

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

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
Second session

Geneva, 2–5 June 2014
Item 9 of the provisional agenda
**Panel discussion on the application of the Convention and
the Protocol to energy-related issues**

Information on panel discussion on the application of the Convention and the Protocol to energy-related issues

**To be held at the Palais des Nations, Geneva, (room XXVI) on
Thursday, 5 June 2014, from 11 a.m. to 1 p.m.**

I. Introduction

1. The panel discussion on the main achievements, lessons learned and remaining challenges in the application of the Convention and the Protocol to energy-related issues will be held further to the deliberations by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment at its second and third meetings. The focus on energy of the discussions was subsequently confirmed by the Bureau at its meeting in January 2014.
2. The panel discussion will take place during the high-level segment of the sixth session of the Meeting of the Parties to the Convention (MOP) and the second session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol (MOP/MOP). The high-level segment will be co-chaired by His Excellency, Mr. Valentinas Mazuronis, the Minister for Environment of Lithuania and the Minister of Natural Resources and Ecology of Ukraine, His Excellency, Mr. Andriy Mokhnyk.
3. The panel discussion will be moderated by Ms. Stefanie Held, Head of section, in the Sustainable Energy Division of the United Nations Economic Commission for Europe (ECE). It will comprise representatives from ministries, the European Commission, a non-governmental organization and academics.
4. The panel will begin with introductory remarks by the moderator presenting the key points by the panellists (*5 min per panellist*), and then with comments, questions and discussion among panellists. After that, the panel will be opened for questions and observations from the audience (interventions from the floor should be concise, precise and brief). The panel will proceed in two phases. The last ten minutes of the panel are reserved for concluding remarks by the moderator. The time allowed for this agenda item is 120 minutes in total.
5. The consolidated results of the panel discussion will be included in the report of the MOP and MOP/MOP sessions.

II. Provisional programme

10 a.m.–1 p.m. (120 min)

1. Introductory remarks by the moderator, Ms. Stefanie Held, Head of section, Division of Sustainable Energy, UNECE

2. Key points by panellists

Panel 1:

1. Prof. Thomas Bunge (Germany): Application of the Convention to Nord Stream gaz pipeline project
2. Mr. George Kremlis (DG Environment, European Commission): Application of transboundary EIA procedures to large-scale projects
3. Mr. Mihail Făcă (Romania): Application of the Convention to the Cernavodă nuclear power plant
4. Mr. Michael Kuske (DG Energy, European Commission): Role of Euratom and European Commission (DG Energy) in the field of nuclear safety

Panel 2:

5. Mr. Jiri Dusik (Integra consulting): Application of the Protocol on SEA to energy related plans and programmes, policies
6. Prof. Jerzy Jendrośka, (Opole university, Poland): Application of the Convention and the Protocol to energy related issues in Eastern-Europe, the Caucasus and Central Asia
7. Mr. Andriy Andrusevych (European EcoForum, Resource & Analysis Center “Society and Environment”): Application of the Convention to nuclear energy related issues; the critical need for SEA in countries in Eastern-Europe, the Caucasus and Central Asia in the energy sector; benefits of public participation and the need to engage the economic sectors into SEA application.

3. Comments by the panellists on the key points

4. Observations and questions from the audience to the panellists

5. Concluding remarks by the moderator (up to 10 minutes)

III. Key points/abstracts

Prof. Thomas Bunge will speak about the application of the Espoo Convention to the Nord Stream natural gas pipeline project cutting across the Baltic Sea from the Russian Federation to Germany, within the territorial waters and/or the exclusive economic zones of five countries of origin (Russia, Finland, Sweden, Denmark, and Germany). A special feature of the project was that each country of origin was at the same time affected country by parts of the project outside its territorial control. The project also affected Estonia, Latvia, Lithuania and Poland. All concerned countries were Parties to the Convention, except the Russian Federation, which, although not a Party, agreed to apply the transboundary procedures under the Convention. After a short description of the project, the planning process (initiated in the late 1990s) and the EIA, including public participation, procedures, the speaker will focus on several lessons learned for the application of the Convention to complex projects, such as the development of additional procedural requirements to those set out in the Convention; establishment of multilateral bodies to facilitate continuous cooperation and dialogue; the possible harmonization of applicable EIA and public participation procedures and considerations relating to the permitting procedures; possible joint EIA procedures and final decisions.

