



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-ninth session

Geneva, 18–21 June 2024

Report of the Implementation Committee on its fifty-ninth session**I. Introduction**

1. The fifty-ninth 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 (Protocol) was held in Geneva, from 18 to 21 June 2024.

A. Attendance

2. The following members of the Implementation Committee for Convention and Protocol matters attended the session: Mr. Christian Baumgartner (Austria), Ms. Yordanka Stoimenova (Canada), Mr. Ralph Bodle (Germany), Mr. Joe Ducombe (Luxembourg), Ms. Susan Vernij (Netherlands), Ms. Joanna Przybyś (Poland), Ms. Natalia Zamfir (Republic of Moldova), Ms. Barbora Pavlačič Donevova (Slovakia).

3. The Committee noted with regret that both the Committee member and the alternate nominated by Montenegro were absent from the session. The absence was initially due to a lack of governmental funding for travel expenses. Consequently, the secretariat notified Montenegro on 28 May 2024 of its intent to seek approval from the Bureau for funding from the treaties' trust funds to support, on an exceptional basis, the participation of the Committee member to the session, as per paragraph 26 of decision IX/1–V/1 on Financial Arrangements.

4. The Committee also noted with regret that, in response to the above communication, Montenegro informed the secretariat on 10 June 2024 that, even if the funds were secured,

its permanent member could not attend the session due to prior commitments, and the alternate might not be available at short notice.

5. The Committee instructed its Chair to write a letter to Montenegro, reminding the Party of its obligation to ensure the member's participation in all sessions. Participation of all members in each session is crucial for quorum and decision-making. The Committee also asked the secretariat to forward the Chair's letter to the Minister of Environment and Tourism in Montenegro through the Ministry of Foreign Affairs.

B. Organizational matters

1. Adoption of the agenda

6. The Committee adopted the agenda (ECE/MP.EIA/IC/2024/3), prepared by the secretariat in consultation with the Chair.

2. Membership of the Committee

7. The Committee noted with regret that Slovakia had not yet nominated an alternate member. In that respect, it asked both the secretariat and the Committee member from the country to remind the Party to appoint an alternate member without delay.

8. The Committee noted that the secretariat had received an email from a senior consultant of the Ministry of Environment of the Republic of Moldova providing a name for a nominated alternate member, but official confirmation from the focal point or any other authorized person was pending. The Committee instructed the secretariat to contact the Republic of Moldova and invite the Party to provide official confirmation, either through the focal point or by sending a formal nomination letter.

II. Follow-up to decisions IX/4c-V/4c and V/4d

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

Convention matters

A. Bosnia and Herzegovina (EIA.IC.S.8/SEA.IC.S.1)

10. The Committee continued its follow-up to 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.

11. The Committee noted the response by Bosnia and Herzegovina, dated 13 May 2024, to its letter of 25 March 2024. The response provided some limited information regarding the implementation of the steps foreseen in paragraphs 4 (a), (b) and (c) of Decision IX/4c-V/4c.

12. The Committee acknowledged the Party's willingness to assess potential impacts of the Buk Bijela hydropower plant (hereafter "the project") on the territory of Montenegro, in particular on the UNESCO world heritage site of the Durmitor National Park. It noted that, on 19 September 2023, Bosnia and Herzegovina requested guidance from the UNESCO World Heritage Centre to update the environmental impact assessment report for the project. However, as of May 2024, no response had been received from UNESCO.

13. With regard to compliance with paragraphs 4(a) to (c) of decision IX/4c-V/4c on measures to implement the Convention concerning the activity, the Committee noted Bosnia and Herzegovina's assertion that it had been unable to take any action in the absence of the expected guidance from UNESCO. It also noted with regret that the Party had failed to comply with paragraph 5 of that decision by not furnishing the Committee with the detailed plan for implementation of the decision by 15 January 2024, as requested by the Meeting of the Parties.

14. The Committee stressed that the preparation of the detailed plan was a key tool for the Party to identify the steps required to comply with paragraphs 4(a) to (c) of the decision. Seeking guidance from UNESCO or other experts' advice should be included as one of the steps in the plan.

15. The Committee instructed its Chair to send a letter to Bosnia and Herzegovina, urging the Party to submit - without delay and no later than 15 December 2024 - the detailed plan referred to in paragraph 5 of decision IX/4c-V/4c based on the guidance provided by the Committee in Annex I to this report.

16. Further to article 3(6) of the Convention, the Committee recommended that Bosnia and Herzegovina request Montenegro to provide all reasonably obtainable information pertaining to the potentially affected environment under the jurisdiction of Montenegro, including information related to Durmitor National Park, in order to facilitate the preparation of the updated environmental impact assessment documentation. The Committee emphasised the need for a prompt exchange of such information and suggested the use of any existing joint bodies, where appropriate.

17. Furthermore, in the absence of expected guidance from UNESCO, Bosnia and Herzegovina should look for expert advice from other sources.

