

Gayane Atoyán
AUA MCLS
Master Thesis
The Role Of Public Participation In Environmental Impact Expertise



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ON

“THE ROLE OF PUBLIC PARTICIPATION IN ENVIRONMENTAL IMPACT EXPERTISE”

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INTRODUCTION

“Public participation is a key step to improving our environment. But often it comes too late – or not at all.”¹

This statement is both unique and common for the whole world. Contemporary population on the Earth is deeply concerned with environmental protection of the planet. One of the protecting activities of people is the Environmental Impact Expertise/Assessment/ (EIE). This activity is necessarily implemented in each country of the world by individually created institutions and authorities. The EIE is an instrument created by people to evaluate the variety of their interventions into the nature and surrounding environment. The intervention of people into environment is closely related to life progress and development, when human beings demand commodity in each area of their life. Now day’s big cities with their high skyscrapers, crowded parks, cafes, leisure halls and many other places designed for public use were developed and constructed throughout the ages and it is a continues motion, which needs the harmonization with nature, because each of those constructions causes an intervention by people into the environment. Thus, people try to assess each step of constructional process and its impact in advance, either to be sure that their interference is less harmful for the nature, or to prevent the environment from being destroyed. The problem is how to keep the balance between contemporary raising constructional demands and caused environmental impacts. This means, to keep sustainable development in sustainable healthy environment.

Armenia, like all other counties on the world, has its Environmental Impact Expertise /Assessment/ instrument and authorities too. It has also the problem of balancing the demands of its developing population and its ancient nature, where the amount of forests and parks are decreasing and raising the

¹ Public Participation in Strategic Environmental Decisions (Pre-printed version) Guide for Environmental Citizens Organizations

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threat of desertification by the time. Developed legislative and regulatory norms are crucial to keep this balance, because society needs the right regulation and control of increasing amount of buildings and constructions. These constructions are considered to be one of air and water pollutants especially in municipal districts. Residents are doomed to live in dusty and dirty areas for long periods of time during the building processes, and besides, the most vulnerable part of this is when those constructions are done on the places of parks or similar green spaces. The objectivity in EIE authorized bodies should be kept always not to make mistakes while implementing assessment statements and decisions based on requirements made by Law.

PRIVATE INTEREST

The existence of EIE legislation regulates relationships between private sector, who aim to make their business by constructing wide variety of buildings for making business and common residents or citizens, who need to have a fresh air in their cities, parks to walk and healthy and clean environment. Everyone knows that big cities have many environmental related problems, like cars, noise, industries and others, consequently the constructional part of harming municipal environment must be considered thoroughly. Pollutions generated from the dust of constructions may cause different problems for residents up to allergy and problems with breathing, the trees that are cut for constructional purposes are gone forever and there will never be the same park with its fresh air, where the citizen would find a place to sit and get rest after the hard working day .In addition, the surrounding area is dirty and dissatisfying. On the other hand the modern businessmen urge on having their financial sources by building constructions in the middle of public parks, alleys which damages the environment and causes significant problems for the citizens. They have to take into account that each planned construction must be presented into public attention and get civilians opinions for the future building.

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This paper will uncover the transaction in details and will try to find gaps in RA legislation to improve it and to defend populations' interests in sphere of municipal constructions, where those are made or are going to be made improperly. Here rises the importance of public participation and their opinions to realize their basic human rights and to express discontent in cases when the realty would jeopardize their environment. Thus, public's role is crucial in keeping the environment safe.

ARMENIAN LEGAL FRAMEWORK

The legal framework for environmental impact assessment generates from RA Constitution where Art. 10 provides state's responsibilities to guarantee the security for environment and its rational usage. While Art.31 advocates that everyone has the right to use his/her property, but shall not harm the environment and go against the interests of other people, society and the state. On the contrary, the art 33.2 in RA Constitution grants the right to people to select their preferable environmental area to live, which they would desire for their health and life comfort. Meantime, the Constitution holds responsible those public officials who would dare to hinder the procedure of raising public awareness in environmental issues and would refuse to assist.

