

**Convention on Environmental Impact Assessment in a Transboundary Context and its Protocol
on Strategic Environmental Assessment**

Ninth/fifth session

Geneva, 12–15 December 2023

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This note contains the talking points of the Chair of the Implementation Committee at the ninth session of the Meeting of the Parties to the Convention and the fifth session of the Meeting of the Parties to the Protocol under the following agenda items:

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Tuesday, 12 December 2023

4.30 – 5 p.m.

I. Agenda item 3 (a). Outstanding issues: Draft joint decisions

Sub-item: (iv) Draft decisions on compliance with the Convention and the Protocol;

The Chair of the Implementation Committee will present three country-specific draft decisions on compliance with the Convention and the Protocol (IX/4a-V/4a – IX/4c-V/4c) finalized by the Committee at its fifty-seventh session (Geneva, 29 August–1 September 2023), considering, as appropriate, additional information and comments provided before, during and after the twelfth meeting of the Working Group. The Meetings of the Parties to the Convention and the Protocol are expected to discuss and agree on the draft decisions to be forwarded to the high-level segment for adoption (under item 8 (a)).

The Chair of the Committee will also present for agreement of the Meetings of the Parties proposed amendments to the rules governing the Committee's mode of operation.

I.1. Preparation of the draft decisions

The Committee prepared the draft decisions on compliance at its fifty-fifth, fifty-sixth and fifty-seventh sessions, between January and September 2023. Most initial draft decisions were submitted to the twelfth meeting of the Working Group on EIA and SEA in June for comments, except where information was lacking or new information submitted late. The Committee finalized all but one draft decisions at its fifty-seventh session in September 2023, considering, as appropriate information and comments provided by the Parties concerned in advance of that session and the comments provided by the Working Group before, during and after its twelfth meeting in June 2023. The draft decision regarding Bosnia and Herzegovina was finalized by the Committee's electronic decision-making procedure in October 2023.

I.2. Short presentation of the draft decisions

(The Chair will pause after each decision to allow for comments from delegations).

Before turning to the country specific draft decision, I would like to highlight once more the difficulties the Committee is facing in receiving the necessary information from Parties, on time and in sufficient quality. This is to the detriment of the review system, and to the detriment of other Parties, as the Committee, and the secretariat, have to spend their scarce resources on repeated reminders to those Parties that don't respond. Said that, I will start now with the country specific draft decisions, in alphabetical order.

A. Decision IX/4a – V/4a on compliance by Albania with its obligations under the Convention and the Protocol in respect of the planned construction of several small hydropower plants on the Cijevna River

This draft decision is the result of a submission by Montenegro made in 2019. It was already presented to the Working Group in June, and as such accepted by the Parties concerned, Albania and Montenegro. As the draft has not changed since then, I will not repeat the presentation.

B. Decision IX/4b – V/4b on compliance by Armenia with its obligations under the Convention and the Protocol in respect of its national legislation

This is a decision on the follow-up to decision VIII/4a. At its eighth session (Vilnius (online), 8-11 December 2020) the Convention's MOP reaffirmed its decision IS/1a and requested Armenia to adopt as soon as possible the amended legislation and the relevant secondary legislation and to provide the Implementation Committee with their text and the English translation thereof.

Armenia adopted a new law on environmental impact assessment and expert examination on 3 May 2023.

Further to the review of the new law by the Committee, it concluded that while providing some improvements, the new law did not address most of the fundamental deficiencies of the previous law, therefore not ensuring full compliance by Armenia with its obligations under the Convention and the Protocol.

The Committee recommends the Meetings of the Parties to express their regret that, despite over a decade of technical assistance provided by the secretariat and the Implementation Committee to Armenia, most recently under the EU for Environment programme, to bring its legislation into line with the Convention and the Protocol, and multiple decisions by the Meetings of the Parties requesting it to do so, Armenia has not yet adopted fully compliant legislation or secondary legislation, especially concerning procedures according to the Protocol.

