

		ECE/MP.EIA/WG.2/2020/INF.11 English only 15 April 2020
--	--	--

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

Ninth meeting

Geneva, 24–26 August 2020

Item 6 of the provisional agenda

Compliance and implementation

Initial draft decisions on the review of compliance with the Convention and the Protocol (unedited)

Prepared by the Implementation Committee

This document contains initial draft decisions on the review of compliance of the Convention and of the Protocol prepared by the Implementation Committee under the Convention and the Protocol at its forty-seventh session (Geneva, 16–19 March 2020). These are submitted as an informal, unedited, document for information and possible comments by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment at its present meeting, as announced at the Working Group's last meeting (Geneva, 26-28 November 2019).

The Chair of the Committee, and, where relevant, the first Vice-Chair of the Committee will present the initial draft decisions to the Working Group. Delegations may wish to comment them in writing, in advance of the meeting and orally during the meeting. To facilitate the consideration of the possible comments by the Working Group, delegations are invited to submit them to the secretariat by early August for the secretariat to make them available on the meeting webpage.

After the meeting, the Committee will finalize the draft decisions at its forty-eighth session (Geneva, 1–4 September 2020) considering the comments and any other information received by 31 July 2020, prior to forwarding the draft decisions as official documents for consideration of the Meetings of the Parties at their next sessions (Vilnius, 8-11 December 2020).

Table of contents

1. Draft decision VIII/4 on general issues of compliance with the Convention.....	3
2. Draft decision VIII/4a on compliance by Armenia with its obligations under the Convention in respect of its national legislation	6
3. Draft decision VIII/4b on compliance by Azerbaijan with its obligations under the Convention in respect of its national legislation.....	7
4. Draft decision VIII/4c on compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets.....	9
5. Draft decision VIII/4d on 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.....	9
6. Draft decision VIII/4de on compliance by Ukraine with its obligations under the Convention in respect of extension of the lifetime of the Rivne nuclear power plant.....	12
7. Draft decision IV/4 on general issues of compliance with the Protocol.....	14

1. Draft decision VIII/4 on general issues of compliance with the Convention

The Meeting of the Parties to the Convention,

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

Also recalling the general parts of decisions III/2, IV/2, V/4, VI/2, of the Meeting of the Parties to the Convention on the review of compliance and decision IS/1 on general issues of compliance with the Convention,

Determined to promote and improve compliance with the Convention,

Seeking to promote the identification, as early as possible, of compliance difficulties encountered by Parties and the adoption of the most appropriate and effective solutions for resolving those difficulties,

Having considered the analysis and recommendations made by the Implementation Committee on general compliance issues contained in the fifth review of implementation of the Convention contained in document ECE/MP.EIA/2017/9, adopted by decision VII/1¹,

Having reviewed the structure and functions of the Committee, as described in the appendix to decision III/2² and annex I to decision VI/2,³

Having also reviewed the operating rules adopted in decision IV/2,⁴ as amended by decisions V/4,⁵ annex, and VI/2,⁶ annex II, and recognizing the importance of improving the efficiency of the working methods of the Committee in view of the growing number and complexity of compliance issues brought before the Committee and the role of the Parties concerned in facilitating the Committee's work,

Having further reviewed the opinions of the Committee,

Recognizing the importance of rigorous reporting by Parties on their compliance with the Convention, and noting the sixth review of implementation of the Convention based on the answers of Parties to the questionnaires on the implementation of the Convention adopted in decision VIII/5,

Recalling that the compliance procedure is assistance-oriented, and that Parties may make submissions to the Committee on issues regarding their own compliance with the Convention,

Noting that several compliance issues considered by the Committee had related to or revealed shortcomings in the concerned Parties' national legislation to implement the Convention and/or the Protocol,

Acknowledging the secretariat's long-standing, donor-funded, technical assistance to countries in Eastern Europe, the Caucasus and Central Asia for aligning their legislation with the Convention and the Protocol, and encouraging the beneficiary countries of that assistance to bring their legislation into full compliance with the two treaties and, if not yet Parties, to ratify them,

1. *Adopts* the report of the Implementation Committee on its activities contained in document (ECE/MP.EIA/2020/[...]), welcomes the Committee's reports on its sessions in the period after the seventh session of the Meeting of the Parties to the Convention, and requests the Committee to continue:

(a) To keep the implementation and application of the Convention under review;

¹ ECE/MP.EIA/IC/2019/2, para. 106.

