

Answers to the questions are prepared according to data submitted by Akimat of Almaty, the Ministry of Agriculture of RK, the Ministry for Investment and Development of Kazakhstan.

Questions 1.

1. Please comment on the update provided by the communicant on 5 February 2015. Is it correct that the Almaty municipality is still considering to develop a ski resort at Kok Zhailau? If so, please outline the remaining stages in the decision-making procedure to approve the project. For which of these stages is public participation required under national legislation?

Answer:

In order to implement the President's Address to the people of Kazakhstan on January 27, 2012 "Socio-economic modernization - main direction of development of Kazakhstan", to create an attractive investment climate for foreign and domestic investors, to ensure the flow of tourists in Almaty region and near Almaty city, the Akimat of Almaty city has considered the question of creation the year-round ski resort on mountain massif "Kok Zhailau" in Trans-Ili Alatau mountains.

Construction of ski resort Kokzhaylau will be implemented in accordance with the following regulations of the Republic of Kazakhstan:

1) Resolution of the Government of the Republic of Kazakhstan on December 29, 2012 № 1761 "On approval of the Plan for Development of world-class ski resorts in Almaty region and near Almaty city";

2) Plan for development of Almaty for 2011-2015, approved by the decision of Almaty Maslikhat № 93 on 02.18.2013;

3) Government Resolution № 508 on 19.05.2014 "On Approval of the Concept of development of the tourism industry in the Republic of Kazakhstan till 2020".

The main objective of the project of construction of ski resort Kokzhaylau is creation of an international ski resort in the suburbs of Almaty with all the accompanying infrastructure.

It is worth noting that the proposed project is fully consistent with the state's policy to diversify the economy, to reduce dependence on production of raw materials and to increase contribution to the overall economy from ancillary activities and services. On the base of the ski tourism, tourist industry in Kazakhstan can become one of the leading sectors of the economy and bring substantial benefits, such as job creation and private investment. Providing the necessary accompanying services and infrastructure leads to increase in income in various sectors of the economy.

Almaty City Administration at realization of the project of construction of the resort is taking all possible measures to minimize the impact on the environment. At the stage of feasibility study of the project several sites have been investigated (Butakovka, Turgen, Kok Zhaylau, Big Almaty Lake, Tuyuksu and so on). The Kok Zhaylau place has been considered as the most appropriate place for

the location of the mountain resort under the terms of capacity, proximity to communications, logistics.

The area of the proposed project is 1002 hectares, or only 0.5% of the total territory of Ile-Alatau State National Park (199 673.5 ha). In this connection, full negative impact on the Ile-Alatau National Park (hereinafter - the natural park) is completely excluded.

Besides that, currently this site in accordance with requirements of applicable legislation of the Republic of Kazakhstan and in compliance with all mandatory procedures, including state expertises and a special resolution of the Government of the Republic of Kazakhstan, is transferred from the natural park to category of reserve lands.

Also according to the scheme of functional zoning of the natural park, the project area is located in an area of limited economic activity, where economic activity is possible, including capital construction and operation of tourist - recreational and industrial facilities. Since the ski resorts around the world are objects of tourist infrastructure, their construction are allowed on the territory of national parks.

The project of ski resort involves both compensatory and remedial environmental measures and constant monitoring of the state of biodiversity.

Designers considered all rational proposals made in the course of the three public hearings on the conservation of the ecosystem adjacent to the territory of Ile-Alatau National Park, as well as increasing the effectiveness of measures while using it.

In addition, the project received a positive opinion of the state environmental review and state expertise of design and estimate documentation.

2. Do you agree with the chronology provided by the communicant on 11 January 2015 (available at www.unece.org/env/pp/compliance/compliancecommittee/88tablekaz.html)? Please list any corrections that you consider should be made to the communicant's chronology

Regarding the chronology of the decisions taken, public participation and complaints about decisions regarding the project to build a ski resort "Kok Zhaylau" (ACCC / C / 2013/88).

Answer:

Additions to the chronology of the decisions taken are presented in Annex 2.

3. Please outline the current procedure and/or practice for the preparation and adoption of plans, programmes and policies relating to the environment. According to national legislation, what is the legal status of plans, programs and policies once adopted?

Answer:

In accordance with Article 47 of the Environmental Code of Kazakhstan pre-preliminary project and project documentation of the planned activities that impact on the environment shall be subject to mandatory state environmental expertise. If

the documents of State planning system provides for measures that could have an impact on the environment, the implementation of such measures is not possible without the state environmental expertise.

4. Is public participation in the preparation of plans, programmes and policies relating to the environment required by law? If so, please provide the Committee with the relevant provisions of national legislation.

