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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 (a) of the provisional agenda

Procedures and mechanisms facilitating the implementation of the Convention:

Reports on implementation

**IMPLEMENTATION REPORT SUBMITTED BY ARMENIA\***

*Article 10, paragraph 2, of the Convention requires the Parties, at their meetings, to “keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties”. Through decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. For each meeting, the secretariat is requested to prepare a synthesis report summarizing the progress made and identifying any significant trends, challenges and solutions. The reporting mechanism was further developed through decision II/10, which addressed, inter alia, the issue of how to prepare the second and subsequent reports.*

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\* The present document was submitted late owing to resource constraints.

## **I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED**

1. The following took part in the preparation of the second national report on the implementation of the Aarhus Convention in Armenia: Armenia's Coordinator for the Aarhus Convention; the representative of Armenia in the Working Group on Pollutant Release and Transfer Registers; the head of the programmes section in the department of international relations of the Ministry of Nature Protection; representatives of various departments of the Ministry of Natural Resources; representatives of the Ministry of Health, the Ministry of Transport and Communication, the Ministry of Urban Development, the Emergencies Office and the Ministry of Agriculture; and also representatives of various non-governmental organizations and representatives from the science and business communities. Among the more active non-governmental organizations represented were the Environmental Public Advocacy Centre (EPAC), the Association for Sustainable Human Development, Transparency International, Eco-Globe, Eco-Tourism, Biosophia, Environmental Survival, the Social-Environmental Association, the Andrei Sakharov Foundation and the Environmental Academy. The report reflects comments and suggestions on ways of improving the country's law put forward during training courses for judges, the business community and certain non-governmental organizations on implementation of the Aarhus Convention.
2. Three public hearings were held on the draft version of the second national report - in August, September and early December. At these hearings consideration was given to proposals from voluntary associations relating, in particular, to obstacles to the implementation of the Aarhus Convention, and negative practices. Positive experiences of implementation of the Convention are also reflected in the report. On the credit side, attention is drawn to the active participation of public authorities in putting forward proposals and views on this issue. During the latest public hearings participants gave a positive assessment of the report, taking into consideration the comments made and proposals put forward.
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, some 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](http://www.mnp.am) and [www.armaarhus.am](http://www.armaarhus.am)). After incorporation of new additions the report was finalized.
5. The following materials were used for the preparation of the report: printed materials from the ministries, guides on the Aarhus Convention for officials and civil society prepared in the context of the European Union's programme on technical assistance to the Commonwealth of Independent States (EU-TACIS), printed materials from non-governmental organizations and the regional environmental centres and Armenian environmental laws, as amended and supplemented over the reporting period. 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 to the law and enforcement practices which were not reflected in the first national report.

## **II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT**

6. Armenia is still, although to a lesser extent, facing financial difficulties related to the implementation of the Convention: there is a lack of computers and photocopy machines; not enough has been done to educate officials on the Convention's provisions; progress in incorporating the provisions into national legislation is slow; there is a lack of specialists in this field; and there are other obstacles to implementation. All these obstacles are particularly acute at the regional level.

7. According to the Constitution, executive power is exercised by the Government, which is responsible for implementation of State policies on science, education, culture, health, social security and environmental protection (art. 89). International agreements concluded on behalf of Armenia are applied only after ratification. Ratified international agreements are a composite part of the judicial system of Armenia. If such agreements establish rules different from those envisaged by the country's laws, the rules of the international agreements shall prevail. The Constitution has supreme juridical force and its rules are directly applicable (article 6 of the Constitution). As stated in article 10 of the Constitution, "The State shall ensure the protection and regeneration of the environment and the sound use of natural resources".

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

8. After amendments had been made to the Armenian Constitution, a new article 33.2 was added, stating: "Everyone shall have the right to live in an environment conducive to his or her health and well-being and shall be obliged, both individually and together with others, to protect and improve that environment. Public officials shall be held responsible for concealing or refusing to disclose environmental information."

9. Pursuant to a decision by the Prime Minister, public relations offices have been set up in ministries and departments. These ministries and departments have also created websites with the aim of making information on their activities more accessible to the public. In order to ensure more effective implementation of the country's obligations under the Aarhus Convention, decision No. 774 was adopted on 16 October 2006 by the Prime Minister, establishing an inter-agency commission to comprise representatives of a number of ministries and departments, and also of voluntary associations.

10. The main objective of the Commission is to prepare the ground for compliance with the provisions of the Aarhus Convention. While the commission has not yet held its first meeting, preparations for that meeting are now under way.

