

MINISTRY OF NATURE PROTECTION OF TURKMENISTAN

To: His Excellency Mr. Sven Alkalai
Executive Secretary of the United Nations Economic Commission for Europe,
UN Deputy Secretary General

cc: Secretary of the UNECE Aarhus Convention

Dear Mr. Sven Alkalai,

The ministry of nature protection of Turkmenistan presents its complements to the United Nations Economic Commission for Europe (UNECE) for realization of common programs in the area of environmental protection, and in particular for the great input of your experts into the preparation of the 1st Environmental Performance Review (EPR) project in Turkmenistan. Besides, UNECE on the permanent basis supports realization of the UNECE Convention on access of information, public participation in the decision making process and access of justice in environment related issues (Aarhus Convention) in Turkmenistan. And in this regard we would like to inform you on the realization process and progress made in implementation of the Convention in Turkmenistan.

Aarhus Convention was adopted and ratified by Turkmenistan in 1999. The main purpose of the Aarhus Convention is development of the public rights to participate in policy making and implementation of the environmental policy, which fully complies with one of the priority directions of the state environmental policy of Turkmenistan – comprehensive public informing on the issues of nature conditions and protection, development of the environmentally oriented public view. Circulation of information, training activities on the issues of access of necessary environmental information, methods and means of public participation in decision making process and access to justice, are carried out in Turkmenistan on the permanent basis.

Informing of population regarding conditions and protection of nature, improving of environmental education of population are implemented in different directions. We use mass media, including TV programs, carry out special purposeful actions with public involvement, forums, seminars, trainings, meetings etc.

From the moment Turkmenistan gained independence in 1991 and also after ratification of the Aarhus Convention in 1999, the process of introduction of provision on public participation into the national legal environment, as well as their practical implementation, is carried out in Turkmenistan. Complex environmental legal system has been developed in Turkmenistan, it provides broad public participation in implementation of the state policy of nature protection, rational utilization of its resources in order to steady develop and implement the provisions of Aarhus Convention. The current national legislation of Turkmenistan contains a number of nature protecting laws, the articles of which envisage public access to the environmental information: the law of Turkmenistan “On nature protection” (1992), the law of Turkmenistan “On the state environmental expertise” (1995), the law of Turkmenistan “On air protection” (1996), the state standard of Turkmenistan TDS-579-2001 “Assessment of impact of economic or other activities on environment in Turkmenistan. Main provisions.” (2001), Forest code of Turkmenistan (2001) etc.

According to the laws of Turkmenistan, state bodies and officials are obliged to provide required environmental information to the public, to assist the public in obtaining access to the information, there was created a unique legislative mechanism for participation of the public and its associations in the process of decision making, for access of justice on environmental issues.

The law of Turkmenistan envisages: “Turkmenistan guarantees to the citizens and public

organizations implementation of the rights provided to them in the area of nature protection...”, “state bodies of nature protection are obliged to provide every kind of assistance to citizens and public environmental organizations in implementation of their rights ... take necessary measures to consider proposals on organization of nature protecting activity, and provide publicity, availability of information on environmental conditions..., operatively inform population about dangerous accidents and situations.”

Responsibility for “hiding or distortion of information about nature pollution” is envisaged by the article 85 of the Code on administrative offenses of Turkmenistan.

Article III of the law of Turkmenistan “On air protection” is called: “Participation of public associations and citizens in air protection”. According to article 9 of the above law the citizens of Turkmenistan have right: to obtain from the state authorities and legal persons reliable information on the level of air pollution and measures, taken by these bodies in order to protect and improve the air; to present to the authorities the issues on necessity to carry out state environmental expertise, including additional expertise, to participate in activities on air protection, carried out by the state organs.

According to the article 30 of the law on “Nature protection” public environmental associations have right “to file in court or economic court compensation claims for damages to nature, health and property of citizens and public organizations”.

All above mentioned legislative and legal measures provide guaranteed public access to information, establish obligations for persons and bodies to assist in obtaining necessary information, create steady, legal conditions for direct participation of public associations in decision making and access to justice, which corresponds to pg.2, art.3 of the Convention.

