IMPLEMENTATION OF THE PROVISIONS OF THE

AARHUS CONVENTION
IN THE REPUBLIC OF BELARUS

IN THE PERIOD 2017-2021

ARNIKA

TRANSITION
Transition Promotion Program

ЭКОДОМ

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Introduction

During four years passed since the 6th Meeting of the Parties to the Aarhus Convention, we have not seen any significant progress in Belarus. The situation has not indicate fulfilling international obligations by the state; only areas of non-compliance and forms of violation have developed.

Thus, Belarus have not yet made progress in implementing the recommendations of Decision VI/8c, and four years later, most of its recommendations repeated the recommendations of previous Decisions, V/9c for the Ostrovets NPP of 2014 and IV/9b for the Neman HPP of 2011. Having a quite long term if not for fully implementing all the recommendations, then at least demonstrating the necessary and sufficient steps to implement them, Belarus has not taken the necessary measures.

Multiple problems in legal framework and law enforcement practice noted by us in the Review of the Practice of Implementation of the Aarhus Convention in the Republic of Belarus for the period of 2014-2017[1] remained unresolved. In our review for previous reporting period, we said that Belarus adopted "significant amendments to legislation in order to implement the provisions of the Convention and of Decision V/9c", but for the period of 2017-2021 we did not observe applying these amendments in order to achieve the goals formulated in the Decisions of the Meeting of the Parties. Belarus did not take significant steps to move forward in the implementation of the Recommendations of Decision VI/8c[2]; it does not have a clear plan for the implementation of the Recommendations.

This was also reflected in the Report on Compliance by Belarus with its Obligations under the Convention, prepared by the Committee on Compliance by Belarus with its obligations under the Convention by the 7th Meeting of the Parties.

Moreover, in 2020, the Compliance Committee admitted to consideration the C/182 case related to the construction of a battery plant near the city of Brest.

The situation in connection with the persecution of eco-activists and EcoNGOs exercising their rights under the Convention significantly getting worse.

[1] https://unece.org/fileadmin/DAM/env/pp/mop6/NIR_2017/NGO_Reports/BY_Aarhus_2017_EN_rev_sm.pdf
[2] https://unece.org/DAM/env/pp/compliance/MoP6decisions/Compliance_by_Belarus_VI-8c.pdf

Access to environmental information

During the reporting period, there were no significant changes in regulating and exercising the right to access to environmental information.

In 2017, art. 2 of the Law "On Information, Informatization and Protection of Information" was amended. This norm provides for that “the legislation of the Republic of Belarus may establish special legal regulation of information relations related to information constituting state secrets, personal data, advertising, protection of children from information harmful to their health and development, scientific, technical, statistical, legal, environmental and other information.” The incorporation of this norm was presented by Belarus as the implementation of Decision V/9c of the Meeting of the Parties, para 6a of which reiterates the recommendation to take urgently the necessary legislative, regulatory, and administrative measures, as well as measures of a practical nature to ensure, in accordance with paras 4 a)-i) of Decision IV/9b, that the general law on access to information to contain a reference to the 1992 Law ‘On Environmental Protection’ specially regulating access to environmental information, which allows not applying the general requirement to state an interest. But amended version of the Law "On Information, Informatization and Protection of Information", as mentioned above, contains a reservation clause that special legal regulation can be established, instead of a direct reference to the Law on Environmental Protection. State bodies continue refusing to provide environmental information through including it in the information with restricted dissemination in accordance with the Law "On Information, Informatization and Protection of Information."

Art. 74 of the Law "On Environmental Protection" divides environmental information into two groups:

(1) Environmental information provided or disseminated in accordance with the Law "On Environmental Protection";

(2) Environmental information provided and disseminated in accordance with other legislative acts.

To ensure public access to environmental information of the second group, it is necessary to green norms of relevant branches of law. Today, the level of greening the legislation on the financial and credit system, on information and informatization, on architectural, town-planning and construction activities, and some other branches is extremely low.