11. The following websites have been set up: [www.reservepark.mnp.am](http://www.reservepark.mnp.am), [www.hanq.mnp.am](http://www.hanq.mnp.am) and [www.geobibliography.mnp.am](http://www.geobibliography.mnp.am). In 2004, the Minister of Natural Resources passed two orders, instructing the ministry's offices to provide environmental information to the Information and Analytical Centre for publication on the ministry's websites (an approved list of the elements of such environmental information has been issued and the procedure confirmed for its

receipt and dissemination). In 2001, the Public Environmental Awareness Act was passed. Virtually all establishments of higher education have started offering environmental courses, tailored to the various degree subjects, and have included environmental law in those courses.

12. Through the combined efforts of government agencies, non-governmental organizations and the scientific and academic communities and with support from the Organization for Security and Cooperation in Europe (OSCE), the United Nations and the United States Agency for International Development (USAID) and other international organizations, a large number of environmental courses, workshops and summer schools for major groups have been organized: these groups range from schoolchildren to management-level employees. Educational materials, environmental newsletters, posters and videos on these topics have been issued and competitions held among journalists working on environmental stories.

13. 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 have been 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.

14. 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.ozone.nature-ic.am](http://www.ozone.nature-ic.am); a series of workshops is being held and programmes broadcast on television, articles are being published; and a range of activities organized to mark International Ozone Day (16 September).

15. According to an act of 25 May 2005, environmental education and awareness-raising measures must also be organized for persons with special physical, mental and psychological needs.

16. Adoption of the Electronic Communications Act has also helped improve the standards of electronic communications in Armenia.

17. Particular attention is given to environmental education and outreach work among children and young people. To this end, summer courses and workshop series are organized and the "Sunchild" festival was held, a regional environmental festival for schoolchildren in grades 7-10 (see the website [www.sunchild.am](http://www.sunchild.am)).

18. In order to canvass public opinion about the environment and about ways of improving the state of the environment, the non-governmental organization Biosophia organized a special programme in the town of Gyumri (one of the towns struck by the earthquake of 1988). The Ministry of Education and Science confirms that environmental topics are taught in educational institutions, in accordance with their specific various curricula. Textbooks have been published on this subject, including a guide to correct environmental behaviour, a compilation of environmental law and others. The teaching of environmental law is now part of the curriculum of all public and some private universities. Special courses on environmental human and civil rights and on the Aarhus Convention have also been introduced in the training of judges.

19. In article 28, paragraph 5, the revised Constitution provides additional safeguards to ensure the independence and transparency of voluntary associations.

20. Article 25 of the Constitution (now article 28, following its amendment) establishes the right of every citizen to form associations with other persons, including the right to form or join trade unions. A law has also been adopted on non-governmental organizations.

21. The authorities are more actively organizing public hearings on publications and reports prepared for presentation at international forums. Representatives from the ministry, and also of non-governmental organizations, attend international forums. In all the programmes related to environmental protection two provisions of the Convention are stressed and exercised: the right to access to information and the right of the public to participate.

22. In 2007 a number of workshops with international experts were organized in Yerevan. These included a workshop on pollutant transfer registers and a regional seminar on the Convention on Environmental Impact Assessment in a Transboundary Context and the Protocol on Strategic Environmental Assessment.

23. With a view to giving effect to the third element of the Aarhus Convention, the judges of the country's highest court have attended training courses organized by OSCE and the secretariat of the Convention and held in Kyiv in June 2007.

24. Under article 16 of the Constitution (article 14.1, following its amendment), all persons are equal before the law and shall be given equal protection under the law without discrimination. Article 24 enshrines the right of every person to freedom of speech, which shall include the freedom to disseminate information (including environmental information). This article also stipulates that every person has the right to personal liberty and inviolability and that 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.

25. 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."

#### **IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3**

26. A growing number of lawsuits are being brought in connection with the violation of the law on access to environmental information and public participation.

27. There is a lack of financing to expand and improve awareness-raising and outreach work with the public in environmental matters.

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

28. Many non-governmental organizations base their activity on the provisions of the Convention. Its provisions are included in all draft laws put forward for consideration.

29. The Convention is invoked by courts when handing down their decisions. When filing claims with the courts relating to access to environmental information or participation in decision-making, citizens also invoke the Convention.

#### **VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3**

30. The following websites are relevant: [www.mnpiac.am](http://www.mnpiac.am), [www.nature.am](http://www.nature.am), [www.gov.am](http://www.gov.am), [www.mnp.am](http://www.mnp.am), [www.court.am](http://www.court.am).

