

United Nations Economic Commission for Europe
Compliance Committee of the Convention on Access to Information,
Public Participation in Decision-making and Access to Justice in
Environmental Matters

aarhus.compliance@unece.org

Additional information regarding persecution and exerting pressure on environmental activists in Belarus

Dear Mr Chairman, distinguished members of the Committee,

The Public Association Ecohome appreciates the opportunity to submit commentaries on the response of the Party (the Republic of Belarus) dated January 31, 2019 in terms of its execution of Decision VI/8c of the Meeting of the Parties on Communication ACCC/C/2014/102 and present the chronological and most complete description of the situation of 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 (Belarus).

In letters dated March 21 and November 1, 2018 addressed to the Committee, our organisation has already described the situation in Brest. Currently, it has gained momentum.

Starting from February 25, 2018, every Sunday at midday, activists and residents are gathering at Lenin Square in Brest (the central square) to feed pigeons. Special permission has to be obtained for holding an assembly or a meeting on significant public issues; however, feeding of urban birds is not interdicted by the legislation of the Republic of Belarus and may be practised without permission. So the locals gather, feed the birds and discuss the construction of the battery factory.

According to information from local residents, as of February 1, 2019, throughout last year, 66 applications to hold mass gatherings in Brest and Brest district were filed – 48 meetings, 12 pickets and 6 demonstrations – but the government sanctioned only one protest, and only one application was granted: a meeting named “Brest residents against lead” took place on April 29, 2018.

Moreover, the community activists regularly collect signatures under petitions to the authorities to halt the factory construction; an attempt has been made to organise a local referendum, numerous written applications were filed, several court cases were initiated.

Throughout the entire period of the protests, residents, activists, human rights defenders, and journalists have been subjected to harassment, pressure, oppression in various forms.

In particular, the public was subjected to:

- fines;
- official notices;
- extrajudicial detention, preventive among others;
- administrative arrests;
- criminal prosecution;
- defamation;
- threats and pressure;
- lawsuits, the so-called SLAPPs (strategic lawsuits against public participation).

Furthermore, the police routinely call the participants of the public campaign against the battery factory to the Leninsky District Department of Internal Affairs at noon on Sundays – this is precisely the time when the opponents of the construction of the enterprise gather at Lenin Square in Brest.

Annex 1 describes the general course of events related to pressuring activists due to their activities.

1) The implementation of the right to participate in environmental decision-making employing peaceful mass gatherings:

Based on the information provided by Belarus in the letter dated 31.01.2019, in 2018, local activists submitted 26 applications for holding peaceful mass gatherings in Brest.

According to Annex 5 provided by the Ministry of Natural Resources and Environmental Protection, one application was granted – No. 35-1/263 dated 02.04.2018; the meeting took place on 29.04.2018. The remaining applications were not granted for the following reasons:

1) in 7 cases, the mass gathering was prohibited due to the fact that the announced sites were among the places where holding mass gatherings is interdicted;

2) in 1 case, the mass gathering was denied due to the failure to comply with the time limits for application;

3) in 10 cases, the application was not granted due to the fact that other events were scheduled at the announced location;

4) in 7 cases, the mass gathering was prohibited due to renovation works underway at the announced location.

Considering the information provided by Belarus, it is reported that of the 26 applications in 10 cases there was a different event planned at the announced time. However, the list of planned activities authorised by the Executive Committee is not publicly available, and the locals, when applying, are not in a position to know what events and on what days are already scheduled in the location selected for a mass event. Moreover, the information about the renovation works at the sites designated for mass events is not publicly available, and during such operations, a substitute site is not allocated. The municipal authorities also do not offer residents opportunities for exercising their right: an alternative site for holding a meeting, an alternative time or date.

On February 7, 2019, the Brest City Executive Committee denied the application of Brest residents to hold four meetings on the grounds that “other activities had been authorised at the same location previously.” At the same time, the latest amendments to the Law on Mass Events provide authorising peaceful assemblies upon notification, if the event is held on an authorised location.

In their reports, a number of human rights organisations refer to the problem of the impossibility to exercise the right to peaceful assembly¹. Thus, one of them points to the fact that “the Belarusian legislation contains an excessive and disproportionate restriction of the right to peaceful assembly which devalues the purpose and significance of this right².”

According to information from residents, as of February 1, 2019, throughout last year, 66 applications to hold mass gatherings in Brest and Brest district were filed: 48 meetings, 12 pickets and six demonstrations³.

Thus, in our view, it appears that the Executive Committee consciously does not take any action to create the possibility for citizens to exercise their right to hold a peaceful assembly, and the legislation contains excessive restrictions of peaceful assembly and virtually creates conditions in which this right can not be exercised. With no real possibility to exercise civil and political rights, citizens cannot fully exercise their environmental rights under the Convention. Namely, they can not raise and discuss the environmental issues concerning them and related to the environmental impact of the battery factory of the IPower company.

2) Criminal prosecution of blogger Sergey Petrukhin for expression of opinion:

On February 1, 2019, Brest Interdistrict Department of the Investigative Committee of the Republic of Belarus issued an indictment order against Brest blogger Sergey Petrukhin in a criminal case initiated against him under the articles “Libel” and “Insult.”⁴ The blogger was incriminated by a video clip

¹https://spring96.org/files/misc/2014-alternativnyi_doclad_po_upo_belarus_ru.doc

²<https://spring96.org/en/news/73220>

³<http://ecnl.org/wp-content/uploads/2019/01/Belarus-Assembly-Report-2018.pdf> p.17

⁴<https://www.svaboda.org/a/29745717.html>

⁵ <http://spring96.org/ru/news/91973>

that he had uploaded to the world web and a commentary on his page in the *Vkontakte* social network, where he allegedly gave information concerning the local police officers.

