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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

Implementation Committee

Forty-seventh session
Geneva, 16–19 March 2020

Report of the Implementation Committee on its forty-seventh session

I. Introduction

1. The forty-seventh session of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment was held from 16 to 19 March 2020. Due to the coronavirus pandemic, the session was exceptionally held using videoconferencing and without interpretation.

A. Attendance

2. The following members of the Committee attended the session: Ms. Aysel Rzayeva (Azerbaijan); Ms. Larissa Lukina (an alternate member nominated by Belarus); Mr. Kaupo Heinma (Estonia); Mr. Lasse Tallskog (Finland); Ms. Zsuzsanna Pocsai (Hungary); Mr. Romas Švedas (Lithuania); Ms. Maria do Carmo Figueira (Portugal), and Mr. Anders Bengtsson (Sweden). Ms. Tatsiana Kukhtenkova, the Committee member nominated by Belarus to replace Ms. Nadezhda Zdanevich, also attended a part of the session. Mr. Libor Dvorak (Czechia) and Mr. Vladimir Buchko (Ukraine) were absent.

B. Organizational matters

3. The Chair of the Committee opened the session. As suggested by the Chair, due to the online format of the session, the Committee agreed to postpone to its subsequent sessions the



informal consultation with Bosnia and Herzegovina, Croatia and Serbia concerning the application of the Convention to the activities at the Banovici, Tuzla, and Ugljevik thermal power plants. It also agreed to review under agenda item 4 on “Information gathering” new information received from other sources since its forty-sixth session (Geneva, 10–13 December 2019) (see paras. 62–64 below). The Committee adopted its agenda as set out in document ECE/MP.EIA/IC/2020/1 with those adjustments.

4. The Committee noted the report of the secretariat on the relevant outcomes of the Bureau meeting (Geneva, 25 and 26 February 2020), in particular, on preparations for the ninth meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Geneva, 9–11 June 2020) and the next sessions of the Meetings of the Parties to the Convention and the Protocol (Vilnius, 8–11 December 2020).¹ The Committee also noted that it was expected to finalize by mid-April 2020, as informal documents, initial draft decisions on compliance with the Convention and the Protocol, for information and possible comments by the Working Group before, during and after its ninth meeting. It also noted that the Committee’s sessions in the next intersessional period 2021–2023 had been rescheduled for early February, early May and mid-September of each year, with a view to distributing more evenly the Committee’s workload during a calendar year and to better sequencing the meetings of the treaty bodies: the Bureau, the Committee, the Working Group and the Meetings of the Parties.

II. Preparations for the next sessions of the Meetings of the Parties

A. Follow-up to decisions IS/1 a, c, d, f and g on compliance with the Convention

5. Further to its forty-sixth session, the Committee continued its follow-up to decisions IS/1a, c, d, f and g of the Meeting of the Parties to the Convention regarding Armenia, Azerbaijan, Belarus and Ukraine and, on that basis, it prepared draft decisions VIII/4 a–e on compliance by those Parties with the Convention. It requested the secretariat to transmit all the draft decisions as informal documents to the Working Group’s next meeting and agreed to finalize them at the Committee’s next session (Geneva, 1–4 September 2020) prior to their submission for consideration by the Meeting of the Parties to the Convention at its eighth session (Vilnius, 8–11 December 2020).

The discussions were not open to observers, in accordance with rule 17 (1) of the Committee’s operating rules.² To avoid any direct or indirect conflict of interest, the Committee member nominated by Azerbaijan was absent during the Committee’s consideration of the matters regarding Azerbaijan. The Committee members nominated by Belarus and Lithuania were absent during the Committee’s follow-up to decision IS/1d regarding the Belarusian nuclear power plant. Discussions on follow-up to decision IS/1g regarding the lifetime extension of reactors 1 and 2 of the Rivne nuclear power plant were held in the absence of the members nominated by Belarus and Hungary.

1. Follow-up to decision IS/1a regarding Armenia (EIA/IC/CI/1)³

6. The Committee continued to consider the follow-up to decision IS/1a on compliance by Armenia with its obligations under the Convention in respect of its national legislation.

7. The Committee examined all the information provided by Armenia on the matter since the intermediary session of the Meeting of the Parties (Geneva, 5–7 February 2019). In

¹ The informal notes on the Bureau meeting are available at www.unece.org/index.php?id=53201.

² The Committee’s operating rules were adopted by decision IV/2, annex IV (see ECE/MP.EIA/10) and then amended by decisions V/4, annex (see ECE/MP.EIA/15) and VI/2, annex II (see ECE/MP.EIA/20.Add.1–ECE/MP.EIA/SEA/4.Add.1).

³ Information on Committee initiatives is available at www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html.

particular, with reference to paragraphs 3 and 4 of decision IS/1a, it noted the information from Armenia dated 19 February 2020, that the draft law amending and extending the Law on Environmental Impact Assessment and Expertise of 2014 and the draft secondary legislation prepared by Armenia to enhance the application of the Convention and the Protocol had been submitted to the Government of Armenia for governmental consultations in December 2019. According to Armenia, the proposed draft legislative amendments satisfied the request set out in paragraph 5 of decision IS/1a by ensuring enhanced distinction between the environmental impact assessment and the strategic environmental assessment procedures.

