

Report on the implementation of the Aarhus Convention in accordance with Decision IV/4 (ECE/MP.PP/2011/2/Add.1)

The following report is submitted on the behalf of the Republic of Kazakhstan [name of the Party or the Signatory] in accordance with decisions I/8, II/10 and IV/4.

Name of the officer responsible for submitting the national Report: ~~Saule Kanatovna Tashkenbayeva~~

Signature:

Date:

Implementation report for ~~2014~~2017-~~2016~~2020 years

Please provide the benchmark data of this Report

Party: Republic of Kazakhstan

National Focal Point: Ministry of Ecology, Geology, and Natural Resources~~energy~~ of the Republic of Kazakhstan (hereinafter - MEGNR)

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I. The preparation process of the Report

Provide a brief summary of the process by which this Report has been prepared, including the information on the type of public authorities that were consulted or contributed to its preparation, how the public was consulted and how the outcome of the public consultation was taken into account, as well as the material that was used as a basis for preparing the Report.

Answer: This National Report was prepared on the basis of the analysis of the previous national report ~~of the Republic of Kazakhstan (hereinafter – RK)~~, environmental legislation, policy documents, plans, concepts, formal reports and presentations at conferences, seminars, workshops, forums, public hearings.

The Report draws upon the jurisprudence of the Supreme Court to resolve disputes ~~relativcing~~ to the application of environmental legislation with regard to the implementation of the Aarhus Convention ~~(hereinafter- AC) (hereinafter – UK)~~; ~~national R~~reports ~~of the Republic of Kazakhstan~~ to implement the V / 9i decision on Kazakhstan's compliance with its obligations under AC; ~~W~~official web-sites of government agencies, the National Aarhus Centre, ~~ecological society~~ "Green Salvation" and other non-governmental organizations (hereinafter - NGOs).

The draft report ~~was~~ sent to the ~~n~~National ~~n~~Network of NGOs ~~and Aarhus centers by e-mail in 2020, on 5 June-September 30 and November 26. The draft report was also redirected to the Supreme Court on January 14, 2021 №04-2-17/1245, and on February 9, 2021 №04-0-17/1313.2016 by e-mail and posted on the websites of ME RK, the Aarhus Centre to discuss with the public.~~

~~15~~On November 30, 2020 ~~July 2016 T~~the report was discussed ~~at the round table~~online.

~~In order to discuss the draft report with the public was uploaded on Unified Platform of Government Agencies' internet resources (www.gov.kz) as well as to AC' national implementation working body's Unified ecology internet resource (www.ecogofond.kz). "Implementation of the Aarhus Convention in Kazakhstan."~~

II. Particular circumstances relevant for the understanding the report

Report any particular circumstances that are relevant for understanding the Report, e.g., whether there is a federal and/or decentralized decision-making structure, whether the provisions of the Convention have direct effect upon its entry into force, and whether financial constraints are considered to be significant obstacle in implementation of the Convention (optional).

Answer: The current law in the Republic of Kazakhstan consists of Constitutional norms, relevant laws, other regulatory legal acts, international agreements and other obligations, ~~as well as regulatory resolutions of the Constitutional Council and the Supreme Court.~~

The Constitution has the highest legal ~~power~~force and direct effect throughout the Republic.

International treaties ratified by the Republic have priority over its laws and are directly implemented except the cases when the international treaty requires ~~the issue of a separate law~~ for its implementation ~~the promulgation of a law~~.

~~—All laws, international treaties to which the Republic belongs to are published.~~ Official publication of laws, international treaties ratified by the republic, regulatory legal acts concerning the rights, freedoms and duties of citizens, is a mandatory condition of their implementation. The right to the ~~acquisition-access~~ of the information is a constitutional right of the citizens of the Republic of Kazakhstan (Article 18 § 3 of the Constitution of the Republic of Kazakhstan).

Notified Body for the implementation of the Aarhus Convention AC is the MEGNR RK and RSE "Informational and Analytical Center of Environmental Protection" (hereinafter - RSE IAC EP) of the Ministry of Energy MEGNR.

Analysis of Kazakh law, including provisions on the rights of individuals, associations and other legal entities in the field of environmental protection¹, conservation and rational use of natural resources², sanitary-epidemiological³ and radiation safety of the population⁴, architecture, urban planning and construction activities⁵, allows to classify the procedural environmental rights in the following categories:

- The right to appeal to the state bodies with letters, complaints, applications and proposals on the protection of the environment;⁶
- The right to receive from the state bodies and organizations timely, complete and reliable environmental information;⁷
- The right to participate in decision-making by public authorities on the construction and reconstruction of the potential impact on the environment;
- The right to request an administrative⁸ or judicial order cancellation on siting, construction, reconstruction and commissioning of enterprises, structures and other objects of the environmental threat;
- The right to request an administrative⁹ or judicial restriction or termination of economic and other activities that have a negative impact on the environment and human health;
- The right to compensation ~~for~~ damage to health and property caused due to violations of environmental legislation;
- The right to participate in the discussion of laws and regulations on environmental issues of the environment projects, during the preparation of plans and programs of government bodies, relativeng to the environment;
- The right to exercise public scrutiny, and raise questions about the prosecution of individuals and (or) legal entities;
- The right to propose or initiate, carry out and participate in the public environmental review;
- The right of association with the aim of the implementation of environmental protection and protection of environmental rights, through the establishment of associations, foundations;
- The right to participate in meetings, rallies, pickets, marches and demonstrations, referendums in the field of environmental protection in accordance with the legislation of Kazakhstan;¹⁰
- The right T to go to court to protect the rights, freedoms and lawful interests of individuals and legal entities, including the benefit of an indefinite number of persons for the protection of the environment and use of natural resources.¹¹

The laws of the Republic of Kazakhstan recognize individuals as the subjects of the law to a healthy ~~life and healthy~~ environment for a living (favorable environment). Notice of

¹ Articles 13 and 14 of the Environmental Code, articles 12 and 13 of the Law "On Specially Protected Natural Areas".

² Articles 62 and 63 of the Water Code, Article 66 of the Forestry Code.

³ Article 87 paragraph 9, Article 88 paragraph 8 of the Code of Kazakhstan of September 18, 2009 № 193-IV «On people's health and the health care system.".

⁴ Articles 19-21 of the Law "On Radiation Safety of the Population".

⁵ Article 13 of the Law "On architectural, urban planning and construction activities". Sub-paragraph 6 of paragraph 1 of Article 13 of the Environmental Code.

⁶ Sub-paragraph 6 of paragraph 1 Article 13 of the Environmental Code

⁷ Sub-paragraph 7 of paragraph 1 Article 13 and sub-paragraph 7 of paragraph 1 Article 14 of the Environmental Code

⁸ According to paragraph 4 of the Article 8 of the Law "On administrative procedures" under the administrative order of the rights of the requirements for cancellation of such decisions should be interpreted as requests with the appropriate statements to the higher authorities.

⁹ See above. Explanations given to the footnote 8.

¹⁰ Sub-paragraph 5) of paragraph 1 of Article 13 of the Environmental Code.

¹¹ Subparagraph 1-1) of paragraph 1 of Article 14 of the Environmental Code

individuals as subjects of the law means that citizens of Kazakhstan, foreign citizens and stateless ~~peoplersons~~ equally enjoy the corresponding rights.

In order to improve the legislation on April 8, 2016 Republic adopted the Law "On introduction of ~~ing~~-amendments and addenda to some legislative acts of Kazakhstan on environmental issues."

Financial issues are not considered to be an obstacle for the implementation of AC. The funding of the activities of the regional Aarhus Centres was carried out in 2014.

In 2015, the law on public ~~boards-councils~~ was adopted. Terms and procedure of the Public Council meetings, as well as of the decision-making procedure are determined by the regulations of the Public Council. There are difficulties, caused by insufficient financing, what in turn affects the quality of fulfillment of obligations. The initiative is only available on a voluntary basis without the necessary financial and material support.

III. The legislative, regulatory and other measures that implement the general provisions in paragraphs 2, 3, 4, 7 and 8 of Article 3

List legislative, regulatory and other measures that implement the general provisions of paragraphs 2, 3, 4, 7 and 8 of article 3.

Explain how the provisions of the given paragraphs are realized. In particular, describe:

- a) With respect to **paragraph 2** - the measures taken to ensure that officials and authorities assist and provide the required guidance;
- b) With respect to **paragraph 3** - measures taken to promote environmental education and increase the awareness about the environmental problems
- c) With respect to **paragraph 4** - measures taken to ensure proper recognition of associations, organizations or groups promoting environmental protection, and to support them;
- d) With respect to **paragraph 7** - the measures taken to promote the principles of the Convention on international level, including:

i) Measures taken to coordinate the information provision within the ministries and on the interdepartmental level to the civil servants, involved in other relevant international forums, on the provisions of paragraph 7 of Article 3 and the Almaty administration, by indicating whether these measures are consistent;

ii) the measures taken to provide access on the national level to the information on international forums, including the stages of providing access to information

iii) the measures taken to promote and provide opportunities for public participation on the national level in relation to international forums (for example, an invitation of the members of ~~non-governmental organizations~~ (NGOs) to participate in the delegation of the Parties in international negotiations on issues relating to the environment, or attraction of NGOs in the preparation of the official position of the Party in such negotiations), including the stages of providing access to information;

iv) Measures taken to promote the implementation of principles of the ~~Convention AC~~ in the procedures of other international forums;

v) Measures taken to promote the principles of the ~~Convention-AC~~ in the work programs, projects, decisions and other substantive final documents of other international forums;

~~ce~~) With respect to **paragraph 8** - the measures taken to ensure that ~~people~~persons exercising their rights under the ~~Convention-AC~~ are not penalized, persecuted or harassed.

Answer:

With regard to **paragraph 2:**

Regarding the access to information

Law of the Republic of Kazakhstan from April 8, 2016 made amendments and additions to the Environmental Code concerning the access to environmental information:

1) the creation of the State Register of Pollutant Release and Transfer (SPRTR) (Article 160), whose main purpose is to ensure the transparency of the activity of natural resources' users;

2) expanded content of information of State Fund of environmental information (SFEI) (Article 161~~9~~);

3) annual publication on the Internet resource of ~~information about~~ entries to the budget out of the fees from emissions into the environment, expenses of the budget on activities towards environmental protection, budget revenues from the recovery of damages caused to the environment, on entries to the budget from fines for violation of environmental legislation (article 163);

4) the annual preparation and publication of the National report on the state of the environment and the use of natural resources of the Republic of Kazakhstan (hereinafter - NRSEN) (article 166-1);

5) ~~t~~The publication of the conclusion of the state ecological ~~examination-expertise~~ on Internet resource of the local executive body in the field of environmental protection within five working days ~~after of receipt by~~ the nature resource user's receipt (Article 57).

The Law of December 12, 2019 No. 279-VI of the LZRK ratified the Protocol on PRTRs.

~~The provision of environmental information is carried out in accordance with the Law of January 12, 2007 "On the procedure for considering appeals of individuals and legal entities". It also complies with the Rules for the provision of the state service "Provision of Environmental Information", approved by Order No. 130 of the MEGNR dated June 2, 2020. In accordance with Government Decree No. 589 of October 13, 2016 "On Approval of the Rules of Conduct of the State Environmental Protection Fund, environmental information is collected, which is provided in written, electronic, audiovisual or other forms. Providing environmental information in accordance with the Law of the Republic of Kazakhstan dated January 12, 2007 "On the order of consideration of individual or legal entity" in accordance with the standard of the state service "Provision of environmental information", approved by the order of the Minister of Energy on April 23, 2015 № 301 and regulations of the state service "Provision of environmental information", approved by the order of the Minister of energy on May 22, 2015 № 369.~~

Regarding the ease in participation in decision-making

Law of the Republic of Kazakhstan from April 8, 2016 made amendments and additions to the Environmental Code (hereinafter- EC) concerning public participation in decision-making:

- 1) introduced a new Article (57-1), on public participation in decision-making on the questions of environmental protection, which is achieved by:
 - holding public hearings;
 - conducting public ~~environmental-ecological expertise~~reviews;
 - carrying out public ecological control;
 - submission of comments and suggestions to the state authorities in carrying out the state ecological ~~review~~expertise;
 - participation in public councils under governmental bodies: the submission of comments and suggestions on drafting normative legal acts on environmental issues, including the draft documents of state planning systems;
- 2) introduced a new Article (57-2); to conduct public hearings;
- 3) ~~approved~~ the list of economic activities on projects which necessarily require public hearings ~~was approved~~;
- 4) rules for public hearings approved as being amended.

Regarding the access to the related environmental justice in environmental matters

- 1) ~~amendments were made to amended~~ the ~~Environmental Code~~EC (Article 14) concerning the granting ~~of~~ the right of associations to go to court to protect the rights, freedoms and lawful interests of individuals and legal entities, including the interests of an indefinite number of persons on the issues of environmental protection and use of natural resources;
- 2) ~~amendments were made to~~ed the Tax Code (Article 541) for the release from payment of state fees for any claims (requests) to protect the rights, freedoms and lawful interests of individuals and legal entities, including the interests of an indefinite number of persons on the issues of environmental protection and use of natural resources.

—— RSE "~~Informational and Analytical Center of Environmental Protection~~" (IAC) ~~IAC EP is defined by the working body for the implementation of the AC (Decree No. 35-o of March 20, 2009 issued by the Ministry of Environment and Water Resources). Since 2009, the working body for the implementation of the AC has been operating on its basis. In September 2018, the Vice Minister of Energy approved the Plan for the Development of the Aarhus Movement in Kazakhstan for 2018-2020.~~

~~The general procedure for considering citizens' requests for information by state bodies is defined in detail by the Law "On the Procedure for Considering Appeals of Individuals and Legal Entities» (No. 221 of January 12, 2007). The specifics of ensuring access to environmental information have received legislative regulation in Chapter 21 of the ~~Environmental Code~~EC. (hereinafter referred to as the EC).~~

~~defined a working body for the implementation of AC (MEP Order №35 o of 20 March 2009). Since 2009, the National Aarhus Centre acts on its basis. The general order of consideration of citizens' requests for obtaining information by public authorities is defined in sufficient detail in Kazakhstan through the Law "On the order of consideration of references of individual and legal bodies» (№221 of January 12, 2007). Features of the access provision to environmental information received legislative regulation in Chapter 21 of the Environmental Code (hereinafter — EC) RK.~~

With regards to **paragraph 3:**

The following activities are performed:

λ ~~Placing-Uploading~~ environmental information ~~on to~~ the Aarhus Centre web portal:

~~www.aarhus.kz, ecogofond.kz, ecoinfo.kz;~~

λ ~~C~~overage of environmental issues by the press service of MEGNR and ~~that of~~ the Supreme Court;

λ Consulting and ~~i~~nformation ~~s~~ervice of the National Aarhus Centre;

λ Educating NGO representatives through the training courses in the field of environmental protection;

λ ~~P~~specialized publication of the ~~specialized~~ newspaper "Ecology of Kazakhstan";

—— In ~~articles st~~-181-184 of EC the objective and the main ~~tasks-goals~~ are ~~considered~~observed, organizational principles, mechanisms of state support of environmental education and awareness, ~~including~~;

~~RSE IAC EP conducts training seminars in the field of environmental protection and natural resources' management. There is a subregional network for Education for Sustainable Development of the Regional Environmental Center of Central Asia (CAREC). Also NGOs and Aarhus Centers~~

work on eco-education within the framework of the NGO EcoForum, the Network of Birdwatcher Clubs of the Association for the Conservation of Biodiversity of Kazakhstan, etc.

There is the Association of Legal Entities "Civil Alliance of Kazakhstan" – a public organization that represents the interests of the non-governmental sector.

Civil Alliance of Kazakhstan unites more than 500 NGOs of Kazakhstan through 16 regional network structures, represented in 14 regions and in the cities of Astana and Almaty. The Alliance's activities are aimed at the development of civil society and the formation of sustainable interaction and partnership between society, government and business.

In accordance with paragraph 95 of the National Action Plan for the Implementation of the Address of the Head of State to the people of Kazakhstan dated September 1, 2020 "Kazakhstan in a new reality: Time for Action" the Ministry of Education and Science with the MEGNR and local executive bodies, was instructed to develop practical measures to improve environmental education in schools and universities.

In accordance with this instruction, the Ministry of Education and Science will conduct 17 hours of class time per year in all secondary schools starting from the 2020-2021 academic year.

In connection with the introduction of a state of emergency and quarantine for mass events, the "Ecological Hour" in general education schools and universities was held online.

Also 15 Aarhus Centers provide support the implementation of the AC, which serve as the link between state bodies and civil society. Aarhus Centres are non-profit organizations that provide information and advisory assistance to the population on environmental issues and environmental protection. The Aarhus Movement includes various parties that are responsible and interested in improving the effectiveness of the implementation of the AC standards: state bodies, Aarhus centres and civil society organizations.

With the support of the OSCE Program Office in Nur-Sultan, a roundtable is organized annually by the MEGNR to discuss the issues of the implementation of the AC in Kazakhstan.

On February 3, 2020, the MEGNR held its first meeting with eco-activists, social activists and volunteers from all regions. At this meeting, issues of environmental awareness, measures to reduce waste generation, and the eco-volunteer movement were discussed.

Within the framework of the meeting, eco-ambassadors were identified in each region. Eco-ambassadors are an important and integral part of the successful promotion of environmental initiatives and projects in the regions. At the same time, the activities of eco-ambassadors remain public and self-regulated.

Due to the Covid pandemic and the introduction of a ban on holding seminars and meetings (Resolution of the Chief Sanitary Doctor No. 48 of August 15, 2020), in 2020, discussions on problematic issues and prospects for the development of the Aarhus centers and non-governmental organizations (NGOs) involved in the implementation of the provisions of the AC were organized online. The events were initiated by the MEGNR and RSE IAC EP with the support of the OSCE Program Office in Nur-Sultan, and other international organizations. Discussions of the draft Environmental Code and draft by-laws and regulations were also held online.

State support measures include:

- Funding of environmental education in educational institutions (educational works and activities for environmental education and awareness, professional development of the specialists) within the documents of state planning systems of the Republic of Kazakhstan;
- Active participation of state bodies in the formation of state order for training of specialists;
- Provision of the state order for scientific research in the field of education for sustainable development;
- The provision of state social order to public associations operating in the field of environmental education and awareness;
- Provision of the necessary measures for environmental education and awareness, professional development and retraining of personnel in the framework of documents of the state planning System of the Republic of Kazakhstan.
- The universality and continuity of environmental education, legal and environmental orientation in the field of environmental protection enshrined in laws "On education", "About emergency situations of natural and man-made origins", "On state service in the Republic of Kazakhstan" and several orders from the Government.

On the basis of RSE "IAC CCA" the Center of retraining and professional development in the field of environment and natural resources was created, subregional network on education for sustainable development of the Regional Environmental Centre for Central Asia (CAREC) is functioning, the work on environmental education is carried out within the framework of the NGO Eco-forum, clubs Network bedvocherov Association for the conservation of biodiversity in Kazakhstan.

With regard to **paragraph 4:**

In accordance with Article 23 of the Constitution of the Republic of Kazakhstan citizens have the right to freedom of association. The activities of public associations shall be regulated by the Law "On Public Associations» (N3 on May 31, 1996.), ~~the~~ law "On Noncommercial Organizations» (N142 dated January 16, 2001.), Article 34 of the Civil Code of the Republic of Kazakhstan.

~~In~~ According to Article 14 of the EC the rights of public associations are established:

1) to develop and promote environmental programs to protect the rights and interests of citizens, to involve them on a voluntary basis to be active in the field of environmental protection;

1-1) to go to court to protect the rights, freedoms and lawful interests of individuals and legal entities, including the interests of an indefinite number of persons for the protection of the environment and natural resources;

2) to perform the work on the protection of the environment and its improvement, rational use and reproduction of natural resources, to participate in protection of environmental facilities having special ecological, scientific, historical, cultural, and recreational value, in the activities of specially preserved natural territories;

3) to participate in decision-making process performed by the government bodies on issues related to environment in the manner prescribed by the legislation of the Republic of Kazakhstan;

4) to carry out works on environmental education and awareness, undertake research in the field of environmental protection;

5) to initiate and organize the public ecological expertise and public hearings;

6) to carry out public ecological control;

7) to receive from the state bodies and organizations timely, complete and reliable environmental information;

8) to cooperate and collaborate in the field of environmental protection with the state bodies and international organizations, to enter into agreements with them, to carry out certain work for them under contracts provided for by the national legislation ~~of the RK~~;

9) to participate in the discussion in drafting laws and regulations on the protection of the environment at the stage of their preparation and to submit comments to the developers;

10) to participate in the preparation of plans and programs relativeng to the environment;

11) to raise the question of the prosecution of individuals and (or) legal entities, to bring an action in court for damages inflicted to health and (or) property of citizens as a result of violation of national environmental legislation ~~of the RK~~;

12) to demand the abolition of the administrative or judicial procedure on allocation, construction, reconstruction and commissioning of enterprises, structures and other environmentally hazardous facilities, as well as the arbitration on restriction, suspension and termination of economic and other activities of individuals and legal entities that have a negative impact on the environment and human health;

13) to create funds for the environmental protection.

The meetings of the Public Environmental Council (order of the Ministry of Environmental Protection dated January 9, 2004 number 2-~~n~~) are held: at the meeting of January 20, 2016 issues of the environmental situation in the Kalachi and Berezovka villages were discussed.

~~Every two years the Civic Forum is held. In 2013, open dialogue took place at the sixth Civil Forum not only with Kazakhstan, and international NGOs, as well as but also foreign funders on the development of Kazakhstan in the framework of the Strategy "Kazakhstan 2050".~~

Government of Kazakhstan supports public associations. In accordance with article 134 of the Tax Code, the revenue of non-profit organization is not subject to taxation under the contract for the implementation of the state social order. A number of Government Resolutions, aimed at supporting NGOs:

- "On approval of fee rates for state registration of legal entities", mitigating conditions for registration for certain categories of NGOs;

- "On the rules of exemption from value added tax on the goods imported into the Republic of Kazakhstan", exempting the goods imported for charitable purposes from the tax by states, international organizations, which had a favorable impact on the functioning of the public sector;

- "On approval of the list of international and national organizations, international non-governmental organizations and foundations that provide grants."

According to sub-paragraph 2 of paragraph 3 of Article 23 of the Law "On public procurement" tender security on the participation in the competition on government procurements of the services is not included under state social order.

In accordance with the Law "On Public Councils", the Ministry of Energy had a Public Council for the Fuel and Energy Complex and the Environment. In 2005, the Law "On state social order", which solves the problem of long term financing projects of NGOs by the state. In 2012, RP Center "Cooperation for Sustainable Development", CF "Centre for Sustainable Production and Consumption", Youth Public Association "Institute of Human Health" took part in public procurement of RK ME services for social order.

In August 2019, the Public Council for Ecology, Geology and Natural Resources was established subordinate to MEGNR (Decree of the Acting Minister of 04.09.2019 No. 20-P). The activities of the Public Council are regulated by the Constitution and the current legislation. A special section has been created on the MEGNR website, where information about the activities of the Public Council and minutes of meetings of its commissions are posted (<http://ecogeo.gov.kz/ru>).

On December 21, 2020, amendments were made to the Ministry's Decree No. 20-P of September 4, 2019 (Ministry's Decree No. 327-P of December 21, 2020), which expanded the composition of the Public Council from 22 to 31 representatives of non-profit and non-governmental organizations.

The Public Council has 4 Commissions in the following areas: ecology, budget, strategic and regulatory direction, geology and water resources, forestry, fisheries and wildlife.

In 2020, two meetings of the Public Council and the report of the Minister to the Public Council were held.

A Civic Forum is held every two years.

On November 27-28, 2018, the VIII Civil Forum of Kazakhstan on the theme "Civil Society and the State. Dialog. Partnership. Trust" was held in Astana with the participation of the First President, Elbasy. The Civic Forum is held every two years to showcase the current image of civil society and present the best practices of social initiatives.

The purpose of the event was to encourage the development of an open dialogue between the civil sector, government agencies, business structures, international organizations and the expert community.

The event was organized by the Civil Alliance of Kazakhstan with the support of the Ministry of Public Development.

One of the main topics of the forum was the implementation of the SDGs. Within the framework of the forum, 5 panel sessions were held: "People", "Planet", "Prosperity", "Peace", "Partnership", which affected the corresponding groups of targets included in the UN Sustainable Development Goals.

With regard to paragraph 7:

Kazakhstan is a Party to more than 30 international conventions and protocols to them, including the UN global conventions - biological, water, chemical, transboundary, as well as conventions on climate change, etc. Republic of Kazakhstan is a party to 25 environmental conventions and a number of international treaties.

The mechanism of interstate cooperation in the field of environmental protection and management of natural resources is carried out in accordance with claim 1 Article 192 ~~of EC, ECRK~~. Representatives of state bodies and NGOs take an active part in international forums and conferences, national reports on the implementation of international commitments are provided, assessment on the compliance with the obligations under international treaties is carried out and etc. Public Council under the Interstate Commission on Sustainable Development of Central Asia (ICSD), the Central Asian youth network are involved in the preparation and discussion of the documents to be submitted to the meeting of the ICSD. In addition, there is a practice of cross-border consultations between Kazakhstan and Kyrgyzstan with the participation of the public on transboundary EIA in the framework of the ~~Esxpo~~ Convention.

Information on the international forums is posted on the websites of MEGNR ~~RK~~, Aarhus Centre and the 8th Conference "Environment for Europe", newsletter is shared via e-mail, and news media

coverage is also present. NGO representatives actively participated in the 8th Ministerial Conference "Environment for Europe" (June 8-10, 2016 in Batumi, Georgia)

With regards to **paragraph 8**:

In accordance with Article 15 paragraph 2 of the Law "On the order of consideration of physical and legal entities" subjects and civil servants must:

1. stop the persecution of individuals, including those acting in the interest of legal entities, their family members due to either the request appeal to the entities and officials with criticism on their activities or to protection of the rights, freedoms and legitimate interests;
2. do not send the complaint to the officials whose actions (inaction) are being appealed to;
3. exclude cases of imposing checks on persons in respect to whom there are reasons for believing that they are not interested in an objective resolution of a question;
4. do not allow the appeals of individuals and legal entities to the detriment of the person who has submitted it, or in whose interest it was filed;
5. do not to divulge information about the private lives of individuals, including those acting in the interests of a legal person, without their consent or the information constituting national security information or other private information protected by law, do not to allow the establishment of the identity of an individual, not related to the appeal.