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

##### **Article 4, paragraph 1**

31. The Principles of Environmental Law (1991) state that “Everyone is entitled to request and receive, in good time, comprehensive and trustworthy information on the state of the environment” (art. 11) (no longer in force).

32. The Environmental Impact (Expert Study and 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 proponent (art. 6, paras. 3 and 4).

33. The officials of the municipality concerned and the proponent inform the public through the media about the planned activity and the place and time of public hearings. Under the act, the public is also to be informed of the professional finding on the planned project.

34. The Public Health and Safety Act (1992) enshrines the right of citizens to receive accurate and full information about the public health situation (art. 10).

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

36. The Emergencies (Population Protection) Act (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)).

37. The Atomic Energy (Safe Use for Peaceful Purposes) Act (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.

38. 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, water-use permits, etc., 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.

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

40. 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 they have been received and processed.

41. 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 Government Act states that the community council (a local 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.

42. Under article 24 of the Constitution (article 27, following its amendment), everyone has the right to freedom of speech, including the freedom to seek, receive and disseminate information and ideas through any medium of information, regardless of State frontiers.

43. Access to information is also guaranteed by articles 27 and 27.1 of the Constitution: "Everyone shall have the right freely to express his or her opinion. No one may be forced to retract or change his or her opinion. Everyone shall have the right to freedom of expression, including the freedom to seek, receive and disseminate information and ideas through any means of information, regardless of State frontiers. The freedom of the mass media and other means of public information shall be guaranteed. The State shall guarantee the existence and operation of an independent and public radio and television service offering a variety of informational, educational and cultural programmes and entertainment. Everyone shall have the right to submit applications and recommendations to the competent central and local authorities and officials for the protection of her private or public interests and the right to receive an appropriate response to them within a reasonable time."

44. 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 central or local authority whose administrative jurisdiction covers the specially protected natural area of local importance.

45. The implementation of article 2 of the Aarhus Convention is reflected in the Administrative Activities and Procedures (Principles) Act, which entered into force in 2006. The act defines the basic concepts which are used in its text. It lists the country's administrative authorities, covering both the central government bodies and executive authorities, and also local authorities and such national executive authorities as ministries and other government bodies exercising executive authority throughout the territory of Armenia.

46. Should administrative functions also devolve upon other public authorities, these too will be considered administrative authorities within the meaning of the act. The act defines administrative functions as the work of administrative bodies with external implications, leading ultimately to the adoption of regulations or specific pieces of legislation, as well as acts or omissions which have practical consequences for individuals. This consideration also applies to the adoption of decisions and laws on the environment.

47. There is no definition in Armenian law of "environmental information". The Freedom of Information Act provides a definition of another term with the same meaning as "information". According to that definition, such information is understood to mean data about an individual, issue, fact, circumstance, event, occurrence or phenomenon - irrespective of the form or material in which the data are held (hard-copy or electronic documents, sound or video recordings, photographic film, drawings, diagrams, notes or maps) - which have been obtained or put together in the manner prescribed by law.

48. Accordingly, at the current stage it is the provisions of the Aarhus Convention on environmental information which should be applied.

49. Article 14.1 of the revised Constitution (2005) provides that: "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, religion or belief, political or other opinion, membership of an ethnic minority, wealth, birth, disability, age or any other personal or social circumstance shall be prohibited."

50. The nature protection authorities are obliged to provide information on compliance with the requirements of environmental legislation at the request of the public, including non-governmental organizations.

51. 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 archiving of information; the freedom to seek and obtain information should be upheld; access to information should be ensured; information should be public.

52. The Information Analysis Centre 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.

53. 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. The Ministry of Urban Construction has its own Public Information Centre on household waste. Various newsletters and brochures are issued on such topics as surface water condition and atmospheric air in cities. The magazine *Bnutyun* (“Nature”), published by the Ministry of Nature Protection, contains data gathered from a range of different government offices, scientific organizations and non-governmental organizations.

54. In setting out the procedure for the submission and consideration of requests, the Freedom of Information Act stresses that applicants are not required to justify their requests for information. Responses to written requests for information are 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 is submitted in the form that is most accessible to the holder of the information in question.

55. The terms for such consideration are laid out in the Citizens’ Applications, Complaints and Suggestions (Review Procedure) Act (1999). Article 6 of the act sets an overall time limit of one month from the date of submission of the request. In cases where additional research and checking is not required, however, that time limit is reduced to 15 days. For a request to receive a response, it must be registered by the appropriate authority.