18. Finally, with reference to paragraph 6 of decision IX/4c-V/4c, the Committee instructed its Chair to request Bosnia and Herzegovina to submit its annual report on the implementation of the decision by 15 December 2024, encompassing communication with Montenegro, UNESCO and/or other experts as outlined in paragraphs 14 and 16-17 above.

Protocol matters

B. Serbia (EIA/IC/CI/6)

19. The Committee continued its follow-up to 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. At its fifty-eighth session, the Committee had acknowledged the intrinsic relationship between the information requested from Serbia regarding the implementation of paragraph 3 of that decision and the information that had already been requested for the Committee's deliberations on the specific compliance issue identified in the second review of Implementation of the Protocol (ECE/MP.EIA/SEA/2017/9)¹.

20. According to paragraph 3 of decision VI/4 d, Serbia is requested to ensure that its legislation, regulations and other measures fully implement the Protocol's provisions, including articles 10 and 11 concerning the transboundary consultations and the results thereof. The specific compliance issue is also related to the legislative and regulatory framework for the Protocol's implementation, specifically referring to the implementation of article 7, paragraph 2 and annex IV regarding the information to be included in the environmental report. In both instances, the Committee needed to review the amended legislative framework vis-a- vis the provisions of the Protocol.

21. Acknowledging that follow-up to Meeting of the Parties' decisions takes precedence over specific compliance matters and with a view to streamlining its consideration of both matters, the Committee decided that in the future it will address the specific compliance issue related to Serbia under the agenda item on follow-up to decision V/4d. It instructed the Chair to inform the Party accordingly.

22. Furthermore, noting the absence of a response from Serbia to its request of 25 March 2024 to provide information on the amended legislative framework by 15 May 2024 and recalling that the report on the implementation of decision V/4d was requested by 15 December 2024, the Committee instructed its Chair to request the Party to provide

¹ See ECE/MP.EIA/IC/2024/2, para 75

information on both compliance issues by 15 December 2024. The Committee would consider the matters at its sixty-first session (online, 11-14 February 2025).

III. Submissions

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

Poland (EIA/IC/S/9)²

24. In the absence of the Committee member nominated by Poland, who declared a direct conflict of interest, the Committee continued its consideration of the submission by Belarus dated 12 April 2023, expressing concerns about compliance by Poland with its obligations under the Convention with respect to the construction of a barrier in the "Bialowieza Forest" – a transboundary United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site – on the border between the two countries.

25. The Committee considered information received by the Parties concerned following its request, namely:

- (a) A letter from Belarus dated 15 January 2024;
- (b) A letter from Poland dated 16 January 2024 and its annexes.

26. In line with paragraph 9 of the Committee's structure and functions, the Committee instructed its Chair to write letters to Belarus and Poland to invite the Parties to participate in discussions on the compliance matter at the Committee's sixtieth session and to present related information and opinions. The discussions will take place on 15 October 2024. The Committee would start by considering the submission in a closed session, followed by a brief presentation by Belarus and Poland and questions by the Committee. The submission would then be considered again in a closed session to draft findings and recommendations.

27. The Committee also discussed a non-exhaustive list of questions for the Parties concerned and decided to finalize them through its electronic decision-making procedure by 31 July 2024. The Parties should be requested to respond to the questions by 10 September 2024. For efficiency and effectiveness of its processing, the Committee instructed the secretariat to share the information received and to be received from Belarus with Poland and the information received and to be received from Poland with Belarus.

IV. Committee initiatives

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

France/LTE of nuclear power plants (EIA/IC/CI/12)

29. Further to its fifty-eighth session (Geneva, online 27 – 29 February 2024), the Committee considered its initiative on France in respect of the planned continued operation of unit 1 of Tricastin nuclear power plant (EIA/IC/CI/12).

30. In its closed session, the Committee reviewed the responses by France, dated 15 May 2024, to the non-exhaustive list of questions regarding the activity prepared by the Committee at its fifty-eighth session to guide the discussions with France scheduled for the present session further to para 9 of the Committee's structure and functions. In the interests of the efficiency and effectiveness of its proceedings, the Committee shared the information received from France with Italy. Italy was also invited to take part at the session further to its request to France for consultation under the Convention concerning the lifetime extension of 900 Mwe nuclear units. Following a review of that information, Italy had opted to participate only in a part of the discussions to deliver a statement expressing its perspective on the matter.

² See <https://unece.org/environmental-policy/environmental-assessment/eiaics9-belaruspoland>.

The written statement by Italy, received by the Committee on 17 June 2024, was subsequently shared with France.

31. Prior to inviting the Parties to substantive discussions, the Committee considered a letter from France, dated 10 June 2024, requesting clarification on the application of the Committee's rules regarding conflict of interest. In the letter, France raised an objection to the participation of the Committee members nominated by Austria, Germany, and Luxembourg in the proceedings concerning the present matter. This objection extended to their involvement in scheduled discussions with the Parties concerned (para 9 of the structure and functions), preparation of the Committee's findings and recommendations (Rule 12), or curating the matter.

