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IMPLEMENTATION REPORT

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I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. The Third National Report on the Implementation of the Aarhus Convention in Armenia was prepared with the active participation of the National Coordinator for the Aarhus Convention of the Ministry for Nature Protection; the Ministry of Justice; the Ministry of Agriculture; the Ministry of Health; the Ministry of Urban Development; the Ministry for Emergencies; the National Statistics Service; representatives of the Armenian National Assembly, the coordinators of the Armenian Aarhus Centre and also representatives from NGOs, science and business.
2. Two public hearings were held to discuss the draft Third National Report. On 15 July 2010 the coordinator for the Aarhus Convention sent information to state bodies and environmental NGOs about the start of the process of preparing the Third National Report and invited all interested parties to submit their suggestions and comments. On 22 September 2010 a meeting was held in the Environmental Law Resource Centre of Yerevan State University between the convention coordinator and NGO representatives, during which the original version, structure and content of the national report were presented and they were given guidelines. Participants had the opportunity to state their views on the main issues raised by the report, which were later recorded in writing. On 22 November 2010 a second public meeting was held on the draft National Report in the Yerevan Aarhus Centre for state bodies, NGOs and other interested parties. After making several amendments and additions to the draft report, the participants approved the document and expressed their hope that the final document would be presented to all interested parties.
3. Suggestions by non-governmental organizations and other participants at the public hearings were sent in writing or electronically to the country's coordinator for the Convention and, after discussion, many of them were included in the report. Decisions not to include certain suggestions and comments by non-governmental organizations were explained. Participants accepted some of these explanations but disagreed with others.
4. The draft was then submitted to the Ministry of Nature Protection for discussion and published on the websites of the ministry and of the Aarhus Centre (www.mnp.am and www.aarhus.am). After incorporation of new additions the report was finalized.
5. The following materials were used for the preparation of the report: Armenian legislation, printed materials from the Ministry, guides on the Aarhus Convention for officials and civil society prepared in the context of the European Union's TACIS programme on environmental information, education and public awareness printed materials from non-governmental organizations and regional environmental centres, Armenian environmental laws, as amended and supplemented over the reporting period, and the Second National Environmental Action Plan. In addition, some information in the previous report was removed as obsolete. All amendments and additions to the country's laws relating to the Aarhus Convention are reflected in the report. Additions were also made with regard to legislation and enforcement practices which were not reflected in the second national report.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

6. Armenia is a unitary state. Under article 62 of the Constitution, “Legislative power in the Republic of Armenia shall be exercised by the National Assembly.” The Armenian Government holds executive power. Under article 89 of the Constitution, “The Government shall implement state policy in the fields of science, education, culture, health care, social welfare and environmental protection.”

7. The Armenian legal system has three levels. Under paragraph 1 of article 91 of the Constitution, “Justice in the Republic of Armenia shall be administered solely by the courts in accordance with the Constitution and laws.” Article 92 of the Constitution states that the courts operating in the Republic of Armenia are the first instance court of general jurisdiction, the Court of Appeal and the Court of Cassation, which ensures uniformity in the application of the law. It is forbidden to establish emergency tribunals. One special administrative court and one special administrative appeal court are currently operational in Armenia. Under article 93 of the Constitution, “Constitutional justice in the Republic of Armenia shall be administered by the Constitutional Court.” Under article 6 of the Constitution, “The Constitution of the Republic has shall have supreme legal force and the norms thereof shall apply directly... International treaties shall come into force only after being ratified or approved. 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. International treaties that do not comply with the Constitution can not be ratified.” Under article 10 of the Constitution, “The state shall ensure the protection and rehabilitation of the environment and the efficient use of natural resources.” Under article 48 of the Convention, “The basic tasks of the state in the economic, social and cultural spheres are... 10) to pursue a policy ensuring environmental security for present and future generations.”

8. Armenia faces several financial difficulties in the implementation of the rights to access to information and to justice. Moreover, insufficient awareness among civil servants and the law enforcement agencies of environmental law should also be highlighted as an obstacle.

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

9. Article 33.2 of the Constitution states “Everyone shall have the right to live in an environment favourable to his/her health and well-being and shall be obliged to protect and improve the environment individually or jointly with others. Public officials shall be held responsible for concealing environmental or failing to provide it.” Pursuant to Government Decision No. 524 of 22.04.2004 on the approval of the state contract for 2004 on the conduct of informational and analytical work in the sphere of the environment and the maintenance and upgrading of a computerized network by the state non-commercial organization the Centre for Information and Analysis and Order No. 86 of 06.04.2004 of the Minister of Nature Protection, the various subdivisions of the Ministry pass environmental information to the Centre for Information and Analysis to be posted on the Ministry’s website (a list of information to be submitted and the procedure for its collection and distribution have been approved).

10. Websites have been set up where information is available on specially protected natural areas: www.reservepark.mnp.am, www.dilijan.am, www.sevanpark.am.

11. The site of the National Statistics Service www.armstat.am has largely been completed. Complete statistical information on Armenia's environment is available to everyone in the shape of the annual statistical digest *The Environment and Natural Resources of the Republic of Armenia*. In the future the digest will be available as a Word or Excel document as well as a PDF with the aim of improving the accessibility and usability of information.

12. With the aim of ensuring public health security and minimizing the adverse effect of dangerous and hazardous impacts on the environment, a raft of sanitary and disease control and prevention rules and standards were adopted and registered between 2009 and 2010, on matters such as hazardous waste, medical waste, environmental sanitation of residential areas, soil quality, public toilets, hospital gynaecology departments and combating tuberculosis. All current public health legislation is posted on the official site of the Ministry of Health and is accessible to economic entities and the public.

13. Since 2004 ministries and government departments have established directorates and departments for public liaison and websites with the aim of making information about their activities more accessible to the public.

14. An interdepartmental commission was established by Prime Ministerial Decision No. 774 of 16 October 2006 to ensure compliance with obligations under the Aarhus Convention. This commission includes deputy ministers from a number of ministries and departments as well as NGO representatives. The commission's main objective is to draw up measures to ensure compliance with the Aarhus Convention. An extract of record no. 15 of the Government meeting of 17.04.2008 outlines the Prime Minister's instruction to the heads of central government bodies to take the measures necessary to ensure the openness and transparency of state bodies and also to publish draft laws and regulations discussed by the Government on the websites of the relevant state bodies. Much work has been done in this direction, but it must be noted that this instruction has to date only been partially fulfilled.

15. Current laws and regulations (by sector) is available on the websites of central government bodies, while the National Assembly site www.parliament.am includes most laws and draft laws in English and Russian. The appropriate steps are being taken to ensure access to judicial decisions. In particular, the official site of the Constitutional Court (www.concourt.am) includes the court's judgments and the Datalex electronic database gives access to decisions (from 2005) of courts of all instances.

16. In 2001, the Public Environmental Education and Awareness Act was passed. The Government Minutes Decision of 12.11.2009 approved the conceptual framework for the creation of a complete and unified national system of environmental education and awareness-raising, and on 25.11.2010 the Government passed Decision No. 1551 approving an action plan for 2011-2015 to implement the conceptual framework. Article 5 of the Public Education Act of 10.07.2009 establishes the creation of an environmental outlook among pupils as one of the principles of public education. The requirements for environmental education and awareness-raising also apply to people with special physical, learning and psychological needs.

17. Amendments and additions to the Constitution were made after the referendum of 27 November 2005. As a result, the fifth paragraph of article 28 of the Constitution contains an additional guarantee ensuring the independent and transparent operation of public associations. This provision states: "The activity of an association may be discontinued or forbidden only in the cases provided for in law and by judicial process."

18. Out of the numerous associations protecting the environment, Armenian legislation recognizes public organizations and foundations that are non-commercial legal entities and that may, on the basis of their object as established by their articles of association, enjoy the full scope of rights under law. The status of these organizations is established by the Public Organizations Act of 04.04.2001 and the Foundations Act of 26 December 2002. Informal associations that are active in environmental protection are not forbidden, but they are not recognized as collective holders of rights and responsibilities.

19. In order to simplify the state registration process for legal entities, in particular public organizations, the legislative framework is currently being drawn up to give legal entities the choice to register online. This system is to be rolled out to all regions on the “one stop shop” principle and will be connected to a central data base. This system will help to prevent excessive bureaucracy and corruption.

20. Work is being carried out by international and national organizations to increase the public’s awareness of the activities of NGOs and their status. Thanks to the efforts of the Yeghvard Aarhus Centre, the town’s first environmental NGO was set up and registered.

21. The authorities are more actively organizing public hearings on publications and reports prepared for presentation at international forums. Representatives from the Ministry and non-governmental organizations attend international forums. All environmental programmes stress and implement two of the provisions of the Convention: the right to access to information and the right of the public to participate.

22. Over the period 2002-2004, the EU-TACIS programme on environmental information, education and public awareness was put into effect. In order to raise public awareness of environmental issues and to promote environmental outreach, competitions were organized with the support of the OSCE office in Yerevan for journalists on the best coverage of environmental issues in the press and on television.

23. Starting from 2008, the principles of public participation in international forums, including the Almaty Guidelines, have been presented to civil society representatives in the framework of the training periodically organized for various professional groups, civil servants and NGOs by the Environmental Law Resource Centre of the Faculty of Legal Science of Yerevan State University.

24. In 2010, the Ministry of Nature Protection published a bulletin on Armenia’s environmental NGOs, which includes information on the main types and areas of activity of NGOs. Such publications give state bodies the opportunity to define the public concerned and provide timely and accurate information about the corresponding processes, thereby increasing the effectiveness of public participation. This is not the first such digest and such information is periodically updated.

25. Information on international forums is mainly distributed by email, and is only partly available to interested parties. However, public liaison units within state bodies do not have a duty to distribute such information among the public. The media’s activity in this area is also passive.

