

To the letter of Implementation Committee on 11th April, 2019

Dear Mr. Romas Svedas,

Referring to the letter that requested clarification to the question by IC *on not having relevant provisions on national EIA legislation requiring the organization of public hearings as an Affected Party under articles 3(8) and 4(2) of the Convention* based on the Azerbaijani national reporting on questionnaire of fifth review of implementation of Espoo Convention for the period of 2013-2015, information is provided as follow.

Bearing in mind that Azerbaijani Government adopted the Law on Environmental Impact Assessment in 2018, which within regarded reporting period of time, it was not in force, now major legal frame of domestic, including transboundary EIA were included in the Law and subsequent secondary legislation is drafted (it is national procedural legal requirement and it has the same legal force as the Law). It should be noted that one of the main principles of EIA in the EIA Law is public awareness and consideration of public opinion. Law on EIA contains baseline articles for transboundary issues and international cooperation (1.1.12, 2.2, 4.22, 9.0.3, 12.1.5, 16) and describes public hearings (4.10, 4.11, 12.1.4) with general procedural aspects mentioning to several existing national legislations on public rights, regulating to obtain the information on environment, as well as identifying obligations of project proponents and state authorities on conveying the necessary information to the public concerned. Law on EIA has direct reference article to international agreements to be applied if any inconsistency occurs with domestic Law.

“Organization of public hearings as an affected Party”, including the terms of “Affected Party” and “concerned public” and step by step organization of public participation is inserted to secondary legislation on EIA where separate chapter of the draft is dedicated to the transboundary EIA procedure and its stages. Chapter is drafted following the provisions and guidelines of Espoo Convention on public participation, other related international requirements. Draft secondary legislation on EIA, in its first chapter refers terminology of international agreements - directly to Espoo and Aarhus Convention ratified by Azerbaijani Government as part of that legislative act. Respective article clearly maintains consistency with the Convention. Currently secondary legislative acts are under ministerial review and discussion.

At the same time, in accordance with new Law on EIA, amended Law on Environmental Protection identifies occasions and opportunity to involve specialists

and experts of interested countries to be engaged to expert commission of environmental expertize process via coordination with this country which are considered to be affected transboundary (Article 8).

Finally, in case of absence of bilateral agreements with the Parties to the Convention on the matter, Azerbaijani Government will ensure the public participation based on Espoo Convention provisions and its guidelines. Thus, if abovementioned occasion occurs, Decree of the President of Azerbaijan Number 616, on February 1st, in 1999 that includes in the respective provisions of Espoo Convention and its Annexes, which is in force as other domestic legislative acts, will be applied accordingly. In the Law on EIA it is also referred to those requirements directly (it is a requirement of national primary legal act, Constitution of Azerbaijan that determines international agreement as an integral part of national legislation to be applied - Article 148).

National focal point

to the Espoo Convention

Aysel Rzayeva