

## Summary of Lawsuits of the Ecological Society Green Salvation in 2012

### № 1

Lawsuit about acknowledgment of a legal act – “Rules of conducting of public hearings” – to be contradictory to the laws of the Republic of Kazakhstan and the international agreement – Aarhus Convention.

The lawsuit in the interests of an undetermined group of people is filed on February 2, 2011, to the Specialized Interregional Economic Court of the Astana City.

The lawsuit demands:

1. To acknowledge the “Rules of conducting of public hearings” adopted on May 7, 2007, by an order of the Minister of Environmental Protection of the Republic of Kazakhstan No.135-p, to be contradictory to the requirements of the Aarhus Convention, Environmental Code, and the Law “About Normative Legal Acts”, i.e. to be invalid in the full volume.
2. To require the Ministry of Justice of the Republic of Kazakhstan to cancel the registration of the “Rules of Conducting of Public Hearings”.

On February 11, the SIEC made a decision to leave the lawsuit without a movement, because supposedly, it had been filed incorrectly. The deadline for correction of the mistakes was set as February 21. But the notification was sent by the court only on February 17, and was received by the Ecological Society on February 21.

Despite of this fact, on February 22, the SIEC made a determination to return the lawsuit to the claimants.

On March 9, based on an appeal of the Ecological Society, the Astana City Court re-set the deadline for appealing of the SIEC’s decision about returning of the lawsuit.

On April 2, the case was filed again to the SIEC of Astana, in order to speed up the process of its consideration.

On April 29, the SIEC returned the lawsuit again explaining that the paperwork had been, supposedly, filed incorrectly.

On August 15, the lawsuit is filed to the SIEC of Astana for the third time.

**On September 12, the SIEC made a determination about returning of the lawsuit because the paperwork had been, supposedly, filed incorrectly.**

On September 26, a private claim on the determination of the SIEC is filed to the court of the city of Astana.

On November 23, the court of the city of Astana refused to satisfy the private claim.

On December 14, a petition is sent to the Supreme Court.

On December 26, the Supreme Court left the petition without a review.

On January 18, 2012, another petition is sent to the Supreme Court.

**On January 21, the Supreme Court notified the Ecological Society Green Salvation in written that left the petition without consideration because did not find the determinations of the courts of the first and appeal instances to interfere with the further progress of the case.**

The case is lost.

### № 2

**Lawsuit about inaction of the organs of public administration,  
which caused formation of an illegal dump site in Panfilov village, Talgar District, Almaty  
Oblast.**

The lawsuit in the interests of the residents of Panfilov village is filed on September 16, 2011, to the Court of the city of Talgar.

Lawsuit demands:

1. To acknowledge the failure of the defendants – Akimat of the village and other authorized state organs – to fulfill their direct responsibilities in providing environmental and sanitary and epidemiological well-being of the residents of Panfilov village to be illegal, i.e. inaction.

2. To require the defendants to take immediate actions, in order to liquidate the dump site, demolish the abandoned buildings, and bring the land sites into a proper condition, in accordance with the legislation.

On September 21, the court made a statement to leave the case without a motion.

On September 29, a reply to the statement and a letter to the chairman of the court were filed.

On October 25, the court made a determination to leave the case without a motion.

On November 2, a reply to the determination of the court is filed.

On November 7, the court made a decision to return the case.

On December 21, a private complaint is filed to the Almaty Oblast Court.

**On February 1, 2012, the court made a determination about leaving the complaint without satisfaction because the Ecological Society Green Salvation, supposedly, did not present a document confirming its right to protect interests of the citizens in court.**

The case is lost.

### № 3

#### **Lawsuit about inaction of the Akim of the city of Almaty,**

#### **which caused discrimination of citizens residing on Bokeykhanov street, Almaty.**

The lawsuit in the interests of the residents of Almaty is filed to the Court of Bostandyk District of the city of Almaty on November 23, 2011.

Lawsuit demands:

1. To acknowledge the failure of the Akim of Almaty to carry out his professional responsibilities, and also his failure to comply with the national and international agreements, which has led to discrimination by a place of residence of the citizens living on Bokeykhanov street, city of Almaty, to be inaction.