² ECE/MP.EIA/6, annex II.

³ See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

⁴ ECE/MP.EIA/10, annex IV.

⁵ See ECE/MP.EIA/15.

⁶ See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

(b) To promote and support compliance with the Convention, including by providing assistance in this respect, as necessary.

2. *Welcomes* the follow-up by the Committee to previous decisions of the Meeting of the Parties on compliance with the Convention's obligations by individual Parties as reflected in decision VIII/4a concerning Armenia, decision VIII/4b concerning Azerbaijan, decision VIII/4c concerning Belarus, and decisions VIII/4d and VIII/4e concerning Ukraine adopted by the Meeting of the Parties at its eighth session;

3. *Also welcomes* the examination by the Committee of specific compliance issues identified in the fifth review of implementation of the Convention regarding:

(a) Albania, Austria, Azerbaijan, Croatia, Cyprus, Czechia, Denmark, Finland, France, Greece, Ireland, Italy, Latvia, Liechtenstein, Luxembourg, Malta, Montenegro, [North Macedonia], Norway, [Portugal], the Republic of Moldova, Slovakia, Spain, Sweden and Ukraine, which resulted in the Committee declaring its satisfaction with the clarifications provided by the Parties;

(b) [North Macedonia] [and] [Portugal], [which will require further consideration by the Committee at its upcoming sessions due to lateness of responses by the Parties concerned.]

4. *Further welcomes* the examination by the Committee of information received from other sources, including the public, regarding Belarus, Belgium, Bosnia and Herzegovina (on four issues), Bulgaria, Czechia, Denmark, the Netherlands, Serbia, Spain (on two issues), Switzerland, and Ukraine (on four issues), which:

(a) In one instance regarding Bosnia and Herzegovina, two instances regarding Spain, and one instance regarding Serbia resulted in the Committee declaring its satisfaction with the clarifications provided by the Parties concerned at the time,⁷

(b) In once case concerning Serbia was superseded by a submission initiated by Bulgaria;

(c) In the cases concerning Belarus, Bosnia and Herzegovina (three issues), Bulgaria, Czechia, Denmark, the Netherlands, Switzerland and Ukraine (four issues) will require further consideration by the Committee at its upcoming sessions;

5. *Notes* the information received recently from other sources regarding France [and ...] that is to be considered by the Committee at its forthcoming sessions.

6. *Acknowledges* that several information gathering cases before the Committee (as referred to in paragraphs 4 and 5 above) relate to concerns of the public regarding the non-application of the Convention to planned lifetime extensions of nuclear power plants: by Belgium (three units of two nuclear power plants), by Bulgaria (two units of one nuclear power plant), by Czechia (four units of one nuclear power plant), by France (thirty-two units of eight nuclear power plants), by the Netherlands (one unit of one nuclear power plant), and by Ukraine (eleven units of four nuclear power plants) – and that the Committee's deliberations have been delayed pending the development of guidance on that topic by an ad hoc working group of Parties to the Convention;

7. *Notes* the submissions initiated by Bulgaria and Montenegro that are to be considered by the Implementation Committee at its forthcoming sessions;

8. *Welcomes* the efforts undertaken by the Committee this far to review the effectiveness and efficiency of its working methods and practice with a view to addressing a growing number of and increasingly complex compliance issues brought before it; and invites the Committee to pursue this work in its subsequent sessions;

9. *Notes with regret* that the Committee's work is hindered by lateness and insufficient quality of responses by some Parties concerned, and, in some cases, also by their refusal to respond and to cooperate; and urges Parties to facilitate the Committee's work in

⁷ ECE/MP.EIA/2020/[...]-ECE/MP.EIA/SEA/2020/[...], paras. [...], respectively.

good faith by providing it with the requested information in a timely manner and in good quality;

10. *Considers*, following the opinions of the Committee, that:

(a) Appendix IV of the Convention regarding the inquiry procedure is not applicable unless the preconditions in article 3 (7) had been met. Namely:

(i) When a Party considers that it would be affected by a significant adverse transboundary impact of a proposed activity listed in appendix I, and when no notification had taken place in accordance with article 3 (1), it might, in accordance with article 3 (7), request exchange of sufficient information for the purposes of holding discussions on whether there was likely to be a significant adverse transboundary impact. The affected Party should make its request as soon as it became aware of a proposed activity that it considered to have a likely significant adverse transboundary impact. The subsequent exchange should be conducted within a reasonable time frame.

