

*Tenth meeting of the Task Force on Access to
Justice under the Aarhus Convention*



***New opportunities
in PPDM outcomes judicial
review in Belarus***

**GREEN
NETWORK**



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background

On January 21, 2017 in Belarus came into force a new edition of law ***On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment***
(previously – *Law On State Environmental Expertise*)

new legal provisions

Was modified currently existing ***State Environmental Expertise and Environmental Impact Assessment*** and added ***Strategic Environmental Assessment*** as a forms and opportunities for public participation.

Was expanded a list of activities which public participation (public hearings) are applies and created a list of activities for Strategic Environmental Assessment.

new opportunities for outcomes review

According to art.24 of amended law public (as well as persons as legal entities, for example, NGOs) now has a right to challenge the court the outcome documents – State Environmental Expertise conclusions, EIA or SEA reports.

This is absolutely new opportunity provided by national legislation for public 'cause in previous version of law such right belongs only to company starting proposed activity.

opportunity or dead way?

Despite the fact of progress on Access to Justice -at least now we have an opportunity to bring a case challenging environmental report before court – there are some doubts about efficiency of these provided tools.

To challenge something it should be a decision – administrative, court or issued by any high official.

practical application

All these PPDM outcomes – SEE, EIA or SEA reports or conclusions are not a final or any other kind of decision. SEE conclusions can be a final decision only for Espoo Convention reasons (art. 14 of amended law) but in all other cases these outcomes are like permission or conclusion or report, sometimes – like opinion. In different activities are different kinds of final decisions and sometimes happens activity can be run without any final decision.

practical application-2

Challenging SEE or SEA outcomes public can only question the expert's opinion and if happens – invalidate document (report etc.) It does not mean that another expert cannot issue the same opinion and project will be applied.

From the practical point of view these tools provided in new law are completely useless in direct application.

practical application-3

At the other hand these legal provisions gives an opportunity to challenge such outcomes what was not possible before.

For effective use of new granted tools a plaintiff should join a report challenging and claim of activity prohibition/ban – in such case is possible to get all benefits from new amended law for protecting public right to participation in environment decision making.

conclusions

New provisions in Belarus Law ***On State Environmental Expertise, Strategic Environmental Assessment and Environmental Impact Assessment*** gives a broad opportunity to challenge the outcomes of PPDM processes and for sure it is a significant progress in Aarhus Convention implementation.

But for effective use for public interest protection these tools are insufficient and need to be accompanied by other claims what it not easy for ordinary NGO activists.

Follow-up steps

- publishing all the cases on Aarhus Center web page (*some cases are published on Grodno regional Aarhus center page*)
- publishing Aarhus-related cases (both resume and court decision) on UNECE web page (jurisprudence database)
- continuation of cooperation with Ministry of environment to start a series of seminars for lawyers and judges
- starting an information campaign by publishing articles about access to justice in newspapers, magazines and web to learn public and authorities how to cooperate on environmental matters

Thank you for attention

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