

AARHUS CONVENTION IMPLEMENTATION REPORT

The following report is submitted on behalf of the Ministry of Ecology and Natural Resources of the Republic of Azerbaijan in accordance with decision I/8 and II/10

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IMPLEMENTATION REPORT

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I. PROCESS BY WHICH THE REPORT HAS BEEN PREPARED

1. The Ministries of Education, Health, Justice, and Economic Development, Industry and Energy, the executive authorities of towns and regions, and municipalities were consulted during the

preparation of this report and made contributions. Consultations were also held with public representatives. The outcomes of these consultations were taken into consideration and used as a basis for the report.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE REPORT

2. As part of the process of democratic development, Parliament has adopted laws providing mechanisms that give effect to many democratic rights and freedoms, including access to information, participation in decision-making and access to justice in environmental matters. These are enshrined in legal instruments such as the Civil Procedure Code, the Administrative Offences Code, the Regulations on Environmental Impact Assessment, the Freedom of Information Act and amendments to article 39 of the Constitution, “The Right to a Clean Environment”.

III. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE GENERAL PROVISIONS IN PARAGRAPHS 2, 3, 4, 7 AND 8 OF ARTICLE 3

3. In accordance with legislation, state authorities define the rules for collecting, processing and providing environmental information (article 4 of the Environmental Protection Act). Legislation also specifies that state bodies carrying out monitoring of the environment and natural resources are responsible for managing information relating to environmental protection (article 8 of the Environmental Security Act).

4. On the basis of legislation, the State has taken on the responsibility of collecting and disseminating environmental information. The Environmental Protection Act tasks the State with establishing rules for distributing information and keeping state statistics relating to environmental protection (article 4), while the Environmental Security Act makes the State responsible for organizing and performing information management (paragraph 2.1 of article 5). In order to accomplish these tasks, state and local self-government authorities are obliged to set up the necessary systems to collect information, disseminate information about emergencies, deal with enquiries and communications within the time frames established by law, continually update environmental databases, deal with enquiries and communications within the time frame established by law, and acquaint enquirers with the list of bodies that hold information as well as with documents containing environmental information (article 5 of the Acquisition of Environmental Information Act).

5. In order to ensure coordination within and between government departments, officials who participate in other relevant international forums are informed on an on-going basis. All information, including information of the type described above, is available through the web pages of the Ministry of Ecology and Natural Resources and other state authorities.

6. A council has been formed under the Ministry of Ecology and Natural Resources that includes representatives of NGOs and the public, where on-going discussions of international forums are held.

7. In order to promote and enable public participation at national level with respect to international forums, members of NGOs are invited to participate in the Party’s delegation in international environmental negotiations or involved in preparing the Party’s official position. NGOs and members of other social groups are granted access to information during the stages of negotiations.

8. Decisions are taken to promote the principles of the Convention in the procedures of other international forums by working groups on international conventions that include members of NGOs.

9. Measures are taken to promote the principles of the Convention in the work programmes, projects, decisions and other substantive outputs of other international forums.
10. Legislation grants everyone the right to judicial protection of their rights. For example, article 1 of the Act on the Judicial Appeal of Decisions and Actions (Omissions) that Infringe the Rights and Freedoms of Citizens specifies that if citizens believe their rights and freedoms to have been breached by a decision or action (omission) of state authorities, enterprises and officials, they may file an action in court.

IV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 3

11. The above points are implemented within the regulatory framework.

V. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE GENERAL PROVISIONS OF ARTICLE 3

12. Various steps are being taken to ensure the practical application of the article within the regulatory framework. All information, including information of the type described above, is provided through the web pages of the Ministry of Ecology and Natural Resources and other state authorities. A council has been set up under the Ministry of Ecology and Natural Resources that includes representatives of NGOs and the public where international forums are discussed on an on-going basis. Decisions are taken to promote the principles of the Convention in the procedures of other international forums by working groups on international conventions that include members of NGOs.