Journalists Volkovich Anzhelika (Kazakh TV channel) and civil activist Natalia Vysotskaya led social protests in 2017-2018 after an extreme fall of pollutants from the ArcelorMittalTemirtau plant – the so-called "black snow", when the city of Temirtau was actually covered with a solid black crust of fallen dust. As a result of the protests, more than 8,000 votes were collected and petitioned to the Government and the President. One of the results of these petitions was the broadest public response and the drawing up of a plan by the state to improve the environmental situation in the Temirtau city with real events and allocation of funding. As a result of unspoken pressure, organized by the authorities and their direct employers, both activists were forced to resign from their previous jobs and eventually emigrate from Kazakhstan.

After videos posted on social networks about the excessive smell of the nighttime emissions of the Arcelor Mittal plant by environmental activist Voitsekhovskiy S., was beaten with grievous bodily harm by unknown persons, who forced him to make a pseudo-recognition video message on YouTube about the absence of any influence of the plant and about the absence of any claims against the ArcelorMittalTemirtau plant. In the summer of 2019, the regional environmental prosecutor's office, according to Voitsekhovskiy, confirmed the fact of unauthorized long-term discharge of polluted water by the plant's thermal power plant and forced the plant to remove hazardous waste. ArcelorMittalTemirtau plant continues hostile actions against Voitsekhovskiy S., not allowing him to enter the territory of the plant to make a study trip as part of the official working group of the Council of the Environment under the Governor of the Karaganda region, of which he is a member. PersecutionHarassment of members of the public occurred in September 2020 in Stepnogorsk. Residents of the city opposed the storage of PCB waste brought to the city from the Balkhash region. During an extended meeting of the interdepartmental commission to discuss the issue of temporary storage of PCB waste, one of the Stepnogorsk activists, Viktor Molodovskiy, Deputy editor-in-chief of the Stepnogorsk regional newspaper "Prestige" was pressured in connection with his activities to exercise his environmental rights. To date, not a single case of prosecution of the public members exercising their rights under the Convention was documented.

IV. Obstacles encountered during the implementation of the Article 3

Describe any obstacles encountered during the implementation of the any above-mentioned points of Article 3.

Answer:

1. In accordance with Article 7 of the Law "On Public Associations" public associations are divided into national, regional and local based on their territorial activities. In practice, the territorial division does not limit the scope of the environmental rights of a particular public association.

2. Despite the development of plan for the Aarhus Movement in Kazakhstan for 2018 – 2020, the Aarhus movement is developing slowly. The main reason is insufficient funding, or lack of financial resources.

3. A statement has been sent to the UN Special Rapporteur on the situation of human rights defenders. An application was submitted to the Secretariat of the Aarhus Convention, in this

~~case, the State authorities of the country violated Article 3.8, according to which it is prohibited to prosecute environmental activists for their activities. The mechanism of sustainable development of Aarhus Centres is not developed.~~

V. Additional information about the practical implementation of the general provisions of Article 3

Provide additional information on the practical implementation of the general provisions of Article 3.

Answer: The main priority directions in realization of AC are:

- maintenance of the State Fund on environmental information;
- ~~e~~insuring access to the information;
- provision of the state service ~~called named~~ "Provision of environmental information";
- maintenance of the Protocol of Register of emissions and transfers of pollutants;
- public participation in decision-making;
- access to ~~j~~udicial ~~S~~ystem in environmental issues ~~regarding the environment~~;
- development of Aarhus Centres.

In 2009, the State Environmental Information Fund was established, whose main functions are provision of environmental information upon request, through the public service.

In Kazakhstan, there are ~~154~~ regional Aarhus Centres, ~~in the cities of Astana, Almaty, Schuchinsk, East Kazakhstan, West Kazakhstan, North Kazakhstan, South Kazakhstan, Pavlodar, Karaganda, Kyzylorda, Kokshetau, Atyrau and Mangistau regions.~~

On— November 16, 2015 ~~new~~ Law "On Access to the information" was adopted, which regulates public relations arising from the implementation of the constitutional right of everyone to freely receive and disseminate information by any means not prohibited by law. The right of access to the information may be limited only by laws and only to the extent that this is necessary in order to protect the constitutional order, public order, human rights and freedoms, health and morality of the population (Article 5).

According to Article 6 of the above-mentioned Law to the following information is not intended to have limited access:

- 1) on emergencies and disasters that threaten the safety and health of citizens, and their consequences, as well as natural disasters, their official forecasts and consequences;
- 2) on health, sanitation, demography, migration, education, culture, social protection, economy, agriculture, as well as on the state of crime;
- 4) about the state of the environment, fire safety, as well as sanitary and epidemiological and radiation environment, food safety;
- 6) on violations of the rights and freedoms of man and citizen;
- 8) containing the texts of normative legal acts of the Republic of Kazakhstan, except for the regulatory legal acts containing national security information and other private information protected by law, and their projects;
- 9) on formation and expenditure of funds from the republican and local budgets, except for the information containing national security information;
- 10) control over the expenditure of funds from the republican and local budgets, except for the information containing national security information;
- 11) about the facts of violations of the law by information owners and their officials.
- 12) Legal acts in the field of defamation - regulatory standards ~~of RK~~ affecting the disclosure of information about public officials and politicians.

1. In accordance with Article 8 of the Law "On State Statistics", obtaining statistical data on emissions, discharges and wastes placed of a particular company is not available to the public. But the introduction of the new rules in the Environmental Code (Article 160) for maintaining the State register of pollutant release and transfer of waste for businesses ~~of 1st~~ first category will open access by the actual annual emissions into the environment. Also starting from 2017 besides the actual emissions data the following information will be available for the public:

- +- name, legal address, type of activity of the nature user;
- electronic version of the issued environmental permit;

- electronic version of the program of industrial environmental control and environmental monitoring reports, the action plan for environmental protection;
- results of the state environmental control;
- information on mandatory payments to the budget for emissions to the environment, including for exceeding the established standards.

) payments for emissions;

2) acts of state environmental control checks;

3) the electronic version of the issued environmental permit;

4) the electronic version of the program of industrial environmental monitoring and environmental monitoring reports, plan of environmental protection measures.

2. To estimate the scale of future emissions (discharges), it is necessary to use information about the capacity of the plant, the raw material base, the number of working shifts, the financing of environmental measures, etc. This information does not relate to the state of the environment or the extent of pollution. This information can be classified as a trade secret, according to Article 126 of the Civil Code (CC). Therefore, there are periodic problems with the provision of information to the public, while the actions of enterprises have a legitimate basis. To assess the extent of future emissions (discharges), you must use the information, which is not about either on the state of the environment or pollution. This information on installation of power, raw materials, the number of work shifts, the financing of environmental activities, etc. This information may be classified as a trade secret, according to Article 126 of the Civil Code (CC). Also part of the project documentation, including environmental impact assessment (hereinafter – EIA), may be subject to copyright or patent law and regulated by the Civil Code st.964, Article 15, 20-22 of the Law on Information.

In 2016, the [Environmental Code EC](#) was amended and the structure of the information of the State Environmental Protection Fund includes the materials of the EIA, which will be provided as part of the provision of public services.

With regard to [paragraph 3](#).

Every year, representatives of NGOs, the media, university and college teachers are trained free of charge in courses on environmental legislation and law enforcement.

Information about the courses is published on the websites of the MEGNR, RSE IAC EP, the newspaper "Ecology of Kazakhstan".

For 2018-2020, up to 105 people were trained free of charge, in 2021, 2022, it is planned to train 110, 115 people. But in 2016 the Environmental Code and the State Fund of environmental information have been amended and included the EIA materials that will be collected and made available to everyone.

According to the new edition of the Law "On Subsoil and Subsoil Use", transparency is opened only for the conditions of competition in the provision of subsoil use rights; the terms of the contracts, including the environmental part, are closed.

Also in the "On Subsoil and Subsoil Use" Law provides for the provision of geological information free of charge:

1) for scientific purposes in cases where scientific studies are funded from the state budget and (or) by the means of national companies or their subsidiaries, which are the subjects of scientific and (or) scientific and technical activities;

2) for educational purposes – public and accredited private educational institutions.

With regard to [paragraph 3](#).

Center of retraining and professional development in the field of environmental protection and management of natural resources provides access to training for the representatives of NGOs, media, education instructors for the following courses:

– Environmental Code. Enforcement;

– Environmental Audit;

– Waste management of production and consumption;

– Environmental impact assessment and environmental management;

– State control in the field of environment and natural resource use;

– Environmental regulation and design in the field of natural resource use;

– Radiation and chemical safety.

Information about the courses available is available on the websites of ME RK, IAC DUS

newspaper "Ecology of Kazakhstan", the Center for retraining and professional development.

Every year 90 representatives of NGOs, media, university and college teachers participate in the courses free of charge.

VI. Web addresses related to the implementation of Article 3

Enter the relevant addresses of the websites, if any:

www.e.gov.kz, www.ecogeo.gov.kz, www.carecnet.org, www.ecogofond.kz,
www.iacoos.kz, www.zakon.kz, www.adilet.zan.kz, adilet.gov.kz, ~~www.e.gov.kz~~,
~~energo.gov.kz~~, ~~www.carecnet.org~~, ~~www.aarhus.kz~~, ~~www.ecogofond.kz~~, ~~www.iacoos.kz~~,
~~www.ecoinfo.kz~~, ~~www.zakon.kz~~

VII. The legislative, regulatory and other measures to implement the provisions of article 4 regarding the access to environmental information

List legislative, regulatory and other measures to implement the provisions of article 4 regarding the access to environmental information.

Explain how each paragraph of article 4 is carried out. Specify how relevant definitions in article 2 and in paragraph 9 of Article 3 of the requirement of non-discrimination are transferred into national legislation. In addition, describe in particular:

- a) in respect to **paragraph 1** - the measures taken to ensure that:
 - i) any person may have access to information without having to state an interest;
 - ii) copies of the actual documentation containing or comprising the requested information should be offered;
 - iii) the information should be provided in the requested form;
- b) measures taken to ensure that the time limits provided in paragraph 2 are met;
- c) with respect to paragraphs 3 and 4 - the measures taken:
 - i) to have provided an exception from the requirement to provide information upon request;
 - ii) to ensure the use of public interest criteria test mentioned at the end of paragraph 4;
- d) With respect to paragraph 5 - measures taken to ensure that the public authority that does not hold the requested environmental information, still was able to perform necessary actions;
- e) With respect to paragraph 6, - the measures taken to ensure compliance with requirements related to the separation of the relevant information and provision of information;
- f) With respect to paragraph 7, - the measures taken to ensure that refusals were given in a timely manner and in compliance with the other requirements for such refusals;
- g) With respect to paragraph 8 - the measures taken to ensure compliance with the requirements for charging fees.

Answer:

In regard to **paragraph 1**:

The main documents regulating access to environmental information are the [Environmental Code EC](#) (Chapter 21, Articles 159-167), the Law "On the Procedure for Considering Appeals of Individuals and Legal Entities", the Law "On Access to Information", the Law "On Informatization", the Rules for the provision of the state service "Provision of Environmental Information" (Decree No. 130 of the MEGNR of June 2, 2020). In accordance with paragraph 4 of Article 164 of the EC, individuals and legal entities have the right to receive environmental information in the requested form, if there are no grounds to provide it in another form. The main documents regulating access to environmental information are the EC (Chapter 21 p. 159-167), the Law "On the order of consideration of physical and legal entities", the Law "On Access to Information", Standard of state service "Provision of environmental information" approved by the Order of the Minister of Energy of the Republic of Kazakhstan dated April 23, 2015 № 301.

In accordance with paragraph 4 Article 164 individuals and legal entities have the right to obtain environmental information in the form requested, unless there is reason to provide it in another form.

In accordance with the Law "On access to information," the public is not required to justify the need for information.

In accordance with Article 29 of the Law "On Information", the provision of electronic services should be carried out by public authorities on their own or through a web portal "Electronic Government".

There are rules on access to environmental information relevant to the EIA procedure and decision-making procedure on planned economic and other activities (Ministry of Environment and Water Resources' EP Order decree # of July 25, 2007 №238-p).

In Kazakhstan's legislation the nomination of any claims of interest in connection with the provision of the information are not proposed from the side of the public authorities.

In 2013, in order to ensure equal access to information in the field of environmental protection Ministry of Environment and Water Resources EP initiated civil service called "Provision of environmental information".

Since July 2014, the provision of environmental information from the fund is also carried out through the state service, which is provided to all categories of citizens and legal entities on a free basis, within which more than a thousand information is provided to the population. From July 2014 provision of environmental information from the fund is performed through the same public service, which is provided to all categories of citizens and legal entities free of charge. During this period, more than six hundred public services were rendered, in the framework of which the public was given more than a thousand units of information.

In 2014, 424 public services were rendered, in 2015 — 213 public services.

With regard to **paragraph 2:**

The procedure and terms of consideration of the state bodies of public requests for environmental information is regulated by the Law "On Access to Information" (Article 11): "The answer to written inquiry is given within fifteen calendar days".

The response to a written request is provided at the user's choice of information in paper and (or) electronic forms in the language of the request. The response to an oral request is provided orally in the language of the request.

All appeals to state structures are made in accordance with the Law " On the procedure for considering appeals of individuals and Legal Entities "

Article 8 of this Law provides for the following terms of consideration of the appeal:

1. The appeal of an individual and (or) a legal entity, for the consideration of which it is not required to obtain information from other entities, officials, or an on-site check, is considered within 15 calendar days.

2. The appeal of an individual and (or) a legal entity, for consideration of which it is required to obtain information from other entities, officials or a check with a visit to the place, is considered and a decision is made on it within 30 calendar days from the date of receipt to the subject, official.

In cases where it is necessary to conduct an additional study or verification, the review period may be extended for no more than 30 calendar days, which is reported to the applicant within 3 calendar days from the date of extension of the review period.

In accordance with Article 35 of the Law "On Informatization", state electronic information resources are publicly available, with the exception of electronic information resources of limited access.¹² The answer to written inquiry is given based on the user's preference of the

information in paper and (or) electronic forms in the language of request. The answer to the oral inquiry is given orally in the language of request.

13. If the response to a written request includes copying or printing, the information user is obliged to compensate the owner of the information the actual cost of copying or printing. The amount of the actual costs of copying or printing and the order of payment are determined by the Government of the Republic of Kazakhstan. Fees for copying or printing, and the order of their payment shall be subject to mandatory publication in periodicals that are distributed throughout the territory of the Republic of Kazakhstan, and in the Internet resources of information owners.

Socially vulnerable groups are exempt from the payment of the actual costs of copying or printing in the manner defined by the Government of the Republic of Kazakhstan.

All appeals to state structures are produced in accordance with the Law "On the order of consideration of physical and legal entities"

Article 8 of the Law provides the following terms of consideration of appeals:

— 1. Appeal of the physical and (or) legal person for consideration of which does not require obtaining information from other entities, officers, or on-site check, is considered within fifteen calendar days.

— 2. Appeal of physical and (or) legal entity, for consideration of which requires obtaining information from other entities, officers, or on-site check, and is considered within thirty calendar days from the date of receipt of the subject, officer.

— In cases when you need to conduct further investigation or verification, review period may be extended by no more than thirty calendar days, what a notice to the applicant within three calendar days from the date of extension of the review period.

Answers to questions should be made available in accordance with specified form indicated in the request, otherwise, if the request form was not determined, then in writing, according to claim 4 Article 16 of the Law "On Administrative Procedures" and according to claim 4 of Article 15 of the Law "On the order of consideration appeals of individuals and legal persons" — in writing or in electronic form.

In accordance with Article 10 of the Law "On Access to Information", access to information is provided in the following ways:

1) providing information on request;

2) the placement of information in the premises occupied by the owners of the information, and in other places designated for this purpose;

3) providing access to the meetings of the boards of state bodies in accordance with the legislation and online broadcasting of open meetings of the Chambers of Parliament, including joint, local representative bodies of the region, the city of republican significance, the capital and the boards of state bodies held at the end of the year, on Internet resources;

4) hearing and discussing reports of the heads of central executive bodies (with the exception of the Ministry of Defense), regional governors and heads of national higher educational institutions;

5) publication of information by mass media;

6) upload of information to the Internet resource of the owner of the information;

7) upload information to the relevant components of the e-government web portal»;

8) in other ways not prohibited by law.

State bodies ensure the creation of publicly accessible state electronic information resources in the state and Russian languages.

The conditions and procedure for access to electronic information resources of limited access are determined by the legislation and the owner of these resources, including through the conclusion of agreements between the owners of electronic information resources.

Access to electronic information resources is carried out in one of the following ways:

1) by sending a request to the owner or owner of the information system for access to electronic information resources using e-mail and indicating the identification number or in the form of an electronic document certified by an electronic digital signature, or by other means established by the owner or owner of electronic information resources;

2) by direct access of the user to publicly available electronic information resources, information systems.

Access to state electronic information resources containing:

1) regulatory legal acts, with the exception of those containing state secrets or other secrets protected by law, may not be restricted;

2) information about emergency situations, natural and man-made disasters, weather, sanitary-epidemiological and other conditions necessary for the life and safety of citizens, settlements and industrial facilities;

3) official information about the activities of state bodies;

4) information accumulated in the open information systems of state bodies, libraries, archives and other organizations.

State bodies, state legal entities, legal entities with state participation in the authorized capital are required to provide open data to individuals and legal entities in the Kazakh and Russian languages through the open data Internet website.

The service integrator of the "electronic government" provides the functioning of the open data Internet website in state and Russian language.

Responses to requests must be provided in accordance with the form specified in the request. Otherwise, if the form of the request has not been determined, then in writing in accordance with paragraph 4 of Article 16 of the Law "On Administrative Procedures" and in accordance with paragraph 4 of Article 15 of the Law "On the Procedure for Considering Appeals of Individuals and Legal Entities" - in written form or in the form of an electronic document.

With regard to paragraphs 3 and 4:

In accordance with paragraph 16 of Article 11 of the Law "On Access to Information", the provision of information is refused if:

1) if the content of the request does not allow you to establish the requested information;

2) if the request does not meet the requirements of this Law;

3) if the requested information relates to information with restricted access;

4) if the request raises the question of the legal assessment of the acts adopted by the owner of the information, conducting an analysis of the activities of the owner of the information or their subordinate bodies and organizations, or conducting other analytical work before its completion;

5) before making a decision on the results of inspections carried out within the framework of state control and supervision;

6) before the adoption of a final decision, which is developed on the basis of interdepartmental and intradepartmental correspondence or on the basis of meetings in state bodies;

7) prior to the adoption of a mutual agreement on the conditions for the disclosure of documents received from foreign states or international organizations.

According to Article 5 of the Law "On the procedure for considering Appeals of individuals and legal Entities", anonymous appeals and appeals that do not state the matter of the issue are not subject to consideration.

The refusal to obtain environmental information regarding information and data with limited access is based on the following legislative acts: the Civil Code (commercial secrets and protection of intellectual property rights), the Criminal Procedure Code (secrecy of operational search activities, inquiries and preliminary investigations), the Law "On Informatization" (violation of privacy), the Law "On State Statistics" (dated March 19, 2010 No. 257-IV). (Statistical information and databases that directly or indirectly identify the respondent or determine the primary statistical data about them are confidential and can only be distributed with the consent of the respondent). In accordance with Article 16 of Article 11 of the Law "On Access to Information" refuses to provide information if:

1) if the content of the request does not allow to provide the requested information;

2) if the request does not meet the requirements of this Law;

3) if the requested information relates to information in a limited access;

4) if the request raises the question of the legal assessment of acts adopted by the owner of the information, holding the analysis of information activities of the information holder or their subordinate bodies and organizations, or holding other analytical work before it is completed;

5) before the decision-making based on the results of checks carried out in the framework of state control and supervision;

6) until the final decision, produced on the basis of interdepartmental and intradepartmental correspondence or through meetings in the state bodies is made;

7) until the adoption of a mutual agreement on document disclosure conditions received from foreign governments or international organizations.

According to Article 5 of the Law "On the order of appeal of physical and legal entities" anonymous requests or requests that do not contain the essence of the issue are not considered. Failure to obtain environmental information regarding the information and data with limited access based on the following legislative acts of the Republic of Kazakhstan: the Civil Code (commercial classified information and protection of intellectual property rights), Code of

Criminal Procedure (secret of the operative search activity, inquiry and preliminary investigation), the Law "on information" (violation of privacy), the Law "On state statistics" (the N98 dated 7 May 1997) (physical and legal persons are guaranteed the confidentiality of the primary statistical information).

With regard to **paragraph 5:**

In accordance with paragraph 4 of Article 165 of the EC if public authority does not hold the environmental information that has been requested, it forwards the request to the competent public authority in the terms established by law.

In accordance with the Law "On Access to Information" in cases where the requested information falls within the competence of several owners of information and in response to a written request obtaining information from the other owners of the information is required, the period of consideration may be extended by the head of the information holder of no more than fifteen calendar days, in regards to which the user of the information is notified within three working days from the date of extension of the review period.

A written request received by the information owner, whose competence does not include the provision of the requested information is sent to the holder of the corresponding information no later than three working days from the date of receipt of the request notifying the user information, the requester.

According to claim 6 of Article 7 of the Law "On the order of consideration of physical and legal entities" requires forwarding the request to corresponding subjects whose competence includes the resolution of the stated questions in the request within the period not later than three working days from the notification of the requester. These requirements do not apply to large enterprises.

With regard to **paragraph 6:**

In accordance with Article 8 of the Law "On State Statistics", primary statistical data are confidential and are used by State statistical bodies exclusively for the purpose of producing statistical information. The confidentiality of primary statistical data is ensured by the State statistical bodies when they are collected, processed and stored. However, according to the Law "On State Statistics", the following information contained in databases formed by the authorized body is not confidential and is subject to access:

- 1) the surname, first name, patronymic (if any) of the individual entrepreneur or the name of the legal entity;
- 2) type of economic activity according to the general classifier of types of economic activity;
- 3) code for the general classifier of enterprises and organizations;
- 4) business identification number;
- 5) code for the classifier of administrative-territorial objects;
- 6) the code according to the classifier of the dimension of legal entities, branches and representative offices, as well as individual business entities by the number of employees;
- 7) information about respondents that is publicly available in accordance with the Business Code.

Also, in accordance with article 26, official statistical information is subject to dissemination in accordance with the schedule for the dissemination of official statistical information in the amounts provided for in the statistical work plan. State statistical bodies provide users with equal rights to simultaneous access to high-quality official statistical information and statistical methodology by posting them on the Internet resources of state statistical bodies. This provision does not apply in practice. It is necessary to amend the article 163 EC "Access to environmental information".

With regard to **paragraph 7:**

In accordance with the Law "On Access to Information" motivated answer on refusal of provision of the information upon written request is communicated to the information user within five working days from the date of registration of the request.

With regard to **paragraph 8:**

According to Article 11 of the Law "On Access to Information", if the response to a written request includes copying or printing, the information the user is obliged to compensate the owner of the information the actual cost of copying or printing.

The amount of the actual costs of copying or printing and the order of payment are determined by the Government of the Republic of Kazakhstan. Fees for copying or printing, and the order of their payment shall be subject to mandatory publication in periodicals that are

distributed throughout the territory of the Republic of Kazakhstan, and in the Internet resources of information owners.

Socially vulnerable groups are exempt from payment of the actual costs of copying or printing, defined by the Government of the Republic of Kazakhstan, in particular:

- 1) invalids and participants of the Great Patriotic War;
- 2) individuals equated with invalids and veterans of the Great Patriotic War;
- 3) disabled people of 1 and 2 groups;
- 4) families that have disabled children;
- 5) individuals suffering from severe forms of chronic diseases, which are on the list approved by the Government of the Republic of Kazakhstan;
- 6) old-age pensioners;
- 7) orphans and children left without parental care who are under twenty-nine years, those who lost their parents before the adolescence (when calling upon such persons on military service the age is extended for a period of compulsory military service);
- 8) repatriates;
- 9) individuals who have lost their homes as a result of environmental disasters, emergency situations of natural and technogenic character;
- 10) families with many children;
- 11) the families of the victims (dead) in the performance of state or public duties, military service, preparation or execution of a flight into space, rescue of human life, law enforcement;
- 12) single-parent families.

Currently, Internet access is provided to:

- State Register of Natural Resources;
- State Fund of Ecological Information Registries;
- The legal framework of "EcoInfoPravo"
- State PRTR;
- State Register of Waste Consumption;
- Environmental indicators for environmental monitoring and assessment;
- Official statistical information (by industry).

Article 18 of the Law "On Access to Information" provides for an appeal against an illegal restriction of the right to access information to a higher state body (a higher official) or to a court no later than three months, when a citizen became aware of the commission of an action or decision by the relevant official or body. The missed deadline for appeal is not a reason for a state body or official or a court to refuse to accept the complaint. The reasons for missing the deadline are clarified when considering the complaint on the merits and may be one of the grounds for refusing to satisfy the complaint.

An analysis of these legal norms shows that the current legislation generally complies with the provisions of Article 4 of the AC.

~~Currently online access is provided to:~~

- ~~———— State Inventory of natural resources;~~
- ~~———— Register of the state fund on environmental information;~~
- ~~———— Regulatory framework "EcoInfoRight" ("EkoInfoPravo").~~

~~Analysis of these legal provisions shows that the legislation of Kazakhstan as a whole complies with the provisions of Article 4 AC.~~

~~The comparative analysis of these provisions AC and the Law "On the order of consideration of physical and legal entities," it can be concluded that Article 8 of the Act contains some uncertainty, which is not quite consistent with the spirit and requirements of Article 4 paragraph 2 AC.~~

~~Also worth considering that this rule is not calibrated with respect to the deadlines of appeal by citizens or legal entities (NGOs) actions or inactions of officials in the CPC RK:~~

~~Article 280. The deadline for filing an application to the court.~~

~~A citizen or legal person is entitled to apply to the court within three months from the date when they became aware of the violation of their rights, freedoms and lawful interests.~~

~~The bill regarding the questions of AC plans to bring the norms of the Law "On administrative procedures" and the Law "On the order of consideration of physical and juridical persons" (Article 8) in full compliance with the norms of AC (paragraph 2 of Article 4).~~

~~Starting from July 2014 the provision of environmental information of the fund is carried out through the public service, which is provided to all categories of citizens and legal entities free of charge. During this period, more than six hundred public services were rendered, within the framework of which the public was given more than thousand pieces of information. In 2014, 424 public services were rendered, in 2015 — 213 public services, in 2016 till present 47 public services were rendered.~~

VIII. Obstacles encountered during the implementation of the Article 4

Describe any obstacles encountered during the implementation of the any above-mentioned points of Article 4.

Answer:

Confidentiality of the information provided to the Committee of Statistics by enterprises on the actual volumes of emissions, discharges and waste of education.
The reluctance of legal entities to provide reliable data. RSE Kazhydromet produces and publishes newsletters on environment on ME website where data is presented in aggregated form.

IX. Additional information on the practical implementation of the provisions of Article 4

Provide additional information on the **practical application of the provisions of Article 4, relating to the access of information**, such as whether there are any statistics available on the number of requests made, the number of refusals and the reasons for such refusals.

