 of the Convention currently the Ministry of Nature Protection is developing a project to publish the list of activities subject to environmental impact assessment on its website;

(b)-(c)-(d) According to the Law on Environmental Impact Expertise, the public must take part from the beginning of the assessment. Within ten days officials from the affected municipality must submit to the authorized body the opinion of the public and its own;

(e) Paragraph 5 of article 6 is not regulated legislatively;

(f) There is not legal procedure for the competent authorities to provide the public concerned with all the information relevant to decision-making. In the context of the EU-TACIS project "Environmental Information, Education and Public Awareness", the provision of access to environmental information and mechanisms to disseminate it are being developed and discussed;

(g) After the public hearings, based on the professional conclusion and the public hearings' protocol, the authorized body (currently, the Ministry of Nature Protection) accepts or rejects the expert conclusion;

(h) The law does not provide for the outcome of the public participation to be taken into account;

(i) The expert conclusion is published within 7 days, and the interested parties are informed of it in writing (art. 11, para. 8, of the Law on Expertise);

(j) The authorized body can reconsider or cancel the expert conclusion, if:

- New laws are adopted;
- After submission of the expert conclusion new ecological factors are discovered.

The conditions, terms and procedures for reconsideration or cancellation of the expert conclusion are set by the Government;

(k) No measures have been developed on the application of article 6 to decisions on whether to permit the deliberate release of GMOs into the environment. A draft law on biosafety is in preparation. The provisions of article 6 are included in the draft.

16. Describe any obstacles encountered in the implementation of any of the paragraphs of article 6.

Insufficient awareness of State officials to the provisions of the Convention. Lack of legal regulation of the procedure for public participation. Procedure of public hearings must be set by the Government according to the Law on Expertise. This does not allow not to follow the provisions of the Convention, as the Convention, according to article 6 of the Constitution, is part of the juridical system and is directly applicable.

17. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

18. Give relevant web site addresses, if available:

www.armaarhus.am, www.nature.am, www.gov.am

ARTICLE 7

19. List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

For ensuring public participation in the preparation of plans and programmes the following measure are applied: meetings with the public, public opinion surveys, sometimes also work groups with involvement of experts – representatives of the different parties concerned. Public experts, dealing with the problems under consideration, are involved in the work of the groups in the context of different programmes. Experts from NGOs (as the public concerned), representatives of corresponding ministries and other specialists are the main target groups in this process.

The Constitution ensures that “citizens, regardless of national origin, race, sex, language, creed, political or other persuasion, social origin, wealth or other status, are entitled to all the rights and

freedoms, and subject to the duties determined by the Constitution and the laws” (art. 15). All are equal before the law and shall be given equal protection of the law without discrimination. Everyone is entitled to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, regardless of State borders (art. 24).

In the process of policy development and realization of international and regional conventions and programmes related to the environment, the Ministry of Nature Protection involves those NGOs which actively operate in the sphere of environmental protection, for example during preparation of draft laws. There is no document which regulates this process.

In the sphere of urban construction, government regulation N 660 of 28 October 1998 on the Procedure of Notification of the Public on Planned Changes of their Vital Activity Sphere and their Participation in the Discussions and Decision-making relevant to the Published Urban Construction Programmes and Projects was issued.

Bodies of State territorial and local self-governments are obliged within three days after receiving the above-mentioned documents to notify the public on conditions of consideration of the documents and on the place and time of the publication, demonstration and public discussions.

20. Explain what opportunities there are for public participation in the preparation of policies relating to the environment.

21. Describe any obstacles encountered in the implementation of article 7.

- Inadequate commitment of State officials to working with independent experts (often blame workload and, as stated above, lack of legal acts regulating the process);
- Some NGOs require a payment for their participation in the process;
- NGOs are not sufficiently involved at the early stage of preparation of drafts, policies, laws, etc., therefore their comments and suggestions cannot influence effectively the quality of decision-making.

22. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

Statistical data are not available.

23. Give relevant web site addresses, if available:

www.armaarhus.am, www.nature.am, www.gov.am.

ARTICLE 8

24. Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

See question 19.

According to the Law on Environmental Impact Expertise, the public concerned is the public which is affected or may be affected by decision-making (art. 2, para. 5). Only after ratification of the Convention in 2001 were NGOs involved in nature protection recognized as the public concerned in the course of EIA.

In line with the above-mentioned government regulation N 660, the public is informed through the mass media (local and national radio, television, newspapers) about actions on programmes and project demonstrations, their publications, public discussions (question 19).

The term of publication and demonstration of urban construction programmes and projects is limited to 15 days. Public representatives, in the defined period of time, submit their comments and suggestions in writing, substantiated by legal and other acts, as well as the conclusions of independent expertise, conducted by themselves, on published urban construction programmes and projects to the corresponding local self-government or territorial body of public administration.

This body, with the participation of public representatives, after studying and analysing the comments and suggestions makes a decision within three days.

Some NGOs conduct public hearings, involving authorized State bodies and other interested ministries and agencies. Currently, the new draft law on ecological expertise is being prepared; experts from State bodies and NGOs took part. Public hearings on the draft have been held.

There is a practice of conducting parliamentary hearings of draft laws concerning nature protection with the involvement of representatives from NGOs, independent experts (for example, Land and Water Codes).

