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# **BASIC PRINCIPLES OF ENVIRONMENTAL REGULATIONS OF THE OECD COUNTRIES IN THE NEW ENVIRONMENTAL CODE**

Speaker:

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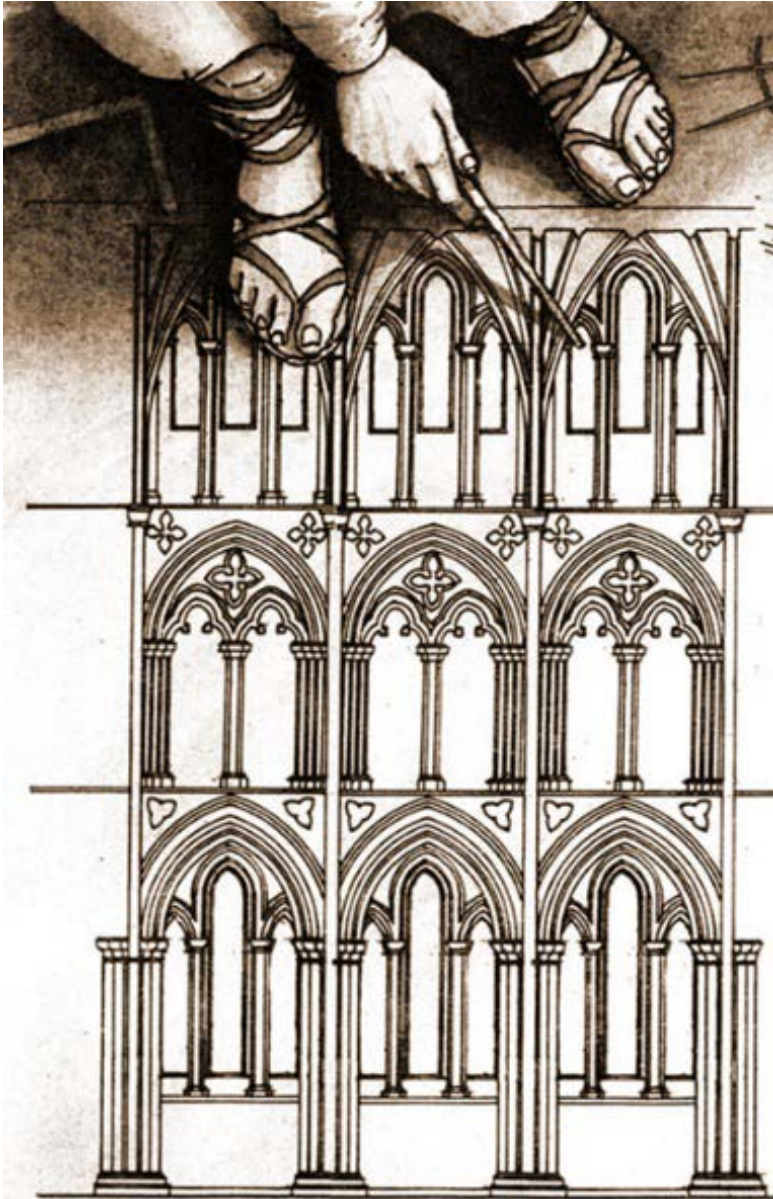


# I. INTRODUCTION: THE IMPORTANCE OF PRINCIPLES





## II. PRINCIPLES



### EU Principles

#### Basic:

- 1) principle of precaution,
- 2) principle of prevention,
- 3) rectifying pollution at source,
- 4) the 'polluter pays' principle.

#### Additional:

- 1) principle of integration,
- 2) principle of no regression,
- 3) proximity principle.



# 12 Principles for Environmental Policies in Kazakhstan

## Proposed Kazakhstan Principles

- 1) principle of prevention,
- 2) principle of correction (rectification),
- 3) principle of precaution,
- 4) "polluter pays" principle,
- 5) principle of integration,
- 6) principle of sustainable development,
- 7) ecosystem approach principle,
- 8) principle of extended producer and importer responsibility,
- 9) principle of availability of environmental information,
- 10) principle of public participation,
- 11) principle of presumption of environmental hazard,
- 12) principle of proximity.