Answer: The website contains a blog of the Minister, through which you can ask a question to the Minister and get an answer.

Environmental information can be obtained from the State Fund of Ecological Information, which is operated by RSE IAC EP-operates on the basis of the IAC OOS (Ministry of Environment and Water ResourcesOE Order Decree No. 243-o of October 13, 2009).
Websites www.ecogofond.kz and www.aarhus.kz contain s-Registers of environmental information, an application form for information, contact phone numbers and the focal points-names of responsible persons.

The electronic database of regulatory and legal documents in the field of environmental protection "EcoInfoPravo" is maintained, which is available on the Unified Environmental Internet Resource www.ecogofond.kz.

Also, the websites are united on a single environmental Internet resource:

- implementation of Aarhus conventionisAC-OK;

- State Fund of Ecological InformationGFEI;

- legal framework "of EcoInfoPravo";

- PRTR.

The Legal Statistics Committee of the Prosecutor General's Office keeps a single record of citizens-' appeals.; on the wWebsite www.pravstat.prokuror.kz provides legal statistics of various ministries and departments.

In a number of cases; the judicial authorities have had problems understanding the requirements of environmental organizations to provide reliable environmental information.

In most cases, the outcome of the court proceedings was rejectiona-refusal. The requested information was never provided.

1. As Aan example of a positive conclusion of the proceedings, can be considered the case on the recognition of the illegality of the actions of the Municipal state Institution- (MSI) "Department of Natural Resources and Environmental Management of Almaty", which did not provide the requested environmental information. The application was filed on November 2, 2017 in the sSpecialized iInted-District Economic Court of Almaty in defense of the interests of an indefinite circle of persons and the state.

Demands were made to recognize the fact of failure to provide environmental information to the MSIKSU "Management of Natural Resources and Regulation of Nature Use of the City

of Almaty" as an illegal act, and to impose ~~the obligation~~ on the Department ~~the obligation~~ to provide ~~the EA~~ with the requested environmental information regarding the eligibility of work on the reconstruction of the Kimasar riverbed. On ~~20~~-December 20, the court decided to grant the applicant's claims.

2. The case when a citizen of K... and other residents of Velikolukskaya Street, Turksib district of Almaty, on May 21, 2018, filed an application addressed to the head of the ~~KSUMSI~~ "Department of Land Relations of the City of Almaty", which was forwarded for consideration on the merits to the ~~MSIKSU~~ "Department for Control over the Use and Protection of Land of the City of Almaty" (hereinafter – the Department). On July 4, a citizen of K ... received a response from the Department, which states that the land plot at the requested address belongs to the right of ownership of U... with the intended purpose-non-residential premises – and is located in a commercial zone. In accordance with the official response of the ~~MSIKSU~~ "Department of Architecture and Urban Planning of Almaty", which is accompanied by a diagram and a reference to the decision of the Mazhilis of Almaty, the above-mentioned land plot is located in a residential area. Due to the contradictions in the responses of the state authorities, an application was filed with the court on September 14, 2018. As a defendant, the ~~MSIKSU~~ "Department for Control over the Use and Protection of Land of the city of Almaty" was involved.

3. The case concerning the abandoned sports complex in the Butakovsky ~~g~~Gorge on the territory of the Ile-Alatau National Park, which collapsed in 2004. The ruins pose a danger to people, damage the ecological systems of the national park, and increase the risk of fire. They ~~EA~~ sent a request to the Department for Control over the Use and Protection of Land in Almaty. The aim was to find out the measures taken to demolish the ruins and normalize the ecological situation in the gorge. The management ignored the request. The application was filed on October 5, 2017 in the Specialized Inter-District Economic Court of Almaty in defense of the interests of an indefinite circle of persons and the state.

~~As a R~~result, ~~i-~~In March, after several sessions, the department filed a petition to the Supreme Court in cassation for the review of judicial acts that have entered into legal force. On May 28, the judge of the Supreme Court, having previously considered the petition, refused to transfer it to the cassation instance of the Supreme Court. The decision states: "The Court of Appeal came to the correct conclusion that it is impossible to recognize the response provided by the Department at the request of the ~~Environmental~~ecological Society as complying with the requirements of the law, since the response of July 14, 2017 No. 02.1-04/ZT-K-136 does not contain complete and reliable information on the requested issue, and also does not relate to the subject of the appeal." ~~The case is over.~~ Enforcement proceedings continue.

4. The case related to the constant emissions of dry cement from the enterprise of ~~LLP "U..."~~, ~~ecological society LLP The Ecological Society~~ "Green Salvation" – at the request of local residents, appealed to the Department of Public Health Protection of the city of Almaty with a request to provide a sanitary and epidemiological conclusion issued by ~~LLP "U..."~~ "LLP". The Department ~~rejected fused~~ the request calling the sanitary and epidemiological conclusion ~~EO due to the fact that,~~ allegedly, the sanitary and epidemiological conclusion is a trade secret. The application was filed on October 26, 2017 in the Specialized Interd-District Economic Court of Almaty in defense of the interests of an indefinite circle of persons and the state.

~~As a result~~Because of all the proceedings, the board ~~decided~~issued: " that ~~T~~the decision of the specialized interdistrict economic court of Almaty ~~on of~~February 15, 2018 on this case should be changed – to ~~d.~~Cancel the court's decision regarding the ~~rejection~~ ~~fusion~~ to satisfy the application for recognition of the illegality of the actions of the State Institution "Department of Public Health Protection of the City of Almaty" and ~~-~~satisfy ~~ake a new decision on the satisfaction of~~ the application in this part. "

~~R~~to recognize illegal actions of the Department for failure to provide environmental information in the form of a copy of the sanitary and epidemiological report, and to ~~;~~ Oblige the Department to eliminate the violations of the rights and interests of the public association.

On June 12, the Specialized Inter-district Economic Court ~~SMES~~ of Almaty issued a writ of execution for the enforcement of the court's decision. The case ~~is over~~was closed. ~~E~~enforcement proceedings continue.

5. There are also cases of deliberately incorrect ~~presentation of~~delivery of the source of the ~~appearance of this or that~~ information from the requesters themselves. An example of such a ~~situation is~~are the proceedings that began in November 2018, when an environmental organization was assigned the authorship of a term, but did not take action on that, ~~about the promotion of which no action was taken.~~ The case was initiated due to the fact that the term

"zero" construction option was introduced into circulation and appeared due to the current norm of the above-mentioned Instructions, approved by the order of the Minister of Environmental Protection, and not due to the appeals and speeches of representatives of the NGO Ecological society "Green Salvation".

The application was submitted on December 10, 2018. Until June 30, reliable information was not provided by the debtor. The motive for non-execution of the enforcement document is that the debtor allegedly provided information on March 13, 2019. The Environmental Society cannot accept the debtor's response of March 13 as reliable information due to the fact that the Management's letter does not refer to the decision of the Specialized Inter-District Economic Court SMES of Almaty.

According to the data provided by non-governmental organizations, there are cases of providing incomplete and / or unreliable environmental information. In connection with the provision of false information by the Department of Public Health Protection of the City of Almaty and an arbitrary interpretation of the legislation, the Ecological society A applied for an explanation to the Committee for Public Health Protection. The questions put to the Committee related to the procedure for determining and changing the hazard class of industrial facilities. The Committee ignored four of the five questions asked, and gave an unsubstantiated and unreliable answer to the fifth. Environmental information may be obtained from the State Fund for Environmental Information, acting on the basis of IAC PEE (Order of MEP RK №243 o of 13 October 2009). Registers of environmental information, the application form to receive information, contact telephone numbers and the names of the responsible persons are placed in the following websites www.ecogofond.kz and www.aarhus.kz.

Electronic database of legal documents in the sphere of protection of the environment "EcoInfoRight" ("EkoInfoPravo") is supported and available on the website www.ecoinfo.kz. The blog of the Minister can be found on the website of the ME of the RK that enables the asking of question to the Minister and getting the answer.

Legal Statistics Committee of the Republic of Kazakhstan General Prosecutor's Office created a single database of citizens' appeals, www.pravstat.prokuror.kz provides the legal statistics of various ministries and departments.

X. The addresses of websites that are relevant to the implementation of Article 4

Give relevant website addresses, if available:

www.akorda.kz, www.carecnet.org, www.pravstat.prokuror.kz, www.sud.gov.kz,
www.osce.org/nur-sultan, www.esgrs.org/, blogs.egov.kz, www.gov.kz,
www.iacoos.kz, www.akorda.kz, www.energo.gov.kz, www.carecnet.org,
www.pravstat.prokuror.kz, www.sud.gov.kz, www.osce.org/astana,
www.greensalvation.org, blogs.egov.kz, www.ecokomitet.kz,
www.greenbridgepartnership.net, www.iacoos.kz, www.aarhus.kz, www.ecoinfo.kz,
www.ecodoklad.kz, www.ecoportalea.kz, http://www.ecosos.kz

XI. The legislative, regulatory and other measures to implement the provisions of Article 5 concerning the collection and dissemination of environmental information.

List legislative, regulatory and other measures to implement the provisions of Article 5, concerning collection and dissemination of environmental information.

Explain how each paragraph of article 5 is carried out. Specify how relevant definitions are transferred into the national law, present in article 2 and in paragraph 9 of Article 3 of the non-discrimination requirement. In addition, describe in particular:

- a) in regard to paragraph 1 - the measures taken to ensure that:
 - i) public authorities possess and update environmental information;
 - ii) an adequate flow of information to public authorities has been guaranteed;
 - iii) in the case of emergencies, appropriate information should be disseminated immediately and without delay;
- b) With regard to paragraph 2 - measures taken by public authorities in ensuring transparency in the provision of environmental information to the public and real access to environmental information;
- c) with regard to paragraph 3, - measures taken to ensure a gradual increase in the volume of environmental information in electronic databases which are easily accessible to the public through public telecommunications networks;
- d) with regard to paragraph 4 - the measures taken to publish and disseminate national reports on the state of the environment;
- e) measures taken to disseminate the information referred to in paragraph 5;
- f) with regard to paragraph 6 - the measures taken to encourage operators whose activities have a significant impact on the environment, to ensure that they regularly inform the public about the impact of their activities and products on the environment;
- g) measures taken to publish and provide information as required in paragraph 7;
- h) with regard to paragraph 8 - the measures taken to develop mechanisms to ensure that the public provision of adequate information about the products;
- i) with regard to paragraph 9 - the measures taken to establish a nationwide system of inventories or registers of pollution.

Answer:

With regard to paragraph 1:

In general, the Republic of Kazakhstan established a legal framework for the adequate implementation of international obligations according to Article 5 of AC. Thus, the claim 4 of Article 4 of the Constitution of the Republic of Kazakhstan states: "All laws, international treaties Kazakhstan is part of are published. Official publication of regulatory legal acts concerning the rights, freedoms and duties of citizens, is a mandatory condition for their implementation. "

The Republic of Kazakhstan adopted the Law "On Access to Information" ~~on~~ on November 16, 2015. In accordance with Article 6 of the Law "On Access to ~~Information~~ "Information", access to the information about the state of the environment, fire safety, as well as sanitary and epidemiological and radiological conditions, food safety is not subject to limitation.

In accordance with Article 10 of the Law "On Access to Information"

Access to the information provided by the following methods:

- 1) provision of information upon the request;
- 2) placement of information in the facilities occupied by information owners, and in other places designated for these purposes;
- 3) provision of access to the meetings of the boards of public bodies in accordance with the legislation of the Republic of Kazakhstan and online broadcast of the public meetings of the Chambers of the Parliament of the Republic of Kazakhstan, including joint ventures, local representative bodies of the region, city of republican status, capitals and boards of public bodies, held at the end of the year, on Internet resources;

4) hearing and discussions of the reports of heads of central executive bodies (with the exception of the Ministry of Defence of the Republic of Kazakhstan), governors and heads of national institutions of higher education;

5) placement of information in the media;

6) placement of information on the Internet resource of the information owner;

7) placement of information on the respective components of the web-portal of "electronic government";

8) through other means not prohibited by the legislation of the Republic of Kazakhstan.

According to Article 161 of the EC State ~~Environmental~~Ecological Information Fund collects, records and stores environmental information.

The structure of the State Fund for Environmental directory information includes: inventory of natural resources, registers of pollutant's release and transfers, and other registers of environmental information, a list of environmentally hazardous industries, environmental monitoring data, ~~materials of EIA~~ materials, and state environmental expertise with the consent of the proposed activity, regulations and regulatory technical documents in the field of environmental protection and use of natural resources, and others.

With regard to **paragraph 2:**

The work of "electronic government" also contributes to the provision of ~~environmental-ecological~~ information to the public.

The Law «On informatization" (No. 418-V of November 24, 2015) - state regulation of public relations in the field of informatization has two goals. Firstly, it is the formation and development of information and communication infrastructure, and secondly, the creation of conditions for the development of local content in the production of goods, works and services in the field of information and communication technologies for information support of social and economic development and competitiveness.

According to Article 16 of the Law "On Access to Information" information owners create an online resource and place ~~it~~ on a single platform of state bodies the following information:

- the organizational structure of information owners, information about their leaders;
- official news (press releases) on the activities of the holders of information;
- the official calendars of upcoming events of the activities of the information holders;
- texts of official speeches and official statements by the heads of information owners and their deputies;
- information about the state and industry programs, concepts, doctrines, plans and developmental programs of territories, strategic plans, strategies and plans of development of the industry, projects of targeted programs and concepts;
- information on the activities of advisory bodies (councils, commissions), in which the holder of information represents the working body;
- information on the use of funds of the republican and local budgets, and of the National Fund of the Republic of Kazakhstan;
- news reports about the participation of the owner of the information in the target and other programs, ~~in~~ international cooperation;
- news reports on the results of inspections conducted by the state body, its territorial bodies, local government, subordinate organizations within the limits of their powers, as well as on the results of checks carried out by a public body, its territorial bodies, local self-government, subordinate organizations;
- records and Reports on its work;
- the results of evaluating the performance of central and local executive bodies on implementation of the state policy;
- the results of public monitoring of the quality of public services;

- normative and legal acts adopted by the owner of the information and entered into force in full compliance with the signed originals;
- texts developed by the information owner of draft regulations and explanatory notes, comparative tables, conclusions of scientific assessments and expert opinions of private entrepreneurs;
- as well as other materials.

In 2017, the websites of the Aarhus centres, State Fund of Ecological Information SFEI, and the legal database in the field of environmental protection "EcoInfoPravo" were merged into a single environmental Internet resource www.ecogofond.kz. There, in the section "Implementation of the AC" registers of environmental information are posted.

Pursuant to the obligations of Kazakhstan on AC in November 2008 a web portal www.aarhus.kz for Aarhus Centre was set up.

Currently online www.aarhus.kz National Aarhus Centre and www.ecogofond.kz website contains environmental information registries.

With regard to **paragraph 3**

The Strategic plan of the MEGNR for 2017-2021 sets ~~1~~ target indicator "The level of dissemination of environmental information from the SFEI database, for 2020-2024, from 0.21% to 0.25%". Strategic Plan of the Ministry of Energy of the Republic of Kazakhstan for 2014–2018 years, foresaw the annual increase in the volume of the environmental information of the State Fund of environmental information to the previous year (in the framework of the Aarhus Centre) by 6%.

With regard to **paragraph 4:**

In order to annually inform the population about the actual environmental situation in the territory and the measures taken to improve it, National Report on the state of the environment and use of natural resources (NRSENR) is developed and published on a single platform of Internet resources of state bodies (www.gov.kz) in the MEGNR section.

In order to expand information interaction and raise public awareness, as well as to simplify the understanding of the text of the NRSENR, the Ministry of Energy, together with the Environmental Network "Zoi" and the United Nations Environment Programme (UNEP), with the financial support of the European Commission, published an Interactive Report based on the official version of the NRSENR of 2016.

In 2018, the Interactive Report on the State of the Environment for year 2016 was approved by the members of the Public Council for the Fuel and Energy Complex and Ecology (Commission on Ecology). The interactive version of the NRSENR for year 2016 is available in the state and Russian languages on the website newecodoklad.ecogofond.kz.

An Interactive Report for year 2017 has been prepared in collaboration with the "Zoi" Environmental Network with the support of UNEP.

National Report on the state of the environment and use of natural resources for the 2011–2014 years is placed on the official website of the Ministry of Energy of the Republic of Kazakhstan and www.ecodoklad.kz website.

Currently the National Report for the years 2012-2015 is under preparation. In December 2016 National Report will be posted on the official website of the Ministry of Energy of the Republic of Kazakhstan and on www.ecodoklad.kz website.

With regard to **paragraph 8:**

State regulation in the field of food safety is carried out in accordance with the Law "On food safety» (N301 of 24 July 21, 2007). Article 1 of the Law defined the concept of labeling, eco-friendly food products, ~~the~~and the sign of clean food. According to sub-paragraph 4 of paragraph 2 of Article 2 of the Law, state regulation in the field of food safety is based on transparency, accessibility, reliability of the information. In accordance with sub-paragraph 6 of paragraph 2 of Article 17 of the given Law on the documents, leaflets (package insert), label, back label, collar labels, labels, decals (stickers), in addition to the information specified by the legislation of the Republic of Kazakhstan on food safety, with taking into account the types of food products must be listed on the Kazakh and Russian languages information on the composition, including the

presence and quantity of food additives, feed and feed additives, biologically active food additives, genetically modified organisms (GMOs).

In accordance with Article 6 of the Law "On Access to environmental information" information on food safety is not subject to access restriction.

According to Article 282 EC of natural resources required to inform buyers of food and feed derived from GMOs through labeling. EC does not set the level (in percentage terms) the content of GMO in products and commits to label all products without exception, containing or consisting from or created from GMOs.

With regard to **paragraph 9**:

In accordance with subparagraph 6, paragraph 4, Article 161 of the EC, the State Fund of Ecological Information includes PRTRs and other registers of ecological information.

On April 8 2016, the Law "On Amendments and Additions to Certain Legislative Acts on Environmental Issues" was adopted to provide the maintenance of the state PRTR.

In this regard, the Decree of the Minister of Energy of June 10, 2016 No. 241 approved the Rules for State PRTR. In accordance with subparagraph 2 of paragraph 4 Article 161 of the EC in the content of the State Fund of environmental information Release and Transfer Register (PRTR) and other registers of environmental information are included.

April 8, 2016, the Law of Kazakhstan "On amendments and additions" to some legislative acts of Kazakhstan on environmental issues was adopted. Where the State Register of Pollutant Release and Transfer are identified.

On the basis of the Law of RK by the order of Minister of Energy dated June 10, 2016 № 241 the Rules of the State Register of Pollutant Release and Transfer are approved.

XII. Obstacles encountered during the implementation of the Article 5

Describe any obstacles encountered during the implementation of the any above-mentioned points of Article 5

Answer: The collection and dissemination of environmental information in Kazakhstan is well established. The law "On State Statistics" dated May 7, 1997 N98-1. March 19, 2010 № 257-IV

The Ministry of Energy of RK is working on the ratification of the Protocol to the Aarhus Convention "Release and Transfer Register pollutants" (PRTR). Accession of Kazakhstan to this Protocol causes some misunderstanding and resistance from business representatives, in particular, there are concerns on the additional holding of production monitoring. During the negotiation of the ratification of the PRTR Protocol negative conclusions were obtained from the subjects of business associations (Kazenergy, EPA, Kapoor).

XIII. Additional information on the practical implementation of the provisions of Article 5

Provide further information on the practical application of the provisions of Article 5 concerning the collection and dissemination of environmental information, such as whether there are any statistics on the information published.

Answer:

1. State registers of natural resources;
2. State registration of environmental pollution sites;
3. State register of production and consumption waste;
4. State Register of Nature Users and Sources of Environmental Pollution;
5. State register of consumption of ozone-depleting substances;
6. State PRTR;
7. Materials of environmental impact assessment and state ecological expertise;

8. Normative legal acts and normative-technical documents in the field of environmental protection and use of natural resources;
9. Reports on the implementation of research and development activities related to the protection of the environment and the use of natural resources;
10. National Report on state of environment and use of natural resources;
11. National Ecological Atlas;
12. Reports on the results of control and inspection and law enforcement activities in the field of environmental protection and the use of natural resources;
13. Industrial environmental control program and environmental monitoring reports;
14. State environmental monitoring data;
15. Scientific and technical literature in the field of ecology;
16. Information about the state of the environment and its use

The State Environmental Information Fund supports the following registers:

- Register of MEP scientific research reports;
- Register of national reports under the International Convention;
- Register of materials of environmental impact assessment and state ecological expertise;
- Register of reports on industrial environmental control and monitoring;
- Register of reports on control and enforcement activities of the territorial offices of the MEP;
- Register Newsletters on the Environment of the Republic of Kazakhstan;
- Register of seminars;
- Register of materials in the field of environmental protection in the electronic media;
- Register of works RSE "Informational and Analytical Center of environmental protection";
- Register of scientific research of the Committee for Forestry and Hunting reports (FHC) MEP;
- Register of reports on control and enforcement of territorial administrations FHC MEP;
- Registry applications contestants on social responsibility "Paryz" business;
- Register PRTR facilities;
- Registration book of the library of the State Fund of environmental information;
- Register of international projects;
- Register of RSE "KazHydroMet" publications;
- Register of reports on the state social order natural resources, factors affecting the environment and measures taken to protect it;

17. Other materials and documents containing environmental information;

- material of applications of participants of the contest on social responsibility of business Paryz;
- national reports;
- cartographic materials;
- materials from government agencies and other organizations;
- materials of international projects;
- reports on the state social order;
- periodicals;
- works of RSE IAC EP;
- associated gas processing development programs;
- seminars.

The State Register of Natural Resources and the State Register of Production and Consumption Waste are maintained.

In order to ensure a unified state-wide integrated register and assessment of natural and economic potential, work on adding information to the land register was completed in 2019, integration with the register of mineral resources is planned to be completed in 2021 and the water register in 2022-2023.

An information review is compiled annually based on the results of the state inventory of production and consumption waste. The review is available on the main page of the RSE IAC EP (<https://oos.ecogeo.gov.kz>), the Internet resource of the MEGNR (www.ecogeo.gov.kz). Law No. 291 of April 8, 2016 amended the EC to include Article 166-1 of the NRSEUNR, which is published on an annual basis (NRSEUNR for 2011-2014, 2015, 2016, 2017, 2018, 2019 years).

Fewer cases are directly related to non-compliance with article 5 of the Convention. Probably, this fact is associated with less public activity regarding lawmaking. Most of these cases are noted in 2017, later cases are more often related to the provision of environmental information, as well as specific activities of nature users.-

Maintain state inventories of Natural Resources, including Forest inventory database, Fish inventory, the inventory of fauna and inventory of protected areas.-

The EC includes section 5, "Monitoring and inventories", issued by the National Atlas of the Republic of Kazakhstan in three volumes. Law dated April 8, 2016 № 291 in the EC introduced Article 166-1 the national report on the state of the environment and the use of natural resources, which is published on an annual basis.

XIV. Web addresses related to the implementation of Article 3

Enter the relevant addresses of the websites, if any:

www.akorda.kz, www.parlam.kz, www.gov.kz, www.egov.kz, www.ecogeo.gov.kz,
www.iacoos.kz, www.carecnet.org, <https://ecokadastr.kz/>, www.ecogofond.kz,
<https://oos.ecogeo.gov.kz>, newecodoklad.ecogofond.kz, <http://adilet.zan.kz>,
~~www.akorda.kz~~, ~~www.parlam.kz~~, ~~www.prokuror.gov.kz~~, ~~www.government.kz~~,
~~www.mvd.gov.kz~~, ~~www.edu.gov.kz~~, ~~www.minagri.gov.kz~~, ~~www.emer.gov.kz~~,
~~www.egov.kz~~, ~~www.iacoos.kz~~, ~~www.aarhus.kz~~, ~~www.carecnet.org~~, ~~www.ecokadastr.kz~~,
~~www.ecoinfo.kz~~, ~~www.energo.gov.kz~~, ~~www.ecogofond.kz~~, ~~www.ecodoklad.kz~~

XV. The legislative, normative and other measures to implement the provisions of Article 6, on public participation in decision making on specific activities.

List the legal, normative and other measures needed to implement the provisions of the article 6, which are related to the participation of the society in a decision making process on exact types of activity.

Explain how each paragraph of the provision of the article 6 is implemented. Define how appropriate definitions from the article 2 and the requirement of non-discrimination from the paragraph 9 of the article 3 are transferred to the national legislation. Besides that, describe, in particular:

- a). In relation to paragraph 1, measures that were taken to ensure that:
 - i)) provisions of the article 6 are applied with respect to decisions on whether to permit proposed activities listed in Annex I to the Convention;
 - ii) provisions of the article 6 are applied to decisions on proposed activities not listed in Annex I, which may have significant effects on the environment
- b) Measures taken to provide adequate, timely and effective informing of the concerned public at the initial stage of the decision making process on the issues discussed in paragraph 2;
- c) Measures taken to ensure that the deadlines of the public participation meet the requirements of paragraph 3;
- d) In regard to paragraph 4 - measures undertaken to ensure public participation at the initial stage;
- e) In regard to paragraph 5 - measures undertaken to encourage potential applicants to define concerned groups of community, hold discussions and provide information on the purposes of their application before applying for permission;
- f) In regard to paragraph 6 - measures taken to ensure that:

i) Competent state agencies provide all information, which is related to decision making mentioned in article 6 and existed at the moment of the procedure implementation, to concerned public;

ii) Competent agencies, in particular, provide all the information mentioned in the current paragraph to concerned public;

g) In regard to paragraph 7, - the measures taken to ensure that procedures for public participation allow it to submit comments, information, analyzes or opinions that it considers relevant to the proposed activity;

h) In respect to paragraph 8 - the measures taken to ensure that the results of public participation are properly reflected in the relevant decision;

i) With respect to paragraph 9 - the measures taken to immediately inform the public about the decision in accordance with the appropriate procedures;

j) With respect to paragraph 10 - measures taken to ensure that when conditions of the activity mentioned in paragraph 1 are reviewed/updated by the state agencies, provisions of the paragraphs 2-9 are applied in accordance with all necessary changes and when it is appropriate;

k) With respect to paragraph 11 - measures taken to apply the provisions of article 6 to decisions on whether to permit the deliberate release of genetically modified organisms into the environment

Answer: On the basis of the subparagraph 4 of the paragraph 1 of Article 13 and the subparagraph 3 of the paragraph 1 of Article 14 of the EC, public has a right to participate in a government's decision making procedure on issues related to environment in the manner prescribed by the legislation of Kazakhstan;

Currently the following laws and regulations for the implementation of Article 6 of the EC in Kazakhstan are accepted and executed:

- EC RK (articles 17, 45, 46, 49, 57, 135);

- Instructions for the ~~environmental impact assessment (EIA)~~ (the ~~decree order~~ of Ministry of Environment ~~and Water resources on Protection~~ June 28, 2007 №204-p) as amended on 06/17/2016 number 253.

