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

**First progress review of the implementation of decision V/9a
on compliance by Armenia with its
obligations under the Convention**

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I. Introduction

1. At its fifth session (Maastricht, 30 June–1 July 2014), 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 V/9a on compliance by Armenia with its obligations under the Convention (see ECE/MP.PP/2014/2/Add.1).

II. Summary of follow-up

2. By letter of 28 November 2014, the Committee sent a reminder to the Party concerned of the request by the Meeting of the Parties to provide its first detailed progress report to the Committee by 31 December 2014 on the measures taken and the results achieved thus far in implementation of the recommendations set out in decision V/9a.

3. The Party concerned provided its first progress report on the implementation of decision V/9a on 26 December 2014.

4. At the Committee's request, on 2 January 2015 the secretariat forwarded the Party concerned's first progress report to the communicants of communications ACCC/C/2004/8 and ACCC/C/2009/43 as well as "Dalma-Sona" Human Rights and Environmental Protecting Fund, an observer to the follow-up to decision V/9a concerning compliance by Armenia, inviting them to provide their comments on that report by 23 January 2015. No comments were received.

5. In its first progress report, the Party concerned reported the following:

(a) The new Law "On Environmental Impact Assessment and Expertise" was adopted by the Parliament on 21 June 2014 and came into effect on 9 August 2014. The law replaced the Law "On Environmental Impact Expertise" from 20 November 1995.

(b) The new law established time-frames for early notification of the public regarding proposed activities, when all options were open and set out the responsibilities of different actors (public authority, local authority, developer) in organizing and conducting public hearings. It also defined the contents of the notification for each phase of the public hearings.

(c) The detailed procedure for public notification was left for regulation by government decree. The draft government decree "On public notification and participation" was at the stage of public consultations.

(d) According to the new law, activities subject to environmental impact assessment (EIA) are to be classified into three categories (A, B or C). The public participation procedure required, including time-frames, varies depending on the category of activity.

(e) The English version of new law is not available yet but the Ministry of Nature Protection, in collaboration with the Ministry of Justice has initiated the translation process. It will be submitted to the Committee once completed.

(f) A proposal had been submitted to the Ministry of Justice proposing to incorporate new provisions on the draft Code "On Administrative Infringements" imposing administrative liability on public authorities, local authorities and developers for infringements of the environmental expertise procedure.

(g) The webpage of the Ministry of Nature Protection (www.mnp.am) was enhanced, including improvements to its system for notification. Information on, inter alia, proposed projects and public hearings is now posted on the website. The Ministry provides access to expertise conclusions upon request.

(h) The Ministry for Justice was elaborating a new draft law “On Non-governmental Organizations”, which incorporated a provision according to which NGOs are entitled to bring court actions concerning the protection of the environment. The provision parallels proposed changes regarding legal standing for NGOs currently being elaborated to the Administrative Procedural Code. These draft laws are not officially circulated yet, but English translations will be provided to the Committee once the Ministry of Justice submits the drafts for comment to the other executive bodies and the public.

(i) In October 2014, a new course “Actual problems of environmental legislation of the Republic of Armenia” was approved by the Academy of Justice. The course will be mandatory for judges taking periodic requalification trainings and for judicial candidates.

6. At its forty-eighth meeting (Geneva, 24-27 March 2015), the Committee reviewed the implementation of decision V/9a in open session, taking into account the comments received from observers present. Following the discussion in open session, the Committee commenced the preparation of its first progress review on the implementation of decision V/9a in closed session. The Committee adopted its first progress review at its fiftieth meeting (Geneva, 6- 9 October 2015) and instructed the secretariat to thereafter send it to the Party concerned and the communicants and observers of communications ACCC/C/2004/8, ACCC/C/2009/43 and ACCC/C/2011/62.

III. Considerations and evaluation by the Committee

7. In order to fulfil the requirements of the decision V/9a, the Party concerned would need to provide the Committee with evidence that it had:

(a) Taken the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that:

(i) Thresholds for activities subject to an EIA procedure, including public participation, are set in a clear manner;

(ii) The public is informed as early as possible in the decision-making procedure, when all options are open, and that reasonable time frames are set for the public to consult and comment on project-related documentation;

(iii) The responsibilities of different actors (public authorities, local authorities, developers) in the organization of public participation procedures are defined as clearly as possible;

(iv) A system of prompt notification of the public concerned of the final conclusions of environmental expertise is arranged, e.g., through the website of the Ministry of Nature Protection;

(b) No later than 1 September 2014, provided the Committee with an English translation of the text of the EIA law and other legislative measures as they stand on that date for the Committee’s review;

(c) Provided the Committee with evidence that the draft EIA law and other legislative measures that were proposed by the Party concerned to meet the requirements of decision IV/9a have been adopted;

(d) Reviewed and clarified its legislation, including the law on NGOs and administrative procedures, so as to ensure compliance with article 9, paragraph 2, of the Convention with regard to standing; and

(e) Taken the measures necessary to raise awareness among the judiciary to promote implementation of domestic legislation in accordance with the Convention.

8. The Committee welcomes the first progress report of the Party concerned, which was submitted on time, and the information contained therein.

