



UfU Independent Institute
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CIVIC SPACE FOR PARTICIPATION IN CLIMATE POLICIES IN KAZAKHSTAN



Imprint

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1 Summary

Climate change is leading to longer droughts, making agriculture more difficult and creating social tensions in Kazakhstan that are likely to increase in the future. In 2021, Kazakhstan ranked 102nd out of 180 countries on the Corruption Perceptions Index. The environmental sector was also perceived to be corrupt, especially with the engagement of the former president’s daughter, who fled the country after mass protests in January 2022. The Global Witness report reported two cases of state environmental inspectors being killed in Kazakhstan. Overall, the atmosphere for activism is difficult as activists face harassment, criminalization and SLAPPs. Although following the mass protests, the statement of the President of Kazakhstan Kasym-Jomart Tokayev in his address to the people of Kazakhstan on 16 March 2022 refers to the role of civil society and its participation in the political modernization of the country. Civil society leaders do not see fundamental progress.

Kazakhstan is a party to the Aarhus Convention. Therefore, its legislation provides quite extensive rights for public participation, including in decision-making processes related to SEA (strategic environmental assessment), EIA (environmental impact assessment), adaptation to climate change, as well as in the development of legal acts, including strategies, programs and plans. Although participation in EIA procedures through public hearings and written submissions has a good tradition and is a recognizable consultation tool, it has not yet been applied in SEA and climate change adaptation processes at the regional level.

Public councils are an effective forum for representing all types of legitimate interests. They can help civil society access information and decision-making processes. The mandates of these established forums should be legally strengthened and expanded. For example, their interaction with the general public could help to qualify their debates, and the way in which civil society proposals are reviewed and considered should be more focused.

Since 2020, the web portal «Open NPAs» (Open Legal Acts) provides information on strategies, programmes, plans, legislation developed by central and local executive authorities. This system covers, in particular, the national climate policy documents under development. At the same time, a very limited number of members of the public use this platform due to low awareness and lack of traditions of such participation. Based on the standardised assessment framework (Annex), the civic space for participation in climate policy was assessed, as shown in Figure 1.

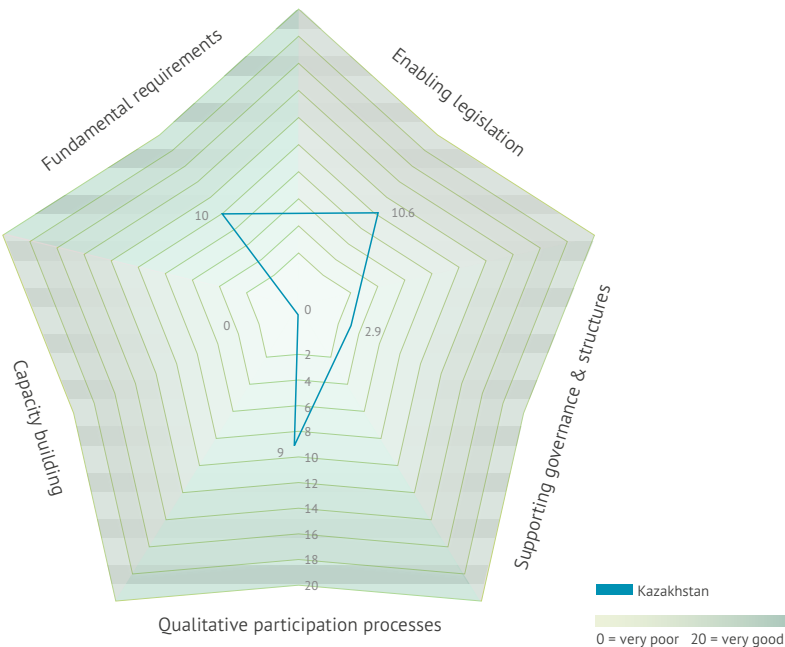


Figure 1: Assessment of the civic space for participation in climate policies in Kazakhstan (scaled to a maximum of 20 points per criterion)



2 Introduction

Kazakhstan is a Party to the UN Framework Convention on Climate Change, the Kyoto Protocol and the Paris Agreement. However, the formation of a full-fledged national climate policy has started in the country in recent years, as part of the implementation of international commitments under the Paris Agreement. Kazakhstan has ratified the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), expressing its intention to support public participation in addressing environmental issues.

This study is an attempt at a realistic picture of the actual situation of civil society participation in climate policy in Kazakhstan. To this end, the civic space for the participation of Kazakhstani civil society organisations (CSOs) working on climate issues was analysed and assessed. In addition, the social and political environment, the legal preconditions for environmental participation and activism, and the framework conditions for climate-related participation were explored. In doing so, the study examines selected participatory practices, for example, in policy-making processes related to planning and implementing climate protection and climate change adaptation measures. The focus here is on participatory processes carried out by public authorities, agencies or CSOs in which civil society can participate. Based on an analysis of the status quo, barriers to meaningful, effective and long-term civil society participation in Kazakhstan have been identified and recommendations for overcoming them have been developed.



3 Methodology

The analysis of the status quo of civic space and civil society engagement on climate issues was based on the research team’s local knowledge, contacts and experience in the country. It included a literature review, analysis of relevant legislative and policy documents, and interviews with local experts and stakeholders. The study uses the concept of the ‘participation handprint’ and the associated standardised assessment scheme (Donges et al., 2020) to assess the general conditions of participation in the Republic of Kazakhstan. The assessment scheme comprises 5 criteria with 25 indicators. The indicators have different scoring options and an associated scoring system, where some indicators have more weight than others. In total, a maximum score of 59 points can be achieved.

Due to the fact that each criterion has a maximum score of 20 points, the criteria are evenly balanced. To answer the questions of the evaluation scheme, information was collected through interviews conducted between December 2022 and February 2023. The experts involved, representing different CSOs, were selected based on their experience in participating in participatory processes in the country.