Answer:

In accordance with paragraph 3 of Art. 57 of the Environmental Code of the Republic of Kazakhstan public hearings shall be held on the projects, which implementation may directly affect the environment and health of citizens.

Action plans on environmental protection, designed to obtain permits for emissions into the environment for objects of I and II categories, shall be submitted to a public hearings".

In accordance with the Law "On normative legal acts of the Republic of Kazakhstan" draft normative legal acts concerning the rights, freedoms and responsibilities of citizens, shall be placed on internet resources of authorized public authorities.

5. The Committee understands that according to changes to the Environmental Code of Kazakhstan effective from 3 July 2013, the provision in article 47 envisaging state environmental expertise for programmes was deleted. According to the current legal framework are plans, programmes and policies relating to the environment subject to state environmental expertise?

Answer:

In accordance with Article 47 of the Environmental Code of Kazakhstan pre-preliminary project and project documentation of the planned activities that impact on the environment shall be subject to mandatory state environmental expertise. If the documents of State planning system provides for measures that could have an impact on the environment, the implementation of such measures is not possible without the state environmental expertise.

6. Please provide the relevant excerpts of national legislation and/or administrative procedure applicable to the selection of the location of the Kok-Zhailau ski-resort? Which authority took the decision approving the location and what legal document records that decision?

Answer:

According to paragraph 2 of Article 23 of the Law of the Republic of Kazakhstan dated July 7, 2006 № 175 "On Specially Protected Natural Areas", transfer of lands of specially protected areas is not permitted, except transfer to reserve land for the construction and operation of tourism facilities provided by the system of state planning documents the Republic of Kazakhstan. The documents of State planning system in accordance with paragraph 4 of the Decree of the President of the Republic of Kazakhstan dated June 18, 2009 № 827 "On the system of state planning in the Republic of Kazakhstan" are:

1) Strategy of development of Kazakhstan till 2050;

- 2) Strategic Plan for Development of Kazakhstan for 10 years, Predicted scheme of spatial development of the country;
- 3) The National Security Strategy of the Republic of Kazakhstan;
- 4) The forecast of socio-economic development for 5 years;
- 5) State programs for 5-10 years;
- 6) Sectoral programs;
- 7) Strategic plans of state bodies of 5 years;
- 8) Development program of areas for 5 years;
- 9) Development strategies of national managing holdings, national holdings and national companies with state participation in the authorized capital (hereinafter - national companies) for 10 years.

In accordance with Article 6-1 of the Law of the Republic of Kazakhstan on July 7, 2006 "On specially protected natural areas" in the field of governance of protected areas is carried out by:

- 1) President of the Republic of Kazakhstan;
- 2) The Government of the Republic of Kazakhstan;
- 3) competent authority, including the authority with territorial divisions;
- 4) central executive bodies in charge of protected areas;
- 5) representative and executive bodies of regions, cities and the capital within their competence defined by this Law, other laws of the Republic of Kazakhstan and regulations of the Republic of Kazakhstan.

Construction of ski resort "Kok Zhaylau" is included in the "Plan of development of world-class ski resorts in the Almaty region and near Almaty city" approved by Government Resolution on 29.12.2012, № 1761.

Besides that according to the Concept of development of the tourism industry of the Republic of Kazakhstan till 2020 approved by the Government of Kazakhstan on February 28, 2013 № 192 the ski resort "Kok Zhaylau" is included in the tourist cluster of Almaty.

According to paragraph 4 of "Rules of the transfer of lands of specially protected natural areas in the reserve lands" approved by the Government of the Republic of Kazakhstan on February 17, 2009 № 172 and Order of the Committee for Forestry and Hunting (hereinafter - the Committee) on 28.08.2013 № 244 "On creation of Commission for consideration of the lack of other options for the possible deployment of the ski resort "Kok Zhaylau" the Commission was set up with the participation of interested state bodies (Almaty regional territorial inspection of forestry and hunting, Ile-Alatau State National Park, the Committee of the tourism industry of the Ministry of Industry and New Technologies of the Republic Kazakhstan, the Department of Ecology in Almaty, Almaty City Department of Tourism, Department of land relations of Almaty) for the consideration of the possible deployment of the ski resort "Kok Zhaylau" on the lands of other categories.

As a result of consideration of the lack of other options for the possible deployment of the ski resort "Kok Zhaylau" commission made the conclusion on the absence of the alternate site.

