



# Economic and Social Council

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## Economic Commission for Europe

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

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

### Implementation Committee

Fifty-sixth session  
Geneva, 2–5 May 2023

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

### Introduction

1. The fifty-sixth 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 in Geneva from 2 to 5 May 2023.

#### 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), Mr. Ralph Bodle (Germany), Mr. Joe Ducombe (Luxembourg), Ms. Maria do Carmo Figueira (Portugal), Ms. Barbora Pavlačič Doneva (Slovakia), Ms. Zsuzsanna Pocsai (Hungary) and Mr. Lasse Tallskog (Finland).

#### B. Organizational matters

##### I. Adoption of the agenda

3. The Chair of the Committee opened the session.



4. The Committee included under agenda item 9. “Other business” informal consultations with Ukraine on all compliance cases concerning Ukraine, and adopted its agenda as set out in document ECE/MP.EIA/IC/2023/3 with that modification.

5. The Secretary to the Convention and the Protocol reported on the relevant outcomes of the most recent meeting of the Bureau (Geneva, 22–23 February 2023), in particular, on preparations for the twelfth meeting of the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Geneva, 13–15 June 2023) and the next sessions of the Meetings of the Parties to the Convention and the Protocol (Geneva, 12–15 December 2023).

## **II. Preparations for the next sessions of the Meetings of the Parties**

6. The Committee reviewed an initial list of draft decisions on compliance that it would submit for information and possible comments of the Working Group at its twelfth meeting, and, subsequently, at the Committee’s fifty-seventh session (Geneva, 29 August–1 September 2023), and finalize for consideration of the next sessions of the Meetings of the Parties taking into account the comments made, as relevant. It noted that the deadline for finalizing the draft documents ahead of the Meetings of the Parties’ sessions was 19 September 2023. During its current session, the Committee prepared country-specific draft decisions on compliance with the Convention, with the Protocol and with both treaties. After their completion, it also prepared a draft decision (IX/4) on general issues of compliance with the Convention and a draft decision (V/4) on general issues of compliance with the Protocol.

7. The Committee requested the secretariat to include the draft decisions in an informal document and to transmit it to the Working Group at its next meeting. It also requested the secretariat to inform the Parties concerned about the possibility to comment on the draft decisions during the meeting of the Working Group, should they wish to do so.

## **III. Follow-up to decisions VIII/4a–c<sup>1</sup>**

8. The discussions under the agenda item were not open to observers, in accordance with rule 17 (1) of the Committee’s operating rules.<sup>2</sup>

### **A. Armenia (EIA/IC/CI/1)**

9. The Committee continued its follow-up to decision VIII/4a on compliance by Armenia with its obligations under the Convention in respect of its national legislation.

10. It noted the response of Armenia, dated 29 March 2023, to the Committee’s letter of 17 February 2023, informing the Committee that the “draft law of the Republic of Armenia ‘on amendments to the ... Law on Environmental Impact Assessment and Expert Examination [of the Republic of Armenia]’” had passed its first reading in the National Assembly of Armenia. It further noted that Armenia planned to develop specific procedures on strategic environmental assessment after the adoption of the amendment to the environmental impact assessment law, complementing the provisions on strategic environmental assessment included in the draft law. In the absence of the adoption by Armenia of the draft law ahead of the Committee’s session, the Committee analysed a

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<sup>1</sup> Available at <https://unece.org/environment-policy/environmental-assessment/decisions-taken-meetings-parties>.

<sup>2</sup> Available at <https://unece.org/sites/default/files/2021-02/Implementation%20Committee%20structure%20functions%20procedures%20rules.e%202020.pdf>

publicly available draft law.<sup>3</sup> The Committee concluded that there were discrepancies between, on the one hand, the draft law, and, on the other hand, the Convention and the Protocol, and that, if adopted, the draft law would not ensure full compliance with the Convention and the Protocol.

11. On the last day of the Committee's session, Armenia informed the Committee about the adoption of its Law on 3 May 2023 and its entry into force on the tenth day after its publication. Due to that last-minute information, the Committee agreed to postpone to its next session the finalization of draft decision IX/4b–V/4b on compliance by Armenia with its obligations under the Convention and the Protocol in respect of its national legislation.

12. It invited its Chair to write to Armenia to request the English translation of the adopted law by 31 July 2023, in the absence of which the Committee would base its conclusions on the draft law.

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

13. The Committee continued its follow-up to decision VIII/4b on compliance by Azerbaijan with its obligations under the Convention in respect of its national legislation, in the absence of the Committee member nominated by Azerbaijan.

