



# Economic and Social Council

Distr.: General  
6 May 2022  
Original: English

---

## 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

**Fifty-second session**  
Geneva, 29–31 March 2022

## Report of the Implementation Committee on its fifty-second session

### I. Introduction

1. The fifty-second 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 online from 29 to 31 March 2022. The session, originally scheduled to be held on 1–4 February 2022, was postponed because of secretariat staffing constraints exacerbated by the coronavirus disease (COVID-19) pandemic. Nevertheless, in the interim, the Implementation Committee pursued its consideration of compliance matters related to the lifetime extension of nuclear power plants through online discussions, on 4 February 2022, and through its electronic decision-making procedure.

#### A. Attendance

2. The following members of the Implementation Committee for Convention and Protocol matters attended the session: Ms. Aysel Rzayeva (Azerbaijan), 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. Heidi Stockhaus (Germany) and Mr. Lasse Tallskog (Finland).



## B. Organizational matters

### 1. Adoption of the agenda

3. The Chair of the Committee opened the session. Considering the invasion of Ukraine by the Russian Federation, the Committee agreed to postpone to its subsequent sessions its consideration of all compliance issues concerning Ukraine,<sup>1</sup> including the informal consultations with Ukraine on its implementation of decisions VIII/4d–e.<sup>2</sup> On an exceptional basis, due to resource constraints, the Committee also deferred until its fifty-fourth session (4–7 October 2022) its consideration of the draft findings and recommendations further to 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 (EIA/IC/S/7),<sup>3</sup> received by the secretariat on 25 September 2019. With the above adjustments, the Committee adopted its agenda as set out in document ECE/MP.EIA/IC/2022/1.

### 2. Membership of the Committee

4. The Committee welcomed the information by secretariat that Austria had nominated Ms. Ursula Platzer-Schneider as alternate member.

## II. Submissions<sup>4</sup>

5. The discussions under the agenda item were not open to observers, in accordance with rule 17 (1) of the Committee's operating rules.<sup>5</sup>

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

6. The Committee prepared its draft findings and recommendations under 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 border with Bulgaria:

- (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.

7. It requested its Chair to transmit the document to Bulgaria and Serbia for comments and representations by 7 June 2022, with a view to the Committee reviewing and finalizing the document using its electronic decision-making procedure by 12 July 2022.

---

<sup>1</sup> Follow-up on decision VIII/4d on compliance by Ukraine with its obligations under the Convention in respect of the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (EIA/IC/S/1); follow-up on decision VIII/4e on compliance by Ukraine with its obligations under the Convention in respect of extension of the lifetime of units 1 and 2 of the Rivne nuclear power plant (EIA/IC/CI/4); Committee initiative (EIA/IC/CI/7) concerning compliance by Ukraine regarding its obligations under the Convention in respect of the construction of a large tourism complex (Svydovets mountains, Ukraine); information gathering procedures concerning the planned construction of nuclear reactors 3 and 4 at the Khmelnytsky nuclear power plant (EIA/IC/INFO/10), activities at the Muzhiyevo goldmine (EIA/IC/INFO/13), lifetime extension of the Rivne (units 3 and 4), South Ukrainian, Zaporizhzhya and Khmelnytsky nuclear power plants in Ukraine (EIA/IC/INFO/20).

<sup>2</sup> See ECE/MP.EIA/IC/2022/1, paras. 3–4, 12 and 14–15.

<sup>3</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics7-albania>.

<sup>4</sup> See <https://unece.org/submissions-overview>.

<sup>5</sup> Available at <https://unece.org/sites/default/files/2021-02/Implementation%20Committee%20structure%20functions%20procedures%20rules.e%202020.pdf>

<sup>6</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics6-serbia>.

## B. Bosnia and Herzegovina (EIA/IC/S/8/SEA/IC/S/1)<sup>7</sup>

8. The Committee continued 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 Buk Bijela hydropower plant on the Drina River, received by the secretariat on 11 December 2020. The Committee examined sets of information from Bosnia and Herzegovina and Montenegro, both dated 8 November 2021, and from Friends of the Earth Bosnia and Herzegovina/Centre for Environment, dated 20 December 2021.

9. The Committee welcomed the delegations of Bosnia and Herzegovina and Montenegro to the session for discussions, as set out in paragraph 9 of the Committee's structure and functions,<sup>8</sup> and invited them to present information and opinions on the matter. It then posed questions to seek clarification on the countries' positions, further to their written replies of 25 March 2022. It welcomed, among other things, the clarifications of Bosnia and Herzegovina regarding the first preparatory act for the Framework Energy Strategy until 2035 and other strategic documents covering the Buk Bijela hydropower plant and invited the Party to provide that information in writing by 6 April 2022. The Committee agreed to consider at its next session the draft findings and recommendations to be prepared by the curator with the assistance of the secretariat in advance of that session. Once agreed, these would be transmitted to the Parties concerned for comments or representations, and, subsequently, finalized by the Committee at its fifty-fourth session for consideration by the Meeting of the Parties to the Convention, at its ninth session, preliminarily scheduled for 12–15 December 2023.

## III. Committee initiative<sup>9</sup>

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

### Serbia (SEA/IC/CI/1)<sup>10</sup>

11. The Committee – in the absence of the Committee member nominated by Hungary – continued its proceedings under its initiative concerning compliance of Serbia regarding obligations of Serbia 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.

12. It noted that Serbia, despite numerous reminders from the secretariat, had neither provided its comments and representations to the Committee's findings and recommendations transmitted to Serbia on 29 October 2021, nor responded to the Committee's invitation to address the compliance issue without delay pending its consideration by the Meeting of the Parties as set out in rule 14 of the Committee's operating rules.

