**Submission of responses to the Questionnaire by NGO ‘Socio-Ecological Fund’, Secretariat of Ecoforum of NGOs of Kazakhstan, Almaty, Kazakhstan**

**8 June 2019**

1. Please provide, in detail, examples of laws, regulations, policies and programmes that specifically incorporate the human right to a safe, clean, healthy and sustainable environment (acknowledging that different terms may be used to describe this human right).

*According to article 31, para. 1, of the Constitution of the Republic of Kazakhstan the state aims to protect the environment favorable for human life and health. It does not recognize the constitutional human right to a safe, clean, healthy and sustainable environment but requires the government to take measures on environmental protection. The human right to a safe, clean, healthy and sustainable environment is incorporated into a number of national laws of Kazakhstan.*

*Article 13, para. 1.1, of the 2007 Environmental Code incorporates the right of individuals to the environment favorable to their lives and health. Chapter 21 of this law provides the detailed legal framework for access to environmental information. Less detailed provisions on public participation in environmental decision-making processes are incorporated into Chapter 6 on environmental impact assessment and Chapter 7 on ecological expertise. The public participation procedures are set in Kazakhstan by the 2007 implementing regulations to the Environmental Code on EIA and public hearings. The Government is planning to submit the new Environmental Code to the Parliament by the end of this year. The human right to a safe, clean, healthy and sustainable environment is also incorporated into a number of sectoral laws of Kazakhstan, including the water and forest codes, laws on radioactive safety, protected areas, fauna, construction activities.*

1. Please provide specific examples of good practices in the implementation of the human right to a safe, clean, healthy and sustainable environment. Examples may include practices related to: guaranteeing procedural rights (e.g., access to information, public participation in environmental decision-making and access to justice and remedies); protecting the substantive elements of the right (including: clean air; access to clean water and sanitation; healthy and sustainably produced food; a non-toxic environment in which to live, work, study, and play; a safe climate; and healthy biodiversity and ecosystems); monitoring adverse impacts on the human right to a safe, clean, healthy and sustainable environment; promoting the enjoyment of the right to a safe, clean, healthy and sustainable environment; regulating business activities in accordance with the UN Guiding Principles on Business and Human Rights to protect the right to a safe, clean, healthy and sustainable environment; and remedies that have been provided for victims of violations of the right to a safe, clean, healthy and sustainable environment. These examples may occur at the international, national, sub-national, or local level.

*Our organization conducts regular activity on the implementation of the rights on access to environmental information, public participation in environmental decision-making and we are practicing environmental litigation but on less regular basis. We would like to provide our Living Asia media, livingasia.online, as a specific example of good practices in implementation of the human right to a safe, clean, healthy and sustainable environment. Arguably it is the most popular source of environmental information in Central Asia. Our organization supports the Living Asia media to satisfy the increased needs in environmental information which are not supplied by the governments and traditional media (TV, radio, newspapers). The Living Asia media uses income generated by providing communication services to international and donor organizations, business companies to provide environmental information to the public in Central Asian countries. We disseminate the environmental information through social media (Facebook, Instagram, Youtube).*

*In 2017 we established the annual Central Asian Youth Environmental Award to support youth engagement in environmental protection and sustainable development. The special commission consider nominations and select two winners every year. The support is not limited to just monetary prizes as we also promote young leaders through our media and at our special events.*

1. Please provide evidence related to the effectiveness of the measures identified in your responses to Questions #2. For example, evidence could involve measured decreases in air and water pollution, a growing proportion of the population with access to clean water and adequate sanitation, increased production of renewable energy, declining greenhouse gas emissions, a growing percentage of land in terrestrial and marine protected areas, declining use of pesticides and/or other toxic substances, lower body burdens of toxic substances such as PCBs and lead, and declining rates of deforestation.

*The number of views, subscribers on our website, Facebook and Instagram accounts is increasing despite the government began from 2018 to limit access in Kazakhstan to major social media (Facebook, Instagram, Youtube).*

*Winners of the Central Asian Youth Environmental Award are already becoming recognize civil society and human rights leaders in Kazakhstan and Kyrgyzstan.*

1. Please specify any challenges your Government, business, or organization has experienced in fulfilling its obligations relating to the human right to a safe, clean, healthy and sustainable environment.

