

8 April 2019

Ref: ECE/ENV/2019/53

Dear Ms. Malkina,

**Re: Decision VI/8c concerning compliance by Belarus:  
Alleged criminal charges against Mr. Siarhei Piatrukhin**

I write at the request of Mr. Jonas Ebbesson, Chair of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), to enclose a letter for your urgent attention.

Should you have any questions with regard to the enclosed, please do not hesitate to contact the secretariat.

Yours sincerely,



Marco Keiner  
Director  
Environment Division

Ms. Iya Malkina  
First Deputy Minister  
Ministry Natural Resources and Environmental Protection  
Republic of Belarus

Cc: Permanent Mission of the Republic of Belarus to the United Nations Office and other international organizations in Geneva  
European ECO Forum, communicant of communications ACCC/C/2009/37 and ACCC/C/2009/44  
Ecohome, communicant of communication ACCC/C/2014/102

Enc: Letter to the Republic of Belarus from Mr. Jonas Ebbesson, Chair of the Aarhus Convention Compliance Committee

**Jonas Ebbesson**  
**Chair of the Compliance Committee under the UNECE Convention on Access to Information,  
Public Participation in Decision-making and Access to Justice in Environmental Matters  
(Aarhus Convention)**

Stockholm, 7 April 2019

Dear Ms. Malkina,

**Re: Decision VI/8c of the Meeting of the Parties concerning compliance by Belarus:  
Alleged criminal charges against Mr. Siarhei Piatrukhin**

As you are aware, under paragraph 7 of decision VI/8c of the Meeting of the Parties concerning compliance by Belarus, when evaluating the implementation by Belarus of paragraph 6 of decision VI/8c, the Committee shall take into account any information received from members of the public or other sources about future incidents of alleged penalization, persecution or harassment contrary to article 3(8) of the Convention, together with any information provided by Belarus regarding those alleged incidents.

The Committee has recently received two letters from Ecohome, the communicant of communication ACCC/C/2014/102, alleging a particularly serious further incident of penalization, persecution or harassment contrary to article 3(8) of the Convention. The first was sent on 14 February 2019 and the second on 4 April 2019. As understood by the Committee, both letters refer to persecution and pressure exercised by the Belarusian authorities against activists, bloggers, journalists, and ordinary local citizens in connection with the expression of their attitude towards the construction of a battery factory near Brest. The specific incident concerns the criminal charges that have allegedly been brought against Mr. Siarhei Piatrukhin for slander and insult under articles 188(2) and 189(2) of the Criminal Code of Belarus. The charges relate to a video clip allegedly uploaded by Mr. Piatrukhin on YouTube that purportedly criticized the actions of several employees of the Lieninski district police department of Brest. I enclose for your information Ecohome's letter of 4 April 2019.

As you may recall, pursuant to paragraph 7 of decision VI/8c, in paragraphs 68-83 of its first progress review the Committee considered various charges brought by Belarussian authorities against Mr. Piatrukhin under the Code of Administrative Offences. In paragraph 75 of its progress review, the Committee considered that, with respect to the actions that led to the charges under the Code of Administrative Offences examined by the Committee in its progress review, Mr. Piatrukhin had been seeking to exercise his rights under the Convention.

The Compliance Committee greatly appreciated the constructive exchange with the Belarusian delegation during the open session on decision VI/8c held during the Committee's sixty-third meeting (Geneva, 11-15 March). The Committee is concerned about the alleged criminal charges against Mr. Piatrukhin. Given the gravity of these charges, in accordance with paragraph 7 of decision VI/8c the Committee will need to determine whether those charges in any way relate to Mr. Piatrukhin's activities to exercise his rights under the Convention to oppose the Brest battery plant.

Ecohome has informed the Committee that the criminal trial of Mr. Piatrukhin for the charges under article 188(2) and 189(2) of the Criminal Code will commence this Tuesday, 9 April 2019 in the Lieninski district court. Given the seriousness of these alleged events, I write to seek the comments of Belarus as a matter of urgency.

In keeping with Belarus' constructive engagement with the Committee thus far, and in accordance with paragraph 7 of decision VI/8c, Belarus is invited to comment on the alleged criminal charges against Mr. Piatrukhin and in that context, to answer the following questions.

