

**MINISTRY OF  
NATURE PROTECTION  
OF TURKMENISTAN**

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*15 May 2014*

*No. 1961/04*

**To: H.E. Mr Michael Møller,  
Under-Secretary General of the UN and  
Acting Executive Secretary  
of the United Nations Economic Commission for Europe**

**Copy to: Secretariat to the UNECE Aarhus Convention**

**Copies to: Aarhus Convention Compliance Committee**

**Dear Mr Møller,**

On behalf of the Ministry of Nature Protection of Turkmenistan, we would like to express our appreciation to the United Nations Economic Commission for Europe (UNECE) for carrying through joint national and regional environmental protection programmes, including its major contribution to the work of the Interstate Commission on Sustainable Development of Central Asia (ICSD). We are also grateful to the UNECE for its continued support in regard to implementation of the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (the Aarhus Convention) in Turkmenistan. Pursuant to your letter ECE/ENV/2014/112 of 28 April 2014 and the recommendations and request from the UNECE contained therein, for our part we wish to provide the UNECE with information about progress on implementing the Convention in Turkmenistan and also about the work that has been undertaken on implementation of Decision IV/9g. In that connection, we wish to inform the UNECE and the Aarhus Convention Compliance Committee that a new and amended Act on Public Associations was adopted on 3 May 2014, reflecting the majority of the recommendations in Decision IV/9g. In order to facilitate detailed study by the members of the Compliance Committee, we have prepared a **Report on Implementation** of the Aarhus Convention Compliance Committee's recommendations on amending the 2003 Act on Public Associations in accordance with the requirements of the Convention; it also clarifies the relevant articles of the Law on Nature Protection (of 1 March 2014) and the Law on the Legal Status of Foreign Nationals (of 26 March 2011) (*Appendix 1, 3 pages*).

We have also undertaken a detailed review of the draft report "**Compliance by Turkmenistan with its obligations under the Convention**", sent by the UNECE, which was prepared by the Compliance Committee for possible consideration at the fifth session of the Meeting of the Parties to the Aarhus Convention (Maastricht, 30 June - 1 July 2014). We have inserted relevant amendments and comments about the up-to-date situation into that

document, *where they are highlighted in yellow and underlined respectively (Appendix 2, 12 pages)*. If any questions arise regarding the amendments and comments we have made in the draft report, we request the Aarhus Convention Compliance Committee to contact us, since we would like the substantial progress made in Turkmenistan in implementing the provisions of the Aarhus Convention to be reflected objectively in the final Report on Turkmenistan to the fifth session of the Meeting of the Parties to the Aarhus Convention, so that a decision can be made to dismiss the allegations against Turkmenistan.

We hope for understanding from the UNECE, the Secretariat and the Aarhus Convention Compliance Committee of our efforts and the significant amount of work we have undertaken. For our part, we offer a guarantee of Turkmenistan's continued vigorous activity in the area of compliance with the provisions of the Convention.

We would like to express our confidence in continued active cooperation with the UNECE in all areas of environmental protection work.

Please accept, Excellency, the assurances of my highest consideration.

**Yours sincerely,**

**Minister**

*[signed]*

**B. Annabayramov**

# Compliance by Turkmenistan with its obligations under the Convention

## I. Introduction - Decision IV/9g of the Meeting of the Parties

1. At its fourth session, the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision IV/9g on compliance by Turkmenistan with its obligations under the Convention (included in ECE/MP.PP/20011/2/Add.1).

2. Turkmenistan's compliance has been under the review of the Compliance Committee Convention since 2004, beginning with communication ACCC/C/2004/5 relating to the Act on Public Associations. In its findings the Committee had found non-compliance article 3, paragraphs 4 and 9, and consequently, non-compliance in general with article 3, paragraph 1. The Committee made recommendations directly to the Meeting of the Parties.

3. Through decision II/5c (ECE/MP.PP/2005/2/Add.9), the Meeting of the Parties at its second session endorsed the Committee's findings on the communication and, amongst other things, requested the Party concerned to amend the Act on Public Associations with a view to bringing all of its provisions into compliance with the Convention.

