



**Convention on Access to Information,  
Public Participation in Decision-making and  
Access to Justice in Environmental Matters  
(Aarhus Convention)**

**United Nations Economic Commission for Europe  
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Ref: ACSR/C/2023/2 (Armenia)  
(Please use this reference in your reply)

17 April 2023

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on Environmental Defenders under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

As you may be aware, article 3 (8) of the Aarhus Convention requires that “Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement.”

At its seventh session (Geneva, 18 – 21 October 2021), the Meeting of the Parties to the Aarhus Convention adopted decision VII/9 on a rapid response mechanism to deal with cases related to article 3 (8) of the Convention.<sup>1</sup> Decision VII/9 establishes the rapid response mechanism in the form of an independent Special Rapporteur on Environmental Defenders under the authority of the Meeting of the Parties. At its third extraordinary session (Geneva, 23 – 24 June 2022), I was elected, by consensus, by the Meeting of the Parties as the Convention’s Special Rapporteur on Environmental Defenders.

In accordance with the mandate in decision VII/9, I write to bring to the attention of your Excellency’s Government information I have received concerning the alleged persecution, penalization and harassment of Ms. Tehmine Yenokyan in connection with the exercise of her rights under the Aarhus Convention.

Ms. Yenokyan is a journalist and environmental activist who has been active in environmental and human rights causes in Armenia for more than a decade. Ms. Yenokyan is from Gndevaz, a village close to the site of Amulsar gold mining project, and has been working to highlight the potential environmental risks of mining activities in Armenia, including the Amulsar mining project, since 2012. Based on the information received, Ms. Yenokyan is an environmental defender within the meaning of the eighth preambular paragraph of decision VII/9.<sup>2</sup>

According to the information received, due to her efforts to highlight the environmental harms of mining activities, Ms. Yenokyan has been the target of court proceedings for defamation by two separate mining companies, Lydian Armenia and Zangezur Copper and Molybdenum Combine (ZCMC).

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<sup>1</sup> Available at: [https://unece.org/sites/default/files/2022-01/Aarhus\\_MoP7\\_Decision\\_on\\_RRM\\_E.pdf](https://unece.org/sites/default/files/2022-01/Aarhus_MoP7_Decision_on_RRM_E.pdf)

<sup>2</sup> Ibid.

### **Lydian Armenia's court proceedings against Ms. Yenokyan**

1. Lydian Armenia holds the permits for the Amulsar gold mine project.
2. On 5 September 2018, Lydian Armenia filed court proceedings against Ms. Yenokyan demanding that she retract an allegedly defamatory statement that she had made regarding the company on 12 August 2018 during a rally in Jermuk, a town close to the site of the Amulsar mine. In its court proceedings, Lydian Armenian requested that Ms. Yenokyan be ordered to pay it 1,000,000 AMD (approximately €2,350) in compensation.
3. On 15 December 2021, the Court of First Instance issued its judgment ordering Ms. Yenokyan to pay Lydian Armenia 12,000 AMD in damages and 100,000 AMD in legal fees. Ms. Yenokyan appealed the judgment to the Civil Court of Appeals.
4. On 22 July 2022, the Civil Court of Appeals issued its judgment. In its judgment, it ordered Ms. Yenokyan to publish a statement in the media and on her personal Facebook page retracting the statement she had made on 12 August 2018. The Court also ordered Ms. Yenokyan to pay Lydian Armenia 1,000,000 AMD in compensation, plus 200,000 AMD in legal fees and 24,000 AMD in state fees.
5. On 9 December 2022, the Court of Cassation rejected Ms. Yenokyan's cassation appeal against the Civil Court of Appeals' judgment.
6. In accordance with the judgment of the Civil Court of Appeal, and to avoid incurring into criminal charges, Ms. Yenokyan thereafter published a statement in the media and on her personal Facebook page retracting her statement of 12 August 2018. Ms. Yenokyan also paid 1,224,000 AMD (approximately €2,900) to Lydian Armenia.

