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Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context

Eight session

Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment

Fourth session

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Report of the Meeting of the Parties to the Convention on its eighth session and of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on its fourth session

Addendum

Decisions by the Meetings of the Parties to the Convention

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Decision VIII/4

General issues of compliance with the Convention

The Meeting of the Parties to the Convention,

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

Recalling also the general parts of decisions III/2,¹ IV/2,² V/4³ and VI/2⁴ of the Meeting of the Parties to the Convention on the review of compliance, and decision IS/1 on general issues of compliance with the Convention,⁵

Determined to promote and improve compliance with the Convention,

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

Having considered the analysis and recommendations made by the Implementation Committee on general compliance issues contained in the fifth review of implementation of the Convention (ECE/MP.EIA/2017/9), adopted by decision VII/1,⁶

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

Having reviewed also the operating rules adopted by decision IV/2, as amended by decisions V/4, annex, and VI/2, annex II,

Recognizing the importance of improving the efficiency of the working methods of the Committee in view of the growing number and increasing complexity of compliance issues brought before the Committee and the role of the Parties concerned in facilitating the Committee's work,

Having reviewed the opinions of the Committee,

Recognizing the importance of rigorous reporting by Parties of their compliance with the Convention, and noting the sixth review of implementation of the Convention⁷ based on Parties' answers to the questionnaires on the implementation of the Convention, as adopted in its decision VIII/5,⁸

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

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

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

¹ See ECE/MP.EIA/6.

² See ECE/MP.EIA/10.

³ See ECE/MP.EIA/15.

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

⁵ See ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1.

⁶ See ECE/MP.EIA/23/Add.2–ECE/MP.EIA/SEA/7/Add.2.

⁷ ECE/MP.EIA/2020/8.

⁸ ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

Affirming that, in line with their obligations under articles 2 (2) and (3) and 6 (1) of the Convention, Parties shall have procedures in place providing for a final decision to authorize or undertake proposed activities that fall within the scope of the Convention, taking due account of the outcome of the environmental impact assessment,

1. *Adopts* the Implementation Committee's report on its activities contained in document ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4;

2. *Welcomes* the Committee's reports on its sessions in the period following the seventh session of the Meeting of the Parties to the Convention (Minsk, 13–16 June 2017);

3. *Requests* the Committee to continue to:

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

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

4. *Welcomes* the follow-up by the Committee to previous decisions of the Meeting of the Parties on compliance with the Convention's obligations by individual Parties as reflected in decisions VIII/4a concerning Armenia,⁹ VIII/4b concerning Azerbaijan,¹⁰ VIII/4c concerning Belarus,¹¹ and VIII/4d¹² and VIII/4e¹³ concerning Ukraine, adopted by the Meeting of the Parties at its eighth session;

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

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

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

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

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

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

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

7. *Acknowledges* that several information gathering cases before the Committee (as referred to in paragraphs 4 and 5 above) relate to concerns of the public regarding the applicability of the Convention to lifetime extensions of nuclear power plants – by Belgium (three units of two nuclear power plants), by Bulgaria (two units of one nuclear power plant), by Czechia (four units of one nuclear power plant), by France (thirty-two units of eight nuclear power plants), by the Netherlands (one unit of one nuclear power plant), by Spain (two units of one nuclear power plant) and by Ukraine (eleven units of four nuclear power

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

plants) – and that the Committee’s deliberations have been delayed pending the development of guidance on that topic by an ad hoc working group of Parties to the Convention;

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

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

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

11. *Strongly urges* Parties to facilitate the Committee’s work in good faith by providing it with the requested information in a timely manner and in good quality;

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

(a) Appendix IV of the Convention regarding the inquiry procedure is not applicable unless the preconditions in article 3 (7) had been met,¹⁴ namely:

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

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

- Exchange information that is sufficient and within the scope of the Convention for the purposes of holding discussions on whether there is likely to be a significant adverse transboundary impact. Moreover, if available, the Party of origin should provide the environmental impact assessment documentation for the proposed activity to the Party that considers itself affected
- Hold discussions on whether a significant adverse transboundary impact on the territory of the affected Party is likely; and document the outcomes of those discussions, preferably as joint statements or meeting minutes signed by the Parties concerned, but as a minimum, as part of official correspondence
- Endeavour to agree on another method of settling that question¹⁵

(b) A notification by a Party of origin regarding a proposed activity under articles 2 (4) and 3 (1) of the Convention, followed by the indication by the affected Party of its intent to participate in the environmental impact assessment procedure further to article 3 (3) of the Convention, constitutes a mutual agreement between the Parties concerned to apply the Convention. Consequently, and following the mutual agreement among the concerned Parties, the subsequent steps of the transboundary procedure should be finalized in accordance with the Convention prior to a decision to authorize or to undertake the proposed activity;¹⁶

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

14. *Requests* the Implementation Committee to assist Parties in aligning their legislation with the Convention and the Protocol, as needed, and to the extent possible,

¹⁴ See ECE/MP.EIA/IC/2019/6, para. 86.

¹⁵ Ibid, paras. 87 and 88.

¹⁶ Ibid, para. 80.

including through cooperating with the secretariat in the context of the technical assistance provided by the secretariat in accordance with the workplan for 2021–2023 adopted through decision VIII/2–IV/2;¹⁷

15. *Urges* Parties to take into account in their future work the recommendations for further improving the implementation of and compliance with the Convention, including by strengthening national legislation, based on, but not limited to, the analyses of general compliance issues from the reviews of implementation, adopted by decisions III/1,¹⁸ IV/1,¹⁹ V/3,²⁰ VI/1,²¹ VII/1²² and VIII/5;²³

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

17. *Adopts* the amendment to the operating rules of the Implementation Committee set out in the annex to this decision, which should be applied to any meeting and to any other conduct of business of the Committee and should be read together with and in furtherance of the structure, functions and procedures described in the appendix to decision III/2²⁴ of the Meeting of the Parties to the Convention, as amended through decisions V/4 and VI/2, as well as decision V/6–I/6²⁵ of the Meeting of the Parties to the Convention and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol, and requests the secretariat to arrange publication of the amended operating rules in electronic or paper format, as appropriate;

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

¹⁷ ECE/MP.EIA/30/Add.1–ECE/MP.EIA/SEA/13/Add.1.

¹⁸ See ECE/MP.EIA/6, annex I.

¹⁹ See ECE/MP.EIA/10.

²⁰ See ECE/MP.EIA/15.

²¹ See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

²² See ECE/MP.EIA/23/Add.2–ECE/MP.EIA/SEA/7/Add.2.

²³ See ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

²⁴ See ECE/MP.EIA/6, annex II.

²⁵ See ECE/MP.EIA/SEA/2.

Annex

Decision VIII/4: Amendment of the operating rules of the Implementation Committee

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

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

Decision VIII/4a

Compliance by Armenia with its obligations under the Convention in respect of its national legislation

The Meeting of the Parties to the Convention,

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

Recalling also its decisions IV/2, paragraphs 15–19,²⁶ V/4, paragraphs 27 and 28,²⁷ VI/2, paragraphs 29–35,²⁸ and IS/1a²⁹ concerning compliance by Armenia with regard to its national legislation for the implementation of the Convention,

Recalling further its decision VIII/4³⁰ on general issues of compliance with the Convention adopted at the eighth session,

Having considered the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its eighth session, in particular, the section concerning the steps taken by Armenia further to decision IS/1a,³¹

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

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

2. *Welcomes* the information from the Government of Armenia that the amendments to its legislation and the relevant secondary legislation prepared to enhance the implementation of the Convention and the Protocol have been submitted for governmental consultations in multiple iterations since December 2019—with a view to adopting their by December 2020;

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

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

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

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

²⁶ See ECE/MP.EIA/10.

²⁷ See ECE/MP.EIA/15.

²⁸ See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

²⁹ ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1.