(ii) Moreover, to implement article 3 (7) the concerned Parties should:

a. Exchange information that is sufficient and within the scope of the Convention for the purposes of holding discussions on whether there was likely to be a significant adverse transboundary impact. Moreover, if available, the Party of origin should provide the environmental impact assessment documentation for the proposed activity to the Party that considered itself affected;

b. Hold discussions on whether a significant adverse transboundary impact on the territory of the affected Party was likely; and document the outcomes of those discussions, preferably as joint statements or meeting minutes signed by the Parties concerned, or, as a minimum, as part of official correspondence;

c. Endeavor to agree on another method of settling that question.

(b) A notification by a Party of origin regarding a proposed activity under articles 2 (4) and 3 (1) of the Convention, followed by the indication by the affected Party of its intent to participate in the environmental impact assessment procedure further to article 3 (3) of the Convention, constituted a mutual agreement between the Parties concerned to apply the Convention. Consequently, and following the mutual agreement among the concerned Parties, the subsequent steps of the transboundary procedure should be finalized in accordance with the Convention prior to a decision to authorize or to undertake the proposed activity;

11. *Encourages* Parties to bring issues concerning their own compliance before the Committee;

12. *Requests* the Implementation Committee, to assist Parties in aligning their legislation with the Convention and the Protocol, as needed, and to the extent possible, including through cooperating with the secretariat in the context the technical assistance provided by the secretariat in accordance with the workplan for 2021-2023 adopted through decision VIII/2-IV/2;

13. *Urges* Parties to take into account in their future work the recommendations for further improving the implementation of and compliance with the Convention, including by strengthening national legislation, based on but not limited to the analyses on general compliance issues from the reviews of implementation, adopted by decisions III/1, IV/1, V/3, VI/1, VII/1 and VIII/5;

14. *Further urges* Parties to take into account in their further work the opinions of the Committee in the period from 2001 to 2020, and requests the secretariat to arrange for the revision of the informal electronic publication of these opinions to include the opinions of the Committee from 2019 and 2020;

15. *Adopts* the amendment to the operating rules of the Implementation Committee set out in the annex to this decision, which should be applied to any meeting and to any other conduct of business of the Committee and should be read together with and in furtherance of the structure, functions and procedures described in the appendix to decision III/2 of the

Meeting of the Parties to the Convention, as amended through decisions V/4 and VI/2 as well as decision V/6-I/6 of the Meeting of the Parties to the Convention and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, and requests the secretariat to arrange publication of the amended operating rules in electronic or paper format, as appropriate;

16. *Decides* to keep under review and to further develop the structure and functions of the Committee and its operating rules at its ninth session, in light of experience gained by the Committee in the interim, and with a view to enhancing the coherence and reducing duplication between the two sets of rules and to increasing use of videoconferencing and other online and electronic communication tools as effective means for managing the Committee's workload; and requests the Committee to prepare proposals, as it deems necessary, for submission to the Meeting of the Parties at its ninth session.

Annex to draft decision VIII/4: Amendment of the operating rules of the Implementation Committee

Considering that the deadline for the distribution of meeting documents to the Committee members is at least two weeks before the Committee's session at which they will be considered (as provided for in rule 10 of the operating rules of the Implementation Committee (decision IV/2, annex IV, as amended by decisions V/4 and VI/2, annex II)), adjust the deadline for Parties' submission of information to the Committee, as referred to in paragraph 4 of rule 11, from two to four weeks in advance of that session, so that that paragraph reads as follows:

"4. Generally, the Parties involved should present any new substantial information to the Committee through the secretariat at least **four** weeks in advance of the meeting at which the matter will be discussed."

2. Draft decision VIII/4a on compliance by Armenia with its obligations under the Convention in respect of its national legislation

The Meeting of the Parties to the Convention,

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

Recalling also its decision IV/2, paragraphs 15–19,⁸ its decision V/4, paragraphs 27–28,⁹ its decision VI/2, paragraphs 29–35,¹⁰ and decision IS/1a¹¹, concerning compliance by Armenia with regard to its national legislation for the implementation of the Convention,

Having considered the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its eighth session, in particular, the section concerning the steps taken by Armenia further to decision IS/1a¹²,

Recalling its decision VIII/4 on general issues of compliance with the Convention adopted at the eighth session,

Acknowledging the technical advice provided by the secretariat to the Government of Armenia to assist the country in bringing its legislation into line with the provisions of the Convention and the Protocol on Strategic Environmental Assessment, further to paragraph 35 of decision VI/2,

⁸ See ECE/MP.EIA/10.

