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Meeting of the Parties to the Convention on
Access to Information, Public Participation
in Decision-making and Access to Justice
in Environmental Matters

Compliance Committee

Thirty-first meeting

Geneva, 22–25 February 2011

Report of the Compliance Committee on its thirty-first meeting

Addendum

Compliance by Armenia with its obligations under the Convention

I. Implementation of decision III/6b of the Meeting of the Parties

1. At its third session, 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) adopted decision III/6b on compliance by Armenia with its obligations under the Convention (ECE/MP.PP/2008/2/Add.10).

2. Through decision III/6b, the Meeting of the Parties endorsed the findings of the Committee with regard to the failure of Armenia to comply with the provisions of article 4, paragraphs 1 and 2, article 6, paragraphs 1 (a) (with annex I, para. 20), paragraphs 2 to 5 and 7 to 9, article 7 and article 9, paragraphs 2 to 4, of the Convention in connection with the modification of land-use designation and zoning and the leasing of certain plots in an agricultural area of Dalma Orchards.

3. The Meeting of the Parties welcomed the recommendations made by the Committee and Armenia's willingness to accept them, as well as the significant progress made by Armenia in implementing the Committee's recommendations since their adoption. It also noted, however, that further progress needed to be made in order to bring legislation and practice into full compliance with the relevant provisions of the Convention, in particular with regard to further developments in specific legal acts and regulations, such as those

setting out detailed procedures for environmental impact assessment, public notification and the consultation process. The Meeting of the Parties therefore requested the Party to undertake several related actions (ECE/MP.PP/2008/2/Add.10, para. 8), and invited Armenia to submit to the Committee periodically detailed information on further progress in implementing those recommendations (ECE/MP.PP/2008/2/Add.10, para. 9).

4. On 2 October 2008, the secretariat forwarded decision III/6b to Armenia with a reminder concerning the requests and recommendations of the Meeting of the Parties contained therein. Upon the failure of Armenia to submit its first report, due in November 2008, on 5 February 2009 the secretariat sent a letter to Armenia conveying the concerns of the Committee for not having received the requested information.

5. On 23 March 2009, the secretariat received and forwarded to the Committee the progress report prepared by Armenia.

6. At its twenty-third meeting (31 March–3 April 2009), the Committee took note of the information received and requested Armenia to undertake a more coherent approach to the development of the legislative framework for public participation in decision-making in activities referred to in article 6, paragraph 1, of the Convention. It also made some recommendations to the Party concerned with regard to paragraphs 8 (b) and (c) of decision III/6b to be taken into account in its progress report due in November 2009.

7. In particular, with regard to paragraph 8 (b), the Committee recommended that, in developing legislation for public participation in decision-making on the activities referred to in article 6, paragraph 1, of the Convention, the Party concerned should elaborate a more specific procedure in secondary legislation or in the form of guidelines to accompany the new Law on Expertise on Environmental Assessment. Also, it asked Armenia to present detailed information on practical implementation of the public participation procedure, including trainings provided to officials of all the relevant public authorities.

8. With regard to paragraph 8 (c), the Committee invited Armenia to present in its next progress report detailed information on the judicial practice of the administrative court and its relevance in ensuring effective access to justice, as well as trainings undertaken on access to justice.

9. On 8 December 2009, Armenia submitted its second progress report.

10. At its twenty-sixth meeting (15–18 December 2009), the Committee welcomed the submission of the progress report on time and the progress made by Armenia in 2009. It sought clarification on certain points, notably with regard to the trainings and the development of legislation, and requested copies of the decision of the Prime Minister relating to the publication of draft legal acts on the websites of the relevant public authorities and of the draft legislative proposals to amend the legislation on environmental impact assessment developed by local experts in cooperation with the international expert designated by the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) secretariat.

11. On 20 February 2010, Armenia responded to the Committee.

12. At its twenty-seventh meeting (16–19 March 2010), the Committee took note of the additional information provided by Armenia and requested that the Party concerned address some additional points in its third report, due in November 2010. In particular, the Committee requested a table of the different measures adopted or envisaged to be adopted on public participation, as well as the stage of adoption of these measures, and a draft of the project law on environmental expertise. It also asked the Party concerned to submit agendas and lists of participants of the trainings.

13. On 25 November 2010, Armenia submitted its report due in November 2010.

14. At its thirtieth meeting (14–17 December 2010), the Committee reviewed the information that was submitted and noted that it was more or less identical to the information submitted on 20 February 2010. It sought clarification by the Party concerned with respect to the Law on Expertise on Environmental Assessment and the decision of the Court of Cassation about the admissibility of claims by non-governmental organizations.

