



## Economic and Social Council

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### 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

#### Implementation Committee

Forty-ninth session

Geneva, 2–5 February 2021

### Report of the Implementation Committee on its forty-ninth session

#### I. Introduction

1. The forty-ninth 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 2 to 5 February 2021. Due to coronavirus disease (COVID-19)-related restrictions on physical meetings and travel, the session was held using videoconferencing. In the absence of the Committee members requiring interpretation into Russian, the session was held without interpretation.

#### A. Attendance

2. The following members of the Implementation Committee for Convention and Protocol matters attended the session: Mr. Christian Baumgartner (Austria), Mr. Anders Bengtsson (Sweden), Ms. Barbora Donevová (Slovakia), Mr. Joe Ducombe (Luxembourg), Ms. Maria do Carmo Figueira (Portugal), Ms. Zsuzsanna Pocsai (Hungary), Ms. Aysel Rzayeveva (Azerbaijan), Ms. Heidi Stockhaus (Germany), and Mr. Lasse Tallskog (Finland).

## **B. Organizational matters**

### **1. Membership of the Committee**

3. In accordance with paragraph 1 (c) of the structure and functions of the Implementation Committee and procedures for review of compliance (ECE/MP.EIA/6, annex II, appendix), as amended (ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1, decision VI/2, annex I),<sup>1</sup> the Committee elected Mr. Ducomble as its Chair, Ms. do Carmo Figueira as its first Vice-Chair and Mr. Baumgartner as its second Vice-Chair.

4. The secretariat announced the list of alternate members that the elected Parties had appointed to replace any permanent member(s) unable to participate: Ms. Leyla Aliyeva (Azerbaijan), Ms. Judith Scheer (Luxembourg), Mr. Christof Sangenstedt (Germany), Mr. Roman Skorka (Slovakia), Ms. Christina Olson Lundh (Sweden), Ms. Charlotta von Troil (Finland), Ms. Águeda Silva (Portugal). Hungary was currently finalizing alternate members' appointments and would inform the secretariat by the Committee's next session. Noting that, as a judge, the Committee member nominated by Austria, had independence from the executive branch of Government, the Committee invited Austria to complete its pending nomination of an alternate member and asked the secretariat to remind the national focal point of Austria of that requirement.

### **2. Adoption of the agenda**

5. The Committee adopted its agenda (ECE/MP.EIA/IC/2021/1),<sup>2</sup> prepared by the Convention secretariat in agreement with Mr. Romas Švedas (Lithuania) (Chair of the Committee until the eighth session of the Meeting of the Parties to the Convention and the fourth session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol (Meeting of the Parties to the Protocol) (Vilnius (online), 8–11 December 2020)).

### **3. Review of decisions by the Meeting of the Parties**

6. The Committee reviewed decisions taken by the Meetings of the Parties to the Convention and the Protocol at their eighth and fourth sessions, respectively, in particular on the reviews of implementation of the Convention and the Protocol, the review of compliance with the Convention and the Protocol and the adoption of the workplan (see ECE/MP.EIA/30–ECE/MP.EIA/SEA/13 and Add.1, Add.2 and Add.3).

## **II. Follow-up to decisions VIII/4 a–e**

7. Discussions on the follow-up to decisions VIII/4 a–e<sup>3</sup> were closed to observers, in accordance with rule 17 (1) of the Committee's operating rules.<sup>4</sup>

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<sup>1</sup> Consolidated text available at [www.unece.org/environment-policy/environmental-assessment/implementation-committee.html](http://www.unece.org/environment-policy/environmental-assessment/implementation-committee.html).

<sup>2</sup> Meeting documents available at <https://unece.org/environmental-policy/events/implementation-committee-espoo-convention-49th-session>.

<sup>3</sup> ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

<sup>4</sup> See

[https://unece.org/DAM/env/eia/documents/ImplementationCommittee/2014\\_Structure\\_and\\_functions/Implementation\\_Committee\\_structure\\_functions\\_procedures\\_rules\\_e\\_2014.pdf](https://unece.org/DAM/env/eia/documents/ImplementationCommittee/2014_Structure_and_functions/Implementation_Committee_structure_functions_procedures_rules_e_2014.pdf).

### **A. Armenia (EIA/IC/CI/1)<sup>5</sup>**

8. The Committee followed up on decision VIII/4a on compliance by Armenia with its obligations under the Convention in respect of its national legislation. Further to paragraph 5 of that decision, the Committee asked its Chair to invite Armenia to inform the Committee of the amended legislation's date of adoption immediately once adopted and to submit the text of the amended legislation and the relevant secondary legislation together with the English translation within 30 days after said adoption for the Committee's evaluation. Should the legislative process still be ongoing, Armenia should be invited to inform the Committee, in advance of its fifty-first session (Geneva, 4–7 October 2021), by 1 September 2021, of progress made in implementing decision VIII/4a and adopting the amended legislation.

### **B. Azerbaijan (EIA/IC/CI/2)**

9. The Committee followed up on decision VIII/4b on compliance by Azerbaijan with its obligations under the Convention in respect of its national legislation in the absence of the Committee member nominated by Azerbaijan.

10. The Committee noted that, according to the report by Azerbaijan to the secretariat within the EU4Environment programme, as of late January 2021, the draft regulations on environmental impact assessment and strategic environmental assessment had been in the final stages of the inter-ministerial review process.

11. Further to paragraphs 7 and 8 of decision VIII/4b, the Committee asked its Chair to invite Azerbaijan to inform the Committee about the date of adoption of the regulations referred to in paragraph 10 above immediately once adopted and to submit the official English translation of its Law on Environmental Impact Assessment, other relevant laws and the adopted secondary legislation upon their entry into force for the Committee's evaluation. Should the legislative process still be ongoing, Azerbaijan should be invited to inform the Committee, in advance of its fifty-first session, by 1 September 2021, of progress made in implementing decision VIII/4b.

### **C. Belarus (EIA/IC/S/4)**

12. The Committee followed up on decision VIII/4c on compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets. Further to paragraph 5 of that decision, Parties were requested to report annually to the Committee on progress made in implementing the requirements set out in paragraphs 17–19 of decision IS/1d with a view to the Committee evaluating that progress and reporting thereon to the Meeting of the Parties at its ninth session (preliminarily scheduled for 12–15 December 2023).

13. Considering the Committee's schedule for preparing draft decisions for consideration by the Meeting of the Parties at its ninth session and the schedule of its sessions in the 2021–2023 intersessional period (see para. 97 below), the Committee proposed deadlines for the Parties concerned to submit their annual reports and required additional updates as presented in the table below. When setting those deadlines, the Committee also referred to its operating rule 11 (4), requiring the Parties to: "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."

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<sup>5</sup> See <https://unece.org/environment-policy/environmental-assessment/committee-initiative-overview>.

