



# 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

**Fiftieth session**  
Geneva, 4–7 May 2021

## Report of the Implementation Committee on its fiftieth session

### I. Introduction

1. The fiftieth 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 4 to 7 May 2021. Due to coronavirus disease (COVID-19)-related restrictions on physical meetings and travel, the session was held using videoconferencing.

#### 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 Rzayeva (Azerbaijan) and Ms. Heidi Stockhaus (Germany). Mr. Lasse Tallskog (Finland) was represented by his alternate, Ms. Charlotta von Troil.

#### B. Organizational matters

##### 1. Adoption of the agenda

3. The Chair of the Committee opened the session. The Committee adopted its agenda (ECE/MP.EIA/IC/2021/3).

## 2. Membership of the Committee

4. The secretariat reported that Hungary had nominated Ms Evelyn Fábíán-Mayer as alternate member. Noting the still pending nomination of an alternate member by Austria, the Committee asked the secretariat to remind the national focal point of Austria of the requirement to nominate an alternate.

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

5. Discussions on the follow-up to decisions VIII/4 a–e<sup>1</sup> were closed to observers, in accordance with rule 17 (1) of the Committee’s operating rules.<sup>2</sup>

### A. Bystroe Canal Project (EIA/IC/S/1)<sup>3</sup>

6. The Committee continued its follow-up on decision VIII/4 d 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). It examined information by Romania of 28 March 2021 and from Ukraine, dated 9 April 2021.

7. The Committee welcomed the progress made by the two Parties in finalizing the draft bilateral agreement referred to in paragraph 13 (a) of decision VIII/4 d with the secretariat’s support and funding from the European Union project. It noted that Romania had expressed a wish to sign the agreement in 2022 and that Ukraine had not provided its views on the timetable for concluding the agreement.

8. It further noted that, according to Romania, in September 2020, Romania had provided comments and observations on the Research Report on analysis of the impact on the environment of the Danube River Delta<sup>4</sup> and was currently awaiting a response from Ukraine. Romania had reiterated the need for a harmonized transboundary network for the monitoring of the environmental status of the Danube Delta as referred to in paragraph 13 (b) and, with reference to paragraph 13 (c), had stressed that post-project analysis “does not justify and retroactively validate a project undertaken in breach of environmental law obligations.”

9. The Committee noted with regret that Ukraine had reported no progress either regarding bringing the Bystroe Canal Project into compliance with the Convention further to paragraphs 4–6 and 12 of decision VIII/4 d or regarding the transboundary impact assessment procedure for the new Bystroe Route project referred to in paragraphs 7 and 14 of that decision. The information from Ukraine only consisted of a large number of documents previously shared with the Committee. With reference to paragraph 15 of decision VIII/4 d, the Committee asked its Chair to write to Ukraine requesting it to provide the Committee by 1 September 2021 with:

(a) A progress report using the reporting format developed by the Committee to monitor implementation of decisions of the Meeting of the Parties on the matter, ensuring that new developments were highlighted and only new corroborating information was provided;

(b) The following clarifications:

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<sup>1</sup> See ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2, available at [https://unece.org/sites/default/files/2021-02/ece.mp\\_eia\\_30.add\\_2\\_ece.mp\\_eia\\_sea\\_13.add\\_2\\_Advance%20copy.pdf](https://unece.org/sites/default/files/2021-02/ece.mp_eia_30.add_2_ece.mp_eia_sea_13.add_2_Advance%20copy.pdf).

<sup>2</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).

<sup>3</sup> See <https://unece.org/environment-policy/environmental-assessment/eia/ics1-ukraine>.

<sup>4</sup> ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2, para. 12 (d).

- (i) Whether the new “project for the construction of a deep-water shipping lane on the Danube-Black Sea” would also encompass Phases I and II;
- (ii) Whether operational dredging had been halted further to paragraph 11 of decision VIII/4 d.

10. The Chair was also asked to write to Romania to inform it of the outcome of the Committee’s deliberations at its present session and to invite it to update the Committee on developments regarding implementation of decision VIII/4 d, if any.

11. The Committee agreed to resume its consideration of the matter at its next session further to the information to be received from Ukraine and Romania. With reference to paragraph 16 of decision VIII/4 d, it asked the curator to prepare a draft evaluation of the national legislation Ukraine had adopted to implement the Convention.

## **B. Rivne nuclear power plant (EIA/IC/CI/4)<sup>5</sup>**

12. The Committee continued following up on decision VIII/4 e on compliance by Ukraine with its obligations under the Convention in respect of extension of the lifetime of the Rivne nuclear power plant in the absence of the Committee members nominated by Austria, Hungary and Slovakia.

13. The Committee examined information from: Austria, dated 30 March 2021; Belarus, dated 31 March 2021; Hungary, dated 31 March 2021; Poland, dated 18 March and 26 March 2021; Romania dated 5 March 2021; Slovakia, dated 13 April 2021; and Ukraine, dated 12 April 2021. The Committee noted that the transboundary consultations with Hungary had been completed and that Hungary had confirmed that view to Ukraine on 24 November 2020.

14. The Committee further noted that the transboundary consultations with Austria, Belarus, Poland, Romania and Slovakia had been ongoing, with:

(a) Austria reiterating its requests to Ukraine to submit responses to the questions listed by it in its expert statement<sup>6</sup> and to provide it with information on the decisions taken on the lifetime extension of unit 1 of the Rivne nuclear power plant; and emphasizing that the transboundary procedure could not be finalized without fulfilling all the obligations under the Convention, including those provided for in articles 5 and 6;

(b) Belarus repeatedly reiterating, since July 2019, its requests to Ukraine for the environmental impact assessment documentation in one of its national languages to ensure that its public was provided an opportunity to participate in the process equivalent to that provided to the public of Ukraine as set out in article 2 (6) of the Convention;

(c) Poland requesting Ukraine to set a date for transboundary consultations (expert meeting) in April 2021 to clarify the responses of Ukraine, dated 27 August 2020, regarding comments to the environmental impact assessment documentation of 2 October 2019 provided by Poland;

(d) Romania awaiting, since 5 January 2021, a response by Ukraine to its requests for additional clarifications;

(e) Slovakia expecting, since 28 August 2020, that Ukraine would provide it with its “final opinion the provisions for post-project analysis further to article 7 and appendix V” and informing the Committee that it intended to ask Ukraine to update it on the status of the procedure, namely regarding the decision on environmental impact assessment and the final decision regarding the activity.

15. The Committee asked its Chair to write to Ukraine, requesting it to provide, by 1 September 2021:

(a) An annual report on the steps taken by it to complete the transboundary environmental impact assessment further to paragraph 6 (c) of decision VIII/4 e. To that end,

<sup>5</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaicci4-ukraine>.

