

## Communication to the Aarhus Convention Compliance Committee

### I. Information on correspondent submitting the communication

Full name of submitting organization or person(s): Ecological Society Green Salvation,  
Permanent address: 480091, Republic of Kazakhstan, Almaty, ul. Shagabutdinova 58/28  
Telephone: 8 3272 403204 Fax: 8 3272 403204

E-mail: [ecoalmati@nursat.kz](mailto:ecoalmati@nursat.kz)

Name: Sergei Kuratov

Title/Position: Chairman, Ecological Society Green Salvation

Bendzya Iranda Nikolaevna, Kazakhstan 480053, Almaty, mkr. Gornyi Gigant, ul.

Nurlybaeva 6

Egorova Lyudmila Ivanovna, Almaty, MVD settlement, ul. Furmanova 311/2

### II. State concerned

Republic of Kazakhstan

### III. Facts of the communication

Electricity was supplied to an exclusive residential district in the south-east of Almaty under project PS-110/10 kV Samal via a 110 kV power transmission line. In 1989, during the construction of the underground line an experimental cable which had never previously been subjected to extensive operational testing was laid over a distance of one thousand metres. For technical reasons, this led to a situation characterized by constant interruptions in the power supply. On 19.01.2001, the Akim (mayor) of the city of Almaty adopted decision No. 42 on the construction of a 110-kV overhead transmission line to replace the faulty cable line (Attachment No. 1).

**On 15 November 2000**, a construction site selection report (Attachment No. 2) was approved. According to this report, the route of the 110-kV overhead line will pass through the narrow streets of the Gornyi Gigant neighbourhood and the MVD (Ministry of Internal Affairs) settlement. The report was agreed by the Architecture and Town Planning Department, the Almaty Municipal Environmental Protection Board (AMEPB) and the Municipal Sanitary-Epidemiological Board (MSEB), which failed to issue an “opinion on the allocation of land for construction” (form No. 310\u) as a mandatory annex to the report. Moreover, the report was not agreed with the municipal committee on land resource management.

The route was chosen and the report agreed and approved without taking into account the requirements of the existing “Regulations for the protection of electrical networks with a voltage of more than 1000 V” (the Regulations) approved by Resolution No. 1436 of the Government of the Republic of Kazakhstan of 10 October 1997. The Regulations require “compliance with the provisions of paragraphs 7.8-7.13 of Building Standards and Regulations 2.07.01-89 (BSR 2.07.01-89) ‘Town planning. Planning and construction of urban and rural settlements’ when the routes of overhead and cable lines pass through

built-up urban or rural areas”. BSR 2.07.01-89, Section “Power, heat, refrigeration and gas supply, communications, broadcasting and television” (paras 7.8 and 7.9) requires overhead power transmission lines **with a voltage of 110 kV or more to be sited outside built-up areas**. Similar requirements can be found in BSR RK B.2.2-1-96 (paras 7.14 and 7.18) “Planning and construction of individual housing zones”. Moreover, for a 110-kV overhead power transmission line the Regulations require the creation of a 40-metre wide protection zone in which any activity not associated with the operation of the transmission line is prohibited, including its use for residential purposes, the cultivation of personal plots, the passage of gas and other mains, and fire-fighting.

According to the Regulations, only a cable and not an overhead line can be laid along the selected route, and to prevent failures only a KhLRE/RVS, KhLRE/RE, standard IEC 840 cable, not an experimental cable.

**On 3 April 2001**, project LEP 110kV PS 220kV Gornyi Gigant - PS Samal (conversion from cable to overhead line) received a favourable State environmental impact assessment No. 3-4-6-568 AMEPB (Attachment No. 3).

**On 27 April 2001**, the State Expert Commission of the Kazstroikomitet **recommended** project LEP 110kV PS 220kV Gornyi Gigant - PS Samal (conversion from cable to overhead line) **for approval**. (Attachment No. 4.) In both reports it is stated that the project had been carried out in accordance with the existing standards and regulations.

**On 27 April 2001**, about six hundred residents of the Gornyi Gigant neighbourhood and the MVD settlement, after repeated inquiries, learned from the Akim of the city of Almaty that their homes lay within the restricted zone of the power transmission line.

**On 30 November 2001**, the Kazakh Republican Sanitary-Epidemiological Station (KRSES), having made a sanitary-epidemiological assessment of project LEP 110kV PS 220kV Gornyi Gigant - PS Samal (conversion from cable to overhead line), **refused to approve the project** (Attachment No. 5).

