

**TÜRKMENISTANYŇ
TEBIGATY GORAMAK
MINISTRIGI**



**MINISTRY
OF NATURE PROTECTION
OF TURKMENISTAN**

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№ 746/01

**Mr. Jeremy Wates
Secretary of the Aarhus Convention**

**Copy: Chairman of the Compliance
Committee of the Aarhus Convention**

Dear Mr. Wates,

First of all, let me express my gratitude for your assistance in attending by the representatives of Turkmenistan the meeting of the Compliance Committee which was held prior to the Third Meeting of the Parties of the Aarhus Convention (Riga, Latvia). Along with ministry officials, this meeting has been attended by the representatives of public associations of Turkmenistan, who had opportunity to meet with the members of the Committee and discuss the issues of the Convention implementation in the country, as well as measures undertaken by the Government of Turkmenistan on strengthening the role of civil society in the country.

With the reference to your letter from 9 of March 2009, Ministry of Nature Protection of Turkmenistan regrets that argued replies of Turkmen side are not taken into account by the Convention's Secretariat. It seems like our letters are not carefully read or readings do not go into the root of the stated issues.

From the beginning of discussion of this issue and adoption of the first decisions on Turkmenistan we have sent four official letters (27.07.2005 letter № 47/01, 06.01.2006 letter № 28/01, 03.08.2006 letter № 1484/01 and 07.06.2008 letter № 1361/01). Besides that, two national reports have been submitted on 24.01.2005 and 15.12.2007. In all these documents was emphasized that Turkmenistan fully implements all undertaken international obligations under the international conventions and the Aarhus convention in particular. In all of the above mentioned letters was mentioned that complaint to Turkmenistan regarding contradiction of the "Act on public associations" of 2003 to the principles of Aarhus Convention does not correspond to the reality. In each of those letters was provided detailed information on each article of the Law and other legal documents of Turkmenistan. In this connection, Turkmen side with this letter again sets in details articles and items of the Act of Turkmenistan „On Public Associations“

which is according to the Compliance committee do not comply with the Convention:

1. Article 5 of the Act «Constitutors, members and participants of public associations». In the decisions of the Conference of the Parties was said that this article contradicts to the Article 9, item 3 of the Convention as not allowing foreign citizens to be constitutors of public associations. However, if to peruse there is no contradiction between them. This article of the Law states that «Constitutors, members of public associations, and its participants (if membership is not provided by their charters) can be adult citizens of Turkmenistan, if other is not provided by the current law and the laws on different types of public associations». Further, Article 15 of the Law directly provides that «...in cases, envisaged by the current law, foreign citizens along with citizens of Turkmenistan can be members of constitutor's composition...». Thereby, the Law allows different constitution of public associations, represented by foreign citizens.

2. Article 17 of the Act «State registration of public associations». According to the Compliance Committee, this article contradicts to item 3 of the Article 4 of the Convention, where stated that «Each Party provides appropriate recognition of associations, organizations or groups facilitating environmental protection, and rendering appropriate support and providing compliance of national legislative system to this obligation». This item is not talking about recognition of nonregistered NGOs by the Parties of the Convention. Appropriate recognition by the parties can be provided not only through recognition of unregistered NGOs. «Appropriate recognition» in Turkmenistan is provided by the mechanism of registration of public associations. At this stage registration of public associations is the most acceptable option for Turkmenistan. Existing of unregistered NGOs in Turkmenistan in future will mostly depend on civil society development, and accession to relevant international Conventions on this issue.

Given the importance of the considered issue, Ministry would also like to inform that the work on analysis of the law on public associations in terms of correspondence with the Aarhus Convention was carried out collectively together with the members of national Parliament, Ministry of Justice, Ministry of Nature Protection and representatives of public associations of Turkmenistan. For this purpose, joint meetings were held, on which participants were studying in details each item of the Convention and articles of the Law respectively. In addition to this, relevant ministries and organizations of Turkmenistan were requested to study the law on its conformity to the Aarhus Convention.

