

**A thesis submitted to the Department of Environmental Sciences and Policy of  
Central European University in part fulfillment of the  
Degree of Master of Science**

**The role of the Public Council in the environmental decision-making  
in the Republic of Kazakhstan**

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**July, 2019**

**Budapest**

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A handwritten signature in purple ink, appearing to read 'Kamila SAKIPOVA', with a long horizontal stroke extending to the right.

**Kamila SAKIPOVA**

## CENTRAL EUROPEAN UNIVERSITY

### **ABSTRACT OF THESIS** submitted by:

Kamila SAKIPOVA for the degree of Master of Science and entitled: The role of the Public Council in the environmental decision-making in the Republic of Kazakhstan.

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Public participation is regarded as an important element required to produce good environmental decisions. It is believed to enhance legitimacy and trust of the decision-making process and help to produce more sustainable outcomes. The Government of Kazakhstan introduced a number of public administration reforms in order to create an accountable and transparent state. In order to strengthen the public participation, public councils in each state and local executive body were created. The aim of this study is to assess the role of the Public Council of the Ministry of Energy of the Republic of Kazakhstan in the environmental decision-making. Apart from the review of the legislative documents related to the Public Council, the primary data was collected through semi-structured interviews. The respondents included the members of the Commission on Ecology of the Public Council, international experts and a representative of academia. Thus, the research showed that the Public Council of the Ministry of Energy represents a public consultation, where the public mostly consists of industry representatives. The data allowed to evaluate the effectiveness of the Public Council and to unveil the factors influencing it. Thus, according to respondents they include Public Council's composition, selection criteria, activities, communication with the Ministry and resources and capacities of the governmental officials engaged in the participation process. As the result of the study relevant recommendations were produced in order to enhance the effectiveness of the Public Council in environmental decision-making.

**Keywords:** public participation, accountability, transparency, sustainable development, environmental decision-making, effectiveness

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# 1. Introduction

## 1.1. Background

It's been almost thirty years since Kazakhstan gained its independence after the collapse of the Soviet Union. The Soviet system left the country with imbalanced public sector apparatus and unstable economics with no private sector of any considerable size (OECD 2017a, p.24). However, during its independent years the country has gone through significant political, economic and social reforms, making it to upper-middle-income country (OECD 2017b, p.30). The country is ninth territorially biggest country in the world with significant reserves of the natural resources.

Kazakhstan's top priority is to enter thirty most developed countries in the world by 2050 (Kazakhstan 2050 Strategy). And in order to achieve it a number of public administration reforms have been made, which are believed to improve the efficiency of the public sector activities, enhance transparency and citizens' trust in government (Rustem 2015). Given that there is a rising understanding on the part of public administration that the decision-making without public participation is ineffective (King et al. 1998, p.319), the Government of Kazakhstan has also taken steps in order to involve citizens into the process. Thus, in 2015 the Government of Kazakhstan launched a new Plan of the Nation "100 concrete steps to Implement Five Institutional Reforms" (Rustem 2015). And step No 99 of the Plan sets a direction for an enhanced public participation in the decision-making process through the strengthening of the public councils under state and local governmental bodies.

Public participation is particularly important in the environmental decision-making because of the complex and multi-faceted nature of environmental decisions (Richardson and Rozzaque 2006, p.173). Because of the various social and economic factors influencing the process, no single state body can be expected to possess all the expertise and knowledge

necessary for good environmental decisions (Richardson and Rozzaque 2006, p.170). Moreover, Beierle and Cayford (2002 as cited in Walker 2007, p.1) state that “public participation has taken center stage in the play of the influences that determine how society will manage and protect the environment”. In Kazakhstan the public participation in the environmental decision-making on the state level is conducted within the framework of the Public Council of the Ministry of Energy of the Republic of Kazakhstan.

### *1.2. Research aim and objectives*

The aim of this study is to assess the role of the Public Council in the environmental decision-making. In Kazakhstan in the last five years the Ministry that is dealing with environmental issues is the Ministry of Energy of the Republic of Kazakhstan (hereafter – Ministry of Energy). Thus, the role of the Public Council of the Ministry of Energy in the environmental decision-making is assessed. The objectives of the study include the following:

- to evaluate the effectiveness of the Public Council;
- to get an insight into the factors influencing the work of the Public Council;
- to give recommendations in order to improve the effectiveness of the Public Council in relation to environmental decision-making.

### *1.3. Thesis outline*

This thesis consists of six chapters. The first chapter introduces the reader with the background information on Kazakhstan and public participation; states the research aim and objectives and outlines the thesis structure. The second chapter reviews a literature on the theoretical arguments for public participation in the environmental decision-making, effects of public participation on the environmental decision-making and typologies of public participation. The third chapter provides a reader with a more detailed Kazakhstani context in relation to the research question, i.e. it discusses the public administration reforms and the establishment of Public Councils in the country. And it elaborates on the Public Council, that



is involved in the environmental decision-making. The fourth chapter represents a Methodology that describes the study design, the process of data collection and interviewing the participants and the research ethics. It also shares the data analysis details and the limitations that occurred during the research. The fifth chapter presents the main findings of the study and elaborates on the composition, selection criteria, activities, transparency, communication and resources and capacities of the Public Council on Fuel and Energy Complex and Ecology. Finally, the last sixth chapter concludes the work, that was conducted in order to assess the role of the Public Council of the Ministry of Energy in the environmental decision-making and provides the state body, responsible for the environmental protection, with the relevant recommendations.

## 2. Literature review

### 2.1. *Theoretical arguments for public participation*

The notion of public participation takes its origins from the democratic theories (Kiss 2014, p.14). In democracies, citizens are believed to be significant stakeholders in that they can engage in development, adoption and implementation of the laws and policies that affect them, either directly or indirectly through elected representatives (Qucik and Bryson 2016, p.1). However, democratization component in green political theory takes its origins from the enhanced interest in deliberative democracy (Arias-Maldonado 2007, p.234).

There are two main reasons why greens argue for deliberative democracy. First, public deliberation has a brainstorming effect, where people exchange opinions and views (Wu n.d., p.6) what can positively influence public's decisions by adding more information to what is already known. In this context, Fearon says that public deliberation is 'additively valuable' when citizens share a new point of view and 'multiplicatively valuable' when public comprehends a new standpoint that hadn't occurred before (1998 as cited in Wu, n.d., p.6). The more participants are involved in the deliberation process, the higher the chances that some of them will assimilate the interests of the natural world (Arias-Maldonado 2007, p.237). The deliberative process builds conditions in which those originally distant viewpoints are listened to and thus taken into account (Goodin 1996, p.847). As also stated by Arias-Maldonado (2007, p.236) the very process of deliberation raises the chances for the ecological values to be considered and rationally weighed among the other issues, thus deliberative democracy represents a more suitable model for their recognition.

Second reason is that the public deliberation has a transformative effect so that by deliberating the citizens' standpoints can be changed from private to public interests (Wu, n.d., p.6). Deliberation process encourages ecological awareness and ensures that awareness creates ecological democratic practice thus shifting the "decision making toward the protection of

public interests” (Eckersley 2004 as cited in Lepori 2019, p.79). So, the deliberative model is further expanded from preferences aggregation to deliberation and transformation of choices. According to Ackerman and Fishkin (2003 p.22) “the very process of engaging in extended dialogue about shared public problems will produce a greater susceptibility to the public interest – or at least to considerations beyond narrow, short-term self-interest or immediate personal gratification”. The recognition of agency of nature means that public should respond to signals coming from the natural world with the equal respect as the signals coming from human subjects and as requiring equally cautious interpretation (Dryzek 1995, p.21). Barry (1996) states that since the general agreement among public is required, the decisions that do not favour public goods will be excluded from the process. Thus, the connection between deliberative democracy and the natural environment becomes evident as was stated by Dobson (1996 p. 137 in Doherty and de Geus 1996): *“all rational, uncoerced and knowledgeable individuals... will come to the conclusion that the ecological systems on which human life depends should be protected”*.

The sustainability concept also calls for broader public participation in the environmental decision-making. Sustainability can be defined as the balance between society and its natural environment (Arias-Maldonado 2007, p. 246). Leunverger and Bartle (2009, as cited in Hawkins and Wang 2012, p.9) state that sustainable development is “a plan of action that integrates environmental sustainability into decision making”. Dryzek (2005 p. 147) argues that since the publication of the Brundtland report in 1987 the sustainable development has become the main global discourse of ecological concern. The “Our Common Future” report (1987) made public participation an important element of the sustainable development discourse. Agenda 21 specifically defines that “broad public participation in decision-making” is a “fundamental prerequisite for the achievement of sustainable development” (UNCED 1992, p.219). Many scholars have also highlighted the significance of the public participation in

decision-making, for example, Vig and Kraft (2006 as cited in Geczi 2007) state that “community-based initiatives” and collaborative planning processes among the public, government, business and environmental organizations provides a solid basis for successful sustainable development plans. Participatory component is specifically important in sustainable development since it aims at achieving economic, environmental and social goals so that it also balances the interests of future generations with those of present (Bass et al. 1995, p.12).

