

PROGRESS REPORT

On implementation of Decision V/9a of the Meeting of the Parties to the Aarhus Convention

1. (Second progress review by Compliance Committee, conclusions, paragraph 32 (a))

The draft law "On non-governmental organisations" and the draft law "Amending administrative Code of the Republic of Armenia" were elaborated and sent to the National Assembly of the Republic of Armenia.

The draft laws lay down the right of NGOs to protect interests of their stakeholders in the courts (Article 16 part 2 of the draft law on NGOs and Article 216.6 of the draft Law of Administrative Code). The draft law on NGOs defines, that the stakeholders of the organisation are persons or their groups defined by the statute of the organizations. In other words, these organisations may protect the rights of not only their members, but also stakeholders in courts.

The abovementioned draft laws are currently being translated into English with the support of OSCE Office in Yerevan. They will be sent to the Compliance Committee immediately after completion of translation.

2. (Second progress review, conclusions, paragraph 32 (b))

The anticipated activities of the law "On environmental impact assessment and expertise" are described in article 14 and article 4 part 1 point 7, which you can find attached.

3. (Second progress review, conclusions, paragraph 32 (c))

Currently with involvement of international experts amendments to the Law on environmental impact assessment and expertise are elaborated for making it in compliance with Espoo Convention and its protocol. Problematic provisions from point of view of Aarhus Convention will also be reviewed and included into the draft law. This question was also discussed during the meeting between the Minister of Nature Protection of the Republic of Armenia Mr. Artsvik Minasyan and the Head of OSCE Office in Yerevan Mr. Argo Avakov. Mr. Avakov expressed his willingness to support the Ministry to elaborate the draft law.

The final version of the draft law will be provided to the Compliance Committee.

The provisions of the Decision of the Government of the Republic of Armenia on 19 November 2014 N1325 will also be discussed and reviewed with public concerned and the results will be provided to the Compliance Committee.

However, we would like to discuss two conclusions of the Compliance Committee, relating to the definition <<Public concerned>> in the Law on Environmental Impact Assessment and Expertise and to the point 24 of the Decision N1325.

1. Article 4 point 21 of the Law on Environmental Impact Assessment and Expertise of RA lays down the definition <<interested community>> as <<legal entities and natural persons demonstrating interest regarding the approval of the fundamental document and (or) the implementation of the anticipated activity subject to expert assessment.>>.

According to article 51 point 4, article 122 of the Civil Code of RA, article 3 point 3 of the Law on NGOs (see also article 2 point 1 of the draft Law on NGOs, which was sent to the Parliament of RA), the NGOs are defined as legal entities and consequently they fall under the definition <<interested community>>.

The content of the definition <<interested community>> allows any legal entity to take part in any EIA process, regardless of its legal status (NGO, fund, enterprise etc.) and the sphere of activity (environment, health, etc.) and they are considered to be interested community by the fact that they demonstrate interest.

In any case, the proposal to review the definition will be discussed and the results will be provided to the Compliance Committee.

2. Point 24 of the Decision of the Government of the republic of Armenia on 19 November 2014 N1325 defines that <<Reasonable remarks and proposals, made by public, shall be taken into account by the initiator and assessment center. Remarks and proposals, contradicting the requirements of the current legislation, and having no relation to the environmental impact, as well as incorrect calculations or data, shall not be taken into account; in that connection grounded justifications shall be provided.>>. From our point of view the sentence <<...Remarks and proposals, contradicting the requirements of the current legislation, and having no relation to the environmental impact, as well as incorrect calculations or data, shall not be taken into account....>> restricts not the public to make remarks and proposals, but the initiator and assessment center, defining for them only 3 clear cases, when remarks and proposals cannot be taken into account. In this case the initiator and assessment center, when assessing remarks and

proposals, cannot interpret themselves, which remarks and proposals are reasonable and which are not and they have to take into consideration the following three criteria.

- Remarks and proposals contradict the requirements of the current legislation,
- Remarks and proposals have no relation to the environmental impact,
- Remarks and proposals contain incorrect calculations or data.

In all other cases the initiator and assessment center have to take the remarks and proposals into consideration.

However, this and other proposals of the Decision will be discussed with public concerned and the results will be provided to the Compliance Committee.

Article 4. The Main Notions used in this Law

1. The following main notions shall be used in this law:

....

7) **the anticipated activity:** a study on the possible impact on the environment, production, construction, exploitation, reconstruction, expansion, technical and technological re-equipment, reprofiling, conservation, relocation, liquidation, closure.

Article 14. The types of the fundamental documents and the anticipated activity related to the environmental impact assessment subject to assessment and expertize

1. The fundamental document related to the social-economic, energy sector, urban development, transport sector, communication sector, agriculture, underground resources utilization, industrial sectors, health care, environmental, recreation sector, sector of services, forestry, waste utilization, waterworks systems spheres shall be subject to strategic assessment and expertize.

