

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



Access to Justice in Information Cases in Belarus



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intro

This is a brief case study on Access to Justice in Information Cases in Belarus – practical examples based on A2J Study Questionnaire but about Belarus only.

Disclaimer: some definitions (like „fair court trial”, „independent and impartial body”, „justice”) used just in theoretical meaning.



study background

Since July 2016 in Belarus was modified some provisions concerning access to results of public participation (protocols of public hearings etc.) – an obligation to local authorities to publish such documents on their web sites was applied.

There was a numerous cases when providing these protocols was denied in previous years.



study background – cont.

In October 2017-September 2018 Ecohome NGO was launched a series of information requests – total 228.

After revising 157 web sites, we sent 61 request on A2I

32 – information was provided in requested form

23 – information was provided in other form

1 – refusal

5 – no answer



study background – cont2.

Also, was sent 38 requests for other kinds of environmental information,
and 129 requests on local environmental plans

15 – in requested form

34 – in other form

80 – no answer

In general:

166 requests – from NGO

62 – from private persons

215 requests – in Russian language

13 – in Belarusian language

For requests in Belarusian the same language answers were received (some translated by Google)

time limits for answer and appeal

General time limit for answer in case of environmental information request – 10 days

In our case study it was applied in 45,5 % of cases

Resusal always is in written form.

An information about way to appeal should be provided according to national legislation – very often it was unclear and wrong.

Time to appeal – one month.



right to standing

According to general rules, a case party has a right to appeal.

Also, NGOs has a right to standing for their members before courts, but legal provisions are unclear, and courts in Belarus every kind of unclearance apply as restriction.

We choose 14 cases (refusal and no answer cases) and bring them before courts as a series of strategic litigation cases.

13 submitted by NGO (12 for NGO members, 1 for NGO)

1 submitted from private person

5 cases were run

9 cases – court denied to start proceeding



costs and time for proceeding

Court fee is one *basic unit* – it like 12 euros now
It is free of charge if a claim brings before a court another person for protecting someone's right – like prosecutor, trade union or NGO.

Average time is up to two month.

Decisions are in writing.

There is no public register or any other opportunity to reach texts of court decisions.



main barriers

The main obstacles on access to justice in information cases in Belarus are the follows:

- courts does not apply legislation and their power to protect rights and freedoms of public
- unclear legislation definition what is environment information
- lack of understanding the importance of opportunity to exercise environmental rights in general public



links to studies

Strategic Litigation for Environment Rights and Environment Protection – a Russian edition of Environment-People-Law book with chapter on Belarus strategic litigation cases

On overview of Belarus Environment Court Cases - <https://ecohome-ngo.by/pravo-est-dostupa/> in Russian

Access to Environmental Information – issues on exercising the rights and it's defending <https://ecohome-ngo.by/dostup-k-ekologicheskoy-informatsii-voprosy-realizatsii-i-zashhity-prava/> - Russian



Thank you for attention

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