

Proposal from the Nuclear Test Site Families social fund to be included among the recommendations of the analysis of compliance with the Aarhus Convention:

Amend the subordinate legislation implementing Law No. 1787-XII of 18 December 1992 of the Republic of Kazakhstan on the **Social Protection of Citizens Suffering from the Consequences of Nuclear Testing in the Semipalatinsk Test Site.**

Article 2 of the Law states:

Article 2. Rights of citizens to compensation of damage to their health and property

This Law applies to citizens living in the districts and towns/cities of Semipalatinsk *Oblast* and the corresponding districts of Pavlodar, East Kazakhstan and Karaganda *Oblasts* that have been exposed to radioactive pollution as a result of the testing of nuclear weapons.

Citizens who have left these districts and towns/cities for a different place of residence but are covered by the scope of this Law and reside on the territory of the Republic of Kazakhstan, should enjoy the benefits specified by this Law. However, this law is often breached in places that are not far from the districts affected; this applies first and foremost to Astana. Naturally, as Astana is the capital of Kazakhstan, people from the areas affected, and particularly from Pavlodar, East Kazakhstan and Karaganda *Oblasts* and their towns/cities, frequently move there. The Law calls these *oblasts* an ‘environmental disaster zone’ of international significance. We therefore believe that, in accordance with the Aarhus Convention, the Law applies to this case. We hence make the following proposal:

On 4 September 2007 the social fund Nuclear Test Site Families was founded in Astana.

As the Fund falls within the Convention’s definition of ‘public’, ‘parties concerned’ and ‘persons concerned’, while supporting the recommendations of Ms S.R. Kovliagina, we ask that the following be included:

It is essential to ensure equitable application of Law No. 1787-XII of 18 December 1992 of the Republic of Kazakhstan on the Social Protection of Citizens Suffering from the Consequences of Nuclear Testing in the Semipalatinsk Test Site not only to those affected who continue to live in the areas affected by the test site but to those affected who have lived in these areas, i.e. that the Law be applied to the letter.

Recommendations of the Zhaik-Caspian Aarhus Centre

To the Supreme Court of the Republic of Kazakhstan

1. Adopt a new Resolution No. 16 of the Plenum of the Supreme Court of the Republic of Kazakhstan on the Application by Judges of Environmental Legislation in compliance with the Environmental Code of the Republic of Kazakhstan and the Aarhus Convention;
2. Recommend to *oblast* training centres that they more actively collaborate with Aarhus centres (invite experts from Aarhus centres to give lectures and jointly conduct various activities);
3. Identify a person responsible for implementing the Aarhus Convention in the courts (or in training centres).

To the Ministry of Environmental Protection

4. Amend the Land Code to ensure public participation in the allocation of plots of land to projects;
5. Amend the Tax Code to allow state customs and court costs to be waived for environmental cases;
6. Extend the Rules on the Conduct of Public Hearings to cover the recording of public hearings and to define 'party concerned' more exactly;
7. Include projects relating to the implementation of the Aarhus Convention and monitoring of its implementation in a public-service tender.

To Aarhus centres

8. Raise awareness of the parties concerned of how to use the Aarhus Convention;
9. Monitor implementation of the Aarhus Convention;

10. Together with the parties concerned, prepare proposals on how to improve public participation in decision-making;
11. Work with international organisations in order to include the implementation of the environmental rights of the population in programmes;
12. Conduct training seminars for all of the parties concerned.

To *Akimats* [local governments]:

13. Include the implementation of the Aarhus Convention in training for civil servants;
14. Actively cooperate with Aarhus centres.

MINUTES
of the Round Table on
Compliance by the Republic of Kazakhstan with its Obligations
under the Aarhus Convention

Shymkent

26 January 2012

Participants:

Farms, rural business people and NGO and media representatives.

A total of 19 people participated.

AGENDA:

- 1. Compliance by the Republic of Kazakhstan with its obligations under the Aarhus Convention and environmental problems in South Kazakhstan Oblast**
- 2. Any other competent business**

The coordinator of the Shymkent Regional Aarhus Centre, R. Karaibragimov, spoke on the first item on the agenda. He informed those present that the Environmental Code of 2007 takes into consideration the requirements of the Aarhus Convention as regards public access to environmental information and participation in decision-making. The Environmental Code enshrines the right of legal and natural persons to participate in decision-making by state authorities on environmental matters. He talked about the goals and functions of the Shymkent Regional Aarhus Centre and its work to provide training and advice to producers of agricultural goods and farmers on the Aarhus Convention. He familiarised participants with the recommendations adopted at the Round Table on Compliance by the Republic of Kazakhstan with its Obligations under the Aarhus Convention (Astana, 13 December 2011).

