

**Chronology of decisions taken, public participation and appeals of decisions relating to the project on construction of the Kok Zhailau ski resort  
(ACCC/C/2013/88)**

<b>Dates</b>	<b>Stage of decision-making and public participation</b>	<b>Decision taken</b>	<b>Chronology of public participation</b>	<b>Provision of the Aarhus Convention</b>	<b>Communicant's comment on public participation and access to justice</b>
February 2012	Preliminary selection of the construction site	The Ministry of Agriculture endorsed the request of the Almaty municipality (dated 2 February 2012) to provide the Kok Zhailau site for the construction of the ski resort	It is excluded any practical opportunity for effective public participation at early stage of the decision-making process, including the possibilities for discussion of the alternative options and the location of the site	Article 6.4	The Ministry of Agriculture manages national parks, including the Ile Alatau national nature park. The letter with the endorsement of the request to transfer the site from the national park lands for the project is cited at <a href="http://www.zakon.kz/page,1,5,4479002-akimat-almaty-razjasnil-situaciju-po.html">http://www.zakon.kz/page,1,5,4479002-akimat-almaty-razjasnil-situaciju-po.html</a> .
Second half of 2012	The Government made a strategic decision on the siting, financing and other organisational aspects of the project	The plan for the development of world-class ski resorts in Almaty oblast and near Almaty was approved by the Resolution of the Government No. 1761 of 29 December 2012	The decision was taken without public participation. The letter from the Ministry of Industry and New Technologies dated 7 March 2013 (on behalf of the Government) denied public participation under article 7 of the Convention and the possibility for discussion of alternative options	Article 7	The public could not challenge this decision because it has no standing for it under article 279 of the Code of Civil Procedure.
27 December 2012	The public participation procedure on the construction of the ski resort began		The public hearing was announced to be held on 11 January 2013	Para 2 of article 6	The announcement was published in the <i>Vecherny Almaty</i> newspaper (in Russian) and the <i>Almaty Akshamy</i> newspaper (in Kazakh)
January-April 2013	Preliminary environmental impact assessment (PredOVOS) and feasibility study	Positive conclusions of state ecological expertise on the PredOVOS report by the Municipality's Department for Natural Resources and the Regulation of Nature Use of 4 March 2013.	The public hearing on the PredOVOS report and the summary of the project feasibility study was held on 11 January 2013.	Paras 7-9 of article 6	The public hearing at this stage was limited to discussing types and scales of environmental impacts and key economic indicators of the activities planned. The discussion of the "zero option" was not possible at this stage; discussion of alternative options for the project is not required under the EIA Instruction and thus was pro forma. All

					calculations were made for the single option of the project, and the PredOVOS report comprised a very brief description of alternative options, just to formally comply with the regulatory requirements.
4 March 2014	Final legalization of the right on land plot to construct the ski resort	The Ile Alatau national park and the Almaty Tourism Department (a department of the Almaty municipality) signed the agreement on the long-term use of land plot to develop tourism and recreational activities at Kok Zhailau on 4 March 2014	The procedure of signing of the agreement on the land plot does not require public participation		The agreement was signed for 49 years and could not be challenged by representatives of the public because they have no standing for it under Article 279.1 of the Code of Civil Procedure. Green Salvation requested the text of the agreement for review, but it has not been provided.
February 2014	Preparation of the feasibility study for the changing the category of a land plot at Kok Zhailau from lands of protected areas to reserved lands	Conclusions of state ecological expertise on the feasibility study report by the Committee of Environmental Regulation and Control of Ministry of Environment and Water Resources of 2 June 2014 года	The announcement of the public hearing was published in newspapers on 28 January 2014. The hearing on the feasibility study for changing the land category from lands of protected areas to reserved lands was held on 25 February 2014.	The changing the land category from lands of protected areas to reserved lands is not subject to EIA in accordance with the EIA Instruction, and is not covered by Article 6.1 of the Convention.	At the beginning of the hearing it was stated that this feasibility study under the national law is not part of the EIA procedure and decision-making on the project on construction of the ski resort. This information is annexed to the minutes of the hearing and published at the web-site of the Almaty Tourism Department: <a href="http://almatytourism.kz/downloads/PredOVOS/Prilojenie_2_OS_TEO_Perevoda_Zemel.pdf">http://almatytourism.kz/downloads/PredOVOS/Prilojenie_2_OS_TEO_Perevoda_Zemel.pdf</a> .
April-July 2014	Environmental impact assessment (OVOS)	Conclusions of state ecological expertise by the Akimat's Department for Natural Resources and the Regulation of Nature Use of 31 July 2014	The public hearing on the OVOS report was announced on 12 April 2014 and held on 5 May 2014.	Paras 2, 7-9 of article 6	The public hearing envisioned the discussion of the more detailed EIA documentation, the possible environmental and social impacts of the project and the proposed measures to mitigate or prevent these impacts. There was no possibility for the public to

					discuss the project location at this stage and no alternative options were presented in the OVOS report.
Second six months of 2014	Changing the category of the lands provided for the construction of the ski resort	Resolution of the Government No. 1267 dated 2 December 2014	The draft resolution was not discussed with the public. The resolution was about changing the category of the lands from lands of protected areas to reserved lands in order to develop other projects at this site, in addition to the ski resort.	This is not subject to EIA in accordance with the EIA Instruction, and is not falling under the scope of article 6.1 of the Convention.	This resolution of the Government cannot be challenged by representatives of the public because they have standing for it under article 279.1 of the Code of Civil Procedure.
<b>Chronology of Green Salvation's claims and appeals and judgements on the project of construction of the Kok Zhailau ski resort</b>					
<b>Challenged decision</b>	<b>Court</b>	<b>Date of appeal</b>	<b>Judgement</b>		
The conclusions of state ecological expertise on the PredOVOS report dated 13 April 2013	Specialized Interdistrict Economic Court of Almaty, court of first instance,	7 October 2013	Claim dismissed on 25 November 2013		
	Almaty City Court, Court of appeals	12 November 2013	Appeal dismissed on 18 March 2014		
	Panel of Judges of Almaty City, Cassation instance	5 June 2014	Appeal dismissed on 15 July 2014		
	Supreme Court, Supervisory instance	30 September 2014	Appeal dismissed on 4 December 2014		

11 January, 2015