



**LIETUVOS RESPUBLIKOS APLINKOS MINISTERIJA**  
**THE MINISTRY OF ENVIRONMENT OF THE REPUBLIC OF LITHUANIA**

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Mr. Jonas Ebbesson (Sweden)  
Chair of the Compliance Committee  
Aarhus Convention  
Office: S-332, Palais des Nations  
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**CONCERNING BELARUS NUCLEAR POWER PLANT**

Dear Ms. Ella Behlyarova and Mr. Jonas Ebbesson,

Referring to the ongoing procedure by the Compliance Committee with regard to communication ACCC/C/2009/44 concerning compliance by the Republic of Belarus, hereby we would like to draw your attention to the implementation of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) as well as the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention)<sup>1</sup> by Belarus in regard to the right of Lithuanian public to get comprehensive information and to participate in the decision making procedures related with development of a nuclear power plant project in Belarus.

According to the Espoo Convention Lithuania is entitled to participate in an environmental impact assessment (hereafter – EIA) procedure concerning a project of nuclear facilities located in the area of another country if the impact of the project could potentially affect Lithuania. From the very beginning Lithuania faced a serious problem receiving official information from Belarus about the new nuclear power plant planned to be constructed in the proximity of the territory of Lithuania (50 km to Vilnius, the capital of Lithuania). To date, the provisions of the Espoo and Aarhus conventions are seriously violated by Belarus. Skipping of obligatory procedures and submitting of poor quality EIA documentation are major issues in this regard.

At the beginning of 2009 Lithuania only from the Belarusian media revealed that Belarus decided to build the NPP in the Astravets site and that the construction works of residential houses for the NPP workers in the region of Astravets were already launched. Therefore, the Ministry of Environment of Lithuania in its letters (07 January 2009, No. (1-15)-D8-92 and 06 April 2009, No. (1-15)-D8-3011)

<sup>1</sup> Lithuania considers both Espoo and Aarhus conventions as closely interrelated and (in some cases) overlapping.

addressed Belarus and emphasized that Lithuania still hasn't received a notification according to the Espoo Convention. Situation, when construction works are started even prior the notification stage of the EIA procedure, is a serious breach of the Espoo and Aarhus conventions. A late notification was submitted to Lithuania only in August 2009. It should be noted that the notification itself violated the provisions stipulated in the Article 3.2 of the Espoo Convention.<sup>2</sup>

During the period of 2010-2013 Lithuania repeatedly requested Belarus to provide necessary information in relation to nuclear safety and EIA of NPP project. However, key questions of Lithuanian experts and public still remain unanswered (e.g. the assessment of alternative sites for NPP construction, site selection criteria, seismic safety assessment, impact to the river Neris as a cooling source, to drinking water in Lithuania and especially in capital Vilnius, emergency preparedness especially taking into consideration the impact to the capital Vilnius, etc.). Lithuanian public was not provided with possibilities to get comprehensive information about this project in line with the Espoo and Aarhus conventions.

Due to Belarus non-compliance with the provisions of the Espoo Convention, while implementing the NPP project, Lithuania on 7 June 2011 placed a submission to the Secretariat of the Espoo Convention. The Implementation Committee of the Espoo Convention adopted Findings and Recommendations during the twenty-seventh session held in Geneva, 12-14 March 2013 (hereafter – Findings and Recommendations) noting that NPP project in Belarus is implemented in violation to the Espoo Convention and requested Belarus to provide answers to the questions raised by Lithuania. The Committee also “urged Belarus and Lithuania to make further efforts to ensure that the language requirements of public consultations are satisfied” and “requested Belarus and Lithuania to ensure that the Lithuanian public is informed about the final EIA report and provided with possibilities for making comments or objections to it, in line with article 3, paragraph 8, of the Convention.”<sup>3</sup>

Implementation Committee of the Espoo Convention also considered it important to note several findings by the Compliance Committee of the Aarhus Convention. It had observed that there was “considerable uncertainty as to the participatory procedures applicable in case of nuclear activities” and a “lack of clarity as to the decision which is considered to be the final decision permitting [the] activity”. “In relation to the NPP, the Compliance Committee found that Belarus had failed to comply with the Aarhus Convention by “restricting access to the full version of the EIA report”.”<sup>4</sup>

Since the Findings and Recommendations by the Implementation Committee of the Espoo Convention became officially available, Lithuania took a number of steps (in terms of written communication and bilateral meetings) and initiatives towards their effective implementation:

1. Belarus and Lithuania reached an agreement during the sixteenth meeting of the Lithuanian-Belarusian Bilateral Commission for Trade and Economic Cooperation (28 May 2013, Vilnius) that Belarus will provide an upgraded EIA report to Lithuania which would comply with the Findings and Recommendations as the first step indispensable to proceeding to comprehensive implementation of the Findings and Recommendations.<sup>5</sup>

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<sup>2</sup> Information specified in clause (b) of Article 3.2 was missing: "the nature of the possible decision".

