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Procedures and mechanisms facilitating  
the implementation of the Convention:  
Reports on implementation

**REPORT ON THE IMPLEMENTATION OF THE AARHUS CONVENTION  
SUBMITTED BY KAZAKHSTAN\***

Article 10, paragraph 2, of the Convention requires the Parties, at their meetings, to “keep under continuous review the implementation of the Convention on the basis of regular reporting by the Parties”. Through Decision I/8, the Meeting of the Parties established a reporting mechanism whereby each Party is requested to submit a report to each meeting of the Parties on the legislative, regulatory and other measures taken to implement the Convention, and their practical implementation, according to a reporting format annexed to the decision. For each meeting, the secretariat is requested to prepare a synthesis report summarizing the progress made and identifying any significant trends, challenges and solutions. The reporting mechanism was further developed through decision II/10, which addressed, inter alia, the issue of how to prepare the second and subsequent reports.

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\* The present document was submitted late due to resources constraints.

## **I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED**

1. This national report includes information on measures taken and events held since the submission of the first national report on Kazakhstan's implementation of the Aarhus Convention, i.e. the period from 15 December 2004 to 15 December 2007.
2. On 9 January 2007, the Environmental Code of Kazakhstan was adopted by presidential decree. The Code takes account of practically all the recommendations contained in decision II/5a of the Second Meeting of the Parties to the Aarhus Convention on harmonization of national environmental protection legislation with the provisions of the Aarhus Convention.
3. Of the 24 international conventions ratified by Kazakhstan, 19 were taken into account in the Environmental Code, as a result of which the Code meets the generally accepted international norms in the field of environmental protection. Leading scientists and specialists from Kazakhstan and abroad, six Kazakh research institutes and centres of learning, the International Academy of Ecological Sciences, Human and Environmental Safety, representatives of the Environmental Directorate of the Organization for Economic Cooperation and Development (OECD), and experts from the United Kingdom, Denmark, Latvia, the Russian Federation, the Czech Republic, Estonia and other countries took part in the drafting of the Environmental Code. In the drafting of the Code, account was also taken of recommendations made by the general public. Two public hearings were held to discuss the draft environmental code, and scientific and legal and State environmental studies were conducted.
4. In order to discuss and introduce the recommendations made at the public hearings on a conceptual approach to the drafting of the national report on Kazakhstan's implementation of the Aarhus Convention, Order No. 306 of the Minister of Environmental Protection of 17 October 2007 established a working group, which included representatives of various interested parties, including representatives of non-governmental organizations (NGOs). The draft national report included a large amount of information received by special request from the Supreme Court of Kazakhstan, the Office of the Procurator-General, the Committee on Environmental Monitoring and Territorial Administrations of the Ministry of Environmental Protection, and also information from websites of the Ministry of Agriculture, the Ministry for Emergency Situations, the Ministry of Energy and Mineral Resources, the Ministry of Health, the Ministry of Culture and Information, and also from voluntary and non-governmental organizations. The national report was prepared on the basis of a study of the relevant legislative acts, programme documents, plans, declarations, the materials of court cases, seminars and training courses.
5. On 26 November 2007, the text of the draft national report was placed on the website of the Ministry of Environmental Protection ([www.nature.kz](http://www.nature.kz)) in order ensure that the text was widely discussed by the general public.
6. On 28 November 2007, the draft national report was discussed at a meeting of the Public Environmental Council of the Ministry of Environmental Protection of Kazakhstan. Leading environmentalists of Kazakhstan, representatives of the Ecological Forum of Voluntary Organizations of Kazakhstan (EcoForum), which brings together over 100 of the country's environmental NGOs, and also the Kazakhstan Business Association for Sustainable Development and other organizations took part in the discussion of Kazakhstan's national report.

## **II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT**

7. In accordance with article 4, paragraph 3, of the Constitution of Kazakhstan, the Aarhus Convention is a ratified international agreement and takes precedence over the laws of Kazakhstan, and its provisions and norms are applied directly.

8. This national report includes information on measures taken and events held since the submission of the first national report on Kazakhstan's implementation of the Aarhus Convention. However, in some cases, earlier legislative and other regulatory acts are mentioned, since they have direct bearing on the implementation of the Convention's provisions and norms in Kazakhstan. Financial considerations do not pose an obstacle to the implementation of the Aarhus Convention.

## **III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3**

9. In the Environmental Code, adopted by Presidential Decree No. 212 of 9 January 2007, the public access to environmental information and the participation of the public in the solution of environmental problems is defined as one of the basic principles for the sustainable development of Kazakhstan. Chapter 21, entitled "Environmental information", of the Environmental Code contains provisions on the rights and obligations of entities with regard to the provision of environmental information, and the time limits and procedure for providing such information. In accordance with article 165, paragraph 4, of the Environmental Code, environmental information relating to the environmental impact assessments procedure and the process of taking decisions on planned economic activity is made available in accordance with the procedure established by the authorized environmental protection body. This procedure is regulated by the rules for conducting public hearings, which were approved by Order No. 135 of the Minister of Environmental Protection of 7 May 2007 and registered with the Ministry of Justice of Kazakhstan.

10. The Conceptual Framework for Kazakhstan's Transition to Sustainable Development for 2007-2024, which was approved by Presidential Decree No. 216 of 14 November 2006, provides for the development of civil society through:

- (a) Strengthening the public's role in ensuring the transition to sustainable development;
- (b) Enhancing public access to information;
- (c) Development of "electronic government";

(d) Development and improvement of modern information technologies for State administration in the field of resource management and environmental protection.

11. In accordance with the Conceptual Framework for Environmental Safety for 2004-2015, which was approved by presidential decree, public access to environmental information and public participation in the solution of environmental problems is one of the basic principles of

environmental safety in Kazakhstan. Pursuant to paragraph 4.3.3 of the Conceptual Framework, the public authorities have a specific task: to ensure that the public has appropriate access to environmental information and to take measures to improve the quality, usefulness and topicality of the materials made available.

12. In order to implement decision II/5a, entitled “Compliance by Kazakhstan with its obligations under the Aarhus Convention”, adopted at the Second Meeting of the Parties to the Aarhus Convention, the NGO Ecological Forum of Voluntary Organizations of Kazakhstan, with support from the Organization for Security and Cooperation in Europe (OSCE), in 2007 an information handbook on organizing and holding public hearings, and on the use of other forms of public participation in the taking of decisions relating to the environment was developed and coordinated with the Ministry of Environmental Protection. The handbook contains practical recommendations on holding public hearings that take account of the provisions on public participation contained in the Aarhus Convention, Kazakh legislation and international practice in the field of environmental impact assessments, from the beginning of the decision-making process to its completion.

13. With a view to making proposals and recommendations on the implementation of the State policy for environmental protection, environmental safety and resource management, the Ministry of Environmental Protection established the Public Environmental Council. The participation of scientists, NGO representatives and public figures in the work of the Public Environmental Council provides additional opportunities for taking account of public opinion when adopting decisions and recommendations, and facilitates the timely and qualitative implementation of the measures contained in environmental protection programme documents, as well as the development and promotion of the dissemination of information and the receipt of responses from the public, and the enhancement of civic engagement.

14. With respect to Kazakhstan’s adoption of measures to promote environmental education and increase the level of public awareness, it should be pointed out that, in accordance with article 181, paragraph 1, of the Environmental Code, the goal of environmental education and awareness-raising is to enable citizens to take an active position and to promote an “environmental culture” in society based on the principles of sustainable development. Intersectoral and interdepartmental cooperation in society in the field of environmental education is carried out in accordance with article 182, paragraph 2, of the Environmental Code, in regional councils and centres, and in educational organizations and in scientific and voluntary associations.

15. At the same time, the Conceptual Framework for Kazakhstan’s Transition to Sustainable Development for 2007-2024, which was approved by Presidential Decree No. 216 of 14 November 2006, notes that the system of education and science in Kazakhstan will be in keeping with the goals and principles of sustainable development. According to the Conceptual Framework, the main task of the system of environmental education and science is to form, develop and consolidate models of behaviour that enable citizens to take environmentally informed decisions and to act in accordance with the provisions of environmental legislation, and also to create technological institutions in order to ensure that production plans are based on technologies adapted to local conditions and on environmental rehabilitation technologies.

16. In accordance with article 181 of the Environmental Code, environmental education, environmental awareness-raising and the further training of environmental specialists are being developed in Kazakhstan as part of the system of education for sustainable development. In April 2007, the Ministry of Environmental Protection transmitted to the Ministry of Education and Science proposals on ways to improve environmental education and to include education for sustainable development in Kazakhstan's general education system. In particular, there was a proposal to include in the general education unit of all specialities of higher educational establishments, instead of the one-credit subject "Ecology", the five-credit discipline "Ecology and sustainable development", and to change the title of the speciality of baccalaureate 050608 "Ecology" to "Ecology and sustainable development" for a broader study of environmental issues and their interrelationship with sustainable development.

17. The Ministry of Environmental Protection has signed memorandums of understanding and cooperation with 19 higher educational establishments. The signing of a memorandum makes it possible to devise practical measures for further developing environmental education and raising the level of environmental awareness.

18. Legislation on the establishment, registration, activities and taxation of NGOs in Kazakhstan was adopted long before ratification of the Aarhus Convention.

19. The Conceptual Framework for the Development of Civil Society in Kazakhstan for 2006-2011, which was prepared in accordance with the national programme of democratic reforms, was adopted by Presidential Decree No. 154 of 25 July 2006 with a view to developing civil society institutions in Kazakhstan and making it possible to carry out civic initiatives.