56. Following the entry into force of the Administrative Activities and Procedures (Principles) Act, the Citizens’ Applications, Complaints and Suggestions (Review Procedure) Act now only applies to the consideration of proposals from citizens.

57. The Administrative Activities and Procedures (Principles) Act stipulates that the maximum period for administrative processing is 30 days. Special time limits, of more or less than 30 days, may be prescribed by law (art. 46).

#### **Article 4, paragraph 2**

58. Under the Freedom of Information Act, responses to written requests must be provided within the following time limits:

“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 application;

“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 application;

“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 of that procedure within five days of receipt of the application, with an indication of the reasons for the delay and the final date for the provision of the information.”

#### **Article 4, paragraphs 3 and 4**

59. 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 surveys;

(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.

60. The Environmental Impact (Expert Study and Assessment) Act (1995) also contains provisions about the protection of trade secrets.

61. The Ministry of Nature Protection may refuse to provide information if the request for that information has been formulated in a very general way, is unclear or refers to documents that are still being drafted.

62. In general, the exclusion clauses contained in article 4 of the Aarhus Convention are reflected in Armenian law, in particular, in the Freedom of Information Act, although certain sub-clauses of the article are not covered by the law. This applies, in particular, to paragraphs 4 (a), (b), (g) and (h) of article 4.

63. The criterion of public interest served by access to information, mentioned at the end of paragraph 4 of article 4, has not been further developed.

**Article 4, paragraph 5**

64. If a public authority does not have at its disposal the information requested, then, as prescribed by the Citizens' Applications, Complaints and Suggestions (Review Procedure) Act, it is obliged to inform the applicant within a period of five days of the public authority which does have the information, or to refer the request to that body and to notify the applicant accordingly.

65. Article 33, paragraph 1, of the Administrative Activities and Procedures (Principles) Act sets out the following provision: "If the application was not submitted to the competent administrative authority, the administrative body which received the application shall forward it, within a period of three days, to the authority which is competent and shall notify the applicant accordingly."

66. The Freedom of Information Act stipulates that, if the information source 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 source (including archives) which does have the desired information at its disposal. If the information source 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 (including archives) where the remaining portion of the desired information may be obtained (art. 9, paras. 10 and 11).

**Article 4, paragraph 8**

67. 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.

68. 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.

69. The National Statistical Service circulates its statistical compendium to government offices quarterly and free of charge (further information on the compendium can be found at the website [www.armstat.am](http://www.armstat.am)).

70. 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.

71. Except in the case of government offices, 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.

72. For a fee, the State Property Registration Committee in 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.

73. The Freedom of Information Act stipulate the cases where no charge is made for the provision of information.

74. 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).

75. The Minister of Nature Protection has passed an order setting out the fee system for information on the Geological Fund of the Republic of Armenia. The Ministry of Nature Protection does not charge for any other information.

#### **VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4**

76. 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.

77. 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 the environmental information actually contains. This explains why requests for environmental information are sometimes refused.

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

78. The Administrative Activities and Procedures (Principles) Act establishes that, from the moment administrative 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 instrument adopted pursuant to the proceedings. At the same time, the administrative authority keeps a journal in which cases are recorded chronologically and by subject.

79. The terms and conditions for the conduct of administrative proceedings and for the keeping of journals, including journals recording administrative rules and regulations, 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.

#### **X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4**

80. The following websites are relevant: [www.armaarhus.am](http://www.armaarhus.am), [www.nature.am](http://www.nature.am), [www.gov.am](http://www.gov.am), [www.armstat.fm](http://www.armstat.fm), [www.laws.am](http://www.laws.am), [www.parliament.am](http://www.parliament.am).

#### **XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 5**

##### **Article 5, paragraph 1**

81. (Attention is also drawn to paragraphs 31-57). 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.

82. 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 duly authorized body.

83. According to the Specially Protected Natural Areas Act, the designated State authority is obliged to provide information as and when requested on the status, protection and use of specially protected natural areas.

84. At the initiative of the Ministry of Nature Protection, a programme on the day-to-day work of the nature protection service is aired every two weeks on State television.

85. Environmental information is compiled and updated by the Information Analysis Centre of the Ministry of Nature Protection and is regulated by ministerial order No. 861-I of 4 April 2004, entitled: "List of information to be provided by units and offices of the Ministry of Nature Protection to the non-profit organization Information Analysis Centre". This arrangement is in line with the provisions of the Convention (art. 4) and the Freedom of Information Act (art. 7, para. 1).