9. With regard to each of the above requirements, the Committee finds the following:

(a) With respect to paragraph 4(c)(i), (ii) and (iii) of decision V/9a, the Committee welcomes the Party concerned's report regarding the adoption and content of the new Law "On Environmental Impact Assessment and Expertise" and the preparation of the draft governmental decree "On public notification and participation". The Committee, however, finds that since the Party concerned has not to date provided the Committee with English translations of the new Law "On Environmental Impact Assessment and Expertise" and the draft governmental decree "On public notification and participation" the Committee is not in a position to assess whether the Party concerned has met the requirements of 4(c)(i), (ii) and (iii) of decision V/9a;

(b) In relation to paragraph 4(c)(iv) of decision V/9a, the Committee finds that, while the Party concerned has stated that final conclusions of environmental expertise are available from the Ministry for Nature Protection upon request, the Party concerned has not yet demonstrated that a system of prompt notification of the public concerned of the final conclusions has been established, e.g., through the website of the Ministry of Nature Protection;

(c) Regarding paragraph 5(a) of decision V/9a, the Committee welcomes the Party concerned's report that the Ministry of Nature Protection, in collaboration with the Ministry of Justice has initiated the translation process of the new Law "On Environmental Impact Assessment and Expertise" and it will be submitted to the Committee once completed. The Committee notes however that, in accordance with paragraph 5(a) of decision V/9a, the Party concerned was invited to provide the Committee with English translations both of that law and of the draft governmental decree "On public notification and participation" by 1 September 2014, i.e. more than one year ago. The Committee therefore finds that the Party concerned has to date failed to meet the requirements of paragraph 5(a) of decision V/9a.

(d) Regarding paragraph 5(b) of decision V/9a, the Committee welcomes the Party concerned's report that the new Law "On Environmental Impact Assessment and Expertise" was adopted by the Parliament on 21 June 2014 and came into effect on 9 August 2014. The Committee finds, however, that since the draft governmental decree "On public notification and participation" is not yet adopted the Party concerned has not yet met the requirements of paragraph 5(c) of decision V/9a.

(e) Regarding paragraph 7(a) of decision V/9a, the Committee welcomes the Party concerned's report regarding the preparation of the draft law "On Non-governmental Organizations" and the related draft amendments to the Administrative Procedure Code regarding the standing of NGOs. The Committee, however, finds that since the Party concerned has not to date provided the Committee with English translations of the draft law "On Non-governmental Organizations" and the related draft amendments to the Administrative Procedure Code, the Committee is not in a position to assess whether the Party concerned has met the requirements of paragraph 7(a) of decision V/9a.

(f) In relation to paragraph 7(b) of decision V/9a, the Committee welcomes the initiative of the Party concerned to establish the course for the judiciary described in paragraph 17 above, but seeks further information regarding the content and requirements of the course, and in particular:

- (i) An English translation of the course outline;
- (ii) The number of hours the course takes to complete;
- (iii) Whether judges and judicial candidates from all courts and instances are required to complete the course, or if not, the judges from which courts and instances must attend;
- (iv) Whether judges and judicial candidates are required to pass an assessment at the end of the course.

IV. Conclusions

10. The Committee finds that the Party concerned has not yet fulfilled the requirements of decision V/9a, but welcomes the steps taken by the Party concerned to date in that direction.

11. The Committee invites the Party concerned together with its second progress report or otherwise by 31 December 2015:

- (a) To provide English translations of the following legislation:
 - (i) The new Law “On Environmental Impact Assessment and Expertise”, together with any proposed amendments;
 - (ii) The draft Governmental decree “On public notification and participation”;
 - (iii) The draft Law “On Non-governmental Organizations”;
 - (iv) The draft amendments to the Administrative Procedure Code on the standing of NGOs.
- (b) To submit a timeline for the adoption of each of the following:
 - (i) The draft Governmental decree “On public notification and participation”;
 - (ii) The draft Law “On Non-governmental Organizations”;
 - (iii) The draft amendments to the Administrative Procedure Code on the standing of NGOs.
- (c) To provide an English translation of the proposed outline for the course for judges and judicial candidates on current problems with national environmental legislation, together with further information regarding the number of hours required to attend the course, which courts’ judges and judicial candidates are required to attend the course, and whether there is an assessment at the end of the course.

12. The Committee reminds the Party concerned that the Meeting of the Parties have undertaken to review decision V/9a at its sixth session.

13. The Meeting of the Parties at its sixth session may, upon consideration of a report and any recommendations of the Committee, decide upon appropriate measures to bring about full compliance with the Convention in accordance with paragraph 37 of the annex to decision I/7. The Meeting of the Parties may, depending on the particular question before it and taking into account the cause, degree and frequency of the non-compliance, decide upon one or more of the following measures:

- (a) Provide advice and facilitate assistance to the Party concerned regarding the implementation of the Convention;
- (b) Make recommendations to the Party concerned;
- (c) Request the Party concerned to submit a strategy, including a time schedule, to the Compliance Committee regarding the achievement of compliance with the Convention and to report on the implementation of this strategy;
- (d) In cases of communications from the public, make recommendations to the Party concerned on specific measures to address the matter raised by the member of the public;
- (e) Issue declarations of non-compliance;
- (f) Issue cautions;
- (g) Suspend, in accordance with the applicable rules of international law concerning the suspension of the operation of a treaty, the special rights and privileges accorded to the Party concerned under the Convention;
- (h) Take such other non-confrontational, non-judicial and consultative measures as may be appropriate.
