

Compliance Committee to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters (Aarhus Convention)

**Supplementary first progress review of developments relating to
request ACCC/M/2017/2
on compliance by Turkmenistan with its
obligations under the Convention**

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I. Introduction

1. Through paragraph 19 of its decision VI/8 on compliance adopted at its sixth session (Budva, Montenegro, 11-13 September 2017), 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) requested the Committee, pursuant to paragraph 13(b) of the annex to decision I/7, to review the compliance of Turkmenistan with articles 3(1), (4) and (9) of the Convention in the light of the amendments to the Act of Public Associations of 4 February 2017 with respect to the possibilities for foreign citizens and persons without citizenship to found and participate in non-governmental organizations promoting environmental protection.

II. Summary of follow-up

2. At its sixtieth meeting (Geneva, 12-15 March 2018), the Committee reviewed the implementation of request ACCC/M/2017/2 (Turkmenistan) in open session with the participation of representatives of Turkmenistan in person. Though invited, neither the communicant of communication ACCC/C/2004/5 nor registered observers took part in the session. The Chair informed Turkmenistan that, following the meeting, a letter would be sent with questions for its reply.

3. On 5 September 2018, the secretariat sent a letter from the ECE Executive Secretary enclosing questions from the Committee to Turkmenistan, with questions 1-6 to be answered by 1 October 2018, and questions 7-22 to be answered by 1 December 2018.

4. On 1 October 2018, Turkmenistan submitted its replies to questions 1, 3, 5 and 6 of the Committee on time. It indicated that its replies to questions 2 and 4 would be submitted by 1 December 2018, together with its replies to the remaining questions.

5. On 5 October 2018, the secretariat forwarded the replies to questions 1, 3, 5 and 6 to the communicant of communication ACCC/C/2004/5 and registered observers, inviting their comments by 1 November 2018. No comments were received.

6. On 7 December 2018, Turkmenistan submitted additional information explaining *inter alia* that they were not able to provide their answer to the remaining questions by the deadline of 1 December 2018 and requesting an extension for its reply to these questions. Turkmenistan also expressed concern about a possible misunderstanding by the Committee regarding its compliance with the Convention. It also called upon the Committee to carefully consider its comments of 24 August 2017, submitted in the context of decision V/9l.

7. On 21 December 2018, the secretariat informed Turkmenistan that the Chair had agreed to extend the deadline for its reply to the remaining questions to 11 January 2019.

8. On 17 January 2019, Turkmenistan submitted an update as to the steps it was taking to prepare its replies to the Committee's remaining questions.

9. On 19 February 2019, Turkmenistan submitted its additional replies to questions 1-6 including replies to questions 2 and 4 and provided the text of some relevant legislation.

10. After taking into account the information received by that date, the Committee prepared its first progress review and adopted it at its virtual meeting on 21 February 2019. The Committee thereafter requested the secretariat to forward the first progress review to Turkmenistan, the communicant of communication ACCC/C/2004/5 and registered observers.

11. At its sixty-third meeting (Geneva, 11-15 March 2019), the Committee reviewed the implementation of request ACCC/M/2017/2 in open session with the participation in person of representatives of Turkmenistan and a representative of observer Earthjustice on behalf of European ECO Forum. Though invited, the communicant of communication ACCC/C/2004/5 did not take part in the session. The Chair reminded Turkmenistan of paragraph 21 of the Committee's first progress review, which provides that the Party

concerned should submit its answers to questions 7-22 of the Committee's questions dated 5 September 2018 "as a matter of urgency". The Committee reiterated the need for the Party concerned to fully engage the Committee and provide answers to its questions. The Chair also reiterated that the Committee was ready to engage in dialogue. In this regard, the Chair requested that the representative of the Party concerned convey the Committee's concerns to all relevant authorities. The Party concerned, represented by its Permanent Mission to the United Nations in Geneva, agreed to do so and to deal with the matter swiftly.

12. On 15 March 2019, Turkmenistan submitted an update as to the steps it was taking to prepare its replies to the Committee's remaining questions and provided the text some further relevant legislation.