<sup>6</sup> See ECE/MP.EIA/IC/2021/2, para. 21, available at [https://unece.org/sites/default/files/2021-02/ECE\\_MP.EIA\\_IC\\_2021\\_2.pdf](https://unece.org/sites/default/files/2021-02/ECE_MP.EIA_IC_2021_2.pdf).

the Committee asked the curator to develop a reporting template enabling Ukraine to report on its progress in implementing decision VIII/4 e in a concrete and concise manner, clearly outlining steps taken by it under the ongoing transboundary procedure with each Party;

(b) A detailed timetable for implementing the steps foreseen in paragraph 6 (a) of decision VIII/4 e that Ukraine had not provided by 1 April 2021 as requested in paragraph 6 (b) of the decision;

(c) Clarification of the status of the decision taken on 11 December 2020 by the Board of the State Nuclear Regulatory Inspectorate of Ukraine regarding lifetime extension of unit 1 of the Rivne nuclear power plant to 22 December 2030 in relation to the revised final decision referred to in paragraph 6 (a) (ii) and (iii) of decision VIII/4 e;<sup>7</sup> a copy of that decision and the English translation thereof.

16. The Committee also asked its Chair to highlight to Ukraine that, in order to fulfil its obligations under the Convention, it should take the final decision after completing public participation procedures under articles 3 (8) and 4 (2) and consultations under article 5 of the Convention with each Party concerned, and ensure that due account was taken of the outcomes of those procedures and consultations;

17. The Committee agreed to continue following up on decision VIII/4 e at its next session and, with reference to paragraph 7 of that decision, asked the curator to contribute to the evaluation of national legislation Ukraine had adopted to implement the Convention (see para. 11 above).

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

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

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

19. Further to its forty-ninth session (Geneva (online), 2–5 February 2021), 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.

20. The Committee noted information provided by Bulgaria and Serbia, on 3 May and 31 March 2021, respectively.

21. The Committee welcomed the delegations of Bulgaria and Serbia and invited them to present information and opinions on the matter. Members then posed further questions to seek clarification on the countries' positions, further to their written replies. The Committee welcomed the proposal of Serbia to provide further information, in particular:

(a) A list of delegates from Serbia participating in the hearings;

(b) Maps illustrating all the activities and indicating the surface area of the mines (both closed and open), containing a legend and data on the distance to the neighbouring countries, and links between the activities and proximity to water sources (surface water and groundwater);

<sup>7</sup> See <https://www.rnpp.rv.ua/about-history-additional.html> (Ukrainian only).

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

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

(c) Copies of the licences referred to by Serbia during the hearings and those requested by the Committee in its letters dated 28 October 2020 and 17 February 2021 and the English translations thereof.

22. The Committee considered that, in order to proceed with drafting its finding and recommendations, it needed complete information regarding the proposed activities and the related environmental assessment procedures. It agreed to prepare a summary record of the hearings and asked its Chair to request Serbia to provide still missing information for each of the activities by 30 June 2021. The Committee agreed to consider at its fifty-first session (Geneva, 4–7 October 2021) elements of the draft findings and recommendations to be prepared by the curator with the secretariat's assistance by the end of August 2021.

## **B. Albania (EIA/IC/S/7)<sup>10</sup>**

23. 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 examined the information from Montenegro, dated 29 March 2021, on the ongoing dialogue between the two Governments regarding the activities, including the work done in the framework of the related advisory procedure (WAT/IC/AP/1) under the Implementation Committee under the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention). It also noted the Report of the Implementation Committee under the Water Convention on its twelfth meeting containing detailed information on the outcome of that procedure.<sup>11</sup>

24. The Committee asked its Chair to write to the Governments of Albania and Montenegro informing them that, based on analysis of all information made available to the Committee on the matter, the Committee had concluded 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, it agreed that there were no grounds for it to continue its consideration on the matter and decided to proceed with drafting its findings and recommendations, further to rule 12 of the Committee's operating rules, at its fifty-first session.

## **C. Bosnia and Herzegovina (EIA/IC/S/8/SEA/IC/S/1)<sup>12</sup>**

25. The Committee began its consideration of 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 the Buk Bijela hydropower plant on the Drina River, received by the secretariat on 11 December 2020. The Committee also considered the response to the submission by Bosnia and Herzegovina, dated 8 March 2021, in which the Party referred to its information of 5 January 2021 responding to the Committee's request of 2 November 2020 further to information of 15 May 2020 from four non-governmental organizations (NGOs)<sup>13</sup> regarding the activity. The Committee recalled that, based on its deliberations at its forty-ninth session, it had transmitted that letter from Bosnia and Herzegovina of 5 January 2021 to Montenegro for its comments and observations and noted that Montenegro had provided its views on 22 March.

26. The Committee noted that the title of the submission by Montenegro referred to the Buk Bijela hydropower plant, an activity listed in appendix I under item 11 "Large dams and

<sup>10</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics7-albania>.

<sup>11</sup> See ECE/MP.WAT/IC/2021/1, paras. 5–17 and annex, available at [https://unece.org/sites/default/files/2021-03/ECE\\_MP.WAT\\_IC\\_2021\\_1\\_ENG\\_advance%20copy%20web.pdf](https://unece.org/sites/default/files/2021-03/ECE_MP.WAT_IC_2021_1_ENG_advance%20copy%20web.pdf).

<sup>12</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics8seaics1>.

<sup>13</sup> ECE/MP.EIA/IC/2020/4, para. 43 (a).

reservoirs". However, the submission had largely focused on the Foča hydropower plant. Additionally, the information available was not sufficient to determine whether that activity fell under the scope of the Convention. Subsequently, the Committee agreed that, for its further deliberations on the matter, it needed additional information and clarifications from Montenegro and Bosnia and Herzegovina.

27. It asked its Chair to write to Montenegro inviting it to provide, by 15 July 2021, the following information and clarifications:

- (a) What activities Montenegro wished the Committee to consider under its submission: The Buk Bijela hydropower plant, the Foča hydropower plant, or both;
- (b) In case both activities were to be considered, Montenegro should provide a clear explanation of its concerns regarding each activity, including:
  - (i) Technical information, including, among other things, height of dams, their crest length, a spillway discharge potential and a reservoir volume;
  - (ii) Why, in its view, those activities fell under the scope of the Convention;
  - (iii) Transboundary impacts associated with the activities, including:
    - a. Whether those impacts should, in the view of Montenegro, be treated as individual impacts or cumulatively;
    - b. Whether the activities had been seen by Montenegro as one interlinked project or as separate activities having cumulative or synergetic effects;
  - (iv) A map indicating the location of the proposed activities, including the respective and disputed constructions covered by the project, along with distance to the border with Montenegro;
  - (v) The environmental impact of embankments in relation to the information on "normal water level of 434 meters above sea level".