Mr. Mihail Făcă will speak about the planned construction of units 3 and 4 at Cernavodă Nuclear Power Plant with a focus on issues encountered during the EIA procedure for the planned construction of the two units. The construction of the power plant began in the 1980's. However, due to insufficient resources and changed environmental circumstances, it is still an ongoing project. As units 1 and 2 had been completed before the entry into force of the Convention and the construction of unit 5 had been cancelled soon after, the Government considered that an extensive transboundary EIA procedure was required for units 3 and 4. In particular the transboundary EIA procedure lasted seven years: it involved notifications to six countries, public hearings in Bulgaria, as well as consultations with and on-site visits by Austrian authorities.

Mr. George Kremlis will present the EU environmental legislation and guidance documents, applicable for developing and authorizing energy projects, and will discuss how the existing EU rules related to environment and energy issues can contribute to sustainable growth of the EU economies. All of that has a bearing on the likely significant effects from energy related activities, and, thus, is of relevance to the application of the Espoo Convention and its Protocol.

In particular, Mr. Kremlis will focus on two Guidance documents: the Guidance document on the Application of the Environmental Impact Assessment Procedure for Large-Scale Transboundary Projects prepared the Commission services, together with EU Member States; and the Guidance for the Projects of Common Interest, energy projects under the TEN-E Regulation (Regulation (EU) No 347/2013), that was co-funded by the Connecting Europe Facility. The preparation of these documents was prompted by several recent large-scale energy projects, some of which are significant for the EU and its Member States (e.g. pipelines crossing the territory of EU Member States and of neighbouring countries) – and which are subject to the provisions of the Espoo Convention and its Protocol, if they are likely to cause significant adverse transboundary impact. The EU, and in particular the European Commission, has been attentive with regard to the implementation of such projects, and where necessary has provided guidance to clarify the applicable legal provisions, while highlighting best practices across the Union. In particular, as the authorization of large-scale projects that have significant transboundary adverse effects may create procedural challenges and impede project's implementation. The objective of the aforementioned Guidance documents is, therefore, to facilitate the authorisation and efficient implementation of such projects and encourage co-operation between the Parties involved, as well as it is addressed to developers, NGOs and other stakeholders.

Mr. Michael Kuske will speak about the role of Euratom and the European Commission (Directorate General for Energy) in the field of nuclear safety. While it is for each EU Member States to choose whether or not to invest in nuclear, the role of the EU is to develop – in the interest of all Member States – the most advanced legal framework for nuclear energy, meeting the highest standards of safety, security and non-proliferation. The actions of the EU in the nuclear field are mainly based on the Treaty establishing the European Atomic Energy Community (Euratom Treaty), which empowers the Euratom Community to act in the fields of research and technology, safety and radiological protection, nuclear investments and joint undertakings, supply policy, nuclear safeguards, common nuclear market and international relations. The Euratom Treaty is *lex specialis* in relation to the Treaty on the Functioning of the European Union (TFEU), i.e. in case of conflict between the two treaties, the rules laid down by the Euratom Treaty prevail. The Euratom Community keeps a separate legal personality from the EU, with implications especially for international relations and agreements. The Euratom Community is however fully integrated with the EU: it shares common institutions, most of the procedural rules and financial rules and has the same Member States.

The speaker will then outline responsibilities of DG-Energy, and in particular its Directorate D, for developing and implementing a European energy policy; which include: orienting and coordinating the implementation of action, policies and programmes; developing European legal framework for nuclear energy, including stringent safety standards. It has also defined obligations for Members States for the management of spent fuel and radioactive waste; and deals with decommissioning activities Bulgaria, Lithuania and Slovakia.

Mr. Jiri Dusik will focus on strategic environmental assessment (SEA). He will outline problems related to complexity of energy planning and the role SEA can play in this context. He will also present some key considerations that are typically addressed in SEA procedures for energy plans or programmes and call for the application of flexible environmental assessment tools for energy policies at the national level.