[On Approval of Rules of the state ecological expertise. Decree Order of the Minister of Energy of the Republic of Kazakhstan dated February 16, 2015 № 100. Registered in the Ministry of Justice of the Republic of Kazakhstan May 12, 2015 № 11021](#)

-Rules for public hearings (~~Ministry of Environment and Water Resources decree~~ ~~MEP Order~~ number 135 of May 7, 2007 as amended on March 26, 2013 №50-Ө, as amended on 21/6/2016 number 260);

- Rules of access to environmental information relevant to the EIA procedure and decision-making on planned economic and other activities (~~MEP Order Ministry of Environment and Water Resources decree~~-of July 25, 2007 N238-p) as amended by 21/6/2016 number 258;

- The list of economic activities, the projects of which are to be submitted to a public hearing (~~Decree signed by order RK~~ Minister of Energy on June 10, 2016 № 240)

In regard to paragraph 1: Law of the Republic of Kazakhstan "On amendments and additions to some legislative acts of Kazakhstan on environmental issues" on April 8, 2016 ~~number~~ number 491-V made changes and additions to the Environmental Code of the Republic of Kazakhstan. In this connection, projects, according to which public hearing is required, were defined in Article 57-2 of the Environmental Code. Minister of Energy of the ~~Decree Order~~ № 240 of June 10, 2016 approved a list of economic activities, the projects of which are to be submitted to the public hearing.

In regard to **paragraph 2:**

The order of the State Ecological Expertise (SEE) is SER is determined by the authorized body in the field of environmental protection (Article 49 of EC), where expert councils of SEE are established. These councils are advisory agencies (Article 56 of EC). In accordance with Article 57 of the EC:

1. Transparency of the state environmental review and public participation in decision-making on issues of environmental protection and management of natural resources is provided by the public hearings.

2. All interested citizens and public associations are given the opportunity to express their opinion during the SEE.

3. Conclusion of the state ecological examination is directed by the nature user to be ~~uploaded to~~placed on an Internet resource of the local executive body in the field of environmental protection within five working days of receipt by the nature user.

4. People~~Natural and legal persons~~ have the right to challenge the conclusion of the state environmental review in accordance with the legislation of the Republic of Kazakhstan.

5. When a decision on the conclusion of the state environmental review is made, all interested parties are given the opportunity to get information about the examination object.

The organization of public hearings during the state environmental impact assessment is referred to the competence of the relevant local executive bodies (Article 20 of EC) and is conducted in accordance with the rules for public hearings. According to Article 57-2, local executive bodies provide the public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and decision-making process for this activity through the online resource, as well as using other means of informing twenty days prior to the public hearings.

The procedure for conducting public hearings is determined by the authorized body in the field of environmental protection. Law of the Republic of Kazakhstan from April 8, 2016 №491 added added article 57-2 "On the public hearings" to the EC-~~RK~~.

±

1. Conduct public hearings, necessarily on the projects:

1) in the areas of agriculture and forestry, mining and manufacturing industries, construction, transport, electricity, heating, water supply, sewerage, waste management and other sectors of the economy according to the list determined by the authorized body in the field of environmental protection;

2) that provide accommodation facilities in water protection zones and zones of sanitary protection of water sources;

3) that provide accommodation facilities on the lands of the state forest fund;

4) that provide deforestation in the lands of the state forest fund, including greenery within the boundaries of settlements;

5) that provide a nature activity in protected areas and the former Semipalatinsk nuclear test site;

6) are the object of the state ecological examination, referred to in sub-paragraphs 1), 6), 8), 9) and 10) of paragraph 1 of Article 47 of this Code.

With regard to paragraph 3:

The legislation of the Republic of Kazakhstan determined reasonable deadlines for decision-making on public participation.

In accordance with ~~paragraph~~- 10 of the Rules of Holding Public Hearings Customer shall inform the concerned public at the state and Russian languages no later than twenty days prior to the public hearings. Paragraph 12 of the Rules states that the local executive bodies provide the public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and to the decision-making process on this activity through the Internet resource, and also using other means of informing twenty days prior to the public hearings.

According to ~~paragraph~~- 13, ~~±~~ the concerned public provides comments and suggestions (if any) on documentation of the projects to the Customer on time, no later than 3 working days before the date of the public hearing. In accordance with paragraph 19, public hearings results are ~~protocol~~ executed in protocol. The protocol is signed by the chairman and the secretary of public hearings and posted on the Internet web-site of the local executive body not later than seven working days after the public hearing.

The Rules for conducting public Hearings provide for conducting public hearings in the form of a survey. Paragraph 27 of the Rules stipulates that the responsible person of the local executive body together with the customer shall draw up a Protocol on holding public hearings in the form of a survey.

In accordance with paragraph 24, the customer publishes an announcement in the media about holding public hearings in the form of a survey in the state and Russian languages. According to the Rules of Conducting Public Hearings, the period of conducting public hearings in the form of a survey is at least 20 working days. Also, paragraph 25 of the Rules, the responsible person of the local executive body, in case of receiving comments and (or) proposals from the interested public, sends them to the customer. Further, the Customer analyzes the comments and / or suggestions received from the public. The responsible person of the local executive body together with the customer shall draw up a Protocol on the conduct of public hearings. The Protocol reflects the comments and (or) suggestions from the interested public and the position of the customer on taking into account each comment and (or) suggestion, as well as information about the possibility of appealing the decision. The minutes of the public hearings are posted on the Internet resource of the local executive body no later than seven working days after the public hearings are held in the form of a survey.

Also, under article 67, the customer of the proposed activity is obliged to review the conclusions and recommendations contained therein within one month from the date of receipt of the public environmental assessment report and send their comments to the state environmental assessment body and the organizer of the public environmental assessment. The conclusion of the public environmental assessment should be considered during the state environmental assessment. The results of the review should be sent to the organizer of the public environmental assessment and to the authorized body in the field of environmental protection. The conclusion of the public environmental assessment can also be taken into account when making decisions by local executive bodies, financial organizations and the customer of the planned activity. The results of the public environmental assessment can also be taken into account when conducting a comprehensive non-departmental examination of projects (feasibility studies and design estimates) intended for the construction of buildings, structures and complexes, engineering and transport communications.

The Rules of the Public Hearings allow holding public hearings in the form of a survey. Paragraph 27 of the Rules established that the person in charge of the local executive authority, together with the Customer, make a protocol on holding public hearings in the form of a survey, not later than seven working days after the public hearing.

With respect to paragraph 4:

According to article 57-2 of the EC, public hearings are mandatory for projects that provide for:

- 1) the procedure in the fields of agriculture and forestry, mining and manufacturing, construction, transport, electricity, heat, water supply, sanitation, waste management and other sectors of the economy in accordance with the list determined by the authorized body in the field of environmental protection;
- 2) placement of objects in water protection zones and strips and zones of sanitary protection of water supply sources;
- 3) placement of objects on the lands of the state forest fund;
- 4) logging on the lands of the state forest fund, including landscaping within the boundaries of localities;
- 5) the activities of the nature user in specially protected natural areas and the territory of the former Semipalatinsk nuclear test site;
- 6) activities at the objects of the state environmental expertise. They are specified in subparagraphs 6, 8, 9 and 10 of paragraph 1 of Article 47 of this Code.

The public environmental assessment is also provided for in Article 60 of the EC.

The new version of the EC provides for ensuring public participation at the earliest stage, when all opportunities are open to consider various options and when effective public participation can be ensured in accordance with the requirements of the AC. According to Article 57-2 public hearings are necessarily held on the projects:

- 1) in the areas of agriculture and forestry, mining and manufacturing industries, construction, transport, electricity, heating, water supply, sewerage, waste management and other sectors of the economy in accordance with the list determined by the authorized body in the field of environmental protection;
- 2) that provide accommodation facilities in water protection zones and zones of sanitary protection of water sources;
- 3) that provide accommodation facilities on the lands of the state forest fund;

- 4) that provide deforestation in the lands of the state forest fund, including greenery within the boundaries of settlements;
- 5) that provide a nature activity in protected areas and the former Semipalatinsk nuclear test site;
- 6) are the object of the state ecological examination, referred to in sub-paragraphs 1), 6), 8), 9) and 10) of paragraph 1 of Article 47 of this Code. Order of the Minister of Energy of the Republic of Kazakhstan from June 10, 2016 № 240 approved the list of economic activities, the projects of which are to be submitted to a public hearing.

With respect to paragraph 5:

At the moment, the legislation does not provide for measures to encourage nature users to hold public hearings on applications for permits.

With regard to paragraph 6:

The legislation does not provide for a fee for access to information related to the decision-making process.

With respect to paragraph 7:

The rules for conducting public hearings provide for the following procedures:

The customer agrees in advance with the local executive body on the time and place of the public hearings, the preliminary list of the interested public and justifies the most effective ways of informing it (announcements in the media, information sheets, stands, written appeals) (clause 8 of the Rules);

The local executive body agrees on the list of interested public, the method of informing, the time and place of holding public hearings, and determines the person responsible for holding public hearings (paragraph 9 of the Rules for Holding Public Hearings).

For public hearings in the form of open meetings, the customer publishes an announcement in the media about holding public hearings in the form of open meetings in the state and Russian languages no later than twenty working days before the public hearings (paragraph 10 of the Rules for Holding Public Hearings).

The customer sends an announcement about holding public hearings, project documentation for posting on the Internet resource of the local executive body (paragraph 11 of the Rules for Holding public Hearings).

Local executive bodies, twenty days before the public hearings, provide open access to environmental information related to the EIA procedure of the planned economic and other activities and the decision-making process for these activities through an Internet resource, as well as using other means of informing (paragraph 12 of the Rules).

The interested public submits comments and suggestions (if any) on the project documentation to the customer within 3 working days prior to the date of the public hearing (paragraph 13 of the Rules).

Article 65 of the [Environmental Code](#) EC establishes that public environmental expertise is carried out subject to the registration of the application of the organizer of the expertise. The application for registration of the public environmental expertise is submitted by its organizer to the local executive bodies of the territory of which the activity of the object of expertise is planned. Local executive bodies are obliged to register or reject registration within ten working days from the date of submitting an application for conducting a public environmental assessment. An application for conducting a public environmental assessment, the registration of which was not rejected within the specified period, is considered registered. In case of rejection to register an application for a public environmental assessment, the local executive body informs the initiator and organizer of the public environmental assessment in writing with a reasoned justification of the reasons for the rejection.

With regard to paragraph 6:

Kazakhstan legislation does not provide payment for access to the information in the decision making process. According to Article 57 2 of the Environmental Code of Conduct public hearings are necessarily hold on the projects:

- 1) in the areas of agriculture and forestry, mining and manufacturing industries, construction, transport, electricity, heating, water supply, sewerage, waste management and other sectors of the economy in accordance with the list determined by the authorized body in the field of environmental protection;
- 2) that provide accommodation facilities in water protection zones and zones of sanitary protection of water sources;
- 3) that provide accommodation facilities on the lands of the state forest fund;

- 4) that provide deforestation in the lands of the state forest fund, including greenery within the boundaries of settlements;
- 5) that provide a nature activity in protected areas and the former Semipalatinsk nuclear test site;
- 6) are the object of the state ecological examination.

~~Paragraph 12 of the Rules states that the local executive bodies provide the public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and to the decision-making process on this activity through the Internet resource, and also using other means of informing twenty days prior to the public hearings.~~

~~According to para. 13. The concerned public provides comments and suggestions (if any) on documentation of the projects to the Customer on time, no later than 3 working days before the date of the public hearing. In accordance with paragraph 19, public hearings results are protocol executed. The protocol is signed by the chairman and the secretary of public hearings and posted on the Internet web site of the local executive body not later than seven working days after the public hearing.~~

~~According to paragraph 16, the Customer's Reports of the projects are heard. EC provides public environmental expertise as an activity carried out on a voluntary basis by expert commissions established by public organizations. Public environmental expertise shall consider any economic activities in compliance with the public interest to preserve favorable environment for the life and health of citizens. Such expertise could be initiated by any private and public organization interested in implementation of the subject of the public environmental expertise. (Article 60 of EC).~~

~~The organizer of public ecological expert examination is eligible for: asking the customer of the subject of the public environmental expertise to provide materials and documents needed for this expert examination. Customer of the subject is required to submit the necessary documents and materials on such examination (63 of the EC).~~

~~With respect to paragraph 7:~~

~~–Rules of public hearings imply the following procedures:~~

~~Customer pre negotiates the time and place of the public hearing with the local executive body and a preliminary list of the concerned public and provides the most effective ways of informing (ads in the media, newsletters, stands, written requests) (paragraph 8 of the Rules of the public hearings.);~~

~~Local executive body approves the list of the concerned public, the way of informing, time and venue of the public hearings, determines the person responsible for holding public hearings (para. 9 of the Rules of the public hearings).~~

~~The Customer shall inform the public concerned at the state and Russian languages no later than twenty days prior to the public hearings (para. 10 of the Rules of the public hearings).~~

~~Customer sends announcement of the public hearing, documents on the project to be placed on an Internet resource of the local executive authority (p. 11 of the Rules of the public hearings).~~

~~Local executive bodies provide public access to environmental information relating to the procedure for environmental impact assessment of planned economic and other activity and to the decision-making process on this activity through the Internet resource, and also using other means of informing twenty days prior to the public hearings.~~

~~According to para. 13. The concerned public provides comments and suggestions (if any) on documentation of the projects to the Customer on time, no later than 3 working days before the date of the public hearing.~~

With regard to paragraph 8:

In accordance with paragraph 9 of "Rules of the SGEE ' submissions on the SEER should contain the results of considering public opinion. At SGEE,

Customer provides a protocol of the hearing and the EIA -project –that is modified in accordance with the public opinion (in case of its qualified justification based on normative legal acts) and the comment on the suggestions of the public that the Customer finds irrelevant to be added to the project. Also, according to article 66, the results of the public environmental assessment are drawn up in the form of a conclusion of the public environmental assessment, which is of a recommendatory nature.

With regard to **paragraph 9**:

The conclusion of the state environmental expertise is sent by the nature user for posting on the Internet resource of the local executive body in the field of environmental protection within 5 working days after its receipt by the nature user.

After making a decision on the conclusion of the state environmental expertise, all concerned persons are given the opportunity to obtain information on the object of expertise (Article 57 of the EC). Disagreements in the implementation of the SEE are considered through negotiations or in court (Article 58 of the EC).

It should be noted that the minutes of the public hearings are advisory in nature and are not a decision of the authorized body.

The result of the SER is an expert opinion. All interested parties are allowed to obtain information on the subject of the expertise after the decision on GEE is made (Article 57, EC). Discordance in the implementation of the SEE are reviewed by negotiation or by the courts (Article 58 EC).

It is necessary to modify the legislation, as the protocol of public hearings is a recommendation but not a decision of the authorized body. Internet resources should contain the MOOC texts on environmental impact statements and resolutions justifying the adoption of these decisions.

With regard to **paragraph 10**:

In accordance with and p. 17, "Rules of the SEER", in case of the negative result with the "not approved/greed", initiator modifies the material on the observations of the state ecological examination and submit them to re-state ecological expertise or rejects/fuses the proposed position.

With regard to **paragraph 11**:

In accordance with paragraph 5 of Article 12 of the Law "On Food Safety" (dated July 21, 2007 No. 301), the turnover of GMOs and biologically active food additives is allowed only after a scientifically based confirmation of their safety, which is carried out in accordance with the procedure established by law, and their state registration, in accordance with Article 34, before the establishment of a scientifically based confirmation of the safety of GMOs in food products, the level of their content in food products is not higher than that established in the European Union states. The domestic procedure for the ratification of the amendments to the AC with regard to genetically modified organisms is being carried out. The ratification is scheduled for 2021 in accordance with the plan for the ratification of international treaties and agreements. In accordance with paragraph 5 of Article 12 of the Law "On food safety" (from July 21, 2007 №301) turnover of genetically modified objects and biologically active food additives shall be permitted only after scientifically sound confirmation of their safety, holding of which is carried out in accordance with the legislation of the Republic of Kazakhstan, and their state registration in accordance with Article 34. Before scientifically sound confirmation of safety of GMOs in food products is established, accepted level of its percentage in food products should not exceed the one established in the countries of the European Union.

XVI. Obstacles encountered in the implementation of Article 6

Describe any *obstacles encountered* in the implementation of any of the paragraphs of article 6.

Answer:

In some cases, non-technical summaries are not provided during the organization and conduct of the hearings.

The current Rules for conducting the SEE do not contain procedural rules on public participation in the process of conducting the SEE.

Currently, the legislation does not fix the moment of public involvement at the very initial stage of the process of making environmentally significant decisions - the selection and reservation of a land plot for the planned economic activity.

The Land Code does not provide for public participation at this stage (Article 43, paragraph 1).

The discrepancy between the basic national legal norms of land legislation and the norms of environmental legislation—Chapter 6 of the EC and the Rules for conducting the SEE, may complicate the implementation of the provisions of paragraph 4 of Article 6 of the CA. The rules establish requirements for the composition and content of materials submitted to the SEE. In accordance with the Rules, the act of selecting a land plot, land management business are not in themselves objects of the SEE, these documents, together with other documentation, are submitted to the SEE. The documentation also does not mention the materials of documented public participation (protocols) at the stage of land plot selection as an integral part of the EIA.

At the later stages of the development of project documentation, all design decisions are already linked to the specific characteristics of a particular land plot. At the same time, the Customer has already spent significant amounts, human and time resources on the development of relevant documentation; on obtaining various approvals and conducting an EIA, including public hearings or other "public opinion accounting" - in accordance with paragraph 8 of the Instructions for conducting an EIA in the development of pre-planned, planned, pre-project and project documentation. At this stage, it is very difficult to "take into account public opinion" and change anything in the pre-project or project documentation submitted to the SEE.

In accordance with Article 136 of the EC, state bodies may engage individuals and legal entities on a voluntary basis to work to identify violations of environmental legislation. The authorized body in the field of environmental protection for the implementation of cooperation and interaction draws up a list of public associations, the charter of which provides for the functions of public environmental control. This rule may impose restrictions on public participation on the basis of the absence of an Authorized body in the field of environmental protection in the "list" and the need for "environmental control functions" in the charter. However, there is no list of public organizations that exercise public control, and the provisions of the EC on public environmental control and public environmental expertise are poorly implemented. In 2019, with the support of the OSCE office in Nur-Sultan, employees of the NGO-public Association Karaganda Regional Environmental Museum (hereinafter referred to as the Ecomuseum) implemented the project "Improving the effectiveness of public environmental hearings as the main tool for implementing the requirements of the OK".

In accordance with Article 57 of the EC: "1. The publicity of the state environmental expertise and the participation of the population in decision-making on issues of environmental protection and the use of natural resources shall be ensured through public hearings."

In the course of the project, public hearings were monitored during the environmental assessment of EIA projects of various industrial and construction facilities, as well as online questionnaires were conducted for employees of state agencies and the expert community. The survey revealed the opinion of stakeholders on the effectiveness of the hearings and ways to improve the legislation on their conduct. Violations of the law were identified during the preparation and conduct of the hearings. As

a result of the monitoring, the following typical violations of the law were found:

40-50% of hearings are held without the required participation of local executive bodies of regions and cities of republican subordination (Article 20 of the EC "Local executive bodies of regions and cities of republican significance" (MIO)). Instead, any other local executive bodies are invited – akimats of districts, cities of regional subordination, villages, rural districts, etc.

Accordingly, in 40% of M & E hearings:

- absent from the hearing;
- do not open hearings;
- do not organize or conduct the selection of the chairman;
- do not include public comments in the minutes;
- do not publish ads, project materials and protocols on their portals;
- do not involve interested state bodies.

* 50% of hearings are held without the legal approval of the M & E department,

* 20% of the hearings are held without an EIA report on the proposed activity, that is, without any provision of information during the hearings, as required by the Rules.

* 30% of hearings are held with the provision of an incomplete report in violation of the requirements of Article 41 "Documentation of environmental impact Assessment". Among the typical violations—the lack of visual information about the exact location of the

object, its coordinates, the distance to residential buildings, etc. There are no maps and diagrams of the mutual location of settlements and planned objects, which makes it impossible to understand their impact on the population and the environment. Information is often provided in an unadapted and difficult-to-understand form for the population, using highly professional language and specific terms.

* 29% of hearings are held without publishing the minutes on the M & E portal.

* 90% of the minutes of the hearing are the formal agenda of the hearing, limited to the wording "report submitted", "questions asked", "answers received". Public comments are not included in the minutes of the hearing, or are included in an altered form, distorting the essence of the issues. This practice prevents the public from obtaining reliable information about the impact of upcoming activities, and also prevents all comments from being taken into account when conducting an environmental assessment.

* 40% of the hearings are held without mandatory publication of the EIA project materials on the M & E portal.

* 65% of ads on M & E sites do not meet the requirements of the Rules. Incomplete data is specified, including: there is no Internet resource and / or e-mail of the customer, where comments and suggestions are accepted, or the address of the place where members of the public can get acquainted with the materials of the projects; the body conducting the state environmental expertise is not specified; the address of the Internet resource where the project documentation is posted, etc. is not published.

* 40% of ads in the media are published with violations of the Rules – only in one language, all the information required by the Rules is not specified, including the body conducting the examination, the addresses where the project materials are published and the addresses for accepting proposals and comments, the name and contacts of the developers of the documentation, etc.

In addition, it has become a common practice to publish announcements about hearings in the media, which are published not at the location of the projected object, but sometimes several hundred kilometers away from it.

After monitoring the public's access to information about decision-making processes on the Internet resources of state bodies and taking into account the public opinion, the IAC OOSRSE IAC EP notes the following.

According to the results of monitoring of official Internet resources in (hereinafter—MIO of local executive bodies in regions and cities of republican significance), ~~sl~~violations were revealed:In the course of organizing and conducting hearings in some cases non-technical summary is not available.

Current rules of the SEE does not contain procedural rules on public participation in the process of the SER.

No fixed time of public involvement at the initial stages of environmental decision-making process—the selection and reservation of land for the proposed economic activity.

The Land Code is not provided for public participation at this stage (Clause 1 Article 43).

Disagreement between basic national legal rules of the land legislation and norms of environmental legislation—Chapter 6 of the EC and the Rules of the SEE, could complicate the implementation of the provision⁴ of Article 6 of AC. These Rules prescribe the requirements for the composition and the content of the materials submitted for SEE. In accordance with subparagraphs 2 and 5.11.1 and paragraph 18 of these Rules, act of the land choice and the land management issues are not themselves the subject to SEE; these documents are submitted to SEE as a part of the whole documentation. Documented materials (protocols) on public participation on the stage of choosing the land as an integral part of the EIA are not mentioned neither.

In the later stages of the development of project documentation all project decisions have already been linked to the specific characteristics of a particular plot of land. In this case the customer has already spent considerable sums of both human and time resources to develop relevant documentation and to obtain to obtain various approvals and EIA, including a public hearing or a "consideration of public opinion" in accordance with paragraph 8 of the Instructions on EIA when developing pre-planned, pre-project and project documentation. At this stage it is very difficult to "take into account the public opinion," and to make changes in the pre-project or project documentation submitted for SEE.

In accordance with Article 136 of the EC authorities could attract natural and legal persons on a voluntary basis to work to identify violations of environmental legislation. The

authorized body in the field of environmental protection for the implementation of cooperation and collaboration develops a list of public associations whose Charters provide public environmental monitoring functions. This provision may impose restrictions for public participation on the basis of its absence in the "list of authorized bodies in the field of environmental protection" and the necessity of presence of "environmental monitoring functions" in the Charter. However, the list of non-governmental organizations carrying out public control is not made; the provisions of the EC on public environmental control and public environmental review are poorly implemented.

Advertisements posted		Protocols posted		Violations according to announcements		Violations according to protocols	
2019	2020	2019	2020	2019	2020	2019	2020
1780	1754	1632	1391	333	99	665	382

The results of the analysis show that systematic violations of the Rules are of a procedural nature and are repeated from year to year (violations of the terms of placing ads and protocols).

In connection with the introduction of the state of emergency in the Republic of Kazakhstan from March 16, 2020 to April 15, 2020, in accordance with Presidential Decree No. 285 of March 15, 2020 and with the subsequent extension of the state of emergency in the territory until May 11, 2020 (hereinafter referred to as the Decree), public hearings held in the form of open meetings had to be held in the format of videoconferencing (hereinafter referred to as VKS).

Monitoring of public hearings on the websites of local executive bodies (hereinafter referred to as M & E) for the period from March 16 to June 2020 revealed violations of non-compliance with the recommendations for holding public hearings in the VKS format.

Also, when conducting public hearings in the form of VKS, numerous complaints of participants about the inability to participate in the hearings were noted. Among them are such complaints as:

- technical problems when trying to join the VCS;
- lack of proper organization of the VCS process (presence of noise);
- unable to connect to the VCS, or waiting for a long time to connect.

Currently, the [MAGPRMEGNR](#) is working on the creation of a single portal for posting announcements and protocols on planned and conducted public hearings. In this regard, the [Ministry of Ecology, Geology and Natural Resources MEGNR](#) has reached an agreement with the OSCE Program Office in Nur-Sultan to provide financial and expert support for the initiative to centralize announcements and minutes of public hearings on the platform of a Single Portal.

Work in this direction continues.

XVII. Additional information on the practical implementation of the provisions of Article 6

Provide further information on the practical application of the provisions of Article 6, relating to public participation in decisions on specific activities, such as whether any statistics or other information on public participation in decisions on specific activities or on the inapplicability of the provisions of this article to proposed activities serving national defense interests is available.

On April 8, 2016, changes and additions were made to the EC. According to article 57-2, the list of mandatory projects subject to public hearings is defined. The list of types of economic activities, the projects of which are subject to public hearings, was approved by Order of the Minister of Energy No. 240 of June 10, 2016. The list of types of economic activity is given in accordance with Appendix 1 of the [OKAC](#).

By Order of the Minister of Energy No. 260 of 21.06.2016, amendments and additions were made to the Rules for Holding public hearings. Changes have been made to the procedure for holding public hearings. According to the current regulations, public hearings are held in the form of open meetings and in the form of a survey

Examples of the implementation in practice of this article of the convention are the results of a number of court proceedings that took place due to conflicts between members of the public, executive bodies and persons engaged in economic and other activities.

1. In the current activities, there are examples of non-compliance with the provisions of the convention of the actions of state bodies and commercial organizations. According to article 6, paragraphs 4 and 7, of the convention AC, public participation should be defined at all stages of the activity, including the earliest, as well as providing all possible opportunities for voicing comments, analysis, or opinions that, in the opinion of the public, are relevant to the planned activity. Such opportunities were not provided during the consideration of the project for the construction of a branch of ForteBank JSC on the territory of the Densaulyk Square. The State Institution "Management of Subsoil Use, Environment and Water Resources of the Pavlodar region" did not fulfill its functions provided for by the OK and EC. For this reason, the NGO "ECOM" sent an application to the court to challenge the legality of the actions (inaction) of state bodies.