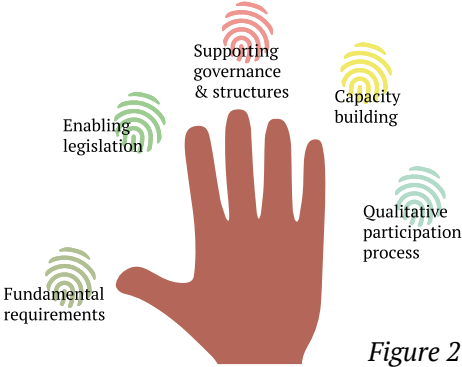
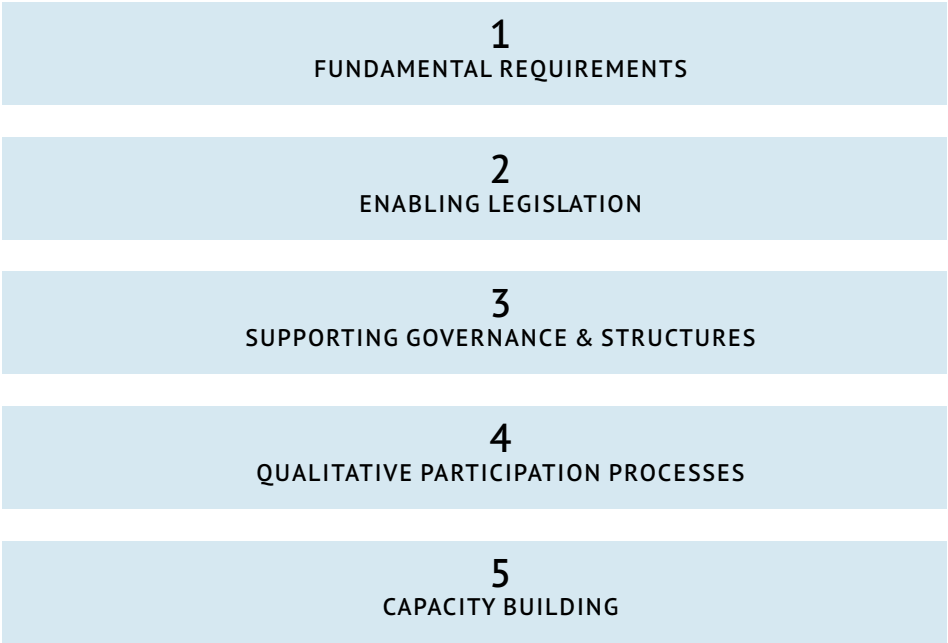
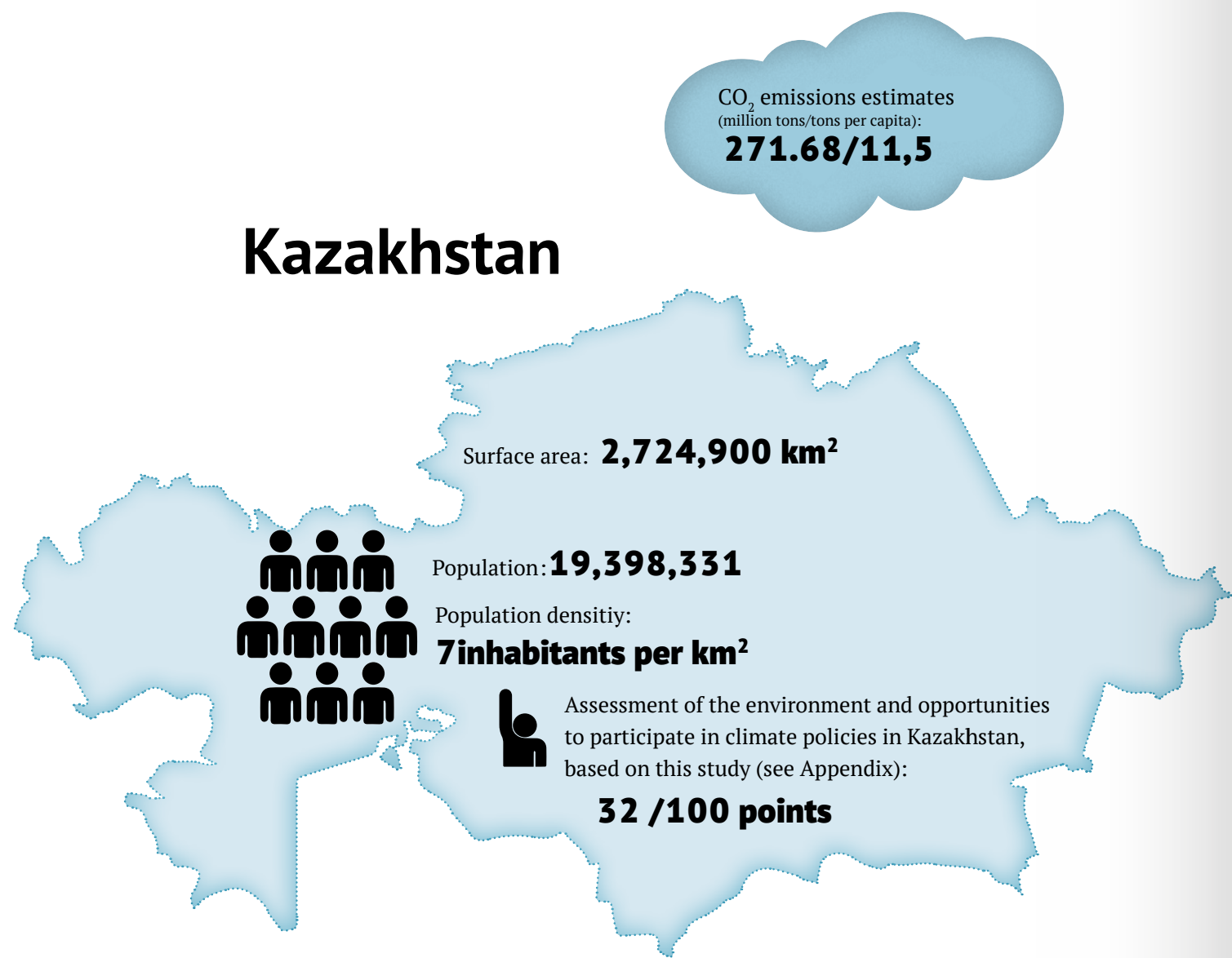


Figure 2: The Participation Handprint



4 Kazakhstan - Country Portrait

4.1 Impacts of climate change

Kazakhstan occupies a vast territory (2,724.9 thousand km²), so climatic conditions differ in different regions of the country. A common feature for most regions of Kazakhstan is the sharply continental character of the climate.¹ This means high temperatures in summer and low temperatures in winter, as well as a deficit of precipitation. These weather variations are most characteristic of the western and southern regions of the country. Current climatic changes are leading to more arid climate, increasing water scarcity, high vulnerability of agricultural production, and at the transboundary level climate change is becoming one of the key drivers of current and future tensions and conflicts.

