

## PUBLIC REPORT ON THE ORKHUSS CONVENTION IN KAZAKHSTAN

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A brief information presentation about the process of this report's preparation, including with which public bodies consultations were conducted or with which public bodies made a contribution to its preparation and how consultations with the community were carried out, and also how the results of these consultations were taken into account and what materials were used as the basis for the preparation of report.

Answer: The preparation of report from the community about the Orkhusskoy convention began from the distribution of declaration about the beginning of this process by the press-service of network CARNet in Kazakhstan among ecological NGO of Kazakhstan on 14 September, 2007, with its subsequent arrangement on the most popular ecological Web-portal of central Asia [www.caresd.net](http://www.caresd.net). Its development and public consideration created a special working group (SRG) from the number of ecological non-government organizations (NGO) and activists, who came forward with this initiative.

For the purpose of conducting public consideration, the project report was represented at the special ecological area of the third civil forum, which took place in Astana, October 17-18, 2007 with the participation of more than 30 NGO's from all regions of the country, and subsequently at the public hearings in Atyrau, which were carry out on November 23, 2007. The draft of the document, prepared BY SRG, was placed on November 27, 2007, on Web- portal [www.caresd.net](http://www.caresd.net) for the idea of written proposals and observations by the representatives of the community of Kazakhstan. At the same time, the collection of

information NGO responses to a brief questionnaire, prepared by SRG, took place.

You will report any concrete data, which be important for understanding this report, for example, if there are any federal and/or decentralized mechanisms of decision making, if there are positions of convention direct action after the entrance of convention into the force and are financial difficulties essential obstacle for the realization of the convention:

Answer: This report is based at the on the analysis gathered from the positions taken during the Orkhusskoy Eco-forum NGO convention of Kazakhstan, and also from proposals and associated materials, given to NGO's and other persons, whom did not attend the convention. In this case primary attention was given to the possibilities of the active participation of community in the development of effective political and legislative bases and the creation of the practical mechanisms, necessary for the realization of the ecological rights of community. Originally, this report was not considered as an alternative to the national report of the Republic of Kazakhstan, but rather was based on understanding of the fact that there are many obligations of the international nature-conservation conventions in the country, and could reach a considerable amount of more like-minded organizations and associations. Specifically, such organizations, as a rule, come out as very driving in the work towards the fulfillment of commitments on the international ecological conventions. The represented report from the community is prepared on the conditions of the congruency of its data with the data of the first national report about Orkhusskoy convention in Kazakhstan; however, it does not bear universal nature, since Eco-forum NGO convention of Kazakhstan is the net structure, which does not have available its own budget and paid regular personnel and therefore operating on the voluntary basis or with the draft on funds and resources, drawn by its members.

It is necessary to note that in the period after the second conference of the parties Of orkhusskoy convention (Almaty, Kazakhstan, 25-27 May of 2005) in Kazakhstan was outlined the tendency toward the decentralization of the functions of public bodies in the region of the protection of environment and economical utilization of natural resources. First of all, this concerns the creation of the departments (administrations) of natural resources and regulation of use of natural resources in the composition of the local executing agencies first of all, this concerns the creation of the departments (administrations) of natural resources and regulation of use of natural resources in the composition of the local executing agencies fields (yr. Astana Of Almaty). Taking this into account in the period in question were developed the possibilities of access to the ecological information and the participations of community at the level of regions and ponds of Kazakhstan; however, the greater possibilities for the realization of the ecological rights of community, provided Of orkhusskoy convention, it is as before characteristic for the level of the central organs of power of the state.

Financial possibilities are not essential obstacle for the realization Of orkhusskoy convention in Kazakhstan and in particular, within the accounting period in the country were separated the means for the realization of separate special measures and projects for this direction. They include as the budgets of public bodies and means of state social order for the non-government organizations. Basic difficulties appear with the potential of the colleagues of the public bodies, responsible for the accomplishment of the corresponding objectives, and also the qualification of the drawn strange organizations and experts.

### ARTICLE 3

You will transfer legislative, normative and other measures for the realization of the general considerations of points 2, 3, 4, 7 and 8 articles 3. You will explain how are achieved the positions of these points. In particular, indicate the following:

- a) with respect to point 2 - the taken measures for the guarantee of that so that the officials and public bodies would render aid and would ensure the required orientation;
- b) with respect to point 3 - the taken measures for assistance to ecological education and to raising the level of knowledge ability about the problems of environment;
- c) with respect to point 4 - the taken measures for the guarantee of the proper acknowledgement of unions, organizations or groups, which facilitate the protection of environment, and to the rendering by them of support;
- d) with respect to point 7 - the taken measures for assistance to the application of principles of convention at the international level;
- e) With respect to point 8 - the taken measures for the guarantee of that so that those, who achieve their rights in accordance with the convention, would not undergo punishment, pursuits or oppressions.

Answer: With respect to the point of 2 articles 3 it is necessary to note that the basic initiatives on the rendering of assistance to community on the realization of their rights within the framework Of orkhusskoy convention in the accounting period to a considerable extent proceeded from the side of public structures, international and independent experts. The work of public bodies on this direction in the larger measure is characteristic for the territorial subdivisions of central departments and local organs. In particular, in the territorial organs of the protection of environment, as a rule, is a regular colleague from the work with the community and the media, whereas in the central organs, even if is assigned responsible colleague, then he/she combines this work with the fulfillment of many other functions. The plan of actions on the realization Of orkhusskoy convention on the period before the third conference of sides, developed and affirmed by the ministry of protection of environment on the basis of the proposals of ecological NPO, in the part of the practical measures of larger is not partly fulfilled, the exception in this sense the points, which are concerned the adoption of normative lawful reports, compose.

In 2006 the ministry of protection of environment isolated 6 leads for sum total of 8927000 tenge (about 72000 US dollars) for financing the projects NPO, connected with the participation of community in realization and advance Of orkhusskoy Konventsii, Konventsii on the fight with opustynivaniyem, Kartakhenskogo protocol about biobezopasnosti and Stockholm convention about the steadfast organic contaminants. However, all leads were won by one organization, which did not have large experience in the sphere of the protection of environment. Within the framework of the social project, financed by the department of the domestic policy of Eastern- Kazakhstan of field was realized the initiative on the creation of the Center for the realization Of orkhusskoy convention with respect to access to community to the ecological

information.

