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# ENHANCING ENVIRONMENTAL TRANSPARENCY IN UZBEKISTAN: LEGAL PERSPECTIVES FROM THE AARHUS CONVENTION FRAMEWORK

Bobir Turdiev

PhD researcher at the Law Enforcement Academy, Tashkent, Uzbekistan

ORCID: <https://orcid.org/0009-0004-4253-2985>

## Abstract

This article examines the potential of the Aarhus Convention as a framework for enhancing transparency and upholding human rights in Uzbekistan. As Uzbekistan faces pressing environmental challenges, including pollution and climate-related risks, transparency in environmental governance is critical. Through policy analysis and legal review, this study assesses how Uzbekistan's current legislation aligns with the Convention's requirements on information access, with Kazakhstan's experience serving as a comparative example. Findings reveal significant gaps in Uzbekistan's transparency framework, particularly in timely access to data, public engagement, and legal accountability, underscoring the importance of adopting the Aarhus Convention. The study provides recommendations for Uzbekistan to bridge these gaps, aiming to strengthen transparency, enhance environmental data availability, and foster public trust in environmental decision-making.

**KEYWORDS:** Aarhus Convention, environmental governance, human rights, access to information, transparency, environmental data, sustainability, Central Asia, Uzbekistan.

## INTRODUCTION

The state of the environment continues to deteriorate globally as the impacts of global warming and climate change grow increasingly severe. This issue is particularly pressing in developing countries that prioritize economic development over sustainable practices. Uzbekistan, a Central Asian country with a rapidly evolving economy, is currently facing significant environmental challenges. These challenges are compounded by the legacy of Soviet-era governance and non-transparent practices, along

with the effects of rapid, unbalanced economic growth and climate change.

In addition to environmental degradation, Uzbekistan struggles with weak rule of law and a lack of transparency in governance, which further impedes environmental rule of law and justice. According to the World Justice Project's Rule of Law Index, Uzbekistan scored 0.50, ranking 78 out of 142 countries. The country received particularly low scores in areas such as open government, right to information, and regulatory enforcement. These

scores reflect significant transparency issues in environmental governance and a weak civil society that could otherwise advocate for a stronger rule of law. Consequently, a lack of transparency contributes to unaccountable and environmentally harmful practices and decisions.

Central Asia, and particularly Uzbekistan, urgently needs effective legal strategies to combat climate change and environmental degradation. Despite the increasing urgency, Uzbekistan's environmental governance framework remains inadequate, particularly in transparency, public participation, and access to justice. The country has been slow to adopt international frameworks that promote improved environmental governance, such as the Aarhus Convention, which ensures citizens' procedural environmental rights. These shortcomings hinder the enforcement of environmental laws, generate public discontent, and undermine trust in environmental governance and protection.

This study aims to explore the potential role of the Aarhus Convention in enhancing environmental governance in Uzbekistan, with a focus on improving transparency. By examining the alignment of Uzbekistan's legal framework with the Convention, this research seeks to identify the obstacles and opportunities for implementing the Aarhus Convention in Uzbekistan. The study draws insights from Kazakhstan's successful integration of the Aarhus Convention, using it as a reference. Kazakhstan has made significant progress in enforcing and aligning its environmental legislation with the Convention's requirements. The study highlights both the potential benefits and challenges of implementing similar reforms in Uzbekistan.

The significance of this study lies in its timely analysis of how the Aarhus Convention could act as a catalyst for strengthening environmental governance as Uzbekistan continues to modernize and integrate into the global economy. Effective adoption of the Convention could address critical gaps in Uzbekistan's environmental governance framework, improving public access to environmental information, enhancing public participation in decision-making, and ensuring

access to justice for citizens whose environmental rights are at risk.

The study is particularly valuable for policymakers, providing actionable recommendations to align national legislation with international standards. By identifying key challenges and barriers, it aims to strengthen environmental governance in Uzbekistan through the adoption and effective implementation of the Aarhus Convention. Enhancing governance in this way could lead to improved environmental outcomes, positively affecting public health and overall well-being. Additionally, the research contributes to the broader discourse on environmental governance and human rights in Central Asia, emphasizing the critical role of international conventions in advancing environmental democracy and justice in transitional economies.