86. The Information Analysis Centre is required to process the information provided and to publish it on the ministry's website.

87. In addition, with the approval by the Minister of Nature Protection, the Information Analysis Centre also publishes the information which is to be disseminated on the ministry's website ([www.mnpiac.am](http://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.

88. For the purposes of implementing the Aarhus Convention, information is collected and stored in the database of the Ministry of Nature Protection and provided to the public on request, and also placed on the ministry's website ([www.mnp.am](http://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 environmental protection data may be found here.

89. In 2007, a combined site was created for the country's 10 Aarhus centres ([www.armaarhus.am](http://www.armaarhus.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](http://www.osce.org)) and the site of the Ministry of Nature Protection ([www.mnp.am](http://www.mnp.am)).

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

91. 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 Office (which also includes the National Earthquake Protection Service), the Ministry of Health, the Ministry of Agriculture, the municipality 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.

92. 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 others, the environment, property or individuals.

93. 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](http://www.lraber.am).

94. All Armenian ministries have official websites on which information is posted about ministry activities.

95. A new site, [www.laws.am](http://www.laws.am), has been created, on which people can consult Armenian laws.

96. As indicated by the Ministry of Local Administration, the Armenian Emergency Response Service provides information on emergencies in the country and the world as a whole, via the Internet site [www.eme.am](http://www.eme.am).

#### **Article 5, paragraph 2**

97. 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**

98. See paragraphs 81-89 above ([www.armaarhus.am](http://www.armaarhus.am)).

#### **Article 5, paragraph 4**

99. National state-of-the-environment reports are published and disseminated by the Ministry of Nature Protection and posted on its website. In 2003, the country's second national report was published. Experts from different ministries, scientists and representatives of non-governmental organizations are all involved in the preparation of these national reports.

#### **Article 5, paragraph 5**

100. Information on laws and regulations is published in the Official Gazette of the Republic of Armenia. Non-governmental organizations working in special fields make extensive use of unofficial sources (for example, EPAC has prepared and issued a collection of environmental laws of Armenia and published the country's water code in Russian). The Statutory Instruments Act (2002) stipulates that the public is to be kept informed of legislation under consideration through press conferences, media announcements, interviews, articles and other publications, television and radio programmes. The public is informed about the main substance of legal instruments, specific aspects of their application, entry into force, terms, procedures and so forth.

101. With the assistance of the World Bank, TACIS, the Global Environment Facility, the United Nations Development Programme (UNDP), USAID and other organizations, national plans of action have been drawn up in the domain of environmental protection, including a national environmental action plan and a national environmental health action plan, together with strategic frameworks for action in such areas as the use and protection of water resources and biodiversity, desertification, and climate change. 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. The country's Aarhus Centre has been set up, with support from OSCE. In accordance with the centre's rules of procedures, non-governmental organizations and individuals have easy access to environmental information of a general nature and may take part in public hearings on draft laws and programmes in the field of environmental policy.

102. 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 hearings, 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 hearings, submission of written comments, etc.).

103. 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 system for taking on board citizens' comments when a final decision is made.

#### **Article 5, paragraph 6**

104. 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**

105. 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 hearings on draft laws are organized jointly with non-governmental organizations.

#### **Article 5, paragraph 8**

106. The Ministry of Trade and Economic Development, and, in particular, the National Standards Institute, which falls under the authority 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 undergoing its first reading.

107. 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).

#### **Article 5, paragraph 9**

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



109. 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) With the support of the OSCE office in Armenia and the country's regional Aarhus centres, training courses were organized for representatives of local government and local environmental non-governmental organizations on the country's commitments under the Aarhus Convention and the Protocol on Pollutant Release and Transfer Registers;

(b) In September-October 2006, with support from the United States Embassy in Armenia and as part of an international visits programme, representatives of Armenian government offices and non-governmental organizations visited the United States Environmental Protection Agency to see at first hand that country's Toxic Release Inventory;

(c) In December 2006, a memorandum was signed between the Ministry of Nature Protection and UNITAR and, with support from the Swiss Government, a programme to set up pollutant release and transfer registers was launched, with a view to strengthening Armenia's capacity to implement the Stockholm Convention. The programme, with a budget of 250,000 Swiss francs and duration of 24 months, is being implemented with the participation of UNITAR experts;

(d) In 2007, with support from OSCE, it is planned to hold a national workshop in Armenia on the rights and obligations under the Protocol on Pollutant Release and Transfer Registers. The obligations flowing from the protocol are closely linked with those under six other environmental conventions and protocols of the United Nations which have already been ratified by Armenia;

(e) In developing pollutant release and transfer register systems, a vital role will be played by a range of stakeholders (central and local governments, private businesses, non-governmental environmental organizations, the public);

(f) Creation of Armenia's first national pollutant release and transfer register will help raise public awareness about the effects of large enterprises, strengthen the role of civil society in decision-making on environmental protection and foster a stronger sense of responsibility among business owners.