In January 2014, the Ile-Alatau SNNP has conducted a tender for long-term use of areas of the national park by the result of which the Committee of Forestry and Fauna (hereinafter - the Committee) has issued permission for SD "Department of tourism of Almaty" to use 4 sections with a total area 1002 ha for tourist activity and the development of design estimates.

In April 2014 the Committee approved the draft of the feasibility study of transfer of land of specially protected natural territories of the Ile-Alatau State National Park in reserve lands for the construction of the ski resort "Kok Zhaylau" (FS).

The project feasibility study to transfer lands of Ile-Alatau SNNP in reserve lands has received a positive conclusion of the state environmental expertise.

Resolution of the Government of the Republic of Kazakhstan "On the transfer of certain plots of land of specially protected natural areas in the reserve lands of Almaty city for the construction and operation of tourism" on 02.12.2014, № 1267 was accepted.

According to paragraph 4 of Article 20 of the Environmental Code of the Republic of Kazakhstan, local executive bodies in the field of environmental protection of oblasts, cities of republican value and the capital organize a public hearing at conducting the state environmental expertise.

The project feasibility study to transfer land Ile-Alatau SSPE in reserve lands has received a positive opinion of the state environmental review.

December 2, 2014 № 1267 was accepted by the Government of the Republic of Kazakhstan "On the transfer of certain plots of land of specially protected natural areas in the reserve lands of the city of Almaty for the construction and operation of tourism."

According to paragraph 4 of Article 20 of the Environmental Code of the Republic of Kazakhstan from January 9, 2007 the local executive bodies of oblasts, cities of republican value, the capital in the field of environmental sredyorganizuyut public hearings during State ecological expertise.

The choice of the location of the ski resort is governed by Art. 23 of the Law of the Republic of Kazakhstan "On Specially Protected Natural Areas" and Resolution of the Government of the Republic of Kazakhstan February 17, 2009 № 172 "On Approval of Rules of transfer of lands of specially protected natural areas in the reserve lands" (hereinafter - the Rules).

The Rules of procedure for the transfer of land is painted specially protected natural areas in the reserve lands:

2. The procedure for the transfer of lands of specially protected natural areas in the reserve lands:

1. The location of the object of tourism in certain specially protected natural area to be included in the document, the system of state planning, water management structures, the object of the State border in the specially protected areas in terms of the lack of other options (seats) to their deployment are agreed with the authorized body in the field of protected natural areas (hereinafter - the authorized body).

2. The authorized body forms the Commission (hereinafter - Commission) to consider the absence of other options (seats) possible the object of tourism, water management structures, the object of the State Border, the construction and operation of which requires the transfer of lands of specially protected natural areas in the reserve lands.

The commission includes representatives of the competent authorities in the field of tourism (when considering the object of tourism), the territorial inspection of forestry and hunting, pooling inspections on regulation of water resources (when considering the placement of water facilities), the Border Service of the National Security Committee of the Republic of Kazakhstan (with consideration of the objects State Border), public authorities, in charge of specially protected natural territories and other bodies that are initiating the transfer of land (hereinafter - the organ concerned), which examines the nature in the requested land.

3. The basis for approval of the location of tourism, water management structures and the object of the State border in the specially protected natural area is a positive conclusion of the Commission, issued in view of the functional zoning and master plan for the development of infrastructure of the Protected area approved by the competent authority".

7. Was the Public Environmental Council involved in the process of decision-making with regard to the Kok-Zhailau project? If so, please describe the way(s) it has been involved and the outcome(s) of its participation.

Answer:

No.

8. With regard to public hearings held on 11 January 2013 (preliminary assessment of EIA and feasibility study); 25 February 2014 (changing land category from protected area to reserved land); and 5 May 2014 (EIA of the construction of the ski resort Kok Zhailau), please provide, for each hearing, the list of:

- a) **the documents requested by the public;**
- b) **the documents provided to the public;**
- c) **the documents requested by the public but that were not provided.**

For each document, please briefly explain the reason it was not provided to the public.

Answer:

Public hearing January 11, 2013:

a) on the Internet resources of the Office of Tourism of the city of Almaty have been posted:

- project "Preliminary environmental impact assessment of construction of ski resort" Kokzhaylau "(Volume 1 and Volume 2);
- summary Feasibility Study "local budgetary investment project" Ski resort "Kok Zhaylau";

- Minutes of the public hearings on the preliminary environmental impact assessment for the feasibility study "local budgetary investment project" Ski resort "Kok Zhaylau."

b) the project "Preliminary environmental impact assessment of construction of ski resort" Kokzhaylau."

c) is not granted a feasibility study "local budgetary investment project" Ski resort "Kok Zhaylau" on the grounds that the Aarhus Convention and the legislation of the Republic of Kazakhstan regarding placement feasibility projects are missing, while the feasibility study summary "local budgetary investment project" Ski resort "Kok Zhaylau" 30 pages posted on the Internet resource of the Department of Tourism of the city of Almaty: [www. almatytourism.kz](http://www.almatytourism.kz).