4. During the intersessional period 2005-2008, the Committee followed up with Turkmenistan on the implementation of decision II/5c<sup>1</sup> and submitted its report for the consideration by the Meeting of the Parties at its third session (ECE/MP.PP/2008/5/Add.8). On the basis of the information before it, the Committee concluded that Turkmenistan had failed to implement the measures referred to in paragraphs 2 to 5 of decision II/5c of the Meeting of the Parties, apparently because it contested the finding of non-compliance by the Meeting. The Committee did not consider that the information and argumentation provided by the Party concerned during the intersessional period provided grounds for the Meeting of the Parties to revise its earlier finding of non-compliance. It recommended to the Meeting of the Parties to confirm its earlier finding of non-compliance and also consider whether to apply measures set out in paragraph 37 of the annex to decision I/7.

5. Through decision III/6e (ECE/MP.PP/2008/2/Add.13), the Meeting of the Parties at its third session confirmed its earlier endorsement of the Committee's findings and decided to issue a caution to Turkmenistan, to become effective on 1 May 2009, unless the Turkmenistan had fully satisfied the conditions set out in subparagraphs (a) to (c) below and had notified the secretariat of this fact by 1 January 2009. The successful fulfilment of the conditions was to be established by the Committee:

(a) The Act on Public Associations was amended in such a way as to make clear that foreign citizens and persons without nationality can enjoy the same rights as citizens in the formation of and participation in public associations;

(b) The Act on Public Associations was amended in such a way as to make clear that members of the public may conduct activities on behalf of non-registered public associations in harmony with the requirements of the Convention, in particular, article 3, paragraph 4;

(c) Other legislation did not run counter to the above amendment.

6. The Meeting of the Parties also requested Turkmenistan to regularly report to the Committee.

7. During the intersessional period 2008-2011, the Committee followed up with Turkmenistan on the implementation of decision III/6e.<sup>2</sup> At its twenty-third meeting (Geneva, 31 March-3 April 2009), the Committee found that the Government had failed to communicate, by 1

<sup>1</sup> <http://www.unece.org/env/pp/compliance/compliancecommittee/ccimpldocsturkmenistan.html>

<sup>2</sup> <http://www.unece.org/env/pp/compliance/compliancecommittee/ccimpldocsturkmenistanmop3.html>

January 2009 or since, that it had taken measures to implement the conditions set out in paragraph 5 of decision III/6e, and in particular to amend the Act of Public Associations in such a way as to bring it into compliance with the Convention. In light of the Committee's findings, the caution entered into effect on 1 May 2009. Further to the invitation of the Government a mission of members of the Committee was organized from 18 to 20 April 2011 to meet with representatives of the Government and of the civil society. On the basis of the information received during the intersessional period and the outcomes of the discussions during the mission in April 2011, the Committee submitted its report for consideration by the Meeting of the Parties at its fourth session (ECE/MP.PP/C.1/2011/4/Add.2).

8. Further to the Committee's recommendations, through decision IV/9g, the Meeting of the Parties at its fourth session took note of the Committee's report, noted with appreciation the recent engagement of the Party concerned, and decided to suspend the caution issued to the Party concerned through decision III/6e, which had entered into effect on 1 May 2009. The Meeting of the Parties also decided that the caution should re-enter into effect on 1 January 2013 unless the Party concerned:

- (a) Had amended the Act on Public Associations with a view to bringing all of its provisions into compliance with the Convention as requested by the Meeting of the Parties through paragraph 2 of decision II/5c;
- (b) Had notified the secretariat of this fact by 1 October 2012;

9. The successful fulfilment of those conditions was to be established by the Committee. In addition, the Meeting of the Parties requested, inter alia, to avoid a situation where the Act on Public Associations might need to be revised again in the near future, that the Party concerned should ensure that the revisions to the Act on Public Associations were made in accordance with:

- (a) The suggestions made by members of the Compliance Committee at the working session held during its mission to Turkmenistan on 18 April 2011 (informal document C.1/2011/4/Add.2/Inf.1);
- (b) The outcome of the round tables organized by the National Institute of Democracy and Human Rights under the President of Turkmenistan and the International Center for Not-for-Profit Law in 2009 (informal document C.1/2011/4/Add.2/Inf.2);
- (c) The comments of the Organization for Security and Cooperation in Europe's Office for Democratic Institutions and Human Rights dated 22 June 2010 (informal document C.1/2011/4/Add.2/Inf.3);

