

Materials

from the Ministry of the Environment reviewing a Communication to the Aarhus Convention Compliance Committee concerning compliance by the Republic of Belarus with the provisions of the Convention in regard to public participation in decision-making on the construction of a nuclear power plant in Ostrovets (ACCC/C/2014/102)

The Ministry of the Environment, as the national government authority responsible for implementing the provisions of the Aarhus Convention in Belarus and in connection with the above matter, and concerned about the situation that has arisen, has made a careful analysis of the facts presented in the Communication. All the facts that I am going to introduce are supported by official documents and are susceptible of proof.

In this statement, I shall refer to laws and regulations of the Republic of Belarus. However, for the sake of brevity, I shall simply name them and not dwell on their provisions in detail. We can supply these documents to the Committee, as necessary.

I shall simply give the number of the relevant paragraph of the Communication and then our comments on it; again, this is to save time.

No. (in sequence)	The article of the Aarhus Convention with which non-compliance is alleged, and relevant information from the Communication (unofficial translation)	Comments
1.	This communication is filed in relation to the Republic of Belarus and alleges its non-compliance with Article 3 paragraph 8 of the Aarhus Convention.	Requires no comments.
2.	This communication alleges that the Government of Belarus failed to comply with its obligations under Article 3 paragraph 3 of the Aarhus Convention by harassing and persecuting anti-nuclear activists exercising their rights under the Convention.	There seems to be a misprint in the Communication: this “3” should read “8”.

3.	This communication is partially confidential. The confidentiality request covers the name of XX, who is afraid of publicly appearing in such communication. For the purpose of the public version of the communication we suggest that name is replaced by “XX” or any other symbol.	Requires no comments.
I Summary of the Communication		
4.	The communication alleges non-compliance by Belarus of its obligations under Article 3(8) of the Aarhus Convention.	In analysing subsequent paragraphs, we shall introduce a number of arguments, most of which deny that there has been any non-compliance.
5.	The communicant argues that the activists and NGOs opposing plans to construct nuclear power plant in Belarus were subject to harassment and persecution by the Government of Belarus. This was done in form of detentions, arrests, bans on entering the country, searches, and seize of information materials.	Requires no comments.
6.	This communication is partially confidential.	Requires no comments.
II Information about the Communicant		
7.	This communication is filed by: Public Association “Ecohome” Zelenaya st. 14 Komarovo village Svirskiy p/s Myagelskiy Rayon Minsk Oblast, Belarus 222394	Requires no comments.
8.	Contact information to be used for the purpose of this communication: Irina Sukhiy, founder	Requires no comments.

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III Belarus - the State concerned by this Communication		
9.	The Republic of Belarus is the state party concerned by this communication (hereinafter referred as Belarus).	Requires no comments.
10.	Belarus signed the Convention on Dec 16, 1998; a decision to approve the Convention was taken on Dec 14, 1999 (Decree of the President of the Republic of Belarus No. 726). The notification was filed with the depositary on Mar 9, 2000. No declaration or reservation was made upon notification of approval.	Requires no comments.
11.	The Convention entered into force for Belarus on October 30, 2001 (Convention’s entry into force date).	Requires no comments.
IV The facts		

12	<p>Since 1986 activists and NGOs in Belarus <u>had been making efforts to raise awareness</u> of the citizens about nuclear power effects on the environment and human health (Belarus territory was heavily affected by Chornobyl accident). Since late 2000's <u>these efforts aimed</u> at actions to ensure that the public in Belarus is aware of possible implications of the nuclear power plant construction in Belarus.</p>	No comment.
13.	<p>As soon as the Government of Belarus took a decision to plan construction of the nuclear power plant in Ostrovets, the activists and NGOs opposing such plans were subject to harassment and persecution. This was done in form of detentions, arrests, bans on entering the country, searches, and seize of leaflets.</p>	<p>Paragraph 13 refers to the persecution of activists and NGOs.</p> <p>Documents to hand show that there were proceedings involving administrative prosecutions brought against individuals (natural persons).</p> <p>Analysis of the statistical data on administrative prosecutions of natural persons clearly shows that the number of administrative prosecutions of anti-nuclear activists (as they call themselves in the Communication) represents a very small percentage of the total number</p>