The other part of RA legislation supporting the Environmental Impact Expertise procedure is the RA Law on Nature Protection Principles. Where the Art 14 /The Development and Implementation of Economic and Other Projects Which Cause Impact on the Environment/ requires that the projects of urbanization, economic and other activities must possess ecological grounds to prevent dangerous impacts on environment. These arguments should be presented to the state nature protection authorized body prior to the projects affirmation. And particularly, there is a distinct Law of RA on Environmental Impact Expertise /EIE/, which is aimed to analyze the proposed activities, evaluate their potential effects or harms, to regulate the reasonable usage of natural resources and make the information

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available for public assessment (Art.3). Art.4 of EIE Law defines the “*intended activities*”¹ that should be subject to environmental assessment and its point j) addresses to municipal constructions –“*buildings, facilities, complexes and other intended activities exceeding allowable norms*”² Art.5 of the EIE Law indicates the scopes of expertise which will include “*direct and indirect impacts of activity related to ...health and well-being of population, the environments of towns; use of natural resources...*”³.

The RA EIE Law provides all the necessary procedures and durations; Art.6 authorities’ notification, Art.7 submission of required documents, Art.8 publicizing and discussion of documents that are subject to be assessed, Art.9 requires the conclusion of experts. There must be held public hearings to discuss the expert conclusions together with affected community after each of the above listed procedure. (Art.10). It is necessary to have the positive conclusion of experts to start the performance of the intended activity, without such conclusion the implementation is prohibited by RA EIE Law. For implementation of environmental impact expertise procedures there are fees for expenses assigned by RA EIE Law, which must be paid by the initiator of the project.

The authorized body performing the environmental impact expertise is stated by RA EIE Law. In Armenia this body is acting in the scope of Ministry of Nature Protection. It is the State Non-Commercial Organization of Environmental Expertise, which includes some assessment elements in it as well

The main articles in RA Law on EIE that underpin the transaction of public hearings are as follows;

- **Art.6**

“3. Within 7 days after the receipt of the notification, the authorized body informs the head of the affected community and the general public about the initiative to implement the intended activity. 4.

¹ Art. 4 j) RA Law on Environmental Impact Expertise

² Same source

³ Art.5 RA Law on Environmental Impact Expertise

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After the receipt of notification, within 15 days the heads of the affected community and the initiator organize the public hearings concerning the intended activity (its procedure is determined by the government of the Republic of Armenia), announcing through mass media about the place and time of the hearings and the intended activities”

- **Art 8.**

“1. After the receipt of documents the authorized body immediately sends them to the heads of the province or the community, to the relevant state body and the affected community. The heads of the affected community, within 5 days inform through mass media where and when it is possible to familiarize oneself with the documents and obtain data (oral or written). 2. The authorized body, the affected community leaders and the initiator within 30 calendar days organize the hearings and enable the public to familiarize itself with the documents. Within this period public opinion is submitted to the affected community leaders or directly to the authorized body.”

- **Art.10**

“1. After the receipt of the expert conclusion, within 30 days, the authorized body provides the public hearings for the public opinion, the opinions of affected community leaders, the opinions of affected communities and relevant state bodies. 2. At least 7 days prior to the event, the authorized body makes a written notification to the initiator, the provincial or community leadership, the affected communities, relevant state bodies and authorized persons about the date and venue of the public hearings. Other experts and specialists can be invited to the public hearings”

There is a RA Law on Freedom of information, which supports the validity of public hearings in RA Law on EIE.

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Armenia has ratified various international treaties in different areas of democratic development after the collapse of the USSR. Several of these treaties are related to the local and international environmental protection; Aarhus Convention/Convention on access to information, Public Participation in Decision Making and Access to Justice in Environmental Matters/ ratified on 14.05.2001, Espoo (EIA) Convention /Convention on Environmental Impact Assessment in a Transboundary Context / ratified 14.05.1996, SEA/Strategic Environmental Assessment/ Protocol signed on 21.05.2003 signed, but not ratified yet by Armenia.

All these treaties are directed towards democratic, transparent and sound performance of state responsibilities in assessing the impacts on environment. Armenia, together all related countries strives for harmonization of its domestic laws with the ones generated as the result of shaping the European Community.

