

To the Aarhus Convention Compliance Committee.  
From Mrs. Gatina L., Mr. Gatin A., Mrs. Konyushkova  
residing at the following address:  
Bokeykhanov street, city of Almaty, Republic of Kazakhstan.

Statement No.ACCC/C/2004/06

Decision III/6c "Compliance by Kazakhstan with its obligations under the Convention" states: "5. (b) Despite the aforementioned efforts, the Government of Kazakhstan **has not yet achieved compliance with article 9, paragraph 4, in conjunction with article 9, paragraph 3, of the Convention, in particular with respect to practical possibilities to appeal against a failure to act by public authorities**".

The government of Kazakhstan was invited to provide the Forth Meeting of the Parties with a report "on the measures taken in connection with bringing about full compliance with article 9 of the Convention and ensuring **effective implementation of article 6**, including, as appropriate, any further developments in the legislative framework and detailed procedures, and in particular, **their practical application in connection with providing the public with various effective means of participation in decision-making, ensuring that due account is taken of the public comments and also that activities subject to article 6 of the Convention are not carried out prior to the completion of the corresponding permitting processes in which the required level of public participation has been provided for**".

To the present moment (beginning of 2013), conditions for public participation in decision-making process and for appealing the state authorities' failures to act have not improved.

In 2012, the enterprise, which activity was a reason for us to address the Aarhus Convention Compliance Committee, received a permit to unload and pre-pack cement. Volume of the works and the plant capacity significantly increased again. The proposed activity was agreed with all state organs.

Discussion of the proposed activity with the public was conducted with violations of the provisions of the Aarhus Convention. Among the invitees to the public hearings on the project were employees of the enterprise itself, residents of other districts and even other cities of Kazakhstan. All residents living in the proximity of the enterprise expressed against functioning of the enterprise, but their opinion was ignored.

The residents wrote dozens of appeals and claims on the actions of the state authorities to various state organs: the district Akimat [local government], Akimat of the city of Almaty, the Prosecutor's Office, the Ministry of Environmental the Protection, the Ministry of Health. Our appeals and claims did not lead to any positive results; the ecological situation has not changed.

The public hearings procedure adopted by the Ministry of Environmental Protection of the Republic of Kazakhstan contradicts the provisions of the Aarhus Convention. In this regard, the residents addressed a court with a lawsuit about cancellation of the Rules of conducting of public hearings as being inconsistent with the provisions of the Aarhus Convention. The first appeal submitted to a court in 2011 was not accepted for consideration without any objective reasons. The second appeal was submitted on April 9, 2012. The case still remains open. Judges interpret provisions of the Aarhus Convention at their own will, for example, according to their statements, provisions of the Aarhus Convention are only advisory in nature in the Republic of Kazakhstan, and the procedure of conducting of public hearings is not obligatory.

The Constitution of the Republic of Kazakhstan and the Aarhus Convention state the opposite, therefore, the residents intend to submit another appeal to the Aarhus Convention Compliance Committee.

In 2011, the environmental situation in the area where our families live worsened dramatically, as a result of expansion of one of the main roads of the city – Bokeykhanov street. The residents were not notified about the planned road expansion, and in violation of the Aarhus Convention, the public hearings

did not take place. Public authorities did not provide reliable information on the condition of the environment. Numerous appeals received a reply that the road expansion had been made in the interests of residents of other districts of the city. More than 250 people expressed their indignation about the environmental situation in the area of their residence.

In this regards, on June 26, 2012, the residents addressed a court with a lawsuit about omission of the akim [mayor] of the city of Almaty which lead to discrimination of the residents living on Bokeykhanov street in the city of Almaty. The case is still being reviewed, and the review process is accompanied with gross violations of the procedural norms.

We are ready to provide the Committee with all documents supporting the information stated above.

Signatures:

Date: June 7, 2013

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