## EU Principles

### Basic:

- 1) principle of prevention,
- 2) principle of precaution,
- 3) rectifying pollution at source,
- 4) 'polluter pays' principle.

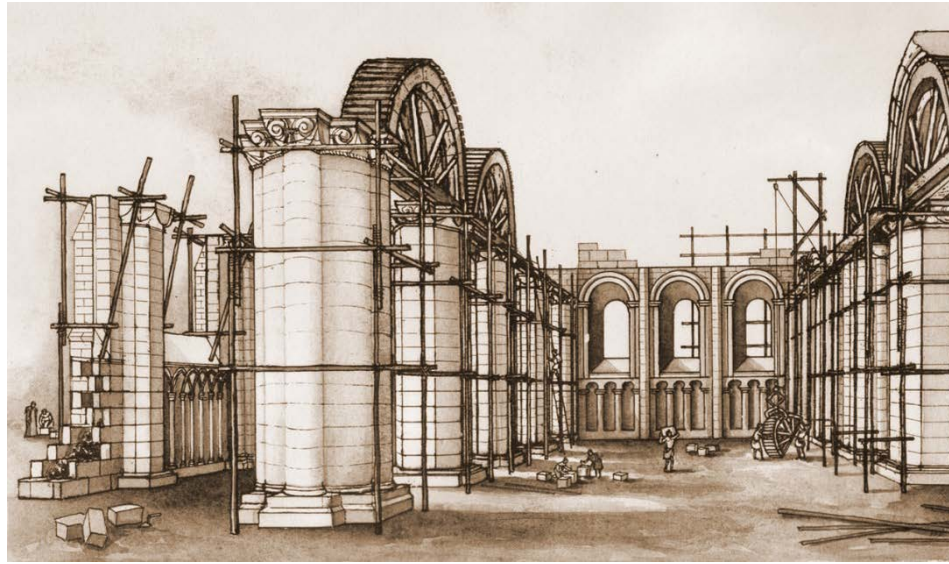
### Additional:

- 1) principle of integration,
- 2) principle of no regression.
- 3) proximity principle





# Principle of Prevention



## Proposed Kazakhstan wording

### Article 6.

Any human activities causing pollution and / or damages to environment in any form whatsoever or connected with a direct and scientifically grounded threat of such pollution and / or damages shall be allowed within the limits established by law, provided only that all measures required to prevent from pollution and damages are ensured, on the first-priority basis, at the source itself, including in situations stipulated by this Code, with the application of the best technologies available.

## EU wording and explanation

This principle allows action to be taken to protect the environment at an early stage. It is now not only a question of repairing damages after they have occurred, but to prevent those damages occurring at all.

The emphasis has shifted to preventive techniques which affect the production process itself, avoiding the emergence of waste at the "end of the pipe" by preventing its formation or recycling it straight away..



# Principle of Correction (Rectification)



## Proposed Kazakhstan wording

### Article 7.

1. Environmental damages shall be eliminated in full.
2. If it is impossible to eliminate the caused damages in full, its consequences shall be mitigated to the extent possible.
3. To the extent the consequences of the environmental damages caused were not eliminated or mitigated, the environmental damages shall be otherwise compensated in accordance with this Code.

## EU wording and explanation

Environmental damage should as a priority be rectified at source.

The principle is applied where prevention of negative environmental impacts cannot be wholly achieved, therefore, this principle establishes the hierarchy for remediation of negative effects.



# Principle of Precaution



## Proposed Kazakhstan wording

### Article 8.

If there is a risk that any human activities can cause environmental damages entailing significant and irreversible consequences, one shall take effective and proportionate measures to prevent from such consequences subject to economically acceptable costs, despite the absence of up to date scientific and technical knowledge allowing to substantiate and accurately determine the probability of causing such damages.

## EU wording and explanation

In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation.

If the costs of current activities are uncertain, but are potentially both high and irreversible, the precautionary principle holds that society should take action before the uncertainty is resolved.