**Reporting schedule on decision VIII/4c**

<i>Reporting year</i>	<i>Deadline for submission of annual report or update on implementation of decision VIII/4c</i>	<i>Session at which Committee will consider information from Parties concerned</i>	<i>Preparation of draft decisions</i>
2021	1 September (annual report)	Fifty-first session (4–7 October)	-
2022	15 August (annual report)	Fifty-fourth session (20–23 September)	-
2023	15 March (update)	Fifty-sixth session (2–5 May)	First draft decisions to be provided to Working Group on Environmental Impact Assessment and Strategic Environmental Assessment
	31 July (annual report)	Fifty-seventh session (5–8 September)	Draft decisions finalized and submitted to Meeting of the Parties
			Documents deadline: 19 September 2023

14. Consequently, the Committee agreed to invite Belarus and Lithuania to submit, by 1 September 2021, their annual reports for 2021 for consideration at its fifty-first session. The reports should focus on progress made by the two Parties in implementing decision VIII/4c and the requirements contained in decision IS/1d, paragraphs 17–19. In the letter to Belarus, the Chair should draw its attention to decision IS/1d, paragraph 16, urging it to apply the Convention in the future regarding a proper evaluation of reasonable alternatives.

15. The Committee noted information from Lithuania, dated 1 February 2021, containing the 2020 report of Lithuania on the implementation of decision IS/1 d that it had received during its current session, on 2 February 2021, too late for consideration at the current session. Following its agreed schedule (see table above), the Committee agreed to consider that information and the expected 2021 annual report at its fifty-first session. Belarus should be invited to cover the remaining period for 2020 in its 2021 annual report.

**D. Ukraine****1. Bystroe Canal Project (EIA/IC/S/1)<sup>6</sup>**

16. The Committee followed up on 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 (Bystroe Canal Project). Further to paragraph 7 of that decision, the Committee asked its Chair to write to Ukraine inviting it to report to the Committee following the previous reporting format on the steps taken by it to address the recommendations and requests set out in paragraphs 4–12 and 14 of decision VIII/4d.

<sup>6</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics1-ukraine>.

17. With reference to paragraph 13 of decision VIII/4d, Ukraine and Romania should be invited to inform the Committee of steps taken by them to enhance their bilateral cooperation to implement the Convention

18. Furthermore, Romania should be invited to update the Committee on cooperation with Ukraine under the road map to bring the Bystroe Canal project into compliance with the Convention and the transboundary procedure for the new “Bystroe Route” project, as referred in paragraphs 4 (b), 7, 12 (b)–(d) and 14 of decision VIII/4d.

19. The Parties should be requested to provide their information by 1 April 2021 for the Committee to continue its deliberations at its next session.

## 2. Rivne nuclear power plant (EIA/IC/CI/4)<sup>7</sup>

20. The Committee followed up on 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 in the absence of the Committee members nominated by Austria, Hungary and Slovakia, who declared a conflict of interest on the matter.

21. The Committee examined information transmitted from Austria to Ukraine, dated 22 January 2021, noting with concern that the Board of the State Inspectorate for Nuclear Regulation of Ukraine had taken a decision on the lifetime extension of unit 1 of the Rivne nuclear power plant for a further 10 years while the transboundary procedure with Austria had still being ongoing. On 22 January 2021, Austria, in the context of bilateral expert consultations pursuant to article 5 of the Convention, had transmitted to Ukraine an assessment of the environmental impact assessment documentation by an independent expert (the expert statement). Further to articles 3 (8) and 4 (2) of the Convention, Austria on that same date had also transmitted to Ukraine comments received from Austrian provinces and its general public. Out of courtesy, it had shared with Ukraine comments received by it from some non-Austrian non-governmental organizations (NGOs).

22. Further to decision VIII/4e, the Committee invited its Chair to write to Ukraine requesting it to comply with paragraph 6 (a) of decision VIII/4e and to complete without delay the transboundary environmental impact assessment procedure in order to reach compliance with the Convention. The Chair should draw the attention of Ukraine to article 6 of the Convention and request Ukraine to provide the Committee, by 1 April 2021, with actual information regarding the status of the transboundary environmental assessment procedure and a detailed timetable and the update on the steps taken by Ukraine to implement the steps foreseen in subparagraph 6 (a) of decision VIII/4e, including relevant corroborating information, such as the correspondence with the Parties concerned.

23. To enable the Committee’s deliberations at its next session, the Chair should also invite the Parties concerned to update the Committee by 1 April 2021 on the status of the transboundary procedure with Ukraine regarding the matter and to provide to it any other relevant information.

## III. Submissions<sup>8</sup>

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

<sup>7</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaicci4-ukraine>.

<sup>8</sup> See <https://unece.org/submissions-overview>.

## A. Serbia (EIA/IC/S/6)<sup>9</sup>

25. 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 production of zinc, lead and other metals at the Grot mine.

26. The Committee examined replies from Serbia, dated 6 January 2021, in response to the Committee's letters of 17 April 2020 and 28 October 2021. The Committee noted with appreciation the additional information provided by Serbia, expressing regret, however, that most of the Committee's questions about the activities and the related transboundary procedures remained unanswered. It drew the attention of Serbia to the fact that Parties had a responsibility to respond to the Committee's inquiries in a timely and comprehensive manner (see ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2, decision VIII/4, para. 11, and art. 14 bis of the Convention).

27. Further to its decision at its forty-eighth session (Geneva, 1–4 September 2020), the Committee agreed to hold the discussions on the submission under paragraph 9 of the Committee's structure and functions and procedures for review of compliance (ECE/MP.EIA/6, annex II, appendix) with Serbia and Bulgaria at its fiftieth session (Geneva, 4–7 May 2021) (ECE/MP.EIA/IC/2020/4, para. 32). Building on its previous questions,<sup>10</sup> the Committee agreed on the non-exhaustive list of questions to be considered during the discussions. Moreover, it considered that it needed additional clarifications on:

(a) Processing of copper, lead and zinc ore at the Karamanica pilot flotation facility:

(i) From Serbia on:

a. Whether the activity had been in operation after the issuing on 27 November 2019 of decision 480-501-00133/2/2019-07 halting lead-zinc ore flotation processing;

b. If so, Serbia should inform the Committee whether the operation of the lead-zinc ore flotation processing had ever been terminated further to decision 480-501-00133/2/2019-07 and why it had restarted, providing copies of the related Government decisions and the English translation thereof;

c. The status of the court procedure and a copy of the court decision further to the operator's appeal and the English translation thereof, if available;

(ii) From Bulgaria on Reasons why Bulgaria had not responded to Serbia within the time specified in the notification (six weeks after receiving the notification on 16 August 2016) informing Serbia that it needed additional time to decide on its participation in the transboundary procedure and requesting an extension of the deadline for the submission of its response to the notification in accordance with article 3 (3) of the Convention;

(b) The bilateral cooperation between Bulgaria and Serbia on:

<sup>9</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics6-serbia>.

<sup>10</sup> ECE/MP.EIA/IC/2020/2, para. 46, and ECE/MP.EIA/IC/2020/4, paras. 27–30.

- (i) Steps taken by both Parties further to the Committee's letter dated 28 October 2020 to enter into bilateral discussions regarding the activities subject to the Committee's consideration (Karamanica pilot facility, activities at the Podvirovi, Popovica and Grot mines) with a view to identifying possible solutions to disagreements;
- (ii) Whether both Parties had any programme for joint monitoring of the water quality in the Dragovishtitsa River.