2. The project design documents of the types of anticipated activity prescribed by Part 4 of this Article are subject to assessment and expertize.

3. The types of the anticipate activity subject to assessment and environmental impact expertize (hereinafter: expertize) shall be classified following three categories A, B and C, taking into consideration the spheres, according to the reducing degree of impact on the environment.

4. Category A shall include:

1) in the sphere of energy sector:

- a. nuclear power plants or other structures using nuclear reactors,
- b. the installation for the storage of the processed nuclear fuel and its sealing,
- c. production facility for the enrichment of the nuclear fuel,
- d. thermal power plants,
- e. 800 mm diameter pipelines with a length of 40 km and longer for oil or gas or chemical substances,
- f. the hot water or steam production facilities with a thermal power of 50 MW and more,

g. hydroelectric power station with a capacity of 30MW and more;

2) in the sphere of utilization of underground of resources:

a. geological explorations with underground pits with a length more, than 1000 running meters or in case of drilling of wells with a depth exceeding 1000 running meters;

b. extraction of underground resources of metal ores, including radioactive underground resources and (or) processing of ores, minerals including tailing storage facilities and tailing transportation systems;

c. production of non-metallic underground resources and (or) processing of ores,

d. the exploitation of the sources of mineral or underground waters with a purpose of entrepreneurship;

e. the exploitation of the sources of underground drinking waters with a purpose of entrepreneurship;

f. oil and gas extraction and (or) ore processing;

g. creation of underground structures for the storage of oil and gas or industrial wastes or poisonous or radioactive substances;

h. the construction of the underground ways of transportation or structures;

i. the reclamation of the territories of the deposits of mineral resources (recultivation).

3) in the sphere of chemical industry:

a. manufacturing and processing of the caoutchoucs, general mechanical rubber goods and other organic substances;

b. Oil processing production;

c. Fuel oil production;

d. Production of explosives;

e. production of inorganic acids or alkalis and the production of other substances;

f. production of toxic chemicals or chemical fertilizers;

g. production of household chemicals (washing, cleaning or other substances) with a monthly capacity 50 metric tons and more:

4) in the sphere of the production of the pharmaceuticals:

a. industrial production of pharmaceuticals.

5) in the sphere of production and processing of the metals:

a. the roasting and agglomeration of metal containing minerals (including sulphide ore);

b. the production of non-ferrous, precious, rare and ferrous metals or the alloys thereof from the ores or concentrates or the secondary raw material resources;

c. the processing of non-ferrous metals, including alloyage, recuperation of products (refinement, melting production etc.);

d. the production of the processed cast iron or steel (primary or secondary casting) including continuous casting, which is exceeding the capacity of 2.5 metric tons per hour;

e. the processing of the surfaces of metals or plastic materials by utilization of electrolytic or chemical processes in basins with a 30 cubic meter volume or bigger;

6) in the sphere of waste utilization:

a. the collection of hazardous wastes, storage, utilization, processing, recycling, removal, detoxication, placement, burial;

b. the organization of landfills with a capacity of 10 metric tons and more garbage per day or for providing services to settlements with a population of 15 000 residents and (or) the processing of household wastes;

7) in the sphere of building materials industry :

a. the production of cement, lime carbonate, alabaster with a 100 metric ton or more daily capacity;

b. melting of mineral substances with a capacity of 20 and more metric tons daily: including the production of mineral fibres;

c. the manufacturing of ceramic items through roasting, including roof tiles, bricks, firebricks, ceramic tiles, stone ceramics or porcelain items with a daily capacity of 75 metric tons or more;

8) in the sphere of the light industry:

a. production of natural leather or its chemical processing: with a capacity 10 metric tons daily and more;

9) in the sphere of sanitary-technical structures:

a. cemeteries, crematoriums or morgues or facilities for pathologic anatomy or mortuaries;

b. cremation of the animals or burial or abattoirs with a capacity of 500 heads and more;

10) in the sphere of infrastructures:

a. the airfields with ≥ 2100 meter or longer runways;

b. the electric power transmission lines with a length of 15 km and more with 220 kV voltage;

c. the construction or reconstruction of the highways with four and more lanes, or the widening of the highways which have not more, than two lanes for traffic in order to obtain four and more lanes, in the respective section of the highway has a 10 km or more uninterrupted length;

11) In the sphere of water economy:

a. Water reservoirs, artificial lakes, swimming pools with a volume equal to 1 million cubic meters and more;

b. Sewage water processing plants: with an equivalent capacity for 50 000 and more population;

c. the construction of the infrastructures, which have public significance in order to get protections from floods, eutrophication;

12) In the sphere of urban development:

a. anti-land slide or anti-mud slide arrangements for the territories with surface of 10 or more hectares;

13) in the sphere of forestry:

a. lumbering;

14) in the sphere of agriculture:

a. factories for milk processing, dairy product production with a daily capacity of 200 metric tons of milk and more.