In the ecological code, accepted on 9 January, 2007, on the basis of the proposals, prepared by the expert group of the regional ecological center of central Asia and introduced into the parliament Ekoforumom NPO RK, is included the chapter for ecological education and instruction, increase in the qualification of specialists. It includes a whole series of the new positions on the formation for the steady development, including which foresee the development of the corresponding long-range plan of actions, are determined purposes, tasks, organizational bases and measures of state support to activity for ecological education, instruction and increase in the qualification of specialists. In the structure of the departments of natural resources and regulation of the use of natural resources of local executing agencies are created the divisions of the ecological information, which are allotted by scope on the ecological education of population.

In the accounting period the role of basic area for applying the principles Of orkhuskoy convention performed intergovernmental commission for the steady development of the states of central Asia. Basic tool for their introduction became public council with MKUR, preobrazovanny in 2006 from the working group of the representatives OF NPO. From Kazakhstan in the public council it is represented 3 ecological NPO. In particular, participation in this forum allowed non-government organizations to formulate joint position according to the relation of project "strengthening of public participation and the support of civic community in the realization Of orkhuskoy convention", financed of the European Commission, for guaranteeing its realization on the basis of principles and positions of convention.

Indicate any obstacles, which may have been encountered with understanding the positions taken in point 3 above:

Answer: Relative to point 2. The participation of public bodies and their colleagues is often characterized by the support of the corresponding public initiatives and by the assignment of the necessary possibilities for their realization and by the absence of its own plans and approaches from the work with the community for the purpose of the assistance to realization of their ecological rights. At the level of local public bodies this in many respects is connected with the weak potential of public bodies. At the level of central public bodies basic obstacle for the effective realization of the point of 2 articles 3 Orkhuskoy of conventions is a constant rotation of personnel and the absence of clear succession in their work. Thus, if in the territorial subdivisions of the ministries of protection of environment there are the specially chosen organic units from the work with the community and the means of mass, and then in the central staff of the ministry specialist in the connections with the community combines this work with the fulfillment of other functions.

Relative to point 3. Within the framework of the social project, financed by the department of the domestic policy Of the akmolinskeye region was realized the initiative

on estimation and monitoring of the aqueous sources of capital region. Crucial problems are revealed. Are implicated 15 public associations and initiative-taking groups. Are prepared reports and recommendations and further plan of the making more active of civil sector. Project obtained approval and acknowledgement within the framework of the competitions of the best practitioner from European Ekoforma and international commission for steady development R. With the support YUNEP, they carry out the competition the "best example of the participation of the community of the countries TSA in the achievement of the objective UR". National judges in each country defined the best analytical articles, to authors of which were entrusted prizes.

Articles about the best practice are included in collection on the sums of competition relative to point 7. In spite of the efforts, undertaken by initiative-taking working group on the frame convention on the protection of the marine environment of Caspian Sea (Teheran convention), the principles Of orkhusskoy convention so not were inculcated in the work of this international forum. As one of the obstacles served the fact that two of the states participating in the Teheran convention are not the parties Of orkhusskoy convention. During the period from 2005 through 2007 there is no information about the participation of Kazakhstan ecological NPO in the encounters on the Teheran convention. During June 2007 representative of one of NPO EkoForma was invited for the participation in the encounter on this convention; however, it was deported from the airport g. of Baku, since he is ethnic Armenian.

Additional grant information with respect to the practical implementation of the general considerations of convention

Answer: In the period from 2005 on September 2007 in Kazakhstan are created basin councils into all 8 hydrographic ponds of Kazakhstan. In all new state- public structures together with the public bodies is provide ford the wide representation of the interests of vodopol'zovateley and non-government organizations. In creation by 7 of 8 basin councils with the support of project PROON on the integrated Water Resources board and programs of small Grants GEF active participation assumed Ekoforum and its membership organizations. Ekoforum NPO RK and other non-government organizations take active part in the council sessions for steady development under the chairmanship of Prime Minister, in particular dedicated to questions of development and adoption of the project of the concept of passage to the steady development to 2024, renewed energy sources, between the sessions of public council with the ministry of protection of environment there are very large interruptions (more than a year).

In 2005 and 2007 the second and third civil forums took place. In the course of the last civil forum of 17-18 October of 2007 Of ekoforum NPO RK together with the ministry of protection of the environment of moderiroval debatable area "resolution of ecological questions through the prism of public participation". In the course of exchange opinions on the third civil forum, in particular on the observance of the positions Of orkhusskoy convention, the ministry of protection of environment acknowledged the need for more effective control of conducting of public hearings and for expanding this practice - conducting a number of exponential hearings on the most significant objects. In the recommendations, accepted on the sums of discussion, is noted the need for conducting the comprehensive detailed estimation of the effectiveness of the acting

mechanisms and procedures of the guarantee of public participation, public control and examination, calculation of public opinion in the realization of nature-conservation conventions, Orkhusskoy convention, state ecological programs, Ekokodeksa RK, concept of passage RK to the steady development at the local and national levels. Also in the list of the recommendations of forum - development of plan for the improvement of state measures for the guarantee of the corresponding access of citizens to the ecological information and strengthening of public participation in the region of the protection of environment and steady development for the subsequent two years. Plan will have to consider the lessons, extracted from the application of the current mechanisms, the analysis of the models of public participation in the country but it must be aimed at improvement in the quality and access to the ecological information, strengthening of the potential of ecological non-government organizations, including instruction, expansion and strengthening the role of the participation of community. One should ensure so that the plan would be developed in the process of consultations with the interested community and widely disseminated among the civil agents and the community as a whole. It was recommended to the ministry of environment RK, to the committee of the available water resources RK and to the local organs of authority achieves support of public ecological councils, which act at the national and local level.

For expanding the bases of data of ecological information it was recommended to increase the analytical possibilities of the corresponding public bodies, departments and NPO, and ensure adequate ecological statistics for purposes of the guarantee of monitoring and control on the fulfillment of strategic plans, state programs and other program documents in the region of protection, economical utilization of natural resources and steady development. To conduct considerations, instruction about the ecological statistics with the participation of interested parties and experts from the community. For the subsequent two years to manufacture and to use the scientifically substantiated systems of indicators and indices in the region of the protection of environment and steady development.

