

Measures taken considering the comments of Decision VI / 8g in the new edition of Environmental Code of the Republic of Kazakhstan

N	Compliance Committee comments	Measures taken
	<p>a) The Party complies with the requirement to notify the public about the decision-making in a timely manner, but does not guarantee the mandatory content of the public notification, i.e. providing the interested public with complete information necessary for making a decision (article 6, paragraph 1, of the Convention).</p>	<p>The mandatory content of a public notification is stipulated in article 73 of the Environmental Code. The draft Rules for Holding public hearings (hereinafter referred to as the draft Rules) have been developed in compliance with the Environmental Code. The draft Rules were reviewed by the Public Council on Ecology, Geology and Natural Resources, posted on the Internet portal of open regulatory legal acts for obtaining expert opinions of the National Chamber of Entrepreneurs of the Republic of Kazakhstan and accredited associations of private entrepreneurs, discussed with the public, and also negotiated with interested state bodies. The final version of draft Rules, taking into account comments and suggestions, is currently undergoing the approval procedure at the Ministry of Justice of the Republic of Kazakhstan.</p> <p>According to Article 73 of the Environmental Code, documents submitted for public hearings are placed at least thirty calendar days before the start date of public hearings on the Portal and the official internet resource of local executive bodies of the relevant administrative-territorial units (regions, cities of republican significance, the capital), as well as on the internet resource of the Ministry of Ecology, Geology, and Natural Resources.</p> <p>The initiator of the planned activity will organize the distribution of the announcement of the public hearings no later than twenty working days before the date of the start of the public hearings in the Kazakh and Russian languages in the mass media, including in at least one newspaper and at least one television- or a radio channel distributed on the territory of all relevant administrative-territorial units (regions, cities of republican significance, the capital, districts, cities of regional and district significance, villages, settlements, rural districts) fully or partially located within the affected territory, as well as in places specially designated for placing ads.</p> <p>The date of holding an open meeting of public hearings is appointed not earlier than twenty working days from the date of posting an announcement about holding public hearings in the media and not earlier than thirty calendar days from the date of posting materials submitted for public hearings on the official internet resources of local executive bodies of the region, the city of republican significance, the capital.</p> <p>In order to guarantee the provision of complete information, according to paragraph 7 of article 73, engaged state bodies and the public have the right to send their comments and suggestions in writing (on paper or electronic media) to the authorized body in the field of environmental protection to the materials submitted to public hearings no later than three working days before the date of the public hearings.</p>

		<p>The received comments and suggestions are made by the subordinate organization of the authorized body in the field of environmental protection, are posted on the Portal under the heading "Public hearings" and are sent to the local executive bodies of the relevant administrative-territorial units (regions, cities of republican significance, the capital) and engaged state bodies for posting on the official Internet resource.</p>
	<p>b) The Party partially complies with the requirement to allow the public to provide comments on the EIA report and other project documentation without the obligation of reasoning, but did not exclude the obligation of "reasonableness" of comments (paragraph 7 of the Convention)</p>	<p>According to paragraph 9 of Article 73 of the Environmental Code, participants in public hearings have the right to express their opinion on the quality of the materials in question, submitted to public hearings and heard reports, for completeness and accessibility of their understanding, as well as recommendations for their improvement. The opinions of the participants in the public hearings and their recommendations are included in the protocol of the public hearings.</p> <p>The obligation about the "reasonableness" of comments is excluded, all incoming comments are accepted and processed.</p>
	<p>c) The Party did not provide a mechanism and regulations for informing the public by state bodies about how the public can get access to information. There is also no list or register of decisions made.</p>	<p>Public awareness is regulated by the Rules for holding public hearings. The draft Rules have been developed in compliance with the Environmental Code. The draft Rules were reviewed by the Public Council on Ecology, Geology and Natural Resources, posted on the Internet portal of open regulatory legal acts for obtaining expert opinions of the National Chamber of Entrepreneurs of the Republic of Kazakhstan and accredited associations of private entrepreneurs, discussed with the public, and negotiated with engaged state bodies. The final version of the draft Rules, taking into account comments and suggestions, are currently undergoing the approval procedure at the Ministry of Justice of the Republic of Kazakhstan.</p> <p>The Unified environmental portal has been developed to provide a mechanism for informing the public. The Unified environmental portal performs the following tasks:</p> <ul style="list-style-type: none"> - compliance with the requirements of the environmental legislation of the Republic of Kazakhstan; - strengthening the capacity for interaction between authorized state bodies and enterprises participating in the information system;

		<ul style="list-style-type: none"> - ensuring public access in the decision-making process on environmental issues; - monitoring of placed ads and protocols on public hearings by local executive bodies; - simplification of public access to timely and complete information on the materials of the projects of the planned economic activity. <p>The maintenance of the Unified Environmental Portal of Public Hearings is carried out by the subordinate organization of the authorized body in the field of environment.</p> <p>To place information on public hearings, a special heading "Public Hearings" is being created on the Unified Environmental Portal of Public Hearings of the authorized body in the field of environmental protection, official Internet resources of local executive bodies of regions, cities of republican significance, the capital and state developer bodies.</p>
	The party did not take the necessary legislative and administrative measures	
2	a) To ensure compliance with the requirements in accordance with article 2 of the Convention, it is necessary to set them up in legislation	The enforcement of the requirements of Article 6, paragraph 2 of the Convention is reflected in Article 73 of the Environmental Code in the new edition. The Environmental Code was signed on January 2, 2021, and came into force on July 1.
	b) It is necessary to develop clear and consistent regulations to ensure full public awareness of decision-making	<p>Accordance to Article 13, paragraph 73 of Environmental Code after the completion of public hearings, a protocol is drawn up, which includes:</p> <ul style="list-style-type: none"> all questions, comments and suggestions from the public, engaged public and engaged state bodies, provided in writing or expressed during public hearings; responses of the initiator of the planned activity on each issue, comment and proposal included in the protocol; information on the right to appeal the protocol in the manner established by the legislation of the Republic of Kazakhstan. <p>The protocol is signed by the chairman of public hearings and posted on the Unified Environmental Portal.</p>
	d) To diversify sources of publishing information for the public (not be limited to Internet resources), notify about the	According to paragraph 4 of Article 73 of the Environmental Code, the initiator of the planned activity will organize the distribution of the announcement of the public hearings no later than twenty working days before the start date of the public hearings in the Kazakh and Russian languages in the mass media, including at least one newspaper and through at least one TV- or a radio channel