		<p>of such prosecutions.</p> <p>Thus, for example, during the period of time and in the administrative districts relevant to the time and place of detention of the persons mentioned in the Communication, the total number of people detained under Article 17.1 of the Code of Administrative Offences of the Republic of Belarus ('the Administrative Offences Code') was 3081. The number of anti-nuclear activists concerned represented 0.1947% of these.</p> <p>As far as the persecution of NGOs is concerned, we would like to clarify the following.</p> <p>According to a letter from the Ministry of Justice of the Republic of Belarus of 14 September 2015 (Ref. No. 06-16/329), <u>no penalties provided for by the Public Associations Act of the Republic of Belarus have been applied</u> to public associations registered by the Ministry and engaged in activities relating to environmental protection and the efficient use of natural resources.</p> <p>In the light of the above, we suggest that the facts as set out in paragraph 13 of the Communication do not confirm that there has been persecution of anti-nuclear activists and NGOs in Belarus.</p>
14.	On March 6 and 12, 2009, home apartment of XX was subject to throughout search by the police (including making photos inside). The search was authorized by local prosecutor's office following a request by local police about the need to find unidentified printing and dissemination source of informational leaflets. XX was also detained in 2009 and requested to hand in two copies of home-made leaflets covering NPP construction issue.	<p>The facts relating to the searches carried out on 6 and 12 March 2009 at the residence of one of the activists were included in Communication 44 (paragraph 22b) and have already been investigated by the Committee, as a result of which the Committee found that "[t]he allegations concerning harassment are [fairly] serious and the alleged facts, if [sufficiently] substantiated, would amount to harassment in the sense of article 3, paragraph 8, and would therefore constitute non-compliance with the provisions of the Convention. However, on the basis of the information provided, the Committee</p>

		<p>could not assess with sufficient certainty what happened exactly and therefore the Committee refrains from making a finding on this issue.”</p> <p>In addition, the same finding appeared in the Committee’s report on compliance by Belarus with its obligations under the Convention, which was prepared for the fifth session of the Meeting of the Parties.</p>
15.	<p>On October 9, 2009, a Russian expert Andrey Ozharovskiy was detained as he tried to bring copies of the NGO EIA critique to the public hearings in Ostrovets town related to nuclear power plant construction (Annex 7). All his materials were seized and police started administrative case against him, which was closed due to the fact that EIA critique is not “periodic” printed materials (Annex 8).</p>	<p>This episode, too, has already been investigated by the Committee, whose findings we have highlighted in relation to paragraph 14. The facts as set out in this paragraph do not reflect reality.</p> <p>Even before the public discussions, the materials in the Critique were available on the Internet and had been forwarded to the Construction Directorate on 21 September 2009.</p> <p>Some of the critical comments received from the public were taken into account when the EIA report was finalized.</p> <p>Therefore the materials in the Critique did not provide anything new either for the public or for representatives of the public authorities.</p> <p>These materials were returned to Andrey Ozharovskiy in accordance with the Decision of the Ministry of Information (Annex 8).</p> <p>Mr Ozharovskiy was detained for a public order violation and for wilfully disregarding the rules laid down by the organizers of the public discussion process.</p> <p>During the registration period for participants in the public discussions that took place on 9 October 2009, every participant was subject to search, including representatives of public authorities (813 people); this was done on the basis of legislative requirements and was intended to ensure security at the event.</p>