8. The Committee agreed that, despite steps taken since the intermediary session of the Meeting of the Parties, Armenia had not yet adopted the amendments to its legislation and the secondary legislation, and therefore, had not yet fulfilled the requests addressed to it under paragraphs 5 and 6 of decision IS/1a. In addition, in the absence of official English translations of the adopted amendments and the secondary legislation, the Committee had to postpone the evaluation of the amended legislation referred to in paragraph 7 of decision IS/1a.

9. The Committee then prepared the text of draft decision VIII/4a regarding the obligations of Armenia in respect of its national legislation.

10. Finally, the Committee asked its Chair to write to the Government of Armenia:

(a) Encouraging it to adopt the amended legislation with a view to ensuring full compliance of its legislative framework with the Convention and the Protocol before the eighth session of the Meeting of the Parties;

(b) Inviting it to update the Committee, by 31 July 2020, on the progress made in bringing its national legislative framework into full compliance with the Convention and the Protocol, and to provide, for the Committee's evaluation: (i) the official English translation of the law amending and extending the 2014 Law on Environmental Impact Assessment and Expertise (once adopted); and (ii) related secondary legislation (once adopted);

(c) Reiterating that, before transmitting draft decision VIII/4a to the Meeting of the Parties at its eighth session, the Committee would still review and, as needed, revise the draft at its forty-eighth session, taking into account the progress made by Armenia.

2. Follow-up to decision IS/1c regarding Azerbaijan (EIA/IC/CI/2)⁴

11. The Committee continued its consideration of the follow-up to decision IS/1c on compliance by Azerbaijan with its obligations under the Convention in respect of its national legislation.

12. The Committee recalled that, in 2019, Azerbaijan had prepared six pieces of secondary legislation intending, among other things, to address the deficiencies and discrepancies of its 2018 Law on Environmental Impact Assessment with respect to the Convention referred to in paragraph 3 of decision IS/1c. It welcomed a report by Azerbaijan dated 17 February 2020 on the steps taken by it to meet the requests contained in paragraphs 6–8 of decision IS/1c, noting, in particular that:

(a) The Government of Azerbaijan had, to date, adopted two pieces of secondary legislation and two guiding documents to implement the framework Law;

(b) A draft regulation on environmental impact assessment and a draft regulation on strategic environmental assessment were undergoing a governmental review, including by the Ministry of Ecology and Natural Resources and a consultant to ECE;

(c) Although the two adopted pieces of secondary legislation had not, to date, been translated into English, the English translation of drafts of the three remaining regulations had been made available for review by the consultant.

13. The Committee then examined a review of the draft regulations on environmental impact assessment and strategic environmental assessment prepared in early February 2020 by the consultant to ECE in the framework of the EU4Environment initiative. It noted the

⁴ More information on the matter is available at www.unece.org/env/eia/implementation/eia_ic_ci_2.html.

review's conclusion that, in general, the draft regulations were not always clear and internally consistent. Such a deficiency might possibly be attributed to inadequate translation quality, specific features of legal techniques used in Azerbaijan and/or to random distribution throughout the text of some procedural elements, including on public hearings, and subsequent related redundancies.

14. The Committee also noted the specific deficiencies of the secondary legislation, in particular concerning the:

- (a) Definition referred to in article 1 (v) of the Convention;
- (b) Division of responsibilities between the competent authorities and a proponent, in particular when ensuring proper public participation under articles 2 (6), 3 (8) and 4 (2) of the Convention;
- (c) Obligations of the competent authorities to take due account of the results of the environmental impact assessment procedure and to provide to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based, as set out in article 6 (1) and (2) of the Convention;
- (d) Provisions concerning interactions with the affected Parties further to articles 2, 3, 4, 5 and 6 of the Convention.

15. The secretariat informed the Committee that it had thoroughly discussed the review results and concrete drafting suggestions with Azerbaijan on 20 February 2020, and that further revisions of the regulations had been ongoing.

16. The Committee then prepared the text of draft decision VIII/4b in respect of the national legislation of Azerbaijan, concluding that Azerbaijan had not yet fulfilled the request addressed to it in paragraph 6 of decision IS/1c, and therefore remained in non-compliance with article 2 (2) of the Convention, despite steps taken since the intermediary session of the Meeting of the Parties.

17. In addition, the Committee asked its Chair to write to the Government of Azerbaijan:

- (a) Encouraging it to adopt the remaining pieces of the secondary legislation ensuring full compliance of its legislative framework with the Convention and the Protocol before the eighth session of the Meeting of the Parties;
- (b) Inviting it to update the Committee, by 31 July 2020, on the progress made in bringing its national legislative framework into full compliance with the Convention and the Protocol, and to provide it with the official English translation of the adopted Law and all the adopted secondary legislation for the Committee's evaluation;
- (c) Reiterating that, before transmitting draft decision VIII/4b to the Meeting of the Parties at its eighth session, the Committee would still review and, as needed, revise the draft at its forty-eighth session, taking into account the progress made by Azerbaijan.

3. Follow-up by Belarus to decision IS/1d regarding the Belarusian nuclear power plant in Ostrovets (EIA/IC/S/4)⁵

18. The first Vice-Chair of the Committee chaired the discussions on the follow-up to decision IS/1d, further to a submission by Lithuania of 16 June 2011 concerning compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets.