26. Public information about international forums is more effective when the information is distributed directly by the forum itself.

27. This process needs to be systematized at national level in order to improve the effectiveness of public participation in international forums. In this respect, state bodies are mainly guided by the professional aspects of the problem. It should be noted that NGOs also conduct discussions with public representatives on their own initiative.

28. The experience of the NGO Khazer was positive: an Armenian delegation took part in the 15th Conference of the Parties to the UN Framework Convention on Climate Change (COP15) that took place in Copenhagen in December 2009. This conference was preceded by a forum for representatives of environmental NGOs in Yerevan entitled “The Road to Copenhagen: Armenia on the Threshold of the 15th Conference of the Parties to the Convention on Climate Change”. On Khazer’s initiative, a conference entitled “From Copenhagen to Cancún” was held on 11 May 2010.

29. The NGO Women for Health took part in the World Health Organization Health and the Environment conference. It is worth noting the working meeting held in Budapest on the initiative of Women in Europe for a Common Future as a positive experience of public participation and access to information on water management. This was attended by representatives of the Ministry of Nature Protection and NGOs.

30. NGO representatives were included in the Armenian delegation to the Belgrade conference of ministers of the environment (2007).

31. Steps taken to apply the Convention’s principles in work programmes, projects, decisions and other significant outcomes of other international forums are not based on legislative requirements but are the results of initiatives of state bodies and international forums. For example, the Ministry of Nature Protection, the National Ozone Centre and the UNDP invited public representatives to participate in preliminary work on the Programme for the Staged Replacement of CFCs (25-26 February 2010).

32. The Teachers’ Refresher and Further Training Centre has introduced a new course on various aspects of environmental protection. In fulfilment of the requirements of the country’s Ozone-Depleting Substance Act, a website has been set up at the address www.nature-ic.am/Ozone/Eng/index.htm, workshops are held, a series of TV programmes are broadcast, articles are published, and a range of activities organized to mark International Ozone Day (16 September).

33. Under article 14.1 of the Constitution, “Every person is equal before the law”. Article 27 enshrines the right of every person to freedom of speech, including the freedom to disseminate information (including environmental information). Under article 16 of the Constitution, “Every person has the right to personal liberty and inviolability. A person may only be deprived of liberty in the cases and following the procedure established by law.” The Constitution provides an exhaustive list of the circumstances, which must be specified in law, under which persons may be deprived of their liberty.

34. Under article 17 of the Constitution, “No one shall be subjected to torture or to cruel or degrading treatment or punishment. Arrested, detained or incarcerated persons shall be entitled to humane treatment and respect for their dignity.” Guarantees of these human rights are enshrined in ensuing legislation.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

35. Obstacles to the provision of guidance to the public by state bodies and officials mainly comes down to the fact that the state body does not possess the required information or officials do not pay due attention to queries addressed to them. These obstacles are caused by the following factors:

- a) the inadequate level of awareness among officials of environmental information and the provisions of the Aarhus Convention;
- b) other financial, technical and organizational obstacles.

36. Despite the frequency with which state bodies, comprehensive education institutions, Aarhus centres and NGOs undertake measures to raise public awareness, they are not very effective. This is due to the fact that such programmes are implemented unsystematically and often inconsistently. Sometimes publications are not targeted to the correct audience and do not actually fulfil the aim of environmental education.

37. Comprehensive schools teach both integrated and purely environmental topics such as use of natural resources and environmental protection, ecology, and use of energy and resources. However, the same obstacles also exist in comprehensive education.

38. As regards encouraging public participation in international forums, the following obstacles exist:

- a) financial obstacles;
- b) a lack of specific criteria and transparency when selecting NGO representatives.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3

39. Many non-governmental organizations base their activity on the provisions of the Convention. As a rule, environmental laws and regulations are based on the Convention.

40. The courts base their judgments on the Convention. Citizens and NGOs also cite the Convention when filing claims with the courts relating to access to environmental information or participation in decision-making.

41. The Ministry of Education and Science is taking the following steps to organize environmental education:

- a) in comprehensive elementary and secondary schools, environmental education is taught as part of life skills and “the environment and I”;
- b) biology, life skills and geography are taught in the lower classes of comprehensive secondary schools;
- c) biology and “natural resource use and fundamentals of environmental protection” are taught in senior classes of comprehensive secondary schools.

42. Ecology is taught at secondary vocational educational institutions and also at universities. Some faculties also teach environmental law, depending on their specialization. Criteria for all specialisms have been established at universities, including ecology and the principals of ecology. Moreover, courses such as social ecology, human ecology, radiation ecology and environmental law (around 24 subjects) are also taught at some universities. Government Decision No. 296 of 19.08.2010 approved the “Clean Homeland” programme which includes a three-year information and education campaign entitled “Environmental education and awareness-raising as a social task”.

43. With the help of international organizations, training is provided for judges and others who implement the law. With the aim of ensuring more effective access to justice, a regional seminar was organized by the Aarhus Convention secretariat from 4-7 June 2007 in Kyiv for judges from the highest courts, which Armenian judges attended.

44. As part of its cooperation with the Judges’ School on its refresher programme, the Environmental Law Resource Centre of Yerevan State University conducts training (lasting 16 academic hours) on environmental law for practising judges, applicants to become judges and people slated for promotion. Under an agreement

with Yerevan University's department for post-university continuing education, the Centre's specialists sometimes run training for civil servants as a part of a refresher programme.

45. Through the joint efforts of state bodies, NGOs and the scientific and education sector, and with the support of the OSCE, various UN bodies, USAID and other international organizations, numerous training courses, seminars and summer schools on ecology are held for the main groups in society, from school children to decision-makers.

46. Textbooks, environmental bulletins and posters are published in this area, films are produced, competitions are held for journalists and meetings are organized with teachers. Starting in 2010, the Environmental Law Resource Centre has published a quarterly electronic newsletter. Apart from this, individual bulletins and newsletters are published on air basins and the ground water of Armenian towns and cities. Unfortunately, the Ministry of Nature Protection has not published the journal *Nature* since 2006 for financial reasons. A TV programme entitled *An Ecologist's Diary* was broadcast between 2005 and 2009 which covered environmental problems, raised public awareness and also reported NGO activities. Unfortunately, it has not been aired since 2009 for financial reasons.

47. Projects have taken place with the support of the Yerevan OSCE office to raise awareness of environmental issues in the media and among the public. In particular there are annual competitions for the best environmental film, photo, article and so on.

48. Informational material has been published with the support of the Yerevan OSCE office. In 2009, the Environmental Law Resource Centre produced and published a compendium of legislation, *Environmental Legislation of the Republic of Armenia* (800 pages), which included all the laws and regulations comprising Armenia's environmental legislation. Classifying laws and regulations allows readers to easily locate the correct material.

49. The National Ozone Centre has published and distributed in schools an illustrated informative booklet on protecting the ozone layer. With the support of the Yeghvard Aarhus Centre, a newspaper for schools entitled *Lusatsir* is published, which has a column on environmental issues. The NGO Khazer has published a book on the environment, *We and Our Planet*.

50. Through the joint efforts of the state, NGOs, scientists and international organizations, summer schools and classes are held for children and young people, as well as seminars for state employees. In particular, the NGO Sunchild has been organizing summer camps for children from 7th to 10th grade since 2007.

51. The NGO Biosophia ran a project on the topic of "Wisdom will save our society from new harm", the aim of which was to study public opinion in Gyumri of the city's environmental condition and measures to improve it, raise environmental awareness and foster environmental responsibility among the population as well as ensure sustainable development.

52. The Government-approved programme mentioned above makes provision for international environment days. On the initiative of the Yerevan Aarhus Centre, information days are periodically held, facilitating environmental education and public awareness. Such seminars are scheduled to coincide with environmental events, such as international environmental days, and experts in the appropriate fields give lectures on global and local environmental issues. These seminars are held for various target groups, such as school children, students, officials, NGO representatives, international organizations, journalists and other interested parties. The Centre also organizes other undertakings to increase environmental education and

training, such as competitions, exhibitions, classes in nurseries, schools and universities, open classes, film viewings, tree planting and so on.

53. The Dilijan Aarhus Centre, with joint financing from the UNDP, Coca-Cola Armenia and the Armenian Government, carried out the “Priceless Drop of Water” grants programme in the sphere of environmental information. The NGO Dilnet-Service took part in the programme.

54. The provisions of the Aarhus Convention are directly applied in the field of environmental information management. In particular, they are reflected in the charters of government bodies in order to eliminate restrictions in the collection and provision of administrative information.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

55. www.nature.am, www.gov.am, www.mnp.am, www.aarhus.am, www.court.am, www.armstat.am.

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

Article 4, paragraph 1

56. Article 27 of the Constitution states: “Every person shall have the right to freely express his opinion, including the freedom to search for, receive and disseminate information and ideas through any information medium, regardless of state borders”. Article 27.1 enshrines the right of every person for the protection of his private or social interests to submit statements and proposals to competent state bodies, local self-government bodies and officials, and to receive an appropriate answer within a reasonable time. And according to article 33.2 of the Constitution, “Officials shall be held liable for the concealment of environmental information or a refusal to provide such.”

57. As regards the definitions in article 2 of the Aarhus Convention, the Act on the Principles of Administration and Administrative Procedure defines and gives a list of “administrative bodies”. However, owing to the Act’s aims and tasks, it does not list the functions of these bodies, in contrast to the Aarhus Convention.

58. “Environmental information” is not defined in Armenian law, but article 3 of the Freedom of Information Act gives the following definition of “information”: it is data obtained or put together under the procedure established by law, irrespective of its form of ownership or physical media (hard-copy or electronic documents, sound or video recordings, photographic film, drawings, diagrams, notes, or maps).