13. Consequently, the Committee finalized its findings and recommendations, taking into account the comments received from Hungary, on 5 January 2022, Croatia, on 30 December 2021, Montenegro, on 28 December 2021, and Romania, on 14 December 2021.

14. The Committee requested the secretariat to: issue the findings and recommendations as an official document in advance of its fifty-third session (10–13 May 2022); bring them to the concerned Parties' attention; and subsequently transmit the findings and recommendations to the Meeting of the Parties to the Convention serving as the Meeting of the Parties to the Protocol at its fifth session (Geneva, 12–15 December 2023) for consideration and to be taken into account when considering the related draft decision on

<sup>7</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics8seaics1>.

<sup>8</sup> Available at [https://unece.org/sites/default/files/2021-](https://unece.org/sites/default/files/2021-02/Implementation%20Committee%20structure%20functions%20procedures%20rules.e%202020.pdf)

[02/Implementation%20Committee%20structure%20functions%20procedures%20rules.e%202020.pdf](https://unece.org/sites/default/files/2021-02/Implementation%20Committee%20structure%20functions%20procedures%20rules.e%202020.pdf)

<sup>9</sup> See <https://unece.org/environment-policy/environmental-assessment/committee-initiative-overview>.

<sup>10</sup> See <https://unece.org/seaicci1>.

compliance by Serbia with its obligations under the Protocol (ECE/MP.EIA/SEA/2023/12)<sup>11</sup> and the relevant paragraphs of the draft decision on general issues of compliance with the Protocol (ECE/MP.EIA/SEA/2023/11).<sup>12</sup>

## **IV. Information gathering<sup>13</sup>**

15. Discussions under the agenda item were not open to observers, in line with rule 17 (1) of the Committee's operating rules.

### **A. Convention Matters**

#### **Belarus (ECE/IC/INFO/21)**

16. Further to the outcome of its fifty-first session (Geneva, 4–7 October 2021), the Committee considered its information gathering regarding the law of Belarus on State ecological expertise, strategic environmental assessment and environmental impact assessment (the law). It examined a report prepared in the framework of the European Union-funded "EU4Environment" programme containing the results of a review of Belarusian legislation regulating procedures on ecological expertise, environmental impact assessment and strategic environmental assessment in terms of its compliance with the Convention and the Protocol.<sup>14</sup> It noted that the outcomes of the review concurred with the results of the Committee's preliminary assessment of the law and that the deficiencies identified by the Committee had been covered by the review recommendations.

17. The Committee asked its Chair to write to Belarus inviting it to:

(a) Fully align its legislation with the Convention and the Protocol without delay, taking into account the results of:

(i) The Committee's preliminary assessment as presented in the Committee's letter, dated 2 January 2019;

(ii) The review of its legislation undertaken under the EU4Environment programme;

(b) Inform the Committee, by 15 August 2022, of the steps taken by it to bring its environmental impact assessment legislation into compliance with the Convention and the Protocol;

(c) Present the steps referred to in subparagraph (b) above to the Committee at the Committee's fifty-fourth session, following the informal discussions between the Committee, Belarus and Lithuania concerning the follow-up on decision VIII/4c<sup>15</sup> scheduled to take place at that session.

### **B. Convention matters with regard to nuclear-related activities**

#### **1. Bulgaria (EIA/IC/INFO/28)**

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

19. It noted with regret that neither Bulgaria nor the NGO had responded to the Committee's separate letters to them, of 29 October 2021, offering them – before the Committee drew its conclusions – an additional opportunity to provide their views and

---

<sup>11</sup> Forthcoming.

<sup>12</sup> Forthcoming.

<sup>13</sup> See <https://unece.org/environment-policy/environmental-assessment/information-other-sources>.

<sup>14</sup> Available at <https://unece.org/information-other-sources-0>.

<sup>15</sup> ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

additional required information concerning the activity and the related transboundary procedure.

20. The Committee then reviewed, in the light of the criteria of the Guidance on the applicability of the Convention to the lifetime extension of nuclear power plants (the Guidance),<sup>16</sup> all information made available to it on the matter by: Bulgaria, as the Party of origin; Austria, Romania and Serbia, as potentially affected Parties; and the NGO.

21. It recalled that, by its letter dated 13 March 2014, Bulgaria had notified Romania under article 3 of the Convention in respect of the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant, indicating that the operational lifetime would be extended beyond the initial design lifetime, and that significant adverse impact had not been identified. On 9 May 2014, Romania had positively responded to the notification, specifying that it considered itself potentially affected; furnishing Bulgaria with its comments and suggestions regarding the scope of the environmental impact assessment documentation; and pointing out, among other things, that the information on the absence of transboundary impacts should be substantiated at least with regard to severe and other accidents. However, thereafter, Bulgaria informed Romania that it considered that:

(a) Neither construction works nor design changes were envisaged to prepare for the lifetime extension of units 5 and 6;

(b) The activity, including its continuous operation and possible accidents, was not likely to cause a significant adverse environmental impact either domestically or in a transboundary context.

22. Consequently, in the view of Bulgaria, an environmental impact assessment procedure, including in a transboundary context, was not needed. It extended the lifetime of unit 5 of Kozloduy nuclear power plant for another 10 years on 6 November 2017 and the lifetime of unit 6, also for 10 years, on 3 October 2019, without providing the competent authorities and public of Romania with an opportunity to participate in the procedure under the Convention, or explaining to Romania whether and how it had addressed the comments and proposals received from Romania, including with regard to the transboundary impacts of accidents.