CASE STUDIES

The RA State Environmental Impact Expertise Organization /State Non-commercial Organization (referred to as the Organization later)/ is an authorized body, which deals with environmental impact expertise throughout Armenia. It has its special allocation in the www.mnp.am web site of the Ministry of Nature Protection. It makes the expertise in all spheres of environmental interference. It has the power to reject or approve plan or project proposals. It is responsible to conduct public hearings in three steps during the whole procedure of expertise.

This part of the paper presents the environmental impact expertise procedure with the help of case study when the Organization submitted negative reply to the constructional project initiator.

The initiator of the project is "Ararat Gold Mining Ltd". They plan to construct a gold processed factory in Sotq mining area, near Lake Sevan. The activity is to build a new factory to decrease the transportation costs of the company.

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The project was submitted to RA Ministry of Nature Protection to the State Non-commercial

Organization of Environmental Impact Expertise/there is no date of submission/ and the conclusion was

received on 06.04.2005 by “Ararat Gold Mining Ltd”. The expert for this case was Karine Movsisyan.

Her conclusion was negative based on following arguments:

1. *"The foreseen activity which is the construction of the planned factory contradicts requirements of Art. 8 part 1, Art. 9 point 1, Art.10 point 2 sub point c of RA Law about Lake Sevan. This Law prohibits the constructions of mining development centers near the lake Sevan to protect the ecological security of the lake. There is an instruction # 24-01/92, 24.02.05 done by “Lake Sevan’s Protection Expertise Committee” of Scientific Academy of RA, which excludes the implementation of such activities in that region, because it contradicts to RA legislation.*
2. *The gold mining factory uses toxic chemicals in its operations and emits cyanogens and other similar toxic wastes which contradict to the government decision #57 made on 24.01.2002 based on the confirmation of the list of toxic elements which negatively impact on the ecosystem of Lake Sevan. In this project it is intended to construct tailing dams and warehouses of toxic chemicals that will cause high risk for the lake.*
3. *There are intended theoretical scientific plans in this project that require clear answers to some extend and their implementation in reality can be different.*
4. *One of the tailings dams is planned to be located on the river Seydlar, which is out of the territory of Armenia and will cause transboundary pollution.*
5. *During public hearings on 04.05.05 the majority was against the construction of the factory. The public worried about the healthy ecosystem of the lake and suspected that there will be an unsolvable negative impact on the lake and on the region.*

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6. On 26.03.05 the "The Center of Regional Development and Research" directed a letter-complaint with signatures of 18 NGOs to the RA Government asking them to prohibit the construction of such factory in the region of Lake Sevan.

Expertise Conclusion

*The Certification and Confirmation Commission of Environmental Expertise RA Ministry of Nature Protection gives its negative reply ,/taking into account the above mentioned expertise arguments regarding the construction and utilization of gold processing factory in Sotq mining area."*¹

Based on the interview with expert Karine Movsisyan, it was clarified that the initiator invited other foreign experts to assess the environmental impact and to find solutions to minimize the risks and impalement the project, but there was no positive result for this, because Lake Sevan has a vital importance for Armenia and its near regions. In this case the result must be negative.

To the question whether there were many negative comments in their experience Ms.Movsisyan replied that generally there are certified and confirmed cases with positive comments. In case of negative results the initiators are aware that they will never get positive comments while having a project that will certainly violate both legal and environmental standards.

Here it is proper to describe a case of the Teghut mine exploitation program initiated by "Armenia Copper Program Ltd.". The activity was approved. There is a conclusion which is signed by RA Minister of Nature Protection on 07.11.2006. But this case attracted the attention of NGO's and public sector after it has been exploited and till now the debates are continuing over this case. There are arguments that RA legislation is violated during the expertise procedure. The problem in this case was public hearings that were not properly conducted.

¹ Conclusion # BP50 on Environmental Impact Expertise dated 06.04.2005

The following is a description of the transaction taking into account the above mentioned cases and the implementation of the RA Law on Environmental Impact Expertise.

