

Protocol of the Meeting
on issue of consideration in Compliance Committee of the Aarhus Convention of
the communication of Public Association "NAIR" concerning compliance by
Kazakhstan with provisions of the Convention

December 13, 2011

11.00

Astana

Participants: (by list)

Chairman: Ms. D. K. Mukanova

Ms. D. K. Mukanova reported that Public Association "National Analytical Information Resource" (PA "NAIR") submitted communication to the Compliance Committee of the Secretariat of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. The communication indicates violation the provisions of the Convention by the Republic of Kazakhstan in connection with conduct of state environmental expertise of the working project for the construction of section of road "Bypassing the village Temirlanovka" developed under the Loan Agreement signed between the Republic of Kazakhstan and the IBRD on 13.06.2009 and ratified by the Law of the Republic of Kazakhstan on 10.07.2009.

The communicant has indicated that he and the Expert (Directorate for Natural Resources and Regulation of Natural Recourses Use) exchanged correspondence on the disputes. In this correspondence the issues on not conducting public hearings; on the request to provide with results of review of communicant's comments to the EIA, as well as the submission of conclusion of the state environmental expertise in case of its compilation were discussed.

According to paragraph 5 of Article 57 of the Environmental Code of the Republic of Kazakhstan following the decision on the conclusion of the state environmental expertise all interested persons shall be provided with an opportunity to obtain information on the object of expertise in the manner prescribed by the Code.

Committee of Roads is the Customer of the project.

According to paragraphs 60, 61 of the Instruction for the conduct of the Environment impact assessment of planned economic and other activities during the drafting of pre-plan, plan, pre-project and project documentation, approved by order of the Minister of Environment Protection of the Republic of Kazakhstan on June 28, 2007 № 204-p (registered in the Ministry of Justice of the Republic of Kazakhstan on July 23, 2007 № 4825):

The Customer (the developer) shall organize the registration of written suggestions from the public on the draft EIA; analyze comments and suggestions from the public on the draft EIA and take a decision on redrafting the EIA taking into account public opinion; ensure that the public consultation process is documented; record received written proposals and comments on the draft EIA; compile a record of public hearings, which establishes the main subjects of discussion and disputes between the public and the Customer; prepare of a commentary on consideration of suggestions and comments from the public in the project documentation.

According to paragraph 5 of Article 57 of the Environmental Code of the Republic of Kazakhstan following the decision on the conclusion of the state environmental expertise all interested persons shall be provided with an opportunity to obtain information on the object of expertise in the manner prescribed by the Code.

MEP made inquiries to the Ministry of Transport and Communications (customer of the project), Administration of South-Kazakhstan oblast (project expert). Responses were received, and then on the basis of these responses the letter to the Compliance Committee of the Aarhus Convention was prepared.

The communication of «NAIR" will be considered at the meeting of the Compliance Committee of the Aarhus Convention on December 14 this year. In this context it is proposed to consider issues of compliance with the provisions of the Aarhus Convention indicated in the request of PA "NAIR" to the government agencies and to develop further measures to implement them.

Mr. B.A. Issaliyev confirmed this information and provided with copies of letters - requests to the Directorate for Natural Resources and regulation of Natural resources use.

Mr. N.B. Omirbayev has informed that EIA of construction of section of road "Bypassing the village Temirlanovka" was completely re-drafted in accordance with requirements and format of the World Bank and currently it is being considered by the Committee of Roads. It is expected that the document will be checked by the Committee of Roads today, and then the document will be sent to WB for approval. Once the document is approved by the World Bank, the document will be available on the website of MTC RK www.mtk.gov.kz and on the project site www.europe-china.kz.

Having discussed and considered the issues raised by Mr. B. Issaliyev participants of the meeting jointly defined:

The conduct of state ecological expertise of the project of area "Western Europe-Western China" is complied with the legal requirements of the Republic of Kazakhstan and the Aarhus Convention. It is also complied with the requirements of the Loan Agreement, ratified by the country.

Comments of communicant Mr. B. Issaliyev, made during the conduct of the state ecological expertise are incorporated into the project.

Decision:

1. Committee of Roads shall timely provide communicant Mr. B. Issaliyev with information on the project, after approval by the World Bank.
2. Communicant Mr. B. Issaliyev has satisfied with these explanations and is ready to recall his communication from the agenda of the meeting of the Compliance Committee.
3. According to the legislation of the Republic of Kazakhstan, the issues raised by B. Issaliyev, shall be settled by negotiation, or in a court of law. In this connection it is necessary to consider this meeting specifically held to resolve disputes.
4. MEP shall to report on the outcome of this meeting to the Compliance Committee of the Aarhus Convention.
5. Recommend to the Committee of Roads and Directorate for Natural Resources and Regulation of Natural Recourses Use of South Kazakhstan region clearly comply with the requirements of environmental legislation of the Republic of Kazakhstan and the Aarhus Convention.