



**Permanent Mission of Turkmenistan
to the United Nations Office
Geneva**

№01-09/UNECE/1096

The Permanent Mission of Turkmenistan to the United Nations Office at Geneva presents its compliments to the United Nations Economic Commission for Europe and referring to the letter of H.E. Ms. Olga Algayerova 2019/OES/251/ENV/126 dated 27 August 2019 has the honour to transmit the information requested therein according to the Decision VI/8 of the Compliance Committee of Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

The Permanent Mission of Turkmenistan to the United Nations Office at Geneva avails itself of this opportunity to renew to the United Nations Economic Commission for Europe the assurances of its high consideration. *Of*



Enclosure: 4 pgs.

Geneva, 23 December 2019

United Nations Economic Commission for Europe
Geneva

In reply to your letter of 27 August 2019 (Ref.: 2019/OES/251/ENV/126), we have the honour of providing you with the following information.

1. Turkmenistan, as a Party to the Aarhus Convention, thanks the Aarhus Convention Compliance Committee for its detailed legal assessment of our replies, submitted by letter of 24 April 2019, regarding certain provisions of the Law of Turkmenistan of 3 May 2014 on Public Associations as amended on 4 February 2017 ('the Public Associations Act'). (The Supplementary First Progress Review of developments relating to Request ACCC/M/2017/2 on compliance by Turkmenistan with its obligations under the Convention.) This assessment and the comments provided on relevant articles of the Act are in no small measure enabling us to move forward towards harmonizing the Public Associations Act with the requirements of the Aarhus Convention, in particular with respect to the possibilities for foreign citizens and persons without citizenship to found and participate in public associations engaged in environmental protection issues.

2. In its reply of 24 April 2019, Turkmenistan pointed out that the Public Associations Act as amended on 4 February 2017 maintains the right to establish public associations with the participation of foreign citizens and persons without citizenship. Articles 4(1), 6(1)1-2, 7(1), 8(3), 11(1), 11(5) and 13(2) of the Act provide evidence of this, employing the concepts 'citizens' and 'natural persons'. At the same time, Turkmenistan understands and has previously acknowledged that the additions and amendments to Articles 1, 3 and 16(2) of the 2014 Public Associations Act, which were introduced on 4 February 2017, have led to certain contradictions with other articles of the Act. In this connection, we observed, in our reply to the Committee's Question 7, that '... this situation should form the basis of further discussions of the above-mentioned provisions of Turkmenistan's Public Associations Act'. This demonstrates that Turkmenistan is ready to discuss all the existing provisions of the Act which are connected with the rights of foreign citizens and persons without citizenship, in particular concerning participation in the operation of public associations.

Steps currently being taken by the *Mejlis* (Parliament) of Turkmenistan towards preparing a draft law to further amend and supplement the 2014 Public Associations Act (as amended on 4 February 2017) indicate that Turkmenistan's Public Associations Act should indeed come under review. Moreover, the working group set up by the relevant Parliamentary Committee to prepare the above-mentioned draft law will include representatives (experts) from the Ministry of Agriculture and Environmental Protection of Turkmenistan.

3. In considering our replies, submitted by letter of 24 April 2019, regarding the 2014 Public Associations Act as amended on 4 February 2017, the Compliance

Committee has also thrown light on the situation with regard to Article 7(2) of the Act, which prohibits the operation of unregistered public associations. This situation arises in connection with the primacy of special laws over general laws – that is, of the Public Associations Act of 3 May 2014 over the Law on Nature Protection of 1 March 2014 – and also in connection with the times (date) at which they were adopted (a law adopted later prevails).

On this basis, the Committee has observed that the Public Associations Act is to be considered a special law with respect to public associations. Accordingly, in the event of a contradiction (*collisio*) between Article 9 of the Law on Nature Protection and Article 7(2) of the Public Associations Act, if Turkmenistan's officials or courts were to apply the rule on the primacy of the provisions of special laws, Article 7(2) of the Public Associations Act would presumably prevail.

In fact, in answering Question 17, Turkmenistan, pointed out, with reference to its Statutes and Regulations Act, that 'If particular social relations are governed by both general and special laws, then the provisions of the special legislation are to prevail.

Where there are contradictions between the provisions of laws and regulations which have different levels of legal effect, the provisions of the higher-level legislation are to apply.

In the event of a contradiction between the provisions of laws and regulations that have equal legal effect and the same scope, the provisions of the legislation enacted later in time are to prevail.'

Thus, given that adjustments should be made between Article 7(2) of the Public Associations Act and Article 9 of the Law on Nature Protection, Turkmenistan deems it appropriate to hold additional consultations and to discuss this question in the light of the requirements of the Aarhus Convention.

**Information from the Ministry of Justice of Turkmenistan
with regard to the letter from
Under-Secretary-General Olga Algayerova,
Executive Secretary of the Economic Commission for Europe
(Ref. No 01-17/UNECE/905, 26.10.2019)**

As regards those matters within the competence of the Ministry *Adalat* (the Ministry of Justice) of Turkmenistan, we wish to inform you as follows:

Articles 25 and 28 of the new Constitution of Turkmenistan (with the additions introduced by Constitutional Law No 617-V of Turkmenistan of 9 October 2017) states that human and civil rights and freedoms are recognized in Turkmenistan in accordance with the universally recognized norms of international law and are guaranteed by the Constitution and laws.

Turkmenistan guarantees equal human and civil rights and freedoms, and also the equality of the individual and the citizen before the law irrespective of nationality, colour, sex, origin, property and occupational status, place of residence, language, religion, political beliefs or other circumstances.

Article 42 of the Constitution of Turkmenistan guarantees everyone freedom of thought and of speech. No one has the right to prevent a person freely expressing his or her opinion, nor to hinder its lawful dissemination. No one can be compelled to express his or her opinions and beliefs or to deny them. Everyone has the right to freely seek, receive and disseminate information by any means not prohibited by law, except when it contains state or other secrets protected by law.

Article 2 of the Law of Turkmenistan on the Legal Status of Foreign Citizens in Turkmenistan states that the legislation of Turkmenistan on the legal status of foreign citizens is based on the Constitution of Turkmenistan and is comprised of this Law and other laws and regulations of Turkmenistan that govern the legal status of foreign citizens in Turkmenistan.

If rules other than those provided for in this Law have been established by an international agreement entered into by Turkmenistan, then the internationally agreed rules shall apply.

Article 3 of the Law on the Legal Status of Foreign Citizens in Turkmenistan provides that foreign citizens in Turkmenistan shall enjoy the same rights and freedoms and have the same responsibilities as citizens of Turkmenistan, unless the Constitution of Turkmenistan, this Law and other

legislative acts of Turkmenistan provide otherwise.

Foreign citizens in Turkmenistan are equal before the law irrespective of origin, property and occupational status, racial and national identity, sex, education, place of residence, language, religion and other circumstances.

Under Article 15 of the Law on the Legal Status of Foreign Nationals in Turkmenistan, foreign citizens in Turkmenistan have the right to join public associations if this is provided for by the associations' charters.