28. The Committee asked its Chair to invite both Parties to the hearings on 5 May 2021 and to transmit the non-exhaustive list of questions furnishing the Parties with the context for the planned discussions on each proposed activity and the related transboundary procedure. The secretariat was asked to exceptionally transmit copies of those letters addressed to the national focal points to the permanent missions of the Parties concerned, inviting them to facilitate the provision by the Parties, by 1 April 2021, of responses to the Committee's questions.

29. The Committee asked the secretariat to write to Bulgaria inviting it to clarify the status of its letter of 26 October 2020. If the letter were to be considered by the Committee as an official submission by Bulgaria expressing its concerns about compliance by Serbia with its obligations under the Convention, Bulgaria should submit a formal letter with a minimum of information about the activity in Serbia supported by the corroborating information.

## **B. Albania (EIA/ICS/7)<sup>11</sup>**

30. The Committee continued its consideration of the submission by Montenegro expressing concern about compliance of Albania with its obligation under the Convention with respect to the planned construction of several small hydropower plants on the Cijevna/Cem River, received by the secretariat on 25 September 2019. The Committee welcomed information from Montenegro, dated 11 January 2021, regarding the definitive plans to continue the Parties' dialogue under article 2 (5) of the Convention regarding the activities at the second bilateral meeting of the Albanian-Montenegrin Water Management Commission of Shared Interest.

31. It also welcomed the information from the secretariat about a second round of consultations with Albania and Montenegro that took place on both days of the twelfth meeting of the Implementation Committee under the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention) (Geneva, 4 and 5 February 2021) as part of the advisory procedure concerning similar activities in the Cijevna/Cem River basin. For its consideration at the next session, the Implementation Committee under the Espoo Convention and its Protocol asked the secretariat to prepare an update regarding the advisory procedure in question.

32. The Committee asked its Chair to write a letter to both Albania and Montenegro:

- (a) Inviting them to update it on the outcome of the second bilateral meeting (see para. 30 above), and to provide any other relevant information on the matter by 5 April 2021;
- (b) Indicating that, in the Committee's view, the information provided by the Parties so far was sufficient for it to conclude that discussions between the Parties under article 2 (5) of the Convention regarding the activities had been launched successfully and were ongoing efficiently, thus the Parties' obligations under article 2 (5) of the Convention had been fulfilled. Subsequently, at its next session, the Committee would consider

<sup>11</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics7-albania>.

terminating its consideration of the matter in case, based on the new information, there were no grounds for it to pursue the case further.

### **C. Bosnia and Herzegovina<sup>12</sup>**

33. The Committee noted the submission by Montenegro expressing its concerns about compliance by Bosnia and Herzegovina with its obligations under the Convention and the Protocol in respect of the construction of Buk Bijela and Foča hydropower plants on the Drina River, received by the secretariat on 11 December 2020.

34. The Committee also took note of the communication sent by the secretariat to the focal point of Bosnia and Herzegovina on 17 December 2020, forwarding the submission with the corroborating information, in conformity with paragraph 5 (a) of the appendix to decision III/2 (ECE/MP.EIA/6, annex II). The Committee noted that, at its fiftieth session, it would consider the official submission by Montenegro, following receipt of the reply requested from Bosnia and Herzegovina by 17 March 2020. Consequently, at its current session, the Committee withheld from addressing any substantive issues regarding the submission.

35. Further to its deliberations at its forty-eighth session concerning information it had gathered on the activity further to the information of 15 May 2020 with respect to Buk Bijela hydropower plant from four NGOs,<sup>13</sup> the Committee noted the response by Bosnia and Herzegovina, dated 5 January 2021, to its letter of 2 November 2020. The Committee decided to consider the information gathered under the present submission. It requested the secretariat to inform the NGOs and Bosnia Herzegovina accordingly. To increase the efficiency of the Committee's work at its next session, the Committee agreed to transmit, in the absence of any objections from Bosnia and Herzegovina by 26 February 2021, the letter from Bosnia and Herzegovina to Montenegro for comments and observations by 1 April 2021.

## **IV. Committee initiative<sup>14</sup>**

### **A. Serbia (SEA/IC/CI/1)<sup>15</sup>**

36. The Committee continued its consideration of its initiative concerning compliance of Serbia regarding 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 in the absence of the Committee member nominated by Hungary, who declared a conflict of interest on the matter.

37. Further to its decision at its forty-eighth session and in line with paragraph 9 of its structure and functions, the Committee had held discussions online with Serbia concerning the matter on 10 November 2020 (see annex I below) (ECE/MP.EIA/IC/2020/4, para. 39).

38. At the current session, the Committee first examined the information from Croatia, dated 7 January 2021, from Hungary, dated 19 January 2021, and from Romania, dated 12 January 2021. It noted that Romania had not provided an explicit answer to the Committee's question concerning the Energy Strategy. Croatia considered that there was no need for it to

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<sup>12</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics8-bih>.

<sup>13</sup> EIA/IC/INFO/33.

<sup>14</sup> See <https://unece.org/environment-policy/environmental-assessment/committee-initiative-overview>.

<sup>15</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaicci6-serbia>.



activate the transboundary procedure under article 10 of the Protocol regarding the Strategy as it had participated in the transboundary procedure on the Programme. Hungary also did not see a need to reopen the transboundary procedure under article 10 of the Protocol, as the Strategy had been adopted more than five years previously and its measures had already been partially implemented. Neither did Hungary see a need to reopen the transboundary procedure on the Implementation Programme. However, during the Programme's implementation, further to article 3 of the Convention, it wished to be informed and officially notified by Serbia on the projects that were likely to have adverse impacts on the environment of Hungary. All three Parties expressed their willingness to participate in the transboundary procedure regarding the new Energy Strategy. Hungary emphasized that, with a view to ensuring a faster and efficient administration of transboundary procedures, notifications and subsequent correspondence under the Convention and the Protocol should, preferably, be carried out through direct email between the points of contacts, whose contact details on the Treaties' website had been regularly updated by the secretariat.

39. The Committee then noted an email of 27 January 2021, in which Serbia stated that it had been developing and intended to adopt in 2021 "a Spatial Plan of the Republic of Serbia" containing a chapter related to energy. Serbia intended to carry out a transboundary procedure for the Spatial Plan in accordance with article 10 of the Protocol and planned to inform all the neighbouring countries accordingly. Noting with regret that Serbia had not responded to its letter dated 26 November 2020, the Committee asked its Chair to reiterate its requests concerning the new Energy Strategy and the related strategic environmental assessment procedure and to ask Serbia to respond without delay. The secretariat should transmit the Chair's letter to the national focal point of Serbia to the permanent mission of Serbia inviting it to facilitate the Party's response.

40. Lastly, the Committee agreed to continue drafting its findings and recommendations on the matter at its next session and requested the curator, with the assistance of the secretariat, to prepare the necessary inputs in advance of that session

## **B. Ukraine (EIA/IC/CI/7)<sup>16</sup>**

41. The Committee began consideration of its initiative concerning construction of a large tourism complex (Svydovets mountains, Ukraine), close to the border with Hungary and Romania in the absence of the Committee member nominated by Hungary, who declared conflict of interest regarding the matter. The Committee noted with regret that Ukraine had not responded to its letter dated 28 October 2020 and, according to correspondence from Hungary and Romania, of 11 and 12 February 2021 respectively, had not communicated with those Parties since July 2020.

