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CONVENTION ON THE CONSERVATION OF EUROPEAN WILDLIFE
AND NATURAL HABITATS

Standing Committee

41st meeting
Strasbourg, 29 November – 3 December 2021

Complaint on stand-by: 2020/01

**Recognising Horbachykha as a protected area
to save it from residential developments
(Ukraine)**

- REPORT BY THE COMPLAINANT -

*Document prepared by
#SaveHorbachykha Activist Movement, Ukraine*

- July 2021 -

**Update on the Horbachykha 2020/01 complaint
on behalf of the SaveHorbachykha movement
February 2021 - July 2021**

The period of Summer and Spring, 2021, appeared to be quite intense for the SaveHorbachykha movement, ever more resembling a war of the city authorities with the community.

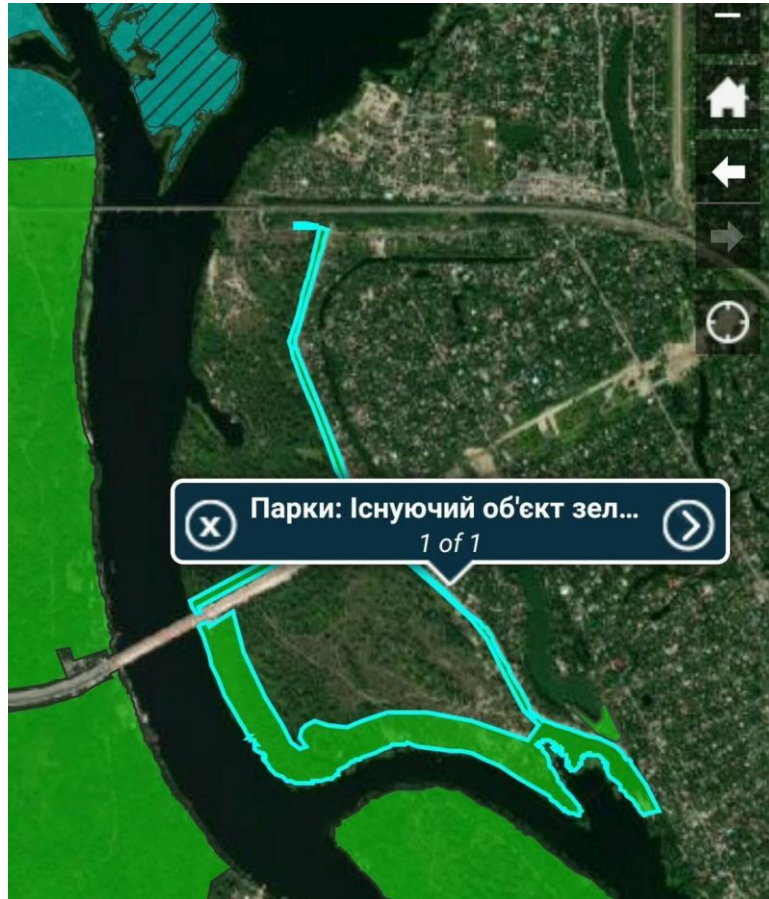
This Spring, the SaveHorbachykha activists restarted forcing establishment of the Horbachykha natural reserve (zakaznik) on the whole Horbachykha territory (99 hectares) on the level of the city institutions. In response, we received an informal spoken proposal from the city officials to settle for a reserve covering 9 hectares (instead of 99 hectares) and refrain from claims for the rest of the Horbachykha territory. The activists refused to accept such a proposal, considering it a display of corruption.

On June 2, a major community cleanup of Horbachykha territory was held, and over 100 bags of garbage were collected. The amount of garbage in the green zone illustrates continuous deliberate inaction of Zelenbud, the managing company responsible for all the green zones in Kyiv, and its corruption links with the city authorities and, correspondingly, developers. The tactic is typical for Kyiv: first they neglect an area, and then they welcome developers who would, supposedly, clean the mess.

On the eve of July 5, after a continuous period of drought, a fire started in the central part of Horbachykha. The fire had multiple epicenters in dead tree hollows and strongly resembled an arson attack. Local residents immediately called the firefighters, but the latter would not have succeeded if not for the rain, which started shortly after.