13. On 24 April 2019 Turkmenistan submitted its replies to questions 7-22 of the Committee.

14. After taking into account the information received by that date, the Committee prepared a supplementary first progress review and adopted it through its electronic decision-making procedure on 16 August 2019. The Committee thereafter requested the Executive Secretary of the United Nations Economic Commission for Europe to forward the supplementary first progress review to Turkmenistan, the communicant of communication ACCC/C/2004/5 and registered observers.

III. Considerations and evaluation by the Committee

15. The Committee's findings in its report to the sixth session of the Meeting of the Parties were based on the Act on Public Associations as adopted in 2014. The Committee was informed of the 4 February 2017 amendments to that Act on 1 August 2017,¹ only after the Committee's report on decision V/91 had been adopted and submitted to the sixth session of the Meeting of the Parties. Upon learning of the 4 February 2017 amendments, the Chair of the Committee wrote to the Party concerned on 4 August 2017 inviting an explanation of the impact, if any, of these amendments. After taking into account Turkmenistan's reply of 24 August 2017 and the comments thereon received from observer European Environmental Bureau on 5 September 2017, the Committee considered that, given the short time within which this information was received prior to the sixth session of the Meeting of the Parties, the Committee was not in a position to conclude on whether, following the 2017 amendments, Turkmenistan's legal framework still met the requirements of the Convention.

16. Thereafter, through paragraph 19 of decision VI/8 on general issues of compliance, the Meeting of the Parties at its sixth session requested the Committee, pursuant to paragraph 13 (b) of the annex to decision I/7, to review the compliance of Turkmenistan with article 3(1), (4) and (9) of the Convention in the light of the amendments to the Act of Public Associations of 4 February 2017 with respect to the possibilities for foreign citizens and persons without citizenship to found and participate in non-governmental organizations promoting environmental protection.

17. In order to fulfil request ACCC/M/2017/2 of the Meeting of the Parties, Turkmenistan should provide evidence to the Committee to demonstrate that it complies with article 3(1), (4) and (9) of the Convention in the light of the amendments to the Act of Public Associations of 4 February 2017 with respect to the possibilities for foreign citizens and persons without citizenship to found and participate in non-governmental organizations promoting environmental protection.

18. The Committee welcomes the replies provided by Turkmenistan on 1 October 2018 to questions 1, 3, 5 and 6, on 19 February 2019 to questions 1-6 and on 24 April 2019 to question 7-22 of the Committee's questions dated 5 September 2018, including the texts of relevant legislation. The Committee has taken note of Turkmenistan's letter of 7 December 2018, including the resending of its explanatory note of 23 August 2017 annexed thereto.²

¹ Letter from EEB to the Committee, 1 August 2017.

² Additional information from the Party concerned, 7 December 2018.

Article 3(9)

19. The amendments to the 2014 Act on Public Associations adopted on 4 February 2017 inter alia, replaced the words “on the initiative of citizens” with “by citizens of Turkmenistan” in articles 1 and 3(1) of the Act on Public Associations.

20. Accordingly, following its 4 February 2017 amendment, article 1 of the Act on Public Associations provides:

“A public association is a voluntary, self-governing, non-commercial formation, established *by citizens of Turkmenistan*, associated on the basis of community of interests for the realization of common purposes that are reflected in its charter of public association.”³

21. Similarly, following the amendment, article 3(1) of the Act states:

“The force of this Act extends to public associations established *by citizens of Turkmenistan*, excluding religious organizations and excluding non-commercial unions (associations) established by commercial organizations.”⁴

22. In addition, the amendments of 4 February 2017 included the deletion of article 4(2) of that Act. Prior to its deletion, article 4(2) had provided that:

“in cases provided for by this Act, foreign citizens and persons without citizenship who are residing in Turkmenistan may, alongside citizens of Turkmenistan, become founders of public associations”.