Indicate the addresses of appropriate the Web sites, if the same are located:

<b>Organization name</b>	<b>Website address</b>
Ministry of Environmental Protection	<a href="http://www.nature.kz">www.nature.kz</a>
Electronic information network on the protection of environment and steady development in central Asia and Russia CARNet	<a href="http://www.caresd.net">www.caresd.net</a>
Regional ecological center of central Asia	<a href="http://www.carec.kz">www.carec.kz</a>
Akim (similar to Senator) of West Kazakhstan	<a href="http://www.akimvko.gov.kz">www.akimvko.gov.kz</a>
National information resource center for NGO's in Kazakhstan	<a href="http://www.npo.kz">www.npo.kz</a>

#### **ARTICLE 4**

Transfer legislative, normative and other measures for the realization of the clauses of article 4, which are concerned access to the ecological information.

You will explain how are achieved the positions of each point of article 4. Describe about

the application at the national level of the corresponding definitions, which are contained in article 2, and that being containing in the point of 9 articles 3 of requirements about the absence of discrimination. Furthermore, indicate, in particular, that follows:

- a) with respect to point 1 - the measures, accepted for guaranteeing that, in order to:
  - (.i) any face could have an access to information without the need for formulating its interest;
  - (.ii) were allowed to the copy of actual documentation, which contains or which includes the inquired information;
  - (.iii) information was allowed in the inquired form;
- b) the measures, accepted for guaranteeing that so that soblyudalis' the periods, provided in point 2;
- c) with respect to points 3 and 4 - the measures, accepted:
  - (.i) for the indication of exceptions from the practice of assignment to information on the demands;
  - (.ii) for guaranteeing the criterion of the interest of community, mentioned at the end point 4;
- d) with respect to point 5 - the measures, accepted for the realization of that so that the public body, which does not have available the inquired ecological information, would take the necessary measures;
- e) with respect to point 6 - the measures, accepted for guaranteeing the realization of requirement, which is concerned isolation and assignment to the existing information;
- f) with respect to point 7 - the measures, accepted for guaranteeing that so that the refusals in the assignment to information would be given within the established periods and with the observance of the other conditions, which are concerned such refusals;
- g) With respect to point 8 - the measures, accepted for observing the requirements, that are concerned the levy of pay.

Answer: On 9 January, 2007, in Kazakhstan is accepted the ecological code, which includes the special chapter according to the ecological information, developed on the basis of the proposals Of ekoforuma NPO RK. This law includes sufficiently detailed positions by the public access to the ecological information and together with the law of 12 January, 2007, determines legislative basis for the realization in the country of the clauses of articles 4 and 5 Orkhusskoy conventions. As the basis for the proposals Of ekoforuma NPO RK to the project of ecological code by the access to the ecological information served the reminder from the work with the demands of community on obtaining of ecological information, released together by the ministry of protection of environment and by center OBSE into Almaty.

In the ecological code the concept of ecological information obtained wider interpretation in comparison with the previously acted law about the protection of environment. In accordance with the new law it covers information about the state of

environment and its elements, the factors, the activity and the measures, which influence them, ecological norms and ecological requirements, nature-conservation measures, ecological pravoprimereniye, the status of the health, safety and conditions of the stay of people, objects of culture and buildings in connection with the action on them of ecological factors. Also in the new law about the rotation is removed the previously acted requirement to indicate in the information inquiries the motives of rotation, that contradicted to the subparagraph (a) of point 1 of article 4 Orkhusskoy of the conventions about the granting of access to the ecological information without the need for formulating its interest

In the ecological code is established the right on obtaining of ecological information for any physical and legal persons and it is not provided any discriminating positions, which are concerned "citizenship, nationality or residence" or in the case of legal persons - "registered location or the actual center of activity" The determination of ecological information in the ecological code includes various forms of information, in which it can be expressed, namely written, electronic, audiovisual and other forms. It lets to right physical and legal persons obtain information in the inquired form, if only there are no foundations for granting it in another form.

New Kazakhstan legislation expands the circle of subjects, to which are applied the obligations regarding the granting of access for the community to the ecological information. In the ecological code is established the responsibility to allow the open access to the ecological information, including on the demands of physical and legal persons both for the government organs and for those, who carry out state functions and rendering population on the basis of the public agreement of the service, which refer to environment. Additionally to this, law about the rotation of physical and legal persons extends this responsibility for assignment to ecological information on the demands of community also to legal persons, that allow goods (works, services) within the framework of the public procurement and legal persons with the hundred per-cent participation of state.

The periods of assignment to ecological information in the new law about the rotation were refined in the comparison with the previously acted legislation to the side of acceleration. They are 15 calendar days in the case of the demands, which do not require obtaining information from other subjects or of checking with the site visit, in other cases - 30 calendar days. Is provided also the possibility of the prolongation of period not more than on 30 calendar days in the case, when is required conducting additional study or checking, with the notice about this of applicant during the 3rd calendar days. Refinements in the new law about the order of the examination of appeals concerned indication of calendar days, in the previous formulation they could be interpreted as the workdays, and conditions are also more clearly determined, with which the demands are examined within the e0-dnevnyy, but not 15-day period. With respect to of the procedure of the evaluation of action on the environment and the process of decision making by planned economic and other activity the special procedure of the granting of access to the ecological information, installed by the ministry of protection of environment, is provided for. This was made in order to exclude possibilities of abuse of the established periods of the examination of appeals in the case of the procedure of the estimation of action on the environment and decision making by the appropriate objects.

With respect to readdressing demand the more compressed period is also established - is not later than the 3rd workdays with the information about this in the limits of monthly period, previously adapted period not later than 5 days.

Ecological code was determined for the case of failure in the assignment to ecological information requirement about the indication of reasons and bases for the refusal, the possibilities for its appeal by applicant, and also information in the case of readdressing demand.

In the ecological code it is determined, that in the general case the pay for the assignment to ecological information cannot exceed actual expenditures for copying, search and preparation, in the case of moderately-priced state electronic registers and cadastral surveys of ecological information the information is allowed without compensation.

Indicate any obstacles, which were encountered with the realization of the positions of any of the points of article 4.

Answer: The government version of ecological code, represented into the parliament, contained requirement about the granting of access to the ecological information, which is contained in the documents with the limited access, by means of its isolation. However, in the course of the subsequent consideration this position was excluded, and this is connected with the problem, which has serious political background. It, first of all, affects the agreements between the government of Kazakhstan and the western petroleum companies about the division of production on the petroleum deposits in Caspian Sea.