<sup>3</sup> Paragraph 74 (f) and (g) of the Findings and Recommendations further to a submission by Lithuania regarding EIA procedure on NPP project in Belarus (EIA/IC/S/4).

<sup>4</sup> Ibid., paragraphs 14-15.

<sup>5</sup> Such Belarusian commitment was recorded in the paragraph 5.3 of the Protocol of the bilateral Lithuanian-Belarusian Commission's meeting of 28 May 2013 and signed by both Parties.

2. On 13 June 2013, during the meeting between the Ministries of Foreign Affairs of Lithuania and Belarus, the Belarusian side submitted a document considered by Belarus as the final environmental impact assessment report. The Lithuanian experts started analysing this documentation without delay, but due to its volume (1000 pages) Belarus was officially requested to allocate reasonable time framework for the analysis (namely, until the end of August 2013).<sup>6</sup> Such Lithuanian request was also based on the obligation to ensure effective public participation as stipulated in the Article 6 Paragraph 3 of the Aarhus Convention.
3. However, on 19 July 2013 Belarus informed of its unilateral decision to schedule public hearings for the Lithuanian public in the territory of Belarus on 17 August 2013. The fact that such a unilateral decision was taken by Belarus supports the view that even though some legislative changes were made by Belarus while implementing the Recommendations issued by the Compliance Committee of the Aarhus Convention (ECE/MP.PP/C.1/2011/6/Add.1), the legal framework currently in force in Belarus still needs to be improved significantly. Lithuania has repeatedly officially requested Belarus to avoid taking any unilateral decisions and to allocate reasonable time framework (till the end of August 2013) necessary to analyse the voluminous EIA documentation received with the letter of 11 June 2013. Findings and Recommendations by the Implementation Committee of the Espoo Convention<sup>7</sup> as well as UNECE “Guidance on Public Participation in Environmental Impact Assessment in a Transboundary Context” (paragraphs 22 and 69) fully supports the view that public hearings should be arranged by agreement of both parties. Moreover, the decision to arrange the event for the Lithuanian public in the territory of Belarus seriously restricted the access to Lithuanian people (e.g. visas and passports were required for entering the territory of Belarus; a few buses of selected people from Visaginas region of Lithuania<sup>8</sup> were transported to the event; some Lithuanian people were deliberately prevented from participating<sup>9</sup>). Additional logistical arrangements (e.g. long travelling hours in order to take part in such event) created unnecessary hurdles for public participation. Taking into account these facts, the right of Lithuanian public to participate in the decision making process (Article 6 of the Aarhus Convention) was highly violated.
4. To our dismay, the comprehensive evaluation of the EIA documentation carried out by Lithuanian authorities<sup>10</sup> showed that the documentation received with the letter of 11 June 2013 was only a low quality Lithuanian translation of the same EIA documentation dated 6 July 2010 which has been already assessed by the Lithuanian experts and the Implementation Committee. Notably, the content of the EIA documentation remained unchanged. This situation contradicted with the view that before the decision to arrange public hearings is made, the EIA report had to be amended (as it was previously agreed with Belarus<sup>11</sup>). As it was also noted by the Implementation Committee, public participation is effective when it

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<sup>6</sup> The Ministry of Environment of Lithuania is responsible for ensuring that the information provided for the Lithuanian public is non-biased and of adequate quality. Therefore, on the basis of the UNECE “Guidance on the Practical Application of the Espoo Convention”, paragraphs 55, 65 and 66, the Ministry of Environment of Lithuania forwarded the documentation received with the letter of the Ministry of Natural Resources and Environmental Protection of Belarus of 11 June 2013 to the competent Lithuanian authorities for detailed evaluation.

<sup>7</sup> Paragraph 74 (e) of the Findings and Recommendations further to a submission by Lithuania regarding Belarus (EIA/IC/S/4).

<sup>8</sup> Mostly Russian speaking people who are currently looking for jobs in Belarus and living in the vicinity of the closed Ignalina NPP.

<sup>9</sup> Complaints from the Lithuanian public and journalists were received.

<sup>10</sup> Ministry of Environment, State Nuclear Power Safety Inspectorate (VATESI), Ministry of Energy, Ministry of Foreign Affairs, Lithuanian Geological Survey, Radiation Protection Centre, Environmental Protection Agency, State Enterprise Radioactive Waste Management Agency (RATA) and others.

<sup>11</sup> During the sixteenth meeting of the Lithuanian-Belarusian Bilateral Commission for Trade and Economic Cooperation (28 May 2013, Vilnius).

meets the principle “*early public participation when all options are open*”<sup>12</sup>. Such principle is also established in the Article 6 Paragraph 4 of the Aarhus Convention.