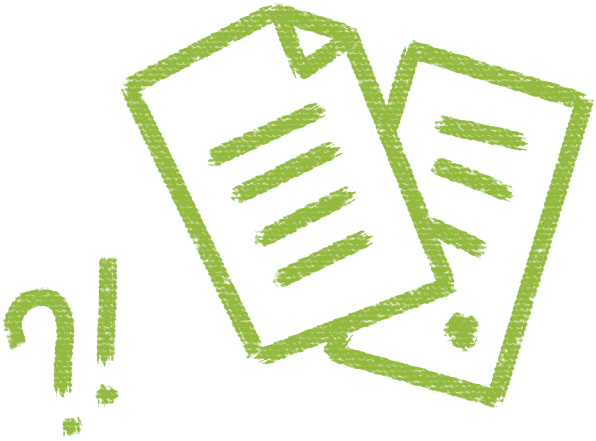
During the last reporting period, the practice became widespread where a holder of environmental information (usually a government agency) refused to provide it referring to the fact that the requested information was not environmental. So, the Brest Regional Executive Committee (regional government) refused to provide a copy of the decision permitting the construction of a battery plant near Brest (the situation is under consideration in the C/182 case), and the court agreed that this information is not environmental, contrary to the provisions of art. 2d of the Aarhus Convention. *Ecohome* keeps written replies from the Ministry of Natural Resources and Environmental Protection that

conclusions of the state environmental expertise and the local authority`s decision permitting the construction of a battery plant are not environmental information.

Despite the procedure for access to environmental information regulated by law, there are still some obstacles. They are primarily due to legal awareness of state bodies and other holders of environmental information interpreting the norms of legislation in a restrictive way, as well as insufficient expertise of people in exercising their right to access to environmental information. According to the results of a poll conducted by Ecohome in 2021, more than 62% of respondents have never applied for environmental information either to state bodies or to other organizations. About 20% of respondents were not at all familiar with a concept "environmental information."

Law enforcement practice has followed the path of refusing to provide information contained in restricted access documents. The legal provisions for separation of environmental information from other information to ensure providing environmental information to a requester are rarely applied.

State bodies and business entities are still not aware of the time frames for providing environmental information established by the Law "On Environmental Protection." For this reason, requests for environmental information are often incorrectly considered up to 30 days, in accordance with the legal provisions for other appeals.



Public participation in environmental decision-making

Belarus` national legislation does not contain provisions directly granting the possibility for public to participate in environmental decision-making. For more than fifteen years, public hearings have been a form of participation of the public concerned in the process of making town-planning and environmental decisions.

At the moment, there are several relevant procedures regulated by a number of regulatory legal acts, as follows:

- Resolution of the Council of Ministers of the Republic of Belarus dated 14 June 2016 No.458 "On approval of Regulations on a procedure for organizing and conducting public discussions of drafts of environmentally significant decisions, environmental reports on strategic environmental assessment, environmental impact assessment reports, for recording environmentally significant decisions taken";[3]

- Resolution of the Council of Ministers of the Republic of Belarus dated 1 June 2011 No.687 "On some measures to implement the Law of the Republic of Belarus On amendments and additions to some laws of the Republic of Belarus on architectural, town-planning, and construction activities."

At the same time, all procedures are reduced to informing the public (often not timely and effective enough) and providing an opportunity to express opinions, without any guarantee that the comments, including critical ones, will be taken into account.

One of the key issues of concern, according to complaints from people, is informing on the time limit for public hearing procedure. In recent years, there have been typical complaints to the authorities from people, who missed the public hearing period and learned about planning changes only after the construction of a building fence. In such cases, complainers usually refer to poor informing about the beginning of a public hearing: the lack of notices at the entrances of residential buildings and (or) objects of attraction in small settlements (shops, ambulance stations, town halls, etc.), unpopularity of local print media outlets, poor navigation on the local government official website, etc.

In our opinion, the problem of informing the public about the beginning of a public hearing does not have a "simple" response now and should be solved by applying a set of measures, including at least the following:

- Forming a circle of the public concerned by the local authorities;
- Targeted notifying members of the public concerned about the beginning of a public hearing;
- "Early" informing about the launch of project development (it would be most expedient to carry out this at the stage of land provision);
- Creating on the main page of the official website of a public hearing organizer the section "Public Hearings" in such a way that users can easy find it.

