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14.05.2020

№63

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

*Case ACCC/C/2014/102 follow-up communication*

*Additional information on the persecution of activists in Belarus in connection with their attempts to exercise their environmental rights under the Aarhus Convention*

Dear Chairman and Committee members,

In accordance with paragraph 7 of [Decision VI/8c](#), we inform you about new cases of violation of the rights of activists in Belarus, who exercise their rights under the Convention, as well as the lack of measures taken by the State Party to prevent the practice of persecution and harassment of activists.

Earlier, Ecohome NGO informed the Committee about the situation with the persecution of activists opposed to the construction of the battery plant in Brest.

All this time, activists continue to come to the central square of the city every Sunday and discuss the problem of the plant construction. Constantly they submit applications for mass events, but the city authorities refuse for permission to it. During the period from October 14, 2019, to April 17, 2020, there was no repression directly for participating in such meetings.

However, since mid-April, we have noted the resumption of the practice of persecution of the activists, toughening the pressure exerted on them and repressive measures against them by the state, **which have become systemic and massive**. Of particular concern are these events alongside the COVID-19 pandemic.

After the detention of activists Dmitry Bekalyuk and Dmitry Androsyuk, as well as blogger Alexander Kabanov, on April 17 and 18, 2020, solidarity actions in support of pursued Brest activists in the format of “pigeons feeding” in several other cities of Belarus (Vileyka, Pinsk, Vitebsk, Gomel, Grodno, Novopolotsk, Mogilev, Bobruisk, Orsha) took place. These “pigeons feeding” actions are actions when people come to a designated place, usually, a city square, feed birds and discuss social problems. Participants in these actions were also subjected to detentions and repressions.

One general trend must be noted — almost all detained activists are *charged with violating the established procedure for holding a mass events*, namely, they are held liable in the form of huge

finer or administrative arrests for participating in “pigeons feeding” meetings to actualize the issues of creating lead batteries near Brest. (art. 23.34 of the Code of Administrative Offenses of the Republic of Belarus (violation of the established procedure for holding meetings, rallies, street processions, demonstrations, pickets, other mass events performed by its participant). Feeding pigeons in Belarus is not prohibited and permission is not required for this.

As we informed the Committee earlier, Brest activists receive constant refusals to their applications of intent to hold mass events.

At the end of January 2020, Ecohome appealed to the authorities of the city of Brest with a request to reconsider the approach to the permission for mass events related to the theme of the construction of battery plant, but the situation not only remained unchanged, it became rather escalated, but the local authorities insist on the legality and validity of the refusals.

We consider the persecution of activists under the Article 23.34 of the Code of Administrative Offenses for violating the established procedure of conducting of mass events, as a form of persecution of activists who exercise their right to participate in the environmental decision-making process.

We would also like to note that the fines imposed on activists are incommensurable with the income level of the people and often exceed the average monthly salary in Belarus. Moreover, administrative responsibility in the form of administrative arrest in the current epidemiological situation threatens the life and health of activists.

Since the last information submitted to the Committee on April 20, 2020, and April 23, 2020, the following practices of persecution of activists who exercise environmental rights have occurred:

*in total for the period from April 23, 2020, to May 13, 2020:*

detained activists: **29 persons**

the total amount of fines imposed: **13 500 Belarusian rubles (about 5 100 euros)**

the total number of arresting days received by environmental activists: **58 days**

*other forms of persecution and pressure:*

- Activists Denis Malysenko and Vladimir Moroz were detained on May 8, and human rights advocates Roman Kislyak and Vladimir Velichkin were detained on May 10. Since the police haven't reported the whereabouts of the detainees for several days, the relatives filed applications for their enforced disappearance.
- The court sentenced Sergei Petrukhin to 15 days of administrative arrest, despite the fact of his unwell feeling and having a fever during the court procedure. Not waiting for the ambulance to arrive, Petrukhin after the trial was first delivered to the temporary detention facility by police, but was later hospitalized and is currently in the hospital. Subsequently, his positive coronavirus status was confirmed.
- In all cases described in this Communication, the activists were under the legislation that determines the administrative proceeding. In order to draw up a protocol (the beginning of the administrative proceeding), a person might be detained or he/she might be given a written motion to appear to the court to consider the case. However, activists are not presented with subpoenas; instead, police in Brest practice detaining activists on Friday or Saturday and keeping them in a pre-trial detention facility until the court considers the case on Monday. So that activists do not have the opportunity to take part in the Sunday actions, as well as they are

unreasonably detained for about three days, which is not a commensurate and necessary measure, especially in conditions of epidemiological danger.

- In many cases, when the court imposed a fine for participating in an unauthorized mass event, activists were detained once again to draw up another protocol for participating in a mass event that took place in another day. Belarusian legislation allows uniting similar offence cases into one proceeding and considering them simultaneously, but the police in Brest practice doing it separately, using unjustified detention (see the previous paragraph). We consider this method of applying procedural legislation to be another way to put pressure on activists.

