



**Economic and Social
Council**

Distr.
GENERAL

ECE/MP.PP/2005/18/Add.20
8 April 2005

ENGLISH
Original: RUSSIAN

ECONOMIC COMMISSION FOR EUROPE

Meeting of the Parties to the
Convention on Access to Information,
Public Participation in Decision-making and
Access to Justice in Environmental Matters

(Second meeting, Almaty, Kazakhstan, 25-27 May 2005)
(Item 6 (a) of the provisional agenda)

IMPLEMENTATION REPORT

Tajikistan^{*/}

Based on the reporting format annexed to decision I/8

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

The national report has been prepared on the basis of an analysis of the corresponding regulations, programme documents, plans, declarations, seminars and training courses. Experts from the following ministries, committees and other State institutions assisted in its preparation:

- (1) State Committee on Environmental Protection and Forestry
- (2) Ministry of the Economy and Trade

^{*/} Unofficial translation submitted by the secretariat. This document was submitted late due to the fact that various first-time problems had to be overcome as this is the first reporting cycle under decision I/8 of the meeting of the Parties. This was compounded by the fact that a considerable volume of other documentation being prepared for the second meeting of the Parties had to be processed during the same period.

- (3) Ministry of Agriculture
- (4) Ministry of Health
- (5) Ministry of Industry
- (6) Ministry of Justice
- (7) Ministry of Education
- (8) State Committee on Land Tenure
- (9) State Statistical Agency
- (10) Academy of Sciences

In order to take public opinion more fully into account the following also participated in the preparation of the national report:

- (1) The Aarhus Resource Centre of the State Committee on Environmental Protection and Forestry of the Republic of Tajikistan, supported by the Organization for Security and Co-operation in Europe (OSCE) Centre in Dushanbe and the following non-governmental organizations (NGOs):
- (2) Volunteers in Defence of Nature
- (3) Youth Ecological Centre
- (4) Fund for the Support of Civic Initiatives
- (5) Implementation of International Conventions
- (6) Energy

2. 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 a direct effect upon its entry into force, or whether financial constraints are a significant obstacle to implementation (optional).

The Republic of Tajikistan ratified the Convention on 9 June 2001. Tajikistan has the necessary political, legislative and institutional basis for the successful implementation of the main provisions of the Convention. The legislation establishes the basic principles for public participation in environmental decision-making, access to information and access to justice in matters relating to the protection of the environment and sustainable development.

Under article 10 of the Constitution, instruments of international law recognized by Tajikistan are an integral part of the legal system of the Republic. If the laws of the Republic conflict with recognized instruments of international law, the rules of the latter apply. Thus, the Convention having been ratified, there is no need to adopt further laws and regulations in order to apply its rules and provisions. The main obstacles to the implementation of the Convention are institutional weakness, the material support for staff, poor cooperation with the media and financial difficulties.

All the laws mentioned in the report have been placed on the following website:
www.aarhus.land.ru.

ARTICLE 3

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

In the laws listed below, public access to environmental information and public participation in environmental decision-making are established as basic principles of environmental protection:

- (1) Environmental Protection Act
- (2) Information Technology Act (arts. 12, 20, 19.1 and 31)
- (3) State Secrets Act (art. 5)
- (4) State Sanitary Inspection Act (art. 5)
- (5) Press and Other Media Act
- (6) Environmental Appraisals Act
- (7) Citizens' Petitions Act

Under the Constitution, public authorities, voluntary associations, political parties and officials must give everyone the opportunity to obtain and familiarize himself with documents that concern his rights and interests, except in the circumstances specified by law (art. 25). Everyone is guaranteed freedom of speech, freedom of the press, and the right to use the means of information. State censorship and persecution for criticism are prohibited. The list of information constituting a State secret is established by law (art. 30). Citizens have the right to petition public authorities personally or jointly with others (art. 31).

In order to improve the environmental education of the public, the Government has adopted Decree No. 339 of 15 May 1995 (Dushanbe) on the development of a State Environmental Programme and the creation of an inter-departmental coordination council on the development of a State Programme for the Environmental Education of the Population. The State Committee on Environmental Protection and Forestry of the Republic of Tajikistan (SCEPF) is taking a series of measures aimed at drawing attention to the problem of education for sustainable development (round tables, conferences, seminars, training courses). Members of the SCEPF are actively participating in the work of national, regional and international conferences on education for sustainable development and environmental education. The Aarhus Resource Centre, with the support of the OSCE Centre, is circulating information booklets and brochures and publishing articles in the press.

