

Compliance Committee to the Convention on  
Access to Information, Public Participation  
in Decision-making and Access to Justice  
in Environmental Matters (Aarhus Convention)

**Second progress review of the implementation of decision VI/8c  
on compliance by Belarus with its  
obligations under the Convention**

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## **I. Introduction**

1. At its sixth session (Budva, Montenegro, 11-13 September 2017), the Meeting of the Parties to the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) adopted decision VI/8c on compliance by Belarus with its obligations under the Convention (see ECE/MP.PP/2017/2/Add.1).

## **II. Summary of follow-up**

2. At its sixtieth meeting (Geneva, 12-15 March 2018), the Committee reviewed the implementation of decision VI/8c in open session with the participation by audio conference of representatives of the Party concerned and the communicant of communication ACCC/C/2014/102.

3. On 13 March 2018, the communicant of communication ACCC/C/2014/102 provided a written version of the statement it had made during the open session at the sixtieth meeting.

4. On 21 March 2018, the communicant of communication ACCC/C/2014/102 provided additional information. On the same day, the secretariat sent a request to the communicant of communication ACCC/C/2014/102 seeking clarification of whether the information was submitted in the context of paragraph 7 of decision VI/8c.

5. On 27 March 2018, the communicant of communication ACCC/C/2014/102 confirmed that its information of 21 March 2018 should be considered under paragraph 7 of decision VI/8c.

6. On 28 March 2018, the secretariat forwarded the communicant's letter of 21 March 2018 to the Party concerned and requested its comments.

7. On 2 April 2018, the Party concerned submitted information (dated 30 March 2018) on measures taken to implement decision VI/8c.

8. On 3 May 2018, the Party concerned submitted its comments (dated 27 April 2018) on the communicant's letter of 21 March 2018.

9. On 2 October 2018, the Party concerned submitted further information (dated 1 October 2018) regarding the implementation of decision VI/8c, one day after the deadline of 1 October 2018 for submitting its first progress report on decision VI/8c.

10. On 5 October 2018, the secretariat forwarded the first progress report to the communicant of communications ACCC/C/2009/37, ACCC/C/2009/44 and ACCC/C/2014/102, inviting their comments by 1 November 2018.

11. On 1 November 2018, the communicant of communication ACCC/C/2014/102 provided comments on the first progress report of the Party concerned.

12. On 7 January 2019, the secretariat forwarded a letter from the Director of the Environmental Division of the United Nations Economic Commission for Europe (UNECE) enclosing questions from the Committee to the Party concerned concerning the information provided by the communicant of communication ACCC/C/2014/102 on 21 March 2018 and 1 November 2018.

13. On 31 January 2019, the Party concerned provided its reply to the Committee's questions.

14. On 14 February 2019, the communicant of communication ACCC/C/2014/102 submitted additional information commenting on the reply of the Party concerned of 31 January 2019.

15. After taking into account the information received, the Committee prepared its first progress review and adopted it through its electronic decision-making procedure on 24 February 2019.

16. On 27 February 2019, the secretariat sent the Committee's first progress review to the Party concerned and the communicants of communications ACCC/C/2009/37, ACCC/C/2009/44 and ACCC/C/2014/102.

17. At its sixty-third meeting (Geneva, 11-15 March 2019), the Committee reviewed the implementation of decision VI/8c in open session, with the participation in person of representatives of the Party concerned and the communicant of communication ACCC/C/2014/102.

18. On 13 March 2019, the communicant of communication ACCC/C/2014/102 provided a written version of the statements it had delivered during the open session on decision VI/8c held during the Committee's sixty-third meeting.

19. On 4 April 2019, the communicant of communication ACCC/C/2014/102 sought the Committee's urgent assistance with respect to an alleged further incident within the scope of paragraph 7 of decision VI/8c.

20. On 8 April 2019, the Chair of the Committee wrote to the First Deputy Minister of the Ministry of Natural Resources and Environmental Protection seeking further information regarding the alleged further incident within the scope of paragraph 7 of decision VI/8c.