59. As regards paragraph 9 of article 3 of the Convention on discrimination, article 14.1 of the Constitution states: “All people shall be equal before the law. Any discrimination on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion, belief, political or other opinion, membership of an ethnic minority, wealth, birth, disability, age or any other personal or social circumstance shall be prohibited.”

60. The Principles of Environmental Protection Act of 1991 lost its legal force in 2007. A new framework law in this area is currently being drafted, the Environmental Code.

61. The Environmental Impact Expert Appraisal (Assessment) Act (1995) assigns responsibility to the authorized body for informing officials of the municipality

concerned and the public of any project proposals, within seven days of receiving notice thereof from the developer (art. 6, paras. 3 and 4).

62. Officials of the municipality concerned and the developer inform the public through the media of the planned activity and the place and time of public hearings. Under this law, the public must also be informed of an expert's opinion on the planned project. The law also enshrines the right of anyone to inspect the documents before public hearings.

63. The Public Health Security Act (1992) provides for the right of citizens to receive accurate and full information about the public health situation (paragraph 2 of article 10).

64. The Urban Development Act (1998) grants the public the right to reliable information on urban development projects and also on planned changes to their human environment (art. 13).

65. Local government and self-government are required to inform natural and legal persons of planned changes to the residential environment, zoning of areas and other changes relating to urban development through publications in the media, public discussions and presentations of programmes and projects.

66. During urban planning, public representatives have the right:

- a) to receive reliable information about the planned changes to their residential environment;
- b) to take part in discussions and submit comments and suggestions and alternative projects and programmes that are based on laws and regulations before published urban development programmes and plans are approved;
- c) to dispute in court proceedings the actions of local government, local self-government and officials (the Urban Development Act).

67. The Act on the Protection of the Population in Emergencies (1998) provides for the notification of the population about threats to public safety, for arrangements to furnish the population in the disaster area with the necessary means of individual protection, and for the protection of the population against radiation from chemical and other substances (art. 5, paras. (a), (b) and (c)).

68. The Act on the safe use of atomic energy for peaceful purposes (1998) states, in its article 12 ("Right to information on the use of nuclear energy"), that legal entities and individuals in Armenia are entitled to receive information from the competent state bodies on the safety of nuclear energy installations vis-à-vis their design, construction, operation and decommissioning, together with information on the radiation level in the country, provided that such information is not a state or official secret.

69. Under article 20 of the Water Code (2002), the competent state authority will keep the public informed about water policy issues, water basin management initiatives and water-use permits, and will organize forums for public discussion of such matters. Under article 19 of the Code, the Government shall determine the procedure for the provision of information through the information systems of the state water register. The data in the water register are regarded as official data. The provision of comprehensive reports on the monitoring of water resources is a mandatory requirement and these reports are included in the annual report by the Government on implementation of the national water programme. All the information in the state water register is publicly available.

70. The Standardization Act (1999) indicates among the goals of standardization the creation of an appropriate human environment and measures to ensure its safety and does not place any restrictions on access to information.

71. Under article 2 of the Hydrometeorological Activities Act (2001), it is a mandatory requirement for emergency information on hydrometeorological phenomena and processes, i.e., factual information or forecasts about natural disasters and dangerous levels of environmental pollution, to be made public immediately after it has been received and processed.

72. The State Statistics Act (2002) stipulates that the body responsible for collecting state statistics is the National Statistical Service and its local regional and operational units (art. 6). Statistical data captured by the programme for the preparation of its statistical observations must be provided free of charge to the service and its units in the prescribed manner (art. 12). The Local Self-government Act states that the community council (a local self-government body) is entitled to require that state bodies and officials release any information relating to community matters that is not categorized by law as confidential. Within the scope of his competence, the head of a community must facilitate the implementation of measures relating to the use and conservation of the subsoil, forests, water and air as well as animal and plant life.

73. The Specially Protected Natural Areas Act (2006) establishes the right of every person:

a) To seek and to receive information on the status, protection and use of specially protected natural areas;

b) For the purpose of obtaining that information, to contact the designated state authority and/or local self-government authority whose administrative jurisdiction covers the specially protected natural area of local importance.

74. The body responsible for ensuring compliance with environmental legislation is obliged to provide information on compliance at the request of the public, including non-governmental organizations. Under article 37 of the Environmental Compliance Assurance Act, “The state environmental inspectorate shall provide information on compliance with environmental legislation to the public, including at the request of NGOs, under the procedure established by law. For the purposes of effective application of environmental legislation, the state environmental inspectorate may notify the public while maintaining confidentiality and not disclosing details of the case. The public may also be engaged in the process of taking decisions on contraventions of environmental legislation.”

75. The deliberate provision of inaccurate information on contraventions of legislation to the corresponding territorial subdivisions of the state environmental inspectorate incurs the liability specified by legislation.

76. E-government has been in place and constantly expanding since 2009 through government websites. One of the components of this system enables transparency in the handling of letters sent to state bodies: using a special reference number, citizens can find out to which official their letter has been forwarded.

77. Article 4 of the Freedom of Information Act sets out the following basic principles of freedom of information: a uniform procedure should be established for the registration, classification and storage of information; the freedom to seek and obtain information should be upheld; access to information should be ensured; information should be public.

78. The Centre for Information and Analysis of the Ministry of Nature Protection is developing a system which should facilitate access to environmental information. The centre collects, stores and classifies environmental information, analyses and downloads it on to databases and then disseminates it in the form of general reports and national reports, in both print and electronic versions.

79. Environmental information is also disseminated in the bulletins of different ministries and agencies, such as the National Statistical Service, in national reports and reports of the Ministry of Nature Protection and of international environmental protection organizations working in Armenia, and through media outlets at different levels. In addition, the Public Environmental Information Centre, or “Aarhus Centre”, under the Ministry of Nature Protection, provides environmental information to the public free of charge. The Centre was set up with the help of OSCE pursuant to a memorandum between OSCE and the Minister of Nature Protection. Its board is made up of an equal number of representatives of the Ministry and of non-governmental organizations.

80. The Ministry of Urban Development has its own public information centre on household waste.

81. As a guarantee, criminal legislation and legislation on administrative offences specify punishments for officials. In particular, the concealment or deliberate distortion of information on pollution incurs criminal liability, as does breach of the state procedure for the storage of cartographic and geodetic information of national and local significance and the copying and use of materials and data, concealment of a disaster, breach of the accident notification procedure, provision of incorrect information about radiation levels, concealment or distortion of information on nuclear or radiation safety, and failure to provide information (data) or provision of inaccurate information (data).

82. Under paragraph 8 of article 9 of the Freedom of Information Act, “Responses to written requests for information shall be provided in the form specified in the request. If the request does not specify the required form and it is impossible to ascertain this within the time limit laid down by law for responding to requests, the response shall be submitted in the form that is most convenient to the holder of the information in question.”

Article 4, paragraph 2

83. The Freedom of Information Act establishes tighter deadlines for information to be provided than the Aarhus Convention. Specifically, a response to a written request must be provided within the following time frames:

“1. If the information referred to in the written request has not been published, a copy thereof is issued to the applicant within a period of five days of receipt of the request;

“2. If the information referred to in the written request has been published, the applicant is notified of the form, place and date of such publication within a period of five days of receipt of the request;

“3. If further work needs to be carried out to provide the information referred to in the written request, such information shall be provided to the applicant within a period of 30 days of receipt of the application, and the applicant shall be notified accordingly within five days of receipt of the request, with an indication of the reasons for the delay and the final date for the provision of the information.”

84. Although the law establishes a deadline of five days for the provision of information, this time limit is not realistic and is often breached.

85. Under paragraph 6 of article 9 of the Freedom of Information Act, “A response to an oral question shall be provided directly after hearing the question or, if necessary, within a short period.”

Article 4, paragraphs 3 and 4

86. Article 8 of the Freedom of Information Act lays out the bases for a refusal to provide information, which correspond to the Aarhus Convention. However, the Act does not mention the bases listed in subparagraphs (g) and (h) of paragraph 4 of the Convention, the latter which is of a purely environmental nature. This act also specifies that if part of the requested information contains data that is not subject to provision, the information will be provided in part. The applicant's right not to justify his interest is enshrined in paragraph 4 of article 9 of the act: "The applicant is not obliged to justify his interest".

An exemption applies to state or official secrets, as defined in the State and Official Secrets Act (1996). Article 10 of the act spells out which information can be regarded as state and official secrets and which cannot. The following types of information cannot be categorized as state and official secrets:

- a) Information about disasters threatening the safety and health of citizens, and also natural disasters (including those that are officially predicted), and their consequences;
- b) Information about the general economic situation and information reflecting the real situation in such areas as environmental protection, public health, education, domestic trade and culture;
- c) Information about restrictions of the rights and freedoms of citizens, breaches of the law and the results of sociological research;
- d) Information the designation of which as a secret might adversely affect the conduct of social, economic, scientific, technical, cultural and intellectual development programmes at state and sectoral levels.

87. The Environmental Impact Expert Appraisal (Assessment) Act (1995) also mentions trade secrets. Although Armenian law does not provide a clear definition, the Civil Code uses the following wording: "Information is an official, trade or banking secret if it, by virtue of being unknown to third parties, has a real or potential commercial value, it is impossible to freely obtain it and the owner of the information takes measures to keep it confidential". This wording is uniformly interpreted in practice.

Article 4, paragraph 5

88. The Freedom of Information Act stipulates that, if the information holder does not possess the desired information or does not have the authority to make it available, it shall be obliged to notify the applicant accordingly in writing, within a period of five days of receipt of the written request, and, where feasible, also to inform the applicant of the location of an information holder (including archives) which does have the desired information at its disposal. If the information holder does not have all the desired information at its disposal, it shall make available to the applicant that portion of the information which it does have and, where feasible, also indicate in its response to the written request the location of an information holder (including archives) where the remaining portion of the desired information may be obtained (art. 9, paras. 10 and 11).