VI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 3

13. <http://eco.gov.az/>

VII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO ENVIRONMENTAL INFORMATION IN ARTICLE 4

14. Azerbaijani legislation allows the public to obtain environmental information. Legislation also defines the concept of “environmental information”. Looking at three definitions of “environmental information” in Azerbaijani legislation allows us to trace the development of democracy in the country and the attitude of the authorities to openness and transparency.
15. Article 64 of the Environmental Protection Act defines “information relating to environmental protection” as information on the state of the environment; the financing of measures relating to its pollution, restoration and protection; the state, restoration and use of natural resources; impacts on the environment; environmental standards; and environmental requirements for economic and other activities.
16. Moreover, on the basis of article 2 of the Acquisition of Environmental Information Act, the concept also covers information on the state of the soil, water, subsoil, atmosphere and living organisms; changes that are occurring or may occur to components of the environment as a result of activity that has or may have an impact on the environment and human life; assessment of such changes; measures to protect and make efficient use of the environment; and expenditure.

17. However, the provisions of paragraph 3 of article 2 of the Aarhus Convention are also valid in Azerbaijan, providing a wider concept of environmental information. On the basis of the Aarhus Convention, environmental information is information on:

- the state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;
- the state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above.

18. Environmental information (apart from information on the climate) can be obtained free of charge.

VIII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 4

19. No obstacles have been encountered in the implementation of the provisions of article 4 relating to access to environmental information.

IX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 4

20. There have been no refusals to provide access to information with regards to the practical implementation of article 4.

X. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 4

21. <http://eco.gov.az>

XI. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON THE COLLECTION AND DISSEMINATION OF ENVIRONMENTAL INFORMATION IN ARTICLE 5

22. **Public authorities.** In accordance with legislation, state authorities define the rules for collecting, processing and providing environmental information (article 4 of the Environmental Protection Act). Legislation also specifies that state authorities carrying out monitoring of the environment and natural resources are responsible for managing information relating to environmental protection (article 8 of the Environmental Security Act).

23. Just as environmental information is varied, so the bodies holding this information are numerous and varied.

24. On the basis of legislation, the State has assumed the responsibility of collecting and disseminating environmental information. The Environmental Protection Act tasks the State with

establishing rules for distributing information and keeping state statistics relating to environmental protection (article 4), while the Environmental Security Act makes the State responsible for organizing and performing information management (paragraph 2.1 of article 5). In order to accomplish these tasks, state and local self-government authorities are obliged to set up the necessary systems to collect information, disseminate information about emergencies, deal with enquiries and communications within the time frame established by law, continually update environmental databases, and acquaint enquirers with the list of bodies that hold information as well as with documents containing environmental information (article 5 of the Acquisition of Environmental Information Act).

25. State and local self-government authorities and their subdivisions are obliged, within the scope of their authority, to maintain registers of environmental information and provide this information to the public.

26. Moreover, state authorities are obliged to supply complete and reliable information on the request of citizens and ensure the necessary conditions for citizens to participate in decision-making and monitoring compliance with decisions relating to public health and adverse environmental impacts (article 12 of the Public Health Security Act [the “Sanitary and Epidemiological Well-being Act”]).

27. The Ministry of Ecology and Natural Resources is obliged to expand the Environmental Information Repository (paragraph 10.8 of the Regulations on the Ministry of Ecology and Natural Resources).

28. Moreover, under article 5 of the Consideration of Citizens’ Communications Act, the public can request environmental information from various local and foreign enterprises and organizations operating in the Republic.

29. **Legislation and regulations.** Legislation on obtaining environmental information consists of the Constitution; the Acquisition of Environmental Information Act; the Environmental Protection Act; the Information, Information Distribution and Information Protection Act; the Freedom of Information Act; the Consideration of Citizens’ Communications Act; the Media Act; the State Secrets Act; the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters; the Convention on Environmental Impact in a Transboundary Context; other international agreements supported by Azerbaijan; and other relevant laws and regulations.

XII. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 5

30. No obstacles were encountered in the implementation of the provisions of article 5 relating to the collection and distribution of environmental information.