# "Polluter Pays" Principle



## Proposed Kazakhstan wording

### Article 9.

A person whose activities are exposed to the risk of environmental pollution or damages in any form whatsoever shall bear all expenses associated with the examination, forecast and evaluation of such person's environmental impact, and shall take all measures within the limits established by law to prevent and reduce pollution rates and other harmful environmental impact, mitigate their consequences, as well as to fulfill other requirements of the environmental legislation.

## EU wording and explanation

Those causing pollution should meet the costs to which it gives rise.

The principle operates so that operators of certain occupational activities such as the transport of dangerous substances, or of activities that imply discharge into waters, have to take preventive measures in case of an imminent threat to the environment and if damage has occurred, they are obliged to take the appropriate measures to remedy it or pay for the costs of remediation.





# Principle of Availability of Environmental Information

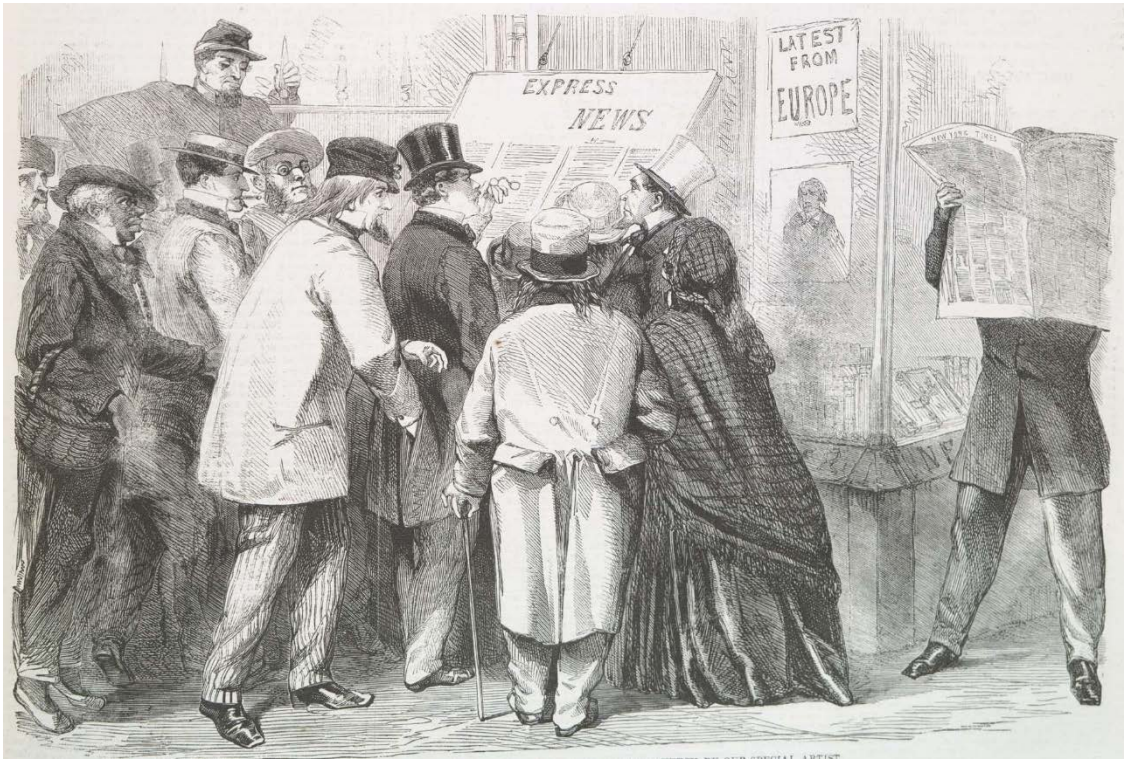
## Proposed Kazakhstan wording

Article 13.

The state shall ensure the observance of rights of the public to have access to environmental information on the grounds, conditions and to the extent established by legislation.

## EU wording and explanation

Regulated through special legal acts as the Council Directive 90/313/EEC of 7 June 1990 on the freedom of access to information on the environment and the Aarhus Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.



# Principle of Public Participation

## Proposed Kazakhstan wording

## EU wording and explanation

### Article 14.

1. The public shall have the right to participate in decision-making on the matters affecting the interests of environmental protection and sustainable development of the Republic of Kazakhstan on the conditions and in accordance with the procedure established by this Code.

