

**To:** Ms. Ella Behlyarova  
Secretary to the Aarhus Convention  
Environment Division  
United Nations Economic Commission for Europe  
Palais des Nations, Av. de la Paix 10  
1211 Geneva 10 Switzerland

**Subject:** article 3.8 case

Dear Ms. Behlyarova,

I am writing to you to forward the correspondence to the Chair and members of the Bureau of the Convention. The case concerns non-compliance with article 3.8 of the Convention. We don't consider to trigger it as a communication to the Compliance Committee because we are requesting a prompt reaction on an individual incident occurred with our colleague and prominent environmental defender in Kazakhstan.

Sincerely,  
Vadim Ni  
Chair of Ecoforum of NGOs of Kazakhstan

### **I. Information on persecuted environmental defender**

Mr. Sergey Solyanik,  
consultant to NGO 'Crude Accountability'  
Almaty, Kazakhstan  
ss\_grs@yahoo.com

### **II. State concerned**

Kazakhstan

### **III. Facts of the case of alleged non-compliance**

On May 7, 2019 Mr. Sergey Solyanik and his wife were detained by the police in the territory of the former village of Berezovka, where they came to monitor and take pictures of the site of a severe environmental accident in 2014. The village is located in Western Kazakhstan region nearby the Karachaganak oil and gas condensate field, one of the largest in the world. The field is operated by Karachaganak Petroleum Operating BV (KPO), an international consortium. Active development of the field led to intense environmental pollution, which was detrimental to the health of the residents of the village of Berezovka.

About 20 minutes after the arrival of Mr. Solyanik and his wife to the site a car appeared next to them. A man in civilian clothes came out of the car keeping walkie-talkie in hands.

He introduced himself as an employee and demanded that they should stop taking pictures, as this area is supposedly to be a restricted one. Mr. Solyanik explained to him that although the village is now located in the KPO sanitary protection zone, visiting and taking pictures of it are by no means prohibited by law and there are no prohibition signs to do it in the village. In response to demand by Mr. Solyanik that he should officially introduce himself - he refused and left. After about 40 minutes, a car drove up to them again, this time accompanied by a police vehicle. The policeman reported that the police had received a signal that someone was taking pictures in a prohibited place and he demanded that Mr. Solyanik and his wife have to go with him to the police department of the Burlin district in the city of Aksai to provide an explanation.<sup>1</sup>

The following police interrogation of them was conducted in the office of the Burlin District Department of Internal Affairs. Mr. Solyanik was informed that he had been brought in for questioning as a witness in a criminal case about which he had never heard before. From the words of the investigator, Mr. Solyanik realized that it relates to the activities of civil society in Berezovka and that his illegal detention in Berezovka was only a formal reason for the police to take him for questioning on a day off. The criminal case for which they brought Mr. Solyanik in was initiated on January 5, 2017 under Article 274 of the Criminal Code of the Republic of Kazakhstan on the dissemination of allegedly false information on the environmental situation in Berezovka. He refused to give answers and demanded a lawyer. He was given a written summons to come for interrogation on May 8. Mr. Solyanik and his wife were in the police station for about 2 hours; his wife was also interrogated in a separate room about what they were doing in the village that day. Once they left the police station, on the same day, May 7, Mr. Solyanik went to the prosecutor's office of the Burlin district, where he filed a complaint against the actions of the police and police investigator, as a result of which the norms of the law, the rights of Mr. Solyanik and his wife were violated. Also he had complained about the serious stress from a sudden detention, delivery to the police station under escort, and interrogation by the police.

On May 8, Mr. Solyanik returned to the police office for the interrogation in the presence of his lawyer. The interrogation lasted for about 2 hours and concerned the activities of civil society to protect the rights of children who suffered from toxic poisoning in November of 2014. After the interrogation, he was released and informed that he could be summoned for interrogation again if the investigation required it. Also Mr. Solyanik was forced to sign a non-disclosure agreement. On May 29, after the return to Almaty he received by mail a notice from the police investigator Ms. Alekesheva, dated May 8, 2019, that the investigation of the criminal case was interrupted, since the perpetrators of the crime were not identified, and no evidence of his guilt was found. A copy of the notice is attached.

