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United Nations Economic Commission for
Europe

Chairman of the Compliance Committee of
the Convention on Access to Information,
Public Participation in Decision-Making and
Access to Justice in Environmental Matters

Mr. Jonas Ebbesson

Copy: Ministry of Foreign Affairs of the
Republic of Belarus

Dear Mr. Ebbesson!

Ministry of Natural Resources and Environmental Protection of the Republic of Belarus (hereinafter referred to as the Ministry of Environment) presents its compliments to the Compliance Committee of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (hereinafter referred to as the Committee) and provides the following information answering the questions contained in the letter of 14 November 2016.

Question 1 and Question 2

RESPONSE:

Code of the Republic of Belarus of 21 April 2003 № 194-3 (amended as of 10 November 2008) «Code of Administrative Offences of the Republic of Belarus »

Article 17.1. Disorderly conduct

Obscenities in a public place, offensive molestation to citizens and other deliberate acts disturbing the public order, activity of organizations or peace of citizens and expressed in obvious disrespect for society, -

shall be punishable with a fine in the amount of two to thirty base values or shall invoke an administrative detention.

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Offence provided for in the Article 17.1 of the «Code of Administrative Offences of the Republic of Belarus» is aimed at the protection of human dignity and personal inviolability (constitutional values under protection), as well as peremptory maintaining of such public order, under which human rights and liberties are liable for legislative guarantee against illegal behavior of other persons.

Taking into consideration, that the period of storage of administrative materials is 1 year from the payment of penalty, the completion of sentence, it is not possible to provide with the materials requested in point 2 (Ms. Sukhiy payed a penalty on 17 October 2012; the detention starting from the moment of taking in custody).

Question 3.

RESPONSE:

Despite the fact, that in our country freedom of expression and belief is guaranteed by the Constitution of the Republic of Belarus, and censorship is prohibited (Article 33 of the Constitution of the Republic of Belarus), obscenities are inadmissible within communication and contradict to public relationship.

Obscenities can be determined as abusive and expletive expressions that are prohibited to be in general use in communication and contradict to the moral code and morality.

Besides Article 17.1 of the «Code of Administrative Offences of the Republic of Belarus» several legislative acts of the Republic of Belarus specially state the prohibition on the use of obscenities.

For example, it is inadmissible to «distort military ranks, use obscene words and expressions, which are incompatible with the concept of honor and dignity of military men» (point 60 of the Internal Service Regulations of the Armed Forces of the Republic of Belarus adopted by the Decree of the President

of the Republic of Belarus of 26 June 2001 № 355 «On the Adoption of All-army Regulations of the Armed Forces of the Republic of Belarus».

A freedom to use obscenities, that currently exists at all layers of society, does not waive responsibility for their use.

Therefore, obscenities are prohibited everywhere, and there is no any disapplication of this rule in the legislation of the Republic of Belarus.

Question 4.

Please, find enclosed the response of the Ministry of Internal Affairs of the Republic of Belarus dated 10 January 2017.

In addition, concerning the question 4 we would like to note, that the question with regard to Ms. Novikova was posed incorrectly.

On 26 April 2013 no actions were taken in respect of Ms. Novikova aimed at the detention and the establishment of identity.

Furthermore, at the 50-th session of the Compliance Committee of the Aarhus Convention while considering the Communication concerning compliance by the Republic of Belarus with Article 3.8 of the Aarhus Convention (ACCC/C/2014/102) it was noted, that the so-called arguments proving that Ms. Tatyana Novikova was blocked in the apartment, were groundless and had not been justified. Also the need was underlined to concretize what had been meant by a word «blocked».

Question 5.

RESPONSE:

In accordance with Article 25 of the Constitution of the Republic of Belarus the state guarantees freedom, inviolability and dignity of a person. Limitation or restraint of personal freedom is possible in cases and in order stipulated by the legislation.

The Procedural-Executive Code of Administrative Offences of the Republic of Belarus regulates the issues on the establishment of identity.

Article 8.1. Measures aimed at ensuring administrative process

1. In order to prevent administrative offences, establish identity of an individual, with regard to whom an administrative process is carried-out, draw up a protocol on administrative offence, ensure timely and proper consideration of a case and enforce a judgement of a case on administrative offence it is admissible to use the following measures aimed at ensuring administrative process:

1) administrative detention of an individual.

Article 8.2. Administrative detention of an individual

Administrative detention of an individual shall be applied for the purposes of:

- 1) suppression of illegal activity;
- 2) drawing up a protocol on administrative offence, in case there is no opportunity to draw it up on the place of detection (commitment) of an administrative offence;
- 3) establishment of identity.

Article 8.4. Period of administrative detention of an individual

1. Administrative detention of an individual, with regard to whom an administrative process is carried-out, can continue not more than three hours, unless otherwise provided by the present Code.

In accordance with Article 25 of the Law of the Republic of Belarus "On Internal Affairs Authorities of the Republic of Belarus" internal affairs officers have been vested with the right to examine documents.

Article 25. Internal affairs officers' rights

In order to fulfill the tasks allocated to internal affairs authorities, internal affairs officers within their competence have the right:

- to require citizens to respect public tranquility;
- to examine identity documents of citizens as well as other documents, which are necessary to examine compliance by these citizens with the rules that are oversights and controlled by internal affairs authorities, should these citizens be suspected of committing crimes and administrative offences;
- to execute search of persons detained on the basis and in order, stipulated by the law, inspect their personal belongings, vehicles, suppress documents, items and belongings, that could be material evidence.