Grant additional information about the practical application of positions, which are concerned access to information, for example, are there any statistical data relative to the number of subject demands, numbers of refusals and bases for the refusal.

Within the framework of realizing of project according to the evaluation of the state of aqueous sources in The akmolinskeye region were made 15 demands into the regions of region, the provincial center and the capital of republic into the appropriate organs. Were obtained 5 answers, which correspond to posing of the question. 1 of the capital, 4 of the largest district it is center and municipal 1 of the capital, 4 of the largest district it is center In 10 remaining cases the answers was absent, because necessary information either was absent or was absent the competent person, capable of governing demand, including readdressing. It is necessary to note that the information from

The akmolinskogo provincial department of the state of sanitary-epidemiological supervision within the framework of the made work of this subdivision was allowed fully, including at the district level, including on the rotation in the oral form.

It is also necessary to note that particular structures and the economic subjects often allow answers to the demands in proper time, during several days, but information in the answers very frequently indirect, extensive, but it does not correspond to direct posing of the question. Often such answers require the additional, refining letters - demands.

Indicate the addresses of appropriate the Web sites, if the same are located:

<b>Organization Name</b>	<b>Web Address</b>
Ministry of Environmental Protection (KZ)	<a href="http://www.nature.kz">www.nature.kz</a>
Electronic information network in the region of the protection of environment and steady development in the countries of central Asia and Russia CARNet	<a href="http://www.caresd.net">www.caresd.net</a>
Center OBSE in Astana	<a href="http://www.osce.org/astana">www.osce.org/astana</a>

## **ARTICLE 5**

You will transfer legislative, normative and other measures for the realization of the clauses of article 5, which are concerned collection and propagations of ecological information.

You will explain how are achieved the positions of each point of article 5. Request to indicate, as at the national level adapt the corresponding definitions, which are contained in article 2, and being contained in the point 9 articles 3 of requirements, which are concerned the absence of discrimination. Furthermore, indicate, in particular, that follows:

- a) with respect to point 1 - the taken measures for the guarantee of that, in order to: (.i) public bodies had available ecological information and renewed it; (.ii) was provided for proper entering of information into the public bodies; (.iii) in the case of extraordinary situations the corresponding information was extended without delay and without the delay;
- b) with respect to point 2 - the taken measures for the guarantee of transparency of assignment with the public bodies of the ecological information of community and with respect to the guarantee of accessibility of ecological information;
- c) with respect to point 3 - the taken measures for the guarantee of the accumulation of the ecological information in the electronic data bases, which are appeared by easily accessible for the community through the public communication networks;
- d) with respect to point 4 - the measures, accepted for publication and propagation of reports about the state of environment;
- e) the measures, accepted for the propagation of the information, mentioned in point 5;
- f) with respect to point 6 - the measures, accepted for encouraging the operators, whose activity exerts essential influence on the environment, to that so that they would regularly inform the community about the influence of their activity and products on the environment;
- g) the measures, accepted for the propagation of the information, required according to point 7;

h) with respect to point 8 - the measures, accepted for developing the mechanisms for the purpose of the guarantee of assignment to community of a sufficient information about the products;

i) With respect to point 9 - the measures, accepted for creating the general national system of cadastral surveys or registers of pollution.

Answer: In the ecological code on the basis of the proposals Of ekoforuma NPO RK is for the first time introduced into the nature-conservation legislation a number of the special articles, which determine lawful basis for the realization in Kazakhstan of the measures, directed toward the realization of article 5 Orkhusskoy of conventions. In this case the responsibilities for the active granting of access to the ecological information are defined both for the public bodies and for those, who carry out information input in the region of the protection of environment due to the means of state order. Is establishing required requirement for the public bodies for collection and calculation of the information about the planned and achieved activity, which can exert significant influence on the environment, and also about any extraordinary situations of natural and technological nature, which present serious threat for the environment, life and the health of population.

In the ecological code provided the formation and the maintenance of the moderately-priced electronic cadastral surveys (registers) of ecological information are determined task for the government organs for arrangement in the Internet and propagation with the aid of other means of the following it is specific the ecological information:

- reports about the state of environment;
- projects and the texts of normative lawful reports and international agreements for questions of the protection of environment;
- projects and the texts of the documents, which are concerned state policy, programs and plans in the region of the protection of environment;
- reports on the results of ecological pravoprimereniya;
- Reduction, in reference to the enumeration of the services of electronic government in the region of the protection of environment.

On the basis of the proposals Of ekoforuma in the composition of the state fund for ecological information together with other forms of ecological information is included the register of ejections and transfer of contaminants. This position of legislation determines basis for the ministry of protection of the environment of Kazakhstan on the development of the corresponding national register within the framework of the process of connection to the protocol about the registers of ejections and transfer of contaminants to The orkhusskoy convention.

On 18 June, 2007, into the law about the administrative procedures is included the special article, which determines the long enumeration of information, the being subject to required arrangement on the Web sites government organs with their renovation on the weekly basis. From the point of view of the realization Of orkhusskoy convention it should be noted that it includes the enumerations of registers and cadastral surveys,

moderately-priced electronic information resources and electronic services, relating to this concrete organ, allowed to community, analytical reports and information surveys, statistical data, taken normative lawful reports, the contacts of reference services, and also information about the order of the examination of the appeals of community, surveys about the results of their examination, etc.

within otchetny1 accounting period create Web site on majority local executive government public body \_ within otchetny1 accounting period create Web site on majority local executive government public body region (yr. Almaty and Astana). Most moved in this sense is Almaty city, where together with the Web site of Akim city is also a separate Web site of the department of natural resources and regulation of use of natural resources.

Substantially were enlarged the possibilities of access to the statistical handbooks, the bulletins of the agencies according to the statistics, which now are extended in the paper and electronic versions, and subscription to obtaining of publications with the electronic mail is also possible. In the separate fields are created the regional sites, which contain divisions on the environment (in particular on the official site Of the akmolinskeye region).

Indicate any obstacles, which were encountered with the realization of the positions of any of the points of article 5.

