

**Yearly report on steps taken by Lithuania in regard to implementation of the recommendations further to a submission by Lithuania regarding Belarus, set out in Decision VI/2 on the Review of compliance with the Convention adopted by the Meeting of the Parties to the Convention on its 6th session on 2-5 June 2014**

No.	Recommendation of 6 <sup>th</sup> Meeting of Parties of the Espoo Convention	Steps taken / Comments
1. (Para 48)	<i>Endorses</i> the finding of the Committee that, following the recent legislative changes in Belarus, Belarus has improved its legal framework on EIA and that there were no grounds for finding non-compliance with article 2, paragraph 2, of the Convention;	Even though Belarus has made some legislative changes, the right of Lithuanian public to get comprehensive information and to participate in the process at the earliest stage of the project implementation, according to the Espoo Convention, is systematically violated. Moreover, numerous requests to Belarus to provide general overview of the EIA procedure (including the public participation and communication with the affected parties) and its place in site selection, planning and licensing system remain unanswered. The shortcomings of Belarus legislative system were also endorsed by the Meeting of Parties of the Aarhus Convention <sup>1</sup> on 30 June-4 July 2014 in Maastricht. It stated that Belarus failed to comply with the Aarhus Convention, while implementing the project of NPP in Ostrovet's <sup>2</sup> .
2. (Para 49)	<i>Also endorses</i> the findings of the Committee that, on 14 March 2013, the date of the adoption by the Committee of its report on its twenty-seventh session, including the findings as an annex to the report, Belarus was in compliance with its obligations under article 3, paragraph 2 (a) and (c), and article 3, paragraph 8, of the Convention in relation to the	Lithuania maintains its position that the formal submission of the EIA documentation (Article 3, paragraph 8) does not mean that the EIA documentation submitted to the affected party comply with the Espoo Convention's requirements regarding its content and quality. In 2011, 2012 and 2013 Lithuania received different versions of the same EIA report (or its translation) that do not adequately assess the impacts on the environment, do not take into account the comments of the affected parties as well as the Findings and Recommendations (hereinafter – F&R) of the Espoo Convention Implementation Committee (hereinafter – IC) adopted during the twenty-seventh session on 12-14 March, 2013.

<sup>1</sup> United Nations Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters

<sup>2</sup> Decision ECE/MP.PP/2014/2/Add.1. Belorussian NGO "European ECO Forum" presented the communication to the Aarhus Convention in 2009. It was noted in the communication that Belarus does not comply with the provisions of the Aarhus Convention.