42. Further to its deliberations at its forty-eighth session, the Committee agreed to hold discussions with all three Parties concerned, under paragraph 9 of the Committee's structure and functions, at its fifty-first session. It agreed to prepare a list of questions on which it would base its discussions with the Parties concerned at the next session and asked its Chair to inform the Parties concerned accordingly. In the letter to Ukraine, the Chair should request Ukraine to take the necessary steps to comply with its obligations under articles 2 (4) and 3 (1) and (7) of the Convention without delay and in the meantime to refrain from commencing the activity.

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<sup>16</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaicci7-ukraine>.

## V. Information gathering<sup>17</sup>

### A. Convention matters

#### 1. Belarus

43. The Committee considered its information gathering regarding the law of Belarus on State ecological expertise, strategic environmental assessment and environmental impact assessment. It recalled that, further to its preliminary assessment, said law had several deficiencies vis-à-vis the Convention.

44. It noted information from the secretariat that, since September 2020, with EU4Environment programme funding, it had been assisting Belarus in reviewing its primary and secondary legislation with a view to aligning it with the Convention and the Protocol. The review report and a rationale for amending the legislation were to be discussed with the national authorities at a round table preliminarily scheduled to take place at the end of March 2021, pending confirmation by the European Union.

45. To enable further consideration of the matter at its fifty-first session, the Committee invited the Chair to write to Belarus requesting it to provide the Committee by 1 September 2021 with information about steps taken or to be taken by it to bring its environmental impact assessment legislation into compliance with the Convention and the Protocol.

#### 2. Bosnia and Herzegovina

(a) *Ugljevik thermal power plant (EIA/IC/INFO/16)*

46. Due to the appointment of a new curator for the matter, the Committee agreed to continue its consideration of the matters regarding the planned construction by Bosnia and Herzegovina of a third block for the thermal power plant in Ugljevik at its next session.

(b) *Construction of Banovici thermal power plant (ECE/IC/INFO/23) and unit 7 at Tuzla thermal power plant (ECE/IC/INFO/24)*

47. The Committee continued its consideration of the matters regarding the planned construction by Bosnia and Herzegovina of a new thermal power plant in Banovici and unit 7 of the thermal power plant in Tuzla (planned activities). It examined: the outcomes of its informal consultations with Bosnia and Herzegovina, Croatia and Serbia regarding the activities that it had exceptionally held at a separate online session on 29 October 2020 (See annex II below); and the correspondence provided by the Parties in advance of the informal consultations and thereafter, in particular from Bosnia and Herzegovina, dated 17 February 2020, 10 December 2020 and 25 January 2021, from Croatia, dated 20 January 2021 and from Serbia, dated 27 February 2020.

48. Noting the views of Bosnia and Herzegovina on the Convention's applicability to the planned activities, the Committee held that, in the absence of any transitional provision governing the Convention's application prior to its entry into force, a transboundary environmental impact assessment procedure should be undertaken by a Party of origin prior to taking a decision to authorize or undertake a proposed activity falling under the scope of the Convention as set out in article 2 (3) thereof, unless the Party had deposited a specific reservation in that regard together with its instrument of ratification.

49. The Committee noted the absence of any reservations from Bosnia and Herzegovina declared in relation to its ratification of the Convention. It also noted that, according to the

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<sup>17</sup> See <https://unece.org/environment-policy/environmental-assessment/information-other-sources>.

information made available to it by Bosnia and Herzegovina, the first environmental permit for unit 7 of Tuzla thermal power plant (No. UP-I105-23-142/09) had been issued on 22 November 2010 and a decision to undertake the proposed activity in Banovici had been taken in June 2014. It concluded that both decisions had been issued after the Convention's entry into force in Bosnia and Herzegovina on 14 March 2010. Consequently, notification on both activities was necessary in case they fall under the scope of the Convention.

50. Subsequently, the Committee examined the information on the planned activities, finding that both activities had to be considered as thermal power stations with a heat output of 300 MW or more listed in paragraph 2 (a) of appendix I to the Convention. In addition, further to the information exchange and discussions regarding the planned activities under article 3 (7) with Bosnia and Herzegovina, both Croatia and Serbia had concluded that a significant adverse impact on their environment was likely and had expressed their wish to be notified under article 3 (1) of the Convention. In the light of the above and recalling its previous opinions that "even a low likelihood of a significant adverse transboundary impact should trigger the obligations of the Convention" (ECE/MP.EIA/IC/2020/4, para. 10) and that "notification is necessary unless a significant adverse transboundary impact can be excluded" (decision IV/2, annex I, para. 54), the Committee considered that the activities fell under the Convention's scope of application.

51. The Committee further discussed the probable need to apply the Convention to the amended permits issued further to the settlement agreements between Bosnia and Herzegovina and the energy community. In the Committee's preliminary view, modifications to the planned activities required under those agreements to ensure compliance with more stringent emission limit values set out by the Industrial Emissions Directive,<sup>18</sup> including the increase of the height of the flue gases stacks, might be qualified as a "major change to an activity" within the meaning of the Convention.

52. In the light of the above, the Committee agreed that the information available to it was sufficient to conclude on a profound suspicion of non-compliance by Bosnia and Herzegovina with its obligations under the Convention concerning the activities and that, further to paragraph 6 of the Committee's structure and functions, the Committee needed to begin a Committee initiative.

53. However, recalling that during the informal consultations Bosnia and Herzegovina had indicated that it was willing to notify the affected Parties in case, in the Committee's view, the application of the Convention was required, the Committee agreed first to inform the Party of the outcomes of its deliberation and to request it to notify Croatia and Serbia under article 3 (1) of the Convention without delay. Meanwhile, Bosnia and Herzegovina should refrain from taking any steps towards commencing the activity. With a view to enabling the Committee to draw its conclusions at its next session, the Committee asked the Chair to write to Bosnia and Herzegovina informing it accordingly and inviting it to update the Committee without delay on the steps taken by it to address the Committee's above request.

### **3. Denmark (EIA/IC/INFO/30)**

54. The Committee continued its deliberations on the compliance matter related to information received from Ukraine of 22 January 2019 concerning construction of a natural gas pipeline from the Russian Federation to Germany (Nord Stream 2 project), with Denmark, Finland, Germany and Sweden as Parties of origin. To avoid any direct or indirect conflict of interest, discussions under the agenda item were held in the absence of the members nominated by Finland, Germany and Sweden.

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<sup>18</sup> See <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32010L0075>.

55. The Committee noted information from Ukraine received on 16 November 2021 that it had informed Denmark on that same date that, based on the environmental impact assessment documentation provided to it by Denmark on 7 February 2020, Ukraine had concluded that a significant adverse impact on its environment from a Danish subsection of the Nord Stream 2 project was not likely. In the light of the above, the Committee agreed that Denmark and Ukraine had concluded their discussions under article 3 (7) of the Convention to the satisfaction of both Parties. It requested the Chair to write to Denmark and the Ukraine informing them that there was no need for it to pursue further its information gathering activities regarding the issue and requesting them to provide their agreement that the correspondence between the Committee, Denmark and Ukraine be placed on the Convention's website to illustrate the Committee's approach to information gathering. The Chair should also inform the other Parties concerned (Finland, Germany and Sweden) about the outcome of the Committee's deliberations on the matter and also invite them to provide their agreement that the correspondence between them and the Committee be placed on the Convention's website.