20. The Conceptual Framework is being implemented in accordance with the plan of activities to implement the Conceptual Framework for the Development of Civil Society in Kazakhstan, which was approved by Government Decision No. 953 of 30 September 2006; 1,259 million tenge (approximately US\$ 10 million) have been allocated from the national and local budget to finance the plan. The plan includes mechanisms for improving Kazakh legislation with a view to ensuring citizens' constitutional rights and freedoms, including in the fields of culture, education, environment, health, information, social welfare, economy, gender equality, housing policy and local self-government, and mechanisms to support the non-governmental sector.

21. The Ministry of Environmental Protection, adhering to the basic principles of democratization - the creation of civil society institutions and the broad inclusion of the general public in the drafting of basic legislation - is improving legislation with a view to ensuring the constitutional rights and freedoms of citizens in the field of environment; practically all special environmental protection acts include articles on the rights of citizens and environmental NGOs.

22. In order to implement the provisions of the Aarhus Convention and the Conceptual Framework for State Support for NGOs in Kazakhstan, and also in accordance with article 135 of the Environmental Code, public environmental monitoring is being conducted in Kazakhstan. At present, 179 voluntary associations active in the field of environmental protection are engaged in public monitoring. Voluntary associations are invited to conduct joint measures to improve Kazakhstan's environmental situation and to promote environmental education and awareness.

23. With a view to further developing the non-governmental sector and ensuring its constructive interaction with State bodies, Government Decision No. 1262 of 21 December 2005 established the Coordinating Council for Interaction with NGOs, attached to the Government of Kazakhstan. The Ministry takes an active part in meetings of the Coordinating Council.

24. NGOs are very involved in the procedure for assessing the environmental consequences of strategies, programmes and plans being developed by the Government. Thus, in the first half of 2007, the Ministry invited NGO representatives to public hearings involving State environmental studies of such major projects as:

(a) Preliminary environmental impact assessment of sea petroleum operations on the Zhemchuzhina structure;

(b) Environmental impact assessment for the development project "Concentration plant for the processing of titanium-zirconium ores from the Obukhovo deposit";

(c) Assessment of the environmental impact of developing the Andash copper and gold ore deposit;

(d) Preliminary environmental impact assessment of the economic activity "Construction of a first-stage plant for producing metallic silicon with a rated capacity of 25,800 tons in the city of Karaganda".

25. Among the measures taken to recognize and provide government support for NGOs, it should be noted that in 2005 the second - and in 2007 the third - Civic Forum was held with the participation of the President of Kazakhstan, Mr. Nursultan Nazarbaev, and delegates from NGOs from all regions of Kazakhstan, and the open competition to select socially significant projects of not-for-profit organizations for government support was held by the Ministry of Information.

26. The participation of NGOs in environmental protection was discussed at both of the aforementioned events. Thus, the Ministry of Environmental Protection financed socially significant environmental projects under budget programme 001 "Ensuring the activities of the authorized environmental protection body". In 2006, in the context of a government social mandate, environmental NGOs carried out six projects, the total cost of which amounted to 10.7 million tenge:

(a) Public participation in the development and implementation of regional programmes in the field of environmental protection;

(b) Preparation of draft regulations on organizing the participation of citizens and NGOs in the environmental impact assessments procedure;

(c) Assessment of the needs of local communities, using the Participatory Rapid Appraisal (PRA) method in the context of the United Nations Framework Convention to Combat Desertification;

(d) Informing the population of the importance of the Cartagena Protocol; public participation in the creation of a national system of biosafety in Kazakhstan;

(e) Preparation of proposals on the creation of mechanisms for reducing soil degradation by end-users (administrative-legal and economic) with the participation of *akimats* (local governments), provincial administration, economic associations, farmers, hunting economies, NGOs and the media;

(f) The Stockholm Convention on Persistent Organic Pollutants (POPs); raising of public awareness of POPs; best examples of ways of combating POPs; development of local frameworks of action for public measures to combat POPs.

27. In 2007, as part of a government social mandate, environmental NGOs carried out four projects at a total cost of 10.7 million tenge:

(a) Compilation of national environmental ratings for enterprises;

(b) Development of conceptual areas of activity of the Centre for the Environmentally Sustainable Development of Kazakhstan in the Shchuchinsk and Borovoe resort zone;

(c) Popularization of Kazakhstan's transition to sustainable development;

(d) Organization of the activities of "environmental patrols" in cities of Kazakhstan.

28. In this connection, a section on environmental protection, promotion and work with NGOs was established in the Ministry of Environmental Protection to coordinate the activities of environmental NGOs, promote environmental knowledge and coordinate issues relating to environmental education with the authorized educational body.

29. The mechanism of intergovernmental cooperation in the field of environmental protection and resource management operates in accordance with article 192, paragraph 1, of the Environmental Code, which provides for the participation of Kazakhstan, in accordance with its obligations under international treaties, in international and transboundary procedures, including: exchange of environmental information, preparation and submission of national reports on the implementation of international obligations, evaluation of compliance with obligations under international treaties conducted by specially authorized international bodies, and other measures.

30. It should be pointed out that article 15 of Act No. 221-III of 12 January 2007 on the procedure for considering communications from individuals and corporate bodies deals with the termination of the prosecution of individuals, including individuals acting in the interests of a corporate body, in connection with the submission of a communication to entities and officials, and the prevention of a communication submitted by an individual or corporate body from being used against the person who submitted it, or in whose interests it was submitted. At the same time, article 96 of the Code of Administrative Offences of Kazakhstan of 30 January 2001, and article 1, paragraph 40, of the Act No. 123-III of 20 January 2006 on amendments and additions to the Code of Administrative Offences provide for an administrative fine for officials who take punitive measures against an individual who lodged a justified complaint.

#### **IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3**

31. No information was provided under this heading by this party to the Convention.

## **V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3**

32. No information was provided under this heading by this party to the Convention.

## **VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3**

33. [www.government.kz](http://www.government.kz), [www.nature.kz](http://www.nature.kz), [www.sana.gov.kz](http://www.sana.gov.kz), [www.ecoforum.kz](http://www.ecoforum.kz), [www.kap.kz](http://www.kap.kz).

## **VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4**

### **Article 4, paragraph 1**

34. In Kazakhstan, the basic legislative and regulatory acts that lay the groundwork for implementing the provisions on public access to environmental information were adopted before the Aarhus Convention was ratified. Such acts regulate the right of the general public to receive, and the obligation of State bodies and organizations to provide, requested environmental information, and also the procedure and time limits for providing such information, and sets out the grounds for refusing to provide information and the responsibility for failing to supply information. The system of providing environmental information was further improved by the adoption of the Environmental Code on the basis of Presidential Decree No. 212 of 9 January 2007. Chapter 21, entitled “Environmental information”, of the Environmental Code contains provisions on the rights and obligations of entities with regard to the provision of environmental information, and the time limits and procedure for providing such information. The concept of “environmental information” is defined in article 159 of the Environmental Code and is in keeping with the definition of “environmental information” contained in the Aarhus Convention. Thus, Kazakhstan’s legislation fully meets the requirements of article 4 of the Aarhus Convention.

35. Over the reporting period, the main efforts to implement the aforementioned provisions in Kazakhstan were directed at improving the work of civil servants in handling requests for environmental information. To this end, Order No. 264-P of the Minister of Environmental Protection of 12 September 2005 established the Environmental Information Centre and approved the regulations on the collection, systematization, storage and dissemination of environmental information in accordance with the Conceptual Framework for Environmental safety of Kazakhstan for 2004-2015, with a view to ensuring appropriate access to environmental information and adopting decisions in the field of environmental protection. At the same time, Order No. 238-P of the Minister of Environmental Protection of 25 July 2007 approved the regulations on access to environmental information relating to the environmental impact assessment procedure and the process of taking decisions on planned economic and other activity. Both sets of regulations include the relevant provisions of Kazakh legislation and assign functions in work with environmental information among various government bodies and organizations that possess environmental information; the regulations are in keeping with all the provisions of article 4 of the Aarhus Convention and are aimed at their implementation as directly applicable norms.



36. The President of Kazakhstan approved the State Programme for Creating an “Electronic Government” for 2005-2007, which provides for measures to create in central and local government bodies “virtual reception rooms” for considering and tracing citizens’ requests for information, and to provide access to documents in electronic form. Article 29 of the 2007 Information Act provides that government bodies shall make electronic services available independently or through the Web portal of the “electronic government”.

37. Kazakhstan does not keep a record of general statistical data concerning requests for environmental information. We can provide only quantitative data of the Ministry of Environmental Protection and the Environmental Monitoring Committee. In 2006, the Ministry of Environmental Protection received 83 requests for environmental information from citizens; over the first nine months of 2007, 68 such requests were received.

#### **Article 4, paragraph 2**

38. The procedure and time limits for State bodies’ consideration of public requests for environmental information are governed by article 165, paragraph 2, of the 2007 Environmental Code, which establishes the time limit for providing the requested environmental information: within one month of the date on which the request was received, with the exception of the cases referred to in article 165, paragraph 1, of the Environmental Code; article 8, paragraphs 1 and 2, of the 2007 Act on the Procedure for Considering Requests from Individuals and Corporate Bodies, and in the Administrative Procedures Act. Kazakh legislation stipulates that State bodies have an obligation to provide, within 15 days, information that does not require further study or verification; information requiring further study or verification must be provided within 30 days of the date on which the request was received. In order to ensure that these time limits are observed, requests are recorded in special registers and are monitored; monitoring of requests may be discontinued only by a decision of the director of a State body or his or her deputy on the basis of a duly prepared document (official memorandum or note) concerning the results of the consideration of the request.

