

## FROM THE EDITORS

*Effective environmental protection requires clear and strict legal guidelines.*

*—John Galbraith, American economist,  
one of the eminent theorists  
of the XX century*

The Republic of Kazakhstan approached the Sixth Meeting of the Parties to the Aarhus Convention with bleak results. The main factor determining the socio-ecological situation in the country remains the state's policy of economic growth at all costs in the absence of environmental policy. The dominance of extractive industries has created a dangerous dependence of the national economy on world commodity prices. Under the plausible pretext of reducing costs and improving the investment climate, extracting companies work tirelessly to "soften" the environmental legislation and alleviate the tax "burden." As a result, numerous amendments to laws do not contribute to environmental protection, but only increase legal chaos.

Similar to Russian colleagues, large private entrepreneurs "do not build a market strategy, but lead a 'natural' struggle for state resources."<sup>1</sup> It is not a secret for anyone that all legal and illegal means are used. According to the corruption perception index, in 2016, Kazakhstan ranked 131 out of 176 countries.<sup>2</sup> Virtually all branches of state power were affected by corruption.<sup>3</sup>

The implemented economic policy negatively affects the natural environment. The process of desertification continues unabated,<sup>4</sup> and there is a growing scarcity of water resources.<sup>5</sup> Cities are attacking specially protected natural areas, destroying natural ecological systems. Pollution of lakes, rivers, glaciers is increasing. Steady smog has become a typical phenomenon for many cities of Kazakhstan, including its capital—Astana.<sup>6</sup> The problem of recycling industrial and domestic waste remains unresolved for many years and is becoming worse with every year. Cities and towns are becoming surrounded by huge dumpsites which absorb fertile agricultural lands, river banks, forests. The expanded obligations of the producers,<sup>7</sup> enacted since January 1, 2016 to ensure collection, transportation, recycling, and utilization of waste have not yet yielded tangible results.<sup>8</sup>

The country's unsatisfactory compliance with international obligations, adopted in accordance with the Aarhus and other environmental conventions, is regrettable. Public access to objective environmental information, decision-making and justice has deteriorated noticeably. This is largely due

to an ineffective monitoring system and intentional hiding of information by governmental agencies and commercial entities. Information about sickness rate caused by pollution is either absent or hidden.

Public participation in the decision-making process, as before, does not go beyond formal hearings with “smoothed” protocols and, in fact, exists only on paper. The law “About Public Councils” adopted in 2015, did not eliminate the contradictions, but only led to minor improvements and camouflaged the conflict. “Public councils in Kazakhstan are the state’s response to a situation in which representative bodies are not representative to the full extent. The authorities use the councils trying to monitor public mood, get some feedback about their own activity.”<sup>9</sup> Reports on their first steps, for example, published on the website of the Public Fund “Information and Resource Centre” of Almaty,<sup>10</sup> do not inspire optimism.

Access to justice in environmental matters has deteriorated significantly. Courts openly take the side of offenders and state bodies that protect their interests. Some decisions of the courts are so absurd that they allow us to speak about a conscious creation of obstacles to the circulation of the public to the organs of justice.

The situation with the implementation of conventions on World Heritage, biological diversity and other international treaties, in which the public plays an important role, is no better. Environmental conventions are grossly violated, primarily by state bodies, including agencies directly responsible for their implementation. Courts and the prosecutor’s office, as a rule, do not take into account the requirements of the conventions and the norms of the Constitution, which stipulates the priority of international treaties before the laws of the Republic of Kazakhstan. Only the competent intervention of international bodies stops illegal actions. A vivid example is the UNESCO World Heritage Site—Talgar site of ancient settlement which was partially destroyed in 2014-2016, even despite of the principled stand of the World Heritage Committee and ICOMOS.

Since 2005, the Ecological Society Green Salvation has been publishing materials on implementation and application of the Aarhus Convention in the Republic of Kazakhstan. On the pages of the Herald, issued on the occasion of the Sixth Meeting of the Parties of the Convention, which covers the period from 2014 to early 2017, the reader will find analytical materials, criticism, opinions.