⁹ See ECE/MP.EIA/15.

¹⁰ See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1.

¹¹ ECE/MP.EIA/27/Add.1 - ECE/MP.EIA/SEA/11/Add.1

¹² ECE/MP.EIA/2020/[...]-ECE/MP.EIA/SEA/2020/[...], paras. [...].

1. *Appreciates* the regular reports received from and the steps taken by the Government of Armenia further to decision IS/1a since the intermediary session of the Meeting of the Parties (Geneva, 5–7 February 2019);

2. *Welcomes* the information from the Government of Armenia that the amendments to its legislation and the relevant secondary legislation prepared to enhance the implementation of the Convention and the Protocol have been submitted for governmental consultations in December 2019;

3. *Endorses* the finding of the Implementation Committee that the Government of Armenia has not yet adopted the amendments and the secondary legislation, and that, therefore, it has not yet fulfilled the requests addressed to it under paragraphs 5 and 6 of decision IS/1a, despite steps taken since the intermediary session of the Meeting of the Parties;

4. *Reaffirms* its decision IS/1a, and requests the Government of Armenia to adopt as soon as possible the amended legislation and the relevant secondary legislation with a view to ensuring full compliance of its legislative framework with the Convention and the Protocol;

5. *Also requests* the Government of Armenia to provide the Implementation Committee with the text of the amended legislation and the relevant secondary legislation, once adopted, together with English translation thereof;

6. *Requests* the Implementation Committee to evaluate the amendments to the legislation and the relevant secondary legislation, once adopted, and to report to the Meeting of the Parties at its ninth session thereon.

3. Draft decision VIII/4b on compliance by Azerbaijan with its obligations under the Convention in respect of its national legislation

The Meeting of the Parties to the Convention,

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

Recalling also its decisions V/4, paragraphs 31–32,¹³ VI/2, paragraphs 38–44,¹⁴ and IS/1c¹⁵ concerning compliance by Azerbaijan with regard to its national legislation for the implementation of the Convention,

Having considered the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its eighth session¹⁶, in particular, the section concerning the steps taken by Azerbaijan further to decision IS/1c,¹⁷

Acknowledging the technical advice provided by the secretariat to the Government of Azerbaijan to assist the country in bringing its legislation in line with the provisions of the Convention and the Protocol on Strategic Environmental Assessment, further to paragraph 44 of decision VI/2,

Recalling its decision VIII/4 on general issues of compliance with the Convention adopted at the eighth session,

¹³ See ECE/MP.EIA/15.

¹⁴ See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1, paras. 38–44.

¹⁵ See ECE/MP.EIA/27/Add.1 - ECE/MP.EIA/SEA/11/Add.1

¹⁶ [add reference to the IC report to the MOP on related para numbers] ECE/MP.EIA/2020/X-ECE/MP.EIA/SEA/2020/X, paras. XX–XX.

¹⁷ ECE/MP.EIA/2020/X-ECE/MP.EIA/SEA/2020/X, paras. XX–XX.

1. *Appreciates* the regular reports received from the Government of Azerbaijan on the steps taken by it further to decision IS/1c since the intermediary session of the Meeting of the Parties (Geneva, 5–7 February 2019);

2. *Recognises* that further to the technical assistance provided to it by the secretariat, the Government of Azerbaijan has taken steps to align its national legislation also with the Protocol and encourages Azerbaijan to bring its legislation into full compliance with the Protocol and to ratify that treaty;

3. *Welcomes* the information from the Government of Azerbaijan that it has adopted two secondary regulations for the implementation of the Convention;

4. *Endorses* the finding of the Implementation Committee that, despite some steps taken since the intermediary session of the Meeting of the Parties, the Government of Azerbaijan has not yet fulfilled the request addressed to it in para 6 of decision IS/1c, and that, therefore, it remains in non-compliance with article 2, paragraph 2, of the Convention;

5. *Reaffirms* its decision IS/1c, and requests the Government of Azerbaijan to ensure, as soon as possible, that its environmental impact assessment legislation fully complies with the Convention including with regard to:

(a) Definitions referred to in article 1(v) of the Convention;

(b) The division of responsibilities between the competent authorities and a proponent, in particular in connection to 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 outcome of the environmental impact assessment 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 6(2) of the Convention;

(d) Provisions concerning interactions with the affected Parties further to articles 2, 3, 4, 5 and 6 of the Convention.