Right of non-citizens to participate in public associations

23. With respect to the right to participate in public associations, article 11(5) of the Act on Public Associations states:

“The members of a public association may be natural persons and legal entities that are public associations.”

24. The Committee notes that the wording of article 11(5) was not changed by the 4 February 2017 amendments and thus remains as it was at the time of the Committee’s report to the fifth session of the Meeting of the Parties (Maastricht, the Netherlands, 30 June and 1 July 2014) on compliance by Turkmenistan with its obligations under the Convention.⁵ However, while the wording of article 11(5) itself has not been changed since the Committee’s report to the fifth session, the Committee considers that the amendments to article 1 and 3(1) of the Act of Public Associations set out in paragraphs 19-21 above have nevertheless introduced uncertainty as to whether foreign citizens and persons without citizenship are still in practice able to participate in public associations promoting environmental protection.

25. Through question 7 of its questions to Turkmenistan dated 5 September 2018, the Committee enquired as to the reason for the amendments to article 1 and 3(1) of the Act on Public Associations. In its reply of 25 April 2019, Turkmenistan stated that the words “on the initiative of” had been replaced due to an error of terminology in the Turkmen language version of the original 2003 Act on Public Associations. As to the reason for the insertion of the words “of Turkmenistan”, Turkmenistan acknowledged that this led to some contradictions with articles 4(1), 6(1)1-2, 7(1), 8(3), 11(1), 11(5) and 13(2) of the Act, which employ the concepts “citizens” and “natural persons”. Turkmenistan proposed that this situation should form the basis of further discussions of the above-mentioned provisions of the Act on Public Associations.

26. Having examined Turkmenistan’s reply to question 7, the Committee still considers that, in the light of the amendments to articles 1 and 3(1) of the Act on Public Associations, there remains uncertainty as to whether in practice foreign citizens and persons without citizenship are able to participate in public associations promoting environmental protection.

³ Emphasis added.

⁴ Emphasis added.

⁵ ECE/MP.PP/2014/21, para. 44.

Accordingly, in the absence of any evidence that foreign citizens and persons without citizenship are indeed able to participate in public associations in the same way as citizens of Turkmenistan, the Committee finds that Turkmenistan has not demonstrated that it complies with article 3(9) of the Convention with respect to the right of foreign citizens and persons without citizenship to participate in non-governmental organizations promoting environmental protection.

Right of non-citizens to found public associations

27. In its report on compliance by Turkmenistan with its obligations under the Convention⁶ submitted to the fifth session of the Meeting of the Parties, the Committee noted that it understood the intended interpretation by the legislature of article 4(2) of the 2014 Act on Public Association to be that foreign citizens and persons without citizenship may, in the same way as citizens of Turkmenistan, become founders of public associations.⁷ In its report to the fifth session, the Committee emphasized that:

“so long as article 4, paragraph 2, will indeed be applied by the Party concerned in this way in practice, the Party concerned is no longer in non-compliance with article 3, paragraph 9, with respect to the right of non-citizens to found public associations.”⁸

28. In the light of the above, in its report to the fifth session the Committee found that:

“through article 4, paragraph 2, article 11, paragraphs 1 and 5, and article 18, paragraph 1, of the 2014 Act on Public Associations, the Party concerned has fulfilled decision IV/9g to the extent that it is no longer in non-compliance with article 3, paragraph 9, of the Convention with respect to the rights of non-citizens to found and participate in public associations.”⁹

29. Through paragraph 2 of decision V/9l adopted at its fifth session, the Meeting of the Parties endorsed the finding of the Committee as set out in paragraph 28 above.

30. The Committee’s findings as set out in paragraphs 27 and 28 above, were based on the Act on Public Associations as adopted in 2014, and prior to the Committee learning of the 4 February 2017 amendments to that Act.

31. Through question 8 of its questions of 5 September 2018, the Committee enquired as to the reason for the deletion of article 4(2) from the Act on Public Associations. In its reply of 24 April 2019, Turkmenistan stated that the deletion resulted from the fact that this issue is governed by other articles of the Act. It stated that the deletion has had no effect whatsoever on the rights of foreign citizens and persons without citizenship in establishing public associations. It submitted that, regardless of the deletion of article 4(2), the Act nevertheless maintains the right to establish public associations with the participation of foreign citizens and persons without citizenship. It submits that this is evidenced by article 4(1) and article 11(1).