39. In accordance with paragraph 164 of the Environmental Code, the public has the right to receive environmental information in the form requested, unless there are reasons to provide it in another form. If the form of the reply was not indicated in the request, then, pursuant to article 16, paragraph 4, of the 2000 Administrative Procedures Act, State bodies and officials must provide a reply in the form of a letter and, pursuant to article 15, paragraph 4, of the Act on the Procedure for Considering Requests from Individuals and Corporate Bodies, the reply may be in the form of a letter or an electronic document.

#### **Article 4, paragraphs 3 and 4**

40. Refusal to provide the public with access to environmental information in accordance with article 167 of the Environmental Code is permitted in the following cases:

- (a) If the request is formulated in a general manner and it is not possible to determine the information and data that the applicant is requesting;
- (b) No information is being requested;

(c) The request concerns restricted information and data, in accordance with the laws of Kazakhstan.

41. In accordance with article 167, paragraph 3, of the 2007 Environmental Code, when a public authority refuses to provide environmental information it must reply in letter form stating the reasons and grounds for the refusal.

42. With regard to the compulsory requirements for the consideration of requests, in accordance with paragraph 5 of the Act on the procedure for Considering Requests from Individuals and Corporate Bodies, anonymous requests and requests that do not specify the substance of the question shall not be considered.

43. The grounds for refusing to provide information when the request concerns restricted information and data in accordance with the laws of Kazakhstan, are set forth in the Civil Code (trade secrets and protection of intellectual property rights), the Code of Criminal Procedure (secrecy of police work, initial inquiries and pretrial investigations), the Information Act (violation of the inviolability of private life) and several other acts.

#### **Article 4, paragraph 5**

44. In accordance with article 165, paragraph 4, of the 2007 Environmental Code, a government body that does not have the requested environmental information transmits the request to the competent government body within the time limit established by legislation. Article 7, paragraph 6, of the 2007 Act on the Procedure for Considering Requests from Individuals and Corporate Bodies requires that requests be forwarded to the appropriate entities that are competent to deal with the matters raised in the request, within three working days and that the applicant be notified accordingly.

45. In accordance with article 14 of the 2007 Information Act, individuals and corporate bodies in Kazakhstan have the right of free access to publicly available State information resources. Moreover, special provisions on the right of individuals and corporate bodies to receive environmental information are contained in articles 163 and 164 of the 2007 Environmental Code, and also in several other regulatory acts in the field of environmental protection and the rational use of natural resources. This right applies not only to citizens of Kazakhstan but also to stateless persons and foreigners. At the same time, the Act stipulates that not only State bodies but also State organizations have an obligation to consider requests for environmental information from citizens and voluntary associations.

#### **Article 4, paragraph 8**

46. In accordance with article 166, paragraph 1, of the 2007 Environmental Code, a fee may be collected for the provision of environmental information; the fee may not exceed the actual cost of copying, retrieving and preparing the information. There is no fee for the provision of environmental information by a State body through a publicly accessible electronic register or inventory of environmental information. However, there are cases when individual commercial, non-governmental enterprises offer environmental information to a restricted circle of government bodies, setting high fees for most other government bodies and non-governmental users.

47. In accordance with article 166, paragraph 3, of the 2007 Environmental Act, there is no fee for environmental information provided by a State body through a publicly accessible electronic register or inventory of environmental information.

48. In order to increase public access to information on environmental protection, and also develop information activities, the Ministry works closely with such voluntary and non-governmental environmental protection organizations as the Ecological Forum of Voluntary Organizations of Kazakhstan (Ecoforum), the Kazakh Business Association for Sustainable Development, the Regional Environmental Centre for Central Asia, and others. The Ecological Forum of Voluntary Organizations of Kazakhstan, which brings together over 100 environmental NGOs, holds a special position among NGOs; representatives of those organizations take part in all events conducted by the Ministry. Representatives of Ecoforum are members of the Council for Sustainable Development of Kazakhstan, the working group to prepare a draft strategy "Effective use of energy and renewable resources of Kazakhstan for sustainable development up to 2024".

49. Representatives of environmental NGOs are members of the Ministry's Editorial and Publishing Council.

#### **VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4**

50. No information was provided under this heading by this party to the Convention.

#### **IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4**

51. No information was provided under this heading by this party to the Convention.

#### **X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4**

52. [www.e.gov.kz](http://www.e.gov.kz), [www.nature.kz](http://www.nature.kz), [www.sana.gov.kz](http://www.sana.gov.kz), [www.aic.gov.kz](http://www.aic.gov.kz), [www.osce.org/astana](http://www.osce.org/astana), [www.osce.org/almaty](http://www.osce.org/almaty), [www.carec.kz](http://www.carec.kz).

#### **XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5**

##### **Article 5, paragraph 1**

53. In Kazakhstan, the centralized collection, registry and storage of environmental information is carried out, in accordance with article 161 of the Environmental Code, by the State Environmental Information Archive. The State Environmental Information Archive contains the following types of environmental information:

- (a) Inventories of natural resources;

- (b) Register of wastes and the movement of pollutants, and other registers of environmental information;
- (c) List of environmentally hazardous production facilities;
- (d) Environmental monitoring data;
- (e) Materials of environmental impact assessments and State environmental studies, with the consent of the initiator of the planned activity;
- (f) Regulatory acts and regulatory and technical documents in the field of environmental protection and the use of natural resources, and others.

54. In order to ensure that these tasks are carried out, individuals and corporate bodies must, in the cases established by Kazakh legislation, provide State bodies with the necessary information, including both paper and electronic documents. In accordance with article 166 of the 2007 Environmental Code, there is no fee for environmental information provided by a State body through a publicly accessible electronic register or inventory of environmental information. These measures are intended to implement article 5, paragraphs 1 and 2, of the Aarhus Convention.

#### **Article 5, paragraph 2**

55. Kazakhstan's Environmental Protection Programme for 2005-2007, which has been approved by the Government, provides for the creation of a unified system for providing information on environmental protection using up-to-date technology. To this end, Order No. 264-P of the Minister of Environmental Protection of 12 September 2005 established, on the basis of the Information Analysis Centre, the Environmental Information Centre and approved the regulations on the collection, systematization, storage and dissemination of environmental information, including in electronic form. For this purpose, 86.1 million tenge (approximately US\$ 662,000) has been allocated from the national budget. On 25 July 2007, Order No. 238-P of the Minister of Environmental Protection approved the regulations on access to environmental information relating to the environmental impact assessment procedure and the process of taking decisions on planned economic and other activity. The aforementioned regulations were developed with a view to ensuring and facilitating access to environmental information. The regulations are consistent with the requirements of article 5, paragraphs 1 to 3, of the Aarhus Convention, namely the obligation of the competent State bodies to create and replenish the most important sources of environmental information, including in electronic form. The regulations also establish the conditions for the free exchange of data on monitoring and registers of natural resources between State bodies and for public access to such information.

#### **Article 5, paragraphs 3 to 5**

56. A presidential decree approved the State Programme for Creating an "Electronic Government" for 2005-2007. The implementation of this programme provides for a package of measures to ensure that individuals and corporate bodies have access to databases on the

activities of State bodies. In accordance with article 29 of the Act No. 217 (Information Act) of 11 January 2007, State bodies provide electronic services independently or through the Web portals of the “electronic government”.

57. In accordance with article 160, paragraph 5, of the Environmental Code, State environmental protection bodies, within the scope of their competence, disseminate on the Internet and using other publicly accessible means of communication, the following types of environmental information:

- (a) Reports on the state of the environment;
- (b) Drafts and texts of regulatory acts and international treaties dealing with environmental protection;
- (c) Drafts and texts of documents relating to State policy, programmes and plans in the field of environmental protection;
- (d) Reports on the results of monitoring and inspection activities and the implementation of legislation in the field of environmental protection;
- (e) Information relating to the list of basic services provided by the “electronic government” in the field of environmental protection.

58. The public authorities may invite individuals and corporate bodies to disseminate environmental information, in accordance with the procedure established by Kazakh legislation on public procurement and State social mandates.

59. The website of the Ministry of Environmental Protection contains a considerable amount of information on legislation and programme documents and international conventions and agreements in the field of environmental protection and the rational use of natural resources. In accordance with article 192, paragraph 1, of the Environmental Code, the Ministry prepares national reports on compliance with international obligations and makes them available for broad discussion. The website’s resources include an Internet page of the Minister and a section on national reports and reports on the state of the environment in most of Kazakhstan’s provinces, since dissemination of such information is required under article 5, paragraphs 3 to 5, of the Aarhus Convention.

60. With the introduction, pursuant to the Order of the Minister of Environmental Protection of 12 June 2006, of the planning network for the main environmental protection activities, published environmental information is being systematized and analysed. During the second half of 2006 alone, the media covered 2,299 events; 770 were covered by radio and television, and 1,529 by newspapers and magazines. Since November 2006, the newspaper *Ekolog*, which relies on information provided by the Ministry, has been published. Over the first half of 2007, the activities of the territorial administrations of the Ministry of Environmental Protection received broad coverage in the media. There were 115 broadcasts on national television stations, and 394 broadcasts on provincial television stations. Printed editions of the national press published 1,205 articles, and provincial and local newspapers published 1,482 articles; there

were 194 broadcasts on national and provincial radio stations, and Internet information agencies covered 89 events. In all, 3,479 events were covered by the media. Information on the State bodies' implementation of the planning network is provided regularly on the pages of the Ministry's website.