6. *Also urges* the Government of Azerbaijan to ensure the adoption of its secondary legislation on environmental impact assessment, covering inter alia the transboundary procedure, after having addressed the related recommendations that the international consultant to the secretariat provided to Azerbaijan in the framework of the technical assistance;

7. *Requests* the Government of Azerbaijan to report to the Implementation Committee on the progress made in bringing its legislation into conformity with the Convention by the end of each year or as specified by the Committee;

8. *Also requests* the Government of Azerbaijan to provide the Implementation Committee with the official English translation of its Law on Environmental Impact Assessment, other relevant laws and the adopted secondary legislation upon their entry into force;

9. *Requests* the Implementation Committee to evaluate the compliance of the environmental impact assessment legislation of Azerbaijan with the Convention and the progress made by the Government of Azerbaijan in that regard and to report thereon to the Meeting of the Parties at its ninth session.

4. Draft decision VIII/4c on compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets

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,

Recalling also its decision VI/2, paragraphs 48–64,¹⁸ and decision IS/1d¹⁹ concerning compliance by Belarus with regard to the construction of the nuclear power plant in Ostrovets,

Having considered the section concerning Belarus in the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its eighth session,²⁰

Recalling its decision VIII/4 on general issues of compliance with the Convention adopted at the eighth session,

1. *Notes* the annual reports provided by Belarus and Lithuania in 2018 and 2019 further to paragraph 59 of decision VI/2 and paragraph 20 of decision IS/1d;

2. *Notes* the steps taken by Belarus and Lithuania since the intermediary session of the Meeting of the Parties further to paragraphs 16–20 of decision IS/1d, but expresses concern regarding the limited progress made by the Parties concerned in addressing the requirements set out in paragraphs 17, 18, and 19 of that decision;

3. *Endorses* the finding of the Committee that Belarus and Lithuania have not yet fulfilled the requirements in paragraphs 17-19 of decision IS/1d;

4. *Reaffirms* its decision IS/1d and again encourages Belarus and Lithuania to comply with paragraphs 17-19 of that decision by the ninth session of the Meeting of the Parties, with a view to:

(a) Concluding the bilateral agreement for the implementation of the Convention further to article 8 of the Convention;

(b) Carrying out a post-project analysis, involving reaching an agreement on establishing a joint bilateral body and procedures for such analysis, in particular for ensuring sufficient public participation in the framework of the post-project analysis;

(c) Continuing bilateral expert consultations on issues of disagreement, including on matters that are beyond the scope of the Convention;

5. *Requests* the Governments of Belarus and Lithuania to report by the end of each year to the Implementation Committee on the progress made in implementing the above recommendations.

5. Draft decision VIII/4d on 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

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,

¹⁸ See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1.

¹⁹ ECE/MP.EIA/27/Add.1 - ECE/MP.EIA/SEA/11/Add.1

²⁰ ECE/MP.EIA/2020/[...]-ECE/MP.EIA/SEA/2020/[...] paras. [...]

Recalling also its decisions IV/2, paragraphs 7–14,²¹ V/4, paragraphs 17–26,²² VI/2, paragraphs 15–28,²³ and IS/1f²⁴ concerning compliance by Ukraine with regard to the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (Bystroe Canal Project),

Having considered the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its eighth session,²⁵ in particular, the section concerning the steps taken by Ukraine further to decision IS/1f,

Referring to a declaration of Ukraine of its genuine wish to bring the Bystroe Canal Project into compliance with the Convention,²⁶

Recalling the road map developed by Ukraine to bring the Bystroe Canal Project into compliance with the Convention that contains a non-exhaustive list of measures with regard to Phase I and Phase II of the Project, including: 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,²⁷

Recalling the intention of Ukraine to develop a new project for a “Bystroe Route” and to carry out a transboundary environmental impact assessment procedure on the new project in accordance with the Convention,²⁸

1. *Appreciates* the information received from the Government of Ukraine, further to paragraph 19 of decision IS/1f;

2. *Regrets* that, despite numerous explicit requests by the Meeting of the Parties and the Committee, Ukraine failed to confirm clearly and unambiguously that works with regard to Phase I of the Project had been suspended and the final decision repealed, and to provide complete information accompanied with corroborating documentation on bringing the Bystroe Canal Project in compliance with the Convention;