The farmers and rural business people discussed the environmental issues relating to their businesses and in particular increasing groundwater, soil salination, the deterioration of pastures near to villages, decreasing vegetation, the reduced amount of water available for watering crops and other questions.

Access to information on the environment and resource use was discussed.

The introduction of new energy and resource-efficient technologies (mini solar power stations, biogas plants, drip irrigation, etc.) was discussed.

Participants discussed possible ways in which farmers and rural residents from remote areas could receive practical information on new energy-efficient technologies, environmental protection, the efficient use of resources and sound environmental management.

The farmers and rural business people attending examined the recommendations and made their own proposals:

- increase access to information in *oblast* and district courts on judicial decisions on applications submitted by citizens and NGOs to the judicial authorities on compliance with the Aarhus Convention as the courts currently restrict access to such information, as evidenced by letter no. 5-18/10842 dated 15.12.2011 to our request for information on judicial decisions on compliance with the Aarhus Convention;
- provision of training and advice to producers of agricultural goods and farmers on

application of the Aarhus Convention;

- organise the collection and publication on websites of information from citizens and NGOs concerned on the application of the Aarhus Convention, information on the provisions and rules of application of the Aarhus Convention as well as information on practical experience of applying and using the Aarhus Convention.

At this point, the agenda had been discussed in full.

Coordinator
Shymkent Regional Aarhus Centre

R.K. Karaibragimov

LIST
of Participants in the Round Table on
Compliance by the Republic of Kazakhstan with its Obligations
under the Aarhus Convention

1. Rais Karaibragimov - coordinator of the Shymkent Regional Aarhus Centre
2. A. Bekzhigitov - expert of the Shymkent Regional Aarhus Centre
3. Z. Oshakbaeva - Karazhat Nesie social fund and micro-credit institution, Sayram District
4. Irina Pritula - journalist from the Otrar TV company
5. Kanibek Daurenbekov - sole proprietor, Shymkent
6. Ulan Aliev - sole proprietor, Shymkent
7. [Phrase in Kazakh, possibly Youth Parliament civil society organisation], Kaltaev Zhandos
8. Tasim Aliev - sole proprietor, Tole Bi District
9. Tursye Ata KKh [unidentified acronym] - Nurmakhan Baigutov, Sayram District
10. Gafurzhan Zairov - sole proprietor, Sayram District
11. Erbolat Kudaibergenov - sole proprietor, Saryagash District
12. Agro Kaen limited liability partnership, Shymkent
13. Atam Osmanov - sole proprietor, Tole Bi District
14. Bazan PK [unidentified acronym] - A. Orazalieva, Sayram District
15. Baurzhan Saurbaeva - sole proprietor, Sayram District
16. Kydyrata Aliakbar limited liability partnership - Ibrakhim Zulpykhanov, Saryagash District
17. Gulzabira Sauyrbaeva - sole proprietor, Shymkent
18. Abzal KKh - Khadisha Khenzhebai, Ordabasy District
19. U. Kozkah - journalist, Kazakhstan-Shymkent TV company

06.12.11
No. 07-1-26/2728-N

**Green Salvation
environmental organisation**

Within the context of implementation of decision IV/9c of the Fourth Meeting of the Parties to the Aarhus Convention on the compliance by Kazakhstan with its obligations under the Convention, we submit for your consideration an 'Analysis of the compliance of environmental and civil procedural legislation of the Republic of Kazakhstan with the Aarhus Convention with respect to access to environmental information, justice and public participation in the decision-making process' and an 'Analysis of judicial decisions from 2008-2011 on disputes relating to access to environmental information, public participation in the decision-making process and access to justice in environmental matters'. We invite your suggestions and comments.

We also invite your representatives to take part in the round table to be held on 13 December of this year at 15.00 in Astana to discuss these analyses.

In the light of your experience of applying the Aarhus Convention in court, we invite your representatives to take an active part in this work, including by presenting suggestions and comments.

Enclosures:

1. Analysis of the compliance of environmental and civil procedural legislation of the Republic of Kazakhstan with the Aarhus Convention with respect to access to environmental information, justice and public participation in the decision-making process - 34 pages.

2. Analysis of judicial decisions - 8 pages.

Responsible secretary [original signed] A. Dernovoi

mukanova@eco.gov.kz

[original signed] (*Mukhanova*)