During the first meeting on July 22, 2019. The respondent of the State Institution "Department of Subsoil Use, Environment and Water Resources of the Pavlodar region" did not deny that the public had the right to participate in the decision-making. The hearings were supposed to be held, but citing some "legislative conflicts", the office was not able to ensure the holding of the hearings, which were supposed to take place on May 16, 2019. They were postponed indefinitely. JSC "ForteBank" refused to conduct them, notifying the appropriate authorities by making changes to the project. Later it turned out that the only change was the indication of the absence of green spaces.

The second defendant of the State Institution "Department of Housing and Communal Services, Passenger Transport and Highways of the city of Pavlodar" did not appear at the court session for a disrespectful reason, which is why it became necessary to hold a second meeting. On May 23, 2019, the Department of Housing and Communal Services, Passenger Transport and Highways of the city of Pavlodar provided the bank with a letter about the absence of green spaces on the land plot allocated for construction, which formed the basis for a positive conclusion of the expert examination carried out by Tan Expert LLP (the city of Pavlodar). Shymkent) without holding public hearings.

The representative of ForteBank JSC, invited by the court as a third party, also failed to attend the first court session.

Conclusion: The public was not provided with an opportunity to voice their opinion on the issue of preserving the quality of the healthy environment of the city of Pavlodar, which is an important issue. The existence of such an opinion was not taken into account and taken into account by the higher authorities.

2. A similar precedent, due to which damage was caused to residents, was the issuance of a sanitary and epidemiological conclusion for "U..." LLP by the Department of Public Health Protection of the city of Almaty. This conclusion did not comply with the norms of the Code "On the Health of the People and the Health System", the law "On Architectural, Urban Planning and Construction Activities in the Republic of Kazakhstan" and the requirements of the Sanitary Rules "Sanitary and epidemiological requirements for the establishment of a sanitary protection zone of industrial facilities".

As a result of the above-mentioned actions of the Department, local residents suffer from the activities of the enterprise that produces concrete, accepts, stores and sells cement. And on January 17, 2019, an application was submitted to the SMES to protect the interests of residents of Bokeikhanov Street in Almaty, the Ecological Society and an indefinite circle of persons. The Department of Public Health Protection of the city of Almaty is involved as a defendant. All court sessions resulted in refusals to satisfy the complaint

3. Residents of Stepnogorsk, the villages of Aksu and Bestobe began to fight against the construction of factories, quarries and warehouses with waste containing polychlorinated biphenyls. Residents of the village of Aksu learned that another gold extraction plant will be built near the village. As it turned out, on August 3, 2018, the company held public hearings on the pilot development in Stepnogorsk, bringing together employees of Adelya Gold, Aksu Akim and several people from Stepnogorsk, without the presence of the residents of the village themselves. The residents were informed that all the documents and permits were available, and the mayor of Stepnogorsk signed that the hearings were held. In this regard, the residents of the village of Aksu, more than once offered the management of "Adelya Gold" LLP to hold new public hearings-already on the territory of the village and with the participation of residents. Residents believe that their rights to access and completeness of information were not sufficiently ensured before the public hearings in 2018.

4. In 2019, Forte Bank JSC, which received a lease of a part of the plot in the Densaulyk Square in Pavlodar, violated the terms of the contract by starting illegal demolition of green

spaces. Citizens expressed indignation that 51 trees were cut down. Representatives of the initiative group blocked the way for cars loaded with felled trees to leave the square. The police officers who arrived at the scene did not reveal any violations of public order. Participants of the public association "Ecom" defended the park area, trying to find out the legality of the construction of a bank on the site of green spaces, environmentalists appealed to various authorities. According to the results of the conducted verification measures, it was established that the subject of the branch of ForteBank JSC does not have a positive conclusion of the state environmental expertise on the EIA of the working project "Construction of the branch of ForteBank JSC in the city of Pavlodar". Practice shows that officials first give up the land, and then try to hold public hearings on the demolition of trees. Although it should be the other way around. The housing and utilities department promised to hold public hearings in mid-May, but they were postponed for an unknown period.

5. In 2019, the President of Kazakhstan, Kassym-Jomart Tokayev, at a meeting on the socio-economic development of the city of Almaty, banned the construction of a resort on the territory of the Kok-Zhailau tract. This issue is under the direct control of the Head of State. On September 30, 2020, the Law "On Amendments and Additions to Certain Legislative Acts on Specially Protected Natural Territories" was signed, which provide for the return to the specially protected natural territories of reserve lands previously withdrawn from their composition for the construction of tourism facilities, water management facilities, the arrangement and operation of state border facilities, defense needs and not used for these purposes.

We note that the adoption of the Law "On Amendments and Additions to Certain Legislative Acts on Specially Protected Natural Areas" is the result of taking into account the opinion of effective public participation in decision - making on the Kok-Zhailau project. April 8, 2016, Amendments to the Environmental Code of the Republic of Kazakhstan are introduced. According to Article 57 2 a list of mandatory projects subject to public hearings was approved. The list of economic activities, the projects of which are to be submitted to a public hearing, approved by the order of the Minister of Energy of the Republic of Kazakhstan № 240 from June 10, 2016. The list of economic activities is provided in accordance with Annex 1 of the Aarhus Convention.

Order of the Minister of Energy of the Republic of Kazakhstan № 260 of 21/06/2016 introduced changes and additions to the rules for public hearings. Changes have been made in terms of the order of holding public hearings. According to current regulations, public hearings are held in the form of public meetings and in the form of survey.

XVIII. Web sites related to the implementation of Article 6

Enter the relevant web sites, if any::

www.akorda.kz/, www.carecnet.org, www.pravstat.prokuror.kz,
www.sud.gov.kz, www.akorda.kz/, www.carecnet.org, www.pravstat.prokuror.kz,
www.sud.gov.kz,
www.osce.org/astana, <http://www.greensalvation.org/>, www.iacoos.kz,
www.ecogeo.gov.kz, www.energo.gov.kz, <http://ecogofond.kz/>, www.upr.astana.kz,
www.osce.org/astana, <http://www.greensalvation.org/>, www.aarhus.kz, www.iacoos.kz,
www.ecoinfo.kz, www.energo.gov.kz.

XIX. Practical and / or other measures taken to ensure public participation in the preparation of plans and programs relating to the environment, in accordance with the provisions of Article 7.

List the appropriate practical and / or other measures taken to ensure public participation in the preparation of plans and programs relating to the environment, in accordance with the provisions of Article 7. Specify how relevant definitions from Article 2 and the non-discrimination requirement from paragraph 9 of Article 3 are transposed into national legislation.

Answer: In accordance with paragraph 4 of Article 17 of the Law "On Access to Information" (No. 401-V of November 16, 2015), a number of works are being carried out. State bodies-

developers of draft regulatory legal acts on the Internet portal of open regulatory legal acts, before sending for approval to the interested state bodies for public discussion, draft concepts of draft laws and regulatory legal acts are posted together with explanatory notes and comparative tables to them (in cases of amendments and (or) additions to legislative acts). Reports on the results of the public discussion are also posted on the Internet portal of open regulatory legal acts.

In addition, article 5 of the Law " On Public Councils " (No. 383-V of November 2, 2015) establishes Public Councils under ministries, bodies directly subordinate and accountable to the President, as well as under local government bodies. The purpose of the activity of public councils is to express the opinion of civil society on socially significant issues. Article 5 of the Law on Public Councils establishes the powers of Public Councils to:

- discussion of draft budget programs of the administrator of budget programs, draft strategic plans or programs for the development of territories, draft state and government programs;

- discussion of the implementation of the budget programs of the administrator of budget programs, strategic plans or programs for the development of territories, state and government programs;

- participation in the development and discussion of draft regulatory legal acts. They relate to the rights, freedoms and obligations of citizens, with the exception of draft regulatory legal acts of central and local executive bodies, as well as akims, which provide for the adoption of decisions on the establishment (cancellation) of a quarantine zone with the introduction of a quarantine regime in the relevant territory. On the establishment (removal) of quarantine and (or) restrictive measures in cases provided for by legislation in the field of veterinary medicine, as well as the declaration of an emergency of a natural and man-made nature;

- development and submission to state bodies of proposals for improving legislation, etc.

In accordance with the Law "On Public Councils", the Public Council for Ecology, Geology and Natural Resources was established in August 2019 (Order of the Acting Minister No. 20-P of 04.09.2019).

The activities of the Public Council are regulated by the Constitution and the current legislation.

The Public Council consists of 22 representatives of non-profit and non-governmental organizations and 8 employees of the [MAGPRMEGNR](#). The Council has 4 commissions in the following areas: ecology, budget, strategic and regulatory, geology and water resources, forestry, fisheries and wildlife.

In 2019, three meetings of the Public Council were held: on September 12, November 19, and December 11.

In total, during 2019, the Public Council considered 105 draft NPA, of which 99 were approved and recommended for adoption, comments and suggestions were sent to the authors of 6 projects, and 5 projects are under consideration.

On December 21, 2020, the composition of the Public Council was expanded (31 representatives of non-profit and non-governmental organizations and 3 representatives of the Ministry) (Ministry Order No. 327-P of December 21, 2020).

In 2020, 2 meetings of the Public Council and the Minister's report to the Public Council were held.

A special section has been created on the [MEGPRMAGNR](#) website, where information about the activities of the Public Council and minutes of meetings of its commissions are posted <http://ecogeo.gov.kz/ru>.

On January 2, 2021, the new version of the [Environmental Code EC](#) was adopted.

XX. Opportunities for public participation in the formulation of policies relating to the environment, provided in accordance with the provisions of Article 7.

Explain what opportunities are provided for public participation in the development of environmental policy in accordance with the provisions of Article 7.

Answer:

The documents of the State Planning System (~~hereinafter – System~~) in accordance with the approved State Planning System in the Republic of Kazakhstan (Government Decree No. 790 of November 29, 2017) include:

1) Development Strategy of Kazakhstan until 2050;

- 2) Strategic development plan up to 10 years inclusive, Forecast scheme of territorial-spatial development of the country;
- 3) National security strategy for 5 years or more than 5 years;
- 4) Forecast of socio-economic development for 5 years;
- 5) State programs (at least 5 years);
- 6) Strategic plans of state bodies for 5 years;
- 7) Programs for the development of territories for 5 years;
- 8) Development strategies for 10 years of national managing holdings, national holdings and national companies with state participation in the authorized capital.
- 9) Concept for the transition to a "green economy"

In accordance with paragraph 78 of the System, a state program is being developed for the implementation of systemic reforms and tasks of the Strategic Development Plan, directions of the National Security Strategy by the interested state body. Further, the draft state program is posted on the Internet resource of the state body and the Internet portal of open data by the state body responsible for the development of the state program (except for information of a classified nature and for official use), for public discussion and is being finalized taking into account the proposals received (clause 81 of the System).

Clause 56 of the System, participants in the processes of the State Planning System are public authorities, legal entities with state participation, representatives of public, scientific and private organizations, individuals. The documents of the State Planning System (hereinafter referred to as the System) in accordance with the approved System of State Planning in the Republic of Kazakhstan (Government Resolution No. 790 of November 29, 2017) include:

- 1) Kazakhstan's development strategy until 2050;
- 2) Strategic development plan up to 10 years inclusive, Forecast scheme of territorial and spatial development of the country;
- 3) National security strategy for 5 years or more than 5 years;
- 4) Forecast of socio-economic development for 5 years;
- 5) state programs (at least 5 years);
- 6) strategic plans of state bodies for 5 years;
- 7) territorial development programs for 5 years;
- 8) development strategies for 10 years of national management holdings, national holdings and national companies with state participation in the authorized capital.
- 9) The concept for the transition to a "green economy"»

In accordance with paragraph 78 of the System, a state program is developed for the implementation of system reforms and tasks of the Strategic Development Plan, directions of the National Security Strategy by the interested state body. Further, the draft state program is placed on the Internet resource of the state body and the Internet portal of open data by the state body responsible for the development of the state program (with the exception of information of a secret nature and for official use), for public discussion and is finalized taking into account the received proposals (paragraph 81 of the System).

Point 56 of the System participants in the processes of the State Planning System are state authorities, legal entities with state participation, representatives of public, scientific and private organizations, and individuals. National legislation stipulates that all plans, programs and policies, including those concerning environmental protection are developed in accordance with the Decree of the President of the Republic of Kazakhstan dated June 18, 2009 № 827 "On the System of state planning in the Republic of Kazakhstan" (hereinafter – the Decree).

In accordance with paragraph 61 of the Decree, to the processes of state planning systems include: the development, approval, implementation, monitoring, evaluation, adjustment and control of the implementation of its documents.

In accordance with paragraph 62 of the Decree, the following are the participants of the processes of state planning systems : public authorities, legal entities with state participation, representatives of public, academic and private organizations, and individuals.

XXI. Obstacles encountered in the implementation of Article 7

Describe any obstacles encountered in the implementation of Article 7.

Answer:

~~The National legislation lacks experience in conducting strategic environmental assessment of plans, policies, programs. The Rules of the public hearings do not cover the diversity of shapes and performance criteria (timeliness, completeness and adequacy) of public participation in environmental decision-making in the development of the state, branch and regional programs for the development of economic sectors, schemes of productive forces. So far there is no experience in conducting strategic environmental assessment of plans, policies, programs.~~

XXII. Additional information on the practical implementation of the provisions of Article 7

Provide further information on the practical application of the provisions of Article 7, relating to public participation in decisions on specific activities.

Answer:

~~Public participation in the development of strategies, policies, programs is often advisory in nature. Public participation in the development of strategies, policies, programs is often advisory in nature. There is no feedback mechanisms between the decision makers and the public on the issues discussed.~~

XXIII. The websites that are relevant to the implementation of Article 7

Give relevant website addresses, if available:

~~www.akorda.kz/, www.ecogeo.gov.kz, www.energo.gov.kz, http://ecogofond.kz/,
www.upr.astana.kz, www.almatyeco.gov.kz, www.upr.akmo.gov.kz,
www.tabigat.aktobe.gov.kz, www.priroda.zhetisu.gov.kz, www.atyrau.gov.kz, www.e-priroda.gov.kz,
www.uralsk.gov.kz, www.tbr.zhambyl.gov.kz, www.pr-resurs.kz,
www.kostanay-priroda.kz, www.kyzylorda.gov.kz, www.eco.mangystau.gov.kz,
www.tabigatpv.gov.kz, www.dpr.sko.gov.kz, www.turkistan.gov.kz,
www.shymkent.gov.kz, www.aarhus.kz, www.ecoinfo.kz, www.energo.gov.kz.~~

XXIV. Measures taken to promote public participation in the preparation of regulations and regulations that may have a significant impact on the environment, in accordance with the provisions of Article 8

Describe what efforts are made to promote effective public participation during the preparation of executive regulations and other generally applicable legally binding rules that may have a significant impact on the environment by public authorities, in accordance with the provisions of article 8. Specify how relevant definitions from Article 2 and the non-discrimination requirement from paragraph 9 of Article 3 are transposed into national legislation.

~~Answer: Legislation does not stipulate any discriminatory restrictions on the participation of natural and legal persons in the discussion and preparation of proposals concerning draft legislative and regulatory documents.
National legislation stipulates that all plans, programs and policies, including those related to environmental protection, are developed in accordance with the Government Decree "On approval of the state planning system of November 29, 2017 No. 790.
Clause 78 of the System establishes that a state program is being developed to implement systemic reforms and tasks of the Strategic Development Plan, directions of the National Security Strategy by the interested state body. Further, the draft state program is posted on the Internet resource of the state body and the Internet portal of open data by the state body responsible for the development of the state program (except for information of a classified~~

nature and for official use), for public discussion and is being finalized taking into account the proposals received (clause 81 Systems).

Clause 56 of the State Planning System, participants in the processes of the State Planning System are public authorities, legal entities with state participation, representatives of public, scientific and private organizations, individuals.

Public participation in the development of documents of the State Planning System is regulated by the Law of April 6, 2016 "On Legal Acts.

The procedure for posting and public discussion of draft regulatory legal acts is determined in the Rules for the placement and public discussion of draft concepts of draft laws and draft regulatory legal acts on the Internet portal of open regulatory legal acts approved by Order of the Minister of Information and Communications dated June 30, 2016 No. 22 (hereinafter - the Rules).

In accordance with the Rules, on the Portal of "electronic government" are placed draft normative legal acts (NLA) together with explanatory notes and comparative tables in Kazakh and Russian languages.

The term for public discussion of draft regulatory legal acts cannot be less than 10 working days from the date of their posting on the Portal. All received comments and proposals on the draft regulatory legal acts are published in the public domain.

The state bodies-developers of draft laws and regulations, within three working days after the end of the public discussion, consider the comments and (or) proposals of the public and make decisions on their acceptance or rejection, indicating the justification. After that, the State authorities form and publish a preliminary version of the report on the completion of the public discussion of projects.

Within 1 working day, after the publication of the draft report on the completion of the public discussion, an online public vote is held on the draft legal regulation submitted by the state body and on the comments and proposals submitted by the public.

After the completion of the voting, the state bodies-developers of the projects form and publish the final version of the report on the completion of the public discussion.

This report contains the following information:

- commented structural part of the regulatory legal act;
- text of comments and (or) proposals from the public;
- the text of the response of the state body;
- the number of votes "for" and "against" on the draft normative legal act, proposed by the state body, the developer;
- the number of votes "for" and "against" on the comments and proposals of the public on the draft law.

The Law of April 8, 2016 No. 491 Article 57 of the EC added new articles 57-1, 57-2, 166-1.

~~Answer: Kazakhstan legislation does not stipulate any discriminatory restrictions on the participation of natural and legal persons in the discussion and preparation of proposals concerning draft legislative and regulatory documents.~~

~~National legislation stipulates that all plans, programs and policies, including those concerning environmental protection are developed in accordance with the Decree of the President of the Republic of Kazakhstan dated June 18, 2009 № 827 "On the System of state planning in the Republic of Kazakhstan" (hereinafter - the Decree).~~

~~In accordance with paragraph 61 of the Decree, to the processes of state planning systems include: the development, approval, implementation, monitoring, evaluation, adjustment and control of the implementation of its documents.~~

~~In accordance with paragraph 62 of the Decree, the following are the participants of the processes of state planning systems : public authorities, legal entities with state participation, representatives of public, academic and private organizations, and individuals.~~

~~All documents of state planning systems (with the exception of Kazakhstan Development Strategy up to 2050) are the normative legal acts.~~

~~Public participation in the development of documentation of the state planning systems is regulated by the Law of the Republic of Kazakhstan "On Legal Acts" dated April 6, 2016 (before 6 April 2016 - Law of the Republic of Kazakhstan "On normative legal acts").~~

~~The order of placement and public discussion of draft laws and regulations is defined in the Rules of placement and public discussion of the drafts of bill concepts and normative legal acts on the website of public normative legal acts, approved by order of the Minister of Information and Communications of the Republic of Kazakhstan dated June 30, 2016 № 22 (hereinafter - Rules).~~

~~In accordance with the Rules, drafts normative legal acts (hereinafter — NLA) are posted on the Portal of "electronic government" — together with explanatory notes and comparative tables in Kazakh and Russian languages.~~

~~The period of public discussion of NLA projects may not last less than ten working days since the date of their placement on the Portal. All comments and suggestions received on the NLA drafts are published in the public domain.~~

~~State agencies developing NLA projects should consider all the comments and/or suggestions of the public and decide whether to accept them or decline after appropriate justification within three working days after the completion of public discussion. After, State agencies develop and publish primary version of the report on the completion of the public discussion of the draft.~~

~~The on line public vote on the NLA project and comments and suggestions of the public is held by the public authorities within one working day after the publication of the project on completion of the public discussion of the report. After the voting public agencies that develop projects form and publish the final version of the report on the completion of public discussion.~~

~~This report contains the following information:~~

- ~~–commented structural part of the NLA;~~
- ~~–text notes, and (or) a proposal from the public;~~
- ~~–public agency text response;~~
- ~~–number of votes "for" and "against" the NLA project, proposed by the developer of state authority;~~
- ~~–number of votes "for" and "against" on the comments and suggestions from the public on the draft NLA.~~

XXV. Obstacles encountered in the implementation of Article 8

Describe any obstacles encountered in the implementation of Article 8.

Answer: There are no obstacles encountered in the implementation of article 8.

~~*Answer:* The mechanism for the implementation of public participation in law making is not legally fixed. The proposals of the public are not required to be included in the comparative table of amendments to the bill. Mechanisms of Feedback on public offers are almost absent. Requirements for registration are applied to public ecological expertise of NLO drafts; and there is the possibility of refusing to register a public environmental expertise. As a result, the public often does not have a real opportunity to participate in the law making process, except for some isolated cases.~~

XXVI. Additional information on the practical implementation of the provisions of Article 8

Provide further information on the practical application of the provisions on public participation in activities within the scope of the coverage of Article 8.

Answer: The gaps and contradictions in the legislation identified as a result of the preparation of this National Report can serve as a good basis for public participation in the lawmaking process in accordance with Article 8 of the AC.

Private research is being conducted to assess the effectiveness of existing mechanisms to implement the provisions of the convention. During the preparation of the new edition of the draft Environmental Code, NGO employees made a number of proposals to improve national legislation.

- Elimination of the restrictive nature of the "List of types of economic activities, the projects of which are subject to public hearings" by adjusting to comply with the requirements of the AC;
- Detailing and strengthening of legislative requirements for the procedure for holding public hearings;
- Creation of a single Internet resource for materials of public hearings within the framework of e-government;

- Creation and transfer to the competitive environment of public services for the organization of public hearings by non-profit organizations;
 - Introduction into legislation of repeated public hearings and legislative requirements for consideration and consideration of proposals from the public;
 - Introduction into legislation of the concept and procedure for initiating public hearings at the request of the public;
 - Introduction of mandatory public hearings in all types of environmental expertise;
 - Adjustment of the legislation regulating the compliance of PRTRs with the requirements of national and international legislation.
- Many public organizations are engaged in the development of laws and regulations in the field of ecology. To date, they are participating in the discussion of Normative legal acts for the implementation of the environmental code in the new edition. ~~Answer: gaps and contradictions in the legislation of the Republic of Kazakhstan identified in a result of the preparation of the National Report can serve as a good basis for public participation in the law making process in accordance with Article 8 of AC.~~

XXVII. The websites that are relevant to the implementation of Article 8.

Give relevant websites, if available:

www.akorda.kz/, www.ecogeo.gov.kz/, www.energo.gov.kz/, <http://ecogofond.kz/>,
www.upr.astana.kz/, www.almatyeco.gov.kz/, www.upr.akmo.gov.kz/,
www.tabigat.aktobe.gov.kz/, www.priroda.zhetisu.gov.kz/, www.atyrau.gov.kz/, www.e-priroda.gov.kz/,
www.uralsk.gov.kz/, www.tbr.zhambyl.gov.kz/, www.pr-resurs.kz/,
www.kostanay-priroda.kz/, www.kyzylorda.gov.kz/, www.eco.mangystau.gov.kz/,
www.tabigatpv.gov.kz/, www.dpr.sko.gov.kz/, www.turkistan.gov.kz/, www.shymkent.gov.kz/,
www.energo.gov.kz/, <https://legalacts.egov.kz/>.

XXVIII. The legislative, normative and other measures taken to implement the provisions of Article 9 related to the access to justice.

Explain how each paragraph of the provision of the article 9 is implemented. Define how appropriate definitions from the article 2 and the requirement of non-discrimination from the paragraph 9 of the article 3 are transferred to the national legislation. Besides that, describe, in particular:

- a). In relation to paragraph 1, measures that were taken to ensure that:
 - i) any person who considers that his request for access to information that is submitted in accordance with Article 4, is not dealt with in accordance with the provisions of this article, has access to a review procedure in a court or another independent and impartial body established by law;
 - ii) such person also has an access to the fast procedure stated in the legislation that requires/does not require minimal amount of payment for the sake of reconsideration by the state agency or by another independent agency (not court) in cases when such consideration is prescribed by the court;
 - iii) public authority holding the information necessarily makes final decisions in accordance with this paragraph, and that reasons are stated in writing, at least in cases where the request for information is refused;
- b) Measures taken to ensure that (within the framework of the national legislation) concerned public meeting the criteria set out in paragraph 2 have access to a review procedure before a court and / or another independent and impartial body established by law in order to challenge the legality of any decision, act or omission subject to the provisions of article 6 from the substantive and procedural point of view.
- c) In regard to paragraph 3, - measures taken to ensure that members of the public meeting the criteria laid down in national legislation, if any, have access to administrative or judicial

- procedures to challenge actions and omissions of private persons and public authorities which contravene provisions of national law relating to the environment;
- d) In respect of paragraph 4 - the measures taken to ensure that:
- i) The procedures mentioned in paragraphs 1, 2 and 3 provide adequate and effective ways of legal defense;
 - ii) such procedures comply with the requirements of this paragraph in other respects as well;
- e) In paragraph 5 - Measures taken to ensure that public is provided with information on access to administrative and judicial review procedures

Answer: in regard to paragraph 1:

EC provides for state, industrial and public environmental control. The procedure for conducting public environmental control is determined by public associations in accordance with their charters (Article 135 of the EC).

To implement public environmental control, state bodies exercising state control in the field of environmental protection, protection, reproduction and use of natural resources ensure the publication of the results of individual inspections and annual reports. State bodies have the right to involve individuals and legal entities on a voluntary basis in work to identify violations of environmental legislation (Article 136 of the EC).

The procedures for public participation in access to justice in environmental disputes are enshrined in the Constitution, AC, Civil Procedure (CPC), Environmental, Forestry, Water Codes, Laws "On Specially Protected Natural Areas", "On Protection, Reproduction and Use of Wildlife", "On natural and man-made emergencies", "On public associations", as well as the normative resolution of the Supreme Court" On some issues of the application of environmental legislation by courts in civil cases. "

Courts accept for proceedings and consider civil cases on claims of environmental public organizations, including claims in defense of the interests of other persons, regardless of the nature of the stated claims. Failure to provide environmental information, provision of incomplete and inaccurate information or in violation of the established deadlines can be appealed to a higher state body (higher official) or to a court. At the same time, filing a complaint with a higher authority is not an obstacle to the applicant's simultaneous appeal to the court. State bodies and officials are obliged not to allow the appeal of a complaint to the detriment of the person who filed the complaint, or in the interests of whom it was filed, and also not to send complaints to officials whose actions are being appealed. The procedure for judicial appeal is established by Chapter 29 Code of Civil Procedure.