	activities referred to in the submission by Lithuania regarding Belarus on 16 June 2011;	
<b>3.</b> (Para 50)	<i>Further endorses</i> the findings of the Committee that Belarus on 14 March 2013 was in non-compliance with its obligations under article 2, paragraph 6, article 4, paragraph 2, article 5, paragraph (a), and article 6, paragraphs 1 and 2, of the Convention in relation to the activities referred to in the submission;	In 2014 Lithuania repeatedly (letters of the Ministry of Environment of Lithuania (hereinafter – MoE) No. (10-3)-D8-1162 dated 13 February 2014; No. (10-3)-D8-4044 dated 29 May 2014; No. (10-3)-D8-6055 dated 13 August 2014) maintained the position that the EIA procedure should be further continued in a step-by-step approach: answers to the key questions (refer to Annex to the letters of the No.(10-3)-D8-4044 of 29 May 2014 and No. (10-3)-D8-6055 of 13 August 2014) and updated EIA report should be submitted, subsequently, public hearings in the territory of Lithuania have to be co-arranged and finally, bilateral experts consultations to discuss the remaining issues should be held. Lithuania has been raising these issues at bilateral Lithuanian-Belarus meetings at all levels; however, Lithuania cannot record any progress. On the contrary, on top of the license and decree that were issued in October-November 2013 and permitted the construction works of the first NPP unit, another license authorizing the construction of the second NPP unit was hastily issued in February 2014.
<b>4.</b> (Para 51)	<i>Requests</i> the Government of Belarus to take a final decision on the site selection, in full compliance with the requirements of article 6, i.e., ensuring that due account has been taken of the outcome of the EIA documentation, and the comments thereon received pursuant to article 3, paragraph 8, and article 4, paragraph 2, as well as the outcome of the consultations referred to in article 5;	Despite the efforts from Lithuanian side, there have been no attempts from Belarus to implement this recommendation. The final decision that meets the requirements of Article 6 of the Espoo Convention has not been taken yet. We are convinced that the final decision on site selection and the decision to start even preparatory construction works at site should by no means precede the commencement of the transboundary EIA procedure. The IC has already determined that site selection was already made in 2008, before the notification stage of the EIA procedure and preparatory construction works started ever since. The Decree No. 418 “Concerning the site of the NPP in Belarus and development of the NPP project” of the President of Belarus signed on 15 September 2011, the site license issued in May 2012 and decree No. 499 of 2 November 2013 on construction were attempts to legalize these actions, despite the fact that the transboundary EIA procedure is not finished yet. Lithuania considers any decisions on licensing and allowing construction works on the site since the EIA process is not completed as being serious infringements of the Espoo convention (for more details please refer to part No. 5 of this table).
<b>5.</b> (Para 52)	<i>Also requests</i> Belarus to provide to	We disagree with the views of Belarus that the Decree No. 499 dated 2 November 2013

	<p>Lithuania the final decision on the proposed activity taken in accordance with the previous recommendation, along with the reasons and considerations on which it was based;</p>	<p>could be considered as the final decision on the proposed activity according to the provisions of the Espoo Convention. The above-mentioned decision did not take into account the Recommendations of the IC, adopted during 27<sup>th</sup> session, and endorsed by the 6<sup>th</sup> Meeting of Parties on 2-6 June 2014. The EIA report provided to Lithuania does not comply with the F&amp;R of the IC; key questions raised by Lithuania still remain unanswered; public hearings in the affected party (Lithuania) have not been arranged. As the transboundary EIA procedure with Lithuania is not completed, the above mentioned decision cannot be treated as meeting the requirements of article 6 of the Espoo Convention. Therefore, in 2014 Lithuania repeatedly invited Belarus to implement the necessary steps and to provide to Lithuania the final decision on the proposed activity along with the reasons and considerations on which it was based according to Article 6 of the Convention.</p>
<p><b>6.</b> (Para 53)</p>	<p><i>Further requests</i> Belarus to continue the procedure of transboundary EIA on the basis of the final EIA documentation. To this end, and in accordance with the provisions of the Convention, Belarus should agree with Lithuania on the steps to be followed, answer all Lithuania's questions, and take into consideration the Lithuanian comments;</p>	<p>The situation is getting worse as the construction works on the Ostrovets site are progressing rapidly, despite the fact that the procedure of transboundary EIA is not finalized.</p> <p>The EIA documentation submitted to Lithuania with the letter of 11 June 2013 is dated as of 6 July 2010. It has already been assessed by Lithuanian experts and the IC before the 27<sup>th</sup> session. It should also be noted that the letter of 11 June 2013 of Belarus did not include any new information or answers to the questions and comments Lithuania has been raising since 2009. The documentation (about 1000 pages) submitted to Lithuania in 2013 included only a low quality translation of an old version of the EIA documentation, as well as a compendium of letters submitted by Belarus to Lithuania earlier.</p> <p>In paragraphs 68 and 69 of the F&amp;R of the IC, it is stressed that, when an activity is planned near a city, the description of locational alternatives to be included in the EIA documentation in line with Appendix II (b) should be especially required. The definition of "impact", according to the Espoo Convention, specifically includes considerations of human health and safety and socioeconomic conditions among the impacts to be considered in the preparation of the transboundary EIA documentation.</p> <p>In May 2013, during the sixteenth meeting of the Lithuanian-Belarusian Bilateral Commission for Trade and Economic Cooperation in Vilnius, it was agreed that Belarus would present to Lithuania the EIA documentation according to the provisions of the Espoo</p>

