

Evolution of the Environmental Legislation of the Republic of Kazakhstan.¹ Chronology

In the evolution of the Republic of Kazakhstan's environmental protection legislation, it is possible to clearly identify a few periods that have been defined by changes in the country's political and socioeconomic situation.

1991 - 1994

The development of legislation was influenced by the inertia of the democratic tendencies of perestroika, the deteriorating socioeconomic situation, and the aspirations of the young government to renounce a raw materials economy and create the image of a country oriented towards democratic values. The environmental situation improved a little as a result of a drop in industrial production and a decline in agriculture.

The legal situation:

- the human right to a favorable environment was secured in the Republic of Kazakhstan's Constitution in 1993;
- attempts were made to develop a state environmental policy;
- ownership of natural resources was secured for the country's highest representative legal body;
- there was "a 'turn away' from the narrow, departmentally-based resource legislation towards environmental legislation";²
- a specialized body for environmental protection was created, with the functions of a state oversight control body;
- the right of the public to participate in the resolution of issues related to the environment was acknowledged;
- economic mechanisms for the rational use of nature began to be formulated;
- a series of international environmental protection conventions were signed.

1995 - Early 2003

This period saw a relative improvement in the economic situation. The basis of the country's economic growth was the intensive exploitation of natural resources. As a result of the de facto looting of state property and the signing of contracts with transnational resource exploitation companies, well-to-do clans and groupings formed. The political sphere saw a gradual return to a command/administrative method of management.

¹ Legal Reference System "Yurist": www.zakon.kz as of January 17, 2014. These materials encompass only primary normative legal acts.

² D.L. Baideldinov. Environmental Legislation of the Republic of Kazakhstan. Almaty, 1995, p.53.

The environmental situation again deteriorated as a result of the growth in industrial enterprises and massive violations of environmental protection legislation.

The legal situation:

- provisions regarding the human right to a favorable environment were not included in the Constitution of 1995, which replaced the 1993 version;
- the Parliament's role in the resolution of environmental problems was reduced to legislative activities;
- the ownership rights to natural resources were, in effect, transferred to the executive bodies of power;
- legislation began to be eased in favor of natural resource users;
- there were massive violations of public rights as a result of imperfections in and a lack of compliance with the laws;
- there were limits placed on the authority of the specialized body on environmental protection and a deprivation of its functions as a state oversight control body;
- mechanisms for the rational use of nature were transformed and relegated to an adjunct of the fiscal system;
- international obligations were neglected, accompanied by declarations regarding the incorporation of international legal norms in national legislation.

2003 - First Half of 2007

This period saw the relative stabilization of the economy, in great measure predetermined by the sharp rise in the price of oil on the global market. The ruling elite ignored the symptoms of impending crisis and began to redistribute the ownership of natural resources, particularly land. A bureaucratic, corrupt state continued to form in the political sphere, but more and more the clans, which were gaining strength, came out from under the influence of the center. The state aimed to get the "green" movement under control. The environmental situation continued to deteriorate.

The legal situation:

- despite being updated, the acting legislation became less effective than in 1991;
- legislation continued to be eased in favor of natural resource users;
- environmental protection bodies were transformed and almost entirely subjugated by the executive powers;
- massive violations of the public right to participate in the resolution of environmental problems occurred as a result of the lack of improvements to and compliance with the laws;
- mechanisms for rational nature use were finally destroyed;
- environmental protection legislation was used to exert pressure on transnational companies in order to redistribute profits;

- disinformation of the public became stronger in regards to the role of public in the resolution of environmental problems;
- attempts were made to use legal methods to get the “green” movement under control;
- the requirements of international agreements were blatantly ignored, raising the question as to whether the Republic of Kazakhstan must withdraw from a number of environmental conventions.

The Second Half of 2007 - Early 2014

The mirage of economic and political stability faded away. The crisis in the economy impacted all aspects of life. The inflation level remained high. The clans led an open fight against the authorities. The public’s political activity increased. The government was maneuvering, trying to control the situation. The “green” party created after the transformation of one of the officially registered parties tried to unite non-governmental environmental organizations and enter into coalition with the European “green” parties. Many representatives of the international community displayed concern about the political situation in the country; nevertheless, Kazakhstan was granted chairmanship of the OSCE.

The legal situation:

- environmental legislation was used to fight political opponents;
- laws were tailored to suit the specific interests of industrial groups;
- acting legislation was used in order to enrich bureaucrats;
- the state apparatus was weakened and the principle of division of powers was violated.

