

April 1, 2015

Dear members of the Committee,

Below please find answers to the questions that you sent us on March 6, 2015. However, we believe that the questions are not connected with the content of our statement C88, which focuses only at Article 7 of the Aarhus Convention, that we confirmed at the meeting of the Committee on December 18, 2014.

### **Answers to questions for the communicant**

*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?*

Presently, the mountain ski resort project, Kok Zhailau, has passed all stages of agreement and is ready to be realized. The start of construction is dependent on the distribution of resources from the state budget. The agreement of all stages of the project required that public hearings be conducted, in agreement with sub point 14, point 1, article 41 of the Environmental Code of the Republic of Kazakhstan. However, at the earliest stage, when the construction plans for the resort were developed, the public was not informed. The public was not included in the discussions for the Plan to Develop World-Class Ski Resorts in Almaty Region and around Almaty, which was confirmed by the statement of the government of Kazakhstan, No. 1761 from December 29, 2012. The choice of the location for construction of the ski resort Kok Zhailau was also not discussed with the public. This is a violation of Article 7 of the Aarhus Convention.

*2. Which was 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?*

A public hearing on the project “Technical-economic basis for the transfer of land from the specially protected territory Ili-Alatau State National Park and Land for the ski resort Kok Zhailau” was held on February 25, 2015 at the ski resort Shymbulak. The Shymbulak resort is located 25 kilometers from the city of Almaty. The only way to travel to the place where the hearing was held is by bus, which goes once an hour to the stop, Medeo. From Medeo to Shymbulak one could travel by taxi or by cable car, which was free this day according to the akimat. The akimat promised to organize free buses from the city to Medeo, but they were late. Not everyone who wanted to discuss the project was able to travel far from the city on the 25<sup>th</sup> of February, which was a work day and during working hours.

Prior to February 25<sup>th</sup>, city residents sent dozens of letters to the Department of Tourism of the city of Almaty with a request to move the time of the public hearing to a later date in order to have more time to acquaint themselves with the documentation, to hold the hearing on a weekend, and in the center of the city. This would have enabled all residents of Almaty who wanted to participate in the discussion of the project to do so. However, the representatives of the Department ignored these appeals. The Akimat did not provide any kind of explanation as to why the public hearing was held at Shymbulak.

*3. 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 05 May 2014 (EIA of the construction of the ski resort Kok Zhailau) please provide, for each hearing, the list of:*

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

January 11, 2013:

- a. Requested the full technical-economic basis for the project Kok Zhailau and the documentation for the preliminary evaluation of the environmental impact;
- b. Received the resume of the technical-economic basis for the project Kok Zhailau and the documentation of the preliminary evaluation of the environmental impact
- c. The full text of the technical-economic basis was not presented. Clear explanations as to why this information was not provided were not provided to the public.

February 25, 2014

- a. Requested the technical-economic basis for the transfer of land from the national park to project land and the environmental impact assessment.
- b. Received the technical-economic basis for the transfer of land from the national park and the environmental impact assessment.

May 5, 2014

- a. Requested documentation on the environmental impact assessment, the technical-economic basis for the project Kok Zhailau, and documents on the delineation of the land.
- b. Received documentation on the environmental impact assessment.
- c. The technical-economic basis for the Kok Zhailau project was not received and the documents on the delineation of land were not provided. A clear explanation of why the information was not provided was not given to the public.

The public was provided with access to the basic documents related to the current status of the environment and the environmental impact assessment prior to all three hearings. However, the time given to study them was very small. Additionally, they were only provided after numerous appeals from the public. The public received access to them only because the Ecological Society Green Salvation placed the materials on their site.

Despite numerous requests, the Department of Tourism for Almaty did not provide access to the full version of the technical-economic basis for the project and documents on the delineation of land for construction. Even an appeal to the court did not help the public get access to these documents.

*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 not recorded in the minutes and if so, approximately how many and for what reasons?*

It is important to consider that each of the public hearings was organized with violations of the Rules for conducting public hearings and the position of the Aarhus Convention, that not everyone who wanted to was able to participate in the hearings, and that not all participants in the hearings were registered. Not everyone was able to speak and ask questions to those in charge of the project and to the representatives of the city authorities. The public did not receive

answers to all of their questions. The discussion of such a massive project, which is of interest to an enormous number of residents of Almaty, often goes on for 2-3 hours. The hearing protocol did not include all the presentations and documents, which the representatives of the public provided.

In fact, the public hearings are only a formality. Article 41 of the Environmental Code of the Republic of Kazakhstan demands that, among the documents provided to the body conducting the state environmental impact assessment, be the protocols of the public hearings. However, there is no legal mechanism to consider public opinion in the country at the present time. Therefore, public opinion may or may not be considered by those developing the documentation or by the competent bodies. With regard to the public hearings mentioned above, there is no documentation that public opinion, which is in the protocols, has come to the attention of the competent bodies.

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

Not yet.

Sincerely yours,

Sergey Solyanik, on behalf of the communicants of C88  
Almaty, Kazakhstan