Generally, if a person or a company in Armenia wants to implement any activity and to get an approval for it, they should know that each activity is regulated by Art.4, paragraph 1, EIE Law RA which provides the list of all activities subject to environmental impact assessment. Art.6 of the same paragraph in the law requires *notification* of the procedure done by the *initiator* to authorized body *“the authorized body is a state authorized body conducting the expertise of environmental impacts by proposed activities and procedures”*

“The Initiator is a legal entity or physical person, as well an enterprise without the status of legal entity which intends to implement certain intended activity”¹

The notification includes:

- ❖ Introductory information about the planned activity (aim, location, title)
- ❖ Required area, water and raw materials utilization
- ❖ Concise narrative of technology to be used
- ❖ Foreseeable probability of environmental impact and threat to various environmental components
- ❖ **The response or opinion of the affected community for the land utilization as well**
- ❖ The opinion of appropriate authorized body

The authorized body is a state authorized body conducting the expertise of environmental impacts by proposed activities and procedures.

The authorized body is in charge for;

- ❖ *“Validity of the conclusion*

¹ Art.1, RA Law on EIE

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- ❖ *The observation principles, procedures, norms, deadlines,*
- ❖ *Providing necessary documents and materials*
- ❖ *Providing necessary working conditions*
- ❖ *Publicity”¹*

The authorized body /Environmental Impact Expertise Organization/ is obliged to give its consent of conducting or not conducting the environmental impact expertise within 30 days./6,Art.6, EIE, RA/. If the environmental impact assessment will be deemed to be necessary the initiator has to provide the documentation on the intended activity required by state authorized body.

After receiving the required documentation the authorized body is responsible to notify regarding the intended activity to “...heads of province or the community, or to relevant state body and the affected community”² This is done to organize the public hearings, which has the major portion of importance in the implementation of Environmental impact assessment legal procedure and should be organized within 30 days. If it is not implemented within 30 days period of time by the affected community, the opinion is considered to be positive. After getting the public opinion, the appropriate province or community administration has to provide that information to the state authorized body. **The RA EIE Law requires making intended activities public in several stages; at first before submitting the activity documents by the initiator to the state authorized body, secondly, when the documents are ready they are submitted by the expertise body to the affected community administration, and third, after getting the expertise done. The various specialists and experts, NGOs and related**

¹ Art.19,RA Law on EIE

² Art.8,RA Law on EIE

representatives are welcomed to participate in public hearings. The announcements about the impact assessment are publicized in mass media.

The experts are authorized persons who implement the environmental impact expertise and they receive professional competence certificates from the authorized body. After the receipt of documents the Environmental Impact Expertise Organization assigns the experts to elaborate the activity proposal within 70 days. This period can be extended up to 180 days. It is prohibited that the same authorized person participate both in preparation of documents and in making impact assessment /6,Art.9,RA Law on EIE /.

The authorized person is in charge for

- ❖ *“The validity of conclusions, suggestions, comments*
- ❖ *For unbiased appraisal of documents*
- ❖ *Submitting the expert opinion to the authorized body on time”¹*

“The expert conclusion contains a proposal concerning positive or negative assessment”.²

The assessment conclusion is entered into force from the moment of its issuance.

The RA Law on EIE provides that if there is no written answer by the authorized body within 120 days to the initiator, the conclusion is deemed to be positive. If there is no implementation of the conclusion within a year, the initiator has to start the whole procedure from the beginning and get another conclusion. The authorized body can consider the assessment conclusion invalid if:

- ❖ Amendments were made in environmental protection legislation after the conclusion
- ❖ The ecological factors were changed during the period of assessment

¹ Art.18,RA Law on EIE

² Art.8,RA Law on EIE

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“The conditions, deadlines and procedure of reconsideration or invalidation of assessment conclusion

are established by the government of the Republic of Armenia”¹

SUMMARY OF INTERNATIONAL BEST PRACTICE

The concept of Environmental Impact Assessment /Expertise in Armenian legal context/ is universal for every country in the world. Even if each of the states designed their legislation by their special way based on the legal systems of the world either on Civil Law or on Common Law, their aims are directed towards protection of natural environment and its prevention from wrongdoings. This part of the paper attempts to describe and compare the experiences that countries have in making assessments of environmental impacts of particular projects. To determine how they relate this with human rights: particularly the right of affected communities participating in environmental decision making. The models are based on Australia and Scotland as common law countries and Albania as an example of a civil law country. It is proper to mention that best practice on the world in environmental protection, impact assessment and public participation in decision making is the combination of universal interests into international treaties and developed sense of mutual assistance of developed and developing countries in this experience.