## 2.2. *Effects of public participation*

Public participation can strengthen trust and legitimacy of the decision-making process by creating relationships and producing knowledge and interest about issues and activities (Quick and Bryson 2016 p. 3). Process legitimacy is closely linked to trust and achieving trust in the process, where citizens with different interests and levels of power participate is rather difficult (Huxham and Vangen 2005 as cited in Quick and Bryson 2016 p. 4). Therein the inclusion of citizens with diverse viewpoints in the deliberation process and ensuring that the process is governed so that the most vulnerable ones and those who are typically excluded from decision-making by institutionalized inequities, can impact the end result of the decision-making, enhances the legitimacy of the process, the quality of decisions and effective decision implementation (Quick and Bryson 2016 pp. 4-5). Moreover, a greater inclusion of citizens in the decision-making process, specifically those who can be impacted by ecological risks, increases the legitimacy of the decision that can even happen to be wrong (Arias Maldonado 2007, p. 243). Citizens are more willing to agree with decision that they believe was formed in a procedurally just process, even if is not their personally opted for result (Tyler and Degoe 1996 as cited in Quick and Bryson 2016 p. 4). In fact, a study conducted by Stromer-Galley and Muhlberger (2009) has shown that disagreements among the citizens during the discussion don't negatively influence their perception of the deliberative process and their readiness to take part in future deliberations.

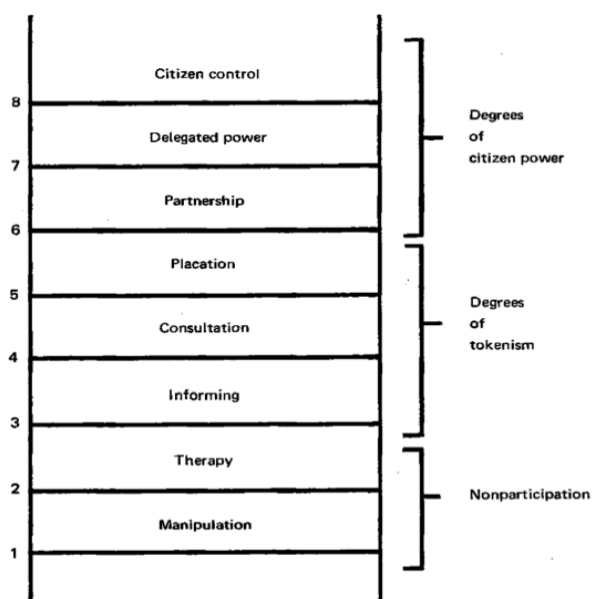
### 2.3. *Typologies of public participation*

According to Arnstein (1969, p.216) citizen participation is an explicit term for citizen power. It is the redistribution of power that allows the poor that are not taking part in the political and economic processes to be specifically engaged in the future, so that they can cause important social reforms which allow them to benefit (Arnstein 1969, p.216).

Arnstein in her “Ladder of Citizen Participation” (1969), which is believed to be a foundational paper in the discipline of public participation, distinguishes a typology of eight stages of public participation varying from manipulation to citizen control. The author highlights that there is a crucial difference between the useless process of participation and having the actual capacity to change the outcome of the process. The rungs such as manipulation and therapy can be defined as “non-participation”, where the real goal is not to fully engage citizens in planning or decision-making process but rather to allow powerholders to “educate” or “cure” the citizens. Next three rungs – informing, consultation and placation - are classified as “tokenism”. According to Arnstein (1969, p.219) informing public about their rights, responsibilities and options can be the most significant move towards legitimate public participation. But too often the information flows from the government to society with “no channels provided and no power for negotiation”, which doesn’t allow people to influence the process (Arnstein, 1969 p. 219). The most common methods for such one-way communication are the news media, brochures, posters, responses to public inquiries and meetings that discourage questioning and give superficial and irrelevant information (Arnstein 1969, p.219). The next rung of the ladder – consultations with public that usually are conducted through surveys, meetings and hearings – represents an important step on the way to the comprehensive community engagement, if used in alliance with other modes of participation. However, if used on its own it can turn to be just a formality and what citizens actually get is that they have “participated in participation” and what government officials achieved is the record of

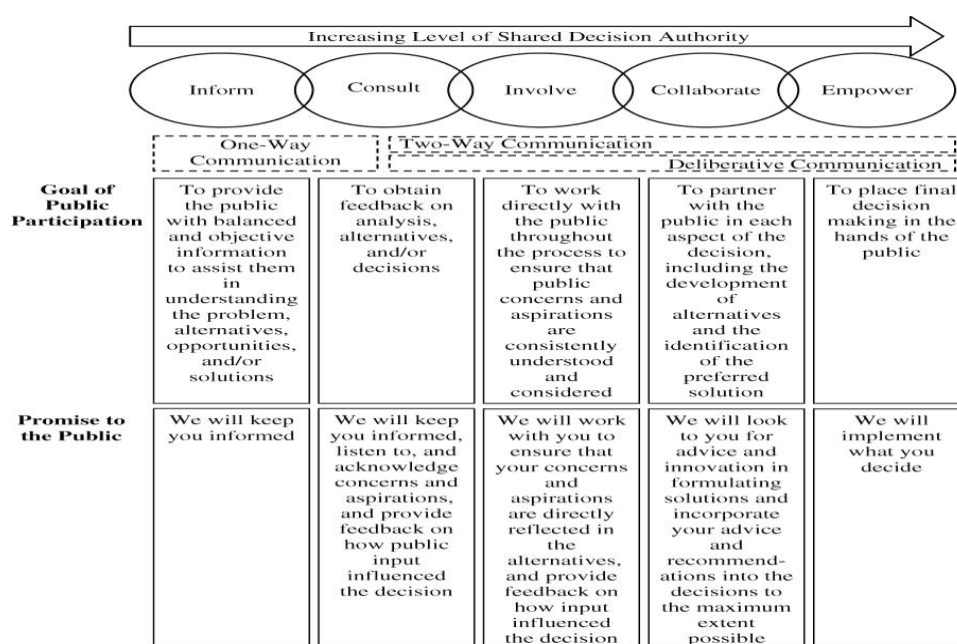
involving “those people” (Arnstein 1969 p. 219). The last stage of tokenism is placation, where citizens can be put on boards or committees, but they can be outvoted or outwitted by the government officials if their opinions are not in consentience with the desired plans (Arnstein 1969, p. 219). The highest level of the Arnstein’s ladder is summarized as “citizen power” and starts with sixth step – partnership. At this stage the power is reallocated through deliberation between public and government officials, who “agree to share the responsibilities to share planning and decision- making responsibilities through such structures as joint policy boards, planning committees and mechanisms for resolving impasses”. (Arnstein 1969, p. 221). The best results can be achieved when there is an organized community group that has financial resources to pay to the community leader to perform the duties properly (Arnstein 1969 p. 222). The seventh rung of the ladder is the delegated power when the public can safeguard the accountability of the process to them by reaching the dominant decision-making power over a specific plan or program (Arnstein 1969 p. 222). The highest level of the citizen participation ladder is the citizens’ control, where the public can govern the planning, policy-making and implementation processes.

Figure 1: Arnstein's (1969, p.217) eight rungs on the ladder of citizen participation



International Association for Public Participation (IAP2 2007) has updated the Arnstein's model of public engagement into a Spectrum of Public Participation (hereafter – Spectrum). It distinguishes five levels of community engagement in planning and decision-making processes: inform, consult, involve, collaborate and empower. The Spectrum's main principle is that the level of public participation is immediately linked to the degree of the possible public impact on the decision that is being made. Figure 2 illustrates a modified form of the Spectrum that includes information about communication means, goals of public participation and promise made to the public at each level along the spectrum (Nabatchi 2012, p.702). Nabatchi underlines transitions in public participation on the Spectrum from one-way communication to two-way communication to deliberative communication (Nelmarkka et al. 2014, p.4). Deliberative communication can be defined as “an endeavor to ensure that each individual takes a stand by listening, deliberating, seeking arguments, and evaluating, while at the same time there is a collective effort to find values and norms on which everyone can agree” (Englund 2006 as cited in Nelmarkka et al. 2014, p.4).

Figure 2. The “Spectrum of Public Participation” developed by the International Association of Public Participation (IAP2 2007) and adapted from Nabatchi (2012, p.702).