Public hearings February 25, 2014

a) The project "Feasibility transfer of lands of specially protected natural territories of the Ile-Alatau State National Park in reserve lands for the construction of the ski resort" Kok Zhaylau "

Minutes of the public hearings on the project "Feasibility transfer of land of specially protected natural territories of the Ile-Alatau State National Park in reserve lands for the construction of the ski resort" Kok Zhaylau "

b) The project "Feasibility transfer of land of specially protected natural territories of the Ile-Alatau State National Park in reserve lands for the construction of the ski resort" Kok-Zhaylau»

Minutes of the public hearings on the project "Feasibility transfer of land of specially protected natural territories of the Ile-Alatau State National Park in reserve lands for the construction of the ski resort" Kok-Zhaylau "

c) At the request of the public provided all the materials.

Public hearings May 5, 2014

a) The project "Assessment of the environmental impact of ski resort" Kok-Zhaylau "in two books;

Minutes of the public hearings on the draft environmental impact assessment ski resort "Kok-Zhaylau."

b) The project "Assessment of the environmental impact of ski resort" Kok-Zhaylau "in two books;

Minutes of the public hearings on the draft environmental impact assessment ski resort "Kok-Zhaylau."

c) At the request of the public provided all the materials.

9. Where were each of the hearings (11 January 2013, 25 February 2014 and 5 May 2014) conducted? How many kilometres from central Almaty are each of these locations? What was the reason each location was chosen for the hearing?

Answer:

Public hearing January 11, 2013 was carried out:

- a) Building Kazhydromet, Abay Avenue, corner of Seifullin St.
- b) Center of Almaty
- c) The reason for choosing the place - the center of the city.

Public hearing 25 February, 2014 was conducted:

- a) The ski resort "Shymbulak"
- b) on the area Astany in Almaty -20 km
- c) The reason for choosing the place - to provide opportunities for the public to visit the ski resort.

For this purpose it was organized free shuttle bus to the gondola station, Medeo, and then rises free public gondola to Shymbulak.

Public hearing May 5, 2014 was carried out:

- a) Building the International ski jump complex, located on the avenue Al-Farabi.
- b) On the area Astany in Almaty - 6 km
- c) The reason for choosing the place - not far from the city center, reachable by public transport.

10. For each of the hearings held on 11 January 2013, 25 February 2014 and 5 May 2014, were any participants' comments not registered, and if so, approximately how many and for what reasons?

For each of these three hearings, please explain how the views expressed by the public at the hearing have been taken into account in the subsequent decision-making on the project?

Answer:

- a) Public hearing January 11, 2013

At the end of the period for acceptance of comments and suggestions on the Protocol and its oformiliv accordance with Annex to the Regulation of the public hearings. Conclusion of the Protocol is. In addition, the Protocol has been done Appendix - Summary of questions, comments and comments on the results of the public hearing, posted on the Internet resources.

- b) Public Hearing February 25, 2014

At the end of the period for acceptance of comments and suggestions on the Protocol, it issued in accordance with Annex to the Regulation of the public hearings. Conclusion of the Protocol is. In addition, the Protocol has been done Appendix - Summary of questions, comments and comments on the results of the public hearing, posted on the Internet resources.

- c) Public hearings May 5, 2014

At the end of the period for acceptance of comments and suggestions on the Protocol, it issued in accordance with Annex to the Regulation of the public hearings. Conclusion of the Protocol is. In addition, the Protocol has been done Appendix - Summary of questions, comments and comments on the results of

public hearings hosted in the media, on the Internet resources. This table also was posted on the Internet resources.

11. Please provide any feedback you wish to make on the replies submitted by the communicant.

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Question 2.

1. What are the remaining stages in the decision-making procedure to approve the project? For which of these stages would public participation be required under national legislation?

Answer:

Environmental Code of the Republic of Kazakhstan provides for public participation:

1) at the stage of discussion of the draft environmental impact assessment in accordance with the rules for public hearings, approved by order of the Minister of Environment of the Republic of Kazakhstan № 135-p of May 7, 2007. The project Kok Zhailau held three public hearings: January 11, 2013, February 25, 2014 and May 5, 2014.

2) during the state ecological expertise. Interested parties may submit their written comments and suggestions to the authorized body regarding the project EIA.