³⁰ ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

³¹ See ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4.

Decision VIII/4b

Compliance by Azerbaijan with its obligations under the Convention in respect of its national legislation

The Meeting of the Parties to the Convention,

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

Recalling also its decisions V/4, paragraphs 31 and 32,³² VI/2, paragraphs 38–44,³³ and IS/1c³⁴ concerning compliance by Azerbaijan with regard to its national legislation for the implementation of the Convention,

Recalling further its decision VIII/4³⁵ on general issues of compliance with the Convention adopted at the eighth session,

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

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

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

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

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

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

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

- (a) The definition referred to in article 1 (v) of the Convention;
- (b) The division of responsibilities between the competent authorities and a proponent, in particular in connection with ensuring proper public participation under articles 2 (6), 3 (8) and 4 (2) of the Convention;
- (c) Obligations of the competent authorities to take due account of the outcome of the environmental impact assessment and to provide to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based, as set out in article 6 (1) and 6 (2) of the Convention;

³² See ECE/MP.EIA/15.

³³ See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

³⁴ See ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1.

³⁵ ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

³⁶ ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4, paras. 17–23.

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

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

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

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

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

Decision VIII/4c

Compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets

The Meeting of the Parties to the Convention,

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

Recalling also its decisions VI/2, paragraphs 48–64,³⁷ and IS/1d³⁸ concerning compliance by Belarus with its obligations under the Convention in respect of the construction of the nuclear power plant in Ostrovets,

Recalling further its decision VIII/4³⁹ on general issues of compliance with the Convention adopted at the eighth session,

Having considered the section concerning Belarus in the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its eighth session,⁴⁰

1. *Reaffirms* its decision IS/1d on compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets and urges Belarus to apply the Convention in the future with regard to a proper evaluation of reasonable alternatives further to paragraph 16 of that decision;

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

3. *Notes also* the steps taken by Belarus and Lithuania since the intermediary session of the Meeting of the Parties (Geneva, 5–7 February 2019) further to paragraphs 16–20 of decision IS/1d, but expresses concern regarding the limited progress made by the Parties concerned in addressing the requirements set out in paragraphs 17, 18 and 19 of that decision;

4. *Endorses* the finding of the Committee that Belarus and Lithuania have not yet fulfilled the requirements set out in paragraphs 17–19 of decision IS/1d and again encourages both Parties to comply with these requirements by the ninth session of the Meeting of the Parties, with a view to:

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

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

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

5. *Requests* the Government of Belarus and the Government of Lithuania to report by the end of each year to the Implementation Committee on the progress made in implementing the requirements set out in paragraphs 17–19 of decision IS/1 d;

6. *Requests* the Implementation Committee to report to the Meeting of the Parties at its ninth session on the progress made.

³⁷ See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

³⁸ See ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1.

³⁹ ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

⁴⁰ ECE/MP.EIA/2020/4 – ECE/MP.EIA/SEA/2020/4, paras. 24–31.

Decision VIII/4d

Compliance by Ukraine with its obligations under the Convention in respect of the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta

The Meeting of the Parties to the Convention,

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

Recalling also its decisions IV/2, paragraphs 7–14,⁴¹ V/4, paragraphs 17–26,⁴² VI/2, paragraphs 15–28,⁴³ and IS/1f⁴⁴ concerning compliance by Ukraine in respect of the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (Bystroe Canal Project),

Recalling further its decision VIII/4⁴⁵ on general issues of compliance with the Convention adopted at the eighth session,

Having considered the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its eighth session, in particular, the section concerning the steps taken by Ukraine further to decision IS/1f,⁴⁶

Referring to a declaration of Ukraine of its genuine wish to bring the Bystroe Canal Project into compliance with the Convention,⁴⁷

Recalling the road map developed by Ukraine to bring the Bystroe Canal Project into compliance with the Convention that contains a non-exhaustive list of measures with regard to Phases I and II of the Project, including the readiness to stop works, to repeal the final decision, to conduct an assessment of the damage to the environment and to develop a plan for compensatory or mitigation measures,⁴⁸