## **XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5**

110. Government officials are insufficiently aware of their obligations under the Convention; there is a lack of the necessary regulations and amendments need to be made to the law; the country's technological facilities base and systems of standards are inadequate; factory owners are reluctant to provide information about pollutant releases and transfers.

111. A metabase of data on 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**

112. The Information Analysis Centre at the Ministry of Nature Protection publishes statistical data obtained from the Environmental Monitoring Centre.

### **XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5**

113. The following websites are relevant: [www.armaarhus.am](http://www.armaarhus.am), [www.gov.am](http://www.gov.am), [www.mnp.am](http://www.mnp.am), [www.nature.am](http://www.nature.am), [www.lraber.am](http://www.lraber.am), [www.laws.am](http://www.laws.am), [www.parliament.am](http://www.parliament.am), [www.mnpiac.am](http://www.mnpiac.am), [www.ema.am](http://www.ema.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**

113. In 1995, Armenia adopted the Environmental Impact (Expert Study and 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 quite differently. Our definition corresponds to the first part of paragraph 5 of article 2 - in other words, it does not include non-governmental organizations.

114. Under the provisions of this act, if a planned activity might have serious impacts on the environment (the act lists the types of planned activities subject to an expert study), the authorities must inform the public and hold public hearings. All too often, however, the expert study is only carried out after the planned activities have begun and public hearings are not always held. Recently there have been some positive changes: information is being provided to the public, public hearings are being held and those non-governmental organizations defined in paragraph 5 of article 2 of the Convention as “the public concerned” are being involved.

115. Currently, a new draft law on environmental expert studies is in the pipeline. The draft was prepared with the participation of experts from government offices and non-governmental organizations. Public hearings have been held to discuss the law. The final version of the draft has not yet been posted on the website of the Aarhus centres, nor on the website of the Ministry of Nature Protection.

116. 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 a national water policy;
- (b) Draft national water programme;

- (c) Draft water basin management plans;
- (d) Pending water-use permits;
- (e) Pending use permits granted to water enterprises;
- (f) Draft water standards;
- (g) Draft water tariff strategy.

117. Decisions as to whether or not a planned economic activity should undergo an environmental impact assessment are also taken in the light of a government decision of 30 March 1999, delimiting the scope of planned activities subject to an environmental impact assessment. The decisions are discussed with the public (first public hearing).

118. As stipulated in the above-mentioned decision, the publication and discussion of the documents relevant to the expertise 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 the finding of the expert study after discussing it with the relevant government offices.

119. Taking due account of paragraph 1 of article 6 of the Convention, the Ministry of Nature Protection is currently developing a project to include on its website a list of all activities subject to the conduct of environmental impact studies. An increasing number of public hearings are being conducted on specific activities. For example, the public has been involved in the discussion of the environmental impact assessment on a project to develop 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 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 Social and Environmental Association, a non-governmental organization, has been actively involved in the process of preparing an environmental management plan for the development of the above-mentioned deposits in Teghout. Many public associations oppose the development of open-pit mining in this area.

120. As a positive example, attention is drawn to the active participation of non-governmental organizations 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.

121. 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 statutory instruments (articles 6-8 of the Aarhus Convention).

122. In Yerevan, the river Getar 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.

123. 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.

**Article 6, paragraphs 2, 3 and 4**

124. In accordance with the Environmental Impact 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**

125. The matters covered by paragraph 5 of article 6 are not regulated by Armenian law.

**Article 6, paragraph 6**

126. Armenian law does not provide any legal procedure for the submission of all information relevant to decision-making. Under the EU-TACIS programme on environmental information, education and public awareness, regulations on access to environmental information and arrangements for its dissemination are currently being discussed.

**Article 6, paragraph 7**

127. After the public hearings, based on the professional finding and the report of the public hearings, the competent authority (currently, the Ministry of Nature Protection) accepts or rejects the finding of the expert study.

**Article 6, paragraph 8**

128. Armenian law contains no provisions stipulating that due account is to be taken of the outcome of public participation.