### **Article 5, paragraphs 7 to 9**

61. The addition of genetically modified organisms (GMOs) and nutritional supplements to food is permitted in accordance with article 12, paragraph 5, of Act No. 301 (Food Products (Safety) Act) of 21 July 2007, only after it has been scientifically confirmed that such products are safe (scientific testing is carried out in accordance with the procedure set out in Kazakh legislation) and after the products have undergone State registration. In accordance with article 34, until the safety of GMOs in food products has been scientifically confirmed, the level of their content in food products must not exceed the level established by the States of the European Union. Moreover, article 17 of the 2007 Food Products (Safety) Act establishes the legislative requirement to include in the labelling of food products information concerning their composition, including the presence and amount of food and nutritional supplements to food and GMOs, which makes access to environmental information significantly easier and is in keeping with the provisions of article 5, paragraphs 6 to 8, of the Aarhus Convention. At the same time, article 14, paragraph 1, of Act No. 170 (Citizens' Health Protection Act) of 7 July 2006, regulates the provision, free of charge, by State bodies and organizations of reliable information on factors that affect health, including the state of the environment.

62. During the reporting period, public information mechanisms were developed with a view to enabling the public to make rational choices that take the interests of the environmental concerns into account. Thus, Order No. 204-P of the Minister of Environmental Protection of 28 June 2007 approved the instruction on the procedure for assessing the environmental impact of a proposed economic or other activity by developing pre-plan, plan, pre-project and project documentation. The State Waste Register is kept in order to provide State bodies, interested individuals and corporate bodies with information for evaluating, predicting and drafting technical, economic, legal and other decisions on environmental protection, and also keeping a comprehensive national register of wastes, in accordance with article 153, paragraph 1, of the Environment Code. The main task of the State Waste Register is to provide national, regional and sectoral information systems with information on wastes, their characteristics and technologies for processing them. These measures have been taken with a view to implementing article 5, paragraphs 7 to 9, of the Aarhus Convention.

### **XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5**

63. No information was provided under this heading by this party to the Convention.

### **XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5**

64. No information was provided under this heading by this party to the Convention.

#### **XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5**

65. The websites of the central State authorities: [www.president.kz](http://www.president.kz), [www.parlam.kz](http://www.parlam.kz), [www.government.kz](http://www.government.kz), [www.e.gov.kz](http://www.e.gov.kz), [www.procuror.kz](http://www.procuror.kz), [www.mvd.kz](http://www.mvd.kz), [www.minzdrav.kz](http://www.minzdrav.kz), [www.edu.gov.kz](http://www.edu.gov.kz), [www.nature.kz](http://www.nature.kz), [www.minagri.kz](http://www.minagri.kz), [www.emer.kz](http://www.emer.kz), [www.minplan.kz](http://www.minplan.kz), [www.memr.gov.kz](http://www.memr.gov.kz), [www.sana.gov.kz](http://www.sana.gov.kz), [www.auzr.kz](http://www.auzr.kz), [www.aic.gov.kz](http://www.aic.gov.kz), [www.stat.kz](http://www.stat.kz).

#### **IX. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6**

66. The provisions of article 6 of the Aarhus Convention on public participation in decisions on specific activities are implemented with regard to all projects involving economic or other activity that are subject to the environmental impact assessment procedure. Thus, in Kazakhstan with a view to determining and limiting the potential negative consequences of implementing planned administrative, economic or other activity for the environment and public health, and also with a view to maintaining a balance of interests between economic development and environmental protection in accordance with the provisions of articles 45 and 46 of the 2007 Environmental Code, State and public environmental studies are conducted. Pursuant to article 57, paragraphs 1 to 3, of the Environmental Code, all interested citizens and voluntary organizations are given an opportunity to express their opinion during the conduct of a State environmental study.

67. The conduct of the State environmental study is governed by the regulations on the conduct of State environmental studies, which were drafted in accordance with article 17, paragraph 28, and article 49, paragraph 2, of the Environmental Code and approved by Order No. 207 of the Minister of Environmental Protection of 28 June 2007.

68. Publicity concerning State environmental studies and public access to decision-making is ensured by the holding of public hearings. Public hearings are conducted in accordance with the regulations on the conduct of public hearings, which were approved by Order No. 135 of the Minister of Environmental Protection of 7 May 2007 (entered in the Register of State Registration of Regulatory Acts under No. 4687 of 30 May 2007). It is necessary to agree on the conditions and time limits for holding hearings with environmental protection bodies. According to the regulations, the procedure for holding public hearings is established by the authorized environmental protection body, which must determine the time limits, the interested parties and the places where information and consultations may be received, and ways of informing the public (written submissions, public surveys).

69. With a view to complying with the public interests of preserving an environment conducive to citizens' life and health, in accordance with article 60 of the Environmental Code, public environmental studies of any economic or other activity are conducted. Public environmental studies may be initiated by individuals or voluntary associations interested in the consequences of implementing the object of the public environmental study. In accordance with article 67 of the Environmental Code, the initiator of the planned activity must, within one month

of receipt of the conclusions of the public environmental study, review the conclusions and send his or her comments on the conclusions to the body responsible for the State environmental study and to the organizer of the public environmental study. In order to implement the provisions of article 6 of the Aarhus Convention and the Conceptual Framework for State Support for NGOs in Kazakhstan, and also in accordance with article 135 of the Environmental Code, public monitoring in the field of environmental protection is conducted in Kazakhstan. These measures meet all the requirements of article 6, paragraphs 1 to 9, of the Aarhus Convention.

70. With a view to determining the procedure for organizing and conducting monitoring, by the central government authority in the field of environmental protection and its territorial bodies, of the activities of officials of local government bodies in the field of State environmental protection, Order No. 160 of the Minister of Environmental Protection of 24 May 2007 approved the regulations for monitoring the activities of officials and local government bodies in the field of environmental protection. The regulations govern the conduct by the department for State environmental studies of unscheduled checks of expert units of local bodies; if gross violations of environmental legislation are identified in the conclusions of a State environmental study, unscheduled checks may be initiated by local representative or executive bodies, users of natural resources, voluntary associations or procuratorial bodies.

71. The scope of application of article 6 of the Aarhus Convention in Kazakhstan was further expanded by the adoption, on the basis of Order No. 204-P of the Minister of Environmental Protection of 28 June 2007, of a new instruction on the procedure for assessing the environmental impact of a proposed economic or other activity by developing pre-plan, plan, pre-project and project documentation. Section 8, paragraph 51, of this regulatory document establishes the principle of mandatory public participation in the environmental impact assessment procedure. This means that, in Kazakhstan, decisions on any type of activity subject to environmental impact assessment must be taken in strict conformity with the provisions of article 6 of the Aarhus Convention. This provision is based on paragraph 20 of annex I of the Convention, which provides that article 6 applies to cases “where public participation is provided for under an environmental impact assessment procedure in accordance with national legislation”.

72. Section 8, paragraph 52, of the aforementioned 2007 instruction on environmental impact assessment sets out in detail the prospective applicant’s obligation to ensure public participation in environmental impact assessment. Such obligations include:

- (a) Adequate and timely publication in the media of information on the public hearings being held;
- (b) Discussion of the proposed activity with the public;
- (c) Provision of access to the materials of the environmental impact assessment;
- (d) Holding of public hearings;
- (e) Soliciting of comments and proposals in written form.



73. On the whole, the instruction on environmental impact assessment includes provisions for implementing the provisions of article 6, paragraphs 2 to 7, of the Aarhus Convention.

74. The initiator of the proposed activity must inform the public at the initial stage of the environmental impact assessment. Pursuant to the instruction on environmental impact assessment, if it is found that facilities involving economic or other activity pose a heightened environmental risk, the public must be informed about the proposed activity. Information about the activity is provided in the media and through the placement of leaflets, posters and other information materials in prominent places in the area of the proposed activity. With regard to providing the public concerned with all the necessary information concerning the decision-making process, the instruction places this obligation on the initiator of the proposed activity. The initiator of the proposed activity must submit to the competent authorities, in accordance with official procedure and prior to the holding of public hearings, materials on the environmental impact assessment. The established mandatory list of information to be provided to the public concerned for examination reflects the requirements of article 6, paragraph 6, of the Aarhus Convention. With regard to article 6, paragraph 10, of the Aarhus Convention, we should like to point out that the provisions of the instruction on public participation are being applied, inter alia, to the conduct of environmental impact assessments of projects to expand, refurbish and re-equip enterprises, facilities and industrial complexes.

75. In individual cases, initiators invited certain environmental NGOs to attend public hearings, while the most concerned central and local government bodies, voluntary and non-governmental organizations were informed at a later date. In some situations, the holding of the hearings may be inadvisable or ineffective owing to the conditions for carrying out the proposed activity. For example, this relates to the planning of economic activity in uninhabited or sparsely populated areas in which it is difficult to expect that the number of interested representatives of the public will be sufficient for the conduct of bona fide hearings at the site where the project is to be carried out. For large-scale projects, on the other hand, the conduct of one hearing at one venue may substantially limit the opportunity for all interested parties to take part in the public discussion. For this reason, when conducting the environmental impact assessment of a planned economic activity, in addition to hearings, it is important to take account and make use of various forms of public participation, first of all the collection, registration and inventory of written proposals and comments, and also the conduct of bilateral consultations with environmental NGOs and experts, public environmental studies, and other forms of participation.

76. With a view to further developing the non-governmental sector and ensuring its constructive interaction with State bodies, Government Decision No. 1262 of 21 December 2005 established the Coordinating Council for Interaction with NGOs, attached to the Government of Kazakhstan. The Ministry takes an active part in meetings of the Coordinating Council.

