

**AARHUS CONVENTION: EXCEPTIONAL DUTIES OR STIMULUS TO DEVELOPMENT**  
**CONVENCIÓN DE AARHUS: DEBERES EXCEPCIONALES O ESTÍMULO AL DESARROLLO**

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**Listopad Oksana Fedorovna**  
Ural State Law University,  
Ekaterinburg, Russian Federation,  
u1062@list.ru

**PhD. Anna V. Gubareva**  
Ural State Law University,  
Ekaterinburg, Russian  
Federation,  
ashipova@mail.ru

**PhD. Kseniya E. Kovalenko**  
Altai State University,  
Barnaul, Russian Federation  
Kovalenko1288@mail.ru

**Abstract.** Global environmental problems are relevant for Russia. Admittedly, the country is one of the most polluted in the world. This affects the quality of life and adversely affects the health of people. The emergence of environmental problems in Russia, as in other countries, is associated with an intense human influence on nature, which has acquired a dangerous and aggressive nature. A characteristic feature of our time is the intensification and globalization of human impact on the surrounding natural environment, which is accompanied by unprecedented intensification and globalization of the negative consequences of this impact. And if earlier mankind experienced local and regional environmental crises that could lead to the death of a civilization, but did not hamper the further progress of the human race as a whole, today the ecological situation as a global ecological collapse. Accepted international acts should be aimed at solving humanity's global problems. This article considers the meaning of the Aarhus Convention - the UNECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters. The purpose of the Convention is to support the protection of human rights in a favorable environment for its health and well-being, access to information, public participation in decision-making and access to justice in environmental matters.

**Keywords.** Aarhus Convention, ecology, environmental law, rights.

## 1. INTRODUCTION

The Aarhus Convention is an international agreement adopted at the Fourth Ministerial Conference "Environment for Europe" in Aarhus, Denmark, on 25 June 1998, which imposes on the parties and public authorities the obligation to provide access to information and public participation in environmental decision-making and access to independent and objective justice. From the moment of adoption, the Aarhus Convention was adopted by 41 states. Of the countries that were part of the Soviet Union, only the Russian Federation and Uzbekistan did not ratify this agreement, although the convention was signed by Russia.

## 2. STATEMENT OF THE PROBLEM

According to the Order of the Government of the Russian Federation the adoption of the Convention was planned for 2013. In March 2013, the Ministry of Natural Resources and Environment of the Russian Federation and the Ministry of Foreign Affairs of the Russian Federation proposed to the Government of the Russian Federation a draft law on accession to the UNECE Aarhus Convention. The process of preparing and agreeing proposals with all interested parties took more than a year, but not all expressed support for joining the Aarhus Convention.

The refusal to ratify the Aarhus Convention is related to the unwillingness of the Russian Federation to assume the obligations specified in this agreement. Russia's environmental legislation is diverse in its regulatory framework, therefore, in order to bring it into full compliance with the provisions of the Convention, it is necessary to monitor all regulations, which will require a large number of human and technical resources and budgetary resources, and some legal acts cannot be abolished or new ones can be abolished.

Over the past 5 years, the number of current (operational) costs for environmental protection in the Russian Federation has increased by 12%. In 2012, the state allocated 239170 million rubles, in 2016 this figure was 306534 million rubles. The dynamics and increase in the state's interest in protecting the environment is positive, but some issues remain unresolved. One of them is the issue of sorting solid household (municipal) wastes, their processing and secondary use. The legislation provides for the use of the best available

technologies for waste management, the implementation of complex processing of raw material resources to reduce their quantity, collection, transportation, handling, disposal, municipal waste, however, the very problem of waste management is not allowed, and their number increases every year. According to the Russian Federation's Environmental Security Strategy there are in total more than 14,000 large landfills in Russia, with an area of more than 4 million hectares. By 2027, experts predict an increase in this figure to 8 million hectares.