21. On 25 June 2019, the Party concerned provided its reply to the letter of 8 April 2019 from the Chair of the Committee.

22. On 9 August 2019, the UNECE Executive Secretary wrote to the Minister of Foreign Affairs of the Party concerned to remind it of the deadline of 1 October 2019 set out in paragraph 8(a) of decision VI/8c for the Party concerned to provide its second progress report.

23. On 1 October 2019, the Party concerned submitted its second progress report on decision VI/8c, on time.

24. On 7 October 2019, the secretariat forwarded the second progress report to the communicants of communications ACCC/C/2009/37, ACCC/C/2009/44 and ACCC/C/2014/102, inviting their comments thereon.

25. On 4 November 2019, the communicant of communication ACCC/C/2014/102 provided its comments on the second progress report by the Party concerned.

26. After taking into account the information received, the Committee prepared its second progress review and adopted it through its electronic decision-making procedure on 9 March 2020. The Committee thereafter requested the secretariat to forward the second progress review to the Party concerned and the communicants of communications ACCC/C/2009/37, ACCC/C/2009/44 and ACCC/C/2014/102.

### **III. Consideration and evaluation by the Committee**

27. In order to fulfil the requirements of paragraph 3 of decision VI/8c, the Party concerned would need to provide the Committee with evidence that the Party concerned has, as a matter of urgency, taken the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that:

(a) There are clear requirements to inform the public of its opportunities to participate in decision-making processes on activities subject to article 6 and in particular:

- (i) With respect to environmental impact assessment reports, to inform the public in an effective manner;
- (ii) With respect to other information relevant to decisions on activities subject to article 6, including project documentation, to inform the public in an adequate, timely and effective manner;

(b) The content of the public notice required under article 6(2) of the Convention includes inter alia the following:

- (i) The public authority responsible for making the decision to permit the proposed activity subject to article 6;
- (ii) The public authority from which relevant information other than the environmental impact assessment report can be obtained and where the relevant information other than the environmental impact assessment report has been deposited for examination by the public;
- (iii) Whether the activity is subject to a transboundary environmental impact assessment procedure;

(c) The rights set out in article 6 of the Convention apply not only to the environmental impact assessment report but to all information relevant to decisions permitting activities subject to article 6, including project documentation, and that with respect to public participation on such information:

- (i) There are reasonable minimum time frames for submitting comments during the public participation procedure for all decisions under article 6 of the Convention, taking into account the stage of decision-making as well as the nature, size and complexity of proposed activities;
- (ii) 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);
- (iii) 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;
- (iv) The full content of all 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 expertiza conclusion);
- (v) 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 a publicly available statement of reasons and considerations on which the decisions is based;

(d) 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(1)(c), of the Convention;

(e) The amended legal framework clearly designates which decision is considered to be the final decision permitting the activity and that this decision is promptly made public, as required under article 6(9) of the Convention.

28. In order to fulfil the requirements of paragraph 6 of decision VI/8c, the Party concerned would need to provide the Committee with evidence that the Party concerned has:

(a) Taken the necessary legislative, regulatory, administrative, institutional, practical or other measures to ensure that members of the public exercising their rights in conformity with the provisions of the Convention are not penalized, persecuted or harassed for their involvement;

(b) Disseminated the Committee's findings and recommendations on communication ACCC/C/2014/102 to senior officials in the police, security forces, judiciary

and to other relevant authorities, for their information and action, together with a request for them to disseminate the findings to all relevant officials in order to raise awareness of their obligation to ensure compliance with article 3(8) of the Convention;

(c) Delivered appropriate training and information programmes on human rights law relevant to article 3(8) of the Convention, for police, security forces and the judiciary to ensure that members of the police and security forces do not exercise their powers in a manner, and identity checks and arrests for alleged public order violations are not utilized in a way, that would restrict members of the public from legitimately exercising their rights to participate in decision-making as recognized in article 1 of the Convention.

29. When evaluating the implementation by the Party concerned of paragraph 6 of decision VI/8c, the Committee will take into account any information received from members of the public or other sources about future incidents of alleged penalization, persecution or harassment contrary to article 3(8) of the Convention together with any information provided by the Party concerned regarding those alleged incidents.