Answer: In spite of the acting program of electronic government and the expanding technical capabilities of public bodies the Web sites of key central public bodies (MOHS, MSKH) from the point of view of access to the ecological information within the accounting period did not undergo essential improvements in the meaningful plan, excluding the aspects of access to the ecological information in the official language. So the restructured Web site of the ministry of protection of environment contains a large quantity of empty subsections and references to the inaccessible documents. The sites of some ministries and departments work with the sufficiently regular failures. The provided by ecological code measures for an improvement in the access to information of state unitary enterprises, which carry out its collection, by analysis and by processing, until development is obtained.

Them, as a rule, lack Web sites or they with respect to ecological information they are limited to the description on them of the carried out by them functions.

Indicate the additional information relative to the practical application of clauses of article 5, which are concerned collection and the propagations of ecological information, for example, are there any statistical data with respect to the information published.

Answer: In the course of realization into 200shch-200'gg. of project the "new forms of interaction of state and community for guaranteeing the access to the ecological information" OF NPO "Status" (Ust'-Kamenogorsk), "Challenge" (Pavlodar) and the center of lawful aid THE MEDIA (Karaganda) was undertaken the attempt to enlarge the demands of the community through the electronic means of connection. However, it did not succeed, since or could not be determined, where to address the demands of the community (it was absent information about the electronic addresses, and sites they did not have forums). Or demands were not satisfied, since officials within the existed framework of law did not consider such demands as the "written rotation of citizens" and

these demands did not pass the procedure of registration. The responsible people of the ministry of protection of environment were acquainted with all revealed barriers in the course of round table on the sums of project.

On the Web site Of akimata g. of Almaty is organized the system of electronic rotation into the organ of state architectural and construction control. System is organized very recently; therefore quantitative information and therefore the preliminary analysis of its work will be represented in the final version of report late. The analysis of the publications of regional press shows that the occurrence of ecological themes in the printed publications is order 5-10 percent (data on Stepnogorsku).

Indicate the addresses of appropriate the Web sites, if the same are located:

Web the sites of the central organs of the power of the state

<b>Government organization name</b>	<b>Web Address</b>
President KZ	<a href="http://www.akorda.kz">www.akorda.kz</a>
Parliament KZ	<a href="http://www.parlam.kz">www.parlam.kz</a>
General Procurator's Office KZ	<a href="http://www.procuror.kz">www.procuror.kz</a>
Government KZ	<a href="http://www.government.kz">www.government.kz</a>
Ministry of Internal Affairs	<a href="http://www.mvd.kz">www.mvd.kz</a>
Ministry of Public Health	<a href="http://www.minzdrav.kz">www.minzdrav.kz</a>
Ministry of Formation and Science	<a href="http://www.edu.gov.kz">www.edu.gov.kz</a>
Ministry of Environmental Protection	<a href="http://www.nature.kz">www.nature.kz</a>
Ministry of Agriculture	<a href="http://www.minagri.k">www.minagri.k</a>
Ministry of Extraordinary Situations	<a href="http://www.emer.kz">www.emer.kz</a>
Ministry of Economic and Budgetary Planning	<a href="http://www.minplan.kz">www.minplan.kz</a>
Agency of Land and Resource Control	<a href="http://www.auzr.kz">www.auzr.kz</a>
Agency of Statistics KZ	<a href="http://www.stat.kz">www.stat.kz</a>
Program of electronic government	<a href="http://www.e.gov.kz">www.e.gov.kz</a>

Web the sites of local public bodies and organizations

Akimat Almaty Center	<a href="http://www.almaty.kz">www.almaty.kz</a>
Department of Ecological Development in Almaty	<a href="http://www.almatyeco.kz">www.almatyeco.kz</a>
Kazgromat	<a href="http://www.meteo.kz">www.meteo.kz</a>

## **ARTICLE 6**

You will transfer legislative, normative and other measures for the realization of the clauses of article 6, which are concerned the participation of community in decision making by the concrete I see activities.

You will explain how are achieved the positions of each point of article 6. Request to indicate, as adapt at the national level the corresponding definitions, which are contained in article 2, and those being containing in point 2, and being contained in the point 9 articles 3 requirement, which is concerned the absence of discrimination. Furthermore, indicate, in particular:

- a) with respect to point 1 - the measures, accepted for guaranteeing that, in order to: (.i) of the clause of article 6 adapted with respect to the solutions regarding the expediency of delivering the permission to conducting of those planned it was specific activity, enumerated in appendix I to the convention; (.ii) of the clause of article, were applied to the solutions by those proposed I see the activities, not enumerated in appendix I, which can exert significant influence on the environment;
- b) the measures, accepted for guaranteeing the adequate, timely and effective information of the interested community in the initial stage of the procedure of making ecological decisions by the questions, mentioned in point 2;
- c) the measures, accepted for guaranteeing that so that the periods, established within the framework of the procedures of the participation of community, would satisfy the requirements of point 3;
- d) with respect to point 4 - the measures, accepted for guaranteeing the participation of community by the early stage;
- e) with respect to point 5 - the measures, accepted in order to encourage potential applicants to the supply of claim for the object of obtaining permission to define the interested scopes of community, to conduct considerations and to present information relative to the purposes of their claim;
- f) with respect to point 6 - the measures, accepted for guaranteeing that, in order to: (.i) competent public bodies allowed to the interested community entire information, which is concerned the process of decision making, mentioned in article 6, existing at disposal at the moment of the realization of the procedure of the participation of community; (.ii) competent authorities, in particular, allowed to the interested community the information, indicated in this point;
- g) with respect to point 7 - the measures, accepted for guaranteeing that so that the procedures of the participation of community would make possible for it to present observations, information, analysis or opinion, which, as it counts, refer to the planned activity;
- h) with respect to point 8 - the measures, accepted for guaranteeing that so that in the appropriate solution the results of the participation of community would be properly taken into account;
- i) with respect to point 9 - the measures, accepted for immediate public information about the solution in accordance with the proper procedures accepted;
- j) with respect to point 10 - the measures, accepted for guaranteeing that, in order to when public body reexamines or renews the conditions of the activity, which it is discussed in point 1, the positions of points 2-9 adapted with the necessary changes also when this is expedient; k) with respect to point 11 - the measures, accepted for applying the clauses of article 6 to the solutions, which are concerned the delivery of permissions to the intentional liberation of the genetically changed organisms into the environment.