Moreover, within the jointly implemented project of EU/TACIS/Ministry of Nature Protection of Turkmenistan "Strengthening public participation and civil society support to implementation of Aarhus convention" was carried out analysis of national legislation of Turkmenistan to support provisions of Aarhus Convention. Well-known national lawyers and regional experts have been involved to this activity. During this work they have carried out in-depth assessment of all existing legal documents of Turkmenistan pertaining to implementation of the

Arhus Convention. This analysis is currently available in Russian language and could be provided to the Secretariat, if needed.

Furthermore, if to analyze the situation in general, all claims of the Committee on Turkmenistan do not entirely correspond to the provisions of the Convention itself. For example, the issue of recognition of nonregistered NGOs is not a subject of legal regulation of the Arhus Convention. This is only directly stated in the Convention "On Freedom of Associations" from 1948 r., to which Turkmenistan is not a Party. As it is known, Arhus Convention touches upon the issues of access to environmental information by the public, participation in decision making process in environmental matters, and access to justice. All these rights of citizens and associations in Turkmenistan are provided by the existing legal documents.

Though, the Ministry of Nature Protection of Turkmenistan does not deny the necessity of adaptation of laws to international legal documents, and adaptation of new laws and other regulating documents. Many of these documents were adopted in early years of Independence and need to be revised in accordance with the modern realities and pace of society's development. Moreover, the initiator of analysis for bringing the national legislation into compliance with the international obligation of the country is the President of Turkmenistan Gurbanguly Berdymuhamedov. Renewing of the legislation has been started with the Main Law of the country – the Constitution of Turkmenistan which was adopted in new edition in 16.09.2008. The new edition of the Constitution was proposed for nation-wide discussions which resulted in receiving many suggestions including on public associations of Turkmenistan. Noteworthy to mention, that many of the suggestions found their reflection in the country's new Constitution.

The Ministry of Nature Protection of Turkmenistan has suggested including to the Constitution the item that "each human has the right for favorable environment". This suggestion has found it's reflection in a new version of the Main Law of Turkmenistan (article 36). This, in its turn, serves for us as a basis for further possible analysis and revisions of other environmental laws of Turkmenistan, and adoption of new laws with the aim of strengthening environmental aspect and enlarging the rights of citizens in realization of their rights for healthy environment. At present specialists of the Ministry of Nature Protection together with the specialists of other ministries and organizations have prepared draft versions of laws "On protection of ozone layer", «On Pastures», «On Biosafety» and some others, which is a clear testimony of that environmental safety and the rights of citizens is placed to the rank of national priority.

At the same time, we inform that the ministry of Nature Protection of Turkmenistan supports item 7 of the decision III/6e of the Third Meeting of the of Parties. In our opinion, members of the Compliance Committee need to visit Turkmenistan and meet with our experts and lawyers with the aim to discuss all the issues raised and work out a common position on them. Experience of the experts of the Convention and its Compliance Committee might be useful for Turkmen side. If necessary, we would be glad to implement a joint project on strengthening

capacity and introducing procedural mechanisms of implementation of the Convention if supported by the Secretariat or UNECE.

Moreover, we consider it is necessary to include representative of Turkmenistan to the new composition of the Compliance Committee. This would allow to all members of the Committee to get reliable information from the first sources and to get comments and answers on the situation on the spot, in case of disputes or disagreements. Unfortunately, at present, in some international organizations is used not entirely reliable, in some case even obsolete information about Turkmenistan.

In its turn, the Ministry of Nature Protection of Turkmenistan confirms readiness to cooperate with the Secretariat of Convention, and will be forwarding information regarding new laws, on changes at current laws, and updating on all transformations in the country, directed to the strengthening of civil society.

In conclusion necessary to note that joining the Convention Turkmenistan was well aware of its exceptional importance for the country, and based on the principles of strengthening public participation in decision making process on environmental matters as well as integration to international processes on strengthening the role of civil society institutions. We once again confirm our commitment to the principles of the Convention, and intend to further undertake all necessary efforts to introduce them at the national level.

Hope that our letter would be carefully studied and all stated aspects would be taken into account.

Sincerely,

Makhtumkuli Akmuradov



**Minister of Nature Protection
Turkmenistan**