## 3. DISCUSSION

Already, the Russian legislative authorities are tightening requirements for waste disposal. Starting from 01.01.2018, the RF Government's Decree comes into force, according to which the list of types of production and consumption waste containing useful components, whose burial is forbidden. From 2018, the ban will extend to scrap and metal waste, thermometers, mercury lamps, from 2019 to the burial of paper, tires. Since 2021, the ban will affect cash registers, electrical appliances, batteries.

For the Russian Federation, the issue of the burial of radioactive waste is also topical. Now Russian nuclear fuel cycle facilities have accumulated liquid and solid radioactive waste with a total activity of 2 to 4 billion cubic meters. These objects are potentially dangerous. Russia incurs large financial costs (mainly from the budget) related to maintaining their security. In addition, on the territory of Russia, a foreign spent nuclear fuel is buried.

According to Russian legislation and international agreements, radioactive waste (further RW) generated from the processing of foreign SNF should be returned to the state of origin of nuclear materials, but not one kilogram of radioactive waste to the countries producing nuclear waste was sent. When processing foreign spent nuclear fuel, a large amount of radioactive waste is discharged into the environment (Lake Karachay, Old Boloto). The federal law "On the management of radioactive waste" laid the foundation for the legal provision of relations for the management of radioactive waste. Article 31 of the RAO Law provides for the disposal in the territory of Russia of foreign radwaste in the form of various sources of ionizing radiation, which contradicts the guarantee of the right to radiation safety of this and future generations. The Government of the Russian Federation adopted the procedure of such reception and disposal of radioactive waste, and determined the mechanism

for the transfer of spent closed sources of ionizing radiation to the Russian Federation.

The actual state of the Russian environment contradicts the first principle of the Stockholm Declaration, one of the fundamental acts of the Aarhus Convention. This principle says that a person has the right not only to freedom, equality, but also to favorable conditions, life in the environment, the quality of which should allow him to lead a decent and prosperous life. In practice, citizens of the Russian Federation are not guaranteed equality of environmental safety in all regions of Russia, a situation where the well-being of certain regions is achieved by infringing the interests of other regions is permissible. Let us turn to the practice of the Republic of Kazakhstan, which signed the Aarhus Convention back in 1998. Let's pay attention to what changes have occurred in Kazakhstan over the past 19 years.

All subsoil users in Kazakhstan, when developing new projects for expansion or modernization of production, even before the start of construction, conduct public hearings with the participation of the population, public organizations, mass media. This process is directly related to the implementation of the provisions of the Aarhus Convention and the requirements of the national environmental legislation of the republic.

According to the Code of the Republic of Kazakhstan "On Subsoil", the draft subsoil use contract is subject to mandatory environmental review prior to its signing. Environmental legislation ensures the publicity of the state environmental review (hereinafter referred to as expertise) and public access to decision-making. The application for the examination is subject to mandatory publication in the media by the customer of the proposed activity. The interested public can express its opinion during the state ecological expertise, the results of which become the property of the population, and they should be taken into account by the users of nature during the state environmental review. At the stages of development and approval of project documents of the subsoil user, public participation is practically not ensured. When taking environmentally important decisions in the field of subsoil use, there are no effective legal mechanisms for the realization of such a right to the public in Kazakhstan, although citizens can take part in the process of compulsory environmental impact assessment, development and approval of project documents, in particular when approving the draft EIA.

Kazakhstan has established the National Aarhus Center, which is the link between state bodies and civil society. It promotes compliance by the Republic with the provisions of the Aarhus Convention, the implementation of environmental policy, the concept of Kazakhstan's transition to "sustainable development", and participates in the solution of priority environmental problems.

The competent bodies on subsoil use are the Ministry of Oil and Gas of the Republic of Kazakhstan, the Ministry of Industry and New Technologies of Kazakhstan. There are no special units for meeting the requirements of the Aarhus Convention in responsible ministries.

#### 4. CONCLUSION

In the environmental law of Russia contains a lot of legislative gaps, which leads to the refusal of authorized bodies to ratify the Aarhus Convention. But in all the countries that adopted the agreement, the environment is completely protected? And is it worth to reject the Convention, fearing the impossibility of fully fulfilling the obligations, while depriving the public of the right to participate in protecting the environment of its state? The question remains open.

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