10. The Meeting of the Parties also requested that the Party concerned examined other relevant legislation, including its Code of Administrative Offences and the Presidential Decree on the Registration of Public Associations, with a view to ensuring that all relevant legislation was consistent with the provisions of the revised Act on Public Associations and, together, provided a clear and transparent framework to implement the provisions of the Convention, as required by article 3, paragraph 1, of the Convention. The Meeting of the Parties further requested in accordance with paragraph 4 of decision II/5c, that the Party concerned carry out the measures referred to above with the involvement of the public, including relevant non-governmental and international organizations. It also requested, in order to ensure their effective implementation, that the measures be carried out through constructive cooperation between the Ministry of Nature Protection and the Ministry of Justice, whose engagement as the competent authority for the Act on Public Associations was crucial.

## **II. Summary of follow-up action with decision IV/9g**

11. At its thirty-seventh meeting (26-29 June 2012), the Committee requested the secretariat to remind the Party concerned of its obligation to notify the secretariat by 1 October 2012 of the successful fulfilment of the conditions set out in paragraph 3 of decision IV/9g. The Committee agreed that at its thirty-ninth meeting (11-14 December 2012) it would consider the material expected by the Party and would establish whether the caution should re-enter into effect on 1 January 2013.

12. A letter was sent to the Party concerned on 15 August 2012.
13. On 2 October 2012, the Party concerned submitted its report. In its report, the Party informed the Committee of its efforts to implement the Convention generally and requested that a representative of the Party concerned be granted an opportunity to present its position at the Committee's thirty-ninth meeting.
14. On 29 November 2012, using its electronic decision-making procedure, the Committee requested the secretariat to send additional questions to the Party concerned in order to clarify some issues on the progress of the Party concerned in following up with the recommendations of the Meeting of the Parties.
15. On 11 December 2012, the Party concerned provided its reply.
16. At its thirty-ninth meeting (11-14 December 2012), the Committee took note of the additional information submitted by the Party concerned. At that meeting, the Committee discussed the matter in open session with a representative of the Party concerned. The Party concerned primarily stressed that because the law on public associations was not merely an environmental law, but also involved a range of social and political issues, the Ministry of Environment had to coordinate with a number of other ministries and authorities and it had thus not been possible to proceed with the amendments as quickly as required by decision IV/9g. A huge amount of work had already taken place to reform national legislation following the recommendations of the Committee and Meeting of the Parties: an advance draft of the proposed amendments was under discussion among all the relevant authorities, and there appeared to be no disagreement on the substance of the amendments, and the draft would soon be sent to the Cabinet and then submitted to the Parliament. However, there were a number of procedural steps and that might still take some time. The Party concerned also provided an outline of other laws that were under reform. It agreed to submit a copy of the proposed amendments, and asked the Committee to consider the difficulties it had encountered when it took its decision on whether the caution should re-enter into force.
17. During the discussion, an observer expressed its disappointment at the very slow progress demonstrated by the Party concerned with regard to complying with the Convention since 2005.
18. The Committee then deliberated on the matter in closed session. The Committee observed that the Meeting of the Parties in its decision had been clear as to the condition to be fulfilled and the deadlines to be met. After considering the efforts undertaken and the progress achieved by the Party concerned, the Committee found that the Act on Public Associations had not yet been amended and thus the formal condition of decision IV/9g had not been met. Therefore, the caution would re-enter into effect on 1 January 2013.
19. The Committee, nevertheless, appreciated the efforts described by the Party concerned towards compliance with the decision IV/9g. It decided to urge the Party concerned to make efforts to fulfil the conditions set by the decision as soon as possible and to report to the Committee on the progress achieved on 1 June 2013 and on 1 November 2013. The Committee would then decide on what further steps to be taken and, depending on whether the Act was adopted, it would reflect that in its report to the Meeting of the Parties and consider recommending that the caution be lifted.
20. The Committee then announced its decision in public session. It requested the Party concerned to submit a copy of the draft law and offered to review the draft, if the Party concerned would agree. It then agreed to review the situation at its forty-first meeting.
21. The decision of the Committee that the caution re-entered into effect on 1 January 2013 was officially communicated to the President of Turkmenistan by letter of the ECE Executive Secretary on 25 January 2013.
22. At its forty-first meeting (25-28 June 2013), the Committee noted that despite the reminder sent by the secretariat, no information was received from the Party concerned by the deadline of 1 June 2013. It instructed the secretariat to urge the Party concerned to provide the information as soon as possible. It agreed that it would review the information again at its forty-second meeting. It would then also consider its recommendations to the Meeting of the Parties at its fifth session, which did not exclude the possibility for a recommendation that the issued caution should remain in effect.