#### **4. Switzerland (ECE/IC/INFO/25)**

56. Owing to time constraints, the Committee decided to defer until its next session its deliberations concerning the planned changes by Switzerland at Zurich Airport, close to the border with Germany.

#### **5. Ukraine**

##### *(a) Khmelnytskyi nuclear power plant (EIA/IC/INFO/10)*

57. Further to the outcomes of its additional meeting held on 10 June 2020, the Committee continued its deliberations on the information it had gathered on the planned construction of nuclear units 3 and 4 at the Khmelnytsky nuclear power plant in Ukraine. The members nominated by Hungary and Slovakia declared a conflict of interest regarding the matter in question.

58. The Committee noted the request from Ukraine of 17 December 2021 to share with Ukraine the correspondence from the affected Parties (Austria, Belarus, Hungary, the Republic of Moldova, Poland and Slovakia) to the Committee regarding the matter and in turn to share the correspondence from Ukraine to the Committee with the affected Parties. In the view of Ukraine, sharing of the related correspondence among the Parties concerned would not only increase the transparency of the compliance mechanism under the Convention, but also would enable Ukraine to fulfil its obligations under the Convention concerning the activity more efficiently and within a reasonable time frame. With reference to its decision at its forty-fifth session (ECE/MP.EIA/IC/2019/4, para. 125), the Committee asked the secretariat to share with Ukraine the relevant correspondence from the Parties concerned, in the absence of any objections from them by 28 February 2021, and to transmit to them the correspondence to the Committee from Ukraine, as requested by Ukraine.

59. Noting information from Ukraine dated 14 August 2020 about the transboundary consultations regarding the activity, the Committee reiterated its concern that Ukraine had terminated the transboundary consultations with Hungary, the Republic of Moldova, Romania and Slovakia despite their willingness to participate and while the procedure with Austria, Belarus and Poland had been ongoing.

60. To enable its consideration at the next session, the Committee asked its Chair to write to Ukraine strongly requesting it to ensure that all the affected Parties were provided equal opportunities to participate in the procedure under the Convention and asking it to update the Committee by 1 April 2021 on:

- (a) Steps taken by it in that regard, if any;
- (b) The status of the transboundary procedure, including on whether the procedure had been concluded and the final decision had been taken.

61. The Chair should also invite Austria, Belarus, Hungary, the Republic of Moldova, Poland and Slovakia to provide any additional information concerning the matter by 1 April 2021.

(b) *Muzhiyevo goldmine (EIA/IC/INFO/13)*

62. The Committee continued its consideration of the information it had gathered concerning the planned activity related to mining at the Muzhiyevo goldmine (close to the border with Hungary) and its possible reopening by Ukraine. Discussions regarding the matter were held in the absence of the member nominated by Hungary, who declared a conflict of interest.

63. It examined information from Ukraine, dated 12 January 2021, noting with regret that a number of the Committee's questions in its letter dated 28 October 2020, including those regarding the activity, remained unanswered. In the absence of sufficient information, the Committee was unable to determine whether the activity qualified as an activity listed in appendix I to the Convention. The Committee also noted that, according to Ukraine, "the Hungarian Party did not confirm its participation" in the meeting regarding the activity that Ukraine invited it to participate in on July 16, 2019.

64. Hungary in its letter to the Committee, dated 11 January 2021, maintained that Ukraine had not responded to its reiterated requests for information and written consultations under article 2 (5) of the Convention, including in its letters dated 15 July and 14 November 2019 that had been copied to the Committee.

65. The Committee asked its Chair to write a letter to Ukraine, indicating that, in the Committee's view, a lack of a response by the Party of origin to requests of the potentially affected Party regarding an activity not listed in appendix I to the Convention and a failure of the Party of origin to furnish a potentially affected Party with information about the activity in the light of the criteria for determining significant adverse impact set out in appendix III to the Convention constituted non-compliance with article 2 (5) of the Convention.

66. Consequently, the Chair should invite Ukraine to: complete the discussions with Hungary under article 2 (5) of the Convention; provide Hungary with the written responses to its requests of 15 July and 14 November 2019; furnish Hungary with the environmental impact assessment report and the full documentation, including an assessment of the transboundary impact further to the criteria listed in appendix III to the Convention; and offer subsequent written and in-person discussions. Furthermore, should the proposed activity qualify as an activity listed in appendix I to the Convention, Ukraine should apply article 3 (1) and (7) of the Convention.

67. To enable its consideration of the matter at its next session, the Committee asked its Chair to invite Ukraine to update it on the status of the discussions with Hungary (see para. 66 above) and to provide, by 1 April 2021, full and complete answers to the Committee's questions addressed to it in the Chair's letter dated 28 October 2020 and to clarify the licensing procedure for the activity, in particular:

- (a) The date of issue of the original licence for the activity;
- (b) Whether the licence was time-limited;
- (c) Whether Ukraine had issued any subsequent licences.

68. Ukraine should substantiate its responses to the above questions with copies of all licenses issued and decisions taken by it regarding the activity and the English translation thereof, including but not limited to:

- (a) Environmental passport No. 07/06/02, of 9 November 2011;
- (b) Special licence No. 5495, of 19 March 2012;
- (c) Any decision of the Working Group on State Geological and Mineral Resources survey (protocol dated 15 August 2014, No. 11-14) cancelling the special licence further to the Cabinet of Ministers decision of 30 May 2011;
- (d) Any subsequent decisions amending the decision of the Working Group of 15 August 2014; decision 3.2 of the Commission of the Administrative Region of Zakarpattya from 23 April 2013 regarding assessment of waste dumps of Zakarpatpolimetalny Limited;
- (e) A licence to carry out ore dump disposal.

69. Lastly, the Chair should express the Committee's appreciation to Ukraine for providing a link to a complete set of the outcomes of the domestic environmental impact assessment procedure, drawing the attention of Ukraine to its operating rules 11 and 20, and invite Ukraine to provide, as separate enclosures to its correspondence to the Committee, a copy of the environmental impact assessment report, a copy of the conclusion on the environmental impact assessment and the English translation thereof.

## 6. Information gathering matters related to the lifetime extension of nuclear power plants

70. The Committee continued its consideration of the cases related to the lifetime extension of nuclear power plants. It noted information from the secretariat on the adoption by the Meeting of the Parties of the Guidance on the applicability of the Convention to the lifetime extension of nuclear power plants (ECE/MP.EIA/2020/9) and decision VIII/6 (ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2) recommending that the Parties take into account the contents of the Guidance when implementing the Convention and that the Committee consider the Guidance when performing its functions. The Committee agreed that, in parallel with the examination of the individual cases, it would continue discussing common approaches and findings in their regard, as relevant.

### (a) *Bulgaria: Kozloduy nuclear power plant (ECE/IC/INFO/28)*

71. Further to its considerations at its additional meeting, held online on 10 June 2020,<sup>19</sup> the Committee continued its consideration of the information it had gathered further to the information from Romanian NGO Actiunea pentru Renasterea Craiovei regarding the lifetime extension of units 5 and 6 of the Kozloduy nuclear power plant in Bulgaria, 3 km from the border with Romania. The Committee noted with regret that Bulgaria had not responded to its reiterated requests for factual information regarding the activity and had not provided the requested copies of the licences that the Committee, among other information, needed to evaluate with a view to determining whether the Convention should be applied to the activity.