We believe that Sergey Petrukhin is being prosecuted for expressing his opinion, critical information on the Internet and in the social network, and this criminal case represents a form of persecution of one of the most active residents, a blogger covering the construction of the battery factory. In the course of his activity, Sergey Petrukhin had to interfere with police officers who do not always act according to the law.

3) Lawsuits against the public, the so-called SLAPPs (strategic lawsuits against public participation)

1. In January 2018, the Public Association Ecohome together with local residents and activists Demyan Lepesevich, Elena Makarevich and Dmitry Bekalyuk made a claim against OOO IPower for the temporary prohibition of the construction of the factory, since at the stage of decision-making an appropriate public notice and public participation in the decision-making process has not been provided. The court dismissed the claim. For its defence, OOO IPower hired legal counsellors from Minsk and paid them a fee of 2271 rubles 13 kopecks, which, at the exchange rate of the National Bank of the Republic of Belarus of July 19, 2018, amounts to 982,32 euros. The company has filed a recovery suit for this amount from the public as well as costs in a new case (113 rubles 56 kopecks). The court upheld the claim in part reducing the claimed amount and recovered from each of the defendants 300 rubles and 15 rubles of costs in a new case, a total of 1260 rubles (the court decision of 19.07.2018). We consider this claim as a form of pressure on the public to prevent it from further taking legal action for claiming their rights because it involves the challenge of paying such high claim costs.

2. By the decision on the claim of OOO IPower of June 25, 2018, the Brest Region Economic Court compelled bloggers Sergey Petrukhin and Aleksandr Kabanov to remove a video clip related to the battery plant from their YouTube channel, and also recovered from them the claim costs amounting to 490 rubles. Since it is not always technically possible to remove a clip from YouTube, this decision has not been executed, and on February 11, 2019, for the failure of executing thereof Aleksandr Kabanov was penalised by Beryoza District Court with a fine at a rate of 510 rubles.

4) Cases of defamation:

In 2018, we noted the malpractice of the systematic use of defamation in the media by the business or anonymous persons against environmental activists, residents, human rights activists who assist residents in protecting their environmental rights.

Thus, the following information was published in the media:

18.05.2018 – unidentified individuals spread information and false documents in social networks testifying to the fact that local activists opposing the construction of a battery factory near Brest allegedly receive some funding for their activism⁵.

May 2018 – a website named “The enemies of Brest” <https://vragibreستا.wordpress.com/> appeared online, on which unknown persons publish offensive comments, misleading and defamatory information concerning Brest residents, bloggers, activists opposing the construction of the battery factory near Brest.

20.07.2018 – information appeared in the media claiming that business associations are concerned that the public reduces the investment attractiveness of business projects by raising environmental issues; they also believe that environmental organisations create “information tensions” and are “toxic” among other things⁶.

5) Other cases of persecution of environmental activists in 2018:

⁵ <https://euroradio.fm/ru/kto-finansiruet-protesty-v-breste-razoblachaem-razoblachiteley>, <https://belaruspartisan.by/politic/425418/>

⁶ “Investors need protection from public opinion manipulations”: <http://ced.by/ru/publication/opinions/~shownews/manipulirovania-obszczmneniem>

In 2018-2019, some other instances of persecution and pressure on activists raising environmental issues in Belarus were registered.

Thus, the residents of Svetlogorsk were denied permission to hold a meeting against the operation of the bleached pulp production plant on 15.09.2018. The refusal was reasoned by another previously scheduled event at this location. However, people still gathered at the square and held a flash-mob against the plant emissions named “Svetlogorsk for clean air.”

15.09.2018 – a resident of Svetlogorsk Elena Maslyukova received a written prosecutor's notice about the amenability for violation of legislation on mass events on the grounds that Maslyukova might be an organiser of an unauthorised mass event⁷.

08.10.2018 – Svetlogorsk District Court held an activist Anatoly Zmitrovich administratively liable for participation in an unauthorised mass event and fined him 20 base values.

09.10.2018 – Svetlogorsk District Court delivered a ruling on holding Elena Maslyukova administratively liable in the form of a fine at a rate of 25 base values for participation in an unauthorised mass event on September 15.

Moreover, in Brest, journalists of the Polish TV channel Belsat broadcasting in Belarus became subject to persecution for covering the public protests against the construction of the battery factory. They have been repeatedly held administratively liable for violations of mass media activities and received large-scale fines.

Therefore, the exercising by the public of the right to participate in environmental decision-making, including in the form of the expression of disagreement with the implementation of an investment project, the expression of attitude to the inaction of the authorities in cases of environment pollution, face systematic opposition from the authorities who subject the activists to repression and pressure, which, in our opinion, attests to the fact that Belarus has not taken comprehensive measures for compliance with both the provisions of the Aarhus Convention and Decision VI/8c of the Meeting of the Parties.

Executive Director of the Ecohome NGO
Marina Dubina

⁷ <http://spring96.org/ru/news/90834>