	<p>Convention. Proposals of the Prime Minister of Lithuania, expressed in his letter to Belarus as of 12 February 2014, to implement the above mentioned decision, as well as 3 subsequent requests to provide comprehensive information expressed in the letters of the MoE of Lithuania No. (10-3)-D8-1162 dated 13 February 2014; No. (10-3)-D8-4044 dated 29 May 2014 and No. (10-3)-D8-6055 dated 13 August 2014) remain unanswered. Moreover, in the above mentioned correspondence Lithuania maintained its position that the EIA procedure should be based on a step-by-step approach. That is, answers in writing to the key questions of Lithuania as well as the updated EIA report including equal and thorough assessment of locational alternatives (including the no-action alternative) should be provided first; subsequently, public hearings in the territory of Lithuania should be arranged; and later on, bilateral experts' consultations to discuss the remaining details should follow.</p>
<p><b>7.</b> (Para 54)</p> <p><i>Urges</i> Belarus and Lithuania to make further efforts to ensure that the language requirements of public consultations are satisfied;</p>	<p>MoE of Lithuania has to ensure that the information provided to the Lithuanian public is non-biased and of adequate quality. Therefore, on the basis of the UNECE "Guidance on the Practical Application of the Espoo Convention", paragraphs 55, 65 and 66, MoE and other competent Lithuanian authorities evaluate in detail all received documentation before making it available to the public. When necessary, MoE prepares an explanatory note and makes it available to the public. In order to avoid misunderstandings in the future Lithuania is considering to address the language issue more thoroughly in the Bilateral Agreement (for more details please refer to part No. 11 of this table).</p> <p>It's worth noting that Lithuanian authorities in the letter of 10 September 2013 No. (10-3)-D8-7539 to Belarus, highlighted the extremely poor quality of the translations of the EIA report (especially "Part 8.1. NPS Description"), unfortunately, explanations about the EIA documentation quality or accuracy of translation to Lithuanian language were not provided.</p>
<p><b>8.</b> (Para 55)</p> <p><i>Requests</i> Belarus and Lithuania to ensure that the Lithuanian public is informed about the final EIA report and provided with possibilities for making comments or objections to it, in line with article 3,</p>	<p>The situation hasn't changed. Lithuanian version of the EIA report received from Belarus in 2013 (which is actually the translation of the EIA report prepared in 2010!) together with a supplementary note (explaining the main issues regarding the content and translation of the EIA report) is available on the website of the MoE of Lithuania since 27 September 2013. In the letter of 7 October 2013, MoE additionally informed Lithuanian public, non-</p>

