

Justice out of sight



Alternative report on the implementation
of the Aarhus Convention
Kazakhstan 2017



TRANSITION

JUSTICE OUT OF SIGHT

KAZAKHSTAN

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Access to information

- The new law on access to information has been adopted taking into account the majority of requirements of Article 4 of the Aarhus Convention.
- Environmental information is fragmented in different state institutions.
- PRTR Protocol was not ratified. Alternative PRTR based on official data was launched by NGOs.
- Preparation and on-line publication of the National Report on the State of the Environment and on the Use of Natural Resources of Kazakhstan is underway.
- About 20-30 % of requests for information remain unanswered. More than 50 % of responses do not satisfy the public.

Public participation in decision-making

- There are no clear procedures for public participation.
- The provisions for timely and effective public participation at early stages of decision-making process are not fixed.
- Compulsory publication of announcements on the submission of project documentation for EIA has been canceled, but the possibility of carrying out Public Environmental Expertise is tied to EIA deadlines.
- Public Environmental Expertise requires registration, for the public its costly, and it is not an obligatory part of the EIA.
- The EIA does not contain obligation to reflect the results of public participation.
- The period given for public participation – 20 calendar days – is shorter than the period of 30 days given by the Law on Access to Information to receive a response to a request for information.

Access to justice

- There are no effective measures to inform the public about existing administrative and judicial procedures for appealing against decisions of the state authorities.
- There are no effective mechanisms to enforce the right to judicial protection, proclaimed by the Constitution.
- The procedure for judicial review is quite complex (the need to state the claims and explain their justification, the collection of evidence).
- In their decisions, courts often do not take into account international conventions.

Progress within 2014-2017

- National and 14 regional Aarhus Centers have been established, but there is neither legal nor methodological basis for their performance. They do not have unified strategy and do not receive financial support from the state.
- Many changes in legislation have worsened the position of the public.

Other findings

- Since 2014, Kazakhstan has no independent agency (ministry) responsible for the formation of environmental policy.
- Constant changes in environmental legislation, which are likely to worsen the position of public, represent a significant obstacle.
- Cases of persecution of environmental activists occur.