

**15<sup>th</sup> INTERNATIONAL MULTIDISCIPLINARY  
SCIENTIFIC GEOCONFERENCE  
S G E M 2 0 1 5**



**WATER RESOURCES. FOREST, MARINE AND OCEAN ECOSYSTEMS  
CONFERENCE PROCEEDINGS  
VOLUME I**

-----  
**HYDROLOGY AND WATER RESOURCES**  
-----

**18-24, June, 2015  
Albena, BULGARIA**

---

## **DISCLAIMER**

This book contains abstracts and complete papers approved by the Conference Review Committee. Authors are responsible for the content and accuracy.

Opinions expressed may not necessarily reflect the position of the International Scientific Council of SGEM.

Information in the SGEM 2015 Conference Proceedings is subject to change without notice. No part of this book may be reproduced or transmitted in any form or by any means, electronic or mechanical, for any purpose, without the express written permission of the International Scientific Council of SGEM.

Copyright © SGEM2015

All Rights Reserved by the International Multidisciplinary Scientific GeoConferences SGEM  
Published by STEF92 Technology Ltd., 51 “Alexander Malinov” Blvd., 1712 Sofia, Bulgaria  
Total print: 5000

**ISBN 978-619-7105-36-0**

**ISSN 1314-2704**

**DOI: 10.5593/sgem2015B31**

**INTERNATIONAL MULTIDISCIPLINARY SCIENTIFIC GEOCONFERENCE SGEM  
Secretariat Bureau**

Phone: +359 2 4051 841

Fax: +359 2 4051 865

E-mails: [sgem@sgem.org](mailto:sgem@sgem.org) | [sgem@stef92.com](mailto:sgem@stef92.com)

URL: [www.sgem.org](http://www.sgem.org)

## LEGAL BASIS OF ACCESS TO THE ENVIRONMENTAL INFORMATION OF REPUBLIC OF KAZAKHSTAN

MSc. Roza Yerezhepkyzy<sup>1</sup>

Dr. Serikkali Tynybekov<sup>1</sup>

PhD Araylym Dzhangabulova<sup>1</sup>

MSc. Alina Borodina<sup>1</sup>

<sup>1</sup> Al-Farabi Kazakh National University / **Republic of Kazakhstan**

### ABSTRACT

In this article, the author analyzed the legislation of the Republic of Kazakhstan and the ways to implement the Aarhus Convention. Questions of access to information, participations of the public in decisionmaking and access to justice are guaranteed by the Constitution of the Republic of Kazakhstan. Existing legislation of the Republic of Kazakhstan grants the public the right to obtain information, including ecological information, public access to decision-making and justice. Although the legislation of the Republic of Kazakhstan both sectoral and general direction, there is legislative recognition, but need to develop specific procedures and mechanisms for their implementation, taking into account the provisions of the Convention.

**Keywords:** Aarhus Convention, the law, the right of access to ecological information, public, ecological protection, public access to decision-making and justice.

### INTRODUCTION

Years of independence in Kazakhstan became years of education and formation of absolutely new state system of ensuring ecological safety, management of environmental protection and environmental management. Ecological safety is one of the main strategic components of national security of the Republic of Kazakhstan and the most important aspect of the state priorities. Distribution of ecological information among the population has the big educational and propaganda importance in the solution of questions of ensuring ecological safety. Ecological information is information about the state of environment, the degree of negative impact on its business activities, provided by bodies on environmental protection by inquiries of citizens and public organizations. To ecological information belongs information: about a condition of water, air, lands, soils, flora and faunae; about threats to health of citizens; about the activity influencing a state of environment, creating threat of negative impact on human health; about actions directed on prevention of negative impact on environment. One of the important prerequisites for sustainable development

of modern society recognizes the active and effective participation of citizens and civil society in decisionmaking on environmental issues. In the solution of social-and-ecological problems public activity of the population is in direct dependence not only on

level of its ecological culture, but also on such factors as awareness of residents about the ecological state of the urban environment, relationship of public environmental organizations with the population, existence of the settled standard rules of law, allowing to participate in adoption of socially significant decisions. The public can effectively participate in the solution of environmental problems when it is informed on existing threats to environment and health of citizens. It is important to create conditions for obtaining information on inquiry from government bodies, as well as organizations and companies whose activities have or may have an adverse impact on the ecological situation. Public access to environmental information in Western nations is an important part of "environmental rights" [1]. Dealing with environmental matters in an "open society" requires public access to environmental information, as well as public participation in environmental decisions [2].