28. Additionally, Montenegro should be invited to clarify its concerns regarding non-compliance by Bosnia and Herzegovina with its obligations under the Protocol, providing, in particular, explanations on the specific circumstances of the matter, including clear references to the disputed decision (plan or programme) and the related provisions of the Protocol.

29. The Committee agreed to formulate the request for additional information to Bosnia and Herzegovina using its electronic decision-making procedure, taking into account the expected clarifications from Montenegro. Among other things, Bosnia and Herzegovina should be invited to provide:

- (a) A description of different steps of the transboundary environmental impact assessment procedure undertaken by it in 2012, including:
  - (i) Copies of all communications with Montenegro under that procedure and the English translation thereof;
  - (ii) Comments regarding the allegation of Montenegro that the procedure had not been finalized in 2018;
- (b) Copies of the decisions to approve the environmental impact assessment documentation in 2012–2013 and in 2019 and the related decisions to issue permits, along with the English translation thereof;
- (c) Any other documents related to the original procedure carried out from 2012 to 2013 and the follow-up procedure of 2019 that Bosnia and Herzegovina regarded as relevant in the context of that submission;
- (d) Updated information regarding the related matter pending before the Supreme Court, if any.

30. The Committee agreed to continue its consideration of the matter at its next session and to hold 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 Bosnia and Herzegovina and Montenegro at its fifty-second session (Geneva, 1–4 February 2022).

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

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

31. In the absence of the Committee member nominated by Hungary, the Committee continued drafting its findings and recommendations under 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. It asked the curator, with the secretariat's assistance, to revise the draft for it to consider at its next session. Subsequently, the draft findings and recommendations would be transmitted to Serbia and the Parties concerned for comments and representations by 5 January 2022 with a view to the Committee reviewing and finalizing them at its fifty-second session taking into account the comments received.

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

32. The Committee continued its 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. The Committee examined information from: Hungary, dated 30 April 2021; Romania, dated 26 February 2021; and Ukraine, dated 23 April 2021.

33. The Committee noted that Hungary and Romania had reiterated that Ukraine had not communicated with those Parties since July 2020. It also noted that, in the absence of any new documentation or information about the activity from the developer, the Government of Ukraine was unable to confirm whether the activity would indeed be implemented.

34. The Committee further noted that Romania and Ukraine had confirmed their participation in the discussions, under paragraph 9 of the Committee's structure and functions,<sup>17</sup> at its fifty-first session, and that Ukraine had emphasized its readiness for an open and constructive dialogue regarding the activity.

35. Further to its deliberations at its forty-ninth session, the Committee prepared a non-exhaustive list of questions on which it would base its discussions with the Parties concerned during the hearings. It invited its Chair to transmit the questions to the Parties concerned, inviting them to provide written replies thereto by 5 September 2021. The Chair should inform the Parties concerned that, upon receipt of their replies, the Committee would assess the completeness and quality of the information provided by them and might subsequently request additional clarifications in advance of the hearings. In the interests of the efficiency and effectiveness of its proceedings, the Committee agreed to share information to be received among the Parties concerned, inviting them to provide their views on each other's positions in advance of the hearings.

36. In the letter to Ukraine, the Chair should invite it to ensure that officials and experts in its delegation to the hearings had sufficient knowledge and were able to provide the

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

<sup>15</sup> See <https://unece.org/seaicci1-serbia>.

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

<sup>17</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).

necessary clarifications about the activity and the related environmental impact assessment procedure. Additionally, the Chair should reiterate the Committee's request to the Government of 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.

## V. Information gathering<sup>18</sup>

### A. Convention matters

#### 1. Bosnia and Herzegovina

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

37. The Committee continued its consideration of the matter regarding the planned construction by Bosnia and Herzegovina of a third block for Ugljevik thermal power plant. Further to its examination of all information made available to it by the Parties concerned, the Committee noted that Serbia, on 27 January 2020, had confirmed its willingness to participate in the transboundary procedure, in response to the preliminary notification regarding the activity by Bosnia and Herzegovina, dated 11 October 2019. The Committee also noted that, in its information of 25 January 2021, Bosnia and Herzegovina had confirmed that it would duly notify neighbouring States when initiating a new administrative procedure to approve the environmental impact study. In the light of the above, the Committee concluded that, at the current stage, there was no need for it to pursue further its information gathering regarding the matter.

38. The Committee stressed that an official notification was the formal and mandatory start of the application procedure under the Convention. With a view to facilitating future application of the Convention by Bosnia and Herzegovina regarding the activity, the Committee recommended that Bosnia and Herzegovina:

- (a) Refer, when notifying Serbia, to decision I/4 on the format for notification;<sup>19</sup>
- (b) Specify a reasonable time frame for a response to a notification (art. 3 (2) (c));
- (c) Send the notification both by post and by electronic means, requesting acknowledgement of receipt of the notification;
- (d) Ensure proper implementation of the procedural steps under the Convention following official notification.

39. The Committee asked the Chair to write to Bosnia and Herzegovina and Serbia to inform them accordingly and to request agreement that the correspondence between the Committee, Bosnia and Herzegovina and Serbia be placed on the Convention's website.

##### (b) *Construction of Banovici thermal power plant (ECE/IC/INFO/23)*

40. The Committee continued its consideration of the matter regarding the planned construction by Bosnia and Herzegovina of a new thermal power plant in Banovici. It examined information from Bosnia and Herzegovina, dated 22 April 2021, noting that:

- (a) The environmental permit for the construction of the activity had expired;
- (b) Bosnia and Herzegovina would initiate a new administrative procedure ensuring its compliance with the Convention and proper consultations with Croatia and Serbia should the developer submit a new application under a national permitting procedure.

41. In the light of the above, the Committee concluded that there was no need for it to pursue further its information gathering regarding the matter.

<sup>18</sup> See <https://unece.org/environment-policy/environmental-assessment/information-other-sources>.

<sup>19</sup> See <https://unece.org/environment-policy/environmental-assessment/format-notification-under-convention>.



42. The Committee asked the Chair to write to Bosnia and Herzegovina, Croatia and Serbia to inform them accordingly and to request their agreement that the correspondence between the Committee, Bosnia and Herzegovina, Croatia and Serbia be placed on the Convention's website. To facilitate future application of the Convention by Bosnia and Herzegovina for the activity, the Chair, in the letter to the Party, should transmit to it the Committee's recommendations as referred to in paragraph 38 above.

*(c) Tuzla thermal power plant (ECE/IC/INFO/24)*

43. The Committee continued its consideration of the matter regarding the planned construction by Bosnia and Herzegovina of unit 7 of the thermal power plant in Tuzla. It examined information from Bosnia and Herzegovina, dated 13 April 2021, noting that the existing environmental impact assessment permit for the activity would expire on 18 July 2021 and that the developer, further to the outcomes of the informal consultations with the Committee on 29 October 2020, had initiated the process of modelling the transboundary environmental impacts.