32. In the letter France stated the following facts that, in its view, gave rise to the objections:

(a) Austria and Germany requested a notification on the activity and expressed their wish to be consulted under the Convention;

(b) Luxembourg "request[ed] a notification of the safety periodic reviews of 1300 MWE nuclear reactors".

33. The Committee considered the objection by France in light of paragraph 10 (a) – (b) of its structure and functions and Operating Rule 5(1), as amended by decision IX/4, along with the rationale for the amendments.

34. The Committee noted that the objection of 10 June 2024 by France regarding Austria and Baden-Württemberg (Germany) were raised late. Rule 5 requires objections to be raised through the secretariat within two months of receiving the Committee's communication, unless a direct or indirect conflict of interest is discovered later, in which case it must be raised promptly. France was informed of the Committee's decision to open its initiative on 20 September 2023. France reported on 17 May 2024 that Austria requested notification on 19 February 2021 and Baden-Württemberg (Germany) on 17 October 2023. Nonetheless, the Committee, assuming no intentional delay or obstruction of its proceedings by France, decided, as a matter of trust and goodwill, to consider the objection.

35. Further to paragraph 10 (a) of the Committee's structure and functions, the Committee noted statements by its members nominated by Austria, Germany and Luxembourg that they do not consider themselves as having a direct conflict of interest.

36. The Committee further considered that the rationale for the new paragraph 10 of the Committee's structure and functions specifies that that paragraph should be interpreted in such a manner as to disqualify the participation of members that are appointed by the Party of origin and members appointed by a Party that has been actively engaged in the information gathering phase. It also noted that the rationale, on the other hand, states that treating all potentially affected Parties in an identical way as the Party for which the Committee initiative is open or as a Party that had referred the matter to the Committee seems not to be reasonable (Rule 5(1)).

37. The Committee noted that Austria had requested France for notification regarding the "lifetime extension of the Tricastin nuclear power plant" on 19 February 2021. Austria had reiterated this request on 10 January 2022 and is actively interested in participating in the related transboundary procedure under the Convention as an affected Party. In response to these requests, France had provided Austria with clarifications on the matter on multiple occasions. The member nominated by Austria stated that although he does not consider himself having a direct conflict of interest and although Austria had not actively participated in the information gathering phase or referred any information on the matter to the Committee, given the clear interest of Austria in participating in the transboundary procedure regarding the activity, the member will abstain from participating in the consideration of the matter to prevent any appearance of prejudice towards the compliance issue.

38. The Committee proceeded to consider the issue, noting that Luxembourg had not sent a request for notification to France concerning the extension of the operation of unit 1 of the Tricastin nuclear power plant with a capacity of 900 Mwe, subject to the present Committee initiative. Instead, the notification pertains to another project, notably an extension of the

operation of different nuclear units with capacity of 1300 Mwe. The Committee recalled that according to the Guidance on the applicability of the Convention to LTE of NPPs, its principles should be applied on a case-by-case basis (paragraphs 9, 41, and 50). The Committee established that, Luxembourg, as a Party to the Convention, had not been involved in the present Committee initiative or brought any information to the Committee regarding this case. Consequently, the Committee found that the Committee member nominated by Luxembourg does not have a conflict of interest in accordance with the Committee's rules and is not precluded from participating in the Committee's consideration of the matter.

39. Concerning the notifications by Germany referred to by France in its objection, the Committee noted that the request was not made by Germany, as a Party to the Convention, and that Germany had not been involved in the matter subject to the Committee initiative. Instead, the notification originates from one of the federal states of Germany, specifically Baden-Württemberg, which does not constitute a request for a notification by Germany and does not reflect the position of Germany as a Party in the matter. Consequently, the Committee found that the Committee member nominated by Germany does not have a conflict of interest in accordance with the Committee's rules and is not precluded from participating in the Committee's deliberations on this matter.

40. Subsequently, the Committee welcomed France to the discussion under paragraph 9 of the Committee's structure and functions. It acknowledged the composition of the French delegation, comprising representatives from pertinent authorities and possessing considerable expertise in the relevant domains. Before entering into substantive discussions the Committee informed France about the outcome of its prior deliberations regarding the potential conflict of interest of the Committee members nominated by Austria, Germany, and Luxembourg as presented above.

41. France in its opening remarks objected to the decision of the Committee allowing the members from Germany and Luxembourg to participate in the discussions and other related proceedings under the Committee Initiative. Nonetheless, in the spirit of cooperation, it decided to discuss the matter with the Committee at the present session. The Committee notified France that its decision regarding the conflict of interest stood unless new facts were presented.