16.	<p>In autumn 2012, during the electoral campaign to the Belarusian Parliament, XX was subjected to personal searches, the house was raided, and the printed materials relating to the Ostrovets NPP construction were seized (leaflets, newspapers, books). The authorities started an administrative case against that person for disobedience to the police. In 2012-2014, a court considered this case and fined XX for Br 4 million.</p>	<p>This paragraph contains rather a lot of inaccuracies and contradictions:</p> <p>1.) Paragraph 16 comes under the heading “Search and seize examples”. However, according to the information in the Communication, administrative proceedings were brought against XX for disobedience to the police, while there is no information about the seizure of leaflets, newspapers and books, nor any documents confirming these facts.</p> <p>In addition, paragraph 16 mentions the period 2012-2014, which demonstrates either a contradiction with the timescales laid down by legislation for examining breaches of administrative law or the existence of additional information about this person that has not been included in the Communication.</p> <p>We would like to draw your attention to the fact that the examples of seizures as set out in paragraphs 14-16 relate only to two issues of the ‘Ostrovets Messenger’ newspaper, which is a voluntary publication, and to one poster.</p>
17.	<p>On October 9, 2009, a Russian expert Andrey Ozharovskiy was detained and then arrested when he tried to bring copies of the NGO EIA critique to the public hearings in Ostrovets town. He was sentenced to 7 days of administrative arrest and was released on October 16, 2009, as ordered by the local court (Annex 7). All his materials were seized.</p>	<p>Andrey Ozharovskiy <u>was detained for a public order violation</u>. Instead of complying with the requirements of the legislation, he began to behave provocatively and aggressively and to disturb the peace. This was why administrative proceedings were brought against him.</p> <p>Mr Ozharovskiy was registered, along with others (813 people), as a participant in the public discussions that took place in Ostrovets on 9 October 2009.</p> <p>Established practice for any mass event is that the distribution of any kind of printed information requires the consent of the event organizer.</p> <p>So, for example, representatives of the St Petersburg Design Institute, which presented the NPP design planned for use in the</p>

		<p>Republic of Belarus, distributed their advertising brochures with the organizer's permission.</p> <p>When it came to the materials criticizing the Statement on the Potential Environmental Impact of a Belarusian NPP, the case against A.V. Ozharovskiy was dropped, in accordance with Ministry of Information Decision No. 16 of 3 November 2009, since the Critique was not produced in print media, and the materials were returned to him.</p>
18.	<p>On 18 July 2012 in Minsk: at 11:22 the police detained Belarus journalist and the coordinator of the anti-nuclear campaign Tatyana Novikova (Annex 1) together with the Russian expert Andrey Ozharovskiy (Annex 5). Ms. Novikova and Mr. Ozharovskiy were on their way to hand over a petition to the Russian Embassy expressing their concerns about the construction and operation of a new nuclear power station near Ostrovets. By a court decision Tatyana Novikova was arrested for 5 days. Andrey Ozharovskiy arrested for 10 days (Annex 5) and he was later subject to a 10 years ban to enter Belarus (Annex 4). The alleged charges were "public order violation by using brutal language on the street".</p>	<p>We view this as a politicized issue, since handing over a petition is a political act. The Belarusian NPP is being constructed by the Russian Federation.</p> <p>Handing over a petition is an attempt to draw attention to oneself and to 'score points'.</p> <p>In answer to an enquiry from the Ministry of the Environment, the Supreme Court of the Republic of Belarus has indicated that when these cases were considered from the point of view of breaches of administrative law, no information was identified that would provide evidence on which to base administrative proceedings against Tatyana Novikova and Andrey Ozharovskiy in regard to the public activities in which they engage or in regard to their expressed disagreement with the construction of an NPP in the Republic of Belarus.</p> <p>We must also point out that, in recent years, it has become necessary to take additional anti-terrorist measures, both internationally and nationally. In this connection, amendments and additions have been inserted into national legislation in order to strengthen guarantees of public safety and security and public order.</p>
19.	<p>On 18 July 2012 in Minsk: Having learnt about arrest of</p>	<p>Our position on this point is set out in our response to paragraph 18.</p>

	<p>Ms. Novikova and Mr. Ozharovskiy, some minutes after their arrest, Ms. Sukhiy, head of the environmental organization Ecohome, left her office (located in a different part of Minsk city) to substitute the arrested colleagues and to bring a copy of the above mentioned petition to the Russian Embassy. At the same time, Mikhail Matskevich, human rights defender, left the same building and was on his way to provide legal assistance to the detained activists (Ms. Novikova and Mr. Ozharovskiy). At 12:00 both Irina Sukhy (Annex 3) and Mikhail Matskevich (Annex 2) were detained by police just as they left the building. By a court decision Mikhail Matskevich was arrested for 5 days. Chairperson of the public association “Ecohome” Iryna Sukhiy was fined for Br 1 million 500 thousand (Annex 3). The alleged charges were “public order violation by using brutal language on the street”.</p>	
20.	<p>During her arrest, Ms. Novikova was placed in bad conditions despite her poor health condition after a serious illness. The police seized her vital drugs (post cancer treatment) and placed in special camera along with other things, and she got them only due to a private initiative of one of the policemen. The other important anticancer pills police did not let her take during 48 hours.</p>	<p>The Communication contains contradictions:</p> <p>Tatyana Novikova submitted a complaint to the Administration of the Investigative Committee of the Republic of Belarus.</p> <p>Ms Novikova’s complaint was reviewed by the Moskovsky Rayon Department of the Investigative Committee of the Republic of Belarus and a Decision not to instigate criminal proceedings was issued on 5 October 2012.</p> <p>That document shows that, after completion of the necessary legal procedures, Ms Novikova was transferred to the Rayon Directorate of Internal Affairs at 20:45. After she had made an urgent request to receive her medicines, they were returned to her and an ambulance was called.</p> <p>After she arrived at the Offenders Custody Centre of the Chief</p>

