

**The Compliance Committee
of the Aarhus Convention**

Ministry of Energy of the Republic of Kazakhstan regarding IV/9i decision of Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) sends information on implementation.

Application: on ___ sheets.

Vice-Minister

Talgat Akhsambiyev

Ministry of Energy of the Republic of Kazakhstan regarding the provision of suggestions on the content of the draft report of the Compliance Committee of the Aarhus Convention to the fifth session of Meeting of the Parties to the Convention provides the following information.

1. Concerning non-execution of point 2 of article 6, regarding absence of the requirement about timely informing the public and absence of the indication of other means of informing the public, others than the publication in mass media:

We note that the Aarhus Convention does not set strict requirements on ways of informing the public: "either by public notice or individually."

The public is informed in Kazakhstan 20 days previously by publishing advertisements in the media and at the same time on the Internet site of the local executive body. (**Rules of the public hearings, approved by order of the Minister of Environment of the Republic of Kazakhstan dated May 7, 2007 № 135**).

13 Aarhus Centres are established in Kazakhstan. In 2014, in the regions activities on informing the population by Aarhus Centres in an individual order on carrying public hearings (distribution of information leaflets, personal tour of houses, etc.) were funded.

2. Concerning non-execution of point 6 of article 6, regarding absence in the legislation of the coordinated and accurately formulated requirements about publication of information relating to decision-making process.

The rules of public hearings are clearly articulated the following requirements:

It is required 20 days before the hearing to publish address of the place where public can be acquainted with the materials of the EIA in paper form, online resource or email to download or request EIA materials in electronic form.

The structure of the project EIA project is set in the Environmental Code and has the following sections:

the petition (statement) with justification of need of realization of the planned activity, justification of investments, the feasibility study (project), the approved part of the working draft, the explanatory note;

the description of a condition of components of environment before implementing any activity to date;

the description of the project, including:

1) the purposes and quantitative characteristics of all project and the requirement to the area of placement for stages of construction and operation;

2) the main characteristics of productions, including type and amount of the used materials and the equipment with the indication of possible types of impact of the planned activity on environment elements with volumes and ingredient

structure of issues in environment, the consumed raw materials and the withdrawn resources;

3) the analysis of the applied technology regarding compliance to the best available technologies and technical specific standards, and also compliances to technical regulations and ecological requirements to technologies, equipment and the equipment;

4) information on alternatives and an indication of the main reasons for the choice of project options;

5) the description of possible impacts of activity on environment, health of the population and social and economic conditions;

6) vague influence of planned economic and other activity on the environment;

7) an assessment of environmental risks and risks for health of the population;

8) the description of the measures provided for prevention, decrease in impact on environment including offers on environmental monitoring;

9) design standards of issues in environment and standards of withdrawal of natural resources;

10) the rationale for the program of industrial environmental monitoring;

11) ecological and economic assessment of the project taking into account the possible risks and redress;

12) materials on account of public opinion, designed protocols and containing the conclusions of the public discussion of the environmental aspects of the proposed activity;

13) indication of any difficulties and lack of information in the assessment of environmental impact;

14) The main findings of the assessment of environmental impact.

The draft law "On Amendments and Additions to Legislative Acts of the Republic of Kazakhstan on environmental issues" is expected to expand the project EIA (Article 41 of the Environmental Code) by two sub-items:

justification of the action plan for the protection of the environment;

justification of waste management program.

3. Regarding the non-fulfillment of paragraph 7 of Article 6, restriction of submission of remarks only with the report of EIA at a stage of the state environmental assessment and also limiting a range of comments from the public only to those from them which contain the reasonable argument, the legislation doesn't guarantee fully the rights provided by the Convention.

3.1 In Kazakhstan, public participation is not limited to comments on the draft EIA. In accordance with the Law on normative legal acts, developed draft law at the same time with the direction for approval to the public authorities concerned are placed on the Internet site of the authorized body and everyone can submit comments and suggestions to the project.

3.2 the certificate on account of public opinion is required to attach when adopting the regulations in the Ministry of Justice and the Government.

3.3 The public can express their opinions through public environmental review and public environmental control, these provisions are enshrined in the Environmental Code.

3.4 The Ministry of Energy is created public council on environmental issues, which considers all the issues of ecology, including the drafts of normative legal acts.

3.5 Law "On the order of consideration of appeals of physical and legal entities" regulated public relations related to the filing and consideration of appeals of physical and legal entities in order to realize and protect their rights, freedoms and legitimate interests.

3.6. Under the Ministry of Energy the Expert Council on Entrepreneurship is established, which is an advisory body for the organization of work: getting expert advice from accredited associations of private entrepreneurs and non-profit organizations interested in the draft regulations that affect the interests of private enterprise; elaboration of proposals on improving the work of the Ministry to support and protect the private enterprise, including the removal of administrative barriers. Through it draft orders, regulations, draft laws, guidelines are passed.

4. With regard to non-fulfillment of paragraph 9 of Article 6 of the lack of proper procedures promptly notify the public of the conclusions of the environmental impact assessment and appropriate mechanisms to facilitate public access to such decisions.

Currently, to the Parliament of the Republic of Kazakhstan a draft law on amendments and additions to the legislation on the Aarhus Convention is submitted. NGOs, individuals have participated in the development of this bill and submitted more than 10 proposals. This bill was discussed three times at the Public Council of the Ministry.

The bill provides for the following amendments to the Environmental Code:

Article 57 provides for the norm to publish on the Internet site of the authorized body of the state environmental expertise within three business days after signing;

Article 160 provides that information as part of the State Register of Pollutant Release and Transfer will be posted on the Internet site an electronic version of the issue environmental permits.

In the implementation of this law provides additional regulations that will regulate in detail the issues of access to information and participation in decision-making.

Please take into account the ongoing work to improve the legislation in terms of alignment with the Aarhus Convention.