



Convention on Access to Information,  
Public Participation in Decision-making and  
Access to Justice in Environmental Matters  
(Aarhus Convention)

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**Maia Bitadze**

**Chairperson of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters**

Re: Alleged persecution of activists, including representatives of environmental NGOs

7 June 2017

Excellency,

On behalf of the Bureau of the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention), allow me express appreciation to the Government of the Republic of Belarus for their efforts to implement the obligations under the Aarhus Convention and thus promote environmental democracy in the country.

I am writing to you on behalf of the Bureau to seek clarification regarding the situation on the alleged persecution of activists, including representatives of environmental NGOs, as presented in a statement of the European ECO Forum (see enclosed) at the twenty-first meeting of the Convention's Working Group of the Parties (Geneva, 4-6 April 2017).

During this meeting, NGOs claimed that the widespread arrest and detention of peaceful protesters by the Belarussian authorities in February-March 2017 included some individuals from an environmental NGO which has previously submitted a communication to the Aarhus Convention Compliance Committee alleging that a number of activists, including several of its members, had experienced problems when exercising their rights under the Convention. That communication (reference ACCC/C/2014/102) is currently under consideration by the Aarhus Convention Compliance Committee.

On the occasion of these events, the European ECO Forum and a number of participants of the twenty-first meeting of the Convention's Working Group of the Parties recalled article 1 and article 3, paragraph 8 of the Aarhus Convention, which require Parties to guarantee the rights in accordance with the Convention and to ensure that persons exercising their rights in conformity with the provisions of the Convention shall not be penalized, persecuted or harassed in any way for their involvement (see report of the meeting, item 10 on other business). The representatives of Belarus explained that the above events had no relevance to article 3, paragraph 8 of the Aarhus Convention (see the statement enclosed).

His Excellency  
Mr. Andrei Kovkhuto  
Minister of Natural Resources and Environmental Protection of the Republic of Belarus  
Minsk

Taking into account the above mentioned and for clarification of the matters, the Bureau would appreciate receiving your comments and relevant information as to:

- (i) whether these actions were unrelated to Belarus' obligations under the Aarhus Contention, despite the fact that environmental activists were among those detained;
- (ii) whether the Government of Belarus confirms its commitment to the obligations under the Aarhus Convention;
- (iii) the current situation of the members of the environmental NGOs mentioned in the statement.

Dear Minister, please accept the assurances of my highest consideration.

Yours sincerely,

Maia Bitadze



**21<sup>st</sup> meeting of the Working Group of the Parties to the Aarhus Convention  
Geneva, 4-6 April 2017**

**European ECO Forum Statement concerning situation on persecution of activists in Belarus**

Since 17 February 2017, a new wave of widespread political repression has been taking place in Belarus - more than 1,000 people were detained and arrested, many with use of brute force, some of them were fined and several searches and seizures of property took place, some people were wounded and hospitalized.

While these repressive measures have affected Belarusian civil society very broadly, representatives of environmental NGOs are among those who have been subjected to this persecution. Indeed, as further elaborated below, individuals from the very same organization that submitted Communication ACCC/C/2014/102 to the Aarhus Convention Compliance Committee alleging non-compliance with article 3, paragraph 8, of the Convention were arrested and detained by the Belarusian authorities in this latest crackdown. The fact that the peaceful protests that gave rise to the actions of the Belarusian authorities were not specifically about an environmental topic and that protestors without an environmental motivation were similarly arrested and detained does not alter the fact that in such a political climate it is virtually impossible for environmental NGOs and individuals to freely exercise their rights under the Convention without fear of reprisal. Thus these latest events point to a violation of article 3, paragraph 8, of the Convention, which states that "Each Party shall ensure that persons exercising their rights in conformity with the provisions of this Convention shall not be penalized, persecuted or harassed in any way for their involvement."

The background to the current situation was as follows. Although after the release of political prisoners in August 2015 the situation with human and civil rights in Belarus was relatively calm, there were no systemic changes or reforms to prevent further repressions and violations of human rights and freedoms. As a result, the peaceful but mass protests of Belarusian citizens against the President's Decree on "preventing parasitism" but in fact posing a special tax on unemployed people - in February-March 2017 resulted again in wide repression and mass human rights abuses by the Belarusian authorities. The organizers expressed the opinion that the State should rather invest in the creation of jobs. The events were peaceful on the side of the protestors and in Minsk the number of participants was between 1,500 and 2,500 people.

But not only were participants of the demonstrations arrested but the government went back to the repression of civil society activists, bloggers, independent journalists, human rights defenders<sup>1</sup> and observers.

On 25-26 March, the repression escalated when over 1,000 people across Belarus were detained including over 700 people at a peaceful demonstration on Liberty Day<sup>2</sup>.

On 28 March, the UN Special Rapporteur on Human Rights in Belarus, Miklós Haraszti, expressed<sup>3</sup> dismay over the Government's open return to a policy of violent mass repression against peaceful demonstrators, non-governmental organizations, journalists and political opponents, and called on the authorities of Belarus to stop harassment and violence.

The EaP CSF Belarusian National Platform (BNP) released a statement<sup>4</sup> calling on the responsible EU officials to objectively assess the situation in the country and consider the opportunities, as well as the conditions and limitations for any further development of the EU-Belarus dialogue. According to the Platform's members, relations between the Republic of Belarus and the European Union cannot be maintained under the current conditions.