		<p>Directorate of Internal Affairs of the Minsk City Executive Committee ('the Custody Centre'), she was examined by a paramedic; this examination was repeated daily, in accordance with instructions.</p> <p>The drugs were brought to Ms Novikova by a friend, and were made available to her. They were kept in the medical suite at the Custody Centre, and Ms Novikova received them daily according to her requirements and in the quantity she needed.</p> <p>Other drugs were also administered to her during her period of imprisonment.</p> <p>In its reply of 23 September 2012 (Ref. No. mg/18) to Ms Novikova's submission, the Ministry of Internal Affairs stated that its staff had not committed any violations of the law relating to holding individuals in the Custody Centre.</p>
21.	<p>On April 26, 2013, an officially permitted street action "Chernobyl Way-2013" was planned in Minsk, traditionally conducted on the anniversary of the Chernobyl tragedy. Just hours before the manifestation, the police detained Ms. Iryna Sukhiy and several activists who were responsible for delivery of the agitation materials (posters, flags, etc.) to the action (Annex 9). The alleged reason for detention was documents check. They were no able to participate in the action, therefore. Ms.Tatyana Novikova was blocked in the apartment by the police until the action was over, although she was one of the official organizers of the event (as indicated in the application for the permit for the action). XX was detained by the traffic police on the way from Ostrovets to Minsk to take part in the "Chernobyl Way-2013", and then was forcibly kept in the police department, allegedly for documents check just till the action was over. After</p>	<p>The 'Chernobyl Way' event has taken place in the Republic of Belarus since 1989, and is an officially permitted event.</p> <p>This detention took place in 2013. Steps were taken to establish the identities of those detained, after which they were released immediately.</p> <p>In our view, the information concerning XX should be treated with some scepticism, since it is too general and is not supported by documents.</p> <p>We might be able to make some comments on this matter if we had more detailed information.</p>

	the “Chernobyl Way-2013”.	
V Nature of alleged non-compliance		
22.	We allege that Belarus failed to comply with its obligations under Art. 3 (8) by harassing and persecuting activists who were trying to promote their views on nuclear energy development in Belarus.	With regard to paragraphs 22-25: We would again like to draw the Committee’s attention to the fact that analysis of paragraphs 12-21 has shown that the information given in them is unreliable and, to that extent, cannot serve as an adequate basis for finding that the Republic of Belarus has failed to comply with article 3, paragraph 8, of the Aarhus Convention.
23.	Paragraph 8 of the Article 3 of the Aarhus Convention states: “8. Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement. This provision shall not affect the powers of national courts to award reasonable costs in judicial proceedings”.	Requires no comments.
24.	We consider that actions by the Government of Belarus - searches, detentions, arrests and seizures of information materials - constitute harassment and persecution of activists exercising their rights under the Convention since all these actions took place in relation to specific events, persons and issues directly falling under the scope of the Aarhus Convention.	<p>Under the legislation of the Republic of Belarus, the Council of Ministers of the Republic of Belarus – which is the Government of the Republic of Belarus – is the central authority with collective responsibility for governing Belarus.</p> <p>The membership of the Council of Ministers of the Republic of Belarus includes [??] ministers.</p> <p>The events and actions that involve public authorities, as set out in the Communication, relate to the spheres of competence of a fairly narrow circle of government bodies. In the course of their work, the</p>