77. In 2007, with support from OSCE and the NGO Ecological Forum of Voluntary Organizations of Kazakhstan, an information handbook on organizing and holding public hearings and on the use of other forms of public participation in the taking of decisions relating to the environment was developed and coordinated with the Ministry of Environmental Protection. The handbook contains practical recommendations on holding public hearings that

take account of the provisions on public participation contained in the Aarhus Convention, Kazakh legislation and international practice in the field of environmental impact assessments, from the beginning of the decision-making process to its completion.

78. NGOs are very involved in the procedure for assessing the environmental consequences of strategies, programmes and plans being developed by the Government. Thus, in the first half of 2007, the Ministry invited NGO representatives to public hearings involving State environmental studies of such major projects as:

(a) Preliminary environmental impact assessment of sea petroleum operations on the Zhemchuzhina structure;

(b) Environmental impact assessment for the development project “Concentration plant for the processing of titanium-zirconium ores from the Obukhovo deposit”;

(c) Assessment of the environmental impact of developing the Andash copper and gold ore deposit;

(d) Preliminary environmental impact assessment of the economic activity “Construction of a first-stage plant for producing metallic silicon with a rated capacity of 25,800 tons in the city of Karaganda.”

79. Today, in accordance with article 135 of the Environmental Code, 179 voluntary associations involved in environmental protection carry out public environmental monitoring in Kazakhstan.

80. With a view to making proposals and recommendations on the implementation of the State policy for environmental protection, environmental safety and resource management, the Ministry of Environmental Protection established the Public Environmental Council. In addition to public servants, the Public Environmental Council is composed of:

(a) Representatives of the deputy corps;

(b) Leading Kazakh environmentalists;

(c) Representatives of voluntary and non-governmental organizations;

(d) Directors of the environmental services of large industrial enterprises.

81. The participation of scientists, NGOs and public figures in the work of the Public Environmental Council provides additional opportunities for taking account of public opinion when adopting decisions and recommendations, and facilitates the timely and qualitative implementation of the measures contained in environmental protection programme documents, as well as the development and promotion of the dissemination of information and the receipt of responses from the public, and the enhancement of civic engagement. Members of the Public Environmental Council take part in the holding and work of board meetings of the Ministry, round tables, seminars and forums. In particular, on 16 April 2007 the European Business Association of Kazakhstan, together with the Ministry, held the international forum entitled

“Energy. Energy-saving technologies. Alternative sources of energy” in Almaty. The main purpose of the forum was to discuss the importance of ensuring the efficient use of renewable resources and sources of energy as a factor in promoting the sustainable development of Kazakhstan’s economy.

82. In 2006 and 2007, in order to implement the plan of measures for the State programme to support NGOs in Kazakhstan, environmental NGOs carried out 10 projects in the context of a government social mandate.

#### **XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6**

83. No information was provided under this heading by this party to the Convention.

#### **XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6**

84. No information was provided under this heading by this party to the Convention.

#### **XVIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6**

85. [www.nature.kz](http://www.nature.kz), [www.osce.org/astana](http://www.osce.org/astana), [www.osce.org/almaty](http://www.osce.org/almaty).

#### **XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO PARTICIPATE IN DURING THE PREPARATION OF PLANS AND PROGRAMMES RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7**

86. In recent years, in Kazakhstan, the preparation of individual drafts of State programme documents involving environmental protection has included the collection and consideration of proposals made by the public. In practice, the discussion of draft programme documents takes place with the participation of representatives of environmental NGOs, authorized State bodies, specialized expert organizations, environmental specialists, and scientists and teachers from specialized higher educational establishments. The Ministry of Environmental Protection and the Ministry of Agriculture have placed drafts of the most important programme documents relating to environmental protection and the rational use of natural resources on their websites for public discussion.

87. On 28 June 2007, the Ministry of Environmental Protection approved the instruction on the procedure for assessing the environmental impact of a proposed economic or other activity by developing pre-plan, plan, pre-project and project documentation. Ministerial Order No. 238-P of 25 July 2007 approved the regulations on access to environmental information relating to the environmental impact assessment procedure and the process of taking decisions on planned economic and other activity. These documents define public access to information as one of the most important principles for organizing the conduct of environmental impact assessments. At the same time, in accordance with the approved regulations, initiators of programmes must:

- (a) Provide information about the proposed programmes and ensure the participation of interested members of the public in their implementation;
- (b) Ensure that interested members of the public have access to the relevant materials;
- (c) Take account of public opinion by collecting proposals through the media or at special information collection points; and also through the holding of public hearings;
- (d) Record the results of the public hearings in minutes in accordance with established requirements;
- (e) Reflect the outcome of measures to take account of public opinion for subsequent submission for a State environmental study;
- (f) Keep the public informed of the outcome of any decisions taken, and other measures.

**XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO ARTICLE 7**

88. In Kazakhstan, there are various means for ensuring public participation in the preparation of an environmental policy. One of them is public participation in the procedure for assessing the environmental consequences of State strategies, programmes and plans under consideration; the assessment procedure is conducted by the initiator of the relevant draft document. In order to ensure the constitutional rights of citizens and voluntary organizations, as well as public participation in the preparation of environmental policy, the Parliament of Kazakhstan conducts parliamentary hearings. At the parliamentary hearings held on 24 February 2006, the environmental, economic and political implications of Kazakhstan's ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change were considered. During the parliamentary hearings on a strategy for the sustainable growth of Kazakhstan's competitiveness, on 27 April 2007 the question of reducing the indicators of emissions into the environment per unit of gross domestic product (GDP) was discussed. Deputies to the Senate, the Mazhilis and central and local government bodies, and representatives of political parties and environmental NGOs took part in the hearings.

89. With a view to encouraging NGOs to take part in the most important political decisions of national significance, the President of Kazakhstan, Mr. Nursultan Nazarbaev, speaking at the Second Civic Forum, put forward in the Mazhilis of the Parliament of Kazakhstan a proposal on the establishment of a chamber of public experts. Since 2006, the Chamber of Public Experts of the Mazhilis has considered, in meetings of its working groups, draft legislation, including the draft environmental code. In addition to expert activities, the Chamber explains and promotes the head of State's initiative at the local level with a view to improving the quality of civic institutions. Thus, the international conference on increasing the State's competitiveness by strengthening public participation in the adoption of parliamentary decisions was held on 19 and 20 October 2006; the conference drafted recommendations on increasing the transparency of the legislative process by promoting public participation.

90. Public hearings have been held to ensure that the public receives environmental information in a timely manner and participates in the preparation of the environmental policy of the Ministry of Environmental Protection. In 2006, a public discussion was held on such draft programme documents as the Conceptual Framework for Kazakhstan's Transition to Sustainable Development for 2007-2024 and the plan of activities to be held during the period 2007-2009 to implement the Conceptual Framework. Ways of encouraging public participation in the decision-making process included hearings, the collection of written proposals and comments, and the inclusion of NGO representatives in working groups on the preparation of draft documents.

#### **XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7**

91. No information was provided under this heading by this party to the Convention.

#### **XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 7**

92. At the same time, the Ministry of Environmental Protection and its territorial administrations hold regular meetings with the public in order to inform it of the activities of State bodies in the field of environmental protection. Employees of territorial bodies presented reports on the environmental situation in the provinces and on the outcomes of action by administrations. Particular attention was paid to the maintenance of a register of environmental problems and questions relating to the financing of environmental activities. During the first half of 2007, 41 meetings with the public were held in all regions of Kazakhstan, with the participation of representatives of the public, *akimats*, *maslikhats* (local representative bodies), State institutions, enterprises, educational establishments and NGOs; in all, more than 4,000 people participated in such meetings.

93. The principal aim of public hearings is to solve problems raised in strategic and programme documents in the field of environmental protection. In 2007, during the public hearings held in Mangistau province concerning the draft preliminary environmental impact assessment of sea petroleum operations on the Zhemchuzhina structure, the reports entitled "Programme of sea operations on the Zhemchuzhina structure" and "Environmental impact assessment of sea operations, including engineering and geological studies, conducted on the Zhemchuzhina structure" were heard. Public hearings were held on the most serious problem of Mangistau, which involves the reconstruction and reclamation of the tailings pond in Koshkar-Ata; students and NGO representatives, as well as employees of the Mekhonobr Engineering Company, the Aktau office of Kazakhstan's national nuclear centre and the limited liability company Proektirovshchik.

94. In Kyzylorda, public hearings were held on the preliminary environmental impact assessment for the project entitled "Feasibility study on investments in the stage-by-stage construction of the Kazakhstan-China oil pipeline". The general public - NGOs, retired workers and media representatives - were invited to attend the hearings.

95. At the public hearings held in Atyrau during the first half of 2007, emphasis was placed on the oil-extracting enterprise Teniz Servis in connection with the draft environmental impact study on the construction and operation of the northern Caspian environmental base for responding to oil spills; the Veritas Kaspian company in connection with the draft environmental impact study on seismic prospecting in sectors III-R-1 and III-R-2 in the northern Caspian; and the AMPZ company in connection with the environmental impact study on the construction of the Atyrau metal-rolling plant.

96. Public hearings on the materials of the assessment of the impact of the Proton-M carrier rocket on the environment along its flight course and in the region where the detached stages fell, were held in March 2007 in three provinces - East Kazakhstan, Karaganda and Kyzylorda. The hearings were held with the participation of NGO representatives, deputies to Mazhilis, political parties and local executive bodies.

