

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/1f on compliance by Ukraine with its
obligations under the Convention with regard to the Danube-
Black Sea Deep Water Navigation Canal in the Ukrainian
sector of the Danube Delta**

Proposal by the Implementation Committee¹

This note presents draft decision IS/1f of the Meeting of the Parties to the Convention at its intermediary session (Geneva, 5–7 February 2019) on compliance by Ukraine with its obligations under the Convention with regard to the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta. 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 of Romania having concerns about Ukraine's compliance with its obligations under the Convention (reference EIA/IC/S/1). 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 IV/2, paragraphs 7–14,² its decision V/4, paragraphs 17–26,³ and its decision VI/2, paragraphs 15–28,⁴ concerning compliance by Ukraine with regard to Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (Bystroe Canal Project),

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,⁵

Having considered paragraphs 10–16 concerning Ukraine in the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its seventh session⁶ and in the reports of the Committee on its thirty-ninth,⁷ fortieth⁸, forty-first⁹ and forty-second sessions,¹⁰

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

1. *Welcomes* the efforts demonstrated by the Government of Ukraine to follow the recommendations of the Meeting of the Parties addressed to it in decision VI/2;
2. *Appreciates* the reports received from the Government of Ukraine further to paragraph 25 of decision VI/2, concerning the follow-up to decision V/4 in relation to the Bystroe Canal Project;
3. *Welcomes* the fact that Ukraine consulted the Implementation Committee during the preparation of its Law on Environmental Impact Assessment to ensure that it provides an adequate basis for the implementation of the Convention;
4. *Also welcomes* the adoption by Ukraine of the Law on Environmental impact assessment as a concrete legislative step towards implementation of the strategy of the Government of Ukraine to implement the Convention as referred to in paragraph 25(a) of decision VI/2;

2 See ECE/MP.EIA/10.

3 See ECE/MP.EIA/15.

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

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

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

7 ECE/MP.EIA/IC/2017/4, paras. 15-20.

8 ECE/MP.EIA/IC/2017/6, paras. 19-26.

9 ECE/MP.EIA/IC/2018/2, paras. 30-39.

10 ECE/MP.EIA/2018/4, paras. [...]

5. *Requests* the Government of Ukraine to report on the status of adoption of the secondary legislation with the purpose to fully align its national legislation with the Convention without delay;
6. *Regrets* that only limited steps have been taken to bring the Bystroe Canal Project into full compliance with the Convention further to paragraph 24 of decision VI/2;
7. *Endorses* therefore the findings of the Implementation Committee at its [forty-first] [forty-second] session that, despite some steps taken, Ukraine has not yet fulfilled its obligations under paragraphs 24 and 25 of decision VI/2;¹¹
8. *Endorses* also the findings of the Committee that the continuation of dredging activities by the Government of Ukraine constitutes a further breach of its obligations under the Convention;
9. *Declares*, therefore, that the caution to the Government of Ukraine issued at its fourth session is still effective;
10. *Welcomes* the declaration of Ukraine of its genuine wish to bring the Bystroe Canal Project into full compliance with the Convention;
11. *Acknowledges* that the roadmap developed by Ukraine and discussed at the forty-first session of Implementation Committee provides a good basis for bringing the Project into full compliance with the Convention;
12. *Welcomes* the intended steps to be taken by Ukraine as stipulated in the roadmap, including the readiness to stop works, to repeal the final decision, to conduct an assessment of the damage to the environment and to develop a plan for compensatory and mitigation measures;
13. *Takes note* of Ukraine's intention to develop a new project for Bystroe Route and to carry out a transboundary environmental impact assessment procedure according to the Convention;
14. *Requests* Ukraine to inform Romania about the Road map and to consult on its implementation;
15. *Reiterates* its requests to the Government of Ukraine to bring the project into full compliance with the Convention without delay;
16. *Welcomes* the efforts undertaken by the Governments of Ukraine and Romania to further develop the bilateral agreement for improved implementation of the Convention;
17. *Encourages* the Governments of Ukraine and Romania to continue their cooperation in preparing a bilateral agreement or other arrangement to support further the provisions of the Convention, as set out in article 8 of the Convention;
18. *Further requests* the Government of Ukraine to inform Romania about existing monitoring results;

¹¹ ECE/MP.EIA/IC/2016/4, para. 13