Answer: On 28 June, 2007, the ministry of protection of environment affirmed new instruction on conducting of evaluating the action of planned economic and other activity on the environment with the development of preplanned, planned and design documentation. In it are provided for the possibilities for the public participation in all stages of procedure OVOS. In the stage of the estimation of action on the environment of the projects of economic and other activity the responsibility for guarantee and organization of the calculation of public opinion is entrusted to the customer (initiator) of the planned activity. At the same time in accordance with the ecological code the representatives of community are right to express their opinion in the period of conducting state ecological examination, including by means of the direction of the corresponding proposals and observations into the organ of state ecological examination.

Scope on realizing of state ecological examination of the projects of planned economic and other activity is distributed between the public bodies as follows: the central staff of the ministry of protection of environment achieves a state ecological examination of the planned objects of economic and other activity 1 and 2 classes of danger, territorial subdivisions of this ministry - 3 and 4 classes of danger, the departments (administrations) of natural resources and regulation of local executing agencies - 5 classes of danger. The class of the danger of the planned object is determined in this case on the basis of their sanitary classification.

The granting of access to the materials OVOS is laid on the developer and the initiator of the planned activity. In the new instruction about OVOS as the basic organizational forms of accounting of public opinion acknowledge public hearings and collection of written proposals and observations, including with the aid of the surveyed interrogation, whose selection is achieved according to the agreement with the territorial organs on the protection of environment

EkoForumom NPO RK in 2006 within the framework of the project of center OBSE into Almaty was organized work on preparation and advance of information-reference management on organization and conducting of public hearings, and also applying other forms of the public participation with decision making by the questions, which are concerned environment. For the purpose of the acquaintance of public bodies, prirodopol'zovateley, expert organizations and the communities along this document were carry out for the hearing in the 4th cities of Kazakhstan. Management in detail describes forms, effective approaches and concrete steps in the organization of public participation within the framework of the procedures of the estimation of action on the environment of the projects of economic activity, and also developed projects of programs, plans and normative lawful reports. In 2007 information-reference management was approved by the ministry of protection of environment and it is published as the official reference document of this department by print run on 1000 copies in the Russian and official languages. Later, on 7 May, 2007, on the basis of this document the ministry of protection of environment affirmed the rules of conducting the public hearings, in which are introduced the definitions of such terms, as "community", the "interested community" are established legally required requirements in the periods of declaration about conducting of hearings and granting of access to the materials OVOS (not later than 20 days to the day of hearings), the procedure of hearings.

At the practical level EkoForumom NPO RK were organized public hearings and procedures of public participation on a number of projects, including with the trans-border action. Represented Ekoforumom NPO RK during April 2007 of observation and proposal on the project on the building in the Caspian Region of North- Caspian sea base for reaction to the petroleum floods, became basis for its deviation by the ministry of protection of environment within the framework of conducting state ecological examination and proposal to examine the alternatives of the arrangement of the base of reaction. The basic fears Of ekoForumoma on this project were connected with the special ecological conditions of the section in question, its selection on the bezal'ternativnoy basis and need for the calculation of significant harmful trans-border actions in accordance with the international requirements.

Indicate any obstacles, which were encountered with the realization of the positions of any of the points of

article 6.

Answer: Often public hearings within the framework of the procedure of the estimation of action on the environment are conducted through the projects of the small objects with the insignificant action on the environment, whose consideration does not cause interest in community. This in many respects is connected with the fact that the ministry of protection of environment transfers responsibility for the organization of public consideration to the local executing agencies, which in turn carry out the state ecological examination of objects with the insignificant action on the environment (IV category of danger). As a whole was observed reduction in the priority of questions of the evaluation of action on the environment of concrete projects and respectively questions of public participation in the case of the central staff of the ministry of protection of the surrounding media with the transfer responsibility for these questions to territorial administration of the protection of environment.

At the same time reduction in the attention on this question from the side of center creates problems with the realization of the necessary practical measures for the guarantee of public participation at the places. In particular, ministry herself ceased to place on the Web site of declaration about conducting of the procedures of public participation within the framework of the estimation of action on the environment, which practiced sometimes in the past with respect to separate large objects. Responsibilities for the guarantee of public participation in the stage of the procedure of the evaluation of action on the environment are practically completely entrusted to the developers. Public bodies are limited only to the agreement of the organizational form of accounting of public opinion and it is timetable conducting hearings. As a result of this to the stage of the state ecological examination of the projects of the possibility of the participation of community in decision making by public bodies they bear the defined by example nature, i.e., without direct interaction with them. The consequences of this otstranennosti of public bodies are the absence of clear picture with the fulfillment requirements about the calculation of the opinion of community in the final solution of state ecological examination (point of 8 articles 6 of conventions) and general non-fulfillment of requirement after making of the decision by the results of state ecological examination to without delay inform community about this solution (point of 9 articles 6 Orkhusskoy of conventions). So the weak involvement of all interested parties in this process is the typical problem, which appears in connection with the procedure of conducting public hearings. Usually to the public hearings and in the process of decision making are implicated at best NPO, aksakaly, youth public associations. But the opinion of the inhabitants of those villages, settlements, city blocks, where will be strictly achieved project and as a rule, absolutely is not considered their no one invites even to the public hearings.

Present additional information about the practical implementation of the positions, which are concerned the participation of community in decision making by the concrete I see activities, indicated in article 6, for example, are there any statistical data or other information about the participation of community in decision making by the concrete I see activities or about the solutions about the nonapplication of the clauses of present article with respect to planned it is specific the activity, achieved in the interests of national defense.

Answer: The disturbances of the procedures of conducting public hearings unfortunately thus far still frequently are allowed. The audience of participants artificially is selected or is limited. Thus, in 2005 in Pavlodar city were carry out public hearings about the building of electrolytic plant. In spite of the great interest of community in the forthcoming building it is sufficient dangerous enterprise, to accept participation in the hearings they was able not all desiring, because the place of conducting hearings was changed at the last moment. With conducting of hearings the observations from the community were introduced into the protocol and represented into the ministry of protection of environment, but about how the represented observations were taken into account, community not was informed. With conducting of hearings in 2007 in g. to stepnogorske on the project TOO SGKHK about the ecological rehabilitation of uranium tailings dump, organized by initiator the activities NPO were invited in two days before the hearings by the department of domestic policy. In this case the access to the documentation on the project not was provided for. As a result at the hearings not more than 15 people was present from the community and any significant opinions it was

expressed not.