25. Describe any obstacles encountered in the implementation of article 8.

- Inadequate extent of legal regulation of public participation in the preparation of legal standards, having immediate executive force, and other general regulations;
- Inadequate extent of early notification of the public or lack of notification;
- Procedure for taking into account comments of the public in the preparation of draft legal standards is not regulated or often comments by the public are not accepted. The public is not informed of reasons and substantiations of disregarding their comments and suggestions. This diminishes public participation in this process.

26. Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

The National Assembly organized public hearings on the Law on Lake Sevan (2000), the Land Code (2001) and the Water Code (2002) with the involvement of the mass media, NGOs, officials, and others.

Under the permanent commissions of the National Assembly, there is the Institute of Independent Experts. It consists of representatives from scientific and non-governmental sectors.

State bodies can stimulate the expression of public opinion through the publication of legislative drafts on the Internet. However, taking into account that not everyone has access to the Internet, this method is not the best one at the moment in the country.

More effective measures for involving the public in the legislative draft development process might be:

- Publication of the draft law in central newspapers;
- Collection and analysis of the comments submitted;
- Organization of a discussion in the mass media;
- Development of a public participation plan by State bodies.

27. Give relevant web site addresses, if available:

www.justice.am (under construction)

ARTICLE 9

28. List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

- (a)(i) Each person considering that his request for access to information, submitted in accordance with article 4, is illegally refused or inadequately satisfied is entitled to appeal to the authorized state body or to the court. (Law on Freedom of Information, art. 11, para. 4). According to the law on the Procedure of Consideration of Citizens' Appeals and Complaints, each person is entitled to take a complaint to court, if he considers that the State bodies, self-government bodies, their officials or organizations by their illegal actions (decisions) have violated his rights and freedoms (art. 11).

According to article 2 of Civil Procedure Code (CPC), each person concerned is entitled to take the complaint to court to protect himself against the violation of his rights or interests ensured by law.

Appeal to the ombudsman (human rights protector). The ombudsman upon receiving a complaint can: take it into consideration; explain to the applicant the means that he

can use for ensuring his rights and freedoms; pass the complaint to a State body, body of local self-government or an official who is competent to resolve it;

- (ii) Access to an operational procedure :
Each person who does not agree with a decision made, is entitled to appeal against it to a higher body or an official . In this case, the inquiry is considered within 15 days;
- (iii) Information requests may be refused for specific reasons (Law on Freedom of Information). Final decisions made by the court or by the authorized bodies are obligatory or enforceable if nothing else is envisaged by law. (CPC, Law on the Procedure of Consideration of Citizens' Appeals and Complaints);

(b) The person concerned is entitled to go to court in accordance with the order set by CPC for the protection of his rights, freedoms or legal interests, envisaged by legislation or an agreement. In the cases envisaged by law for the protection of rights of other persons, persons who are authorized for that are entitled to appeal to the court (CPC, art. 2);

(c) The public, i.e. non-governmental organizations, according to article 2 of CPC and the Law on Non-Governmental Organizations, are entitled to take part in administrative or judicial procedures in appeals against acts or omissions by individuals or State bodies. Suggestions, inquires and complains of citizens are submitted to non-judicial agencies without a duty paid or to court in accordance with the article 70 of CPC and order and measures set by the Law on State Duty;

(d) The court, at the initiative of one of the parties or at its own initiative, makes a temporary injunction in cases where a failure to do so would lead to the impossibility of, or complications in, the enforcement of the court decision (art. 97 of CPC) (legal assistance in the form of judicial inquiry);

(e) Information on access to administrative and judicial procedures and corresponding mechanisms is provided through the publication of legal acts and the preparation and dissemination of brochures and guides by State bodies and NGOs (art. 6 of the Constitution, Law on Legal Acts).

29. Describe any obstacles encountered in the implementation of any of the paragraphs of article 9.

The two main problems are the inappropriate level of court independence and trust in the system of justice. The only effective way to overcome these two problems is to increase the professionalism of judges in environmental matters, improving the availability of lawyers-ecologists and drafting clear environmental legislation.

There are several obstacles, from a practical point of view:

Legal obstacles:

- Guarantees: requirement of a big pledge often prevents people from receiving effective protection of the right to justice;

- Terms: prolonged hearings undermine legal defence, especially in administrative cases;
- A problem of referencing between the Convention and national legislation can arise. In the national legislation the required provision is either not available or it is insufficient (not clear);

Non-legal obstacles:

- Court costs;
- Social factor: social-economic factors often outweighs environmental protection concerns;
- Lack of professional lawyers-ecologists;
- Lack of awareness or insufficient public awareness of environmental legislation;
- Lack of awareness of possibilities of legal assistance of environmental rights of citizens – possibility of legal defence, appeal to the Office of the Public Prosecutor, appeals of an administrative order, complaint to the ombudsman;
- Insufficient awareness of judges of environmental legal acts and international agreements, including the Convention.

The main mechanisms of assistance to eliminate or reduce financial barriers are allowances to the State duty:

- Waiver of the State duty in case of protection of general environmental interests;
- Reduction in the State duty;
- Reduction in the rate of the State duty;
- Delay of the terms of payment of the State duty;
- Penalty waiver, etc.

30. Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

It is possible to waive or reduce court costs by court decision depending on the financial situation of the parties.

31. Give relevant web site addresses, if available:

www.justice.am, www.gov.am

32. If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

The Convention fosters the creation and realization of a more effective, transparent and controlled process of decision-making related to environmental policy due to wider and effective public participation. State bodies can also use its provisions for supporting their interests and benefit from the knowledge and experience of the public. Thus, the Convention enforces the position of the State bodies responsible for environmental protection and with public support they can take the environmental factor into account.