2. Participation of the public in decision-making on the matters affecting the interests of environmental protection and sustainable development of the Republic of Kazakhstan shall be ensured at the early stage when all opportunities for considering different options are opened and when it is possible to ensure effective participation of the public.

3. To observe the right established by paragraph 1 of this Article the state shall ensure transparency of decisions to be made by governmental authorities, which exert or may exert influence on the state of environment, on the conditions allowing the public to express its opinion, and such opinion shall be taken into account when making a respective decision.

The principle of public participation holds that those who are affected by a decision have a right to be involved in the decision-making process. Public participation implies that the public's contribution will influence the decision.

This can be in relation to individuals, governments, institutions, companies or any other entities that affect public interests.





# Principle of Presumption of Environmental Hazard

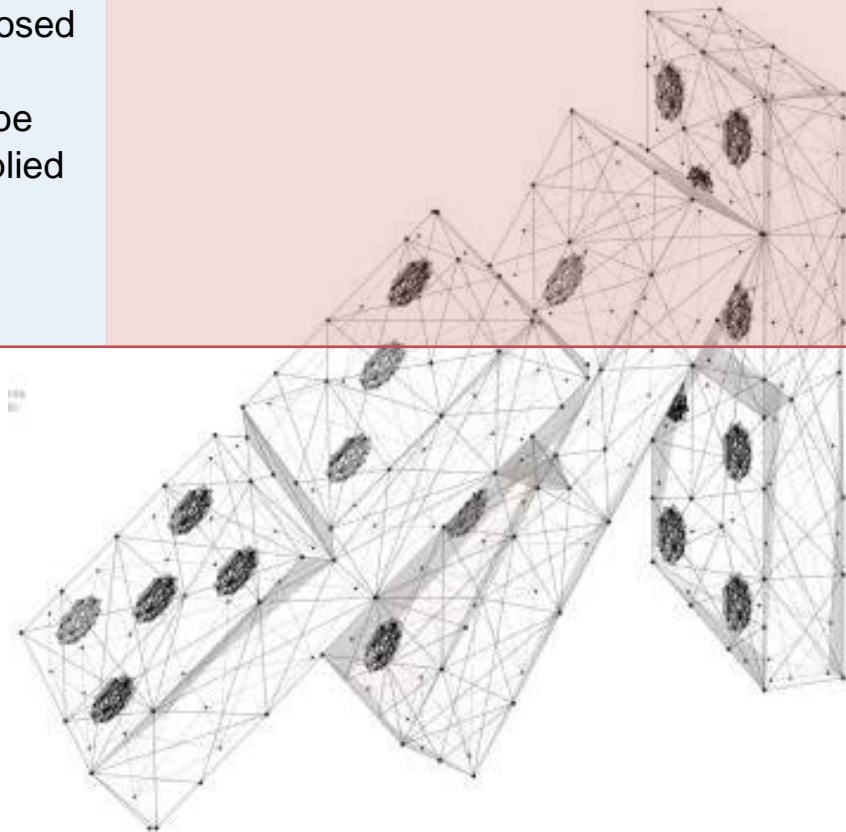
## Proposed Kazakhstan wording

## EU wording and explanation

Article 10.

1. The instances established by this Code imply environmental hazard of contemplated economic or other activities.
2. A person whose activities are exposed to the risk of environmental pollution or damages in any form whatsoever shall be liable for proving that such person complied with requirements of the environmental legislation.