The so-called adaptation of national legislation to the requirements of international law, in particular, to the Aarhus Convention, did not help and even impeded the development of effective legal mechanisms for the protection of nature and the human rights to a favorable environment.

The Constitution

1993

The Constitution of the Republic of Kazakhstan (further RK), January 28, 1993.

The original Constitution went out of force when a new Constitution was adopted on August 30, 1995.

1995

The Constitution of the Republic of Kazakhstan. Adopted by a republic referendum on August 30, 1995.

Changes incorporated:

Law of the RK, October 7, 1998, No.284-I;

Law of the RK, May 21, 2007, No.254-III;

Law of the RK, February 2, 2011, No.403-IV.

Environmental Protection

2007

Environmental Code of the Republic of Kazakhstan,
January 9, 2007, No.212-III.

Changes incorporated:

Law of the RK, July 27, 2007, No.320-III;
Law of the RK, December 4, 2008, No.97-IV;
Law of the RK, December 10, 2008, No.101-IV;
Law of the RK, June 23, 2009, No.164-IV;
Law of the RK, July 17, 2009, No.188-IV;
Law of the RK, November 16, 2009, No.200-IV;
Law of the RK, January 21, 2010, No.242-IV;
Law of the RK, March 19, 2010, No.258-IV;
Law of the RK, December 28, 2010, No.369-IV;
Law of the RK, January 6, 2011, No.378-IV;
Law of the RK, January 6, 2011, No.379-IV;
Law of the RK, January 10, 2011, No.383-IV;
Law of the RK, March 1, 2011, No.414-IV;
Law of the RK, July 5, 2011, No. 452-IV;
Law of the RK, July 15, 2011, No. 461-IV;
Law of the RK, July 22, 2011, No. 479-IV;
Law of the RK, December 3, 2011, No. 505-IV;
Law of the RK, January 25, 2012, No. 548-IV;
Law of the RK, April 27, 2012, No. 15-V;
Law of the RK, July 10, 2012, No. 31-V;
Law of the RK, July 10, 2012, No. 34-V;
Law of the RK, July 10, 2012, No. 36-V;
Law of the RK, December 24, 2012, No. 60-V;
Law of the RK, June 13, 2013, No. 102-V;
Law of the RK, June 21, 2013, No. 107-V;
Law of the RK, July 3, 2013, No. 121-V;
Law of the RK, July 3, 2013, No. 124-V;
Law of the RK, January 13, 2014, No. 159-V;
Law of the RK, January 17, 2014, No. 165-V.

Land Protection and Use

2003

Land Code of the Republic of Kazakhstan, June 20, 2003, No.442-II.

Changes incorporated:

Law of the RK, May 4, 2005, No.48-III;

Law of the RK, January 10, 2006, No.116-III;
Law of the RK, January 31, 2006, No.125-III;
Law of the RK, June 22, 2006, No.147-III;
Law of the RK, July 5, 2006, No.158-III;
Law of the RK, July 5, 2006, No.162-III;
Law of the RK, July 7, 2006, No.176-III;
Law of the RK, January 9, 2007, No.213-III;
Law of the RK, January 12, 2007, No.222-III;
Law of the RK, July 6, 2007, No.275-III;
Law of the RK, July 6, 2007, No.276-III;
Law of the RK, July 6, 2007, No.279-III;
Law of the RK, July 21, 2007, No.297-III;
Law of the RK, July 21, 2007, No.307-III;
Law of the RK, July 26, 2007, No.311-III;
Law of the RK, July 27, 2007, No.320-III;
Law of the RK, December 19, 2007, No.11-IV;
Law of the RK, May 26, 2008, No.34-IV;
Law of the RK, July 5, 2008, No.66-IV;
Law of the RK, December 1, 2008, No.94-IV;
Law of the RK, December 10, 2008, No.101-IV;
Law of the RK, February 13, 2009, No.135-IV;
Law of the RK, July 4, 2009, No.166-IV;
Law of the RK, July 10, 2009, No.180-IV;
Law of the RK, July 11, 2009, No.183-IV;
Law of the RK, July 17, 2009, No.188-IV;
Law of the RK, July 24, 2009, No.190-IV;
Law of the RK, March 19, 2010, No.258-IV;
Law of the RK, December 28, 2010, No.369-IV;
Law of the RK, January 6, 2011, No.378-IV;
Law of the RK, March 1, 2011, No.414-IV;
Law of the RK, March 24, 2011, No.420-IV;
Law of the RK, March 25, 2011, No.421-IV;
Law of the RK, July 5, 2011, No. 452-IV;
Law of the RK, July 15, 2011, No. 461-IV;
Law of the RK, July 20, 2011, No. 464-IV;
Law of the RK, July 21, 2011, No. 470-IV;
Law of the RK, January 6, 2012, No. 529-IV;
Law of the RK, January 9, 2012, No. 533-IV;
Law of the RK, January 9, 2012, No. 535-IV;
Law of the RK, January 25, 2012, No. 548-IV;
Law of the RK, February 13, 2012, No. 553-IV;
Law of the RK, February 15, 2012, No. 556-IV;

