

To:

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

through the Secretary to the Aarhus Convention Compliance Committee
United Nations Economic Commission for Europe
Environment Division
Palais des Nations
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From:

Public Association "Ecohome", Belarus

Subj: Answers to questions on Communication to the ACCC concerning compliance by Belarus with respect to public participation in decision-making regarding a lead battery plant in Brest

Dear Mr. Chairman, Vice Chairs, distinguished members of Aarhus Convention Compliance Committee,

Please, find the follows answers to questions on our Communication regarding concerning compliance by Belarus with respect to public participation in decision-making regarding a lead battery plant in Brest submitted on 24 May 2020:

1. There are some other newspapers published in Brest:
 - *Vecherniy Brest* – once per week, circulation 5000 copies, web page visitor up to 15000 per day;
 - *Zarya* – twice per week, circulation up to 10.000 copies each;
 - *Brestskaya gazeta* – once per week, circulation 5500 copies, and 435.000 web page visitors per month;
 - *Brestskiy kurier* – once per week, circulation 6000 copies;
 - *Brestskiy vestnik* – once per week, circulation 4000 copies.

Information sources: newspaper's homepages and received from editorial staff by direct contact. Some newspapers does not provided information about online readers quantity.

There was a mistake in part III para 10 of Communication. *Zarya nad Bugom* is Brest District Executive committee Herald (not Brest Region). An explanation about District and Region difference is provided in part 5 (i) of this letter.

2. According to "Regulation on the procedure for organizing and conducting public discussions of drafts of environmentally significant decisions, reports on environmental impact assessment, registering the adopted environmentally significant decisions" approved by Resolution of the Council of Ministers of the Republic of Belarus dated June 14, 2016 No. 458 (the version in force at the time of public discussions), para 5, "the period of public discussions of draft concepts, programs, plans, schemes, draft regulatory legal acts, EIA reports may not be less than 30 calendar days from the date specified in the notification of public discussions".

As stated in paras 12 and 13 of Communication, the dates of public discussions are November 28 to December 27, 2016, but announcement was published only by December 8, so period of public discussions was less than 30 days.

3. There are no global failures by the Party concerned in national legislation framework – neither generally nor to the specific case. Probably, some people was sad to miss their opportunity to apply

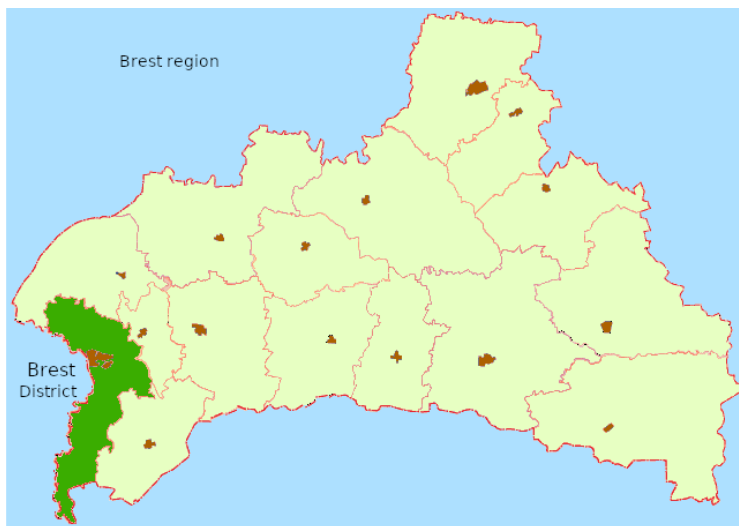
for public meeting or public environment *expertiza* after reading on December 8 announce about public discussion started November 28 – because in 10 days from public discussion start people have an opportunity to submit such application (it stated in para 37 of above mentioned Resolution of the Council of Ministers No 458) but at the moment we have not such testimonies.

More significant are gaps in national legislation – absence of norm defining what constitutes a decision authorizing a particular activity and obligation to make such decision public, lack of early participation opportunity, and the manner of implementation.

4. Communicant does not have any documents about grounds to suspension of plant construction as well as a copy of letter of June 13, 2019 No. 11-1-6 / 2642 of Ministry of Natural Resources and Environmental Protection of the Republic of Belarus which is mentioned in suspension order. According to publications in local mass media, the decision on suspension “was expired” and in force anymore. A particular decision is not published and we do not have text of it.
5. The Republic of Belarus have seven administrative parts – regions (like provinces/cantones/states etc - *oblast*) – six regions and the Capital City of Minsk.



One of regions – Brest – has 16 districts (*rayon*) and also cities Brest, Pinsk and Baranovichi. City of Brest and Brest district are two units in Brest Region.



Brest Regional Executive Committee is higher level authority for both units – City of Brest and Brest District.

Permission for battery plant construction was issued as decision of Brest District Executive Committee. Suspension of construction was done by Order of Chairman of Brest Regional Executive Committee. The of Chairman of Regional Executive Committee has no authority to suspend construction activity: according to subparagraph 2.6 of paragraph 2 of Article 48 of the Law of the Republic of Belarus dated January 4, 2010, No. 108-Z “On Local Government and Self-Government in the Republic of Belarus”:

“2. The chairman of the executive committee of the regional level, within the frames of his competence in the manner prescribed by law:

2.6. presents (sends) a proposal to suspend (prohibit) the activities of organizations, construction projects on the relevant territory in the case of violations of legislation that pose a threat to national security, harm to the life and health of the population, the environment, until the violations that served as the basis for the delivery (direction) of such offers”.

In this situation, he may only present a proposal – to developer, to other competent authority (for example, persecutor) or bring a claim before the court. Another way – to terminate a decision of District Executive Committee which permitted the construction.

Concerning terminology *District* and *Region* – unfortunately, in translation of court decision (Annex 7) were wrong interpreted some issues. Please, find attached corrected Annex 7.

6. The court decision is already issued but not translated to English and not in force yet because is appealed to Region level court. Briefly: according to position of Brest Regional Executive Committee, the Decision of Brest District Executive Committee, granting permission for plant construction, is not an environmental information. The court agree to Brest Regional Executive Committee so claim on access to information was rejected. Court decision with translation and possible second instance decision will be send to Committee as soon as possible.
7. Due to lack of time explanation of issues raised in newly submitted Communication and issues addressed in decision VI/8c MoP will be presented later.

On behalf of Ecohome,

Siarhei Mahonau
Legal advisor
October 25, 2020