**On 13 December 2001**, i.e. with a whole year’s delay, the Almaty MSEB issued a favourable opinion on the allocation of land for construction (form No. 310\u). (Attachment No. 6.)

**On 14 December 2001**, with an entire year’s delay, the Akim issued a resolution on making land available for temporary free use by the closed joint stock company APK in the Medeu district of the city of Almaty, which points to a violation of the planning legislation. (Attachment No. 7.)

**On 21 June 2002**, the KRSES approved the project (Attachment No. 8). The approval of the project violated article 35 of the Environmental Protection Act of the Republic of Kazakhstan, since it was based not on the existing environmental quality standards applicable to the restricted zone of an overhead line, but on measurements of the electric field strength only, without magnetic field strength measurements having been made.

**On 28 May 2001**, by letter No. 17-17-167, the State Power and Energy Supervisory Committee proposed that APK should “redesign the 110-kV overhead line to bypass the settlement of Gornyi Gigant”, “**in conformity with the Regulations on the protection of electrical networks with a voltage of more than 1000 V**” (Attachment No. 9).

**On 10 August 2001**, the State Power and Energy Supervisory Committee, **without making a State energy appraisal**, changed its decision. By letter No. 17-02-231 it approved the project: “Taking into consideration the arguments made by APK in its letters Nos. 001-1893 of 15 June and 002-2569 of 9 August, the State Power and Energy Supervisory Committee is permitting the construction of a power transmission line under the established procedure, in compliance with the existing legislation and enactments” (Attachment No. 10).

**On 26 September 2001**, the Committee notified the decision taken to the department of the Office of the Prosecutor General of the Republic of Kazakhstan responsible for reviewing the legality of the activities of State bodies (Attachment No. 11).

As will be seen in what follows, what is important for the courts and the prosecution service is **approval** and not compliance with the existing legislation and enactments.

Special attention should be paid to the position of the Ministry of Natural Resources and Environmental Protection (MNREP), reorganized on 28 August 2002 as the Ministry of Environmental Protection (MEP) of the Republic of Kazakhstan with responsibility for the implementation of the Aarhus Convention.

**On 24 December 2001**, in a letter to the Office of the President, the Ministry reported that it was “studying the question of the invalidation of the State environmental impact assessment for the project since it infringed the provisions of article 15 of the Environmental Impact Assessment Act since “the project was accepted for assessment without the results of a survey of public opinion” (Attachment No. 12).

**On 22 January 2002**, under pressure from the public and members of parliament, the Almaty Municipal Territorial Environmental Protection Board, on the instructions of the Environmental Protection Committee of the MNREP, carried out a second State environmental impact assessment and again approved the project (Attachment No. 13). In the assessment it is stipulated that the project should be carried out in compliance with the standards and regulations.

The residents of the Gornyi Gigant neighbourhood and the MVD settlement again collectively petitioned the Ministry, which also received an inquiry from a member of the **Mazhilis**, the parliament of the Republic of Kazakhstan.

**On 15 May 2002**, the Environmental Protection Committee of the MNREP sent a letter to the AMTEPB in which it stated that “the Environmental Impact Assessment Board, having considered the second environmental impact assessment of the Almaty Municipal

Territorial Environmental Protection Board No. 3-8-144 of 22.01.02 concerning the Environmental Protection section of project LEP 110 kV PS 220 kV Gornyi Gigant-PS Samal (conversion from cable to overhead line), notes that in violation of article 15 of the Environmental Impact Assessment Act the assessment was made **without taking public opinion into account**. On the basis of article 17 of the Environmental Impact Assessment Act the Environmental Protection Committee of the MNREP has revoked AMTEPB environmental impact assessment No. 3-8-144 of 22.01.02 “pending clarification of all the circumstances relating to the complaints of the local population” (Attachment No. 14).

**On 24 June 2002**, the Ministry informed the member of parliament of the decision taken, pointing out that “there remained certain differences with respect to the assessment of the effect of the works on the sanitary-epidemiological situation and public health” and, in view of the significant adverse public response from those living in the area, the AMEPB was instructed, together with the organs of the Sanitary-Epidemiological Service, “to hold additional public hearings on the project with clarification of all the problem areas”. In the letter it is stated that the revocation of the assessment would halt work on the implementation of the project. However, construction was begun on 24 May 2002 without being halted by the Ministry. (Attachment No. 15.)