### **ZCMC's court proceedings against Ms. Yenokyan**

7. ZCMC is the largest mining company in Armenia. 21.87% of ZCMC's shares are held by the government of Armenia.
8. On 21 December 2022, ZCMC wrote to Ms. Yenokyan requesting that she publicly retract a statement she had published on her personal Facebook account on 1 December 2022, in which she had stated that: "Yesterday, the pipeline leading to the tailings dump of ZCMC again broke down, the Voghji river was again polluted, a criminal case was initiated again and it will be again forgotten, they will cover it up and move on."
9. Despite Ms. Yenokyan's reply to ZCMC's letter and request for further clarification, on 3 January 2023, ZCMC filed proceedings for defamation against her before the Court of First Instance. In its court proceedings, ZCMC requested that the Court order Ms. Yenokyan to retract the statement she had published on her personal Facebook account on 1 December 2022 and to pay ZCMC compensation of 6,000,000 AMD (approximately €14,150).
10. After the Court of First Instance returned the claim to ZCMC for correction, ZCMC resubmitted its claim on 6 February 2023. The hearing of ZCMC's claim against Ms. Yenokyan will take place on 19 April 2023.

In connection with the above alleged facts, I note that on 16 January 2023, forty-four Armenian non-governmental organizations addressed an open letter to the President of the Republic of Armenia and others, including myself in my capacity of Special Rapporteur on Environmental Defenders, related to the pressure exerted by mining companies on environmental defenders in Armenia, including on Ms. Yenokyan in particular.

Without prejudging the accuracy of the above allegations, I am deeply concerned at the apparent use of court proceedings by Lydian Armenia and ZCMC to silence Ms. Yenokyan from her efforts to highlight the environmental risks of their mining activities.

Moreover, noting the upcoming hearing on 19 April 2023 of ZCMC's defamation proceedings against Ms. Yenokyan, I have grave concerns that, should the Court of First Instance not promptly dismiss those proceedings, the Armenian Courts are themselves penalizing, persecuting and harassing Ms. Yenokyan for exercising her rights under the Convention to live in an environment adequate to her health or well-being.

In this regard, it is important that I draw to your attention that the Aarhus Convention Compliance Committee has made clear that article 3 (8) of the Convention "is not limited in its application to acts of public authorities as defined in article 2, paragraph 2, of the Convention, but rather covers penalization, persecution or harassment by any State body or institution, including those acting in a judicial or legislative capacity".<sup>3</sup> The Compliance Committee has also made clear that article 3 (8) "also covers penalization, persecution or harassment by private natural or legal persons that the Party concerned did not take the necessary measures to prevent."<sup>4</sup> This means that Armenia is bound by article 3 (8) of the Convention to ensure that persons are not penalized, persecuted, harassed in any way for exercising their rights under the Convention, including by private companies and the Armenian Courts.

As it is my responsibility, under the mandate entrusted to me by the Meeting of the Parties to the Aarhus Convention, to seek to clarify all complaints brought to my attention, I would be grateful for your response to the following matters:

1. Please provide any information and/or comments you may have on the allegations set out in the present letter.
2. Please provide information on any legislation or other mechanisms Armenia has in place to prevent or promptly dispose of Strategic Lawsuits Against Public Participation (SLAPPs).
3. Please provide information as to the actions taken, if any, as a result of the present letter.

I would appreciate receiving your response within 60 days, that is by **16 June 2023**. After that date, the present letter and the response received from your Excellency's Government may be made public on the Convention's website.<sup>5</sup> They will also subsequently be reported upon in my report to the eighth session of the Meeting of the Parties in 2025.

While awaiting your response, I urge that all necessary interim measures be undertaken to halt the alleged persecution, penalization and harassment of Ms. Yenokyan and to prevent their reoccurrence. In this regard, the Government should take great care, when looking into the allegations in the present letter, that nothing is done that could put Ms. Yenokyan at risk of further persecution, penalization or harassment.

In the event that your investigations support or suggest the allegations to be correct, I urge you to ensure the accountability of any person(s) responsible for the alleged persecution, penalization and harassment.

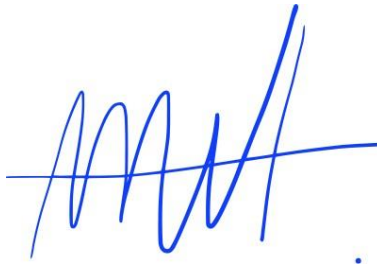
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<sup>3</sup> See the Compliance Committee's findings on communication ACCC/C/2014/102 (Belarus), ECE/MP.PP/C.1/2017/19, para. 70.

<sup>4</sup> Ibid.

<sup>5</sup> <https://unece.org/env/pp/aarhus-convention/special-rapporteur>

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

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Michel Forst  
Special Rapporteur on Environmental Defenders under the Aarhus Convention

To: His Excellency, Mr. Ararat Mirzoyan, Minister of Foreign Affairs, Republic of Armenia

Cc: Ms. Mari Chakryan, national focal point for the Aarhus Convention, Ministry of Environment, Republic of Armenia