42. During its closing remarks, France informed the Committee that in 2021 it received a letter from Germany as a Party to the Convention. On the next day, 20 June 2024, France submitted to the Committee a copy of the letter as a new document for the Committee's review regarding the conflict of interest issue.

43. The Committee considered the letter and noted that it presented a general position of Germany regarding the application of the Convention to relevant lifetime extensions, as outlined in the Guidance on applicability of the Convention to the life-time extension of nuclear power plants. In the letter, Germany referred to the public consultation on the general conditions for operating 900 MWe reactors beyond 40 years. Germany stated that it would refrain from submitting comments in that general public consultation and counted on the possibility of submitting such comments at later stages that address individual sites. Germany did not oppose the project subject to the Committee initiative, nor did it specifically request notification. The Committee reiterated paragraph 11(b) of its rationale for revising operating rules and structure, emphasizing that "treating all potentially affected Parties in an identical way as the Party for which [the Committee initiative is open] or as a Party that [had referred the matter to the Committee] seems not to be reasonable".

44. The Committee concluded that [a] Party's general interest in similar matters should not be interpreted by itself as a request for a notification, opposition to a project, or active engagement in information gathering. The Committee reaffirmed that, also when considering the new information, the German Committee member does not have a conflict of interest in accordance with the Committee's rules and is not precluded from participating in the Committee's deliberations on this matter.

45. The Committee then engaged in substantive discussions with France concerning the project. It acknowledged legislative measures taken by France to facilitate the preparation of environmental impact assessment documentation under the Public Safety Regulation

pertaining to the continuation of operations of its nuclear power plant. Additionally, the Committee noted the willingness of France to conduct voluntary transboundary procedures that would be in line with the Convention's requirements, involving all potentially affected Parties within a radius of 1000 km and beyond.

46. The Committee also noted the statement of Italy expressing its intention to initiate the consultation procedure regarding the lifetime extension for certain nuclear installations referenced in the letter of France to the Committee dated 15 May 2024.

47. Following the discussions with France and Italy, the Committee, at its closed session, agreed that it will proceed with drafting its findings and recommendations, taking into account the information and views provided in advance and during the hearings, with a view to finalizing them at its sixty-first session in February 2025. Recalling the request of Austria on 19 February 2021 for notification regarding the continued operation of all thirty-two reactors of 900 MWe, including the project subject to the Committee initiative, the Committee agreed to seek additional information from Austria. The Committee will agree on specific questions by 31 July 2024, using its electronic decision-making procedure.

VI. Information gathering

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

Convention matters

A. Bulgaria (EIA/IC/INFO/37)

49. The Committee continued its consideration of the information it had gathered further to the information of 14 August 2023 received from the Bulgarian non-governmental organization (NGO) "Balkanka Association" concerning planned activities at the "Ada Tepe" and "Tintyava" gold mines in Bulgaria, close to the transboundary Byala Reka River and Arda River basins and the border with Greece.

50. The Committee noted the response of Bulgaria, dated 20 May 2023, to its letter dated 25 March 2024. It noted with regret the absence of a response by Greece to its letter dated 27 March 2024.

51. The Committee examined the information by Bulgaria. Regarding the investment proposal "Mining and Processing of Polymetallic Ores from the Rozino Deposit, Tintyava PLA", it noted that:

- (i) Following the Committee's letter dated 25 March 2024, Bulgaria had informed Greece about the proposed activity and the ongoing environmental impact assessment procedure, which was currently in the scoping stage;
- (ii) Further to receiving information from Greece on 8 May 2024 regarding its willingness to participate in the transboundary procedure, Bulgaria intended to notify Greece about the activity under article 3(1) of the Convention.

52. The Committee instructed its Chair to write to Bulgaria, welcoming the steps that the Party had taken. In the letter, the Chair should also invite Bulgaria, when considering the timing of notification to Greece, to take into account para 7 of decision V/4, whereby the Meeting of the Parties recommend[ed] that:

"Parties in their role of Party of origin (a) notify as early as possible and when determining case by case the content of environmental impact assessment documentation ("scoping"), where applicable, so that the environmental impact assessment documentation could meet the needs of the affected Party [...]" (ECE/MP.EIA/IC/2010/2, para. 20).

The Chair should also ask the Party to inform the Committee when the notification is sent.

53. The Committee agreed to resume the consideration of the matter after the information on the notification is received.