[3] https://unece.org/DAM/env/pp/compliance/MoP5decisions/V.9c_Belarus/extracts_from_Resolution_No_24_EN.pdf

illustrative and textual information about the project allows it to be placed on the official website of the organizer of the public discussion. Necessity of visit to the exposition in the premises of the organizer of public discussion to obtain information about the project under discussion looks absolutely ill-considered, taking into account the epidemiological situation that has developed in the country and the world since March 2020 (the covid-19 pandemic). Thus, we propose to supplement the rule on holding a project exposition (exhibition) in the information center of the local authority or in a room accessible to individuals and representatives of legal entities with the obligation of the organizer of public discussion to post a copy of the project exposition (exhibition) materials on its official site.

It should be noted with regret that the situation regarding the wording of these norms getting worse with adoption of new edition of Regulations in 2019. At present, part of the second para 18 has established: on the page "Public Discussions" of the official website of the local authority in global computer network Internet, in addition to the notification, information about goals of the project and the main decisions on it with illustrated materials, the list of which is determined by the customer, a project may be posted. Thus, not only the list of materials of the discussed project posted on the Internet but the mere expediency of their placement is determined by the owner of the project (customer) and the organizer of public discussions. We adhere to the position that the creation of such artificial obstacles in the way of a full acquaintance of the public with the materials of the project under discussion cannot be considered as an adequate approach.

A severe separate problem is informing the public about the results of the public discussions and, most importantly, about the essence of the adopted urban planning and environmentally significant decisions. Without this, the entire procedure for holding public discussions loses its meaning, and from the procedure for ensuring public participation in the process of doing urban planning and making environmentally significant decisions, it turns into a procedure for the developers of the project drafts to receive a protocol of public discussion, which is necessary for further steps of the approving project documentation. A public conflict in such a situation is likely natural, although it could have been avoided quite easily.

Clause 6 of art. 4 of Law No. 300-3 "On Architectural, Urban Planning and Construction Activities in the Republic of Belarus" provides for the obligation of State government bodies, local executive and administrative authorities, state construction supervision bodies to inform individuals and legal entities about architectural, urban planning and construction activities through mass media, as well as by providing regulated access to data of the urban planning cadastre, developed and approved urban planning projects, holding a public discussion of urban planning projects, organizing expositions, exhibitions and other events. It should be noted that this rule, which is in force from 09.06.2011 in terms of the need to provide regulated access to developed and approved urban planning projects, still remains declarative since the procedure for ensuring this "regulated access" has remained undefined for about eight years.

Without challenging the logic of dividing the procedure for holding public discussions of urban planning projects into two forms, it should be noted that the situation is illogical in a way that residents have the right to direct access to meetings of the body that considers their initiatives - joining the commission - only when public discussion is held in the form of the commission's work (part second para 23 of the Regulation). We believe that in case of a public discussion the form of informing and

analyzing the public opinion similar opportunities can be provided. For example, this can be done by inviting a limited number of representatives of initiative groups to the relevant meetings of the architectural and urban planning council, formed by the structural divisions of local executive and administrative authorities.

We also consider it expedient to limit the maximum period of validity of documentation indicating the fulfilment of the requirements for a public discussion in relation to the development of urban development projects. There are frequent cases of implementation of projects 5-7 years or more after the public discussion without a new one, which invariably leads to social conflict due to a change in the composition of the district's residents. In our opinion, this situation has to be addressed as early as possible.

An even more serious problem here is public access to approved urban planning projects of general, special and detailed planning. The public does not have free access to such information. The problem is typical for all "post-Soviet" countries, and in different countries, it is solved in different ways: from a radical change in legislation to judicial challenging by the public of denials of access to urban planning information. In Belarus, a significant part of the “plannings” listed above has a restrictive stamp "for official use only," i.e. art. 17 of the Law of the Republic of Belarus of 10.11.2008 No. 455-3 "On Information, Informatization and Protection of Information" refers to one of the types of information, the distribution and(or) provision of which is limited — official information of limited distribution.