14. The Committee took note that, to date, Azerbaijan had adopted six pieces of secondary legislation on environmental impact assessment and strategic environmental assessment, the two most recent being adopted in 2022. It appreciated the provision by Azerbaijan of the English translation of two pieces of secondary legislation on, respectively, environmental impact assessment and strategic environmental assessment. They had been translated with the support of consultants to the secretariat funded through the European Union for Environment programme and subsequently verified by the Government of Azerbaijan.

15. The Committee expressed regret that not all translations of the secondary legislation had been provided to it. It noted with concern that, based on its analysis of the amended framework Law on Environmental Impact Assessment, adopted on 12 June 2018, and the two pieces of secondary legislation, the legislation adopted by Azerbaijan to implement the Convention still contained deficiencies and therefore was not fully compliant with the Convention.

16. The Committee then prepared the text of draft decision IX/4d on compliance by Azerbaijan with its obligations under the Convention in respect of its national legislation.

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

17. The Committee followed up on decision VIII/4c on compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets.

18. The Committee acknowledged the information received from Belarus and Lithuania on 31 and 30 March 2023, respectively. It noted with appreciation some recent contacts between the two Parties, while expressing regret, overall, at the lack of progress made. It also noted that the Parties concerned had different views on whether the minutes from their bilateral expert meeting of 3 February 2022 had been agreed.

19. The Committee asked its Chair to write to the two Parties with a view to:

- (a) Acknowledging the information received;
- (b) Inviting Belarus and Lithuania to provide their 2022/2023 annual reports on the implementation of decision VIII/4c by 31 July 2023;

<sup>3</sup> Law of the Republic of Armenia on making amendments to the law of the Republic of Armenia on Environmental Impact Assessment and Expert Examination, submitted to the secretariat of the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters (Aarhus Convention) on 10 March 2023.

(c) Asking for clarification on whether they had agreed on the minutes from the expert meeting of 3 February 2022.

20. The Committee requested the secretariat to post the annual reports of Belarus and Lithuania on the Convention's website once received. Lastly, the Committee prepared the text of draft decision IX/4e on compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets.

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

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

##### A. Albania (EIA/IC/S/7)<sup>5</sup>

22. The Committee continued its consideration of the submission by Montenegro expressing its concerns about compliance by Albania with its obligations under the Convention and the Protocol with respect to the planned construction of several small hydropower plants on the Cijevna River, received by the secretariat on 25 September 2019.

23. The Committee considered the comments from Montenegro and Albania, dated 27 and 31 March 2023, respectively, on the draft findings and recommendations previously transmitted to them, noting that both Parties had expressed their agreement with the draft. The Committee finalized its findings and recommendations further to the submission and requested the secretariat to issue them as an official document in advance of its fifty-seventh session (Geneva, 29 August–1 September 2023), and to transmit that document to the concerned Parties. Subsequently, the secretariat was also to transmit the findings and recommendations to the Meetings of the Parties to the Convention and the Protocol at their next sessions to be taken into account when considering the related draft decision.

24. The Committee then prepared the text of draft decision IX/4a–V/4a on compliance by Albania with its obligations under the Convention and the Protocol with respect to the planned construction of several small hydropower plants on the Cijevna River.

##### B. Bosnia and Herzegovina (EIA/IC/S/8–SEA/IC/S/1)<sup>6</sup>

25. The Committee considered the comments and representations from a group of civil society organizations from Bosnia and Herzegovina and Montenegro, dated 27 March 2023, to the Committee's findings and recommendations on compliance by Bosnia and Herzegovina with its obligations under the Convention and the Protocol with respect to the construction of Buk Bijela hydropower plant on the Drina River, as finalized and published.<sup>7</sup> The group of organizations claimed, inter alia, that the Committee should have considered the matter also in light of the Energy Community Treaty and European Union Directive 2011/92/EU,<sup>8</sup> amended by Directive 2014/52/EU,<sup>9</sup> after the Energy Community Treaty had entered into force for Bosnia and Herzegovina. The Committee pointed out, however, that, in accordance with its mandate, it had examined compliance with the Convention and the Protocol only, and that potential breaches of other international treaties and laws did not fall within its mandate.

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

<sup>5</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics7-albania>.

<sup>6</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaics8seaics1>.

<sup>7</sup> See ECE/MP.EIA/IC/2023/5.

<sup>8</sup> Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment, *Official Journal of the European Union*, L 26 (2012), pp. 1–21.

<sup>9</sup> Directive 2014/52/EU of the European Parliament and of the Council of 16 April 2014 amending Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment, *Official Journal of the European Union*, L 124 (2014), pp. 1–18.

26. The Committee then prepared the text of draft decision IX/4c–V/4c regarding compliance by Bosnia and Herzegovina with its obligations under the Convention and the Protocol with respect to the construction of Buk Bijela hydropower plant on the Drina River.