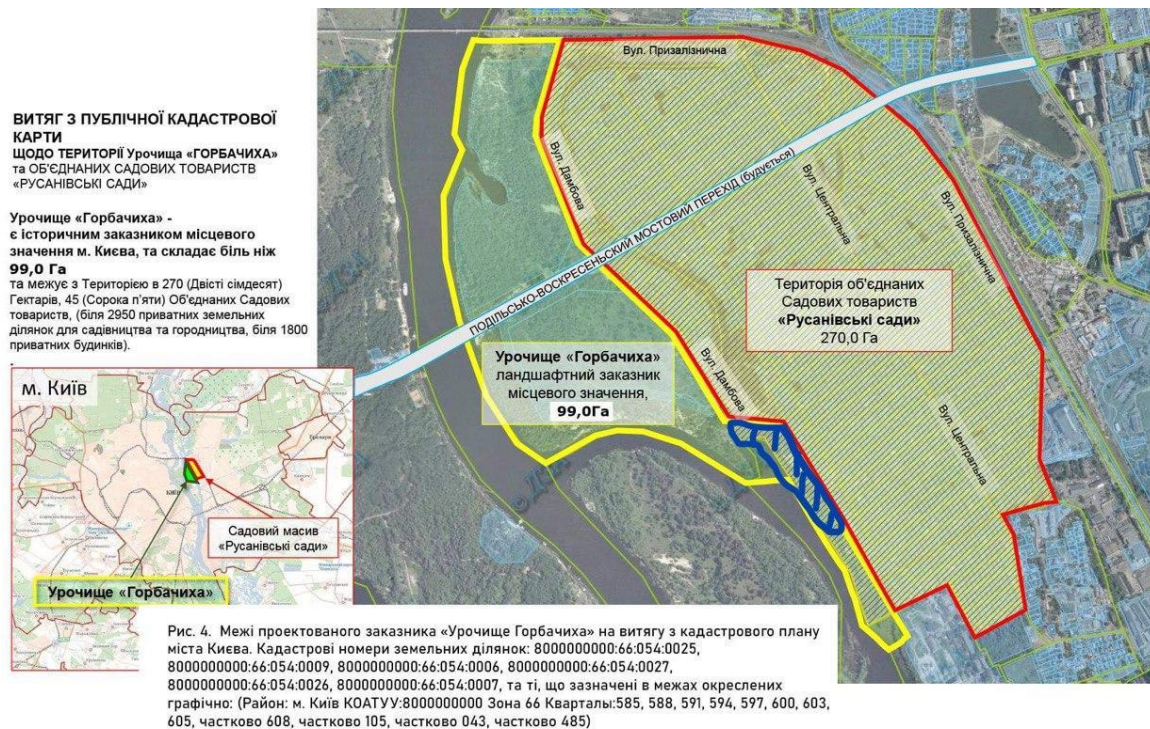
On July 6, the arson attacks continued. By a fortunate chance, the arsonist, who had just set the first tree on fire, was spotted by a local resident and his pregnant wife, who had an evening walk through Horbachykha. When the couple tried to stop and catch him, the arsonist ran away, threatening with a knife. The couple started filming him with their phones. While running away, he resented that local people didn't allow him to earn some easy money in a place "which would be developed anyway in a year". Videos of the fire and the arsonist can be found on the [Facebook page](#) of the SaveHorbachykha movement. As a result of the incidents, a total of 3 hectares of the future reserve were destroyed. Even though we strongly suspect these incidents to be a revenge of KAN-Development for our active position, we didn't report the police. Since video proof is not considered evidence according to Ukrainian laws and Ukrainian police are corrupt, our chances to succeed would be close to zero.

In the meantime, this Spring the above-mentioned Zelenbud managing company has held a regular inventory of its territories. Before the inventory, the whole Horbachykha area was listed as a green zone. After the inventory, 75 from 99 hectares of Horbachykha were excluded from the list of the green zones, leaving only 14 hectares of the territory as a park, not even a natural reserve (in the picture below the 14 hectares of the supposed park along the coastal line are highlighted with green and a blue outline). Moreover, being listed as a park, not a reserve, Horbachykha would get all the typical park infrastructure, such as asphalt tracks and a concrete embankment, which would negatively affect biodiversity at the site.



The district civil council filed a complaint about Zelenbud, demanding to recognize the whole Horbachykha a green zone. In response, Kyiv City Council illegally allocated another 2,6 hectares of Horbachykha coastline, including one of the Kyiv's best public beaches Molodizhnyi (the area is highlighted with red on the picture below) for private use, having changed the legal purpose of area from "green zone" to "intended for cultural and health needs, sports, recreational and tourist purposes".