15. At its thirty-first meeting, the Committee considered the information submitted by Armenia during the interessional period, as well as its national implementation report, and prepared recommendations for the Meeting of the Parties.

16. The Committee notes with appreciation that the progress made by the Party concerned during the intersessional period and the cooperative spirit demonstrated by the Party concerned in its correspondence with the Committee.

17. With regard to public participation procedures (paragraphs 8 (a) and (b) of decision III/6b), the Committee takes note of the ongoing process concerning new legislation on environmental impact assessment. These amendments have been taking place since 2008, and local experts, as well as an international expert designated by the Espoo Convention secretariat, have been involved in the process. The Party concerned has presented the guiding principles of the new legislation. However, the Committee has not received a copy of the draft, although, according to the Party concerned, the law is available on the website of the Ministry in the Armenian language.

18. With regard to public participation in plans and programmes, the Party concerned pointed to the low level of awareness among public officials and listed its efforts to remedy the situation. A decision of the Prime Minister adopted on 17 April 2008 urges heads of the executive bodies to ensure publicity and transparency of the activities of State authorities, including by posting draft legislation on their official websites. Another decision of the Prime Minister requires that drafts of governmental decisions be submitted with the outcomes of the public participation process in the drafting and discussion attached, as well as the experts' assessment. To demonstrate the practical application of these measures, the Party concerned provided a number of examples of acts that were subject to public participation, such as the draft laws "On freedom to receive data", "On implementing self-control to act pursuant to environmental legislation" and "On establishing [a] State Forestry Committee in the sphere of governance of the Ministry of Agriculture".

19. The Party concerned (the Ministry of Nature Protection), in cooperation with the Organization for Security and Cooperation in Europe and Yerevan State University-Environmental Law Resource Centre, has also engaged in trainings on environmental legislation and the Aarhus Convention for the public, officials of local authorities and Aarhus Centre coordinators.

20. With regard to access to justice, the Party concerned informed the Committee about judicial training. In addition, an administrative court has been established with the mandate to review the appeals of citizens and non-governmental organizations on decisions of administrative bodies concerning environmental matters. Importantly, the Party concerned mentioned the decision of the Court of Cassation decision of 30 October 2009 concerning the *locus standi* of environmental non-governmental organizations, which constitutes a precedent for the implementation of article 9 of the Convention by Armenian courts.

21. It should be noted that during the interessional period, the Committee has considered communication ACCC/C/2009/43 concerning compliance by Armenia. The communication raises issues of direct relevance to paragraphs 8 (c) of decision III/6b. The findings and recommendations of the Committee to the Meeting of the Parties are included in report ECE/MP.PP/2011/11/Add.1.

22. According to the third national implementation report of Armenia, the new draft legislation on environmental impact assessment brings the list of activities subject to its requirements in conformity with annex I of the Aarhus Convention. However, the report does not contain specific information on progress with development of detailed procedures for public participation in decision-making on the activities referred to in article 6, paragraph 1, of the Convention, as it requested by paragraph 8 (b) of the decision III/6b of the Meeting of the Parties.

23. In order to ensure the comprehensive review of compliance by Armenia, the Committee invited Armenia, as well as the communicant whose communication had initially triggered the review of compliance by Armenia, to comment on the draft of the present report. The Party concerned expressed its consent to the Committee's recommendations on 15 March 2011.

II. Conclusions

24. The Committee wishes to note the engagement of the Party concerned, demonstrated by its correspondence with the Committee and its prompt response to all requests by the Committee. Having reviewed the information provided in its progress reports and the national implementation report for 2008–2011, the Committee notes with appreciation that the Party concerned has seriously and actively engaged to follow the recommendations of decision III/6b. However, the Committee expresses concern at the slow process for finalizing and enacting the new legislation on environmental impact assessment, including procedures for public participation in it. The fact that the old legislation is not adequate for the implementation of the Convention was demonstrated by the recent communication ACCC/C/2009/43, which was considered by the Committee. The Committee, indeed, had made a number of recommendations to the Meeting of the Parties with respect to public participation with regard to the latter.

III. Recommendations

25. In the light of the above, the Committee recommends to the Meeting of the Parties, pursuant to paragraph 35 of the annex to decision I/7 to:

(a) Urge Armenia to take into consideration the recommendations of the Committee for ACCC/C/2009/43, including in the finalization of the draft law on environmental impact assessment;

(b) Request Armenia to provide a draft of the new law to the Committee as soon as possible.