### **C. Poland (EIA/IC/S/9)**

27. The Committee noted the submission by Belarus expressing concerns about compliance by Poland with its obligations under the Convention with respect to the construction of a barrier on the territory of the transboundary United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site “Bialowieza Forest”, dated 12 April 2023.

28. The Committee also took note of the communication sent by the secretariat to the focal point of Poland on 18 April 2023, forwarding the submission with the corroborating information, in conformity with paragraph 5 (a) of the appendix to decision III/2 (ECE/MP.EIA/6, annex II), and inviting the Government of Poland to provide a response by 18 July 2023.

29. The Committee appointed a curator for the case, and, in accordance with rule 11 of the Committee’s operating rules, agreed to begin its consideration of the submission at its fifty-seventh session upon receipt of the views of Poland thereon.

## **V. Committee initiatives<sup>10</sup>**

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

### **A. Bulgaria (EIA/IC/CI/8)**

31. Further to the finalization and publication of the Committee’s findings and recommendations on compliance by Bulgaria with its obligations under the Convention with respect to the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant at its fifty-fifth session (Geneva (online), 31 January–3 February),<sup>11</sup> the Committee finalized the text of related draft decision IX/4h on compliance.

### **B. Belgium (EIA/IC/CI/9)**

32. The Committee, in the absence of its member nominated by Luxembourg, continued its consideration of its initiative on compliance by Belgium with its obligations under the Convention with respect to the lifetime extension of unit 1 of Tihange nuclear power plant.

33. The Committee took note of the comments and representations from Belgium and Germany, dated 30 March 2023, on the draft findings and recommendations further to the Committee initiative previously transmitted to the two concerned countries. Taking into consideration the comments received, the Committee reviewed and finalized the findings and recommendations and requested the secretariat to: issue them as an official document in advance of its fifty-seventh session; and, transmit that document to the concerned Parties. Subsequently, the secretariat was also to transmit the findings and recommendations to the Meetings of the Parties to the Convention at its ninth session (Geneva, 12–15 December 2023) for information and to be taken into account when considering the related draft decision.

34. The Committee then prepared the text of draft decision IX/4g regarding compliance by Belgium with its obligations under the Convention with respect to the lifetime extension of unit 1 of Tihange nuclear power plant.

<sup>10</sup> See <https://unece.org/environment-policy/environmental-assessment/committee-initiative-overview>.

<sup>11</sup> ECE/MP.EIA/IC/2023/6.

### **C. Czechia (EIA/IC/CI/10)**

35. The Committee continued its consideration of its initiative on compliance by Czechia with its obligations under the Convention with respect to the lifetime extension of units 1–4 of Dukovany nuclear power plant.

36. The Committee took note of the comments and representations from Austria, Czechia and Germany, dated 30 March 2023, on the draft findings and recommendations further to the Committee initiative previously transmitted to the three concerned countries. Taking into consideration the comments received, the Committee reviewed and finalized its findings and recommendations and requested the secretariat to: issue them as an official document in advance of its fifty-seventh session; bring them to the concerned Parties' attention; and subsequently, transmit the findings and recommendations to the Meeting of the Parties to the Convention at its ninth session (Geneva, 12–15 December 2023) for information and to be taken into account when considering the related draft decision.

37. The Committee then prepared the text of draft decision IX/4i regarding compliance by Czechia with its obligations under the Convention with respect to the lifetime extension of units 1–4 of Dukovany nuclear power plant.

## **VI. Information gathering<sup>12</sup>**

### **Convention matters**

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

### **A. Belarus (EIA/IC/INFO/21)**

39. The Committee continued its consideration of the information gathering case regarding the national legislation of Belarus to implement the Convention. It took note of the letter by Belarus dated 18 April 2023, stating that Belarus had made progress in the adoption of amended legislation, as the draft law had passed its first reading in parliament and public discussion of the draft had taken place in 2022. The Committee also took note of the willingness of Belarus to submit the text of the amended legislation upon its adoption within the deadline specified in the letter of the Committee of 17 February 2023.

40. The Committee acknowledged some progress by Belarus in the legislative process but observed that, to date, the amended legislation had not been adopted. Moreover, based on its analysis of the Law on State Ecological Expertise, Strategic Environmental Assessment and Environmental Impact Assessment and the related subsidiary legislation and the conclusions of the consultants to the secretariat under the EU4Environment Programme from 2021, the Committee reiterated its conclusion that, so far, Belarus had not rectified the deficiencies in its Law "on State Ecological Expertise, Strategic Environmental Assessment and Environmental Impact Assessment" dated 18 July 2016. The Committee pointed to its letter to Belarus dated 2 January 2019, including a non-exhaustive list of deficiencies, and the conclusions of the consultants to the secretariat under the EU4Environment Programme from 2021.