This kind of zoning allows construction of hotels, restaurants, yacht clubs and sports facilities. This completely contradicts the laws of Ukraine, because the legal purpose of an area can only be changed after civil hearings of the local community are held, while the civil hearings in 2020 (see previous report from February, 2021) already decided that the whole Horbachykha area should be recognized a natural reserve (zakaznik).



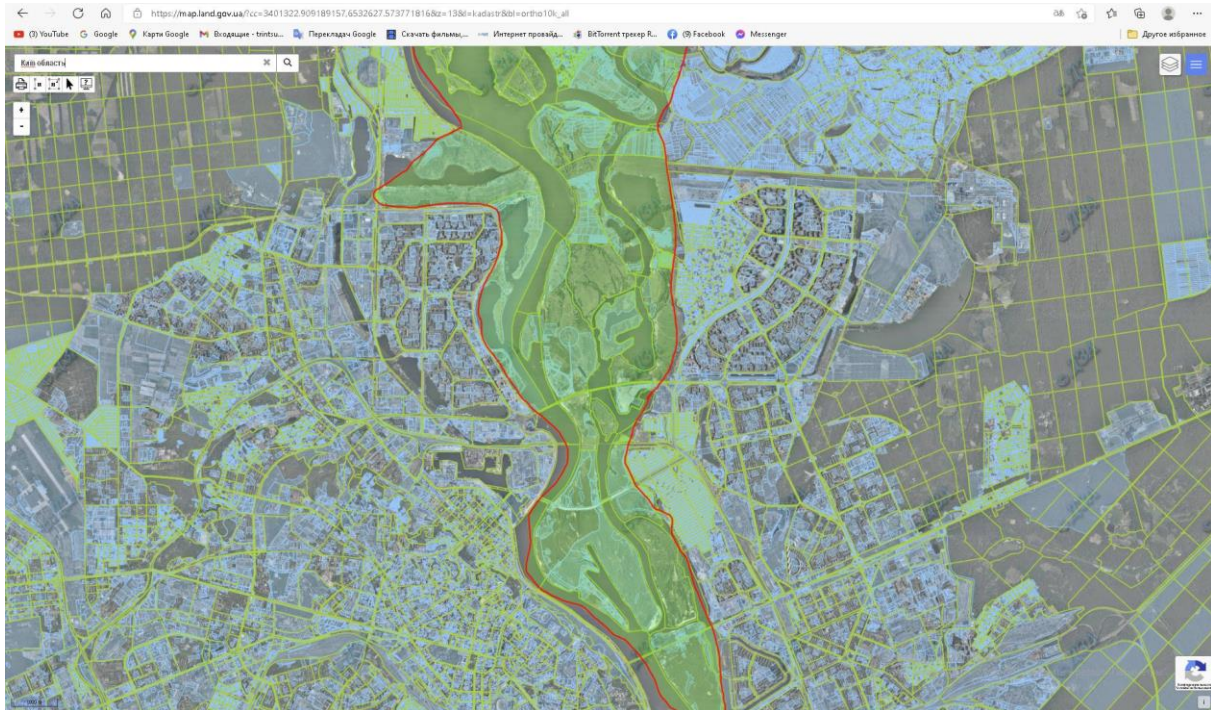
The outraged members of the local community reacted with a number of interviews, TV stories, and public talks at urban festivals, such as Metronom and Prosto Neba, about our struggle to make Horbakykha a natural reserve, which is crucial for the city's ecological situation, which has already visibly declined over the past years.

Particularly, SaveHorbakykha activist, architect Olena Fateeva publicly addressed Kyiv's Chief Architect Oleksandr Svistunov during her talk at Metronom Architectural Festival. She asked when Horbakykha reserve would be created and why the city officials have systematically ignored the community's will, the laws of Ukraine, as well as the addresses of the Ministry of Ecology and Natural Resources of Ukraine and Ukraine's international partners. Olexandr Svistunov said the community is not trying hard enough and he anyway didn't see a place for a big natural reserve in the very city centre. When asked about the letters of the Bern Convention Secretariat stating the Horbakykha should be recognized as a reserve, Svistunov said: "Let them write those letters further", meaning that as a city official he doesn't care about Ukraine's international obligations on the state level. The audience of the festival reacted with outrage, and Svistunov had to get off the stage amid boos. We consider this an outrageous act of disrespect towards the Council of Europe and the Bern Convention Secretariat and are convinced that in a democratic society Svistunov would have to resign immediately after such a statement.