According to Art. 293 of the Code of Civil Procedure, decisions, actions (or inaction) of state bodies, local self-government bodies, public associations, organizations, officials, civil servants contested in court include collegial and individual decisions and actions (or inaction), as a result of which:

1) the rights, freedoms and interests of citizens and legal entities protected by law have been violated;

2) obstacles have been created to the exercise by a citizen of his rights and freedoms, as well as by a legal entity of his rights and interests protected by law;

3) a citizen or legal entity has been unlawfully imposed any obligation, or they have been unlawfully brought to justice.

A citizen and a legal entity have the right to apply to the court with a statement within three months from the day when they became aware of the violation of their rights, freedoms and interests protected by law. Missing the three-month deadline for filing an application is not a reason for the court to refuse to accept the application. The reasons for missing the deadline are clarified in the court session when considering the application on the merits and may be one of the grounds for refusing to satisfy the application.

According to Article 293 of the Code of Civil Procedure, decisions, actions (or inaction) of state bodies, local self-government bodies, public associations, organizations, officials, civil servants contested in court include collegial and individual decisions and actions (or inaction), as a result of which:

1) the rights, freedoms and interests of citizens and legal entities protected by law have been violated;

2) obstacles have been created to the exercise by a citizen of his rights and freedoms, as well as by a legal entity of his rights and interests protected by law;

3) a citizen or legal entity has been unlawfully imposed any obligation, or they have been unlawfully brought to justice.

A citizen and a legal entity have the right to apply to the court with a statement within three months from the day when they became aware of the violation of their rights, freedoms and interests protected by law. Missing the three-month deadline for filing an application is not a reason for the court to refuse to accept the application. The reasons for missing the deadline are clarified in the court session when considering the application on the merits and may be one of the grounds for refusing to satisfy the application.

The procedural law provides for the possibility for the public to appeal against judicial acts in the appeal, cassation procedure. Judicial decisions are made in writing with the public being given access to them. Legal costs will be reimbursed by the losing party in the dispute. At the same time, the state duty on non-property claims remains low and accessible to everyone. State duties for filing claims and reviewing judicial acts are not provided for by the current tax legislation. At the stage of execution of court decisions by the enforcement bodies, the possibility of ensuring the execution of the executive document as determined by the court is also provided. In addition, legal remedies are provided by the activities of the environmental prosecutor's office, as well as the Ombudsman, who considers appeals of citizens to actions and decisions of officials and organizations that violate their rights and freedoms guaranteed by the Constitution, legislative acts and international treaties.

In regard to paragraph 2:

Within the meaning of Article 8 of the Code of Civil Procedure, the public has the right to apply to the court with an application for the protection of the rights and legally protected interests of other persons or an indefinite circle of persons in cases stipulated by law.

According to Article 55 of the Code of Civil Procedure, in cases stipulated by law, organizations can apply to court with a claim to protect the rights, freedoms and legally protected interests of others at their request, as well as public or state interests.

On April 8, 2016, the EC was amended in terms of the rights and obligations of public associations in the field of environmental protection. According to subparagraph 1-1) of paragraph 1 of Article 14, public associations, when carrying out their activities in the field of environmental protection, have the right to apply to court in defense of the rights, freedoms and legitimate interests of individuals and legal entities, including in the interests of an indefinite circle of persons, according to issues of environmental protection and use of natural resources. Thus, the courts of Kazakhstan, implementing the provisions of the international treaty and national legislation, accept claims (statements) of environmental public associations for the protection of the rights of an indefinite number of persons on issues related to the environment.

In regard to paragraph 3.

In Kazakhstan, at the legislative level, real possibilities have been created for the judicial prohibition of the contested activity while the lawsuit is being considered in court by members of the public. These issues are regulated by Chapter 15 of the Code of Civil Procedure. In particular, according to Article 155 of the Code of Civil Procedure, at the request of the persons participating in the case, the parties to the arbitration proceedings, the court may take measures to secure the claim in any state of the case, if the failure to take such measures may complicate or make impossible the execution of the court decision.

Measures to secure a claim may be: 1) seizure of property; 2) prohibition of the defendant to perform certain actions; 3) prohibition of other persons to transfer to the defendant the property of the defendant or to fulfill obligations in relation to him; 4) suspension of the sale of property; 5) suspension of the contested act of a state body, organization or official (with the exception of specified cases), etc.

In case of violation of the prohibitions specified in this article, the guilty persons shall bear the responsibility established by the laws. In addition, the plaintiff has the right in court to demand from these persons compensation for losses caused by failure to comply with the ruling on securing the claim.

In regard to paragraph 4.

In Kazakhstan, there are forms of judicial and non-judicial legal protection. The public's legal remedies in court include the public's ability to take legal action. For example, appeals for damages, liquidation of the consequences of an environmental offense and compensation for moral harm, as well as in a special claim procedure for challenging decisions and actions (or inaction) of state authorities, local self-government, public associations, organizations, officials and civil servants. At the same time, the terms for consideration of claims and applications remain from one to two months. The legislation provides for such a form of legal protection as securing a claim, that is, the opportunity to apply to the court when filing a claim with an application for securing a claim. In regard to paragraph 5.

In order to improve the quality of drawing up the minutes of the court session, audio and video recording systems of trials (AVF) with the possibility of electronic recording have been installed in all halls. The equipment of the halls with the new AVF system in the republic is 100%.

The electronic notification of the participants in the proceedings is effective.

One of the main trends in the work of the judicial system is the prompt resolution of appeals through the courts' accounts on social networks. Also, for these purposes, the Call-center of the Supreme Court is used, to which over 44 thousand calls have been received over the past period.

In order to expand the availability of justice, reduce the time for paying state fees and administrative fines, a project has been implemented to install payment terminals for accepting cash payments in local courts.

On January 1, 2018, the Tax Code came into effect.

Subparagraphs 8), 28) of Article 616 of this Code establish that the following are exempt from payment of the state duty in the courts:

- plaintiffs in claims for the recovery of funds from the state to compensate for damage caused to the state by violation of environmental legislation;

- plaintiffs (applicants) in claims (statements) for the protection of the rights, freedoms and legitimate interests of individuals and legal entities, including in the interests of an indefinite circle of persons, on issues of environmental protection and the use of natural resources.

Court sessions are held via video conferencing, mobile video conferencing also via Skype in real time, and have uninterrupted communication. This ensures the direct participation of the parties in litigation from anywhere in the world (Washington, London, USA, France, England, etc.). Answer: in regard to paragraph 1:

Environmental control provides the state, production and public environmental control. The order of carrying out public environmental control is determined by public associations according to their charters (Art. 135 of EK).

In order to implement public environmental control the state bodies, which exercising the state control in the field of environmental protection, reproduction and use of natural resources, provide the publication of results of separate revisions and annual reports. State bodies were granted the right to involve individuals and legal entities on a voluntary basis in work on identification of violations of the ecological legislation (Art. 136 of EK).

Certain procedures of participation of the public in access to justice for ecological disputes are fixed in the following regulatory legal acts of RK: The constitution of RK, AC. Civil procedural code (GPC), Ecological, Forest, Water codes, the Laws "About Especially Protected Natural Territories", "About Protection, Reproduction and Use of Fauna", "About Architectural, Town planning and Sanitary and Epidemiologic Wellbeing of the Population", "About Emergency Situations of Natural and Technogenic Nature", "About Public Associations", and also in the standard resolution of the Plenum of the Supreme Court of RK "About Practice of Application by Courts of the Legislation on Environmental Protection".

In RK civil cases of claims of public organizations of an ecological orientation are accepted to consideration by courts, including claims for protection of interests of other persons, irrespective of nature of the declared claim requirements.

~~Refusing to provide ecological information, provision incomplete and unreliable information or with violation of established periods can result in appealing to higher public authority or to court. At the same time submission of the complaint to higher body isn't an obstacle for the simultaneous appeal of the applicant to court. Public authorities and officials are obliged not to allow the circulation of the complaint to the detriment of the person who has made the complaint or for the benefit of which it has been submitted, and also, not to send complaints to officials whose actions are appealed. The order of the judicial appeal is established in chapter 27 GPC.~~

~~According to Art. 279 of GPC joint and individual decisions and actions (or failure to act) belong to the decisions, actions (or to failure to act) state bodies, local government bodies, public associations, organizations, officials, government employees challenged in court as a result of which:~~

- ~~— 1) rights, freedom and interests of citizens and legal entities protected by the law are violated;~~
- ~~— 2) obstacles to implementation by the citizen of his rights and freedoms, and also the rights and interests of legal entity;~~
- ~~— 3) any obligation is illegally imposed on the citizen or the legal entity, or they are illegally made responsible.~~

~~The citizen and the legal entity have the right to take a legal action with the statement within three months from the date of when they have known of violation of their rights, freedoms and interests which protected by the law. The admittance card of three months term for the address with the statement isn't the basis for court to refusal in adoption of the statement. The reasons of the admittance card of term become clear in judicial session in case of consideration of the application in essence and can be one of the bases to refusal in allowance of the application.~~

~~The procedural law provided a possibility of the public to appeal against judicial acts in an appeal, cassation order. Judgment decisions are passed in writing with provision of access for the public. Legal costs are compensated by the party which lost lawsuit. At the same time, the state fee in claims of non property nature remains rather low and available to everyone. The state fee in case of review of judicial acts the existing tax legislation isn't provided. The possibility of ensuring execution of the executive document by determination of court is also provided in a stage of execution of judgments by bodies of executive production.~~

~~Besides, ways of legal protection are provided with activities of nature protection prosecutor's office, and also the Commissioner for Human Rights in the RK, which considering addresses of citizens on actions and decisions of the officials and the organizations violating their rights and freedoms guaranteed by the Constitution, legal acts and international treaties of RK.~~

~~In regard to paragraph 2:~~

~~For the purposes of Article 8 of the Code of Civil Procedure the public has a right to go to court to protect the rights and lawful interests of other persons or unspecified persons in the cases provided by law.~~

~~According to Part 1 of Article 56 of the Code of Civil Procedure, the organization may apply to the court to protect the rights, freedoms and lawful interests of other persons at their request, as well as public or state interests in cases stipulated by law.~~

~~April 8, 2016 Environmental Code of the Republic of Kazakhstan was amended in terms of the rights and obligations of public associations in the field of environmental protection.~~

~~According to subparagraph 1 1 Article 14, while conducting their activities in the field of environmental protection public associations have the right to go to court to protect the rights, freedoms and lawful interests of individuals and legal entities, including interests of an indefinite number of persons for the sake of environment and natural resources protection.~~

Thus, the courts of Kazakhstan accept the claims (statements) of an indefinite number of persons on the environment related issues in order to implement the provisions of the international agreement and national legislation.

In regard to paragraph 3.

In Kazakhstan, there were created real opportunities for the legal injunction of the contested activity for the period of court consideration of public representatives' claims. These issues are regulated by the Code of Civil Procedure, Chapter 15. In particular, according to article 158, court is eligible to take measures to ensure lawsuit in case when entities participating in arbitration apply for it. Lawsuit is ensured at any stage of the proceedings, if failure to do it may cause difficulties in executing the court decision.

Measures to ensure the claim can be: 1) seizure of property; 2) prohibiting the defendant from performing certain activities; 3) prohibiting other persons to transfer property to the defendant or to discharge liabilities in his regard; 4) suspension of the contested act of the state body, organization or official (except discussed cases), etc.

In case of violation of the prohibitions referred to in subparagraphs 2) and 3) of Section 159, CCP, culprits bear administrative responsibility. Moreover, the plaintiff is eligible to claim the culprits to make restitution for not considering the claim.

In regard to paragraph 4.

In Kazakhstan, there are judicial and non judicial forms of legal protection. Means of legal protection of the public in a court include the possibility of the public to apply to a court in a way of the claim procedure, for example, to claim for restitution, elimination of the consequences of environmental offense and moral damage compensation, and also in a special way of the claim procedure on contesting the decisions and acts of state authorities, local government, public associations, organizations and officials. At the same timing of consideration of claims is the same, from one to two months. The legislation provides such a form of legal protection as the maintenance of the claim, so that it is possible when suing to apply to the court with an application to ensure the claim.

In regard to paragraph 4.

In order to improve the quality of the court session documentation, there were established 957 systems of audio video fixation (AVF) of the new generation on the basis of modern technology with a possibility of electronic record-keeping. 79 functioning AVF systems were modernized (software replacement). 73,6 % of the court halls over the Kazakhstan are equipped with the new AVF system. "Summons", "Introduction to court documents," "Review of the court documents for notification" electronic services are being actively used. The Supreme Court Call Center started functioning. Electronic notification system for the participants of the legal proceeding is functioning.

April 8, 2016, Tax Code of the Republic of Kazakhstan was amended; natural and legal entities are freed from state taxation payments on environmental disputes in a non-pecuniary area.

XXIX. Obstacles encountered in the implementation of Article 9

Describe any obstacles encountered in the implementation of any of the paragraphs of article 9.

Answer: There are no obstacles to the implementation of any of the paragraphs of Article 9 of the AC.

It should be noted that according to paragraph 1 of Article 9 of the AGC, the review procedure must be carried out in a court or other "independent and impartial body established in accordance with the law". The concept of an "independent and impartial body" is well developed under the Convention for the Protection of Human Rights and Fundamental Freedoms. "Independent and impartial" bodies do not have to be courts, but they must fulfill

a quasi-judicial function, have due process guarantees, be immune to the influence of any branch of government, and not be associated with any private actor.

In Kazakhstan, disputes related to environmental protection are considered mainly in courts. However, this does not exclude out-of-court settlement of the dispute, which is provided for in Article 323 of the Environmental Code EC. For example, according to the rules established by Article 126 of this Code, in order to apply to the court with a complaint about decisions, actions (inaction) of an official authorized to exercise environmental control, a preliminary appeal of the interested person to this official or to a higher state body is required.

The normative resolution of the Supreme Court "On some issues of the application by courts of environmental legislation in civil cases" dated November 25, 2016 No. 8 "On some issues of the application of environmental legislation of the Republic of Kazakhstan in civil cases" explains the practice of application of environmental legislation by the courts. These norms relate to the implementation and protection of the rights of citizens and public organizations to receive environmental information, access to justice in accordance with the AC, restriction and / or suspension, termination of economic and other activities that damage the environment and public health. ~~Answer: The obstacles to the implementation of any of the paragraphs of article 9 of the Aarhus Convention are not detected.~~

~~It should be noted that according to paragraph 1 of Article 9 of the Aarhus Convention, consideration shall be carried out by a court or other "independent and impartial body established by law." The concept of "an independent and impartial body" is well-established under the Convention for the Protection of Human Rights and Fundamental Freedoms. "Independent and impartial" bodies do not necessarily have to be the courts, but they have to perform quasi-judicial functions, have to ensure required process, be unreachable for the influence of authority and not to be associated with any private entity.~~

~~In Kazakhstan, all disputes relating to environmental protection are considered mainly in the courts. However, this does not exclude out of court dispute settlement, as stipulated in Article 323 of the Environmental Code. For example, according to the rules established by Article 126 of this Code, to appeal to the court against the decisions, actions (inaction) of a person authorized to carry out environmental monitoring, it is necessary to pre-appeal to the official or to a higher state body.~~

~~In the end of November 2016, the Supreme Court of the Republic of Kazakhstan plans to adopt normative regulations on some issues on courts' application of the ecological legislation of the Republic of Kazakhstan for civil cases instead of the obsolete normative regulation of the Supreme Court of the Republic of Kazakhstan dated December 22, 2000 № 16 "On the practical application of the legislation on environmental protection by the courts", which was modified only once, on 25 June, 2010. Since then environmental legislation has abruptly changed, many features of the previous normative regulation have lagged behind and therefore interfere with judges in the administration of justice.~~

~~In a discussed project of the normative regulation it was explained how the courts apply the norms of environmental legislation related to implementation and protection of the rights of citizens and public organizations for information concerning environment, for access to justice with respect to the requirements of the Aarhus Convention, the restriction, suspension and (or) the termination of business and other activities that are harmful to the environment, life and health of the population.~~

XXX. Additional information on the practical implementation of the provisions of Article 9

Provide further information on the practical application of the provisions related to the access to justice in accordance with Article 9, for example, whether there are statistics on justice in environmental matters and whether there are any assistance mechanisms to remove or reduce financial or other barriers to access to justice.

Answer: A comprehensive analysis of laws, including provisions on the rights of individuals, public associations and other legal entities in the field of environmental protection, is quite fully carried out in the Training and Practical Guide for Judges on the Application of the Provisions of the AC in Kazakhstan. The sources of information are Art. 13 and 14 EC, Art. 12 and 13 of the Law "On Specially Protected Natural Areas", Articles 62-63 of the Water Code, Article 66 of the Forest Code, Articles 19-21 of the Law "On Radiation Safety of the Population", Article 13 of the Law "On Architectural, Urban Planning and Construction activities ".

The rights to access to justice of environmental associations include not only claims to protect the rights and interests of specific citizens in the event of damage (reflected in clauses 1 and 11, part 1 of article 14 of the EC and clause 15 of the normative resolution of the Supreme Court " On some issues of the courts' application of environmental legislation in civil cases ") and requirements for administrative or judicial cancellation of decisions on the location, construction, reconstruction or commissioning of enterprises, structures and other environmentally hazardous facilities, but also decisions on the limitation, suspension and termination of economic and other activities that have a negative impact on the environment and human health, as well as the protection of the rights and legitimate interests of an indefinite circle of persons.

The Supreme Court, together with the authorized body for the maintenance of legal statistics, is taking measures to optimize the collection and recording of statistical information from court cases on claims and applications of individuals and public environmental organizations in the field of the environment. At the same time, statistical data are reconciled with environmental public associations in the order of public control, which makes it possible to monitor all judicial acts on environmental disputes without exception.

According to the statistical data of all in the republic, the courts of first instance on claims related to environmental protection have completed the proceedings:

In 2017, 316 cases were received, 250 cases were considered with a decision, including 16 with the application of AC norms. In 2018, 245 cases, with a decision, 147 cases were considered (with the application of AC norms - 4). In 2019 - 560 cases, 274 cases were considered with a decision (using the AC-7 norms). In 2020 - 432 cases, with a decision, 228 cases were considered (using the AC - 1 norms).

Examples from judicial practice

1. Residents of the microdistrict of Almaty filed an application to the KSU "Department of Land Relations", in which they asked in court to terminate the economic activities of IE U. and LLP "ATC"; prohibit IE U. to place and engage in hazardous, harmful industrial activities, which require the establishment of a sanitary protection zone in non-residential premises.

This appeal was forwarded to the KSU "Management for control over the use and protection of land", which was answered that, according to the information of the automated information system of the state land cadastre, the land plot with the designated purpose of non-residential premises belongs to the ownership of the U. and is used by him in accordance with the intended purpose. In accordance with paragraph 1 of Article 109 of the Land Code, in the case of using a land plot within one functional zone, a change in the designated purpose of the land plot is not required.

PA Ecological Society "Z" appealed to the court in the interests of residents, indicating that the information provided in the response is unreliable, contradicts the information of KSU "Department of Architecture and Urban Planning"; asked to declare illegal the act of providing inaccurate information, to impose the obligation to provide the Ecological Society with the requested information.

By the decision of the district court of May 20, 2019, the application was denied, since the contested actions do not fall within the competence of the state body.

By the decision of the Judicial Collegium for Civil Cases of September 10, 2019, the court's decision was canceled, a new decision was made in the case to satisfy the application of the Society. It was declared illegal to provide false information in the response, with the imposition of the obligation to eliminate the violation in full.

According to clause 18 of the normative resolution of the Supreme Court "On some issues of the application of environmental legislation in civil cases" No. 8, state bodies, at the request of the public to provide environmental information, must provide it, taking into account the requirements of Chapter 21 of the EC, the Law "On Access to Information" and article 4 AC.

The arguments of the authorized body in the contested response are given without carrying out an inspection of the land plot, without visiting the address, not confirmed by any documents, and therefore the judicial board came to the conclusion about the validity of the stated requirements.

In the cassation procedure, the judicial acts were not appealed.

2. RSU "Department of Ecology" filed a lawsuit against LLP "K", State Institution "Office of Natural Resources and Environmental Management" to revoke the conclusion of the state environmental expertise, revoke the permit for emissions into the environment, suspend the operation of the landfill intended for processing and utilization of oily waste and drilling

waste in terms of the disposal of newly generated waste prior to the development of a landfill liquidation project and a state environmental impact assessment.

By the decision of the Specialized Interdistrict Economic Court of December 25, 2019, the proceedings in the case regarding the requirements to revoke the conclusion of the state ecological expertise were terminated, since these actions are not within the jurisdiction of the court.

By the decision of the same court dated December 25, 2019, the claims were satisfied, LLP "K" was deprived of a permit for emissions into the environment, and the operation of the landfill was suspended.

By the decision of the Judicial Collegium for Civil Cases of March 3, 2020, the court decision was upheld.

The court found that at the landfill, which has 4 sites, the Partnership carried out activities for the storage of wastes not provided for by the design decision; on waste processing not in full volumes (in order to reduce previously generated waste); wastes were placed in excess of the standard.

By the decree of the state environmental inspector dated September 4, 2019, "K" LLP was imposed an administrative penalty under article 328 of the Administrative Code in the form of a fine of 30 MCI. The decision was not contested and came into legal force.

In accordance with paragraph 5 of Article 293 of the EC, storage and disposal of hazardous waste are classified as environmentally hazardous economic activities. Storage and disposal sites for hazardous waste are environmentally hazardous facilities.

The court found that the landfill belongs to the 1st hazard class with a sanitary protection zone of at least 1,000 meters. At the same time, in violation of clause 3 of Article 71 of the EC, the permit for emissions was issued by the Office, and not by the Department.

According to paragraph 11 of Article 300 of the EC, the owner of the landfill creates a liquidation fund to carry out measures for land reclamation and monitoring the environmental impact after the closure of the landfill.

It is prohibited to operate the landfill without a liquidation fund.

At the same time, the Partnership has not developed an appropriate project for the elimination of the landfill for the processing of oily waste and the disposal of oily waste and drilling waste; accordingly, the state ecological expertise has not been carried out on it.

In the cassation procedure, the judicial acts were not appealed.

3. RSU "State National Natural Park" on the basis of an agreement transferred the land plot to LLP "T" for long-term use for a period of 49 years. As part of the execution of the contract and on the basis of the architectural and planning assignment, the draft design "Construction of a detached modular building from prefabricated structures" was approved.

PA Ecological Society "Z" sent a letter to the RSU "Committee for Forestry and Wildlife" with the requirements:

- provide complete and reliable information about the work carried out in the tract (gorge) A. (design estimates, environmental impact assessment, the conclusion of the state ecological expertise);

- to stop construction work in order to check that the developer has all the relevant documentation;

- if the developer does not have the legal right to carry out the work, bring him to administrative responsibility, prohibit the construction and oblige the developer to compensate for the damage in kind.

In response, the Committee said that construction work in this tract (gorge) is carried out in accordance with the general plan for the development of tourism infrastructure of the national park and the agreement for long-term use of sites for the implementation of tourist and recreational activities. At the same time, it was reported that the user provided the national park with a draft design, a general explanatory note and the analytical explanatory note for approval. The applicant is also informed that the Partnership is conducting clarifying geology, not sampling of soil, but large stones; all structures are temporary; due to the user's compliance with the terms of the contract, the national park has no grounds for suspending work on the provided site.

The company appealed against the actions of the Committee, indicating that the defendant did not provide complete and reliable environmental information at the request of the plaintiff, thereby violating the requirements of the law and the norms of the international treaty - AC.

By the decision of the Specialized Interdistrict Economic Court of September 14, 2020, the claim was satisfied.

By the decision of the Judicial Collegium for Civil Cases dated November 18, 2020, the court decision was upheld.

At the court session it was established that at the first stage, for the construction of structures, preparatory work is envisaged for landscaping, landscaping and the installation of lightweight collapsible modules from ready-made structures without construction elements. That is, at this stage, for the implementation of work not associated with environmental impact, the development of an environmental impact assessment and obtaining a conclusion of the state environmental expertise is not required.

In this regard, the court concluded that the defendant, at the request of the plaintiff, had provided complete and reliable environmental information.

The arguments of the plaintiff were rejected by the court as unfounded, since in this case the defendant was not able to provide an assessment of the impact on the environment and the conclusion of the state ecological expertise, due to their absence.

4. Public Association "E" applied to the court to the State Institution "Ministry of Energy", RSE "Gosexpertiza" with a statement on the recognition of illegal actions and decisions on the classification of hazardous waste and the preparation of passports, the conclusion of an agreement and an additional agreement, the issuance of a positive opinion on the working draft " Development of design estimates for the elimination (disposal) of hazardous waste (chemical and industrial waste, waste of sludge collectors), in terms of "environmental impact assessment", on the withdrawal of the positive opinion of December 27, 2017.

By the definition of the specialized interdistrict economic court of February 25, 2019, the claim for recognition of illegal actions and the decision of the defendants on the classification of hazardous waste and the preparation of hazardous waste passports of November 30, 2017 was left without consideration.

By the ruling of the same court dated February 25, 2019, the proceedings on the case on the recognition of illegal actions and the decision to conclude an agreement and an additional agreement in terms of conducting a state environmental examination of a 1-category facility were terminated.

By a court decision of February 25, 2019, the application for recognizing illegal actions and the decision to issue a positive opinion on the working project in terms of "environmental impact assessment" and to withdraw the positive opinion was refused.

By the decision of the Judicial Collegium for Civil Cases dated May 15, 2019, the court decision was upheld.

By the decision of the Judicial Collegium for Civil Cases of the Supreme Court of February 4, 2020, the decision of the appellate instance was canceled, the case was sent for a new consideration to the court of appeal.

By a private determination of the same collegium dated February 4, 2020, the MEGNR was informed of the established facts for the adoption of appropriate response measures.

Upon a new consideration by the decision of the Judicial Collegium for Civil Cases of April 9, 2020, the court decision of February 25, 2019 was canceled, with a new decision. The claim was satisfied, the action and the decision to issue a positive opinion on the working project in the part of "environmental impact assessment" were recognized as illegal. The RSE "Gosexpertiza" is obliged to withdraw the positive opinion on the working draft.

The court of appeal established that by the court decisions that entered into legal force, the chemical and household waste located on the territory of the former chemical plant was recognized as ownerless and received into the republican property.

On November 15, 2017, an agreement was signed between the Ministry and the RSE "Gosexpertiza" for a comprehensive non-departmental examination of the working project "Development of design estimates for the elimination (disposal) of hazardous waste (chemical and industrial waste, waste of sludge accumulators)" located on the territory of the above-mentioned chemical factory.

According to the results of the RSE "Gosexpertiza", a positive conclusion was given, with the conclusions of which the Ecological Society did not agree.

So, the working project provides for the removal of waste from the plant and its liquidation (burial) in specially prepared 9 maps located on the territory of the "new" sludge collector, as well as the reclamation of two existing sludge collectors - "new" and "old".

