



INTERNATIONAL HELSINKI FEDERATION FOR HUMAN RIGHTS  
ALMATY HELSINKI COMMITTEE  
АЛМААТИНСКИЙ ХЕЛЬСИНКСКИЙ КОМИТЕТ  
МЕЖДУНАРОДНАЯ ХЕЛЬСИНКСКАЯ ФЕДЕРАЦИЯ  
ПО ПРАВАМ ЧЕЛОВЕКА

December 17, 2006

Almaty city

#### COMMENTS OF THE TEXT CALLED

"Decision of the Commission for investigation of the land issue of the Religious Organization "Society for Krishna Consciousness" in the Karasai district of Almaty province"

#### 1. General observation

I give this opinion of the text that was made available to us, even though it cannot be considered an official document, since it is not dated or signed by the members of the Commission on whose behalf it was made.

#### 2. Comments on the contents

It is not clear from the text what "the current situation connected with land disputes" is about:

- who argued with whom, what are these arguments?
- what is the foundation of these arguments?

It is not clear how the "current situation" was "studied":

- who presented documents for the Commission to study, what documents?
- no mention of the members of the Commission or outside experts who studied the documents,
- no mention of the facts found during this study.

There is no mention of conclusions that the Commission has reached:

- whether it found any facts of somebody's rights' violation or law infractions, what are these violations and infractions?

#### 3. Comment on the recommendations

Section 1.1. (recommendations to the Karasai District Hakim) and section 3 (recommendations to the members of the religious organization) are not actually recommendations: they are matter-of-course advice to resolve property disputes in the order established by the legislation.

Section 2 (recommendations to the management of the religious organization "Society for Krishna Consciousness") is entirely inconcrete and incorrect:

Subsection 2.1. (recommendation to appeal to the local executive authorities in accordance with the procedures established by legislation for allotment of a land plot to construct a place of worship) is inappropriate. A religious association, as well as any other legal entity, does not require anybody's recommendations to enjoy its legal and constitutional rights.

Subsection 2.2. (recommendation to carry out public worship and religious rites according to the requirements of the Law of RK "On the Freedom of Faith and Religious Associations") is perplexing. The mentioned law does not contain any rules regulating the order and the procedure of public worship and religious rites (it cannot contain such rules!)

Subsection 2.3. (recommendation to present the problems of cooperation with the local authorities objectively while appealing to governmental bodies and mass media) is nothing but a sign of preconceived distrust towards the recommendation's addressee, as well as a veiled reproach for giving wide publicity to the conflict.

Section 4 is meaningless. The Hakimat's Committee for Connections with Religious Organizations is a consultative body, it is not meant to "continuously control the observance of the law on the freedom of faith and religious associations by local bodies, religious associations, and other legal and physical entities," while the activities of the Department of Justice of Almaty province are based on the law "About bodies of justice." Even if it had to consider a most difficult situation, it would not be able to gain additional authority beyond the limits established by the law.

Our study of the remaining sections of the Recommendations leads to the conclusion that the Commission has actually found some essential facts which were not however mentioned in the available document.

Subsection 1.2. recommends to the Karasai district Hakim "to take measures to exclude defects in the future work for the privatization of land plots in the Eltai rural district." What are the defects found by the Commission? Do they affect in any way the rights of the members of the religious association and other citizens? If they do, what is required to fully restore the affected rights?

Subsection 1.3. recommends to the district Hakim "to continue the previously suspended privatization of cottages and horticultural plots of land." What does "the suspended privatization" stand for? Who "suspended" it, based on which legal acts? How did this "suspension" affect the rights of citizens, including the members of the religious association?

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