

2013-03-10	
<b><i>Case Summary posted by the Task Force on Access to Justice</i></b>	
<b><i>Armenia: Dolphynarium case</i></b>	
<i>1. Key issue</i>	NGO standing - The Administrative Court of Armenia referring to the previous judgments by the Cassation Court and the Constitutional Court stated that environmental NGOs did not have standing before the court in case of requesting environmental impact assessment for the specific project listed in article 4 of Armenian Law "On Environmental Impact <i>Expertiza</i> ".
<i>2. Country/Region</i>	Armenia
<i>3. Court/body</i>	Administrative Court of Armenia (ՀՀ վարչական դատարան)
<i>4. Date of judgment /decision</i>	2012-04-10
<i>5. Internal reference</i>	<i>ՀՀ վարչական դատարան:</i> <i>Ք. Երևան, 10 ապրիլի 2012 թվական, ՎԴ/2209/05/11</i>
<i>6. Articles of the Aarhus Convention</i>	Art. 2, paras. 4 and 5, art. 9 paras. 2 and 3
<i>7. Key words</i>	Access to justice, legal standing, non-governmental organization, abstract claim and environmental impact assessment
<i>8. Case summary</i>	<p>The environmental NGO Ecoera and Center for Bird Lovers (ECBL) requested information from the Ministry of Nature Protection of Armenia on the environmental impact assessment (EIA) for the Dolphynarium opened in the capital city Yerevan. When the Ministry answered that no environmental impact assessment was needed in the case, ECBL and Ecoera NGO appealed to the Administrative Court requesting the court to oblige the public authority to carry out EIA.</p> <p>The Administrative Court dismissed the case with the following reasoning. According to article 15.4 of the Judicial Code of Armenia, the reasoning of a judicial act of the Cassation Court or the European Court of Human Rights in a case with certain factual circumstances is binding on a court in the examination of a case with identical/similar factual circumstances, unless the latter court, by indicating solid arguments, justifies that such reasoning is not applicable in the case at hand. In its judgment on the 2009 Teghout mine case, the Cassation Court found the Administrative Court's decision to dismiss the claim of an NGO based on article 15.1 of Armenian Law on non-governmental organizations to be in non-compliance with the requirements of the legislation. However, in its later decision from 2011, the Cassation Court referred to article 3 of the Administrative Procedure Code of Armenia which grants standing in administrative litigation solely to the entites whose rights have been violated or likely to be violated by the decisions, acts and omissions of administrative bodies.</p> <p>The Administrative Court also mentioned a decision N 906 of the Constitutional Court which clarified that the narrow approach of the Administrative Procedure Code complied with Article 19 of Armenian Constitution, namely that everyone should have a right to restore his/her violated rights, and to reveal the</p>

grounds of the charge against him/her in a fair public hearing under the equal protection of the law and fulfilling all the demands of justice by an independent and impartial court within a reasonable time.

Having regarded the aforementioned logic of Armenian legislation and given the fact that the substantive rights of the plaintiffs were not negatively and directly affected by the absence of administrative acts or omissions, the Administrative Court dismissed the claim from ECBL and Ecoera NGO. The court therefore considered it to be inappropriate to examine the substantial facts of the case.

9. *Link to judgement/decision*

[http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence\\_prj/ARME\\_NIA/Armenia\\_2012\\_Dolphynarium\\_judgement.pdf](http://www.unece.org/fileadmin/DAM/env/pp/a.to.j/Jurisprudence_prj/ARME_NIA/Armenia_2012_Dolphynarium_judgement.pdf)

[http://datalex.am/dl\\_case\\_view\\_page.php?caseType=5&courtID=0&caseID=38562071809514265](http://datalex.am/dl_case_view_page.php?caseType=5&courtID=0&caseID=38562071809514265) (in Armenian)