The Court of Appeal, canceling the decision of the court and satisfying the claim, came to the following conclusions:

- in violation of the ecosystem approach in the regulation of environmental relations, only chemical and household waste, recognized by court decisions as ownerless and received into the republican property, falls under the disposal of waste;

- a chemical plant (as an environmentally hazardous facility) is not subject to monitoring by an authorized body;
- the project in terms of environmental impact assessment proposes to carry out the disposal of hazardous waste in the sludge collectors of the former plant, while the disposal of hazardous waste can only be carried out in a specially equipped landfill;
- the project belongs to a budget investment project, therefore, pre-project documentation, a feasibility study must undergo an examination;
- no preliminary assessment of the impact on the environment has been carried out, since the feasibility study of the project has not been developed;
- the draft assessment does not determine the volume of emissions of dusty parts of hazardous waste into the air during their movement, measures are not provided to reduce the negative impact on the environment.

By the decisions of the judge of the Judicial Collegium for Civil Cases of the Supreme Court of September 28 and October 19, 2020, it was refused to transfer the petitions of the Ministry and third parties to revise the decision of the appellate instance for consideration in the court session of the Judicial Collegium for Civil Cases of the Supreme Court in view of the legality of the conclusions of the court of appeal.

5. RSU "Department of Ecology" filed a lawsuit against LLP "JV" for damages in the amount of 189 million tenge, citing the fact that the defendant carried out the construction of a section of the road without a permit for emission into the environment, in connection with which it was admitted unauthorized emission of pollutants into the atmosphere with a total volume of 215.88 tons.

By the decision of the Specialized Interdistrict Economic Court of January 5, 2020, the claim was satisfied. Damage in the amount of 189 million tenge was collected from "JV" LLP to the state revenue.

By the decision of the Judicial Collegium for Civil Cases dated March 19, 2020, the decision was left unchanged.

By the decision of the Judicial Collegium for Civil Cases of the Supreme Court of October 13, 2020, the judicial acts were canceled, the case was sent for a new consideration to the court of first instance.

The cassation instance indicated that when the Department's claim was satisfied, the local courts did not establish the exact amount of damage, did not provide calculations and did not assess the Department's calculations and the expert's opinion. Despite the existing contradictions in the assessment of the amount of damage, the defendant's petition for the appointment of an additional examination and the expert's opinion were unreasonably rejected.

In a new review, the court of first instance was instructed to create conditions for the parties to exercise the protection of violated rights in accordance with Article 15 of the Code of Civil Procedure, to fully and comprehensively investigate the evidence presented by the parties, to consider the appointment of an additional examination, if necessary, to attract as third parties - all construction subcontractors motor road.

The case is pending.

Answer: The obstacles to the implementation of any of the paragraphs of article 9 of the Aarhus Convention are not detected.

It should be noted that according to paragraph 1 of Article 9 of the Aarhus Convention, consideration shall be carried out by a court or other "independent and impartial body established by law." The concept of "an independent and impartial body" is well-established under the Convention for the Protection of Human Rights and Fundamental Freedoms. "Independent and impartial" bodies do not necessarily have to be the courts, but they have to perform quasi-judicial functions, have to ensure required process, be unreachable for the influence of authority and not to be associated with any private entity.

In Kazakhstan, all disputes relating to environmental protection are considered mainly in the courts. However, this does not exclude out-of-court dispute settlement, as stipulated in Article 323 of the Environmental Code. For example, according to the rules established by Article 126 of this Code, to appeal to the court against the decisions, actions (inaction) of a person authorized to carry out environmental monitoring, it is necessary to pre-appeal to the official or to a higher state body.

In the end of November 2016, the Supreme Court of the Republic of Kazakhstan plans to adopt normative regulations on some issues on courts' application of the ecological legislation of the Republic of Kazakhstan for civil cases instead of the obsolete normative

regulation of the Supreme Court of the Republic of Kazakhstan dated December 22, 2000 № 16 “On the practical application of the legislation on environmental protection by the courts”, which was modified only once, on 25 June, 2010. Since then environmental legislation has abruptly changed, many features of the previous normative regulation have lagged behind and therefore interfere with judges in the administration of justice.

In a discussed project of the normative regulation it was explained how the courts apply the norms of environmental legislation related to implementation and protection of the rights of citizens and public organizations for information concerning environment, for access to justice with respect to the requirements of the Aarhus Convention, the restriction, suspension and (or) the termination of business and other activities that are harmful to the environment, life and health of the population.

XXX. Additional information on the practical implementation of the provisions of Article 9

Provide further information on the practical application of the provisions related to the access to justice in accordance with Article 9, for example, whether there are statistics on justice in environmental matters and whether there are any assistance mechanisms to remove or reduce financial or other barriers to access to justice.

~~Answer: Comprehensive analysis of the Republic of Kazakhstan legislation, including the provisions on the rights of individuals, associations and other legal entities in the field of environmental protection (Article 13 and 14 EC, Article 12 and 13 of the Law "On Specially Protected Natural Areas", protection and effective use of natural resources; Articles 62-63 of the Water Code, Article 66 of the Forestry Code, sanitary-epidemiological and radiation safety of the population (articles 19-21 Law "On radiation safety of the population"), architecture, urban planning and construction activities (Article 13 of the Law "on architectural, urban planning and construction activities") has been adequately carried out in teaching practical manual on the application of AC in Kazakhstan that was designed for judges.~~

~~Consequently, for the sake of adequate and reliable performance of duties and prevention of negative impact on the environment, environmental communities of citizens should possess certain rights including a right for the access to justice (not only in the result of claims for certain citizens' rights and interest protection when a damage is caused (subpara. 1 and para. 1 article 14 EC and para. 13 of the Normative Regulation of the Supreme Court Plenum RK #16 dated 22 December, 2000) and not only in cases of requirements to “cancel the decisions on placement, construction, reconstruction and putting into operation enterprises, buildings and other objects dangerous in environmental terms...and to make a decision of restricting, suspending and terminating economic and other activity of natural and legal entities that cause negative impact on the environment and health of people”, but also in order to protect the rights and legal interests of an indefinite number of persons).~~

~~In the above situations, standing of associations of citizens is limited to several criteria:~~

- ~~– Cases of citizen's rights and interest violations should be obvious;~~
- ~~– There was a certain damage caused to people's health and environment;~~
- ~~– Proofs of definite “negative impact of an exact economic activity on people's health and environment should be provided”.~~

~~Supreme Court together with an authorized agency on legal statistic management take measures on collection and consideration of the statistical data on the court cases on claims of individuals and public environmental organizations in the field of the environment protection. At the same time the reconciliation of statistics with the environmental public associations is conducted for the sake of social control provision, and this allows monitoring of all environmental disputes in the court without exception.~~

~~— According to statistics, total cases of the first instance courts over the republic regarding the claims related to the environment protection resulted in production:~~

~~In 2013, 934 civil cases are considered in this category, out of which 702 cases of adjudication.~~

~~In 2014—437 cases were received, out of which 362 cases of adjudication.~~

~~In 2015—522 cases reviewed, out of which 428 cases of adjudication.~~

~~407 cases, 285 of them are cases of adjudication—during the first 9 months of 2016 of consideration by courts.~~

~~Quality of cases on disputes is characterized as follows. In total in 2013 the higher authorities canceled 2.56% of the total number of decisions (or 18 decisions), in 2014—3.1% (or 10 decisions), in 2015—2.57% (or 11 decisions). During the first 9 months of 2016 the appellate / cassation quashed only 1 decision or 0.35%.~~

~~High number of court decisions cancellation by higher court instances in 2013–15 in comparison with 2016 on the issues regarded in the appropriate category are explained by the obsolete normative regulation of the Supreme Code of RK date 22 December, 2000 #16 “On the practical application of the legislation on environmental protection by the courts”. Separate norms of that normative regulation do not correspond to changed environmental legislation and their application made a negative impact on the quality of the legal management. In 2015–16 the Supreme Court of the Republic of Kazakhstan conducted two generalizations of the court practice on the issues related to the environment protection where the mistakes of the judges were analyzed and where the ways of resolution were proposed and also where the requirements and provisions of the current environmental legislation were explained taking into consideration all the amendments and additions. 6 times improved quality of the legal management in this category is therefore explained.~~

~~Court reporting forms existed prior to 2010 did not imply maintaining a separate statistical graphs on matters related to the implementation of the rules of AC. In 2010, amendments to the statistical forms for civil cases allowed to keep records of cases in the field of the environment on the claims and allegations that brought by individuals, environmental organizations in the implementation of AC.~~

~~Reporting analysis shows that a form of judicial and statistical reporting (Form number 2 "Report on the work of regional and equated courts to civil cases hearings") implies a separate account "On Environmental Protection" (line number 72 in 2014 and the line number 78 in 2015), but civil cases for the requested category, moreover, are reflected in lines number 99 "on challenging the decisions of public authorities", number 95 "Others claims".~~

~~Statistical reports of the appeal and cassation instance also imply separate lines in appropriate category of disputes—according to form 7 “The report on the courts of the appeal and cassation instance on consideration of civil cases on appeal complaints and protests”—table “B” and by form 7 “K” table “A” “Movement of cases on appeal”.~~

~~Just as in the reports of the courts of the first instance, cases of the generalized disputes category are reflected in other lines of the reports. Such classification of cases of the same category does not cause quality accounting and analyzes of the court disputes.~~

~~Currently a Form 2 "Report on the consideration of civil cases by courts of first instance" (Appendix № 1 to the General Prosecutor's Office orders of RK "On approval of forms of judicial statistical reports in the civil sphere and the instructions on their formation" number 52 of 30 March 2016) published in the newspaper "Kazakhstanskaya Pravda" dated August 4, 2016 (effective since 14 August 2016) contains the column "A". Claims related to the protection of the environment are reflected in the line 141 and divided into the following types:— in the line 142 "for damages for breach of environmental legislation", line 143, "Claims of individuals" and line 144 "Claims of public environmental organizations". It is assumed that lines 143 and 144 should contain any claims not related to indemnification for breach of environmental legislation. It is also not clear does the concept of “indemnification” includes “harm provided to health and life of a person”.~~

~~Further, column "A" has a line 118 "for damages indemnification", line 120 "for damages to health or death of the citizen", line 121 "caused by the performance of job duties." However there is a dispute on what line should contain the claims related to the damage for the life and health of people caused during the execution of labor responsibilities. According to the data of the electronic system “uniform basis of judicial acts” (UBJA) for 2010–2012 years, only few cases were under court consideration. However, according to the data of the “Zelenoe spasenie” Environmental community each year courts resolve 4–12 such cases on public claims.~~

According to UBJA, in 2014–15 cases in the framework of AC were not considered at all.

From generalizations presented by regional and equivalent courts, it follows that in 2014–2015 years, such cases have not been considered, with the exception of Pavlodar oblast and Almaty city. At the same time the courts of Karaganda region note the passivity of public associations, which have not submitted any claim for the protection of life and health, protection of the environment. So, in 2014 the courts of Pavlodar region considered all 3 of these cases, but in 2015—13. In the city of Almaty in 2014 cases of public claims were not considered; in 2015, only one case was considered.

12 December, 2014, public hearing on the claims of “The World of Ecology” PO, “The Akimat of Pavlodar city” SI and “Rosa” JSC were recognized as invalid on 6 December, 2014, the protocol of hearing has been cancelled and the re-hearing on the plan of environment protection measures for 2015–19 has to be hold. In the result of all the above mentioned events, claim was not satisfied. The lawsuit is motivated by the fact that the “Rosa” JSC violated the procedure of public hearings, provided by the Rules of the public hearings. The grounds for denial of the claim was that the Customer has provided access of the public to the project “Plan for environmental protection measures of” Rosa “for 2015–2019 years” in accordance with paragraph 10 of the Rules. Another reason for the denial of the claim was suing for improper defendant. For this purpose “The Akimat of Pavlodar city” SI was attracted, however such institution does not exist. The proper defendant should have been the “Department of entrepreneurship of Pavlodar city” SI. The decision was not appealed.

According to the decision of the Specialized Interdistrict Economic Court (further—SIEC) of Pavlodar region dated 20 March, 2015 “The World of Ecology” PO claim against Akim of Ekibastuz city, “The Akimat of Ekibastuz city” SI and “Kazakhstan Wagon Company” LLP on recognition of public hearing on 24 November, 2014 as invalid and insisting to hold a re-hearing was partially satisfied. The court granted the petition to the invalidation of the public hearings on the discussion of the plan on environmental protection measures for facilities I and II categories to obtain a permit for emissions into the environment when carrying out the state ecological expertise. It has been established that the defendant posted ads about the public hearing only 4 days in advance. Ad was posted to the web site of the city’s akimat only 2 days prior to the hearing. The court declined the claim to organize re-hearing because since it is the prerogative of the customer, ie, LLP.

On March 26, 2015 in a similar case the same court denied the lawsuit of NGO “Peace” to Akim of Ekibastuz city, SI “Akimat of Ekibastuz” LLP and «The NFC Kazakhstan”. The decision is motivated by the fact that violations of the defendants in the actions are not detected.

In the case related to the claim of the NGO “World Ecology” to “AZA” LLP on challenging the public hearing, the protocol of public hearings, the program of environment protection activities and permits for emissions into the environment, the basis for partial satisfaction on 10 July 2015 was the defendant's breach of paragraph 8 of Regulation, namely the timing of placement of the announcement in the media. Thus the plaintiff was deprived of the opportunity to participate in the process of discussing projects which could directly affect the environment and health of citizens. There also were violations in subparagraphs 3), 4), 5) 6) of paragraph 9 of the Rules in the ad, posted on the Internet site of akim of Pavlodar. The address of an Internet resource which contained materials in electronic form or email address where one can request materials in electronic form, e-mail address for submitting proposals and comments were not provided, as well as the address of the place where the public can get acquainted with the project materials in paper form.

In regard to the claim on recognizing the Plan for environment protection measures of the “AZA” LLP for 2015–18, the court denied it since the way of defense of the violated right chosen by the plaintiff is not prescribed by the article 9 of CC, which provides a full list. Moreover, this claim is considered excessive because it was enough for the plaintiff to declare a requirement to recognize public hearings illegal to protect own rights and interests.

At the same time, the claim in terms of the recognition of the illegal permit for emissions into the environment LLP “AZA” was also denied because the authorized body of RSU “Ecology Department” was not attracted as a defendant, which issued the contested

document based on the Environmental Action Plan for 2015—2018. For these reasons, the claim of the NGO "Ecology of Peace" was partially satisfied.

~~In the case of the claim of the PO "World of Ecology" to LLP "Al Maktub" challenging the public hearing, the protocol of public hearings, the Environmental Action Plan and permits on emissions into the environment, the claim regarding contestation of public hearings, public hearings protocol was approved, therefore, on 8 July 2015 a claim in this part is satisfied. The rest of the claim denied on the above grounds.~~

~~In the case of the claim of the PO "World of Ecology" to LLP "PPCP", Akimat of Pavlodar city challenging the public hearing, the protocol of public hearings, the Environmental Action Plan and permit for emissions into the environment, the basis for partial satisfaction of the claim on 27 July 2015 was the holding of public hearings with gross violations of the order, namely an ad in the newspaper "Star of Irtysh" placed in Russian, whereas in accordance with paragraph 8 of the Rules, the publication of announcements should be made in Kazakh and Russian languages. The violation of paragraphs 11 and 13 of the Rules has also been considered a basis for the recognition of such proceedings as unlawful, namely a hearing held without the participation of local executive bodies, as well as violation of paragraphs 17 and 18 of the Rules of the public hearing protocol which was not sent to the local executive bodies and did not post publication on Internet resource on time.~~

~~The reason for partial rejection of the claim LLP "PPCP" to invalidate the permit for emissions into the environment was the fact that RSU Department of Ecology was not attracted as a defendant authorized body. The rest of the plaintiff's claims were claimed excessive, and therefore, were not a subject to evaluation. However, first instance courts have another practice of considering similar disputes involving public associations.~~

~~According to decision of SIEC Pavlodar region on July 29, 2015, the claim of the PO "World of Ecology" to LLP "MTS Jaime", akim of Bayanaul area, SI "Machinery of akim of Bayanaul area", akim Karatomarsk rural district, SI "Apparatus Karatomarsk rural district akim" about contestation of public hearings, the protocol of public hearings, the program (plan) of environmental measures in the years 2015-2016 and permits of emission to the environment is refused.~~

~~The court motivated the refusal by the fact that Article 14 EC contains an exhaustive list of rights and duties of public associations in the field of environmental protection, and the right of recognition—Environmental Action Plan, a permit for emissions into the environment as illegal is not provided by Environmental Cod. Article 19 of the Law "On Public Associations" does not stipulate such right as well. In regard to public hearings, Court came to decision that within the framework of the legislation public associations may only initiate and arrange such hearings.~~

~~Thus, paragraphs 19, 20, 21 of the Regulation of the public hearings, provided that the public take part in the public hearing, giving their suggestions and comments (if any) on the content of the public hearing protocol within seven calendar days from the date of its publication, sending them to the local executive authority, organized a public hearing. Public Appeal is considered in accordance with the Law "On the order of consideration of physical and legal entities." On the basis of the public applications the local executive body shall make the appropriate amendments to the protocol of public hearings, or reject indicating the reasons for rejection.~~

~~The protocol of public hearing, taking into account suggestions and comments, is to be published in the manner and time specified in paragraph 18 of the Rules. In case of disagreement with the results of consideration of the application the public must appeal to the court in the manner prescribed by the civil legislation of the Republic of Kazakhstan within ten calendar days from the date of receipt of the response of the local executive body.~~

~~The Court concluded that the public (including associations) "participated in such hearings" and the persons who do not agree with the results of their application, has a right to apply to court to protect the violated rights under article 9 of the Civil Code, within ten calendar days from the date of receipt of the local executive body of the response.~~

~~Since PO did not send its suggestions and comments, if any, on the content of the protocol on public hearing to the local executive body, did not appeal in a written form, no proofs are provided to the court, when according to the Rules, the plaintiff—Public~~

~~Organization—may appeal to court according to the results of application and if not agree with it.~~

~~According to the court, the PO is improper plaintiff and is not entitled to a court to challenge the matter in dispute in the present case (report), as well other documents—protocol plan, the resolution that does not violate the rights and interests of the plaintiff, while the courts deal with cases of protection of violated or disputed rights, freedoms and interests protected by law (paragraph 1 of article 24 of Code of Civil Procedure, article 9 of the Civil Code). Decision not contested by the parties in the appeal of the case is not considered.~~

~~Similarly, SIEC Pavlodar region on August 4, 2015 rejected the claim of the NGO "World Ecology" to RSU Department of Ecology to oblige cancel the conclusion of the state ecological expertise. The decision came into force.~~

~~According to the court, the PO is improper plaintiff and is not eligible to challenge the matter of dispute of the current case (protocol), as well other documents—protocol, plan, resolution; it does not violate the rights and interests of the plaintiff, while the courts deal with cases of protection of violated or disputed rights, freedoms and interests protected by law (paragraph 1 of article 24 of Code of Civil Procedure, article 9 of the Civil Code). Decision was not contested by the parties.~~

~~Similarly, SIEC Pavlodar region on August 4, 2015 rejected the claim of the PO "World of Ecology" to RSU Department of Ecology to oblige the cancellation of the conclusion of the state ecological expertise. The decision came into force.~~

~~In the latter two cases it should be noted that the legality and validity of judicial decisions was not consistent even at the time the legislation and the requirements of the Aarhus Convention, since the list of public associations of the rights provided for in Article 14 EC is not exhaustive. In the light of the amendments to this provision of the Law the right of recourse to the courts to protect the rights, freedoms and lawful interests of individuals and legal entities, including the benefit of an indefinite number of persons for the protection of the environment and use of natural resources, and article 57 EC at all such decisions should be recognized as illegal and unjustified.~~

~~In 2015, within the framework of the Aarhus Convention the SIEC of Almaty—is considered only one civil case on the application of the Ecological Society (hereinafter—ES) "Green Salvation" to municipal public institution (hereinafter—MPI) "Management of natural resources and regulation of nature use of Almaty", to third parties—MY Novoselov, RSU "Ile Alatau state National natural park" (hereinafter—IASNP), LLP "Kronverk" on the recognition of the state environmental expertise illegal and its abolition.~~

~~Materials of the case confirm that the head of the department of the environmental regulations of the MY Novoselov MPI prepared a conclusion of the SEE on the project "Kokzhailau Ski Complex Road Construction" Environmental impact Assessment".~~

~~However, the plaintiff points that the presence of the red book plants in the area of construction is not reflected in the SEE conclusions. Protection of such kind of plants should be the most strictly provided. Expertise conclusions does not correspond with the requirements of the article 46 of EC. Experts did not define and point possible negative consequences of the construction with respect to red book plants.~~

~~The applicant also relied on Article 31 of the Constitution, Part 2 of Article 9 of the Aarhus Convention and requested the Court to declare the conclusion of the SEE illegal and cancel it.~~

~~Almaty SIEC decision of 6 November 2015, denied the request of ES "Green Salvation". According SIEC, ES "Green Salvation" challenged the results of paragraph 16 of the conclusions while this conclusion contained issues not contested by the plaintiff. Therefore, conclusion made on this basis cannot be considered illegal. The Court of Appeal agreed with the conclusion of the court SIEC that demolition and sanitary felling will be carried out in the manner prescribed by law, with the issuance of permits.~~

~~It should be noted that, in accordance with Article 57 EC, which operated prior to making additions to the Law dated April 8, 2016 № 491-V, the court should refuse the ES in making a claim under subparagraph 1) of Article 153 of the Code of Civil Procedure (as revised in 1999) as irrelevant for consideration as a part of the procedure of the civil legal management since the decision of the SEE could not be contested.~~

Analysis of cases and judicial acts showed that local courts generally apply the correct legal standards when considering cases of generalized categories.

There are training centers in each regional court which conduct classes for judges to consider problems arising when considering cases, including those related to the application of the rules of AC. During republican contests on improvement of qualification judges of district and equivalent courts, working at the Institute of Justice, lectures on the specifics of applying environmental legislation to claim resolution cases are delivered.

Supreme and provincial courts regularly monitor the quality of court cases, including in environmental disputes. Regional courts open electronic information kiosks to better ensure transparency and access to justice and judicial activities awareness.

One of the recent appeals to the court by the public is filed July 22, 2013 in the interests of an indefinite number of persons in the Specialized Inter-district Economic Court of Astana on the Ile-Alatau State National Park.

Seminars and roundtables to discuss issues of access to justice are held.

On January 22, 2012 in Almaty a sub-regional meeting on the theme "Implementing the Aarhus Convention today: a way to improve the environment and the management of tomorrow", organized by the OSCE Centre in Astana, Office of the Coordinator of OSCE Economic and Environmental Activities and the European Economic Community, with the participation of non-governmental organizations, judges was held. The meeting discussed issues of examination of procedures and mechanisms relating to access to justice.

October 29, 2012 in Astana there was a round-table "Implementation of anti-corruption state policy in the field of environmental protection", dedicated to the issues of improving the legal regulation in the sphere of environmental protection in order to eliminate manifestations of corruption in the government and the judiciary.

October 30, 2012 in Astana there was hosted an international scientific-practical conference "Problems and prospects of realization of the right to access to justice in Kazakhstan", which was recommended by the judges to increase accountability measures for the administration of justice, through the adoption of laws "On ensuring access to information about the activity of courts in the Republic of Kazakhstan information", "On provision of Free-qualified legal assistance", "On the establishment of administrative justice and amending the civil procedure law."

June 26, 2013 in Astana there was held a specialized training course for representatives of Aarhus Centres and environmental non-governmental organizations on the application of environmental legislation by the courts, including a discussion of the issues of access to justice.

April 10, 2013 a round-table with the topic "Compliance with the Aarhus Convention and national legislation in settling disputes relating to the protection of the environment" with the participation of judges, representatives of public organizations was held.

29-31 July 2013 in a conservation area "Korgalzhyn" Akmola region with the participation of the legal community conducted "based on sustainable development of Aarhus Centres' training courses.

June 30, 2015 (in the town of Shehuchinsk Akmola region in hotel "Ak zhiok") seminar training with Aarhus-centers with the topic: "Public involvement in the implementation of public environmental control solutions for environmental issues at the regional level, the spread of good practice within the framework of transition to the "green economy", with the participation of representatives of Aarhus Centres, Ministry of energy, representatives of environmental non-governmental organizations, judges.

July 15, 2016 in Astana there was held a roundtable on the topic "Implementation of the Aarhus Convention in Kazakhstan", with the participation of representatives of regional Aarhus Centres, government institutions, including the judiciary, environmental non-governmental organizations and the private business sector.

From 15 to 24 September 2016 in Mangistau region an educational photo-exhibit "Ustyurt - the world heritage" in the framework of the project "Implementation of the rights

~~of citizens and public participation in decision-making on environmental issues—the practical implementation of the Aarhus Convention in the Mangistau region." was held.~~

XXXI. The websites that are relevant to the implementation of Article 9.

Give relevant website, if available:

~~www.e.gov.kz, www.aarhus.kz, www.supcourt.kz, www.procuror.kz, www.fiec.kz, www.greensalvation.org, <http://www.supcourt.kz/index.php>www.e.gov.kz, www.aarhus.kz, www.supcourt.kz, www.procuror.kz, www.fiec.kz, www.greensalvation.org, <http://www.supcourt.kz/index.php>~~

~~Since 2007, on the website of the Supreme Court in the section "International cooperation", a page has been opened: "Implementation of the provisions of the AC", which contains: normative legal acts on environmental issues; Reports on the work of the meeting of the parties to the AC; manuals for the application of AC; statistical information on the consideration of environmental claims by courts and other materials useful for judges and the public. Since 2007, the open page in the "International cooperation" section of the Supreme Court of the Web site: "The implementation of the Aarhus Convention", which includes: regulations on environmental issues; Reports of the meeting of the Parties AC; allowances for use AC; statistical information on the review by the courts of claims related to environmental protection and other useful for judges and public materials~~

Articles 10-22 are not for national implementation.

XXXII. General comments on the objectives of the Convention.

Specify, if appropriate, how the implementation of the Convention contributes to the protection of the rights of every person of present and future generations to live in an environment adequate for their health and well-being.

