May 30, 2013

Aphrodite Smagadi

Secretary to the Aarhus Convention Compliance Committee

United Nations, Economic Commission for Europe

Palais des Nations, Room 348

CH-1211 Geneva 10, Switzerland

Dear Ms. Smagadi,

Though we find that the Draft decision is in line with our expectations, however we consider that several comments are necessary to complete the facts and recommendations of the draft Decision with regard to communication ACCC/C/2011/62 concerning compliance by Armenia.

1. As we have already informed the Committee, during March 2013, the RA Constitutional Court published its annual communication focusing on court’s decisions during 2012 ([http://www.concourt.am/armenian/report/statistic/cc\_decision\_stat2012.pdf starting from page 49](http://www.concourt.am/armenian/report/statistic/cc_decision_stat2012.pdf%20starting%20from%20page%2049)).

The RA Constitutional Court has reinstated its legal position expressed in SDO-906 decision regarding the legal standing of NGOs to file complaints with courts. The RA Constitutional Court has assured that “the NGOs have the right to legal remedy in relation to ‘the public concerned’ when such actions fall within the mandate of the NGO’. The Constitutional Court has also stated that “The Administrative Court as well as the Court of Cassation (on 01.04.2011) have uniquely interpreted the legal position of the Constitutional Court on legal standing of the NGOs, depriving them of the opportunity to file cases with courts on issues arising from their statutory objectives.” Despite that, the RA Court of Cassation has made a final and irrevocable decision depriving Ecodar environmental NGO of the right to file a case with the court, a case that is stemming from the NGOs statutory objectives. Ecodar’s right to a judicial remedy will be restored only if the Aarhus Convention’s Compliance Committee finds violation of Article 9 of the Convention in relation to access to justice.

We suggest that the Committee includes the official statement of the RA Constitutional Court in the Decision ACCC/C/2011/62 in the paragraph following the Point 25 of the section “facts” of the Decision.

1. Point 37 of the “Consideration and evaluation by the Committee” section states, “In its decision of 24 March 2010, the Court of Cassation…”. We believe there is a mistake here, as the RA Administrative Court issued the decision of 24 March 2010.
2. With regard to Point 42 of the “Recommendation” section, we suggest to complete the sub-point (a) with more detailed recommendation in order to eliminate loopholes for avoiding legislative amendments. Particularly, we kindly ask you to indicate the law on Non-Governmental Organizations and the Administrative Procedure Code respectively, which shall be reviewed.

We would like to inform the Committee, that the RA Ministry of Justice is currently drafting a concept for the Law on Non-Governmental Organizations, where Access to Justice for NGOs does not meet the legal position of both the RA Constitutional Court and the Compliance Committee. Thus, we find necessary to mention particularly the laws, which are important to amend in terms of Access to Justice in line with the Article 9, paragraph 2 of the Convention.

Regards,

Hrayr Savzyan

Executive Director, Ecodar NGO