NGOs have appropriate mechanisms for co-operating with the SCEPF, such as the participation of experts in various programmes and the exchange of experience and information.

With the support and direct assistance of the international organizations it has been possible to involve international experts and hold discussions in which government agencies and voluntary organizations have participated. An international consultant, together with co-consultants and the OSCE Centre in Dushanbe, has assessed the conformity of the national legislation with the Convention.

The Constitution guarantees all its citizens, as well as stateless persons residing within the territory of the Republic, irrespective of their origin, social or property status, racial or national affiliation, language, sex, political views, religious beliefs, birth or occupation, domicile or other

circumstances, the full range of rights and freedoms provided under the Constitution and the public rules of international law. There have been no cases of infringements of the human rights established by the Convention. Voluntary organizations and journalists have never been persecuted or harassed because of their publications.

4. Describe any obstacles encountered in the implementation of any of the paragraphs of article 3 listed above.

The Republic of Tajikistan has developed a basic regulatory framework in the field of environmental protection which, generally speaking, meets the time requirements. However, it should be noted that there is a need for a regular and reliable means of publishing draft laws and regulations, as well as policies, plans and programmes, in order that the public and all interested parties may be informed in good time. Obstacles include:

- (1) The lack of a strategy on government information policy;
- (2) The fact that, technically, the State institutions are poorly equipped;
- (3) The physical infrastructure of the organs of government.

5. Provide further information on the practical application of the general provisions of the Convention.

In recent years, the Government has approved a number of programmes and regulations in whose preparation and implementation civil society has taken an active part:

- (1) The State Environmental Programme of the Republic of Tajikistan for the period up to 2008;
- (2) The State Environmental Education Programme for the period up to 2010;
- (3) The National Report on the Sustainable Development of the Republic of Tajikistan;
- (4) The Poverty Reduction Strategy document;
- (5) The Laws on Environmental Protection, the Protection and Utilization of the Animal Kingdom, Protection of the Atmosphere, Specially Protected Nature Areas, Industrial and Consumer Waste, Hydrometeorological Activities, Environmental Appraisals, Voluntary Associations, Citizens' Petitions, Information Technology, and the Press and other Media.

The first step towards the implementation of the Convention was to publish it in one of the main republican newspapers. Thus, the text of the Convention was translated into the State language and published in the newspaper Chumkhuriyat in May 2003.

Fortunately, it is common practice to submit State documents of vital importance for national discussion. In the context of articles 6 and 7 of the Convention, to enable citizens to exercise their constitutional rights and increase their confidence in the authorities, the Parliamentary Committee on Social Affairs, the Family, Health Care and the Environment has, for the first time, come up with a proposal to hold a dialogue with the public in the form of public hearings.

Thus, in December 2002 the Committee held a public hearing on the Environmental Appraisals bill. Such meetings between the public and members of Parliament constitute an important step towards the implementation of article 8.

To ensure the successful implementation of the Convention, the Government has approved a National Coordinator and a Government Working Group on the implementation of the Convention. The membership of the Working Group includes representatives of government, scientific and voluntary organizations.

A logical continuation of the process of implementation of the Convention has been the fruitful cooperation between the State Committee and the OSCE Centre in Dushanbe and other organizations. For the purpose of implementing the Convention, fulfilling the obligations stemming from its provisions and consolidating contacts between the government services and the public, in August 2003, the OSCE and the State Committee on Environmental Protection and Forestry signed an agreement to cooperate on the organization of the Aarhus Information Resource Centre - Aarhus Centre.

6. Give relevant web site addresses, if available:

The Aarhus Resource Centre of the State Committee on Environmental Protection and Forestry has developed a website www.aarhus.land.ru, which is regularly updated. The pages of the site contain information on the Committee's activities, regulations, information on the conventions that have been ratified and data on communications with the public.