**Article 6, paragraph 9**

129. The finding of the expert study is published within a period of seven days and the parties concerned are notified of it in writing (article 11, paragraph 8, of the Expert Study Act).

**Article 6, paragraph 10**

130. The conditions, terms and procedures for the review or rejection of the finding of an expert study are set by the Government. The competent authority may review or reject such a finding if:

- (a) New laws have been adopted;
- (b) New environmental considerations have come to light after the finding was reached.

**Article 6, paragraph 11**

131. 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, is currently under preparation.

**XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6**

132. There is insufficient awareness about the Convention and a lack of regulations governing the procedures for public participation. The procedure for conducting public hearings must be laid down by the Government in accordance with the Expert Study 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.

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

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

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

**XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6**

135. The following websites are relevant: [www.armaarhus.am](http://www.armaarhus.am), [www.nature.am](http://www.nature.am), [www.gov.am](http://www.gov.am), [www.mnp.am](http://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**

136. 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. Public experts specializing 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.

137. Following a process of amendment, the Armenian Constitution has been supplemented with a new article 14.1, stating 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. All are equal before the law and enjoy equal protection from the law without discrimination. 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” (article 24 - now article 27, following its amendment).

138. The Ministry of Nature Protection enlists the participation of non-governmental organizations actively engaged in environmental work in the process of formulating policy and implementing international and regional environmental conventions and programmes. They are involved, for example, in the preparation of draft legislation. There is no legal instrument regulating this process, however.

139. In the field of urban planning, government decision 660 was adopted on 28 October 1998 on the procedure for notifying the public about planned changes to the living and working environment of the population and for public participation in the discussion and adoption of decisions relating to published urban development programmes and projects.

140. Local and regional government offices are obliged, within three days of receipt of the above-mentioned documents, to inform the public of the conditions governing the consideration of such documents and of the time and place of their publication and display and of any public debate about them.

141. In the framework of the Open Society Institute Assistance Foundation-Armenia and with a view to filling a lacuna in the country’s law relating to the provisions of article 7 of the Aarhus Convention, the non-governmental organization EPAC has developed a draft government resolution on the procedure for public participation in the preparation of projects, plans, programmes and policies related to the environment. A booklet has been published containing details of all aspects of this procedure.

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

143. An urban planning council has been established for Yerevan, whose membership includes representatives of non-governmental organizations. 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**

144. 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).

**XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7**

145. Public officials do not demonstrate sufficient willingness to work with independent experts (they often cite pressure of work and, as noted above, the lack of legal instruments that regulate the process, lack of professionalism, reluctance to engage in sensible cooperation).

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

147. If non-governmental organizations only become involved in the later stages of the preparation of projects, policies, laws and other instruments, this involvement - and, accordingly, their comments and suggestions - will not effectively influence the quality of the decision-making process.

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

148. There are no statistics on this matter.

**XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7**

149. The following websites are relevant: [www.armaarhus.am](http://www.armaarhus.am), [www.nature.am](http://www.nature.am), [www.gov.am](http://www.gov.am).

**XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8**

150. See also paragraphs 135-142. According to the Environmental Impact (Expert Study and 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. 2, para. 5). 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.

151. 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 related to programmes and project demonstrations, their official notification and public discussions about them (question 19).

152. The time limit for the notification and demonstration of urban development programmes and projects is set at 15 days. During that period members of the public may submit written comments and suggestions, citing the supporting legal and other instruments, and also the findings of any independent expert study which they might have carried out, on published urban development programmes and projects, to the relevant local or regional government authorities.

153. After studying and analysing the comments and suggestions, this body, working with the participation of members of the public, reaches its decision within a period of three days. Some non-governmental organizations hold public hearings, with the involvement of the competent State authorities and other interested ministries and departments. A new draft law on the conduct of environmental expert studies is currently under preparation with the participation of government authorities and non-governmental organizations. Public hearings have been held on the draft.

154. There is also a practice of holding parliamentary hearings on draft laws on nature protection 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).

155. The Hunting and Hunting Reserves Act was adopted on 9 May 2007, after its draft had undergone a process of public hearings. While some of the observations by non-governmental organizations were taken on board in the act, most of their views were not reflected, in particular those regarding the use of species listed in the Red Book.

156. Public hearings were also held on the draft law on specially protected natural areas.

## **XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8**

157. There are insufficient regulatory arrangements for public participation in the preparation of legal instruments that have direct executive effect, and of other regulations of general application.

158. The regulations governing early notification of the public are insufficient in scope or altogether lacking.

159. 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 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.

