

1 August 2017

Jonas Ebbesson
Chair
Aarhus Convention Compliance Committee
Via Aarhus Convention Secretariat, UNECE

Sent by e-mail only

Dear Mr. Ebbesson,

Re: Amendments of February 2017 to Turkmenistan's Law on Public Associations

I write to draw the urgent attention of the Aarhus Convention Compliance Committee to some information which may affect the Committee's conclusion, now reflected in the draft decision on general issues of compliance prepared by the Bureau for adoption by the MOP, that Turkmenistan is no longer in non-compliance with the Convention.

In my capacity as designated NGO observer on the Bureau of the Convention, on 24 July I received a draft of the decision on general issues of compliance that had been circulated to the Bureau for approval. It was clear from the draft that four Parties – Croatia, Germany, Turkmenistan and Ukraine – were considered by the Committee to be no longer in non-compliance. Unfortunately, whereas the Committee's reports on the Parties found to be in non-compliance were made available to the Bureau at the time it was being consulted over the corresponding draft decisions, this was not the case in relation to the four Parties considered to be no longer in non-compliance. In other words, the Bureau was asked to, and did, support the Committee's conclusion that these Parties are no longer in non-compliance without having access to the main documentation, even in draft form, which will be presented to the MOP to substantiate this conclusion. This procedural difficulty was partly mitigated in some cases by the existence of intersessional progress reports but in the case of Turkmenistan there was no such report.

In the course of doing some background checking on the situation with respect to Turkmenistan's compliance, on 26 July I learned from a Russian-speaking colleague that on 4 February 2017, Turkmenistan amended its 2014 Law on Public Associations. You will recall that the MoP requested Turkmenistan at MoP-5 to provide confirmation that foreign citizens and persons without citizenship may, in the same way as citizens of Turkmenistan, become founders of public associations – see para. 6(b) of MoP Decision V/9I. Indeed, the fact that foreigners could not be members/founders of public associations was a key aspect of Turkmenistan's non-compliance. In response, Turkmenistan provided the requested confirmation to the Compliance Committee on 30 March 2016, making reference to Art. 4, para. 2, of the new Law on Public Associations (2014), which explicitly states that "where provided by this law, foreign citizens and apatrids can be founders of public associations". However, according to information available at http://base.spininform.ru/show_doc.fwx?rgn=67138#A000000096, on 4 February 2017, Turkmenistan amended the Law on Public Associations in a way that, among other things, deleted exactly that paragraph and amended Article 1 of the Law to make it clear that it only applies to citizens of Turkmenistan.

If this information proves to be correct and no other compensating measures have been taken, it is very difficult to see how Turkmenistan could be considered to be back in compliance. In these circumstances it would furthermore be a major embarrassment if the MoP were to adopt a decision in Montenegro giving Turkmenistan a clean bill of health seven months after Turkmenistan adopted an amendment to the law that was supposed to bring the Party back into compliance in full knowledge that that amendment would again put it in violation of the Convention.

On 27 July, I brought this information to the attention of the Bureau and secretariat. While it was initially not clear to me (or the Bureau) whether the Committee was aware of the February 2017 amendment to the Law on Public Associations, due to the fact that the country report was not available to the Bureau, the secretariat eventually clarified that it was not but declined to act on my request that it should bring this new information to the urgent attention of the Committee pending finalisation by the Bureau of the draft decision.

The purpose of this message is therefore to ask the Committee to look into this as a matter of urgency, and if necessary (i.e. having verified the information with the Party concerned etc) update its conclusions and recommendations with respect to Turkmenistan in advance of the MoP. If indeed it proves that Turkmenistan has reversed the very changes to the Law on Public Associations that it introduced to ensure compliance without introducing compensating measures and without informing the Committee that it has done so, this would in our view justify a very severe reaction from the MoP.

Please note that this is not a communication in the sense of paragraph 18 of the annex to Decision I/7. Thus I am not requesting you to follow the procedures applicable to communications, which would be an unnecessary burden for both of us. Rather I am bringing some information of material importance to the urgent attention of the Committee and inviting you to consider it, as you are entitled to under paragraph 25(c) of the annex to the Decision, in connection with your conclusions and recommendations with respect to Turkmenistan that are submitted to the MoP. I have no objection to the letter being shared with anyone or put in the public domain.

Finally, I would add that while not having been able to review the associated reports from the Committee, I and my colleagues have serious doubts about the conclusions reached in relation to some of the other Parties mentioned above, most notably Ukraine. This is something that the NGO delegation will no doubt come back to in Montenegro.

Yours sincerely,



Jeremy Wates
Secretary General