3. *Welcomes* the efforts demonstrated by the Government of Ukraine to follow the recommendations by the Meeting of the Parties in decision IS/1f, including with regard to the implementation of some steps listed in the road map,²⁹ such as carrying out an assessment of the damage to the environment and providing the Committee with the report on that assessment;

4. *Expresses deep concern* that only limited steps have been taken by Ukraine to bring the project into full compliance with the Convention and that the road map³⁰ has not been fully implemented;

5. *Expresses concern* that not all pieces of the secondary legislation to fully align Ukraine’s national legislation with the Convention have been adopted to date;

6. *Endorses* the findings of the Implementation Committee at its forty-seventh session that, despite some steps taken, Ukraine has not yet fulfilled 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, 17 of decision IS/1f;

7. *Declares* therefore that the caution to the Government of Ukraine issued at its fourth session is still effective;

²¹ See ECE/MP.EIA/10.

²² See ECE/MP.EIA/15.

²³ See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1.

²⁴ ECE/MP.EIA/27/Add.1 - ECE/MP.EIA/SEA/11/Add.1

²⁵ ECE/MP.EIA/2020/[...] - ECE/MP.EIA/SEA/2020/[...], paras. [...].

²⁶ ECE/MP.EIA/IC/2018/2, para. 34.

²⁷ *Ibid.*

²⁸ *Ibid.*

²⁹ *Ibid.*

³⁰ *Ibid.*

8. *Reiterates* that the continuation of dredging activities constitutes a further breach of the Convention³¹;

9. *Requests* the Government of Ukraine:

(a) To complete the alignment of its national legislation with the Convention and to report without delay on the status of adoption of the secondary legislation;

(b) To bring the project into full compliance with the Convention without delay;

(c) To consult with Romania on the implementation of the road map³²;

(d) To continuously inform Romania about existing monitoring results;

(e) To provide Romania with a copy of the Research Report on analysis of the impact of the environment of Danube River Delta conducted by the Ukrainian scientific research institute of ecological problems in 2019³³ for comments and observations,

(f) To consult Romania on the plan for compensatory and mitigation measures,

(g) To provide to the Implementation Committee:

(i) A consistent and complete list of all final decisions taken with regard to the phases I and II of the Project and amendments to them along with copies of all those decisions and their translation into English,

(ii) A list of all subsequent decisions repealing the mentioned final decisions along with copies of all those subsequent decisions and their translation into English,

(iii) A copy of the decision confirming clearly and unambiguously that with regard to phase I of the Project works were stopped or suspended and the English translation thereof;

10. *Encourages* the Governments of Ukraine and Romania:

(a) To accelerate the preparation of the bilateral agreement or other arrangement to support further their implementation of the provisions of the Convention, as set out in article 8 of the Convention;

(b) To agree on the harmonized transboundary monitoring network of the environmental status of the Danube Delta, and

(c) To consult on the post-project analysis, according to article 7 of the Convention;

11. *Urges* the Government of Ukraine to ensure that the Convention is duly applied in the context of any future decision-making regarding similar activities, including for the planned new “Bystroe Route” project;

12. *Requests* the Government of Ukraine to report to the Implementation Committee on the progress made;

13. *Requests* the Implementation Committee to report to the Meeting of the Parties at its ninth session on its evaluation of the steps taken by the Government of Ukraine to comply with its obligations under the Convention.

³¹ ECE/MP.EIA/27/Add.1 - ECE/MP.EIA/SEA/11/Add.1, para 8.

³² ECE/MP.EIA/IC/2018/2, para. 34.

³³ ECE/MP.EIA/IC/2020/2, para. 28(a).