It starts with an analysis of the national report of the Republic of Kazakhstan on implementation of the convention. Further, materials are published on the country’s implementation of the conventions on the World Heritage and biological diversity. A great deal of attention is paid to criticism of national legislation. Many innovations in the laws do not comply with international norms, reduce their effectiveness, and create a basis for human rights violations. Official bodies

are trying to hide the real state of things and embellish the situation. The material on access to environmental information is devoted to this.

A significant part of the Herald is devoted to practical activities of the Ecological Society Green Salvation on defence of rights and interests of citizens, undefined number of persons, and the state using judicial and pre-trial methods. Facts presented in the materials allow making a conclusion that state bodies and courts create serious obstacles for access to justice. Despite the abundance of official information about various activities allegedly aimed at improving compliance with the Aarhus Convention, the practice speaks otherwise. Application of the norms of the Convention in the work of state bodies and courts is sporadic and unsystematic.

The editorial board hopes that the Herald will draw attention of international organizations, scientists, and general public to the difficult social and environmental situation that has developed in the country.

- 
- 1 O.Bessonova. Image of the Future of Russia in the Context of the Theory of Distributing Economy, <http://polit.ru/article/2008/12/05/bessonova> (last visited April 10, 2017).
  - 2 Transparency International, [http://www.transparency.org/news/feature/corruption\\_perceptions\\_index\\_2016](http://www.transparency.org/news/feature/corruption_perceptions_index_2016).
  - 3 Transparency International: The Most Corrupt Institutions in Kazakhstan, <http://kazday.kz/2016/11/20/transparency-international-samye-korruptirovannye-vedomstva-v-kz/>.
  - 4 Concept on Conservation and Sustainable Utilization of Biological Diversity in the Republic of Kazakhstan Till 2030. Astana: GEF—UNDP, 2015, pp.12-13, 21, <http://www.fhc.kz/conventions/files/kz-nbsap-rus.pdf>.
  - 5 The State Program of Water Resources Management and Transition of Kazakhstan to a “Green Economy”: “The limited and expected water shortage may become an important obstacle to further economic growth in Kazakhstan (loss of missed economic opportunities—7-8 billion dollars per year),” [https://www.unece.org/fileadmin/DAM/env/documents/2014/WAT/06Jun\\_24\\_geneva/Presentations/Zhakenov\\_RU.pdf](https://www.unece.org/fileadmin/DAM/env/documents/2014/WAT/06Jun_24_geneva/Presentations/Zhakenov_RU.pdf).
  - 6 Residents of Astana Complain of Smog and Smell of Burning, [https://tengrinews.kz/kazakhstan\\_news/jiteli-astanyi-jaluyutsya-na-smog-i-zapah-gari-310212/](https://tengrinews.kz/kazakhstan_news/jiteli-astanyi-jaluyutsya-na-smog-i-zapah-gari-310212/) (last visited April 3, 2017).
  - 7 The Environmental Code was supplemented by chapter 41-1 “Extended Obligations of Producers (importers)” in accordance with the Law of the Republic of Kazakhstan dated on November 17, 2015, No.407-V. See also: Resolution of the Government of the Republic of Kazakhstan dated on January 27, 2016, No.28 “On Approval of the Rules for Implementation of the Expanded Obligations of Producers (importers).”
  - 8 What is ROP?, <https://www.recycle.kz/> (last visited May 3, 2017).
  - 9 Adil Nurmakov. The Game of Imitation in Kazakhstan, <https://vlast.kz/avtory/22064-igra-v-imitaciu-po-kazahstanski.html> (last visited March 10, 2017).
  - 10 Public Council of Almaty, <http://infoirc.kz/category/%d0%be%d0%b1%d1%89%d0%b5%d1%81%d1%82%d0%b2%d0%b5%d0%bd%d0%bd%d1%8b%d0%b5-%d1%81%d0%be%d0%b2%d0%b5%d1%82%d1%8b/>.