This article seeks to address several key research questions related to enhancing environmental transparency and governance in Uzbekistan. First, it examines the main shortcomings of Uzbekistan's current environmental governance framework. Second, it explores how Uzbekistan's national legislation compares with the provisions of the Aarhus Convention, identifying any existing gaps.

The study also derives lessons from Kazakhstan's experience with the Aarhus Convention, assessing how these insights can be applied to Uzbekistan's context. It investigates the primary challenges and barriers that hinder Uzbekistan from acceding to and implementing the Aarhus Convention effectively. Finally, the research seeks to determine the specific legal and policy reforms necessary to align Uzbekistan's environmental governance framework with the Aarhus Convention and how these reforms can be implemented to ensure sustainable and democratic environmental governance.

## **II. The Aarhus Convention**

The Aarhus Convention, an international treaty adopted in 1998 and effective since 2001, underscores procedural environmental rights by ensuring access to information, public participation in decision-making, and access to justice in environmental matters. Ratified by 47

countries across Europe and Central Asia, it has become a cornerstone for promoting environmental democracy. However, Uzbekistan remains the only Central Asian country yet to accede to the Convention, despite ongoing discussions about its potential benefits. The absence of this framework in Uzbekistan raises important questions regarding the country's ability to address environmental challenges sustainably and effectively.

The Convention lays a strong foundation for environmental democracy through its three pillars: access to environmental information, public participation, and access to justice. Unlike treaties that enforce specific environmental standards, it promotes procedural rights rather than substantive environmental requirements, offering a rights-based framework that encourages sustainable environmental practices. While the Convention sets a minimum threshold for each pillar, it also encourages signatories to adopt broader measures (Article 3), enabling them to enhance transparency and accountability further.

Despite expressing aspirations to join the Convention since 1999, with renewed pledges in recent years, Uzbekistan has yet to become a party to the Convention. Russia, another non-signatory, views the Convention as a potential threat to national security. Uzbekistan has approached accession cautiously, carefully weighing the potential impact on government accountability and possible legal or external consequences. The reluctance stems partly from concerns about increased accountability, which may expose decision-making processes to more public scrutiny and open potential channels for external intervention. The Convention's procedural approach, however, has proven beneficial in other contexts, as it requires public transparency and accountability in decision-making, which, in turn, supports public trust and a more citizen-oriented governance structure.

The Aarhus Convention's disclosure framework is instrumental in fostering governmental accountability by promoting transparency in public decisions. By making information accessible, the framework not only strengthens

decision-making but also reduces unnecessary litigation by allowing all parties to evaluate the strength of arguments and relevant facts openly. This transparency has a dual effect: it enhances the legitimacy of decisions and helps avoid judicial conflicts, contributing to a smoother, more reliable environmental governance process.

### **III. Consistency of National Legislation with the Aarhus Convention**

The approach to implementing the Aarhus Convention varies significantly between Europe and the post-Soviet republics. European countries generally harmonize their domestic laws before ratification, while post-Soviet nations tend to adjust their legislation following accession. This study contributes to the literature as one of the first attempts to assess Uzbekistan's legislative alignment with the Aarhus Convention's provisions prior to accession.

The new Constitution of Uzbekistan, adopted in 2023, commits to preserving a healthy environment. The primary environmental law, the Law on Protection of Environment, guarantees the right to a healthy environment, establishes principles of transparency and accountability in environmental protection, and imposes accountability for legal breaches. However, this law remains somewhat outdated and has not yet been revised, while adoption of a new environmental code has been delayed. The law does recognize the supremacy of international treaties over national legislation, except where national standards are stricter. However, international treaties are not directly applicable in Uzbekistan, necessitating new legislation and amendments for effective implementation.