**On 4 July 2002**, ostensibly at the “**initiative**” of the local government committees and the residents of Gornyi Gigant and under the chairmanship of the deputy Akim of the Medeu district (!), “**final**” public hearings were quickly organized. **The residents of the streets on which, at that time, construction of the overhead line was already in full swing were not invited to the hearings**, having been conveniently replaced by others. This made it possible to adopt a decision “taking into account the interests of the different groups”: “The construction of the 110-kV overhead line in Gornyi Gigant ... is the only correct decision as regards the supply of electricity to the south-eastern part of the city of Almaty”. (Attachment No. 16.)

**On 6 August 2002**, the MNREP, having received the materials of these hearings, cancelled the instructions to suspend implementation of the State environmental impact assessment of 22 January 2002.

**On 16 October 2002**, by letter No. 04-05-09/3086 responding to the residents’ petition, the MEP confirmed that the cancellation of the instructions to suspend implementation of the State environmental impact assessment had been lawful (Attachment No. 17).

Over the course of the year, the Ministry’s experts, responding to the complaints and questions of residents, were unable or unwilling to understand that the State environmental impact assessment, which had been made twice, failed to note the **violations** of BSR 2.07.01-89 (BSR 2.07.01-89) “Town planning. Planning and construction of urban and rural settlements” and BSR RK B.2.2-1-96 (paras 7.14 and 7.18) “Planning and construction of individual housing zones”. By the end of October 2002 the overhead line had been built and was carrying current.

Having failed to obtain the support of the official regulatory bodies, the residents, in order to assert their rights, turned to the scientific and voluntary organizations with a request for an independent opinion.

**On 25 February 2002**, experts of the Scientific Centre for Hygiene and Epidemiology of the Ministry of Health of the Republic of Kazakhstan prepared an opinion in which it was noted that “the project to build a 110-kV high-tension overhead line has been carried out with gross violations of the legislation of the Republic of Kazakhstan” and **the objections of the residents were well-founded** (Attachment No. 18).

**On 10 April 2002**, experts of the National Centre for Labour Hygiene and Occupational Diseases of the Ministry of Health of the Republic of Kazakhstan drew up a report on the project in which it was noted that the provisions of a series of BSR had been infringed; they therefore considered “**the concerns of the population to be fully justified**” (Attachment No. 19).

**On 4 March 2002**, the Ecological Society Green Salvation prepared a “Response” to the State environmental impact assessment for the project in which it was noted that the residents were fully justified in raising the question of the invalidity of the environmental impact assessment of project LEP 110 kV PS 220 kV Gornyi Gigant - PS Samal (conversion from a cable to an overhead line) under articles 38.1.1, 1.2 and 1.3 of the Environmental Impact Assessment Act (Attachment No. 20).

**On 21 October 2002**, the Republican Citizens’ Movement “For a rule-of-law Kazakhstan” prepared a legal opinion on the resolution of the Akimat of the city of Almaty of 14 December 2001. According to this opinion, the Akim and Akimat of the city of Almaty committed the following violations of the legislation on land:

1. The siting of the transmission line violated the building standards and regulations.
2. The mandatory transmission line safety zones were not established.
3. The Akimat of the city of Almaty issued a resolution instructing the Almaty Municipal Committee on Land Resource Management to expropriate the parcels needed to build the power transmission line. However, the reasons for expropriating the parcels were not precisely defined and the expropriation was entrusted to an inappropriate body.
4. Even if it were shown that there was in fact justification for expropriating (buying out) the parcels for State needs, the Akimat of the city of Almaty completely disregarded the expropriation (buy-out) procedure.
5. Resolution No. 3\328-34 of the Akimat of the city of Almaty of 14 December 2001 on making land available for temporary free use did not contain certain mandatory particulars.
6. The proposal temporarily to occupy the site of the KNB institute is not properly justified and violates the legal procedure.
7. It is proposed to locate on highway land an installation incompatible with its intended purpose (Attachment No. 21).

## **Results of appealing to the courts and the prosecution service**

**On 8 June 2001**, I.N. Benzya, on behalf of the residents, instituted proceedings in the City Court to obtain the annulment of the decision of the Akim and a ban on the construction of the overhead line.