	conclusions of environmental expertise, promote public participation in decision-making (article 6, paragraph 9 of the Convention)	distributed on the territory of all relevant administrative-territorial units (regions, cities of republican significance, the capital, districts, cities of regional and district significance, villages, settlements, rural districts) fully or partially located within the affected territory, as well as in places specially designated for placing ads.
3	a) As a result of the Party's failure to comply with the requirements of Article 6, paragraph 2 of the Convention, the Party violated the requirements of the Convention regarding the current legislation and the procedure for public participation in the decision to build the Kok-Zhailau ski resort	<p>In 2019, the President of Kazakhstan, Kasym-Zhomart Tokayev, at a meeting on the socio-economic development of Almaty, banned the construction of a resort on the territory of the Kok-Zhailau tract. This decision was made as a result of taking into account the opinion of the public on the construction of the Kok-Zhailau ski resort.</p> <p>On September 30, 2020, the President of the Republic of Kazakhstan signed the Law of the Republic of Kazakhstan "On Amendments and Additions to certain Legislative Acts of the Republic of Kazakhstan on specially protected natural territories", 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, arrangement and operation of state border facilities, defense needs and not used for these purposes.</p> <p>Currently, the Ministry has developed a draft resolution of the Government of the Republic of Kazakhstan "On Amendments to the Resolution of the Government of the Republic of Kazakhstan dated February 17, 2009 No. 172 "On approval of the Rules for the Transfer of lands of specially protected Natural territories to reserve lands "(hereinafter-the Rules) which is currently undergoing the appropriate approval procedures with accredited organizations and government agencies. The decision of the Government of the Republic of Kazakhstan on the return of the Kok-Zhailau tract to the Ile-Alatau State National Natural Park will be taken after making appropriate changes to the Rules. This issue is under the direct control of the Head of State.</p>
	b) The Party did not provide sufficient time for preparation and participation in the decision-making on the Kok-Zhailau project (Article 6, paragraph 3 of the Convention)	According to article 73 of the new version of the Environmental Code, the local executive body coordinates the list of engaged public, the method of informing, the time and place of holding public hearings, determines the person responsible for holding public hearings. For holding 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 Kazakh and Russian languages no later than twenty working days before the public hearings.

<p>c) The absence of legal framework for taking into account the results of public participation in decision-making process requirements according to Article 6, paragraph 8 and Article 7 of the Convention are violated</p>	<p>The enforcement of the requirements of Article 6, paragraph 8 and Article 7 of the Convention is reflected in Article 73 of the Environmental Code in the new edition. The Environmental Code was signed on January 2, 2021, and came into force on July 1.</p>
<p>d) Inaction in the development of regulations and policies in the field of environmental protection, the Party did not fulfill the requirements of Article 7 of the Convention</p>	<p>Compliance with the requirements of article 7 of the Convention is reflected in the Environmental Code. The Environmental Code provides for public participation at various stages of writing environmental documentation, ranging from a Document for compliance with the SEA report to public hearings on the draft EIA report with the possibility of holding repeated hearings. Public participation is provided at all stages of the EIA.</p>
<p>e) Ensuring effective public participation in the development of the "World-class Ski Resorts Development Plan in the Almaty region and near the city of Almaty"</p>	<p>During the implementation of the project for the construction of the Kok-Zhailau ski resort, the public took an active part in the decision-making procedure. In 2019, the President of Kazakhstan, Kasym-Zhomart Tokayev, at a meeting on the socio-economic development of Almaty, banned the construction of a resort on the territory of the Kok-Zhailau tract. This decision was made as a result of taking into account the opinion of the public on the construction of the Kok-Zhailau ski resort.</p> <p>Currently, the Ministry has developed a draft resolution of the Government of the Republic of Kazakhstan "On Amendments to the Resolution of the Government of the Republic of Kazakhstan dated February 17, 2009 No. 172 "On approval of the Rules for the Transfer of lands of specially protected Natural territories to reserve lands " which is currently undergoing the appropriate approval procedures with accredited organizations and government agencies. The decision of the Government of the Republic of Kazakhstan on the return of the Kok-Zhailau tract to the Ile-Alatau State National Natural Park will be taken after making appropriate changes to the Rules. This issue is under the direct control of the Head of State.</p> <p>In addition, we note that articles 58 and 60 of the Environmental Code, in a new version, provide for Strategic Environmental Assessment (SEA) procedures to prevent or reduce significant negative</p>

		<p>impacts on the environment, as well as to ensure the availability of environmental information to the engaged public.</p> <p>At the same time, great importance is attached to informing the public about the beginning of the development of the program, the availability of documents submitted by the program developer at each stage of SEA, decisions taken at each stage, the results of taking into account comments and suggestions. Informing the public (not only by publishing on the official websites of state bodies, but also on paper in publicly accessible places), the opportunity to submit comments and proposals in a timely manner, their mandatory consideration and informing the public about the results of the review are necessary to ensure the rights of citizens to a safe environment.</p>
--	--	---