

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

The Meeting of the Parties to the Convention,

Recalling articles 11 (2) and 14 bis of the Convention on Environmental Impact Assessment in a Transboundary Context,

Recalling also its decisions V/4, paragraphs 31 and 32,¹ VI/2, paragraphs 38–44,² IS/1c³ and VIII/4b⁴ on compliance by Azerbaijan with its obligations under the Convention in respect of its national legislation,

Recalling further its decision IX/4⁵ on general issues of compliance with the Convention adopted at its ninth session (Geneva, 12–15 December 2023),

Having considered the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its ninth session, in particular the section concerning the steps taken by Azerbaijan further to decisions IS/1c and VIII/4b,⁶

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

1. *Appreciates* the regular, albeit occasionally delayed, progress reports on the steps taken by the Government of Azerbaijan further to decision VIII/4b since the eighth session of the Meeting of the Parties (Vilnius, (online), 8–11 December 2020);

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

3. *Welcomes* the information from the Government of Azerbaijan that, since the adoption of the Law on Environmental Impact Assessment on 12 June 2018, it has adopted six pieces of secondary legislation for the implementation of the Convention and the Protocol, with the final two pieces of such legislation being adopted in September 2022;⁷

4. *Also welcomes* the provision of the English translations of two pieces of secondary legislation, further to paragraph 8 of decision VIII/4b, prepared with the support of the European Union for Environment programme, but regrets that not all translations of the pieces of secondary legislation regarding the Convention have been provided;

5. *Notes* with concern, based on the Committee’s analysis of the Law on Environmental Impact Assessment and the above-mentioned final two pieces of secondary legislation, that the legislation adopted by Azerbaijan to implement the Convention is not fully compliant therewith but contains, in particular, the following deficiencies:

(a) The definition of “proposed activity” is still not fully compliant with the Convention, as it does not include “any major change to an activity subject to a decision of a competent authority in accordance with an applicable national procedure”;

¹ ECE/MP.EIA/15.

² ECE/MP.EIA/20/Add.1–ECE/MP.EIA/SEA/4/Add.1.

³ ECE/MP.EIA/27/Add.1–ECE/MP.EIA/SEA/11/Add.1.

⁴ ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2.

⁵ ECE/MP.EIA/2023/6.

⁶ ECE/MP.EIA/2023/13–ECE/MP.EIA/SEA/2023/13.

⁷ “Regulation on Conducting the Strategic Environmental Assessment”, adopted on 17 September 2022 by decision No. 354 of the Cabinet of Ministers and “Regulation on Conducting the Environmental Impact Assessment, including transboundary impact assessment and its duration” adopted on 21 September 2022 by decision No. 362 of the Cabinet of Ministers.

(b) The description of the content of the environmental impact assessment documentation is not fully compliant with appendix II to the Convention, lacking, in particular, the information required in appendix II (g) and (i);

(c) Regarding the decision-making process, there is no clear provision on how the outcome of the environmental impact assessment is taken into account in the final decision on the proposed activity, or on the communication to the affected Party of the reasons and consideration on which said final decision is based;

6. *Endorses* the finding of the Implementation Committee to the effect that, despite the steps taken, the Government of Azerbaijan has not yet fulfilled the requests addressed to it in decisions IS/1c and VIII/4b;⁸

7. *Regrets* that, despite over a decade of technical assistance provided to Azerbaijan by the secretariat⁹ and the Implementation Committee 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;

8. *Reaffirms* its decisions IS/1c and VIII/4b, and requests the Government of Azerbaijan to amend, as soon as possible, the Law on Environmental Impact Assessment and the relevant secondary legislation in accordance with paragraph 5 (a)–(c) above and the previous recommendations of the international consultant to the secretariat,¹⁰ with a view to ensuring full compliance of its legislative framework with the Convention;

9. *Requests* the Government of Azerbaijan to provide the Implementation Committee with the texts of all relevant legislation, once adopted, together with the English translations thereof;

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

⁸ ECE/MP.EIA/IC/2023/4, para. 15.

⁹ In the period 2013–2018, with European Union funding under the Greening Economies in the European Union’s Eastern Neighbourhood programme and, in the period 2019–2023, under the European Union for Environment programme.

¹⁰ See “Assessment of the draft Law on Environmental Impact Assessment prepared by Azerbaijan: Opinion paper”. Available at https://unece.org/fileadmin/DAM/env/cia/sea_protocol/Opinion_paper_draft_Law_of_Azerbaijan_on_EIA_final_AS_DS_clean.pdf.