**On 25 June 2001**, the City Court dismissed the action (Attachment No. 22).

**On 28 September 2001**, the Supreme Court, having considered the claimant's appeal, reversed the judgement of the City Court and referred the case to the Bostandyk District Court of the city of Almaty for reconsideration. In its decision, the Supreme Court pointed out that "the conclusions of the court cannot be regarded as well-founded since they do not follow from the materials of the case". The Supreme Court decided that in reconsidering the case the court should "verify the conformity of the overhead line construction project with the existing regulations, ... ascertain whether the rights and legally protected interests of the residents of the Gornyi Gigant neighbourhood are being infringed" (Attachment No. 23).

This ruling was followed by a series of proceedings in courts of various instances, but on every occasion the decision went against the residents. On 1 December 2003, the president of the Civil Division of the Supreme Court of the Republic of Kazakhstan refused to consider the residents' appeal, ruling that "**... since, as required by article 65 of the CCP, you failed to provide indisputable and convincing evidence that the 110-kV overhead line poses a real threat to human life and health, the court correctly decided to dismiss the claims**" (Attachment No. 24).

**On 22 May 2002**, the company APK moved construction equipment into the Gornyi Gigant neighbourhood to start erecting the 110-kV overhead line, but the Almaty Public Prosecutor's Office refused to allow construction to proceed on the basis of a resolution of the Office of the Prosecutor General of the Republic of Kazakhstan of **8 March 2002 ordering a review**.

**On 24 May 2002**, APK decided to start work, and the construction equipment was escorted by RUVD (District Internal Affairs Administration) and OMON (Special Squad) officers. The deputy Akim of the Medeu district read out a new resolution of the Prosecutor General of the Republic of Kazakhstan, R.T. Tusupbekov, **of 23 May 2002 which, without justification or explanation, cancelled the resolution of 8 May 2002 concerning the suspension of the decisions of the court** (Attachment No. 25). People were stunned and incredulous and tried to resist the unlawful construction work. However, on the instructions of the Akim of the Medeu district, the RUVD and OMON men beat and scattered the residents, who included old men, women and children. Subsequently, five residents of the Gornyi Gigant neighbourhood, three of them elderly, including the claimant I.N. Benzya and her daughter, were held administratively liable by the district court. When the people were being dispersed, the district Akim personally pointed her out to the OMON men. They dragged her across an entire football field, on which people had gathered, and the daughter rushed to her defence.

Later, the Medeu district court also held the husband of I.N. Benzya, I.I. Bendzya, administratively liable, ostensibly for expropriation purposes as there was nowhere to put up a pole for the overhead line. **As a result of their struggle for their constitutional rights all three adult members of the Bendzya family were punished by the courts.**

Subsequently, petitions from residents and members of parliament addressed to all levels of the prosecution service received an unambiguous response to the effect that there were no grounds for filing objections to the decisions of the courts in view of the recognition of the lawfulness of the conclusions of the expert appraisals (Attachment No. 26).

These facts show that the residents of the Gornyi Gigant neighbourhood and the MVD settlement, as well as the interested public, were unable to obtain information in the early stages of decision-making. Environmentally significant decisions were made without public opinion being taken into account. The local residents have been unable to obtain a just solution of the problem through the courts. **The State environmental, sanitary-epidemiological and construction and energy impact assessments on which the court decisions were based were prepared in violation of the existing legislation.** While recognizing the provisions of the Aarhus Convention, the administrative and judicial authorities of the Republic of Kazakhstan are not implementing them.

The residents of the Gornyi Gigant neighbourhood and the MVD settlement have come up against a clear case of government paralysis. The State authorities publicly recognize human rights but in practice neither comply with nor protect them! Accordingly, the citizens of Kazakhstan are being forced to appeal to the international organizations for the protection of their rights.

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

The facts presented above reveal non-compliance with the right of the public to obtain access to information, the right to public participation in the taking of environmentally significant decisions and the right of access to justice.

#### **V. Provisions of the Convention relevant for the communication**

Paragraphs 2, 3, 4, 6, 7 and 8 of Article 6.

Paragraphs 3 and 4 of Article 9.

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

Over the course of three years, use was made of the procedures for appealing to the courts, the prosecution service, members of parliament and administrative bodies (see section I [*Translator's note: presumably "III"*]).