54. Regarding the National Mining Strategy, the Committee noted that:
- (i) The Strategy did not set the framework for future development consent or impose any restrictions that could subsequently affect decisions on mining projects in question and therefore it did not undergo an SEA procedure.
 - (ii) Based on the information provided by Bulgaria regarding the regulatory framework for licensing procedures for prospecting, exploration, and extraction concessions related to the activities listed in the communication from the Balkanka Association, the Committee noted that, according to Bulgaria, these other activities were not yet to be developed and, when considered, all procedural requirements will be met.
55. The Committee considered that, overall, the information provided was sufficient and agreed that there was no need for it to continue consideration of this matter in the future.
56. Regarding the "Ada Tepe" mine, the Committee noted that Greece, despite reminders from the secretariat, had not responded to the Committee's letter dated 27 March 2024.
57. The Committee requested the secretariat to contact Greece once again, notifying it that, in case the Party wished to bring any relevant information concerning the activity to the attention of the Committee, in particular with respect to the implementation of the provisions of article 7 of the Convention on the post-project analysis, it should do so without delay and no later than 15 September 2024. The absence of a response from Greece by that date would be interpreted as indicating that the Party did not have any information to bring to the consideration of the Committee. Consequently, the Committee would deliberate on whether there would be any reasons for it to continue considering the matter any further.

B. Germany (EIA/IC/INFO/35)

58. In the absence of the Committee member nominated by Poland, who declared a direct conflict of interest, the Committee continued its consideration of the information it had gathered further to information from three NGOs concerning the planned construction by Germany of a liquefied natural gas terminal in the Bay of Pomerania in the Baltic Sea, near the coastal waters of Denmark, Poland and Sweden.
59. The Committee took note of the responses from Denmark and Poland to the Committee's letters of 24 January and 25 March 2024, received on 30 April and 26 April 2024, respectively.
60. Poland informed the Committee that, after examining the additional information provided by Germany on 4 March 2024, it concluded that significant adverse impact on its territory was unlikely. Consequently, Poland did not consider itself a potentially affected Party.
61. Denmark informed the Committee that the supplementary material received from Germany on 1 February 2024 lacked a sufficient environmental impact description, relying on outdated Nord Stream I and II data without confirming its validity. Consequently, on 19 April 2024, Denmark requested Germany to provide further materials for consultation. Specifically, Denmark had asked for detailed project information, including construction methods, environmental impacts, such as sound above and below water, sediment dispersal, and an assessment of the potential impact of the project on avian species. It also asked Germany to justify the validity of the 2009 and 2018 data used in the assessment. Until sufficient information on likely transboundary impacts is provided, Denmark considers itself an affected Party regarding the activity.
62. The Committee noted that, although Denmark had not formally referred to article 3.7 of the Convention, the first procedural step foreseen in the provision was being implemented, as Parties were exchanging information to determine whether a significant adverse transboundary impact was likely.
63. The Committee noted that, according to the information made available to it, the project had largely been implemented. It instructed the Chair to write letters to Denmark and Germany, highlighting that the exchange of information under article 3.7 should be initiated and conducted within a reasonable timeframe (ECE/MP.EIA/IC/2019/6, para 87) when the

project is still at the planning stage. The Committee also asked its Chair to request the two Parties to inform the Committee of the outcome of the information exchange without delay.

C. North Macedonia (EIA/IC/INFO/36)

64. The Committee continued its consideration of the information it had gathered further to the information of 19 July 2023 from the Bulgarian NGO “Balkanka Association” concerning the development by North Macedonia of a new gold-copper mine, close to the border with Bulgaria and Greece.

65. The Committee considered the reply from Balkanka Association, dated 1 April 2024, to the Committee’s letter of 28 March 2024 and the response of North Macedonia, dated 13 May 2025, to its letter dated 25 March 2024;

66. It also examined unsolicited information from Euromax, dated 30 May 2024, providing details on the project and its Environmental and Social Impact Assessment Study (ESIA). Euromax also requested to attend the Committee’s present session. The Committee, in line with its structure and functions and operating rules (para 3, operating rule 17), decided via electronic decision-making before the session not to open this compliance matter to observers, a position North Macedonia supported.

67. After consideration of the above information, the Committee noted several key points:

(a) The information provided did not conclusively confirm or dismiss a profound suspicion of non-compliance, as certain aspects regarding the activity and its transboundary impact remained unclear. Specifically, the status of mining operations was not imminent, and there was no apparent authorization decision under Article 2(3) of the Convention for the mining activities.

(b) The potential significant adverse transboundary impacts of the mining activities were still uncertain. Euromax conducted an environmental impact assessment in 2016 under North Macedonian law. The related scoping decision by the Ministry of Environment and Physical Planning referred to potential transboundary impacts related to optional water extraction from the Strumica river. Identified potential impacts included increased heavy truck traffic to a Bulgarian smelter and potential river pollution in case of a mining or tailings accident, which could be significant even without cyanide, given the proximity to Bulgaria (approximately 20 km). The likelihood of significant adverse transboundary impact from cyanide use was considered low, as the mining company revised its project to exclude cyanide, in line with recent legislative changes in North Macedonia. However, North Macedonia indicated it had not fully assessed transboundary impacts due to project uncertainties and the absence of EIA approval from the Ministry of Environment and Physical Planning.

(c) Concerning compliance with the provisions of the Convention, the Committee found that:

(i) It was at least plausible that the mining operation was likely to have significant adverse transboundary impact regarding the truck traffic to Bulgaria and in the case of a tailings dam failure.