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<sup>1</sup> FIDH report: <https://www.fidh.org/en/issues/human-rights-defenders/belarus-crackdown-continues-more-human-rights-defenders-detained>

<sup>2</sup> Human Rights Situation in Belarus: March 2017 <https://spring96.org/en/news/86596>

<sup>3</sup> <http://freeassembly.net/news/belarus-detained-demonstrators/>

<sup>4</sup> <http://eap-csf.eu/index.php/2017/03/31/statement-on-the-events-of-25-26-march-2017-in-minsk-and-other-belarusian-cities/>

Among others affected, environmental activists from the NGO Ecohome were persecuted. Marina Dubina, the director of Ecohome as well as Xenia Maljukova, a member of the same organization, were detained prior to an approved peaceful demonstration on 15 March by police in plain clothes using brute force, who neither identified themselves properly nor explained the reason for the arrest. Alena Dubovik, another member of EcoHome, was arrested after the event in public transport on her way home. Trials were held the day after the arrests, and Marina Dubina was sentenced to 14 days in jail, Xenia Maljukova received 13 days and Alena Dubovik 12 days. "Green Network" the green NGO network of Belarus, emphasizes that all court cases were accompanied by false testimonies of witnesses who were members of OMON's special police units. Not only did they give incorrect information about the time and place of and the reason for the arrests, but neither did they explain why they were in plain clothes at the time when they were supposedly carrying out their duties and why they found it necessary to use brute force. By 25 March among hundreds of arrested people were other environmental activists of Ecohome, including Evgeniy Mihasuk, Vladimir Volodin and Christina Cherniavskaya.

The law enforcement staff refused to provide information about the place of the detention and on the state of health of their colleagues during several hours. The judges refused to consider the arguments of the defense, ignoring as well the video recordings made by the witnesses of the detentions. The reasons for the arrest were later declared as a "public order violation by using brutal language on the street".

A similar situation took place in Belarus also concerning environmental activists from Ecohome exercising rights under Aarhus Convention when they were blamed for a "public order violation by using brutal language on the street" as described in a Communication pending before Compliance Committee of the Aarhus Convention (case ACCC/C/2014/102).

Respect for the fundamental rights and freedoms, including of expression, association and assembly, needs to be upheld.

**Considering that:**

- the Belarusian authorities' brutal crackdowns on peaceful demonstrations, and their use of force, illegal detention and fabricated evidence to intimidate citizens, is not acceptable;
- these recent repressions in Belarus are occurring in the context of the resumption of political dialogue between Belarus and the EU following the release of political prisoners in August 2015, and the lifting of economic sanctions; and
- the decision to hold in Belarus the 26th annual session of the OSCE Parliamentary Assembly in July 2017, and the Espoo Convention Meeting of Parties in June 2017.

We call on the Belarusian authorities to:

- immediately and unconditionally release all those still in custody following their detention during or in connection with peaceful demonstrations, or in the course of their lawful daily activity;
- end the persecution of social activists, human rights defenders, journalists and activists;
- conduct a thorough investigation into the use of violence against protesters and detainees, in compliance with the country's international commitments;
- allow full access by the UN Special Rapporteur on human rights in Belarus to all relevant information;
- and
- commit to concrete and systematic human rights reforms in consultation with the public.

We call on EU institutions, EU Member States and international organisations to:

- make future cooperation with the Belarusian government conditional on progress in the field of human rights;
- provide support to civil society in Belarus to document human rights violations and provide assistance to the victims of illegal persecution; and
- call for the forthcoming Espoo Convention Meeting of Parties scheduled to take place in Minsk in June 2017, to be held elsewhere because the current situation in Belarus contradicts the spirit of fundamental human rights and freedoms, does not correspond to the democratic principles and spirit of the Espoo and the Aarhus Conventions.

**Working Group of the Parties to the Aarhus Convention**  
**21<sup>st</sup> meeting**  
**Geneva, 4-6 April 2017**  
**item 10 “Other business”**

**Statement of the Belarusian delegation**  
**(reply to the statement of the European ECO Forum)**

Belarus fully respects its international obligations, including the provisions of the Aarhus Convention.

It is with deep regret that we noted the statement of the European ECO Forum. The events in Belarus in February-March 2017 which are mentioned in the statement were related to the Presidential Decree No. 3 “On preventing social dependency” which is beyond the mandate of the Aarhus Convention. Subsequent actions taken by the law-enforcement agencies were in strict accordance with the legislation of Belarus.

According to paragraph 8 of Article 3 of the Aarhus Convention, each Party shall ensure that persons exercising their rights in conformity with the provisions of the Convention shall not be penalized, persecuted or harassed in any way for their involvement. The rights guaranteed by the Convention are the following: the rights of access to information, public participation in decision-making, and access to justice in environmental matters. The Aarhus Convention doesn't limit the obligation of the state to ensure public order.

We believe that the statement of the European ECO Forum with regard to Belarus and the subsequent discussion at the 21<sup>st</sup> meeting of the Working Group of the Parties to the Aarhus Convention constitute an abuse of the provisions of the Convention and undermine the value of the Convention by setting a negative precedent.

Belarus reiterates that the issue raised by the European ECO Forum is beyond the mandate of the Working Group and the Bureau of the Aarhus Convention. In this regard we request the Bureau members to avoid any actions that could further undermine the credibility of the Convention.