Recalling the intention of Ukraine to develop a new project for a “Bystroe Route” and to carry out a transboundary environmental impact assessment procedure on the new project in accordance with the Convention,⁴⁹

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

2. *Welcomes* the efforts demonstrated by the Government of Ukraine to follow the recommendations by the Meeting of the Parties in decision IS/1f, including with regard to the:

(a) Adoption by Ukraine of all the pieces of secondary legislation developed in order to fully align its national legislation with the provisions of the Convention;

(b) Implementation of a number of steps listed in the road map, such as carrying out an assessment of the damage to the environment and developing a draft plan of compensatory or mitigation measures;

⁴¹ See ECE/MP.EIA/10.

⁴² See ECE/MP.EIA/15.

⁴³ See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

⁴⁴ See ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1.

⁴⁵ ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

⁴⁶ ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4, paras. 35–40.

⁴⁷ ECE/MP.EIA/IC/2018/2, para. 34, and ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1, para. 10.

⁴⁸ ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1, paras. 11 and 12.

⁴⁹ *Ibid.*, para. 13.

3. *Also welcomes* the decision of the Government of Ukraine to start developing a new “Bystroe Route” project and its notification of the affected Party, Romania, in accordance with the Convention;

4. *Encourages* the Government of Ukraine:

(a) To continue the implementation of the road map, including with a view to:

(i) Completing the assessment of the damage to the environment – in particular in a transboundary context – that resulted from works carried out under Phases I and II of the Bystroe Canal Project;

(ii) Finalizing and approving the plan of compensatory or mitigation measures;

(b) In that context, to cooperate closely and to consult with the Government of Romania in an open and transparent manner;

5. *Also encourages* the Government of Ukraine to ensure that the planned activity, the new “Bystroe Route” project, encompasses Phases I and II of the Bystroe Canal Project;

6. *Requests* the Government of Ukraine to carry out all the subsequent steps of the transboundary environmental impact assessment procedure with regard to the new “Bystroe Route” project in accordance with its obligations under the Convention;

7. *Welcomes* the confirmation by the Government of Romania of its intent to participate in the transboundary procedure under the Convention with regard to the new “Bystroe Route” project and of its readiness to closely cooperate with Ukraine concerning the assessment of the damage to the environment resulting from already implemented works related to Phases I and II of the Bystroe Canal Project and the development of compensatory or mitigation measures;

8. *Expresses deep concern* that, since 2008, only limited progress has been made by the Government of Ukraine in bringing the Bystroe Canal project into full compliance with the Convention and that the road map has not been fully implemented;

9. *Endorses* the findings of the Implementation Committee at its forty-eighth session that, despite a number of steps taken, the Government of Ukraine has not yet fulfilled all its obligations under paragraphs 9 and 11 of decision IV/2, paragraphs 17 and 19 of decision V/4, paragraphs 24, 25 and 26 of decision VI/2 and paragraphs 5, 14, 15, 17 of decision IS/1f;

10. *Declares*, therefore, that the caution to the Government of Ukraine issued at its fourth session (Bucharest, 19–21 May 2008) is still effective;

11. *Reiterates* that the continuation of dredging activities constitutes a further breach of the Convention;⁵⁰

12. *Reaffirms* its decision IS/1 f and requests the Government of Ukraine to:

(a) Bring the Bystroe Canal project into full compliance with the Convention without delay;

(b) Consult with Romania on the implementation of the road map;

(c) Continue regularly reporting to the Implementation Committee and to continuously inform Romania about the monitoring results;

(d) Provide Romania with a copy of the Research Report on analysis of the impact of the environment of the Danube River Delta⁵¹ for comments and observations;

⁵⁰ ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1, para 8.