72. To enable its further consideration of the matter at its next session, the Committee asked its Chair to invite the NGO to provide additional information on the matter and to verify, by 19 March 2021, the information made available to it so far and further to the note developed by the co-curators taking into account the criteria proposed by the Guidance.

<sup>19</sup> ECE/MP.EIA/IC/2020/4, annex, paras. 14–23.

73. Upon receipt of the NGO's reply, the Chair should transmit that reply to Bulgaria requesting Bulgaria to provide as soon as possible, but no later than 21 April 2021:

- (a) Its comments and views on the information provided by the NGO;
- (b) Information outstanding about the activity, reflecting on the criteria proposed by the Guidance.

74. In the letter to Bulgaria, the Chair should reiterate that the Committee had found the lack of responses to the Committee's queries to be indicative of uncooperativeness. With reference to article 14 bis of the Convention, decision II/4 establishing the Committee and the Committee's structure, functions and operating rules,<sup>20</sup> it stressed again that it was the role and prerogative of the Committee to gather information from the Parties on matters under its consideration with a view to reviewing the Parties' compliance with their obligations under the Convention. Even when a Party itself believed that it had fulfilled all its obligations under the Convention, it was up to the Committee to reach its own conclusions based on the information that the Party should provide.<sup>21</sup> The Chair should also draw the attention of Bulgaria to paragraph 11 of decision VIII/4<sup>22</sup> and indicate that, in the absence of complete and comprehensive responses from Bulgaria to the Committee's questions by the above-mentioned deadline, representatives of Bulgaria would be invited to participate at the Committee's fifty-first session in informal discussions with the Committee to elaborate on the missing information.

(b) *Czechia (EIA/IC/INFO/19)*

75. The Committee continued its consideration of the information it had gathered further to the information received from four NGOs from Austria, Czechia and Germany concerning the lifetime extension of four units at Dukovany nuclear power plant, Czechia. To avoid any direct or indirect conflict of interest, the Committee members nominated by Austria, Germany and Slovakia were absent during the Committee's consideration of the matter.

76. Taking into account that the consideration of the matter had been pending since the Committee's fortieth session (Geneva, 5–7 December 2017) and in the light of decision VIII/6 on applicability of the Convention to the lifetime extension of nuclear power plants, the Committee, with a view to preparing to draw its conclusions on the matter at its next session, asked its Chair to write to Czechia requesting it to update the Committee on activity's status by 1 April 2021, including regarding the final decision, if such a decision had been taken since the previous communication from Czechia to the Committee in October 2017.

77. The Committee also requested its Chair to invite the four NGOs to provide it, by that same date, with any additional information regarding the planned activities, if available.

(c) *France (EIA/IC/INFO/32)*

78. Further to its deliberations at the Committee's forty-eighth session, the Committee continued its consideration of the information from Greenpeace France received on 9 March 2020 and supplemented on 5 May 2020 regarding the planned lifetime extension by France of 32 units of eight nuclear power plants.<sup>23</sup>

<sup>20</sup> ECE/MP.EIA/4, annex IV, decision II/4, para. 1, and appendix; and ECE/MP.EIA/6, annex II, decision III/2, appendix, in particular para. 7 (a).

<sup>21</sup> ECE/MP.EIA/IC/2019/4, para. 82.

<sup>22</sup> ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

<sup>23</sup> For more information about the number of units see ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4, table 4.

79. The Committee recalled that, by its letter of 28 October 2020, it had asked France to provide by 18 January 2021 information regarding the activities for its consideration at the current session. The Committee noted that by its letter, dated 14 January 2021, France had requested the Chair to extend the deadline for submission of the requested information due to additional extensive research needed to prepare good quality answers to the Committee's questions. It also noted the response to France by the Committee's acting Vice-Chair, dated 18 January 2021, exceptionally inviting France to provide the requested information in English by 10 March 2021 for the Committee to consider at its next session.

*(d) Ukraine (EIA/IC/INFO/20)*

80. Owing to time constraints, the Committee decided to defer its deliberations on the lifetime extension of 12 power units located at the Rivne, South Ukrainian, Zaporizhzhya and Khmelnytsky nuclear power plants in Ukraine until its next meeting. The Committee requested the co-curators to review by 5 April 2021 all the information available to it on the matter in the light of the criteria provided in the Guidance for the Committee to continue its consideration of the matter at its next session.

*(e) Netherlands (ECE/IC/INFO/15), Belgium (EIA/IC/INFO/18), Spain (EIA/IC/INFO/34)*

81. The Committee appointed new curators to support its deliberations at its next session concerning the lifetime extension of Borssele (Netherlands) nuclear power plant, Doel and Tihange (Belgium) nuclear power plants, and Almaraz (Spain) nuclear power plant in the light of the criteria proposed in the Guidance.

## **B. Protocol matters**

### **Poland (SEA/IC/INFO/4)**

82. The Committee continued its consideration of the information gathered further to that provided on 11 February 2020 by a German parliamentarian expressing concerns about the application of article 10 of the Protocol by Poland regarding the draft Energy Policy of Poland until 2040. To avoid any direct or indirect conflict of interest, the Committee members nominated by Germany and Finland were absent during the Committee's consideration of the matter.

83. The Committee examined information from Poland, dated 8 January 2021. It noted that Poland had not to date adopted the Policy and that it would conclude the transboundary procedure with Austria by delivering the adopted Policy along with other related information to Austria. According to the information from Germany, dated 12 January 2021, Germany could not exclude being potentially affected by the Policy's implementation and intended to contact the Polish authorities without delay with a view to considering whether to formally participate in the transboundary procedure concerning the Policy.

84. The Committee also noted additional information from the German parliamentarian, dated 11 January 2021. In particular, referring to a scientific study on likely impacts on the environment of neighboring countries of the construction of a nuclear power plant in Zamowiec-Kopalino, the German parliamentarian disagreed with the views of Poland that implementing the Policy was not likely to have a significant effect on the environment of Germany. The German parliamentarian also questioned the argumentation of Poland for not carrying out a transboundary strategic environmental assessment considering that the nuclear section of the Policy was built on the comprehensive Polish Nuclear Power Programme adopted in 2014 upon completion of a separate strategic environmental assessment procedure, including in a transboundary context, with 10 States being notified in 2011.



85. The Committee further noted that, based on the consent provided by the German parliamentarian, the information to the Committee, dated 11 January 2021, had been transmitted by the secretariat to Poland and Germany for their comments and views in advance of the current session. The Committee noted that, on 2 February 2021, Poland had provided its comments and view and informed the Committee that the Policy was in the final stage of adoption process. The Committee regretted that it was not possible for it to examine in detail the information provided by Poland at the current session due to time limitations and that the Committee needed to postpone its consideration to the next session.

86. The Committee asked its Chair to write to Poland inviting it to refrain from adopting the Policy until the transboundary procedure with Germany, should it wish to participate, had been concluded. Meanwhile, with reference to the study concerning the Zamowiec-Kopalino nuclear power plant, Poland, should be invited to provide, by 1 April 2021, detailed argumentation as to its assessment of why a significant radiological contamination of Germany and other countries from a major nuclear accident at the planned Zarnowiec-Kopalino nuclear power plant listed in the Policy could be excluded.

