

June 22, 2015

Dear members of the Committee,

Please, find a description of development of events around construction of a mountain ski resort “Kokzhailau” with the content of our statement ACCC/C/2013/088 below.

1. In the reply provided by state authorities to the Aarhus Convention Compliance Committee, the presented information is incomplete.

For example, nothing is mentioned about the fact that the materials for the public hearings were not published on the official web-sites on time. Initially, they were published on the web-site of the Ecological Society Green Salvation, as we insisted on their publishing.

Nothing is said about the fact that public representatives participated in the campaign were undergoing rough oppression in violation of the requirements of the Aarhus Convention.

There is no mentioning about the fact that the government included Ile-Alatau National Park into the Republic of Kazakhstan’s Preliminary List to be nominated into the World Heritage List. Nobody cancelled this governmental decree and it is supported by the wide public. The started construction of the mountain ski resort in Kok-Zhailau natural landmark, which is already removed from the boundaries of Ile-Alatau National Park, significantly decreased the chances of Ile-Alatau National Park to be included into the Word Heritage List.

The reply mentions nothing about the fact that the country does not have an approved procedure of public participation in decision-making process, there is only a proclaimed right on participation.

We already officially warned the members of the Committee multiple times that the state authorities provide the Committee with low-quality and incomplete information.

2. All 8 legal lawsuits initiated by the public, including lawsuits from our organization, were either not accepted for consideration, or not satisfied in the demands.

List of the lawsuits of the Ecological Society “Green Salvation” with links:

- **Case about a failure to act by the Ministry of Environmental Protection and vice-minister of Environmental Protection about failure to comply with their responsibilities of efficient utilization of the state property for the public good and responsibilities to conduct control over integrity of the property of the Republic’s legal person – Ile-Alatau State National Natural Park.** (Please, see Case No.05, 2013).

**Jurisdiction of the case was determined for more than a year, but the lawsuit was never accepted for consideration by the court. This is a violation of the public rights on access to justice.** <http://www.greensalvation.org/en/index.php?page=lawsuits2013>

- **Case about acknowledging of the conclusion of the state environmental assessment - preliminary Environmental Impact Assessment of the project of mountain ski resort “Kokzhailau” - to be invalid.** (Please, see Case No.06, 2013).

**On September 30, 2014, an appeal was submitted to the Civil Affaires Review Board of the Supreme Court. On December 4, the Board denied initiating a review procedure. In violation of the p.1 of the Article 16 of the Civil Procedural Code of the RoK, the judges did not give a full and comprehensive evaluation to the evidences presented in the case and repeated the arguments of the court of the first instance.** <http://www.greensalvation.org/en/index.php?page=lawsuits2014>

• **Case about acknowledging public hearings and protocol of the hearings regarding materials of feasibility study of allocation of lands of a specially protected natural territory Ile-Alatau State Natural Park into lands of reserve for construction of a mountain ski resort “Kokzhailau” to be invalid.**

The lawsuit was not accepted for consideration by the court. This is a violation of the public rights on access to justice.

<http://www.greensalvation.org/en/index.php?page=lawsuits2014>

• **Case about acknowledging the project “Construction of a road to the mountain ski resort “Kokzhailau” to be illegal in the part of conservation of plants listed in the Red Book and about its cancellation**

The lawsuit is filed on April 17, 2015, to the Specialized Inter-Regional Economic Court of the city of Almaty in defense of interests of the state and residents of the city of Almaty.

On April 22, the court refused to proceed with the case, **as if the lawsuit was not subjected to reviewing and solving in the order of the civil legal proceedings. This is a violation of the public rights on access to justice.**

[http://esgrs.org/?page\\_id=7179](http://esgrs.org/?page_id=7179)

At the present moment, the Ecological Society “Green Salvation” is preparing three lawsuits. One of them is about the project of construction of a road to Kok-Zhailau, because according to the project, the construction will be associated with killing of rare and disappearing plants listed in the Red Book of Kazakhstan and the IUCN Red List of Threatened Species (the International Union for Conservation of Nature). This fact is officially stated in the project!

3. The following information is for attention of the members of the Committee.

• **Almaty’s public met with representatives of the evaluation commission for organization of Olympic Games 2022.**

The Commission offered to exclude Kok-Zhailau from the Olympic proposal and thoroughly review influence of a number of other sites over the sensitive mountain territories.

«The changes have also avoided any Games connection with a controversial resort development in Kok Zhailau, an environmentally sensitive area, by eliminating the need for media accommodation there.

Nevertheless, two areas, in particular, would continue to require close attention:

Part of the proposed Alpine skiing venue at Almaty is in an environmental buffer area which forms part of the mountain ecosystem within the National Park. This would impose a number of environmental requirements that would have to be taken into consideration during the detailed planning phase.

The new freestyle skiing and snowboard courses and the existing cross country skiing course at Ak Bulak are also within the National Park, although in an area designated for touristic and recreational activity.

Almaty 2022 has committed to carrying out full Environmental Impact Assessments (EIAs) for Games construction projects in compliance with national regulations. However, the initial assessments provided to the Commission during its visit appear to underestimate potential areas of impact at the mountain venues in relation to biodiversity and landscape issues. If the projects go ahead, the full EIAs would need to thoroughly address these aspects, and would require detailed impact mitigation measures and close monitoring.

During the visit, the Commission met with representatives of local environmental groups who claimed that the government had ignored international conventions on conservation of biodiversity and public participation in decisions with environmental impacts. Their primary focus was Kok Zhailau, which is no longer part of Almaty 2022’s plans. However, their concerns highlight the general need to continue to be respectful of sensitive mountain environments».

REPORT OF THE 2022 EVALUATION COMMISSION, page 22.

<http://www.olympic.org/news/evaluation-commission-report-for-2022-published/246180>.

• UN Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, Baskut Tunchak, visited Kazakhstan from March 26 to April 8, 2015. During the visit, he met with various official and unofficial persons, and visited environmentally unfavorable regions of some of the cities of Kazakhstan.

In his report by the end of the visit, Baskut Tunchak noted:

«In my view, in Kazakhstan there appears to be a systematic and wide-spread deficiency in: (1) generating information on pollution in the environment that threatens human rights, in particular the right to health; and (2) enabling public access to information in a manner that allows people to defend their rights». - See more at:

<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15803&LangID=E#sthash.YJoVSaH5.dpuf>.

<http://www.ohchr.org/RU/NewsEvents/Pages/DisplayNews.aspx?NewsID=15803&LangID=R>.

Sincerely,

On behalf of the Ecological Society

“Green Salvation”

S.Kuratov.