



UNITED NATIONS  
ECONOMIC COMMISSION FOR EUROPE

The Executive Secretary

*Under-Secretary-General*

Ref: ECE / ENV / 2015 / 69

6 March 2015

Excellency,

I have the honour to write to you at the request of the Compliance Committee to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention).

As you may be aware, at its forty-seventh meeting (Geneva, 16–19 December 2014), the Aarhus Convention Compliance Committee discussed communication ACCC/C/2013/88 concerning compliance by Kazakhstan with its obligations under the Aarhus Convention. By letter of 29 October 2014 to Mr. Uzakbai Karabalin, First Deputy Minister of Energy of Kazakhstan, from Mr. Marco Keiner, Director of the Environment Division of the United Nations Economic Commission for Europe, the Government of Kazakhstan had been invited to take part in the discussion which took place on Thursday, 18 December 2014.

However, despite that invitation and numerous subsequent reminders, including by e-mail, telephone and in person to Government representatives while attending meetings in Geneva, and notwithstanding that special arrangements had been made for the Government to participate in the discussion via audio conference if its representatives were unable to attend in person, the Government of Kazakhstan failed to participate in the discussion.

The Aarhus Convention Compliance Committee has asked me to convey to you the Committee's serious concern that, despite the repeated reminders and special arrangements, the Government of Kazakhstan chose not to participate in the discussion on the communication, which was the sole opportunity for the Committee to have heard from the communicant and the Party concerned in each other's presence. The Compliance Committee also agreed that Kazakhstan's non-attendance should be reported to the Meeting of the Parties to the Aarhus Convention at its sixth session in 2017.

His Excellency  
Mr. Erlan A. Idrissov  
Minister for Foreign Affairs of  
the Republic of Kazakhstan  
Astana



At the discussion on 18 December 2014 the Compliance Committee confirmed the admissibility of the communication. After hearing from the communicant, the Committee agreed to ask both parties to submit some additional information. The Government of Kazakhstan is therefore invited to reply to the questions annexed to the present letter as soon as possible, but by no later than **1 April 2015**.

On behalf of the United Nations Economic Commission for Europe, I would like to express the willingness of the secretariat to work with the Government of Kazakhstan in meeting its obligations under the Aarhus Convention. Please do not hesitate to contact the secretariat ([aarhus.compliance@unece.org](mailto:aarhus.compliance@unece.org)) if you require any further information.

Please accept, Excellency, the assurances of my highest consideration.

A handwritten signature in blue ink, appearing to read 'CFB', is positioned above the name of the signatory.

Christian Friis Bach

cc: Ms. Saule Tashkenbaeva, Ministry of Energy  
Ms. Olga Melnik, Ministry of Energy  
Ms. Gulsara Yeskendirova, Ministry of Energy  
Mr. Sergey Solyanik, communicant of ACCC/C/2013/88

Enclosure

## Questions for the parties

### Questions for the Party concerned

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?
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](http://www.unece.org/env/pp/compliance/compliancecommittee/88tablekaz.html))? Please list any corrections that you consider should be made to the communicant's chronology.
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?
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.
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?
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?
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.
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.
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?
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?
11. Please provide any feedback you wish to make on the replies submitted by the communicant.

### **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?
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?
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?
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?

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