### **Results of appeals to international organizations**

**On 28 October 2002**, a representative of the OSCE Centre in Almaty visited the overhead line construction site.

**On 15 November 2002**, information on the situation in the Gornyi Gigant neighbourhood and the MVD settlement was brought to the attention of the participants in the Conference on International Transparency. Anti-Corruption Initiatives in Central Asia.

**On 4 September 2003**, the OSCE Centre in Almaty sent letters to the Ministers of Health and Environmental Protection of the Republic of Kazakhstan expressing concern about the “tense situation” that had arisen in the Gornyi Gigant neighbourhood and the MVD settlement (Almaty) (Attachment No. 27).

**The Ministry of Environmental Protection of the Republic of Kazakhstan replied by letter** No. 02-05-07/5359 of 11.11.03: “With respect to the State environmental impact assessment by the Almaty MTEPB concerning the transmission line construction project, we consider that it meets all the environmental requirements and was issued on the basis of the public hearings Protocol and the opinion of the Republican SES on project approval No. 41-2/10 of 21 June 2001” (Attachment No. 28).

**The Ministry of Health of the Republic of Kazakhstan replied by letter** No. 07-21-9135 of 08.11.2003: “By decision of the Bostandyk district court of the city of Almaty of 13 September 2002 the claims of the claimants L.I. Egorova and I.N. Bendzya were dismissed on the grounds that all the documents submitted by the defendants met the requirements of the legislation of the Republic of Kazakhstan and all the contracts were made in compliance with the existing legislation” (Attachment No. 29).

**On 8 September 2003**, a representative of the residents of the Gornyi Gigant neighbourhood addressed the international conference on Electromagnetic Fields and Human Health, organized by the Ministry of Health of the Republic of Kazakhstan. However, there was no subsequent reaction from the organizers of the conference.

## **VII. Confidentiality**

## **VIII. Supporting documentation (copies, not originals)**

**Constitution of the Republic of Kazakhstan of 30 August 1995**  
(as amended on 7 October 1998)

### **Article 1**

1. The Republic of Kazakhstan proclaims itself to be a democratic, secular and social State, governed by the rule of law, whose highest values are **the human being and his life, rights and freedoms**.

### **Article 6**



1. In the Republic of Kazakhstan, State and **private ownership** are recognized and, by the same token, protected.

#### **Article 12**

1. In the Republic of Kazakhstan, **human rights and freedoms are recognized and guaranteed** in accordance with the Constitution.

2. **Human rights and freedoms** belong to everyone from birth, **are recognized as absolute and inalienable**, and determine the content and application of the laws and other enactments.

#### **Article 14**

1. All are equal before the law and the courts.

2. No one may be subjected to any form of discrimination for reasons of origin, social or property status, occupation, gender, race, nationality, language, attitude to religion, beliefs or **place of residence** or in any other circumstances.

#### **Article 15**

1. Everyone has the right to life.

#### **Article 17**

1. **Human dignity is inviolable.**

2. No one should be subjected to torture, violence, or other cruel or **degrading treatment** or punishment.

#### **Article 29**

1. Citizens of the Republic of Kazakhstan have the right to **protection of their health.**

#### **Article 31**

1. The State shall endeavour to ensure an environment **favourable for human life and health.**

2. Officials shall be held accountable under the law for the concealment of **facts and circumstances that endanger human life or health.**

### **Environmental Protection Act of the Republic of Kazakhstan No. 160-1 of 15 July 1997**

#### **Article 5. Rights and obligations of citizens in the field of environmental protection**

1. Every citizen, stateless person and foreign national present on the territory of the Republic of Kazakhstan **has the right to an environment favourable for their life and health.**

#### **Article 35. Main objectives and requirements of environmental regulation**

The purpose of environmental regulation is to establish scientifically based maximum permissible standards of environmental exposure that guarantee environmental safety and

the protection of the health of the population and ensure the prevention of pollution and the renewal and rational use of natural resources.

The main objectives of environmental regulation include:

- the establishment of environmental standards and the determination of their effect on human health and the protection, renewal and rational use of natural resources;
- the establishment of maximum permissible amounts and levels of harmful effects on the environment.

**Established environmental quality standards may not be exaggerated or replaced by provisional and lowered standards.**

Quantitative standards may be made stricter depending on the specific environmental conditions.

Approved environmental standards shall be binding on all legal and natural persons and shall be subject to publication and free dissemination.