Shrinking rivers and lakes, increasing water scarcity for agricultural and rural development, deteriorating air quality as a result of emissions from energy, industry and transport, increasing volumes of consumer waste and the lack of an effective system for its sorting, recycling and reuse, and the cutting down of trees are perhaps the main common challenges for national environmental and climate policies in Kazakhstan's cities. Air emissions, wastewater discharges and soil pollution from industrial activities are recognised in Kazakhstan as major negative health impacts.² Nine cities in Kazakhstan, namely Aktobe, Almaty, Astana, Atyrau, Balkhash, Karaganda, Temirtau, Ust-Kamenogorsk and Shymkent, are recognised as the most polluted in terms of air quality. Air pollution is one of the main aspects of the ongoing debate between the authorities and urban communities. In rural areas, a key environmental tension is the lack of water for agricultural development, which has even led to localised conflicts between the border communities of Kazakhstan and Kyrgyzstan.³

4.2 National Climate Policy

The national climate policy of Kazakhstan is still at the stage of formation and there are no approved strategies, plans, programmes that would fully cover the issues of climate mitigation and adaptation. In 2020, Kazakhstan's greenhouse gas emissions will amount to 350 million tonnes of CO₂ equivalent, which is only 30 million tonnes less (8% reduction) compared to the baseline year of 1990.⁴ Combustion of coal and other solid fuels accounts for almost half of the country's total greenhouse gas emissions (158.1 million tonnes of CO₂). This means that the corresponding emissions were only 16.9 million tonnes of CO₂, or 9.7% less than the baseline.

Kazakhstan ratified the Paris Agreement by the Law of 4 November 2016 No. 20-VI ZRC⁵ and after completing the necessary international procedures is a Party to this agreement since 6 December 2016.⁶ The development of Kazakhstan's climate change

1 III-VI National Communication of the Republic of Kazakhstan to the UN Framework Convention on Climate Change. URL: https://unfccc.int/sites/default/files/resource/kaz_nc3%2C4%2C5%2C6_rus_web%20Kazakhstan.pdf, 2013. C. 32; last accessed on 08.06.2023.

2 Kazakhstan. Environmental Performance Reviews: Third Review, United Nations, Geneva, 2019, URL: <https://unece.org/environment-policy/publications/3rd-environmental-performance-review-kazakhstan>; last accessed 08.06.2023.

3 Impact of climate change on conflict dynamics in transboundary river basins of Kyrgyzstan, Kazakhstan and Tajikistan: study summary, International Alert, July 2021-January 2022, URL: <https://www.international-alert.org/publications/climate-change-conflict-rivers-kyrgyzstan-kazakhstan-tajikistan/>; last accessed on 08.06.2023.

4 National report of the Republic of Kazakhstan on the inventory of anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol for 1990-2020. Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan.

5 Ibid, URL: <https://adilet.zan.kz/rus/docs/Z1600000020>; last accessed on 08.06.2023.

6 United Nations website, URL: https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=XXVII-7-d&chapter=27&clang=en, last accessed 08.06.2023.

adaptation policy is envisaged through the development and implementation of relevant measures within the framework of state programmes on agriculture, water management, forestry and civil protection. Chapter 22 of the Environmental Code 2021⁷ regulates the process of adaptation to climate change, but this process has not yet been put into practice.

The statement by the President of Kazakhstan Kassym-Jomart Tokayev on Kazakhstan’s goal to achieve carbon neutrality by 2060 was an important starting point for defining long-term climate policy. The announcement was made on 12 December 2020 during the Climate Ambition Summit 2020. In 2021, the process of developing the draft Strategy for achieving carbon neutrality of the Republic of Kazakhstan until 2060⁸, as well as the subsequent nationally determined contribution of the Republic of Kazakhstan under the Paris Agreement began.⁹ It should be noted that the Initial Nationally Determined Contribution (INDC) of Kazakhstan has not been approved by any national policy document, and the updated NDC was approved by the Government Decree of 19 April 2023.

In 2023, the documents defining Kazakhstan’s national climate policy for the medium and long term were adopted, namely the Government Decree on ENVs for the period up to 2030 and the strategy for achieving carbon neutrality up to 2060.

7 Information-legal system of normative legal acts of the Republic of Kazakhstan “Adilet”, URL: <https://adilet.zan.kz/rus/docs/K210000400#z3376>; last accessed on 08.06.2023.
8 Open NPA Portal, URL: <https://legalacts.egov.kz/npa/view?id=14311815>, last accessed on 08.06.2023.
9 Ibid, URL: <https://legalacts.egov.kz/npa/view?id=11811525>, last accessed on 08.06.2023.

5 Civil society’s participation in climate policies

5.1 Fundamental requirements

The President of Kazakhstan, Kassym-Jomart Tokayev, in his message to the people of Kazakhstan of 16 March 2022, stated strengthening the role of civil society institutions as one of the key initiatives for the political modernisation of the country.¹⁰ It includes a promise to “ensure open discussions of all national projects and strategic documents”. At the same time, many civil society activists have expressed concern about the lack of progress in implementing promises to modernise the country, including noting the continued persecution of critics of the authorities.¹¹

The Defending Tomorrow report, published by Global Witness in July 2020, includes two cases of state environmental inspectors killed in Kazakhstan.¹² The report “A Dangerous Profession: Harassment of Environmental Defenders”¹³ includes a number of case studies from Kazakhstan on civil society representatives that have involved criminalisation, the risk of criminal prosecution and civil suits, and the use of defamation as a means of limiting civil environmental activism. Cases of such harassment lead to the fact that a significant part of environmental NGOs prefer to choose less sensitive topics and approaches to carry out their activities. Climate-related activities are not yet among the sensitive areas for which harassment has been recorded, but climate change is already recognised as a key driver of future tensions in the country.¹⁴

In 2021, Kazakhstan ranked 102nd out of 180 countries on the Corruption Perceptions Index, below the global average. Until January 2022, the field of environmental protection was perceived as an area of activity with a high level of corruption. This was also due to the active involvement of the former president’s youngest daughter¹⁵, but she was forced to leave the country as a result of the 2022 mass protests. Joint investigations by civil society and the media have led to greater transparency about this corrupt activity, including attempts to squeeze out independent environmental NGOs. Several dozen such organisations continue to operate in the country. However, the high costs associated with operating NGOs, the impact of the Russian law “On Foreign Agents”¹⁶ lead many environmental activists to prefer to carry out activities without creating and registering an organisation, which limits the civic engagement of new generations.