Indicate the addresses of appropriate the Web sites, if the same are located:

Organization Name	Website Address
Ministry of Environmental Protection	<a href="http://www.minagri.kz">www.minagri.kz</a>
Electronic information network on the protection of environment and the steady development in the countries of central Asia and Russia CARNet	<a href="http://www.caresd.net">www.caresd.net</a>

## ARTICLE 7

You will transfer appropriate practical and/or other measures, accepted for guaranteeing the participation of community in the course of the preparation of plans and programs, which are concerned environment. Request to indicate, as adapt at the national level the corresponding definitions, which are contained in article 2, and the requirement relative to the absence of discrimination being contained in the point of 9 articles 3.

Answer: Accepted on 9 January, 2007, ecological code does not contain the positions, which are concerned strategic ecological estimation and respectively according to the participation of community. Possibilities for the public participation are allowed, first of all, through conducting of public hearings and considering the documents in different councils and working groups, formed with the participation of the representatives of non-government sector. For the wider circle of representatives the communities are allowed to the possibility of the introduction of proposals and observations to the separate drafts of the documents, placed on the Web sites of the public bodies, responsible for their development. Sometimes of the procedure of public participation cover the early stages of their development, i.e., the stages of the consideration of concept, in others - only from the moment of the preparation of the draft of the corresponding document.

You will explain, what possibilities exist for the participation of community in the development of policy with respect to environment.

Answer: The basic possibilities of the participation of community in molding of policy with respect to environment in the accounting period were connected, first of all, with the development of the corresponding institutional possibilities. First of all, this concerns participation NPO in the work of council on steady development, involvement of the representatives of vodopol'zovateley and ecological NPO in the basin councils.

You will report any obstacles, which were encountered with the realization of the clauses of article 7.

Answer: The ministry of protection of environment continues to consider Web site as basic source for the public declarations of invitations to the public consideration of the developed by it projects of strategies, programs, plans and it is text the corresponding documents; however, this is done extremely irregularly. In 2007 Web site MOHS worked with the large interruptions in connection with its redizaynom, and also the passage into the new building. Other ministries often conduct the considerations of various program documents and plans with the invitation of the small circle of organizations and experts. Invitations to the council sessions for the consideration of the drafts of program documents often send with the large retardation, in certain cases after are somewhat hour before the session. The registration of written proposals and observations from the community to the projects is not organized, their calculation in the majority of the cases is returned to the ransom to the individual developers of the documents, after which it is achieved no control from the side of the public bodies, responsible for development.

*Present additional information about the practical application of positions, which are concerned the participation of community in decision making by the concrete I see activities, mentioned in article 7.*

Answer: It is possible to bring as the concrete examples to the realization in Kazakhstan of the positions Of orkhusskoy convention on the participation of community in the consideration of the drafts of program

documents:

- Concept of passage to the steady development to 2024, developed by the ministry of protection environment;
- Changes and the additions to the comprehensive program on the normalization of the ecological situation of city, which were being developed by the department of natural resources and regulation of the use of natural resources g. of almaty.

There are so examples when the participation of community in the development of programs it was organized from the side NPO. 2005-2006 with the support of fund Soros- Kazakhstan in three regions Of the akmolinskeye region (g.Kokshetau as provincial center, g.Atbasar as a rayon center, and s. of dzhalyr - as rural locality) was realized project "participation of the community Of the akmolinskeye region in shaping and implementation of state nature-conservation programs". In g.Kokshetau because of the partners in the project OO Of "ekos" was obtained ecological information on the region; is carry ouied provincial round table to the ecological thematics, they are carry ouied a number of concrete nature-conservation measures together with the offices of state and the active participation of local residents. In s.Dzhalyr of Astrakhan region on the sums of the work of hot telephone line "green telephone" was revealed the sharpest problem of the utilization of solid household trash (TBO); was carry ouied monitoring the realization of measures for the utilization TBO in The astrakhan.chkeye region and were organized public hearings to the theme "utilization TBO in the Astrakhan region and the information of population about the problems SOZ (steadfast organic compounds)".

Indicate the addresses of appropriate the Web sites, if the same are located:

<b>Organization Name</b>	<b>Website Address</b>
Ministry of Environmental Protection	<a href="http://www.nature.kz">www.nature.kz</a>
Department of Ecological Development Almaty	<a href="http://www.almatyeco.kz">www.almatyeco.kz</a>

## **ARTICLE 8**

You will report that, what measures are taken for the assistance to effective participation of community in the preparation by the public bodies of the positions, which have the direct executive force, and the generally applicable legally required standards, which can exert essential influence on the environment. You will report, how this is possible, about how adapt at the national level the corresponding definitions, which are contained in article 2, and the requirement relative to the absence of discrimination being contained in the point of 9 articles 3.

Answer: Ecological code determines the right of the physical persons and public unions to participate in the consideration of the projects of normative lawful reports for questions of the protection of environment in the stage of their preparation and to present its observations to developers. In practice great possibilities for the public participation are allowed on the separate normative lawful reports, developed by the ministry of protection of environment and by some local executing agencies. For this purpose is used the tool of public hearings and as an example it is possible to give the project of the ecological code, on which they were conducted in 2005 and 2006. Also practices the collection of written proposals and observations to the projects of the normative lawful reports, placed on the Web sites of the public bodies, responsible for their development.

You will report any obstacles, which were encountered with the realization of the clauses of article 8.

Answer: The rigid establishment of the timetable (3 months) for developing the large quantity of law-subjected reports to the new laws, in the essence, the community of the possibilities of participation in their consideration automatically deprives. This requirement leads to the fact that within these compressed periods with the group of

developers is prepared immediately several ten projects of normative lawful reports, on which must be carry out the examinations and agreements with the great circle of ministries and departments and therefore in such cases of the possibility of public participation, as a rule, are not allowed. Another essential obstacle is the fact that even when are allowed the great possibilities for the public participation, many important positions, chapters and even parts of the bills they are developed at the quite last moment and respectively without the possibilities for the participation of community. Often the concept of the bills, developed by ministries, radically is reexamined for several days to the delivery of document to the assertion into the government. Thus, even when the process of development of any bill lasts several years its many positions they are developed in the course of several weeks, often without the calculation and even it is contrary to the previously carried out public considerations. The problems pointed out above led to the fact that in spite of a large quantity and the duration of the measures for the public consideration of the project of ecological code, organized by the ministry of protection of environment, the basic proposals and observations to it from EkoForuma NPO RK were accepted only in the course of considering the bill in the parliament.