C. Decision IX/4c-V/4c on 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

The text of the decision is in square brackets, as the corresponding draft findings and recommendations were finalized by the Implementation Committee after the publication of the official document. The square brackets can now be lifted.

This draft decision is the result of a submission by Montenegro made in 2020, and information provided by four NGOs from Bosnia and Herzegovina and Montenegro to the Committee.

Considering the new information received by Montenegro after the publication of the Committee's findings and recommendations and the comments from Bosnia and Herzegovina and Montenegro on draft decision IX/4c-V/4c during and after the twelfth meeting of the Working Group in June 2023, the Committee revised its findings and recommendations and the corresponding draft decision.

The Committee concluded that, by not notifying Montenegro regarding the activity early in the 2012/2013 procedure, Bosnia and Herzegovina had failed to fulfil its obligations under articles 2 (4) and 3 (1) of the Convention.

It further found that, by not conducting a new environmental impact assessment before issuing a new permit in 2019, Bosnia and Herzegovina had failed to comply with its obligations under articles 2 (2)–(3) and 4 (1) of the Convention and is requested to conduct a transboundary environmental impact assessment procedure involving Montenegro and, as needed, other affected Parties.

The Committee recommends the Meetings of the Parties to request Bosnia and Herzegovina to revise the final decision on the construction of the Buk Bijela hydropower plant, taking due account of the outcomes of the EIA procedures (here in para. 4 (b) a mistake occurred, it should read “construction” and not “lifetime extension”).

I.3. Presentation of the Committee's amendment proposals to its structure and functions and operating rules

As mandated by the Meetings of the Parties at their eighth and fourth sessions, the Committee reviewed its structures and functions and operating rules, and proposed possible amendments, for consideration and adoption by the Meetings of the Parties. The Committee's proposal is contained in official document ECE/MP.EIA/2023/5-ECE/MP.EIA/SEA/2023/5. It is complemented by informal document 6, containing the Committee's rationale, and informal document 7, containing the amendment proposals in track changes - to illustrate the proposed changes more easily.

In its review, the Committee identified eight key topics that needed clarification and/or adjustment, as follows.

The Chair will pause after each topic to allow Parties to comment.

1. Appointment of Committee Members

Parties should understand their obligations when nominating representatives to serve on the Committee. A new footnote in paragraph 1 (a) structures and functions is suggested to improve the understanding.

2. Harmonization of rules for decision-making

The Committee identified a contradiction between the general rule on decision-making (operating rule 18) and a specific provision on the adoption of reports and findings and recommendations (para. 9 structure and functions). It suggests the uniform use of the general rule on decision-making (by consensus, last resort by majority-vote).

3. Entitlement to participate in the Committee's sessions

The current provisions (para. 9 structures and functions) concerning the entitlement of Parties or the public to participate in the Committee's sessions do not cover all situations where this would be necessary, as they are limited to submissions. The Committee suggests the same rules governing the participation of Parties or the public for all its deliberations, such as information gathering or Committee initiatives. Similarly, the Committee suggests reflecting in the rules the practice of the Committee to organize "hearings" not only for submissions, but for all its proceedings.

4. Conflict of interest and quorum

In the Committee's experience, the present rules are no longer adapted for the consideration of the hugely increased compliance matters relating to nuclear matters, which often involve a multitude of potentially affected Parties (some Parties of origin have even notified all the Convention Parties, some others all the EU member States). As a result, in some of the cases before the Committee, a majority of Committee members would be at least in an indirect conflict of interest, preventing the Committee to reach the quorum of five members. Referring the matter to the MOP, as the rules currently foresee, is not practicable, as the MOP meets only every three years.

Consequently, as indicated already several times, the Committee decided at its fifty-first session to exceptionally and provisionally abstain from applying rule 5 of its operating rules (51st session, 4-7 October 2021, ECE/MP.EIA/IC/2021/6, paras. 56-58).

Despite this decision, the Committee never applied the exception.

To solve the problem for the future, the Committee suggests a set of proposals.