Australia has a well-developed governmental structure and legislation for environmental protection. It regulates and controls its man-designed environment by the Environment Protection and Biodiversity Conservation Act (1999), which consists of 977 pages and contains the detailed prescriptions of the transaction. *“The EPBC is the Australian Government’s key piece of environmental legislation...”²* In Australia the approval for implementing the planned project is received from the Minister of Water and Environmental Resources. The liaison between the initiator of the project and the Minister is the Department of the Environment and Water Resources. In the matter of implementation of

¹ 5, Art.9 RA Law on EIE

² <http://www.environment.gov.au/epbc/publications/pubs/assessment-process.pdf>

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a particular project, the Australian Government facilitates the efforts of an initiator and offers two stages in the impact assessment procedure and as prescribed by the EPBC Act. These stages are 1. “Referral”; the initiator fills the Referral Form and submits it to the Minister to find out whether the intended activity requires approval and 2. “Assessment / Decision Whether to Approve”, when the Minister decides whether the intended activity will have a significant impact on *“one or more matters protected by EPBC Act”*¹

The procedure of public hearings is done during the third step of the first stage, which takes 10 days and *“provides an opportunity for relevant Australian, State and Territory government ministers and members of the public to comment on the proposed action”*² It is important for the initiator to provide detailed information about the intended activity and those calculations that the initiator will take, because not every action will necessarily demand the implementation of impact assessment. “There are special penalties, including fines and imprisonment, for taking such an action without approval”³

The public will get the information about intended activities on the EPBC web site, which includes the following info;

- *“ Notices about the listing of places, species, ecological communities as being protected under the EPBC Act*
- *Notices about decisions made in relation the assessment and approval of development proposals referred under the Act.*
- *Notices about decisions in relation to permit applications.*
- *Notices about Heritage matters and proclamations or decisions relating to protected areas.”*⁴

In the case of Scotland regulations are harmonized with the Environmental Impact Assessment Directives of European Union. In Scotland there is statutory legislation, called “Statutory Regulations”

¹ <http://www.environment.gov.au/epbc/publications/pubs/assessment-process.pdf>

² <http://www.environment.gov.au/epbc/publications/pubs/assessment-process.pdf>

³ Australian Act on Environment Protection and Biodiversity

⁴ <http://www.environment.gov.au/epbc/notices/index.html>

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devoted to Environmental Protection and Impact Assessment as well as bills adopted by the Scottish

Parliament regarding the regulations of particular transactions. One of these bills is the “Environmental

Assessment (Scotland) Bill”, which contains all the regulatory provisions on the subject of

environmental impact assessment of particular projects /Strategic Environmental Assessment (SEA)/.

Scottish ministers call this “Two stages approach”. Based on the Bill the authorities that are responsible

for the consultation for the initiators are:

- Scottish Ministers
- Scottish Environment Protection Agency; and
- Scottish Natural Heritage

In this Bill the initiator is applied as “responsible authority”. This authority shall prepare the report

regarding proposed activity and submit it to consultation. Before giving their approval, the consulting

authorities may or may not organize public hearings of affected community .The legal basis for this

transaction in Scotland is considered to be “The Environmental Assessment of Plans and Programmes

(Scotland) Regulations 2004(S.S.I. 2004/258)”. Both in Australia and Scotland the time duration of this

transaction is not more than 30 days.

Albania is a civil law country in its transition from post socialist to a democratic one. The

Environmental Protection Law is one of its new laws, in which the articles 7 through 16 are devoted to

Environmental Impact Assessment.The Ministry of Health and Environment is the authorized body

which implements this transaction. In the Albanian legislation, the difference from the rest of countries,

including Armenia, is that the environmental impact assessment is done for both the proposed activities as

well as for ongoing activities. *“Thus, the public participation required by the EIA provisions will take*

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place in every permit proceeding for which it is determined that the proposal includes significant potential environmental impacts.”¹

The significant point in Albanian Law is that public participation is conducted several times for the same activity, even if the particular construction is built and is under the exploitation. Here the approvals of authorities in respect of environmental impact assessment of constructions have their expiry dates based on the Albanian Environmental Impact Assessment provision. The duration of implementation of this activity is 3 months. Albania is also in the process of harmonizing its environmental assessment legislation with European ones and it ratified several Environmental treaties for that purpose.

