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"ECOLOGICAL RIGHT"
ENVIRONMENTAL
NON-GOVERNMENTAL ORGANIZATION

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To the Aarhus Convention Compliance Committee

Comments on the "Measures" adopted by Armenia on the implementation of Decision V9a on compliance by Armenia with its obligations under the Convention

Hereby, we provide the update of on the implementation of Decision V9a on compliance by Armenia with its obligations under the Convention with regard to the Paragraphs 47 (a); 47 (d) and 47 (e).

- ***Paragraph 47 (a and d)***

As it is stated in the document presented by the liable body named "Measures taken by the Republic of Armenia to implement Decision V/9a in the context of Compliance Committee's third progress review", further clarifications concerning the legal restrictions of Access to Justice for concerned organizations will be provided.

In fact, the requirement in article 16.3 (2) of the NGO law and article 216.6(1) of the Administrative Procedure Code states that environmental organizations need to have participated in the previous administrative procedure before being able to challenge the decision before a court, must have participated in public hearings of the projects subject to alleged litigation. As well, the mentioned provisions of the newly adopted legislation oblige the environmental organizations **to present the proof of at least two years of experience in the area of their statutory goals and objectives.**

The mentioned restrictions have already been implemented in practice questioning the legal standing of environmental non-governmental organizations at already started litigation, subject for the communication ACCC/C/2016/138 Armenia (http://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/tfwg/envppcc/envppcccom/acccc2016138-armenia.html). For the implementation of article 16.3(2) of the new NGO law and amended article 216.6(1) of the Administrative Procedure Code, on 15 May 2017 the Administrative Curt of Armenia suspended the court session to ascertain the legal standing of plaintiffs, "Ecological Right" and "Ecoera" NGOs, in line with the new regulations.

Moreover, the Court found necessary for the organizations to present evidences of their activities to fulfill the commitment of the new regulations on experience of the organization in the field of environmental activity (reports, contracts, etc). Furthermore, the plaintiff presented media release on its participation in the public hearing of litigated case, which was found insufficient by the court, additional justifications were demanded to present form the plaintiffs (comments presented to the liable bodies about the litigated project, protocols of public hearings with indication of the name of plaintiffs, etc).

In judicial practice, the new laws have been implemented to significantly restrict the right of environmental organizations on Access to Justice. Even though the adoption of new laws on NGOs and Administrative Procedure Code are presented by the Party concerned as implementation of its obligation under the Convention and Recommendations of the Compliance Committee, in fact, the new regulations undermined even poor opportunities of NGOs on Access to Justice.

Therefore, we find that obligation on the provision of Access to Justice for the public concerned in line with the Convention is not implemented. On the contrary, the new legal amendments with restrictive provisions annul the progress gained by environmental NGOs in judicial practice during last 8 years.

- *Paragraph 47 (e)*

So far, the Party concerned did not presented any evidence that training of judges have really been taken place. The Compliance Committee reminded the Party concerned via e-mail communication to present further information on the trainings conducted and asked to provide the Committee with information on these trainings, in particular attendance, lecturers, feedback from participants, media reports, articles in the specialized media provoked

by the trainings, as soon as possible. However, there is nothing relevant presented by the Party concerned with regard to raised issues. We find that the lack of evidence-based information on this matter may bring serious consequences for the Party concerned and is the ground for the new communication on the implementation.

Thus, we find that Thus, we claim that the Recommendation of the Committee of Paragraphs 47 (e) Decision V9a is not implemented.

Conclusion

We consider that Recommendations of the Compliance Committee on the Decision V9a on the Compliance by Armenia were not duly implemented. Legal amendments have not been properly done and the draft regulations are not in compliance with the Aarhus Convention.

Hereby, we confirm once again our strong position ***to declare suspension over the privileges and special rights given to Armenia in frames of the Aarhus Convention in accordance with the Decision 1/7 point 37 (g).***

Sincerely,

Artur Grigoryan

Chairperson of "Ecological Right" Non-Governmental Organization