XIII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 5

31. The system of state statistical reporting ensures that information flows from the original source of data to the authorities and allows environmental databases to be created. Under legislation and regulations on the Ministry of Ecology and Natural Resources, the Ministry exercises central executive authority as regards the environment and the use and protection of natural resources. In order to perform this task, the Ministry and its local subdivisions collect industrial monitoring data from enterprises and organizations carrying out economic activity that has an environmental impact. These data are systematically collected by the Ministry’s subdivisions, and if necessary inspections of these sites are carried out to check the accuracy of reports and information on compliance received from enterprises and organizations that have been granted environmental permits.

32. State authorities that possess environmental information constantly update it and bring it to the public's attention through web pages. This information is transmitted from the relevant state authorities, and in emergencies important information is distributed immediately and without delay.

33. Reports and information on the state of the environment are published and distributed through the internet as well as through the media (agencies, newspapers and TV). Conferences, meetings, round tables, discussions, exhibitions and competitions are held in order to increase environmental awareness among students, secondary school pupils and other groups of society. Books, pamphlets, brochures, newsletters and posters are published and distributed among the public. Video clips are also broadcast on TV channels to promote environmental awareness.

XIV. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 5

34. <http://eco.gov.az>

XV. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON PUBLIC PARTICIPATION IN DECISIONS ON SPECIFIC ACTIVITIES IN ARTICLE 6

35. Public participation in environmental protection is accorded particular attention in Azerbaijani legislation. Participation of the population and public associations in environmental protection is one of the basic principles of legislation (article 3 of the Environmental Protection Act).

36. Citizens, stateless persons and foreigners have the right:

- to address state authorities and organizations about environmental protection;
- to advance proposals regarding public state environmental reviews (article 6 of the Environmental Protection Act);
- to participate in making decisions that have an effect on public health and the environment (article 7 of the Public Health Security Act).

37. Citizens and public associations also have the right to submit proposals to state and local self-government authorities (article 7 of the Environmental Security Act).

XVI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 6

38. No obstacles were encountered in the implementation of the provisions of article 6 relating to public participation in decision-making on specific types of activity.

XVII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6

39. During the public participation procedure, state authorities present the public concerned with all the information on the decision-making process specified in article 6 by posting this information on the internet as well as sending it electronically to environmental NGOs.

40. The environmental council attached to the Ministry of Ecology and Natural Resources (which includes NGO and public representatives) holds on-going discussions of decisions on specific types of activity.

**XVIII. WEBSITE ADDRESSES RELEVANT TO
THE IMPLEMENTATION OF ARTICLE 6**

41. <http://eco.gov.az>

**XIX. PRACTICAL AND/OR OTHER PROVISIONS MADE FOR THE PUBLIC TO
PARTICIPATE DURING THE PREPARATION OF PLANS AND PROGRAMMES
RELATING TO THE ENVIRONMENT PURSUANT TO ARTICLE 7**

42. The Environmental Council (which includes NGO and public representatives) attached to the Ministry of Ecology and Natural Resources carries out on-going discussions to ensure public participation in the preparation of plans and programmes relating to the environment. The materials relating to discussions and decision-making are posted on the Ministry's web site.

43. The relevant definition of environmental information exists at national level: it is information on the state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements; factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment and cost-benefit and other economic analyses and assumptions used in environmental decision-making; the state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by these factors, activities or measures.

**XX. OPPORTUNITIES FOR PUBLIC PARTICIPATION IN THE PREPARATION
OF POLICIES RELATING TO THE ENVIRONMENT PROVIDED PURSUANT TO
ARTICLE 7**

44. The public is given the opportunity to participate in the preparation of draft environmental laws, programmes and other regulations through the internet. Discussions are also held with NGOs.

XXI. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 7

45. No obstacles were encountered in the implementation of article 7.

**XXII. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE
PROVISIONS OF ARTICLE 7**

46. Public representatives took part in preparing the Integrated Action Plan on Improving the State of Azerbaijan's Environment as well as the Integrated Plan on Improving Azerbaijan's Environment 2010-2014.

