

МИНИСТЕРСТВО
ПРИРОДНЫХ РЕСУРСОВ И
ОХРАНЫ
ОКРУЖАЮЩЕЙ СРЕДЫ
РЕСПУБЛИКИ БЕЛАРУСЬ



MINISTRY
OF NATURAL RESOURCES AND
ENVIRONMENTAL PROTECTION
OF THE REPUBLIC OF BELARUS

ул. Коллекторная, 10, г. Минск, 220048;
тел.: (37517) 200-66-91, факс: (37517) 200-55-83
email: minproos@mail.belpak.by

10 Kollektornaya str, Minsk 220048
tel: (37517) 200-66-91, fax: (37517) 200-55-83
email: minproos@mail.belpak.by

25.11.2009 № 14-16/5156-vn

UN Economic Commission for Europe
Programme Assistant
Maricar Dela Cruz

TRANSLATION

Dear Ms Dela Cruz,

The Ministry of Natural Resources and Environmental Protection of the Republic of Belarus has examined the abridged version of the communication to the Compliance Committee for the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters concerning compliance by the Republic of Belarus with the provisions of the Aarhus Convention (Ref. ACCC/C/2009/37) forwarded to us by the UNECE Secretariat, and in relation to the questions raised in the communication provides the following answers.

Question 1: in accordance with the Law of the Republic of Belarus ‘On State environmental expert examination [*expertiza*]’:

- State environmental expert examination is a compulsory part of planning, development and decision-making with regards to an HPP (Article 11);

- the List of types and facilities of economic and other activities subject to compulsory environmental impact assessment [OVOS] is approved by the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus (Article 12);

- before the decision is taken to construct an HPP, the commissioning party (the initiator of the planned [economic] or other activity) must present to the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus or its territorial bodies documents (including the environmental impact assessment report for the planned economic or other activity) which indicate the level of environmental hazard presented by the planned HPP and includes a list of measures to prevent environmental damage as well as documents evidencing the agreement of local government and self-government (Article 11);

- the commissioning party (the entity initiating the planned economic or other activity) must present the necessary information to the public concerned and ensure its participation in drawing up and discussing the

environmental impact assessment documentation for the planned economic or other activity (Article 12).

In accordance with the Lists of types and facilities of economic and other activity subject to compulsory environmental impact assessment, approved by Resolution of the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus No. 1 of 06.02.2001 in force until 17.06.2005 (hereafter Resolution no. 1) and Resolution No. 30 of 17.06.2005 in force from 17.06.2005 (hereafter Resolution No. 30), an environmental impact assessment is compulsory for the construction of major dams and reservoirs. In accordance with the Instructions for the environmental impact assessment of planned economic and other activities in the Republic of Belarus, approved by the above-mentioned Resolutions, it is obligatory to inform the public of a planned HPP and obligatory to conduct public consultations as part of the environmental impact assessment (Chapter 2 of Resolution no. 1 and Chapter 4 of Resolution no. 30).

Question 2.a.i: In accordance with Chapters 4 and 6 of the Instructions for the environmental impact assessment of planned economic and other activities in the Republic of Belarus, approved by Resolutions No. 1 and No. 30, public notice may take place through:

- publication in the media of the environmental impact statement for the planned activity and other project proposals, in full or summary form;
- publication and distribution of informational leaflets and newsletters;
- direct notification by post and (or) electronic mail or other electronic means.

National legislation does not specify one single form of notice.

Question 2.a.ii: National legislation does not specify uniform requirements for the content of the public notice.

A new version of the Instructions for the environmental impact assessment of planned economic and other activities in the Republic of Belarus is currently being drafted to take into account practical experience acquired. This will be approved by a Resolution of the Cabinet of Ministers of the Republic of Belarus in the first half of 2010. The new Instructions will specify requirements for the form and content of the public notice and also for the form of public notice of final decisions on the planned activity.

Question 2.a.iii: Since the entry into force for the Republic of Belarus of the Convention on Environmental Impact Assessment in a Transboundary Context (8 February 2006), notification of the public concerned abroad of projects with a transboundary impact is conducted in accordance with the Convention on Environmental Impact Assessment in a Transboundary Context.

Question 2b: The Instructions for the environmental impact assessment of planned economic and other activities in the Republic of Belarus, approved by Resolution No. 1, do not specify a timeframe for conducting public consultations (hearings). In accordance with Chapter 6 of the Instructions for the environmental impact assessment of planned economic and other activities in the Republic of Belarus, approved by Resolution no. 30, public hearings may

be scheduled no earlier than 30 days from the date of notice of the beginning of the public consultation process. Within this period the commissioning party (the initiator) of the planned activity, or the developer acting on its instructions, must distribute the environmental impact statement to the public and other parties who must by law be involved in the impact assessment. As a rule, consultations should take place over a period of no longer than a month. In exceptional cases involving complex, environmentally hazardous facilities or in the event that the commissioning party decides to suspend public consultations, this period may be extended.