The authorized body, within 15 calendar days shall review the application and gives the answer. In case you need further study, the term of consideration can be extended for not more than thirty calendar days from the notification to the applicant within three calendar days. (Right of access to environmental information relating to the procedure for environmental impact assessment and decision-making on planned economic and other activities approved by the Minister of Environment of the Republic of Kazakhstan № 238 of 25 July, 2007)

The legislation of the Republic of Kazakhstan on construction doesn't provide for public participation.

2. Which was at the hearing which you allege was held in a ski resort, far from Almaty? Please describe any organizational or practical measures (public transportation etc.) taken to ensure proper public participation at that hearing. What reason was given for holding the hearing outside of the city?

Answer:

1) were organized free shuttle buses from two points (from the Central stadium and the hotel Kazakhstan) to the gondola station Medeo and then rises free public gondola to Shymbulak.

2) registered everyone who came to the public hearings.

3) At the hearing an opportunity for speeches S. Kuratov, M. Yeleussizov etc. of the public.

3. With regard to the public hearings held January 11, 2013 (preliminary assessment of EIA and feasibility study); 25 February 2014 (changing land category from protected area to reserved land); and 5 May 2014 (EIA of the construction of the ski resort Kok Zhaylau) please provide, for each hearing, the list of:

- a) documents requested from public authorities;**
- b) documents provided to the public;**
- c) documents requested by the public but that were not provided, if reasons were given for not providing any documents, what reasons were given?**

Answer:

Public hearings held January 11, 2013:

1) by Internet resource of Department of Tourism of the city of Almaty have been posted:

project "Preliminary environmental impact assessment of construction of ski resort "Kokzhaylau" (Vol. 1 and Vol. 2);

summary Feasibility Study "Local budgetary investment project" Ski resort "Kok Zhaylau";

Minutes of the public hearings on the preliminary environmental impact assessment for the feasibility study "Local budgetary investment project" Ski resort "Kok Zhaylau."

2) the project "Preliminary environmental impact assessment of construction of ski resort" Kokzhaylau. "

3) provided the feasibility study "Local budgetary investment project" Ski resort "Kok Zhaylau" on the grounds that the Aarhus Convention and the requirements of the legislation of the Republic of Kazakhstan on placement of feasibility studies of projects are missing, while the feasibility study summary "Local budget investment projects "Ski resort "Kok Zhaylau" 30 pages posted on the Internet resource of the Department of Tourism of the city of Almaty: [www. almatytourism.kz](http://www.almatytourism.kz).

Public hearings February 25, 2014

1) The project "Feasibility transfer of land of specially protected natural territories of the Ile-Alatau State National Park in reserve lands for the construction of the ski resort" Kok Zhaylau "

Minutes of the public hearings on the project "Feasibility transfer of land of specially protected natural territories of the Ile-Alatau State National Park in reserve lands for the construction of the ski resort "Kok Zhaylau"

2) The project "Feasibility transfer of lands of specially protected natural territories of the Ile-Alatau State National Park in reserve lands for the construction of the ski resort "Kok Zhaylau"

Minutes of the public hearings on the project "Feasibility transfer of land of specially protected natural territories of the Ile-Alatau State National Park in reserve lands for the construction of the ski resort "Kok Zhaylau"

3) At the request of the public provided all the materials.

Public hearings May 5, 2014

1) The "Assessment of the environmental impact of ski resort" Kok Zhaylau "in two books;

Minutes of the public hearings on the draft environmental impact assessment ski resort "Kok Zhaylau."

2) The project "Assessment of the environmental impact of ski resort "Kok Zhaylau" in two books;

Minutes of the public hearings on the draft environmental impact assessment ski resort "Kok Zhaylau."

3) At the request of the public provided all the materials.

4. For each of the hearings held on 11 January 2013, 25 February 2014 and 5 May 2014, please give your view on the extent to which public opinion has been reflected in the minutes of each hearings and taken into account by the competent authorities. Were any participants' comments made at the hearing not registered and / or recorded in the minutes and if so, approximately how many and for what reasons?

Answer:

At the end of the period for acceptance of comments and suggestions on the Protocols, comments and suggestions are decorated in accordance with the annex to the Rules of the public hearings. Conclusions have in Protocols. In addition to the protocols were made Applications- Summary tables of questions, comments and comments on the results of public hearings hosted in the media on the Internet resources. This table also was posted on the Internet resources of the Office of Tourism of the city of Almaty.

Comments and suggestions to the Protocols, corresponding to the current legislation of the Republic of Kazakhstan, and was taken into account by project developers.

5. Please provide feedback you wish to make on the replies submitted by the Party concerned.

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