No equivalent. May be principle of precaution



# Principle of Proximity

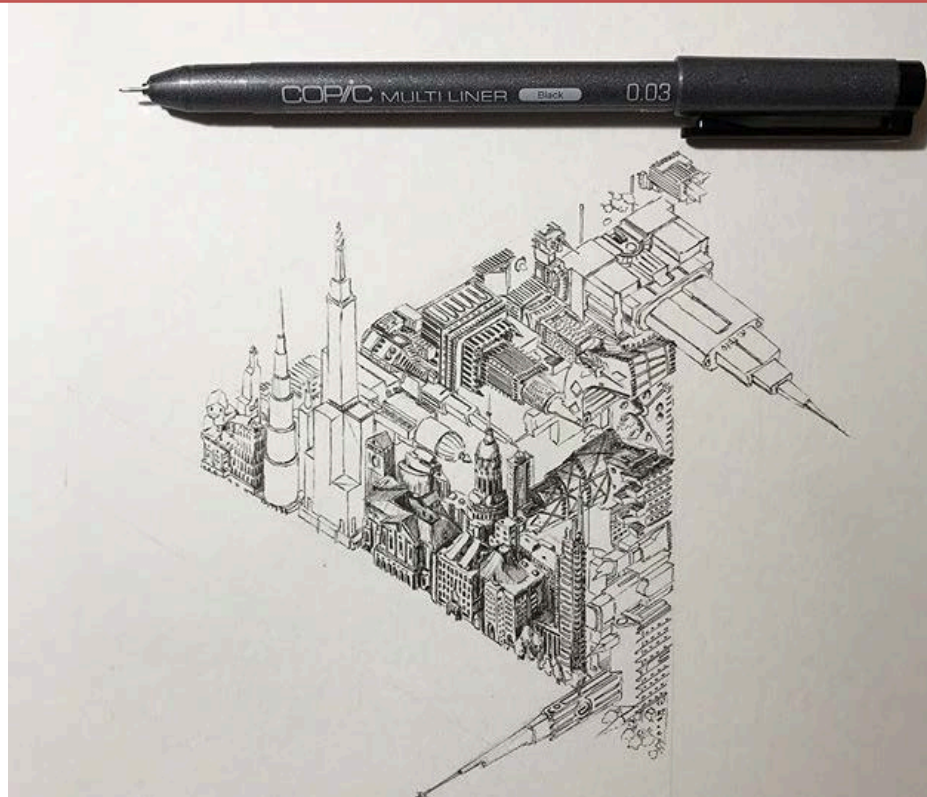
## Proposed Kazakhstan wording

Article 17.

Local public administration and self-administration authorities shall be liable for ensuring favorable environment, environmental safety and sustainable development in the territory of a respective administrative and territorial unit.

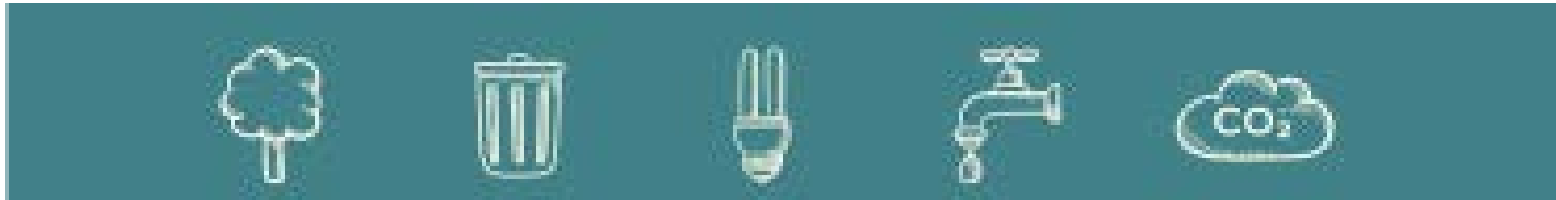
## EU wording and explanation

Principle of proximity implies that waste should generally be managed as near as possible to its place of production, mainly because transporting waste has a significant environmental impact.





# Principle of Extended Producer and Importer Responsibility



## Proposed Kazakhstan wording

Article 16.  
Business entities that, as part of their business activity, develop, produce, refine, process, import and/or introduce into commercial turnover **certain goods** shall bear **an extended responsibility** provided by this Code **including for the purpose of reducing the negative impact of such goods on the environment**

## EU wording and explanation

The OECD materials on the EPR state that “many governments have reviewed available policy options and concluded that placing the responsibility for the post-consumer phase of certain goods on producers could be an option.”

Therefore, OECD defined the EPR as a policy approach under which producers are given a significant responsibility – financial and/or physical – for the treatment or disposal of post-consumer products.