41. Belarus having failed to adopt compliant legislation to implement the Convention, the Committee decided to open a Committee initiative in accordance with paragraph 6 of its structure and functions,<sup>13</sup> based on a profound suspicion of non-compliance by Belarus with its obligations under the Convention. It agreed to prepare findings and recommendations on the matter and, once agreed, to submit them to Belarus for comments by 31 July 2023, with

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<sup>12</sup> See <https://unece.org/information-other-sources-0>.

<sup>13</sup> Available at <https://unece.org/sites/default/files/2021-02/Implementation%20Committee%20structure%20functions%20procedures%20rules.e%202020.pdf>

a view to finalizing them at its fifty-seventh session, taking into account the comments made. It agreed to prepare the related draft decision on compliance at the same session.

## **B. Netherlands (EIA/IC/INFO/15)**

42. The Committee continued its consideration of the information it had gathered further to the information, dated 7 May 2014, from the non-governmental organization (NGO) Greenpeace Netherlands concerning the lifetime extension of Borssele nuclear power plant in the Netherlands.

43. The Committee 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>14</sup> all information made available to it on the matter by the Netherlands, as the Party of origin, by Germany, as a potentially affected Party, and, initially, by the NGO.

44. In order to finalize its deliberations based on complete information, the Committee agreed to ask Greenpeace Netherlands whether it had any additional information of relevance to provide to the Committee, in particular, on any major physical works or large investments to enable the 2013 decision on the lifetime extension of Borssele nuclear power plant.

45. The Committee asked its Chair to write to Greenpeace Netherlands to invite it to submit the requested information within one month after receipt of the request, with a view to submitting its answer to the Government of the Netherlands for comments by 31 July 2023.

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

46. The Committee continued its consideration of the information it had gathered further to the information from Greenpeace France, received on 9 March 2020 and supplemented on 7 May 2020, regarding the planned lifetime extension by France of 32 units of eight nuclear power plants.<sup>15</sup>

47. The Committee reviewed the information provided by the Government of France, dated 5 April 2023. It noted that the screening decision regarding unit 1 of Tricastin nuclear power plant to determine whether a domestic and, if relevant, a transboundary environmental impact assessment would be required, was expected before September 2023, following the conclusion report of the Nuclear Safety Authority, expected in July 2023.

48. It further noted the updated timetable provided by France on the long-term operation-related procedures for the units of the nuclear power plants below 900 MWe, informing the Committee about the progress of the fourth periodic safety reviews. The Committee observed that, for several units (Blayais 1, Bugey 2, 4 and 5, Dampierre 1 and 2, Gravelines 1, Tricastin 1, 2 and 3), the assessment by the Nuclear Safety Authority had started.

49. The Committee invited its Chair to write to France with a view to:

(a) Thanking France for the timely submission of the information, dated 5 April 2023;

(b) Requesting an update on any information and steps completed within the specific review process of relevance to the Convention concerning any of the units, in particular on: the resolution of the French Nuclear Safety Authority; the “conclusion report”; and, the screening decision taken, including the reasons for or against conducting a transboundary environmental impact assessment procedure;

(c) Reminding France, in the light of the ongoing legislative process regarding the draft law “on the acceleration of procedures relating to the construction of new nuclear installations near existing nuclear sites and the operation of existing installations”, of its

<sup>14</sup> United Nations publication, ECE/MP.EIA/31.

<sup>15</sup> For more information about the number of units, see ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4, table 4.

obligations under the Convention, as set out in the Committee's previous letter dated 18 February 2022, providing guidance to France to ensure compliance with the Convention;

(d) Requesting France to submit the requested information through the secretariat in English by 1 August 2023.

50. Furthermore, the Committee asked its Chair to write to Greenpeace France to thank it for the information provided on the ongoing legislative process in France. In his letter, the Chair should also request that an update on the matter be provided ahead of the fifty-seventh session of the Committee, at the latest by 1 August 2023.

51. Lastly, the Committee asked the secretariat to share with Greenpeace France— in the absence of any objections based on reasonable grounds from France – the information from France concerning the activity, dated 5 April 2023.

## **VII. Review of implementation**

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

52. The Committee recalled that, following its deliberations at its fifty-fifth session, the Committee had requested Kyrgyzstan to provide further clarification by 31 March 2023 on potential compliance issues identified in the sixth review of implementation of the Convention (ECE/MP.EIA/2020/8).<sup>16</sup> The Committee noted with regret that Kyrgyzstan had not replied to the Committee's letter dated 17 February 2023, despite several reminders from the secretariat. It asked its Chair to highlight in its report to the Working Group at its twelfth meeting (Geneva, 13–15 June 2023) the difficulties encountered by the Committee in obtaining replies from the Parties to its requests for information, mentioning Kyrgyzstan as being one of those Parties, and to issue a firm appeal to Parties to respond promptly to the Committee's requests for information. The secretariat informed the Committee about the departure of the national focal point of Kyrgyzstan and the recent nomination of a replacement.