There are a number of websites belonging to other government services and NGOs on which environmental information can be found:

State Statistical Agency - www.stat.tj

Government of the Republic of Tajikistan - www.soros.org/tajik/tajikgove.html

Office for the Protection of Biodiversity - www.arendal.com

Youth Eco-Centre - www.tabiat.narod.ru, www.caresd.ru

For the Earth - www.seu.ru/members/fe

ARTICLE 4

7. List legislative, regulatory and other measures that implement the provisions on access to environmental information in article 4.

The main authorities responsible for providing environmental information are the environmental departments, i.e. the State Committee and other ministries. Information relating to health, sanitation and hygiene, epidemics, etc is usually provided by the Ministry of Health or the individual sanitation and hygiene services. The Environmental Protection Act provides for the right of citizens to a healthy and favourable natural environment. Moreover, under article 12 of this Act citizens have a right of access to environmental information, while the Code of Civil Procedure entitles them to seek redress in the courts if their rights are infringed.

NGOs have the right to make use of adopted laws and to operate on the basis of their own statutes.

Under article 30 of the Constitution, everyone is guaranteed freedom of speech, freedom of the press and the right to use the media. State censorship and persecution for criticism are prohibited. The list of information that may constitute a State secret is established by law (art. 30).

The Environmental Appraisals Act (Law of the Republic of Tajikistan No. 20 of 22 April 2003) governs the general procedure for the organization and conduct of environmental appraisals, determines the rights and obligations of the parties involved in the appraisal, establishes the rights of citizens to obtain information on the environmental risks of projects that are planned, under construction or in operation, lays down the procedures for appealing against the conclusions of the appraisal and for settling disputes, and establishes liability for infringements of the environmental appraisal legislation (Chapter 1 of the Environmental Appraisals Act).

Under article 4 of the Act, the conclusions of an environmental appraisal must be objective and scientifically sound and must be forwarded in good time to the government and other entities taking decisions on the implementation of the object of the appraisal, while interested parties, the public and citizens must also be kept informed.

The legislation on the protection of information is based on the Constitution and consists of the Protection of Information Act, other enactments and the instruments of international law recognized by Tajikistan (art. 3 of the Protection of Information Act).

The object of protection is documentary information whose use is subject to specific rules and restrictions imposed by the legislation or by the holder or owner of the information (art. 5 of the Protection of Information Act).

The subjects of the legal relationship in the field of information protection are the State, as represented by the organs of government, and natural and legal persons having, under the law the right to establish specific rules and procedures for the protection of information and restrictions on the exploitation of that information (art. 6 of the Protection of Information Act).

The subjects of the legal relationship have the right to protection, under the procedure laid down, from damage caused as a result of lawful or unlawful acts (art. 7 of the Protection of Information Act).

In accordance with the Hydrometeorological Activities Act, information on the state of the environment and information production are open and generally accessible, except for information which the legislation assigns to the restricted access category (art. 20 of the Hydrometeorological Activities Act).

Information of general significance is supplied to users in the form of text, tables and charts by post, through the media or via the electronic communications network, under the regular communications regime or at the request of the users. Specialized information on the state of the environment is provided to users by agreement.

The Information Act establishes the right of citizens to information and creates the legal basis for information activity.

The basic principles of the information relationship include a guaranteed right to information, open and accessible information, and freedom of information exchange (art. 4 of the Information Act).

Other States, their citizens, legal persons, international organizations, foreign citizens and stateless persons may also be subjects of the information relationship (art. 5 of the Information Act).

One of the main objectives of government information policy is to ensure timely access to information for all citizens (art. 7 of the Information Act).

Article 9 of the Information Act ensures the right to information by creating a mechanism for the exercise of that right; by providing for government monitoring of compliance with the information legislation; and by establishing liability for infringements of the information legislation.

The State guarantees freedom of information for citizens and legal persons in the political, economic, cultural, social, spiritual, environmental, scientific-technical and international spheres of public life, within the limits of their rights and freedoms, functions and powers, except in the cases provided for by the legislation (art. 11 of the Information Act).

The classification of information is dealt with in the State Secrets Act of 14 December 1996. Thus, article 5 contains a list of information not liable to be classified as secret.

