



REPUBLIC OF BULGARIA
MINISTRY OF ENVIRONMENT AND WATER

99-00-517

16 November 2023

Subject: Draft Decision IX/4h on compliance by Bulgaria with its obligations under the Convention with respect to the lifetime extension of units 5 and 6 of Kozloduy Nuclear Power Plant

Dear Sir/Madam,

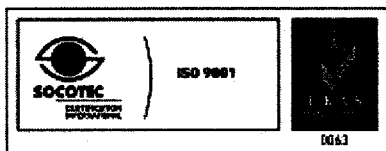
The Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (Geneva, 12 – 15 December 2023) has to finalize and approve Decisions on compliance with the Convention during the high-level segment.

In connection with the prepared draft Decision IX/4h on the fulfilment of Bulgaria's obligations under the Convention regarding the procedure for extending the operational period of the 5th and 6th units of the Kozloduy Nuclear Power Plant, we hereby provide you with Bulgaria's position on the above-mentioned decision.

We believe that after you familiarize yourself with our position regarding units 5 and 6 of the Kozloduy NPP, you will be able to conclude that the Republic of Bulgaria has fully fulfilled its obligation under the Espoo Convention and you will support our proposals to change Decision IX/4h of Bulgaria's compliance with its obligations under the convention.

First of all, we confirm the official position of the Bulgarian Government that has already been expressed several times in the correspondence sent in response to inquiries from the Implementation Committee and the Secretariat. In particular, our activities directed to the fulfilment of the requirements of the Espoo Convention have been explained in all letters sent by the Bulgarian Minister of Environment and Water to the Secretariat and the Chair of the Implementation Committee.

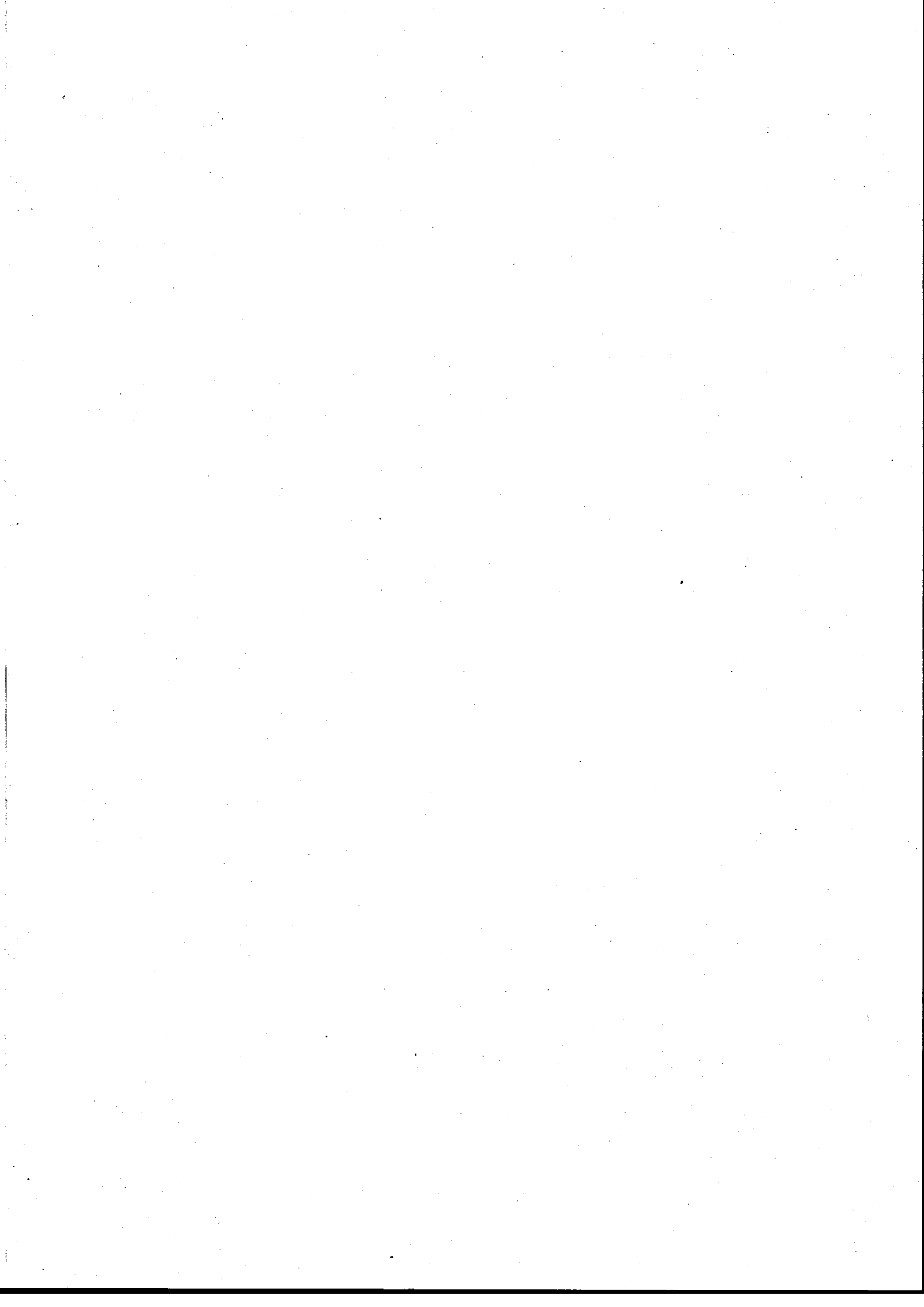
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- We maintain our position that the continuous operation of units 5 and 6 of Kozloduy NPP is not a new activity or a “major change” and does not have any significant adverse transboundary impact. Our opinion is based on the following circumstances:

1. The actions undertaken for the extension of the operating licenses of Kozloduy NPP Units 5 and 6 have been carried out in compliance with all applicable requirements of the international, European and Bulgarian legislation, and are consistent with the Republic of Bulgaria's commitments under the Espoo Convention.

2. In the 1990s, an Environmental Impact Assessment (EIA) procedure was accomplished for Kozloduy NPP Units 5 and 6, covering all facilities on the site. The EIA Report was approved with a Decision No.28-8/2001 of the Minister of the Environment and Water, which is still in force today.

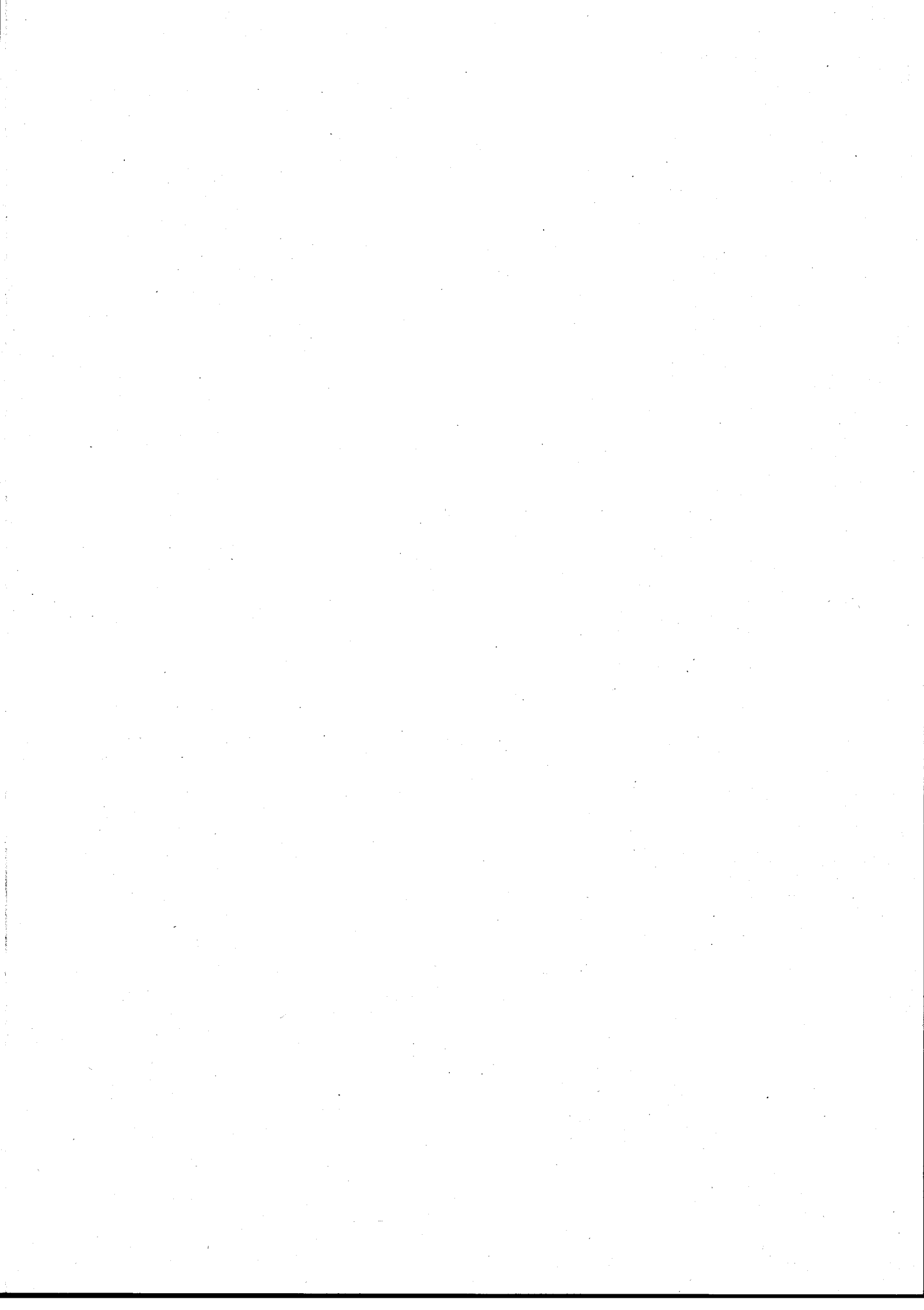
3. In accordance with the requirements of the international, European and national legislation, Bulgarian competent authorities have the power to assess whether or not an EIA procedure is necessary. Decision No.6-PR/2014 of the Minister of Environment and Water on assessing the need to conduct an EIA for the investment project ‘Lifetime Extension of the Kozloduy NPP EAD Units 5 and 6’ concludes that it is not likely to result in significant negative impacts to the environment and human health. The Decision was taken on the basis of the positive statements of all national competent authorities and the public (regarding the risks to human health, nuclear safety and radiation protection, environmental components and factors - air, atmosphere, water, soil, bowels of the earth, landscape, natural sites, mineral diversity, biological diversity, natural and anthropogenic substances and processes; hazardous energy sources: noise, vibrations, radiation, as well as certain genetically modified organisms). In addition, the legal power of this Decision has been confirmed by the Supreme Administrative Court of the Republic of Bulgaria and endorsed by the European Parliament.