Article 4, paragraph 7

89. See paragraph 2 with regard to time frames.

90. Under article 2 of the Hydrometeorological Activities Act, the following services are provided free of charge:

- a) Emergency hydrometeorological information and hydrometeorological information of general interest, as specified in a list ratified by the Government;
- b) Information and data which is to be submitted to the public authorities;

- c) Data on the availability and conditions for the provision of information on hydrometeorological processes and phenomena.
91. A fee is charged for services related to the retrieval, copying, distribution, mailing by ordinary post or transmission by other means of information which is of general interest and relates to hydrometeorological processes and phenomena.
92. Government decision No. 349 of 18 March 2004 contains a list of emergency information about hydrometeorological processes and processes, together with hydrometeorological information of general interest.
93. The National Statistical Service circulates its quarterly, half-yearly and annual statistical compendium to government offices quarterly and free of charge (further information on the compendium can be found at the website www.armstat.am).
94. As stipulated in the Freedom of Information Act, no fee is paid in the following cases:
- a) When the information is provided in response to an oral request;
 - b) When the information does not exceed 10 printed pages;
 - c) When information is provided over the Internet.
95. A body or organization that provides unreliable or incomplete information is obliged upon a written request by the applicant to provide the corrected information free of charge under the procedure established by law.
96. For a fee, the State Committee for the Property Register of the Armenian Government provides information on real estate, including land allotments. Information in electronic form can also be obtained, for a fee, from the Armenian law database. In some cases, a fee is charged when extra background work is required to produce the information. The Ministry of Nature Protection has not yet established the rules governing the fees charged for information.
97. On the initiative of the World Bank and the Ministry of Justice, Armenia's Legal Information System (www.arlis.am) has been available online since 2005. The system is free and updated weekly. An informational bulletin and a legislative bulletin that contains laws and other regulations are distributed electronically.
98. Order No. 17 of the Minister of Nature Protection of 21.01.2005 sets out the scale of fees charged for providing information from the state non-commercial organization the National Geologic Information Repository (the repository is under the authority of the Ministry of Energy). The Ministry of Nature Protection only charges for providing this information in order to store information in the national geologic information repository.
99. Organizations of public importance shall independently determine the amount charged for any information provided, which may not exceed the actual cost of providing the information (art. 10).

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

100. Public authorities do not always indicate the reason for refusing to provide the requested information. In some cases, they do not provide the information by the due date or simply do not respond at all. Efforts must be made to create the appropriate conditions and to ensure the balanced development of governmental, commercial and non-governmental systems for the provision of such information. Access to information will be enhanced by an environment in which monopolies are prevented and competition promoted and, just as important, the quality and reliability of such information will be improved.

101. Sometimes the volume of requested information is so great that it requires work by several specialists over several days.

102. Statistics are kept of the number of requests that are either approved or declined. In some cases, officials do not have a clear idea what environmental information actually consists of. This explains why requests for environmental information are sometimes refused.

103. The fees for receiving information from the State Committee for the Property Register are high, and there is no system of discounts, even for information that is important to the public. For example, the mayor of Yerevan sent a request to the Register for information about developments in commonly-owned green belts. Under Order No. 99 of the Chair of the State Committee for the Property Register of 23.04.2009 approving the scale of charges for state registration of property rights and provision of registered rights and restrictions, 5000 dram (15 USD) is charged for information on one hectare of Yerevan. As a result, information for the total area of commonly-owned green belts (2383 hectares) cost 11,910.00 dram (33,000 USD).

IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4

104. The Act on the Principles of Administration and Administrative Procedure establishes that, from the moment administrative legal proceedings are launched, the administrative authority shall keep a separate file for all documents relating to these proceedings, including a certified copy of the administrative decision adopted pursuant to the proceedings. At the same time, the administrative authority keeps a journal in which cases are recorded chronologically and by subject.

105. The procedure and conditions for the conduct of administrative proceedings and for the keeping of journals, including journals recording administrative decisions, are determined by the administrative authorities on the basis of a model procedure ratified by the Government. Such procedure has been ratified by the Government, in compliance with the requirements laid down in the act.

106. Data recorded in these journals only reflects administrative legal proceedings relating to the right to access information. It must be noted that appeals of administrative decisions are extremely rare.

107. The Aarhus Centres and NGOs have developed good practice in exchanging and disseminating information, which has allowed them to bring information closer to the public. The Yerevan Aarhus Centre provides regional Aarhus centres with official information from the State Service for Hydrometeorology and Monitoring and other environmental information. The centres collect, process, systematize and present environmental information on request and also distribute it among interested groups. Information is also spread through the websites of the Aarhus Centres and the electronic network of environmental public associations.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

108. www.aarhus.am/, www.nature.am, www.gov.am, www.armstat.am, www.laws.am, www.parliament.am, www.e-gov.am

XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5

Article 5, paragraph 1

109. The Environmental Impact Appraisal (Assessment) Act (1995) establishes the responsibility of the mandated body (paragraphs 3 and 4 of article 6) to inform the heads of the affected community and the public of the planned activity within seven days of receipt of notification from the developer.

110. The Act on the Protection of the Population in Emergencies (1998) lists requirements to inform the population of a danger or potential danger as one of the fundamental measures to protect the population.

111. According to article 20 of the Water Code (2002), the mandated government body responsible for public information and participation must inform the public of the following:

- a) draft principles of national water policy;
- b) the draft national water programme;
- c) draft water basin management plans;
- d) pending water-use permits;
- e) water-use permits granted;
- f) draft water standards;
- g) draft water tariff strategy.

112. In order to implement the requirements of paragraph 1 of article 5, the Hydrometeorological Activities Act lists, among the principal tasks performed by the hydrometeorological service, alerting the state authorities and the public to hazardous events and natural phenomena (and other climate events and changes), supplying the forecasting services with essential data on forecasts and expected severe weather, and also meeting the needs of the public and the business sector for information on changes to the hydrological regime of water bodies.

113. Official warnings, forecasts and other information related to public health and safety and to protection of property may only be delivered to consumers by the mandated body.

114. The fundamental principals of hydrometeorological activities are access to data on actual and expected changes in hydrometeorological phenomena, openness of information, reliability and efficient use. The Act enshrines the right of citizens, NGOs and other legal entities to receive reliable information on hydrometeorological phenomena, and the right of citizens and NGOs to conduct independent hydrometeorological monitoring while informing the mandated state body of natural disasters, accidents, and disturbances to technological processes that have had or could have an impact on human life and health or have caused environmental pollution (article 8).

115. Under article 7 of the Freedom of Information Act, "The owner of information shall publish the procedure for providing information and immediately publish or by other means inform the public if the disclosure of information could jeopardize state or public security, public order, the health and the rights of the public, the rights and the freedoms of third parties, the environment or property."

116. According to article 20 of the Specially Protected Natural Areas Act, the mandated state body is obliged, under the procedure established by law, to provide information on an activity planned in a specially protected natural area and decisions on the protection and use of specially protected natural areas and their environmental condition.

117. See the section on article 4, paragraph 4 in relation to the exclusion of discrimination in compliance with paragraph 9 of article 3 and the definitions of article 2 of the Convention.

118. Environmental information is compiled and updated by the Centre for Information and Analysis of the Ministry of Nature Protection and is governed by Ministerial Order No. 86 of 4 April 2004 on the list of information to be provided by subdivisions and organizations of the Ministry of Nature Protection to the non-profit organization Centre for Information and Analysis. This arrangement is in line with the provisions of the Convention (art. 4) and the Freedom of Information Act (art. 7, para. 1).

119. The Centre for Information and Analysis is required to process the information provided and to publish it on the Ministry's website.

120. In addition, with the approval by the Minister of Nature Protection, the Centre for Information and Analysis also publishes the information which is to be disseminated on the Ministry's website (www.mnpiac.am) via the Minister's press service. This information is updated as prescribed by the Ministerial Order; for example, water and air-related information is updated monthly. The news section is updated weekly.

121. For the purposes of implementing the Aarhus Convention, information is collected and stored in the information repositories of the Ministry of Nature Protection and provided to the public on request, and also placed on the Ministry's website (www.mnp.am). The site was extensively updated in 2006, as required by the Aarhus Convention. The site comprises six separate sections. A new section on statistics has been added and reports on environmental protection may be found here. However, the site does not have a "search" function and needs to be improved in this respect.

122. The electronic database system needs to be updated. In 2007, a combined site was created for the country's 14 Aarhus centres (www.aarhus.am), on which each of the regional Aarhus centres has its own page. This Aarhus centre site has links to the site of the OSCE Yerevan office (www.osce.org) and the site of the Ministry of Nature Protection (www.mnp.am). The site is updated periodically.

123. General information about the work of the Ministry of Nature Protection is circulated twice a month to accredited journalists.

124. At the same time, comparable information is forwarded to the Aarhus Centre for it to pass on to the general public. In Armenia, information on emergencies is disseminated by the Ministry of Nature Protection, the Emergencies Ministry (which also includes the National Earthquake Protection Service), the Ministry of Health, the Ministry of Agriculture, the mayors of Yerevan and other towns and the State Water Committee, using all available media. Such information may include, among other items, recommended safety measures, predictions of the progress of threatening situations, results of research, reports on relief operations or measures to prevent threats and other data.

125. In order for administrative statistical registers to be created and maintained, the State Statistics Act (article 17) and a host of regulations passed by the State Statistics Council authorize government bodies to collect, provide and publish information. The content, procedures and methods for collecting and exchanging information are detailed by the yearly programme of statistical work which is approved by the Council after an open discussion and is granted the status of a legislative enactment.