97. In January 2007, public hearings were held on the topic "Almaty's environmental problems". The hearings were held with the participation of a large number of residents of the city of Almaty, Kazakh and Russian scientists, health professionals, teachers from secondary and higher educational establishments, and NGO representatives. The purpose of the hearings was to solve problems relating to the development of comprehensive measures to improve the environment, protect public health and raise a new generation of residents of Almaty with high awareness of environmental issues, and also to encourage the active involvement of all segments of the general public in the reduction of environmental pollution.

### **XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 7**

98. [www.parlam.kz](http://www.parlam.kz), [www.nature.kz](http://www.nature.kz).

### **XXIV. EFFORTS MADE TO PROMOTE EFFECTIVE PUBLIC PARTICIPATION DURING THE PREPARATION BY PUBLIC AUTHORITIES OF EXECUTIVE REGULATIONS AND OTHER GENERALLY APPLICABLE LEGALLY BINDING RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8**

99. In order to ensure the constitutional rights of citizens and voluntary organizations and public participation in the preparation of environmental policy, the Parliament of Kazakhstan holds parliamentary hearings that include the participation of deputies to the Senate, the Mazhilis and central and local government bodies, and representatives of political parties and environmental NGOs.

100. The Chamber of Public Experts has been established as part of the Mazhilis of the Kazakh Parliament. Since 2006, the Chamber of Public Experts of the Mazhilis has considered, in meetings of its working groups, draft legislation, including the draft environmental code.

101. In order to ensure that the public receives environmental information in a timely manner and participates in the preparation of environmental policy, the Ministry of Environmental Protection holds public hearings. In 2007, with the support from OSCE and the NGO Ecological

Forum of Voluntary Organizations of Kazakhstan, an information handbook on organizing and holding public hearings, and on the use of other forms of public participation in the taking of decisions relating to the environment. Ways of encouraging public participation in the decision-making process included hearings, the collection of written proposals and comments, and the inclusion of NGO representatives in working groups on the preparation of draft documents.

102. Kazakh legislation does not contain any restrictions of a discriminatory nature regarding the participation of individuals and corporate bodies in the discussion and preparation of proposals concerning draft legislative and regulatory documents.

103. Articles 13 and 14 of the Environmental Code define the right of individuals and corporate bodies to participate in the discussion of draft legislation relating to environmental protection as one of the most important conditions for their implementation of environmental activities in accordance with the procedure established by the law of Kazakhstan, and the right to submit their comments to the drafters. During the period from 2005 to 2007, in Kazakhstan most bills and individual drafts of regulations relating directly to environmental protection and the rational use of natural resources were open to public discussion. In practice, invitations to public discussion of draft regulations are, as a rule, sent to environmental NGOs, associations of entrepreneurs and resource users, environmental specialists, lawyers specializing in environmental law, and other persons. Draft regulations intended for discussion are posted on the websites of the relevant ministries and are disseminated by electronic mail; in some instances, they are issued in special printed publications. Comments and proposals on draft regulatory acts are usually collected by a specially designated person or the responsible department (office) of a public authority.

104. A specific example of public participation in the preparation of draft legislation is the discussion that was held on the draft environmental code. Two public hearings were held to discuss the draft environmental code, and legal and State environmental studies were conducted. The Environmental Code, which was adopted on 9 January 2007, was prepared with due consideration for the recommendations put forward by the general public; it substantially broadens and supplements Kazakhstan's extensive legislative base, ensuring access to information and the right to receive environmental information. The Environmental Code is intended to harmonize national environmental legislation with progressive international acts; facilitate the transition to new standards; and improve the State monitoring system. Leading scientists and specialists from Kazakhstan and abroad, six Kazakh research institutes and centres of learning, the International Academy of Ecological Sciences, Human and Environmental Safety, representatives of the Environmental Directorate of OECD, and experts from the United Kingdom, Denmark, Latvia, the Russian Federation, the Czech Republic, Estonia and other countries took part in the drafting of the Environmental Code.

## **XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8**

105. No information was provided under this heading by this party to the Convention.

**XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8**

106. No information was provided under this heading by this party to the Convention.

**XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8**

107. [www.parlam.kz](http://www.parlam.kz), [www.nature.kz](http://www.nature.kz), [www.ecoforum.kz](http://www.ecoforum.kz).

**XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9**

108. At present, Kazakh legislation has, on the whole, created conditions for appropriate access to all components of the Convention:

- (a) To information;
- (b) To public participation in decision-making;
- (c) To due process of law on environmental issues.

109. In accordance with the Constitution of Kazakhstan, judicial authority is exercised through civil, criminal, administrative and other legally established forms of judicial procedure (art. 75). Judicial authority applies to all cases and disputes arising on the basis of the Constitution, laws, other regulatory acts and international treaties. Decisions, verdicts and other judgements of the courts are binding throughout the Republic (Constitution, art. 76). The Environmental Code gives citizens the right to submit letters, complaints, statements and proposals concerning environmental protection to the public authorities and to demand that they be considered (art. 13), and voluntary associations carrying out environmental protection activities are given the right to raise the issue of prosecuting individuals and/or corporate bodies (art. 4).

110. Chapter 11 of the Criminal Code of Kazakhstan provides for criminal liability for environmental crimes (arts. 277-294). According to information from the Committee on Legal Statistics and Special Records of the Office of the Procurator-General of Kazakhstan (hereinafter referred to as the "Committee on Legal Statistics"), there were 190 criminal cases involving environmental crimes in 2005; 176 in 2006; and 120 during the first nine months of 2007.

111. The Code of Administrative Offences provides for administrative liability for administrative offences in the field of environmental protection and the use of natural resources. According to information from the Committee on Legal Statistics, Kazakh courts dealt with 2,732 administrative cases in 2005; 2,691 in 2006; and 1,813 during the first nine months of 2007. Citizens and voluntary organizations are entitled to inform, or submit communications to, bodies (officials) authorized to institute proceedings (Code of Administrative Offences, art. 634).



112. On the basis of article 2 of the Code of Civil Procedure of Kazakhstan, legislation on civil proceedings establishes the procedure for considering cases involving disputes arising from relations involving the use of natural resources and environmental protection, as well as other legal relations. Kazakhstan's international treaty and other obligations are an integral part of civil procedural law. Article 4 of the Constitution provides that international treaties ratified by Kazakhstan take precedence over domestic laws and are directly applicable, except in cases where an international treaty specifies that a law must be adopted for its implementation. Similar provisions are contained in article 3, paragraph 3, of the Code of Civil Procedure. The administration of justice is based on the principles of legality, the independence of judges, the openness of legal proceedings, the adversarial principle and equality of arms, equality before the law and the courts, the right to qualified legal assistance, the binding nature of judicial acts, freedom to appeal procedural actions and decisions, and other principles relating to legal proceedings (Code of Civil Procedure, arts. 6, 12, 13, 15, 18, 19, 21 and 22). In accordance with article 10 of the Constitution, everyone has the right to judicial protection of their rights and freedoms. In particular, everyone is entitled, in accordance with the procedure established by the Code of Civil Procedure, to apply to the courts for protection of their violated or disputed constitutional rights, freedoms or legally protected interests. Denial of the right to apply to the courts is invalid if it contravenes the law or violates a person's rights and legally protected interests (Code of Civil Procedure, para. 8).

113. According to information from the Committee on Legal Statistics, Kazakh courts considered 592 civil cases involving environmental protection in 2005, 641 in 2006, and 331 during the first nine months of 2007. In general, these cases concerned civil actions brought by authorized environmental protection bodies and procurators; a few cases involved actions brought by citizens and voluntary associations. There is no separate statistical record of actions initiated by citizens and voluntary organizations, or of special proceedings involving disputes of decisions and actions (or failure to act) on the part of government bodies, local governments, voluntary associations, organizations, officials and civil servants (Code of Civil Procedure, chap. 27) in the field of environmental protection.

114. Article 13 of the Environmental Code gives citizens the right to demand that a court overturn decisions on the placement, construction, reconstruction and operation of enterprises, installations and other environmentally hazardous facilities, and also on the restriction or termination of an economic or other activity carried out by individuals or corporate bodies that has an adverse effect on the environment and human health; to bring court actions for damages caused to their health and property as a result of the violation of the environmental legislation of Kazakhstan; and other rights. Citizens may exercise these rights by bringing actions, the form and content of which is regulated by article 150 of the Code of Civil Procedure. The judge must, within 15 days of receipt of the request for the action, decide whether or not it may be the subject of legal proceedings, after which he or she issues a ruling on the institution of civil proceedings (Code of Civil Procedure, art. 152). At the request of a citizen, the court may take measures to impose injunctive relief. Injunctive relief is permitted at any stage of the proceedings, if failure to take such measures may impede or preclude the execution of a court decision (Code of Civil Procedure, art. 158). Injunctive relief measures include:

- (a) Seizure of property belonging to the respondent;

(b) Prohibiting the respondent from carrying out specific actions;

(c) Halting the effect of a disputed act of a government body, organization or official, and other injunctive relief measures that are in keeping with the aims of article 158 of the Code of Civil Procedure (Code of Civil Procedure, art. 159).