(ii) There was no profound suspicion of non-compliance with respect to Article 2(1) of the Convention.

(iii) With respect to Articles 2 (3) and 2 (4) there was currently no profound suspicion of non-compliance.

(iv) There was currently no profound suspicion of non-compliance with respect to Article 2(6). The public in Bulgaria and Greece did not seem to have been involved in the EIA in 2016. Nevertheless, North Macedonia expressed its intention to comply with these requirements should the project progress.

(v) There was currently no profound suspicion of non-compliance with respect to Article 3(1). North Macedonia had not assessed the likelihood of significant adverse transboundary impact and therefore had not identified or notified potentially affected

parties. However, it stated that it intends to notify affected Parties should the project progress.

(d) In light of the above, the Committee concluded that although there was presently little basis for a profound suspicion of non-compliance due to the project being suspended, the available information did not suffice to definitively rule it out and formally conclude the matter.

(e) Consequently, the Committee decided to:

(i) Instruct its Chair to write a letter to North Macedonia, reminding the Party of outstanding Convention requirements before project authorization. The Chair should also request the Party to inform the Committee without delay should the project progress.

(ii) Reassess the compliance matter upon receipt of further relevant information.

Ukraine

1. Planned construction of units 3 and 4 of Khmelnytsky nuclear power plant (EIA/IC/INFO/10)

68. Before proceeding with the substantive consideration of the matter, the Committee noted that five Parties represented on the Committee, notably Austria, Germany, the Republic of Moldova, Poland, and Slovakia had been notified by Ukraine regarding the activities subject to the information gathering procedure and were engaged in exchange with the Committee regarding the matter.

69. Further to its operating rule 5 and paragraphs 10(a) and (b) of its structure and functions, the Committee considered whether some of its members should not be present during its deliberations on the matter. With reference to para 10(a) of its structure and functions, it noted that:

(i) The Committee member from Slovakia declared a direct conflict of interest having been involved in drafting correspondence to Ukraine under the transboundary procedure. Consequently, the member abstained from participating in the consideration of the matter;

(ii) The members nominated by Austria, Germany, the Republic of Moldova, and Poland stated that they did not consider themselves having a direct conflict of interest. Neither of them discussed the matter with their respective governments or participated in the transboundary procedure concerning the activities.

70. With reference to paragraph 10(b) of its structure and functions, the Committee observed that:

(i) In their communications with the Committee, Austria, Germany, and Poland regularly reported to the Committee on their participation in the transboundary procedure carried out by Ukraine. They provided this information at the Committee's request and did not question or contest the procedure carried out by Ukraine.

(ii) The Republic of Moldova initially provided information about its involvement in the transboundary procedure with regard to the activities, but subsequently showed no further interest in the Committee's deliberations on the matter by not responding to the requests of the Committee.

(iii) The Committee referred to its rationale for revising paragraphs 10 of its structure and functions³, emphasizing that "treating all potentially affected Parties in an identical way as the Party for which [the Committee initiative is open] or as a Party that [had referred the matter to the Committee] seems not to be reasonable".

³ ECE/MP.EIA/2023/INF.6, para 11 (b)

(iv) Based on the above, the Committee found that the members from Austria, Germany, Poland, and the Republic of Moldova do not have a conflict of interest in accordance with the Committee's rules and are not precluded from participating in the Committee's deliberations on this matter.

(v) In the aftermath of the meeting, however, the Committee member from Poland informed that, following internal consultations and with reference to her possible future duties, she will abstain from participating in the consideration of the matter in future sessions.

71. The Committee then began substantive discussions concerning the compliance matter. It welcomed the information provided by Ukraine that, as of 13 February 2024, the final decision to implement proposed activities for the construction of power units 3 and 4 of Khmelnytsky nuclear power plant had not been taken. The Party confirmed that, in the event of such a decision, all affected states would be informed in accordance with the requirements of the Convention.

72. The Committee instructed the secretariat to thank Ukraine on its behalf for the information provided and inform the Party that it will next consider the matter upon the receipt of any new information from Ukraine on any next step taken under the transboundary procedure.

2. Planned activity related to mining at the Muzhiyev goldmine (EIA/IC/INFO/13)

73. The Committee continued its consideration of the information it had gathered concerning the planned activity related to mining at the Muzhiyev goldmine (close to the border with Hungary) and its possible reopening by Ukraine.

74. The Committee recalled that, following the deliberations at its fifty-seventh session, the Committee, by its letter of 20 September 2023, had urged Ukraine to provide Hungary with responses to the Party's letter dated 9 December 2021 concerning the environmental impact assessment documentation, as reiterated by the Committee to Ukraine on 19 May 2023, and enter into discussions with Hungary under article 2(5) of the Convention as soon as possible.