In accordance with art. 181 of Law No. 455-3, “information refers to proprietary information of limited distribution in accordance with the list of information related to proprietary information of limited distribution, determined by the Council of Ministers of the Republic of Belarus. Access to the list of information related to proprietary information of limited distribution, as well as to the procedure for affixing the restrictive stamp "for official use only" and the management of documents containing proprietary information of limited distribution, cannot be limited”. In our opinion, such wording means the admissibility of the existence of an exclusively closed (exhaustive) list of information related to proprietary information of limited distribution.

It should be noted that the designated problem as a whole is conceptual in nature. There is no logical sense in improving the mechanisms of public participation in the process of making urban planning decisions if the final result of such a decision is not available to the public. In other words, the participation of citizens in the discussion of the detailed draft planning of the area of their residence, sending comments and opinions is meaningless if at the end of such a procedure citizens do not have the opportunity to see in which edition this detailed project was ultimately approved.

The minimum acceptable solution to existing problems with access to urban planning information is seen in the clarification of the norm of para 6 of art. 4 of the Law "On Architectural, Urban Planning and Construction Activities in the Republic of Belarus" regarding the procedure for providing regulated access to urban planning cadastre data, developed and approved urban planning projects, as well as exclusion clause 114 of the List of information related to proprietary information of limited distribution (which is approved by the Resolution of the Council of Ministers of the Republic of Belarus dated 12.08.2014 No. 783).

It is also worth noting the positive trend that has emerged since 2019 in the promulgation of certain newly approved urban planning projects in the form of regulatory legal acts or extracts from the texts of the legal acts (in the case when part of the text of

the legal regulations is stamped "for official use only"). We consider it essential to continue this prac-tice and expand it to all newly approved urban plan-ning projects.

In 2020, the Center for European Transformation by the NGO "Ecohome" initiative conducted a research "The practice of public participation in the process of making environmentally significant deci-sions". The study aimed to assess the effectiveness of various mechanisms for public participation in environmental decision-making and to identify a possible working mechanism for public participa-tion, taking into account the interests of all parties.

Based on the research of various stakeholders, their vision of problems and needs, the following recommendations, which lie in two dimensions, were made to improve mechanisms for public participation in environmental decision-making.

On the one hand, these are systemic changes that affect the entire complex of public administra-tion: from the introduction of a real mechanism of local self-government, accountability of govern-ment bodies, democratic forms of participation, to people's access to really functioning mechanisms of justice. Without such radical changes, any proposals for improving existing mechanisms will conflict with systemic factors and lead to a distortion of their functioning in practice.

On the other hand, in the existing conditions, it is possible to propose some particular improvements that can contribute to the elimination of some conflicts:

- To change the information system. It should be early and proactive, using the communication chan-nels through which information will actually be communicated to the interested groups and in a non-technical, understandable language. In other words, the information should be provided not in a way that, in principle, it could be just found (as it looks now), but in such a way that representatives of the target group cannot fail to see it. After the public discussion, participants should receive responses to their suggestions and comments as well as information on the decisions made.

- To arrange public discussions or to involve the public in other forms at the earliest possible stage of decision-making.

- Public discussions should function as an accompanying institution, i.e. at all stages of deci-sion making. Often, representatives of government agencies and businesses imagine public participa-tion only as an assembly, without considering other possible forms, for example, collecting written proposals or questionnaires.

- To create a unified online platform for public awareness and participation. In 2019, Vladimir Kovalkin, founder of the "Petitions.by - Convenient City" resource, won a grant to create *an aggrega-tor-notifier of public discussions*. The main idea of the project was to create a single space where all infor-mation about public discussions in Belarus will be collected, and local residents will be notified about upcoming discussions. However, the Ministry of Natural Resources, the Ministry of Architecture and the Ministry of Communications refused to issue him a Conclusion on coordinating the purposes of using gratuitous foreign aid. The Ministry of Natural Resources and Environmental Protection replied that the goals of the project do not correspond to the goals of using gratuitous foreign aid specified in para 3 of the Regulation approved by Presidential Decree No. 5 dated August 31, 2015. The Ministry of Architecture and Construction refused, citing the fact that the declared purposes of using the aid do not correspond to national interests, state programs, development prospects, plans and

strategies, as well as legislation and international obligations of the Republic of Belarus.