~~*Answer:* The AC provides public organizations and citizens with the necessary experience in the use of international mechanisms for the protection of environmental rights, and for state bodies - the experience of considering alleged facts of non-compliance in an international instance. In addition, through compliance with the requirements of the AC, the constitutional rights of citizens are implemented, the actions and measures that should be taken by state bodies in terms of improving public access to environmental information, taking public opinion into account when making decisions affecting the environment and simplifying the opportunities for the public to appeal against violations of environmental protection are specified. legislation by various enterprises and government agencies. An important fact is the improvement of legislation and the growth of public awareness in matters of environmental protection.~~
~~*Answer:* AC provides public organizations and citizens of the RK necessary experience in using international mechanisms of protection of environmental rights and public authorities — experience in considering alleged cases of non-compliance in an international court. In addition, through compliance with QA requirements the constitutional rights of the citizens of Kazakhstan, are implemented, actions and measures to be taken by public authorities to improve public access to environmental information, taking into account public opinion when making decisions that affect the environment and to facilitate to the public opportunities to appeal violations environmental legislation by various companies and government agencies. An important fact is the improvement of the legislative field of the Republic of Kazakhstan and increase public awareness of environmental issues.~~

XXXIII. The legislative, regulatory and other measures to implement the provisions of article 6 bis and annex I-bis relating to genetically modified organisms.

Describing the legislative, regulatory and other measures to implement the provisions of Article 6 bis of the public participation in decision-making on the deliberate release into the environment and placing on the market of genetically modified organisms, describe:

in regard to paragraph 1 of article 6 bis and:

- i) paragraph 1 of Annex I-bis - actions included in the legal and regulatory framework Parties to ensure effective information and public participation in the decisions, subject to the provisions of Article 6 bis;
- ii) paragraph 2 of Annex I-bis - any exceptions provided for in the legal basis of the Parties in respect of the public participation procedure laid down in Annex I-bis and the criteria for any such exception;
- iii) of paragraph 3 of Annex I-bis - the measures taken to give adequate, timely and effective delivery of public notification summary aimed to obtain authorization for the deliberate release or the placing on the market of genetically modified organisms, as well as the assessment report where available ;
- iv) of paragraph 4 of Annex I-bis - measures taken to ensure that in any case the information contained in this paragraph is considered as confidential;
- v) of paragraph 5 of Annex I-bis - the measures taken to ensure the transparency of decision-making procedures, and to provide public access to the relevant procedural information, including, for example, information on aspects such as:
 - a. The nature of possible decisions;
 - b. The public authority responsible for making the decision;
 - from. Public participation arrangements established pursuant to paragraph 1 of Annex I-bis;
 - d. public authority from which relevant information can be obtained;
 - e. The public authority to which comments and the deadlines for sending comments can be submitted;
- vi) of paragraph 6 of Annex I-bis - the measures taken to ensure that the procedures established pursuant to paragraph 1 of Annex I-bis allow the public by any appropriate way to submit any comments, information, analysis or opinions that it considers relevant to the proposed deliberate release or placing on the market;

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Answer: For the first time, GMO issues were included in the legislation of Kazakhstan in the mid-2000s. The start of this process was facilitated by the campaign "For Kazakhstan Free of GMOs", organized by non-governmental organizations. As part of this campaign, work was done to draw the attention of the general public to the problem of GMOs. Seminars, media coverage, cooperation with academia, consumer societies, appeals to the President, the Prime Minister, monitoring of the Kazakh market, organizing public opinion research, lawsuits against a transnational corporation using GMOs in products - all this undoubtedly influenced attitude to the problem of GMOs on the part of decision-makers. It was during this period that the beginning of the development of legislation was observed.

Thus, active public participation in the regulation of GMOs in Kazakhstan contributed to the beginning of the development of the legislative base of the Republic of Kazakhstan, which is based on the norms of the Constitution of the country, which proclaimed human rights, his life, rights and freedoms as the highest value of the state (Article 1), his right to health protection (Article 29).

The following legal acts regulate GMOs in Kazakhstan.

- Environmental Code;
- Code "On public health and health care system";
- Law "On Ratification of the Cartagena Protocol on Biosafety to the Convention on Biological Diversity";
- Law "On food safety";
- Law on Consumer Protection";
- Law "On state regulation of the development of the agro-industrial complex and rural areas";
- Law "On seed production";
- Rules for carrying out work on scientifically grounded confirmation of the safety of genetically modified objects. Government Decree of April 16, 2008 N 346;
- Rules for the circulation of genetically modified objects. Government Decree of June 27, 2008 N 630;
- Technical regulation "Requirements for the safety of food products obtained from genetically modified (transgenic) plants and animals". Government Decree of September 21, 2010 No. 969;
- On the adoption of the technical regulation of the Customs Union "On food safety". Decision of the Customs Union Commission dated December 9, 2011 No. 880;
- On approval of the List of environmentally hazardous types of economic and other activities. Order of the Minister of Energy of January 21, 2015 No. 27;
- On approval of the Rules for the circulation of biologically active food additives. Order of the Minister of National Economy of June 30, 2016 No. 297.
- On the approval of the Sanitary Rules "Sanitary and Epidemiological Requirements for the Objects of Preschool Education and Training of Children". Order of the Minister of National Economy of March 17, 2015 No. 217.

• On the approval of the Sanitary Rules "Sanitary and Epidemiological Requirements for Educational Objects". Order of the Minister of Health dated August 16, 2017 No. 611.

From the above documents, the following key points of the regulation of GMO turnover in Kazakhstan can be distinguished, which form the foundations of the biosafety system:

- GMO and GM-products are classified as products that pose a threat to public health;
- Ban on the sale and sowing of genetically modified seeds;
- Ban on GMOs in fish raw materials;
- Ban on the sale of GMOs in educational institutions, in organizations of preschool education and training of children;
- Mandatory labeling and informing the buyer about the presence of GMOs in food;

- GMO production is classified as environmentally hazardous economic activity;
- Creation, breeding and production of GMO requires conclusions of scientific substantiation, state ecological and sanitary-epidemiological expertise;
- Compulsory environmental insurance in the production of GMOs;
- Mandatory registration of GMOs and maintenance of the state register of GMOs;
- Risk assessment of food products obtained by GMOs in the course of laboratory research;
- Implementation of a post-market monitoring system for agricultural producers, providing traceability to where and from where food products were sold;
- Confirmation and ensuring the safety of GMOs in the course of GMO circulation.

Activities related to the ratification of the Almaty Amendment on GMOs have been ongoing since 2015. In accordance with the terms of reference, the IAC EP provides technical support for the ratification of the Amendment. During the specified period, general procedures of coordination with specialized organizations and departmental structures were carried out, scientific expertise and expert opinions were obtained. Ratification of the amendment is scheduled for 2020-2022.

~~Answer: Since the genetically modified organisms (GMOs) specifically mentioned in the definition of environmental information in paragraph 3 a) of Article 2 of the Convention, the provisions of Article can be applied in general in this article 4 and 5 of the Convention.~~

~~The definition of GMO given in the EC and in the Law "On food safety". Environmental requirements in the production and use of GMOs are installed in st.195, 248, 281, 282 EC. Law "On food safety" established by the legislative requirement to include in the labeling of food products information on their composition, including — on the availability and amount of food, fodder, biologically active food additives and GMOs, which greatly facilitates access to environmental information and implements the requirements under Article 5, paragraphs 6-8 AC.~~

~~In Article 282 EC RK sets out the basic requirements for the order of the genetic engineering activity in general terms: section 1.4 requires that the polluter — manufacturers of food and feed derived from GMOs, must inform the customer that the product is produced from GMOs.~~

~~Article 17 of the Law "On food safety" and obliges to inform consumers about the availability and amount of GMOs. Article 34 of the same law states that before the establishment of scientifically sound confirmation of safety of GMOs in food products accepted level of their content in food products does not exceed the established in the EU countries (0.9%). GMO production is related to the environmentally dangerous economic activities (Government Resolution dated June 27, 2007 # 543), and is subject to obligatory ecological insurance of civil liability of individuals and (or) legal entities (Law "On Mandatory Environmental Insurance" dated December 13, 2005 №93)~~

~~The state registration of GMOs and to review the decision on the state registration is carried out according to the order of the Republic of Kazakhstan from October 19, 2009 №546 (as amended by the Order of the Republic of Kazakhstan from January 17, 2012 №17) «On establishment of state registration of rights and withdrawal of the decision on state registration of the product baby food, food and biologically active food additives, genetically modified objects, dyes, disinfectants, disinfection and disinfestation, materials and articles in contact with water and food, chemicals, certain types of products and substances that have harmful effects on human health ". The processes (steps) the sale (sale or delivery), including import (import) GMOs and related processes of packaging, packaging, labeling, storage and transportation of GMOs defined by the Rules of turnover (Resolution of the Government of Kazakhstan on June 27, 2008 N630). According to claim 8 of these Rules on documents, leaflets (insert sheets), labels, counter koleretkakh, labels, decals (stickers), in addition to the information specified by the legislation of Kazakhstan on food safety, the state and Russian languages shall contain information on presence and amount of GMO in the food product.~~

~~In accordance with the Rules of work on science based GMO safety confirmation (the RoK Government dated 16 April 2008 N346) GMO risk assessment is carried out as an integrated risk assessment during laboratory research. Withdrawal of GMOs in the Republic of Kazakhstan is carried out in the presence of the positive conclusions of state~~

~~ecological and sanitary epidemiological expertise. The use of these organisms and substances in the absence of such findings is prohibited (Section 6 of the Regulations).~~

~~According to the Law of RK "On Seed" from February 8, 2003 sowing seeds of varieties derived from genetically engineered (genetically modified), not included in the State Register of selection achievements, it is not allowed.~~

~~Thus, the regulatory framework ensures labeling of products produced using GMOs. June 26, 2008 Kazakhstan ratified the Cartagena Protocol on Biosafety to the Convention on Biological Diversity.~~

~~In accordance with Article 10 of the claims 3 to claim 4 of the Technical Regulations "Requirements for Safety of food additives, flavorings and processing aids", adopted by Council Decision of the Eurasian Economic Commission dated July 20, 2012 №58 under assessment (confirmation) of compliance of food additives, flavorings and processing aids are provided further details: 3) for use in food additives, flavorings, and processing aids and GMO ingredients derived from GMOs. Registration of products containing GMOs is performed by Ministry of National Economy, Republic of Kazakhstan, Consumer Protection Committee.~~

XXXIV. Obstacles encountered in the implementation of article 6 bis and annex I-bis

Describe any obstacles encountered in the implementation of any of the paragraphs of article 6 bis and annex I-bis.

Answer: It is necessary to complete the domestic procedures for the ratification of the Almaty GMO Amendment. The responsible executive body needs to resolve a number of voluminous issues related to the development and implementation of a procedure for public participation in decision-making processes on the deliberate release into the environment and marketing of GMOs on the market, as well as issues on interaction with the executive body on the implementation of the provisions of the Cartagena Protocol.
Answer: refer to purpose

XXXV. Additional information on the practical implementation of the provisions of article 6 bis and annex I-bis

Provide additional information on the practical application of the provisions of Article 6 bis related to the public participation in decision-making on the deliberate release into the environment and market sales of genetically modified organisms, for example, on availability of statistical data, or other information available on public participation in such decisions or on decisions considered under paragraph 2 of annex I-bis as exceptions to the public participation procedures determined in that annex.

Answer:

XXXVI. The addresses of websites that are relevant to the implementation of Article 6 bis

Indicate relevant website addresses, if available, including website addresses for registers of decisions and releases related to genetically modified organisms:

www.aarhus.kz, www.ncbt.nauka.kz, www.biocenter.kz, www.ecokomitet.kz

XXXVII. Follow-up measures in relation to compliance issues

If, after the consideration of the report and any recommendations of the Compliance Committee Meeting of the Parties at its subsequent session, decide on the measures relating to compliance with the requirements established in your country, please indicate: a) what those measures entail; and b) what specific efforts have been made by your country to implement these measures in order to ensure compliance with the Convention.

Please include, if necessary, cross-references to the relevant sections.

Answer:

The [ConventionAC](#) is one of the ratified international treaties, according to which citizens and private legal entities have the right to appeal to the international court Compliance Committee of the AC, statements on the facts of its non-compliance. Such a possibility is being actively used by Kazakh citizens and environmental organizations.

At the Fifth Meeting of the AC Parties in 2014, Decision V / 9i was adopted on Kazakhstan's compliance with its obligations under the Convention. Where it is noted that Kazakhstan does not comply with paragraphs 2, 6, 7 and 9 of Article 6 of the [ConventionAC](#) concerning public participation in the decision-making process. Each year, Kazakhstan provides the Compliance Committee with detailed information on further progress in the implementation of the recommendations.

So, on April 8, 2016, the Law "On Amendments and Additions to Certain Legislative Acts on Environmental Issues" was signed, including on AC.

At the sixth Meeting of the Parties to the AC in 2017, Kazakhstan issued a decision VI / 8g on Kazakhstan's compliance with its obligations under the [ConventionAC](#) (Budva, Montenegro). In particular, it was noted that Kazakhstan does not comply with paragraphs 2, 6, 7 and 9 of Article 6 of the [ConventionAC](#) concerning public participation in the decision-making process.

With regard to communication ACCC / C / 2013/88, the Committee adopted the following findings:

a) by failing to ensure that, in accordance with the legislation in force, the public concerned is adequately, timely and effectively informed of all the issues listed in paragraph 2 a) to e) of Article 6 of the [ConventionAC](#), the Party concerned has failed to comply with the requirement of paragraph 2 article 6 of the [ConventionAC](#), both in terms of the current legislation and with regard to the procedure for public participation, in particular in the case of the construction of the Kok-Zhailau ski resort;

b) not providing sufficient time for preparation and effective public participation in decision-making on environmental issues related to the ski resort

"Kok-Zhailau", the Party concerned did not fulfill the requirement of paragraph 3 of Article 6 of the [ConventionAC](#);

(c) By failing to establish clear requirements in its legislative framework for due account of the results of public participation in decision-making under Articles 6 and 7 of the [ConventionAC](#), the Party concerned has failed to comply with article 6, paragraph 8 and article 7, in conjunction with article 6, paragraph 8, of the [ConventionAC](#);

(d) By failing to adopt appropriate practical and / or other provisions on public participation in the preparation of plans, programs and policies related to the environment, the Party concerned has failed to comply with Article 7 of the [ConventionAC](#) as a whole;

e) By failing to envisage early effective public participation in the development and implementation of the Plan for the Development of World-Class Ski Resorts in Almaty Oblast and Near the City of Almaty, the Party concerned failed to comply with Article 7 in conjunction with paragraphs 3, 4 and 8 of Article 6 of the [ConventionAC](#);

a) Pursuant to paragraph 2 of Article 6 of the [ConventionAC](#), the National legislation of Kazakhstan provides for the following norms:

Article 57-2 of the [Environmental CodeEC](#) establishes that local executive bodies, twenty days before the holding of public hearings, provide open access to environmental information related to the procedure for assessing the environmental impact of planned economic and

other activities and the decision-making process for these activities through the Internet resource, as well as using other means of information.

The rules for holding public hearings provide for:

- on the Internet resource of the local executive body, a special heading "Public Hearings" is created in the form, in accordance with Appendix 1 to these Rules;

- local executive bodies, twenty days before the public hearings, provide open access to environmental information related to the procedure for assessing the environmental impact of planned economic and other activities and the decision-making process on these activities through the Internet resource, as well as using other methods of information;

- The customer preliminarily agrees with the local executive body the time and place of public hearings, a preliminary list of the interested public and justifies the most effective ways of informing it (announcements in the media, newsletters, stands, written appeals).

- The local executive body agrees on the list of the interested public, the method of informing, the time and place of holding public hearings, and determines the person responsible for holding public hearings.

- The customer informs the interested public in the state and Russian languages no later than twenty calendar days before the public hearings.

- The customer sends an announcement of public hearings, project documentation for posting on the Internet resource of the local executive body.

b) Information on the fulfillment of the requirements of paragraph 6 of Article 6 of the [Convention AC](#):

(c) To ensure that, in accordance with article 6, paragraph 7, of the Convention, the provision of comments by the public is not limited to "reasonable" comments:

In accordance with the approved rules for conducting public hearings, the results of public hearings are recorded in the minutes, in the form specified in Appendix 3 to these Rules. The protocol is drawn up taking into account the opinions of persons who took part in public hearings, as well as those received through the Internet resource or using other means of informing, comments and suggestions. The Protocol reflects the comments and suggestions from the interested public related to the customer's project, and the customer's position on taking into account each remark and proposal, as well as information on the possibility of appealing against the decision. The minutes are signed by the chairman and secretary of public hearings and posted on the Internet resource of the local executive body no later than seven working days after the public hearings.

(d) To establish appropriate procedures, which are not limited to the publication of decisions only on websites, to promptly notify the public of environmental impact assessments, as well as to facilitate public access in accordance with paragraph 9 of Article 6 of the [Convention AC](#):

1. At the legislative level (Article 57), the obligation has been introduced to publish the conclusion of the state ecological expertise on the Internet resource of Local executive bodies within five working days after its receipt by the user of natural resources.

2. The Rules for Conducting Public Hearings (approved by Order of the Minister of Environmental Protection dated May 7, 2007 No. 135-p.) Provides:

- The results of public hearings are documented in a protocol, which is posted on the Internet resource of the local executive body no later than seven working days after the public hearings.

f) to store and provide the public through publicly available lists or registers of copies of decisions taken, together with other information relevant to the decision-making process, including data confirming the fulfillment of the obligation to inform the public and provide it with the opportunity to submit comments:

In accordance with clause 27 of the Rules for conducting public hearings, the responsible person of the local executive body, together with the customer, draw up a Protocol on holding public hearings in the form of a survey, in the form specified in Appendix 4 of these Rules. The Protocol reflects the comments and (or) proposals from the interested public and the

customer's position on taking into account each comment and (or) proposal, as well as information on the possibility of appealing the decision.

Currently, the Republic of Kazakhstan, being a party to the UNECE Espoo Convention since 2001, is considering the possibility of joining the UNECE SEA Protocol in order to create a modern national system of strategic environmental assessment.

The experts developed the chapters of the [Environmental Code EC](#) in the new edition on "Environmental Impact Assessment", "On Strategic Environmental Assessment" and "Environmental Impact Assessment in a Transboundary Context".

With regard to communication ACCC / C / 2013/88, we inform:

Developed in 2012-2014. the project of the ski resort "Kokzhailau" provided for the construction of a modern resort of international level. However, in mid-2015, the Almaty city administration abandoned the idea of building a very large-scale and expensive ski resort and decided to suspend work on the project.

Based on the principles of minimum environmental impact, the Kok-Zzhailau project was radically revised. The new concept envisions an urban year-round resort with an emphasis on hiking and other family-friendly activities.

The impact on the environment has been significantly reduced. Namely, the area of the planned development has been reduced 14 times, and the demolition of trees has been reduced by 26 times. 100 hectares of land will be returned to the National Park. The new concept completely excludes the design of private cottages.

In accordance with the requirements of the AC, the previously planned day of public hearings (October 19, 2018, Friday) was postponed to November 4 (Sunday) 2018. Based on the results of the public hearings, a 293-page protocol was drawn up and posted in the public domain. Its analysis was carried out and discussed with the Austrian consultants by Master Concept.

In April 2019, the head of the city of Almaty proposed to postpone the construction of the Kok-Zhailau resort for an indefinite period.

They promise to plant 30 conifers in the adjacent territory.

In addition, in September 2019, the construction of the Kok-Zhailau transformer substation was suspended in Almaty. The constructed building will be protected from adverse weather conditions in mountainous areas, theft and vandalism. The contractors of Almaty Zholdary also said that within the framework of the social responsibility of the business, Zavod Elektrokabel LLP will carry out work on the improvement, freeing of garbage from the territory adjacent to the substation. They promise to plant 30 conifers with subsequent care.

Each year, the Compliance Committee is provided with detailed information on further progress in the implementation of the recommendations.

On September 30, 2020, the Law "On Amendments and Additions to Certain Legislative Acts on Specially Protected Natural Areas" was signed, which provides for the return to specially protected natural areas of reserve lands previously withdrawn from their composition for the construction of tourism facilities, water facilities, arrangement and the functioning of state border facilities, defense needs and not used for these purposes.

The adoption of the Law "On Amendments and Additions to Certain Legislative Acts on Specially Protected Natural Areas" is the result of taking into account the opinion of effective public participation in decision-making on the Kok-Zhailau project.~~Answer:~~

~~*The Convention is one of the ratified international treaties, according to which citizens and private legal entities have the right to appeal to the international court Compliance Committee of the Aarhus Convention, statements on the facts of its non-compliance. Such a possibility is being actively used by Kazakh citizens and environmental organizations.*~~

~~*So, February 18, 2005 2 claims EO "Green Salvation" Compliance Committee twice admitted the act of non-compliance by Kazakhstan with its provisions.*~~

~~*The third time, the Compliance Committee of the Convention recognized the failure of the Republic of Kazakhstan to comply with its provisions on 16 June 2006 at the request of residents of the city of Almaty L. Gatineau, A. and L. Gatina Konyshkova.*~~

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— The decisions of the Compliance Committee were discussed at the meeting of the Parties AC. The Second Meeting of the Parties AC (Almaty, 2005) examined the case on claims of Green Salvation and adopted decisions II / 5a with recommendations "to adopt and implement regulations setting out more precise public participation procedures covering the full range of activities provided for in article 6 of the Convention, without prejudice to existing rights of public participation. " In February 2006, Kazakhstan introduced the implementation of the provisions of the Convention draft strategy for national legislation. In 2006 the Environmental Code was adopted, which was enough for the implementation of measures recommended by the Meeting of the Parties.

The Third Meeting of the Parties AC in Riga in June 2008, in its decision III / 6e noted that Kazakhstan has taken measures to implement most of the provisions of decision II / 5a and proposed Kazakhstan to study in detail with appropriate public participation relevant environmental and procedural legislation.

At the 4th Meeting of the Parties of AC decision IV / 9 on the Kazakhstan's compliance with its obligations under the Convention was made. In connection with the failure to implement Decision III / 6e, adopted at the 3rd Meeting of the Parties in respect of Kazakhstan, based on a new decision of Kazakhstan was necessary:

to comply fully with the condition — "examine in detail appropriate public participation relevant environmental and procedural legislation and the relevant case law in order to determine whether it provides judicial and other review authorities with the opportunity to provide adequate and effective remedies in the course of judicial review".

In implementation of such decision, a number of events were held: interdepartmental working group on the implementation of AC was renewed, an analysis of environmental and civil procedural legislation of RK in meeting the requirements with AC in terms of access to environmental information, justice and public participation in decision making and analysis of judgments in a period of 2008-2011 on the disputes regarding the access to environmental information, public participation in decision making and access to justice in regard to environmental matters.

Designed Analysis were discussed at the meeting of the working group on the implementation of AC dated December 2, 2011, at the round table "Problems of implementation of commitments AC in Kazakhstan" (Astana, December 14, 2011), at the Regional Seminar "Mechanisms and forms of participation in decision making on matters relating to the environment" (Atyrau, 11 April 2012), as well as NGOs and Ecoforum Aarhus Centres.

Analysis of the text were placed on the website of the National Aarhus Centre www.aarhus.kz to discuss with the public.

On December 30, 2011 the Committee was provided with a detailed report of Kazakhstan on implementation of decision IV / 9, and the full text of the analysis. Moreover additional information regarding the involvement of the members of the public in the process of reviewing the relevant legislation and legal precedents.

September 28, 2012 on the 38th meeting of the Compliance Committee considered the question of AC Kazakhstan's compliance with decisions of the 4th Meeting of the Parties. The Committee recognized that Kazakhstan has fulfilled the condition of decision IV / 9e on the analysis of environmental and civil procedural legislation for compliance with AC and analysis of court decisions in disputes on access to environmental information, public participation in decision making and access to justice in matters relating to environment.

At the same time, the Committee urged Kazakhstan to speed up the work in making appropriate changes in legislation. The next step is the development of Kazakhstan's relevant proposals in the Republic of Kazakhstan legislation to bring it into conformity with the AC-based analysis. This work is conducted in close cooperation with NGOs. In May 2013 Ministry of Environmental Protection initiated the development of the concept of the bill "On amendments and additions to some legislative acts of Kazakhstan on Access to Information, Public Participation in Decision-making and Access to Justice in matters relating to the environment."

In 2013, the Compliance Committee acknowledged the failure of the Republic of Kazakhstan to comply with the provisions of Convention on the application of the public association "National Analytical Information Resource" (NAIR). The Committee recommended to take the necessary legislative, regulatory and administrative and practical measures to ensure that:

I) mandatory requirements for public notice must be explicitly detailed by the law, such as the obligation to inform the public in a timely manner and via the means of the public notice, including the obligation that any information needed for decision-making should also be available on the website of the state body competent for the decision making;

(II) there is a clear possibility that any member of the public concerned may submit any comments on the draft corresponding documentation at various stages of the public participation process without the requirement of justification of the comments.

(III) there is a clear responsibility of the responsible public authorities:

– timely inform the public about the measures they have taken and how decisions can be made available;

– to maintain and make available to the public through public lists or registers, copies of the decisions they take, as well as other information concerning the decision making, including the evidence of fulfillment of the obligation that the public is informed and given the opportunity to present their comments;

Regarding the implementation of the recommendations of the Compliance Committee on 28 March 2013 to post ACCC/C2011/59 The following measures have been taken. Order of the Minister of Environmental Protection of Kazakhstan from 26.03.2013 №50 updated version of the Rules of the public hearings. In claims 1 and 2, para. 3 of the Regulation, the definitions of "the public" and "public concerned" in accordance with the AC. The term "stakeholders" is not used in the definition of the public. In addition, to develop the concept proposed to amend the Environmental Code of the Republic of Kazakhstan and to consolidate the concept of "public" and "public concerned" in accordance with the AC.

In accordance with sub-paragraph 2 of Art. 6 AC on timely informing of the public about the conduct of public hearings in the Rules on holding public hearings in the edition of March 26, 2013 at sub-paragraph 8 of the paragraph 2 made to "Customer pre-negotiates with local authorities (in the territory of which the execution of works is planned) time and venue of the public hearings and publishes an advertisement in the media about the conduct of public hearings. Publication announcements are made on the state and Russian languages no later than twenty days prior to the public hearings.

The announcement is also available on the web-site of the local executive bodies.

These rules in the new version entered into force on 3 August 2013. The local executive authorities sent a letter about the need to publish the announcement of the public hearing on the websites of local government offices in the state and Russian languages for the twenty days prior to the public hearing in accordance with paragraph 8 of these Regulations. Under the new requirements (claim 18 of the Regulations) the local executive bodies publish the minutes of the public hearings on their websites no later than five working days after the day of the public hearings.

At the fifth meeting of the AC in 2014, Kazakhstan made a decision V/9i on Kazakhstan's compliance with its obligations under the Convention. Where it noted that Kazakhstan does not comply with paragraphs 2, 6, 7 and 9 of Article 6 of the Convention on public participation in decision-making. Every year in the Compliance Committee provides detailed information on further progress in implementing the recommendations.

As mentioned above, the 8 April 2016 by the President of the Republic of Kazakhstan signed the Law "On introducing amendments and addenda to some legislative acts of Kazakhstan on environmental issues," including on the Aarhus Convention.