

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

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No. **to**

United Nations
Economic Commission for Europe
To the Chair of the Compliance Committee
for the Convention on Access to
Information, Public Participation in
Decision-making and Access to Justice in
Environmental Matters
Mr Jonas Ebbesson

Copies to: Ministry of Foreign Affairs of the
Republic of Belarus

Permanent Mission to the United Nations
Office and the other International
Organizations in Geneva

Dear Mr Ebbesson

The Ministry of Natural Resources and Environmental Protection of the Republic of Belarus ('the Ministry of the Environment') is herewith providing information about measures taken by the Party concerned for the implementation of Decision V/9c, adopted with regard to the Republic of Belarus at the fifth session of the Meeting of the Parties to the Aarhus Convention (table appended).

In addition, we wish to inform you that during the reporting period we have continued not only our practice of holding training seminars/round tables on implementation of the Aarhus Convention but also the Ministry's activities directed at putting the Convention's provisions into operation. Members of the Standing Committee on Ecology, Environmental Management and the Chernobyl Disaster of the House of Representatives of the National Assembly of the Republic of Belarus, representatives of the National Centre for Legislation and Legal Research, representatives of government bodies, of the public prosecution service, of local executive and administrative agencies, of business and of NGOs, as well

as lawyers and members of the mass media, have taken part in these events. The following events have been held:

14 December 2015 – a seminar on ‘Ensuring access to justice on matters relating to the environment’ (in Minsk);

13 July 2016 – a seminar/round table on ‘Implementation of the provisions of the Aarhus Convention: focus on public participation in environmental decision-making’ (in Minsk).

There is also an ongoing project, ‘Strengthening the implementation of the Aarhus Convention in the Republic of Belarus’, which is being conducted with international technical assistance, in the context of which a series of seminars/round tables on ‘Implementation of the provisions of the Aarhus Convention’ has been planned for all areas of the country. To date, the following events have been held:

7 October 2016 – a seminar/round table on ‘Implementation of the provisions of the Aarhus Convention’ (in Brest);

26 October 2016 – a seminar/round table on ‘Implementation of the provisions of the Aarhus Convention’ (in Mogilev).

Seminars will be held in the remaining areas of the country before the end of December 2016. A seminar on ‘Ensuring effective public participation in environmentally significant decision-making in the Republic of Belarus’ will be held in Minsk from 2 to 3 November this year.

We assure you of our willingness to provide further information, as required.

Annex: [6]-page table, in one copy

Yours sincerely,

First Deputy Minister

[signed]

I. V. Malkina

Information about measures taken by the Party concerned for the implementation of Decision V/9c, adopted with regard to the Republic of Belarus at the fifth session of the Meeting of the Parties to the Aarhus Convention

| | Recommendations [- to ensure that] | Implementation via national legislation | Notes |
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| 6(a) | the general law on access to information refers to the 1992 Law on Environmental Protection that specifically regulates access to environmental information, in which case the general requirement of stating an interest does not apply | <p>Law of the Republic of Belarus of 11 May 2016 No. 362-3 to introduce amendments and additions to certain laws of the Republic of Belarus:</p> <p>‘Article 4. The following amending additions are to be made to the Law of the Republic of Belarus of 10 November 2008 on Information, Informatization and Information Protection (National Register of Legislation of the Republic of Belarus, 2008, No. 279, 2/1552):</p> <p>Add the words “the protection of children from information harmful to their health and development” after “advertising,” and the word “, environmental” after “legal” in the second paragraph of Article 2.’</p> | This part of the Law shall enter into force on 1 July 2017. |
| <p>In the aim of implementing the recommendations with respect to article 6 of the Aarhus Convention, the Ministry of the Environment has taken the following measures:</p> <p>1) made amendments and additions to the Decree of the President of the Republic of Belarus of 24 June 2008 No. 349 on Criteria for categorizing economic and other activities that have an adverse environmental impact as ‘environmentally hazardous activities’; these entered into force on 12 February 2016.</p> <p>These amendments were intended, <i>inter alia</i>, to supplement and specify the types of activities covered by Annex I to the Aarhus Convention, which are mentioned in the Annex to the Criteria for categorizing economic and other activities that have an adverse environmental impact as ‘environmentally hazardous activities’. This ensures opportunities at an earlier stage – i.e. before the environmental impact assessment is conducted – for public participation with respect to laws and regulations intended to govern relations connected with carrying on economic and other activities regarded as environmentally hazardous under the criteria laid down.</p> <p>2) adopted an amended version of the Law of the Republic of Belarus of 18 July 2016 No. 399-3 on State Environmental Review, Strategic Environmental Assessment and Environmental Impact Assessment, which shall enter into force on 22 January 2017.</p> | | | |

