

Dear Members of the Aarhus Committee Secretariat,

In response to your questions, I would like to explain the following:

A. The letters from the South Kazakhstan *Oblast* Directorate for Natural Resources and the Regulation of Natural Resource Use are written in Kazakh, so I am providing a summary in Russian below:

1. The letter dated 2 November 2010 to me as director of the Public Monitoring Group: 'In response to your letter No. 11 of 29.10.2010, the Directorate has twice returned the documentation from the Temirlan Village Bypass work project in view of the absence of minutes of public hearings. At the moment the Directorate is re-examining the project documentation received. We are examining your observations.'

2. The letter dated 4.11.2010 to S. Moldabekov as the public expert of NAIR: 'In response to your letter of 01.11.2010, the Directorate has twice returned the documentation from the Temirlan Village Bypass work project in view of the absence of minutes of public hearings. At the moment the Directorate is re-examining the project documentation received. We are examining your observations. In our turn, we inform you that under paragraph 1 of Article 65 of the Environmental Code, it is not possible to carry out a public environmental review unless the corresponding written declaration is registered.'

B. I am attaching the minutes of the meeting at the Legal Support Department of the Ministry of the Environment of the Republic of Kazakhstan held on 13 December 2011 with representatives of the Highways Committee of the Ministry of Transport and Communications, the external monitoring agency SNC Lavalin and the South Kazakhstan *Oblast* Directorate for Natural Resources. The minutes were drawn up by a representative of the Ministry of the Environment. In principle I agree with the content of the minutes, apart from in two instances:

- Text: 'The conduct of state ecological expertise of the project of area "Western Europe-Western China" is complied with the legal requirements of the Republic of Kazakhstan and the Aarhus Convention. It is also complied with the requirements of the Loan Agreement, ratified by the country.' My comments: If all the requirements had been complied with, we would not have sent a communication to the Aarhus Convention Compliance Committee.
- Text: '2. Communicant Mr. B. Issaliyev has satisfied with these explanations and is ready to recall his communication from the agenda of the meeting of the Compliance Committee.' My comments: This is a premature and not altogether well-considered summary. If I was completely satisfied with the results of the meeting, it would not have made sense for me to go to Geneva for the 35th meeting of the Compliance Committee.

B). My understanding of the relationship between article 6, paragraph 9 of the Aarhus Convention and Article 57, paragraph 5 of the Environmental Code is as follows: the Convention specifically indicates that the State-Party must inform members of the public concerned of its decision in writing by post or email as well in the media. Article 57, paragraph 5 of the Environmental Code indicates that the findings [conclusion] of state environmental review [expertiza] must be presented to the party concerned. Article 165, paragraph 3 of the Environmental Code specifies that 'Access to environmental information relating to the environmental impact assessment [OVOS] procedure and the decision-making process on a proposed economic or other activity shall be ensured in accordance with the procedure established by the authorised body in environmental matters.' This procedure is laid out in Order No. 238-p of the Minister of the Environment of the Republic of Kazakhstan of 25 July 2007 on the Approval of Rules for Access to Environmental Information relating to the Environmental Impact Assessment Procedure and

the Decision-making Process on a Proposed Economic or Other Activity. It follows that Kazakh legislation on access to environmental information relating to the decision-making process on a proposed economic or other activity (i.e. to the review findings) does not comply with the standards of the Aarhus Convention and limits such access by the public.

Bauyrzhan Issaliyev, Director of the Public Monitoring Group and NAIR