In all these countries it is impossible to conduct any activity without getting the approval or permission from the authorized bodies. The presence of public representatives during the assessment procedure is required not only by local legislation, but also by international treaties and directives of European Union. The aim of all these states is to pursue the goal of healthy environmental heritage for future generations.

PROCEDURE EVALUATION

One of the objectives of RA Law on Environmental Impact Expertise is to provide the participation and involvement of public in each stage of expertise; to make the affected community aware of initiated plans and projects and their impact on surrounding environment. It has also a principle to make decisions only based on broadcasting.

RA Law on Environmental Impact Expertise requires public participation before each decision is made;

1. When the project is newly planned the initiator has to notify the authorized body and which, in its turn, notifies the authorities of the affected community. The authorities of affected community

¹ REC_Manual_on_Public_Participation_Country_Reports_Albania.

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shall organize public hearings during 15 days after getting the notification./Art 6, RA Law on EIE/

2. In case, if there will be found out that the expertise is necessary, the initiator prepares all the required documentation and submits them to the authorized body. The authorized body, authorities of affected community, and the initiator are responsible to organize public hearing during 30 days after the documentation are submitted to the authorized body.
3. The next stage is the implementation of expertise, which considered the previous opinions of affected community as well. The authorized body has to notify about the implemented expertise to the affected community and public during 30 days, after getting the expertise conclusion. It is responsible to inform the date, time and location of the initiated public hearings.

This law is unique, because it regulates the reciprocity between the government and the public.

Accordingly, NGO's, local population and other interested parties are required to participate during each public hearings organized by the authorized bodies to discuss the issues concerning changes in their environment.

The policy of RA Law on EIE is correspondent to the worldwide policy of environmental protection and impact assessment. As to public hearings, the RA EIE Law requires three stages of broadcasting of government activities. It emphasizes the actuality of public hearings in decision making related to all intended activities in Environmental Impact Assessment and it acts for protecting the environment as well as the human rights of citizens.

The RA Law on EIE is designed properly, despite some other shortcomings, not related to this topic, but there is a lack of implementation of this legislation. The case of "Ararat gold mining factory" that is discussed above proves the fact of actuality of public participation. Here, public insisted on fair solution of a problem and was against of building the mining factory near the lake Sevan. It is evident that public

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participation had a decisive role and the conclusion was justified. But the problem is that not all the invitations for public hearings have response from wide range of participants. As it was disclosed from Environmental expertise of state-non trade organization, general public is indifferent in participating of mass hearings announced by authorities via mass media. In this situation, the authorities prefer to escape from implementing their duties and sometimes the organizations of public hearings are not done at all. It is easy for parties, the initiator and the authorized body, to evade of long lasting procedures and to precede the particular activity noiselessly. The projects, which have the global or nationwide significance for Armenia, are publicized only. It is evident that the procedure of creating a democratic country requires a proper approach towards individuals in the society and their basic human rights.

The world community has the same issue of publicizing and transparency in organizing the public hearings and in this regard the Aarhus Convention was declared and Armenia is 16th that ratified it .But there is still lack of the implementation of requirements of both Aarhus and Armenian EIE Law provisions in part of public hearings. It became common in Armenia provide the ground of public hearings only at the last stage of a project's preconstruction activities. There are no well organized infrastructures to lead or to assist in the management of public hearings for every environmental change.

“Each Party shall make appropriate practical and /or other provisions for the public hearings to participate during the preparations of plans and programs relating to the environment, within a transparent and fair framework, having provided the necessary information to the public. The public, which may participate shall be identified by the relevant public authority, taking into account the objectives of this convention. To the extent appropriate, each Party shall endeavor to provide opportunities for public participation in the preparation of policies relating to the environment”¹

¹ Art.7, Aarhus Convention

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The situation in Armenia in conducting public hearings apart from the provisions of RA EIE Law raises the threat of corruption and violation of that law in general. Nor authorized body neither initiator will dare to speak loudly how they implemented or constructed particular project, but the fact is that most of these activities are performed without any notice to the public. The evidence of this is the number of growing cafes and decreasing parks and forests. It seems that decisions of government about forest cuts, public hearings, transparency of all activities are done only in written form, but there is no genuine activity for their accomplishments.