2. To acknowledge the lack of control allowed by the Akim of the city of Almaty over the authorized organs who violated the national legislation which prohibits people from living in sanitary and protection zones of enterprises, in particular, the residents of Bokaykhanov street, Almaty, to be illegal inaction.

3. Following the paragraph 1 of the Article 282 of the CPC, to require Akim of the city of Almaty to liquidate the violations of the legislation in respect of the residents of Bokeykhanov street by their resettlement from the sanitary and protection zone and providing them with adequate dwelling, in accordance with the current legislation.

On November 25, the court made a determination about leaving the case without any further consideration, because supposedly, it had been filed incorrectly.

On December 9, the court made a determination about returning the case.

On December 28, a private complaint on determination of the Bostandyk District Court is submitted to the Almaty City Court.

**On January 27, 2012, the Bostandyk District Court made a decision about returning of the private complaint, because the deadline for appealing, supposedly, had past.**

The case is lost.

### № 4

#### **Lawsuit about acknowledging of a normative legal act – “Rules of Conducting of Public Hearings” – to be contradictory to the laws of the Republic of Kazakhstan and international agreement – Aarhus Convention.**

The lawsuit is filed on April 9, 2012, in the interests of residents of Bokeykhanov street, city of Almaty, to the Essil District Court of Astana City.

Lawsuit demands: 1. To acknowledge the “Rules of Conducting of Public Hearings”, signed on May 7, 2007, by a decree of the Minister of Environmental Protection, No.135-p, to be contradictory to the requirements of the Aarhus Convention, Environmental Code, and Law “About Normative Legal Acts”, i.e. invalid in the full extent.

2. To oblige the Ministry of Justice to cancel registration of the “Rules of conducting of public hearings”.

On April 16, the court made a determination about leaving the lawsuit without consideration, because of improper execution of the papers.

On May 29, the court started its hearings on the case.

On June 7, another court hearing took place.

On June 26, another court hearing was taking place. The court refused to satisfy the lawsuit demands.

**On July 30, an appeal was filed to the Court of the city of Astana.**

**The case remains open.**

#### **№ 5**

### **Lawsuit about failure to provide environmental information by the Department of Land Relations of Karasai district and the Department of Architecture and Urban Planning of Karasai district, Almaty oblast.**

The lawsuit in the interests of the residents of the village Irgeli is filed on **May 8, 2012**, to the Court of Karasai district, Almaty oblast.

Lawsuit demands:

1. To acknowledge actions of the Department of Land Relations and Department of Architecture and Urban Planning that did not provide the Ecological Society Green Salvation with the requested information to be inaction which violates rights and lawful interests of the juridical person.

2. To require to provide the information, specifically: site plan, schematic map and documents with indication of water protection strips and zones of Aksai river with indication of borders of the land plots located in the immediate proximity of the river in Irgeli village.

On May 15, the court made a determination about returning the case, as if the process of the pre-judicial dispute resolution were not complied.

On June 11, the society sent a request to the court about the fact that the Ecological Society Green Salvation had never received the determination about returning the lawsuit.

The case materials were returned to the claimant only on July 26 after a representative of the organization addressed the chairman of the Court of Karasai district, Almaty oblast.

**On August 2, a private complaint is submitted to the Court of Almaty oblast.**

**The case remains open.**

#### **№ 6**

### **Lawsuit about failure to provide environmental information by the Department of the Committee of the State Sanitary and Epidemiological Control of the Ministry of Health in the city of Almaty.**

The lawsuit in the interests of the residents of Bokeykhanov street is filed on **June 6, 2012**, to the Specialized Interregional Economic Court of the city of Almaty.

Demands:

1. To acknowledge the actions of the Department that did not provide the requested information to the Ecological Society Green Salvation to be inaction which violates rights and lawful interests of the juridical person.

2. To require the Department to provide the information, specifically: a copy of the project of reduction of the sanitary and protection zone (SPZ) for the enterprise "Tsentrobeton" Ltd.; a document justifying alteration of the category of sanitary threat of the enterprise; a copy of the minutes of public hearings on the project of reduction of the SPZ for the enterprises including a list of the participants.

