

Ref: ECE/ENV/2021/129

10 October 2021

**Subject: Decision VI/8c concerning compliance by Belarus: Draft supplementary report of the Compliance Committee**

Excellency,

I write at the request of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) which has asked me to transmit to you the enclosed letter from the Chair of the Compliance Committee.

Should you have any questions with regard to the enclosed, please do not hesitate to contact the secretariat.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,



Marco Keiner  
Director  
Environment Division

His Excellency  
Mr. Andrei Khudyk  
Minister of Natural Resources and Environmental Protection  
Republic of Belarus

Cc: Permanent Mission of the Republic of Belarus to the United Nations Office and other international organizations in Geneva  
Representatives of the communicants of communications ACCC/C/2009/37 and ACCC/C/2009/44 and ACCC/C/2014/102  
Nuclear Transparency Watch, Greenpeace Netherlands and WISE International, as observers

Encl.

**Jonas Ebbesson**  
**Chair of the Compliance Committee under the UNECE Convention on Access to Information,  
Public Participation in Decision-making and Access to Justice in Environmental Matters  
(Aarhus Convention)**

Stockholm, 10 October 2021

Dear Mr. Khudyk,

**Re: Decision VI/8c of the Meeting of the Parties concerning compliance by Belarus:  
Liquidation of Ecohome**

I refer to your letter of 7 October 2021 to Mr. Marco Keiner, Director of UNECE Environment Division, which you requested be brought to the attention of the Committee.

At the outset, it is important that I clarify a number of factual and legal issues raised in your letter to Mr. Keiner.

In your letter, you state that you “look forward to the careful attitude of the secretariat”. I would like to bring to your attention that the secretariat’s functions are those set out in article 12 of the Convention and rules 24 and 25 of decision I/1 on the rules of procedure. The secretariat has no mandate to intervene in the work of the Committee or any other body under the Convention.

Your letter states that the deadline of 8 October 2021 for Belarus to comment on the Committee’s draft supplementary report was “insufficient for Belarus to prepare all the necessary, comprehensive information”. In my letter of 20 August 2021, I requested Belarus “to explain, as a matter of urgency, why liquidation proceedings have been commenced against Ecohome.” I also asked Belarus “to immediately reconsider any step intended to silence a communicant exercising its rights in conformity with the Convention.” Belarus has thus already had *more than seven weeks* to “prepare the necessary, comprehensive information” regarding this matter.

Your letter claims that you learnt from Mr. Keiner’s letter of 29 September 2021 that the Committee intends to report the liquidation of Ecohome to the seventh session of the Meeting of the Parties. In this regard, I underline that in my letter of 20 August 2021, I had already informed you that “in accordance with decisions I/7 and VI/8c, paragraph 7, the Committee will report these events and any subsequent developments, including whether the Ministry of Justice reconsiders its court proceedings against Ecohome, to the Meeting of the Parties at its seventh session”.

In your letter, you assert that the Committee’s conclusions “are built mainly on the opinion of Public Association “Ecohome”. I can assure you that this assertion is incorrect. As is clear from paragraphs 19–43 of the draft supplementary report, the Committee’s analysis is based not on the “opinion of Ecohome” but rather on the relevant documentation issued by the organs and institutions of Belarus. I refer in particular to the Ministry of Justice’s letter of 22 June 2021, the Caution issued by the Ministry of Justice on 14 July 2021, the Postal Administration’s tracking record of the delivery of the Ministry of Justice’s letter enclosing the Caution, the statement made by Belarus to the Committee on 21 July 2021, and the Supreme Court decision of 31 August 2021. The Committee has carefully examined each of these documents and has not in any way made “hasty conclusions”, as you suggest.

Your letter refers to the six-week deadline for commenting on draft findings in paragraph 199 of the Guide to the Compliance Committee.<sup>1</sup> As is clear from paragraph 195 in the same subsection, this section of the Guide concerns the Committee's procedure for the examination of a "submission, communication, request or referral". The Committee's procedure for the preparation of its reports to the Meeting of the Parties on the implementation of decisions on compliance is set out in paragraph 216 of the Guide. Paragraph 216 requires that the Party concerned be "given the opportunity to comment on the Committee's draft report to the Meeting of the Parties before it is finalized". The timeframe for such comments is left to the Committee's discretion. Neither in this intersessional period nor any previous intersessional period, has a Party concerned been granted six weeks to comment on a draft report on the implementation of a decision concerning its compliance.