44. The Committee asked its Chair to write to Bosnia and Herzegovina to:

(a) Reiterate the Committee's previous finding 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 activity;

(b) Recalling that, during the informal consultations, Bosnia and Herzegovina had indicated that it was willing to apply the Convention, invite Bosnia and Herzegovina to confirm, by 31 July 2021, that it would notify Croatia and Serbia regarding the activity under article 3 (1) of the Convention and would ensure proper application of the subsequent procedural steps under the Convention. To facilitate future application of the Convention by Bosnia and Herzegovina for the activity, the Chair, in the letter to the Party, should transmit to it the Committee's recommendations referred to in paragraph 38 above.

**2. Switzerland (ECE/IC/INFO/25)**

45. In the absence of the Committee member nominated by Germany, the Committee continued its consideration of the information it had gathered concerning the planned changes by Switzerland at Zurich Airport, close to the border with Germany. It examined all information made available to it so far, including the response of Switzerland of 11 December 2020 to its letter of 28 October 2020. It also considered information from the German Civil Initiative of 4 November and 17 December 2020 providing its further opinions on the matter.

46. It noted that, according to Switzerland, environmental impacts of the high-speed taxiways from runways 28 and 34 and the changes in the 2014 operating regulations had been assessed cumulatively under the 2013 environmental impact assessment procedure. Referring to the related 2013 and 2014 environmental impact assessment documentation, Switzerland had stressed that the system delimitation had shown that the operational state after realization of the project had assessed the new operating regulations including the rapid exit taxiways and that a significant adverse impact on the territory of Germany had not been not likely.

47. Taking into account the fact that Germany has not demonstrated its willingness to use the mechanism under article 3 (7) to request information and to enter into discussions with Switzerland on whether a significant adverse transboundary impact from the proposed activities was likely, and as the Parties communicated bilaterally about the implementation of the proposed activities, the Committee agreed that there was no ground for it to continue its consideration of the matter. However, recalling decisions of the Meetings of the Parties and the Committee's previous opinions (ECE/MP.EIA/2019/14, para. 102, and ECE/MP.EIA/IC/2018/4, annex, para. 26), the Committee pointed out to Switzerland that the precautionary principle underlay the Convention and guided its interpretation and application, including when determining, for the purposes of a notification, whether a proposed activity was likely to have a significant adverse transboundary impact. Moreover, with reference to article 1 (vii) of the Convention, the Committee emphasized that the consideration of cumulative impacts of proposed activities and/or a set of minor changes and/or modifications related to their operating conditions was of relevance in that context.

48. The Committee also pointed out that a strategic environmental assessment of plans and programmes was an efficient tool for assessing, at an earlier stage, the cumulative adverse effects of subsequently proposed activities, including in relation to strategic development of airports that involved related physical or operational changes. The Committee asked its Chair to draw the attention of Switzerland to article 2 (7) of the Convention, which recommended that Parties apply the principles of environmental assessment to policies, plans and programmes. It encouraged Switzerland to consider applying article 2 (7) to any future decision-making regarding Zurich Airport, or to similar planned strategic developments, as well as to consider acceding to the Protocol, to widen the instrument's application in the region.

49. The Committee asked its Chair to inform Germany and Switzerland about the outcome of the Committee's consideration of the matter, requesting them to agree to the correspondence between them and the Committee being placed on the Convention's website to illustrate the Committee's approach to information gathering. The Committee also asked the secretariat to inform the German Civil Initiative accordingly.

### 3. Ukraine

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

50. In the absence of the members nominated by Hungary and Slovakia, the Committee continued its deliberations on the information it had gathered on the planned construction of units 3 and 4 at the Khmelnytsky nuclear power plant in Ukraine. The Committee noted information from: Austria, dated 30 March 2021; Belarus, dated 31 March 2021; Hungary, dated 31 March 2021; Republic of Moldova, dated 12 March 2021; Poland, dated 31 March 2021; Slovakia, dated 29 March 2021; and Ukraine, received on 27 April 2021.

51. It noted that Ukraine had to date not completed the transboundary procedure with Austria, Belarus and Poland and that, in April 2021, it had reinitiated the procedure with Hungary. The Committee also noted that Ukraine, in April 2021, had informed the Republic of Moldova, Romania and Slovakia that it had completed the transboundary consultations with them further to article 3 (4) of the Convention. According to Ukraine, it had been willing to reconsider that decision, should the Parties concerned express their objections regarding the termination of the consultations with them further to article 3 (4), and to provide related correspondence.

52. The Committee considered that article 3 (4) of the Convention was not applicable to the resumed transboundary procedure in question. Indeed, by letter of 26 April 2017, Ukraine had invited the Parties that had actively participated in the procedure under the Convention since 2012, including Hungary, the Republic of Moldova and Slovakia, to continue that procedure and had invited them to provide comments by 15 May 2017 to its explanation on the continuation of the procedure. Subsequently, that letter could not be considered as an official notification regarding the activity under article 3 (1) and (2) of the Convention. Additionally, the Committee observed that the timeframe for providing comments indicated in that letter might not have been sufficient for the Parties to respond. It also noted that no evidence had been made available to it that Romania had been contacted by Ukraine in 2017 after it had resumed the procedure.

53. In the light of the above, the Committee asked its Chair to write to Ukraine to:

(a) Welcome the willingness of Ukraine to fully comply with the Convention's provisions;

(b) Reiterate its previous opinion that not involving some affected Parties wishing to participate in the resumed transboundary procedure on the proposed activity while providing other Parties proper opportunities to participate constituted non-compliance with the Convention;

(c) Urge Ukraine to resume and complete the transboundary procedure with Hungary, the Republic of Moldova, Romania and Slovakia and to inform the Committee by 31 August 2021 of the steps taken.

54. With a view to assisting Ukraine in complying with the Convention and to obtaining further clarifications regarding the Parties' positions regarding the proposed activity, the Committee decided to invite Ukraine and the Parties concerned (Hungary, Republic of Moldova, Romania and Slovakia) for informal consultations, to be organized by the secretariat at its fifty-first session. The Committee requested the Chair to inform the Parties concerned accordingly and to invite them to provide, in advance of the informal consultations, updated information on the matter further to a list of questions to be prepared by the curator, with the secretariat's assistance, to guide the informal consultations.

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

55. In the absence of the member nominated by Hungary, 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. It examined information from Ukraine, received on 12 April 2021, noting that, according to Ukraine, the activity of recycling ore dumps of the Muzhiyevo mine had been carried out with the aim of restoring the ecological balance in the Berehovo district. The extraction of mineral resources had been outside of the scope of the project and the related environmental impact assessment conclusions. Once the State Ecological Inspectorate had, on an exceptional basis, inspected the activity vis-à-vis the environmental legislation, Ukraine would transmit those results to both Hungary and the Committee and would subsequently consider further steps.

