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ECOLOGICAL RIGHT

ENVIRONMENTAL

NON-GOVERNMENTAL ORGANIZATION

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Update on the implementation of the decision VI8a on the compliance by Armenia

On August 30, 2017 the Administrative Court of Armenia decided to reject the right to access to justice for the environmental NGOs within the court case VD/1049/05/15, which is an absolute non-respect towards the compliance mechanism of Aarhus Convention and the Compliance Committee of the Convention itself. Referring to the provisions of the new NGO Law, which restrict the legal standing of environmental NGOs to file a lawsuit on environmental matters, the Court made a decision to leave the Ecological Right and Ecoera NGOs out of the judicial process, which the indicated NGOs launched in March 2015. The court made this decision as a result of request of the representative of mining company Lydian Armenia, which also participates in the judicial process. The Ecological Right and Ecoera NGOs presented an appeal to the Court of Appeals, which is the second judicial instance. The session in the Court of Appeals will be held on May 17, 2018, almost 8 months after the appeal was presented. Meanwhile, the construction activity of the litigated mining operation is started.

We kindly remind the Compliance Committee that after the final version of the new NGO Law was drafted by the Ministry of Justice number of Civil Society organizations presented concerns to the Ministry of Justice and the National Assembly of Armenia with request to amend the restrictions presented in draft NGO Law, as it was obvious that via indicated restrictions responsible authorities undermined the ongoing judicial proceedings launched in judicial practice. In November 2016 and May 2017 two communications were presented to the Compliance Committee by Ecological Right NGO analyzing the indicated concerns and with the request to apply stronger measures. However, no reaction was received by the Compliance Committee in relation to inadmissibility of suggested

measures to be applied. Hereby, we insist that all concerns presented to the Compliance Committee before with regard to restrictions of Access to Justice for environmental CSOs under the new NGO Law fully complied.

We also remind the Compliance Committee that non-compliance of the right to Access by Armenia lasts over ten years. In fact, the first decision on non-compliance of Armenia with article 9 of the Aarhus Convention on Access to Justice was adopted by the Compliance Committee in March 2006. In June 2008 the Third Meeting of the Parties confirmed the recommendations and invited Armenian government to present progress in November 2008, 2009 and 2010. Similar recommendations with the similar wording were adopted by the Sixth session of the Meeting of the Parties and recommended Armenia to present progress reports in October 2018, 2019 and 2020. Having in mind the above mentioned dates and consistent lack of any progress with regard to respect the right to Access to Justice, we urge the Compliance Committee to apply more effective measures and issue a caution for Armenia.

Obviously, the reputation of the Aarhus Convention depends on the efficiency of its Compliance Mechanism. Committee is expected to take adequate measures to save the reputation of the Convention and its compliance mechanism, as continuing non-compliance and neglectful treatment of Armenian public authorities towards the Convention will put under suspicion the efficiency and potency of compliance mechanism. Surely, constantly unchanged situation of permanent non-compliance ruins the expectations of public concerned to see equivalent and meaningful response from the conventional bodies, which are responsible for the oversight on implementation of the Compliance Mechanism. It also negatively affects on willingness of public concerned to continue communication within this mechanism.

Sincerely,

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President of Ecological Right Non-Governmental Organization