75. The Committee noted that no new information had been provided by Ukraine or Hungary regarding the matter.

76. The Committee reiterated the conclusions of its fifty-seventh session that it:

(a) Lacked evidence that Ukraine had entered into discussions with Hungary on whether the proposed activity was likely to cause significant adverse transboundary impact and should be treated as if it was listed in appendix I to the Convention. That continued to constitute a profound suspicion of non-compliance by Ukraine with article 2(5) of the Convention.

(b) Could not exclude that the activity fell under appendix I to the Convention, requiring a notification under article 3 (1) or allowing the application of article 3 (7).

77. In light of the above and further to its decision at its fifty-seventh session, communicated to Ukraine by the letter dated 20 September 2023, the Committee decided to open a Committee initiative. It agreed to invite Hungary and Ukraine, further to paragraph 9 of the Committee's structure and functions, to participate in discussions on the compliance matter at the Committee's sixtieth session. The discussions will take place on [15] October 2024.

78. The Committee instructed the Chair to inform the Parties accordingly and to transmit to them a non-exhaustive list of questions prepared by the Committee to guide the discussions, as contained in Annex II to this report. The Chair should invite the Parties to respond to the questions by 10 September 2024. For efficiency and effectiveness of its proceedings, the Committee instructed the secretariat to share the information received and to be received from Hungary with Ukraine and the information received and to be received from Ukraine with Hungary.

3. Lifetime extension of 12 power units located at Rivne, South-Ukrainian, Zaporizhzhya and Khmelnytsky nuclear power plants (EIA/IC/INFO/20)

79. In the absence of the Committee member nominated by Slovakia, who declared a direct conflict of interest (see para 69), 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.

80. It noted the information from Ukraine dated 6 March 2024. Owing to time constraints and the complexities arising from numerous transboundary procedures for 12 nuclear units at four nuclear power plants, as well as the difficulties experienced by Ukraine in the application of the Convention in the aftermath of the military invasion of Ukraine by the Russian Federation, the Committee decided to defer its deliberations on the matter to its next session.

81. In the aftermath of the meeting, the Committee member from Poland informed that, following internal consultations and with reference to her possible future duties, she will abstain from participating in the consideration of the matter in future sessions.

V. Review of implementation

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

A. Examination of general and specific compliance issues from the seventh review of implementation of the Convention and the fourth review of implementation of the Protocol

83. The Committee appointed the curators for the matter, agreed on an organization of work and decided to consider general and specific compliance issues identified in the seventh review of implementation of the Convention (ECE/MP.EIA/2023/9) and the fourth review of implementation of the Protocol (ECE/MP.EIA/SEA/2023/9) at its sixtieth session.

84. The Committee discussed and agreed on minor technical adjustments to be made to the questionnaires for reporting on implementation of the Convention and the Protocol during the period 2022-2024, taking into account the suggested improvements to the questionnaires made during the previous reporting round (see ECE/MP.EIA/WG.2/2022/INF.9). In this respect, it instructed its Chair to share the revised questionnaires with the Bureau for review. It decided to consider the comments received, if any, at its sixtieth session, before the distribution of the questionnaires to the Parties by the secretariat at the end of December 2024, in accordance with Decision IX/2-V/2 of the Meetings of the Parties and the workplan for 2024-2026.⁴

B. Examination of general and specific compliance issues

Convention matters

Kyrgyzstan – sixth review of the implementation of the Convention

85. The Committee noted with regret the absence of a response by Kyrgyzstan to its letter dated 20 September 2023, reiterating requests from 14 April 2022, 21 October 2022, 17 February 2023 and 19 May 2023. It decided to continue its consideration of the compliance matter at its sixtieth session noting that, without a response, it could not establish whether the national legislation of the Party was in compliance with the Convention. It agreed that, in the absence of a response in advance of that session, the Committee would consider that there

⁴ See Section II, B reporting and review of implementation, para 1

was a profound suspicion of non-compliance by Kyrgyzstan with the Convention and open a related Committee initiative.

86. The Committee instructed its Chair to inform Kyrgyzstan of the outcome of its considerations, urging it to provide the responses to its reiterated requests without delay and no later than 15 September 2024.

Protocol matters

1. Serbia – second review of the implementation of the Protocol

87. The Committee recalled that it considered this compliance issue under agenda item II (see paras 19 – 22).

2. North Macedonia – third review of implementation of the Protocol

88. The Committee noted that the Party had provided a response to its letter dated 25 March 2024 on 6 June 2024. Due to the late reply provided by the Party, the Committee decided to take more time to review all relevant information and consider the compliance matter at its sixtieth session.

VI. Other business

89. The Committee noted the information provided by the secretariat concerning the meeting of the Albania-Montenegro joint commission on water management, held on 23 April 2024, at which a member of the secretariat had participated on the occasion of an official mission within the UNECE team working on Environmental Performance Reviews and at the invitation of Montenegro. The member of the secretariat had informed both Parties about obligations under decision IX/4a-V/4a regarding the planned construction of several small hydropower plants on the Cijevna River, which the delegation of Albania was unaware of. The secretariat had forwarded the decision to the Parties concerned.