115. A judge's ruling on injunctive relief is implemented immediately (Code of Civil Procedure, arts. 160 and 161) by the State bailiff. Following acceptance of the application and the institution of civil proceedings, the judge prepares the case for hearing within seven days but not more than one month with a view to ensuring the timely and correct settlement of the case (Code of Civil Procedure, arts. 166 and 167). Once he or she has prepared the case, the judge issues a decision assigning the case for hearing and informs the parties and other participants in the proceedings of the place and time of the hearing (Code of Civil Procedure, art. 173). Civil cases are heard and settled within two months from the date on which preparations for its referral for trial are completed (Code of Civil Proceedings, art. 174). At the court hearing, the presiding judge explains to parties to the proceedings and their representatives their procedural rights and obligations, allows the parties to submit petitions, and carries out other procedural actions (Code of Civil Procedure, arts. 185-215). On the basis of the outcome of the proceedings, the court issues a decision that is made public, with explanations of the procedure and time limits for appealing the decision (Code of Civil Procedure, art. 216). Decisions of district, provincial and equivalent courts, issued following the hearing of cases in courts of first instance, enter into force upon expiry of the time limit (15 days) for appeal or for the lodging of a protest by the procurator (Code of Civil Procedure, art. 235). After the decision enters into force, except in cases of immediate execution, it is implemented, in accordance with the procedure established by the Act on Enforcement and the Status of the Bailiff (hereinafter referred to as the "Enforcement Act"), by the State bailiff (Code of Civil Procedure, art. 236). At the request of the claimant, the court may execute the decision immediately if, owing to particular circumstances, a delay in the execution of the decision may lead to considerable damages for the claimant, or execution of the decision may not be possible (Code of Civil Procedure, art. 238). Before the enforcement order is sent to the enforcement body, the court may ensure the execution of a decision that is not subject to immediate execution (Code of Civil Procedure, art. 239). In addition, according to the Enforcement Act, the bailiff takes measures to ensure compliance with enforcement documents; such measures are contained in article 10 of the aforementioned Act. The measures for ensuring compliance with enforcement documents are:

(a) Seizure of property belonging to the debtor;

(b) Prohibiting the debtor from carrying out specific actions;

(c) Sealing of the debtor's property; and other measures (Enforcement Act, art. 34).

116. Enforcement pursuant to enforcement documents must be completed within two months of the date on which enforcement proceedings were initiated. When enforcement documents involve the demolition of structures, the conduct of technological operations, as well as other cases covered by an article of the Enforcement Act, execution must be completed within four months.

117. If the parties and other persons participating in the proceedings do not agree with a decision of the court of first instance that has not yet entered into force, they may appeal the decision. The procurator may lodge a protest against the court's decision. Persons who were not parties to the proceedings but whose rights and obligations are affected by the court's decision are also entitled to lodge appeals (Code of Civil Procedure, art. 332). Appeals and protests are transmitted by the court that issued the decision (Code of Civil Procedure, art. 334), and are considered:

- (a) By the civil division of a provincial or equivalent court;
- (b) In the case of decisions issued by district or equivalent courts;
- (c) By the civil division of the Supreme Court of Kazakhstan;
- (d) In the case of decisions issued by provincial and equivalent courts of first instance (Code of Civil Procedure, art. 333).

118. Cases submitted to a court of appeal must be considered within one month of the date on which they are received from the court of first instance (Code of Civil Procedure, art. 349). The non-appearance of persons who have been duly notified of the time and place for the consideration of the case, does not pose an obstacle to the proceedings. However, in such circumstances, the court, having established that the reasons for non-appearance were valid, is entitled to defer consideration of the case (Code of Civil Procedure, art. 352). Decisions handed down by a court of appeal enter into force on the date of their adoption (Code of Civil Procedure, art. 368).

119. Once they have entered into force, judicial acts may be reviewed in accordance with the judicial supervision procedure pursuant to a supervisory appeal made by the parties or other participants in the proceedings who have the right to file an appeal, and also when a protest is lodged by the procurator in the supervisory division of a provincial court or the Supreme Court, in accordance with the regulations set out in articles 384 to 400 of the Code of Civil Procedure. Decisions of the supervisory division of the Supreme Court may be reviewed, in exceptional cases, when it is established that the decision in question may lead to grave and irreversible consequences for human life and health or for the economy and security of Kazakhstan (Code of Civil Procedure, art. 384). The absence of the person who filed the appeal (protest), who had been duly notified of the time and place for the consideration of the case, does not exclude the possibility of continuing the hearing by the supervisory authority. The participation of the procurator in the consideration of the case by the court of the supervisory authority is mandatory (Code of Civil Procedure, art. 398). The supervisory authority, after receiving the court's decision to institute supervisory proceedings to review the judicial act that is the subject of an appeal, transmits to the parties copies of the supervisory complaint and notification of the consideration of the case by the supervisory authority, indicating the date, time and place of the hearing. The supervisory authority must review a case within one month of the date on which the case was submitted to the supervisory authority together with the decision to institute supervisory proceedings, or the date on which the procurator's protest was received (Code of Civil Procedure, art. 395).

120. In accordance with article 5 of the Voluntary Associations Act, environmental voluntary associations, like other voluntary associations, are established and operate with a view to protecting the environment and carrying out other activities that are not prohibited by Kazakh legislation. In order to carry out their statutory objectives, voluntary associations have the right, in accordance with the procedure established by law, to represent and defend the rights and legitimate interests of their members in the courts and other State bodies and other voluntary associations (Voluntary Associations Act, art. 19). Article 14 of the Environmental Code gives voluntary associations the right, when carrying out their activities in the field of environmental protection, to:

(a) Bring court actions for damages caused to citizens' health and/or property as a result of the violation of Kazakhstan's environmental legislation;

(b) Demand that a court overturn decisions on the placement, construction, reconstruction and operation of enterprises, installations and environmentally hazardous facilities, and also call for decisions to restrict, suspend or terminate an economic or other activity carried out by individuals or corporate bodies that has an adverse effect on the environment and human health, and other rights.

121. In accordance with chapter 27 of the Code of Civil Procedure, citizens and corporate bodies are entitled to dispute decisions, actions (or failure to act) on the part of a State body, local government body, voluntary association or organization, or official or civil servant, directly in the courts. A preliminary appeal to higher bodies and organizations or to an official is not a mandatory condition for submitting an application to the court and its acceptance by the court for consideration and settlement on the merits (Code of Civil Procedure, art. 278). Decisions, actions (or failure to act) on the part of bodies, organizations and persons that the subject of court disputes include collegial and individual decisions and actions (or failure to act), as a result of which:

(a) Citizens' rights, freedoms and legally protected interests are violated;

(b) Obstacles are created to citizens' exercise of their rights and freedoms, and to corporate bodies' exercise of their rights and legally protected interests;

(c) An obligation is illegally imposed on a citizen or corporate body, or a citizen or corporate body is illegally prosecuted.

122. Citizens and corporate bodies have the right to apply to the courts within a period of three months from the date on which they became aware of a violation of their rights, freedoms and legally protected interests. The expiry of the three-month time limit for filing an application does not constitute grounds for a court to reject an application. The reasons for not filing the application within the designated time limit shall be explained at the court hearing at which the application is considered on the merits, and may constitute one of the grounds for rejecting the application (Code of Civil Procedure, art. 280). The application is considered by the court within one month, with the participation of the citizen, the representative of the corporate body, the director of a State body, local government body, voluntary association or organization, or an official or civil servant, the decisions and actions of which are being disputed. The failure of one of the aforementioned persons, who have been duly notified of the place and time of the hearing,

to appear at the hearing does not pose an obstacle to the consideration of the application. However, the court may declare that the appearance of the aforementioned persons at the hearing is mandatory (Code of Civil Procedure, art. 281). Once the court has found the application to be substantiated, it issues a decision on the obligation of the relevant person to ensure the complete elimination of the violation of the rights, freedoms and legally protected interests of the citizen or corporate body. The court rejects an application if it finds that the disputed decisions and actions were carried out in accordance with the law, and that the rights, freedoms and legally protected interests of the citizen or corporate body in question were not violated. The court decision is transmitted, with a view to eliminating the violations of the law, to the director of the State body or organization, to the person whose decisions and actions were disputed or to a higher authority, organization or official, within three days following the entry into force of the court decision. The court and the citizen or corporate body must receive notification of the execution of the decision within one month of the date on which the court decision was received. Officials who fail to execute a court decision bear the responsibility provided for by law (Code of Civil Procedure, art. 282).

123. In accordance with article 100 of the Code of Civil Procedure, court fees consist of State duties and legal costs. The payment procedure and the amount of the State duty is established by the Code on Taxes and Other Mandatory Payments to the Budget (hereinafter referred to as the "Tax Code"). State duty is collected on claims submitted to the courts, applications (complaints) involving special proceedings, appeals, private appeals for a court ruling on the issuance of a duplicate of the enforcement order, and applications for a court order and for copies (duplicates) of documents (Tax Code, art. 495). In accordance with article 495, paragraph 2, of the Tax Code, fixed percentage rates of State duty are calculated on the basis of the monthly calculation index established by the legislative act of Kazakhstan on the date on which the State duty is paid, unless otherwise specified in the Tax Code. State duty is collected on property claims submitted to the courts:

- (a) For individuals, the duty is equivalent to 1 per cent of the claim;
- (b) For corporate bodies, the duty is equivalent to 3 per cent of the claim.