5. category B includes:

1) in the sphere of energy sector:

a. the stations for the production of hot water or steam with a thermal capacity of 30-50 MW or more;

b. Hydroelectric power plants with a power of: 10-30 megawatt.

c. the production of geo-thermal waters or energy generation with a capacity of 8 MW or more;

2) in the sphere of chemical industry :

a. the underground storage facilities with a volume of 5000 metric tons and more for gaseous or oil or petrochemical or chemical substances;

3) in the sphere of infrastructures:

a. the construction of the tunnels, subway or railroads with 1 km or longer length, the construction of bridges over the rivers with a bearing capacity of 25 metric tons;

b. the pipelines with a diameter of 300 mm or more, with 20 km length or more for gas, oil or chemical substances;

c. the transmission lines for electric power with a 110 kV or more voltage;

d. the gas stations with a capacity of 5 cubic meters or more

e. the installation of superpower transmitting radio-technical objects. For the purposes of this Law superpower transmitting radio-technical objects are such objects the efficiency of the installed directional antenna is 5 or exceeds it, of the maximal power exceeds the levels mentioned below:

900 watt: in the frequency range of 30 kHz-3 MHz;

500 watt: in the frequency range of 3-30 MHz;

25 watt: in the frequency range 30 MHz -300 GHz;

f. pipelines with a diameter of 300 mm or more and with a length of 1 km for fibre optic cables;

4) in the sphere of water economy or the melioration of the soils:

a. sewage water intake points or treatment plants for the population 5000-50 000;

5) in the sphere of construction materials industry:

a. the production of glass, glass fibre, glass items: with a capacity of 20 metric tons or more;

6) in the sphere of wood and water industry:

a. the production of timber, paper or cardboard for paper manufacturing with a daily capacity 20 metric tons and more;

7) in the sphere of light industry:

a. production of leather substitute (including the synthetic varieties) with a monthly capacity of 30000 square decimetre and more;

8) in the sphere of food industry:

a. the production of manufactured feed concentrate: with a daily capacity 50 metric tons and more;

b. tobacco manufacturing or processing: 0.5 metric tonnes daily or more;

9) in the sphere of agriculture:

a. poultry production: 40000 birds and more;

b. swine production: 2000 heads and more.

6. Category C includes:

1) The following types of the activity in the energy sector or the production units or all structures or infrastructures thereof:

a. biogas production or power generation using biogas: with a capacity of 1 megawatt or more;

b. hydroelectric power plants: with a capacity of 1-10 megawatt;

c. wind power plants: with a total capacity 8 megawatt or more, solar power plants occupying 40 hectares of territory and more;

2) in the sphere of utilization of underground resources:

a. geological explorations;

3) in the sphere of water economy:

a. the water reservoirs, artificial lakes, swimming pools with a volume of 100 000 - 1 mil cubic meters;

b. the water supply systems with a diameter of 300 mm and more and with a length of 1 km or more or main canals;

4) in the sphere of agriculture:

a. fisheries: 100 metric tonnes annually and more;

b. sheep-farms: 500 heads and more,

c. stock-raising (cattle) farms: 1000 heads and more;

d. poultry farms 10000-40000 chickens;

5) in the forestry sector:

a. forest regeneration, afforestation:

6) in the sphere of food industry:

a. meat production of meat product production (finished products): with a daily capacity of 50 metric tons;

b. production of sugar or granulated sugar 10 metric tons daily and more;

c. production of non-alcoholic beverages: with a daily production of 10000 dekalitres and more;

d. beer brewing: with a daily capacity of 10000 dekalitres and more;

e. production of wine and (or) champagne wines and (or) liquors and (or) vodka and (or) cognac (brandy) with a daily capacity of 1000 dekalitres and more;

f. milk processing and dairy product production: with a daily capacity of 100-200 metric tons;

g. the production of animal or vegetable oils and fats: with a daily capacity of 5 metric tons and more;

h. margarine production: 1 metric ton daily and more;

7) in the sphere of urban development:

a. urban development structures: with a surface of build-up area exceeding 1500 square meters;

8) in the spheres of recreation and tourism:

a. parks or groves not envisaged by the fundamental document, forest type suburban parks, recreation areas;

b. Overhead ropeways:

9) in the sphere of water economy or the melioration of soils:

a. desalination of salinized soils with a chemical solution: on the area of 100 hectares and more;

b. drying or drainage collector systems: with a length 5 and more kilometers.

7. Emergency arrangements related to the provision of national security measures and the elimination of the consequences of the emergency situations are not subject to expertize [expert assessment].

8. All anticipate activities, not listed in Part 3 of this Article are subject to expertize [expert assessment] which shall be implemented in the areas of nature under special protection and forest covered areas, within the borders of historical and cultural monuments, in common use green areas. In this case expertize shall be implemented pursuant to the procedure prescribed for category B.