

**Support from the Aarhus Convention to
effective public participation in
transboundary water management in
the context of the obligations of the
Water Convention**

Vadim Ni

Kazakhstan

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Public access to information under the UNECE Water Convention

- The Water Convention was drafted and adopted before the Aarhus Convention
- Provisions on public access to information are provided in article 11, article 16 and Annex II
- No definition of “the public” is provided in the Water Convention
- Article 16 sets obligations for the Riparian Parties to ensure public access information on:
 1. state of transboundary waters and measures taken or planned to be taken to prevent, control and reduce transboundary impact (broadly)
 2. water-quality objectives, permits issued and the conditions required to be met, results of water and effluent sampling carried out for the purposes of monitoring and assessment, results of checking compliance with the water-quality objectives or the permit conditions
 3. modalities for public access to information (free inspection, including in designated facilities and copies for a reasonable fee)
- In principle, public authorities are covered by the definition of “the public”, see ACCC/C/2009/39 Austria, Hungarian municipality on non-compliance by the Austrian Government in relation to the construction of a waste incinerator

Transboundary impact to transboundary waters under the Water Convention and participation rights under the Aarhus Convention

- A number of provisions of the Water Convention referring to transboundary impact to transboundary waters, including in article 2, paragraph 1
- “The public” means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups – article 2, para. 4, of the Aarhus Convention;
- “The public concerned” means the public affected or likely to be affected by, or having an interest in, the environmental decision-making; for the purposes of this definition, non-governmental organizations promoting environmental protection and meeting any requirements under national law shall be deemed to have an interest – article 2, para. 5, of the Aarhus Convention;
- In principle, public authorities are covered by the definition of “the public” and “the public concerned”
- Communication ACCC/C/2009/39 Austria, Hungarian municipality complained on non-compliance by the Austrian Government in relation to the construction of a waste incinerator

Opportunities for more effective implementation of the Water Convention provided by the Aarhus Convention

- The cross-cutting nature of the Aarhus Convention in relation to public environmental rights and engagement of stakeholders in decision-making
- The procedural nature of the provisions of the Aarhus Convention on access to information and public participation
- More elaborated international standards on access to information and public participation
- Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters provide step-by-step procedure on public participation, including on water issues

Promotion of public environmental rights in transboundary water management by the Aarhus Convention

Standards for providing
public access to information

Promotion of more
broad public access to
information

Promotion of public
participation in
international forums on the
basis of the principles of
the Aarhus Convention

Public participation in
transboundary water
management

Example on basin management and public participation

Basin councils were established in Kazakhstan in 2004-6 in all water basins

Initially the public was represented on parity basis with public authorities in all basin councils

All members of basin councils have equal rights

Meetings of basin councils are open for NGO observers

The rules of procedures contain provisions on public access to information

Public participation was promoted on the basis of IWRM principles and the standards laid down by the Aarhus Convention

8 water basins in Kazakhstan and only one is not transboundary



Practical example of bilateral water management with public participation

- Commission on the Use of the Water Management Facilities of Interstate Status on the Chu and Talas Rivers established in 2005
- Established to operate jointly by Kazakhstan and Kyrgyzstan of 5 water facilities, including two water reservoirs
- The Commission provides access to information on its website - <http://chui.at.kg/eng> and upon requests by representatives of the public
- Meetings of the Commission and its working groups are open for representatives of the public
- NGOs engaged actively in activities of the Commission and its working groups

Aral Sea as an example of why public participation in water management is so important

The Aral Sea was the fourth largest lake in the world until the 1960s

Most of water from Syrdarya and Amudarya rivers was diverted for irrigation

Short video on Aral Sea

<https://www.youtube.com/watch?v=tUDzEvK-0iM>



1960
SURFACE - 68 900 KM²



1984
SURFACE - 59 878 KM²



2001
SURFACE - 28 025 KM²



2015
SURFACE - 8 303 KM²