On June 13, the court made a determination about returning of the case objecting the court's jurisdiction.

On June 25, a private complaint was filed to the Almaty City Court.

On July 17, the court returned the private complaint, as if the deadline to appeal the determination had past.

On July 30, a statement with a request to accept the complaint for consideration is filed to the chairman of the Almaty City Court.

**The case remains open.**

#### **№ 7**

### **Lawsuit about failure to act by authorities which led to formation of an illegal dumpster in Panfilov village, Talgar district, Almaty oblast.**

Lawsuit in the interests of the residents of Panfilov village is filed on **June 19, 2012**, to the Court of the city of Talgar.

#### Demands:

1. To acknowledge failure to perform their direct responsibilities, in compliance with the current legislation on providing environmental and sanitary and epidemiological welfare of Panfilov village, by the authorities, specifically: akim (mayor) of Panfilov village of Talgar district, Almaty oblast, akim of Talgar district of Almaty oblast, head of Panfilov's police department, to be illegal, i.e. inaction.

2. To require the authorities in the limits of their powers to take immediate actions to normalize the environmental and sanitary and epidemiological conditions in the village.

On June 29, the court made a determination about leaving the case without a movement, as if the papers were improperly executed.

**The case remains open.**

#### **№ 8**

### **Lawsuit about failure to act by the akim of Almaty which led to discrimination of the citizens residing on Bokeykhanov street, city of Almaty.**

Lawsuit in the interests of the residents of Bokeykhanov street is filed on June 26, 2012, to the Court of Zhetysu district, city of Almaty.

#### Demands:

1. To acknowledge the failure of the akim of Almaty to perform his administrative duties in implementation of the General Plan of the city development, and also his incompliance with the Constitution, requirements of the Environmental Code, Law “About architectural, urban planning, and civil engineering activity in the Republic of Kazakhstan”, international agreement – Aarhus Convention, International Pact about civil and political rights and other international agreements, which led to discrimination of the residents of Bokeykhanov street based on their place of residence and other circumstances, to be illegal, i.e. inaction.

2. To acknowledge the failure of the akim of Zhetysu district of the city of Almaty to perform his administrative duties during capital repairs of Bokeykhanov street which led to discrimination of the residents based on their place of residents and other circumstances, to be illegal, i.e. inaction.

3. To require the akim of the city of Almaty to eliminate the violations of the Constitution by resettling the people from the limits of a sanitary and protection zone and providing them with adequate housing, in accordance with the current legislation.

Court hearings on the case started on July 23.

**The case remains open.**

### **Execution of court decision**

A court decision dated on September 10, 2007, requiring liquidation of an illegal dump site on the territory of Ile-Alatau National Park is not implemented. Remediation works never took place on the site.

A court decision dated in June 1, 2010, about resettlement of the residents of Berezovka village, West Kazakhstan oblast, outside of the five-kilometers sanitary and protection zone is not implemented. Legal costs were not reimbursed. The residents addressed to the court themselves to receive compensation for their property.

### **Providing of information**

**In 2011**, there were 150 requests filed.

Among them:

- responses were received for 112 letters (75%), including 35 responses (23%) containing information of inadequate quality
- 38 letters were not responded (25%)

**In the first half of 2012**, there were 98 requests filed.

Among them:

- responses were received for 72 letters (73%), including 39 responses (40%) containing information of inadequate quality!
- 26 letters were not responded (27%)

In the cases, when the public authorities refused to provide information or did not respond the letters, Green Salvation had to address to a court **twice**, in order to receive the information.

### **Announcements about conducting public hearings**

Green Salvation conducted a selective monitoring of announcements in the city newspaper “Vecherny Almaty” informing the public about projects which have environmental impact. For the first half of 2012, 37 announcements were analyzed.

**None of the announcements** conform to the requirements of the Article 6, p.2 of the Aarhus Convention and the “Rules of conducting public hearings” (adopted on May 07, 2007, by a Decree of the Minister of Environmental Protection No.135-p). Please, see the attachment.

**Ecological Society Green Salvation**

Almaty, Kazakhstan

August, 13, 2012.