It is important to specifically mention, that in the passed years a large work, has been done in Turkmenistan on reforming and improving of national legislation, which was initiated by the President of Turkmenistan. Outcomes of this work are: adoption of the new version of the Constitution of Turkmenistan (September 2008), in which, upon with the proposal of the ministry of nature protection, a new article 36 “On the right of citizens to have favorable environmental surroundings” was included. This article insures implementation of the rights and freedoms of citizens in the area of environmental policy of the state. The work on improvement of the environmental legislation is actively carried out. As a result of work, which was done by the ministry of nature protection in cooperation with other entities of Turkmenistan, new laws were adopted in the last three years: “On protection of ozone layer” (2009), Forest code of Turkmenistan (2011), “On specially protected natural territories” (2012), “On floral world (2012). At the present time the ministry of nature protection elaborates new versions of the following laws: “On animal world”, “On nature protection”, “On the state environmental expertise”. All above mentioned adopted laws and laws under elaboration contain provisions on providing the public with required environmental information and public participation in decision making on environmental issues.

In order to facilitate further implementation of the provisions of the Aarhus Convention in Turkmenistan, in 2011 the OSCE center in Ashgabat sent a proposal to the ministry of foreign affairs of Turkmenistan on realization of project on establishing an Aarhus center under coordination of the ministry of nature protection of Turkmenistan. As a result of the joint work of the ministry of foreign affairs of Turkmenistan, the OSCE center in Ashgabat and the ministry of nature protection of Turkmenistan in August 2012 in cooperation with NPA “Tebigi Kuvvat” and with assistance of the OSCE center in Ashgabat, the Aarhus center was established to the ministry of nature protection of Turkmenistan. We consider the opening of the above center an important input in implementation of the the Aarhus Convention in Turkmenistan and put large hopes on

successful operation of the center for implementation of the Convention provisions.

Along with the above mentioned activities on implementation of the the Aarhus Convention in Turkmenistan we have some delays on implementation of the decision IV/9g of the 4th session of Meeting of the Parties of the Aarhus Convention (June 29 – July 1, 2011, Kishinev), in particular on introducing amendments to the law of Turkmenistan “On public associations”. Earlier Turkmenistan was visited by the expert mission (April 18-19, 2011) of the committee on implementation of the Aarhus Convention. Meetings with all interested parties, including representatives of the Turkmen parliament, ministries of justice, education, nature protection, national institute of democracy and human rights to the President of Turkmenistan, public organization, private sector etc. were organized during the visit. In the course of joint consultations the Turkmen side presented possible amendments to the law of Turkmenistan “On public associations”, in accordance with the Aarhus Convention.

Based on consideration of the outcomes of the visit of the expert mission of the committee on implementation of the Aarhus Convention and their report, the 4th session of Meeting of the Parties of the Aarhus Convention has adopted the decision IV/9g, one of the points of which says that Turkmenistan should introduce amendments to the law of Turkmenistan “On public associations” and inform UNECE about that by October 1, 2012. In this regard we would like to inform UNECE that possible amendments to the law of Turkmenistan “On public associations”, proposed earlier by the Turkmen side, currently undergo procedures of consideration by domestic agencies of Turkmenistan. Taking into consideration the fact that the law of Turkmenistan “On public associations” does not belong to the sector of environmental legislation and at the same time embraces many spheres of social-public system, introduction of any amendments into this law may take more time than it was indicated in the decision IV/9g of the 4th session of Meeting of the Parties of the Aarhus Convention.

On the basis of the above stated, and taking into consideration the total activities of Turkmenistan on implementation of the Aarhus Convention in Turkmenistan, as well as objective factors related to possible amendments to fundamental laws, which regulate social-public system, we turn to UNECE with a request to treat with understanding the current process and to petition to the Secretariat of the Aarhus Convention for Turkmenistan to be able to have an opportunity to present its position at the Secretarial Meeting in December 2012, before new decision to issue possible warning on noncompliance can be made regarding Turkmenistan.

We sincerely hope that UNECE and Secretariat of Aarhus Convention will understand our efforts and situation, and guarantee to continue active implementation of the Convention provisions in Turkmenistan.

We express our assurance in continuation of active cooperation with UNECE on all direction of nature protection.

Please accept, your Excellency, assurances of our highest consideration.

Sincerely yours,

Annabayramov B.
Minister