

February 19, 2016

To: Fiona Marshall

Environmental Affairs Officer – Secretary to the Compliance Committee
Aarhus Convention Secretariat
United Nations Economic Commission for Europe

Dear members of the Aarhus Convention Compliance Committee,

We would like to communicate that the information presented in the Progress Report provided by the Republic of Armenia does not reflect the real situation related to the implementation of Recommendations of the Decisions of the Compliance Committee as well as of the provisions of the Convention.

1. In particular, the RA Law on Environmental Impact Assessment and Expertise (hereinafter EIA law) was adopted not in accordance with the Recommendations of the Communications ACCC/C/2009/43 and ACCC/C/2011/62. Headed by RA Deputy Minister of Nature Protection, Simon Papyan, a working group was established, which included representatives of interested public organizations who agreed that the draft law would be developed based on the parties' mutual agreement on submitted recommendations. The draft law developed by the working group provided for serious improvements, such as clarification of EIA procedures, ecosystem approach in process of assessment, economic assessment of damages and requirement for compensation, classification of activities, etc. The World Bank experts also gave mainly positive feedback regarding the vast majority of the provisions.

Despite the fact that there were still serious shortcomings in EIA draft law, in particular, related to mechanisms for public participation, on August 5, 2013 it was hastily presented to RA National Assembly in order to include it on the parliament's autumn session agenda. In addition, the Government essentially changed the Draft Law prepared by the Working Group, and the version presented to the National Assembly was seriously deteriorated. Nevertheless, promises were given by RA Ministry of Nature Protection, that after its adoption on first reading, they would mediate to organize parliamentary hearings and give a chance for improvement of provisions on public participation and EIA process. On September 27, 2013 the bill received positive conclusion by the National

Assembly's [Standing Committee on Agriculture and Environment](#) and was included on the National Assembly's agenda. However, within 9 months, the promised parliamentary hearings were not organized and the process of adoption of the bill was actually stopped. On June 21, 2014 the National Assembly of the Republic of Armenia unexpectedly, in an extraordinary session adopted the EIA law by holding three readings throughout the course of a single day. The adopted text drastically differed from the one submitted by the government to the parliament, discussed and approved by the National Assembly's [Standing Committee on Agriculture and Environment](#). It did not properly envisage the position of Civil Society regarding the implementation of the Convention and neglected many professional recommendations and agreements reached within the working group. The new version of the document was not publicized in advance and was not made subject to public discussion, as prescribed by RA Law on Legal Acts article 27.1. Amendments secretly made in EIA bill, in fact, devalue all the positive developments included in the document hitherto. In particular, article 14 of the bill is fully distorted.

The Decision on Public Participation mechanism adopted by the Government also does not reflect the provisions of the Convention and was adopted without public hearings of the document. Three months ago a claim on the issue of Public Participation mechanism was filed to the Administrative Court, but still there is no answer on admissibility of the claim, which is considered to be ground for a new Communication to Compliance Committee upon the exhaustion of judicial procedures.

2. In its Decision ACCC/C/2011/62 the Compliance Committee recommended to the Party concerned: (a) to review and clarify the legislation, including the law on NGOs and administrative procedures, so as to ensure compliance with article 9, paragraph 2, with regard to standing; and (b) to take the measures necessary to raise awareness among the judiciary to promote implementation of domestic legislation in accordance with the Convention.

As it was mentioned in the current Progress Report, the Party Concerned did not take necessary measures to implement the recommendation. Not the Administrative Procedure Code, nor the indicated new Draft Law on NGOs envisage the provisions on Access to Justice of the public concerned in environmental matters. It is worth to emphasize that the Aarhus Convention National Coordinator took no efforts to make the recommendation be implemented. On February 2016 the public hearing on the new Draft NGO Law was organized in the RA National Assembly. The representatives of NGOs

presented the Findings of the Decision ACCC/C/2011/62 and requested to stipulate the provision on Access to Justice of the Environmental NGOs but the request was rejected by the representative of the Government. Nor the any single representative of the Ministry of Nature Protection, not the Aarhus Convention Focal Point participated or presented any concern on the issue of the implementation of the Convention. Thus, the non-compliance of the Convention on the matters of Access to Justice continues.

3. With regard to the training in the Academy of Justice presented in the Progress Report, no real influence on the improvement of understanding about the provisions of the Convention is visible. The situation got even worse, as in accordance with the meaning derived from the latest ruling of the RA Administrative Court (approved by the RA Court of Cassation), the findings of the EIA procedure is not considered binding to make decisions for the public authorities. The thorough picture of the implementation of the Convention, as well as the fundamental violations of number of provisions of the Convention you can see in the Communication presented to the Compliance Committee in 10 February 2016 (attached to this letter).

Having in mind the above-mentioned, no progress on the implementation of recommendations of the Compliance Committee may be recorded. Given the continuous violation of a number of human rights stipulated by the Convention, in the coming days the civil society organizations will send a request to the Compliance Committee to consider application of individual measure, which can be appropriate and efficient for the Government of Armenia, in line with the Article 37, point h) of the Annex of the Decision 1/7.

Sincerely,

Artur Grigoryan
President of the "Ecological Right" NGO

Sona Ayvazyan
Deputy Director of "Transparency International Anticorruption Center" NGO