53. The Committee invited its Chair to write again to Kyrgyzstan with a view to reiterating the Committee's initial request, from 14 April 2022, to provide clarification on the implementation of the Convention by Kyrgyzstan, through the secretariat in English, at the latest by 31 July 2023, for the Committee to be able to evaluate said implementation at its next session.

### **B. Examination of general and specific compliance issues from the second review of implementation of the Protocol**

54. 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).

55. At its fifty-fourth session (Geneva, 4–7 October 2022), the Committee had been informed by Serbia, in a letter dated 28 July 2022, that the adoption by Serbia of its revised Law on Strategic Environmental Assessment was foreseen by the end of 2022.<sup>17</sup> The Committee recalled that, following its deliberations at its fifty-fifth session, the Committee had reminded Serbia to provide the amended law and the English-language translation thereof once adopted.<sup>18</sup> The Committee again noted with regret that, since July 2022, no new information had been provided by Serbia. It asked its Chair to highlight in its report to the Working Group at its twelfth meeting the difficulties encountered by the Committee in obtaining replies from the Parties to its requests for information, mentioning Serbia as being

<sup>16</sup> ECE/MP.EIA/IC/2023/2, paras. 42–43.

<sup>17</sup> ECE/MP.EIA/IC/2022/7, para. 57.

<sup>18</sup> ECE/MP.EIA/IC/2023/2, paras. 44–46.



one of those Parties, and to issue a firm appeal to Parties to respond promptly to the Committee's requests for information.

56. The Committee invited its Chair to write again to Serbia with a view to reminding it to inform the Committee about the status of the legislative process to adopt the new Law on Strategic Environmental Assessment and, if adopted, to provide the Committee with the amended law and the English-language translation thereof, at the latest by 31 July 2023.

### **C. Examination of general and specific compliance issues from the third review of implementation of the Protocol**

57. The Committee continued its consideration of general and specific compliance issues identified in the third review of implementation of the Protocol (ECE/MP.EIA/SEA/2020/8), noting the response from Armenia, dated 29 March 2023, to its letter of 17 February 2023, and the lack of a response thereto from North Macedonia.

58. The Committee referred to its earlier deliberations on its follow-up to decision VIII/4a on compliance by Armenia with its obligations under the Convention in respect of its national legislation (see paras. 9–12 above). It agreed that, as decision VIII/4a also covered the legislation of Armenia for the implementation of the Protocol, it would continue its further examination of the specific compliance issue concerning Armenia as part of the follow-up to that decision.

59. The Committee noted, based on the response by Armenia dated 29 March 2023, that Armenia planned, in addition to the provisions on strategic environmental assessment contained in the draft law, to develop specific procedures on strategic environmental assessment and a manual following the adoption of the amendment to the environmental impact assessment law. According to Armenia, pursuant to the new draft law, changes to plans and programmes, regardless of whether those changes were minor modifications or not, would be decided by the authorized body as a result of the joint consultation with the initiator.

60. In the absence of the adoption of the draft law by Armenia ahead of its session, the Committee analysed a publicly available draft law (see para. 10 above). Regarding said draft law's articles 4 and 21, relating to the field of application of the strategic environmental assessment, the Committee preliminarily concluded that should those provisions of the draft law be enacted by law, the clarification provided by Armenia would be satisfactory to conclude that there were no concerns of implementation in relation to article 4 (4) of the Protocol.

61. Turning to North Macedonia, the Committee again noted with regret the lack of a reply from North Macedonia to its letter of 17 February 2023, despite several reminders from the secretariat. The Committee asked its Chair to write again to North Macedonia with a view to reiterating a third time its request for clarifications on the matter, to be sent through the secretariat, in English, by, at the latest, 31 July 2023, and mentioning North Macedonia in its report to the Working Group as one of the Parties not responding the Committee's requests for information.

### **D. SEA/IC/SCI/1/4**

62. Further to the finalization by the Committee, in consultation with the European Commission, of the draft reporting templates for the European Union for the implementation of the Convention and the Protocol and their submission as official documents<sup>19</sup> for consideration by the Working Group at its twelfth meeting, the Committee agreed to finalize its related deliberations on specific issues of compliance by the European Union with the Protocol identified in the first review of implementation of the Protocol (SEA/IC/SCI/1/4) after the reporting templates had been duly noted by the Meetings of the Parties at its next sessions.

<sup>19</sup> ECE/MP.EIA/2023/10–ECE/MP.EIA/SEA/2023/6.