1. Please confirm whether:
  - (a) The Brest interdistrict department of the Investigative Committee has indeed brought

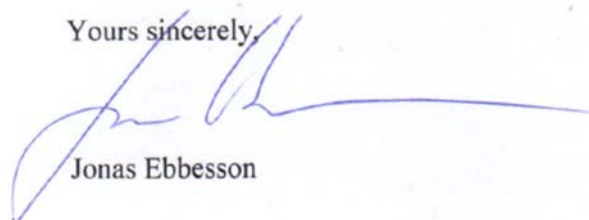
charges against Mr. Piatrukhin for slander and insult under articles 188(2) and 189(2) of the Criminal Code of Belarus. If so, please specify on which date the charges were brought; and

- (b) On 9 April 2019 the court of the Lieninski district of Brest will commence a criminal trial against Mr. Piatrukhin for the above charges.
2. Please describe the conduct allegedly committed by Mr. Piatrukhin which resulted in the imposition of the above charges, including the dates on which the alleged crimes were committed. Based on the letters by the communicant, it seems to the Committee that the video clip Mr. Piatrukhin allegedly uploaded to YouTube may relate to the opposition by members of the public to the construction of the Brest battery plant. Could you confirm this, or that it in any other way relates to their exercise of their rights under the Convention? If yes, in what way? If not, could you please explain why not?
  3. Please provide the full text of articles 188 and 189 of the Criminal Code, together with an English translation thereof.
  4. What are the potential fines or other penalties for violating articles 188(2) and 189(2) of the Criminal Code? With regard to any fines expressed in units of base value, please also specify the amount of the fine in Belarussian rubles.
  5. In addition to any fines and penalties for violating articles 188(2) and 189(2) of the Criminal Code expressly specified in those provisions, can a conviction under either of these provisions result in the loss of any political or civil rights (e.g. freedom of movement, voting rights, access to internet etc.)?
  6. When exercising their rights under the Convention to oppose an activity that may have a significant effect on the environment, are members of the public entitled to criticize in the mass media or public domain the actions of named public officials? If so, in what circumstances would such public criticism of named officials be considered legally permissible? Conversely, in which circumstances would such public criticism be considered to amount to insult or slander under either articles 188 and 189 of the Criminal Code or an offence under the Code of Administrative Offences?

In keeping with the commitment expressed by Belarus at the Committee's 63<sup>rd</sup> meeting to continue its ongoing constructive engagement with the Committee, I look forward to receiving your replies to the above questions as soon as possible and by 20 May 2019 at the latest.

In the meantime, please do not hesitate to contact the secretariat of the Convention if you have any questions.

Yours sincerely,



Jonas Ebbesson

Ms. Iya Malkina  
First Deputy Minister  
Ministry Natural Resources and Environmental Protection  
Republic of Belarus

Cc: Permanent mission of the Republic of Belarus to the UN Office and other international organizations in Geneva

Enclosure: Letter from Ecohome of 4 April 2019

To:

United Nations  
Economic and Social Council  
ECONOMIC COMMISSION FOR EUROPE  
**Compliance Committee**  
of the UNECE Convention on Access to Information,  
Public Participation in Decision-making and  
Access to Justice in Environmental Matters  
Palais des Nations, Room 429-4  
CH-1211 GENEVA 10  
aarhus.compliance@unece.org  
52d Meeting of Compliance Committee  
8-11 March, 2016

From:

**Public Association “Ecohome”, Belarus**  
Minsk, Belarus  
ecohome.by@gmail.com

4 April 2019

*Re: Urgent – Follow-up to Decision VI/8c*

Dear Chair and members of the Compliance Committee!

By this letter we want to inform you about urgent situation with the persecution of an environmental activist in Brest, city of Belarus, which requires your immediate reaction.

We have previously informed the ACCC about the systematic pressure by authorities put on the activists from Brest city in Belarus, who criticize the construction of the battery factory in Brest city for its environmental risks.

Now we are bringing to your attention the recent and alarming facts of the criminal persecution of the local environmental activist, which are unprecedented in the situation when the country is in the follow-up process under the MOP-decision regarding persecution of activists:

- On April 9, the court of the Lieninski district of Brest will start the trial in the criminal case against a famous Brest blogger Siarhei Piatrukhin.

The charges under Part 2 of Art. 188 (slander) and Part 2 of Art. 189 (insult) of the Criminal Code were brought on April 1 by the Brest interdistrict department of the Investigative Committee.

They are linked to a series of videos filmed in March and April 2018 and uploaded to the video hosting service YouTube. The videos allege the involvement of a number of employees of the Lieninski district police department of Brest in the beating of Pavel Kaminski in the premises of the police station in 2016.