Question 6.

Please find enclosed a response of the Ostrovets District Executive Committee dated 13 January 2017 № 02-03.

In addition, concerning the question 6 we would like to note, that the Law of the Republic of Belarus as of 30 December 1997 "On mass events in the Republic of Belarus" (hereinafter referred to as the Law) regulates the order of the organization and holding in the Republic of Belarus of assemblies, rallies, marches, demonstrations and pickets and other mass events.

According to Article 2 of the Law, mass events include assembly, rally, march, demonstration, picket, sporting and mass cultural event, other spectacle event, religious event, held in places not specially intended for the purpose in the open air or indoors.

Article 10. Procedure for holding mass events

The organizer(s) of the mass event or individual(s) responsible for the organization and holding of the mass event shall be under obligation:

to ensure compliance with the conditions and procedure for holding the mass event, the safety of citizens and the preservation of buildings, installations, means of transport and other property and also of green spaces;

to comply with all lawful requests made by the staff of internal affairs authorities and representatives of the public, exercising their duty of upholding public order, and to assist them in guaranteeing public order;

Article 11. Respect for public order during the holding of mass events

During the holding of a mass event its participants shall respect public order and comply with all lawful requests of the organizers of the mass event being held, staff of internal affairs authorities and representatives of the public exercising their duty of upholding public order.

During the holding of an assembly, rally, march, demonstration or picket the organizers and participants shall not:

affect in any way whatsoever upon staff of internal affairs authorities with the aim of preventing them from fulfilling their duties or on representatives of the public exercising their duty of upholding public order;

use placards, banners and other means containing a call for the dismantlement of statehood or propagandizing war, social, national, religious or race hatred assaulting honor and dignity of a person;

use flags and pennants that are not registered under the established procedure, or emblems, symbols, placards and banners whose content is aimed at undermining constitutional system, public order and the rights and lawful interests of citizens.

Article 15. Liability for violating the established procedure for organizing and/or holding mass events

Persons having violated the procedure for organizing and/or holding mass events established by the present Law shall bear liability under the legislative acts of the Republic of Belarus.

At the 50-th session of the Committee while considering the Communication ACCC/C/2014/102, it was noted, that Mr. Andrey Ozharovskiyy was registered as a participant of public hearings (assembly) that took place on 9 October 2009 in Ostrovets. In this regard, he had obligations, as a participant of a mass event, to comply with the requirements of the legislation on mass events.

Nevertheless, instead of complying with the requirements of the legislation, he began to behave provocatively and aggressively, to disturb the public order, to disregard the order established by the organizers of this mass event. This was the reason why he was imposed with administrative liability.

Regarding the critical materials, the administrative proceedings against Mr. Ozharovskiy were terminated in accordance with the Decision of the Ministry of Information as of 3 November 2009 №16, because the critical materials were not produced in printed mass media, and they were returned to him.

Question 7.

RESPONSE:

The Communication ACCC/C/2014/102 do not contain the information on the fact, that banners and posters (Annex 9 to the Communication) were prohibited to be used at the «Chernobylskiy shlyah-2013» march. The Communicant did not state it on the 50th session as well.

In this regard, we consider this question as incorrect.

Question 8.

RESPONSE:

Article 17.1. "Disorderly conduct" envisages the imposition of a fine in the amount of two to thirty base values or administrative detention.

In accordance with Article 6.7. of the Code of the Administrative Offences of the Republic of Belarus:

«1. Administrative detention consists in the isolation of an individual in the places determined by a body responsible for the execution of administrative penalty, and can be imposed for up to fifteen days».

Ms. Sukhiy was subjected to a fine for 1 500 000 rubles making 15 base values.

The Ministry of Environment is not authorized to give an estimation of the fine imposed. Such estimation can be given only by the court of superior jurisdiction.

In this regard, we would like to inform once again, that the fine imposed were appealed, the decisions taken by the court have not been changed.

Question 9

Please find enclosed the response of the Ministry of Internal Affairs of the Republic of Belarus dated 10 January 2017.

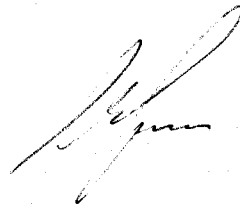
In addition, we would like to inform, that the Law of the Republic of Belarus "On the fight against terrorism" was adopted on 3 January 2002. Over these years, the above mentioned Law was amended and supplemented with the aim to ensure security, define and eliminate causes contributing to the terrorist activity as well as to suppress terrorist activity (amendments and supplements as of 9 January 2006, 24 December 2007, 21 July 2008, 28 December 2009, 3 June 2011, 26 October 2012, 30 June 2014, 30 June 2016) (a copy of the Law is attached to the present letter).

Should it be necessary, we stand ready to consider additional information and forward our comments.

Enclosure on 22 pages in 1 copy.

Sincerely Yours,

First Deputy Minister
National Coordinator

A handwritten signature in black ink, appearing to be 'Iya Malkina', written in a cursive style.

Iya Malkina