

Economic Commission for Europe
Meeting of the Parties to the Convention
on Environmental Impact Assessment
in a Transboundary Context

Meeting of the Parties to the Convention
on Environmental Impact Assessment in
a Transboundary Context serving as the
Meeting of the Parties to the Protocol on
Strategic Environmental Assessment

**Working Group on Environmental Impact Assessment
and Strategic Environmental Assessment**

Seventh meeting

Geneva, 28–30 May 2018

Item 3 of the provisional agenda

Compliance and implementation

**Draft decision IS/1d on compliance by Belarus with its
obligations under the Convention with regard to the
Ostrovets nuclear power plant**

Proposal by the Implementation Committee¹

This note presents draft decision IS/1d of the Meeting of the Parties to the Convention at its intermediary session (Geneva, 5–7 February 2019) on compliance by Belarus with its obligations under the Convention with regard to the Ostrovets nuclear power plant. As mandated by the Meeting of the Parties at its seventh session (Minsk, 13–16 June 2017), the Implementation Committee prepared the draft decision based on its review of the relevant paragraphs of draft decision VII/2 and taking into account the progress made before, during and after the seventh session. As suggested by the delegation of Ukraine in June 2017, the Committee decided to present the general and the country specific draft decisions in separate documents to facilitate their subsequent consideration and adoption by the Meeting of the Parties.

The Chair of the Committee will present the draft decision for information to the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment. The delegates may wish to present their views on the draft.

¹ The present decision relates to the submission by Lithuania having concerns about Belarus's compliance with its obligations under the Convention (reference EIA/IC/S/4). More information on submissions and the follow-up on decisions of the Meeting of the Parties with regard to the submissions can be found at http://www.unece.org/env/eia/implementation/implementation_committee_matters.html.

The Committee will finalize the draft decision at its forty-second session (Geneva, 11–14 September 2018) prior to its submission for consideration and adoption by the Meeting of the Parties to the Convention at its intermediary session.

The Meeting of the Parties,

Recalling article 11, paragraph 2, and article 14 bis of the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention),

Recalling also its decision VI/2, paragraphs 48–64,² concerning compliance by Belarus with regard to the construction of the nuclear power plant in Ostrovets,

Recalling further its decision at its seventh session (Minsk, 13–16 June 2017) to finalize its deliberations on the review of compliance with the Convention at an intermediary session, based on a revised draft decision to be prepared by the Implementation Committee and taking into account the work carried out and progress achieved before and during the seventh session,³

Having considered paragraphs 36–44 concerning Belarus in the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its seventh session⁴ and in the reports of the Committee on its thirty-ninth,⁵ fortieth⁶, forty-first⁷ and [forty-second sessions],⁸

[*Recalling* its decision IS/1 on the review of compliance with the Convention, adopted at the intermediary session,]

1. *Appreciates* the annual reports and information provided by Belarus and Lithuania to the Implementation Committee further to decision VI/2 (para 59) since the sixth session of the Meeting of the Parties;
2. *Welcomes* the steps taken by both Parties since the sixth session of the Meeting of the Parties to address the recommendations in decision VI/2 (paras 51-58,62 and 64);
3. *Commends* the Implementation Committee for its thorough analysis of the steps undertaken by Belarus after the twenty-seventh session of the Committee, as outlined in the 2014 – 2017 report of the Committee on its activities and the reports of the Committee’s thirty-ninth, fortieth, forty-first and [forty-second sessions];
4. [*Endorses*][*Notes*] the finding of the Implementation Committee that Belarus had undertaken all the required procedural steps to reach the final decision on the planned activity at Ostrovets, as provided for in the Convention⁹;
5. [*Notes*] [*Endorses*] *also* the finding of the Implementation Committee that the essence of the compliance matter was about unresolved substantive aspects of the environmental impact assessment documentation, including reasonable locational alternatives and the

² See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1.

³ See ECE/MP.EIA/23-ECE/MP.EIA/SEA/7, para. 27. See also draft decision VII/2 (ECE/MP.EIA/2017/8).

⁴ ECE/MP.EIA/2017/4-ECE/MP.EIA/SEA/2017/4.

⁵ ECE/MP.EIA/IC/2017/4, para. 36.

⁶ ECE/MP.EIA/IC/2017/6, paras. 27-36.

⁷ ECE/MP.EIA/IC/2018/2, paras.40-48

⁸ ECE/MP.EIA/2018/4, paras. [...]

⁹ ECE/MP.EIA/IC/2017/2, see para 8.

methodology and data used in determining the siting, that could not necessarily be treated separately from the procedural aspects.

6. [*Endorses also*] [*Notes*] the finding of the Implementation Committee that for reaching the final conclusion on whether Belarus was in compliance with its obligations under the Convention both procedural and substantive aspects of the EIA procedure were to be examined¹⁰.
7. *Notes* that for reaching its final conclusion the Implementation Committee identified the need for sufficient resources and specific expertise that were not available to it.
8. *Acknowledges* the efforts of the Implementation Committee to seek external expert advice, notably on the technical and scientific questions related to the environmental impact assessment documentation that it had identified in order to conclude its deliberations on the matter.
9. *Notes*, that having exhausted all the avenues for receiving external expert advice and considering the unprecedented circumstances related to the compliance matter, the Committee decided exceptionally to examine the documentation prepared by Belarus under the environmental impact assessment procedure and, as appropriate, seek the services of scientific experts and other technical advice or consult other relevant sources in accordance with its structure and functions¹¹.
10. *Endorses* the finding of the Implementation Committee, that in accordance with the information made available to it and further to its assessment of the environmental impact assessment documentation of Belarus, Belarus is in [compliance][non-compliance] with its obligations under the Convention [under article 2, paragraph 6, article 5, paragraph (a), and article 6, paragraphs 1 and 2 of the Convention].
11. *Encourages* Belarus and Lithuania to continue bilateral expert consultations on issues of disagreement, including on matters that are beyond the scope of the Convention.
12. *Also encourages* both Parties to continue working on the post-project analysis and reach an agreement in establishing a joint bilateral body and procedures for such analysis, in particular to ensure sufficient public participation in the framework of the post-project analysis regarding the activity at Ostrovets.
13. *Regrets* that the bilateral agreement for the implementation of the Convention has not yet been concluded, and encourages Belarus and Lithuania to conclude such an agreement further to article 8 of the Convention.
14. *Requests* Belarus and Lithuania to report annually to the Implementation Committee on the progress made.

¹⁰ ECE/MP.EIA/IC/2017/2, Para 9

¹¹ See para 7 (d).