23. On 11 July 2013, the ECE Executive Secretary wrote to the Party concerned strongly encouraging it to provide the requested information as soon as possible, but no later than 15 August 2013, to enable the Committee to consider it at its forty-second meeting (Geneva, 24-27 September 2013). He indicated that at that meeting, the Committee would also consider its recommendations to the fifth session of the Meeting of the Parties, which did not exclude a recommendation that the issued caution would remain in effect.

24. At its forty-second meeting, the Committee noted that no response had been received to the letter of 11 July 2013 from the Party concerned. The Committee requested the secretariat to send a letter to the President of Turkmenistan bringing to his attention the issue of the Party's continued non-compliance with the Aarhus Convention. The Committee also commenced preparation of its draft report to the Meeting of the Parties at its fifth session on the implementation of decision IV/9g and agreed to continue work on the draft report at its forty-third meeting.

25. On 12 November 2013, the ECE Executive Secretary wrote to the Party concerned to inform it that, the final date of 1 November 2013 for it to report on its progress having passed without a report having been submitted, at its upcoming forty-third meeting, the Committee would prepare its recommendations to the fifth session of the Meeting of the Parties and propose any appropriate measures to bring about full compliance. The Executive Secretary strongly encouraged the Party concerned to provide the requested information as soon as possible and no later than 30 November 2013, in order that it might be taken into account in the preparation of the Committee's recommendations to the Meeting of the Parties at its fifth session.

26. On 9 December 2013, the Party concerned provided a progress report on its ongoing work to bring the national legislation into accordance with the provisions of the Aarhus Convention. The report began with an overview of how the Party had implemented each pillar of the Convention in national law and practice. It then provided a summary of its cooperation with the UNECE since the Compliance Committee adopted its findings on Turkmenistan in 2005, as well as the actions it has taken to comply with decisions II/5e, III/6e and IV/9g. With respect to actions which had taken place since the fourth session of the Meeting of the Parties, the Party referred to the meeting that had taken place on 26 September 2012 between the Minister for Nature Protection and the Deputy Executive Secretary of the UNECE, at the premises of the Ministry for Nature Protection. At that meeting, the Ministry had drawn the Deputy Executive Secretary's attention to the fact that many provisions on the Law on Public Associations already complied with the Convention's requirements. Moreover, the process of amending such important laws, which formed the basis for building civil society, could take several years, and thus would require more time than was recommended in decision IV/9g. In the light of Party's work to implement the Convention, the Ministry for Nature Protection requested the Deputy Executive Secretary's assistance to revoke or reformulate the Compliance Committee's conditions. The Party's report recalled that following this meeting, on 28 September 2012, the Ministry had sent the UNECE Executive Secretary a detailed explanation of issues related to the implementation of the Convention in Turkmenistan. According to the Party, neither its in-depth explanation provided in the letter of 28 September 2012 nor the detailed oral clarifications by the Ministry have been met with understanding or reflected in the Compliance Committee's course of action towards Turkmenistan.

27. With respect to the amendments to the Act on Public Association recommended by the Compliance Committee, the Party reported that in August 2013, the Ministry of Nature Protection had sent these recommendations for review by the Mejlis (parliament), the Ministry of Justice and the National Institute of Democracy and Human Rights under the President of Turkmenistan. In their comments, the Ministry of Justice and the National Institute of Democracy and Human Rights under the President of Turkmenistan had indicated that while it might be appropriate to make some of the recommendations proposed, they did not consider it appropriate to make the fundamental amendments proposed by the Aarhus Convention Compliance Committee regarding inter alia, the right for non-citizens to found and to participate in public associations and the prohibition of the activities of non-registered associations.