30. In its first progress review, the Committee found that the Party concerned had not yet met the requirements of paragraph 3(a)-(e) or paragraph 6(a)-(c) of decision VI/8c.<sup>1</sup>

### **General observations**

31. In the cover letter to its second progress report submitted on 1 October 2019, the Party concerned indicates that the information provided therein should be considered as an “addition to the previously sent information.”<sup>2</sup> The Committee accordingly understands that the Party concerned intends the information it provided in its letter of 25 June 2019 and on 1 October 2019 to be considered together as its second progress report under paragraph 8(a) of decision VI/8c. The Committee will thus examine the information submitted on 25 June and 1 October 2019 with this in mind, while for practical reasons, in keeping with the reporting deadline in decision VI/8c, the Committee will refer to the information provided by the Party concerned on 1 October 2019 as its second progress report.

32. In this regard, the Committee points out that, while indeed the information submitted on 25 June and 1 October 2019 could be considered together as a “progress report” within the meaning of paragraph 8(a) of decision VI/8c, they must nevertheless jointly provide sufficient and detailed information to clearly describe the measures taken and the results achieved in the implementation of each of the recommendations in decision VI/8c. The information provided by the Party concerned on 25 June and 1 October 2019 does not fully meet this requirement. In particular, in its first progress review, the Committee encouraged the Party concerned to provide in its second progress report a table explaining how each recommendation in paragraph 3(a)-(e) of decision VI/8c had by that date been implemented in its legal framework. While indeed the information submitted on 1 October 2019 is provided in the form of a table, neither the table itself nor jointly with the information submitted on 25 June 2019 address all the recommendations in paragraph 3(a)-(e) of decision VI/8c.

33. The Committee accordingly expresses its disappointment that the Party concerned has again failed to satisfy its obligation to provide a detailed progress report as requested by the Meeting of the Parties in paragraph 8(a) of decision VI/8c.

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<sup>1</sup> Committee’s first progress review, 24 February 2019, para. 86.

<sup>2</sup> Party’s second progress report, 1 October 2019, p. 1.

## Scope of review

34. The communicant of communication ACCC/C/2014/102 submits that refusals of the public's requests for access to environmental information are becoming increasingly frequent.<sup>3</sup> It reports that the Centre for State Environmental Expertiza has denied the public access to the conclusions of environmental expertise under various pretexts. It submits however, that even more alarmingly, in response to a resident's request for access to the state environmental expertiza conclusion for a pulp and cardboard mill in Svetlogorsk, the Ministry of Natural Resources and Environmental Protection declared that "the conclusion of the state environmental expertiza is not environmental information".<sup>4</sup>

35. The communicant also states that in 2018-2019 state agencies have refused to give the public access to the documents which substantiate the environmental safety of the Belarusian nuclear power plant, as well as access to information on environmental risks listed in the strategic environmental assessment (SEA) report of the power plant's spent nuclear fuel handling strategy on the grounds that these documents are intellectual and commercial property.<sup>5</sup>

36. Regarding the public's right to participate, the communicant of communication ACCC/C/2014/102 states that in August 2019, the spent nuclear fuel management strategy was adopted for the Belarusian nuclear power plant without public discussion of the text of the strategy. The communicant alleges the only document which was submitted for public participation was the SEA report.<sup>6</sup>

37. Finally, the communicant submits that the public was not provided with the draft National Action Plan for the stress test of the Belarusian nuclear power plant.<sup>7</sup>

38. The Committee takes note of the above allegations. To the extent that the communicant's allegations raise matters within the scope of paragraph 3 of decision VI/8c, the Committee has already found the Party concerned to be in non-compliance with the applicable provisions of the Convention. The purpose of the Committee's present review is to examine the measures taken by the Party concerned to address this non-compliance. The progress by the Party concerned in this regard is examined in paragraphs 41-58 below.

39. To the extent that the above allegations raise matters outside the scope of decision VI/8c, they will not be further considered by the Committee in the context of its review of the implementation of that decision. The Committee makes clear that this does not preclude the possibility of the Committee examining such allegations if put before it in the context of a future communication.

