

Ref.: 2021/OES/261T/ENV/158

21 December 2021

Excellency,

I would be grateful if you would kindly transmit the enclosed letter to His Excellency Mr. Andrei Khudyk, Minister of Natural Resources and Environmental Protection of the Republic of Belarus.

A copy of the letter is attached for your information.

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



Olga Algayerova

His Excellency
Mr. Yury Ambrazevich
Ambassador
Permanent Representative
of the Republic of Belarus
to the United Nations Office
and other international organizations in Geneva

Ref.: 2021/OES/261/ENV/158

21 December 2021

Excellency,

I have the honour to write to you in reply to your letter of 26 November 2021. The secretariat of the United Nations Economic Commission for Europe (UNECE) has carefully considered the points raised in your letter, and having done so, I would like to convey to you the following.

First, let me express my sincere appreciation for the serious efforts that Belarus is making to implement the UNECE Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) and for a number of achievements it has accomplished in this regard. I also would like to take this opportunity to stress that the secretariat highly values the active engagement of Belarus in different UNECE activities and the progress it has made towards achieving the Sustainable Development Goals and the implementation of the UNECE environmental treaties.

With regard to Belarus' concerns regarding the adoption of decision VII/8c by the Meeting of the Parties of the Aarhus Convention at its seventh session, I note that at its seventh session the Meeting of the Parties adopted twenty decisions on compliance that concern Parties from different UNECE subregions, including a number of European Union Member States, as well as a decision on the compliance of the European Union itself. The Meeting of the Parties would thus appear to have demonstrated its equal treatment of all Parties regardless of their political, economic or social backgrounds. With regard to the decision on the compliance of the European Union, the Meeting of the Parties adopted a

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

decision with respect to four cases,¹ and consideration of the Committee's findings regarding a fifth case was exceptionally postponed to the next ordinary session of the Meeting of the Parties.²

With respect to the alleged cases of harassment and punishment of environmental defenders in other Parties to the Aarhus Convention, I would like to clarify that the Compliance Committee can only review a Party's compliance if a case of alleged non-compliance is put before it in accordance with paragraphs 13–24 of the annex to decision I/7. To the secretariat's knowledge, the Committee has never declined to review any alleged violation of article 3 (8) of the Convention if brought before it in accordance with those procedures. I also would like to take this opportunity to assure you that the Compliance Committee is an independent body of experts with recognized competence in the fields to which the Convention relates and each member serves in his or her personal capacity. Since its establishment in 2002 the Committee has proven to be highly respected by Parties to the Convention, and it has served as an example of an effective compliance mechanism for other treaties.

Regarding the applicability of article 60 of the Vienna Convention on the Law of Treaties, I would like to note that it is for the Meeting of the Parties to interpret and apply its own decisions, including decision I/7 on review of compliance. Article 60 of the Vienna Convention concerns the suspension of the operation of a treaty, or parts of it, between all Parties or between a defaulting Party and all other Parties. In paragraph 7 (a) of decision VII/8c, the Meeting of the Parties refers only to the suspension, pursuant to paragraph 37 (g) of the annex to decision I/7, of the special rights and privileges accorded to the Party concerned under the Convention, and not to the suspension of the operation of the Convention itself. The Compliance Committee has previously made clear that a decision of the Meeting of the Parties under paragraph 37 (g) of the annex to decision I/7 cannot suspend any rights granted to the Party by the text of the Convention itself.³ Rather, a suspension under paragraph 37 (g) of a Party's special rights and privileges suspends the special rights that a Party may have through being a Party to the Convention, such as the right to nominate a Chair or Bureau member or to host events under the Convention (see the report of the Committee's thirty-second meeting, ECE/MP.PP/C.1/2011/4, paras. 33 and 34).

Concerning a possible reconsideration of decision VII/8c, there is no provision in either the Convention or the Convention's rules of procedure⁴ that would enable a subsidiary body to the Convention to "cancel" a decision adopted by the Meeting of the Parties. Rather, it would be for the Meeting of the Parties to take any decision that would supersede decision

¹ Committee's findings on communications ACCC/C/2008/32 (Part II) (European Union), ACCC/C/2013/96 (European Union) and ACCC/C/2014/121 (European Union) and on the implementation of decision V/9g (European Union).

² Committee's findings on communication ACCC/C/2015/128 (European Union).

³ ECE/MP.PP/C.1/2011/4, para. 34.

⁴ ECE/MP.PP/2/Add.2, available at <https://unece.org/env/pp/aarhus-convention/mop-rules-procedure>

VII/8c in the future. As you may recall, sessions of the Meetings of the Parties are convened in accordance with article 10 (1) of the Convention.

I trust that, in the light of my clarifications, Belarus may see its way to reconsider its position. The universal environmental rights that are enshrined in the Aarhus Convention are essential elements of sustainable development and are relevant to a wide range of global concerns, such as climate change, water management, greening the economy, health, recovery from the COVID-19 pandemic and the eradication of poverty. The Aarhus Convention therefore provides a solid and comprehensive framework for governments to engage the public effectively in implementing the 2030 Agenda for Sustainable Development. I strongly believe that being a Party to the Aarhus Convention benefits the people of Belarus and provides an opportunity to showcase your country's achievements in furthering citizen-centred and environmentally-sound policies. Leaving such an important international agreement, on the other hand, is an extraordinary step that can surely have only negative effects for the wellbeing of Belarus and its people.

I very much hope that my letter may address the concerns you have raised and that Belarus will remain a part of the Aarhus family. The secretariat remains at your disposal to provide any further clarifications that you may find helpful.

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



Olga Algayerova

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