- To resolve the issue of competent intermediaries. So far in government structure, there is no special position (place, job role) for the person responsible for public participation. A position that would be responsible for organizing a dialogue and involving all interested parties in making difficult decisions is absent in the structure of public relations.

- To improve competencies and general literacy. In January 2021, the NGO "Ecohome" conducted a survey "On the effectiveness of informing about public discussions and their accessibility." More than 30% of respondents have never heard that public discussions exist at all.

- To extend the time frame for public discussions. It usually takes much longer than a month to understand all the aspects. It is often possible to obtain the necessary documents only after the end of public discussions.

- To solve the issue of final decision-making on the project. After state expert examinations, the design decision is automatically approved. There is no separate decision, and therefore it is impossible to appeal it. There is still no definition of "final decision" in Belarusian legislation, and it is completely inappropriate to refer to the use of the conclusion of the State Environmental Impact Assessment for the purposes of the Espoo Convention (para 4 of art. 15 of the Law on State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment).

Access to justice in environmental matters

Access to justice in cases protecting the rights provided for by the Convention continue to be one of the most problematic aspects of its implementation, both in terms of legal regulation and of the established law enforcement practice. The legal regulation did not change significantly during the reporting period. The following issues remain unresolved:

- The right to challenge the refusal to provide environmental information provided for in the Law On Environmental Protection does not include the right to challenge improper provision of the information.

- The norm of art. 86 of the Civil Procedure Code of the Republic of Belarus setting the right of public associations to file complaints protecting their members' interests does not clear provide the right to bring before court an appeals too and as result is often interpreted by courts restrictively, not allowing to exercise the right to access to justice.

- Provided by art. 24 of the Law "On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment" right to appeal through the courts against reports on environmental impact assessment, strategic environmental assessment, and state environmental expertise is impossible to exercise, since all three documents are evaluative and, due to this their legal nature, cannot be appealed against. Evaluative documents mentioned in art. 24 can be challenged from an expert point of view or invalidated due to procedure violation; but only decisions can be appealed.

The judicial practice of protecting the right to a healthy environment in the reporting period was developed only in quantitative terms, that is, the number of court cases in this category increased. At the same time most cases were initiated by non-governmental environmental organizations. Almost none of the participants in a poll conducted by the NGO Ecohome applied to the courts for the protection of their environmental rights: out of 110 citizens only one person applied to the court, and he did not get the desired result. According to one of the poll participants, people "are not ready to spend efforts on judicial protection procedures." According to the poll results, 39% of the respondents (43 people) *do not believe that it is possible to achieve justice in protecting their rights appealing through the courts in Belarus*. Some respondents also indicated that they do not understand how the judicial system works and how they can exercise their right to judicial protection.

Basically, the judicial practice of protecting the right to a healthy environment (26 cases in the reporting period) is represented by cases on access to environmental information and on public participation in environmental decision-making. In 2019, the first case on compensation for life and health harm caused by environmentally unsafe production was considered. Despite the court's decision, which was not in favor of the public, preconditions appeared for a wider use of this method of protecting the right to a healthy environment.

Also, in the reporting period, court practice in environmental cases in Belarus was reached by

SLAPP cases (Strategic Lawsuits Against Public Participation), particularly lawsuits aimed at reducing or terminating the activities of organizations or persons advocating for the environment protection. In the first such case IPower company bring to court a claim for reimbursement of their expenses for legal aid provided by external lawyers in previous case - the lawsuit filed by public (NGO Ecohome and several local residents) to ban the construction of a battery plant. Court reduced applied amount (2271.13 Belarusian rubles, which is 1142 US dollars at the exchange rate on the day of the decision) due to complexity and duration of the case hearings by almost half, to 1200 rubles.