19. The Committee examined annual reports received from Belarus and Lithuania further to paragraph 20 of decision IS/1d, on 6 December 2019 and 30 January 2020 respectively, and the correspondence between the Parties made available since its previous session.

20. With reference to paragraph 17 of decision IS/1d, the Committee noted the limited progress made by the Parties concerned since the intermediary session of the Meeting of the Parties in concluding the bilateral agreement for implementation of the Convention, in accordance with article 8 of the Convention.

⁵ More information on the matter is available at www.unece.org/env/eia/implementation/eia_ic_s_4.html.

21. With reference to paragraph 19 of decision IS/1d, it also noted the differing positions of the Parties concerned on modalities for the post-project analysis and the low level of cooperation between them in that regard.

22. The bilateral expert consultations on issues of disagreement, including matters beyond the scope of the Convention, referred to in paragraph 18 of decision IS/1d, had also stagnated, with Lithuania expressing concerns about the lack of a response from Belarus to the questions of Lithuania.

23. The Committee further noted the request of Belarus for support in meeting the obligation under paragraph 16 of decision IS/1d that concerned any planned future activities, in the form of guidance or good practice on evaluation of reasonable alternatives and selection of a preferable option or options in the environmental impact assessment documentation for nuclear-related activities. It recalled that, at the initiative of Belarus, a related activity had been included in the draft 2021–2023 workplan under the Convention and that the draft workplan was to be considered by the Working Group at its ninth meeting before submission to the Meeting of the Parties.

24. The Committee then prepared the text of draft decision VIII/4c on compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets.

25. The Committee asked its Vice-Chair to write to the Governments of Belarus and Lithuania:

- (a) Encouraging them to increase their cooperation for the purpose of:
 - (i) Concluding the bilateral agreement for the implementation of the Convention further to article 8 of the Convention;
 - (ii) Carrying out a post-project analysis, involving reaching an agreement on establishing a joint bilateral body and on procedures for such analysis, in particular for ensuring sufficient public participation in the framework of the post-project analysis;
 - (iii) Continuing bilateral expert consultations on issues of disagreement, including on matters beyond the scope of the Convention;
- (b) Inviting them to update the Committee, by 31 July 2020, on the progress made in addressing the requirements referred to in paragraphs 17–19 of decision IS/1d;
- (c) Reiterating that, before transmitting draft decision VIII/4c to the Meeting of the Parties at its eighth session, the Committee would still review and, as needed, revise the draft at its forty-eighth session, taking into account the progress made by Belarus and Lithuania.

4. Follow-up by Ukraine to decision IS/1f regarding the Bystroe Canal Project (EIA/IC/S/1)⁶

26. The Committee continued its consideration of the follow-up to decision IS/1f further to a submission by Romania dated 26 May 2004 expressing concerns regarding compliance by Ukraine with its obligations under the Convention in respect of the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (Bystroe Canal Project).

27. The Committee first recalled that, during the 2017–2020 intersessional period, it had taken additional steps to assist Ukraine in addressing its long-standing non-compliance with the Convention since 2008, including developing a road map to bring the project into compliance with the Convention in autumn 2017,⁷ holding two informal consultations with Ukraine at the forty-first (Geneva, 13–16 March 2018) and forty-sixth Committee sessions,⁸

⁶ More information on the matter is available at www.unece.org/env/eia/implementation/eia_ic_s_1.html.

⁷ See ECE/MP.EIA/IC/2017/6, paras. 21 and 22.

⁸ See ECE/MP.EIA/IC/2018/2, para. 32, and ECE/MP.EIA/IC/2019/6, para. 11.

providing Ukraine in October 2019 with a list of specific questions⁹ to help it summarize all required information and report on the progress made, with a view to concluding the matter by the eighth Meeting of the Parties.

28. It then examined information received from Ukraine on 14 February 2020, noting that it consisted of duplicates of eight previous letters from Ukraine to the Committee received by it from 2017 to 2019 and two new documents, notably:

(a) A report on the analysis of the environmental impact on the Danube River Delta related to the implementation of the Bystroe Canal Project that had been prepared in 2019 by the Ukrainian Scientific Research Institute of Ecological Problems;¹⁰

(b) A draft bilateral agreement with Romania to enhance implementation of the Convention further to article 8 of the Convention, with provisions on the “Harmonized Transboundary Monitoring Network of the Environmental Status of the Danube Delta”.

The Committee also noted that Ukraine had provided an unofficial English translation of the resolution of the State Sea Ports Authority of Ukraine on organizational and technical measures to temporarily suspend works at the Bystroe Canal Project. In the absence of a copy of the original document, the Committee found the translation not admissible for the Committee’s further deliberations.

29. The Committee expressed its deep concern that, despite numerous explicit requests by the Meeting of the Parties and the Committee – also in the Committee’s letters of 11 April 2019, 11 October 2019 and 14 January 2020 – Ukraine had failed to:

(a) Confirm clearly and unambiguously that works with regard to phase I of the Project had been suspended and the final decision repealed;

(b) Provide complete information accompanied with corroborating documentation on bringing the Bystroe Canal Project into compliance with the Convention, including: (i) a consistent and complete list of all final decisions taken with regard to phases I and II of the Project and amendments to them; and (ii) a list of all subsequent decisions repealing the above-mentioned final decisions.