126. In addition, the Freedom of Information Act (art. 7) stipulates that persons in possession of information:

- a) Shall, in the manner prescribed by law, develop and make public their designated procedure for providing information, ensuring that the information is widely available;

- b) Shall immediately publicize or by some other means bring to the attention of the public any available information that may prevent danger to state and public property, disturb law and order, or endanger the health and rights of the population, the rights and freedoms of third parties, the environment, property or individuals.
127. Publicly accessible information which is to be published in the media must at the same time be posted on the Internet site www.lraber.am.
128. In the framework of the UNDP-funded programme “Developing Institutional and Legal Capacity for Global Environmental Management” a series of draft laws are being drawn up with the aim of unifying the organization and conduct of environmental monitoring in Armenia which will improve both information flows between government bodies and increase the effectiveness of the right of every person to access environmental information.
129. All Armenian ministries have official websites on which information is posted about ministry activities.
130. A new site, www.laws.am, has been created, on which people can consult Armenian laws.
131. The “Legislation” section of the Aarhus Centre website has a link to the “environmental legislation” section of the National Assembly’s site.
132. From 2010, a new section of the website of the Environmental Law Resource Centre of Yerevan State University entitled “Draft Laws and Regulations” has enabled people to view the Centre’s comments and suggestions on enforceable enactments.
133. The information and public liaison department of the Search and Rescue Service publishes daily information about emergencies in the country and provides information to the media (www.mes.am). A weekly newsletter *The Emergencies Gazette* is published, which plays an important role in mitigating the consequences of natural and man-made disasters. The Search and Rescue Service also produces video films, video clips and radio programmes. Pamphlets, posters and teaching materials are published for children.
134. Government Decision No. 1044 of 30.08.2007 approved the system for monitoring specially protected natural areas. Under paragraphs 18 and 19, “The mandated state body shall ensure the input, classification, analysis, periodic updating and public access to this information. The data shall be evaluated within 20 days of their input, after which they shall be posted to the site”.

Article 5, paragraph 2

135. With financial support from international organizations, the Ministry of Nature Protection and non-governmental organizations have brought out three reference books listing environmental information sources. In 2004, under the EU-TACIS programme, a guide was issued in Armenian and Russian, explaining where and how to obtain environmental information from government offices in Armenia.

Article 5, paragraph 3

136. See paragraphs 110 - 120 above (www.aarhus.am).

Article 5, paragraph 4

137. National state-of-the-environment reports are published and disseminated by the Ministry of Nature Protection and posted on its website. The second national report was published in 2003. Specialists from various ministries, scientists and NGO representatives help to prepare these national reports.

138. In 2006, with the financial support of the GEF and UNIDO the Ministry of Nature Protection published and distributed the national programme for the implementation of the Stockholm Convention on Persistent Organic Pollutants.

139. In November 2008, the fourth national report on the implementation of the Biodiversity Convention was published.

Article 5, paragraph 5

140. Under article 62 of the Laws and Regulations Act, “The acts of the Republic of Armenia, the decisions of the National Assembly, the decisions of the Constitutional Court, the decrees and instructions of the President, the decisions of the Speaker of the National Assembly, the decisions of the Government and the decisions of the Prime Minister shall be published in the *Official Gazette*.” International agreements of the Republic of Armenia are published and appear in the first section of the Official Gazette. Regulations passed by executive authorities are published in the *Executive Regulations Gazette*.

141. In addition to official publications, specialist NGOs also publish environmental information (for example, the NGO ERAS produced and published a compendium of Armenian environmental legislation and the Water Code in Russian (i.e. a translation). The Laws and Regulations Act (2002) requires that the public be informed of laws and regulations currently under consideration through press conferences, the media, interviews, the publication of articles and information and TV and radio programmes. The public must be informed of the principal content of laws and regulations and the specifics of their application, entrance into force, terminology, procedure and so on. The IRTEK and LEKSPRO regulatory databases are up and running.

142. With the assistance of the World Bank, TACIS, the Global Environment Facility, the United Nations Development Programme (UNDP), USAID, the OSCE and other organizations, national environmental action plans, local action plans for a number of towns and strategic frameworks for action in such areas as the use and protection of water resources and biodiversity, desertification, and climate change have been drawn up. Several environmental conventions have been translated and published in Armenian. Information on international agreements signed by Armenia may be found on the website of the Ministry of Nature Protection. In accordance with the internal rules of procedure of Aarhus Centres, non-governmental organizations and individuals have easy access to environmental information of a general nature and may take part in public consultations on draft laws and environmental policy programmes.

143. In 2009, the Environmental Law Resource Centre re-published the Armenian text of the Aarhus Convention and distributed it among Aarhus Centres, NGOs, universities, state bodies and other interested organizations.

144. In 2004, in the context of a local TACIS-funded pilot project and with public support, a procedure was formulated for public participation in the process of preparing and adopting decisions on environmental issues. Following a series of public consultations, this procedure has now been accepted by the mayor of Hrazdan. The procedure spells out how the public is to be kept informed during the initial stages of the preparation of draft decisions and the different forms and methods of public participation (provision of information from an early stage through the media, interviews with officials, surveys, involvement of the public in working groups, organization of round tables and public consultations, submission of written comments, etc.).

145. All these arrangements have been tested in practice; a range of courses have been organized to familiarize representatives of local authorities and the public with the provisions of the Convention. A special module was devoted to the mechanism for taking on board citizens' comments when making a final decision.

Article 5, paragraph 6

146. Armenia's legislation does not provide for any incentives to encourage operators whose activities may have a significant impact on the environment to inform the public accordingly.

Article 5, paragraph 7

147. The Ministry of Nature Protection publishes reports and analyses of problems relating to biodiversity, forest protection, desertification and other nature protection issues. From time to time, round tables, seminars, press conferences and public consultations on draft laws are organized jointly with non-governmental organizations.

Article 5, paragraph 8

148. The Ministry of the Economy, and, in particular, the National Standards Institute, which forms part of the Ministry, handles information issues related to the food industry. Many business organizations, such as the Medicines and Medical Technologies Office, have also obtained international product certification rights. As for genetically modified organisms, the Ministry of Agriculture is currently discussing a package of amendments to the Food Safety Act. In particular, plans are being made to start labelling genetically modified organisms and amendments to the Consumer Rights Protection Act are also under discussion. A draft law on biosafety is currently under discussion.

149. In recent years, several non-governmental organizations have participated in the development and introduction of a voluntary eco-labelling scheme (such as, for example, for the labelling of environmentally friendly agricultural products).

150. A host of government decisions have been passed, such as the Technical regulations on substances that come into contact with food and their labelling in Armenian (25.10.2007_п . No.1282), the Requirements for the labelling in Armenian of food and food additives imported into the Republic of Armenia (21.12.2006_п . No. 1838), the Procedure for the labelling and cultivation of organic agricultural produce and produce in the transition phase to organic farming (19.03.2009_п . No. 283), the Procedure for organizing organic farming, the production of plants and products of plant origin (including apiarian products), organic cultivation, packing, marketing and labelling (11.06.2009_п . No. 662).

Article 5, paragraph 9

151. In 2003, at the Kyiv Ministerial Conference "Environment for Europe", Armenia joined 36 other countries in being among the first to sign the first protocol to the Aarhus Convention: the Protocol on Pollutant Release and Transfer Registers.

152. To speed up the process of ratifying the protocol in Armenia and to develop capacity and working methods in the area of pollutant release and transfer registers, the following measures were taken over the reporting period:

- a) in 2007, as part of the OSCE's "Environment and Security" initiative, a national seminar was organized in Yerevan on the rights and duties set forth by the PRTR Protocol. State officials and NGO representatives took part.

- b) in 2008, a dictionary was compiled of terms used by the European Pollutant Emission Register.
- c) in 2009, as part of a TACIS programme, a fact-finding visit about EU emissions registers was organized to the Netherlands.
- d) in December 2009, a side event was organized on the initiative of the Ministry of Nature Protection at the 15th Meeting of the Parties to the UN Framework Convention on Climate Change with the aim of focusing the public's attention on the system of pollutant emission and transfer registers as a mechanism for informing the public and reducing greenhouse gas emissions.
- e) in 2010, NGOs in three *marzer* (regions) ran training on the PRTR Protocol for representatives of local self-government and NGOs.
- f) the Ministry of Nature Protection has worked with UNITAR to implement the programme "Design of a National PRTR System to Strengthen Capacity Building Activities for the Implementation of Stockholm Convention on POPs in Armenia".

153. In the light of national priorities and the specific tasks outlined in the national Stockholm Convention implementation programme, it has been suggested that persistent organic pollutants and data from sectors of industry that are regarded as a priority with regard to POPs be first included in the national PRTR system.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

154. Government officials are insufficiently aware of their obligations under the Convention; standards and legislation need to be amended; the country's technological base and systems of standards are inadequate; factory owners are reluctant to provide information about pollutant releases and transfers.

155. A metabase of environmental publications can be consulted on the website of the Ministry of Nature Protection or at the Aarhus Centre.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

156. The Centre for Information and Analysis of the Ministry of Nature Protection publishes statistical data obtained from the Environmental Monitoring Centre.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

157. www.aarhus.am/, www.gov.am, www.mnp.am, www.nature.am, www.lraber.am, www.laws.am, www.parliament.am, www.mnpiac.am, www.mes.am, www.e-gov.am

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

Article 6, paragraph 1

158. In 1995, Armenia adopted the Environmental Impact Appraisal (Assessment) Act. This act sets out the legal, economic and organizational arrangements for the conduct of environmental impact assessments. Its definitions do not all tally with

those contained in the Convention (article 2, paragraph 5 of the Convention). For example, the term “public concerned” is defined as “public affected”. This lack of conformity is eliminated in the new draft law (see below).