The following information is not liable to be classified as secret:

- (1) Information concerning natural disasters, accidents and other emergencies, existing or potential, that threaten the safety of the public;
- (2) Information on the environment and the health of the population, its standard of living, including food, clothing, housing, medical care and social security, and on social and demographic indicators, the state of law and order, education and culture;
- (3) Information on the unlawful acts of public authorities and officials;
- (4) Article 5 of the Sanitary Inspection Act of 1 February 1996 also provides for citizens to have the right of access to information.

On the basis of this article it is possible to demand information on the state of the human environment, the epidemiological situation, measures to ensure sanitary-epidemiological well-being, and the quality of goods, food products and drinking water.

8. Describe any obstacles encountered in the implementation of any of the paragraphs of article 4.

There are no obstacles from the legal standpoint, but there may be obstacles due to the legal illiteracy of the public itself and the exploitation of the situation by officials.

9. Provide further information on the practical application of the provisions on access to information, e.g. are there any statistics available on the number of requests made, the number of refusals and their reasons?

The State Committee on Environmental Protection and Forestry provides the information needed by users in the shortest possible time. NGOs, associations and users of natural resources can apply to the State Committee on Environmental Protection and Forestry with questions about the protection of the environment and receive a reasoned reply within the necessary time frame. Moreover, the public often communicates orally with the authorities and no obstacles have been encountered. In 2004, the State Committee on Environmental Protection and Forestry received 276 inquiries, which were promptly answered .

10. Give relevant web site addresses, if available:

Aarhus Resource Centre - www.aarhus.land.ru

State Statistical Agency - www.stat.tj

Government of the Republic of Tajikistan - www.soros.org/tajik/tajikgove.html

Office for the Protection of Biodiversity - www.arendal.com

Youth Eco-Centre - www.tabiat.narod.ru, www.caresd.ru

For the Earth - www.seu.ru/members/fe

ARTICLE 5

11. List legislative, regulatory and other measures that implement the provisions on the collection and dissemination of environmental information in article 5.

The public authorities are required to organize State information resources so as to satisfy the information requirements of the public and interested parties. Thus, the Information Technology Act stipulates that the scope of the Act extends to situations which arise when government agencies and legal or natural persons, regardless of the form of ownership, engage in activities in the field of information technology, and in particular to:

- (1) The organization and use of information resources based on the creation, acquisition, collection, accumulation, processing, transmission, dissemination and provision of documentary information;
- (2) The creation, introduction and use of information processing and transmission systems, databases and databanks and information technology;
- (3) The protection of information and the rights of subjects participating in information processes using information technology;
- (4) The administration and regulation of information processes and the implementation of government policy in the field of information technology.

In accordance with the Environmental Protection Act and the departmental regulations approved by the Government, State institutions must:

- (1) Provide information about the state and pollution of the environment, the environmental situation at individual facilities and the impact of economic activity on the environment;
- (2) Give warning of emergencies;
- (3) Provide information concerning progress with the preparation of documents in the field of environmental protection;
- (4) Provide information concerning investment in nature conservation measures and payments for polluting the environment.

The Food Product Quality and Safety Act was passed by Parliament on 10 May 2002. Article 15 of the Act lays down the requirements for ensuring the quality and safety of food products; article 16 lays down the requirements for ensuring the quality and safety of novel food products and foodstuffs during their development and introduction; article 17 lays down the requirements for ensuring the quality and safety of food products and foodstuffs during manufacture.

At least once every five years, the Ministry of Health must review the rules and regulations on the quality and safety of food products and foodstuffs, including dietetic and children's foods and food and biological additives, to ensure that they comply with generally accepted international standards.

The State Statistical Agency collects information from State institutions and associations and publishes an annual compilation of statistical data from pollution registers.

12. Describe any obstacles encountered in the implementation of any of the paragraphs of article 5.

The main obstacle to the collection and dissemination of environmental information is the fact that not all public authorities, either in Dushanbe or in the regions, have websites and the necessary technical equipment. Government agencies do not always possess the necessary information.

13. Provide further information on the practical application of the provisions on the collection and dissemination of environmental information in article 5, e.g. are there any statistics available on the information published?

