

1. Does the Aarhus Convention have direct application in the Republic of Armenia?

According to the article 6 of RA Constitution "The international treaties shall come into force only after being ratified or approved. The international treaties are a constituent part of the legal system of the Republic of Armenia. If a ratified international treaty stipulates norms other than those stipulated in the laws, the norms of the treaty shall prevail. The international treaties not complying with the Constitution cannot be ratified". The compliance of the Aarhus Convention provision to the Constitution of the Republic of Armenia was proved by the Decision of the Constitutional Court of RA from 26 December, 2000. The Convention was ratified by the National Assembly of RA On 14 May, 2001.

On the basis of aforementioned we may conclude that the provisions of Aarhus Convention have direct application in the Republic of Armenia, if the Convention stipulates norms other than those stipulated in the national legislation. The exceptional case is when the provisions of the Convention require precise, direct implementation mechanisms to be in place to enforce the mentioned requirements.

2. Does the law of Armenia provide access to justice for NGOs whose statutory goals include protection of the environment? If so, please provide an English translation of the relevant legislation.

The article 3 of Administrative Code of RA stipulates the following: " Each legal and natural entity has a right to apply to administrative court, if it considers that by the administrative acts, commissions or inactivity of state or local authorities or their officials have been violated or can directly be violated **rights and freedoms of the entities** incorporated in the Constitution, International treaties, Laws and other legal acts.....".

The article 92 of the Constitution of the Republic of Armenia amended in 2005 establishes a novel state of RA Court of Cassation as the highest instance of the Judicial system of RA: "The highest court instance in the Republic of Armenia, except for matters of constitutional justice, is the Court of Cassation, which shall ensure uniformity in the implementation of the law. The powers of the Court of Cassation shall be defined by the Constitution and the law."

In addition to Constitutional regulation, the article 15, paragraph 4 of RA Judicial Code comprises the following regulation: " The reasoning of a judicial act of the Cassation Court or the European Court of Human Rights in a case with certain factual circumstances (including the construal of the law) is binding on a court in the examination of a case with identical/similar factual circumstances, unless the latter court, by indicating solid arguments, justifies that such reasoning is not applicable to the factual circumstances at hand."

Having in regard provisions of Aarhus Convention, the article 3 of the Administrative Code of RA and RA Law "On non-governmental organizations" by its' Decision from 30 October, 2010 reviewing the Decision of Administrative Court on denying the admission of the claim, RA Cassation Court stated the following: "The Cassation Court of RA deems the "Ecodar" NGO as a non-governmental organization and it is in compliance with national legislation requirements, and on the basis of statutory goals and tasks promotes environmental protection. Therefore the Cassation Court of RA finds the "Ecodar" NGO as a "concerned" organization in the meaning of Aarhus Convention, hence it enjoys the right to access to justice in environmental matters".

The rules of legislation and case law mentioned heretofore allows to conclude that within this particular case limited access to justice was granted to NGO promoting environmental protection in RA.

3. What do you understand to be the meaning of the words "any or abstract" in the Decision of the Administrative Court dated 22 March 2010 cited at page 2 of the communication.

In its Decision from 22 March, 2010 the Administrative Court of RA used the notion "any or abstract" to substantiate its' position according to which the entity may not apply to the court with abstract requirements and has a right to access to justice when it is a concerned party, thus the administrative authorities violated the public subjective rights of natural or legal entity.