

Ms. Fiona Marshall
Secretary to the Compliance Committee
Aarhus Convention Secretariat
United Nations Economic Commission for Europe
Palais des Nations, 8-14 avenue de la Paix
CH - 1211 Geneva 10, Switzerland

Brussels, 4 June 2020

Re: ACCC/A/2020/2 (Kazakhstan)

Dear Chair of the Aarhus Convention Compliance Committee,

The EEB would like to express its gratitude to the ACCC for opening a consultation on the issue of public consultations via videoconference, and commends Kazakhstan for having requested advice on this issue which is pertinent for all Aarhus Convention parties during these trying times. Moreover, the EEB is grateful for having been given the opportunity to comment beyond the deadline that was set.

The COVID-19 pandemic is testing the resilience of our financial and governance structures, as well as our abilities to preserve rights, freedoms and interests of societies. Indeed, the hardship that is felt on communities and businesses should trigger action to build a more environmentally sound, sustainable, inclusive and fair society for all. Any attempt - by public authorities, businesses or others - to scale back on environmental protection and environmental governance procedures during this time of pandemic, weakens accountability and democratic values which will leave communities behind and harm the environment.

Holding public hearings in the form of videoconferences has become more common place in the last few months. Online participation has been used in lieu of physical meetings to fulfill the conditions of Article 6 of the Aarhus Convention. In theory, virtual meetings could allow for greater participation as there would be no physical restriction on the number of participants, no travel costs or additional time needed for travel. Furthermore, the environmental impact associated with travelling is avoided, and this would often be less than the environmental impact of digital communication. However, these considerations need to be balanced

against the inequality divide that already exists and is accentuated by holding virtual public hearings. The result of virtual meetings must lead to at least the same level of public participation as meetings with physical presence, if not more; not only in terms of numbers of participants, but also in variation of representation and the quality of their engagement. If this is not the result, then such meetings could lead to the exclusion of some stakeholders from participating in consultations and would deprive them of their Article 6 rights.

Specifically, the EEB would like to highlight the following considerations about public hearings held in the form of videoconferences:

- In exceptional circumstances, public hearings should be postponed to a more suitable moment for when it is safe to hold such meetings. If no such date can be identified, then videoconference should be the format for public hearings only during that exceptional time; in which case particular attention should be given to notifying the public of such a format, so that they can make necessary technical arrangements in advance.
- Outside of exceptional circumstances, videoconferences, or other virtual meeting formats, should be complementary to physical meetings. This would give participants a choice of means of participation, including allowing those in remote areas to participate remotely if this facilitates their participation. Conversely, some participants may find their engagement in meetings more fruitful and effective when they are physically present, in particular if there are technical difficulties to connect virtually.
- Quality of internet access, of both the convener of the meeting and the participants, needs to be of a certain minimum standard to ensure that the communication between all participants is adequate, clear and that it allows for interventions from all participants freely. Until high quality internet access is a reality for all people, public authorities cannot expect all members of the public to be able to meaningfully engage in public hearings via videoconference.
- There is already a problem of low participation from marginalized communities and those in remote areas. Videoconference should be a means to increase their participation; but when it is documented that videoconferences marginalize certain communities and sectors of society

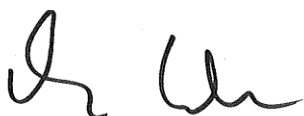
even more, then authorities should have to take this into account and adapt their meeting formats accordingly to allow for their engagement.

- Authorities would need to monitor whether conducting virtual meetings increases the number of participants and the quality of their participation. This assessment should be done by also consulting with the public about their preferred means of engagement and should be used to continuously improve and adapt procedures to always strive for maximum participation from the public in environmental decision-making.

To conclude, the EEB considers virtual meetings as an opportunity to ensure public participation, therefore their use during the COVID-19 pandemic has compelled authorities to take steps to ensure that public hearings can be held, which is welcome. However, virtual meetings should remain complementary and not replace physical public hearings after the pandemic. Virtual meetings such as videoconferences should not compromise the engagement in physical meetings and should be encouraged primarily as a way to increase and improve the quality of the hearings overall.

We hope that these considerations can be of guidance and we look forward to the Aarhus Convention Compliance Committee's advice to Kazakhstan on this matter.

Yours sincerely,



Jeremy Wates

Secretary General