



UNITED NATIONS
ECONOMIC COMMISSION FOR EUROPE

The Executive Secretary

Under-Secretary-General

Ref.: ECE/EHLM/193 /2009/L

16 April 2009

Sir,

I write to you at the request of the Compliance Committee of the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) which recently met to consider Turkmenistan's compliance under the Convention.

As you are no doubt aware, at its third meeting held from 11 to 13 June 2008 in Riga, the Meeting of the Parties to the Aarhus Convention adopted decision III/6e on compliance by Turkmenistan with its obligations under the Convention (ECE/MP.PP/2008/2/Add.13). Through paragraph 3 of decision III/6e, the Parties noted with appreciation, inter alia, Turkmenistan's expression of intent to review its legislation, including the Act on Public Associations, and its willingness to engage with the process outlined in that decision.

However, through paragraph 5 of the decision, the Meeting of the Parties decided to issue a caution to the Government of Turkmenistan, to become effective on 1 May 2009, unless the Government fully satisfied certain conditions set out in that paragraph and notified the secretariat of this fact by 1 January 2009. The successful fulfilment of the conditions was to be established by the Compliance Committee.

At its twenty-third meeting held in Geneva from 31 March to 3 April 2009, the Compliance Committee reviewed the steps taken by Turkmenistan to fulfil the conditions set out in paragraph 5 of decision III/6e. In particular, the Committee considered the letter sent by the Government of Turkmenistan on 28 March 2009. Further to its deliberations, the Committee has asked me to convey to you its findings, which are enclosed.

.../

His Excellency
Mr. Gurbanguly Berdimuhamedov
President of Turkmenistan
Ashgabat, Turkmenistan



In its findings, the Committee welcomed the Government of Turkmenistan's invitation to members of the Committee to visit Turkmenistan and also welcomed the Government's willingness to take part in joint projects with the UNECE to strengthen Turkmenistan's capacity to implement the Convention. The Committee also expressed its willingness, within available resources, to work with the Government to assist it in ensuring that its new legislation, where relevant to the Aarhus Convention, will be in compliance with Turkmenistan's obligations under the Convention.

At the same time, the Committee found that the Government of Turkmenistan had failed to communicate, by 1 January 2009 or since, that it had taken measures to implement the conditions set out in paragraph 5 of decision III/6e. In particular, the Committee found that the Government of Turkmenistan had not indicated that the 2003 Act on Public Associations had been amended in such a way as to bring its provisions into compliance with the Convention. In light of the Committee's findings, the caution issued by the Meeting of the Parties through that decision will become effective on 1 May 2009.

On behalf of the UNECE, I would like to express the willingness of the secretariat to work with the Government of Turkmenistan to assist it in meeting its obligations under the Aarhus Convention.

Please accept, Sir, the assurances of my highest consideration.

A handwritten signature in blue ink, reading "J. Kubiš". The signature is stylized, with a large, flowing initial "J" and a cursive "Kubiš".

Ján Kubiš

REPORT OF THE TWENTY-THIRD MEETING OF THE AARHUS CONVENTION COMPLIANCE COMMITTEE

Geneva, 31 March to 3 April 2009

FINDINGS

with regard to measures taken by Turkmenistan to fulfill the conditions set out in paragraph 5 (a) to (c) of decision III/6e of the Meeting of the Parties (ECE/MP.PP/2008/2/Add.13).

Adopted by the Aarhus Convention's Compliance Committee on 3 April 2009

Introduction

1. At its third meeting held from 11 to 13 June 2008 in Riga, the Meeting of the Parties to the Aarhus Convention adopted decision III/6e on compliance by Turkmenistan with its obligations under the Convention (ECE/MP.PP/2008/2/Add.13).
2. Through paragraph 3 of decision III/6e, the Parties noted with appreciation, inter alia, Turkmenistan's expression of intent to review its legislation, including the Act on Public Associations, and its willingness to engage with the process outlined in that decision.
3. Through paragraph 5 of decision III/6e, the Meeting of the Parties decided to issue a caution to the Government of Turkmenistan, to become effective on 1 May 2009, unless the Government fully satisfied the conditions set out in paragraph 5 (a) to (c) and notified the secretariat of this fact by 1 January 2009.
4. The successful fulfillment of the conditions was to be established by the Committee.
5. Through paragraph 6 of decision III/6e, the Meeting of the Parties invited the Government of Turkmenistan to submit to the Committee periodically, namely in November 2008, November 2009 and November 2010, detailed information on further progress in implementing the measures referred to in paragraph 5 of decision III/6e.

I. CONSIDERATION AND EVALUATION BY THE COMMITTEE

6. The Committee welcomes the letter from the Government of Turkmenistan sent on 28 March 2009, whilst noting with regret that no formal communication had been received from the Government in either November 2008 or prior to 1 January 2009 as envisaged in paragraphs 5 and 6 of decision III/6e.

7. With regard to the Government of Turkmenistan's letter of 28 March 2009, the Committee indicates that it is not prepared to enter into further communication with the Government on whether the 2003 Act on Public Associations is in compliance with the Aarhus Convention. The Committee's findings and recommendations of 18 February 2005 were endorsed by the Meeting of the Parties through decision II/5c and the Committee cannot re-open them. The Committee also refers to the Government's letter of 7 June 2008, sent just before the third Meeting of the Parties, which stated in paragraph 2 of page 3 that amendments "concerning the access of community to decision-making, administration of justice and information regarding environment" were to be introduced into relevant statutory and legal acts, including the Act on Public Associations.
8. The Committee notes the information provided by the Government of Turkmenistan in its letter of 28 March 2009 that a revised constitution was adopted on 16 September 2008 following nation-wide discussions and that the revised constitution includes the human right to a favourable environment. The Committee also notes that the Government is presently drafting new environmental legislation, including on protection of the ozone layer, on pastoral land and on biosafety. The Committee expresses its willingness, within available resources, to work with the Government to assist it in ensuring that its new legislation, where relevant to the Aarhus Convention, will be in compliance with Turkmenistan's obligations under the Convention.
9. The Committee welcomes the Government of Turkmenistan's invitation to members of the Committee to visit Turkmenistan as set out in paragraph 7 of decision III/6e of the Meeting of the Parties.
10. The Committee also welcomes the Government of Turkmenistan's willingness to take part in joint projects with the UNECE to strengthen Turkmenistan's capacity to implement the Convention.

II. FINDINGS

11. The Committee however finds that the Government of Turkmenistan has failed to communicate, by 1 January 2009 or since, that it has taken measures to implement paragraph 5 (a) to (c) of decision III/6e. In particular, the Government of Turkmenistan has not indicated that the 2003 Act on Public Associations has been amended in such a way as to bring its provisions into compliance with the Convention.
12. In light of the failure of the Government of Turkmenistan to communicate that it has satisfied the conditions set out in paragraph 5 (a) to (c) of decision III/6e, the caution issued by the Meeting of the Parties through paragraph 5 of decision III/6e will become effective on 1 May 2009.