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ECONOMIC COMMISSION FOR EUROPE

**MEETING OF THE PARTIES TO THE CONVENTION ON
ACCESS TO INFORMATION, PUBLIC PARTICIPATION
IN DECISION-MAKING AND ACCESS TO JUSTICE
IN ENVIRONMENTAL MATTERS**

Third meeting

Riga, 11–13 June 2008

Item 6 (b) of the provisional agenda

Procedures and mechanisms facilitating the implementation of the Convention:

Compliance mechanism

REPORT BY THE COMPLIANCE COMMITTEE

Addendum

**COMPLIANCE BY ARMENIA WITH ITS OBLIGATIONS UNDER
THE CONVENTION**

This document is prepared by the Compliance Committee in accordance with its mandate set out in paragraph 35 of the annex to decision I/7 of the Meeting of the Parties.

1. Communication ACCC/C/2004/08 was made on 20 September 2004 by three Armenian non-governmental organizations, the Center for Regional Development/Transparency International Armenia, the Sakharov Armenian Human Rights Protection Center and the Armenian Botanical Society, with regard to the compliance by Armenia with its obligations under article 4, paragraphs 1 and 2, article 6, paragraphs 1 to 5 and 7 to 9, article 8 and article 9, paragraph 2, of the Convention. The communication concerned access to information and public participation in the decision-making on modification of land-use designation and zoning and on the leasing of certain plots in an agricultural area of Dalma Orchards, as well as the availability of appropriate appeal procedures.

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2. Having considered the communication in accordance with the procedure set out in section VI of the annex to decision I/7, the Committee found at its eleventh meeting (March 2006) that:

(a) By failing to ensure that bodies performing public functions implement the provisions of article 4, paragraphs 1 and 2, of the Convention, Armenia was not in compliance with that article;

(b) By failing to ensure effective public participation in decision-making on specific activities, the Government of Armenia did not comply fully with article 6, paragraph 1 (a), with annex I, paragraph 20, or, in connection with this, with article 6, paragraphs 2 to 5 and 7 to 9, of the Convention. The extent of non-compliance would be somewhat mitigated if public participation were to be provided for in further permitting processes for the specific activities in question, but the requirement under article 6, paragraph 4, of the Convention to ensure that early public participation is provided for when all options are open would still have been breached. In this regard, information was provided at the time to the Committee by the Government of Armenia regarding the new draft law on environmental impact assessment (EIA) and the Committee understood that the drafters of the new law would take the opportunity to ensure its approximation with the requirements of the Convention;

(c) By failing to provide for public participation in decision-making processes for the designation of land use, the Government of Armenia was not in compliance with article 7 of the Convention;

(d) By failing to ensure that members of the public concerned had access to a review procedure and to provide adequate and effective remedies, the Government of Armenia was not in compliance with article 9, paragraphs 2 to 4, of the Convention.

3. The Committee recommended to the Party concerned, with its agreement, to:

(a) Undertake practical and legislative measures to overcome the existing problems with access to environmental information, including, where appropriate, statistical monitoring of processing information requests;

(b) Ensure practical application of public participation procedures at all levels of decision-making in accordance with article 7 of the Convention and relevant domestic legislation;

(c) Develop detailed procedures for public participation in decision-making on activities referred to in article 6, paragraph 1, of the Convention, inter alia by incorporating them into the new Law on EIA, and to ensure their practical application, including by providing training to officials of all the relevant public authorities at various levels of administration;

(d) Ensure that appropriate forms of decisions are used in decision-making on matters subject to articles 6 and 7, so as to ensure that the public can effectively exercise their rights under the Convention;

(e) Undertake appropriate practical measures to ensure effective access to justice, including the availability of adequate and effective remedies to challenge the legality of decisions on matters regulated by articles 6 and 7 of the Convention;

(f) Take the consideration and evaluation of the Committee into account in the ongoing revision of legislation referred to in paragraphs 4, 39 and 42 of its findings and recommendations (ECE/MPP/C.1/2006/2/Add.1), as well as in further consideration of the specific matter raised by the communicants;

(g) Take the findings and conclusions of the Committee into account in further consideration of the specific matter raised by the communicants.