First, as the rules governing conflict of interest are spread over several provisions, to merge paragraph 10 of the structure and functions with operating rule 5, leaving the main provision only in paragraph 10 of the structure and functions with the wording of the former operating rule 5. The Committee also offers an interpretation of the new paragraph 10 of the structures and functions.

The Committee also suggests a new provision (operating rule 5(1)) for Parties to give them the opportunity to express their objections regarding the participation of Committee members at an early stage, based on reasonable grounds.

This rule is for the unlikely case that the IC members would not apply its own rules and their good judgement about the conflict of interest. That proposed rule should not create uncertainty for the IC and give a Party the possibility to question, at any moment, the IC's deliberations.

The Committee proposed therefore on purpose an objective deadline of 2 months for a Party to raise objections. Concerning the comment of the EU, to replace the two months deadline with "as soon as it becomes aware" would not be practicable, it would be very difficult to proof that the issue was raised "as soon as it becomes aware", or the contrary. Generally speaking, Parties should continue to have faith on the IC's impartiality in its deliberation.

Second, to strengthen the role of the Committee members elected for Protocol matters only. Committee members who represent Parties to the Convention and the Protocol but are elected for Protocol matters only should be permitted to participate in the considerations and decision making, provided that there is no objection by a Committee member elected for Convention matters and vice versa (operating rule 4 (4)).

As a third measure to enhance its stability and capacity to act, the Committee proposes to lower the quorum necessary for decision making to four members in order to avoid a situation when the matter in question would have to be referred to the Meetings of the Parties. Given the fact that the Meetings of the Parties have no means to effectively carry out review of compliance procedures and that their sessions are convened only every three years, the existing provision in paragraph 12 of the structure and functions does not provide an adequate solution to the problem.

5. Publication of documents

The Committee suggests introducing a rule to enable the publication of reports of ad hoc sessions and informal documents. It further suggests making copies of all correspondence between the Party or another source and the Committee available to other Parties upon request, in the absence of reasoned objections (operating rule 16 (2) and (9)).

6. Use of electronic means of communication

The Committee proposes a new rule to provide for regular virtual meetings and generally for an extended use of electronic means of communication. This proposal reflects the practise of the Committee in particular since the outbreak of the Covid pandemic (operating rule 19).

7. Additional recommendations regarding a Party's follow-up on recommendations

The operating rules of the Committee lack clarity on the procedure to be followed when new relevant information on a compliance matter becomes available before the Meetings of the Parties endorse the draft decision on that matter. The Committee proposes inserting a new paragraph 4 at the end of operating rule 13.

8. Timeliness of Parties' responses

The Committee's work is significantly hindered by late submission of information or submission of information of insufficient quality by the Parties. The Committee proposes to state explicitly that if a Party does not provide information, the Committee is free to disregard any late information (operating rule 11 (8)).

Tuesday, 12 December 2023

5-6 p.m.

Wednesday, 13 December 2023

10 a.m. – noon.

II. Agenda item 3 (b). Outstanding issues: Draft decisions by the Meeting of the Parties to the Convention

Sub-item: (i): Draft decisions on compliance with the Convention;

The Chair (and the Vice-Chair) of the Implementation Committee will present draft decision IX/4 on general issues of compliance with the Convention and country-specific draft decisions IX/4d–IX/4l on compliance with the Convention, finalized by the Committee at its fifty-seventh session, considering, as appropriate, the comments made before, during and after the twelfth meeting of the Working Group. The Meeting of the Parties to the Convention is expected to discuss and agree on the draft decisions.

(i) Draft decisions on compliance with the Convention

(The Chair will pause after each decision to allow for comments from delegations).

A. Draft decision IX/4 on general issues of compliance with the Convention

Draft decision IX/4 on general issues of compliance with the Convention (contained in official document ECE/MP.EIA/2023/6) follows the structure of previous MOP decisions on general compliance matters. As per usual, its preamble recalls the related decisions taken by the Meetings of the Parties.

In the initial operative paragraph, the Committee recommends that the MOP reiterates its requests to the Committee to continue to:

- (a) Keep the implementation and application of the Convention under review;
- (b) Promote and support compliance with the Convention, including by providing assistance in this respect, as necessary.

