

To: Compliance Committee of the Aarhus Convention

Re: communication C/44; draft report to MOP (former communication C/37)

March 24, 2014

Initial comments on the draft legislative acts (draft law and draft resolution of the Council of Ministers of Belarus) submitted to the Compliance Committee on March 21, 2014 (received by communicant on March 23, 2014)

The communicant wishes to express views on the new draft legislation submitted to the Compliance Committee as a follow-up to Decision IV/9b of the Meeting of the Parties on compliance by Belarus with its obligations under the Convention and Committee's findings in case C/44.

- The drafts represent a fully new package of legislative proposals, compared to the previously submitted drafts. In particular, the intention is to fully change legal framework for public participation during the OVOS stage of the environmental impact assessment. For this reason, such a new approach requires careful analysis, which is not possible within time sufficient for the submission of these comments to the attention of the Compliance Committee before it finalizes its report on compliance by Belarus to MOP at its 44th meeting.
- The draft law amending, among others, the Law on Environmental Protection, introduces a new concept of "public discussion of environmental decisions" and requires that such public discussion (in relation to activities covered by Annex I to the Convention or those subject to OVOS/expertiza procedure) takes place at the stage of siting of such activities. Yet, the draft resolution of the Council of Ministers gives no details as to how this should be organized in practice, as the procedure is only defined for plans, programs and OVOS report (EIA documentation prepared by the developer).
- The Council of Ministers draft resolution, while resembling many elements of the previously submitted draft, now extends to the project-type decision-making and, therefore, is significantly new.
- The proposed resolution on the public discussion of "environmentally important" decisions amends current OVOS procedure by fully deleting chapter 3 on public participation. However, the OVOS procedure (as established by resolution 755 of 2010) has still references to the provisions of the chapter 3, which is supposed to be deleted. It looks draft resolution requires further improvements to avoid such clear mistakes. Another example is wrong numeration of paragraphs on page 3 (duplication of 1.2).
- The proposed resolution on the public discussion of environmentally important decisions provides in details the procedure for public discussion of plans&programs and OVOS report. It is unclear, for example, what would be the procedure for siting decisions, while the organizer of public participation procedures is in fact authority taking decisions on siting.
- The proposed resolution, when defining procedures for public participation on activities, subject to Annex I, stipulates provisions on informing, public discussion (including public hearings as appropriate) in relation only to OVOS report. There's no procedure for public participation in siting decisions, which contravenes the logic of the whole package.
- The proposed resolution does not change the approach used to arrange public participation in environmental expertiza process. It continues to focus on OVOS report and provides for no obligations of the authorities taking environmental expertiza conclusions (decisions).
- The proposed law and resolution make an attempt to ensure public participation in adoption of plans and programs. However, neither the law, nor the resolution provides for any screening

process (criteria or procedure) which would be applied to establish whether plan/program should be subject to public discussion.

The communicant reserves its right to provide further comments on the information submitted by the Government of Belarus, as well as clarifications to the comments above due to the obvious lack of time to examine that information in detail.

Respectfully submitted,

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