30. The Committee then examined information from Romania, dated 17 February 2020, in which Romania reconfirmed its willingness to discuss the road map with Ukraine. With regard to monitoring results provided by Ukraine, Romania was of the opinion that, unless the “Harmonized Transboundary Monitoring Network of the Environmental Status of the Danube Delta” was finalized and operational, a monitoring report could not be considered to be conclusive and credible due to the impossibility of comparing the monitoring data produced by each Party, in common monitoring sections, for a set of common parameters and based on a commonly agreed evaluation methodology. Concerning the bilateral agreement to support implementation of the Convention, it reported that no further progress had been achieved since 2018.

31. The Committee noted that Ukraine had, to date, not adopted all the secondary legislation required to fully align its national legislation with the Convention and had taken only limited steps to bring the Project into compliance with the Convention. The Committee found that Ukraine remained in non-compliance with the Convention by not fulfilling all its obligations under paragraphs 9 and 11 of decision IV/2, paragraphs 17 and 19 of decision V/4, paragraphs 24, 25 and 26 of decisions VI/2 and paragraphs 5, 14, 15 and 17 of decision IS/1f. Subsequently, the Committee could not recommend to the Meeting of the Parties that it lift the caution issued to the Government of Ukraine at its fourth session (ECE/MP.EIA/10, para. 10).

32. The Committee then prepared the text of draft decision VIII/4d regarding the Bystroe Canal Project.

⁹ See ECE/MP.EIA/IC/2019/4, para. 17.

¹⁰ Full title of the report “Analysis of the impact on the environment of the Danube River Delta which follows from the already implemented work related to the project ‘Danube-Black Sea Deep-Water Navigation Channel on the Ukrainian Section of the Delta’ (stage 1 and full development) with the development of compensatory measures and measures to mitigate the likely impact based on the materials of the integrated environmental monitoring 2004—2017 and the results of field monitoring observations at least in a transboundary context”.

33. It asked its Chair to write to Ukraine and Romania informing them of the outcomes of its deliberations at the current session. In the letter to Ukraine, the Chair should also reiterate the Committee's earlier requests for clear and complete information, accompanied with corroborating documentation, of 11 April 2019, 11 October 2019 and 14 February 2020. Romania should be invited to provide any new information on the matter.

34. The Committee agreed that, before transmitting draft decision VIII/4d to the Meeting of the Parties at its eighth session, the Committee would still review and, as needed, revise the draft at its forty-eighth session, taking into account information to be provided by Romania and Ukraine by no later than 31 July 2020, if any.

5. Follow-up by Ukraine to decision IS/1g regarding the Rivne nuclear power plant (EIA/IC/CIS/4)¹¹

35. Further to its discussions at its forty-sixth session, the Committee continued its consideration of the follow-up to decision IS/1g on compliance by Ukraine with its obligations under the Convention in respect of extension of the lifetime of the Rivne nuclear power plant. It examined all the information available to the Committee on the matter, including the information from Ukraine dated 14 February 2020, with a view to assessing steps taken by Ukraine to address its obligations under the Convention.

36. With reference to paragraph 69 of decision VI/2 and paragraphs 3 and 4 of draft decision IS/1g, the Committee recalled its previous conclusion that the Law on Environmental Impact Assessment of Ukraine provided a rather comprehensive legal framework for the practical implementation of the Convention.¹² Referring to articles 3 (2) (2) and (2) (22) and 14 of the Law, the Committee noted with appreciation that the legal framework was also applicable to the extension of the lifetime of nuclear power plants. The Committee, however, also agreed that, pending the adoption of the remaining pieces of secondary legislation, Ukraine had not, to date, fulfilled all its obligations under paragraph 69 of decision VI/2 and paragraph 4 of draft decision IS/1g.

37. With reference to paragraph 7 (a) and (b) of decision IS/1g, the Committee recalled that, in 2018, Ukraine had entered into consultations with the affected Parties concerning the activity, and had transmitted the environmental impact assessment report with respect to the activity to Belarus, Hungary, Poland, the Republic of Moldova, Romania and Slovakia.¹³ The Committee observed that the Republic of Moldova did not intend to participate in the procedure concerning the activity¹⁴ and that the Committee lacked information on the status of the transboundary consultations with Austria further to the notification by Ukraine dated 30 January 2018.¹⁵

38. According to the information provided by Ukraine dated 14 February 2020, Ukraine had received and addressed the comments from some affected Parties on the environmental impact assessment report, but the transboundary impact assessment procedure under the Convention had not yet been completed. The Committee, therefore, concluded that Ukraine had not, to date, fulfilled its obligations referred to in paragraphs 7 (a), (b) and (c) and 8 of decision IS/1g and that, therefore, it remained in non-compliance with its obligations under the Convention.

39. Further to its deliberations, the Committee agreed on the text of draft decision VIII/e regarding the lifetime extension of the Rivne nuclear power plant.