Law of the RK, April 27, 2012, No. 15-V;
Law of the RK, June 22, 2012, No. 21-V;
Law of the RK, July 10, 2012, No. 34-V;
Law of the RK, July 10, 2012, No. 36-V;
Law of the RK, December 24, 2012, No. 60-V;
Law of the RK, January 8, 2013, No. 64-V;
Law of the RK, June 13, 2013, No. 102-V;
Law of the RK, July 3, 2013, No. 121-V;
Law of the RK, July 3, 2013, No. 124-V;
Law of the RK, July 4, 2013, No. 126-V;
Law of the RK, July 4, 2013, No. 128-V;
Law of the RK, July 4, 2013, No. 130-V;
Law of the RK, January 17, 2014, No. 165-V.

Forest Preservation and Use

2003

Forestry Code of the Republic of Kazakhstan from July 8, 2003, No.477-II.

Changes incorporated:

Law of the RK, December 20, 2004, No.13-III;
Law of the RK, January 31, 2006, No.125-III;
Law of the RK, July 7, 2006, No.176-III;
Law of the RK, January 9, 2007, No.213-III;
Law of the RK, January 12, 2007, No.222-III;
Law of the RK, December 10, 2008, No.101-IV;
Law of the RK, July 17, 2009, No.188-IV;
Law of the RK, March 19, 2010, No.258-IV;
Law of the RK, January 6, 2011, No.378-IV;
Law of the RK, January 6, 2011, No.379-IV;
Law of the RK, July 5, 2011, No. 452-IV;
Law of the RK, January 12, 2007, No.224-III;
Law of the RK, January 12, 2012, No. 538-IV;
Law of the RK, January 25, 2012, No. 548-IV;
Law of the RK, July 10, 2012, No. 31-V;
Law of the RK, July 10, 2012, No. 34-V;
Law of the RK, July 10, 2012, No. 36-V;
Law of the RK, June 13, 2013, No. 102-V;
Law of the RK, July 3, 2013, No. 124-V.

The Preservation and Use of Water Resources

2003

Water Code of the Republic of Kazakhstan from July 9, 2003, No.481-II.

Changes incorporated:

Law of the RK, December 20, 2004, No.13-III;
Law of the RK, January 10, 2006, No.116-III;
Law of the RK, January 31, 2006, No.125-III;
Law of the RK, July 7, 2006, No.174-III;
Law of the RK, January 9, 2007, No.213-III;
Law of the RK, January 12, 2007, No.222-III;
Law of the RK, July 27, 2007, No.315-III;
Law of the RK, December 19, 2007, No.11-IV;
Law of the RK, May 26, 2008, No.34-IV;
Law of the RK, December 10, 2008, No.101-IV;
Law of the RK, December 29, 2008, No.116-IV;
Law of the RK, February 12, 2009, No.132-IV;
Law of the RK, July 10, 2009, No.180-IV;
Law of the RK, July 17, 2009, No.188-IV;
Law of the RK, January 21, 2010, No.242-IV;
Law of the RK, March 19, 2010, No.258-IV;
Law of the RK, December 28, 2010, No.369-IV;
Law of the RK, January 6, 2011, No.378-IV;
Law of the RK, January 10, 2011, No.383-IV;
Law of the RK, March 1, 2011, No.414-IV;
Law of the RK, March 25, 2011, No.421-IV;
Law of the RK, July 5, 2011, No. 452-IV;
Law of the RK, July 22, 2011, No. 479-IV;
Law of the RK, January 25, 2012, No. 548-IV;
Law of the RK, July 10, 2012, No. 31-V;
Law of the RK, July 10, 2012, No. 36-V;
Law of the RK, December 24, 2012, No. 60-V;
Law of the RK, June 13, 2013, No. 102-V;
Law of the RK, July 3, 2013, No. 121-V;
Law of the RK, July 3, 2013, No. 124-V;
Law of the RK, July 4, 2013, No. 128-V;
Law of the RK, July 4, 2013, No. 131-V;
Law of the RK, July 4, 2013, No. 132-V;
Law of the RK, January 13, 2014, No. 159-V;
Law of the RK, January 17, 2014, No. 165-V.