90. The Committee also noted the response by Belarus of 14 June 2024 to its letter dated 22 April 2024 regarding follow-up to decision IX/4f on compliance by Belarus with its obligations under the Convention in respect of its national legislation. Belarus requested to participate in the Committee's sixtieth session, pursuant to paragraph 9 of the Committee's structure and functions, to engage in consultations and clarify aspects of its legislation. In response to this request, the Committee decided to address the follow-up to decision IX/4f during its sixtieth session and conduct informal consultations with Belarus regarding the compliance matter on [14] October 2024. The Committee instructed the secretariat to inform the Party accordingly.

91. The Committee further noted that Ukraine, in its letter dated 6 March 2024, submitted information regarding the implementation of decision VIII/4e concerning compliance of the Party with its obligations under the Convention regarding the extension of the lifetime of the Rivne nuclear power plant. In light of this information, the Committee decided to address the compliance matter during its sixtieth session and instructed the secretariat to inform the Party accordingly.

92. The Committee welcomed the information provided by the secretariat regarding the interest of the Compliance Committee of the Barcelona Convention to cooperate in the area of compliance and reporting.

93. The Committee confirmed the dates and formats of its sixtieth and sixty-first session (respectively, Geneva (in-person), 14-17 October 2024, and online, 11-14 February 2025).

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

94. The Committee reviewed the main decisions taken and requested the secretariat to prepare the draft report accordingly. The Chair then formally closed the fifty-ninth session.

95. The Committee adopted the report by electronic decision-making procedure, on xx July 2024.

Annex I

Template for the detailed plan with a timetable to be prepared by Bosnia and Herzegovina in accordance with paragraph 5 of decision IX/4c–V/4c

<i>No</i>	<i>Implementation steps</i>	<i>Responsible authority</i>	<i>Timeframe</i>
1	Establish a joint working group between Bosnia and Herzegovina and Montenegro, if it does not exist yet (see article 3(6), 4(2), and 5 of the Convention)		
2	Request Montenegro to provide reasonably obtainable information relating to the potentially affected environment under the jurisdiction of Montenegro with the view to preparing the environmental impact assessment documentation (art. 3.6 of the Convention)		
3	Request guidance from UNESCO and/or other experts, as appropriate		
4	Prepare the environmental impact assessment documentation (art. 4 and Appendix II)		
5	Consult Montenegro based on the updated environmental impact assessment documentation (art. 5)		
	i. Agree on a timeline for the consultations, including (art 4(2):		
	- Distributing EIA documentation to the authorities of Montenegro in the areas likely to be affected		
	- Collecting comments		
	ii. Identify the means for consultations (incl. through joint body, as necessary)		
	iii. Determine and inform Montenegro of where and how the comments should be submitted		
	iv. Carry out consultations according to the agreed timeline and withing agreed means		
6	Consult the public of Montenegro based on the updated environmental impact assessment documentation (art 5)		
	i. Distribute together with the competent authorities of Montenegro the environmental impact assessment documentation to the public of Montenegro in the areas to be affected (art. 4(2))		
	ii. Provide the public of Montenegro with information on where and how to submit comments and within which timeframe		

<i>No</i>	<i>Implementation steps</i>	<i>Responsible authority</i>	<i>Timeframe</i>
	iii. Collect the submitted comments and carry out consultations, as agreed by both Parties		
7	Revise the final decision on the construction of the Buk Bijela hydropower plant, taking due account of the outcomes of the transboundary environmental impact assessment procedure, including the environmental impact assessment documentation and comments received from authorities and the public of Montenegro (art 6.1)		
8	Provide the revised final decision to Montenegro along with the reasons and considerations on which it was based (art. 6.2)		
9	Report to the Implementation Committee on the steps taken to complete the transboundary environmental impact assessment procedure		Annually 15 December of each year

Annex II

Non-exhaustive list of questions to the Parties concerned regarding the planned activity related to mining at the Muzhiyevo goldmine

Questions to Ukraine:

1. Please indicate what the status of the activity is. According to the information provided by Ukraine in October 2021, in the current mode of operation of the gravity factory, the disposal of ore dumps of rocks would take about 2 years. Is the activity completed as of September 2024 or is the activity still ongoing? If the activity is still ongoing, which amount of ore dumps has already been processed and how long will it take to process all ore dumps existing on the site?
2. In which way has Ukraine reacted to the questions of Hungary of 9 December 2021? Have consultations taken place between Ukraine and Hungary since then?

Questions to Hungary:

1. Has Hungary ever received an answer to its letter of 9 December 2021 addressed to Ukraine?
 2. Have consultations taken place – in any form – between Hungary and Ukraine about the activity since December 2021?
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