40. The Committee asked its Chair to write to Ukraine to inform it of the outcome of the Committee's deliberations at the current session, emphasizing that Ukraine needed to adopt the remaining pieces of secondary legislation and complete the transboundary environmental impact assessment procedure, including with Austria, in order to reach compliance with the

¹¹ More information on the matter is available at www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative/eiaicci4-ukraine.html.

¹² ECE/MP/EIA/IC/2017/4, para. 16.

¹³ ECE/MP.EIA/IC/2019/6, para. 20.

¹⁴ ECE/MP.EIA/IC/2019/2, para. 19.

¹⁵ ECE/MP.EIA/IC/2018/2, para. 21

Convention. Ukraine should be invited to provide, by no later than 31 July 2020, its annual report on progress made by it in implementing paragraphs 4, 7 and 8 of decision IS/1g.

41. The Chair should also address Austria, Belarus, Hungary, Poland, Romania and Slovakia, inviting them to update the Committee, by 31 July 2020, regarding the ongoing transboundary environmental impact procedure for the activity and their participation therein and to provide any other relevant information on the matter.

42. The Committee agreed, before transmitting draft decision VIII/4e to the Meeting of the Parties at its eighth session, to review and, as needed, revise the draft at its forty-eighth session, taking into account additional information to be provided by the Parties concerned, if any.

B. Preparation of draft decisions on general issues of compliance with the Convention and the Protocol

43. The Committee then prepared draft decision VIII/4 on general issues of compliance with the Convention and draft decision IV/4 on general issues of compliance with the Protocol. The Committee requested the secretariat to forward the draft decisions as an informal document to the Working Group at its next meeting.

III. Submissions¹⁶

44. The discussions under the agenda item were not open to observers, in accordance with rule 17 (1) of the Committee's operating rules. The secretariat stated that, further to the Committee's operating rule 16 (4), the open submissions listed below and the replies to the submissions provided to date by the Parties concerned had been made available through the Convention website within one month of their receipt.

A. Serbia (EIA/IC/S/6)¹⁷

45. The Committee continued its consideration of the submission by Bulgaria of 30 May 2019 concerning compliance by Serbia with its obligations under the Convention regarding the following activities, located close to the Bulgarian border:

- (a) Construction of an experimental facility to test flotation technology for processing copper, lead and zinc ore in Karamanica;
- (b) Ore exploitation and mining at the Podvirovi and Popovica mines;
- (c) Extension of the production of zinc, lead and other metals at the Grot mine.

46. Recalling its decision at its forty-sixth session that, for its further deliberations on the submission, it needed additional information from Serbia,¹⁸ the Committee asked its Chair to write to Serbia inviting it to provide, by 15 June 2020, additional information and clarifications on each of the following activities under consideration and the related environmental impact assessments and decision-making procedures:

1. Regarding the Karamanica pilot facility flotation processing of copper, lead and zinc ore

- (a) Whether the activity had been closed down. In that case, the Government of Serbia should be invited to clarify when the relevant decision had been taken and provide a copy of the decision along with the English translation thereof. In case the activity was still

¹⁶ More information on submissions is available at www.unece.org/env/eia/implementation/implementation_committee_matters.html.

¹⁷ More information on this matter is available at www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/enveiaimplementationimplementation-committee-matters/eiaics6-serbia.html.

¹⁸ ECE/MP.EIA/IC/2019/6, para. 27.

operational, the Government of Serbia should provide the following information and clarifications:

- (i) A brief description of the activity, including:
 - a. When the original licence had been issued and also whether and when any subsequent licenses had been issued;
 - b. Information on the activity in accordance with the licence, including location, volumes, time limits, technical conditions, restrictions and mitigation measures, along with indication of distance to neighbouring countries and the status of its operation;
- (b) Information about the environmental impact assessment procedure for the activity, including with regard to the transboundary procedure, including:
 - (i) A date of the decision to approve the environmental impact assessment;
 - (ii) Whether the activity had been subject to a transboundary environmental impact assessment procedure under the Convention. If so, the Government of Serbia should indicate whether a public participation process had been carried out in Bulgaria, and provide the content of the environmental impact assessment documentation and a clarification on whether the documentation fulfilled the requirements set out in article 4 (1) and appendix II of the Convention. In addition, the Government of Serbia should provide a non-technical summary of the documentation;
 - (iii) A list of Parties that could possibly be affected by the activity, indicating whether any of those Parties had requested information regarding the activity, and if so, when.
 - (iv) Whether the Government of Serbia intended to implement the full transboundary environmental impact assessment procedure as provided for by the Convention. If so, the Government of Serbia should describe the procedure, indicating the time frame for each procedural step.