124. Claims that do not involve property are subject to a duty in the amount of 50 per cent, based on the monthly calculation index (Tax Code, art. 496). The 2007 National Budget Act establishes that, beginning on 1 January 2007, the monthly calculation index is 1,092 tenge, which is equivalent to 6 euros and 15 cents (exchange rate: 1 euro = 177.56 tenge). Article 501, subparagraph 8, of the Tax Code provides for the exemption of claimants from payment of State duty in the courts in claims involving recovery of resources to the State in compensation for damages caused to the State by the violation of environmental protection legislation. In addition, procedural legislation provides that the court shall award the party in whose favour the decision was handed down, all court costs, to be paid by the other party, even if this party was exempted from paying such costs. If the claim was partially sustained, the costs awarded to the claimant are in proportion to the amount of the claim granted by the court; the respondent is awarded the amount of the claim that was denied to the claimant (Code of Civil Procedure, article 110). In addition, the court shall award the party in whose favour the decision was handed down, compensation by the other party for the costs of the assistance of the representative who participated in the proceedings, in the amount of the actual costs paid by the party. In monetary claims, such costs should not exceed 10 per cent of the claim that was granted (Code of Civil

Procedure, art. 111). The provision of free legal assistance to citizens is provided for in article 114 of the Code of Civil Procedure, in accordance with which the judge, in preparing the case for hearing, or the court considering the case, is entitled, based on the citizen's property status, to exempt him or her, in whole or in part, from payment of the costs of legal assistance and to refer the costs of a lawyer to the State.

125. The Supreme Court is making considerable efforts to implement the provisions of the Convention. In particular, the Supreme Court and local courts study judicial practice relating to courts' application of environmental legislation; local courts make use of special judges to hear actions brought by citizens and voluntary organizations involving environmental disputes; the media regularly publish material on environmental issues; the newspaper *YUG* has introduced a column entitled "Note for the judge", which deals with the application of environmental legislation by the courts; and arrangements have been made for the exchange of information with the Ministry of Environmental Protection. Every judge has been informed of the provision on the need to implement the Aarhus Convention as an international treaty that has direct effect in Kazakhstan's legal system.

126. In 2005-2007, the Supreme Court, together with international partners, held a number of events (conferences and seminars), whose agenda included a discussion of questions relating to the implementation of the provisions of international agreements, including the provisions of the Aarhus Convention, in Kazakh courts. Representatives of State bodies of Kazakhstan (Ministry of Environmental Protection, Ministry of Justice and Office of the Procurator-General), judges of the Supreme Court and local courts, scientists, foreign experts, representatives of international and non-governmental organizations and many others participated actively in the aforementioned events. The holding of the events and their outcomes were widely covered by the media, and information was placed on the website of the Supreme Court, which attracted the public attention and stimulated the public's interest in participating in the above-mentioned forums. Upon conclusion of the conferences and seminars, the recommendations of the participants were sent to all interested organizations; in addition, in practically all cases, collections of materials were published and disseminated not only to Kazakh courts but also to public authorities and higher educational establishments. The materials of the conferences and seminars relating to the environment were placed on the Supreme Court's website in the section entitled "International cooperation"; these include:

(a) Materials of the seminar on the judicial practice of implementing environmental and tax legislation (Almaty, 28 November-2 December 2005);

(b) International conference of Central Asian judges, entitled "Problems of implementing environmental legislation" (Almaty, 7 and 8 September 2006);

(c) Regional seminar for judges, entitled "Mineral wealth and investments" (Atyrau, 27-30 March 2007).

127. In addition, the agenda of the regular (fourth) meeting of the Council of Chairpersons of Higher Arbitration, Economic and Other Courts for the Settlement of Economic Disputes, held on 10 September 2007, included questions relating to Kazakhstan's implementation of environmental legislation, including the Aarhus Convention. Cooperation is being carried out

with the Ministry of Environmental Protection on the regional project entitled “Involvement of the public in, and civil society’s support for, the implementation of the Aarhus Convention (ref. No. 11-8/3566 of 13 November 2007).

128. In 2007, representatives of the Supreme Court held a number of meetings with experts from the OSCE Centre in Astana to continue their joint efforts to publish a handbook for judges who consider cases of violation of environmental rights and environmental legislation reported by members of the general public. As a result of the meetings, the parties supported the idea of holding a seminar for judges who consider environmental disputes, and coordinators of educational programmes on issues relating to the application of the provisions of the Aarhus Convention, and access to justice, with the participation of international experts. There are plans to launch the handbook for judges at the seminar.

129. In October 2007, the Supreme Court opened, in the section entitled “International cooperation” (a subsection of “International law documents”) on its website, a page entitled “Implementation of the provisions of the Aarhus Convention”, which contains regulatory acts on issues relating to the environment, reports on the work of the Meeting of the Parties of the Economic Commission for Europe on access to information, public participation in decision-making and access to justice in environmental matters; judicial acts on environmental cases, with cross-reference to the section “Judicial acts and reviews”, and also articles and interviews on questions of environmental protection, with cross-reference to the subsection “Materials of conferences and seminars”. In January 2007, the website opened a forum for the direct discussion of issues relating to judicial system, and one of the first subjects of the forum to attract public interest was the study of opinions about the environment and access to environmental information.

130. In accordance with the Aarhus Convention, the Supreme Court provides the public with environmental information; for example, in reply to a request from the NGO “Green Salvation” Ecological Society of 17 October 2007, the Supreme Court provided information on the implementation of the requirements of the Convention, in particular, concerning the holding of advanced training courses for judges, and conferences and seminars on access to justice and environmental protection (ref. No. 11-6/3435 of 1 November 2007).

131. In the second half of 2007, awareness-raising seminars entitled “Questions relating to the application of the provisions of the Aarhus Convention” were held at training centres of provincial and equivalent courts. In the first half of 2008, the training centres plan to hold seminars and conferences with the participation of judges, representatives of the territorial subdivisions of environmental protection administrations, the office of the procurator for environmental protection, and environmental NGOs.

132. In accordance with the Supreme Court’s plan of activities for the preparation and holding of the international conference of Central Asian judges, entitled “Problems of implementing environmental legislation” (2006), provincial and equivalent courts were sent an instructional letter (3-1-9/2077 of 24 July 2006) with copies of documents relating to the implementation of the Aarhus Convention. On this basis, courts were recommended to hold seminars for judges of local courts, and to unify the judicial practice of considering cases involving environmental

protection. In all provinces, the plans of training centres attached to provincial courts for 2008 include courses on the consideration of problems encountered by courts in the consideration of cases relating to the application of the provisions of the Convention.

133. In November 2006, Regulation No. 253 of the Chairman of the Supreme Court of Kazakhstan of 28 November 2006 established the Centre for Research on the Judicial System of Kazakhstan, the activities of which are geared towards conducting research on the judicial system and making recommendations on ways of improving it. Within the framework of its educational activities, the Centre is participating in the preparation of materials for the handbook for judges and in the organization and holding of the seminar for judges specializing in the consideration of environmental disputes, to be held in June 2008.

### **XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9**

134. Based on the materials of a number of court cases, the following obstacles to public access to justice may be noted:

(a) With regard to national requirements relating to procedural time limits, the long process involved in the judicial review of complaints and lawsuits brought by citizens and NGOs concerning violations of environmental protection legislation, owing to the complexity of the disputes, poorly formulated claims and inconsistencies in claims made by NGOs. This state of affairs could be improved by bringing procedural legislation into line with the provisions of article 13 of the Environmental Code and the provisions of the Convention;

(b) Courts' failure to consider individual statements by citizens and NGOs. In order to ensure that such matters are subject to clear procedural regulations, it is necessary to bring legislation on voluntary associations into line with the provisions of the Convention.

135. Based on statements from citizens and voluntary associations of Kazakhstan, the Committee on Compliance with the Aarhus Convention recommended that Kazakhstan should adopt regulatory acts establishing clearer procedures for public participation in access to justice in environmental disputes. Work is continuing.

### **XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 9**

136. Legislation provides that the creation of legal statistics must be carried out by the Committee on Legal Statistics and Special Records of the Office of the Procurator-General of Kazakhstan. Each province keeps a general record of statistical data on criminal cases involving environmental offences, administrative cases involving administrative offences in the field of environmental protection and the use of natural resources, and civil cases relating to the consideration of lawsuits involving environmental protection. At present, the question of collecting more detailed statistics, which would be in the interests of monitoring and compliance with the provisions of the Convention, is being discussed.



137. Assistance in removing or reducing financial or other barriers to access to justice is possible only through the introduction of amendments and additions to the Tax Code, since in this area the provisions of the Convention are not binding.

**XXXI. WEBSITE ADDRESSES RELEVANT TO THE  
IMPLEMENTATION OF ARTICLE 9**

138. [www.supcourt.kz](http://www.supcourt.kz), [www.procuror.kz](http://www.procuror.kz), [www.nature.kz](http://www.nature.kz), [www.osce.org/astana](http://www.osce.org/astana),  
[www.osce.org/almaty](http://www.osce.org/almaty).

**XXXII. CONTRIBUTION OF THE IMPLEMENTATION  
OF THE CONVENTION TO THE PROTECTION  
OF THE RIGHT OF EVERY PERSON OF PRESENT  
AND FUTURE GENERATIONS TO LIVE IN AN  
ENVIRONMENT ADEQUATE TO HIS OR HER  
HEALTH AND WELL-BEING**

139. The Aarhus Conventions plays an extremely important role in Kazakhstan in the implementation of the constitutional norm intended to protect citizens' environmental rights. Article 31, paragraph 1, of the Constitution of Kazakhstan states that "the State shall commit itself to preserving an environment that is conducive to human life and health". The Convention creates a good and constantly evolving basis for implementing this constitutional norm, specifying the actions and measures to be taken by public authorities to improve public access to environmental information, to ensure that decisions affecting the environment take account of public opinion, and to create opportunities for citizens and NGOs to file complaints against violations of environmental protection legislation, committed by various enterprises and State bodies. At the present stage, the public, including NGOs, is actively involved in the implementation of the Aarhus Convention in Kazakhstan. This is reflected in the analysis of the extent to which domestic legislation conforms to the provisions of the Convention, the active position taken in questions relating to the public authorities' compliance with the requirements of the Convention, and the level of public awareness about its rights.

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