**COMMENTS OF THE PARTY CONCERNED**

**TO THE DRAFT DECISION OF THE AARHUS CONVENTION**

**COMPLIANCE COMMITTEE ACCC/C/2011/62**

*With regard to the Draft Findings of the Compliance Committee ACCC/C/2011/62, I would like to thank the Compliance Committee for in-depth examination of the Communication and elaborating meaningful recommendations to help to improve the situation. Republic of Armenia as a Party to the Convention highly appreciates the efforts of the Compliance Committee and the Secretariat to ensure proper implementation of the Convention by the Parties and development of democratic instruments in the society. Hereby, I bring to the attention of the Compliance Committee the following considerations beginning with a short analysis of legal system in Armenia.*

In the legal system where the protection of rights first of all depends on infringement of individual rights the symmetric and full-scale protection of existing environmental norms can be achieved only if for these cases objective but not the subjective rights are infringed and special possibilities for filing cases to the court are envisaged.

According to the Decision of the Constitutional Court of Armenia, it is necessary to establish criteria for legal standing to ensure access to justice so that the court had sufficient legal ground. The state may establish objective criteria in the law. Therefore, preventive measures are required to exclude abuse of rights as in this case the public interest might be endangered. And in-depth examination of the case law is important as well. The legal position of the Constitutional Court – to improve the situation in the sphere as the international practice does not have certain criteria of “legal interest”. To this end it would be necessary to describe the content of these institutes *“public concerned”* and *“sufficient interest”.*

Such criteria might be for example *filing in-time request by NGO to receive environmental information, active participation in the public hearings of the project at the early stages and making meaningful suggestions, providing argumented changes and addendums to the EIA project etc.* The mentioned documentation will help the court to recognize the NGO as interested one.

Therefore, in our view, systemic approach to the interpretation of the three pillars of the Aarhus Convention, following the internal logic of the Convention leads to application of the Article 9 where the main steps are envisaged in the para. 1 of the Article 9. These are the rights to information, public participation and access to justice via formulation of legal and philosophic background. The rights mentioned are not results as such, they constitute a path for protection of the main material right – the right to healthy environment.

From the position of the legal standing (Article 9, para. 2, 3, 4) of the NGO we come to the conclusion that the norms of national legislation had been implemented.

In the same time we state that there is necessity for improvement of the national legislation especially in terms of criteria to determine “legal interest” with the aim to follow the philosophy of the Aarhus Convention and its provisions.

*Concerning the specific provisions of the Draft Findings,* to our opinion, para. 25 is not necessary to be included in the Decision for the reason that this fact is not given legal evaluation in the subsequent part of the Decision and what is more, it does not have any legal consequences. The position described in para. 25 is a particular opinion of one NGO out of a large number. Going further and examining the comment of the Communicant with regard to adding to this para. information about the Annual Report of the Constitutional Court, we think that the information provided by the Communicant refers to the Report which is not a legal act and therefore, does not have legal consequences. This Report comprises legal positions of the Constitutional Court of RA from different decisions which are already stated in the corresponding decisions as such and cut from original Decisions are not applicable.

National Focal Point to the Aarhus Conention

in the Republic of Armenia

«30» May 2013