## VIII. Work methods and rules of procedure

63. Further to the Committee's deliberations at its fifty-fifth session<sup>20</sup> and in accordance with paragraph 18 of decision VIII/4<sup>21</sup> of the Meetings of the Parties to the Convention, paragraph 14 of decision IV/4<sup>22</sup> of the Meetings of the Parties to the Protocol and the workplan for 2021–2023,<sup>23</sup> the Committee continued its review of its structure and functions and its operating rules. It agreed to transmit its proposal for possible amendments for information to the Working Group at its twelfth meeting and, subsequently, to finalize it at the Committee's fifty-seventh session, for consideration of the next sessions of the Meetings of the Parties taking into account the comments made, as relevant.

## IX. Other business

64. Further to its decision at its fifty-fifth session,<sup>24</sup> the Committee reassessed the situation of Ukraine and decided to continue its consideration of all compliance issues concerning Ukraine that it had suspended in its fifty-second session (Geneva, 29–31 March 2022)<sup>25</sup> due to the invasion of Ukraine by the Russian Federation.<sup>26</sup> The Committee invited Ukraine to participate at its current session for informal consultations to discuss progress made by it thus far. It welcomed the delegation of Ukraine and invited it to present progress on the different matters.

### A. Bystroe Canal Project (EIA/IC/S/1)<sup>27</sup>

65. The Committee continued its 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 (Bystroe Canal Project) in the presence of the delegation of Ukraine. It examined information from Ukraine, dated 13 April 2023, on its steps to implement decision VIII/4d.

66. The Committee welcomed the conclusion of the bilateral agreement between the Governments of Romania and Ukraine on the implementation of the Convention on 18 November 2022. It noted that, according to Ukraine, all works on the Bystroe Channel had been suspended, and no operational dredging works had been carried out between 2020 and 2021. Dredging activities had been conducted in 2022 but they did not concern the Bystroe Channel. Ukraine also stated that it had cancelled the construction project "Danube-Black Sea Water Navigation Canal" and notified Romania on 22 June 2020 about the start of the transboundary environmental impact assessment procedure for the new project "Reconstruction of construction facilities 'Creation of Danube River-Black Sea Water Navigation Canal in the Ukrainian part of the Danube Delta'", to which Romania had replied on 4 August 2022. The Committee took note of the importance for Ukraine of the existing

<sup>20</sup> ECE/MP.EIA/IC/2023/2, para. 56.

<sup>21</sup> ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

<sup>22</sup> ECE/MP.EIA/30/Add.3–ECE/MP.EIA/SEA/13/Add.3.

<sup>23</sup> ECE/MP.EIA/30/Add.1–ECE/MP.EIA/SEA/13/Add.1, decision VIII/2–IV/2, annex I, sect. II.A.3.

<sup>24</sup> ECE/MP.EIA/IC/2023/2, para. 57.

<sup>25</sup> ECE/MP.EIA/IC/2022/2, para. 3.

<sup>26</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 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 Khmelnytsky nuclear power plant (EIA/IC/INFO/10), activities at the Muzhiyev goldmine (EIA/IC/INFO/13) and lifetime extension of Rivne (units 3 and 4), South-Ukrainian, Zaporizhzhya and Khmelnytsky nuclear power plants in Ukraine (EIA/IC/INFO/20).

<sup>27</sup> See <https://unece.org/environmental-policy/environmental-assessment/eiaics1-ukraine>.

deep water shipping route of the Danube River during the ongoing war as the only alternative way to ensure the export of Ukrainian grain.

67. During the informal consultations at its current session, the delegation of Ukraine informed the Committee that the environmental impact assessment report on the new project, including a plan for compensatory measures as well as post-project monitoring, was sent to Romania on 3 May 2023 and acknowledged by it. Ukraine expected to conduct expert consultations with Romania during the next two to three months.

68. The Committee asked its Chair to write to Ukraine, requesting it to provide by 31 July 2023 a detailed report on how Ukraine had fulfilled the actions set out in the road map developed by Ukraine to bring the Bystroe Canal Project into compliance with the Convention, and the next steps for the realization of the new project.

69. It also asked its Chair to write to Romania, referring to the information the Committee had received from Ukraine before and during the informal consultations, including the fact that Ukraine had sent to Romania the environmental impact assessment report on 3 May 2023, sharing that information, and inviting Romania to make comments, within one month of the receipt of the letter.

70. Lastly, it asked its Chair to inform the Working Group that, as the Committee could only resume the consideration of the case at its current session, it had not been feasible for it to prepare a draft decision on the matter in advance of its twelfth meeting, but that, based on further information to be received, it would do so at its fifty-seventh session ahead of the next sessions of the Meetings of the Parties.

## **B. Rivne nuclear power plant (EIA/IC/CI/4)<sup>28</sup>**

71. The Committee continued following up on decision VIII/4e on compliance by Ukraine with its obligations under the Convention in respect of the extension of the lifetime of units 1 and 2 of Rivne nuclear power plant in the presence of the delegation of Ukraine.