28. With respect to the right for non-citizens to found and to participate in public associations, the Party concerned contended that this was addressed through section 15 of the 2011 Law on the Legal Status of Foreign Nationals which provides that foreign nationals in

Turkmenistan have the right to join public associations, if this is provided for by the associations' charters.

29. In relation to the prohibition of the activities of non-registered associations, the Party concerned submitted that this does not hinder the exercise by citizens of their right to freedom of association.

30. The Party concerned submitted that there was a divergence between the Compliance Committee and Turkmenistan in interpreting Turkmenistan's compliance with the Convention. It stated that it intended to continue active consultations and cooperation with the UNECE and in the light of its positive experience of cooperation with the UNECE to date it suggested a delegation from the Convention visit Turkmenistan to further discuss the issue and to meet with ministries and departments, public organisations, the private sector and so forth. As an additional possible activity at national level, an interdepartmental working group could be set up to prepare appropriate amendments into the applicable legislation of Turkmenistan, in accordance with the request of the Aarhus Convention Compliance Committee.

31. On 17 February 2014, at the request of the Committee, the Party concerned provided a copy of its 2011 Law on the Legal Status of Foreign Nationals referred to in its progress report of 9 December 2013.

32. On 26 March 2014 the Party concerned sent a note verbale to the secretariat, informing that it had adopted on 1 March 2014 a new Law on Nature Protection, which "provides for rights of citizens in conformity with provisions of the Aarhus Convention." The text of the new law, in Russian, was attached to the note verbale. According to article 9 of the new Law, which pertains to "rights and obligations of citizens in the sphere of nature protection":

“1. Citizens of Turkmenistan, foreign citizens and persons without citizenship have a right to a favourable environment, to defend it from the negative impact of economic and other activities.

2. Citizens have the right;

...

2) to create public associations undertaking activities in the area of nature protection;

3) to address complaints, communications and proposals on environmental matters to public authorities, and also apply to judicial bodies to ensure the defence of impaired environmental rights;

4) to receive full, reliable information about the state of the environment in the places where they live;

5) to take part in assemblies, meeting and demonstrations, referenda on nature protection issues;

....”

33. On 26 March 2014, the communicant in ACCC/C/2004/5 stated that in his view, the new legislation did not change the situation with respect to the rights of non-citizens, though the communicant did not substantiate his view further.

34. At its forty-fourth meeting (25-28 March 2014), the Committee, taking into account the information received, completed its draft report on the implementation of decision IV/9g and requested the secretariat to forward the draft report to the Party and the communicant in ACCC/C/2004/5 for their comments. The Committee agreed to finalize its report through its electronic decision-making procedure, taking into account any comments received by the specified deadline, and then to submit the report to the fifth session of the Meeting of the Parties.

### **III. Considerations and evaluation by the Committee**

35. In order to fulfil the requirements of decision IV/9g, the Party concerned would need to provide the Committee with evidence that:

(a) It has amended the Act on Public Associations with a view to bringing all of its provisions into compliance with the Convention as requested by the Meeting of the Parties through paragraph 2 of decision II/5c, and in particular:

i. It has amended the Act on Public Associations in such a way as to make clear that foreign citizens and persons without nationality can enjoy the same rights as citizens in the formation of and participation in public associations, as required by article 3, paragraph 9 of the Convention;

ii. It has amended the Act on Public Associations in such a way as to make clear that members of the public may conduct activities on behalf of non-registered public associations in harmony with the requirements of the Convention, in particular, article 3, paragraph 4; and

(b) The Act on Public Associations as amended does indeed fulfil the above requirements of the Convention, and in particular, article 3, paragraphs 1, 4 and 9.

36. With respect to the condition in paragraph 35 (a) (i) above, in its progress report of 9 December 2013, the Party concerned submits that the rights of foreign citizens and stateless persons are addressed through section 15 of the 2011 Law on the Legal Status of Foreign Nationals (the 2011 Law) which provides that foreign nationals in Turkmenistan have the right to join public associations, if this is provided for by the associations' charters.