⁵¹ Full title of the report “Analysis of the impact on the environment of the Danube River Delta which follows from the already implemented work related to the project ‘Danube-Black Sea Deep-Water Navigation Channel on the Ukrainian Section of the Delta’ (stage 1 and full development) with the development of compensatory measures and measures to mitigate the likely impact based on the

13. *Encourages* the Governments of Ukraine and Romania to:
 - (a) Accelerate the preparation of the bilateral agreement or other arrangement to support further their implementation of the provisions of the Convention, as set out in article 8 of the Convention;
 - (b) Agree on a harmonized transboundary network for the monitoring of the environmental status of the Danube Delta;
 - (c) Consult on post-project analysis, according to article 7 of the Convention.
14. *Urges* the Government of Ukraine to ensure that the Convention is duly applied in the context of any future decision-making regarding similar activities, including the new “Bystroe Route” project;
15. *Requests* the Government of Ukraine to regularly report to the Implementation Committee on the progress made;
16. *Requests* the Implementation Committee to report to the Meeting of the Parties at its ninth session on its evaluation of the steps taken by the Government of Ukraine to comply with its obligations under the Convention, including the national legislation it has adopted.

materials of the integrated environmental monitoring 2004—2017 and the results of field monitoring observations at least in a transboundary context”. The analysis was conducted and the report was prepared by the Ukrainian Scientific Research Institute of Ecological Problems in 2019, see ECE/MP.EIA/IC/2020/2, para. 28 (a).

Decision VIII/4e

Compliance by Ukraine with its obligations under the Convention in respect of extension of the lifetime of the Rivne nuclear power plant

The Meeting of the Parties to the Convention,

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

Recalling also its decisions VI/2, paragraphs 68–71,⁵² and IS/1g⁵³ concerning compliance by Ukraine with its obligations under the Convention in respect of the extension of the lifetime of reactors 1 and 2 of the Rivne nuclear power plant,

Recalling further its decision VIII/4⁵⁴ on general issues of compliance with the Convention adopted at the eighth session,

Having considered the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its eighth session, in particular, the section concerning the steps taken by Ukraine further to decision IS/1g,⁵⁵

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

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

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

4. *Notes with concern* that Ukraine did not submit the complete environmental impact assessment documentation upon availability and simultaneously to all Parties concerned but acknowledges the steps taken by Ukraine to ensure the proper participation of all the affected Parties participating in the transboundary procedure;

5. *Endorses* the findings of the Implementation Committee at its forty-eighth session (Geneva, 1–4 September 2020) that, despite the positive steps taken, Ukraine has not yet fulfilled all its obligations referred to in paragraphs 4, 7 (a), (b) and (c) and 8 of decision IS/1g and that, therefore, it remains in non-compliance with its obligations under the Convention;

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

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

(i) Concluding consultations with authorities of the affected Parties based on the environmental impact assessment documentation as set out in article 5 of the

⁵² See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

⁵³ See ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1

⁵⁴ See ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

⁵⁵ See ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4, paras. 41–46.

Convention, and finalizing the public participation procedure further to articles 3 (8) and 4 (2) of the Convention;

(ii) Revising the final decision on the lifetime extension of reactors 1 and 2 of the Rivne nuclear power plant, taking due account of the outcomes of the environmental impact assessment procedure, including the environmental impact assessment documentation and comments received from the affected Parties, further to article 6 of the Convention;

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

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

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

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

Decision VIII/5

Reporting and review of implementation of the Convention

The Meeting of the Parties to the Convention,

Recalling its decisions III/1⁵⁶, IV/1⁵⁷ and V/3⁵⁸ on the review of implementation, and decisions V/7–I/7⁵⁹, VI/1⁶⁰ and VII/1⁶¹ on reporting and the review of implementation,

Recalling also article 14 bis of the Convention on Environmental Impact Assessment in a Transboundary Context, which requires Parties to report on their implementation of the Convention,

Recognizing once again that regular reporting by each Party provides important information that facilitates the review of compliance under the Convention and thereby contributes to the work of the Implementation Committee,

Recognizing that Parties' reporting provides useful information to other countries within and beyond the United Nations Economic Commission for Europe (ECE) region that facilitates their efforts to implement and accede to the Convention,