Scotland, Albania, Australia are countries, whose practices in public hearings in environmental Impact Assessment are compared with Armenian experience in this paper. All of them have special approaches to this issue. In this sense the RA Law on EIA requires the public activity and participation more than the legislations of above mentioned countries, but in reality those three countries implement it more successfully than Armenia.

The International best practice confirms the prerequisite of public participation in environmental issues, because the policy in all over the world is the same; prevention of contamination and protection of the environment, which belongs to each individual on the world.

RECOMMENDATIONS FOR REFORM

The Environmental Impact Expertise /Assessment/ and its transparency in Armenia has become an issue of discussion among a wide range of the public and private sector. NGO's are deeply concerned with the fact of non- implementation of public hearings and with the lack of public participation in environmental changes. The problem is that society is not aware of its common rights and is indifferent about participating during decision making by the authorities regarding environmental activities; and,

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the authorities don't use their power for the public good. They generally act as they prefer; in violation of the Law and the rights of citizens.

The policy of ignoring the law and public has become common among Armenian authorized bodies in every sphere. The tendency of ignorance and hiding the truth should be stopped especially when Armenia has ratified most of the relevant international treaties made for environmental protection. As we know the international treaties and world community in general are striving to perform each activity for the sake of individual and their environment. In implementation of RA Law on EIE the procedure of public participation during hearings must be improved via mutual support between the public and authorized bodies based on international best practice.. The environmental NGO's must become a liaison between these two parties for controlling and monitoring each step of authorized bodies and for organizing the proper public hearings in communities where it will be needed. The obstacle in this implementation is the authorized body itself, which does its duties by hiding the details of common procedure, which completely disregards from the requirements of RA Law on EIE. During conversation with a representative of Environmental Expertise State Non-Commercial Organization, it was clear that they are not willing to disclose some real facts in the procedure of expertise. When there was a question related to details of procedure, the reply was that only the head of the Environmental Expertise Organization is entitled to explain. Correspondingly, the head of this organization was a little bit confused on how to provide the information correctly. He could find only one case (studied in this paper), which was appropriate to speak about. The other cases, as it was told by the head, were the properties of individual owners, who might be against to disclose the information of their project. This statement generates some doubt regarding the lawfulness of implementation of those projects. The head on Expertise didn't refuse to answer to questions explicitly, but tried to make the meeting as short as it could be possible...

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The reform of implementation of RA Law on EIE should be started with the authorized body, which is the single institution in expertise for environmental impact acting under the state control. Accordingly, it is the single institution and its decisions are binding for the initiators as well as for the public. It would be preferable to have several authorized bodies, which would have the same functions in the government and the competition among them will create fairness and accuracy in their activities. Moreover, if these bodies will become private ones, the results will be evident again based on fair competition. The private bodies for environmental expertise would be able to provide appropriate on time information to public and find the best solutions how to organize public hearings and to ensure public participation. In this case, the public decisions would be dominant and there would be implemented transparent activities. The private expertise bodies would solve the payment problems too, by installing fixed payments for the initiators. This would help to prevent the growth of unnecessary buildings, forest cuts, and other harms to the environment.

The alternative expertise organizations will provide strict control and penalties for violators, and develop exceptional rules for public participation. State should control all this activities, but together with NGO's and other competent bodies and the basic regulations must be provided by the state only.

Taking into account that the public hearings were provided by RA EIE Law started from 1995, *“their implementation started only on 2000, when various establishments were built in Yerevan and the claims of citizens were heard only at that time. Those public hearings were conducted in the same establishment or in the same areas where the establishment was located”*¹ This citation is an evidence of the fact that the procedure of public hearings and its implementation is the brand new experience for 17 years old independent Armenian Republic. To make the reforms in this area the following three steps should be undertaken;

¹ Report of the program on RA Law on EIE Reforms,2003

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1. To raise awareness about the importance of the role of the public in participation in hearings and decision making, especially in rural areas
2. To create special establishments in each urban center in Armenia for conducting public hearings
3. To assign more than one body to be in charge of environmental expertise procedure or alternative environmental impact assessment bodies regulated in compliance with accurate legal Act.