### **Other cases of harassment and pressure on environmental activists in Belarus:**

- Persecution of environmental and human rights activist Elena Maslyukova in Svetlogorsk:

An investigation in relation to Maslyukova was launched as part of a criminal case on insulting in social networks, a search was carried out in her apartment and her computer and telephone were seized. We believe that these actions are aimed at Maslyukova due to her active work related to the protest against the construction of a bleached pulp plant in Svetlogorsk, which is unsafe for the environment.

The Observatory for the Protection of Human Rights Defenders [called for an end to the persecution](#) against environmental and human rights activist Elena Maslyukova and condemned the search in her apartment and the illegal seizure of equipment in the context of repressions against the environmental movement in Svetlogorsk (**statement attached — Annex 1**).

- A protocol was drawn up against activist Vitold Ashurak under part 3 of article 23.34 of the Code of Administrative Offenses (violation of the organization or conduct of mass event) for protesting against the construction of a second glass wool production workshop in Berezovka.

In our opinion, the Ministry of Internal Affairs and executive authorities, as well as the Ministry of Natural Resources, as the body responsible for the implementation of the Aarhus Convention in Belarus, should take a more serious approach to the issue of Belarus implementation of the Aarhus Convention by taking the necessary measures to exclude cases of persecution of citizens for the implementation of their environmental rights, as well as undertake measures to implement environmental guarantees in practice.

We believe that activists exercise their legitimate rights and interests, including those stipulated by the Aarhus Convention, and the sanctions applied to them are repressive in nature, therefore we consider it necessary to cancel the decisions to hold accountable due to the lack of *corpus delicti* in the actions of activists.

And it also seems necessary to release all the detained activists, especially consider the unfavourable sanitary and epidemiological situation associated with the coronavirus.

*In the near term, new court hearings on activists are scheduled. The information below is presented as of May 13, 2020.*

## **More detailed information on cases of persecution of environmental activists for the period from April 23, 2020, to May 13, 2020.**

### Abbreviations Used:

Administrative Code - Code of Administrative Offenses of the Republic of Belarus

b.u. - the basic units, as of May 13, 2020, are equivalent to 27 Belarusian rubles (which is about 10 euros)

TDF - temporary detention facility, place of detention at the territorial internal affairs bodies, designed for the temporary detention of administratively detained or arrested persons.

### **Brest:**

- April 26, 2020 — the opponent of the construction of battery plant, Mikhail Galuza, was detained. Two protocols were drawn up on him for putting up leaflets (in support of previously arrested activists) according to part 2. Art. 21.14 Administrative Code "Violation of the rules of improvement and maintenance of settlement areas." Fined for 35 b.u. (total amount - 945 rubles).
- May 03, 2020 — activist Andrei Nevdakh was detained. May 7, 2020, the court fined him for 30 b.u. (810 rubles) for participating in a mass event against the battery plant on May 3, 2020. Before the trial, he was in the TDF.
- May 6, 2020 — two married couples were detained in Brest (names are not indicated at their request). According to one of the detainees, the police took explanations and warned of responsibility for participating in an unauthorized mass event.
- May 6, 2020 — the blogger Sergey Petrukhin was detained and put in the TDF. On May 8, he was taken to the Leninsky District Court of Brest, where the judge adjourned the case concerning participation in a mass event until May 11, however, Petrukhin was placed back in the TDF. On May 11, the court sentenced him to 15 days arrest for conducting a live broadcast of action in Brest on April 19, 2020.
- May 8, 2020 — activist Vladimir Moroz and his parents, activists Yuri Kalko, Denis Malyshenko, Konstantin Ostapuk, Oleg Vyalov were detained in Brest. Reason for detention — the violation of the organization or conduct of mass event:

On May 11, the court fined Yuri Kalko for 30 b.u. (810 rubles) for participation in mass events and for 10 b.u. (270 rubles) for disobedience to police officers. After the decision was made, he was again detained to draw up a new protocol and put in TDF.

On May 11, the court fined Denis Malyshenko 30 b.u. (810 rubles) for participating in mass events.

On May 11, the court fined Oleg Vyalov for 30 b.u. (810 rubles) for participating in mass events.

On May 12, the court fined Vladimir Moroz for 30 b.u. (810 rubles) for participating in mass events. Moroz immediately after the trial was again taken to the TDF.

On May 13, the court fined Konstantin Ostapuk for 30 b.u. (810 rubles) for participation in the actions of "feeding pigeons" May 3, 2020, and May 12, 2020.

From May 8 to the court hearings, Kalko, Malyshenko, Vyalov, Moroz, Ostapuk were in the TDF.