159. Under the provisions of the act currently in force, if a planned activity might have a serious impact on the environment (the act lists the types of planned activities subject to impact assessment), the authorities must inform the public and hold public consultations. All too often, however, the impact assessment is only carried out after the planned activities have begun and public consultations are not always held or they are purely a formality. Recently there have been some positive changes: information is being provided to the public, public consultations are being held through regional Aarhus Centres and those non-governmental organizations defined in paragraph 5 of article 2 of the Convention as “the public concerned” are being involved. In particular, two public consultations were held in connection with the Teghout deposit in southern Armenia. The Environmental Impact Appraisal (Assessment) Act requires three public consultations to be held. Despite the fact that public consultations were held, part of the public concerned did not agree with the expert’s conclusion as they did not believe that it took account of public opinion.

160. A draft law on amendments to the Environmental Impact Appraisal (Assessment) Act has been prepared. This text takes account of the principles and provisions of the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention) and the Protocol on Strategic Environmental Assessment. The bill is currently being examined by the Government. The list of specific activities subject to impact assessment has been brought into line with the lists provided by the Aarhus and Espoo Conventions. The bill also specifies the time frame for procedures and the notification procedure. In particular, it should be noted that the bill regulates environmental impact assessment in a transboundary context.

161. At the same time, in the framework of the Second Development Policy Operation, an international expert carried out a study on the regulation of environmental impact assessment that will serve as a basis for the country’s environmental strategy and improving the act and other laws and regulations.

162. In addition to these developments, the draft will also go through the public consultation and discussion phase for further improvement. Importantly, the act implements provisions of the Aarhus Convention as well as decision III/6b of the Aarhus Convention Compliance Committee, taken in connection with communication ACCC/C/2004/8.

163. Under article 20 of the Water Code (2002), the public must be informed by the appropriate government office about all the following:

- a) Draft principles for national water policy;
- b) Draft national water programme;
- c) Draft water basin management plans;
- d) Pending water-use permits;
- e) Water-use permits granted;
- f) Draft water standards;
- g) Draft water tariff strategy.

164. Decisions as to whether or not a planned economic activity should undergo an environmental impact assessment are also taken in the light of the Government Decision of 30 March 1999 delimiting the scope of planned activities subject to an environmental impact assessment. The decision is discussed with the public (in the first public consultation).

165. As stipulated in the above-mentioned decision, the publication and discussion of documents relevant to the impact assessment may be restricted for reasons of state, industrial or commercial confidentiality and shall be conducted in accordance with the law. If the planned activity affects the defence of the state, the authority concerned (art. 11, para. 7) is obliged to provide an expert opinion after discussion with the relevant state bodies.

166. As a positive example, attention is drawn to the active cooperation of national and local government and NGOs in efforts to defend the protected status of the Shikahogh nature reserve, when plans were laid to build a strategically important road through its territory. The plan was amended, and the road was routed around the edge of the reserve. This was achieved thanks to extensive public participation and the cooperative attitude of both the Ministry of Nature Protection and the Ministry of Communications and Transport.

167. The public has been involved in the discussion of the environmental impact assessment on a project to exploit mineral deposits which will have significant adverse effects on the environment (wide-scale forest clearance, destruction of plants and wildlife, risks posed by firewood stores). Environmental interest groups did not agree with all the findings of the environmental impact assessment, yet the project was still approved: account was taken of public opinion, but not to the extent necessary. At the same time, it should be noted that the Socio-ecological Association, a non-governmental organization, has been actively involved in the process of preparing an environmental management plan for the exploitation of the above-mentioned deposits in Teghout. Many public associations oppose the development of open-pit mining in this area.

168. It should be noted that there is still insufficient compliance with the public participation requirements of the act and the Aarhus Convention, with regard both to specific activities, and to plans, programmes, draft laws and other legally binding instruments (articles 6-8 of the Aarhus Convention). For example, the river Getar in Yerevan was routed through pipes without an environmental impact assessment being conducted and, accordingly, without any public participation, in direct breach of the provisions of article 15 of the relevant Armenian act and article 7 of the Convention, which require the conduct of an environmental impact assessment and a strategic environmental assessment.

169. The non-governmental organization Biosophia has carried out a programme in the town of Gyumri to raise public awareness and stimulate greater public participation in environmental protection activities.

170. Fourteen Aarhus Centres have been established in Armenia's regions as a result of cooperation between the Ministry of Nature Protection, the Ministry for Territorial Government and the Yerevan OSCE office. They aim to enable state bodies and other entities concerned to fulfil the Aarhus Convention.

171. The public may be involved in the decision-making process at various stages depending on the decision-making process for the specific type of activity. A planned activity may not go ahead without a positive impact assessment.

Article 6, paragraphs 2, 3 and 4

172. In accordance with the Environmental Impact Appraisal (Assessment) Act, the public should be involved from the very outset of such assessments. Within 10 days, officials of the municipality concerned must convey the opinion of the public and the views of the municipality to the competent authority.

Article 6, paragraph 5

173. The matters covered by paragraph 5 of article 6 are not regulated by Armenian law. However, it is considered important to encourage public participation at the project presentation and approval stages in order to avoid disputes.

Article 6, paragraph 6

174. Armenian law does not provide any legal procedure for competent bodies to provide the public with all information relevant to decision-making.

Article 6, paragraph 7

175. After the public consultations, based on the professional opinion of the EIA documentation and the report of public consultations, the competent authority (the Ministry of Nature Protection) accepts or rejects the assessment conclusion.

Article 6, paragraph 8

176. Armenian law contains no requirement that due account be taken of the outcome of public participation.

Article 6, paragraph 9

177. The assessment conclusion is published within a period of seven days and the parties concerned are notified of it in writing (article 11, paragraph 8, of the Environmental Impact Appraisal (Assessment) Act).

178. The conditions, terms and procedures for the review or annulment of the assessment conclusion are set by the Government. The competent authority may review or annul the assessment conclusion if:

- a) New laws have been adopted;
- b) New environmental considerations have come to light after the assessment conclusion was issued.

Article 6 paragraph 11

179. No measures have been developed to apply the provisions of article 6 to decisions on the granting of permits for the deliberate release of genetically modified organisms into the environment. A draft law on biosafety, which incorporates the provisions of article 6 bis, is currently under preparation.

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

180. There is a lack of regulations governing the procedures for public participation. The procedure for conducting public consultations must be laid down by a government decision in accordance with the Environmental Impact Appraisal (Assessment) Act. This does not mean that the provisions of the Convention may be ignored, since the Convention, as stipulated in article 6 of the Constitution, is an integral part of the legal system and is directly applicable. Continued efforts should therefore be made to educate the public about the various elements of the Aarhus Convention.

181. Despite the fact that information on public consultations is posted to the website of the Ministry of Nature Protection, this information is sometimes provided very soon before consultations are held. It also needs to be emphasized that not all drafts are published on the Ministry's site.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

182. As indicated above, the Ministry of Nature Protection keeps records of public consultations and of the decisions, comments and suggestions made during this process.

183. No information is available on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

184. The Environmental Impact Appraisal (Assessment) Act is not always fully implemented. For example, the Dilijan Aarhus Centre held consultations on the environmental impact of the Dilijan regional financial centre. Documentation for the project was only provided for discussion after construction had already begun, in breach of the requirements of article 6, paragraph 4. In order to avoid a similar situation, the mayor of Dilijan is cooperating with the Aarhus Centre to organize public consultations.

XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6

185. www.aarhus.am/, www.nature.am/, www.gov.am/, www.mnp.am

XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7

186. The procedures and principles of public participation in the preparation of plans and programmes relating to the environment are laid out in the Environmental Impact Appraisal (Assessment) Act (art. 15). However, this article does not completely meet the Aarhus Convention's requirements, and the new draft law will resolve this issue. In practice, public representatives do not participate effectively in the preparation of plans and programmes owing to legal and organizational obstacles.

187. The following steps have been taken to promote public participation in the preparation of plans and programmes: public meetings have been organized; public opinion surveys have been held; and, in a number of cases, working groups have been set up with the involvement of experts representing a range of interested parties. Experts representing the public who specialize in the issues under consideration participate in the work groups in the context of various programmes. The main interest groups involved in this process are experts from non-governmental organizations, representatives of relevant ministries and other specialists.

188. The Ministry of Nature Protection has drawn up a draft act inserting amendments and additions into the Environmental Impact Appraisal (Assessment) Act. The draft amends the procedure for public participation in the drafting of plans and programmes. In particular, the time frame for assessment of a conceptual document has been shortened, which may decrease the effectiveness of public participation. Despite the fact that the draft law resolves some aspects of public participation, on the whole the system for public participation remains flawed. Examination of the act reveals that two public consultations are required during the assessment of a conceptual document – one of the conceptual document and one of the conclusion of the impact assessment.

189. The conceptual frameworks on the Aarhus Convention and the Environmental Impact Appraisal (Assessment) Acts do not match. The Act also omits the list of documentation in article 7 of the Convention. The Act contains the concept of “conceptual documents”, which includes conceptual documents, programmes, complex schemes and general plans. This concept narrows the scope of application article 7 of the Convention.

190. Article 14.1 of the Armenian Constitution states that “All people are equal before the law. Any discrimination on the grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion, philosophy, political or other views, membership of an ethnic minority, wealth, birth, disability, age or other personal or social characteristics is prohibited” while article 24 (now article 27 following the amendment) provides that “Everyone has the right to freedom of expression, including the freedom to seek, receive and impart information and ideas through any medium of information, regardless of state frontiers”.

191. The Ministry of Nature Protection enlists the participation of non-governmental organizations actively engaged in environmental work in the process of formulating policy and draft laws and implementing international and regional environmental conventions and programmes. There is no legal instrument regulating this process, however.