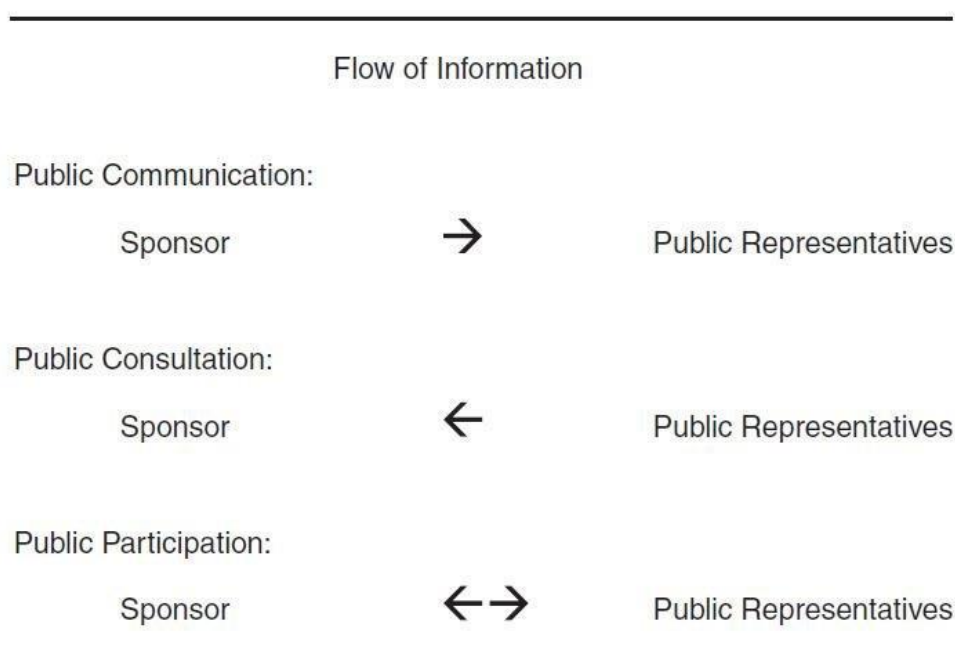


The *inform* level doesn't really represent public participation since it is a one-way communication that is carried by government officials in order to provide a public with information regarding the decision-making process (Nabatchi 2012, p.703). The *consult* level can be either one-way or two-way communication process that aims at obtaining feedback from the public on the activities performed by the state bodies (Nabatchi 2012, p.703). At the *involve* level public is invited by the government officials to participate in the process to a larger degree in order to ensure the public's interests are met, thus on this level public has intrinsic level of decision-making power albeit it can vary from low to moderate (Nabatchi 2012, p.703). The *collaborate* level is about partnership and sharing power (Hardy 2015). Collaboration with citizens is likely to be done via deliberative communication and it promises that citizens' "advices and recommendations" will be incorporated "into the decisions to the maximum extent possible" (IAP2 2007). At the highest level of the Spectrum is the *empower* level, which virtually is a delegation of the decision-making to the public with the state bodies implementing whatever the community decides (Hardy 2015). Empowerment processes usually employ deliberative communication.

Rowe and Frewer (2005 p. 254) distinguish three types of public engagement in decision-making process (Fig.3): public communication, public consultation and public participation, based on the flow of information between the public and the sponsors (initiators of the public engagement process).



Figure 3. Three types of public engagement according to Rowe And Frewer (2005, p.255)



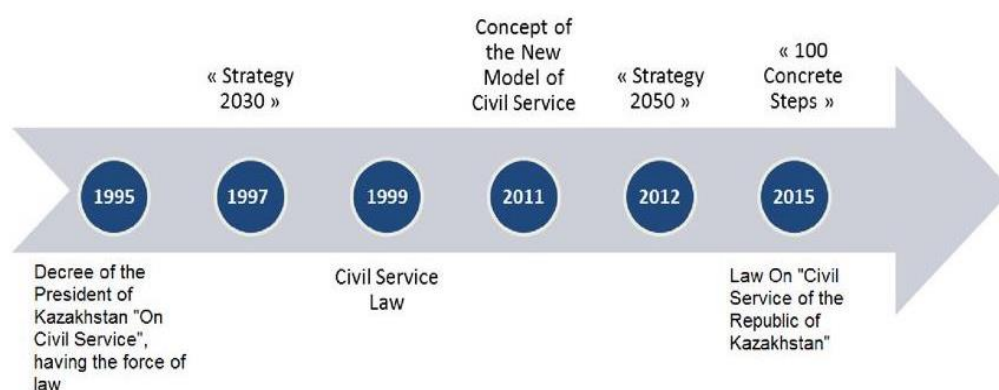
In the public communication stage information is usually one-way and directed from the sponsor to the public, but no feedback is needed or collected (Rowe and Frewer 2005, p.255). During the public consultation stage, the information is provided by the public to the sponsors following a procedure set by the sponsor and is believed to represent the public opinion on the issue discussed, although no individual consultation is taken place during this stage (Rowe and Frewer 2005, p.255). Public participation process involves information exchange between citizens and the sponsors, allowing for a discussion and negotiation on the issues (Rowe and Frewer 2005, p.255).

### 3. Kazakhstani Context

#### 3.1. Public administration reforms

Kazakhstan has high political ambitions and is aiming to be among top thirty most developed countries in the world by 2050 (“Kazakhstan – 2050” Strategy). Realizing that the inherited from the Soviet times public administration system is no longer able to address new political realities and arising challenges in the economy (Kassen 2016, p. 16), public sector has become a major sphere that the government of the independent Kazakhstan started to reform.

Figure 4. Major civil service reforms in Kazakhstan, 1995-2015 (adopted from OECD 2018, p.17).



In 1995 the newly independent Kazakhstan has adopted its first decree on the Civil Service, which was the beginning of the institutionalization of the modern public service. One of the most significant changes to the public administration system started to be introduced after the “Kazakhstan 2030” Strategy” was launched in 1997. The long-term priority No 7 “Professional State” implied the beginning of reorganization and improvement of state bodies in order to increase government effectiveness and competencies of the public servants (“Kazakhstan 2030 Strategy”). And as a result, a new Law on Public Service has come into force in 1999, making Kazakhstan the first Commonwealth of Independent States’ country to adopt the law on public service (UNDP 2015, p.10). For the purpose of employment of public

servants one personnel reserve of the public service has been formed. In addition, an Agency of Civil Service and Academy for Public Administration, whose main purpose is training of the civil servants, were established.

New Model of Civil Service (Decree of the President of the Republic of Kazakhstan No 119 from 21<sup>st</sup> July 2011), which was inspired mainly by the Singaporean system, introduced a concept of meritocracy into the public administration sector (Mahbubani 2015). Moreover, a new reform launched the division of the public servants into two distinct categories, each with its own regulations and rules of conduct and duties – political public servants and administrative public servants (Kassen 2016, p.16). The New Model of Public Service (Decree of the President of the Republic of Kazakhstan No 119 from 21<sup>st</sup> July 2011) takes its origin from New Public Management notion and outlines the necessity of the government to view the citizens as consumers of public services. “Kazakhstan 2050” Strategy further emphasizes introduction of business sector management tools into the public sector and highlights the necessity of the public sector managers at all levels to adopt the corporate thinking.

However, one of the challenges that has occurred on the way of all these reforms is the public servants’ mindset that has been formed because of the long intact status of the old bureaucratic systems (Kassen 2006, p. 17). It is mostly characterized with a solid top-down approach in the public administrative system. Another thing is that the tendency of the government to release new plans, strategies, programs etc. has led to “initiative overload” and thereby leaving little room for policies evaluation in order to determine which policies succeeded and which didn’t (Janenova and Knox 2017, p. 8). Due to high ambitions Kazakhstani government keeps approving new goals, mostly through a top-down approach with little evaluation of the possible capacities and assessments of the previous policies.

In 2015 the Government of the Republic of Kazakhstan has adopted “100 Concrete Steps to Implement Five Institutional Reforms” Plan of the Nation in order to overcome global

and local challenges and simultaneously enter the circle of the world's most advanced countries (Rustem 2015). The Plan specifies concrete measures to implement the following five institutional reforms:

- formation of a professional state apparatus;
- the rule of law;
- industrialization and economic growth;
- identity and unity;
- formation of accountable state.

As part of the “formation of accountable state” reform Kazakhstan has incorporated open government principles into the public administration in order to create a transparent accountable state and enhance the public's control over the activities of public authorities. Thus, five components of open government have been established on the e-government portal. They include open data, open legal acts, open dialogues, open budget and evaluation of public authorities' efficiency (Egov.kz 2019). The open government initiative was launched in order to increase transparency and accountability of the state bodies as well as empower citizens to be aware of the activities of public sector and receive public services online. It should be noted, that in 2018 Kazakhstan has been ranked as a country with a very high level of E-Government Development Index, making it to a 39<sup>th</sup> place in United Nations E-Government Survey (UN E-Government Knowledgebase 2019).

A number of legal acts, laws and regulations has been developed by the Government of the Republic of Kazakhstan to ensure the implementation of the reforms. Among them is the Law on Civil Service No 416, dated from 23 November 2015, which completely modernizes the legal framework of the public service, specifies the selection process of the public servants, introduces concepts of performance evaluations and rewards, outlines the turnover and training issues etc. (Adilet.zan.kz 2015; OECD 2017a, p.31). Law on Access to Information No 401,

dated from 16 November 2015, empowers citizens to have a right to receive and disseminate information including information about the activities of the public sector (Adilet.zan.kz 2015; OECD 2017b, p. 49).

And finally, the Law on Public Councils No 383, dated from 2 November 2015, that allows citizens to express their concerns regarding the socially significant issues as well as control the state bodies' activities and participate in the decision-making processes (Adilet.zan.kz; OECD 2017a, p.32).