23. The Committee further recalled that Austria and Serbia considered themselves potentially affected Parties and had requested Bulgaria for a notification on 11 June 2015 and 23 September 2021, respectively. That had taken place after Bulgaria had taken the decision of 25 July 2014 not to carry out an environmental impact assessment procedure for the activity.<sup>17</sup>

24. When drawing its preliminary conclusions, the Committee considered that the activity was related to a specific situation described in the Guidance.<sup>18</sup> Notably, the two units in question had operated for thirty years since 1987 and 1991, respectively, based on regularly renewed time limited licences that had been reaching the expiration dates indicated therein. The units were expected to continue their operation, initially for another 10 years, but potentially for up to 60 years, or for an additional 30 years.

25. The Committee then examined whether the lifetime extension of units 5 and 6 constituted a major change to an activity listed in appendix I to the Convention, i.e. to item 2 (b) on nuclear power stations and other nuclear reactors.<sup>19</sup> The Committee pointed out that nuclear power plants during their lifetime underwent continuous step-by-step safety reviews and upgrades. It agreed that all physical works and modifications in the operating conditions should be considered by the competent authority when deciding on the applicability of the Convention. Those should not be limited to works and modifications that altered the design and changed the technology of the production process or normal operation.

26. In the Committee's view, it was inconceivable that the preparation for a lifetime extension of units 5 and 6 of Kozloduy nuclear power plant for another 30 years could be

<sup>16</sup> See ECE/MP.EIA/2020/9.

<sup>17</sup> See letter from Austria, dated 7 February 2020; and ECE/MP.EIA/IC/2021/6, para. 68.

<sup>18</sup> See ECE/MP.EIA/2020/9, situation I, as described in paras. 25–26.

<sup>19</sup> *Ibid.*, chap. II, sect. C.

implemented without prior physical works or changes in the operating conditions that were relevant to the Convention. In addition, taking into account the length of the extended operation of the units, it found that the amount and scale of works and modifications was less relevant. At the same time, the Committee found that, according to the information made available to it, Bulgaria had implemented at least 280 various changes towards long-term operation of the activity, with 15 per cent related to replacements, modification and reconstruction of the structures, systems and components, and others related to changes in operating conditions and long-term related maintenance and repair works. The Committee considered that those various changes, with investments of about €100 million, including physical works within the nuclear power plant and modifications in the operating conditions of a smaller scale, when taken as a whole, constituted a major change. Furthermore, the Committee noted that no comprehensive environmental impact assessment had been required or conducted for the activities at the units prior to issuing relevant original or renewed construction and operation permits. Consequently, the full environmental impacts of those activities remained thus far partly unknown and/or their compatibility with current standards could be questioned.

27. The Committee then turned to consider whether a significant adverse transboundary impact from the activity was likely.<sup>20</sup> It emphasized that, when assessing the likelihood of significant adverse transboundary impacts during the screening procedure, all impacts resulting from operational states and accidents were relevant and not only any additional ones compared to those occurring from the plant's operation before the lifetime extension. The Committee reiterated its view that, if accidents, especially beyond design basis accidents, occurred at nuclear power plants, the likelihood of significant adverse transboundary impacts could be very high,<sup>21</sup> in particular for Parties situated in close proximity to the plant, such as Romania, which shared with Bulgaria both a border – located only 3.7 km from the plant – and a common body of water, but also for other Parties located further away, such as Austria and Serbia.

28. Taking into account the above, the Committee agreed that:

(a) The activity in question constituted a major change to an activity listed in appendix I to the Convention that was likely to cause a significant adverse transboundary impact;

(b) The information made available to it gave rise to a profound suspicion of non-compliance by Bulgaria with its obligations under articles 2 (3) and 3 (1) of the Convention in respect of the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant.

29. On the above grounds, the Committee decided to begin a Committee initiative further to paragraph 6 of the Committee's structure and functions.

30. The Committee also agreed that it would be important for it to examine the matter in the context of future decision-making procedures on further extension of the lifetime of units 5 and 6 by Bulgaria. In that context, it noted that Bulgaria, so far, had extended the lifetime of units 5 and 6 by only 10 years, while the investment programme, referred to in its notification to Romania, foresaw their overall extension of up to 30 years.

31. Further to paragraph 9 of the Committee's structure and functions, it agreed to invite Austria, Bulgaria, Romania and Serbia to take part at its next session to participate in the discussion and to present information and opinions regarding the transboundary procedure for the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant. The Committee prepared a non-exhaustive list of questions on which it would base its discussions with the Parties concerned during the hearings (see annex I below). It invited its Chair to transmit the questions to the Parties concerned, inviting them to provide written replies thereto by 30 April 2022.

<sup>20</sup> Ibid., chap. IV.

<sup>21</sup> See ECE/MP.EIA/IC/2016/2, para. 60; and ECE/MP.EIA/2019/14, para. 94.

## 2. Belgium (EIA/IC/INFO/18)

32. Further to its fifty-first session, the Committee continued to consider the information it had gathered regarding the lifetime extensions of unit 1 of Tihange nuclear power plant by Belgium through the law of 18 June 2015. The Committee examined information from Belgium and Germany, received on 15 and 17 December 2021, respectively.

33. In the light of the information gathered thus far and the criteria of the Guidance on the applicability of the Convention to the lifetime extension of nuclear power plants, the Committee drew its preliminary conclusions on the matter.