40. Finally, the Committee reminds the Party concerned that, in its findings on communication ACCC/C/2009/37 (Belarus), the Committee already made clear that the state environmental expertiza conclusions are to be considered "environmental information" within the meaning of article 2(3) of the Convention.<sup>8</sup>

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<sup>3</sup> Statement delivered at the open session discussion on decision VI/8c at the Committee's 63rd meeting by the communicant of communication ACCC/C/2014/102, 13 March 2019, p. 1.

<sup>4</sup> Statement delivered at the open session discussion on decision VI/8c at the Committee's 63rd meeting by the communicant of communication ACCC/C/2014/102, 13 March 2019, p. 1.

<sup>5</sup> Statement delivered at the open session discussion on decision VI/8c at the Committee's 63rd meeting by the communicant of communication ACCC/C/2014/102, 13 March 2019, p. 1.

<sup>6</sup> Comments on the Party's second progress report by the communicant of communication ACCC/C/2014/102, 4 November 2019, p. 3.

<sup>7</sup> Comments on the Party's second progress report by the communicant of communication ACCC/C/2014/102, 4 November 2019, p. 3.

<sup>8</sup> ECE/MP.PP/2011/11/Add.2, para. 64.

### **Paragraph 3 of decision VI/8c**

41. In paragraph 90 its first progress review of decision VI/8c, the Committee had requested that the Party concerned provide:

(a) The text of its national action plan to implement decision VI/8c, whether then in draft or final form, as well as an approximate timeline for its implementation;

(b) The text of any legislative, regulatory, administrative measures intended to address paragraphs 3(a)-(e) of decision VI/8c, whether by then in draft or final form, as well as an approximate timeline for the adoption of any of the proposed measures still then in draft form.

(c) A table clearly explaining which of the recommendation in paragraphs 3(a)-(e) each of the above measures is intended to address.<sup>9</sup>

42. The Committee regrets that the Party concerned has to date failed to provide the information the Committee had requested in paragraph 90 of its first progress review.

43. In its comments on the second progress report by the Party concerned, the communicant of communication ACCC/C/2014/102 states generally that there has been no progress by the Party concerned to implement the recommendations in decision VI/8c, since its comments on the first progress report by the Party concerned.<sup>10</sup>

#### *Paragraph 3(a) of decision VI/8c*

44. In its second progress report, the Party concerned does not report on paragraph 3(a) of decision VI/8c.

45. The Committee accordingly considers that the Party concerned has not demonstrated that it has taken any steps to meet the requirements of paragraph 3(a) of decision VI/8c.

#### *Paragraph 3(b) of decision VI/8c*

46. With respect to paragraph 3(b) of decision VI/8c, the Party concerned reports that it is “developing a concept (approaches) to create a single information service for the publishing of notifications of the proposed activity, with the aim to “adequately, timely and efficiently inform the interested public.”<sup>11</sup> The Committee has not been provided with any further details regarding this “single information service” which it assumes may be some form of electronic portal. While welcoming such an initiative as a potentially useful tool, based on the limited information before it the Committee queries whether the proposed initiative would at all contribute towards the fulfilment of the requirements of paragraph 3(b) of decision VI/8c, which concerns the specific content of the notice itself.

47. In this regard, the Committee regrets that the Party concerned has provided no details that would indicate that the notifications to be disseminated through the information service would provide any of the required information listed in subparagraphs (i)-(iii) of paragraph 3(b) of decision VI/8c. The Committee also points out that, as a general rule, in the context of decision-making subject to article 6 of the Convention it is unreasonable to expect the public to proactively check various websites in case there are any decision-making procedures of interest to them and therefore other means of notifying the public are also needed.<sup>12</sup>

48. In light of the above, the Committee considers that the Party concerned has failed to demonstrate that it has taken any steps to implement paragraph 3(b) of decision VI/8c.

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<sup>9</sup> Committee's first progress review, 24 February 2019, para. 90.