Question 2.c: In accordance with Article 34 of the Constitution of the Republic of Belarus, citizens of the Republic of Belarus are guaranteed the right to receive, store and disseminate complete, reliable and timely information on the activities of State bodies and public associations, on political, economic, cultural and international life, and on the state of the environment. State bodies, public associations and officials must afford citizens of the Republic of Belarus the opportunity to familiarise themselves with material that affects their rights and legitimate interests. Enjoyment of information may be restricted by legislation with the purpose of safeguarding the honour, dignity, and personal and family life of citizens and the full implementation of their rights.

In accordance with Article 6 of the Law of the Republic of Belarus ‘On information, informatisation and the protection of information’, State bodies, public associations and officials are obliged to afford citizens of the Republic of Belarus the opportunity to familiarise themselves with information that affects their rights and legitimate interests in accordance with the procedure established by law. Citizens of the Republic of Belarus are guaranteed the right to receive, store and disseminate complete, reliable and timely information on the activities of State bodies and public associations, on political, economic, cultural and international life, and on the state of the environment in accordance with the procedure established by law.

Articles 74 and 74(1) – 74(7) of the Law of the Republic of Belarus ‘On environmental protection’ specify the composition and types of environmental information and the forms of and procedures for its provision and dissemination.

In accordance with Article 4 of the Law of the Republic of Belarus ‘On applications by citizens’, citizens of the Republic of Belarus have the right to present applications [i.e. suggestions, remarks and complaints] to the officials of State bodies and other organisations. Foreign citizens and stateless persons on the territory of the Republic of Belarus have an equal right to that of citizens of the Republic of Belarus to present applications within the limits of their rights and liberties specified by the legislation of the Republic of Belarus (Article 4).

Question 2.d: In accordance with national legislation, citizens and (or) public organisations (associations) may:

- present their remarks verbally or in writing, including during a personal visit to State bodies or other organisations, by telephone, post, electronic mail or

other electronic means;

- take part in public environmental expert examinations and public consultations (hearings).

Question 2.e: National legislation does not stipulate one single form of public notice of the final decision on the planned activities. In accordance with the Laws of the Republic of Belarus 'On the media' and 'On the legislation of the Republic of Belarus', in each specific case the final decision may be notified to the public through: publication in official newspapers of record, posting to the internet site of the National Centre for Legal Information of the Republic of Belarus, posting to the official internet sites of Republic-level State administrative bodies and local executive and administrative bodies, and general notification through the print media, television and radio.

Question 3: The procedure for informing the public of the planned construction of the Hrodna HPP on the Neman was initiated on 10.05.2001 with an article entitled 'The idea of an HPP on the Neman: first public hearings', published in the *Birzha informatsii* newspaper.

Since the beginning of public consultation on the construction of the Hrodna HPP, over 20 articles have been published in national and provincial periodicals about the construction of the Hrodna HPP, in the newspapers *Vechernii Grodno* no. 16 of 02.04.2003 and no. 44 of 08.10.2003, *Novosti Belarusi* of 30.09.2003, *Birzha informatsii* no. 32 of 04.08.2003, *Grodnenskaya Pravda* of 29.03.2003, *Izvestiya* no. 33 of 22.02.2003, *BDG* no. 8 of 23.01.2003 and no. 68 of 15.05.2003, and others.

In January 2003 Hrodna provincial television broadcast an appearance by a representative of the commissioning party, the Republican Unitary Enterprise Hrodnaenerga, presenting the reasons for constructing an HPP.

A feasibility study on the Hrodna HPP on the Neman, including the environmental impact assessment report and informational materials, were presented for State environmental expert examination. The report of State environmental expert examination no. 45 of 07.02.2003 approved the feasibility study of the Hrodna HPP on the Neman on the condition that public consultations were held on the project during the subsequent development phase, given the significant public interest.

The provisions of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, were hence fully complied with.

Question 4: Although at the time when the feasibility study for the Hrodna HPP on the Neman was examined the Republic of Belarus was not a party to the Convention on Environmental Impact Assessment in a Transboundary Context, the commissioning party, as a sign of good will, informed the Republic of Lithuania of plans to construct the Hrodna HPP. Representatives of the Ministry of the Environment of the Republic of Lithuania together with representatives of the commissioning party and representatives of the Belarusian Ministry of Natural Resources and Environmental Protection examined the documentation detailed above. The

Lithuanian side expressed the opinion that the project would have no significant transboundary impact on the territory of the Lithuanian Republic.

Question 5: National legislation does not restrict provision of information relating to decision-making.

The information contained in the conclusions of the State environmental expert examination and of the environmental impact assessment are generally available and may be provided through:

- a verbal statement of the information requested;
- an examination of the documents containing the information requested and (or) providing excerpts from them;
- a written reply containing the requested information.

Yours respectfully

Deputy Minister

[ORIGINAL SIGNED]

G.V. Volchuga