Since the Kyiv City Council was reelected in autumn, 2020, SaveHorbakykha activists once again addressed the Council and submitted all the necessary papers, namely the resolution of the civil hearings and the scientific justification for the Horbakykha reserve, to the Council. In early July, community representatives once again presented the project of the reserve to the Sluhy Narodu Faction of the Civil Council (Sluhy Narodu is the President's party and the biggest faction of the Kyiv City Council). The Faction representatives promised the activists support, however, no action followed over the past month and the Council went on recess until September, 2021. During an informal conversation, we were told that the faction members support the creation of Horbakykha Reserve, but will not enter into confrontation with head of KAN-Development (the company that initially planned to develop Perlyna Dnipra complex on Horbakykha) Igor Nikonov, ex-deputy Mayor and friend of Kyiv's current Mayor Vitali Klitschko.

No actions were taken by the Ministry of Ecology and Natural Resources of Ukraine over the reported period (February - July 2021), presumably, for the same reasons. A collective appeal of various grassroots initiatives to the President of Ukraine also did not bring any results.

Similar events are taking place all over Kyiv with over 300 pieces of green zones being deprived of the ‘green zone’ status over the past several months. Many of them were intended to enter the Dnipro Islands National Park, which should have covered the Dnipro (Dnieper) ecological corridor areas within Kyiv (including Horbachykha), a major project blocked by the corrupt city officials. On the picture below, which is a screenshot of the official [cadastral map of Ukraine](#), the Dnipro river conservation area is outlined with red, while the pieces which have been deprived of the ‘green zone’ status are highlighted with blue.



Over the past 6 years, construction of concrete embankments, sponsored by the city budget, has become a source of income for corrupt city officials and a tragedy for both Kyiv’s biodiversity and its residents. For instance, construction of a concrete embankment on the Southern edge of Horbachykha (see previous report from February, 2021) has already impacted negatively on the nearby city beach Veselka, which became unsuitable for swimming.

Ukrainian ecologists are puzzled by the ecological situation in the capital due to the massive extermination of trees and a serious deterioration in the quality of water in the Dnipro River. At the moment, different initiatives opposing developments in different parts of Kyiv have united to hold a major protest rally against the devastating city policy and unforgivable corruption encompassing all levels of the city authorities and city managing companies, such as Zelenbud. The rally is scheduled for September 4.

SaveHorbachykha activists would like to once again sincerely express our gratitude to The Bern Convention Secretariat and Standing Committee for your support. We are even more convinced that international support is the key to breaking the vicious circle of corruption within Ukrainian authorities that is impacting ecology so negatively. We desperately ask you not only to strengthen the pressure on the Ministry of Ecology and Natural Resources of Ukraine, but also assist with imposing any sanctions, including economic and limiting entry to the European Union, on the people responsible for systematic extermination of the nature in Kyiv, namely:

- The Mayor of Kyiv Vitali Klitschko
- Head of Zelenbud service company Oleksii Korol
- Head of KAN-Development company Igor Nikonov
- Chief architect of Kyiv Oleksandr Svistunov

Since we understand that the charges we have filed are serious, we would also be happy to provide any further available evidence confirming this report, including videos, pictures, and links.

- March 2021 -

**Update on the Horbachykha 2020/01 complaint
on behalf of the SaveHorbachykha movement
February 2020 - February 2021**

Since February 2020, community activists have been still striving to defend Horbachykha green zone in Kyiv from residential and commercial development by achieving a protected area status for the area. First of all, we appealed to ecologists, members of the National Academy of Science of Ukraine (NAS), to develop a document justifying the necessity to create a natural reserve (zakaznik) on the whole Horbachykha territory (99 hectares). In Ukraine, such a document is a necessary condition for the city authorities to include the territory into the register of protected areas. The authors of the justification for Horbachykha reserve are Ivan Parnikoza, PhD, professor of the Institute of Molecular Biology and Genetics NAS of Ukraine, and Kateryna Polyanska, PhD, assistant at the International charitable organization Environment-People-Law. We have made an abbreviated translation of the justification into English and can send it in MSWord format upon request of the Secretariat.