# Ecosystem Approach



## Proposed Kazakhstan wording

## EU wording and explanation

### Article 15.

1. When governmental authorities adopt resolutions within their competence, which result or may result in the occurrence of significant adverse environmental consequences in certain territories, one shall take into account the interaction among the natural ecological systems, living organisms, natural landscape, other natural, natural-anthropogenic and anthropogenic objects and the necessity to maintain natural environmental balance.

2. The priority shall be given to preservation of natural landscape, natural complexes and biological diversity, preservation and stable functioning of natural ecological systems, and exclusion of negative influence on the services provided by such ecological systems.

Based on the Convention of Biological Diversity

Defined as a strategy for the integrated management of land, water and living resources that promotes conservation and sustainable use in an equitable way.

Current description and operational guidance endorsed by the Conference of the Parties at its Fifth Meeting.





# Principle of Sustainable Development

## Proposed Kazakhstan wording

Article 11.

The nature and its resources form the wealth of the Republic of Kazakhstan and their use shall be sustainable. The state shall ensure ecological bases for the sustainable development of the Republic of Kazakhstan, including by balanced and sound management of natural resources owned by the state in the interests of the current and future generations.

When carrying out economic or other activities, one shall ensure efficient use of non-renewable sources of raw materials and energy resources and minimize waste generation. The priority shall be given to recycling, use of renewable sources of energy and introduction of waste into economic turnover as secondary resources.

## EU wording and explanation

Sustainable development is the development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.

The EU law imposes a duty upon public authorities to consider in sustainable development in decision-making or apply it to the exercise of public power.

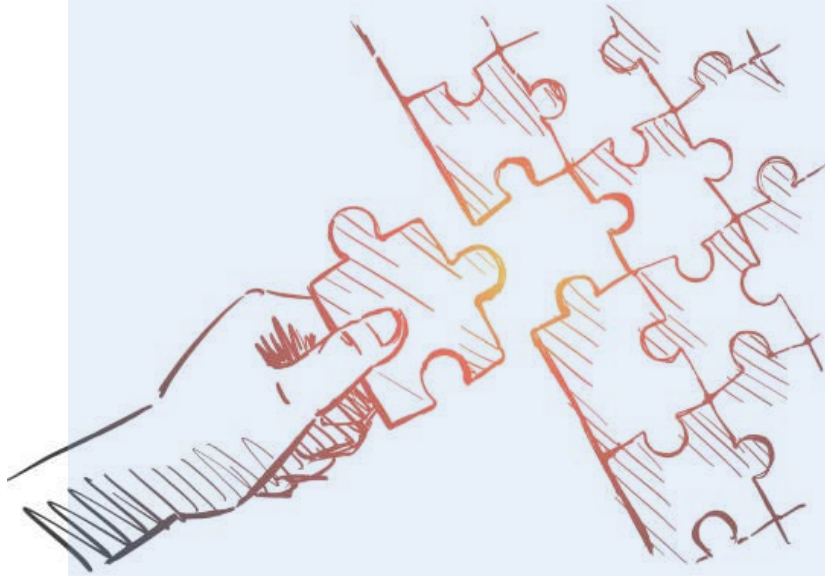


# Principle of Integration

## Proposed Kazakhstan wording

Article 12.

The national policy of the Republic of Kazakhstan in all spheres of economic and social activities is formed and implemented on the condition of keeping the balance between the social and economic development tasks and the necessity to ensure ecological bases for the sustainable development of the Republic of Kazakhstan, including high level of environmental protection and its quality improvement.



## EU wording and explanation

This principle sits alongside the others and requires that environmental protection is integrated into all other policy areas and activities, with a view to promoting sustainable development. Integration is less developed than the other principles in EU law, but nevertheless has an important conceptual role in bringing environmental issues and considerations into all areas of policy, recognizing that environmental matters do not exist in a vacuum.

Although the statement of the principles appears to be very similar, there is one important difference. The EU integration principle operates as a general principle of EU law not just as a principle of environmental policies or regulations. Therefore, it seems to us that a better approach would be to include this principle in all other laws and codes of Kazakhstan rather than limit it to the Environmental Code only.



# Thank for attention!

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