*The main challenges our organization is facing with in in fulfilling activities relating to the human right to a safe, clean, healthy and sustainable environment:*

1. *Environmental deregulation of business activities which is actively promoted by the governments of Kazakhstan and other countries of the region as a part of the process to improve the Ease of Doing Business country rankings. In practice, it leads to the lack of information on environmental aspects of business, environmental non-compliance by companies and industrial facilities due to the lack of governmental control;*
2. *Environmental human rights defenders are at higher risk at the moment than in the past and it is having deterrent effects for environmental human rights activities. For instance, in early May 2019 two our colleagues were detained when they monitored the site where a number of children were poisoned by toxic emissions from oil operations in 2016. One of the persons was intimidated in a police office by possible criminal prosecution on alleged false information dissemination on that case. Information on other cases of harassment of environmental human rights defenders is provided in our 2017 report,* [*https://drive.google.com/file/d/1IBvLMB\_P\_NHXwpeDzsUzsD-9Ie8WtlTG/view*](https://drive.google.com/file/d/1IBvLMB_P_NHXwpeDzsUzsD-9Ie8WtlTG/view)
3. How are the rights of those who may be particularly vulnerable to violation of their right to a safe, clean, healthy and sustainable environment (e.g. women, children, persons living in poverty, members of Indigenous peoples and traditional communities, older persons, persons with disabilities, displaced persons, and national or ethnic, religious and linguistic minorities), through either environmental degradation (e.g. air and water pollution, exposure to toxic substances, climate change impacts) or lack of access to environmental amenities (e.g. safe drinking water, adequate sanitation, waste management services, access to natural spaces), provided with heightened protection?

*Such groups and persons are often are less aware about their right to a safe, clean, healthy and sustainable environment and environmental awareness raising activities should be designed and implemented according to their specific needs. For example, our organization is implementing a project on raising awareness on air pollution among children, youth and their parents and we are doing it by producing and disseminating this information through comics, animated cartoons, stickers,* [*http://livingasia.online/2019/03/18/smogliki/*](http://livingasia.online/2019/03/18/smogliki/)*. Also it is important to ensure that such particularly vulnerable groups have access to effective remedies, e.g. in Kazakhstan environmental harm is usually calculated on the basis of illness days, loss of job or/and income and thus, it is not suitable to protect children’s right to a safe, clean, healthy and sustainable environment. Also heightened protection of the rights of those who may be particularly vulnerable to violation of their right to a safe, clean, healthy and sustainable environment, e.g. children, should be considered in relation to the standing to bring a legal challenge for violation of their rights. It cannot rely fully on the parent’s rights to do so and in certain cases the standing for the protection of their rights should be provided to environmental and human rights NGOs, human rights and children’s rights ombudspersons. Finally, representatives of particularly vulnerable groups whose right to a safe, clean, healthy and sustainable environment was violated might be needed in social protection, medical rehabilitation and even in resettlement and governments should provide their free access to relevant facilities and mechanisms.*

1. How do you ensure that the rights of environmental human rights defenders are protected? What efforts has your Government, business or organization made to create a safe and enabling environment for them to freely exercise their rights without fear of intimidation, violence or reprisal?

*We consider that environmental human rights defenders in Kazakhstan and worldwide are at higher risk at the moment than in the past. In September of 2017 Ecoforum of NGOs in Kazakhstan in cooperation with Crude Accountability (U.S. based NGO) published the report on harassment of environmental human rights defenders ‘Dangerous work: Increasing pressure on environmental NGOs and activists in the countries of the former Soviet Union and the U.S.’,* [*https://drive.google.com/file/d/1IBvLMB\_P\_NHXwpeDzsUzsD-9Ie8WtlTG/view*](https://drive.google.com/file/d/1IBvLMB_P_NHXwpeDzsUzsD-9Ie8WtlTG/view)*. The report was presented at the 6th session of the MOP of the Aarhus Convention (Budva, Montenegro, 11-14 September 2017), OSCE Human Dimension Implementation Meeting (Warsaw, Poland, 11-22 September 2017) as well as to the UN Special Rapporteur on the situation of human rights defenders, Mr. Michel Forst.*

*Ecoforum of NGOs of Kazakhstan assisted in a number of cases to victims of penalization, persecution and harassment of environmental human rights defenders in Kazakhstan, Central Asia and Russia by appeals to national public authorities, HRC and Aarhus Convention procedures. In those cases we experienced that there are no effective domestic legal remedies for the protection of environmental human rights defenders.*

1. What are ways in which high-income States should assist low-income States in respecting, protecting, and fulfilling the human right to a safe, clean, healthy and sustainable environment?

*N/A*

1. For businesses, what policies or practices are in place to ensure that your activities, products, and services (extraction/sourcing, manufacturing, distribution, sale, and end-of life management) respect and protect the human right to a safe, clean, healthy and sustainable environment?

*N/A*