		<p>majority of ministries and authorities that make up the Government generally take a neutral attitude to anti-nuclear activists. Therefore it is incorrect to assert that actions by the Government of Belarus – searches, detentions, arrests and seizures of information materials – constitute harassment and persecution of activists.</p> <p>So, for example, the Ministry of the Environment is part of the Government and therefore interacts closely with public environmental associations: one of its roles is to run the Public Co-ordination Committee on the Environment (‘the PCCE’). The PCCE was established by order of the Ministry of the Environment on 9 July 2001.</p> <p>By order of the Ministry of the Environment of 5 October 2001, its membership was broadened; the public association Ecohome joined the PCCE, and its Chair, Iryna Sukhiy, became a member of the Committee. At present, Ms Sukhiy is still a member of the Committee, and representatives of the public association Ecohome play an active part in PCCE meetings.</p>
25.	<p>The facts give sufficient reasoning to the allegation of persecution when analyzed from the perspective of three questions: when they took place? who was concerned? and what were the issues raised?, as explained below.</p>	<p>Analysis of the facts given in the Communication shows that for the most part they do not reflect reality, some of them are provocative and some are transient in nature.</p> <p>The persons described in the Communication habitually try to draw particular attention to themselves, but only during episodic actions.</p> <p>When compared to all the data from the Unified National Database of Offences, those who are repeatedly prosecuted under the relevant article (Article 17.1 of the Administrative Offences Code) at the same time and in the same place represent a small percentage – just 0.19%.</p>

When the facts took place?		
26.	Mr. Andrey Ozharovskiy was detained during the public hearings on nuclear power plant project in Ostrovets city, just at the entrance of the premises where the hearings were to start. His detention prevented him from bringing printed comments on the project documentation. Arrested and later [deported] from Belarus. October 9, 2009.	<p>We have commented on this Critique - i.e. the printed materials - in our response to paragraph 15.</p> <p>As far as the deportation of Andrey Ozharovskiy is concerned, under the legislation of the Republic of Belarus, a foreigner may be expelled from the Republic of Belarus in the interests of <u>public order</u>.</p>
27.	Ms. Tatsiana Novikova was detained and arrested on her way to the Russian Embassy in Minsk were she planned to hand in a statement to the Prime Minister of Russia calling upon Russian Federation not to finance construction of the nuclear power plant. Arrested. July 18, 2012.	Our arguments concerning paragraphs 27-30 are set out in our response to paragraphs 18-19.
28.	Mr. Andrey Ozharovskiy was detained and arrested on his way to the Russian Embassy in Minsk were she planned to hand in a statement to the Prime Minister of Russia calling upon Russian Federation not to finance construction of the nuclear power plant. Arrested. July 18, 2012.	See 18-19.
29.	Ms. Iryna Sukhiy was detained on her way to the Russian Embassy in Minsk were she planned to hand in a statement to the Prime Minister of Russia calling upon Russian Federation not to finance construction of the nuclear power plant. [Arrested]. July 18, 2012.	See 18-19.
30.	Mr. Michael Matskevich was detained on his way to provide legal assistance to detained environmental activists Ms. Novikova and Mr. Ozharovskiy (which had plans to hand in a statement calling on Russia to abstain from financing nuclear power plant construction in	See 18-19.

	Belarus). Arrested. July 18, 2012.	
31.	Ms. Iryna Sukhiy, as well as some other activists, was detained for documents check on the street just before start of street action ‘Chornobyl Way 2013’(permitted by authorities). She planned to express concerns over nuclear power plant construction (by using specific banners) during that street action. April 26, 2013. Kept for several hours till the action was over.	See paragraph 21.
32.	Ms. Tatsiana Novikava was blocked in the apartment as she intended to leave to participate in the street action “Chornobyl Way 2013’. She planned to express concerns over nuclear power plant construction by visual materials (Annex 9). April 26, 2013. Blocked for several hours till the action was over.	See paragraph 21.
33.	XX was detained on the way to Minsk (from Ostrovest city) for documents check on the way to ‘Chornobyl Way 2013’ street action. Kept in the police department just till the end of the street action.	See paragraph 21.
Who was concerned?		
34.	Mr. Andrey Ozharovskiy is known Russian antinuclear activist. He is known for his critical comments on Belarus nuclear power plant, as well as other nuclear projects.	No comments.
35.	Ms. Tatsiana Novikava is well known anti-nuclear activist in Belarus, associated with environmental NGO Ecohome (Minsk). She made numerous submissions and comments, as well as media articles, in relation to the	No comments.