6. Draft decision VIII/4e on compliance by Ukraine with its obligations under the Convention in respect of the extension of the lifetime of the Rivne nuclear power plant

The Meeting of the Parties to the Convention,

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

Recalling also its decision VI/2, paragraphs 68–71³⁴ and decision IS/1g³⁵ concerning compliance by Ukraine with regard to the lifetime extension of reactors 1 and 2 of the Rivne nuclear power plant,

Having considered the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its eighth session, in particular, the section concerning the steps taken by Ukraine further to decision IS/1g,³⁶

Recalling its decision VIII/4 on general issues of compliance with the Convention adopted at the intermediary session,

1. *Notes* that Ukraine submitted some information concerning the ongoing transboundary environmental impact assessment procedure with regard to the extension of the lifetime of reactors 1 and 2 of the Rivne nuclear power plant, but expresses concern that, in 2019, Ukraine did not submit an annual report on its implementation of decision IS/1g further to paragraph 9 of that decision;

2. *Welcomes again* the adoption by Ukraine of the Law on Environmental Impact Assessment and related secondary legislation establishing legal provisions for the transboundary environmental impact assessment in accordance with the Convention, including for the extension of the lifetime of nuclear power plants;

3. *Expresses, however, concern* that not all the pieces of the secondary legislation to fully align Ukraine's national legislation with the Convention have been adopted;

4. *Also welcomes* some steps taken by Ukraine further to decision IS/1g, but expresses concern that Ukraine has not yet fully complied with that decision and that the transboundary environmental impact assessment procedure under the Convention with respect to the activity has not yet been completed;

5. *Endorses* the findings of the Implementation Committee at its forty-seventh session that, despite the positive steps taken, Ukraine has not yet fulfilled all its obligations referred to in paragraphs 4, 7(a), 7(b), 7(c) and 8 of decision IS/1g and that, therefore, it remains in non-compliance with its obligations under the Convention;

6. *Reaffirms* its decisions VI/2 and IS/1g and requests the Government of Ukraine:

(a) To ensure the adoption of the remaining secondary legislation to complete the alignment of its national legislative framework with the Convention;

(b) To complete the transboundary environmental impact assessment procedure regarding the activity with the affected Parties that wish to participate in that procedure, including Austria, Belarus, Hungary, Poland, Romania and Slovakia, by:

(i) Concluding consultations with authorities of the affected Parties based on the environmental impact assessment documentation as set out in article 5 of the Convention and finalizing the public participation procedure further to article 3(8), and article 4(2) of the Convention;

(ii) Revising the final decision on the lifetime extension of reactors 1 and 2 of the Rivne nuclear power plant, taking due account of the outcomes of the environmental

³⁴ See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1.

³⁵ ECE/MP.EIA/27/Add.1 - ECE/MP.EIA/SEA/11/Add.1

³⁶ ECE/MP.EIA/2020/[...]-ECE/MP.EIA/SEA/2020/[...], paras. [...].

impact assessment procedure, including the environmental impact assessment documentation and comments received from the affected Parties, further to article 6 of the Convention;

(iii) Providing the revised final decision to the affected Parties along with the reasons and considerations on which it was based as set out in article 6(2) of the Convention;

(c) Provide the Implementation Committee as soon as possible and no later than 1 April 2021 with a detailed timetable for implementing the steps foreseen in subparagraphs (a) and (b) above;

(d) Report by the end of each year to the Implementation Committee on the steps taken to complete the transboundary environmental impact assessment, ensuring that the report contains relevant corroborating information, including copies of the correspondence with the Parties concerned.

7. *Requests* the Committee to report to the Meeting of the Parties to the Convention at its ninth session on compliance by Ukraine in respect of the lifetime extension of reactors 1 and 2 of the Rivne nuclear power plant.

7. Draft decision IV/4 on review of compliance with the Protocol

The Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol,

Recalling article 14, paragraph 6, of the Protocol on Strategic Environmental Assessment to the Convention on Environmental Impact Assessment in a Transboundary Context,

Also recalling decision V/6–I/6, of the of the Meeting of the Parties to the Convention and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol concerning the application of the compliance procedure of the Convention to the Protocol, and decisions II/2 and III/2 on the review of compliance with the Protocol,

Determined to promote and improve compliance with the Protocol,

Seeking to promote the identification, as early as possible, of compliance difficulties encountered by Parties and the adoption of the most appropriate and effective solutions for resolving those difficulties,

Having reviewed the structure and functions of the Implementation Committee under the two treaties, as adopted by the Meeting of the Parties to the Convention through its decisions III/2^a and VI/2,^b

Having also reviewed the operating rules adopted by decision IV/2,^c as amended by its decisions V/4,^d annex, and VI/2,^e annex II, and recognizing the importance of improving the effectiveness of the compliance mechanism under the Convention in view of the growing number and complexity of compliance issues brought before the Committee,

Recognizing the importance of rigorous reporting by Parties of their compliance with the Protocol, and noting the third review of the implementation of the Protocol^f based on Parties' answers to the questionnaires on the implementation of the Convention and the Protocol, as adopted in its decision VI/5,