34. It recalled that the licence of 5 September 1974 for unit 1 of Tihange nuclear power plant had not initially been time limited. On 31 January 2003, the Belgian Parliament had passed a law codifying the national policy of Belgium to phase out nuclear energy for industrial electricity generation and subsequently limiting the operational period of existing nuclear power plants to 40 years. Specifically, according to the law, unit 1 of Tihange nuclear power plant needed to stop its operation by December 2015. By the law of 18 December 2013, that date was modified, extending the operation of unit 1 until 1 December 2025. In 2015, in line with that law, the operation licence of the nuclear power plant had been modified by a royal decree invoking a decision by the Belgian Nuclear Safety Authority stipulating that the implementation of the action plan elaborated by the operator in 2012 was a prerequisite for the further operation of the plant. The Committee noted that, without the extension of the operational period of unit 1 of Tihange nuclear power plant by the Belgian Parliament, the production of electricity by the unit would have had to be suspended and could not have been continued. The Committee, therefore, considered that the activity was related to a specific situation described in the Guidance,<sup>22</sup> namely, the nuclear power plant had a time-unlimited licence but the time of operation was limited by law.

35. The Committee then examined whether the lifetime extension of unit 1 of Tihange nuclear power plant constituted a major change to an activity. Recalling its previous opinion (see para. 25 above), the Committee, in particular, scrutinized the detailed description of the works carried out by the operator in accordance with its 2012 action plan referred in paragraph 34 above. It noted that, although the action plan had not foreseen major changes in the construction or capacity of the nuclear power plant, the plan required the operator to carry out a comprehensive refurbishment of all electrical and mechanical parts of unit 1, including the replacement and modernization of a very large number of mechanical and electrical components, in order to enhance the design of the reactor and to handle the physical ageing and obsolescence of its structures and components. In that context, the Committee considered that, while physical works implemented for ageing management were not necessarily to be regarded as major change, they might be of relevance when implemented to justify a lifetime extension. The Committee noted again that, according to the modification authorization of the Belgian Nuclear Safety Authority of 2 September 2015, those comprehensive physical works constituted a prerequisite for the further safe operation of the unit, in line with the recommendations of the International Atomic Energy Agency documented in the report on the outcomes of its Safety Aspects of Long-term Operation mission<sup>23</sup>.

36. The Committee considered that those various changes, including physical works within the nuclear power plant and modifications in the operating conditions of a smaller scale, amounted to a major change. The Committee further noted that an environmental impact assessment had not been required or carried out for the activity at unit 1 prior to issuing original and renewed permits for the activity. In addition, the Committee noted that the activity's environmental impacts had not been fully assessed, originally, and remained thus far partly unknown and/or their compatibility with current standards could be questioned.

37. The Committee then turned to consider whether a significant adverse transboundary impact from the activity was likely, noting, in addition to the previous related facts, that

<sup>22</sup> See ECE/MP.EIA/2020/9, situation 5, described in para. 33.

<sup>23</sup> Available at: [https://fanc.fgov.be/nl/system/files/salto-rapport\\_tihange\\_1.pdf](https://fanc.fgov.be/nl/system/files/salto-rapport_tihange_1.pdf).

neither likely cumulative impacts of the unit in question nor of other units had been assessed thus far.

38. The Committee recalled its previous opinions that, when assessing the likelihood of significant adverse transboundary impacts during the screening procedure, all impacts resulting from operational states and accidents were relevant (see para. 27 above). Furthermore, it considered that, owing to the required comprehensive refurbishment foreseen by and implemented according to the action plan to ensure operation of unit 1 until 2025, the activity should be regarded – in terms of risks and significance of its adverse environmental impact – as being of a comparable scale to the initial commissioning of a new unit at the power plant.

39. The Committee further recalled its other opinion that, if accidents, especially beyond design basis accidents, occurred at nuclear power plants, the likelihood of significant adverse transboundary impacts could be very high (see para. 27 above). In the light of the existing experience from the very rare but severe accidents that had occurred in nuclear power plants in the past, it considered that a distance from the activity of 39 km and 60 km to the borders with, respectively, the Netherlands and Germany was not sufficient to exclude a possibility of occurrence of significant adverse transboundary impacts from the activity on the environment of Germany and the Netherlands.

40. Taking into account the above, the Committee agreed that:

(a) The activity in question constituted a major change to an activity listed in appendix I to the Convention that was likely to cause a significant adverse transboundary impact;

(b) The information made available to it gave rise to a profound suspicion of non-compliance by Belgium with its obligations under articles 2 (3) and 3 (1) of the Convention in respect of the lifetime extension of unit 1 of Tihange nuclear power plant.

41. On the above grounds, the Committee decided to begin a Committee initiative further to paragraph 6 of the Committee's structure and functions. The Committee also agreed that it would be important for it to examine the matter in the context of future decision-making procedures on the further extension of the lifetime of other units.

42. Further to paragraph 9 of the Committee's structure and functions, it agreed to invite Belgium and Germany to take part at its fifty-third session to participate in the discussion and to present information and opinions regarding a transboundary procedure for the lifetime extension of unit 1 of Tihange nuclear power plant. The Committee prepared a non-exhaustive list of questions on which it would base its discussions with the Parties concerned during the hearings (see annex II below). It invited its Chair to transmit the questions to the Parties concerned, inviting them to provide written replies thereto by 30 April 2022.

### **3. France (EIA/IC/INFO/32)**

43. 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>24</sup> It recalled that, between its fifty-first and fifty-second sessions, the Committee had continued its deliberations on the matter via electronic means of communication, considering the supplementary information it had received from the Government of France, on 22 October 2021, and from Greenpeace France, on 17 December 2021 and 17 February 2022.