37. The Committee has had limited time to examine the details of the 2011 Law on the Legal Status of Foreign Nationals provided to the Committee on 17 February 2014 and the new Law on Nature Protection provided on 26 March 2014.

38. Based on the Committee's review of the 2011 Act together with the 2004 Act on Public Associations, it considers the following:

39. Regarding the right of foreign citizens to participate in public associations, article 15 of the 2011 Law states that foreign nationals have the right to join public associations if this is provided for by the association's charters. The Committee has not been provided with any information to suggest that this would not ensure foreign citizens a right to join public associations. The Committee therefore concludes that the Party concerned is no longer in non-compliance with article 3, paragraph 9, in this respect.

40. Regarding the right of stateless persons to participate in public associations, article 24 of the 2011 Law appears to provide that the provisions of that Law shall apply to stateless persons residing (living) in Turkmenistan unless otherwise provided by the legislation of Turkmenistan. The Committee has not been provided with any other legislation of the Party concerned which would indicate that article 24 of the 2011 Law would not apply also to stateless persons. Thus, having concluded that the Party concerned, on the basis of article 15 of the 2011 Law, is no longer in non-compliance with article 3, paragraph 9, of the Convention with respect to foreign citizens, the Committee also concludes that the Party concerned is no longer in non-compliance with article 3, paragraph 9, with respect to the rights of stateless persons to participate in public associations.

41. Regarding the right of foreign citizens to found public associations, article 15 of the Act on Public Associations provides that:

“Public associations are created by the initiative of their founders, who are citizens of Turkmenistan, quantity of which must be not less than 5 people. In cases, provided by the present law, in the composition of founders along with citizens of Turkmenistan can enter foreign citizens, legal entities –public associations - both of Turkmenistan and foreign countries.”

42. The Committee considers that while article 15 does differentiate between citizens and foreign citizens, in that a foreign citizen can be a founder in combination with five or more citizens while a citizen can be a founder in combination with four or more other citizens, this does

not seem to impose a barrier sufficient to amount to discrimination under article 3, paragraph 9 of the Convention.

43. Regarding the right of stateless persons to found public associations, having been provided with no evidence otherwise, the Committee takes the view that article 15 of the Act on Public Associations should be read together with article 24 of the 2011 Law, so that stateless persons enjoy the same rights as foreign citizens to found public associations, namely stateless persons are able to do so, as long as this is in combination with at least five citizens. Assuming that in the case of stateless persons, article 15 of the Law on Public Associations would indeed be read together with article 24 of the 2011 Law, having found that article 15 of the Law on Public Associations does not impose a barrier sufficient to amount to discrimination under article 3, paragraph 9 of the Convention with respect to foreign citizens, the Committee concludes that article 15 of the Act on Public Associations, in conjunction with article 24 of the 2011 Law, does not impose a barrier on the rights of stateless persons to found public associations sufficient to amount to discrimination under article 3, paragraph 9 of the Convention.

44. On the basis of its considerations set out in the above paragraph, the Committee finds that through paragraphs 15 and 24 of its 2011 Law, the Party concerned is no longer in non-compliance with article 3, paragraph 9 with respect to the rights of non-citizens to found and participate in public associations.

45. With respect to the condition in paragraph 35 (a) (ii) above, in its progress report of 9 December 2013, the Party concerned asserted that the prohibition on activities of non-registered associations set out in article 17 of the Act on Public Associations does not hinder the exercise by citizens of their right to freedom of association. The Committee notes that the new Law on Nature Protection provides for rights and obligations of citizens in environmental matters. While the new Law appears a significant step towards compliance with the Convention, the Committee is not yet in a position to conclude whether the new Law, including its implementation in practice, will bring the Party concerned into full compliance with decision IV/9g and the Convention itself, so as to ensure that all members of the public may conduct activities in accordance with article 3, paragraph 4, of the convention.

46. The Committee considers that in order to meet the requirements of article 3, paragraph 4, of the Convention, the Party concerned would need to show that article 9 of the Law on Nature Protection prevails over the prohibition on activities of non-registered association set out in article 17 of the Act on Public Associations as well as over other relevant legislation (e.g. as *lex specialis*, in the form of a special law which prevails over a more general law). Moreover, in order to comply with decision IV/9g and the Convention the concept of “citizen” in the new Law on Nature Protection must include any physical person, i.e. also foreign citizens and persons without citizenship.