The second case of this kind was a lawsuit of the Ministry of Justice of the Republic of Belarus for the liquidation of Ecohome NGO, the oldest environmental public organization in Belarus, which had never any cautions. The Ministry has suddenly found "violations" and has immediately applied for the liquidation; and the court satisfied this claim making a decision of questionable legality and validity.

The most significant obstacle to access to justice is that courts evade dealing with cases of public interest, including in the protection of environmental rights. The practice of refusing to initiate a case has become more and more widespread. The courts dismiss about half of the submitted applications and complaints referring to the lack of jurisdiction.[4] At the same time, courts have never indicated how and by which body the cases should be considered, although the law requires it. None of these court rulings were challenged by prosecutor's offices or overturned by higher courts on the applicants' complaints.

This practice is a result of the lack of independence of the judiciary. Courts are not ready to consider cases, where it might result in the establishment of illegality of acts or decisions of the executive authorities, therefore, they evade their consideration under any pretexts. In fact, any case off standard that the court does not know how to deal with is at risk of being "beyond the jurisdiction" and not being considered.

The court cases that took place in late summer and early autumn of 2021 initiated by the registration authorities to liquidate non-governmental organizations, including environmental ones, under far-fetched pretexts, and often for formal reasons, also testify to the lack of independence of the judiciary in Belarus, which makes it possible conclusion on the lack of access to justice in environmental matters.

There is a systemic problem of insufficient level of professional competence of judges, as lack of understanding of the specific character of legal relations and the nature of their subjects, for example:

- including an environmental dispute of a public association and another legal entity (a local government) in the jurisdiction of the economic court, although the dispute is obviously not related to economic activities of these entities;

- refusing to initiate legal proceedings in the cases to coerce providing environmental information with a proposal to file a complaint, that often leads to declaring them inadmissible.

There is inability of the courts to law construe independently, if some norm or definition is not directly set though. For example, so it is not stated directly in the law that a decision of a local government to permit the construction of a plant is environmental information, and the court does not aim to implement the Aarhus Convention and takes a local government`s side that it is not environmental information. Another view of this problem is

[4] Judicial protection of environmental rights of citizens in Belarus. Review of practice over ten years, https://ecohome-ngo.by/wp-content/uploads/2020/07/Obzor-sudebnoj-praktiki_30.06.2020.pdf

Harassment and pressure on environmental activists and NGOs

The practice of persecution and harassment of environmental activists exercising their rights under the Aarhus Convention is still going on in Belarus.

In the previous reporting period, anti-nuclear activists had been most often persecuted, and over the past few years, the activists exercising their rights relating to objects located in the regions (construction of a battery plant near Brest, Svetlogorsk, pollution of rivers in the Lida district, etc.) were.[5]

Many activists are subject to repression and harassment for participating in peaceful assemblies. This is expressed in the form of imposing fines, sentencing to short jail terms (administrative arrests), preventive detention, and defamation. A number of peaceful protesters faced searches in their homes and seizing data storage devices (phones, laptops, etc.).

Persecution of activists exercising their rights under the Convention is a quite serious issue and requires special attention. Local authorities, the Ministry of Natural Resources, and other ministries, especially the Ministry of Internal Affairs, and other security agencies, should take steps to prevent cases of the persecution.

Until now, no individual measures have been taken to restore the rights of Andrei Ozharovsky, Irina Sukhy, Tatiana Novikova and Mikhail Matskevich, as mentioned in Decision VI/8c. In this regard, *Ecohome* sent inquiries to the Ministry of Natural Resources and Environmental Protection the Department of Citizenship and Migration of the Ministry of Internal Affairs, in order to obtain information on the measures taken by Belarus to restore the rights of the activists. It should be noted that the term of entry ban for A. Ozharovsky was reduced (by two years and two months) instead of cancellation of the decision on entry ban in accordance with the recommendation of the Committee. At the same time, there is no information on cancellation of court rulings in the administrative cases of A. Ozharovsky, I. Sukhiy, T. Novikova and M. Matskevich also referred in the relevant recommendations of the Committee in the First (para 90 ii) and the Second (para 84 ii) reviews on progress in the implementation of Decision VI/8c on compliance by Belarus with its obligations under the Convention.