Also, detailed evaluation showed that the translation (done by Belarus) of the EIA documentation was of extremely poor quality (especially “Part 8.1. NPS Description”):

- some of the keywords have lost their original meaning (e.g. “plant” is referred to as “flora” in its Lithuanian translation rather than “industrial plant”);
- references are made to Uzbekistan instead of Lithuania when analysing the transboundary impact of the NPP in Belarus;
- a lot of loosely translated and non-cohesive sentences and words make the text very difficult to understand. It is very likely that the translation might have been done using Google Translation or similar machine-translation tools.

Low quality of the EIA documentation violated the right of Lithuanian public to access environmental information and to participate in the decision making process effectively (two out of three pillars of the Aarhus Convention).

5. Trying to find a common ground with Belarus and to agree on a reasonable time framework for the transboundary environmental impact assessment procedures of the nuclear power plant in Belarus, on 10 September 2013 Lithuania submitted to Belarus very concrete requests<sup>13</sup> and requested to provide the missing information by 1 October 2013. In addition, we also proposed Belarus to consider arrangement of public hearings for the Lithuanian public in the territory of the affected party (Lithuania) on a date convenient for both sides, possibly at the end of October 2013. Since no reaction was received from Belarus, Lithuania reiterated the proposal to arrange public hearings in Lithuania several times (in October, November, December 2013 and February 2014) afterwards. It should be noted that Belarus did not accept this proposal up to date.
6. In addition to the information provided above and taking into account the extremely low quality of received translation of the EIA documentation, the Ministry of Environment of Lithuania decided to make the received EIA documentation available for the Lithuanian public only with a supplementary note (explaining the problems to the public). The EIA documentation is available on the website of the Ministry of Environment of Lithuania since 27 September 2013. The Lithuanian public, non-governmental organizations and other members of public concerned were additionally informed about that by the letter of the Ministry of Environment of Lithuania of 7 October 2013.

In conclusion, our observation is that after the Findings and Recommendations became officially available, Belarus focused exceptionally on procedure-related matters (i.e. the form), ignoring the Lithuanian requests regarding the EIA report and key questions (i.e. the substance). However, such a way – giving priority to the form over the substance is not acceptable to a country like Lithuania which due to its closest proximity would be affected most in case anything goes wrong at the Belarusian NPP.

The most recent developments, related with this project are a reason for our grave concern. Despite the fact that the EIA process is open (with Lithuanian and other parties involved, e.g. European Commission), the construction of the nuclear power plant in Belarus is in full swing. On 29 October 2013 the Ministry of the Emergency Situations of the Republic of Belarus announced

<sup>12</sup> Paragraphs 14, 15 and 54 of the Findings and Recommendations further to a submission by Lithuania regarding Belarus (EIA/IC/S/4).

<sup>13</sup> Outlined in five annexes to the letter of 10 September 2013.

about issuance of a special permit (license) allowing nuclear equipment installation at the first Astravets NPP unit. On top of that, on 2 November 2013, a Decree was signed by the President of Belarus marking official start of the main phase of the NPP construction. Moreover, on 21 February 2014 it was announced that a second licence allowing nuclear equipment installation at the second Astravets NPP unit was issued. Lithuania considers any decisions on issuance of licence and allowing construction works on the site since the EIA process is not completed as being serious infringements of the Espoo and Aarhus conventions. Belarus did not ensure that in the decision due account is taken of the outcome of public participation (Article 6 Paragraph 8 of the Aarhus Convention). Such position was also reiterated in the letter of the Ministry of Environment of Lithuania to the Ministry of Natural Resources and Environmental Protection of Belarus of 13 February 2014.

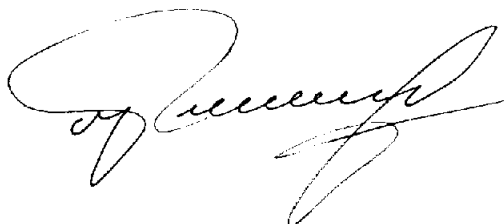
We would like to note that even some legislative changes were made by Belarus while implementing the Recommendations issued by the Compliance Committee (ECE/MP.PP/C.1/2011/6/Add.1) the right of Lithuanian society to get comprehensive information and to participate in the process at the earliest stage of the project implementation in accordance with the Aarhus Convention (Article 6) is systematically highly violated.

We hope that these observations will be useful for the Compliance Committee while considering the progress of the implementation of the Recommendations by the Compliance Committee with regard to communication ACCC/C/2009/44 concerning compliance by Belarus. Lithuania also kindly requests the Compliance Committee to consider the circumstances explained above at its forthcoming meeting (25-28 March 2014).

Finally, let me reassure you that Lithuania is ready for further cooperation with the Compliance Committee on this matter.

Yours sincerely,

Almantas Petkus  
Vice-Minister

A handwritten signature in black ink, appearing to be 'Almantas Petkus', written in a cursive style.

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