It is noteworthy that the above case is not a first case of acts of harassment of Mr. Solyanik for his activities on defending the environmental rights of residents of the village Berezovka. In 2016, an anonymous video 'Berezovka Masks of Democracy' was published on the Internet, in which he and his colleagues were accused of destabilizing the situation in the village of Berezovka and among its residents and creating anti-social attitudes against the authorities and KPO company.<sup>2</sup> The film also discredits active parents of affected children and contains personal information about the finances of the parents, which were known only to local authorities and KPO. Parents officially complained to the local police about the film, but their complaint was ignored. In 2016,

---

<sup>1</sup> <http://www.uralskweek.kz/2019/05/07/policiya-zaderzhala-ekologicheskogo-aktivista-v-zko/>

<sup>2</sup> <https://www.youtube.com/watch?v=Qn0XFnzCgCY>

when Mr. Solyanik travelled to Aksai, Kazakhstan, where KPO is headquartered, to talk with parents of children who were poisoned by the emissions from Karachaganak in November 2014, he and his colleagues were detained for several hours by the local police. They were released following a phone call to the police station from their legal counsel, and the police officers claimed that there had been a technical error with documentation that led to their detention.<sup>3</sup> Mr. Solyanik is a resident of Almaty and his second illegal detention in the same region which is far away from his place of residence and followed in less than one hour by his police interrogation on another case is not just a coincidence.

#### **IV. Nature of alleged non-compliance**

This correspondence concerns a specific case of harassment and persecution of a person exercising his rights in conformity with the provisions of the Aarhus Convention, i.e. alleged non-compliance with article 3.8. The detentions of Mr. Solyanik in May of 2019 and in 2016 for monitoring activities in the territory of the village Berezovka as well as his recent police interrogations are not in line with the Aarhus Convention. Both his detention and police interrogations in May of 2019 were clearly linked by involved officials to the activities of Sergey Solyanik as an environmental defender. He conducts his activities on defending the environmental rights of former residents of the village Berezovka for many years. He actively participated in the public campaign to relocate people of the village of Berezovka from the area of severe environmental effects by the activities of the Karachaganak Petroleum Operating BV (KPO). Mr. Solyanik provides assistance with defending environmental rights of the children of Berezovka who suffered from toxic poisoning on November 28, 2014. At the time of his detention on May 7, 2019 he was conducting monitoring of the place where this environmental accident occurred.

The environmental risks and harm to former residents of the village have been officially recognized by the government, in particularly after 25 village children simultaneously fell ill during school hours on November 29, 2014. Further, this case was addressed by Mr. Baskut Tuncak, UN Special Rapporteur on the Human Rights Implications of the Environmentally Sound Management and Disposal of Hazardous Substances and Waste in his 2015 report (A/HRC/30/40/Add.1, 15.09.2015, para 61, 94). Furthermore, in December 2015 the government and KPO did start the relocation of residents of Berezovka to the nearby town of Aksai. Thus, alleged non-compliance with article 3.8 of the Convention relates to the case of a serious national and international concern and citizen monitoring of the site is an important activity to ensure the environmental rights of affected people.

The illegal detentions on May 7, 2019 and in 2016 constitute a form of pressure and acts of intimidation by local authorities and KPO against Mr. Solyanik for his public activities to defend the rights of citizens to a healthy environment. They are having deterrent effects as to prevent him from monitoring visits to the site of violation of environmental rights and thus exercising his rights in conformity with the provisions of the Aarhus Convention. His interrogations as a witness on May 7 and 8, 2019 are also having serious deterrent effects. The initiated criminal case has not been terminated, and it can be resumed at any time if the police have any information against anyone on this case.

---

<sup>3</sup> <https://rus.azattyq.org/a/27742398.html>

**I request the Chair and members of the Bureau to consider a prompt reaction to this severe incident that might entail non-compliance with article 3.8 of the Convention.**

## **VI. Use of domestic remedies or other international procedures**

On May 7, 2019 Mr. Solyanik submitted a complaint to the prosecutor's office of the Burlin district about his illegal detention by the police. It looks like that the notice from the police investigator dated May 8, 2019 was the only outcome of the review of his complaint by the prosecutor's office. We believe that it is not an adequate and effective remedy to prevent to possible further prosecution of Mr. Solyanik for his activities on the environmental accident in Berezovka as it was a repeated act of his persecution.

Mr. Solyanik submitted this case to the Office of the UN High Commissioner for Human Rights on June 7, 2019.

## **VII. Supporting documentation (in Russian)**

- 1) The complaint by Mr. Sergey Solyanik to the prosecutor's office of the Burlin district, dated May 7, 2019 (two files)
- 2) Notice by the police investigator Ms. Alekesheva, dated May 8, 2019.