**XXIII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF
ARTICLE 7**

47. <http://eco.gov.az>

XXIV. EFFORTS MADE TO PROMOTE PUBLIC PARTICIPATION DURING THE PREPARATION OF REGULATIONS AND RULES THAT MAY HAVE A SIGNIFICANT EFFECT ON THE ENVIRONMENT PURSUANT TO ARTICLE 8

48. The necessary conditions have been created for the public to effectively participate in the preparation by state authorities of regulations that have a direct executive effect and other generally applicable legally binding rules that may have a significant effect on the environment by the development of environmental legislation between 2008 and 2010 and its harmonisation with EU requirements.

- To improve effectiveness, amendments and additions were made to the Criminal Code and the Administrative Offences Code by Act 896-IIIQD of 20 October 2009. The administrative penalties for breaking the rules on environmental protection, natural resource use and environmental security contained in the Administrative Offences Code (Act 478-IIIQD) were made tougher.
- Act 557-IIIQ of 1 April 2008 on Natural Healing Resources and Health Sites and Resorts was passed.
- Act 650-IIIQ of 13 June 2008 on Environmentally-sound Agriculture was passed.
- A draft law on ensuring the safety of genetic engineering has been prepared and sent to the Cabinet of Ministers. The *Milli Majlis* (Parliament) is currently examining a draft law on protecting the genetic resources of cultivated plants and their efficient use that provides the legal basis for the latter law.
- The Presidential Administration is currently examining a draft law on additions and amendments to the act on specially protected natural areas and sites, sent to the Cabinet of Ministers after its approval by the relevant state bodies.
- A draft decision on additions to Decision No. 173 of 19 September 2005 on the rules for the use, protection and preservation of trees and shrubs that do not form part of Azerbaijan's forests was submitted to the Cabinet of Ministers for examination.
- A draft decision amending Decision No. 176 of 6 November 2004 was submitted to the Cabinet of Ministers for examination. This decision lists several other generally binding legal instruments, namely: on the approval of new scale of charges for the release of pollutants into the environment; on the approval of [the instrument on] selling the main types of trees and bushes growing in the Republic's woods as standing timber; the rules for state compliance monitoring as regards the protection and use of wild animals; the application of the rules on payment and on the extent of use of wild animals and fines for illegal hunting; and on the approval of the instructions for use of wild animals and fines for illegal hunting.
- A draft law on environmental review has been prepared and presented to the Cabinet of Ministers.
- A draft law has been drafted on protecting green belts, which will soon be submitted for examination.
- Draft amendments to the following laws have been prepared in order to harmonise them with EU legislation: Act 678-IQ of 8 June 1993 on Environmental Protection; Act 423-IQ of 30 December 1997 on the Radiation Safety of the Population; Act 514-IQ of 30 June 1998 on Industrial and Residential Waste; Act 675-IQ of 4 June 1999 on Wild Animals; Act 677-IQ of 8 June 1999 on Environmental Security; Act 723-IQ of 28 October 1999 on Water Provision and Sewage; Act 840-IQ of 24 March on Specially Protected Natural Territories and Sites; Act 109-IIQ of 27 March 2001 on the Protection of Ambient Air; Act 270-IIQ of 12 March 2002 on the Acquisition of Environmental Information; and Act 637-IIQ of 20 April 2004 on Hunting.

XXV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 8

49. No obstacles were encountered in the implementation of article 8.

XXVI. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 8

50. When implementing the public participation procedure, state authorities provide the public concerned with all of the information relevant to the decision-making process specified by article 8 by posting this information on the internet and sending it electronically to environmental NGOs.