### *3.2. Public councils in the Republic of Kazakhstan*

According to the Law, Public Councils are consultative-advisory, supervisory bodies, established by ministries, bodies directly accountable to the President of Kazakhstan and local government bodies – akimats.

The purpose of the activities of public councils is the expression of the opinion of civil society on socially significant issues (Item 1 of the Article 3 of the Law on Public Councils).

The tasks of the public councils are (Item 2 of the Article 3 of the Law on Public Councils):

- 1) representation of the interests of civil society and consideration of the public opinion during the discussion and decision-making processes at the republican and local levels;
- 2) development of the interaction between central and local executive bodies and local governments with the civil society;
- 3) the organization of the public control and ensuring the transparency of the activities of central and local executive bodies and bodies of local self-government.

According to legislation in order to establish a public council the head of the state body creates a working group, comprising of no more than one-third of the relevant civil servants and no less than two-thirds of civil society representatives. The same composition applies to the public councils themselves, and the membership for the civil society and NGOs

representatives can be obtained from the nominations by non-profit organizations and citizens, including self-nominations, with the selection “on the competitive basis” (Items 1,2 and 3 of the Article 9 of the Law on Public Councils). According to the Law the members of Public Councils are entitled to:

- review the drafts of budget programs, strategic plans and state and governmental programs;
- discuss the implementation of the budget programs, strategic plans and state and governmental programs;
- discuss the reports of the state bodies on the achievement of the key performance indicators, on the implementation of the budget programs etc.;
- participate in the development of the drafts of the legislative acts;
- submit proposals for the improvement of the legislation the Republic of Kazakhstan;
- consider the requests of individuals and legal entities on the improvement of public administration and the organization of the transparent work of the state apparatus, including compliance with standards of official ethics;
- create commissions for the areas of activities etc.

The term of office of the Public Council is three years.

### 3.3. *Public Council on Fuel and Energy Complex and Ecology*

Ministry of Energy of the Republic of Kazakhstan was formed in 2014 as a result of the reorganization of Government and combined the functions of former Ministry of Oil and Gas, Ministry of Industry and New Technologies and Ministry of Environment and Water Resources. Thus, according to the Decree of the Government of the Republic of Kazakhstan dated September 19, 2014 No. 994 “Questions of the Ministry of Energy of the Republic of Kazakhstan”: “*the Ministry is the central executive body of the Republic of Kazakhstan, which*

*forms and implements state policy, coordinates the management process in the areas of the oil and gas, petrochemical industry, transportation of hydrocarbons, uranium mining, state regulation of the production of petroleum products, gas and gas supply, electric power industry, heat supply, in the part of combined heat and power plants and boiler thermal energy in the centralized heat supply zone (except for autonomous boiler houses), nuclear energy, environmental protection, environmental management, protection, control and supervision of the rational use of natural resources, solid waste management, the development of renewable energy sources, development policy of the "green economy"*".

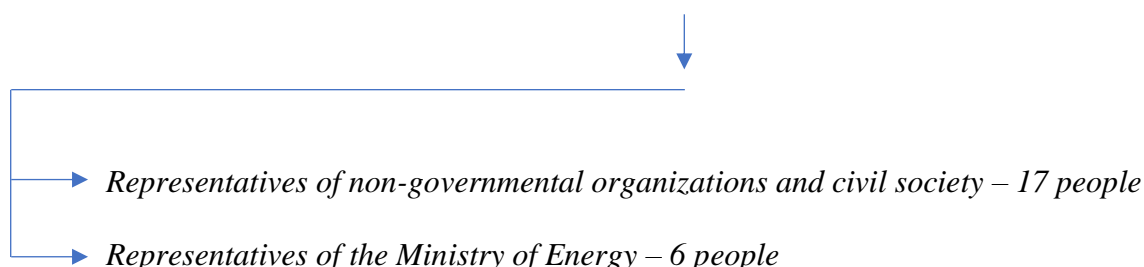
In compliance with the Law on Public Councils a Public Council of the Ministry of Energy was established by the Order No. 92 of the Minister of Energy dated February 26<sup>th</sup> of 2016, which was later renamed as the Public Council on Fuel and Energy Complex and Ecology (The Order of the Minister of Energy No. 189 dated May 3<sup>rd</sup> of 2016).

According to legislation, in order to form the Public Council, the Minister of Energy affirms a working group, which places an announcement on the official web-site of the Ministry of Energy about the contest for the selection of members of the Public Council of the Ministry of Energy and then forms a Public Council. The Minister of Energy then affirms the composition of the Public Council by his Order.

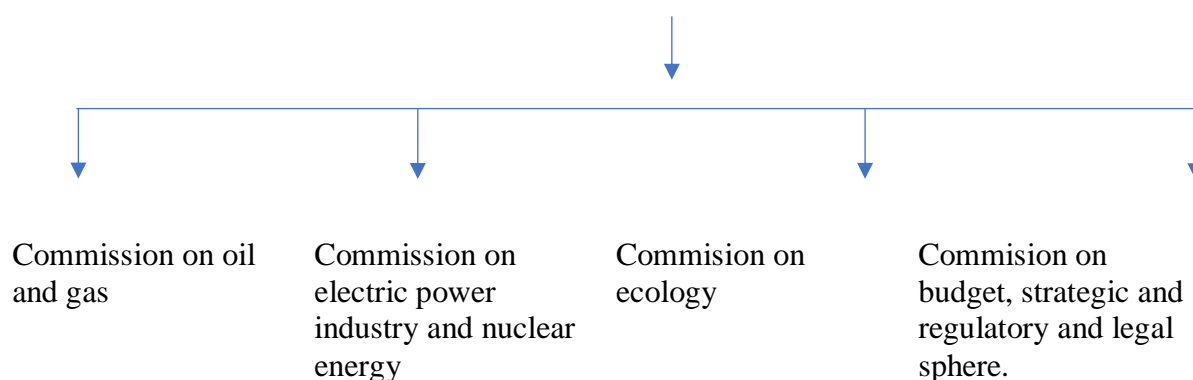
The composition of the Public Council on Fuel and Energy Complex and Ecology for 2019 - 2022 term of office was affirmed by the Order No.99 of the Minister of Energy dated March 19<sup>th</sup> of 2019. The Figure 5 illustrates the structure of the Public Council on Fuel and Energy Complex and Ecology:

Figure 5 (adopted from the official web-site of the Ministry of Energy and translated into English by the author):

**Structure of the Public Council on Fuel and Energy Complex and Ecology of the Ministry of Energy of the Republic of Kazakhstan** (*number of members – 23 people*)



**Chairman of the Public Council on Fuel and Energy Complex and Ecology of the Ministry of Energy of the Republic of Kazakhstan**



So, the Public Council on Fuel and Energy Complex and Ecology is divided into four commissions, three of which are responsible for different spheres of regulated areas – oil and gas; electric power industry and nuclear energy and ecology, and one commission responsible for budget, strategic and regulatory and legal sphere.

The Commission on Ecology consists of ten people: two public servants, four heads of the following association of legal entities: "Kazakhstan Association of Natural Resources Users for Sustainable Development", "Union of Oilfield Services Companies of Kazakhstan", "Kazakhstan Association of Waste Management "KazWaste", "Kazakhstan Chamber of



Environmental Auditors", one director of NGO "Ecosfera", one academic secretary of the International Academy of Ecological, Human Safety and Natural Sciences, one member of the Public Chamber of Energy Efficiency and Resource Conservation of the Republic of Kazakhstan and one representor of civil society.

## **4. Methodology**

### *4.1. Study design*

The Public Council on Fuel and Energy Complex and Ecology represents the implementation of the reform in relation to the public participation and creation of the accountable state by the Ministry of Energy. The Commission on Ecology of the Public Council is the representation of the public participation on the state level in the environmental protection sphere. And so far, the assessment of the role of the Public Council on Fuel and Energy Complex and Ecology in the environmental decision-making hasn't been done and the data on its effectiveness is limited. Thus, in order to fulfill this gap in research this particular case study was chosen.

The best way to understand any phenomenon is to view it in its context (Atieno 2009, p.14). Thus, in order to answer the research question, i.e. to assess the role of the Public Council on Fuel and Energy Complex and Ecology in the environmental decision-making, apart from reviewing the legal acts and information available on the official web-site of the Ministry, the primary data was collected. Since the qualitative method allows to understand people's beliefs, experiences, attitudes, behavior, and interactions (Pathak et al. 2013, p.192) it was used in this research. Qualitative research gives voice to the participants of the study and allows researchers to see new aspects of the study (Gibson et al. 2004 as cited in Pathak et al. 2013, p.192). Therefore, the best way to understand the role of the Public Council's in the environmental decision-making was to interview its members.

In order to meet the first objective of the study, i.e. to assess Public Council's effectiveness, the obtained data and the academic literature on the public participation were analyzed. So, in order to understand public participation, necessary for good environmental decisions, the theoretical arguments for public participation the environmental decision-

making, the effects of the public participation on environmental decision-making and main typologies of public participation were studied.

In order to understand the factors, influencing the work of the Public Council in relation to environmental decision-making the collected data was analyzed so that the relevant themes were identified. The themes were then looked for in the academic literature and policy reports of international organizations such as OECD, UN etc. in order to get an insight into their significance for the environmental decision-making.

