

Dear colleagues, we all know that public participation in administrative decision making or at least the opportunity for the Civil Society to argue the illegal statements or actions of public authorities is one of the most important features of democratic society. Additionally, Armenia is participating in Eastern Partnership Program of the European Union where public participation is recognized as an important instrument in terms of the European Neighborhood Policy. However, the public needs concrete tools to have real affiliation in decision making process, and one of those tools is the Access to Justice of Civil Society Organizations before the court, and this right should be clearly defined by the law.

Actually, courts of General Liability of Armenia stated that Non-Governmental Organizations have no legal standing to make an appeal before the court on the issues of public interest. According to the court's interpretation, NGOs may apply to the court only if there is an alleged infringement of the rights and interests of an NGO itself as a legal entity or there is a violation of the rights of the member of an NGO.

With regard to one of the cases rejected by the court (against the mining project in the Teghut forest in northern Armenia), two months ago the Compliance Committee of Aarhus Convention made a decision that Armenia has failed to comply with the implementation of Article 9 (Access to Justice) of the Aarhus Convention in terms of environmental issues.

In line with the indicated decision, the Constitutional Court of the Republic of Armenia stated a legal position that NGOs are permitted to raise the issue of public interest before the court if that issue is among their statutory goals and is clearly defined by the Charter of an NGO. At the same time, the Constitutional Court of Armenia stated that the legal amendments are needed to clearly define this position in order to avoid the misinterpretation of the law by the judges of the courts of General Liability.

Currently the Ministry of Justice of Armenia developed a new concept of the law on NGOs, where the right to Access to Justice for NGOs is not envisaged. The deputy minister of Justice publicly stated that the position of Government about this issue is negative.

The Government of Armenia has huge influence on lawmaking process (more than 80% of laws are admitted by the Parliament after the initiative of the Government). Therefore, the negative position of the Government is actually stops the process of legal amendments. Thus, the content of our recommendation is completely similar to the recommendation of the Aarhus Convention Compliance Committee and the Constitutional Court of Armenia, which is as follows: to stimulate the Government of Armenia to initiate legal amendments in the Law on NGOs and the Administrative Procedure Code, and clearly define the right of Access to Justice of NGOs in protecting the public interests, which are defined in the Charter of the NGO.