In the subsequent operative paragraphs (paras. 2-9), the Committee recommends that the MOP acknowledges the outcomes of the Committee's work in the intersessional period 2021-2023 further to the Committee's report to the MOPs, including with regard to follow-up to previous decisions, submissions, Committee initiatives, information gathering procedures and specific compliance issues.

Paragraphs 12-14 recommend the MOP to consider the Committee's opinions generated since its previous session. A selection of opinions is highlighted in this section of the draft decision.

Last but one paragraph refers to the amendments to the operating rules and the structures and functions of the Committee, and the final paragraph includes a mandate to the Committee to keep these rules under review.

Turning now to the country-specific compliance decisions, contained in official document ECE/MP.EIA/2023/7.

A. Decision IX/4d on compliance by Azerbaijan with its obligations under the Convention in respect of its national legislation

This is a draft decision on follow-up to decisions IS/1c and VIII/4b by which the Convention's MOP urged Azerbaijan to ensure that its environmental impact assessment legislation fully complies with the Convention.

The initial draft decision was presented to the Working Group in June, where Azerbaijan made several comments. The Committee considered them and took a number of them on board. However, its main

finding, that Azerbaijan, despite steps taken, has not yet fulfilled the requests addressed to it in decisions VIII/4b, IS/1c and VI/2, remained unchanged.

The Committee recommends the Meeting of the Parties to express its regret that, despite over a decade of technical assistance provided to Azerbaijan by the secretariat and the Implementation Committee, most recently under the EU for Environment programme, to align Azerbaijani national legislation with the Convention, and multiple decisions by the Meetings of the Parties requesting the country to do so, Azerbaijan has not yet adopted fully compliant legislation.

B. Decision IX/4e on compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets

This is a draft decision to follow-up on decisions VI/2, IS/1d and VIII/4c. By decision VIII/4c the Meeting of the Parties encouraged both Parties to conclude a bilateral agreement for the implementation of the Convention, to carry out a post-project analysis, and to continue bilateral expert consultations on issues of disagreement.

Since the 8th session of the Meeting of the Parties, Belarus and Lithuania submitted to the Committee their annual reports further to paragraph 5 of decision VIII/4 c. They held only one bilateral expert meeting and said meeting's outcomes have still not been fully agreed on at the current time. The Committee conducted informal online consultations with the two Parties in October 2022.

The Committee found the lack of progress by the Parties concerned since 2014 in implementing previous MOP decisions regretful.

Further to the comments on the initial draft decision from Belarus and Lithuania during the twelfth meeting of the Working Group in June, the Committee removed the need to establish a joint bilateral body.

The Committee suggests urging both Parties to complete the actions from previous MOP decisions, while acknowledging that there is no longer a need to establish a joint bilateral body, and to continue to report to the Committee on progress annually.

C. Decision IX/4f on compliance by Belarus with its obligations under the Convention in respect of its national legislation

This draft decision is a result of an information gathering procedure started in 2017, after the adoption by Belarus of the Law on State Ecological Expertise, SEA and EIA in 2016. In 2019, the Committee provided to Belarus a non-exhaustive list of deficiencies vis-à-vis the Convention.

In 2022, the Committee conducted informal online consultations with Belarus on its steps to revise its legislation.

Belarus received technical assistance provided by the secretariat for the past 10 years, with European Union funding.

In May 2023, the Committee opened, after six years of monitoring of the revision by Belarus of its legislation, a Committee initiative, based on a profound suspicion of non-compliance by Belarus with its obligations under the Convention, and prepared its draft findings and recommendations. In July 2023, Belarus adopted the Law on Amendments of the Law on State Ecological Expertise, SEA and EIA.

The Committee recommends that the Meeting of the Parties welcomes the improvement by Belarus of its national legislation through the adoption of the Law in July, however, to express regret that not all deficiencies of the previous legislation were addressed.

The Meeting of the Parties is invited to endorse the findings of the Committee that Belarus is in non-compliance with its obligations under article 2 (2) of the Convention, for not having taken the necessary legal, administrative or other measure to implement the provisions of the Convention.