Having analysed the reports provided by Parties in response to the questionnaire on the implementation of the Convention,

Strongly emphasizing the importance of the timeliness and the quality of national reporting,

Expressing concern that the following 23 States Parties – which were Parties to the Convention during the period under review – responded to the questionnaire late: Azerbaijan, Belarus, Bosnia and Herzegovina, Cyprus, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Kazakhstan, Latvia, Liechtenstein, Luxembourg, Montenegro, North Macedonia, Netherlands, Portugal, Serbia, Slovenia, Spain and Ukraine,

Expressing appreciation that Georgia, the State not Party to the Convention, nevertheless responded to the questionnaire,

1. *Welcomes* the reports by Parties on their implementation of the Convention during the period 2016–2018, which have been made available on the Convention website;

2. *Adopts* the sixth review of implementation of the Convention (ECE/MP.EIA/2020/8) and requests the secretariat to arrange for its publication in an electronic format in all three official languages of ECE;

3. *Notes* the findings of the sixth review of implementation, including the following possible weaknesses or shortcomings in the Convention's implementation by Parties:

(a) Parties' definitions of and approaches to key terms in the Convention, such as "impact", "transboundary impact" and "major change", which has the potential to cause problems, particularly if the consequence is a lack of clarity about which proposed activities fall within the scope of the Convention (arts. 1 and 6);

(b) Slightly more than 50 per cent of the Parties have made obligatory provisions for transboundary consultation with the authorities of affected Parties according to article 5, with nine Parties having no provisions in this regard in their domestic legislation;

(c) Only a minority of Parties have an explicit provision in their legislation on how to ensure application of article 6 (3), which requires that concerned Parties be updated on

⁵⁶ See ECE/MP.EIA/23.Add.3–ECE/MP.EIA/SEA/7.Add.3.

⁵⁷ See ECE/MP.EIA/10.

⁵⁸ See ECE/MP.EIA/15.

⁵⁹ See ECE/MP.EIA/SEA/2.

⁶⁰ See ECE/MP.EIA/20.Add.1–ECE/MP.EIA/SEA/4.Add.1.

⁶¹ See ECE/MP.EIA/23.Add.2–ECE/MP.EIA/SEA/7.Add.2.

additional information that may trigger consultations and a new decision before work on an activity commences;

(d) There is only rudimentary experience in carrying out post-project analysis under article 7, with eleven Parties having no express provisions implementing this article in their legislation;

(e) Differing practices exist in relation to the translation of documentation for affected Parties. A number of difficulties and concerns are raised by the Parties about such practices, in particular concerning the quality of translations and proper integration of translation into time schedules for consultations and public participation;

(f) Guidance documents developed to help implement the Convention are being used less frequently. However, most Parties do not see a need to update most of the current documents;

(g) Bilateral and multilateral agreements or other arrangements under article 8 can be useful, in particular in addressing differences between Parties' implementation practices;

(h) A lack of timely reporting by Parties complicated the review;

(i) Different quality control measures are used by the Parties to ensure the quality of environmental impact assessment documentation;

(j) A wealth of implementation practices and experiences are reported, but few Parties volunteer to share their good practices by preparing factsheets. Consideration might be given to the ways in which the collection of such practices to help develop material to enhance the Convention's implementation and practical application can be facilitated.

4. *Requests* the secretariat to bring to the attention of the Implementation Committee general and specific compliance issues identified in the sixth review of implementation of the Convention, and requests the Implementation Committee to take these into account in its work;

5. *Requests* the Implementation Committee, if necessary, to adjust the questionnaire for the next reporting round on Parties' implementation of the Convention in the period 2019–2021, taking into account the suggested improvements to the questionnaire on the implementation of the Convention, and to provide, if necessary, a modified version for consideration by the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment and for circulation by the secretariat thereafter;

6. *Also requests* the Implementation Committee to prepare a reporting template to fit the context and competencies of regional economic integration organizations, including the European Union, to facilitate their reporting under article 14 bis of the Convention;