56. The Committee noted with regret that Ukraine had again not provided it with full and complete answers to the Committee's requests of 28 October 2020 regarding the activity and had not clarified the licensing procedure or provided copies of the licences for the activity as per the Committee's request of 17 February 2021. Ukraine, however, had transmitted to the Committee a set of the outcomes of the domestic environmental impact assessment procedure referred to in its letter, dated 12 January 2021, in Ukrainian, with a table of contents and a non-technical summary provided in English – for the interested Parties to indicate which sections were to be translated.

57. According to Hungary, as of 31 March 2021, Ukraine had not provided it with any additional information or contacted it regarding the activity, despite the Committee's explicit invitation to Ukraine, of 17 February 2021, to complete the discussions with Hungary under article 2 (5) of the Convention (ECE/MP.EIA/IC/2021/2, para. 66).

58. The Committee asked its Chair to write to Ukraine, emphasizing that, in the Committee's view, when a Party wished to enter into consultations under article 2 (5) regarding an activity not listed in appendix I, the Party of origin had an obligation to do so without delay. Subsequently, it reiterated its earlier opinion, that a lack of a response by Ukraine to requests of Hungary regarding the planned activity related to mining at the Muzhiyevo goldmine constituted non-compliance with article 2 (5) of the Convention (ECE/MP.EIA/IC/2021/2, para. 65). However, considering the willingness of Ukraine to cooperate with Hungary on the matter, the Committee agreed not to open a Committee initiative at its current session, but to provide Ukraine with another opportunity to address its possible non-compliance by implementing the following steps without delay:

(a) To furnish Hungary with a non-technical summary in English along with the environmental impact assessment report, inviting it to provide its views on which sections were to be translated and to subsequently provide translated documents further to the request of Hungary;

(b) To provide Hungary with the written responses to its requests of 15 July and 14 November 2019;

(c) To complete the discussions with Hungary under article 2 (5) of the Convention or, should the proposed activity qualify as an activity listed in appendix I to the Convention, to complete the discussions with Hungary under article 3 (7) of the Convention.

59. Additionally, in the letter, Ukraine should be requested to provide, by no later than 1 August 2021, full and complete information regarding the activity, as per the Chair's letter

of 28 October 2020, and its licencing procedure, as requested in the Chair's letter of 17 February 2021, and to report on the steps taken by it further to paragraph 58 above.

60. Lastly, before drawing its conclusions, the Committee agreed to invite Ukraine and Hungary for informal discussions at its fifty-first session with a view to assisting them in the implementation of the Convention in respect of the activity. It asked the curator to prepare a non-exhaustive list of questions to guide such discussions and invited the secretariat to make all necessary arrangements.

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

61. Further to its previous session, the Committee continued its discussions on common approaches to compliance matters related to the lifetime extension of nuclear power plants. In the light of the criteria proposed by the Guidance on the applicability of the Convention to the lifetime extension of nuclear power plants (ECE/MP.EIA/2020/9) (the Guidance), the Committee prepared a draft checklist with a view to gathering, structuring and evaluating information on the related matters under its consideration, as needed.

##### (a) Belgium (EIA/IC/INFO/18)

62. In the absence of the Committee members nominated by Luxembourg and Germany, the Committee continued to consider the information it had gathered regarding the lifetime extensions of units 1 and 2 of Doel nuclear power plant and unit 1 of Tihange nuclear power plant by Belgium through the laws of 18 of December 2013 and 18 June 2015, respectively. In doing so, the Committee considered the criteria proposed by the Guidance and, as requested by Belgium in its letter, dated 27 October 2017, the outcome of the legal proceedings before the Court of Justice of the European Union concerning *Inter-Environnement Wallonie ASBL and Bond Beter Leefmilieu Vlaanderen vzw v. Conseil des ministers*<sup>20</sup> regarding units 1 and 2 of Doel nuclear power plant and related proceedings of the Belgian Constitutional Court.

63. The Committee noted that, in its judgment of 29 July 2019, the Court of Justice of the European Union had concluded that, in accordance with the European Union Environmental Impact Assessment Directive (the Directive),<sup>21</sup> a transboundary environmental impact assessment had to be carried out prior to the lifetime extension of units 1 and 2 of the Doel nuclear power plants. Additionally, the Committee noted that the Directive represented a transposition of the Convention into European Union legislation.

64. The Committee observed that the Court's judgment had been in line with its previous findings concerning the Convention's applicability to lifetime extension of nuclear power plants. With reference to paragraphs 58, 70, 78 and 79 of the Guidance, the Committee considered that the Guidance provided good reasons for the application of the Convention to the lifetime extension of the units at Doel and Tihange nuclear power plants.

65. The Committee then noted that it was not aware of major differences in scale of investments and likely transboundary impacts of the planned lifetime extension of unit 1 of Tihange nuclear power plant and units 1 and 2 of the Doel nuclear power plant. It also observed that Doel nuclear power plant was situated even closer to the border with the Netherlands than Tihange nuclear power plant was to the border with Germany. Subsequently, it considered that, although the above-mentioned judgment could not be applied automatically to the situation at unit 1 of Tihange nuclear power plant, there was no evident argument for the Committee to conclude that substantial differences between the two situations could be found.

66. In the light of the above, the Committee considered that the information available to it constituted a profound suspicion of non-compliance by Belgium with its obligations under the Convention concerning the activities. Nonetheless, before opening a Committee initiate,

<sup>20</sup> Court of Justice of the European Union, Case No. C-411/17, Judgment, 29 July 2019.

<sup>21</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, *Official Journal of the European Union*, L 26 (2012), pp. 1–21.

further to paragraph 6 of the Committee's structure and functions, the Committee asked the Chair to write to Belgium inviting it to inform the Committee by 30 June 2021 whether it had taken any steps to rectify its possible non-compliance with the Convention following the judgment and the criteria proposed by the Guidance. The Committee prepared a detailed list of questions to Belgium to be included in the letter and agreed to continue its considerations on the matter at its next session.

*(b) Bulgaria: Kozloduy nuclear power plant (EIA/IC/INFO/28)*

67. The Committee continued its consideration of the information it had gathered further to the information of 13 March 2018 from Romanian NGO Actiunea pentru Renasterea Craiovei regarding the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant in Bulgaria, 3 km from the border with Romania.

68. It noted that the NGO had not responded to its letter, dated 18 March 2021, inviting it to provide additional information regarding the activities taking account of the criteria proposed by the Guidance. It asked its Chair to write to the NGO informing it that the absence of a response to the Committee's letter indicated to the Committee that the NGO did not wish to continue its involvement in the Committee's proceedings.