32. Article 4(1) of the Act provides that “the right of citizens to establish public associations is to be realized both directly, through the association of natural persons, and via legal entities that are public associations”. Article 11(1), covering “Founders and members of public associations”, provides that the founders of a public association may be natural persons who have attained the age of 18 and legal entities that are public associations. Turkmenistan submits that the reference to “natural persons” in article 4(1) and article 11(1) includes foreign citizens and persons without citizenship.

33. While there is nothing in the wording of either article 4(1) or 11(1) themselves which expressly prevent non-citizens from founding public associations, there is nothing in those provision’s wording that expressly makes it clear that non-citizens are entitled to do so either. It is of key importance in this context that the deletion of article 4(2) removed from the Act on Public Associations the only provision that explicitly stated that non-citizens may become founders of public associations.

⁶ ECE/MP.PP/2014/21.

⁷ ECE/MP.PP/2014/21, para. 46.

⁸ ECE/MP.PP/2014/21, para. 46.

⁹ ECE/MP.PP/2014/21, para. 58(a).

34. In its questions of 5 September 2018, the Committee asked Turkmenistan several questions aimed to provide Turkmenistan with an opportunity to demonstrate that in practice, even after the 4 February 2017 amendments, non-citizens are still able to found public associations.

35. For example, through question 19, the Committee asked how many public associations undertaking activities in the area of nature protection have been registered since the February 2017 amendments. In its reply of 24 April 2019, Turkmenistan indicated that no public associations had been registered since the amendments.

36. Through question 9, the Committee asked Turkmenistan if there had been any official explanation or interpretation by an executive, legislative or judicial authority at the national level of the term “citizens” in article 4(1) of the Act on Public Associations, and in particular one that might make clear that “citizens” is to be understood to include “foreign citizens” and “persons without citizenship”. In its reply of 24 April 2019, Turkmenistan indicated that to date there had been no official interpretation by an executive, legislative or judicial authority at the national level of the term “citizens” in article 4(1) of the Act on Public Associations.

37. Through question 18, the Committee asked Turkmenistan to provide any relevant case law where its courts had given primacy to the requirements of the Convention over any conflicting provisions of national law. In its reply, Turkmenistan stated that since the date of Turkmenistan’s accession to the Aarhus Convention, its courts had not delivered any judgments on the primacy of the requirements of the Convention over any conflicting provisions of national legislation.

38. After taking into account Turkmenistan’s replies to the Committee’s questions as summarized in paragraphs 35-37 above, the Committee considers that it has no evidence before it upon which it could conclude that in practice, given the 4 February 2017 amendments, non-citizens are able to found public associations promoting nature protection.

39. Accordingly, in the light of the deletion of article 4(2) and the insertion of the words “of Turkmenistan” after “citizens” in articles 1 and 3(1) of the 2014 Act of Public Associations, and lacking any evidence that these amendments have not affected the rights of foreign citizens and persons without citizenship to found public associations in practice, the Committee finds that the Party concerned has not demonstrated that it complies with article 3(9) of the Convention with respect to the rights of foreign citizens and persons without citizens to found non-governmental organizations promoting environmental protection.

Article 3(4)

40. In its report on decision IV/9g concerning Turkmenistan to the fifth session of the Meeting of the Parties, the Committee noted that article 9(2), of the 2014 Law on Nature Protection provides that citizens have the right, *inter alia*, to:

“(a) Participate in nature protection and environmental rehabilitation activities;

(b) 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;

(c) Take part in assemblies, meetings, demonstrations and referendums on nature protection issues, etc.”¹⁰

41. In that report, the Committee noted that it was its understanding that:

“the activities listed in article 9, paragraph 2, of the Act on Public Associations may be conducted by individuals or groups of individuals. It is not clear, however, whether a group of individuals who decide to come together, for example, to undertake environmental rehabilitation activities or to take part in demonstrations on nature protection issues and, in doing so, choose to identify themselves by a common name would then be considered as acting as an “unregistered public association” and thus

¹⁰ ECE/MP.PP/2014/21, para. 50.

find their activities to be prohibited under article 7, paragraph 2, of the 2014 Act on Public Associations.”¹¹

42. Article 7(2) of the Act on Public Associations states: “Activities of unregistered public associations on the territory of Turkmenistan are forbidden.”