The analysis of the obtained through the research data and its alignment in relation to the theoretical framework allowed to produce the relevant recommendations, necessary for improving the effectiveness of the Public Council in relation to the environmental decision-making.

#### *4.2. Data collection and semi-structured interviews*

Interviews are especially useful for getting a story behind participants' experiences (McNamara 1999). Semi-structured interviews format is particularly useful if the researcher wants to provide the participants with some guidance on what to talk about as well as the flexibility of the format enables new findings or information, that the researcher might not have earlier thought of (Gill et al. 2008, p.291). Thus, data was collected using semi-structured interviews. Since not all the participants live in the capital, four interviews were conducted in person while one was done over the phone, the other with the use of Skype and one more involved the email correspondence and a follow-up telephone call. From the permission of the respondents the conversations were recorded, and the notes were taken.

In order to better understand the context of the Public Council the participants were asked open-ended questions such as:

- 1. What is the role of the Public Council of the Ministry of Energy in resolving environmental issues?*

2. *Are there any achievements of the Public Council in the environmental protection sphere for the period of its functioning?*
3. *Does the Public council perform the set tasks and how effectively?*
4. *Are there any obstacles for the effective work of the Public Council in the environmental protection area?*
5. *Which recommendations for the improvement of the work of the Public council in the environmental protection sphere can you give?*

The format of the interviews and the questions allowed the participants to cover main topics, related to the issue as well as gave them flexibility to express their personal views and opinions.

#### *4.3. Research ethics*

The research was conducted in compliance with the rules and standards on research ethics in student thesis research of the Department of Environmental Science and Policy of the Central European University. All of the interviewees were rational adults, who voluntarily participated in the research. The research method didn't pose any hazards or risks to the participants. Guarantee of the confidentiality and anonymity was provided to the research participants.

#### *4.4. Data analysis*

Collected data was analyzed using a coding technique. Coding is the process of indexing or mapping the data in order to provide an overview of disparate data that enables the researcher to make sense of the data with regards to the research question (Elliot 2018 p. 2851). The interview transcripts and research notes were typed and then coded. First, around thirty codes emerged, but some of the codes were overlapping and redundant, and number of codes was reduced. From this stage, the remaining codes were united into six themes that became the main headings of the Results and Discussion chapter. The following themes are discussed further in

detail: composition of the Public Council, selection criteria of the members, activities of the Public Council, transparency of the decision-making process, communication with the Ministry and capacities and resources of the governmental officials, engaged in the public participation process.

#### *4.5. Limitations*

There were several limitations that occurred throughout the research process.

First of all, an attempt to interview all ten members of the Commission on Ecology of the Public Council was made. Despite succeeding in contacting all of them, not all agreed for an interview. Two of the potential interviewees refused to participate in the research: one referred to the fact that s/he is a new member of the current 2019-2022 term of the Public Council operation while the other said that it is her/his boss, who actually participates in the Public Council meetings. While three other members didn't refuse to participate in the research, but however were impossible to reach after the first call despite the multiple attempts. Thus, only five members out of ten of the Commission on Ecology of the Public Council on Fuel and Energy Complex and Ecology were interviewed. And in order to increase the sample size, two representatives of international organizations such as OSCE and UNDP, who actively collaborate with the Ministry and implement various projects in environmental protection sphere and are well aware of Public Council activities, were interviewed. Also, a representative of academia from Nazarbayev University, who conducted several researches in relation to public councils and is constantly involved in training public servants was interviewed. Thus, overall, eight people were interviewed.

Second, it should be mentioned that after five years since the reorganization of Government in 2014 when the environmental protection issues started to fall in the competence of the Ministry of Energy, on June 17<sup>th</sup> of 2019 a new Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan has been established (Boteu 2019). The data has been

collected before the new Ministry was established. Thus, the new Ministry will have its own Public Council for environmental decision-making, and the findings related to the Commission on Ecology of the Ministry of Energy will no longer be applicable to it. However, the recommendations that will be given by the end of the study can still be relevant to the new Ministry.

## 5. Results and Discussion

This chapter presents the main findings of the study and provides insights into the current public participation process within the Public Council on Fuel and Energy Complex and Ecology framework with regards to the environmental decision-making. As was mentioned in Methodology chapter the respondents of the study included five members of the Commission on Ecology of the Public Council, two representatives of the international organizations, who work closely on the environmental issues in the country and one representative of academia, who's also been involved in the research on public councils. To recall, not all of the members of the Public Councils were reached or agreed for an interview, thus the data represents opinions and views of those who agreed to answer the questions. All the respondents were open and rational in their discussions.

The research allowed to answer the main research question i.e. to assess the role of the Public Council in environmental decision-making. Thus, because of the one-way information flow (from the members to the Ministry) that was outlined by the respondents, the Public Council on Fuel and Energy Complex and Ecology represents a public consultation in the environmental decision-making process according to Arnstein's, Rowe and Frewer's and IAP2's typologies. According to Rowe and Frewer (2005 p. 255) public consultation is the process usually initiated by the sponsors, in this case government officials, with the information usually flowing in one direction – from the public to the sponsors. Thus, according to the respondents the Public Council gathers together when the Ministry sends notifications about upcoming meetings, that sometimes can be short-notice. While consulting the public according to the International Association for Public Participation (IAP2) spectrum means obtaining the feedback from the public, but not necessarily involving a two-way communication. The members of the Public Council outlined that the communication is mostly one-way, i.e. when the Ministry wants to obtain feedback on some particular issues, the recommendations by the

Public Council are given, but the information on their implementation is missing. Finally, Arnstein (1969, p.219) regards consultation as an important step in engaging the public into the decision-making, but if used together with other forms of participation because on its own it can turn into a formality. As the respondents stated that they are mostly engaged in the formal meetings, where they discuss the issues that on the agenda, however other participation activities would complement the official meetings. Even though public consultation is regarded as an important step in the typologies in engaging the citizens in the decision-making process, in order for it to be effective and fulfill its goal i.e. include citizen's opinions and views in the final outcome of the process, a two-way communication should be ensured. In fact, according to the respondents a feedback is usually obtained from the members of the Public Council, but a quality dialogue with the Ministry is missing in order to further discuss the progress on the given recommendations. Thus, by ensuring a two-way communication the Ministry can advance the participation process within the Public Council framework. Moreover, the findings allowed to evaluate the effectiveness and unveil factors that influence the work of the Public Council in relation to the environmental decision-making.

First of all, it should be mentioned that the majority of the respondents stated that the establishment of Public Council is an important step for the country in engaging the public in the decision-making process. As one of the respondents said: *"I believe that the role of public councils is important as we are building democratic state and moving towards the democratic process of the decision-making"*. This is in compliance with the democratic arguments for public participation in the decision-making that view people's power as the foundation of democratic societies (Kiss 2014, p. 14). However, despite the intention, a lot depends on the successful implementation of the policy and apart from having a relevant legislation on the public councils, a sound participation process also depends on the effective organization of the process. Considering that Kazakhstan is aiming to be among thirty most developed countries it



is important for the country to develop sustainably since ensuring only economic growth is not enough to reach the desired goal. Public participation is especially important in the context of sustainable development since sustainability is the result of the incorporation of economic, social and environmental factors into the decision-making (Richardson and Rozzaque 2006, p. 166) It should also be noted that the main effects of the public participation is the enhancement of the legitimacy and trust in governmental actions, and this is exactly the goal of the Public Councils.

Although, outlining the important role of the Public Council on Fuel and Energy Complex and Ecology, the respondents pointed out several barriers for its full and effective functioning. These included factors that are related to its composition, selection criteria, transparency, activities, communication type and resources and capacities of the governmental officials. Each of them will be discussed further below in more detail.

### *5.1. Composition*

The overview of the composition of the Public Council for a 2019 - 2022 period, that was approved by the Ministry, shows that the composition is highly predominated with the representatives of industries, namely the heads of the Associations of Legal Entities, which are created with the goal to coordinate business activities, represent business entities and protect their interests. So, for example, among the members of the Public Council of the Ministry of Energy are the heads of the following Associations of Legal Entities: “Union of Oilfield Services Companies of Kazakhstan”, “Scientific and Technical Center for the Safety of Nuclear Technologies”, “Union of Mechanical Engineers of Kazakhstan”, “Manufactory Industry Union”, “Kazakhstan Association of Nature Users for Sustainable Development” etc. It is not surprising since the Ministry, apart from ecology, is supervising the policies in the oil and gas, electric and nuclear power spheres.