<sup>10</sup> Comments on the Party's second progress report by the communicant of communication ACCC/C/2014/102, 4 November 2019, p. 1.

<sup>11</sup> Party's second progress report, 1 October 2019, p. 1.

<sup>12</sup> ECE/MP.PP/C.1/2017/3, para. 76; and ECE/MP.PP/C.1/2017/17, para 104.

*Paragraph 3(c) of decision VI/8c*

49. With regard to paragraph 3(c) of decision VI/8c, in its second progress report the Party concerned reports that letters have been sent to the Regional and Minsk city executive committees proposing to include authorised officials of the Republican Centre for State Ecological Expertise and Advanced Training (the Centre) into the commissions for the seizure and provision of land to legal entities and individual entrepreneurs for the construction of capital structures.<sup>13</sup> The Party concerned reports that it has invited specialists responsible for the organization of the public discussions to participate in the training seminars organised by the Centre. It also reports that it has examined conducting state ecological expertise in relation to facilities that are not mandatorily subject to such expertise but found it currently impossible to extend the list of facilities subject to a mandatory expertise. Instead, it proposes to amend the Law on Ecological Expertise to allow conducting expertise in such cases on a voluntary basis.<sup>14</sup>

50. The Committee considers that the information provided by the Party concerned with respect to paragraph 3(c) of decision VI/8c is not relevant to that paragraph and that, accordingly, the Party concerned has not demonstrated that it has fulfilled paragraph 3(c) of the decision.

*Paragraph 3(d) of decision VI/8c*

51. In its second progress report, the Party concerned does not report on any steps it has taken or plans to take regarding paragraph 3(d) of decision VI/8c.

52. The Committee accordingly considers that the Party concerned has not demonstrated that it has taken any steps to meet the requirements of paragraph 3(d) of decision VI/8c.

*Paragraph 3(e) of decision VI/8c*

53. With regard to paragraph 3(e) of decision VI/8c, in its second progress report, the Party concerned reports that “the digitalization of documentation on the state ecological expertise...is being carried out”. It also reports that the Centre has developed its rules and regulations on implementing administrative procedures for legal entities and individual entrepreneurs.<sup>15</sup>

54. The communicant of communication ACCC/C/2014/102 claims that the failure by the Party concerned to introduce into its legislation the definition of what decision should be regarded as the final decision “results in several problems”.<sup>16</sup>

55. The Committee has not been provided with any details regarding the process of “digitalization” reported on by the Party concerned, nor with a copy of the above-mentioned rules and regulations. Without such details, the Committee is not able to establish whether these measures would indeed contribute to fulfilling the requirements of paragraph 3(e) of decision VI/8c.

56. Accordingly, the Committee considers that the Party concerned has not yet demonstrated that it has taken any steps to meet the requirements of paragraph 3(e) of decision VI/8c.

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<sup>13</sup> Party’s second progress report, 1 October 2019, pp. 2-3.

<sup>14</sup> Party’s second progress report, 1 October 2019, p. 3.

<sup>15</sup> Party’s second progress report, 1 October 2019, p. 4.

<sup>16</sup> Statement delivered at the open session discussion on decision VI/8c at the Committee’s 63rd meeting by the communicant of communication ACCC/C/2014/102, 13 March 2019, p. 1.



*Concluding remarks regarding paragraph 3 of decision VI/8c*

57. The Committee regrets that the second progress report fails to indicate any steps taken concerning paragraph 3(a) and (d) of decision VI/8c and does not explain how the steps indicated in the second progress report as being taken to address paragraph 3(b), (c) and (e) of decision VI/8c relate to the specific recommendations set out in those paragraphs.

58. In the light of the above, the Committee considers that the Party concerned has not fulfilled any of the requirements of paragraph 3 of decision VI/8c, nor has it demonstrated any significant progress in that direction. The Committee expresses its serious concern regarding the lack of progress by the Party concerned to implement paragraph 3 of decision VI/8c so far.