- May 10, 2020 — during the weekly Sunday “feeding pigeons” action in Brest, human rights defender Roman Kislyak and activist Valery Fominsky were detained.

On May 12, the court fined Roman Kislyak for 30 b.u. (810 rubles) for participating in mass events. After the trial, he was again taken to a TDF to draw up another protocol on an administrative offence. The next hearing in respect of him is scheduled for May 14, 2020.

On May 12, the court fined Valery Fominsky for 30 for b.u. (810 rubles) for participating in mass events. After the trial, he was again taken to the TDF to draw up another protocol on an administrative offence. The next hearing in respect of him is scheduled for May 18, 2020.

- On May 12, the court fined human rights defender Vladimir Velichkin for 50 b.u. (1 350 rubles) for participating in mass events. After the trial, he was again detained and taken to the TDF to draw up another protocol on an administrative offence. The next hearing in respect of him is scheduled for May 14, 2020.
- On May 12, the court fined Vitaliy Kozak and Vladimir Dementiyuk 30 b.u. (810 rubles) each for participating in mass events. Kozak was again taken to the TDF immediately after the trial.
- On May 13, the court fined Denis Malysenko 30 b.u. (810 rubles) for participating in the “feeding pigeons” action on May 3, 2020. Immediately after the court session, he was again taken to the TDF to draw up another protocol.

#### **Pinsk:**

- May 3, 2020 — Anatoly Cheshuin was detained on Pinskaya quay during a Sunday “feeding pigeons” action in support of Brest activists. The reason for the detention was the verification of the presence among the participants of those citizens who violate the regime of self-isolation.  
The court hearing to consider the case of Anatoly Cheshuin will be held on May 14, 2020.
- May 9, 2020 — according to an activist Sergey (surname unknown) from Pinsk, the juvenile inspector came to his house and threatened to take his two daughters in connection with his participation in the "feeding pigeons" action on Sunday in Pinsk.

#### **Mogilev:**

- May 11, 2020 — Stas Rosinsky was sentenced to 10 days of arrest under Art. 23.34 of the Administrative Code (violation of the organization or conduct of mass events) for participating in the "feeding pigeons" action on Sunday in Mogilev.

#### **Grodno:**

- May 8, 2020 — Mikhail Salyanik and Alena Sakharchuk were detained for the action of solidarity with the Brest environmental activists in Grodno. Alena Sakharchuk was sentenced to 6 days of arrest.

#### **Gomel:**

- May 7, 2020 — the court of the Central District of Gomel fined Valery Repnin for 5 b.u. (135 rubles) and sentenced to 15 days of arrest to Aleksey Salamashank. Activists were accused of violating article 23.34 of the Administrative Code (violation of the organization or conduct of mass events) - the "feeding pigeons" action on Sunday in support of Brest activists in Gomel on May 3.

#### **Vitebsk:**

- May 7, 2020 — Oleg Borozna and Aleksey Solomonenko were detained for an action in solidarity with Brest environmental activists in Vitebsk. The reason for the detention was part 1 of art. 23.34 of the Administrative Code (violation of the organization or conduct of mass events).  
Oleg Borozna was fined for 20 b.u. (540 rubles).

#### **Novopolotsk:**

- May 9, 2020 — a protocol was drawn up on Elena Gurchenok based on art. 23.34 Administrative Code (violation of the organization or conduct of mass events) for the "feeding pigeons" action in Novopolotsk in solidarity with Brest environmental activists. The hearing is scheduled for May 21, 2020.

#### **Bobruisk:**

- May 9, 2020 — three activists: Galina Smirnova, Vladimir Ramanovsky and Alexander Borisenko were detained for the “feeding pigeons” action in solidarity with Brest environmental activists in Bobruisk. Activists were released after the questioning.

#### **Vileika:**

- May 7, 2020 - five protocols were drawn up on Andrei Kudik, an activist from Vileika based on part 3 of article 23.34 of the Administrative Code (violation of the organization or conduct of mass events) for entering the central square of the city in solidarity with Brest environmental activists. The protocols established that on April 19, 20, 26 and May 3, Kudik “took an active part in the picketing on the central square of Vileika without the permission of the Vileika district executive authorities,” and on April 25 he “publicly called for a picket on Facebook.” The activist was fined for 50 b.u. (1 350 rubles).

#### **Orsha:**

- May 13, 2020 — a protocol was drawn up on Dmitry Ryshkevich based on part 3 of article 23.34 of the Administrative Code (violation of the organization or conduct of mass events) for the the “feeding pigeons” action in solidarity with Brest environmental activists on May 10 in Orsha.
- May 13, 2020 — Mikhail Chemurako was sentenced to 12 days of arrest for the “feeding pigeons” action in solidarity with Brest environmental activists on May 10 in Orsha. Before the trial he was preventively detained.

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