

14 October 2019

Ms. Narine Solomonyan
Ministry of Environment
Yerevan, Armenia

Mr. Artur Grigorian
“Ecological Right” NGO
Yerevan, Armenia

Dear Ms. Solomonyan, dear Mr. Grigorian,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Armenia regarding public participation in decision-making and access to justice with respect to the Amulsar mine (ACCC/C/2016/138)

On 23 May 2018, the Committee wrote to the Party concerned and the communicant seeking their views on whether they considered a hearing was needed prior to the Committee commencing its deliberations on the substance of the above communication.

In its reply of 8 June 2018, the communicant indicated that it did not consider a hearing was needed. Despite several reminders, the Party concerned failed to provide an official reply to the Committee’s invitation for its views.

Having taken into account the above, the Committee has agreed to commence its deliberations on the substance of the case at its 65th meeting (Geneva, 4-8 November 2019) without a hearing. The Committee reserves the possibility to revisit its decision at a later date if it becomes evident in the course of its deliberations that a hearing will be needed to clarify certain legal or factual points.

In advance of commencing its deliberations, the Committee has identified a number of questions for the reply of the Party concerned and the communicant. These are **enclosed** for your attention.

In addition, the Committee invites the Party concerned and the communicant to provide any further written submissions on the substance of the communication that they would like the Committee to consider when deliberating on its draft findings.

I would accordingly be grateful to receive your replies to the Committee’s questions and any final written submissions you wish to submit to the Committee **before Friday, 8 November 2019**. Please send your submissions to aarhus.compliance@un.org, copying the other party. The Committee will consider any information received by the above deadline when commencing its deliberations on its draft findings.

Please do not hesitate to contact the secretariat if you have any questions regarding the above.

Yours sincerely,



Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

- Cc: Permanent Mission of the Republic of Armenia to the United Nations Office and other international organizations in Geneva
- Enc: Questions from the Committee to the communicant and the Party concerned

Questions to both parties:

Please keep your replies to the following questions as short and concise as possible.

1. What is the current status of the mining licence for the Amulsar open-pit mine?
2. Following the positive expertise conclusions of the Sevan Lake Commission of 24 September 2014, and of the Ministry of Nature Protection of 17 October 2014, what, if any, other permits were or will be needed prior to commencing extractive activities at the Amulsar open-pit mine?
3. What, if any, opportunities existed or still exist for the communicant to challenge the further permits identified in your answer to question 2 above?
4. What would have been the legal effect, if any, if the Sevan Lake Commission had issued a negative conclusion regarding the impact of the Amulsar open-pit mine on the Sevan Lake?
5. Please specify the legal basis through which the Sevan Lake Commission was established and its mandate, including the text of the relevant provisions of the law of the Party concerned.
6. Please clarify whether the “liable body” under article 25 of the Law on Sevan Lake is a “public authority” within the meaning of article 2(2) of the Convention. Please provide reasons for your answer.

Question to the communicant:

7. At pages 6 and 8 of your communication, you allege noncompliance with article 9(3) in conjunction with “article 2(3)(1)”. However, at pages 8 and 9 of your communication, you discuss article 9(3) in conjunction with “article 3(1)” of the Convention.

Please note that there is no “article 2(3)(1)” in the Convention.

Accordingly, please clarify whether you are alleging noncompliance with article 9(3) in conjunction with article 2(3)(a), or in conjunction with article 3(1) of the Convention.

Questions to the Party concerned:

8. Please provide an English translation of the following documents:
 - a. The Administrative Court judgment of 9 April 2015 (see annex 2 to the communication);
 - b. The Court of Appeal judgment of 12 June 2015 (see annex 3 to the communication);
 - c. The Cassation Court judgment of 23 June 2015 (see annex 4 to the communication);
 - d. The positive EIA conclusion of the Ministry of Nature Protection of 17 October 2014 (see annex 5 to the communication).

9. Please provide the texts of the following, together with an English translation thereof:
- a. The positive expertise conclusion of the Sevan Lake Commission of 24 September 2014;
 - b. Articles 3(1), 37(1), 42, 45 and 59(1) of the Law on “Principles of Administration and Administrative proceedings”;
 - c. Article 50(2) of the Mining Code;
 - d. Articles 3, 9, 20 and 25 of the Law on Sevan Lake;
 - e. Articles 18 and 19 of the Constitution of the Republic of Armenia.
10. Please clarify what is the final permit for the Amulsar open-pit mine in which a court, in a legal challenge of this permit, could examine the positive conclusions of:
- a. The Sevan Lake Commission of 24 September 2014;
 - b. The Ministry of Nature Protection of 17 October 2014.
11. Please clarify whether in the context of a court proceeding:
- a. A judge could review the positive expertise conclusions of the Sevan Lake Commission or the Ministry of Nature Protection; or
 - b. Such conclusions can only be taken into account by the court as a piece of evidence.