	nuclear power plant project in Belarus.	
36.	Ms. Irina Sukhiy is chair of the board of NGO Ecohome. This NGO was clearly the lead NGO in Belarus organizing the public during the public discussions over nuclear power plant construction in Belarus.	<p>Under the legislation in force at the time when public discussions of the Belarus NPP project took place (Paragraph 20.4 of the Instructions for the conduct of environmental impact assessment of planned economic and other activities in the Republic of Belarus, approved by Decision No. 30 of the Ministry of the Environment of 12 November 2007), “[d]uring the conduct of an environmental impact assessment <u>the developer shall fulfil the following functions: ... organize the holding of public hearings...</u>”.</p> <p>According to Paragraph 1 of Presidential Decree No. 565 of 12 November 2007 on Some Measures regarding the Construction of a Nuclear Power Plant, the functions of developer were incumbent on the Directorate for Nuclear Power Plant Construction (a state agency), which has fulfilled them.</p>
37.	Mr. Michael Matskevich is well known human rights activist in Belarus.	No comments.
38.	XX is well known anti-nuclear activist, for years raising awareness of the local population about environmental and health risks of the nuclear energy and nuclear power plant project in Belarus.	No comments.
39.	All together, these 5 persons were the core team encouraging the public to participate in the discussions over nuclear program and nuclear power plant project in Belarus.	No comments.

What were the issues raised?		
40.	The documents, seized after the search in the house of XX in 2009, were the leaflets on nuclear power plant construction impact.	<p>As far as we can see from the Annexes to the Communication, the <u>only</u> objects seized were the banners and posters whose use on 26 April 2013 was prohibited by the police.</p> <p>Therefore it is unclear what leaflets are being discussed in paragraph 40: this statement is unsupported by evidence.</p>
41.	When detained, Mr. Andrey Ozharovskiy was about to participate in the public hearings related to the project to construct a nuclear power plant in Belarus. He also brought copies of extensive comments on the EIA documentation of the nuclear power plant project made available for the public discussion process by Belarus Government. Previously, he was participating in several events related to the project discussions.	Both the relevant legislation and established practice for any mass event require the distribution of any kind of printed information to have the consent of the event organizer. So, for example, representatives of the St Petersburg Design Institute distributed their advertising brochures with the organizer's permission.
42.	When detained on July 18, 2012, Ms. Tatyana Novikova, in coordination with other activists, was on her way to hand in a statement calling on Russia on abstain from financing nuclear power plant construction in Belarus.	See paragraph 18.
43.	When detained on July 18, 2012, Ms. Irina Sukhiy, in coordination with other activists, was on her way to hand in a statement calling on Russia on abstain from financing nuclear power plant construction in Belarus.	See paragraph 19.
44.	When detained on July 18, 2012, Mr. Michael Matskevich, was on his way to the police department to provide legal assistance to the detained (and later arrested) environmental activists which planned to hand in a statement calling on Russia on abstain from	See paragraph 19.

	financing nuclear power plant construction in Belarus.	
45.	When detained on July 18, 2012, Mr. Andrey Ozharovskiy, in coordination with other activists, was on his way to hand in a statement calling on Russia on abstain from financing nuclear power plant construction in Belarus.	See paragraph 18.
46.	When detained for documents check on April 26, 2013, Ms.Irina Sukhiy and other activists were about to participate in a street action with banners calling to stop nuclear power plant construction. The banners were related to nuclear power plant project (police prevented any attempt to take the banners from the car) (Annex 9).	See paragraph 21.
47.	When blocked in her house on April 26, 2013, Ms. Tatyana Novikava was about to leave to participate in the street action (as one of the official organizers) with banners and posters related to the nuclear power plant project (Annex 9).	See paragraph 21.
48.	In conclusion, the searches, detentions, arrests, seizing and other actions by the Government of Belarus were taken in relation to anti-nuclear activists in Belarus, which were trying to express their opinion about a project to construct a nuclear power plant in Belarus. All together, these actions by the Government of Belarus were aimed at preventing the activists from expressing their opinion and participating in the public discussion process about nuclear power plant in Belarus and constitute persecution of persons trying to exercise their rights under the Aarhus Convention.	<p>Our comments on the actions of the Government of the Republic of Belarus are given in our response to paragraph 24.</p> <p>We would like to draw the Committee's attention to the fact that, during the public hearings, immediately after the detention of Andrey Ozharovskiy, Tatyana Novikova entered the hall and asked to speak, in the aim of informing those present about his detention. She was given the floor.</p> <p>Paragraph 12 of the Communication states that, since 1986, activists and NGOs in Belarus have been making efforts to raise citizens' awareness of the effects of nuclear power on the environment and human health and that, since 2000, these efforts have been focused on the actions required to ensure that the Belarusian public is aware of the possible implications of</p>