D. Decision IX/4g on compliance by Belgium with its obligations under the Convention in respect of the lifetime extension of unit 1 of Tihange nuclear power plant

To be presented by the first Vice-Chair of the Committee

This matter has been under consideration by the Committee since 2016 when two German Federal States informed the Committee about alleged non-compliance by Belgium with its obligations under the Convention regarding the lifetime extensions of units 1 and 2 of Doel and unit 1 of Tihange nuclear power plant.

Between 2017 and 2020, the Committee did not consider the matter further, upon request by Belgium to await the final outcome of the legal proceedings before the Court of Justice of the European Union and the Constitutional Court of Belgium concerning units 1 and 2 of Doel nuclear power plant and due to the then-ongoing preparation of the Guidance on the Applicability of the Convention to the Lifetime Extension of Nuclear Power Plants when performing its functions.

Following the initiation of a transboundary EIA procedure by Belgium regarding Doel nuclear power plant, further to the decision of the Constitutional Court of Belgium of 5 March 2020, the Committee closed in 2021 the consideration of that matter regarding these two units.

Considering that no steps were taken on unit 1 of Tihange nuclear power plant, and applying the criteria set out in the Guidance, the Committee opened a Committee initiative in 2022.

At its fifty-fourth session (Geneva (hybrid), 4-7 October 2022) the Committee conducted hearings with Belgium and Germany.

As recommended by the Meeting of the Parties at its eighth session, the Committee considers the Guidance on the Applicability of the Convention to the Lifetime Extension of Nuclear Power Plants when performing its functions. The Committee stresses that the Guidance only interprets the Convention to support its practical application. It neither imposes new obligations on the Parties nor expands the application of the Convention's articles. It does so with a view to ensuring consistent interpretation of the Convention regarding new and pending lifetime extension cases. Therefore, the Committee also considers the Guidance in cases that were already under its review.

The considerations of the Committee that led to the draft decision are set out in the Committee's findings and recommendations (ECE/MP.EIA/IC/2023/10).

To highlight some of the Committee's findings

The Committee found, inter alia, that:

- The implementation of several measures included in the 2012 long-term operation action plan amounted to a major change to an activity listed in appendix I to the Convention;
- The activity was a lifetime extension, falling under the specific situations in chapter II, section C, of the Guidance;
- Belgium did not assess all likely significant adverse transboundary impacts of operational states and accidents of the continued operation beyond 2015.

The Committee found that Belgium was in non-compliance with articles 2 (3) and 3 (1) of the Convention by extending the lifetime of unit 1 of Tihange nuclear power plant and preparing the unit for long-term operation without applying the Convention.

The Committee welcomed the fact that Belgium committed itself to notifying possibly affected Parties in accordance with article 3 (1) of the Convention ahead of any future lifetime extension of other units of Tihange nuclear power plant.

The Committee requested Belgium to ensure that the Convention is fully applied in the context of any future decision-making regarding Tihange nuclear power plant, and to follow the Good Practice Recommendations on the Application of the Convention to Nuclear Energy-related Activities, endorsed by the Meeting of the Parties, namely applying a wide notification procedure as a way to prevent later misunderstandings and potential disputes.

E. Decision IX/4h on compliance by Bulgaria with its obligations under the Convention in respect of the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant

This matter has been under review by the Committee since 2018, when a Romanian NGO provided information to the Committee about the alleged non-compliance by Bulgaria regarding the lifetime extension of two units of Kozloduy nuclear power plants. The information provided by the NGO dates back to 2014. The Committee then gathered further information from the concerned Parties and the NGO and opened in 2022 a Committee initiative based on the profound suspicion of non-compliance by Bulgaria.

The Committee conducted hearings with Bulgaria, the Party of origin, and the affected Parties Austria, Romania and Serbia at its fifty-third session (Geneva (online), 10–13 May 2022).

When examining the application of the relevant provisions of the Convention, the Committee considered the Guidance on the Applicability of the Convention to the Lifetime Extension of Nuclear Power Plants.