The incorporation of business interests in the policy and decision-making processes is a strong characteristic of a corporatist system of interest representation (Christensen 1993, p.202). As one of the respondents stated that:

*“The history of public participation in environmental decision-making process has been there long before the creation of Public Councils, it just became more regulated and formal now. But if before there were more representors of non-governmental organizations and the decisions were reviewed from the point of the citizens, now there are more representors of industries and interest organizations...”*

In the study of corporatist consultative bureaucracy in Danish public administration, Christensen (1993) pointed out that interest organizations will formalize their right to have a say in a decision-making process, via the creation of advisory committees and working parties, so they can expect to be advised by the relevant state body. Nevertheless, interest groups have no intention to reject their co-responsibility in the policy implementation since by establishing corporate systems, the civil service is politically obliged to divide its administrative duties with interest representatives (Christensen 1993, p.204). As one of the members of Public Council put it: *“... Well, top government officials are more interested in oil and gas sector, rather than ecology...”*

Thus, for example, one of the activities of the Public Council is to monitor the performance of the strategic plan of the Ministry. And the current structure of the Ministry led to the following strategic directions in the plan: the development of electric power industry, coal industry and atomic energy; the development of oil and gas and petrochemical industry and the improvement of the environmental quality. The implementation of the strategic plan means the achievement of the key performance indicators in terms of electric power generation, production of coal and lignite, generation of uranium, extraction of oil and gas, processing oil products, generation of petrochemical products etc. together with reduction of the polluting

particles, generation of renewable energy, waste recycling etc. The goals are quite contradicting. Taking into the account, that the foundation of Kazakhstani economy is the natural resources extraction the current structure of the Ministry and the composition of the Public Council doesn't allow the environmental protection to be the priority. Moreover, the two different sectors are regulated by the same governmental officials. Also, the environmental NGO's are not as well represented in the Council as the associations of legal entities. However, it should be noted that when environmental issues are not emphasized in the development plans, and there is a lack of awareness that environmental sustainability and economic growth should go hand in hand the long-term, development goals are compromised (Wingqvist et al. 2012). If the country is to be among the thirty most developed countries it should develop sustainably and improve all the aspects of the development. Thus, by pursuing a sustainable economic growth, the country will benefit in the long-term development goals.

## 5.2. *Selection criteria*

The fact that the legislation on Public Councils doesn't provide any guidance for the selection of the members leaves it entirely up to the public authorities. The composition of the working group, that is responsible for the selection of the members, and the final composition of the Public Council are both approved by the head of the relevant state body. And in the case of the Public Council on Fuel and Energy Complex and Ecology it led to the predominance of the industries interests and rather exclusion of the civil society in the public participation process. As one of the respondents said: *"...I believe that the councils at the republican level should include professionals, since they must coordinate the documents on which the industry will work..."*

Indeed, the representatives of industries usually have more resources in terms of members, finance and expertise to gain an access to decision-making venue, thus, the tendency to create citizen groups is lower and the costs associated with getting the access to the decision-making

venues are higher in corporatist systems (Fisker 2013). Thus, citizen groups have fewer chances to access to decision-making arenas in corporatist countries than in pluralist countries (Christiansen et al. 2017, p.4). Corporatist model of participation offers only a “functional representation” to representatives of large strategic groups such as trade unions, industry and business councils and at times some well-known environmental NGOs (Offe 1987 as cited in Richardson and Rozzaque 2006, p.171).

It should be added that even if some citizen groups don't possess strong technical skills or expertise, they can offer other useful information to the decision-makers such as unique knowledge of some regions, information about public attitude, legitimization of political decisions etc. (Irvin and Stansbury 2004; Christiansen et al. 2017). Moreover, it is poor people that are affected by the environmental degradation the most, and they are usually are not as well organized as the interest groups (Wingqvist et al. 2012, p.24). Thus, by including those who are usually absent in the decision-making venues because of the institutionalized inequalities, the reasonable range of the interests can be achieved in the participatory process (Quick and Bryson 2016, p.5). Another interviewee - a public servant stated the following:

*“...We deliberately choose competent citizens with experience and expertise, so they can help Ministry with the workload and contribute to the working process...I remember once we had an application from a fresh university graduate, but we didn't take him in, since he has no working experience and can't really contribute..., but we now we want to attract bloggers, media persons, those who can share with public all the work that is being conducted...”*

Thus, when selecting public council members, the government officials pursue their own goals that can benefit Ministry such as contribution to the work process, reflection on the work that is being done. However, the “how this particular citizen can benefit the Ministry” criteria will not lead to the creation of a meaningful participation. Also, it should be noted that the same

respondent - a public servant also added that some members see the membership as an opportunity to get something from the Ministry like funding of the projects, for example.

Another relevant fact that should be mentioned is that one of the members that couldn't be reached after the first call said that s/he is not a specialist in environment and doesn't know how s/he ended up being in the commission for ecology. Additionally, another respondent mentioned that there are some inactive members of the Council, those who are not as interested in its activities as they should be. Thus, without clear selection criteria the chances that the "wrong" people are included in the Public Council are higher thereby decreasing the quality of the participation process and consequently the outcomes of the decision-making.

Therefore, in order to avoid all these discrepancies in the perception of the roles and the functions of the members of the Public Council, clear selection criteria for choosing the members of the Public Council should be developed. Moreover, without clear selection criteria of the members, the participation becomes biased. According to Verba et al. (1993) one of the limitations of the councils is the bias in composition, especially in terms of social class. This is true for the Public Council on Fuel and Energy Complex and Ecology since there are no representors of the general public, it more resembles an Expert Council rather than a Public Council.

It is important that policy-makers invest resources that are needed for a more inclusive and meaningful participation (Berry et al. 2019). A more inclusive participation can lead to the achievement of more sustainable outcomes, positively benefiting both social and economic sectors (Wingqvist et al. 2012, p.30). This is specifically important since social, economic and ecological situations differ across the country. Kazakhstan has already inherited a number of ecological disasters from the Soviet times, including nuclear testing sites at Semipalatinsk - the city at the East of Kazakhstan, the Aral Sea disaster due to the governmental mismanagement, and the fast industrialization of the country leads to an increased air, water and soil pollution.

Moreover, there is a significant gap between the income of the population living in rural and urban areas of the country, with twice as many people living below the poverty line of USD 2.3 per day in rural areas than there are in urban areas (World Bank 2012 as cited in OECD and World Bank 2015, p.32). Therefore, by enabling inclusive participation in the decision-making, the country can ensure a meaningful participation process and achievement of the sustainable development goals.

### 5.3. Activities

Majority of the interviewees stated that the main activity they are engaged with, as the members of Public Council, is a review of the draft legislation on the spheres that lie in the competence of the Ministry of Energy. They also stated that these draft documents can be very dense and technical, and sometimes it is not possible to review them all in a requested by the Ministry time frame. As one of the respondents described it:

*“Well, for the period of functioning of the Public Councils a lot of documents, draft legal acts have been reviewed. But sometimes, it is not possible to review all of the documents since the majority of the Public Council members are busy people with full-time jobs, many of them are heads of organizations...”*

Although stating almost the same, one of the interviewees added that the positive side of this workload is that it keeps him informed. According to OECD (2017c, p.226) the fact that the same members of the Public Council review draft legislation, related to different spheres, restrains the value-added of the consultation process. Legislative acts can be different in nature and need diverse expertise, and a single council with identical composition over long period of time may not be the most effective way to give recommendations (OECD 2017c, p.226).

It should be highlighted that a public participation is not a single event, but a process that involves a variety of activities with a wide range of stakeholder interests (EPA 2019). This is why it is important not to limit the activities of the Public Council to draft legislation review,

but to realize its full potential to represent the voices of the public on socially significant issues – it's key task (Knox and Janenova 2017, p.315). Knox and Janenova (2017, p.316) in their study stated that public councils of some state authorities are just “allowed” to do their job within the set limits, but it's not the case for all of the public councils. The authors found that some public councils succeeded at being active and influential and have been involved in various activities, and it was mainly up to the managerial approach of some governmental officials to empower public councils. If giving more independence to the members of the public councils in their activities concerns the Ministry in terms of losing control and influence on the process, they can still exercise control and influence by determining how the final outcomes of the participation process can affect the policy or the program (Rowe and Frewer 2013, p.14).

One of the members of the Public Council, for example, stated that what he is trying to achieve is to incorporate the sustainable development goals into the activities of the Ministry. Thus, according to this respondent: *“When on the meetings of the Council, the Ministry discusses the achievement of some key performance indicators, such as, for example, extracting a certain amount of oil, I say why are we even discussing this? This is not what the Ministry does, this is what the oil companies do. What we should be doing here is figuring out the way of how we can improve the lives of the citizens. This is why I propose to incorporate sustainable development goals into the strategic and action plans of the Ministry”*.

Indeed, incorporation of sustainable development goals into the national development plans, policies and strategies will enable the country to receive multiple long-term benefits and develop sustainably. Thus, the innovation of the public sector is needed since public administration systems and the public servants have a central role to play in enabling national ownership and achievement of sustainable development goals by 2030 (UN DESA 2019). Public administration is a cornerstone for enabling effective, accountable and inclusive institutions (UN DESA 2019). In order to achieve this, the mindset of the Kazakhstani public

servants needs to change since sustainable development goals need a cross-section of competencies, and the public service competency need to be innovated to incorporate comprehensive systems-thinking skills and behaviors, partnerships and collaboration across government and non-state actors (UN DESA 2019). This might be challenging for Kazakhstan because, despite of all the reforms that have been made in the public sector, the mindset of the public servants still hasn't changed (Kassen 2006 p. 17). According to Janenova (2016) in order to build a professional state apparatus, which is the goal of the country's public administration reforms a "*cultural transformation of mindsets, attitudes and perceptions of government officials*" is needed.