2. Regarding mining activities from the mines at Podvirovi and Popovica:

With reference to the letter from Serbia dated 22 November 2019, in which Serbia referred to the mines in Podvirovi and Popovica as “old” and stated that “at the time when exploitation began, the environmental impact assessment hadn’t yet existed”, the Government of Serbia should be invited to clarify:

- (a) Whether it considered that Serbia was not bound to the Convention’s provision with regard to the activity as it was not yet a Party at that time; or
- (b) Whether the statement above should be understood as meaning that there was no national environmental impact assessment legislation in place, despite Serbia already being a Party to the Convention at the time;

In that context, the Government of Serbia should provide the following information and clarifications:

- (a) The exact date of the commencement of the activity;
- (b) A brief description of the activity, including:
 - (i) A description of the procedures to approve the activity, indicating the relevant details regarding timing; for example, when the original and any subsequent licences had been issued;
 - (ii) Information on the activity in accordance with the licence, including location, volumes, time limits, technical conditions, restrictions and mitigation measures, along with indication of distance to neighbouring countries and the status of its operation;
 - (iii) Whether there had been any alterations to the activity, such as enlarging the mining area or changing mining volumes as compared to the specifications of original or subsequent licences;
- (c) Information about the environmental impact assessment procedure for the activity, including with regard to the transboundary procedure:

(d) The date of the decision to approve the environmental impact assessment;

(e) Whether the activity had been subject to a transboundary environmental impact assessment procedure under the Convention. If so, the Government of Serbia should indicate whether a public participation process had been carried out in Bulgaria, and provide the content of the environmental impact assessment documentation and a clarification on whether the documentation fulfilled the requirements set out in article 4 (1) and appendix II of the Convention. In addition, the Government of Serbia should provide a non-technical summary of the documentation;

(f) A list of Parties that could possibly be affected by the activity; whether any of those countries had requested information regarding the activity, and if so, when;

Whether the Government of Serbia intended to implement the full transboundary environmental impact assessment procedure as provided for by the Convention. If so, the Government of Serbia should describe the procedure, indicating the time frame for each procedural step.

3. Regarding Grot mine, production of zinc, lead and other metals

(a) A brief description of the activity, which, according to the information from the NGO Balkanka Association, had been closed down but subsequently restarted, including:

(i) A description of the procedures to approve the activity, indicating the relevant details regarding timing; i.e. when the original and any subsequent licences had been issued;

(ii) Information on the activity in accordance with the licence, including location, volumes, time limits, technical conditions, restrictions and mitigation measures, along with indication of distance to neighbouring countries and the status of its operation;

(b) Whether there had been any alterations to the activity, such as enlarging the mining area or changing mining volumes as compared to the specifications of original or subsequent licences;

(c) Information about the environmental impact assessment procedure for the activity, including with regard to the transboundary procedure:

(d) The date of the decision to approve the environmental impact assessment;

(e) Whether the activity had been subject to a transboundary environmental impact assessment procedure under the Convention. If so, the Government of Serbia should indicate whether a public participation process had been carried out in Bulgaria and provide the content of the environmental impact assessment documentation and a clarification on whether the documentation fulfilled the requirements set out in article 4 (1) and appendix II of the Convention. In addition, the Government of Serbia should provide a non-technical summary of the documentation;

(f) A list of Parties that could possibly be affected by the activity; whether any of those countries had requested information regarding the activity, and if so, when;

(g) Whether the Government of Serbia intended to implement the full transboundary environmental impact assessment procedure as provided for by the Convention. If so, the Government of Serbia should describe the procedure, indicating the time frame for each procedural step.

47. The Committee took note of the information from the Government of Bulgaria dated 6 March 2020. It asked its Chair to forward that information to the Government of Serbia, inviting the Government of Serbia to respond without delay to the request of the Government of Bulgaria concerning the mining activities carried out by Serbia on its territory, in particular, at the Dragovishtitsa River catchment area, and the related transboundary environmental impacts. The Government of Serbia should be invited to provide a copy of the response to the Committee by no later than 15 June 2020.

48. The Committee agreed to postpone scheduling the discussions with the Parties concerned, to be organized further to paragraph 9 of the Committee's structure and functions,¹⁹ to its next session.

49. The Committee asked the Chair to write to Bulgaria and Balkanka Association, informing them of the Committee's deliberations at the current session and inviting them to provide, by no later than 15 June 2020, any additional information on the matter.

B. Albania (EIA/ICS/7)²⁰

50. The Committee began its consideration of the submission by Montenegro expressing concern about the compliance of Albania with its obligation under the Convention with respect to the planned construction of a number of small hydropower plants on the Cijevna River, received by the secretariat on 25 September 2019. Further to the analysis of the information provided by Montenegro in its submission and the replies from Albania received on 30 December 2019, the Committee agreed that, for its further deliberations on the matter, it needed additional information from both Parties.

51. The Committee asked its Chair to write to Montenegro inviting it to provide the Committee, by 15 June 2020, with additional information, including the following:

- (a) An update on the state of play regarding the matter;
- (b) A list and copies of all correspondence between the Parties in chronological order and the English translation thereof;
- (c) A map illustrating the geographical location of the planned hydropower plants on the Cijevna River in good resolution;
- (d) An assessment of cumulative and transboundary effects of the planned and/or operating hydropower plants on the Cijevna River, if such an assessment had been made;
- (e) Summary records of all meetings of the Joint Commission for Water Management under the Framework Agreement between Montenegro and Albania held to date.

52. In the letter, the Chair should also invite the Government of Montenegro to provide the Committee with its evidence-based comments and observations regarding the replies of 30 December 2019 from Albania to the submission, along with any other information and corroborating documentation that it considered relevant for the Committee to assess.