43. Through paragraph 4 of decision V/91, the Meeting of the Parties at its fifth session (Maastricht, the Netherlands, 30 June and 1 July 2014) endorsed the Committee’s finding that in the light of the lack of clarity as to how the prohibition on activities of unregistered associations set out in article 7(2) of the 2014 Act on Public Associations is to be applied in practice, the Committee was not in a position to conclude that the Party concerned is no longer in non-compliance with article 3(4) of the Convention and the Party concerned thus remained in non-compliance with that provision.

44. Through paragraph 6 of decision V/91, the Meeting of the Parties recommended that, by 30 November 2014, the Party concerned provide information through an official statement to confirm, to the satisfaction of the Committee, that:

“With respect to activities of non-registered associations within the scope of the Convention, article 9 of the 2014 Law on Nature Protection prevails over the prohibition on activities of non-registered associations in article 7, paragraph 2, of the 2014 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).”

45. In an official statement provided through its Ministry of Foreign Affairs on 30 March 2016, Turkmenistan stated:

“To a certain extent there is a contradiction (collision) between Article 9 of the Law on Nature Protection and Article 7 (2) of the Law on Public Associations. Therefore, in the case of the application of these norms of the laws and in the event of a dispute on this matter, the primacy will be given to Article 9 of the Law on Nature Protection, since it complies with the provisions of the Aarhus Convention. Under the Constitution of Turkmenistan of 18 May 1992, as amended on 26 September 2008, “Turkmenistan recognizes the primacy of generally recognized norms of international law. If an international agreement entered into by Turkmenistan establish rules other than those provided for by a statute law of Turkmenistan, then the rules of the international agreement are applicable” (Article 6). All Turkmenistan’s laws also contain such provisions: this includes the Law on Nature Protection (Article 2(2)) and the Act on Public Associations (Article 2(2)).”¹²

46. Having examined the official statement submitted by Turkmenistan on 30 March 2016, and in the absence of any information to the contrary, the Committee in its report on decision V/91 to the fifth session found that:

“the Party concerned has met the requirements of paragraph 6 of decision V/91, and, *on the basis that the official statement reflects the law as it stands and is applied*, the Party concerned is no longer in non-compliance with article 3, paragraph 4, of the Convention with respect to the points of non-compliance identified in the Committee’s findings on communication ACCC/C/2004/05.¹³ The Committee makes clear that this does not preclude it from examining future allegations with respect to the compliance with the Convention of the Act on Public Associations or Law on Nature Protection, if brought before it.”¹⁴

47. However, the Committee’s finding above was made prior to it learning of the amendments to the Act on Public Associations adopted on 4 February 2017. By the request of the Meeting of the Parties at the sixth session (see para. 1 above), the Committee is mandated to examine whether the law as it stands and is applied after the 4 February 2017 amendments meets the requirements of article 3(4) of the Convention.

¹¹ ECE/MP.PP/2014/21, para. 51.

¹² Statement of the Party concerned concerning paragraph 6 of decision V/91, 30 March 2016.

¹³ ECE/MP.PP/C.1/2005/2/Add.5

¹⁴ ECE/MP.PP/2017/44, para. 14, emphasis added.

