

Promoting ratification and application of the Convention and the Protocol: Draft guidance on assessing health impacts in strategic environmental assessment

Ninth meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment

Comments from Christiana Maria Mauro on behalf of Nuclear Transparency Watch and the European Environmental Bureau, 25 August 2020

As a general remark, we acknowledge that the drafting committee faces considerable challenges in developing parameters general enough to avoid conflict with such a range of legal frameworks. We are concerned, however, that some of the principles do not offer adequate constructive direction.

Insofar as the guidance does not create new obligations but merely offers practical recommendations to promote the consistent application of the Convention and Protocol by offering help to Parties aiming to conduct successful health assessments, the elucidation of some of the guiding principles through the inclusion of pre-conditions and concrete criteria is encouraged. For guiding principles to serve as a model they must not be vague to the extent that their objectives are frustrated.

We would in this context highlight crucially missing guidance as to how to conduct a proper health impact assessment in the field of air pollution. Paragraph 39 states that many tools are “routinely used for the assessment of health impacts”¹, but fails to offer recommendations regarding effective cost-benefit assessment methods to quantify health impacts in a precautionary and inclusive manner.

The guidance should favour a harmonisation of up-to-date information and refer to appropriate health impact assessment methodology. This would not only inform decision makers about the extent of damage costs due to air pollution but also establish a level playing field for the operators of the activities in question. As air pollution is necessarily a transboundary phenomenon we believe it would be particularly useful to establish clearer guidance in this regard. We therefore propose the addition of a statement on this matter at the end of paragraph 39, should the drafting committee be open to this suggestion.²

1 See notably the *Lancet* Global Burden of Disease study available at: www.thelancet.com/gbd

2 Suggested wording: *[In evaluating health impacts due to air pollution, damage costs methods based on value of statistical life (VSL) are recommended; The VSL method of the European Environmental Agency, adapted to US EPA price levels (6 Million € - converted from 7.4 Million \$) as recommended by the OECD, is desirable when quantifying air pollution costs. The Value of Life Year Lost (VOLY) method was rejected a decade ago in the US on equity grounds as it was biased against the elderly.]*

Two important factors that would help to establish the conditions necessary to achieve the goals of the guidance are highlighting the importance of adequate allocation of resources to guarantee quality operational capacities, and offering models of domestic appointment procedures that would circumscribe the conditions to secure the necessary competence and full independence of the relevant health authorities.

All legal regimes rely heavily on the selection of appropriate candidates to fulfil the roles of authorities assigned to implement treaty provisions. Parties to the Convention diverge considerably in their interpretation of the term “competent” and “independent”, both in law and in practice. The notion of independence has not only been shown to be subject to broad interpretation but the behavioural norms of states have also changed significantly since the Espoo Convention was first adopted.

Examples of provisions explicitly designed to ensure a balance of interest are plentiful. Democratic control and transparency improve when independence is formally secured. A combined or pluralistic appointment procedure is most conducive to ensuring competence and independence, and crucially, in preventing conflict of interest.

We need only recall that the most catastrophic environmental disasters in recent memory – Chernobyl and Fukushima – occurred due to both the lack of independence of the competent authorities and a failure to prioritize safety considerations over economic ones. We urge the Parties to recall the transboundary long-term health and environmental effects of so many other preventable disasters which occurred because there was a failure to prioritize the public interest over private interests.

We strongly urge all participating States to push for progress in this area. More vital than pledges, the international community must jointly defend and adhere to a core set of precepts in developing good governing and monitoring behaviour. As non-governmental organizations and like-minded nations undertake our joint objective of ensuring population health and environmental safety, we must categorically denounce the increasingly common practice of appointing compromised individuals in positions of authority and failing to allot the resources needed to protect the environment from man-made disasters.