44. The Committee expressed its serious concerns regarding the apparent plans by France to continue operating the 32 units of the 900 MWe fleet beyond the fourth periodic safety review without a prior application of the transboundary impact assessment procedure in accordance with the Convention.

45. Based on the Committee's initial analysis of the available information, and after having learned that a public inquiry procedure concerning the continued operation of unit 1

---

<sup>24</sup> For more information about the number of units, see ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4, table 4.



of Tricastin nuclear power plant beyond the fourth periodic safety review had already taken place between 13 January and 14 February 2022, the Committee prepared the below guidance to France to ensure compliance with the Convention. It noted that the guidance was relevant not only for unit 1 of Tricastin nuclear power plant, but also for all 32 units of the eight nuclear power plants of the 900 MWe fleet currently under the Committee's consideration:

(a) Before a decision was taken on the continued operation of unit 1 of Tricastin nuclear power plant beyond the fourth periodic safety review, tacitly or otherwise, France must, in accordance with the Convention, have a procedure in place whereby its competent authority was required to assess whether the specific individual changes made since the original license had been issued would qualify as a "major change" that was likely to have significant adverse transboundary impact during the continued operation. In doing so, it was strongly advised to take into account the contents of the Guidance on the applicability of the Convention to the lifetime extension of nuclear power plants. Having reviewed the documents shared by the Government of France, the Committee was of the view that changes requiring an amendment of decree No. 76-594, issued by the Prime Minister on 2 July 1976, would qualify as a major change according to the Convention; in addition, the determination of major change involved a broad comprehensive consideration of the direct, indirect and cumulative effects of the specific individual changes;

(b) In deciding on the applicability of the Convention, the competent authority should take into account that physical works within the nuclear power plant, modifications in the operating conditions of a smaller scale, (e.g., the use of a different fuel), or changes in the surrounding environment (e.g., a uranium enrichment plant enlargement nearby), might constitute, cumulatively or stand alone, a major change. The Committee considered that it was inconceivable that unit 1 of Tricastin nuclear power plant would be allowed to operate beyond the fourth periodic safety review without prior physical works or changes in the operating conditions that were relevant to the Convention;

(c) When assessing the likelihood of significant adverse transboundary impacts, all impacts resulting from operational states and accidents were relevant and not only any additional ones compared to those that occurred from the plant's operation before the fourth periodic safety review. In the view of the Committee, if accidents occurred at nuclear power plants, the likelihood of significant adverse transboundary impacts could be very high;

(d) For all nuclear energy-related activities, including those pertaining to nuclear power plants, if a potentially affected Party considered that a significant transboundary impact of a proposed activity could not be excluded and expressed a wish to be notified, the Party of origin had an obligation to apply the Convention according to the provisions of article 3 (1) and (7) of the Convention.

46. The Committee also reiterated its previous position, namely that, when a Party decided to apply a multistage procedure for a long-term operation of a nuclear power plant, providing first for a generic phase covering multiple nuclear power plants/units with common technical characteristics and then for a subsequent specific phase focusing on each individual plant/unit, it must ensure that its screening decision was made at a stage covering all impacts, including those resulting from operational states, as well as those resulting from accidents. A similar approach should apply to the scoping of the environmental impact assessment documentation.<sup>25</sup>

47. The Committee agreed to continue its consideration of the matter at its fifty-third session, in the light of all information received and correspondence exchanged during the information gathering phase of the procedure, and to consider whether to open a Committee initiative vis-à-vis France. In doing so, the Committee would take due account of the extent to which France had observed the Committee's guidance thus far.

48. The Committee asked its Chair to write to France with a view to:

(a) Conveying to it the Committee's recommendations listed in paragraphs 45–46 above and the steps to be taken by it at the Committee's next session;

<sup>25</sup> ECE/MP.EIA/IC/2021/6, para. 79.

(b) Requesting it to provide the Committee, by 15 April 2022, with the following information (some of which had already been requested in summer 2021):

(i) Information about the steps completed, pending and planned to enable the operation of unit 1 of Tricastin nuclear power plant beyond its fourth periodic safety review, including the time schedule and the criteria for deciding on the applicability of the Convention;

(ii) Information on and an indicative timetable of the scheduled periodic safety review, as well as the expected date of the general decision to be issued by the French nuclear authority providing conditions for long-term operation of the units with capacity above 900 MWe, (as already requested by letters of 18 June and 22 July 2021);

(iii) Any other information on the matter that France would consider as relevant for the Committee's deliberations and decision-making at its next session.

#### **4. Czechia (EIA/IC/INFO/19), Netherlands (EIA/IC/INFO/15) and Spain (EIA/IC/INFO/34)**

49. Owing to time constraints, the Committee decided to defer the deliberations on the lifetime extension of the power units of Borssele nuclear power plant in the Netherlands, Dukovany nuclear power plant in Czechia and Almaraz nuclear power plant in Spain until its next session.

### **C. Protocol matters**

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

50. The Committee also agreed to postpone to its next session its consideration of the information it had gathered concerning the application of article 10 of the Protocol by Poland regarding the draft Energy Policy of Poland until 2040 further to the information provided by a German parliamentarian on 11 February 2020.