### **Environmental Impact Assessment Act of the Republic of Kazakhstan No. 85-1 of 18 March 1997**

#### **Article 3. The goals of environmental impact assessment**

The goals of environmental impact assessment are:

- (1) to prevent any possible adverse effects of planned government, economic, investment and other activities on the health of the population and the environment;
- (2) **to assess the conformity with environmental requirements of planned government, economic, investment and other activities** in the stages that precede the taking of a decision to carry them out, as well as in the process of construction and implementation.

#### **Article 15. Requirements relating to documentation submitted for State environmental impact assessment**

1. In the documentation submitted for State environmental impact assessment the client must include:

- (1) a comprehensive environmental-social and economic assessment of the impact of the planned activity on the state of the environment and the health of the population throughout the period during which the activity is to be carried on and a statement concerning the environmental consequences of that activity;
- (2) documents showing that the project has been approved for implementation by the central and local government authorities and the results of a survey of public opinion, in accordance with the procedure laid down by the central executive authority of the Republic of Kazakhstan in the area of environmental protection.

#### **Article 38. Invalidity of environmental impact assessments**

1. Environmental impact assessments may be deemed to be invalid if in their preparation there was:

- (1) any infringement of the procedure for carrying out the impact assessment;
- (2) any non-compliance with or distortion of environmental standards and regulations or the requirements of environmental safety, environmental protection or efficient use or renewal of natural resources;

(3) any violation of the right of citizens to an environment favourable for life and health, other environmental rights and interests of the population, or the rights of participants in the assessment process;

(4) any other violation of the rights of the parties involved in the environmental impact assessment.

2. The environmental impact assessment authority shall be responsible for the decisions it takes under the procedure established by the legislation of the Republic of Kazakhstan in force.

### **Sanitary-Epidemiological Welfare Act No. 110-XIII of 8 July 1994**

#### **Article 3. Right of citizens to a favourable living environment**

Every citizen of the Republic of Kazakhstan has the **right to a favourable living environment, whose factors should not have an adverse effect on the state of health of present and future generations.**

### **Architectural, Town Planning and Building Activities in the Republic of Kazakhstan Act No. 242-II of 16 July 2001**

#### **Article 7. Rights of citizens to a favourable environment in population centres**

As consumers of the products of architectural, town planning and building activities, citizens have the right:

(1) **to a favourable, in relation to a particular area, environment for their living and livelihood** within their locality (settlement) in accordance with government town planning policy with respect to the location and distribution of productive forces, town planning zoning requirements, **environmental and sanitary-epidemiological safety standards** and the level of development of the local infrastructure.

#### **Article 28. State system of normative documents in the field of architecture, town planning and building**

State normative documents in the field of architecture, town planning and building shall be an integral part of the legislation of the Republic of Kazakhstan.

2. The State system of normative documents in the field of architecture, town planning and building shall include:

(1) State town planning standards and regulations;

(2) State building standards and regulations, building standards, design and building codes and technological design standards.

#### **Article 49. “Residential area”**

“The following may be located in a residential area: hotels, surface and underground garages, open car parks, **and also industrial facilities whose siting and activity do not have an impact on the environment that requires the organization of sanitary safety zones.**”

#### **Article 63. Construction project**

1. The construction project as the basic component of the design (design-cost estimate) documentation must contain the town planning justification for the siting of the facility and the economic, architectural, spatial planning, functional, technological, design, engineering, nature conservation and other decisions, to the extent necessary to build and commission the facility.

3. The construction project shall be developed:

(1) on the basis of the design specifications approved by the client, the materials on the selection and allocation (use permit) of the land (parcel, right of way), the technical conditions relating to the provision of engineering and municipal services, the results of engineering surveys and other initial data, including the results of the client's pre-investment activities;

### **Land Act of the Republic of Kazakhstan No. 152-II of 24 January 2001**

#### **Article 87. Land use in population centres**

1. All the lands of towns, settlements and rural population centres shall be used in accordance with their master plans and planning, building and land-use projects.

2. Plots of common land may be made temporarily available to citizens and legal persons for the siting of light-duty structures (market stalls, kiosks, billboards, car parks and other service facilities) without prejudice to the common use.

#### **Article 91. Zones with special land use conditions**

1. For the purpose of ensuring the safety of the population and creating the conditions necessary for the operation of industrial, transport and other facilities, there shall be established zones within which forms of activity incompatible with the purposes for which the zone was established are restricted or prohibited.