Prof. Jerzy Jendroska, will speak about the application of the Convention and the Protocol to energy related issues in Eastern-Europe, the Caucasus and Central Asia, addressing in particular the following issues. Specifically, his presentation will focus on the ability to fulfill obligations under the Convention and the Protocol and domestic EIA/SEA schemes; the current situation with domestic EIA/SEA schemes in Eastern Europe, the Caucasus and Central Asia – the legacy of expertiza/OVOS systems; and challenges for legislative reforms. Among the challenges, issues to be discussed include: special energy-related laws and general EIA/SEA schemes; synergy with obligations under the UNECE Industrial Accidents Convention; the need for early involvement of environmental authorities; key issues for the public participation procedure; and key issues for the transboundary procedure.

Mr. Andriy Andrusevych will address challenges in the UNECE region with respect to the implementation of the Convention and the Protocol to energy projects. He will first present the experience and the challenges in the application of the Convention in the field of nuclear energy. In that respect, he will also discuss the vision for the future recommendations (expected to be developed under the Convention's and the Protocol's workplan 2014–2017), and the need to provisionally apply existing outcomes and benefits of involving relevant international actors, such as International Atomic Energy Agency. He will then reflect on the critical need for the application of SEA in all UNECE countries in the energy sector, the benefits of public participation and the need to engage the energy sector in the application of the SEA procedures under the Protocol.

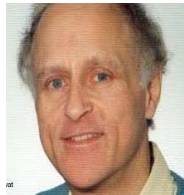
III. Speaker biographies

Stefanie Held (moderator)



Stefanie Held is a section head in UNECE's Sustainable Energy Division. Ms Held has extensive experience both in the public and private sectors and in networking organisations, where she headed a number of energy and climate related posts targeting technology and policy interventions, analytical and empirical studies and issues management in renewable energy, fossil fuels, end-use technologies and technology collaboration. She has most recently been active on the financing of renewable energy in the International Renewable Energy Agency (IRENA). Prior to that she worked for the International Energy Agency (IEA), where she headed the world's largest energy technology network, established and facilitated by the IEA, and was also responsible for the operationalizing of an International Low-Carbon Energy Technology Platform to orchestrate efforts in key countries and spearhead international advocacy and partnerships. A chemical engineer by training, Ms Held has specialised in a number of environmental issues related to oil, gas, chemicals and mining, and was involved in studies about nuclear waste management. She holds a Masters of Sciences in Chemistry and an MBA from IMD.

Thomas Bunge



Thomas Bunge, born in 1948 and now retired, has served as a director and professor with the German Federal Environmental Agency, mainly in the field of environmental assessment. In this capacity, he has been involved, in particular, in the development of the national legal and administrative basis for EIA and SEA, and has supervised various research projects relating to these matters. As far as UNECE activities are concerned, he has taken part in the negotiations both of the Espoo Convention and the SEA Protocol, and later for many years in the activities of the Working Group under these treaties. He has also been involved in European Union activities concerning EIA and SEA. Apart from these subjects, he has, inter alia, participated in the negotiations of the Vienna Convention for the Protection of the Ozone Layer (1985) and the subsequent Montreal Protocol (1987).

In addition, he has for a large number of years taught environmental and planning law as an honorary professor at the University of Technology of Berlin. His published work deals mostly with matters concerning EIA and SEA, but also, among other subjects, with the Aarhus Convention and its implementation in German law.

George Kremlis



Georges Kremlis started his career in the European Union in 1981. Currently he is the Head of the "Cohesion Policy and Environmental Impact Assessments" Unit in the Directorate-General for the Environment of the European Commission. He joined as a Head of Unit in 1995 and has served since then as the Head of the Legal and the Governance Units. Before joining the Directorate-General for the Environment, he was a Legal advisor in the Commission's Legal Service, with an interruption of three years (1990–1993) in Greece when he exercised the functions of Advisor to the Greek Minister of National Economy, National co-ordinator for

the European Community internal market, Head of the European Community Committee under the Greek Prime Minister and Secretary-General for European Affairs in the Ministry of National Economy. He is a Founding and Honorary President and Founding member of a number of different European and International Associations, and a visiting professor in a number of European universities, such as Athens Law School, University Centre of Nancy and University Centre of Luxembourg. He has organized and participated as a moderator or speaker in various seminars on European Union policy and/or law across the Union.