<p>paragraph 8, of the Convention;</p>	<p>governmental organizations and other members of public concerned about the information available on the website.</p> <p>However, we do expect to receive the updated version of the EIA report, which would contain the information required by Appendix II to the Espoo Convention, specifically, referring to the description of “locational alternatives”, and which would take into consideration the key questions raised by Lithuania.</p> <p>Subsequently, public hearings in the territory of Lithuania have to be co-arranged, avoiding any unilateral decisions.</p> <p>We would like to reiterate our position expressed in the previous report to the IC (dated 9 December 2013 and submitted with the letter of MoE No.(10-3)-D8-10480) that the unilateral decision of Belarus to arrange the event of 17 August 2013 in Ostrovets could not be treated as a fulfillment of the obligations under paragraph 8 of Article 3 of the Espoo Convention and implementation of the endorsed recommendation. We once again would like to stress that the possibilities for Lithuanian public to participate in the event of 17 August 2013 were restricted. Participation of selectively chosen persons from a particular region of Lithuania does not comply with the provisions of the Espoo convention to ensure effective public participation.</p> <p>In order to allow for meaningful public hearings in Lithuania for Lithuanian public in the areas likely to be affected, MoE in 2014 has three times officially suggested to Belarus to co-arrange public hearings in Lithuania (letters of MoE of Lithuania No. (10-3)-D8-1162 dated 13 February 2014; No. (10-3)-D8-4044 dated 29 May 2014; No. (10-3)-D8-6055 dated 13 August 2014). For the first time such a motivated request was submitted in May 2010. Belarus proposal to arrange public hearings only at the post-project phase is premature, as the key questions, set forth by Lithuania, remain unanswered up to now.</p>
<p>9. (Para 56)</p> <p><i>Encourages</i> Belarus and Lithuania to continue consultations, on the basis of article 5, and urges Parties to agree on a reasonable time frame for the consultation period;</p>	<p>The situation hasn't changed.</p> <p>In Paragraph 53 of the F&amp;R, adopted during 27<sup>th</sup> session on 12-14 March 2014, the IC pointed out that, in accordance with article 5 of the Convention, consultations should not be only a mere formality, but should concern the measures to “reduce or eliminate” (article 5, paragraph 1) the potential transboundary impact of the proposed activity and allow thorough examination of its possible alternatives.</p> <p>Lithuania maintains its willingness to enter into meaningful consultations with Belarus.</p>

<p><b>10.</b> (Para 57)</p>	<p><i>Also encourages</i> Belarus and Lithuania to agree on a post-project analysis in accordance with article 7 of the Convention;</p>	<p>Therefore, Lithuania has repeatedly proposed Belarus to provide missing information (answers to the key questions and updated EIA report) and co-arrange public hearings in the territory of Lithuania. Such an approach is in line with the requirements of the Espoo convention, is necessary to define the scope of remaining issues and helps experts to prepare for consultations in a comprehensive manner.</p> <p>In line with the Espoo Convention, post-project analysis can be initiated only when the preceding stages of application of the Convention are completed and the Party of origin has provided to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based, in accordance with article 6 of the Convention.</p> <p>On 23 of May 2014, Belarus submitted to Lithuania the draft program of a post-project analysis. Following the argumentation above, Lithuania holds that preparation of the post-project analysis program, regarding the NPP project in Belarus, is premature. It is impossible to thoroughly analyze the draft post-project analysis program and provide precise comments and proposals at the stage of the EIA procedure, when key questions and concerns, raised by Lithuanian institutions and public regarding NPP in Belarus are still unanswered (refer to Annex of the letters No.(10-3)-D8-4044 of 29 May 2014 and No. (10-3)-D8-6055 of 13 August 2014). Only after finalization of the EIA procedure, Lithuania can proceed with comprehensive and detailed evaluation of the draft post-project analysis program.</p> <p>Meanwhile, Lithuanian authorities have analyzed the draft program according to general standards. MoE in the letter No. (10-3)-D8-6055 of 13 August 2014 presented the overview of the comments and proposals emphasizing that the post-project analysis should include not only the design basis, but also beyond design basis accidents; radiological monitoring should include observations alongside Lithuanian border, otherwise, possible transboundary impacts due to transfer of radionuclides could not be identified while performing actual measurements. Furthermore, meteorological monitoring system for basic atmospheric variables and water level gauge system should be considered in the post-project analysis. The proposed monitoring program lacks geophysical (presumably, seismological) monitoring even though such type of monitoring was mentioned in the EIA report. The description of the ecological monitoring program is not thorough enough: no information is provided on the minimum allowed discharge (environmental discharge) into the river Neris</p>
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		<p>(Neris will be used for cooling of the NPP; it flows through the territory of Lithuania and through the capital city of Vilnius) and how it will be controlled; the description of the thermal, hydrological, ecological and chemical monitoring is not sufficient in order to evaluate impacts on the ecological status of the river Neris and impacts on the migratory fish resources, especially, taking into account that no answers were provided to Lithuanian authorities regarding measures how to avoid cooling malfunctioning and potential contamination of the Neris river.</p> <p>We would like to emphasize once again that while EIA procedure regarding NPP project of Belarus is not completed, it is impossible to evaluate whether the proposed sites, methods, equipment and frequency of measurements would be sufficient for monitoring emissions and monitoring of the environment. These issues are very closely related to the missing answers to the key questions set forth by Lithuania, in particular, the assessment of alternative sites for NPP construction; geological aspects of the selected site; evaluation of the impact to Lithuanian environment and population; cooling of the NPP, impact to the river Neris and, as a consequence, to potable water in Lithuania; emergency preparedness and response measures; independency of responsible institution for nuclear safety, participation of Belarus in the EU comprehensive risk and safety assessments (“stress tests”) of nuclear power plants; nuclear waste management issues, etc. (for further comments, please, refer to the letter of MoE of Lithuania (10-3)-D8-6055 of 13 August 2014).</p> <p>After the completion of the transboundary EIA procedure, taking into account the Implementation Committee analysis of the steps undertaken after the adoption of the Committee’s report on its twenty-seventh session, Lithuania expects to receive the amended draft of the post-project analysis program for further evaluation.</p>
<p><b>11.</b> (Para 58)</p>	<p><i>Further encourages</i> Belarus and Lithuania to conclude the bilateral agreement for the implementation of the Convention in accordance with article 8;</p>	<p>Lithuania appreciates that Belarus responded to Lithuanian proposals outlined in the letter of 3 December 2013 regarding the draft Bilateral Agreement on Implementation of the Espoo Convention. Lithuania officially received the response from Belarus with the note of the Embassy of Belarus in Lithuania on 20 May 2014, No. 02-07/427. MoE of Lithuania has analyzed changes to the last version of text proposed by Belarus (in Russian language) and having identified a substantial number of changes in the text translated the draft agreement into Lithuanian language for thorough analysis and discussion among interested Lithuanian authorities. Taking into account comments and proposals from other competent</p>