The considerations of the Committee that led it to the draft decision are set out in the Committee's findings and recommendations ([ECE/MP.EIA/IC/2023/6](#)). To highlight some of its considerations: The Committee considered that “a major change” to an activity listed in appendix I to the Convention took place, as

- the investments Bulgaria did were intended for an operation of units 5 and 6 for another 30 years;
- Bulgaria had implemented at least 280 various changes with investment costs of about € 100 million, that, even of a smaller scale, taken as a whole, pointed to a major change;
- Physical works, as part of regular maintenance, are relevant when carried out towards the end of the plant's lifetime (see ECE/MP.EIA/2023/6, paras. 48-55).

Consequently, the Committee found that Bulgaria was in non-compliance with articles 2 (3) and 3 (1) of the Convention by extending the lifetime of units 5 and 6 of Kozloduy nuclear power plant and preparing the units for long-term operation without applying the Convention.

It welcomed the fact that Bulgaria committed itself to notifying Austria, Romania and Serbia ahead of any future lifetime extension for units 5 and 6 of Kozloduy nuclear power plant in accordance with article 3 (1) of the Convention.

The Committee considered the comments Bulgaria provided at various occasions, for example on the Committee's draft findings and recommendation and most recently, during the twelfth meeting of the Working Group, on the initial draft decision. The Committee incorporated some of the suggestions by Bulgaria, without changing the Committee's conclusion of non-compliance.

F. Decision IX/4i on compliance by Czechia with its obligations under the Convention in respect of the lifetime extension of four reactors of Dukovany nuclear power plant

This draft decision is the result of a Committee initiative, opened in 2022, based on the information made available to the Committee since 2016 by five NGOs and the concerned Parties. The Committee conducted hearings with Austria, Czechia and Germany at its fifty-fourth session (Geneva (hybrid) 4 - 7 October 2022).

When examining the application of the relevant provisions of the Convention, the Committee considered the Guidance on the Applicability of the Convention to the Lifetime Extension of Nuclear Power Plants.

To highlight some considerations of the Committee (see [ECE/MP.EIA/IC/2023/11](#) for the Committee's comprehensive findings and recommendations):

The Committee considered, inter alia, that:

- The Guidance was applicable to the lifetime extension of units 1–4 of Dukovany nuclear power plant, as the activity was related to a specific situation described in chapter II, section C, of the Guidance, namely situation 1 in paragraph 25 (the end date of a time-limited licence has been reached, but the plant is intended to continue operation);
- In the view of the intended operation for another 30–40 years, various changes, with investment costs of at least €160 million, potentially up to €560 million, including physical works within the nuclear power plant and modifications in the operating conditions of a smaller scale, when taken as a whole, pointed to a major change.

The Committee found that Czechia was in non-compliance with articles 2 (3) and 3 (1) of the Convention when extending the lifetime of units 1-4 of Dukovany nuclear power plant and preparing the units for long-term operation without applying the Convention.

It welcomed the fact that Czechia committed to notifying Austria and Germany ahead of future lifetime extensions of nuclear power plants or significant changes in the licences of the operating units of the nuclear power plants in its territory.

The Committee invited Czechia to continue bilateral consultations and cooperation with Austria and Germany regarding the Dukovany and Temelin nuclear power plants and encouraged Czechia to prepare bilateral agreements.

The Committee welcomed the cooperation of Czechia in the proceedings, which facilitated the considerations of the Committee.

G. Decision IX/4j on compliance by Serbia with its obligations under the Convention in respect of several mining-related activities in Karamanica, Popovica and Podvirovi and the Grot mine

This draft decision is the result of a submission made by Bulgaria in 2019. It was already presented to the Working Group in June. Neither Serbia as Party of origin nor Bulgaria as affected Party submitted comments. As the draft has not changed since the Working Group, I will not repeat the presentation.

H. Decision IX/4k 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

This draft decision is the result of an initial submission made by Romania in 2004, and a follow-up submission in 2007.