XXVII. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 8

51. <http://eco.gov.az>

XXVIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON ACCESS TO JUSTICE IN ARTICLE 9

52. A person submitting a request for environmental information has the right to appeal to court in the following circumstances:

- falsification and/or deliberate provision of false information;
- untimely provision of information, provision of out-of-date information or evasion by an official of provision of information;
- concealment of information or a refusal to provide information;
- an incomplete or inexact response;
- a refusal to grant permission to use unrestricted environmental information;
- an unfounded recategorization of unrestricted information as restricted information.

53. Azerbaijani legislation gives everyone the right to judicial protection of their rights. For example, article 1 of the Act on Court Appeals of Decisions and Actions (Omissions) that Infringe the Rights and Freedoms of Citizens specifies that citizens who believe their rights or freedoms to have been infringed by a decision or action (or omission) of state authorities, enterprises and officials may appeal to court.

54. Legislation also requires losses to be fully compensated. Under the Civil Code, a person whose rights have been infringed may claim full compensation of the losses caused to him, unless a law or an agreement specify a lower level of compensation (article 21 of the Civil Code).

55. The public have the right:

- to demand the annulment in administrative or court proceedings of decisions on the location, construction, reconstruction or commissioning of enterprises, plants and other environmentally hazardous facilities that have an adverse impact on human life and the environment as well as the restriction or temporary suspension of the activities of natural or legal persons and the wind-up of legal persons (article 6 of the Environmental Protection Act);
- to bring claims before the relevant authorities and courts holding liable organizations, entities and citizens guilty of breaching environmental legislation (article 6 of the Environmental Protection Act);
- to bring claims for compensation of damage caused to citizens' health or property by a breach of environmental legislation (article 7 of the Environmental Protection Act).

XXIX. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF ARTICLE 9

56. No obstacles were encountered in the implementation of article 9.

XXX. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 9

57. Reports are compiled annually on the materials sent for examination by the judicial authorities. There are no barriers impeding access to justice.

XXXI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 9

58. <http://eco.gov.az>

XXXII. GENERAL COMMENTS ON THE CONVENTION'S OBJECTIVE

59. The 2009 amendment to article 39 of the Constitution gives every person belonging to the current and future generations the right to live in an environment favourable to his health and well-being.

- Every person has the right to live in a favourable environment.
- Citizens have the right to collect information on the state of the environment and claim compensation for harm caused to his health or property.
- No-one has the right to cause the harm or hazards specified under laws on the environment and natural resources.

60. The State guarantees preservation of the ecological balance and protection of the types of flora and fauna specified by laws.

XXXIII. LEGISLATIVE, REGULATORY AND OTHER MEASURES IMPLEMENTING THE PROVISIONS ON GENETICALLY MODIFIED ORGANISMS PURSUANT TO ARTICLE 6bis AND ANNEX I bis

61. A draft law on ensuring the safety of genetic engineering has been prepared and sent to the Cabinet of Ministers. The *Milli Majlis* (Parliament) is currently examining a draft law on protecting the genetic resources of cultivated plants and their efficient use that provides the legal basis for the latter law.

62. The Aarhus Centres, websites and media are used to effectively provide information and involve the public in decisions that fall within the scope of article 6 bis.

63. In no circumstances is the information detailed in this provision deemed confidential.

64. The public is allowed to present in any appropriate form any comments, information, results of analyses or opinions it considers relevant to a proposed deliberate release or placing on the market.

65. Measures are taken to ensure that the texts of decisions passed by state authorities that fall within the scope of annex I bis, as well as the reasons and considerations on which they are based, are brought to the attention of the public.

XXXIV. OBSTACLES ENCOUNTERED IN THE IMPLEMENTATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis

66. No obstacles were encountered in the implementation of any of the provisions of article 6 bis and annex I bis.

XXXV. FURTHER INFORMATION ON THE PRACTICAL APPLICATION OF THE PROVISIONS OF ARTICLE 6bis AND ANNEX I bis

67. A book on biosafety has been published to inform the public. Round tables, surveys and seminars have been held, and articles have been published in the media.

XXXVI. WEBSITE ADDRESSES RELEVANT TO THE IMPLEMENTATION OF ARTICLE 6bis

68. <http://eco.gov.az>