

**Economic and Social Council**

Distr.: General
10 February 2021

Original: English

Economic Commission for Europe

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

Eighth 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

Vilnius (online), 8–11 December 2020

**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**

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Decision IV/4

General issues of compliance with the Protocol

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

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

Recalling also decision V/6–I/6¹ of the Meeting of the Parties to the Convention and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol concerning the application of the compliance procedure of the Convention to the Protocol, and decisions II/2² and III/2³ on the review of compliance with the Protocol,

Determined to promote and improve compliance with the Protocol,

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

Having reviewed the structure and functions of the Implementation Committee under the two treaties, as adopted by the Meeting of the Parties to the Convention through its decisions III/2⁴ and VI/2,⁵

Having reviewed also the operating rules adopted by decision IV/2,⁶ as amended by decisions V/4,⁷ annex, and VI/2,⁸ annex II,

Recognizing the importance of improving the effectiveness of the compliance mechanism under the Convention in view of the growing number and complexity of compliance issues brought before the Committee,

Recognizing also the importance of rigorous reporting by Parties of their compliance with the Protocol, and noting the third review of the implementation of the Protocol⁹ based on Parties' answers to the questionnaires on the implementation of the Convention and the Protocol, as adopted in its decision IV/5,¹⁰

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

Noting that several compliance issues 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/SEA/2.

² See ECE/MP.EIA/20/Add.2–ECE/MP.EIA/SEA/4/Add.2.

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

⁴ See ECE/MP.EIA/6.

⁵ See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

⁶ See ECE/MP.EIA/10.

⁷ See ECE/MP.EIA/15.

⁸ See ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

⁹ See ECE/MP.EIA/SEA/2020/8.

¹⁰ See ECE/MP.EIA/ SEA/2020/7.

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 third session of the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol (Minsk, 13–16 June 2017);
3. *Requests* the Implementation Committee to:
 - (a) Keep the implementation and application of the Protocol under review;
 - (b) Promote and support compliance with the Protocol, including by providing assistance in this respect, as necessary;
4. *Welcomes* the examination by the Committee of specific compliance issues identified in the second review of implementation of the Protocol¹¹ regarding Italy and Serbia, which:
 - (a) In the case of Italy, resulted in the Committee declaring its satisfaction with the clarifications provided by the Party;
 - (b) In the case of Serbia, will require further consideration by the Committee at its upcoming sessions due to the lack of response from the Party concerned;
5. *Also welcomes* the examination by the Committee of the specific compliance issues identified in the first review of implementation of the Protocol¹² regarding the European Union, which will require further consideration by the Committee at its upcoming sessions;
6. *Further welcomes* the examination by the Committee of information received from other sources, including the public, regarding Poland, Serbia and Ukraine, which resulted in the Committee declaring its satisfaction with the clarifications provided by Ukraine, in the case of Serbia led to a Committee initiative, and in the case of Poland will require further gathering of information at its forthcoming sessions;
7. *Recognizes* 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 the Committee; and invites the Committee to pursue this work in its subsequent sessions;
8. *Notes with regret* that the Committee's work is hindered by the lateness and insufficient quality of responses by some Parties concerned, and, in some cases, also by their refusal to respond and to cooperate;
9. *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;
10. *Encourages* Parties to bring issues concerning their own compliance before the Committee;
11. *Requests* the Implementation Committee to assist Parties in aligning their legislation with the Convention and the Protocol, as needed, and to the extent possible, including through cooperating with the secretariat in the context of the technical assistance provided by the secretariat in accordance with the workplan for 2021–2023 adopted through decision VIII/2–IV/2;¹³
12. *Urges* Parties to take into account in their further work the recommendations for further improving the implementation of and compliance with the Protocol, including by strengthening national legislation, based on, but not limited to, the analyses of general compliance issues from the reviews of implementation listed in its decisions II/1,¹⁴ III/1¹⁵ and

¹¹ ECE/MP.EIA/SEA/2017/9, adopted by the Meeting of the Parties to the Protocol through decision III/1.

¹² ECE/MP.EIA/SEA/2014/3.

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

¹⁴ See ECE/MP.EIA/20/Add.2–ECE/MP.EIA/SEA/4/Add.2.

¹⁵ See ECE/MP.EIA/23/Add.3–ECE/MP.EIA/SEA/7/Add.3.

IV/5, as well as the *Good Practice Recommendations on Public Participation in Strategic Environmental Assessment*,¹⁶ endorsed by Parties through decision II/8;¹⁷

13. *Adopts* the amendment to the operating rules of the Committee set out in the annex to decision VIII/4¹⁸ of the Meeting of the Parties to the Convention;

14. *Decides* to keep under review and to further develop the structure and functions of the Committee and its operating rules at its fifth session, in 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 fifth session.

¹⁶ United Nations publication, Sales No. E.15.II.E.7.

¹⁷ See ECE/MP.EIA/20/Add.2 - ECE/MP.EIA/SEA/4/Add.2.