**Public access to ecological information of Republic of Kazakhstan.** The issues of public access to ecological information have been reflected in a number of international ecological conventions ratified by the Republic of Kazakhstan. The most important issue is the Convention of the European economic commission of the UN on access to information, participation of the public in decision-making process and access to justice on the questions concerning Environmental Matters on Convention. In some opinions, the belief that governments must allow greater public access to environmental information has resulted in an international trend toward the increased availability of environmental information [3]. The Republic of Kazakhstan ratified this international legal document on October 23, 2000 [4]. The convention establishes high requirements for work of government bodies and officials with public requests for ecological information that must be observed in Kazakhstan. Kazakhstan became the part of Convention Party on January 11, 2001. Basic obligations of Kazakhstan under the Convention are:

- 1) access to information;
  - 2) public involvement in decision-making process and inclusion in process of all interested parties;
  - 3) access to justice (legal aspects of the decision) on matters relating to the environment.
- The measures taken by the state, for realization the rights for citizens granted by the Convention, these rights providing free implementation conform to requirements as are fixed in provisions of standard legal acts of the Republic of Kazakhstan [5].

The Constitution has supreme legal force and direct effect on the entire territory of the Republic of Kazakhstan. According to the article 4 of the Constitution of the Republic of Kazakhstan: "The laws in force in the Republic of Kazakhstan are standards of the Constitution, laws corresponding to it, other regulations, the international contractual and other obligations of the Republic, and also standard resolutions of the Constitutional Council and the Supreme Court of the Republic. The international contracts ratified by the Republic, have a priority before its laws and are applied directly, except cases when from the international treaty follows that its application requires the publication of the law. All laws and the international treaties to which participate Kazakhstan are published. Thus, the right to information is a constitutional right of citizens of the Republic of

Kazakhstan. In compliance with article 18 part of 3 Constitutions of the Republic of Kazakhstan: "Government bodies, public associations, officials and mass media are obliged to provide to each citizen opportunity to study documents, decisions and information sources mentioning his rights and interests" [6].

Definition of the concept "ecological information" is given in point 3 of article 2 of the Aarhus Convention, and it covers the following types of information: a) about a state of environment, including its separate elements (air, water, the earth, the soil, landscapes and natural objects, the biological diversity, genetically modified organisms, etc.) and their interaction; b) about factors of impact on environment (polluting substances, noise, radiation, etc.); c) about activity or measures, including policy, the legislation, programs and the plans, capable to make impact on environment; d) about a state of health and safety of people, objects of culture and buildings in connection with influence or potential impact on them ecological factors [5]. Ecological legislation in the Republic of Kazakhstan. In improvement of the ecological legislation of the Republic of Kazakhstan by implementation of standards of the convention the Aarhus convention played a significant role. Most of the provisions of the Aarhus convention were implemented in 2007 in the Ecological Code of the Republic of Kazakhstan.

The content of the concept "ecological information" is disclosed by article 159 of the Ecological code of the Republic of Kazakhstan according to which ecological information includes information and data about:

- 1) state of environment and its objects;
- 2) factors of impact on environment, including its pollution;
- 3) program, administrative and other measures which have or may have an impact on the environment;
- 4) ecological standards and ecological requirements to business and other activities;
- 5) planned and realized actions for environmental protection and financing;
- 6) the activity making or capable to make impact on environment, process of decision-making and results of inspection ecological checks on it, including the calculations considered thus, analyses and other data concerning environment;
- 7) impact of a state of environment on health, safety and conditions of accommodation of the population, objects of culture, buildings and constructions [7].

According to article 164 of the Ecological code of the Republic of Kazakhstan guarantees to individuals and legal entities the right of a free access to public state information resources of ecological information and assigns to government bodies and the officials who are carrying out the state functions, and also on the legal entities providing population services on the basis of the public contract, related to the environment, to provide open access to ecological information, including on inquiries of individuals and legal entities [7].