## **V. Review of implementation**

### **A. Templates for the European Union to report under the Convention and the Protocol<sup>26</sup>**

51. The Committee noted the comments made by the delegation of the European Union at the tenth meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Geneva, 1–3 December 2021) concerning the reporting templates for the European Union under the Protocol and the Convention prepared by the Committee at its fifty-first session, as mandated by decisions IV/5<sup>27</sup> and VIII/5,<sup>28</sup> respectively.<sup>29</sup> It also noted that the Working Group invited the Committee to further consult with the European Union (the European Commission and the country holding the Presidency of the Council of the European Union) on the templates before submitting them for consideration of the Working Group at its next meetings. It agreed to consider, at its next session, possible modifications to be made to the templates taking into account the 2019–2021 report of the European Union on the implementation of the Convention and the

<sup>26</sup> The template for the European Union to report under the Convention is a separate item on the Committee's agenda and is prepared as mandated by decision VIII/5, para. 6 (ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2). It is exceptionally presented in this report jointly with the reporting template under the Protocol – an item related to the specific issue of compliance by the European Union with the Protocol identified in the first review of implementation of the Protocol (SEA/IC/SCI/1/4).

<sup>27</sup> ECE/MP.EIA/30/Add.3–ECE/MP.EIA/SEA/13/Add.3, decision IV/5, para. 6.

<sup>28</sup> ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2, decision VIII/5, para. 6.

<sup>29</sup> ECE/MP.EIA/WG.2/2021/2, para. 14.

Protocol, to be provided by the European Union by 30 April 2022, based on the States Parties' questionnaires as requested by the Working Group. It further agreed to organize one online consultation meeting with the European Union in autumn 2022, based on prior constructive inputs that the European Union would be required to provide by 29 July 2022. Such inputs would enable the Committee to finalize the draft templates at its fifty-fifth session (Geneva, 31 January–3 February 2023) and to subsequently submit them for the consideration of the Working Group at its twelfth meeting (13–15 June 2023).

## **B. Examination of general and specific compliance issues from the sixth review of implementation of the Convention**

52. The Committee begun reviewing the general and specific compliance issues identified in the sixth review of implementation of the Convention (ECE/MP.EIA/2020/8),<sup>30</sup> prepared based on questionnaires returned by Parties. It noted the following responses to the questionnaires by the Parties that might raise concerns of their compliance with the Convention:

(a) The response to question I.1. by Spain indicating that its definition of impact was not the same as that contained in article 1 (vii) of the Convention and clarifying that “an impact has the feature of being permanent or [of] long durability”. The Committee asked its Chair to write to the Government of Spain inviting it to provide clarification regarding the definition of “impact” in its national legislation;

(b) The responses by Kazakhstan and Kyrgyzstan to question I.3. concerning the term “major change” that could not be classified without additional explanations. The Committee asked its Chair to write to the Parties inviting them to clarify their responses in the light of article 1 (v) of the Convention;

(c) The response of the Republic of Moldova to question I.3. indicating that, at the time of responding to the questionnaire, the Party had no provisions in its national legislation for addressing major change to existing activities and that it intended to address that shortcoming during a revision of its legislation in 2019. The Committee asked its Chair to write to the Government of the Republic of Moldova inviting it to report on how the term “major change” was defined in its revised national legislation;

(d) The response to question I.10. concerning a notification under article 3 (1) by Kazakhstan and the United Kingdom of Great Britain and Northern Ireland stating that notification might occur after the domestic environmental impact assessment procedure had been completed. The Committee asked its Chair to invite the two Parties to provide clarifications on how they ensured the implementation of the provision of article 3 (1) of the Convention requiring that the Party of origin notified potentially affected Parties “as early as possible and no later than when informing its own public about that proposed activity”;

(e) The response to question I.13 concerning the reasonable time frames to respond to the notification referred to in article 3 (2) (c) of the Convention by Denmark stating that, in accordance with its legislation, “there is a deadline for public consultation and affected authorities for 14 days”. The Committee asked its Chair to write to the Government of Denmark with a view to:

(i) Drawing to its attention the fact that, according to decision I/4 of the Meeting of the Parties regarding the format of notification (MP.EIA/1998/4), the recommended time frame for the response to the notification could be one and a half months with a maximum of four months from the date of notification;

(ii) Inviting it to provide clarifications as to whether its legislative or administrative frameworks provided for an extension of the time frame of 14 days at the request of an affected Party that would find such a time frame insufficient.

(f) The response to question I.20. by Switzerland stating that it was the responsibility of the applicant to ensure that environmental impact assessment documentation

<sup>30</sup> Adopted by the Meeting of the Parties to the Convention through decision VIII/5.

met the required quality standard and that, subsequently, the authority did not review its contents. The Committee asked its Chair write to the Party inviting it to clarify the role of the governmental authorities in ensuring that the environmental impact assessment documentation referred to in article 4 (1) of the Convention contained, as a minimum, information listed in appendix II to the Convention.

53. In addition, the Committee noted that, in their responses to question I.29. – regarding the implementation of article 7 of the Convention – Azerbaijan, Belgium<sup>31</sup>, Bosnia and Herzegovina, Croatia, Finland, Kazakhstan, Latvia, Switzerland and the United Kingdom of Great Britain and Northern Ireland had indicated that their domestic legislation did not contain provisions for post-project analysis. The Committee asked its Chair write to the Parties inviting them to clarify how article 7 was implemented within their national legal and administrative frameworks.

54. The Parties should be invited to respond to the Committee’s questions by 15 June 2022, to enable the Committee to continue its consideration of the issues in question at its fifty-fourth session.