Environmental information is disseminated by the State Committee on Environmental Protection and Forestry and by the representatives of the environmental NGOs through conferences, seminars and training courses and in the form of booklets and brochures together with quarterly and annual reports. Articles on the activities of the State Committee on Environmental Protection and Forestry are published in its newspaper "Navruzi Batan". Altogether, in 2004 58 measures were taken, 40 publications were issued and there were 104 participations in radio and television programmes.

The main task of the Aarhus Resource Centre, set up with the assistance of the OSCE, is to provide the public with the environmental information it needs to form an opinion and

participate in decision-making. Work is currently being done on the creation of a single database for environmental monitoring data. Information materials are being disseminated.

14. Give relevant web site addresses, if available:

ARTICLE 6

15. List legislative, regulatory and other measures that implement the provisions on public participation in decisions on specific activities in article 6.

Under the Environmental Protection Act, citizens have the right to participate in and oversee the preparation, adoption and implementation of decisions with an impact on the natural environment.

This right is ensured by the publication and public discussion of environmentally important draft decisions and public environmental appraisals, by the obligation on the authorities to take the proposals of the public into account and by the use of various forms of public participation in environmental protection.

On 1 February 1996, Parliament passed the Protection of the Atmosphere Act. Article 1 of the Act specifies the tasks of atmospheric protection, namely, to regulate public affairs in this field for the purpose of ensuring a favourable environment for people, plants and animals, to keep the air clean and improve the state of the atmosphere, to establish State control over the use of the atmosphere of cities and industrial centres and other built-up areas by sources of air pollution and to strengthen the law in this field in the interests of the present and future generations.

The Protection of the Atmosphere Act establishes the rights and duties of citizens and provides for public participation in the field of atmospheric protection. Voluntary organizations are given the right to participate in the activities of the atmospheric protection agencies.

NGOs established under the Voluntary Associations Act operate on the basis of statutes, in which their objectives, based on the Constitution and other legislative acts, are laid down.

On 20 July 1994 the Protection and Utilization of the Animal Kingdom Act was passed. The Act consists of 19 sections. It deals with the regulation of public affairs in the field of the protection and utilization of the animal kingdom, the ownership and use of its objects, hunting, fishing, animal population control, protection of the living environment, breeding conditions and migration routes.

The Regulations on hunting, which lay down the rules for hunting and establish the procedure for issuing hunting licences, were approved by Government Decree of 16 July 1997. Hunters' and fishermen's societies were created. These societies participate in the protection of animal territories and species. The same legislation defines the body responsible for monitoring its implementation, namely, the State Committee on Environmental Protection and Forestry.

The Industrial and Consumer Waste Act regulates matters arising in connection with the formation, collection, storage, use, transport, processing and disposal of waste, as well as State

control, inspection and monitoring of the handling of waste, and is intended to help protect the environment and human health from the adverse effects of handling industrial and consumer waste and to encourage and its recycling as an additional source of raw materials. Article 17 of the Act stipulates that public monitoring of the handling of waste should be carried out by the voluntary associations, in accordance with their statutes, and by citizens, in their locality, under the procedure laid down in regulations and provides for the verification of compliance with the requirements of the Act by all natural and legal persons.

The Voluntary Associations Act was passed on 23 May 1998. Under this Act, voluntary associations are created for the purpose of implementing and protecting the civil, political, economic, social and cultural rights and freedoms of citizens and participating in the creation of a sovereign, democratic, secular and unitary State of Tajikistan under the rule of law. On this basis, NGOs, as independent legal persons, have the right to have their say in the processes of participation in the preparation of draft legislation and monitoring of the implementation of the law.

The State ensures respect for the rights and legitimate interests of voluntary associations and, in accordance with the Constitution, guarantees the conditions necessary for them to carry out their statutory tasks.

The Environmental Appraisals Act (Law of the Republic of Tajikistan No. 20 of 22 April 2003) governs the general procedure for the organization and conduct of environmental appraisals, determines the rights and obligations of the parties involved in the appraisal, establishes the rights of citizens to obtain information on the environmental risks of projects that are planned, under construction or in operation and the corresponding procedures for appealing against the conclusions of the appraisal and settling disputes, and establishes liability for infringements of the environmental appraisal legislation.

Article 4 of the Act describes the goals of an environmental appraisal. One of these is to reach objective and scientifically sound conclusions and forward them, in good time, to the government and other entities taking decisions on the implementation of the object of the appraisal, while keeping the interested parties and the public informed.