After the finalisation of draft decision IX/4k by the Committee at its fifty-seventh session (29 August – 1 September 2023), Ukraine provided, on 23 November 2023, new information.

In draft decision IX/4k, drafted before the submission of the new information, the Committee recommended to welcome the progress made by Ukraine in implementing decision VIII/4d, in particular the conclusion of a bilateral agreement with Romania in November 2022, as requested by the MOP in 2008 and repeated subsequently, with the secretariat's support and European Union funding.

However, the Committee expressed regret about the limited progress made by Ukraine on the other requests contained decision VIII/d to bring the Bystroe Canal project into full compliance with the Convention, and encouraged the Government of Ukraine to continue the implementation of the road map and cooperate and consult with the Government of Romania in an open and transparent manner.

The Committee took note of the recently submitted information by Ukraine. Besides the summaries, there are more than 1700 pages of annexes. I will stop here to give Ukraine the possibility to speak.

After UA intervention, if needed to propose the approach:

The Committee suggests following the procedure that is well established under the Aarhus Convention under similar circumstances:

i.e. The MOP could decide now on the non-compliance of Ukraine, but also on the lifting of the caution, on the condition that the requirements of the decision IX/4k have been met. The MOP would then request/mandate/entrust the Committee to examine the new information at its next meeting in February 2024 and, on its basis, establish the successful fulfilment by Ukraine of the decision in question.

I. Decision IX/4l on compliance by Ukraine with its obligations under the Convention in respect of the extension of the lifetime of Rivne nuclear power plant

Further to the military aggression of the Russian Federation against Ukraine, the Committee, at its fifty-second session, postponed its consideration of all compliance issues concerning Ukraine. Based on the interest expressed by Ukraine to resolve the compliance matters, the Committee resumed its deliberations at its fifty-sixth session in May 2023 and conducted informal consultations with Ukraine during that session.

The Committee considered with concern the war in Ukraine and is conscious of the ensuing difficulties for Ukraine to implement the Convention.

Draft decision IX/4l is a follow-up on previous MOP decisions VI/2, IS/1g and VIII/4e.

The Committee found that despite the steps taken by Ukraine to complete the transboundary environmental impact assessment procedure for the lifetime extension of reactors 1 and 2 of Rivne nuclear power plant, it has so far not fully completed the procedure under the Convention, as requested by decision VIII/4e.

The Committee recommends that the Meeting of the Parties, inter alia, requests Ukraine to finalize the transboundary environmental impact assessment procedure with the Parties that still consider themselves to be affected, and to report to the Committee on the steps taken by the end of January 2024.

Wednesday, 13 December 2023

3–5 p.m.

III. Agenda item 3 (c). Outstanding issues: Draft decisions by the Meeting of the Parties to the Protocol

Sub-item: (i) Draft decisions on compliance with the Protocol (3-4 p.m.)

The Chair of the Implementation Committee will present draft decisions V/4 on general issues of compliance with the Protocol, and the country-specific draft decision V/4d on compliance with the Protocol, finalized by the Committee at its fifty-seventh session, considering, as appropriate, the comments made before, during and after the twelfth meeting of the Working Group. The Meeting of the Parties to the Protocol is expected to discuss and agree on the draft decisions.

(i) Draft decisions on compliance with the Protocol

A. Decision V/4 on general issues of compliance with the Protocol

Draft decision V/4 on general issues of compliance with the Protocol, contained in official document ECE/MP.EIA/SEA/2023/7, follows the structure of previous MOP decisions on general compliance matters. As per usual, its preamble recalls the related decisions taken by the Meetings of the Parties.

In the initial operative paragraphs, the Committee recommends that the MOP reiterates its requests to the Committee to continue to:

- (a) Keep the implementation and application of the Protocol under review;
- (b) Promote and support compliance with the Protocol, including by providing assistance in this respect, as necessary.

In the subsequent operative paragraphs (paras. 2-7), the Committee recommends that the MOP acknowledges the outcomes of the Committee's work in the intersessional period 2021-2023 further to the Committee's report to the MOP, including with regard to follow-up to previous decisions, submissions, Committee initiatives, information gathering procedures and specific compliance issues.