## C. Examination of general and specific compliance issues from the second and third reviews of implementation of the Protocol

### 1. Serbia

55. The Committee continued 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). It examined a response from Serbia, dated 16 April 2022, to its letters of 14 January 2020 and 18 February 2021, including an English-language translation of the Law of Serbia on strategic environmental assessment and information about the ongoing revision of the Law, with a view to fully aligning it with the Protocol and the European Union Strategic Environmental Assessment Directive.<sup>32</sup>

56. The Committee scrutinized articles 3 (3) and 12–17 of and appendix II to the Law referring to “strategic assessment report”. It considered that those articles were not entirely clear and internally coherent, which might complicate the implementation of the strategic environmental assessment procedure in practice.

57. The Committee asked its Chair to write to the Government of Serbia requesting it to:

- (a) Ensure that the amended Law fully reflected the requirements for the environmental report set out in article 7 (2) of and annex IV to the Protocol;
- (b) Update the Committee on the status of the procedure to amend the Law and on the content of the draft amendments;
- (c) Provide to the Committee the amended Law and the English-language translation thereof once adopted.

58. In the letter to Serbia, the Chair should invite the Party to refer to and use – when revising its legislative framework – *Practical guidance on reforming legal and institutional structures with regard to the application of the Protocol on Strategic Environmental Assessment*.<sup>33</sup>

<sup>31</sup> Walloon Region and Brussels Capital Region responded “No”; Flemish Region and Federal Government respond “Yes”.

<sup>32</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.

<sup>33</sup> Available at [https://unece.org/DAM/env/eia/Publications/2017/ece.mp.eia.wg.2.2016.INF.9\\_EN\\_draft\\_practical\\_guidance\\_on\\_reforms\\_FINAL\\_rev\\_LAY\\_OUT\\_27.05\\_\\_cover\\_.pdf](https://unece.org/DAM/env/eia/Publications/2017/ece.mp.eia.wg.2.2016.INF.9_EN_draft_practical_guidance_on_reforms_FINAL_rev_LAY_OUT_27.05__cover_.pdf).

## 2. Third review of implementation of the Protocol

59. The Committee then considered the general and specific compliance issues identified in the third review of implementation of the Protocol (ECE/MP.EIA/SEA/2020/8),<sup>34</sup> prepared based on questionnaires returned by Parties. It noted the following responses to the questionnaires by the Parties that might raise concerns regarding their compliance with the Protocol:

(a) The response to question I.5. by Armenia stating that minor modifications to a plan or programme were not regulated under its legislation. The Committee asked its Chair to write to the Government of Armenia inviting it to clarify how “minor modifications” to a plan or a programme referred to in article 4 (4) of the Protocol were identified in its current national legislation, administrative instructions and amendments thereto prepared by it for adoption in 2020;

(b) Responses of Bosnia and Herzegovina to questions I.5 and I.6. that could not be classified without reviewing the text of domestic legislation. The Committee asked its Chair to write to the Government of Bosnia and Herzegovina inviting it to provide:

(i) The text of article 48 of its law on environmental protection and the English-language translation thereof and clarifications on how “minor modifications” to a plan or a programme referred to in article 4 (4) of the Protocol were identified in its national legislation and/or related administrative instructions;

(ii) Relevant provisions of the law and the English translation thereof, along with clarifications as to how it determined “other plans and programmes” referred to in article 4 (3)–(4) that should be subject to a strategic environmental assessment as set out in article 5 (1) of the Protocol;

(c) Response of North Macedonia to question I.23 in which the Party did not specify whether it took due account of comments received in accordance with articles 8–10 of the Protocol, as required by article 11 (1) (c) thereof. The Committee asked its Chair to write to the Government of North Macedonia requesting it to clarify, with reference to its legislative framework and practice, how it fulfilled its obligations under article 11 (1) (c) of the Protocol.

60. The Chair should invite the Parties to provide their replies by 15 June 2022, with a view to the Committee continuing its consideration of the issues in question at its fifty-fourth session.

## VI. Work methods and rules of procedure

61. Owing to time limitations, the Committee agreed to consider at its next session the draft submission form prepared by the curator with the secretariat’s assistance further to its decision at its fiftieth session<sup>35</sup> and to agree on selected proposals for amending its structure and functions and its operating rules and to the schedule for drafting other proposals for the revision of its structure and functions and its operating rules for the Meetings of the Parties to consider at their sessions in December 2023.

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

62. The Committee confirmed that it would next meet from 10 to 14 May 2022, in Geneva. It also agreed that it would hold its fifty-fourth session from 4 to 7 October 2022 (online), and its fifty-fifth session from 31 January to 3 February 2023 (online).

<sup>34</sup> Adopted by the Meeting of the Parties to the Protocol through decision IV/5.

<sup>35</sup> ECE/MP.EIA/IC/2021/4, para. 104.

63. The Chair then formally closed the fifty-second session. The Committee adopted the draft report of its session, prepared with the support of the secretariat, using its electronic decision-making procedure, on 14 April 2022.

## Annex I

### **Non-exhaustive list of questions to the Parties concerned with regard to lifetime extension of units 5 and 6 of Kozloduy nuclear power plant**

#### **A. Non-exhaustive list of questions to Bulgaria**

##### **1. Regarding the classification of the proposed activity as a lifetime extension**

The Government of Bulgaria is invited to provide its views on the Committee's preliminary findings in paragraphs 24–28 of the Report of the Implementation Committee on its fifty-second session (ECE/MP.EIA/IC/2022/2) that the activity constitutes a major change to an activity listed in appendix I to the Convention, i.e. to item 2 (b) on nuclear power stations and other nuclear reactors, and is related to a specific situation described in the Guidance on the applicability of the Convention to the lifetime extension of nuclear power plants (ECE/MP.EIA/2020/9).