**Protection of Natural Objects and Complexes
2006**

Law of the Republic of Kazakhstan from July 7, 2006, No.175-III “About Specially Protected Natural Territories.”

Changes incorporated:

Law of the RK, January 9, 2007, No.213-III;
 Law of the RK, December 1, 2008, No.94-IV;
 Law of the RK, December 10, 2008, No.101-IV;
 Law of the RK, July 17, 2009, No.188-IV;
 Law of the RK, January 21, 2010, No.242-IV;
 Law of the RK, March 19, 2010, No.258-IV;
 Law of the RK, January 6, 2011, No.378-IV;
 Law of the RK, March 1, 2011, No.414-IV;
 Law of the RK, July 5, 2011, No. 452-IV;
 Law of the RK, July 20, 2011, No. 464-IV;
 Law of the RK, January 25, 2012, No. 548-IV;
 Law of the RK, July 10, 2012, No. 36-V;
 Law of the RK, June 13, 2013, No. 102-V;
 Law of the RK, July 3, 2013, No. 124-V.

Protection of the Animal World

2004

Law of the Republic of Kazakhstan from July 9, 2004, No.593-II “On the Protection, Reproduction and Use of the Animal World.”

Changes incorporated:

Law of the RK, January 31, 2006, No.125-III;
 Law of the RK, January 9, 2007, No.213-III;
 Law of the RK, December 10, 2008, No.101-IV;
 Law of the RK, July 17, 2009, No.188-IV;
 Law of the RK, January 21, 2010, No.242-IV;
 Law of the RK, March 19, 2010, No.258-IV;
 Law of the RK, January 6, 2011, No.378-IV;
 Law of the RK, January 10, 2011, No.383-IV;
 Law of the RK, July 5, 2011, No. 452-IV;
 Law of the RK, July 15, No. 461-IV;
 Law of the RK, December 3, 2011, No. 505-IV;
 Law of the RK, January 25, 2012, No. 548-IV;
 Law of the RK, July 10, 2012, No. 36-V;
 Law of the RK, June 13, 2013, No. 102-V;
 Law of the RK, June 21, 2013, No. 107-V;
 Law of the RK, July 3, 2013, No. 124-V.

Reformation of the Ministry of the Environment

1988

Decision by the Council of Ministers of the Kazakh SSR from February 18, 1988, “On Realizing the Decision of the Central Committee of the

Communist Party of the Soviet Union and the Council of Ministers of the USSR” from January 7, 1988, “On Fundamentally Restructuring Nature Protection Matters in the Country.” Created by the State Committee of the Kazakh SSR for Nature Protection.

1990

Decree from the President of the Kazakh SSR from December 20, 1990, “On Reorganizing the State Management Bodies in the Kazakh SSR.”

To form the State Committee of the Kazakh SSR on Ecology and Nature Use on the basis of the abolished State Committee of the Kazakh SSR on Nature Protection.

1991

Decision by the Cabinet of Ministers of the Kazakh SSR from March 29, 1991, No.202 “On an Outline for Managing the State Committee of the Kazakh SSR on Ecology and Nature Use.”

“In connection with the creation of the State Committee of the Kazakh SSR on Ecology and Nature Use on the basis of the abolished State Committee of the Kazakh SSR on Nature Protection, and in accordance with the Decree from the President of the Kazakh SSR from December 20, 1990, ‘On Reorganizing the State Management Bodies in the Kazakh SSR’, the Cabinet of Ministers of the Kazakh SSR has decided:

“1. To establish that the State Committee of the Kazakh SSR on Ecology and Nature Use (GosKomEkologiya) is the central body of state management in the field of nature protection and the use of natural resources, on par with the Oblast Executive Committee, Alma-Ata and Leninsky City Executive Committees, and bears, in its entirety, responsibility for the state of the environment and the rational use of nature in the republic.”