87. The Committee also asked its Chair to write to Germany requesting it to inform the Committee by that same date of the outcomes of its considerations on whether to participate in a transboundary strategic environmental assessment concerning the Policy and to provide a justification for its decision.

88. It agreed to continue its deliberations on the matter at its next session and asked the secretariat to inform the Parties and the German parliamentarian accordingly.

## **VI. Review of implementation**

### **A. Specific compliance issues under the Protocol<sup>24</sup>**

#### **European Union (SEA/IC/SCI/1/4)**

89. The Committee continued its consideration of the matter concerning the specific issue of compliance by the European Union with the Protocol identified in the first review of implementation of the Protocol (ECE/MP.EIA/SEA/2014/3, para. 5). Recalling paragraph 6 of decision IV/5 on reporting and review of implementation of the Protocol (ECE/MP.EIA/30/Add.3–ECE/MP.EIA/SEA/13/Add.3) and the outcomes of its deliberations at its forty-fourth session (Geneva, 12–15 March 2019), it agreed to prepare at its next session a draft template for reporting by the European Union on measures it had taken to implement the Protocol further to article 14 (7) thereof.

### **B. Examination of general and specific compliance issues from the fifth and sixth reviews of implementation of the Convention and from the second and third reviews of implementation of the Protocol**

90. The Committee agreed to start reviewing at its next session the general and specific compliance issues identified in the sixth review of implementation of the Convention (ECE/MP.EIA/2020/8) and the third review of implementation of the Protocol (ECE/MP.EIA/SEA/2020/8), adopted by the Meetings of the Parties to the Protocol through decisions VIII/5 and IV/5, respectively. It asked the secretariat to prepare related informal documents and appointed curators for the matter, asking them to review the informal

<sup>24</sup> More information on specific compliance issues is available at <https://unece.org/environment-policy/environmental-assessment/specific-compliance-issues>.

documents and to prepare proposals for the Committee on possible follow-up to the specific issues of non-compliance identified.

*(a) Issues from the reviews of implementation of the Convention*

91. The Committee continued its consideration of the general and specific compliance issues identified in the fifth review of implementation of the Convention (ECE/MP.EIA/2017/9). The Committee expressed regret at the fact that, despite the secretariat's repeated reminders, it had not received a reply from North Macedonia to its letter of 11 April 2019 requesting further clarifications on how it, as an affected Party, ensured public involvement in the environmental impact assessment procedure under articles 3 (8) and 4 (2) of the Convention.

92. With reference to paragraph 11 of decision VIII/4, the Committee asked its Chair to write a letter to North Macedonia emphasizing that North Macedonia had the responsibility to provide the Committee with the requested information fully and in a timely manner. The Chair should request North Macedonia one last time to respond to the Committee's letter of 19 April 2019 without delay but not later than 1 April 2021. The Chair should also inform North Macedonia that an absence of the requested response by the indicated date could be interpreted by the Committee as failure of North Macedonia to implement article 14 bis regarding review of compliance and reporting and article 2 (2) of the Convention regarding necessary legal, administrative or other measures to implement the provisions of the Convention, in particular articles 3 (8) and 4 (2). Subsequently the Committee at its next session would consider opening a Committee initiative. The secretariat was requested to transmit a copy of the Chair's letter to the national focal point of North Macedonia to the permanent mission of North Macedonia inviting it to facilitate the Party's response to the Committee's questions.

*(b) Issues from the reviews of the implementation of the Protocol*

93. The Committee then continued its consideration of the general and specific compliance issues identified in the second review of implementation of the Protocol (ECE/MP.EIA/SEA/2017/9). It expressed regret at not having received a response from Serbia to its letter of 14 January 2020 and invited its Chair to urge Serbia to provide its response without delay and no later than 1 April 2021 for the Committee to consider at its next session.

### **C. Modification of the questionnaires**

94. The Committee approved the timetable proposed by the secretariat for the review and possible modification of the questionnaires for reporting on implementation of the Convention and the Protocol in the period 2019–2021, for the seventh review of implementation of the Convention and the fourth review of implementation of the Protocol.

95. With a view to submitting the modification for the consideration of the Working Group at its session in November 2021, the Committee agreed to consider the proposals for modifications of the questionnaire at its next session and, as needed, finalize the modified questionnaires by 1 September 2021 using its electronic decision-making procedure.

## **VII. Work methods and rules of procedure**

96. The Committee noted its standing mandate to keep under review and further develop its structure and functions and its operating rules in the light of the experience gained by the Committee, including with a view to enhancing 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.<sup>25</sup> It requested the secretariat to prepare an informal note summarizing the work undertaken by the Committee in that regard in the 2017–2020 intersessional period for the Committee to consider at its subsequent session once the newly appointed members of the Committee had become more familiar with the functioning of the Committee.

## **VIII. Presentation of the main decisions taken and closing of the session**

97. The Committee confirmed that it would next meet from 4 to 7 May 2021. It also agreed that it would hold its fifty-first session from 4 to 7 October 2021, its fifty-second session from 1 to 4 February 2022, its fifty-third session from 10 to 13 May 2022, and its fifty-fourth session from 20 to 23 September 2022.

98. The Committee adopted the draft report of its session, prepared with the support of the secretariat. The Chair then formally closed the forty-ninth session.

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<sup>25</sup> ECE/MP.EIA/30/Add.3–ECE/MP.EIA/SEA/13/Add.3, decision IV/4, para. 14.

## Annex I

### **Report on the hearings with Serbia under Committee initiative SEA/IC/CI/1 regarding compliance by Serbia with its obligations under the Protocol in respect of its Energy Sector Development Strategy and the Strategy's Implementation Programme for the Period 2017-2023**

1. Further to its decision at its forty-eighth session (Geneva, 1–4 September 2020) and in line with paragraph 9 of its structure and functions (ECE/MP.EIA/6, annex II, appendix), the Committee on 10 November 2020 held discussions with Serbia concerning Committee initiative SEA/IC/CI/1 on the Energy Sector Development Strategy of Serbia for the Period up to 2025 with Projections up to 2030 and the Strategy's Implementation Programme for the Period 2017–2023. Discussions on Committee initiatives were not open to observers, in accordance with rule 17 of the Committee's operating rules.
2. Further to its written responses on 24 June 2020 to the Committee's questions of 17 April 2020, the delegation of Serbia provided additional clarification about the preparation and adoption of the Energy Strategy, in 2015, and of its Implementation Programme 2017–2023, in 2017; the related transboundary consultations under article 10 of the Protocol; and the steps taken by it to inform the affected Parties participating in those procedures about the final decision as set out in article 11 of the Protocol. The Committee also noted the information from Serbia that it had been intending to prepare a new Energy Strategy in the near future.
3. The Committee considered that to proceed with drafting its finding and recommendations it needed additional information from Serbia and from Croatia, Hungary and Romania. It invited its Chair to write to Serbia inviting it to provide information regarding the new Energy Strategy and the related strategic environmental assessment procedure.
4. The Committee also invited its Chair to write to Croatia, Hungary and Romania inviting them to clarify whether they wished to be afforded an opportunity to participate in the transboundary procedure regarding the Energy Strategy under article 10 of the Protocol, taking into account that Serbia considered them to be potentially affected with respect to the implementation of the Strategy, intending to notify them in late autumn 2013 under article 10 (1). In the letter to Hungary, the Chair should invite the Party to clarify whether it wished to continue participating in the transboundary procedure regarding the implementation Programme.
5. The Committee agreed to continue its consideration of the matter at its next session with a view to beginning drafting its findings and recommendations on the basis of the information made available to it so far and the information to be provided by the Parties concerned by 12 January 2021.