48. In this regard, recalling that in its official statement of 30 March 2016, Turkmenistan had stated that in the event of a dispute between article 7(2) of the Act on Public Associations and article 9 of the Law on Nature Protection, “primacy will be given to article 9 of the Law on Nature Protection, since it complies with the provisions of the Aarhus Convention”, the Committee through question 18 of its questions of 5 September 2018, asked Turkmenistan to provide any relevant case law where the courts have given primacy to the requirements of the Aarhus Convention over conflicting provisions of national law, or vice versa.

49. In its reply to question 18, Turkmenistan stated that:

“Since the date of Turkmenistan’s accession to the Aarhus Convention, the country’s courts have not delivered any judgments on the primacy of the requirements of the Convention over any conflicting provisions of national legislation, or vice versa.”

50. Through question 17, the Committee asked Turkmenistan if it had any specific rules of legal interpretation to assist the resolution of contradictions related to subsequent legislation. In its reply to question 17, Turkmenistan stated that, in accordance with its Statutes and Regulations Act:

“If particular social relations are governed by both general and special laws, then the provisions of the special legislation will prevail.

...

In the event of a contradiction between the provisions of laws and regulations that have equal legal effect and the same scope, the provisions of the legislation enacted later in time are to prevail.”

51. In the light of the above reply, it appears to the Committee that Turkmenistan legislation establishes at least three relevant rules to resolve conflicting provisions of national law, namely (a) the primacy of the norms of international law, pursuant to article 6 of the Constitution (see para. 45 above); (b) the primacy of the provisions of special laws over general laws and (c) the primacy of the provisions of legislation enacted later in time (see para. 50 above).

52. If, in the event of a contradiction between article 9 of the Law on Nature Protection and article 7(2) of the Act on Public Associations, Turkmenistan’s officials or courts were to apply the rule on the primacy of the norms of international law in article 6 of the Constitution, then article 9 of the Law on Nature Protection should prevail.

53. However, if either of the other two rules of interpretation were applied, the result could go the other way.

54. Regarding the rule on the primacy of the provisions of special laws over general laws, the Committee notes that in its reply to question 11, Turkmenistan states:

“The establishment of any public association, including one undertaking activities in the area of nature protection, is regulated in every case by article 4 of the Public Associations. Act. Article 3 of the Public Associations Act states that ‘the force of this Act extends to public associations established by citizens of Turkmenistan, excluding religious organizations, political parties, trade unions and also non-commercial unions and other public associations established by commercial organizations, where the procedure for this establishment and for their operation is regulated by special laws’. Thus, the legislation of Turkmenistan does not make any provision to regulate the establishment of a public association undertaking activities in the area of nature protection as a special matter.”

Based on the above, it is the Committee’s understanding that the Act on Public Associations is to be considered a special law with respect to the activities of public associations. Accordingly, in the event of a collision between article 9 of the Law on Nature Protection and article 7(2) of the Act on Public Associations, if Turkmenistan’s officials or courts were to apply the rule on the primacy of the provisions of special laws, article 7(2) of the Act on Public Associations would presumably prevail.

55. As to the rule that in the event of a contradiction between laws of equal legal effect the provisions of the legislation later in time prevail, it is the Committee’s understanding that

the Law on Nature Protection and the Act on Public Associations are indeed of equal effect. As to time, the Law on Nature Protection was enacted on 1 March 2014.¹⁵ In turn, the Act on Public Associations was adopted on 3 May 2014 and entered into force on 10 May 2014.¹⁶ While the Act on Public Associations and the Law on Nature Protection were respectively amended in February and March 2017, having reviewed those amendments in the context of preparing the present supplementary progress review, the Committee notes that those amendments did not change the wording of article 7(2) of the Act on Public Associations or article 9 of the Law on Nature Protection. Thus, both these provisions remain as when enacted in 2014. Since article 7(2) of the Act on Public Associations was enacted on 10 May 2014, later in time than article 9 of the Law on Nature Protection, enacted on 1 March 2014, pursuant to the rule on the primacy of the provisions of legislation enacted later in time, in the event of a contradiction of between these provisions, article 7(2) of the Act on Public Associations would prevail.