72. The Committee noted information provided by Ukraine in its letter dated 13 April 2023 that transboundary consultations on the basis of the environmental impact assessment documentation had been completed with Hungary, the Republic of Moldova, Slovakia and Romania. Regarding Poland, Ukraine stated that it had responded to the letter of Poland from 12 November 2021 and received no further questions. Regarding Austria, consultations had been carried out through written correspondence, with a last communication from Austria dating back to February 2022. Ukraine also reported that transboundary consultations with Belarus had been cancelled and not pursued any further due to the support by Belarus for the military aggression of the Russian Federation against Ukraine.

73. The Committee advised Ukraine to write to Austria and Poland to clarify directly with those concerned Parties whether they considered the transboundary consultations as concluded.

74. The Committee also asked its Chair to write to Ukraine with a view to:

(a) Requesting confirmation that no decision on the extension of the lifetime of units 1 and 2 of Rivne nuclear power plant had been taken;

(b) Reminding Ukraine to fulfil the remaining requirements of paragraph 6 (a) of decision VIII/4e, namely:

(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;

<sup>28</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaicci4-ukraine>.

(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;

(c) Requesting Ukraine to report to the Committee on the progress on the remaining steps (see para. 74 (b) above) by 30 June 2023;

75. The Committee expressed its understanding of the difficulties for Ukraine to implement the Convention following the military aggression of the Russian Federation, including with respect to Belarus. Nevertheless, it reiterated its previous conclusion that the absence of diplomatic relations could not be considered a legitimate reason for not applying the Convention.<sup>29</sup> Consequently, in his letter, the Chair should invite Ukraine to provide the Committee with the legal reasons that prevented Ukraine from fulfilling its obligations under the Convention vis-à-vis Belarus.

### **C. Information gathering concerning the lifetime extension of Rivne (units 3 and 4), South-Ukrainian, Zaporizhzhya and Khmelnytsky nuclear power plants in Ukraine (EIA/IC/INFO/20)**

76. The Committee continued its deliberations on the lifetime extension of 12 power units located at Rivne, South-Ukrainian, Zaporizhzhya and Khmelnytsky nuclear power plants in Ukraine, in the presence of the delegation of Ukraine. The Committee noted information provided by Ukraine in its letter dated 13 April 2023.

77. With regard to units 3 and 4 of Rivne nuclear power plant, the Committee took note of the view of Ukraine that those units had been covered by the transboundary environmental impact assessment procedure held with regard to the lifetime extension of units 1 and 2 (see para. 72 above). According to Ukraine, all Parties that had participated in the consultations in accordance with article 5 of the Convention had been provided with the environmental impact assessment documentation, including an assessment of all significant adverse transboundary impacts from the lifetime extension of units 1–4 of Rivne nuclear power plant, and further consultations would not be reasonable. The Committee advised Ukraine to write to the concerned Parties to clarify directly whether they considered that all units of Rivne nuclear power plant (1–4) had been covered by the transboundary environmental impact assessment procedure held with regard to the lifetime extension of units 1 and 2.

78. Regarding South-Ukrainian and Zaporizhzhya nuclear power plants, the Committee took note of the information from Ukraine that transboundary consultations with Romania, the Republic of Moldova, Poland and Germany had been concluded, without specifying the dates. Furthermore, Austria, Belarus and Hungary had announced the completion of the consultations on 7 December, 7 September and 19 November 2021, respectively. Consultations with Slovakia had been postponed due to the war but could be resumed.

79. Referring to the information of Ukraine on Khmelnytsky nuclear power plant, the Committee took note of the information by Ukraine, that no decision to extend the operation of units of the nuclear power plant has been taken and therefore no transboundary procedure in accordance with the Convention had been carried out.

80. The Committee asked its Chair to write to Ukraine, with a view to:

(a) Requesting a general update on the state of the procedure in accordance with the Convention for all units;

(b) Enquiring about the start of the transboundary environmental impact assessment procedure on the decommissioning of units 1 and 2 of Khmelnytsky nuclear power plant, considering that no decision had been taken on the extension of the operation of the units;

(c) Providing the information to the Committee by 31 July 2023.

81. The Committee asked its Chair to write to Austria, Belarus, Germany, Hungary, Poland, the Republic of Moldova and Romania to request their confirmation that the

<sup>29</sup> ECE/MP.EIA/IC/2012/6, para. 46, endorsed by decision VI/2.

transboundary environmental impact assessment procedure regarding South-Ukrainian and Zaporizhzhya nuclear power plants had been completed, by 31 July 2023.