		<p>constructing a nuclear power plant in Belarus.</p> <p>Paragraphs 34 and 35 deal respectively with Mr Ozharovskiy's and Ms Novikova's numerous materials and comments which have appeared in the mass media.</p> <p>Analysis of official news resources on the Internet demonstrates that there has been free access to Ms Novikova's publications and those of Ecohome, right through from 2013 to the present.</p> <p>What is more, the matters in question that have been used as a basis for the Communication involve only two events, in October 2009 and July 2012, where proceedings were brought against the above-mentioned persons.</p> <p>A letter from the Supreme Court of the Republic of Belarus has indicated that when these cases were considered from the point of view of breaches of administrative law, no information was identified that would provide evidence on which to base administrative proceedings against Ms Novikova and Mr Ozharovskiy in connection with the public activities in which they engage or their expressed disagreement with the construction of an NPP in the Republic of Belarus.</p> <p>Therefore we consider this statement to be exaggerated, unsupported by any evidence and inconsistent with reality.</p>
VI Use of domestic remedies or other international procedures		
49.	<p>The activists unsuccessfully appealed their arrests in courts, in some cases (see Annexes 1 and 7 as examples). They also filed court complaints about conditions of arrests, also unsuccessfully (Annex 6).</p>	<p>Minsk City Court admitted applications to appeal against the administrative prosecutions brought against T.A. Novikova and A.V. Ozharovskiy. The Court heard the appeals; however, it found no basis for overturning the decisions of the Rayon Court.</p> <p>The substance of Ms Novikova's request for instigation of criminal proceedings against staff of the Moskovsky Rayon Directorate of Internal Affairs and a medical worker at the Custody Centre was examined; in the absence of any element of crime in the officials' actions, her request for instigation of criminal proceedings was refused. She did not appeal this decision.</p>

		The Custody Centre's reply shows that repairs and modernization have been carried out: it is planned to bring the building into operation in October 2015.
50.	Some facts in relation to the detention of the activists were brought to the attention of the Compliance Committee of the Aarhus Convention in course of the follow-up to the communication C/44. The government of Belarus was already providing some information as to facts to arrest in response to questions from the Compliance Committee.	The Committee stated at the time that it could not assess with sufficient certainty what exactly had happened, and therefore it refrained from making a finding on the issue.
VII Conclusions		
51.	We allege, as substantiated by the facts and considerations above, that actions by the Government of Belarus - searches, detentions, arrests and seizures of information materials - constitute harassment and persecution of activists trying to promote their views on nuclear energy development in Belarus, in particular during public discussion of a specific project to construct the first nuclear power plant in Belarus.	<p>We do not agree with these conclusions.</p> <p>Accusing a country of harassment is a rather serious charge. Therefore the arguments adduced must be correct and irrefutable.</p> <p>Analysis of the facts given in the Communication has shown the opposite – that these facts and considerations do not, for the most part, reflect reality and that some of them are provocative. Consequently, they cannot provide conclusive evidence of harassment and persecution of anti-nuclear activists and NGOs in the Republic of Belarus.</p>
52.	Therefore, we allege that Belarus failed to comply with its obligations under Art. 3 (8) by harassing and persecuting activists who were exercising their rights under the Convention.	The Republic of Belarus has complied with its obligations under article 3, paragraph 8, of the Aarhus Convention.