10 Official website of the President of the Republic of Kazakhstan, URL: <https://www.akorda.kz/ru/poslanie-glavy-gosudarstva-kasym-zhomarta-tokaeva-narodu-kazahstana-1623953>, last accessed on 08.06.2023.
11 CIVICUS Global Civil Society Alliance website, URL: <https://monitor.civicus.org/country/kazakhstan/>; last accessed on 08.06.2023.
12 Defending Tomorrow: The Climate Crisis and Threats Against Land and Environmental Defenders. Global Witness 2020. <https://www.globalwitness.org/en/campaigns/environmental-activists/defending-tomorrow>
13 A Dangerous Profession. Harassment of Environmentalists, Cerude Accountability, 2019, URL: https://ru.crudeaccountability.org/wp-content/uploads/2020/04/Opasnaya_Professiya_compressed_web.pdf; last accessed 08.06.2023.
14 Impact of climate change on conflict dynamics in transboundary river basins of Kyrgyzstan, Kazakhstan and Tajikistan: study summary, International Alert, July 2021-January 2022, URL: <https://www.international-alert.org/ru/publications/publications-climate-change-conflict-rivers-kyrgyzstan-kazakhstan-tajikistan/>; last accessed on 08.06.2023.
15 Living Asia environmental media, URL: <https://livingasia.online/2021/05/03/dochka-ona-zhe-babushka/> last accessed on 08.06.2023.
16 A Dangerous Profession. Harassment of Environmentalists, Cerude Accountability, 2019, URL: https://ru.crudeaccountability.org/wp-content/uploads/2020/04/Opasnaya_Professiya_compressed_web.pdf; last accessed 08.06.2023.

5.2 Legal framework for participation

Kazakhstan ratified the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) by the Law of 23 October 2000 N 92-II ZRC.¹⁷ The Aarhus Convention entered into force for the country after complying with the relevant international procedures on 11 January 2001.¹⁸ The Aarhus Convention applies to a wide range of environmental decision-making processes, including climate change. The public participation standards set out in Articles 6, 7 and 8 of the Aarhus Convention apply respectively to decision-making on specific planned projects with significant environmental impacts, policies and legislation relating to the environment.

The national legal framework for regulating public participation in environmental decision-making and implementation of the international requirements of the Aarhus Convention is defined by the provisions of the Environmental Code of 2 January 2021¹⁹, as well as the Instruction on Organising and Conducting Environmental Assessment²⁰, the Rules for Conducting Public Hearings²¹ and the Rules for Organising and Implementing Climate Change Adaptation²², approved in 2021 by orders of the Minister of Ecology, Geology and Natural Resources of the Republic of Kazakhstan.

General requirements for public participation in decision-making are defined in Article 15 of the Environmental Code, they cover:

- _ status of non-profit organisations (non-governmental organisations) with statutory objectives to promote environmental protection as a organisations concerned with regard to decision-making processes;
- _ public access to the text of decisions under discussion, including immediate access on request;
- _ the right of members of the public concerned to submit any comments, information, analyses or opinions in written or electronic form and orally;
- _ taking into account the results of public participation in decisions taken by a public body or official.

Public participation procedures have been regulated for environmental assessment (environmental impact assessment (EIA), strategic environmental assessment (SEA)). In this case, public participation is envisaged at an early stage, namely at the stage of screening and scoping. The Regulation of 30 July 2021 establishes requirements for the different stages of EIA and SEA regarding public notification of the start of the decision-making process, access to information related to the decision-making process, timing and forms of public participation (submission of written comments, public hearings), consideration of the results of public participation and access to the text of the final decision. The Regulations of 6 August 2021 set out detailed requirements for organising public participation in EIA and SEA procedures in the form of hearings.

¹⁷ Information-legal system of normative legal acts of the Republic of Kazakhstan “Adilet”, URL: <https://adilet.zan.kz/rus/docs/K210000400#z3376>; last accessed on 08.06.2023.

¹⁸ United Nations Treaty Collection, URL: https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XXVII-13&chapter=27&clang=en; last accessed on 08.06.2023.

¹⁹ Information-legal system of normative legal acts of the Republic of Kazakhstan “Adilet”, URL: <https://adilet.zan.kz/rus/docs/K210000400>; last accessed on 08.06.2023.

²⁰ Ibid, URL: <https://adilet.zan.kz/rus/docs/V2100023809>; last accessed on 08.06.2023.

²¹ Ibid, URL: <https://adilet.zan.kz/rus/docs/V2100023901>; last accessed on 08.06.2023.

²² Ibid, URL: <https://adilet.zan.kz/rus/docs/V2100022974>; last accessed on 08.06.2023.

According to Article 52.3 of the Environmental Code, mandatory strategic environmental assessment is subject to “documents aimed at the development of agriculture, forestry, fisheries, energy, industry (including exploration and extraction of minerals), transport, waste management, water management, telecommunications, tourism, urban and rural development planning, land use and protection”. This provision does not include explicit references to climate change, climate mitigation or adaptation. In addition, the SEA tool itself has not yet been operationalised in practice and has not yet been applied on any document.

Regarding the EIA of individual projects, according to subparagraph 3 of paragraph 4 of Article 72 of the Environmental Code, the report to be developed on the possible impacts of the assessed planned activity must contain, among other things, information on the resilience to climate change of ecological and socio-economic systems. This is a new requirement of environmental legislation, which was introduced with the adoption of the new version of the Environmental Code in January 2021. It allows climate change adaptation issues to be integrated into the EIA procedure, which may provide opportunities for public discussion in the future.

Along with new opportunities for Kazakhstan’s civil society to participate in the discussion of climate aspects within the framework of the EIA procedure, the process of adaptation to climate change also provides for public involvement. Paragraph 23 of the Rules for Organising and Implementing Climate Change Adaptation²³ requires the involvement of NGO representatives in focus groups for the development of adaptation measures. This process is envisaged both at the national level (when developing state programmes on priority areas of public administration for climate change adaptation, which include agriculture, water management, forestry and civil protection) and at the regional level (when developing territorial development programmes at the level of oblasts, cities of Astana, Almaty and Shymkent).

Kazakhstan has a relatively good tradition of public participation within the EIA procedure, both through public hearings and by submitting written proposals. As mentioned earlier, since 2020, the “Open NPAs” portal provides opportunities for members of the public to regularly participate online in the discussion of strategies, programmes, plans, legislation developed by central and local executive bodies. This system covers, among other things, the national climate policy documents under development. At the same time, a very limited number of members of the public use this platform, due to low awareness and lack of tradition of such participation. Since 2021, the legislation on SEA and climate change adaptation has increased opportunities for public participation in the development of national climate policy, but these tools are not yet used in practice. Current opportunities for public participation through the “Open NPAs” portal and eco-portal, participation in public hearings on EIA, representative participation in public councils under state bodies can be significantly expanded with the introduction of strategic environmental assessment and climate change adaptation tools. At the same time, the main problem of the existing practice is the proper accounting of the results of public participation, especially participation outside the EIA discussion.

²³ Ibid, URL: <https://adilet.zan.kz/rus/docs/V2100022974>; last accessed on 08.06.2023.