#### 5.4. *New Ecological Code*

One of the main legal acts in the environmental protection sphere that is being developed since 2018 is the New Ecological Code of the Republic of Kazakhstan. The Ecological Code is the main environmental protection legal act that came into force in 2007 and covers the main environmental issues, provides the government with the right to monitor and control natural environments, covers the governmental releases of environmental permits, quotas for greenhouse gas emissions etc. Since its adoption around seventy amendments have been made to the Code. Thus, in 2018 the government decided that the country needs a New Ecological Code that addresses the new realities of the modern world and makes the environmental protection of the country more effective.

The New Ecological Code is aiming to develop a legal environmental framework that is in compliance with the best international standards and will allow economic growth to go hand in hand with environmental protection (OSCE 2018). To develop the Ecological Code the Ministry of Energy established a working group that consists of the government officials, industry representatives, professional experts and the civil society. Some Public Council members are also members of this working group, which apart from discussing the changes in



the Ecological Code also conduct public hearings at the enterprises. And according to one of the respondents among the main challenges in the development of the legal act is the perception of the new environmental rules, especially in terms of the incorporation of green technologies in the production and operations processes of the enterprises.

As the respondent stated: *“Some industry representatives say: “How are you expecting us to follow these new ecological standards if the technologies that are being used are not ready for these changes?” But we say this can’t last forever, the industries must adapt and modernize their technologies according to the best international standards”*.

Minister of the Energy of the Republic of Kazakhstan in his interview regarding the adoption of the New Ecological Code stated the following:

*“This work is not fast. It should be carried out gradually. If we immediately introduce these standards, tomorrow some of our enterprises will stop, I will tell you write away. There will be unemployment. Therefore, the main dilemma in our country is not to slow down the economic growth and still to introduce the international ecological standards”* (Almaty TV 2019, translated into English by the author). The Minister also added that the enterprises pay billions of tenge as the result of ecological fines to the local budgets, but only five percent go to environmental protection measures, and the New Ecological Code will envisage that the money is spend only on the environmental protection measures (Almaty TV 2019, translated into English by the author). Another important innovation in the environmental policy is the introduction of the Strategic Environmental Assessment. Thus, before implementing major projects a new legislation proposes a strategic environmental assessment to be carried out.

Thus, according to the respondents the country’s ecologists have succeeded in developing New Ecological Code that addresses modern environmental issues and aims at enhancing environmental protection in the country. The New Ecological Code will mainly focus on the main pollutants since, which release the lion’s share of the emissions. Kazakhstan is one of the

world's most carbon and energy intensive economies (Nugumanova and Frey 2017, p. 4), and two of Kazakhstani enterprises are among the list of the world's most polluting corporations (Riley 2017). The new environmental measures will however cause a resistance from the industrial side since many plants were built during the Soviet times and modernization of technologies will be costly (Kursiv.kz 2019). However, the ecologists do not seem to back up and the main environmental policy document will enter Mazhilis (the lower house of Parliament) by the end of 2019 (24.kz 2019). And if approved then a major shift in terms of using green technologies in Kazakhstani enterprises will happen as well as a significant rise of the environmental protection measures. Indeed, if Kazakhstan is to be among thirty most developed countries, all of these regulations will allow the country to meet international environmental standards and develop sustainably. If the new Law is adopted a lot will depend on its successful implementation. And so far, while succeeding at policy formulation, a successful policy implementation has been a challenge for Kazakhstan, especially in terms of evaluating policy effectiveness (OECD 2017a, p.12). And new Ministry of Ecology, Geology and Natural Resources will play a crucial role in the implementation of the new environmental policies.

### 5.5. *Transparency*

According to the legislation one of the tasks of Public Councils is to ensure the transparency of the activities of central and local executive bodies (Article 3 of the Law on Public Councils). With the increased use of technologies and public sector reforms, influenced by the New Public Management approach, which aims at improving effectiveness of governmental services, enhancing the transparency has been seen as a key to a better governance (Grimmelikhuijsen et al. 2017, p.4). And Kazakhstan is also following this trend of seeking more transparency in the public sector activities and services. According to Hood (as cited in Grimmelikhuijsen et al. 2017, p.5) institutional transparency has acquired a “quasi-religious significance” and has

become a critical factor in the modern governance. However, transparency should not be perceived as something that either exists or not (Florini 1998 as cited in de Fine Licht 2011, p.6), but rather there are various types or levels of transparency that can influence people's perceptions (de Fine Licht 2011, p.6). Mansbridge (2009, p.35) pointed out a difference between the transparency in rationale and transparency in process. The former implies that the decision-makers provide some clear justifications for their actions and decisions, while the latter means that the public has the opportunity to access the process by which the decisions have been made (de Fine Licht 2011, p.6). And no transparency is when there is no information on neither regulations nor activities of the decision-making process available to the public. Based on these definitions, transparency in process is regarded as the most transparent form as it implies the disclosure of the formal procedure for decision-making as well as the actual deliberation process, where different arguments have been considered (de Fine Licht 2011, p.6).

The Public Council members have access to the decision-making venue and are aware of the activities that are carried out by the Ministry such as draft legislation, implementation of state budget programs, achievement of the key performance indicators etc. However, despite that, some of the Public Council members expressed their concern regarding how their recommendations are being considered. Thus, according to one of the respondents:

*"...It is unclear to what degree the recommendations of the Public Council are taken into the consideration since there are no reports from the Ministry on the implementation of the Public Council's recommendations..."*

Enhanced transparency in the decision-making process, in particular, transparency in process, can help Ministry to increase perceived public legitimacy and trust. This is especially important in regard to environment, because of the frequent conflict between private gains and public wealth that exists during the decision-making process (Wingqvist et al. 2012, p.31). Moreover, enhanced transparency can decrease the chances that the country will acquire a

resources curse (Wingqvist et al. 2012, p.32), which is particularly relevant for the resource-rich Kazakhstan. As one of the interviewees outlines:

*“...The structure of the Ministry represents a conflict of interests since together with environmental protection function the state body also supervises the main pollutants of the environment...”*

Thereby, taking into consideration the fact that the Ministry unites departments that control environmental spheres such as air quality, climate change, ecological regulation and departments of development of oil industry, electric and nuclear power industries, enhanced transparency of the decision-making process is particularly important.

## 5.6. Communication

The main difference between public consultation and public participation according to Rowe and Frewer (2005, p.254-255) lies in the flow of information, where the former represents a one-way communication process and the latter a dialogue. According to some of the interviewees a quality dialogue is what is missing in the process of public engagement in the decision-making. Thus, one of the interviewees stated the following:

*“...I believe that the communication between members of the public council and relevant departments of the ministry is not effective enough, the decisions and recommendations made are not always brought to a logical conclusion. There is not enough control over the implementation of Public Council's recommendations, there are minutes of meetings, but the most important thing – implementation of the minutes – is missing...”*

Another respondent added that the issues are being discussed and recommendations are being given by the Public Council, but there is no feedback from the Ministry on their implementation. However, it should be noted that according to the legislation on the Public Councils the recommendations of the public councils are mandatory for consideration by the

state bodies in charge of the relevant decision-making, and the motivated answers should be given to the council.

Moreover, one of the respondents during interview said that it would be good if the Ministry would also do similar to this research evaluations of the Public Council activities. That would help the participation process greatly the respondent added. Indeed, by ensuring a two-way communication a state body can ensure a meaningful participation process. And by obtaining feedback on the implementing policies the Ministry can improve the outcomes of the process.

Arnstein (1969, p. 219) described a public consultation stage as following: *“What citizens achieve in all this activity is that they have “participated in participation.” And what the powerholders achieve is the evidence that they have gone through the required motions of involving “those people”*. Rowe and Frewer (2013, p.15) state that a clear understanding by the initiators of the public engagement of how the outputs of the process will be used and will impact the policy can help them to reduce skepticism and distrust among the public. Therefore, an improvement in the communication process between the Ministry and the Council is needed, if the public participation not to be tokenistic. A two-way communication will enable Ministry to extend the public consultation to a next stage of the citizen engagement ladder, what in turn will benefit the decision-making outcomes and increase legitimacy and public’s trust. Dialogue and deliberation between the stakeholders are specifically important for achieving good environmental decisions (Walker 2007 p. 101). Evaluations of the participation process should also be performed by the Ministry in order to assess the implementation process, determine potential obstacles and ways to improve it.

### 5.7. *Resources and capacities*

It is important that policy-makers invest resources that are needed for a more inclusive and meaningful participation (Berry et al. 2019). Thus, according to one of the respondents: *“The Department that works with the Public Council is very busy since it is not the only job they do.*

*Apart from Public Council, they have their routine job, tasks from top governmental officials. This is why I think there should a person dedicated only to organization of the public participation”.* Indeed, if the public servants are overloaded with the work, then they can’t pay enough attention to the organization of the sound public participation process. This can affect not only the participation process, but the communication and the outcomes of the decision-making.