**Paragraph 6 of decision VI/8c**

*Paragraph 6(a) of decision VI/8c*

59. In its second progress report, the Party concerned does not report on any steps it has taken or plans to take regarding paragraph 6(a) of decision VI/8c. Nor has the Party concerned provided, as invited by the Committee in paragraph 90(d) of its first progress review:

(a) The text, or draft text, of any legislative, regulatory, administrative measures intended to address paragraph 6(a);

(b) Confirmation that it has lifted the entry ban on Mr. Ozharovskiy and cancelled the administrative offences against Ms. Novikova, Ms. Sukhiy and Mr. Matskevich.<sup>17</sup>

60. The communicant of communication ACCC/C/2014/102 states that no practical measures have been taken with respect to the persons recognized by decision VI/8c as being subject to harassment, punishment and prosecution by the Party concerned and that there is a “significant increase in the pressure on environmental activists”.<sup>18</sup> It claims in particular that neither the entry ban on Mr. Ozharovskiy nor the administrative offences against Ms. Novikova, Ms. Sukhiy and Mr. Matskevich have been lifted.<sup>19</sup>

61. Based on the above, the Committee considers that the Party concerned has failed to demonstrate that it has made any progress to meet the requirements in paragraph 6(a) of decision VI/8c. The Committee expresses its concern at the lack of progress by the Party concerned, particularly in light of the further incidents concerning environmental activists examined in paragraphs 71-76 below.

*Paragraph 6(b) of decision VI/8c*

62. With regard to paragraph 6(b) of decision VI/8c, the Committee had in paragraphs 46 and 90(e) of its first progress review invited the Party concerned to:

“provide copies of the Ministry of Natural Resources and Environmental Protection’s letters of 31 July and 13 October 2017 to the Ministry of Internal Affairs, the State Security Committee, the Supreme Court and the Ministry of Justice or other correspondence requesting those institutions to disseminate the Committee’s findings to all relevant officials”<sup>20</sup>

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<sup>17</sup> Committee’s first progress review, 24 February 2019, para. 90.

<sup>18</sup> Statement delivered at the open session discussion on decision VI/8c at the Committee’s 63rd meeting by the communicant of communication ACCC/C/2014/102, 13 March 2019, p. 1, and comments on the Party’s second progress report by the communicant of communication ACCC/C/2014/102, 4 November 2019, p. 2.

<sup>19</sup> Comments on the Party’s second progress report by the communicant of communication ACCC/C/2014/102, 4 November 2019, p. 2.

<sup>20</sup> Committee’s first progress review, 24 February 2019, paras. 46 and 90.

63. In its second progress report, the Party concerned does not provide the copies of the letters, as invited by the Committee. Nor does it indicate that it has taken any other steps relevant to the implementation of paragraph 6(b) of decision VI/8c.

64. The Committee expresses its disappointment at the failure by the Party concerned to follow through on such a simple step as providing the Committee with copies of letters that the Party concerned had already sent. Based on the above, the Committee considers that the Party concerned has not demonstrated that it has met the requirements of paragraph 6(b) of decision VI/8c.

*Paragraph 6(c) of decision VI/8c*

65. With regard to paragraph 6(c) of decision VI/8c, the Committee had invited the Party concerned in paragraphs 51 and 90(f) of its first progress review to:

“provide detailed information on the training and information programmes for police, security forces and the judiciary it has by then carried out. Such information should include: (i) the specific content of the trainings, including the detailed programme with the titles of the presentations delivered; (ii) the organizers of the trainings and professions and relevant experience of trainers and speakers; (iii) the number and rank of police and security force personnel that have attended the trainings and the town or region in which each is based; and (iv) the number of judges who have attended the trainings and in which court and town or region each judge sits.”<sup>21</sup>

66. In its second progress report, the Party concerned reports that the Ministry of Natural Resources held training seminars on 18 and 19 September 2019 “which clarified the norms of legislation on state ecological expertise” and that the Aarhus Centre of the Republic of Belarus conducted a number of lectures, including for prosecutors.<sup>22</sup>

67. In its comments on the second progress report of the Party concerned, the communicant of communication ACCC/C/2014/102 claims that “none of these measures were carried out for police officers, security forces and judicial authorities” and that while these activities were important educational activities for popularizing the Convention, they were not aimed at fulfilling paragraph 6(c) of decision VI/8c.<sup>23</sup>

68. The Committee notes that, in the very limited information provided by the Party concerned in its second progress report about the various trainings (see para. 65 above), there is indeed nothing to indicate that these trainings either concerned human rights law relevant to article 3(8) of the Convention nor that they were attended by members of the police, security forces or the judiciary.