5.3 Governance and structures

The Ministry of Information and Public Development is the state body responsible for the formation of the general state policy in the field of access to information, interaction between the state, civil society, and public councils. However, since Kazakhstan is a Party to the Aarhus Convention, several participatory instruments are integrated into the national environmental legislation. Therefore, the key state body supporting dialogue and participation of civil society in the country regarding national policies related to environment and climate is the Ministry of Ecology, Geology and Natural Resources (MEGPR). While the National State Enterprise “Information-Analytical Centre for Environmental Protection” provides the main technical support for this activity at the central level, the level of oblasts and cities of Astana, Almaty and Shymkent are provided for by the Departments of Ecology of the MEGPR.

Most of the functions related to the implementation of the national climate policy are assigned to the competence of the MEGPR. They include monitoring, assessment, regulation of greenhouse gas emissions, and coordination of the process of adaptation to climate change. At the same time, the competence to develop the national climate policy belongs to the government, which can delegate these functions to different ministries.

Local executive bodies are responsible for supporting dialogue and civil society participation in local policy. In the case of oblasts, the cities of Astana, Almaty and Shymkent, local executive bodies have specialised departments on environmental issues, and they generally provide functions in relation to public participation in the implementation of environment/climate related policies at the local level. In addition, their competences include providing access to information and regulating issues related to public hearings within the EIA procedure.

Public councils have been established under ministries and local executive bodies as a permanent institutional framework for interaction with civil society. The number of civil society representatives in each public council should be at least two thirds of the total number of its members. At the same time, it should be noted that environmental NGOs are represented in the public council under the MEGPR but are not represented in the public councils of most other ministries. Many public councils under local executive bodies also do not include representatives from environmental NGOs.

It should be noted that since 2021, the Council for interaction with NGOs has also been established under the MEGPR to consider issues of their support, including through the state social order. However, this state support does not include funding for travelling expenses related to the participation of civil society representatives in public councils. Therefore, meetings of public councils under central government bodies are often held online.

Public councils were established in accordance with the provisions of the Law No. 383-V of 2 November 2015 on Public Councils. Their competencies include, among others, discussion of draft budget programmes of the administrator of budget programmes, draft strategic plans or programmes for the development of territories, draft state programmes, plans for environmental protection measures and reports on their implementation, draft legislation concerning the rights, freedoms and obligations of citizens. It should be noted that in Kazakhstan state programmes, plans, measures on environmental protection usually cover also projects, plans, measures on climate issues. Such documents are submitted for consideration of members of public councils under those state bodies, which are their developers.

Participation in decision-making through public councils has certain advantages over direct participation of individual representatives of the public in the relevant processes. According to paragraph 2 of Article 5 of the Law “On Public Councils” public councils submit recommendations to the relevant state body, including the results of consideration of information on the implementation of strategic plans or programmes for the development of territories, state programmes, reports of state bodies on the achievement of target indicators. At the same time, the recommendations of public councils are mandatory for consideration by state bodies and the latter must provide reasoned responses to them. This norm of the law provides a higher level of discussion results on the platform of public councils, which is comparable to the tool of deputy enquiries.

Among other platforms for public participation, along with public councils and the “Open NPAs” portal, Kazakhstan has a Unified ECO Portal for public participation in the EIA procedure.²⁴ This portal provides access to information at all stages of the EIA procedure, the opportunity for members of the public to submit their written comments on the documents under discussion and sends notifications on public hearings being held.

State bodies maintain active cooperation with civil society, primarily through numerous public councils established at the national and local levels. At the same time, NGO representatives usually make up a small part of their members. Members of such councils are usually representatives of various government bodies, business associations, professional associations, academic organisations, and, at the local level, persons considered authoritative but providing representation of the interests of a particular community or group. It should be borne in mind that the “Open NPAs” platform and the EIA ECO Portal are still used by a limited number of users. The main obstacle to wider access is the low level of awareness of how to use them and the rather short timeframe allocated for public discussion.

²⁴ Ecoportal of the Ministry of Ecology and Natural Resources of the Republic of Kazakhstan, URL: <https://ecoportal.kz/> last accessed on 08.06.2023.

5.4 In Practice: participatory processes ²⁵

The most important and recent climate-related participatory processes are the drafting of the Strategy for achieving carbon neutrality of the Republic of Kazakhstan until 2060 and the updated NDC until 2030. Along with them, Kazakhstan's legislation establishes requirements for climate change adaptation planning in agriculture, water management, forestry, civil protection, as well as at the level of oblasts and cities of Astana, Almaty and Shymkent. Adoption of the Strategy for achieving carbon neutrality of the Republic of Kazakhstan until 2060 and the NDC until 2030 provides for the revision of documents defining the policy on sectors of the economy at the national level, as well as territorial development programmes at the regional and local levels. However, official processes of development of relevant documents considering that climate requirements have not been initiated yet, there are only initiative documents being developed within the framework of various international technical assistance projects.

Public participation in the process of developing the draft strategy for achieving carbon neutrality was more active compared to the process of development of the updated NDC until 2030. The initiator of this strategy is the Ministry of National Economy, which together with the Ministry of Ecology, Geology and Natural Resources organised the process of public discussion of the developed document. Participation was open to business associations, NGOs, scientific and educational institutions, experts, and the general public. The main opportunities for participation in this document were provided twice through the portal "Open NPAs (normative legal acts)". Initially, the draft was open for discussion from 14 September to 22 September 2021²⁶, and the second time, after a significant revision of the document, from 25 November to 9 December 2022.²⁷

As the portal provides important access to documents and participation procedures, its use is described below. 13 members of the public submitted 20 written comments on the draft Carbon neutrality strategy on the "Open NPAs" portal. In addition, discussions on the draft Strategy for achieving carbon neutrality with civil society representatives were held at specially organised events, including the Climate Dialogue (7 October 2022) and the meeting of the Public Council of the Ministry of Ecology, Geology and Natural Resources (20 December 2022). Both events were held in a hybrid mode: live in Astana with the invitation of participants from different regions of the country and online. Usually during such events the results of public discussion are not documented, including comments and remarks of the participants. Therefore, their consideration in the text of the document under development depends on the discretion and openness to them of the developers of documents and officials of the responsible state bodies. The exception is the meetings of the public councils under the MEGPR, which, firstly, are broadcasted on social networks (in particular, on the Ministry's Facebook page) with the recording available to the public and, secondly, which are obliged to take minutes, which should be published on the Ministry's website. However, not all proposals are reflected in the minutes and the minutes are not yet publicly available.

The Ministry of Ecology, Geology and Natural Resources is the developer of the updated NDC until 2030 and the state body responsible for organising public participation on it. The developed document was open for discussion by representatives of the general public on the "Open NPAs" portal from 29 September to 6 October 2021.²⁸ Only one member of

²⁵ The research on participatory practices included interviews with 11 representatives of environmental NGOs and youth environmental activists. The review and evaluation of the participatory processes discussed in this section of the report was based on the results of the documentation of the relevant processes and the interviews conducted.