Article 5 of the Environmental Appraisals Act lays down the principles of environmental appraisal, specifying that the appraisal should be based on the principles of transparency, public participation and account for public opinion.

Article 6 states that there are two kinds of environmental appraisal, one of which is public appraisal.

Public appraisals are organized and conducted at the initiative of citizens and voluntary organizations whose activities, under their statutes, are mainly directed towards the protection of the environment, including the organization and conduct of environmental appraisals.

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

The main problem with public participation is the passivity of the voluntary organizations themselves. A further problem is insufficient public awareness. There is a need to create the conditions for and promote more active public participation in the preparation of draft documents on environmental matters and in making decisions regarding legislative and regulatory texts, etc.

17. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 6, e.g. are there any statistics or other information available on public participation in decisions on specific activities or on decisions not to apply the provisions of this article to proposed activities serving national defence purposes.

One way of involving the public in making decisions regarding topical environmental and social issues, based on their own interests, historical development characteristics, national and spiritual values, and local customs and traditions, is to develop national and regional environmental actions plans.

NGOs have appropriate mechanisms for cooperating with the State Committee on Environmental Protection and Forestry, such as the participation of experts in various programmes and the exchange of experience and information.

Representatives of the public have participated in the development of such documents as the EIA, the Environment and Safety Project, and the Environmental Appraisals Act, as well as in the preparation of large construction projects.

18. Give relevant web site addresses, if available:

ARTICLE 7

19. List the appropriate practical and/or other provisions made for the public to participate during the preparation of plans and programmes relating to the environment. Describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

By order of the President, representatives of the NGOs, who reflect the interests of the public, are members of government working groups on the implementation of conventions ratified by Tajikistan and take part in the development of National Environmental Action Plans and the Regional Environmental Action Plan of the Central Asian countries.

The following programmes and projects are being developed and implemented with the assistance of international organizations:

- (1) National Programme of Action to Combat Desertification;
- (2) National Report on Climate Change;
- (3) National Plan of Action on Climate Change;

- (4) National Strategy for the Conservation of Biodiversity;
- (5) Self-assessment of the national potential under three conventions (climate change, biological diversity and combating desertification);
- (6) National Action Plan on the Sustainable Development of Mountainous Regions;
- (7) National Report on the Sustainable Development of the Republic of Tajikistan;
- (8) Poverty Reduction Strategy document.

Again as a result of the activities of the Aarhus Centre, in 2003, Tajikistan was selected as a pilot country for the preparation of a National Profile to assess capacities to implement the Convention. This work was carried out jointly with the United Nations Institute for Training and Research (UNITAR)/UNECE and the Convention's Secretariat. The NGOs played an active part in the preparation of the National Profile, which should also facilitate the national process of prioritization and the development of the potential for the effective implementation of the Convention.

20. Explain what opportunities there are for public participation in the preparation of policies relating to the environment.

The procedure for public participation in the preparation of policies relating to the environment is being actively applied. Public participation in environmental protection is described in the Environment Act. One tool for public participation in environmental matters is the public environmental appraisal of proposed government programmes and plans conducted by groups of scientists and voluntary associations on their own initiative. The conclusions of a public environmental appraisal become legally binding once the results have been approved by the State environmental appraisal body.

The participation of the NGOs in the preparation of environmental documents allows public opinion to be taken into account in the development and adoption of the documents.

21. Describe any obstacles encountered in the implementation of article 7.

The comparative ineffectiveness of the voluntary democratic groups and the inadequate basis for their activities, in particular, the lack of a methodology, a coordination mechanism and means of defending the public interest. Public participation in the discussion and submission of proposals is not what it should be.

22. Provide further information on the practical application of the provisions on public participation in decisions on specific activities in article 7.

In the context of articles 6 and 7 of the Convention, to enable citizens to exercise their constitutional rights and increase their confidence in the public authorities, the Parliamentary Committee on Social Affairs, the Family, Health Care and the Environment has, for the first time, come up with a proposal to hold a dialogue with the public in the form of public hearings. In this connection, in December 2002 the Committee held a public hearing on the Environmental Appraisals bill. Such meetings between the public and members of Parliament constitute an important step towards the implementation of article 8. The Youth Environmental Centre of Dushanbe, together with the provincial environmental protection and forestry committees and

local youth organizations, lobbies for improvements in environmental health, an example being the restoration of shelter belts on 150 hectares of land.