Since the second review on the implementation by Belarus of the Decision of the Meeting of the Parties to the Aarhus Convention VI/8c, Ecohome has repeatedly informed the Committee about new cases of persecution of environmental activists. However, the situation not only has changed to the better, but has worsened significantly and activists continue to be persecuted.

After the presidential elections in August 2020, the pressure on activists just intensified. Thus, a new wave of mass repression of journalists, activists, and NGOs began in Belarus. In the country, repressions continue against not only political opponents of the current government, but also against any individuals showing a civic position and activity, including in the sphere of realizing the right to a healthy environment.

[5] Decision VI/8c Compliance by Belarus with its obligations under the Convention, https://unece.org/DAM/env/pp/compliance/MoP6decisions/Compliance_by_Belarus_VI-8c.pdf
Information about other facts of persecution of environmental activists in Belarus, https://unece.org/env/pp/cc/decision-vi8c-concerning-belarus

On 6 September 2020, the police raided the apartment of Irina Sukhiy, a representative of *Ecohome* and the Belarusian Anti-Nuclear Campaign, in Minsk. She was arrested and sentenced to five days of administrative arrest under art. 23.34(1) of the Code of Administrative Offences for her participation in an unauthorized demonstration, namely the Women's March on 29 August 2020.

Next day, on 9 August 2020, the homes of director of *Ecohome* Marina Dubina and of member of its board Ksenia Malyukova were raided.

On 6 October 2020, Dubina was violently detained near the organization's office; she was charged with participation in an unauthorized mass event in Minsk on 23 September 2021 and sentenced to an administrative arrest of 13 days.

On 14 April 2021, activists and bloggers Sergei Petrukhin and Alexander Kabanov opposing the construction of a battery plant in Brest were sentenced to three years in prison in a general regime penal colony each under art. 342 (Organizing or preparing mass riots), art. 369 (Insulting a representative of the authorities) and Sergei Petrukhin also under art. 391 (Insulting a judge) of the Criminal Code. They both were recognized political prisoners by human rights defenders.

On 22 April 2021, the prosecutor's office of the city of Brest issued an official warning to human rights activist Roman Kislyak for his interview with Deutsche Welle on a referendum on a battery plant. According to the prosecutor's office, Kislyak's words may lead to tension in society and protests. The warning cited art. 342 (Organizing or preparing of mass riots) and art. 369 (Insulting a government official) of the Criminal Code, as well as art. 24.23 of the Code of Administrative Offences (Violating of the procedure for organizing or holding mass events).

On 26 April 2021, on the anniversary of the accident at the Chernobyl nuclear power plant, Dmitry Kuchuk, the Green Party`s leader, was detained in the Minsk office. The Frunzensky District Court of Minsk found Kuchuk guilty of violating art. 24.23(1) of the Code of Administrative Offences (Violating of the procedure for organizing or holding mass events) and sentenced him to 15 days of administrative arrest for an interview with *Euroradio*, in which he said that "he plans to take a walk on that day." The court deemed this calling on to participate in an unauthorized mass events. Prior to this, the Green Party submitted an application for holding the march *Chernobyl Way*, but the Minsk City Executive Committee (city government) dismissed it.

It is also worth noting that environmental NGOs are subject to constant, long-term, and multilateral pressure; and in this regard, carrying out their activities has become much more difficult, in some cases even impossible.

In July 2021, the process of liquidation of 44 organizations involved in environmental activities have already begun.[6] About 36 organizations out of them were forcibly liquidated, and 8 self-liquidated (or were forced to self-liquidate).