69. The Committee then recalled that, since May 2019, Bulgaria had failed to provide the Committee with information and facts regarding the activity, including on modernization of the plant or measures to increase the original capacity of the power units carried out in relation to their lifetime extension. Bulgaria had also informed the Committee that it was unable to provide copies of the licenses for lifetime extension of units 5 and 6 for reasons related to national security. Additionally, wishing "to adhere to official documents rather than publications", it did not comment on publicly available information concerning the increased capacity of the units and investments to modernize the plant associated with the activity.

70. The Committee stressed that the information concerning lifetime extension of nuclear power units requested by it from the Parties concerned should be regarded as publicly available information that a Party was obliged to provide to the Committee, to enable it to perform its functions, as mandated by the Meeting of the Parties, including to adequately review alleged non-compliance with the Convention of Bulgaria regarding the matter. In the event that parts of such official decisions on the nuclear units or on extending original licenses were regarded as information the supply of which would be prejudicial to national security, those parts could be masked, leaving the remaining information open to the Committee.

71. The Committee reiterated that the approach of Bulgaria and the lack of responses to the Committee's queries were indicative of uncooperativeness. It pointed out that such an approach by Bulgaria not only hindered the Committee's work to review the Parties' compliance with their obligations under the Convention that the Meeting of the Parties had mandated it to carry out, but also consumed the Committee's limited resources.

72. Considering the above, the Committee asked the ECE Executive Secretary to write to Bulgaria to:

(a) Draw its attention to paragraph 11 of decision VIII/4 "strongly urg[ing] Parties to facilitate the Committee's work in good faith by providing it with the requested information in a timely manner and in good quality" and to article 26 of the Vienna Convention on the Law of Treaties;

(b) Request it to provide information regarding the activities based on the checklist prepared by the Committee in the light of the criteria proposed in the Guidance, and to substantiate that information with copies of the licenses for the activities, masking any information that might be considered as affecting national security;

(c) Inform it that, in the absence of complete and comprehensive responses to the Committee's requests for information, including corroborating information containing a description of initial and modified technical parameters and operating conditions, the Committee would draw its conclusions based on the publicly available information, including that referring to the increase of capacity of the nuclear units under its consideration;

(d) Invite it to participate at the Committee's fifty-second session in informal discussions with the Committee to elaborate on the missing information, as needed.

73. The Committee also asked its Chair to write to Serbia inviting it to inform the Committee whether it had taken any steps to contact Bulgaria regarding the activity under article 3 (7) of the Convention as recommended by the Committee in its letter dated 11 July 2020.

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

74. In the absence of the Committee Members nominated by Austria, Germany and Slovakia, the Committee continued its consideration of the information it had gathered concerning the lifetime extension of four units at Dukovany nuclear power plant. The Committee noted information from Czechia, dated 26 March 2021, that the permit for the continued operation of unit 2 had been renewed in 2017 and that the 2016 permit for unit 1 had been cancelled and replaced with a new permit of 7 April 2020 owing to new legal requirements and the operation conditions set under renewed permits for units 2–4. Czechia reiterated that, in its view, there was no need for it to carry out an environmental impact assessment procedure, including in a transboundary context, because the Dukovany nuclear power plant had been in full operation for a number of years, general conditions and the purpose of the activity remained unchanged and no changes with likely environmental impact had been introduced. Additionally, the cumulative impacts from continuous operation of units 1–4 were supposed to be assessed within the related procedure for construction of two additional units at Dukovany nuclear power plant completed in 2019.

75. The Committee considered that, for its further consideration of the matter, it needed additional information and clarifications from Czechia, including:

- (a) Confirmation that renewed permits for units 3 and 4 had been issued;
- (b) Copies of the renewed and/or replaced permits for each of the four units and the English translation thereof;
- (c) Copies of the correspondence between Czechia and the neighbouring countries that it had informed about the activities on a bilateral basis and an explanation of how it involved those countries in the related decision-making process regarding the activities;
- (d) Information regarding the activities based on the checklist prepared by the Committee in the light of the Guidance with a view to gathering information on and evaluating the compliance matter.

76. The Committee asked the secretariat to inform the four NGOs that had expressed their concerns on the matter of the outcome of the Committee's considerations at the session and to invite them to provide, by 31 July 2021, any additional information regarding the planned activities, if available.

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

77. 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>22</sup> The Committee examined information from France, dated 19 March 2021, containing: a brief description of the activities; extensive explanations regarding its national legislative framework concerning the operation of nuclear plants; a list of 35 nuclear power plants reaching timeframes for initiation of the fourth periodic safety review by 2030; the role of that fourth periodic safety review in preparing them for long-term operation; and the related public participation process allowing for informing neighbouring countries when theoretical possibilities of transboundary impacts arose.

<sup>22</sup> For more information about the number of units see ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4, table 4.

78. The Committee also noted information of 8 February 2021 from Greenpeace France that Italy had requested France to be consulted under the Convention concerning the lifetime extension of 900 MWe units.

79. The Committee asked its Chair to write to France requesting it to provide further information regarding each nuclear power unit based on the checklist. Additionally, in its letter the Chair should request France to provide the following additional information and clarifications:

(a) A timetable of scheduled periodic safety reviews for each nuclear unit under the Committee's consideration:

(i) That would reach their fortieth year of operation by 2023 and would require a fourth periodic safety review, in particular units 1–3 of Tricastin nuclear power plant, units 2, 4 and 5 of the Bugey nuclear power plants, unit 1 of Blayais nuclear power plant, units 1 and 2 of the Dampierre nuclear power plants, and units 1 and 3 of Gravelines nuclear power plant;

(ii) Other units, including those with a capacity of 900 MWe and above 900 MWe;

(b) A copy of a decision of the French nuclear authority dated 23 February 2021 providing conditions for operation of 900 MWe reactors beyond their fourth periodic safety review and the English translation thereof.

80. The Chair should also inform France that Greenpeace France had requested the Committee to share with it the information of 19 March 2021 from France. With reference to its previous approach to such requests from NGOs, the Committee had agreed to do so in the absence of any objections based on reasonable grounds from France within two weeks of receiving the electronic version of the Chair's letter (see also para. 105 below).

81. The Committee also asked its Chair to write to Italy<sup>23</sup> inviting it to provide the following information and clarifications:

(a) Whether and, if so, why it considered that the proposed activities were likely to have a significant adverse transboundary impact on the territory of Italy?

(b) Whether Italy had entered into any discussions with France regarding any of the proposed activities subject to the Committee's proceeding? If the Italy had enter into such discussions, it should be invited to inform the Committee of the status and outcome of the discussions, substantiating its answer with copies of the correspondence between the Parties and/or other relevant documents, if any, and providing the English translation thereof.