7. *Decides* that *Parties* shall complete the questionnaire as a report on their implementation of the Convention during the period 2019–2021;

8. *Urges* Parties to report by the deadline to be agreed by the Working Group;

9. *Requests* the secretariat to post national reports on the Convention website in the languages in which they are available;

10. *Also requests* the secretariat to put the project lists included in the responses to the questionnaire on the Convention website, unless the countries object to this practice;

11. *Decides* that a draft seventh review of implementation of the Convention during the period 2019–2021 based on the reports by Parties will be presented at the ninth session of Meeting of the Parties to the Convention, and that the workplan shall reflect the elements required to prepare the draft review;

12. *Requests* the secretariat to foresee the subsequent publication of the seventh review of implementation, once adopted, in an electronic format in all three official languages of ECE

Decision VIII/6

Applicability of the Convention to the lifetime extension of nuclear power plants

The Meeting of the Parties to the Convention,

Recalling its decision VII/3–III/3⁶² on adoption of the workplan,

Reiterating that the Convention on Environmental Impact Assessment in a Transboundary Context is a key instrument establishing rules for domestic action and international cooperation for preventing, reducing and controlling significant adverse transboundary environmental impact from proposed activities that include nuclear energy,

Affirming that, in line with their obligations under articles 2 (2) and (3) and 6 (1) of the Convention, Parties shall have procedures in place providing for a final decision to authorize or undertake proposed activities that fall within the scope of the Convention, taking due account of the outcome of the environmental impact assessment,

Aware of the need to provide guidance to the Implementation Committee and to Parties that are currently considering extending the lifetimes of their existing nuclear power plants,

Aware also of the public concern regarding the potential significant transboundary (and long-range) adverse environmental impacts of the lifetime extension of the existing nuclear power plants in the United Nations Economic Commission for Europe region, and of the public's wish to participate in the related decision-making process,

Affirming the prime importance of the precautionary principle, early and timely notification and transparent and participatory decision-making for the effective application of the Convention,

Affirming also the need for legal certainty for the effective application of the Convention, through ensuring the clarity of its obligations and their scope,

Reiterating that it is essential for Parties to meet fully their obligations deriving from the Convention, and therefore urging them all to do so,

Wishing to assist Parties in complying with their obligations under the Convention, and to promote its effective application in the field of nuclear energy, in particular as regards the lifetime extension of nuclear power plants,

Noting that a lifetime extension of a nuclear power plants does not always fulfil the criteria for a proposed activity,

Wishing also to support the work of the Implementation Committee in assessing compliance by Parties with their obligations under the Convention regarding the lifetime extension of nuclear power plants,

1. *Welcomes* the development of draft guidance by an ad hoc working group of Parties to the Convention co-chaired by Germany and the United Kingdom of Great Britain and Northern Ireland and composed of representatives of Armenia, Azerbaijan, Austria, Belarus, Belgium, Bulgaria, Canada, Croatia, Czechia, the European Union, Finland, France, Germany, Greece, Italy, Lithuania, Luxembourg, the Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, Switzerland and Ukraine, and supported by the secretariat;

2. *Endorses* the Guidance on the Applicability of the Convention to the Lifetime Extension of Nuclear Power Plants (ECE/MP.EIA/2020/9;

⁶² See ECE/MP.EIA/23.Add.1–ECE/MP.EIA/SEA/7.Add.1.

3. *Recalls* its decision IS/2⁶³ and the wish to assist Parties in complying with their obligations under the Convention, to promote legal certainty and to provide guidance on the applicability of the Convention to the lifetime extension of nuclear power plants, the Guidance does not impose new obligations on Parties;
 4. *Recommends* that the Parties take into account the contents of the Guidance when implementing the Convention;
 5. *Also recommends* that the Implementation Committee consider the Guidance when performing its functions;
 6. *Calls upon* the Parties to widely disseminate the Guidance to authorities and relevant stakeholders.
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⁶³ See ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1.