²⁶ Open NPA Portal, URL: <https://legalacts.egov.kz/npa/view?id=11488215>; last accessed on 08.06.2023.

²⁷ Ibid, URL: <https://legalacts.egov.kz/npa/view?id=14311815>; last accessed on 08.06.2023.

²⁸ Open NPA Portal, URL: <https://legalacts.egov.kz/npa/view?id=11811525>; last accessed on 08.06.2023.

the public submitted two written comments as part of this process. MEGPR also emailed the document to members of the Public Council of the Ministry of Ecology, Geology and Natural Resources so that they could provide written comments on it. However, the results of the process of discussing the Draft NDC 2030 with the members of the Public Council are not publicly available.

The "Open NPAs" portal publishes draft documents with an indication of the date of their uploading and the date of the end of public discussion. It provides an opportunity to download the text of the document under discussion and the text of the normative legal act by which it is expected to be approved, as well as to set the name of the state body that is the developer of the documents under discussion. The information is published in Kazakh and Russian languages, and the documents under discussion can be downloaded in Microsoft Word format. This also applies to the national climate policy documents, as they are approved by one or another normative legal acts of the central executive bodies (presidential decrees, government decrees, ministerial orders) and, therefore, are objects of public discussion. The portal provides opportunities for any member of the public with an electronic digital signature to leave written comments.²⁹ Usually, the period of public discussion on them is at least ten working days, although this requirement is often not observed in practice. Members of the public may leave comments on the texts of documents under discussion. All comments are publicly available. In accordance with paragraph 9 of the Rules for posting drafts of subordinate normative legal acts on the Internet portal of open normative legal acts³⁰ developers must consider such comments no later than three working days from the moment of their receipt and provide answers to them. However, analysis of the practice of the "Open Normative Legal Acts" portal shows that this requirement is not always met, and that many comments remain unanswered.

Announcements that documents for public discussion are posted on the "Open NPAs" portal are usually not sent to the interested public. Often, civil society representatives learn about this opportunity to participate in the last days. Members of the public, who are aware of the public discussion, may leave written comments on the documents under discussion. After the end of the public discussion period, the publication is transferred to the portal archive, where it remains available for viewing, including comments from members of the public and the responses provided by the staff of the public body responsible for the development of the documents under discussion. The results of public discussion for each of the documents published on the portal are generated automatically in Excel table format. The generated file includes: columns with the date of receipt of the written comment; the commented part of the document, with the text of the written comment of a member of the public and the text of the response to it by an employee of the public body.

The discussed documents on the "Open NPAs" portal are not updated. That is, if repeated public discussions of updated versions of documents are held, they appear on a different link, not related to the initial publication. The results of the decision-making process on a document that follows a public discussion of that document are not recorded on the Open NPA portal. They become generally available to the public after their approval in relevant publications of the official mass media and through electronic databases of adopted documents, including the Information and Legal System of Normative Legal Acts of the Republic of Kazakhstan "Adilet". Thus, after the closure of the public discussion on the "Open NPAs" portal, the public has no opportunity to both monitor further actions of

²⁹ All citizens, residents and legal entities of the Republic of Kazakhstan have IIN and BIN. Electronic digital signature is obtained at will at the population service centres, this service is provided free of charge and almost instantly. Having an EDS facilitates access to many services provided by the state in Kazakhstan.

³⁰ Information-legal system of normative legal acts of the Republic of Kazakhstan "Adilet", URL: <https://adilet.zan.kz/rus/docs/V2100024634>; last accessed on 08.06.2023.

government bodies on the discussed documents and to submit their written comments on draft plans, programmes and other policy documents at subsequent stages of the decision-making process.

5.5 Capacity building

The main sources of information for the review and assessment of capacity building activities in the country were interviews with eleven representatives of environmental NGOs and activists of the youth eco movement, as well as information provided in the National Report on the State of the Environment and Use of Natural Resources of the Republic of Kazakhstan for 2021.³¹ In the interviews conducted, the respondents noted the lack of environmental and climate education for the population in the country, provided by the state authorities. Available opportunities to obtain such knowledge for the public are provided by educational activities conducted and/or supported by international and donor organisations, or self-education. However, both opportunities are available mainly in Russian, so that the Kazakh-speaking population is excluded from these processes.

Formal environmental education is available in schools, colleges and universities. The course “Ecology” is included in the secondary school programme for grade 6 students. All university students study such disciplines as “Fundamentals of Ecology and Life Safety”, “Ecology and Sustainable Development”, “Labour Protection and Industrial Ecology”. The basics of climate knowledge in schools are taught as part of the subject “Geography”, where the study of the climate system takes place in grades 5 to 6. Formal education on climate change is less accessible, and relevant thematic programmes are absent even at the level of higher education. State authorities do not undertake capacity building activities for civil society organisations on topics such as climate change, climate policy, policy dialogue/political advocacy, institutional development and cooperation.³² Moreover, not only civil society representatives and the general public do not have sufficient knowledge about climate change, but also local government officials and - often - climate policy makers and decision makers themselves.

Knowledge about rights and opportunities for public participation is limited to a narrow circle of environmental NGOs and environmental activists. Formal education in schools, colleges and universities is not oriented towards obtaining legal knowledge to realise their rights to active participation in decision-making. The Information and Analytical Centre for Environmental Protection of the MEGPR conducts seminars to explain the norms of environmental legislation, including public participation. They are attended by representatives of environmental NGOs and media, and university professors. For example, in 2021, the Centre conducted 21 seminars with about 300 participants.³³

The Public Council and the NGO Engagement Council are the main platforms for engagement with civil society organisations on environmental protection, climate change and sustainable development. The first council consists of about 30 public representatives, but only a part of them represents environmental NGOs. The second body consists of representatives of eight environmental NGOs.

6 Recommendations how to strengthen civil society's participation in climate policies and improve upcoming NDC revision

The legislation of Kazakhstan provides quite broad rights for public participation, including the framework of decision-making processes involving SEA, EIA, adaptation to climate change, as well as the development of normative legal acts, including strategies, programmes and plans. At the same time, some of them are not yet applied in practice, namely the provisions of the Environmental Code on SEA and climate change adaptation process.

Recommendation 1.

The Ministry of Ecology, Geology and Natural Resources should take practical measures to accelerate the practical implementation of the provisions of the Environmental Code on SEA and the process of adaptation to climate change, ensuring effective public participation in these processes.

