

Brief Statement on RA Ombudsmen's Report on Aarhus Convention matters

This year the new Armenian Human Rights Defender submitted an Annual Report to the RA National Assembly about her activities of the previous year, as well as the state of protection of human rights and freedoms. -

<https://ombuds.am/images/files/c21b3daa983465bea149c85cf9f2cec3.pdf>

An entire Section 4 of the Report is devoted to Protection of Environment. 1st Part of it deals with ensuring public awareness, public participation and proper public involvement in environmental matters and the protection of environmental rights.

Issues and obligations related to some environmental conventions, including the Aarhus Convention, were discussed separately. Both the analysis of the existing problems, including the lack of an extrajudicial dispute resolution mechanism, as well as specific proposals aimed at solving them, were presented.

Regarding the 3rd pillar of the Convention the Defender's proposal regarding the creation of an extrajudicial mechanism is particularly noteworthy. This was confirmed yet by the decision of the RA Constitutional Court No. SDO-296 of December 2000.

Unfortunately, the Section concerning the land users of Dalma Gardens has no a single word about the violations and damage caused to the public concerned, including the land users of Dalma Gardens, as a result of the violation of the provisions of Convention.

This is very important for us. The Compliance Committee was the first institution to confirm that the RA government made a decision to put the huge Dalma Gardens under construction without public participation and prior informing the concerned public, and among them first of all land users. /ECE/MP.PP/C.1/2006/2/Add.1, 10 May 2006/.

The Compliance Committee also presented Recommendations to the RA Government to undertake appropriate practical measures to ensure effective access to justice, including the availability of adequate and effective remedies to challenge the legality of decisions /ECE/MP.PP/2008/2/Add.10; Point 8 (c)/.

The representatives of the land users had meetings with both the Ombudsman personally and some employees of the office. Discussions are still ongoing.

Also an appropriate request was sent to the Ministry of Environment connected to the part of the Report where said about not fulfillment of the requirements of paragraph 3 (a), (b), (c) and (d) of decision VI/8a; Reaffirming the positions expressed by Decision VI/8a regarding Armenia, by Decision VII/8a was requested the Party concerned, as a matter of urgency, to take the necessary legislative, regulatory and administrative measures: (“to ensure that: (a) thresholds for activities subject to an environmental impact assessment procedure, including public participation, are set in a clear manner; (b) reasonable time frames that are significantly longer than those currently provided for are set for the public to consult and comment on project-related documentation; (c) its legislation, including the law on non-governmental organizations and administrative procedures, complies with article 9 (2) of the Convention with regard to standing; (d) it continues its efforts to raise awareness of the judiciary to promote implementation of domestic legislation in accordance with the Convention.”).

Summarizing her Report, HRD stressed that based on the situation recorded and on fulfillment of the Recommendations adopted by the meeting of the Parties, it is necessary:

- a/ align the regulations of the "Environmental Impact Assessment and Expertise" Law with the Aarhus Convention by establishing more flexible time limits for public participation in the context of public hearings, according to the positions of the Compliance Committee of the Aarhus Convention;
- b/ legislatively to guarantee the right of non-governmental organizations to access to justice, ensuring the implementation of the recommendations of the Compliance Committee.

We are waiting for the answers of the authorities and hope that the RA Government and the Ministry of Environment will take into account the Report of the new HRD.

Because the proposal regarding the compensation of land users of Dalma Gardens, which was clearly made in the previous HRD Report 2021 /page 169/, has remained in the air till date.

The working group will discuss cooperation with relevant activities within other international forums and cooperation between the Ministries of the Environment and the Ministries of Justice of the Parties, taking into account that one of them is authorized for the environment, but not judiciary system, and the other for justice only, and does not interfere with the activities and obligations of the state body responsible for the Aarhus Convention in the country.