		<p>authorities and recent difficulties of practical application of the Espoo Convention, MoE has decided to revise the draft agreement in order to increase clarity and added value as the purpose of bilateral agreement is to serve as a detailed legal and practical instrument for the implementation of the Espoo Convention. The amendments proposed by the MoE are focusing in more detail on: 1) notification phase by describing the content of the documentation to be submitted with the notification in accordance with Article 3.2 of the Espoo Convention in order to have a clear overview of the whole EIA, planning, design phases and decisions to be taken in accordance with the Espoo Convention in relation to the proposed activity; 2) coherence of the transboundary EIA procedure seeking to ensure the step by step approach determined by the Espoo Convention (notification, EIA documentation stage, public hearings stage, stage of bilateral experts' consultations, final decision, post-project analysis); 3) practical cooperation among the competent authorities of the Parties of the Bilateral Agreement trying to balance the administrative and financial burden on the authorities and developers of both Parties, taking into account the polluter pays principle, the time constraints and the right of the public of the affected Party to effective participation in the transboundary EIA procedure. Currently the amendments proposed by MoE to the text of the draft agreement are under finalization by other competent authorities.</p>
<p><b>12.</b> (Para 59)</p>	<p><i>Requests</i> Belarus and Lithuania to report by the end of each year to the Committee on the implementation of these recommendations;</p>	<p>Lithuania is ready to report by the end of each year and to maintain continuous and open dialogue with the Implementation Committee on this matter.</p>
<p><b>13.</b> (Para 60)</p>	<p><i>Welcomes</i> the steps taken by both Parties since the Committee's twenty seventh session in following the Committee's recommendations to the Meeting of the Parties, and notes that information about these steps was provided to the Committee which will have to be assessed by the Committee pursuant to paragraph 63 below;</p>	<p>For convenience of the Members of the IC a chronologically organized database of all Lithuanian correspondence regarding this case since 27<sup>th</sup> session of the IC in electronic form has been prepared and handed to the Espoo Secretariat. Please also refer to the fact sheet of the EIA process of the Belarus NPP (provided together with this report). Lithuania would be grateful for thorough assessment of the documents sent and actions taken by Belarus since 27<sup>th</sup> session of the IC as no progress can be recorded on the Belarus side. On the contrary, Belarus is accelerating the construction works of the NPP in Ostrovets, despite the F&amp;R of the IC that were endorsed during 6<sup>th</sup> Meeting of Parties of the Espoo Convention (ECE/MP.EIA/20.Add.1).</p>