4. The Committee invited the Party concerned to provide information, no less than six months before the third meeting of the Parties, on the measures taken and the results achieved in implementation of the above recommendations.

5. The above findings and recommendations of the Committee are contained in the addendum to the report of the eleventh meeting of the Committee (ECE/MPP/C.1/2006/2/Add.1).

6. On 11 February 2008, the Party concerned submitted the information on measures taken to address the above recommendations, as requested by the Committee (see para. 4 above).

7. When preparing the present document, the Committee invited the Party concerned and the communicant to comment on its draft. Both provided comments. The comments from the Party concerned were contained in an update to its report referred to in paragraph 6.

8. The Committee welcomes the progress made by the Party concerned in implementing the above recommendations.

9. The Committee considers that the measures undertaken by the Party concerned, in particular those related to Constitutional reform and some of the practical measures, such as the establishment of an intersectoral Coordination Committee for the implementation of the Convention, and to demonstrate the Party's engagement with the process as well as some progress made with regard to implementation of the Convention.

10. The Committee welcomes the information provided by the Party concerned with regard to positive developments in the practical application of the public participation provisions of the Convention. It notes, however, that the legislative developments referred to by the Party concerned in its report relate primarily to changes in the Constitution, and that further developments in specific legal acts and regulations (such as those setting out detailed procedures for EIA, public notification and the consultation process) do not seem to have taken place as yet. In this regard, the Committee notes with appreciation that the Party concerned recognizes that legislative changes and development of detailed public participation procedures to be developed are required, in particular with a view to ensuring that public participation takes place at an early stage, with proper identification of the public concerned.

11. The Committee acknowledges the interest expressed by the Party concerned to receive expert assistance and information on implementation of articles 6 and 7 of the Convention in other countries. It also welcomes the interest and intention expressed by the Government of Armenia to organize capacity-building for public authorities at all levels and for the judiciary, including judges of the newly established administrative courts.

12. The Committee also takes note of information provided by the Party concerned with regard to several specific procedures that are currently being developed. However, this general reference does not allow the Committee to evaluate in a concrete way the qualitative progress made with regard to implementation of specific recommendations, such as those relating to the development of specific procedures or measures, to ensure that appropriate forms of decisions are used in decision-making on matters subject to articles 6 and 7.

13. The Committee therefore considers that it is not in a position to conclude that the Party concerned is now in compliance with the Convention.

14. The Committee furthermore notes with concern that information provided by the communicant in its comments on the draft of this document seems to indicate, inter alia, that in spite of some progress having been made, public participation requirements are still not being adequately or fully implemented, and that public participation was not provided for in the further permitting process referred to in paragraph 2 (b).

15. The Committee recommends to the Meeting of the Parties, pursuant to paragraph 35 of the annex to decision I/7 and taking into account the cause and degree of non-compliance as well as measures taken by the Party concerned in the intersessional period, to:

(a) Endorse the original findings and recommendations of the Committee as adopted at its eleventh meeting;

(b) Welcome progress made by the Party concerned in implementing the Committee's findings and recommendations since their adoption in March 2006;

(c) Invite the Government of Armenia to submit to the Committee periodically (in November 2008, November 2009 and November 2010) detailed information on further progress in implementing the recommendation set out above;

(d) Request the secretariat, and invite relevant international and regional organizations and financial institutions, to provide advice and assistance to the Party concerned as necessary in the implementation of these measures, in particular with regard to providing advice and technical assistance in connection with measures being undertaken with regard to implementation of articles 6 and 7 of the Convention and capacity-building measures for public officials and the judiciary;

(e) Undertake to review the situation at its fourth meeting.