69. In the light of the above, while welcoming the trainings carried out on the Convention more generally, the Committee considers that the Party concerned has not demonstrated that it has made any progress towards meeting the requirements of paragraph 6(c) of decision VI/8c.

*Concluding remarks regarding paragraph 6 of decision VI/8c*

70. Based on the above, the Committee considers that the Party concerned has not demonstrated that it has fulfilled the requirements of paragraph 6(a)-(c) of decision VI/8c, nor has it shown any progress in that direction. The Committee expresses its serious concern regarding the lack of progress by the Party concerned to implement paragraph 6(a)-(c) of decision VI/8c, particularly in light of the further incidents concerning environmental activists examined in paragraphs 71-76 below.

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<sup>21</sup> Committee’s first progress review, 24 February 2019, paras. 51 and 90.

<sup>22</sup> Party’s second progress report, 1 October 2019, pp. 4-5.

<sup>23</sup> Comments on the Party’s second progress report by the communicant of communication ACCC/C/2014/102, 4 November 2019, p. 2.

### **Paragraph 7 of decision VI/8c**

71. Through paragraph 7 of decision VI/8c, the Meeting of the Parties has requested the Committee, when evaluating the implementation by the Party concerned of paragraph 6 of decision VI/8c, to take into account any information received from members of the public or other sources about future incidents of alleged penalization, persecution or harassment contrary to article 3(8) of the Convention, together with any information provided by the Party concerned regarding those alleged incidents.

72. The Committee makes clear that the purpose of paragraph 7 of decision VI/8c is not that the Committee should make findings on each alleged future incident of penalization, persecution or harassment reported to it under that paragraph. Rather, the information provided to the Committee under paragraph 7 serves a key function to demonstrate whether the Party concerned has yet undertaken sufficient measures under paragraph 6 of decision VI/8c to no longer be in non-compliance with article 3(8) of the Convention.

73. In this regard, the Committee considers the information provided to it under paragraph 7 of decision VI/8c on 14 February 2019 by the communicant of communication ACCC/C/2014/102.<sup>24</sup> Following its receipt, this information was promptly forwarded by the secretariat to the Party concerned. The Party concerned has therefore had considerable time to provide the Committee with any comments or clarifications on that information. It has not to date done so.

74. The communicant provides information on range of alleged incidents of penalization, persecution and harassment under article 3(8) of the Convention.<sup>25</sup> These include a series of fines and several cases of 5 days administrative detention between 21 February 2018 and 14 February 2019 of persons seeking to express their opposition to the proposed construction of a battery plant in Brest. The administrative detention and most of the fines were imposed under article 23.34 of the Administrative Offences Code, which addresses violations of the procedure for organizing and holding mass gathering events.

75. The Committee has examined the information provided by the communicant on 14 February 2019, and considers it to be clear, concise, well-structured and credible.<sup>26</sup> The Committee moreover considers that the information provided, read as a whole, persuasively demonstrates that persons seeking to exercise their rights under the Convention in the Party concerned remain at risk of penalization, persecution or harassment for doing so. Based on the information before it, there is no indication to the Committee that the situation is improving in this respect. The Committee considers this to be gravely concerning.

76. In light of the above, the Committee considers that the information provided to it under paragraph 7 of decision VI/8c by the communicant of communication ACCC/C/2014/102 confirms its conclusions in paragraph 70 above that the Party concerned has not yet fulfilled the requirements of paragraph 6(a)-(c) of decision VI/8c nor has it demonstrated any significant progress in that direction.