#### **Access to Information**

The Aarhus Convention requires public access to environmental information to support activism and oversight. Uzbekistan's Constitution guarantees the right to a favorable environment and reliable information on its condition. Government agencies are mandated to provide timely, free data essential for environmental security of people and locality. However, disclosed information in Central Asia is often highly

aggregated and fragmented, limiting public use. Effective data disclosure thus requires information to be accessible in a practical format.

Uzbek legislation mandates transparency, accuracy, and accountability, yet these requirements lack specificity regarding environmental data. As of March 2024, only 1.7% of datasets on Uzbekistan's Open Data Portal relate to ecology, with many outdated or irrelevant to direct environmental concerns. Similarly, the national environmental agency's webpage has around 32 sets of open data available. Not publishing, partial or late publication, providing incorrect data is subject to administrative liability. Besides, there is separate administrative liability for breach of transparency provisions regarding government budget process transparency and for non-disclosure of vacant job openings. However, most transparency requirements are related to anti-corruption efforts rather than environmental disclosure.

The Aarhus Convention mandates that refusals to disclose information must be interpreted restrictively and prohibits confidentiality-based refusals for emissions data (Article 4). The Law on Nature Protection guarantees the right to request and obtain information about state of environment and protection measures to enjoy a healthy environment for well-being of current and future generations. It requires that monitoring data from government agencies or polluting entities be transferred to environmental authorities; however, it does not explicitly require public disclosure of this data. Kazakhstan's Environmental Code takes a stronger stance, prohibiting the classification of environmental information as confidential. Similarly, Uzbekistan's Law on the Principles and Guarantees of Freedom of Information upholds the principles of openness and transparency, specifying that legislative documents related to citizens' rights and freedoms, along with information on environmental, meteorological, sanitary-epidemiological, and emergency situations critical to public safety, cannot be classified as confidential.

Additionally, the Convention requires dissemination of information when there is

imminent threat to human health or environment to take measures to prevent or mitigate harm (Article 5). Uzbek law requires public notification in cases of disaster or severe pollution, with criminal penalties for misinformation that results in death. However, in cases without severe outcomes, there is no administrative or criminal liability. For effective public protection, administrative penalties should be introduced for non-disclosure of imminent environmental threats, as seen in Kazakhstan's legislation, which enforces penalties for non-disclosure, late disclosure, incomplete or misinformation regarding environmental threats. Besides, Kazakhstan sanctions illegal denying access to information or providing false information, classifying open data as restricted data and illegal classification of data as confidential. Moreover, Kazakh Penal Code stipulates criminal liability for illegal restriction for access to information, hiding or misinforming about facts that threaten life, health and environment by persons who are in charge of disseminating such information.

The Aarhus Convention also requires regular national environmental reporting (Article 5). Kazakh legislation requires publication of annual environmental reports, while Uzbekistan's publications have been inconsistent, with gaps of up to 10 years between reports (2013, 2023), while earlier it was published with 3-5-year intervals (1990, 1995, 1998, 2002, 2005, 2008).

Although Uzbekistan provides some legal guarantees for public access to environmental information, it often remains outdated, fragmented, and inconsistently reported. Strengthening disclosure standards and improving the quality, accessibility, and frequency of environmental data could bring Uzbekistan closer to Aarhus Convention standards.

### **Enforcement Challenges**

For the Aarhus Convention to serve as a blueprint for environmental democracy and justice, it requires effective enforcement. Without proper implementation, its goals risk becoming mere aspirations without practical impact. Developing countries with hierarchical governance face challenges, including limited political will,



resistance from governance structures, and limited public awareness. In post-Soviet states, achieving environmental accountability involves overcoming traditional governance models that may resist democratic reforms.

Public awareness and government engagement with environmental issues are also low, often seen as secondary to economic and social concerns. Therefore, fostering environmental activism and awareness at the community level is essential. Additionally, manipulating environmental information to create a facade of environmental democracy is a risk, underscoring the need for safeguards.