Designing a meaningful participation, ensuring inclusion of different interests and a sound communication with stakeholders is a challenging process. A broad range of skills and experiences are needed in order to plan and implement meaningful public participation (EPA 2019). Therefore, public servants should undergo relevant trainings that will allow them to understand how to design a sound public participation process.

One of the respondents stated: *“You know, many public servants have quite low capacity. They don’t know much about science and new technologies. They might be good administrators, but their capacities at times are not enough to produce good environmental decisions. Many of them are not even ecologists. This is why it is necessary to create a department or division that is aware of the latest scientific findings, this will allow to incorporate science into decision-making”*

Indeed, incorporation of the scientific knowledge is very important, especially in environmental decision-making, since environmental decisions can be complex. However, the decisions are often made based on the decision-makers’ beliefs and values, where the former reflect the person’s perception of the reality including facts, opinions and uncertainties around them and the latter reflect the person’s sense of what to achieve, including goals, objectives and related tradeoffs (von Winterfeldt 2013, p.14055). But the beliefs can and should be influenced by science (von Winterfeldt 2013, p.14055) because natural sciences can provide the decision-makers with necessary knowledge basis needed for the right decisions to be made when human

activities can cause environmental consequences and how the effects can be reversible (National Research Council 2005). Moreover, social and behavioral sciences can help the decision-makers to understand which policies will encourage the preferred human actions towards the environment and how the environmentally significant decisions will influence the human well-being (National Research Council 2005). Kazakhstan with its enormous natural resources reserves relies heavily on the extractive industries as a main source for its economic growth. And as the development of the economy grows the government should develop a science-based approach to manage environmental issues.

Overall, the respondents shared valuable information that allowed to gain insights into the environmental decision-making process and understand the role of the Public Council on Fuel and Energy Complex and Ecology in it. The study allowed to align the main findings of the study in relation to the theoretical framework. The analysis of the effectiveness of the Public Council on Fuel and Energy Complex and Ecology in environmental decision-making showed that there are some obstacles to its sound functioning. Because the legislation on the public councils left some important factors up to each state body the quality of the participation process differs among the institutions. Thus, because of the absence of clear selection criteria the composition of the Public Council on Fuel and Energy Complex and Ecology has been dominated by the industry representatives; the decision-making process is not as transparent as it should be, considering the sensitive nature of the environmental decisions and potential tradeoffs between environmental protection and economic development that might occur. Moreover, the process of the decision-making is influenced by the lack of the necessary environmental knowledge and scientific approach in the state body to produce good environmental decisions. However, the participation process and consequently the environmental decision-making can be improved. And in order to improve it the Ministry should do policy evaluations in order to understand how the participation is being conducted

and how to increase the effectiveness of the process. As one of the respondents said: *“I think Ministry should also do such kinds of evaluations in order to understand and improve the participation process”*. However, OECD (2017c) points out insufficient focus of the Kazakhstani government on the evaluation of the effectiveness of the policies. Instead it keeps releasing new strategies, reforms and plans. According to Knox (2017) this top-down initiatives and reforms overload decreases the quality of the policy implementation because the governmental officials are unable to absorb the volume of initiated changes. The fact that the Ministry of Ecology, Geology and Natural Resources has been created and New Ecological Code has been developed implies that the environmental protection will be among the country’s goals. The new environmental legal act includes major changes, and if adopted will contribute significantly to the country’s sustainable development. However, a lot will depend on its successful implementation.



## 6. Conclusion and Recommendations

Successful participation process is the one that reaches out to all stakeholders, provides an open access to information, involves the public in a meaningful conversation and tries to meet multiple interests (Hawkins and Wang 2012, p. 13). But, the quality of the public participation processes differs greatly from case to case and from agency to agency (McKinney & Harmon 2002 as cited in Karakitapoglu 2015 p.11).

This study allowed to gain insights into the public participation process in the environmental decision-making within the framework of the Public Council on Fuel and Energy Complex and Ecology of the Ministry of Energy of the Republic of Kazakhstan. The findings showed that the Public Council on Fuel and Energy Complex and Ecology represents a public consultation according to the main public participation typologies. Thus, the fact that the Public Council meetings are usually initiated by the Ministry in order to obtain the members' feedback on the Ministry's activities and draft legislation is in compliance with the public consultation definition according to Arnstein (1969), Rowe and Frewer (2005) and IAP2 Spectrum (2007). Notably, the public in the Council mostly consists of industry representatives, professional experts and some well-known environmental NGOs. Thus, challenging the need for broader and more inclusive participation process, necessary for good environmental decisions, as argued for by the deliberative democracy and sustainability theories. Moreover, the desired effects of the enhanced legitimacy and trust, brought by the participation process, are also affected by the factors related to the Public Council's composition, selection criteria, activities, transparency of the decision-making process, communication and resources and capacities of the governmental officials.

The analysis of the data allowed to evaluate the effectiveness of the Public Council and to unveil the factors that influence it. Based on the respondents' data, several recommendations were made in order to improve the participation process in the environmental decision-making.

As it was mentioned earlier, after five years since the governmental reorganization, a Ministry of Ecology, Geology and Natural Resources of the Republic of Kazakhstan was established in June 2019. The new Ministry took the functions of the Ministry of Energy in the environmental protection sphere, functions of the Ministry of Agriculture on the use and protection of water resources and forestry and functions from Ministry of Industry on geological exploration, study and reproduction of the mineral resource base (Boteu 2019). According to the legislation the new Ministry is also obliged to create a Public Council in order to engage the public in the decision-making process. And the recommendations that will be given below will be useful for the new Ministry to better design the public participation process.

First of all, the Ministry should define clear selection criteria for the members of the public council. The main challenge in designing the participation process is to include a reasonable range of interests, especially those usually not added to the process due to institutionalized inequalities (Quick and Bryson 2016, p.5). And inclusive participation is one of the key elements for achieving the sustainable development (The 2030 Agenda for Sustainable Development). In the case of the Public Council on Fuel and Energy Complex and Ecology the absence of clear selection criteria led to the capture of the participation process by industries interest groups, making it a corporatist model of public participation. Thus, in order for the new Ministry that is responsible for ecology to have an inclusive participation process a stakeholder analysis should be conducted in order to reveal the stakeholders that might be affected by the policies of the Ministry and those who should be involved for a meaningful decision-making process. This will allow the Ministry to avoid any biases in social class and include those who are usually not present in the decision-making venues.

Second, to ensure sound participation process a two-way communication process should be ensured. It is important that information is shared not only in one direction i.e. from the Ministry to the Public Council or vice versa, but the two are engaged in a meaningful interaction. The

public will be more willing to participate if they believe that they can impact the administrative process and outcomes (King et al. 1998, p. 323). Dialogue and deliberation between stakeholders are important in environmental decision-making since both are necessary for good decisions (Walker 2007, p.101). Dialogue encourages learning, learning leads to shared understanding, and shared understanding supports deliberation (Daniels & Walker 2001 as cited Walker 2007 p. 101). Deliberation, in turn, promotes critical examination of ideas, resulting in consideration of feasibility, implementation, monitoring and adaptation - all elements of good environmental decisions (Daniels & Walker 2001 as cited Walker 2007 p. 101). Therefore, public participation shouldn't be viewed by the Ministry as a single event, but rather a process that involves constant communication with the stakeholders.

Third, enhanced transparency of the decision-making process will benefit the outcome of the public participation process. In particular, open decision-making process, when considering the recommendations of the Public Council, will help the Ministry to enhance the legitimacy of the process and increase the chances for efficient accountability, which in turn will increase the acceptance and trust (de Fine Licht 2011 p. 4). Since the Public Council is a consultative-advisory body and the final decision is still made by the Ministry, it should ensure the procedural justice of the decision-making process. Procedural justice implies fairness, transparency, attentiveness to stakeholders' concerns and receptiveness of public input (Quick and Bryson 2016 p. 4). People are more likely to accept decisions that they believe were made in a procedurally just process, even if it wasn't their preferred option (Tyler and Degoe 1996 as cited in Quick and Bryson 2016, p.4; de Fine Licht 2011 p. 4).

Overall, the intention of establishing the Public Council in order to engage the public in the decision-making processes takes its origin from the democratic theory of public participation and is believed to increase legitimacy and trust in government. Empowering public implies the creation of the processes, where public knows that their participation has the potential to

influence, where a representative range of the public is included and where there are visible outcomes (King et al. 1998, p.323). In the case of the Public Council the creation of clear selection criteria, securing two-way communication and enhanced transparency of the decision-making process will allow the Ministry to ensure a sound public participation process. Moreover, the Ministry should also be performing evaluations of the implementing policies in order to understand what is being successful and what needs improvement. It is important that public servants possess necessary capacities to conduct such activities. Considering that the New Ecological Code is being developed in the country with the goal to improve environmental protection measures the new Ministry of Ecology, Geology and Natural Resources together with meaningful public participation should also incorporate the scientific knowledge into the decision-making process to produce good environmental decisions. All of these changes will help the country to develop sustainably and benefit in the long-term.

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