¹⁸ ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

Decision IV/5

Reporting and review of implementation of the Protocol

The Meeting of the Parties to the Protocol,

Recalling decision V/7–I/7¹ of the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context and the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol on Strategic Environmental Assessment (Meeting of the Parties to the Protocol) and decisions II/1² and III/1³ of the Meeting of the Parties to the Protocol on reporting and the review of implementation,

Recalling also article 14 (4) of the Protocol, concerning the regular review of the implementation of the Protocol,

Recalling further article 14 (7) of the Protocol, on reporting by Parties on measures they have taken to implement the Protocol and article 13 (4) of the Protocol, concerning reporting by Parties on their application of article 13 on policies and legislation,

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

Recognizing also 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 Protocol,

Having analysed the reports provided by Parties in response to the questionnaire on implementation of the Protocol during the period 2016–2018,

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

Expressing concern that the following 15 States Parties –that were Parties to the Protocol during the period under review – responded to the questionnaire late: Bosnia and Herzegovina, Cyprus, Denmark, Germany, Italy, Latvia, Luxembourg, Montenegro, the Netherlands, North Macedonia, Portugal, Serbia, Slovenia, Spain and Ukraine,

Expressing appreciation that the Republic of Moldova, the State not Party to the Protocol during the period under review, and Georgia and Kazakhstan, States not Parties to the Protocol, nevertheless responded to the questionnaire,

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

2. *Adopts* the third review of implementation of the Protocol as contained in document ECE/MP.EIA/SEA/2020/8, and requests the secretariat to arrange for its publication in an electronic form in all three official languages of ECE;

3. *Notes* the findings of the third review of implementation of the Protocol, including the following possible weaknesses or shortcomings and areas for further improvement in the implementation of the Protocol by Parties:

(a) A variety of approaches exist to interpreting the term “set the framework for future development consent” referred to in article 4 (2) of the Protocol, with most Parties having no explicit definition of this term in their domestic legislation; the Parties also

¹ See ECE/MP.EIA/SEA/2.

² See ECE/MP.EIA/20/Add.2 - ECE/MP.EIA/SEA/4/Add.2.

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

experience difficulties in interpreting the provisions of article 4 (4), in particular the terms “small areas at local level” and “minor modifications”;

(b) The Parties’ legislation and practice continue to differ considerably regarding the opportunities provided to the public concerned to participate in screening and scoping further to articles 5 (3) and 6 (3);

(c) Some Parties seem to find it difficult to appropriately address health aspects and impacts in strategic environmental assessments. Parties may wish to consult the section on health in the *Resource Manual to Support Application of the UNECE Protocol on Strategic Environmental Assessment*⁴ for further information on the matter;

(d) Some consultations are complicated by difficulties arising from Parties’ differing practices in relation to the translation of documentation during transboundary consultations, in particular concerning the quality of, and time and resources required for, the translation, and with regard to the integration of the translation into time schedules for consultations and public participation;

(e) Further bilateral agreements or other arrangements to facilitate transboundary consultations between Parties might be useful, in particular to increase efficiency and to address differences between Parties’ implementation practices, including language-related issues, time frames, public participation, the interpretation of various terms and the organization of transboundary consultations;

(f) A wide range of implementation practices and experiences are reported by the Parties and this information could be used to enhance the Protocol’s implementation and practical application. As no Parties volunteer to provide case studies, consideration might be given to the ways in which ECE can facilitate the creation of such material;

(g) Many Parties continuously fail to fulfil their obligation to report (in accordance with art. 14 (7)) in a timely manner;

(h) Relatively few Parties use the *Resource Manual*, but it is unclear as to why this is the case. Some Parties requested that the current version of the *Resource Manual* be translated into their national languages;

(i) Ensuring quality of the environmental reports may be an area of improvement in the application of the Protocol. Promoting use of quality control approaches could be recommended;

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

5. *Requests* the Implementation Committee to adjust, if necessary, the questionnaire for the next reporting round on Parties’ implementation of the Protocol in the period 2019–2021, taking into account the suggested improvements to the questionnaires on the implementation of the Protocol, 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, in consultation with the European Union, represented by the European Commission, a reporting template that fits the nature and the competencies of the European Union;

7. *Decides* that Parties to the Protocol shall complete the questionnaire as a report on their implementation of the Protocol during the period 2019–2021, taking note of the obligations to report arising from articles 14 (7) and 13 (4) of the Protocol;

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

⁴ United Nations publication, ECE/MP.EIA/17.

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

10. *Also requests* the secretariat to post the lists of domestic and transboundary strategic environmental assessment cases included in the responses to the questionnaire on the treaty website, unless the Parties object to this practice;

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

12. *Requests* the secretariat to post the draft fourth review of implementation of the Protocol on the treaty website;

13. *Also requests* the secretariat to foresee the subsequent publishing of the fourth review of implementation, once adopted, in an electronic format in the three official languages of ECE.