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

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

161. The National Assembly organized public hearings 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.



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

163. 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.

164. 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.

#### **XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8**

165. The following address is relevant: [www.justice.am](http://www.justice.am) (currently under development).

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

166. In the revised Constitution of the Republic of Armenia, the range of entities entitled to appeal to the Constitutional Court has been extended. 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 judgement and all remedies have been exhausted and when the constitutionality of the legal provision underpinning that judgement is being challenged” (art. 101, para. 6).

167. Under the Constitution some additions have also been made to the status of the courts.

168. 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.

169. A new website ([www.court.am](http://www.court.am)) has been created, where information can be found on the judicial system and judicial decisions.

170. Since 1 January 2008, the administrative courts in Armenia have been operating under the Judicial Code of 21 February 2007. In essence, these courts hear cases relating to the wrongful acts of officials and administrative bodies. These include matters of direct relevance to the Aarhus Convention.

171. The new Procuratorial Service of the Republic of Armenia Act also establishes the specific authority of this service to protect State interests, which also include environmental issues.

172. The Code of Administrative Procedure of the Republic of Armenia has now been adopted and, since 1 January 2008, has served as the legal basis for the work of the administrative courts.

173. 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 EPAC 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**

174. Any persons who consider 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 have 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 Citizens' Applications, Complaints and Suggestions (Review Procedure) Act, 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 government offices or local authorities, or of their officials or organizations (art. 11).

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

176. 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 (Administrative Activities and Procedures (Principles) Act, art. 36). The Armenian Code of Civil Procedure establishes the right of individuals to have their cases dealt with expeditiously.

177. 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.

178. 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 central or local authorities or to an official with the necessary competence to decide on the complaint.

179. 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.

180. 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, the Citizens' Applications, Complaints and Suggestions (Review Procedure) Act).

181. 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 may stand for election as human rights defender. The human rights defender is irremovable.

182. 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 authorities or officials.

183. State authorities, local authorities and officials shall 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**

184. Persons who so wish are entitled to apply to the courts, in the manner prescribed by the Code of Civil Procedure, for the protection of rights and lawful interests established by the law or specific agreements. In cases stipulated by law, duly authorized persons may apply to the courts for the protection of the rights of other persons (article 2 of the Code of Civil Procedure).

#### **Article 9, paragraph 3**

185. Under article 2 of the Code of Civil Procedure 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 public authorities. Proposals, requests and complaints by citizens are submitted to extrajudicial bodies without the payment of any duties or to courts in accordance with article 70 of the Code of Civil Procedure and following the procedure and steps laid out in the State Duties Act.

#### **Article 9, paragraph 4**

186. On the initiative of one of the parties or on its own initiative, the court may take out a temporary injunction if failure to do so could hinder or render impossible the enforcement of a court decision (article 97 of the Code of Civil Procedure - legal assistance in the form of action by the courts).

### **Article 9, paragraph 5**

187. Information on access to administrative and judicial procedures and mechanisms is provided through the publication of legal instruments and the preparation and distribution of brochures and guides by government offices and non-governmental organizations (article 6 of the Constitution, Statutory Instruments Act).

### **XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9**

188. The two principal obstacles are the patently inadequate level of court independence and lack of trust by the public 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.

189. There are also a number of practical obstacles:

- (a) Legal obstacles:
  - (i) Guarantees: the need to assume considerable financial obligations often prevents members of the public from effectively exercising their right to obtain justice;
  - (ii) Terms: protracted hearings prevent people from receiving a legal defence, particularly in administrative proceedings;
  - (iii) 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:
  - (i) Legal expenses;
  - (ii) Social issues: social and economic factors often outweigh considerations of environmental protection;
  - (iii) Lack of qualified lawyers with expertise in environmental matters;
  - (iv) Ignorance or insufficient awareness of environmental legislation;
  - (v) 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 administrative review, complaints to the Ombudsman;

- (vi) Insufficient awareness by judges of environmental laws and regulations and of international agreements, including the Convention.

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

191. 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**

192. 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**

193. The following websites are relevant: [www.justice.am](http://www.justice.am), [www.gov.am](http://www.gov.am).

**XXXII. CONTRIBUTION OF THE IMPLEMENTATION OF THE CONVENTION TO THE PROTECTION OF THE RIGHT OF EVERY PERSON OF PRESENT AND FUTURE GENERATIONS TO LIVE IN AN ENVIRONMENT ADEQUATE TO HIS OR HER HEALTH AND WELL-BEING**

194. 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.

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