REFORM IMPLEMENTATION

The process of reform can be started from kindergartens and schools, where the younger generations will study how to behave themselves in the environment, and why and how they should protect it. It is necessary to grow children with the notion of care and concern towards the surrounding nature and its elements. This notion will support our society in making people aware of their rights and teaching them to be the owners of that right. This should be done in all the parts of Armenia and must be started from rural parts.

The local municipal governing bodies should make available appropriate places for conducting public hearings, whenever needed. They have to be responsible for every change that is planned or conducted in their local area. They must realize the importance of decision making based on public opinion. In this case, there should be raised the awareness of authorities as well, who are in charge of state or private bodies should be raised as well.

The presence of a single expertise body in environmental impact assessment lacks the opportunity of choice. This is the only body to whom the initiators can apply while planning to construct anything and only this body controls the expertise and makes conclusions based on it. Accordingly this body makes its work easy and reduces the implementation of provisions of RA Law on EIE by evading of

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implementation of each requirements of the Law about public hearings and making only one hearing at the end of each procedure.

It is proper to call on NGO's in solving this problem of conducting public hearings properly and according to the Law. As it is found out from the NGO web site in Armenia there are 49 environmental NGO's, which are busy with making amendments and improvements in the implementations of legislation. After ratification of the Aarhus convention in Armenia there was established the "Aarhus Center" of Armenia in Yerevan and now it creates its branches in marzes. This center has its vital importance not only for Armenia, but also for its neighbor countries, because the environment in Caucasus region is getting more and more vulnerable. It is the main NGO that promotes the convention and its goals in this region.

The "Aarhus Center" is one of the initiators of a network between Armenian and International NGO's to conduct the public participation in different basins of Armenia regarding water management established in 2005. It was implemented successfully. This could be a good example of making similar networks to control and regulate public participation in various areas as well and ensuring the implementation of both Armenian legislation and the Aarhus Convention.

In the web site of Ministry of Nature Protection of Armenia one can find only conclusions that were made for particular projects and the list of upcoming projects, without any details about public hearings and dates of implementation. In contrast, the web site of the Australian Department of Environment And Water recourses, based on "The *Environment Protection and Biodiversity Conservation Act 1999*" includes all the details for making public aware of implemented activities. In this web site there are many links for citizens, who can open the page and be aware of each intended environmental project or plan. There are created registration forms and application forms, where the citizens can get registered

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and write their opinions about particular activity. But these all are made meantime when public hearings are planned to conduct.

There are many other relevant best practices in the world among which the suitable one can be adapted for Armenia. But the implementation of public hearings must be kept in line with the legislation for sure. For having an aware society we must have an aware government.

CONCLUSION

This paper is aimed to observe the vital notions of the protection of environment and the public role in its protection, which is deeply connected with the basic human rights of people. The research that is conducted for this purpose disclosed the shortcomings of implementation of RA legislation by authorized bodies as well as the activities on local non-governmental organizations, which strive for harmonizing Armenian reality with successful international implementations.

So, the presence of well trained governmental bodies and informed population in Armenia will succeed on its way to democracy and in growing healthy generations.

ABSTRACT

The Environmental Impact Expertise State Non-Commercial Organization in Armenia functions in part as an environmental impact assessment body. In the reality the environmental impact assessment bodies are developed in public sector only and they are NGO's. The expertise implements the assessment under the state control and there are no developed traditions of conducting public hearings during expertise. Generally, expertise should be considered as a part of assessment and the environmental impact assessment bodies should conduct public hearings. In this case there will be no need to organize public hearings again during expertise. The following questions require competent answers; whether the presence of general public should be required for every activity? Whether the social conditions of Armenian society will allow general public to participate in decision making

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objectively? How the state expertise body could be changed into assessment one? Generally in all foreign countries this body is harmonized with the requirements of EU standards and particularly with Aarhus convention that prompts the mechanisms of implementation of public hearings. In all those countries the similar bodies are called as Environmental Impact Assessment and are regulated by correspondingly developed Acts

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