53. The Committee also asked its Chair to write to the Government of Albania inviting it to provide the Committee, by 15 June 2020, with additional information, including the following:

- (a) A description of the activities, including:
 - (i) A list of the proposed hydropower stations, their planned location, capacity, technical conditions and other relevant information;
 - (ii) A list of the existing hydropower stations, their location, capacity, technical conditions and other relevant information;
- (b) A map illustrating the geographical location of the planned and existing hydropower plants, including those in operation and abandoned, on the Cijevna River, in good resolution;
- (c) A list and copies of all correspondence between the Parties in chronological order and the English translation thereof;
- (d) An assessment of cumulative and transboundary effects of the planned and/or operating hydropower plants on the Cijevna River, if such an assessment had been made;

¹⁹ ECE/MP.EIA/6, annex II, decision III/2, appendix.

²⁰ More information on this matter is available at www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/enveiaimplementationimplementation-committee-matters/eiaics7-albania.html.

(e) Summary records of all meetings of the Joint Commission for Water Management under the Framework Agreement between Montenegro and Albania held to date.

54. In addition, Albania and Montenegro should be encouraged to organize an expert meeting with a view to discussing and, if possible, agreeing whether the proposed activities were likely to cause significant adverse transboundary effects.

55. The Committee agreed to continue its consideration of the matter at its next session (Geneva, 1–4 September 2020) based on the information received from the Parties by 15 June 2020.

56. Before concluding its deliberations on the matter, the Committee noted the letter dated 17 December 2020 from the Chair of the Implementation Committee under the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) informing the Committee that Montenegro had initiated an advisory procedure under the Water Convention concerning the same matter. The Committee welcomed the invitation of the Chair of the Implementation Committee under the Water Convention to exchange information and opinions on the matter and to cooperate as needed to the extent possible under the rules governing the operation of both Committees. The Committee asked the curator for the matter, the Chair of the Committee and the secretariat to discuss possibilities for cooperation with the Implementation Committee under the Water Convention during the next session of the Implementation Committee under the Water Convention, scheduled to take place from 19 to 20 May 2020 using videoconferencing facilities.

III. Committee initiative²¹

57. The discussions under the agenda item were not open to observers, in accordance with rule 17 (1) of the Committee's operating rules.

A. Serbia (SEA/IC/CI/1)

58. Further to the Committee's deliberations at its forty-sixth session, the Committee began the consideration of its initiative concerning compliance of Serbia with regard to its obligations under the Protocol with respect to the Energy Sector Development Strategy of the Republic of Serbia for the Period up to 2025 with Projections up to 2030 and the Strategy's Implementation Programme for the Period 2017–2023. To avoid any direct or indirect conflict of interest, the Committee member nominated by Hungary was absent during the Committee's consideration of the matter.

59. Recalling that, at its previous session, the Committee, further to paragraph 9 of its structure and functions, had scheduled the discussion with Serbia on the initiative for its forty-eighth session in September 2020, the Committee agreed on the non-exhaustive list of questions to be considered during the discussions.

60. The Committee asked its Chair to write to the Government of Serbia inviting it to provide, by 22 June 2020, the following information and clarifications:

(a) With regard to the Energy Sector Development Strategy of the Republic of Serbia for the Period up to 2025 with Projections up to 2030:

(i) Evidence that the Government of Serbia had notified the Governments of Croatia, Hungary and Romania concerning the Strategy further to article 10 (1) and (2) of the Protocol, including:

a. Copies of the notifications to the Governments of Croatia, Hungary and Romania;

²¹ More information on committee initiatives is available at www.unece.org/environmental-policy/conventions/environmental-assessment/areas-of-work/review-of-compliance/committee-initiative.html.

- b. The date(s), name(s) of authority(ies) and means by which the notifications had been sent to the above-mentioned Parties;
- (ii) A clarification on whether measures had been taken by the Government of Serbia to ensure that the notifications had been delivered to the Governments of Croatia, Hungary and Romania; and whether the list of the points of contact for notification under the Protocol had been used when notifying;
- (iii) Any other relevant information concerning the notification on the Energy Strategy under the Protocol, including the Government's opinion on the matter;
- (b) With regard to the Programme for the Implementation of the Energy Strategy for the Period 2017–2023:
- (i) A clear description of the transboundary consultations between Serbia and the affected Parties, carried out in accordance with article 10 of the Protocol, including:
- a. An overall timeline of the transboundary procedure, including the notification under article 10 (1) and (2) of the Protocol and transboundary consultations and public participation under article 10 (3) and (4) of the Protocol;
- b. Whether the transboundary procedure under article 10 of the Protocol had been completed. If the transboundary procedure had not yet been completed, a clarification on the current stage of the procedure;
- c. A list of Parties that had been notified about the Programme, indicating the date of each notification, and providing copies of all notifications;
- d. Whether any Party that had not been notified considered itself potentially affected with regard to the Programme and had requested to be notified;
- e. A list of the affected Parties that had indicated their wish to enter into consultations under article 10 of the Protocol, also clarifying the timeline and outcomes of each stage of the consultations with each affected Party;
- f. The reasons why the Government of Serbia had not entered into consultations with the Government of Hungary in accordance with article 10 (3) of the Protocol and had not agreed, in accordance with article 10 (4) of the Protocol, on detailed arrangements for such consultations, in particular, regarding the translation of documents;
- g. The means by which the Government of Serbia ensured that the public concerned and the authorities of the affected Parties had been informed about the draft Programme and the environmental report and given an opportunity to forward their opinions thereon within a reasonable time frame, in accordance with article 10 (4) of the Protocol;
- (ii) The date on which the Programme had been adopted. A list of the affected Parties that, in accordance with articles 10 and 11 (1) (c) of the Protocol, had been given an opportunity to provide their comments concerning the Programme and the environmental report, also indicating which of the affected Parties, including the public concerned and the authorities in these Parties, had provided their comments thereon; A clarification on whether and how the comments received from the affected Parties, including the public concerned and the authorities in those Parties, had been taken into due account in the decision adopting the Programme;
- (iii) A clarification on whether and when the affected Parties consulted had been informed about the decision further to article 11 (2) of the Protocol, listing all of the informed Parties;
- (iv) Any additional relevant information concerning the transboundary consultations under the Protocol, including the Government's opinion on the matter.
61. In the letter, the Chair should inform the Government of Serbia that the discussions would take place on Wednesday, 2 September 2020. The Committee would start considering the initiative in a closed session, followed by a brief presentation by Serbia and questions by the Committee. The initiative would then be considered again in a closed session, at which