In particular, Article 7 of the Law includes a list of installations that are subject to environmental impact assessment. This list of installations conforms with Annex I to the Aarhus Convention. Types of activities mentioned in Annex I to the Aarhus Convention and not listed in Article 7 of the Law on State Environmental Review, Strategic Environmental Assessment and Environmental Impact Assessment will be subject to EIA under Article 7(1)1.1 or Article 7(1)1.2. (The extent of public health protection zones is defined in Decision of the Ministry of Health of the Republic of Belarus of 15 May 2014 No. 35 approving Public Health Protection Standards and Rules for the requirements for establishing Public Health Protection Zones around enterprises, facilities and other installations with an impact on human health and the environment, and recognizing the loss of force of Decision of the Ministry of Health of 10 February 2011 No. 11.) The non-exhaustive nature of the list of installations, etc. subject to EIA is enshrined in Article 7(2) of the Law, which concludes with the phrase ‘...other installations specified by the legislation of the Republic of Belarus, by international agreements entered into by the Republic of Belarus’; it should be noted that this allows EIAs to be conducted in Belarus not only in respect of installations directly listed in the Law but also in respect of those not mentioned in the Law but covered by international agreements of the Republic of Belarus.

3) adopted Resolution of the Council of Ministers of the Republic of Belarus of 14 June 2016 No. 458 approving Regulations on a procedure for organizing and conducting public discussions of drafts of environmentally significant decisions, environmental impact assessment reports, for recording environmentally significant decisions taken and for inserting amendments and additions into several Resolutions of the Council of Ministers.

The Resolution enshrines provisions for public participation in environmentally significant decision-making, in public discussions of EIA reports. *In connection with the entry into force of the Law of the Republic of Belarus of 18 July 2016 No. 399-3 on State Environmental Review, Strategic Environmental Assessment and Environmental Impact Assessment, amendments and additions to Council of Ministers’ Resolution No. 458 have been drawn up – these are referred to hereinafter as ‘the Draft Resolution’.*

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| 6(b) | there is a clear requirement for the public to be informed of decision-making processes that are subject to article 6 in an adequate, timely and effective manner | Resolution No. 458, Paragraph 7 | The words ‘other information’ in Paragraph 7 of the Draft Resolution have been replaced by the words ‘other information relating to the decision being taken’. Paragraph 59 is to be added to Chapter 5: ‘59. The procedure for public discussions of an EIA report may be used in the conduct of procedures for public participation in decision-making relating to types of activity listed in Annex I to the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.’ |
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| 6(c) | there are clear requirements regarding the form and content of the public notice, as required under article 6, paragraph 2, of the Convention | Resolution No. 458, Paragraphs 14 and 35 | |
| 6(d) | there are reasonable minimum time frames for submitting comments during the public participation procedure for all decisions under article 6 of the Convention, including those that may not be subject to an EIA decision procedure, taking into account the stage of decision-making as well as the nature, size and complexity of proposed activities | Resolution No. 458, Paragraph 5 | |
| 6(e) | there is a clear possibility for the public to submit comments directly to the relevant authorities (i.e., the authorities competent to take the decisions subject to article 6 of the Convention) | Resolution No. 458, Paragraphs 33 (subparagraph 33.5), 36 and 41 | |
| 6(f) | there are clear provisions imposing obligations on the relevant public authorities to ensure such opportunities for public participation as are required under the Convention, including for making available the relevant information and for collecting the comments through written submission and/or at the public hearings | Resolution No. 458, Paragraphs 34, 36, 40 and 41 | |
| 6(g) | there are clear provisions imposing obligations on the relevant public authorities to take due account of the outcome of public participation, and to provide evidence of this in the publicly | Resolution No. 458, Paragraphs 6, 7 (sixth indent) and 41 | |

