

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

Madam Chair and members of the Committee,

We express our gratitude for your invaluable work to support the implementation of the Aarhus Convention, including in Belarus.

We would like to provide the latest updates concerning the implementation by Belarus with respect to decision VII/8c and the latest news regarding the Ecohome.

On October 17, Ecohome NGO was added to the *List of extremist formations* by the State Security Committee (KGB) of Belarus. It was specified that the organisation “continues its activities abroad through the Internet network resources”, and its “heads, coordinators and participants” allegedly “carry out extremist activities”.

As of October 20, 2022, 95 organisations and formations<sup>1</sup> in Belarus are recognised as those involved in extremist activities. However, previously this list comprised media, opposition initiatives, foundations, anarchist movements and Telegram chats. Ecohome NGO has become the first public organisation on the list. Recognising an organisation as an “extremist formation” does not require a court decision - a resolution by the Ministry of Internal Affairs or KGB is sufficient. According to Belarusian legislation, creating, financing and participating in an extremist formation, as well as providing assistance to its activities is criminally liable. At the same time, the interpretation of these activities is very broad.

The very fact of recognising a public organisation as an extremist formation violates the right to freedom of opinion and expression and the right of association. The procedure for making such a decision is non-transparent and violates the principle of effective justice, since it is impossible to see what the basis for the adoption of such a decision was, and the possibilities of appealing against it are limited.

*For reference:*

According to Belarusian legislation, an extremist formation is a group of citizens that carries out extremist activities, or otherwise assists extremist activities, or recognizes the possibility of implementation of extremism in its activities, or finances extremist activities, which were recognised as such by a decision of the Ministry of Internal Affairs or the State Security Committee (KGB). Decisions on recognising a group of citizens as an “extremist formation” are made extrajudicially, the reasoning behind these decisions is not published.

As of October 20, 2022, the list of organisations, formations, and individual entrepreneurs involved in extremist activities comprises 95 groups of citizens including opposition channels and initiatives, independent trade unions and strike committees, solidarity funds, as well as 9 independent media.

<sup>1</sup> There is a difference in belarussian legislation between extremist organisations, associations and formations - broadly "extremist organisation" is an NGO, legal entity, public association, which is registered under the Belarus law; but "formation" is used to unregistered groups, movements etc.

Article 361-1 of the Criminal Code establishes a ban on the leadership and participation in an extremist association and provides for a sanction of up to 10 years in prison. It is not only the directors and founders of the organisation, but often editors, social networks administrators, and sometimes just employees of the organisation who can be recognised as the “leader” or “creator” of an association. People who are subscribed to the social networks of the organisation or leave any comments under the publications of the organisation can be recognized as “Participants” of the association. Registration in the chatbots of the organisation, including for carrying out any tasks, volunteering within the organisation, or any other form of involvement in the activities of the organisation can also be considered “participation” in an “extremist association”.

Pro-government sources claim that any form of cooperation with “extremist association”, including correspondence with its representatives, giving interviews (including anonymous ones), providing information, photo and video materials, performing any tasks given by the organisation is a crime under Article 361-4 of the Criminal Code (“Assistance to extremist activity”), which provides for a sanction of up to 7 years in prison. Registering in a bot or completing tasks may also constitute a crime under this article (practice is rather unsystematic). We know about one case of charges under Article 356 of the Criminal Code (“Treason against the State”), which provides for penalty of up to 20 years in prison, for giving information to a Telegram channel, which is “controlled by a foreign organisation”, i.e. in fact, an organisation that is affiliated with another state or operates abroad.

In theory, article 361-2 of the Criminal Code (“Financing of an extremist activity”) can be applied for donations and other types of material donations to “extremist groups”. This article provides for punishment of up to 8 years in prison.

The dissemination of materials published by the media recognised as an “extremist association” will probably still be subject to administrative liability as distribution of “extremist materials”, since the materials of all “associations” have most likely been recognized as “extremist materials” earlier. Responsibility for activities that involve “extremist materials” is determined by Article 19.11 of the Code of Administrative Offences with arrest for up to 15 days or a fine of up to 500 basic units being the maximum sanction. Confiscation of an item that served as a “means of committing an offence” (computer, telephone) can be applied in this case as well. Administrative liability may arise for reposting or forwarding publications in private messages, "liking" such publications on social media, and saving such materials to the device's memory. Moreover, leaving hyperlinks to publications of an “extremist formation” may lead to blocking of a resource or its recognition as “extremist materials”.

Thus not only our colleagues and beneficiaries, with whom we worked before, are subjected to further serious threats, but also European ECO Forum colleagues who have supported us. We accordingly call the Compliance Committee and all Parties of the Convention to take all essential measures to ensure Belarussian environmental defenders protection.

Best regard,  
NGO Ecohome