findings and recommendations would be drafted. To prepare for the discussions, the Government of Serbia should also be invited to provide the secretariat, by 20 August 2020, with the names of its respective delegates. Finally, the Chair should draw the attention of the Government of Serbia to the Committee's operating rule 15 (4) – regarding procedures for Committee initiatives – referring to operating rules 11 to 14 regarding procedures for submissions applicable, *mutatis mutandis*, in the case of a Committee initiative.

IV. Information gathering and specific compliance issues under the Convention and the Protocol

62. Discussions on information gathering were not open to observers, in accordance with rule 17 (1) of the Committee's operating rules.

A. New information from other sources

63. The Committee took note of the information received from other sources since its forty-sixth session, notably information from:

(a) Greenpeace France, of 9 March 2020, expressing concerns about the non-application of the Convention by France to the planned lifetime extensions of 32 units of eight nuclear power plants in the period 2020–2026;

(b) A member of the German parliament, of 11 February 2020, expressing concerns about non-application of the Protocol by Poland to its Energy Strategy until 2040.

64. Recalling its decision at its forty-fifth session (Geneva, 10–13 September 2019) on accelerating the Committee's consideration of new information received (ECE/MP.EIA/IC/2019/4, para. 127), the Committee invited its Chair to request the Parties concerned to provide the Committee, by 8 June 2020, with basic initial information on the above-mentioned issues. The Committee appointed the curators for the matters and invited them to prepare analysis of the expected information by 31 July 2020, with a view to considering each matter separately at its subsequent sessions.

65. Further to the information from Hungary dated 25 February 2020 about the ongoing activities carried out by Ukraine at the Muzhiyevo goldmine, the Committee decided to resume its information gathering concerning EIA/IC/INFO/13²² regarding the activity at its subsequent sessions and appointed a curator for the matter.

B. Draft guidance on the applicability of the Convention to the lifetime extension of nuclear power plants

66. The Secretary to the Convention and its Protocol briefed the Committee about the progress by an ad-hoc working group in drafting guidance on the applicability of the Convention to the lifetime extension of nuclear power plants, indicating that the cancellation of two preparatory meetings of the group in spring 2020 and the ongoing collection of comments via written procedure had delayed the group's work and rendered it more challenging. The Committee's Chair informed the Committee that the Co-Chairs of the ad-hoc group had invited the Committee to contribute to the preparation of the draft guidance by the end of March, providing a brief description of all compliance cases related to lifetime extension of nuclear power plants under the Committee's consideration based on questions outlined by the Co-Chairs. Such input was seen as valuable in ensuring that the work under way would comprehensively meet the Committee's and the Parties' needs for guidance on the applicability of the Convention. Moreover, the Committee's general views on the contents of the draft guidance and, in particular, on questions of legal interpretation of the Convention's provisions, such as its article 2 (2), would also be highly appreciated in the future.

²² Initial information on this matter is available at www.unece.org/env/eia/implementation/eia_ic_info_13.html.

C. Other information gathering procedures and specific compliance issues under the Convention and the Protocol

67. The Committee regretted that, owing to time limitations at its current session, it had to postpone its consideration of all information gathering matters, along with the specific compliance issues related to the reviews of implementation of the Convention and the Protocol, to its subsequent sessions.

V. Presentation of the main decisions taken and closing of the session

68. The Committee confirmed that it would next meet from 1 to 4 September 2020. With a view to progressing on the postponed matters, the Committee agreed to hold, in advance of that session, an additional meeting using videoconferencing. It invited the secretariat and the Chair to prepare a draft agenda and to propose a possible date for such a meeting.

69. The Committee further noted that its forty-ninth session had been tentatively re-scheduled to take place from 2 to 5 February 2021 and its fiftieth session from 4 to 7 May 2021, in Geneva.

70. The Committee agreed to adopt the draft report of its session, to be prepared with the support of the secretariat, using its electronic decision-making procedure. The Chair then formally closed the forty-seventh session.