Mihail Făcă



Since November 2013, Mr. Făcă has been, Secretary of State with the Ministry of Environment and Climate Change of Romania. Prior to that, Mr. Făcă held the positions of President of the Romanian Environment Agency and of Public Manager of the Prahova County of Romania. Between 2000 and 2004, he served as Member of the Romanian Parliament. An engineer by training, Mr. Făcă has specialized in environmental issues of the oil industry. Before his election as a Member of Parliament, he was involved in the business sector and worked with several Romanian companies in the fields of environmental protection as well as industrial processes and management. Mr. Făcă holds a doctoral degree in mechanics from the University Politehnica of Bucharest

Michael Kuske



Michael Kuske has been with the European Commission since 1987, working in the field of nuclear energy, radioactive waste management and nuclear safety. Mr. Kuske holds a doctor's degree in law. In 2011, he took his current position as the Deputy Head of Unit "Nuclear Safety architecture and multilateral & international cooperation" in the European Commission's Directorate General for Energy. Before this, from 2004 to 2010, he was the Head of Sector dealing with Legal Affairs related to European Atomic Energy Community (Euratom) coordination and international relations, and before that (1997-2008) served as a legal officer in the Directorate General for Environment and the Directorate General for Transport and Energy. He has also worked for the Directorate General for the External Relations (1993-1997), in the Moscow delegation, as the Second Secretary, focusing inter alia on corresponding Technical Assistance to the Commonwealth of Independent States (TACIS) projects.

Jiří Dusík



Jiří Dusík is a Managing Partner at Integra Consulting with offices in Prague and Hong Kong. He specializes on strategic environmental assessments (SEA) and integration of environmental issues into planning and policy-making processes. During the last 20 years, he managed or supervised over 40 SEAs in 15 European and Asian countries. Mr. Dusík led preparation of the EC Handbook on SEA in European Union's Cohesion Policy 2007-2013 and co-authored the UNECE manual for the Practical Application of the SEA Protocol to the Convention on EIA in a Transboundary Context. He served on the Board of Directors of International Association for Impact Assessment (IAIA) and was

honored with a prestigious '2007 IAIA Individual Award' for an outstanding contribution to development of SEA capacities in Eastern Europe and South Asia.

Jerzy Jendrośka



Jerzy Jendrośka is the Managing Partner of Jendroska Jerzmanski Bar & Partners, which is an environmental law firm based in Poland; and Adjunct Professor of European and International Law at Opole University, and of Environmental Law at Wrocław University. He has been heavily involved in a number of international negotiations, including serving as the Vice-Chair of the SEA Protocol negotiations (2001-2003) and Aarhus Convention negotiations (1996-1998), as the Secretary to the Aarhus Convention (1998-1999) and as the vice-Chair (1999-2002) and later the Chair (2002-2003) of the Aarhus Convention Bureau. He currently serves as an arbitrator at the Permanent Court of Arbitration in The Hague (since 2002) and as a member of the Implementation Committee of the Espoo Convention (since 2004) and Aarhus Compliance Committee (since 2005). He has authored or edited 29 books and more than 250 articles on environmental law. Mr. Jendrośka obtained his Master of Laws from Wrocław University and Ph.D. from the Institute of Law at the Polish Academy of Sciences in Warsaw. He also received a Diploma in International Law from the Vienna University Summer School.

Andriy Andrushevych (European ECO Forum)



Andriy Andrushevych is member of the Governing Board and Policy Expert at Resource & Analysis Center "Society and Environment", an environmental think-tank organization in Ukraine. Formerly lecturer of International Environmental Law, Environmental Human Rights and Dispute Resolution in International Relations at Lviv National University (2002-2009), holds Masters in International Relations (1998). Mr. Andrushevych has several years of experience working with environmental public interest law organizations. Andrushevych is a member of the Public Participation and Campaigns Committee, the steering committee for Public Participation Campaign of the European ECO Forum, a coalition of environmental NGOs from all parts of Eurasia; a member of the ECO Forum delegation within the Aarhus and Espoo Convention, and SEA Protocol bodies; and has participated in work of various working groups and task forces within Aarhus and Espoo Conventions such as the Task Force on Public Participation in International Forums, Task Force on Access to Justice and general Working Groups of the Parties. As European ECO Forum Legal Focal Point for Eastern Europe, Caucasus and Central Asia he has extensive experience in promoting implementation of and compliance with multilateral environmental agreements, especially the Aarhus and Espoo Conventions. He authored several publications in the area of environmental human rights, international environmental law and compliance mechanisms under multilateral environmental agreements.