## **IV. Conclusions**

77. The Committee welcomes the second progress report by the Party concerned, which was received on time.

78. The Committee considers that the Party concerned has not yet met the requirements of paragraph 3(a)-(e) of decision VI/8c, nor has it demonstrated that it has made any progress in that direction.

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<sup>24</sup> Additional information related to paragraph 7 of decision VI/8c from the communicant of communication ACCC/C/2014/102, 14 February 2019, and annex.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

79. The Committee likewise considers that the Party concerned has not yet met the requirements of paragraph 6(a)-(c) of decision VI/8c, nor has it demonstrated that it has made any progress in that direction.

80. The Committee considers that the information provided to it under paragraph 7 of decision VI/8c confirm its conclusions regarding paragraph 6(a)-(c) of decision VI/8c. The Committee moreover considers the information provided to it under paragraph 7 of decision VI/8c to be gravely concerning.

81. More generally, the Committee considers that the lack of progress demonstrated in the second progress report by the Party concerned seems to show a decrease in the level of engagement by the Party concerned since its first progress report. The Committee expresses its serious disappointment if this is indeed the case and calls upon the Party concerned to resume its previous constructive engagement with the Committee so that it is able to assist the Party concerned to come into compliance as soon as possible.

82. The Committee invites the Party concerned to involve the public, including the communicant of communication ACCC/C/2014/102:

(a) During the preparation of its national action plan to implement decision VI/8c;

(b) During the preparation of any legislative, regulatory and administrative measures and practical arrangements intended to implement the requirements of paragraph 3(a)-(e) of decision VI/8c;

(c) During the preparation of any legislative, regulatory, administrative, institutional, practical or other measures intended to implement the requirements of paragraph 6(a) of decision VI/8c;

(d) In the development and implementation of the trainings and information programmes aimed at the implementation of the requirements of paragraph 6(c) of decision VI/8c.

83. The Committee, moreover, reminds the Party concerned of its obligation to submit by 1 October 2020 a final progress report with clear and detailed information on the measures taken and the results achieved in the implementation of each of the recommendations in paragraphs 3(a)-(e) and 6(a)-(c) of decision VI/8c.

84. The Committee invites the Party concerned, together with its final progress report due on 1 October 2020, to:

(a) Provide the text of any legislative, regulatory, administrative measures intended to address paragraphs 3(a)-(e) of decision VI/8c, whether by then in draft or final form, as well as an approximate timeline for the adoption of any of the proposed measures still then in draft form.

(b) Provide a table clearly explaining which of the recommendation in paragraphs 3(a)-(e) each of the above measures is intended to address.

(c) With respect to paragraph 6(a) of decision VI/8c, to provide:

(i) The text of any legislative, regulatory, administrative, institutional, practice or other measures it has by then taken, or proposes to take, to fulfil the requirements of paragraph 6(a) of decision VI/8c;

(ii) Confirmation that it has lifted the entry ban on Mr. Ozharovskiy and cancelled the administrative offences against Ms. Novikova, Ms. Sukhiy and Mr. Matskevich.

(d) As regards to paragraph 6(b) of decision VI/8c, to provide copies of the Ministry of Natural Resources and Environmental Protection's letters of 31 July and 13 October 2017 to the Ministry of Internal Affairs, the State Security Committee, the Supreme Court and the Ministry of Justice or other correspondence requesting those institutions to disseminate the Committee's findings to all relevant officials.

(e) With respect to paragraph 6(c) of decision VI/8c, to provide detailed information on the training and information programmes for police, security forces and the judiciary it has by then carried out. Such information should include:

- (i) The specific content of the trainings, including the detailed programme with the titles of the presentations delivered;
- (ii) The organizers of the trainings and professions and relevant experience of trainers and speakers;
- (iii) The number and rank of police and security force personnel that have attended the trainings and the town or region in which each is based; and
- (iv) The number of judges who have attended the trainings and in which court and town or region each judge sits.

85. The Committee reminds the Party concerned that all measures necessary to implement decision VI/8c must be completed by, and reported upon, by no later than 1 October 2020, as that will be the final opportunity for the Party concerned to demonstrate to the Committee that it has fully met the requirements of decision VI/8c.

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