The establishment of public councils under central and local government bodies provides an opportunity for civil society organisations to gain regular access to the normative legal acts and national and local policy documents they are developing and to submit proposals on them. Active members of public councils also involve in this process a wider range of public representatives, including environmental NGOs and environmental activists. At the same time, the status of public council members' proposals on national, regional and local policy documents under development remains unclear and does not ensure their proper consideration. The power of public councils to issue recommendations that must be taken into account by government bodies and that require a reasoned response does not apply to these documents.

Recommendation 2.

The Government of Kazakhstan should initiate amendments to the Law “On Public Councils”, strengthening the powers of public councils. It is proposed to expand in paragraph 2 of Article 5 of this Law the powers of public councils to adopt recommendations on draft strategic plans or programmes for the development of territories, state programmes, plans of measures to protect the environment.

The Ministry of Ecology, Geology and Natural Resources should ensure that the work of the Public Council is transparent and that information on its activities is constantly updated.

The public councils under state bodies and the “Open NPAs” portal are undoubtedly positive changes in the interaction between the state and civil society in Kazakhstan. The launch of the “Open NPAs” portal in 2020 opened opportunities for the general public to participate in the discussion of normative legal acts and national, regional and local policy documents under development. It provides opportunities for regular access to and written comments on plans and programmes under development. However, there is mistrust among civil society representatives regarding the transparency of these instruments and the effectiveness of public participation, which is reinforced by the lack of tangible results. According to respondents, the main reasons for mistrust are: untimeliness of notification, lack of explanatory work, lack of procedural information and feedback, lack of

³¹ National Report on the State of the Environment and the Use of Natural Resources of the Republic of Kazakhstan for 2021, Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan, URL: <https://ecogofond.kz/lty-bajandama>; last accessed on 08.06.2023.

³² Ibid, pp. 246-253.

³³ Ibid, p. 253.

traditions and proven skills of participation through digital portals, weak interest in public participation among young people. The established requirement for a minimum duration of public discussion (at least ten working days) is often not met in practice, for example, in two of the three cases considered in this report. At the same time, even ten working days is clearly insufficient, especially given the lack of notification of representatives of the interested public about the beginning of public discussions and the voluminous and complex nature of many of the documents under discussion.

Recommendation 3.

The Government of Kazakhstan should improve the rules governing the work of the “Open NPA” portal, by increasing the minimum period for public discussions of national, regional and local policy documents under development, establishing more detailed requirements for considering the results of public discussions, and by monitoring the practical application of the requirements of these rules.

The public is poorly informed about the possibilities of realizing their participation rights using the “Open NPAs” portal and the ECO Portal. Interviews with representatives of environmental NGOs and youth eco-activists show a very low level of work of state bodies and officials to strengthen the capacity for public participation in decision-making on environmental and climate policy. This leads to the fact that the legally established rights to public participation are not realized by citizens, the digital platforms created for this purpose are not actively used and there is significant mistrust regarding the effectiveness of public participation in the country.

Recommendation 4.

The Ministry of Ecology, Geology and Natural Resources and environmental non-governmental organisations should carry out continuous activities to raise public awareness on environmental and climate policy, rights to participate in decision-making, using modern and more accessible and simple forms and ways of information, including formats aimed at young target groups.

The Academy of Public Administration should strengthen educational programmes to improve the qualifications of civil servants on climate change and public participation in decision-making.

Recommendation 5.

Operators of digital platforms for public discussions, including the portal “Open NPAs” and the Unified Ecoportal for public participation in the EIA procedure, should ensure public accessibility of information on the possibilities and procedures of their work, processes of consultations on their work and consideration of complaints and proposals of users. Further they should inform the interested public about the beginning of public discussions of individual projects and documents.

7 Conclusion

The public councils under state bodies and the “Open NPAs” portal are clearly positive developments in the interaction between the state and civil society in Kazakhstan. They provide opportunities for regular access to and written comments on plans and programmes under development. However, there is mistrust among civil society representatives regarding the transparency of these tools and the effectiveness of public participation, which is reinforced by the lack of tangible results. According to respondents, the main reasons for mistrust are: untimeliness of notification, lack of explanatory work, lack of procedural information and feedback, lack of traditions and proven skills of virtual participation through digital portals, weak interest in public participation among young people.

The authors of the study made the following recommendations to improve the situation of civil society organisations in Kazakhstan.

- _ Improve the practical implementation of the Environmental Code in terms of public participation in strategies, plans, legal acts and projects.
- _ Strengthen the mandate of public councils to engage with the general public and provide them with guidance on how to review and consider civil society proposals.
- _ Disseminate information about the web portal “Open NPAs” (Open Legal Acts) to the public, including through visual information materials.
- _ The Academy of Public Administration should strengthen educational programmes to improve the skills of public servants on climate change and public participation in decision-making.



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Appendix

Assessment of the environment and opportunities to participate

Criterion 1 Fundamental requirements

Indicators	Scores	Score
a. Stability and peace¹ (What is the intensity of ongoing conflicts?)	0 = high intensity of conflict (limited war or war going on) 1 = medium (violent crisis going on) 2 = low intensity of conflict (non-violent crisis or dispute going on) 3 = very low intensity of conflict (no dispute, crisis or war going on)	2
b. Anti-corruption and transparency ² (What is the perceived level of corruption?)	0 = highly corrupted, CPI of 0 1 = corrupt, CPI equal to or under 50 2 = clean, CPI higher than 50 3 = very clean, CPI of 100	1
c. Security of environmental defenders ³ (Are environmental defenders secure from threats?)	0 = alarmingly weak security for environmental defenders (more than one murder documented) 1 = weak security for env. defenders (one murder documented) 2 = Environmental defenders are somewhat secure (no murders documented)	1

¹ This indicator and its associated score are based on HIIK’s Conflict Barometer 2022 (<https://hiik.de/conflict-barometer/current-version/?lang=en>, accessed 24 May 2023). The Conflict Barometer uses a five-level model, defining disputes and non-violent crises as non-violent conflicts with low conflict intensity, violent crises as violent conflicts with medium conflict intensity, and limited wars and wars as violent conflicts with high conflict intensity.

² This indicator and the corresponding scores are based on Transparency International’s Corruption Perceptions Index 2022 (<https://www.transparency.org/en/cpi/2022>, accessed 24 May 2022). According to Transparency International, a score of zero means “very corrupt” and 100 means “very clean”. The scores “1=corruption” and “2=clean” were set by UrFU. Transparency International defines corruption as “the abuse of entrusted power for private gain”, while “transparency is about shedding light on rules, plans, processes and actions”. (...) “It is the surest defence against corruption and helps build trust in the people and institutions on which our future depends.” (www.transparency.org/what-is-corruption, accessed 24 May 2023).