82. Lastly, the secretariat was asked to inform Greenpeace France accordingly and to invite it to provide relevant information, if any, by 1 September 2021, for its consideration at the next session.

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

83. In the absence of the Committee members from Austria, Germany, Hungary and Slovakia, the Committee continued its deliberations on the lifetime extension of 12 power units located at the Rivne, South Ukrainian, Zaporizhzhya and Khmelnytsky nuclear power plants in Ukraine. Further to its analysis of the information from Ukraine, dated 14 August 2020, and from Austria, dated 16 February 2021, the Committee asked its Chair to write to Ukraine requesting it to provide, by 15 August 2021, additional information and clarifications on the lifetime extension of each nuclear power plant as set out below:

(a) or units 1 and 2 of Khmelnytsky nuclear power plant:

(i) Information about the activity further to the checklist prepared by the Committee in the light of the criteria proposed by the Guidance, with a view to gathering and evaluating the information on the compliance matter;

<sup>23</sup> Further to a letter, dated 19 May 2021, from Italy to the secretariat on the matter, there was no need to request additional information from Italy.

(ii) Information about the related transboundary procedure as requested by the Committee in its letter dated 17 April 2019;

(b) For unit 3 of the Rivne nuclear power plant – Clarification of whether Ukraine had notified potentially affected Parties regarding the activity. In case Ukraine had notified potentially affected Parties, it should provide a list of the Parties that it had notified, copies of the notification, copies of the responses to the notification from those affected Parties, a copy of the environmental impact assessment documentation, including technical summary, the timetable and information about the status of the transboundary procedure with each Party. Additionally, Ukraine should be invited to duly fill in the checklist regarding the activity;

(c) For Zaporizhzhya and Khmelnytsky nuclear power plants – Information on the status of consultations with the affected Parties (Austria, Belarus, Germany, Hungary, Poland, Republic of Moldova, Romania and Slovakia) regarding the activities. With reference to the Committee’s previous opinions on the matter (ECE/MP.EIA/IC/2019/4, para. 89; ECE/MP.EIA/IC/2019/6, paras. 79 and 80) and to paragraph 12 (b) of decision VIII/4, in the letter to Ukraine regarding the activities, the Chair should urge Ukraine to proceed with finalizing the transboundary procedure, if it had not yet done so, and to inform the Committee of the steps taken by 31 July 2021.

84. The Committee also asked its Chair to write to the affected Parties inviting them to update the Committee on the status of the transboundary procedure with Ukraine regarding the lifetime extension of the Zaporizhzhya and Khmelnytsky nuclear power plants.

(f) *The Netherlands (EIA/IC/INFO/15)*

85. The Committee also continued to consider the information it had gathered regarding the lifetime extension of Borssele nuclear power plant in the Netherlands. Further to its analysis of all the information made available to it so far, the Committee asked its Chair to write to the Netherlands requesting it to provide information, as required, based on the checklist prepared by the Committee based on the criteria proposed by the Guidance, with a view to gathering information on and evaluating the matter. Additionally, in the letter the Chair should request the Netherlands to provide by 31 July:

(a) Details of the 2011 screening procedure for the long-term operation of Borssele nuclear power plant referred to in the information by the Netherlands dated 13 September 2011;

(b) Documents or studies underlying that screening decision.

86. The Committee agreed to continue its consideration of the matter at its next session and asked the secretariat to inform accordingly Greenpeace Netherlands, which had expressed its concerns about the matter.

(g) *Spain (EIA/IC/INFO/34)*

87. In the absence of the Committee member nominated by Portugal, the Committee continued to consider information it had gathered further to information received on 30 July 2020 from the Portuguese political party, Pessoas–Animais–Natureza, expressing concerns about the non-application of the Convention by Spain to the planned lifetime extensions of two units of Almaraz nuclear power plant.

88. Further to its examination of the response of Spain, dated 8 January 2021, to its letter of 2 November 2021, the Committee asked its Chair to write to Spain requesting it to provide by 15 August 2021:

(a) Additional information and clarifications regarding the activities based on the checklist prepared by the Committee in the light of the criteria proposed by the Guidance and the information already provided by Spain on the matter;

(b) Copies of the orders of 23 July 2020 authorizing the lifetime extension of units 1 and 2, until 1 November 2027 and 31 October 2028, respectively, and the English translation thereof for the Committee’s assessment of the conditions.



89. The Committee also asked its Chair to write to Portugal inviting it to inform the Committee on its correspondence with Spain regarding the activities, including under article 3 (7) of the Convention, if any, and its views concerning the changes implemented by Spain in advance of extending the lifetime of the two units at the Almaraz nuclear power plant, if any.

90. The Committee agreed to continue its consideration of the matter at its next session and asked the secretariat to inform Pessoas–Animais–Natureza accordingly.

## **B. Protocol matters**

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

91. In the absence of the Committee members nominated by Germany and Finland, 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.

92. The Committee noted information from Germany, dated 26 March 2021, that on 17 March 2021 Germany had informed Poland that, in its view, the implementation of the provisions of the Policy and the cross-referenced nuclear power programme on the construction of nuclear power plants was likely to have a significant effect on the environment of Germany. Subsequently it expressed its wish to participate in the transboundary strategic environmental assessment procedure with a view to providing its public and authorities with the opportunity to submit their statements to the competent authority of Poland.

93. It also noted information from Poland, dated 1 April 2021, that, in the absence of a request for a notification from Germany under article 10 of the Protocol further to the Committee's letter of 28 October 2021, Poland had adopted the Policy on 2 February 2021.

94. The Committee asked its Chair to write to Germany:

(a) Transmitting to it – in the absence of any objections from Poland based on reasonable grounds – the information from Poland, dated 1 April 2021, for comments and views by 15 July 2021, including regarding the concerns of Poland that Germany had requested to participate more than one month after the adoption of the Policy despite knowing about the Policy's approval process since late October 2020;

(b) Inviting it to inform the Committee by that same date about the steps taken or to be taken by it further to its request for the notification and considering that the Policy had already been adopted.

95. The Committee also asked its Chair to transmit the response from Germany, once received, to Poland for comments and views and to invite Poland to provide, by 5 September 2021, additional clarifications further to the questions that the Committee had agreed to prepare using its electronic decision making procedure.

96. The Committee 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. Examination of general and specific compliance issues from the fifth review of implementation of the Convention and from the second review of implementation of the Protocol**

#### **1. Issues from the review of implementation of the Convention**

97. The Committee continued its consideration of the specific compliance issue regarding North Macedonia identified in the fifth review of implementation of the Convention (ECE/MP.EIA/2017/9). It examined the reply from North Macedonia received on 16 April

2020 in response to the Committee's letters of 18 February 2021, noting the Party's clarification 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. The Committee agreed that the Party's response was to its satisfaction and asked the Chair to inform the Government of North Macedonia accordingly. The Chair should also seek the agreement of North Macedonia that the correspondence between it and the Committee be placed on the Convention's website, as an illustration of the Committee's approach to a specific compliance issue.