192. In the field of urban planning, Government Decision No. 660 was adopted on 28 October 1998 on the procedure for notifying the public about planned changes to the human environment of the population and for public participation in the discussion and adoption of decisions relating to published urban development programmes and projects.

193. Several laws and regulations enshrine the public’s ability to participate in the decision-making process regarding spatial planning at an early stage and during the process of approving projects.

194. Local government and self-government are obliged, within three days of receipt of the above-mentioned documents, to inform the public of the conditions for examining these documents, of the time and place of their publication and display and of the conduct of public consultations.

195. As part of a project run by the Open Society Institute, the NGO ERAS prepared a draft government resolution on the procedure for public participation in the preparation of projects, plans, programmes and policies connected with the environment in order to fill the vacuum in Armenia legislation with regards to article 7 of the Convention. A pamphlet was published containing all the documentation for this procedure.

196. The public has been involved in discussions of the master plan for the cities of Yerevan and Kapan.

197. An urban planning council has been established for Yerevan, whose membership included representatives of non-governmental organizations. However, the latter left the council after a dispute. A national security strategy has been adopted, which includes specific provisions on environmental protection. Non-governmental organizations have also been involved in the discussions of this draft strategy.

XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7

198. The legal framework for public participation in formulating policies for the environment is provided by the provisions of the Armenian law on environmental

impact assessment (articles 15 and 7 of the Aarhus Convention). The Environmental Impact Appraisal (Assessment) Act requires public consultations to be held on concept documents and for public opinion to be taken into account. This provision is the single legal basis for public consultations.

199. On 6 October 2010 Armenia ratified the Kyiv Protocol on Strategic Environmental Assessment, which ensures public participation in the environmental impact assessment of plans and programmes.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

200. Further improvement is needed in cooperation between state officials and independent experts.

201. Some non-governmental organizations demand payment for their participation in this process.

202. NGOs are not always involved at the earliest stages of preparation of draft projects, policies, laws and other enactments so their comments and suggestions do not always duly influence the decision-making process.

XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 7

203. There are no statistical data about this matter.

XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7

204. www.aarhus.am, www.nature.am/, www.gov.am, www.mnp.am, www.armstat.am, www.e-gov.am

XXIV. EFFORTS MADE TO PROMOTE PUBLIC PARTICIPATION DURING THE PREPARATION OF REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

205. See also section XIX of this report. According to the Environmental Impact Appraisal (Assessment) Act, the “public concerned” refers to those members of the public who are affected or might be affected by the adoption of the decision (art. 1, para. 9). Only after ratification of the Convention in 2001, did environmental non-governmental organizations start to be recognized as the public concerned in the context of the conduct of environmental impact studies.

206. In accordance with the above-mentioned government decision of 28 October 1998, the public is kept informed through the media (local and national radio, television and newspapers) about actions to present, publish and organize public discussions of projects and programmes.

207. Urban development programmes and projects must be published and presented within 15 days. During that period members of the public may submit written comments and suggestions, citing the supporting laws and other enactments, and also the findings of any independent expert study which they may have carried out, on published urban development programmes and projects, to the relevant local or self-government authorities.

208. In December 2008 an addition was made to the Laws and Regulations Act according to which legislation must undergo impact assessment in a range of areas, including the environment. The same article provides for public discussions under the procedure specified by Government Decision 25.03.2010_p . No. 296. With the aim of implementing article 27.1, on 13 August 2009 Government Decision No. 921 was passed, on the procedure for conducting the environmental impact assessment of laws and regulations. The above instruments entered into force on 1 January 2011. This means that until that time, there were no legal mechanisms for the public to exercise its right to participate in the preparation of laws and regulations.

209. There is also a practice of holding parliamentary hearings on draft laws on environmental issues, with the participation of representatives from non-governmental organizations and independent experts. Such hearings were held, for example, on the Land and Water Codes, the Subsoil Code, the draft Act on the disposal of household waste, the draft Act on amendments and additions to the Act on environmental payments and environment-use payments, and so on.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

210. The frameworks and mechanisms for public participation in the preparation of legal instruments that have direct executive effect, and of other generally-binding instruments, are inadequate.

211. The provisions governing early notification of the public are insufficient in scope or altogether lacking.

212. There are no legal provisions covering the procedure for taking account of comments by members of the public during the preparation of draft laws and regulations and such comments often go unheeded. The public is not informed about the reasons or grounds for ignoring their comments and suggestions. The result is that the public is less actively involved in the process.

213. Sometimes the time limits set for public consultation on draft laws and regulations are very tight, rendering it virtually impossible to ensure public participation in this process.

214. In short, it can be said that the fundamental obstacles to the implementation of article 8 are related to the lack of a regulatory framework in this area.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

215. The National Assembly organized public consultations on the Lake Sevan Act (2000), the Land Code (2001) and the Water Code (2002), with the participation of the media, non-governmental organizations, officials and other individuals.

216. The standing committees of the National Assembly have a system of appointing independent experts, who include representatives of the scientific and non-governmental communities.

217. Government offices can solicit the expression of public opinion by publishing draft legislation on the Internet. Given that not everyone in the country has access to the Internet, however, this method is not the best one for the time being.

218. The following measures could offer more effective ways of involving the public in the process of developing draft legislation:

- a) Publication of draft laws in the national press;
- b) Collecting and analysing comments put forward;

- c) Organizing discussions in the media;
- d) Development by the state authorities of a plan for public participation.

219. Public consultations were held on the draft Act on hunting and the hunting industry, passed on 9 May 2007. Some comments from NGOs were taken into account, but a significant number of comments were not reflected in the act, in particular on the use of animals listed in the Red Book.

220. Public consultations were also held on the Specially Protected Natural Areas Act. A working party has been set up to improve the law, which also includes NGO representatives.

221. In 2008 the Legal Resource Centre of Yerevan State University's Faculty of Jurisprudence carried out a public discussion of the draft Freedom of Receipt of Information Act. After summarizing the comments and suggestions submitted, the Centre presented its opinion as well as the views of participants to the competent authority. The Ministry of Justice halted further work on the draft act as a result of these suggestions.

222. In November 2010 the public concerned presented the National Assembly with a draft Act on amendments and additions to the Fauna Act.

223. In fulfilment of the National Environmental Action Plan (approved by Government Record Decision No. 33), the Ministry of Nature Protection has began the process of drafting the Environment Code. For this purpose an interdepartmental commission has been formed to work on the conceptual framework of the code. On the Ministry's initiative, professionals have been involved in the drafting process.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

224. www.justice.am, www.mnp.am, www.gov.am, www.aarhus.am

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

225. Article 3 of the Principles of Administration and Administrative Procedure Act provides a definition of "state body" (as the term "public authority" is rendered in the Russian version of the Convention) that includes all government bodies that perform administrative functions, which is completely in line with the Aarhus Convention.

226. The concept of "environmental information" has to date not been enshrined in Armenian legislation. On the basis of article 6 of the Constitution, the definition given in the Aarhus Convention may also be used. However, it is essential to enshrine this concept in national legislation in order to systematically regulate this area in detail (for example, the grounds for a refusal, conditions for provision etc).

227. In order to define the term "public", national legislation lists a range of public and private entities and their legal status.

228. The concept of "public concerned" has been partly incorporated. In the light of the overriding importance of this definition for articles 6 and 9, the draft Act on amendments and additions to the Environmental Impact Appraisal (Assessment) Act gives the definition as formulated by the Aarhus Convention.

229. The Environmental Impact Appraisal (Assessment) Act uses the definition "community concerned", which relates to the population of one community or region (*marza*) that will be affected by the planned activity.

230. The draft act uses the term “public”, which it defines as “one or more than one natural or legal person, their associations, organizations or groups”. It does not define “public concerned” but the draft is still being worked on and the Aarhus Convention coordinator has proposed that all the concepts should be altered in keeping with the requirements of the Convention.

231. See the section on article 4 as regards discrimination.

232. The Constitution lists a range of entities entitled to appeal to the Constitutional Court. The right to appeal to the Constitutional Court in the manner prescribed by the Constitution and by the Constitutional Court Act is now enjoyed by “every person - in a specific case, when a court has handed down a final judgment and all remedies have been exhausted and when the constitutionality of the legal provision underpinning that judgment is being challenged” (art. 101, para. 6).

233. Some additions have also been made to the status of the courts in the Constitution.

234. The highest judicial instance in the Republic of Armenia, except in matters of constitutional justice, is the Court of Cassation, which is called on to ensure uniformity in the application of the law. The powers of the Court of Cassation are set out by the Constitution and the law.

235. A new website (www.court.am) has been created, where information can be found on the judicial system and judicial decisions.

236. The site www.datalex.am has been created, making available decisions from every Armenian court.

237. As a result of judicial reforms, the Administrative Legal Procedure Code was adopted (28.11.2007) and the Administrative Court is operational. In 2010 the Administrative Appeal Court was set up. Since the adoption of this Code, legal actions challenging the decisions and actions (omissions) of state bodies, including in relation to public participation and access to justice, have been heard by the Administrative Court.

238. The new Procurator Service Act also establishes the specific authority of this service to protect state interests, which also include environmental issues.

239. As part of ensuring compliance with the provisions of article 9 of the Aarhus Convention, and with support from the OSCE office in Yerevan, the non-governmental organization EPAS has conducted a series of training courses for judges and lawyers in Yerevan and in different parts of the country, drawing on the potential of the Aarhus centres for this exercise. Representatives of the Constitutional Court also attended the training course organized by OSCE and the secretariat of the Aarhus Convention in June 2007.

Article 9, paragraph 1

240. Anybody who believes that their request to have access to information in accordance with the provisions of article 4 has been wrongfully denied or dealt with in an inappropriate manner has the right to lodge a complaint with the competent state authority or with the courts (Freedom of Information Act, article 11, paragraph 4).