## Annex II

### **Report of the Committee on the informal consultations with Bosnia and Herzegovina, Croatia and Serbia concerning the activities in Banovici, Tuzla and Ugljevik**

1. The Committee continued its consideration of the matters regarding the planned construction by Bosnia and Herzegovina of a new thermal power plant in Banovici, unit 7 of the thermal power plant in Tuzla and a third block for the thermal power plant in Ugljevik (proposed activities).
2. It recalled that further to its decision at its forty-eighth session, the Committee had exceptionally organized a separate online session, on 29 October 2020, for the purposes of carrying out informal consultations with Bosnia and Herzegovina, Croatia and Serbia regarding the planned activities. The session had been held using videoconferencing and without interpretation.
3. Noting the informal character of the discussions, the Committee welcomed the delegation of Bosnia and Herzegovina, the delegation of Croatia and a representative of Serbia who participated as an observer. It recalled that the purpose of the informal consultations was to obtain the required clarifications on the Parties' positions with respect to the proposed activities, and to assist the Parties in complying with the Convention on Environmental Impact Assessment in a Transboundary context (Espoo Convention).
4. First, the Committee clarified that, further to its operating rule 15<sup>1</sup> the sources of information by which the Committee might become aware of a possible non-compliance could be either Parties' work under the Convention or any other source, including non-governmental organizations, provided the source of the information was known and the information related to an activity listed in appendix I to the Convention and the implementation of the Convention provisions.
5. With a view to setting the framework for the discussions, the Committee provided detailed clarifications on steps to be taken by Parties concerned under article 3 (7) of the Convention, to exchange information and to carry out discussions on whether a significant adverse transboundary impact of the proposed activities was likely, emphasizing the need for the Parties involved to be proactive (see ECE/MP.EIA/IC/2019/6, paras. 86–88). It further underlined that a notification under article 3 (1) of the Convention was necessary unless a significant adverse transboundary impact could be excluded.
6. The Committee then pointed out that any effect caused by a proposed activity on the environment constituted an impact in accordance with article 1 (viii) of the Convention. It drew the attention of the Parties concerned to the growing relevance and importance of assessing cumulative effects of existing and planned activities listed in appendix I, in particular with a view to taking appropriate and effective measures to prevent, reduce and control their significant adverse transboundary impact. A strategic environmental assessment of plans and programmes, including in the energy sector, falling within the scope of the Protocol, was an efficient tool for assessing, at an early stage, the cumulative adverse effects of the proposed activities.
7. To facilitate the discussions, the Committee had provided questions on the issues that it had deemed necessary to be addressed during a discussion in advance of the session. In

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<sup>1</sup> See:  
[https://unece.org/DAM/env/eia/documents/ImplementationCommittee/2014\\_Structure\\_and\\_functions/Implementation\\_Committee\\_structure\\_functions\\_procedures\\_rules.e\\_2014.pdf](https://unece.org/DAM/env/eia/documents/ImplementationCommittee/2014_Structure_and_functions/Implementation_Committee_structure_functions_procedures_rules.e_2014.pdf).

addition, upon agreement of all three Parties concerned, the related correspondence from each Party to the Committee had also been copied to the other two Parties for their views and possible comments.

8. On 11 February 2020, Bosnia and Herzegovina had provided written responses to the Committee questions of 14 January 2020 regarding unit 3 of the Uglevik thermal power plant and on 12 February 2020 concerning the proposed activities at the Banovici and Tuzla thermal power plants. Its responses of 22 October 2020 and 26 October 2020 covered only the activities at the Ugljevik thermal power plant and the Tuzla thermal power plant, respectively, and did not fully address the additional requests of the Committee after the Committee's forty-eighth session. Serbia had clarified in writing its position concerning the Ugljevik thermal power plant and the activities in Banovici and Tuzla thermal power plants on 14 February and 27 February 2020, respectively. However, Croatia had not responded to the Committee's requests of 14 January 2020.

9. Members asked additional questions, seeking clarification of the countries' positions further to their written replies and oral presentations. The Committee noted that Bosnia and Herzegovina had proposed to respond in writing on whether, taking into account that Serbia considered itself potentially affected and wished to be notified regarding the activities in Banovici and Tuzla, it was willing to initiate a procedure under article 3 (1) of the Convention without carrying out prior discussions under article 3 (7) thereof. It invited the Party to provide its response in advance of the Committee's next session (Geneva, 2–5 February 2020), by 12 January 2021.

10. The Committee also noted the information from the Chair of the Task Force on Integrated Assessment Modelling under the Convention on Long-range Transboundary Air Pollution (Air Convention). In particular, it noted that, according to recent research carried out with tools and data from the European Monitoring and Evaluation Programme under the Air Convention, operation of any coal thermal power plant caused a transboundary impact. The main determinants in calculating the magnitude of such impact included capacity and technology of a thermal power plant, stack height<sup>2</sup> and distance to the receiving country. The significance of the transboundary impact should be determined taking into account total air pollution and air quality targets in the receiving countries. Noting that tools developed under the Air Convention could be used for environmental impact assessments in a transboundary context, the Committee invited the Parties concerned to consider the application of such tools, including for discussions under article 3 (7) of the Espoo Convention.

11. Following the discussion with the Parties concerned, the Committee pointed out that the Parties should ensure that exchange of information and discussions under article 3 (7) of the Convention were conducted efficiently and within a reasonable time. It further clarified that the exchange of information and other communication under article 3 (7) should be carried out either through points of contact regarding notification or through focal points for administrative matters.<sup>3</sup> In addition, the Committee subsequently considered that it was the responsibility of each Party to clearly indicate from the beginning to other Parties concerned which of those two communication channels should be used for the purpose.

12. In general, the Committee found the informal consultations with the Parties concerned on the proposed activities in Banovici and Tuzla to be useful. It considered that further informal discussions could be organized, as needed, on a case-by-case basis, including, for

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<sup>2</sup> For instance, higher stacks reduce local exposure to air pollutants, but contribute to transboundary air pollution.

<sup>3</sup> Lists of points of contact and focal points available at, respectively, <https://unece.org/environment-policy/environmental-assessment/points-contact-regarding-notification> and <https://unece.org/environment-policy/environmental-assessment/focal-points-administrative-matters>.

example, regarding unit 3 of the Ugljevik thermal power plant on which it had been unable to receive sufficient clarifications at the meeting due to time limitations.

13. The Committee encouraged the Parties concerned to continue the ongoing procedures under the Convention concerning the proposed activities in Banovici, Tuzla and Ugljevik and requested them to update it on any progress made in advance of its next session.

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