In parallel with this, the issue of recognizing Horbachykha as a protected area was submitted to the regular civil hearings, where it received unanimous support of the local community (according to Ukrainian legislation, civil hearings are a form of cooperation between the City Council and city residents considering any issues of local or citywide importance). Thereafter, we submitted both the resolution of the civil hearings and the scientific justification for the Horbachykha reserve to the city authorities to bring the decision of the community into effect and formalize the Horbachykha reserve legally. The city authorities accepted the application, however, no action was taken to implement it. All requests of activists and community on the issue have been ignored so far.

In a situation of criminal inaction and sabotage by the city authorities, the community does not give up. We keep doing everything possible for the Horbachykha issue to receive proper media coverage, so that more and more people learn about this unique endangered territory. In particular, several electronic music streams were held from Horbachykha (the stream format was chosen due to restrictions during the pandemic). We also organized several grassroots rallies (subbotniks) to clean the territory. Activists continue documenting biodiversity on Horbachykha with photos and videos. The area has also been the subject of several television plots. Multiple results of the documenting process can be found on our pages in Facebook and Instagram. Community activists have also made a Google point on Horbachykha and uploaded hundreds of photos of Horbachykha's flora and fauna there.

Having received the letter from the Secretariat of the Bern Convention, the Ministry of Ecology and Natural Resources of Ukraine invited activists of the SaveHorbachykha movement to a meeting. The Ministry offered assistance in creating a nature reserve of national importance on the territory. However, it has not taken any further actions for more than six months, thereby sabotaging

the community's voice, just like the city authorities do.

Meanwhile, corrupt city officials influenced by developers illegitimately changed the legal purpose of approximately 50% of Gorbachykha area from "green zone" to "intended for development", ignoring the latest expression of the community will.



Part of Horbachykha deprived of the "green zone" status is highlighted with orange

Photo: kmr.gov.ua (official website of the Kyiv City Council)

No doubt this unreasonable decision must be challenged in court. However, Ukrainian courts are completely corrupt and, according to our sources, a bribe of \$ 20,000 should be paid to get a fair decision on the issue.

Unfortunately, Horbachykha case is not an isolated one. During the cadence of the current Kyiv's mayor Klitschko, who was re-elected for a new term in November 2020, the link between the city authorities and the developers has finally taken shape and strengthened. A massive destruction of green areas for development (preceded by illegal change of the areas' statuses to "intended for development") is taking place in Kyiv at the moment.

Corrupt officials are trying to legitimize the process by the to-be master plan of Kyiv, which is currently under development. In the document's draft, Desenka, the left-bank duct of the Dnipro River where Horbachykha is situated, has been deprived of the status of a "river" and mentioned instead as a

‘technical channel’. This has been done in order to allow city authorities and developers to cover the natural riverbank with concrete and develop it, thus bypassing the riverbank protection legislation. According to Ukrainian laws, construction is prohibited on the sanitary zone of rivers and reservoirs, which is 50 m from the water's edge for small rivers and 100 m for major rivers. We can provide all necessary evidence of these destructive processes, including links to official websites, upon your request.

In view of the above, Ukrainian public is shocked and confused. We continue to appeal to the international community. Over 3 years of struggle, we realized that Ukrainian officials are capable of acting only under international pressure. So, in addition to the Secretariat of the Bern Convention, we appealed to several international organizations for help. In particular, we contacted Birdlife International (former International Council for Bird Preservation) representatives, who redirected us to their Ukrainian partners, the Ukrainian Bird Protection Society. Members of the Ukrainian Bird Protection Society confirmed that they consider Horbachykha, a part of the Dnipro ecological corridor, a particularly valuable territory for bird migration. They agreed to help us elaborate an academic paper substantiating the importance of Horbachykha and the neighboring Dnipro Islands, which are also being gradually deprived of the “green zone” status by analogy with Horbachykha, for the migration of European birds. We will know the terms and conditions for completion of the paper in the near future, and we will additionally inform the Secretariat.

We are truly grateful for your support and hope that you will continue to put pressure on the Ministry of Ecology and Natural Resources of Ukraine, which will help to take the Horbachykha issue out of the vicious circle of corruption at the city level. We have evidence that developers and city authorities have not yet destroyed Horbachykha habitats only due to the intervention of the Bern Convention Secretariat, as Igor Nikonov, head of KAN-Development (the company that initially planned to develop Perlyna Dnipra complex on Horbachykha), confessed in one of his latest interviews.

In this situation, international support to save the nature of Kyiv and Ukraine remains our only hope.