The ecological code of the Republic of Kazakhstan in article 160 provides an obligation of government bodies to extend through posting on the Internet or public informational resources the following types of ecological information:

- 1) reports on a state of environment;
- 2) projects and texts of regulations and international treaties concerning environmental protection;
- 3) projects and texts of the documents concerning a state policy, programs and plans in the field of environmental protection;
- 4) reports on results of control, inspection and law-enforcement activity in the field of environmental protection;
- 5) information referred to the list of basic e-government services in the field of environmental protection [7].

Centralized data collection, account and storage of ecological information in Kazakhstan are carried out by the State fund of ecological information. By the order of the Minister of environmental protection of the Republic of Kazakhstan dated by September 12, 2005 No. 264-p in accord with "Environmental Protection Information and Analysis Center" was created the Ecological information center [8].

Fund experts continually monitors issue of national and international, methodical and legislative documents in the field of environmental protection, environmental management, labor protection, health, ecological and industrial safety, emergency situations. Works in creation of the uniform storage, constantly filled up by information systematized in the directions – the protection of the environment and management of natural resources. The system has the effective and simple interface of interaction with the user. The system contains developed standard documentation and methodical instructions on environmental protection [9].

Access to government information resources (information databases) environmental information is implemented by generating and maintaining public registers and inventories of environmental information. Access to documents and information resources containing information and data with limited access, according to the procedure, established by the legislation of the Republic of Kazakhstan. The right of a free access of individual and legal entities to public state information resources of ecological information is enshrined in article 164 of the Ecological code of the Republic of Kazakhstan, according to which: - individual and legal entities have the right of a free access to public state information resources of ecological information; - government bodies, and also the officials who are performing the state functions, or the individual and legal entities providing services to the population on the basis of the public contract, concerning to environment, are obliged to provide open access to ecological information, including on inquiries of individual and legal entities. - other individual and legal entities who are carrying out activity in the territory of the Republic of Kazakhstan, are obliged to provide the ecological information relating to the effects on the lives and health of citizens. - individual and legal entities have the right to ecological information in a required form if there are no bases to provide it in other form. The ecological code of Kazakhstan in compliance with article 160 provided an obligation of

the right: - to be informed on risk to which they can be exposed in certain places of stay in the territory of the Republic of Kazakhstan, and about measures of necessary safety; - to apply in person, sent to the government body and local self-government, individual and collective appeals for the protection of citizens, environment and business facility of emergency situations and the consequences caused by them; - to participate in activities for the prevention and elimination of emergency situations, to use facilities of collective and individual protection, and other property intended for protection of citizens; - to protect the life, health and personal property in case of emergency situations; - to receive the compensation and benefits for the damage caused to their health by involving them for performance of duties during elimination of emergency situations; - to receive social security in case of disability in connection with a mutilation or a disease, losses of the breadwinner, died from injury or illness if they occurred as a result of performing duties under emergency situations in accordance with the legislation of the Republic of Kazakhstan on state social benefits; - to compensate the damage caused to their health and property as a result of emergency situations [11]. Ecological information, according to the part 1 article 17 of the law of the Republic of Kazakhstan "About the state secrets" isn't subject to a classification and fixed by article 163 of the Ecological code of the Republic of Kazakhstan, so it's must be public, except for the cases provided by laws of the Republic of Kazakhstan. According to article 17 of the law of the Republic of Kazakhstan "About the state secrets" the list of information which isn't subject to a classification, includes information on emergencies and disasters which threaten the safety and health of citizens, and their consequences, as well as natural disasters, their official forecasts and consequences; on state of the environment, health, sanitation, demography, education, culture, agriculture, as well as on crime, on violations of human rights and freedoms, on the facts of violations of the law by government bodies and organizations. The officials who have made the decision on a classification of listed data or on their inclusion for this purpose in carriers of data, making the state secrets, bear responsibility according to the legislation of the Republic of Kazakhstan. Citizens have the right to appeal against such decisions in a judicial order [12].

## **CONCLUSION.**

Analysis of a current legislation of the Republic of Kazakhstan listed above shows that in general in terms of access to ecological information it corresponds to provisions of the Aarhus convention. General procedure of providing citizens and public with ecological information, precisely defined in the current legislation of the Republic of Kazakhstan. Following measures to improve the legislation in this area are offered:

1. In practice, revealed that only a small part of the ecological information interest public, becomes public through publication in the media and posting on the web sites of the government bodies. The most part of ecological information is available only through its request. For public is problematic to receive information about chemical substances,

because there is no monitoring on them and as a result, government bodies have no such information. Also materials of an assessment of impact on environment and the state ecological assessment are not available for public; as such information can be included in structure of the State fund of ecological information only with the consent of the customer.