56. The above analysis shows that, in the event of a collision of provisions, whether article 9 of the Law on Nature Protection or article 7(2) of the Act on Public Associations will prevail depends on which of the above rules of interpretation is applied by Turkmenistan courts or officials in practice.

57. In this regard, the Committee has no evidence before it of any administrative or court practice upon which to conclude in which way the contradiction between article 9 of the Law on Nature Protection and article 7(2) of the Act on Public Association would be resolved. On this point, the Committee notes Turkmenistan's reply to question 18 (see para. 49 above), in which it stated that its courts have yet to deliver a judgment in which the primacy of the Convention over national law is confirmed in practice.

58. In the light of this lack of clarity, and in the absence of any examples from administrative or court practice, from before or after 4 February 2017, the Committee does not have any evidence to assess "the law as it stands and is applied". Therefore, the concerns outlined in paragraph 51 of its report on decision IV/9g to the fifth session remain, namely:

"It is not clear, however, whether a group of individuals who decide to come together, for example, to undertake environmental rehabilitation activities or to take part in demonstrations on nature protection issues and, in doing so, choose to identify themselves by a common name would then be considered as acting as an "unregistered public association" and thus find their activities to be prohibited under article 7, paragraph 2, of the 2014 Act on Public Associations."

59. Accordingly, in the light of the ongoing lack of clarity as to how the prohibition on activities of unregistered associations set out in article 7(2) of the 2014 Act on Public Associations is to be applied in practice, the Committee finds that the Party concerned has not demonstrated that it complies with article 3(4) of the Convention.

Article 3(1)

60. In the light of the Committee's findings in paragraphs 26, 39 and 59 above, the Committee finds that Turkmenistan has not demonstrated that it complies with the obligation in article 3(1) of the Convention to provide a clear, transparent and consistent framework to implement the provisions of article 3(4) and (9) of the Convention.

IV. Conclusions

61. The Committee welcomes the information provided by Turkmenistan on 1 October and 7 December 2018 and 17 January, 19 February, 15 March and 24 April 2019.

62. However, in the light of the deletion of article 4(2) and the insertion of the words "of Turkmenistan" after "citizens" in articles 1 and 3(1) of the 2014 Act of Public Associations, and lacking any evidence that these amendments have not in practice affected the rights of foreign citizens and persons without citizenship to found and participate in non-governmental

organizations promoting environmental protection, the Committee finds that the Party concerned has not demonstrated that it complies with article 3(9) of the Convention.

63. In addition, in the light of the ongoing lack of clarity as to how the prohibition on activities of unregistered associations set out in article 7(2) of the 2014 Act on Public Associations is to be applied in practice, the Committee finds that the Party concerned has not demonstrated that it complies with article 3(4) of the Convention.

64. Finally, in the light of the Committee's findings in paragraphs 62 and 63 above, the Committee finds that Turkmenistan has not demonstrated that it complies with the obligation in article 3(1) of the Convention to provide a clear, transparent and consistent framework to implement the provisions of article 3(4) and (9) of the Convention.

65. The Committee accordingly invites Turkmenistan to take the necessary legislative, regulatory or other measures to:

- (a) Ensure that its legal framework explicitly sets out that foreign citizens and persons without citizenship have the same right to found and participate in non-governmental organizations promoting environmental protection as do citizens of Turkmenistan;
- (b) Ensure that its legal framework makes clear that members of the public who decide to come together to exercise their rights under article 9(2) of the Law on Nature Protection, for example, to undertake environmental rehabilitation activities or to take part in demonstrations on nature protection issues and, in doing so, choose to identify themselves by a common name, would not be considered as acting as an "unregistered public association" and thus have their activities prohibited under article 7, paragraph 2, of the 2014 Act on Public Associations.

66. The Committee invites Turkmenistan, by 1 October 2019, to:

- (a) Provide a progress report on the progress it has by that date made to address paragraph 65 above.
- (b) Together with its progress report, to provide the text of any legislative measures proposed to address paragraph 65 above, whether then in draft or final form, together with English translations thereof and the envisaged timeframe by when any such draft measures will be adopted.