##### **2. Regarding the classification of the lifetime extension as major change**

The Government of Bulgaria is invited to provide its views on the Committee's preliminary conclusion that various changes made to enable a continuing operation of units 5 and 6 of Kozloduy nuclear power plant, including physical works within the nuclear power plant and modifications in the operating conditions of a smaller scale, amounted to a major change when taken as a whole (see paras. 25–26 of the Report of the Implementation Committee on its fifty-second session (ECE/MP.EIA/IC/2022/2)).

##### **3. Regarding the likely significant adverse transboundary impacts of the lifetime extension**

The Government of Bulgaria is invited to provide:

(a) Its views on the Committee's preliminary finding that a significant adverse transboundary impact from the activity is likely (see para. 27 of the Report of the Implementation Committee on its fifty-second session (ECE/MP.EIA/IC/2022/2));

(b) Clarifications regarding the accidents that it included and considered during its screening for likely significant transboundary impacts when taking a decision that an environmental impact assessment procedure was not needed;

(c) Clarifications on how potential significant adverse impacts of low likelihood, including from accidents beyond the design basis, were systematically evaluated;

(d) Clarifications on how impact accumulation from different events that, when considered individually, may appear insignificant, was taken into account;

(e) Clarifications on how, during the evaluation of environmental impacts of the continued operation, the general criteria listed in appendix III to the Convention, i.e. size, location and effects of the proposed activity, were applied.

##### **4. Regarding the decision-making process for lifetime extension of nuclear power plants**

The Government of Bulgaria is invited to:

(a) Confirm that its legal system still provides for time-limited licences for nuclear power plants units of 10 years;

(b) Explain the planned procedure for issuing a new licence for units 5 and 6 after the current licences of 2017 and 2019, respectively, expire, and provide details for the planned procedure for the environmental impact assessment, including in a transboundary context.

**5. Regarding the risk of repeated non-compliance in the future**

The Government of Bulgaria is invited to clarify:

- (a) Whether it is planning to issue new licences to extend the operation of unit 5 in 2027 and unit 6 in 2029;
- (b) If “Yes”, please, indicate:
  - (i) When the procedure to issue new licences for these units will begin;
  - (ii) How an environmental impact assessment procedure, including in a transboundary context, will be integrated into the permitting/licensing procedure for the units;
  - (iii) How and when potentially affected Parties will be involved in the permitting/licensing procedures for the extended operation of those units.

**6. Reiterated requests**

In addition, the Government of Bulgaria is requested to provide the following missing information: Copies of the licences for the activities, or relevant extracts thereof, including the initial licences for units 5 and 6 issued prior to their entry into operation in 1987 and 1991, respectively; and copies of all subsequent licences for construction and operation of units 5 and 6, or relevant extracts thereof, including the technical conditions, restrictions and mitigation measures set out by each licence;

**B. Non-exhaustive list of questions to Austria, Romania and Serbia**

The Governments of Austria, Romania and Serbia are invited to clarify and specify:

- (a) Which likely significant adverse transboundary environmental impacts they are expecting from the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant, including the units’ operational states and possible accidents;
- (b) Whether they wish to be notified on further lifetime extensions for units 5 and 6 after the current licences expire in 2027, for unit 5, and in 2029, for unit 6.



## Annex II

### **Non-exhaustive list of questions to the Parties concerned with regard to lifetime extension of unit 1 of Tihange nuclear power plant**

#### **A. Non-exhaustive list of questions to Belgium**

##### **1. Regarding the classification of the proposed activity as lifetime extension**

The Government of Belgium is invited to provide its views on the Committee's preliminary findings in paragraph 34 and 40 of the Report of the Implementation Committee on its fifty-second session (ECE/MP.EIA/IC/2022/2) that the activity constitutes a major change to an activity listed in appendix I to the Convention, i.e. to item 2 (b) on nuclear power stations and other nuclear reactors, and is related to a specific situation described in the Guidance on the applicability of the Convention to the lifetime extension of nuclear power plants (ECE/MP.EIA/2020/9).

##### **2. Regarding the classification of the lifetime extension as major change**

The Government of Belgium is invited to provide its views on the Committee's preliminary conclusion that various changes made to enable the continuing operation of unit 1 of Tihange nuclear power plant until December 2025, including physical works within the nuclear power plant and modifications in the operating conditions of a smaller scale, amounted to a major change (see paras. 35–36 of the Report of the Implementation Committee on its fifty-second session (ECE/MP.EIA/IC/2022/2)).

##### **3. Regarding the likely significant adverse transboundary impacts of the lifetime extension**

The Government of Belgium is invited to provide its views on the Committee's preliminary finding that a significant adverse impact on the environment of Germany and the Netherlands from the activity cannot be excluded (see paras. 37–39 of the Report of the Implementation Committee on its fifty-second session (ECE/MP.EIA/IC/2022/2)).

##### **4. Regarding the risk of repeated non-compliance in the future**

The Government of Belgium is invited to clarify:

(a) Whether it is planning to issue new licences to extend the lifetime of other units of Tihange nuclear power plant or units of other nuclear power plants;

(b) If "Yes", please, indicate:

(i) When the procedure to issue new licences for these units will begin;

(ii) How and when potentially affected Parties will be involved in the permitting/licensing procedures for the extended operation of those units.

##### **5. Non-exhaustive list of questions to Germany**

The Government of Germany is invited to clarify:

(a) Which likely significant adverse transboundary environmental impacts it is expecting from the lifetime extension of unit 1 of Tihange nuclear power plant, including the unit's operational states and possible accidents;

(b) Whether it wishes to be notified on further lifetime extensions for other units of Tihange nuclear power plant or units of other nuclear power plants.