#### **D. Information gathering concerning the planned construction of nuclear reactors 3 and 4 of Khmelnytsky nuclear power plant (EIA/IC/INFO/10)**

82. The Committee continued its deliberations on the information it had gathered on the planned construction of units 3 and 4 of Khmelnytsky nuclear power plant in Ukraine. It noted the information provided by Ukraine in its letter dated 13 April 2023 and asked for clarifications from the delegation of Ukraine during the informal consultations at its current session.

83. According to Ukraine, a transboundary environmental impact assessment procedure had been concluded with all the Parties in the procedure (Austria, Belarus, Hungary, Slovakia, Republic of Moldova and Poland). An environmental impact assessment conclusion in relation to the planned activity had been adopted in 2021 with a validity of 5 years and sent to the affected Parties. To date, the final decision on carrying out the construction of units 3 and 4 of Khmelnytsky nuclear power plant had not been taken.

84. During the informal consultations, Ukraine explained that it was uncertain whether the decision would be taken during the validity period of the environmental impact assessment conclusion until 2026. In the event of such a decision, Ukraine would inform all affected Parties in accordance with the requirements of the Convention.

85. The Committee advised Ukraine to inform the concerned Parties that the procedure had been finalized taking into account their comments, and the decision to pursue the project had not been taken. They should be also informed that such decision could be taken during the validity period of the environmental impact assessment conclusion of 5 years, in which case the concerned Parties should be notified accordingly.

#### **E. Svydovets mountains, Ukraine (EIA/IC/CI/7)<sup>30</sup>**

86. The Committee continued the consideration of its initiative concerning the construction of a large tourism complex (Svydovets mountains, Ukraine) close to the borders with Hungary and Romania, in the absence of the Committee member nominated by Hungary but in the presence of the delegation of Ukraine.

87. The Committee examined information from Ukraine, dated 13 April 2023, that the proposed activity “Creation of a new recreational location for a meaningful family vacation - tourist complex ‘Sv[y]dovets’ with a network of suspended passenger cable cars, ski slopes, hotel infrastructure, infrastructure of winter and summer attractions” had not been carried out. During the consultations, Ukraine further clarified that currently the activity still constituted a mere project and that no permits for any preparatory or construction works had been issued. Formally, the developer was not obliged to cancel the notification of the project and could decide whether to continue the activity or not.

88. Based on the information it had received, the Committee considered closing the case at its next session, reminding Ukraine that should the project be resumed, to ensure that the project would be carried out in compliance with the Convention.

#### **F. Information gathering concerning activities at the Muzhiyevo goldmine (EIA/IC/INFO/13)**

89. The Committee continued its consideration of the information it had gathered concerning the planned activity related to mining at the Muzhiyevo goldmine (close to the border with Hungary) and its possible reopening by Ukraine, in the absence of the Committee member nominated by Hungary but in the presence of the delegation of Ukraine.

<sup>30</sup> See <https://unece.org/environment-policy/environmental-assessment/eiaicci7>.

90. The Committee examined information from Ukraine, dated 13 April 2023, that, following the informal consultations at the Committee's fifty-first session (Geneva, 4–7 October 2021) with Hungary and Ukraine, Ukraine had offered a site visit to Hungary that had not taken place due to the military aggression of Russian Federation against Ukraine. Ukraine further clarified that no mineral extraction activities had been carried out at the site, but measures for the disposal of ore dumps accumulated from past mining activities were still ongoing, beyond the initially foreseen period of approximately two years due to the war.

91. The Committee noted that the questions of Hungary to Ukraine dated 9 December 2021, transmitted to Ukraine by the Committee on 15 December 2021, following the informal consultations at its fifty-first session and the provision of the environmental impact assessment documentation to Hungary, remained unanswered to date. The delegation of Ukraine explained that it had not been aware of the questions of Hungary, admitting that there had been an omission on its side, and confirmed its willingness to provide a response.

92. The Committee asked its Chair to resend the letter from Hungary dated 9 December 2021 to Ukraine, inviting it to respond to Hungary, and provide the Committee with a copy of the response of Ukraine, at the moment of its answer.

### **G. Dates of next sessions**

93. The Committee confirmed the date and format of its fifty-seventh session (Geneva (in-person), 29 August–1 September 2023). It confirmed the following dates of its sessions for 2024: the fifty-eighth session, 27 February–1 March 2024; the fifty-ninth session, 18–21 June 2024; and the sixtieth session, 8–11 October 2024. The Committee initially expressed a preference for an online format for its fifty-eighth session, agreeing to revisit that matter after consultation of the Committee members to be nominated by the Parties for election by the Meetings of the Parties at their next sessions.

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

94. The Committee reviewed the main decisions taken. The Chair then formally closed the fifty-sixth session. The Committee adopted the draft report of its session, prepared with the support of the secretariat, using its electronic decision-making procedure, on 15 May 2023.

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