A number of the HR organizations in Belarus on April, 2, disseminated the statement, demanding to stop criminal prosecution of the activist. Full ext is available in attach.

- On the 2<sup>nd</sup> of April, 2019, in Brest, city transport police stopped the car of a local activist 62-years old Moisei Mazko. They alleged to “find” in the car the plastic bag with explosives and cartridges. Mazko claimed that this was not his package and he did not know how the package got into his car. Mazko was arrested, and according to the official representative of investigative committee for the Brest region Dmitry Ivaniuk, a criminal case was initiated against him under the p. 2 of the article 295 of the Criminal Code (Illegal actions against firearms, ammunition and explosives)<sup>1</sup>.

The other activists from Brest believe that the package was planted, and the case was fabricated for political reasons, they believe that the authorities want to discredit Moisei Mazko and protests in Brest

We consider this situation as really dangerous and we urge you to consider immediate actions.

We consider that Belarus should immediately stop the prosecution of activists.

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1 <http://spring96.org/be/news/92521>

# Immediately stop prosecution of blogger Siarhei Piatrukhin

## Joint statement by human rights and other civil society organizations

**Minsk - April 2, 2019**

On April 9, the court of the Lieninski district of Brest will open the trial in the criminal case against a famous Brest blogger **Siarhei Piatrukhin**.

The charges under Part 2 of Art. 188 (slander) and Part 2 of Art. 189 (insult) of the Criminal Code were brought on April 1 by the Brest interdistrict department of the Investigative Committee.

They are linked to a series of videos filmed in March and April 2018 and uploaded to the video hosting service YouTube. The videos allege the involvement of a number of employees of the Lieninski district police department of Brest in the beating of Pavel Kaminski in the premises of the police station in 2016.

It should be noted that the victim filed a statement in the Investigative Committee, asking to prosecute the police officers identified in the videos filmed by Piatrukhin. Despite the fact that a medical examination documented the injuries suffered by Kaminski and admitted that they could have been caused by the circumstances stated by the victim, the Investigative Committee ruled not to institute criminal proceedings. During the period from 2016 to 2019, various bodies issued eight decisions to refuse to initiate criminal proceedings, seven of which were reversed by higher authorities of the Investigative Committee and the Prosecutor's Office, citing improper investigation procedures. At the moment, another complaint against earlier rulings to refuse to initiate criminal proceedings against the police officers is pending before the prosecutor of Brest and the Prosecutor General's Office.

Given that the procedure of investigating Kaminski's statement is not yet completed, the criminal prosecution of Siarhei Piatrukhin is illegal and groundless. We also believe that his prosecution is politically motivated and connected exclusively with the exercise of freedom of expression and the right to gather and disseminate information, which are guaranteed by both the Constitution and international standards.

Decriminalization of defamation offenses is a standard formulated and justified in the decisions of international organizations. International bodies, the UN and the OSCE, recommended the repeal of laws that criminalize defamation, or at least not to deprive of freedom for committing defamation offenses, taking civil-law proceedings as a standard. Representatives of the UN, OSCE and OAS on issues of freedom of speech stated that "criminal defamation is not a justifiable restriction on freedom of expression; all criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws."

Blogger Siarhei Piatrukhin is a constant participant in the protests against the construction of an environmentally harmful battery factory in Brest. He was repeatedly arrested by the police for joining the protests. Piatrukhin is also known thanks to the numerous videos that criticize the activities of local authorities, including law-enforcement bodies.

The recent [prosecutions](#) of bloggers Siarhei Piatrukhin, Aliaksandr Kabanau, and Andrei Pavuk are a matter of serious concern, as they may indicate a strengthening of control in the sphere of Internet on the eve of elections to be held later this year.

**In this regard, we, representatives of human rights organizations in Belarus, call:**

- to immediately stop the criminal prosecution of Siarhei Piatrukhin and drop all the charges against him;
- to not use the Criminal Code in cases involving defamation.

*Belarusian Documentation Center*

*Barys Zvozkau Belarusian Human Rights House*

*Belarusian Helsinki Committee*

*Belarusian Association of Journalists*

*Belarusian PEN Center*

*Office for the Rights of People with Disabilities*

*Human Rights Center "Viasna"*

*Committee of the Repressed "Solidarity"*

*FORB Initiative*

*Legal Transformation Center*

*Legal Initiative*

*Advisory center on contemporary international practices and their legal implementation "Human Constanta"*