2. The zones subject to special land use conditions shall include:

(1) the health protection zones around industrial enterprises;

(5) the safety zones around main pipelines and communication, radio installation and power transmission lines;

3. Land included in zones subject to special land use conditions shall be designated in situ by means of special signs. This land shall not be liable to expropriation from the owners or land users, except for the first belt of the safety zone around water intake structures.

4. The boundaries of these zones and the land use regime in them shall be determined by the authority which took the decision to give the land into ownership or use, in accordance with the regulations and technical project documentation.

### **REGULATIONS FOR THE PROTECTION OF ELECTRICAL NETWORKS WITH A VOLTAGE OF MORE THAN 1000 V**

1. These Regulations are being introduced in order to ensure the safety of electrical networks with a voltage of more than 1000 V, create standard operation conditions, prevent damage to high-voltage electrical networks liable to cause interruptions in the supply of power to consumers, and **prevent accidents**.

These Regulations apply to all the high-voltage networks of the Republic of Kazakhstan, whether operating, planned or under construction, and are binding within its territory

upon all legal persons (their subsidiaries and agencies) and natural persons, land users and landowners.

Where the routes of overhead and cable lines pass through built-up urban or rural areas the requirements of **paragraphs 7.8-7.13** of BSR 2.07.01-89 on Town Planning.

Planning and construction of urban and rural settlements should be followed.

4. Electrical network safety and health protection zones shall be established: along overhead power transmission lines **in the form of a strip of land and an air space** bounded by vertical planes on either side of the line at a distance from the outer conductors in their undeflected position of: for lines with a voltage of up to 20 kV - 10 m, 35 kV - 15 m and 110 kV - 20 m.

**Building Standards and Regulations BSR 2.07.01-89\*. Town Planning. Planning and Construction of Urban and Rural Settlements. Power, heat, refrigeration and gas supply, communications, broadcasting and television**

7.8. Overhead power transmission lines with a voltage of 110 kV or more should be sited outside built-up areas.

Cable lines should be used for connecting electrical networks with a voltage of 110 kV or more to deep-lead-in step-down substations within the built-up areas of very large and large towns.

**Building Standards and Regulations of the Republic of Kazakhstan, BSR RK B.2.2-1-96. Planning and Construction of Individual Housing Zones**

7.14. Overhead power transmission lines with a voltage of more than 110 kV should be located outside individual residential building areas.

Summary (see Attachment No. 30.)

Signatures:

S.G. Kuratov,

I.N. Bendzya

L.I. Egorova

17 March 2004

1. In carrying out their activities in the field of environmental protection, voluntary organizations shall have the right:

to obtain from state bodies and organizations timely, full and reliable information on the state of the environment and measures to improve it.

*Code of Civil Procedure of the Republic of Kazakhstan*

(Astana, 13 July 1999 No. 411-1 ZRK)

Article 154. Return of particulars of claim

1. The judge shall return particulars of claim if:
  - (4) the claim has been signed by a person not authorized to sign it;
2. In returning particulars of claim the judge shall issue a reasoned determination indicating the court to which the claimant should apply if the court before which the case has been brought lacks jurisdiction, or how to overcome the obstacles preventing his case from being considered. The determination to return particulars of claim must be issued within five days of the particulars being received by the court and handed or sent to the claimant together with all the documents attached to the claim.

Article 278. Filing particulars of claim

1. Citizens and legal persons shall have the right to challenge a decision or action (inaction) of a state body, local authority, voluntary association, organization, official or public servant directly in court. Prior appeal to a superior body or organization or a higher-ranking official shall not be a prerequisite for filing particulars of claim or for their being admitted by the court for consideration and disposition on the merits.

Article 279. Decisions and actions (inaction) of state bodies, local authorities, voluntary associations, organizations, officials and public servants which can be challenged in court

1. The decisions and actions (inaction) of state bodies, local authorities, voluntary associations, organizations, officials and public servants which can be challenged in court shall include collective and individual decisions and actions (inaction) as a result of which:
  - (1) the rights, freedoms and legally protected interests of citizens and legal persons are infringed;
  - (2) a citizen is hindered from exercising his rights and freedoms or a legal person from asserting its rights and legally protected interests;

**Summary** (see Attachment 1)

S.G. Kuratov

Chairman, Ecological Society Green Salvation

5 February 2004