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| | available statement of reasons and considerations on which the decisions is based | | |
| 6(h) | <p>there are clear provisions imposing obligations on the relevant public authorities to:</p> <p>(i) Promptly inform the public of the decisions taken by them and their accessibility;</p> <p>(ii) Maintain and make accessible to the public copies of such decisions along with the other information relevant to the decision-making, including the evidence of fulfilling the obligations regarding informing the public and providing it with possibilities to submit comments;</p> <p>(iii) Establish relevant publicly accessible lists or registers of the decisions held by them</p> | <p>Resolution No. 458, Paragraphs 6 and 7</p> <p>Resolution No. 458, Paragraphs 6 and 7</p> <p>Resolution No. 458, Paragraph 7 and Chapter 5 (Paragraphs 45, 46 and 47)</p> | |
| 6(i) | statutory provisions regarding situations where provisions on public participation do not apply cannot be interpreted to allow for much broader exemptions than allowed under article 6, paragraph 1 (c), of the Convention | Amended version of Article 15-2(3) of the Law of the Republic of Belarus on Environmental Protection and of Paragraph 3 of the Draft Resolution introduced by the public authorities at the highest level | |
| 7a) | the amended legal framework clearly designates which decision is considered to be the final decision permitting the activity and that this decision is made public, as required under article 6, paragraph 9, of the Convention | <p>Up to now, the only designation of the decision which is considered to be final has been for the purposes of the Espoo Convention, in Article 15(4) of the Law of the Republic of Belarus on State Environmental Review, Strategic Environmental Assessment and Environmental Impact Assessment</p> <p>‘The conclusion of a state environmental review [<i>expertiza</i>] is deemed, for the purposes of the Convention on Environmental Impact Assessment in a Transboundary Context, signed at Espoo on 25 February 1991, to be a final decision on proposed economic and other activities with</p> | |

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| | | regard to the acceptable environmental impact of such activities and to the use of natural resources for implementation of the relevant design decisions.’ | |
| 7b) | The full content of all the comments made by the public (whether claimed to be accommodated by the developer or those which are not accepted) is submitted to the authorities responsible for taking the decision (including those responsible for the <i>expertiza</i> conclusion) | Resolution No. 458, Paragraph 6 | |
| 7c) | Appropriate practical and other provisions are made for the public to participate during the preparation of plans and programmes relating to the environment | The second indent of Article 15-2(1) of the Law of the Republic of Belarus on Environmental Protection; Resolution No. 458, Chapter 2 | The Ministry of the Environment has amended Paragraph 6 of the Rules on preparation of management plans for specially protected natural areas, which were approved by Decision of the Ministry of the Environment of 29 October 2008 No. 94 on several issues relating to Specially Protected Natural Areas. The amended version provides for the submission of draft management plans to public discussion under the procedure approved by Council of Ministers’ Resolution of 14 June 2016 No. 458. |
| | | The Ministry of the Environment is currently conducting public discussions of the draft National Action Plan for the introduction of ‘green economy’ principles into branches of the national economy of the Republic of Belarus up to 2020. All the necessary information about these public discussions is posted in the Public Discussions section of the Ministry of the Environment website at http://minpriroda.gov.by/ru/plan/ | |