## 2. Issues from the review of implementation of the Protocol

98. Due to time limitations, the Committee deferred to its next session its consideration of the specific compliance issue regarding Serbia identified in the second review of implementation of the Protocol (ECE/MP.EIA/SEA/2017/9).

## B. Modification of the questionnaires for the Parties

99. Further to its forty-ninth session, the Committee considered proposals for modifications to the questionnaires for the Parties for the seventh review of implementation of the Convention and the fourth review of implementation of the Protocol taking into account the suggestions for improving the questionnaires collected during the previous reporting period (see decisions VIII/5, para. 5, and IV/5, para. 5<sup>24</sup> and ECE/MP.EIA/WG.2/2019/INF.5).<sup>25</sup> With reference to the 2021–2023 workplan (decision VIII/2–IV/2, annex I, item II.B))<sup>26</sup> and the long-term strategy (ECE/MP.EIA/2020/3–ECE/MP.EIA/SEA/2020/3, item II.A.9), the Committee suggested ways of maximizing the usefulness of the questionnaires and reporting by the Parties as a source of information for better monitoring progress achieved and remaining challenges, for collecting and disseminating good practice and for informing the Committee on potential non-compliance. It asked the curators to adjust the questionnaires accordingly and decided to consider them again using its electronic decision-making procedure with a view to transmitting the questionnaires, by no later than by 9 June, for the consideration of the Bureau (16 and 17 June 2021). The Committee would finalize its proposals using its electronic decision-making procedure by 1 September 2021, taking into account the comments by the Bureau, if any. The secretariat would subsequently submit the modified questionnaires to the Working Group for its consideration.

## C. Specific compliance issues<sup>27</sup>

### European Union (SEA/IC/SCI/1/4) and reporting templates for the European Union

100. 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). Further to its considerations at its previous session, and with reference to paragraph 6 of decision IV/5 on reporting and review of implementation of the Protocol and to paragraph 6 of decision VIII/5 on reporting and review of implementation of the Convention, the Committee prepared draft reporting templates for the European Union in the light of its status and competences as a regional economic integration organization and with a view to facilitating its reporting under article 14 bis of the Convention and article 14 (7) of the Protocol. Considering the related objectives of the 2021–2023 workplan and the long-term strategy (see para. 108 above) and

<sup>24</sup> See ECE/MP.EIA/30/Add.3-ECE/MP.EIA/SEA/13/Add.3.

<sup>25</sup> Available at

[https://unece.org/fileadmin/DAM/env/documents/2019/WG\\_8th\\_meeting/Advance\\_copy/Final\\_documents/ECE.MP.EIA.WG.2.2019.INF.5\\_Improvements\\_to\\_reviews\\_of\\_implementation.pdf](https://unece.org/fileadmin/DAM/env/documents/2019/WG_8th_meeting/Advance_copy/Final_documents/ECE.MP.EIA.WG.2.2019.INF.5_Improvements_to_reviews_of_implementation.pdf).

<sup>26</sup> Available at [https://unece.org/sites/default/files/2021-02/Decision\\_VIII-2\\_IV-2\\_Adoption\\_of\\_the\\_workplan.pdf](https://unece.org/sites/default/files/2021-02/Decision_VIII-2_IV-2_Adoption_of_the_workplan.pdf).

<sup>27</sup> More information on specific compliance issues is available at <https://unece.org/environment-policy/environmental-assessment/specific-compliance-issues>.

the need to ensure consistency and comparability of the data to be collected and analysed when preparing the 2019–2021 reviews of implementation, the Committee harmonized the draft reporting templates with the questionnaires for the Parties.

101. Referring to paragraph 6 of decision IV/5, the Committee asked the Chair to write to the European Commission to consult it on the draft reporting format for the implementation of the Protocol. It also agreed that it would be feasible to share with the European Commission for its comments and views the reporting format for the implementation of the Convention. In the letter to the European Commission, the Chair should explain that the proposed formats focused on transposition of the provisions of the Convention and the Protocol into the related Directives and other European Union legislation and on the experience of the European Union in implementing the Convention and the Protocol. The responses of the European Union under the reporting process would serve as a useful source of information and good practice for the Parties and for States aspiring to become Parties to the Convention and the Protocol.

102. The Chair should also inform the European Commission that one question in the reporting format related to the Protocol's implementation focused on discrepancies between the European Union Strategic Environmental Assessment Directive<sup>28</sup> and the Protocol, identified by the Committee (ECE/MP.EIA/IC/2019/2, para. 103) at its forty-fourth session (Geneva, 12–15 March 2019), and steps taken or to be taken by the European Union to address those discrepancies. Subsequently, the Committee would return to the consideration of that issue once the 2019–2021 reporting cycle was completed.

103. The Chair should invite the European Commission to provide its comments and views on the reporting templates by 15 July 2021 and inform it that, in the absence of comments by that date, the Committee would consider that the consultations with the European Union on the reporting formats were completed. The Committee also agreed to transmit the draft reporting formats to the Bureau for its information and to finalize them by 1 September 2021 using its electronic decision-making procedure and considering possible comments by the European Union and views of the Bureau and to submit them to the Working Group as an informal document.

## VII. Work methods and rules of procedure

104. With reference to paragraph 5 of its operating rule 11, and with a view to improving the effectiveness and efficiency of its working methods, the Committee agreed to develop a submission form to assist the Parties in formulating their concerns in a concise and concrete manner and in providing the most relevant corroborating information. It asked the curator with the secretariat's assistance to prepare a proposal for such a form for the Committee to consider at its subsequent sessions.

105. Additionally, noting the growing number of requests from NGOs for the correspondence related to compliance matters under its consideration, the Committee agreed that, in the absence of any objections based on reasonable grounds from the Party concerned, copies of correspondence from the Party to the Committee might be made available to NGOs involved in the related Committee proceedings upon their request, or as needed. The secretariat should inform Parties accordingly when acknowledging receipt of their information to the Committee.

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

106. The Committee confirmed that it would next meet from 4 to 7 October 2021. It also agreed that it would hold its fifty-second session from 1 to 4 February 2022, its fifty-third

<sup>28</sup> Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment, *Official Journal of the European Communities*, L 197 (2001), pp. 30–37.

session from 10 to 13 May 2022 (online), and its fifty-fourth session from 4 to 7 October 2022 (online).

107. The Chair then formally closed the fiftieth session. The Committee adopted the draft report of its session, prepared with the support of the secretariat, using its electronic decision-making procedure, on 31 May 2021.

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