14. (Para 61)	<p><i>Regrets</i> that Belarus and Lithuania were not able to agree on the steps undertaken within the transboundary procedures after 14 March 2013;</p>	<p>Even though there were no developments so far, Lithuania continuously tries to overcome the encountered difficulties through correspondence as well as bilateral meetings at all levels and remains open for dialogue.</p>
15. (Para 62)	<p><i>Invites</i> Lithuania and Belarus to improve their communication and cooperation for the implementation of the Convention, inter alia, by establishing a permanent joint body on post-project analysis according to article 7 and any other relevant issue concerning the Ostrovets nuclear power plant;</p>	<p>Please, refer to parts 10 and 11 of this table. We would be ready to discuss the implementation of this recommendation with Belarus immediately after Belarus stops all the construction works in order to finalize the EIA procedure of the NPP project in line with the Espoo Convention. We would like to reiterate that following the provisions of the Espoo Convention, post-project analysis can be initiated only when the preceding stages of application of the Convention are completed and the Party of origin has provided to the affected Party the final decision on the proposed activity along with the reasons and considerations on which it was based, in accordance with article 6 of the Convention.</p>
16. (Para 63)	<p><i>Requests</i> the Implementation Committee to thoroughly analyse the steps undertaken after the adoption of the Committee's report on its twenty-seventh session and to reflect the conclusions of its analysis in the report of the Committee's thirty-third session at the latest, and to report to the Meeting of the Parties at its seventh session on the matter;</p>	<p>Lithuania fully supports the work done by the IC since 2011 and the continuing work in the new inter-sessional period (2014-2017). Whereas a number of developments took place after the adoption of the IC's report on its 27<sup>th</sup> session, we support the view that the IC should thoroughly analyze the steps undertaken by both Parties since then. We remain open and ready to provide to the IC any additional information or explanations it would require.</p>
17. (Para 64)	<p><i>Encourages</i> Belarus to further develop confidence-building measures, including to invite the International Atomic Energy Agency (IAEA) for a Site and External Events Design (SEED) mission with a view to evaluating the site selection criteria and studies for the nuclear power plant, as well as its development and</p>	<p>Open and transparent manner of cooperation with international organizations from Belarus side would help to deescalate the situation and ensure that no compromises are made at the expense of nuclear safety. Lithuania highly supports the recommendation to invite the IAEA SEED (International Atomic Energy Agency Site and External Events Design) review mission to evaluate the site selected for the NPP in Belarus, as such assessment would present independent conclusions regarding the suitability of construction site as well as the quality of the studies for the NPP (including the EIA documentation). The results of the SEED mission should be analyzed by the IC in relation to Para 63 of Decision VI/2</p>

	<p>operation, to fully ensure its safety.</p>	<p>(recommendation No. 16) It is noteworthy, that 6<sup>th</sup> Meeting of Parties to the Nuclear Safety Convention, which convened in March-April 2014, has also suggested Belarus to invite the IAEA SEED mission. Additionally, Lithuania would like to propose Belarus to carry out “stress-tests” according to the methodology of the EU and in line with the Belarus commitments made in 2011. These steps would serve as confidence building measures, unfortunately, Lithuania has no information on Belarus’ plans to implement this recommendation.</p>
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