Recalling that the compliance procedure is assistance-oriented and that Parties may make submissions to the Implementation Committee on issues regarding their compliance with the Protocol,

Noting that several compliance issues before the Committee related to or revealed shortcomings in the concerned Parties' national legislation to implement the Convention and/or the Protocol,

Acknowledging the secretariat's long-standing, donor-funded, technical assistance to countries in Eastern Europe, the Caucasus and Central Asia for aligning their legislation with the Convention and the Protocol, and encouraging the beneficiary countries to bring their legislation into full compliance with the two treaties and, if not yet Parties, to ratify them,

1. *Adopts* the Implementation Committee's report on its activities contained in document ECE/MP.EIA/2020/[...]-ECE/MP.EIA/SEA/2020/[...];

^a See ECE/MP.EIA/6.

^b See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

^c See ECE/MP.EIA/10.

^d See ECE/MP.EIA/15.

^e See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

^f ECE/MP.EIA/SEA/2020/8.

2. *Welcomes* the Committee's reports on its sessions in the period following the third session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol;
3. *Requests* the Implementation Committee:
 - (a) To keep the implementation and application of the Protocol under review;
 - (b) To promote and support compliance with the Protocol, including by providing assistance in this respect, as necessary;
4. *Welcomes* the examination by the Committee of specific compliance issues identified in the second review of implementation of the Protocol[§] regarding Italy and Serbia, which:
 - (a) In the case of Italy [and Serbia] resulted in the Committee declaring its satisfaction with the clarifications provided by the Party, and
 - [(b) In the case of Serbia will require further consideration by the Committee at its upcoming sessions due to lack of the response by the Party concerned];
5. *Also welcomes* the examination by the Committee of the specific compliance issues identified in the first review of implementation of the Protocol regarding the European Union, [which will require further consideration by the Committee at its upcoming sessions;]
6. *Welcomes further* the examination by the Committee of information received from other sources, including the public, regarding Poland, Serbia, and Ukraine, which resulted in the Committee declaring its satisfaction with the clarifications provided by Ukraine, in the case of Serbia led to a Committee initiative, and in the case of Poland will require further gathering of information at its forthcoming sessions;
7. *Recognises* the efforts undertaken by the Committee this far to review the effectiveness and efficiency of its working methods and practice with a view to addressing a growing number and increasingly complex compliance issues brought before it; and invites the Committee to pursue this work in its subsequent sessions;
8. *Notes with regret* that the Committee's work is hindered by lateness and insufficient quality of responses by some Parties concerned, and, in some cases, also by their refusal to respond and to cooperate; and urges Parties to facilitate the Committee's work in good faith by providing it with the requested information in a timely manner and in good quality;
9. *Encourages* Parties to bring issues concerning their own compliance before the Committee;
10. *Requests* the Implementation Committee, to assist Parties in aligning their legislation with the Convention and the Protocol, as needed, and to the extent possible, including through cooperating with the secretariat in the context the technical assistance provided by the secretariat in accordance with the workplan for 2021-2023 adopted through decision VIII/2-IV/2;
11. *Urges* Parties to take into account in their further work the recommendations for further improving the implementation of and compliance with the Protocol, including by strengthening national legislation, based on but not limited to the analyses on general compliance issues from the reviews of implementation listed in its decisions II/1, III/1, and

[§] ECE/MP.EIA/SEA/2017/9, adopted by the Meeting of the Parties to the Protocol through decision III/1.

IV/5, as well as the Good Practice Recommendations on Public Participation in Strategic Environmental Assessment,^h endorsed by Parties through decision II/8 [and the Guidance on assessing health impacts in strategic environmental assessment, endorsed by Parties through decision IV/6];

12. *Adopts* the amendment to the operating rules of the Committee, set out in annex to decision VIII/4 of the Meeting of the Parties to the Convention;

13. *Decides* to keep under review and to further develop the structure and functions of the Committee and its operating rules at its fifth session, in light of experience gained by the Committee in the interim, and with a view to enhancing the coherence and reducing duplication between the two sets of rules and increasing use of videoconferencing and other online and electronic communication tools as effective means for managing the Committee's workload; and requests the Committee to prepare proposals, as it deems necessary, for submission to the Meeting of the Parties at its fifth session.

^h ECE/MP.EIA/SEA/2014/2.