For many organizations the process started with inspections (by tax authorities, the State Control Committee, a registering authority, etc.), for which it was necessary to provide a large amount of documents, previously nowhere regulated, within too short time frame as well as with searches in the organizations` headquarters and the homes of their employees when equipment and documents were seized. For example:

- On 20 July 2021, the prosecutor's office authorized a search in the Center for Environmental Solutions` premises. The search wascarried out within the framework of a criminal case over gross violating public order (art. 342 of the Criminal Code

[6] List of NPOs that self-liquidated. Monitoring of NPOs in the process of self-liquidation since September 2020 conducted by Lawtrend through collecting information from open data.

NPOs in the process of forced liquidation are monitored by Lawtrend and OEEC.

of the Republic of Belarus) and "mass riots" (art. 293 of the Criminal Code). The office was sealed; staff`s equipment was seized. On 21 July 2021, the Minsk City Executive Committee decided to liquidate the Center for Environmental Solutions.

- On 26 July 2021, it became known that the Ministry of Justice filed a claim to the Supreme Court for the liquidation of Ecohome; on 31 August 2021, the Supreme Court decided to liquidate the organization.[7]

- On 9 March 2021 in the morning, the State Security Committee (KGB)`s officers searched Irina Sukhiy`s home in a criminal case (it is unknown the grounds for the case, as well as it is unknown Sukhiy`s status in it).

- On 31 August 2021, the NGO Protection of Homeland`s Birds` offices were raided, as well as the home of its environmental specialist and ornithologist Viktor Fenchuk. He was detained and charged under art. 342(1) of the Criminal Code (Group actions grossly violating public order). Fenchuk was recognized a political prisoner. Earlier, on 8 November 2020, he was detained at a protest march in Minsk and spent 15 days in jail.

- On 3 September 2021, the homes of editor of the Green Portal website Yanina Melnikova and of environmental activist Natalya Gerasimova were searched. They were taken to the Investigative Committee department for interrogation, and then detained for 72 hours in a criminal case investigation. On 6 September 2021, Yanina Melnikova and Natalya Gerasimova were convicted under art. 24.3 of the Code of Administrative Offenses (Disobeying to a lawful order or requirement of an official in the exercise of his official powers). The court imposed a fine of 2,755 Belarusian rubles on Melnikova and the one of 2900 Belarusian rubles on Gerasimova (this is the maximum possible fine under this article). Then, they had to sign a nondisclosure agreement before their release.

There were also cases of defamation against environmental NGOs. At the moment, at least 9 cases of dissemination of defamatory information through articles published in the state-run media outlets are known.

[7] Liquidation process of the Ecohome NGO (timeline and documents), https://ecohome-ngo.by/chronology-eng

It should be noted with great regret that the Ministry of Natural Resources and Environmental Protection did not take any measures to protect environmental organizations, despite long-term fruitful cooperation with them.

Findings

The Republic of Belarus is in a state of permanent non-compliance with the provisions of the Aarhus Convention. Not only the norms of the international agreement are ignored, but also the recommendations and decisions of the Compliance Committee and the Meeting of the Parties.

The measures taken are not aimed at achieving compliance of national legislation and law enforcement practice with the provisions of the Convention, but are implemented to create the appearance of progress and to reflect this in reporting.

There is a lack of the state's will to fulfill its obligations under the Convention, which manifests in the restriction of access to environmental information, in the absence of a real opportunity for public participation in environmental decision-making, and in the absence of access to justice due to the lack of the judiciary independence. The increased persecution and repression against activists and other individuals exercising their rights under the Convention, as well as the liquidation of environmental non-governmental organizations indicates the state's unwillingness to use the privileges of a Party to the Convention.

It is expedient to acknowledge that the activities of the state bodies of the Republic of Belarus on the implementation of the Aarhus Convention in the reporting period and the implementation of a set of measures aimed at bringing legislation and practice in line with the provisions of the international treaty are unsatisfactory.

Unfortunately, all steps those were taken and those are planned to change legislation and law enforcement practice will not make any sense if the persecution of environmental activists and NGOs exercising their rights under the Convention does not be stopped and its victims are not rehabilitated. Ongoing repression, persecution, and pressure against eco-activists and NGOs in Belarus jeopardizes any possibility of exercising environmental rights under the Convention.

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