Paragraphs 10-11 recommend the MOP to consider the Committee's opinions generated since its previous session. A selection of opinions is highlighted in this section of the draft decision.

Last but one paragraph refers to the amendments to the operating rules and the structures and functions of the Committee, and the final paragraph includes a mandate to the Committee to keep these rules under review.

Turning now to the country-specific compliance decision.

B. Decision V/4d on compliance by Serbia with its obligations under the Protocol in respect of the Energy Sector Development Strategy of the Republic of Serbia for the Period up to 2025 with Projections up to 2030 and the Programme for the Implementation of the Strategy for the Period 2017–2023

This draft decision is the result of information gathered by the Committee since 2014, following information provided by a non-governmental organization (Bankwatch Romania) to the Committee.

The Committee found that Serbia was in non-compliance with its obligations under article 3 (1) of the Protocol regarding legislative, regulatory and other measures to ensure proper implementation of article 10 of the Protocol regarding transboundary consultations and article 11 on decision-making and informing the Parties consulted about the decision.

It also found that Serbia was in non-compliance with its obligations under the Protocol concerning the Energy Sector Development Strategy for not having notified Croatia, Hungary and Romania.

The Committee suggested several recommendations to Serbia and recommended the MOP to request yearly progress reports.

Thursday, 14 December 2023

Noon – 1 p.m.

IV. Agenda item 4. Review of the workplan

Sub-item: (a) Compliance with and implementation of the Convention and the Protocol

The Chair of the Implementation Committee will report on the Committee's activities in the period since the eighth session of the Meeting of the Parties to the Convention and the fourth session of the Meeting of the Parties to the Protocol (2021-2023).

Delegations will be invited to report on progress in developing and adopting legislation for the implementation of the Convention and the Protocol further to technical assistance facilitated by the secretariat since the twelfth meeting of the Working Group.

Details on the Committee's work during the 2021-2023 intersessional period are provided in the Committee's report on its activities in the intersessional period (ECE/MP.EIA/2023/13–ECE/MP.EIA/SEA/2023/13) and reports on the Committee's individual sessions (see the Convention's website following the link: <https://unece.org/sessions-3>).

The Committee's workload has even more increased than in the previous intersessional period. By way of indication, the Committee had been considering 53 compliance issues:

- (a) 5 cases to follow-up on previous decisions of the Meeting of the Parties,
- (b) 4 submissions,
- (c) 7 Committee initiatives,
- (d) 20 information gathering cases, and
- (e) 17 specific compliance issues arising from reviews of implementation of the treaties.

By comparison, in the 2017-2020 intersessional period the Committee considered 36 cases.

The consultations with the European Commission on the European Union reporting templates took up a significant share from the scarce resources of the Committee and the secretariat in 2021–2023.

Long-term (full- or part-time) staff sick leaves and staff changes in the secretariat further increased the precarious situation and created delays in the Committee's consideration of numerous compliance issues.

The information on Committee's workload is reported in **chapter I** of the Committee's report on its activities in 2021-2023. The report is structured in **eight chapters**.

Chapter I describes the mandate, the membership and sessions, and the workload of the Committee.

Chapter II reports on the Committee's follow-up to decisions VIII/4 a – e and the preparation of related draft decisions for the present Meeting of the Parties.

Chapter III draws on submissions by Parties, **chapter IV** on Committee initiatives and **chapter V** on information from other sources (information-gathering cases concerning the Convention and the Protocol). Each case is briefly summarized.

Chapter VI refers to the outcomes of the Committee's examination of the sixth review of implementation of the Convention and the third review of the Protocol. The specific compliance issues arising from those and previous reviews regarding 17 Parties are summarized in table 3.

All these activities represented the bulk of the Committee's work.

Chapter VII describes the work of the Committee related to the revision of the questionnaires, the preparation of reviews of implementation, including the work on the reporting templates for the European Union.

Finally, **Chapters VIII** explains the work of the Committee concerning the revision of its structure and functions and operating rules.