³ To the extent possible, this indicator and corresponding point estimates are based on Global Witness’ Decade of Disobedience report, which documented the killings of land and environmental activists in 2021 (<https://www.globalwitness.org/en/campaigns/environmental-activists/decade-defiance>, accessed 24 May 2023). It is important to note that the absence of killings does not mean that there are no other threats, attacks or harassment of environmental defenders and activists.

d. Political commitment (Is political participation of civil society related to the environment and climate backed by high-level political bodies and decision makers?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
	Max. score: 10	5

Criterion 2 Enabling legislation

Indicators	Scores	Score
a. Commitment to international conventions and agreements (Did the country sign and ratify (accept, approve, accede to) the Aarhus Convention or the Ezcazú Agreement, requiring civil society participation related to the environment and climate?)	0 = no, neither signed, nor ratified (accepted, approved, acceded to) 1 = signed, but not ratified (accepted, approved, acceded to) 2 = ratified (accepted, approved, acceded to)	2
b. National laws requiring the proactive participation of civil society (To what extent does/do <ul style="list-style-type: none">the constitution,national framework laws regarding environment and climate,strategic environmental assessment laws,or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) obligate the state or state agencies at national level to proactively seek the participation of civil society in decision-making related to the environment and climate, going beyond the official notification of participatory events?)	0 = no, neither signed, nor ratified (accepted, approved, acceded to) 1 = signed, but not ratified (accepted, approved, acceded to) 2 = ratified (accepted, approved, acceded to)	2

c. National laws requiring timely participation (To what extent does/do <ul style="list-style-type: none">the constitution,national framework laws regarding environment and climate,strategic environmental assessment laws,or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) require timely participation (before a decision is made and so that there is enough time for a public authority to consider the public comments) of civil society in decision-making related to the environment and climate?)	0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed	1
d. National laws requiring information regarding the participation process (To what extent does/do <ul style="list-style-type: none">the constitution,national framework laws regarding environment and climate,strategic environmental assessment laws,or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) require all information relevant to decision-making processes relating to the environment and climate to be made available to civil society, without civil society having to make an official information request?)	0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed	2
e. National laws requiring the consideration of civil society's comments (To what extent does/do <ul style="list-style-type: none">the constitution,national framework laws regarding environment and climate,strategic environmental assessment laws,or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) require the state or state agencies at the national level to take due account of civil society's comments in decision-making relating to the environment and climate?)	0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed	1

f. National laws requiring notification of civil society on the decision made along with the reasons and considerations on which the decision is based (To what extent does/do <ul style="list-style-type: none">the constitution,national framework laws regarding environment and climate,strategic environmental assessment laws,or climate-related sectoral laws (regarding energy, industry, transport, forest or land use) require the state or state agencies at the national level to promptly inform civil society about the decision and provide a written response explaining which comments were taken into account as well as giving reasons for dismissing others?)	0 = none of the laws assessed 1 = a few of the laws assessed 2 = most of the laws assessed 3 = all laws assessed	1
	Max. score: 17	9

Criterion 3 Supporting governance & structures

Indicators	Scores	Score
a. Governance structure (Is there an institutional body or mechanism, such as a committee, division or centre, supporting and coordinating participation processes relating to the environment and climate?)	0 = no 2 = yes	1
b. Institutional coordination & cooperation (Are national participation processes relating to the environment and climate coordinated across different vertical and horizontal political levels?)	0 = no 1 = there is weak coordination and cooperation 2 = there is good coordination and cooperation 3 = there is very good coordination and cooperation	0
c. Financial resources (Are civil society actors financially supported to participate in environmental/climate policy, e.g. through an allowance, reimbursement of travel costs or funding of staff members?)	0 = no 1 = yes, to some extent 2 = yes, fully	0
	Max. score: 7	1

Criterion 4 Qualitative participation processes

Indicators	Scores	Score
a. Early participation (At what stage was civil society involved in the process?)	0 = only after most of the decisions have been made 1 = after the first draft of the document/plan/strategy 2 = directly from the beginning	1
b. Broad, inclusive invitation (Was a wide variety of representatives of civil society (CSOs and wider public) invited to participate, including for instance those representing youth, gender, indigenous groups, and minority ethnic groups?)	0 = no civil society representatives invited 1 = not a wide variety invited, just a few selected CSOs 2 = either just CSOs or just the wider public invited 3 = yes, a wide variety invited	2
c. Timely invitation (Was civil society invited early enough to participate?)	0 = some days in advance 1 = less than one month in advance 2 = more than one month in advance	1
d. Adequate participation formats (How was civil society involved in the process?)	0 = through information 1 = through consultation 2 = through several interactive formats, fostering dialogue and collaboration	1
e. Transparency and information (Was information about the technical background and the participation process available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, a lot of information	1
f. Available documentation (Was documentation about the discussions and results available to civil society?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
g. Transparent review of recommendations (Were recommendations and views from civil society reviewed in a transparent manner?)	0 = no 1 = yes, to some extent 2 = yes, fully	1
h. Evaluation and feedback process (Was there an evaluation and feedback process regarding the participation procedure?)	0 = no 1 = yes	0
	Max. score: 16	8

Criterion 5 Capacity building

Indicators	Scores	Score
a. Environmental education (Is national formal and non-formal environmental and climate education offered to the public?)	0 = no 1 = yes, some education on offer 2 = yes, a lot of education on offer	0
b. Public awareness raising on participation rights and opportunities (Is information about public participation rights and opportunities available to the public?)	0 = no 1 = yes, to some extent 2 = yes, fully	0
c. CSO capacity building on climate change, climate policy, policy dialogue, organisational development, cooperation and networking (Is there capacity building on topics such as climate change, climate policy, policy dialogue, organisational development, cooperation or networking for CSOs?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available	0
d. Capacity building on participation and stakeholder engagement for governments (Is there capacity building on participation and stakeholder engagement for national governments and state officials?)	0 = no 1 = yes, some capacity building available 2 = yes, a lot of capacity building available	0
	Max. score: 8	0
Max. total score	59	23

In 2016, Kazakhstan and many other countries around the world adopted the Paris Agreement to limit global warming and its consequences. However, current Nationally Determined Contributions (NDCs) are insufficient to keep global temperature rise this century below 1.5°C above pre-industrial levels. Time is running out and rapid and far-reaching changes are required across all sectors.

Civil society actors play a crucial role in the development and implementation of climate policy, as they act as advocates and spokespersons for nature, driven by the desire to protect the environment and maintain healthy living conditions for humans.

The publications **“Civic Space for Climate Policy Participation”** aim to analyse the status and conditions of participation in climate policy and case studies of participatory policymaking in different countries. The analyses examine civil society participation in national policy processes related to the Paris Agreement. The studies also identify country-specific barriers to meaningful, effective and long-term participation and offer recommendations for overcoming these barriers.

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