47. Thus, in order for the Committee to conclude that the Party concerned complies with the Convention, it would need further information on both these issues. This could be provided by an official confirmation by the Party concerned that indeed “citizen”, in article 9, paragraph 2, of the Law on Nature Protection, includes also foreign citizens and persons without citizenship. Moreover, the official confirmation should make clear that with respect to activities of non-registered associations within the scope of the Convention, article 9 prevails over the prohibition set out in article 17 of the Act on Public Associations and any other relevant legislation.

48. In the light of the recent legislative developments considered in paragraphs 36 to 44 above, it appears to the Committee that the Party concerned is no longer in non-compliance with the obligation in article 3, paragraph 1 of the Convention to provide a clear, transparent and consistent framework to implement the Convention.

## IV. Conclusions and recommendations

### A. Main findings with regard to non-compliance

49. The Committee welcomes the engagement of the Party concerned in the compliance review process during the intersessional period, including its efforts to implement decision IV/9g.
50. Based on its considerations and evaluation, the Committee finds that:
- (a) Through paragraphs 15 and 24 of its 2011 Law on the Legal Status of Foreign Nationals and Articles 4 and 11 of its 2014 Act on Public Associations, the Party concerned has fulfilled the decision IV/9g to the extent that it is no longer in non-compliance with article 3, paragraph 9 with respect to the rights of non-citizens to found and participate in public associations;
  - (b) In light of the recent legislative developments, the Committee finds that the Party concerned has fulfilled the decision IV/9g to the extent that it is no longer in non-compliance with the obligation in article 3, paragraph 1 of the Convention to provide a clear, transparent and consistent framework to implement the Convention with respect to the points of non-compliance set out in decision IV/9g.
  - (c) In the light of article 20 of the 2014 Act on Public Associations and of other recently adopted legislation in relation to ~~While welcoming the recent legislative developments, in the light of~~ the lack of clarity as to how the prohibition on activities of non-registered associations set out in article 17 of the previous, 2003 Act on Public Associations used to be is applied in practice, the Committee concludes that is not in a position to conclude whether the Party concerned has fulfilled and is in compliance with the requirements of ~~is no longer in non-compliance with~~ article 3, paragraph 4, of the Convention;

### B. Recommendations

51. The Committee recommends to the Meeting of the Parties that it:
- (a) Endorse the above report of the Committee with regard to compliance by Turkmenistan;
  - (b) Lifts the caution that entered into force on 1 January 2013;
  - (c) Recommends that the Party concerned by 30 November 2014 provide information through an official statement to confirm, to the satisfaction of the Committee, that:
    - (i) The concept of “citizen” in article 9(2) of the new, 2014 Law on Nature Protection includes any physical person, i.e. also foreign citizens and persons without citizenship; in addition, the concept of “natural [physical] persons” in Article 11(1) of the new, 2014 Act on Public Associations includes foreign citizens and persons without citizenship;
    - (ii) ~~With respect to activities of non-registered associations within the scope of the Convention, article 9 of the Law on Nature Protection prevails over the prohibition on activities of non-registered association in article 17 of the Act on Public Associations and other relevant legislation (e.g. as *lex specialis*, in the form of a special law which prevails over a more general law); - This paragraph should be excluded, since Article 20 of the new Act on Public Associations has excluded the paragraph on the prohibition of unregistered public associations.~~

(d) Invites the Party to organize meetings (e.g. roundtable meetings, workshops or conferences) with broad public participation, open to all members of the public and dedicated to:

(i) sharing experiences in activities carried out by associations, organizations and groups promoting environmental protection in the Party concerned; and

(ii) ensuring the consistency of the national legal system of the Party concerned with the obligation set out in article 3, paragraph 4, of the Convention,

and to report on these meetings by 30 November 2015 as well as in the national implementation report to the sixth session of the Meeting of the Parties;

(e) Mandates the Committee to confirm whether the Party concerned has sufficiently fulfilled the requirements of paragraph 51 (c) above to the extent that it is no longer in non-compliance with article 3, paragraph 4 of the Convention.