23. Give relevant web site addresses, if available:

ARTICLE 8

24. Describe what efforts are made to promote effective public participation during the preparation by public authorities of executive regulations and other generally applicable legally binding rules that may have a significant effect on the environment. To the extent appropriate, describe the transposition of the relevant definitions in article 2 and the non-discrimination requirement in article 3, paragraph 9.

The legislation incorporates the human rights and freedoms governed and protected by the Constitution. The Environment Act establishes the right of citizens to participate in the making of environmentally significant decisions and to monitor their implementation. Citizens are entitled to participate in and monitor the preparation, adoption and implementation of decisions involving an impact on the environment. This right is ensured by the publication and public discussion of environmentally important draft decisions, the conducting of public environmental project appraisals, the obligation upon the public authorities to take citizens' proposals into account, and the use of various forms of public participation in environmental protection. In recent years, most bills directly concerning the protection of the environment and the rational use of natural resources have been the subject of public hearings. Draft regulations are forwarded to non-governmental organizations, associations and users of natural resources for public discussion. Draft regulations intended for discussion are published in the pages of republican newspapers and the draft texts can be obtained from the State Committee on Environmental Protection and in Parliament.

25. Describe any obstacles encountered in the implementation of article 8.

The participation of representatives of the public in the preparation and subsequent implementation of various environmental programmes makes it possible to take the interests of local residents more fully into account and more effectively solve not only economic but also social and environmental problems through improved cooperation with the international organizations and financial institutions in attracting funds for the implementation of such programmes.

It should be noted that there is a need for a regular and reliable means of publishing draft laws and regulations, together with policies, plans and programmes, in order to ensure the timely notification of the public and all interested parties.

26. Provide further information on the practical application of the provisions on public participation in the field covered by article 8.

It follows from the above that the public can and should participate in environmental decision-making at a variety of levels. Representatives of the NGOs participated in the preparation of the following items of draft legislation:

- (1) The Environmental Appraisals Act;
- (2) The Directive on the Practical Implementation of the EIA procedure;
- (3) The Hydrometeorological Activities Act.

27. Give relevant web site addresses, if available:

See answer to question 14.

ARTICLE 9

28. List legislative, regulatory and other measures that implement the provisions on access to justice in article 9.

Under the legislation, instruments of international law recognized by Tajikistan are an integral part of the legal system of the Republic. If the laws of the Republic conflict with recognized instruments of international law, the rules of the latter apply (art. 10 of the Constitution).

Under the Constitution, human rights and freedoms are governed and protected by the Constitution, the laws of the Republic and instruments of international law recognized by Tajikistan (art. 14). Public authorities, voluntary associations, political parties and officials must give everyone the opportunity to obtain and familiarize himself or herself with documents that concern his or her rights and interests, except in the circumstances specified by law (art. 25).

The Voluntary Associations Act was passed on 23 May 1998. Under this Act, voluntary associations are created for the purpose of implementing and protecting the civil, political, economic, social and cultural rights and freedoms of citizens and participating in the creation of a sovereign, democratic, secular and unitary State of Tajikistan under the rule of law. On this basis, NGOs, as independent legal persons, have the right to have their say in the processes of participation in the preparation of draft legislation and monitoring of the implementation of the law.

The right of citizens to petition the public authorities is also incorporated in the Citizens' Petitions Act passed by Parliament on 14 December 1996, according to which, in the event of the infringement of their rights and interests or infringement of the law, citizens are entitled to submit petitions, proposals and appeals to the public authorities, which must take the necessary measures in respect of the alleged infringements within one month.

Article 11 of the Environmental Protection Act notes the right of citizens to have their health protected from harmful environmental effects. Every citizen has the right to have his or her

health protected from the harmful environmental effects of economic or other activities, accidents, emergencies and natural disasters. This right is ensured by:

- (1) Compensation under the judicial or administrative procedure for injury to health caused by the pollution of the natural environment or by other factors with an adverse environmental effect, including the consequences of accidents and emergencies;
- (2) Monitoring by the government and the public of the state of the natural environment and compliance with the environmental protection legislation, and the calling to account of persons guilty of infringements of the environmental safety regulations.

