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OPEN LETTER

On June 21, 2014 the National Assembly of the Republic of Armenia (RA) adopted RA Law on Environmental Impact Assessment and Expertise (hereinafter EIA law) by holding three readings throughout the course of a single day (24-hour regime). Though a number of public organizations applied to the RA President requesting that he does not sign the law full of contradictions and flaws, and return it to the National Assembly, it was signed by RA President on July 23, 2014.

EIA law plays a crucial role in safeguarding the human life as it sets forth the grounds for environmental sustainability of economic activities, including mining, urban development, energy, industry, etc., and for estimation, prevention, mitigation and exclusion of the impacts of activities on the environment and human health, as well as issues of public participation and responsibility of state authorities. Adoption of this law was urgent, in particular, for improvement of RA legislation in compliance with decisions and recommendations of the authorities of UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (Aarhus Convention) and UNECE Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention). Adoption of EIA Law is also a precondition for the provision of Armenia's budget support loan by the World Bank.

In 2012, a failed attempt was taken to amend RA Law on Environmental Impact Expertise (1995), however the bill adopted by RA National Assembly was returned by RA President. Instead, a process to develop an entirely new draft of EIA law was initiated. Headed by RA Deputy Minister of Nature Protection, Simon

Papayan, a working group was established, which included representatives of interested public organizations who agreed that the draft law would be developed based on the parties' mutual agreement on submitted recommendations.

The draft law developed by the working group provided for serious improvements, such as clarification of EIA procedures, ecosystem approach in process of assessment, economic assessment of damages and requirement for compensation, classification of activities, etc. The World Bank experts also gave mainly positive feedback regarding the vast majority of the provisions. Despite the fact that there were still serious shortcomings in EIA draft law, in particular, related to mechanisms for public participation, on August 5, 2013 it was hastily presented to RA National Assembly in order to include it on the parliament's autumn session agenda. Nevertheless, promises were given by RA Ministry of Nature Protection, that after its adoption on first reading, they would mediate to organize parliamentary hearings and give a chance for improvement of provisions on public participation and EIA process. On September 27, 2013 the bill received positive conclusion by the National Assembly's Standing Committee on Agriculture and Environment and was included on the National Assembly's agenda. However, within 9 months, the promised parliamentary hearings were not organized and the process of adoption of the bill was actually stopped until June 21, 2014. Hence, professional recommendations and agreements of the working group were neglected as a result of the speedy passage of EIA bill by RA National Assembly.

In addition to the hastiness and manifestation of negligence of public opinion, the formal process of adoption of the bill was accompanied with fraud, which is proved by the history of the bill posted on the website of the National Assembly. Thus, in reality, the bill put to discussion in the special session on July 21, 2014 drastically differed from the one submitted by the government to the parliament, discussed and approved by the National Assembly's Standing Committee on Agriculture and Environment. The new version of the document was not publicized in advance and was not made subject to public discussion, as prescribed by RA Law on Legal Acts article 27.1.

Amendments secretly made in EIA bill, in fact, devalue all the positive developments included in the document hitherto. In particular, article 14 of the bill is fully distorted. The suggested threshold values for conduct of environmental impact assessment are not realistic in Armenia, while the assessment of activities more frequently implemented is either simplified or taken out of the requirements. By increasing the threshold value or by changing from one category to another, the impact assessment of some types of activities (e.g., building of gas and chemical product pipelines, geological exploration of mines, utilization of non-metallic mines, hydropower generation, waste treatment, etc.) was simplified. Other activities (e.g. hydropower plants up to 100 kW of power, nearly all types of food production, activities against landslide and flood on up to 10 hectares of land, pharmacy production, fish-breeding, cattle-breeding, sheep-breeding, pig-breeding, etc.) were taken out from the list subject to assessment. The requirement for environmental impact assessment in case of changing land categories was abolished, even though decisions are actually made at this stage. The requirement for environment impact assessment upon the demand of communities or the interested public and other important provisions were taken out. The requirement to take into consideration alternative development scenarios in process of environmental impact assessment, was also removed.

Instead, a provision was added which is unacceptable for the public as it is messing up the approaches of assessment of impacts on the environment and human health and puts at risk their effectiveness. In particular, pursuant to the added provision, instead of types of activities rather the equipment used by those activities shall be subject to assessment. In other words, due to this innovation not the mining project to be implemented in Lake Sevan basin, but, for instance, the ore crushing-sorting equipment in Sotk gold mine may be assessed and considered as "a facility corresponding to the international quality standard" without

considering the fact that the equipment should work in the watershed of the region's largest freshwater reservoir with respective likely negative impacts. With such an approach, all positive developments of the law, including those that ensure public participation, turn to be useless.

As representatives of the working group that took part in the development of EIA draft law, we state that RA Law on Environmental Impact Assessment and Expertise, adopted by RA National Assembly on June 21, 2014 and signed by the President on July 23, 2014 is passed with fraud and directed by private interests. It contradicts the public interest to live in a healthy environment and because of some provisions is a serious regress from the law adopted in 1995.

Against this backdrop, considering that the hasty adoption of EIA bill was conditioned by the eagerness to meet requirements of the World Bank, and an expectation to receive the loan, we apply to the World Bank and request its support to the Armenian public and reconsideration of its position in respect with allocation of the budget support loan until Armenia meets its international commitments and guarantees respective grounds for a balanced approach in economic development, protection of the environment and human health. After 20 years, millions of dollars of support and consultation from various donors and participation in hundreds of seminars and conferences, the given version of EIA law may not be acceptable for the civil society of Armenia. It should not be acceptable for an outstanding organization such as the World Bank either, which consistently, for years voiced on the necessity to amend EIA legislation.

We think that RA National Assembly shall urgently, in its autumn session, make amendments to EIA law of June 21 2014 with consideration of the aforementioned concerns. It is imperative to remove the shortcomings of this Law as soon as possible, and the World Bank should no longer tolerate futile promises and ungrounded prolongations by the RA Government as to not endanger its own reputation.

With this letter we also apply to the interested international convention secretariats in order to take into consideration the fraud committed while adopting RA Law on Environmental Impact Assessment and Expertise and the negligent attitude toward professional positions of the public organizations.

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