Access to environmental information is fundamental for public oversight, allowing citizens to hold government and corporations accountable. However, public access is often restricted, limiting the public's ability to monitor environmental practices effectively. National legislation, corporate regulatory documents and practices frequently limit disclosure, companies often classifying environmental data, such as emissions and waste management practices. This conflict between corporate non-disclosure and the public's right to know creates a transparency gap, especially regarding non-governmental activities. Increasing transparency in the corporate and private sectors, while balancing legitimate business interests, is crucial for fostering accountability and empowering communities to make informed decisions on environmental issues.

#### **IV. Policy Recommendations**

Uzbekistan's environmental governance framework requires substantial reform to address existing gaps effectively. Key recommendations include adopting and implementing the Aarhus Convention to enhance transparency, improve public access to environmental information, and foster greater public participation. These measures will strengthen environmental governance and promote sustainable practices, paving the way for a more resilient and accountable future.

##### **Accession to the Aarhus Convention**

Uzbekistan should prioritize joining the Aarhus Convention as an initial measure toward aligning

national legislation with international standards in environmental governance. This alignment would establish a robust framework for improving transparency and public involvement. While Uzbekistan's current legislation shows partial alignment with the Aarhus Convention's principles, further amendments are needed to achieve full compliance. These amendments should focus on creating effective enforcement mechanisms and fostering a culture of openness in environmental governance.

##### **Enhancing Transparency and Information Access**

The government should enhance transparency and improve information access by developing digital platforms and centralized databases. A publicly accessible database with real-time environmental data, such as air and water quality, pollution levels, industrial emissions, project impacts, and regulatory actions, is essential. This database should be regularly updated, user-friendly, and easy to navigate. Additionally, the government should adopt immediate notification systems for environmental emergencies or pollution incidents, potentially modeled on amber alert systems. Publishing annual, comprehensive reports on the state of the environment would also contribute to greater transparency, providing detailed insights into environmental trends, challenges, and governmental responses.

##### **Enhancing Environmental Awareness and Education**

To elevate environmental awareness and foster public engagement, tailored programs should be developed to promote environmental consciousness across industries and sectors, with age-specific approaches for effective outreach. Community workshops on sustainable practices and digital awareness campaigns can significantly amplify these efforts. Cultivating climate-responsive and accountable behavior in individuals' work and lifestyles is essential to creating lasting change. Collaboration with NGOs, the private sector, academia, and environmental activists can strengthen educational programs and awareness initiatives, promoting sustainable practices at all levels. Additionally, initiatives that

highlight the importance of environmental responsibility can inspire collective action toward a more sustainable future.

By implementing these recommendations, Uzbekistan can advance toward a more sustainable and participatory model of environmental governance. These measures will address pressing environmental challenges, build public trust in government actions, and support long-term sustainable development. Prioritizing these reforms will not only close gaps in Uzbekistan's environmental framework but also establish a foundation for transparency, inclusivity, and equity in environmental governance, contributing to the sustainable future.

### **CONCLUSION**

This article has examined the potential of the Aarhus Convention to strengthen environmental governance in Uzbekistan, identifying key areas where the current legal framework aligns with, and diverges from, the Convention's principles. Despite some progress, Uzbekistan's environmental governance still falls short in areas such as transparency, hindering the effective enforcement of environmental laws and limiting meaningful public participation in environmental decision-making.

Insights from Kazakhstan's experience demonstrate the benefits of aligning national legislation with the Aarhus Convention. Kazakhstan's progress shows that adopting the Convention can improve transparency, encourage public involvement, and enhance governmental accountability.

Based on these findings, the study proposes recommendations to strengthen environmental governance in Uzbekistan, including the enhancement of transparency, the bolstering of the legal framework, and the integration of environmental governance into national development plans. As a critical first step, Uzbekistan should adopt and implement the Aarhus Convention, which will require strong political commitment to democratic environmental governance.

Looking forward, Uzbekistan's accession to the

Aarhus Convention could drive broader environmental reforms across Central Asia, given the country's influential position within the region. By following Kazakhstan's example, Uzbekistan could boost regional efforts toward effective environmental governance, thereby enhancing environmental rule of law and justice, fostering greater stability, improving environmental protection, and supporting sustainable development.

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