Article 65 of the same Act provides for administrative sanctions for guilty parties, the referral of materials concerning their disciplinary, administrative or criminal liability, and the institution of legal proceedings to obtain compensation for damage done to the environment or human health by infringements of the environmental protection legislation.

Similar provisions can be found in the Radiation Safety Act, article 26 of which states that citizens, foreign citizens and stateless persons residing within the territory have the right to radiation safety. This right is ensured by the implementation of a series of measures designed to prevent irradiation of the human organism and the exceeding of the ionizing radiation limits laid down in rules, regulations and standards, and by compliance with the radiation safety requirements by citizens and organizations engaged in activities that involve the use of sources of ionizing radiation.

Citizens may turn to the public authorities or the courts for the purpose of protecting their right to radiation safety.

The Environmental Appraisals Act of 22 April 2003 lays down the general procedure for organizing and conducting environmental appraisals and establishes liability for infringements of the environmental appraisal legislation.

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

Within the framework of the national legislation, the public has access to the settlement of legal questions relating to decisions of the courts concerning environmental protection. The main obstacle to access to justice is the lack of experience where environmental issues are concerned. It is a matter of extreme importance to secure in law the right of the public to participate in the implementation not only of the Convention but also of the other United Nations conventions to which the Republic of Tajikistan is party, in particular, in order to ensure the transparency and effectiveness of the process of fulfilment of the obligations which Tajikistan has assumed.

30. Provide further information on the practical application of the provisions on access to justice pursuant to article 9, e.g. are there any statistics available on environmental justice and are there any assistance mechanisms to remove or reduce financial and other barriers to access to justice?

The legislation allows the public to turn to the law-enforcement authorities in matters of environmental protection. However, due to lack of relevant experience and financial difficulties the public remains passive where access to justice is concerned.

Consideration is being given to developing assistance mechanisms to remove the financial and other barriers preventing access to justice.

31. Give relevant web site addresses, if available:

32. If appropriate, indicate how the implementation of the Convention contributes to the protection of the right of every person of present and future generations to live in an environment adequate to his or her health and well-being.

Since the first days of its sovereign existence, the Republic of Tajikistan has been actively seeking to achieve a balanced solution of the problems of the economy, social development, the environment, national security and the democratization of society. It should be noted that the solution of environmental problems is now a priority for the country and this is clearly reflected in the environmental policies of the President and the Government.

The national legislation provides a basis for public participation in the solution of environmental problems and for access to information and justice in matters relating to the environment.

As international cooperation has developed, the Republic has become an active member of numerous regional and global organizations and has signed a series of political, economic and environmental agreements.

Tajikistan has now ratified a number of United Nations environmental conventions, including the conventions on biological diversity, protection of the ozone layer, climate change, combating desertification, wetlands, the Stockholm Convention on Persistent Organic Pollutants, and environmental impact assessment.

With the assistance of such international organizations as the OSCE, the United Nations Development Programme (UNDP), GEF, UNECE, World Bank, Asian Development Bank, Swiss Cooperation Agency and the convention secretariats, environmental protection measures and programmes have been prepared. Representatives of the voluntary organizations are actively participating in the preparation and implementation of national action plans on the basis of international documents.

One of the main problems which remains to be solved in order to ensure the effective implementation of the Convention is that of the knowledge and understanding of the Convention on the part of NGOs and government agencies, together with the introduction of the Convention

not only into the legislation but also into practice. It is also important to improve the environmental and legal awareness of the population.

The acceptance and signature of the Convention undoubtedly marked a new stage in the country's development. The Convention is playing an important part in the implementation of international legal instruments, helping to bring about further improvements in the environmental protection legislation at national and regional levels, and strengthening the process of democratization and sustainable development of the entire Republic and the region.

Decree of the Government of the Republic of Tajikistan No. 42-r of 3 July 2002 created the Government Working Group on the Preparation of a National Programme for the Implementation of the Aarhus Convention, which includes representatives of both the government and scientific and voluntary organizations.