1992

Decision by the Cabinet of Ministers of the Republic of Kazakhstan from March 11, 1992, No.216 “Issues of the Ministry of Ecology and Bioresources of the Republic of Kazakhstan.”

“In implementing the Decree of the President of the Republic of Kazakhstan from February 7, 1992, ‘On Updating the Organization and Activities of the State Management Bodies of the Republic of Kazakhstan under Conditions of Economic Reform’, in particular the formation of the Ministry of Ecology and Bioresources of the Republic of Kazakhstan, the Cabinet of Ministers of the Republic of Kazakhstan has decided:

1. To establish that the Ministry of Ecology and Bioresources of the Republic of Kazakhstan, having legal successors in the State Committee of the

Republic of Kazakhstan on Ecology and Nature Use and the Forestry Ministry of the Republic of Kazakhstan, has the authority and exercises the function of an oversight management and control body in the sphere of protecting the natural environment on the territory of the Republic of Kazakhstan.

The decision of the Ministry of Ecology and Bioresources of the Republic of Kazakhstan and its local bodies, adopted under its competency, is required for implementation by all ministries, departments, institutions, enterprises and organizations, regardless of the form of ownership and departmental affiliation, and by citizens.”

1997

Decree from the President of the Republic of Kazakhstan from October 10, 1997, No.3655 “On Measures to Further Increase the Effectiveness of State Management in the Republic of Kazakhstan.”

This decree mandated the formation of the Ministry of Environment and Natural Resources of the Republic of Kazakhstan, transferring to this Ministry the authority to manage the property and matters previously the responsibility of the abolished Ministry of Energy and Natural Resources of the Republic of Kazakhstan.

2002

Decree from the President of the Republic of Kazakhstan from August 28, 2002, No.931 “On Measures to Further Improve the State Management System of the Republic of Kazakhstan.”

This decree mandated the reorganization of the “Ministry of Natural Resources and Environmental Protection of the Republic of Kazakhstan by way of transferring to the Ministry of Agriculture of the Republic of Kazakhstan its functions and authority in the field of managing water, forest, fishing and hunting resources.”

2007

The Environmental Code is passed. As a result, some of the powers of the Ministry of Environmental Protection are redistributed to local authorities. In particular, the right to perform state environmental assessments for a variety of enterprises was redistributed to local authorities.

By the Decree of the Government of the Republic of Kazakhstan dated December 8, 2007, No.1201 “Questions of the Ministry of Environmental Protection of the Republic of Kazakhstan,” the territorial organs of the Ministry of Environmental Protection were reorganized. They were merged.

The Nature Protection Control Committee of the Ministry of Environmental Protection of the Republic of Kazakhstan was reorganized into the Committee of Environmental Regulation and Control.

The territorial bodies of the Ministry of Environmental Protection were reorganized into the territorial bodies of the Committee of Environmental Regulation and Control of the Ministry of Environmental Protection.

2013

In accordance with the Decree of the President of the Republic of Kazakhstan No. 466 dated on January 16, 2013, “About further improvement of the system of the state regulation of the Republic of Kazakhstan,” the Ministry of Environmental Protection of the Republic of Kazakhstan receives functions and authorities on implementation and control over the state policy of “green economy” development with giving it functions and authorities in the area of:

- Protection and control over efficient utilization of natural resources, development of a state policy in water resources management, and also functions and authorities in water resources management and fisheries development, excluding the matters related to melioration;
- Questions of solid waste management;
- Development of a state policy in the sphere of development of renewable sources of energy.

Decree of the Government of the Republic of Kazakhstan No.172 dated on February 25, 2013, adopted a new provision about the ministry which gives it an authority over the Forestry and Game Committee, Fish Industry Committee, Water Resources Committee (all of which used to be under jurisdiction of the Ministry of Agriculture).

In accordance with the Decree of the President of the Republic of Kazakhstan No.677 dated on October 29, 2013, “About further improvement of the system of the state regulation of the Republic of Kazakhstan,” the Ministry of Environmental Protection of the Republic of Kazakhstan is re-organized into the Ministry of Environment and Water Resources of the Republic of Kazakhstan.

Decree of the Government of the Republic of Kazakhstan No.1413 dated on December 27, 2013, “About some questions of the Ministry of Environment and Water Resources of the Republic of Kazakhstan” renamed committees, departments, and organizations within the jurisdiction of the ministry.

Translated by Sofya Tairova