

**AZƏRBAYCAN RESPUBLİKASI
EKOLOGIYA VƏ TƏBİİ SƏRVƏTLƏR
NAZİRLİYİ**



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**Mr. Jan Kubiš
Executive Secretary of the
United Nations Economic Commission for Europe**

Dear Mr. Kubiš,

I have the honour to refer to the letter dated 31 August 2011 from Minister of Nature Protection of the Republic of Armenia addressed to the Chair of the Implementation Committee of the Convention on Environmental Impact Assessment in a Transboundary Context concerning so-called "affected party's concerns".

The letter makes clumsy attempt to introduce Azerbaijan as a Party violating the provisions of the Espoo Convention. In reality the letter from Minister of Nature Protection of the Republic of Armenia is yet another illustration of sophisticated misinterpretations of the provisions of the Convention.

For the purposes of Espoo Convention, the notion of "Affected Party" is a starting point to apply the provisions of this Convention as to the relations between the Parties. It should be recalled that "Affected Party" means the Contracting Party or Parties to this Convention likely to be affected by the transboundary impact of a proposed activity.

To start with, it is worth stressing that the geography keeps Armenia outside of the scope of any affect and henceforth of the notion of "Affected Party". The pipelines referred to by Armenia are passing across the territories of Azerbaijan, Georgia and further of Turkey, linking the Caspian sea with Europe. Azeri-Chirag-Guneshli and Shahdeniz as well as any other fields are located offshore in the Caspian Sea. Hence, Armenia as a country with no access to this basin by no means can be considered as an affected party. It is also well known that in the case of transboundary watercourses, a downstream riparian state, as Azerbaijan, is a recipient of pollution inflows from the upstream country, namely Armenia. Therefore, none of the exploration or any other related offshore activity can support the claim of Armenia to be an affected party.

As for the false claim by Armenia with regard to the impact of the pipelines, the altitude of the landscape in the closest point of the pipelines route is about 300 m

above sea level, whereas in the case of Armenia the same indicator equals to more than 619 m above sea level. Hypothetically, should an industrial accident such as oil spills occur, such spill would flow into the lowland part of Azerbaijan impacting only Azerbaijan, not Armenia. Thus, the altitude will naturally prevent the likelihood of any impact on Armenia.

Moreover, the presumed spill could potentially carry a risk with regard to the terrain of the Republic of Azerbaijan currently under occupation by the Republic of Armenia and this fact excludes the relevance and applicability of the notion of "transboundary impact" as concerns Armenia. It goes without saying that in such situation, any claimed failure by Azerbaijan to comply with the obligations under the Convention can only relate to the potential adverse impact of activities on the occupied territories of Azerbaijan.

The Republic of Azerbaijan has become a Party to the Espoo Convention on the 25th March 1999 and as from 1999 it has been pursuing the appropriate activities in full compliance thereof. One should also highlight the fact that the planning and subsequent decisions on the implementation of the oil and gas projects mentioned by Armenia took place between the years of 1994 and 1996. Therefore, even from the time perspective, the Republic of Azerbaijan could have no obligations with regard to the environmental impact assessment notification on the proposed activity. Thus, "conclusion" of Armenia that Azerbaijan breached the provisions set in Article 2.4 and Article 3 of the Espoo Convention, as well as the paragraph 5 (b) of the Decision III/2 is invalid and groundless.

Solely for general information and educational purposes it should be mentioned that despite the aforesaid, the environmental impact assessment and monitoring activities have been indispensable component of these projects even if no undertaking for Azerbaijan at that very time was at the place to be within the ambits thereof. Environmental impact assessment related reports were also made available to international financial institutions, which, *inter alia*, concluded that these projects had no transboundary effect.

To this end, references made by Armenia to Article 2.4 and Article 3 of the Espoo Convention, and the Appendix 1 of Convention (paragraph 1, 8, 15 and 16), as well as to the Decision III/2 on Review Compliance, are invalid and represent a grave abuse of the Convention and contravene the spirit of cooperation established within its the framework.

Please accept, Excellency, the assurances of my highest consideration.

Sincerely,

Novruz Guliyev
Deputy minister



CC: Mr. Nicholas Bonvoisin
Secretary to the Espoo Convention