Under the Act on the Review of Citizens’ Communications and Complaints, all persons have the right to complain to the courts, if they consider that their rights and freedoms have been infringed through the unlawful actions (decisions) of state bodies or local self-government authorities, or of their officials or organizations (art. 11).

241. In order to protect their rights, individuals are entitled to appeal against administrative decisions, acts or omissions by administrative authorities. Such challenges may be made in administrative or judicial proceedings (Principles of Administration and Administrative Procedure Act, arts. 69 and 70).

242. Administrative proceedings should be conducted as expeditiously as possible. The administrative authority should conduct the proceedings without excessive red tape - without holding additional hearings, calling for additional expert studies or examinations of evidence, if there is no compelling reason to ascertain the actual circumstances of the case (Principles of Administration and Administrative Procedure Act, art. 36). The Armenian Code of Civil Procedure establishes the right of individuals to have their cases dealt with expeditiously.

243. In accordance with the provisions of article 2 of the Code of Civil Procedure, every person who so wishes has the right to complain to the court to obtain protection against infringements of his lawful rights or interests.

244. Article 3 of the Administrative Legal Procedure Code lists the entities that have legal standing. All legal and natural persons have the right to apply to the court if they believe that administrative decisions of state bodies or local self-government have infringed or may directly infringe their rights as protected by laws and regulations, including international agreements.

245. The Administrative Legal Procedure Code also makes provision for expedited proceedings in the following circumstances:

- a) there is no need to call an expert witness, examine witnesses, carry out an inspection, or issue letters rogatory, and if the parties, after the calling of a verbal hearing, inform the court in writing of their intention not to participate in the verbal hearing of the case;
- b) there is no need to call an expert witness, examine witnesses, carry out an inspection, or issue letters rogatory, and if the parties have informed the court in writing that they consent to a written hearing of the case;
- c) the claim is manifestly well-founded;
- d) the claim is manifestly unfounded.

246. When complaints are addressed to the Ombudsman (Commissioner for Human Rights), the Ombudsman may decide, upon receipt of the complaint, to take it into account; to explain to complainants the remedies that are available for the protection of their rights and freedoms; or to transmit the complaint to the state or local self-government authorities or to an official with the necessary competence to decide on the complaint.

247. With regard to the procedure, any person who does not agree with a decision has the right to challenge it with a higher authority or more senior official. In this case the complaint shall be dealt with within a period of 15 days.

248. Requests to provide information may be denied for specific reasons (Freedom of Information Act). Final decisions taken by a court or competent authority shall be binding or enforceable unless otherwise provided for by law (Code of Civil Procedure and Act on the Review of Citizens' Communications and Complaints).

249. Under the revised Constitution, new safeguards have been created for the work of the Ombudsman. A human rights defender shall be elected for a term of six years by the National Assembly, by a majority of not less than three fifths of the total number of deputies. Eminent citizens who fulfil the requirements to stand for election as deputies may be elected human rights defender. The human rights defender is irremovable.

250. The human rights defender is an independent official who is responsible for defending human rights and freedoms that have been infringed by state or local self-government authorities or officials.

251. State authorities, local self-government authorities and officials must cooperate with the human rights defender. The immunity enjoyed by deputies is also

accorded to the human rights defender. Other safeguards of the work of the human rights defender may be established by law (art. 83.1).

Article 9, paragraph 2

252. Paragraph 2 of article 9 has been directly applied at various levels of the judicial system. Judges have given a range of interpretations of Armenian legislation and the provisions of the Aarhus Convention. The main problem lies in the unclear criteria for an NGO to bring a claim to protect general interests (*actio popularis*).

253. Acting within the scope of competence granted by the Constitution, the Constitutional Court has defined the particular criteria for an NGO to enjoy procedural legal standing. In its decision of 30 October 2009, the Court of Cassation partially granted an appeal. Citing the articles of association of the public associations Transparency International Anti-corruption Centre and Ekodar, the Court ruled that Ekodar fulfilled the criteria of national legislation, was registered in accordance with the Public Associations Act and, on the basis of its object and tasks as defined by its articles of association, engaged in environmental protection. It ensues from the Court of Cassation's position that Ekodar was a representative of the public concerned and had the right to challenge the decisions and actions of state and municipal bodies.

254. The corresponding provisions of the Administrative Legal Procedure Code have also been reviewed by the Constitutional Court. Public associations challenged the compliance of article 3 of the Code with the Constitution, asserting that the use of the word "his/her" excluded the possibility of applying to a court to protect the rights and freedoms of the public. The Constitutional Court, while emphasizing the importance of allowing public associations the right to apply to a court to protect public interests in this area, also ruled that the word "his/her" in the Code did not contradict the Constitution.

Article 9, paragraph 3

255. Under article 2 of the Code of Civil Procedure, article 3 of the Administrative Legal Procedure Code and the Non-Governmental Organizations Act, the public, or non-governmental organizations, have the right to participate in administrative or judicial proceedings arising from complaints about the acts or omissions of individuals or state authorities (applications to the Administrative Court are subject to the restricts cited above). Proposals, requests and complaints by citizens are submitted to non-judicial bodies without the payment of any duties or to courts in accordance with article 70 of the Code of Civil Procedure and article 56 of the Code of Administrative Legal Procedure and following the procedure and steps laid out in the State Duties Act.

Article 9, paragraph 4

256. The Codes of Civil Procedure and Administrative Legal Procedure set forth principles, measures and guarantees that fulfil Armenia's obligations with respect to article 9, paragraph 4 of the Aarhus Convention. In particular, procedural legislation is founded on the principles of adversariality, equality and transparency. Chapter 14 of the Code of Civil Procedure establishes the legal principles for temporary injunctions to secure a claim in civil and administrative proceedings.

257. Under the State Duties Act, the basic state duty for an application to the Administrative Court is 4000 dram (around 8 euros).

258. In general, over recent years the 1950 European Convention on Human Rights and the practice of the European Court of Human Rights has guided the development of procedural legislation. However, it should be noted that the lack of environmental

case law means there has been no opportunity to identify shortcomings in the legislation or improvements in mechanisms to defend environmental human rights.

Article 9, paragraph 5

259. Information on access to administrative and judicial procedures and mechanisms is provided through the publication of laws and regulations and the preparation and distribution of pamphlets and guides by state bodies and non-governmental organizations (article 6 of the Constitution and the Laws and Regulations Act).

260. The site datalex.am has been set up, providing free electronic access to almost all judicial decisions.

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

261. The two principal obstacles are the patently inadequate level of court independence and lack of public trust in the judicial system. The only effective means of surmounting these two obstacles is to improve the professional training of judges in environmental matters and the Aarhus Convention, to increase the number of lawyers with environmental expertise, to train lawyers specializing in environmental matters and to draft effective environmental legislation.

262. In addition, legislation does not clarify the procedural legal standing of NGOs, which allows judges to take different approaches to resolving this issue.

263. There are also a number of practical obstacles:

a) Legal obstacles:

- Guarantees: the need to assume considerable financial obligations often prevents members of the public from effectively exercising their right to obtain justice;
- Time frames: protracted hearings prevent people from receiving a legal defence, particularly in administrative proceedings;
- Problems may arise when the Convention and domestic law are invoked. The necessary provision may be missing from domestic law or be inadequate (unclearly drafted). Plaintiffs who lose their cases are responsible for the legal costs;

b) Non-legal obstacles:

- Legal expenses;
- Social issues: socio-economic factors often outweigh considerations of environmental protection;
- Lack of qualified lawyers with expertise in environmental matters;
- Public ignorance or insufficient awareness of environmental legislation;
- Lack of awareness of the availability of legal assistance to enable citizens to exercise their rights to environmental protection, such as legal aid, applications to the prosecutor's office, appeals for review of administrative decisions and complaints to the Ombudsman;
- Insufficient awareness by judges of environmental laws and regulations and of international agreements, including the Convention.

264. Despite steps to remedy the situation, judges continue to be insufficiently aware of the framework and content of environmental law and rights, and also of the Aarhus Convention. At the regional level this awareness is even more lacking - and sometimes absent altogether.

265. The primary mechanisms whereby people can overcome, or at least reduce, the financial barriers consist in various tax concessions:

- a) State duties are waived in cases involving the protection of general environmental interests;
- b) Amounts of state duty are reduced;
- c) Rates of state duty are reduced;
- d) Periods set for the payment of state duty are extended;
- e) Fines and other penalties are waived.

**XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION
OF THE PROVISIONS OF ARTICLE 9**

266. Court costs may be waived or reduced by a court decision, depending on the financial situation of the parties.

**XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION
OF ARTICLE 9**

267. www.justice.am, www.gov.am, www.court.am, www.concourt.am.

XXII. GENERAL COMMENTS ON THE CONVENTION'S OBJECTIVE

268. By ensuring wider and more effective public participation, the Convention is helping to foster the formation and application of a more effective, transparent and verifiable decision-making process on environmental policy matters. Public authorities may also invoke the Convention in support of their own interests and to draw on the knowledge and experience of the public. In this way, the Convention is bolstering the position of the public authorities responsible for environmental protection and, with support from the public, helping them to take due account of environmental factors.

**XXXIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES
IMPLEMENTING THE PROVISIONS ON GENETICALLY MODIFIED
ORGANISMS PURSUANT TO ARTICLE 6bis AND ANNEX I bis**

269. No information was provided under this heading.

**XXXIV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF
THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis**

270. No information was provided under this heading.

**XXXV. FURTHER INFORMATION ON THE PRACTICAL APPLICATION
OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis**

271. No information was provided under this heading.

**XXXVI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION
OF ARTICLE 6bis**

272. No information was provided under this heading.