Present additional information about the practical application of positions, which are concerned the participation of community in the region, included by the clauses of article 8.

Answer: As the concrete examples of the participation of community in the normative documents for the period 2005 it is possible to give the development of the following designs of laws and law-subjected reports:

- Ecological code, which was being developed by the ministry of protection of environment;
- Rules of the content and of the protection of green cultivations, which were being developed by the department of natural resources and regulation of the use of natural resources g. of Almaty.

Indicate the addresses of the corresponding sites of the Internet, if the same are located:

<b>Organization Name</b>	<b>Website Address</b>
Parliament KZ	<a href="http://www.parlam.kz">www.parlam.kz</a>
Ministry of Environmental Protection	<a href="http://www.minagri.kz">www.minagri.kz</a>
Electronic information network on the protection of environment and the steady development in the countries of central Asia and Russia CARNet	<a href="http://www.caresd.net">www.caresd.net</a>
Department of Ecological Development Almaty	<a href="http://www.almatyeco.kz">www.almatyeco.kz</a>

## **ARTICLE 9**

You will transfer legislative, normative and other measures for the realization of the clauses of article 9, which are concerned access to the justice.

You will explain how are achieved the positions of each point of article 9. You will report, as adapt at the national level those being containing in article 2 and that being containing in the point of 9 articles 3 of requirements relative to the absence of discrimination. Furthermore, indicate, in particular, that follows:

- a) with respect to point 1 - the measures, accepted for guaranteeing that, in order to: (.i)

any person, who considers that its request about the access to information, subject in accordance with article 4, are not examined in accordance with the positions of this article, had an access to the procedure of examination in the law court or in other independent and impartial organ, founded in accordance with the law; (.ii) when is provided for this examination in the law court, this face had also an access to the established by law operational procedure, which does not require or which requires in the minimum volume payment or for the examination by the independent and impartial organ, entering the judicial system; (.iii) the final solutions, taken in accordance with the data by point, bore required nature for the public body, which has available information, and so that the reasons would be indicated in the written form, at least when the request about the assignment to information is slanted;

b) the measures, accepted for guaranteeing that so that within the framework of national legislation the corresponding representatives of the communities, which correspond to the criteria, indicated in point 2, would have an access to the procedure of examination in the law court and/or other independent and impartial organ, founded in accordance with the law, for the purpose to dispute legality from a lawful and due process point of view of any solution, commission or omission with the condition of observing the clauses of article 6;

c) with respect to point 3 - the measures, accepted for guaranteeing that so that the representatives of the communities, which correspond to the criteria provided in the national legislation, if the same exist, would possess access to the administrative or judicial procedures for osparivaniya of commissions or omission of private individuals and of public bodies, which disrupt the positions of the national legislation, which relates to the environment,;

d) with respect to point 4 - the measures, accepted for guaranteeing that, in order to: (.i) of the procedures, mentioned in points 1, 2 and 3, ensured adequate and effective means of lawful protection; (.ii) such procedures in another sense satisfied the requirements of this point;

e) With respect to point 5 - the measures, accepted for guaranteeing that so that information about the access to the administrative and judicial procedures of the solutions would be allowed to the communities.

Answer: With respect to point 3 it is possible to note the practice of comparatively recently created inter-district administrative it is ship into Almaty and to Astana, in which the administrative offenses in the region of the protection of environment, use of natural resources are examined. The corresponding matters about the administrative offenses can be examined on the rotation of the physical persons and public organizations. In practice the representatives of community realize this right by means of the rotation into the organs of the protection of environment, internal affairs and procuratorship. In the materials, examined by the inter-district administrative law court g. of almaty, all matters, initsirovannye on the complaints of community, concern the illegal cutting down of the green cultivations, which do not form part of forest stock.

Indicate any obstacles, which were encountered with the realization of the positions of any of the points of article 9.

*Answer:*

*Answer: Grant additional information with respect to the practical application of positions, which are concerned access to the justice in accordance with article 9, for example, are there any statistical data about the justice in questions of environment and there are whether any mechanisms of rendering aid for elimination or abridging financial or other barriers, which impede access to the justice.*

Answer: According to the data, obtained from the Supreme Court, and to the materials, given by individual ecological non-government organizations in Kazakhstan by the representatives of community are initiated a very insignificant quantity of judicial matters for the protection of environment. In all at the given moment is obtained information about 7 such matters, examined by vessels in the accounting period by way of the civil justice. In essence, they concern the small objects (service station, auto-washing, cafe as the source of noise and it is odor, and also in connection with the non-target use of a land section), and also nepredostavleniyem of ecological information, including marking of goods with the content of the genetically modified production. At the same time should be noted two matters, initsiirovannykh Y "green rescuing" on the idleness of public bodies for the realization of the decision of the conference of the sides Of orkhusskoy convention and observance of nature-conservation legislation by Medeu and Shymbulaku. In the opinion Y "green rescuing" in spite of the fact that the lawful basis of access to information in Kazakhstan can be acknowledged satisfactory, in the country there are problems with obtaining of information. Unsatisfactory execution of the law is some of the main obstacles for obtaining the information. Y the "green rescuing" repeatedly gave actions in defense of the right of access to information, including against the ministry of protection of environment, NAK "kazatomprom", the committee of forest and hunting economy, committee on the available water resources, republic sanitary-epidemiological station, Almalinskoy district procuratorship and Akim g.Almaty. In a number of cases claims Y were satisfied. Four judicial matters for questions of access to information were won for the period May 2005 on November 2007 Y, two matters were stopped in connection with obtaining of information and two are lost, but the inquired information was obtained.

Indicate the addresses of appropriate the Web sites, if the same are located:

<b>Organization Name</b>	<b>Website Address</b>
Supreme Court	<a href="http://www.supcourt.kz">www.supcourt.kz</a>
"Green Rescuing"	<a href="http://www.greensalvation.org">www.greensalvation.org</a>

Articles 10-22 do not relate to this national action.

General final thoughts with respect to the purpose of the convention:

Indicate when this is appropriate, how the realization of convention contributes to the protection of right for the life of each face of present and future generations under the environmental conditions, which correspond to the interests of its health and welfare.

*Answer:*