

**MINISTRY
OF NATURAL RESOURCES
AND ENVIRONMENTAL PROTECTION
OF THE REPUBLIC OF BELARUS**

10, Kollektornaia Street, 220004, Minsk
Tel. (37517) 200 66 91; Fax (37517) 200 55 83
e-mail: minproos@mail.belpak.by
a/c no. BY29AKBB3604900000111000000
Belarusbank JSCB Minsk, BIC AKBBY2X
Tax Reference No. 100519825;
Company & Organization Classification No. 00012782

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UN Economic Commission for Europe
Compliance Committee under the Convention on
Access to Information, Public Participation in
Decision-Making and Access to Justice in
Environmental Matters

To the Director of the Environmental Division,
Mr Marco Keiner

Dear Mr Keiner,

In response to the inquiry from the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters ('the Committee') arising from the letters of 14 February 2019 and 4 April 2019 received by the Committee in connection with Communication ACCC/C/2014/102, the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus is writing to provide answers to the Committee's questions.

On the matter of the prosecution of Mr S.S. Petrukhin under Article 188(2) and Article 189(2) of the Criminal Code of the Republic of Belarus (text of these Articles appended), the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus sent enquiries to Brest Oblast Public Prosecution Service, to the Brest Inter-district Department of the Investigative Committee of the Republic of Belarus (Brest Oblast Administration) and to Brest Oblast Regional Court.

According to information provided by the Brest Inter-district Department of the Investigative Committee of the Republic of Belarus (Brest Oblast Administration), the Department has a record of Criminal Case No. 18122011224 against S.S. Petrukhin, a resident of the City of Brest, for criminal offences under

Article 188(2) and Article 189(2) of the Criminal Code of the Republic of Belarus, which was passed to the City of Brest Public Prosecution Service on 19 March 2019 so that it could be brought before Leninskiy Rayon District Court, Brest, for consideration on the merits.

Brest Oblast Regional Court informed the Ministry that the criminal case against Mr Petrukhin under Article 188(2) and Article 189(2) of the Criminal Code of the Republic of Belarus, was entered on the roll of Leninskiy Rayon District Court on 19 March 2019.

On 26 March 2019, a ruling was issued to list the case for trial.

On 18 April 2019, Mr Petrukhin was found guilty of crimes under Article 188(2) and Article 189(2) of the Criminal Code of the Republic of Belarus.

Under Article 188(2) of the Criminal Code of the Republic of Belarus, defamation contained in a public speech, or in a printed work or a work shown publicly, or in the mass media, or in information posted on the Internet, or accusing a person of committing a serious or especially serious crime shall be punishable by a fine, or by punitive deduction of earnings for a period of up to two years, or by a short term of detention with solitary confinement, or by restriction of liberty for a period of up to three years.

Under Article 189(2) of the Criminal Code of the Republic of Belarus, insult offered in a public speech, or in a printed work or a work shown publicly, or in the mass media, shall be punishable by a fine, or by punitive deduction of earnings for a period of up to two years, or by a short term of detention with solitary confinement, or by restriction of liberty for a period of up to three years.

Mr Petrukhin was sentenced to pay a fine to the State in the sum of 9,180 roubles (360 basic units), in accordance with Article 72(2) of the Criminal Code of the Republic of Belarus.

Under Article 72(2) of the Criminal Code of the Republic of Belarus, if cumulative offences constitute crimes that do not pose a great public danger and are categorized as serious or less serious crimes, then the final punishment imposed shall incorporate the less severe punishment within a more severe one or shall add together the relevant punishments in part or in full. In these circumstances, the final punishment may not exceed the maximum term or scope of the punishment laid down for the most serious of the crimes committed.

Following his conviction, on 29 April 2019 S.S. Petrukhin lodged an appeal, which has been set for hearing before the appeal court on 5 July 2019.

A letter from Brest Oblast Public Prosecution Service makes it clear that the prosecution of Mr Petrukhin under Article 188(2) and Article 189(2) of the Criminal Code of the Republic of Belarus is not connected with his activities opposing the construction of a battery plant in Brestskiy Rayon under the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

I would like to take this opportunity to reassure the Committee that the Republic of Belarus reaffirms its commitment to fulfil its international obligations under the Aarhus Convention.

The Republic of Belarus is taking all necessary legislative, regulatory, administrative, institutional, practical and other measures to ensure the rights of the public to access to information, public participation in decision-making and access to justice in accordance with the provisions of the Convention.

Appended: Translation into English of Article 188(2) and Article 189(2) of the Criminal Code of the Republic of Belarus (1 copy – 2 pages)

Yours sincerely,

Deputy Minister

[signature]

A.V. Kmel'

Article 188. Defamation

1. Dissemination of knowingly false fabrications (defamation) that discredit another person, committed within the course of one year after the imposition of administrative penalties for defamation or insult, - shall be punishable by community service, or by a fine, or by punitive deduction of earnings for a period of up to one year, or by a short term of detention with solitary confinement, or by restriction of liberty for a period of up to two years.
2. Defamation contained in a public speech, or in a printed work or a work shown publicly, or in the mass media, or in information posted on the Internet, or accusing a person of committing a serious or especially serious crime shall be punishable by a fine, or by punitive deduction of earnings for a period of up to two years, or by a short term of detention with solitary confinement, or by restriction of liberty for a period of up to three years.

Article 189. Insult

1. Deliberate disparagement of the reputation and dignity of an individual, expressed in a form that violates social norms (insult), committed within the course of one year after the imposition of administrative penalties for insult or defamation, - shall be punishable by community service, or by a fine, or by punitive deduction of earnings for a period of up to one year, or by restriction of liberty for a period of up to two years.
2. Insult offered in a public speech, or in a printed work or a work shown publicly, or in the mass media, - shall be punishable by a fine, or by punitive deduction of earnings for a period of up to two years, or by a short term of detention with solitary confinement, or by restriction of liberty for a period of up to three years.