As you may be aware, in this intersessional period, each of the fourteen Parties for whom the Committee prepared reports to the Meeting of the Parties had two weeks to comment on the Committee's draft report to the Meeting of the Parties concerning its compliance. All Parties were treated equally, and Belarus did not react to the timeframe granted for comments.

You refer to paragraph 35 of the annex to decision I/7, which sets a deadline of 12 weeks before the Meeting of the Parties for the Committee to report on its activities. The 12-week deadline for the Committee's report under paragraph 35 was 26 July 2021 and indeed, the Committee adopted its report on decision VI/8c<sup>2</sup> by the required deadline. Thereafter, and notwithstanding the clear request in my letter of 20 August 2021 that Belarus "immediately reconsider any step intended to silence a communicant exercising its rights in conformity with the Convention", on 31 August 2021 the Supreme Court of Belarus ordered the liquidation of Ecohome. It was therefore clearly not possible for the Committee to report on this event in its original report on decision VI/8c. The Committee's supplementary report on decision VI/8c is thus prepared in accordance with its mandate to "examine compliance issues and make recommendations if and as appropriate" as set out in paragraph 14 of the annex to decision I/7 and pursuant to the request set out in paragraph 21 of decision VI/8 on general issues of compliance.

You also refer to paragraph 221 of the Guide to the Compliance Committee, which concerns information received after the Committee has finalized its report to the Meeting of the Parties. In this regard, I draw your attention to paragraphs 12 and 13 of the Committee's draft supplementary report, where the Committee expressly addresses this point:

12. In accordance with its procedure, the Committee will in normal course examine any developments that occur after it has adopted its report to the Meeting of the Parties during the next intersessional period.<sup>3</sup>
13. However, in the present case, the actions taken by the Party concerned since the Committee adopted its report on 26 July 2021 are of such a grave nature that it is imperative that they be brought to the attention of the Meeting of the Parties at its seventh session. Moreover, given the implications of the Party concerned's actions for the Committee's future follow-up on decision VI/8c, and any decision that supersedes it, the Committee considers it necessary to make a supplementary report to the seventh session on decision VI/8c specifically addressing these actions.

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<sup>1</sup> <https://unece.org/environment-policy/publications/guide-aarhus-convention-compliance-committee>

<sup>2</sup> ECE/MP.PP/2021/48.

<sup>3</sup> Guide to the Aarhus Convention Compliance Committee (second edition, May 2019), para. 221.

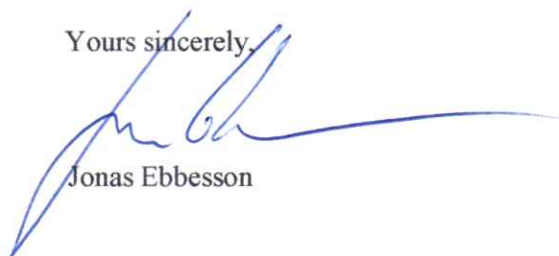
I must also clarify that paragraph 36 of the annex to decision I/7 does not require the Committee to “exhaust existing possibilities for resolving the issue” before making a recommendation to the Meeting of the Parties under paragraph 37. If Belarus intends to reinstate Ecohome as a legal entity prior to the upcoming seventh session of the Meeting of the Parties, it should promptly do so. The Committee will then report Ecohome’s reinstatement to the Meeting of the Parties.

Finally, I come to the request by Belarus for an extension of the deadline to comment on the Committee’s draft supplementary report. In keeping with the Committee’s commitment to ensure equal treatment of all Parties subject to the review of compliance, since each of the fourteen Parties whose compliance was the subject of a report to the Meeting of the Parties had two weeks to comment on the Committee’s draft report concerning their compliance, I agree to extend the timeframe to ensure a two week commenting timeframe also for the draft supplementary report, which was sent to Belarus on 29 September 2021.

Belarus is thus invited to provide any comments it may have on the Committee’s draft supplementary report by **close of business Geneva time this coming Wednesday, 13 October 2021**. The Committee will thereafter finalize its report taking into account any comments received by that extended deadline and submit it to the seventh session of the Meeting of the Parties.

Let me conclude by assuring you that the Committee appreciates the constructive cooperation demonstrated by Belarus during this intersessional period. It thus looks forward to urgent actions by Belarus to remedy this grave event.

Yours sincerely,



Jonas Ebbesson

Mr. Andrei Khudyk  
Minister of Natural Resources and Environmental Protection  
Republic of Belarus

Cc: Permanent mission of the Republic of Belarus to the UN Office and other international organizations in Geneva