2. According to the Aarhus convention it is necessary legislatively fix an annual development and the publication of the National report of a state of environment. To implement this proposal is necessary to fix the competence of the authorized body in the field of environmental protection on development of the National report of a state of environment and approval of its development.

3. For environmental information, although it is not contrary to the obligations of the Republic of Kazakhstan on the Aarhus Convention Compliance the right of public authorities to charge haven't a single meaning assessment. The ecological code of the Republic of Kazakhstan according to article 166 part 3 is guaranteed providing a free ecological information only through the public state electronic register and the inventory of ecological information, and regarding to part 1 article 166 of the Ecological code provides to government bodies the right to charge a fee for the provision of environmental information. For more effective and full implementation by the Republic of Kazakhstan of the obligations following from provisions of the Aarhus Convention, and also for ensuring publicity in work of government bodies on providing ecological information, decrease in financial barriers to access to ecological information and creation of transparent system of such access, necessary to adopt Uniform Rules for government bodies on establishment of tariffs on fee for providing ecological information.

4. For full realization of the rights of citizens and legal entities on access to ecological information: - to reduce the list of information which can be included in the State fund of ecological information only with the consent of the customer; - to the officials handling the state environmental control, to provide the publication of results of all inspections during which revealed violations of environmental legislation; - inspection information on the facts of violation of the ecological legislation which contain signs of penal act, shouldn't be confidential; - to develop criteria of interest of the public in information with limited access. In our opinion, it is necessary to make the following changes to the legislation of the Republic of Kazakhstan in questions of access of the public to ecological information.

## **REFERENCES**

[1] Wilcox, W.A. Jr., Access to Environmental Information in the United States and the United Kingdom. /Loy. L.A. Int'l & Comp. L. Rev., 23: L.A. 2001. pp 121.



[2] Kramer, L., The Open Society, Its Lawyers and Its Environment, J. ENVTL. L., 1, 4, 1989.

[3] Rowan-Robinson, J. et al., Public Access to Environmental Information: A Means to What End J. ENVTL. L., 8(19): pp 19-21. 1996.

[4] Law of the Republic of Kazakhstan "Ratification of the convention on access to information, public -participation in decisionmaking and access to matters relating to the environment" No 92-II. 2000

[5] The convention on access to information, participation of the public in decision-making process and access to justice on the questions concerning environment, held in Aarhus (Denmark) dated on June 25, 1998. [www.unece.org](http://www.unece.org)

[6] Constitution of the Republic of Kazakhstan "Abo ut the safety of the nutritive products" of 30.08.1995 . [Electronic resource] // URL: <http://www.prg.kz/> (in Russian)

[7] The code of the Republic of Kazakhstan "Ecological code of the Republic of Kazakhstan" of January 9, 2007 Volume 212-III. [Electronic resource] // URL: <http://www.prg.kz/> (in Russian)

[8] The order of the Minister of environmental protection of the Republic of Kazakhstan dated on September 12, 2005 No. 264-p about "Creation of the center of ecological information". URL: <http://www.iacoos.kz/fond.php> (in Russian)

[9] The order of the Minister of environmental protection of the Republic of Kazakhstan dated on September 12, 2005 No. 264-p "Rules of collecting, systematization, storage and distribution of ecological information". [Electronic resource] // Committee for Environmental Regulation and Control of the Ministry of Environment of the Republic of Kazakhstan [official. site]. // URL: <http://www.ecokomitet.kz/>

[10] The law of the Republic of Kazakhstan "Administrative procedures" No. 107-II. of 27.11.2000. [Electronic resource] // URL: <http://www.prg.kz/> (in Russian)

[11] The law of the Republic of Kazakhstan "Emergency situations of natural and man-made character" of July 5, 1996 No. 19-I [Electronic resource] // URL: <http://www.prg.kz/> (in Russian)

[12] The law of the Republic of Kazakhstan "About the state secrets" of March 15, 1999 No. 349-I . [Electronic resource] // URL: <http://www.prg.kz/> (in Russian)