4. Pursuant to Article 3 of the Convention, the Republic of Bulgaria notified Romania by letter dated March 13, 2014 at the earliest stage of the procedure. This is in full compliance with the 2014 MOP Declaration for activities related to the production of electricity from nuclear power plants approved by the Parties in implementing the Convention (document ECE/MP.EIA/20.Add.3 ECE/MP.EIA/SEA/4.Add.3). We would like to highlight that the notification is an example of good practice in the implementation of the Convention.

5. Continuous operation of Kozloduy units 5 and 6 does not require development of a new technical design of the plant, or changes in the existing design. No changes of the basic components and technological systems are required. There is no need to construct new buildings and facilities, or to repair existing ones. The working environment and gaseous and liquid radioactive releases into environment remain the same. The annual generation of the spent fuel has been even decreased. In conclusion, continuing the operation of units 5 and 6 of Kozloduy NPP does not lead to additional risks to the human health and environment.

6. It is important to state that the legal appeal by NGOs against the 2014 Decision of the Minister of Environment and Water has been rejected by a three-member panel, then by a five-member panel of the Supreme Administrative Court of Bulgaria. In addition, other three seven-member panels of the same court classified NGOs complaints as unacceptable. In this way the legal power of the 2014 Decision of the Minister of Environment and Water has been fully confirmed.

7. Kozloduy NPP performed a number of transboundary EIA procedures for the following projects: Decommissioning of Units 1-4; Construction of Facility for Treatment and Conditioning of Radioactive Wastes with a High-volume Reduction Factor; Construction of a National Disposal Facility for Low and Intermediate Radioactive Waste, and Construction of a New Nuclear Unit. In these procedures all environmental and human health impacts have been fully assessed including lifetime extension of units 5 and 6 of Kozloduy NPP. We would like



to mention that some of these transboundary EIA procedures were referred to as a good practice for the implementation of the Espoo Convention.

8. The four comprehensive EIA were carried out with respect to other activities at the Kozloduy NPP site, all of which had considered the cumulative effect of the continuous operation of units 5 and 6.

9. Furthermore, in support to our position, we would like once more to draw your attention to the findings of the European Parliament's Committee on Petitions. Particularly it has concluded that the Espoo Convention does not assume the automatic application of the notification procedure and that if the competent national authorities decided that the Proposed Activity does not have any significant transboundary effect, there is no need of any further activities in regard to the implementation of Espoo Convention. In this regard, the European Parliament's Committee on Petitions decided that there are no violations in terms of legislative, administrative and other measures taken by the Republic of Bulgaria to implement the provisions of the Convention and particularly to the long term operation of Units 5 and 6 of Kozloduy NPP. Finally, in 2020 the European Parliament closed the petition of the NGO.

10. Also it is important to state that the licensing process concerning the continuous operation of the Kozloduy NPP Units 5 and 6 has been performed strictly following all applicable requirements of the international, European and Bulgarian nuclear legislation, as well as in compliance with the requirements of the Espoo Convention.

11. It is important to mention that all transboundary procedures carried out by the Republic of Bulgaria are recognized as good practices in the following international documents: Fifth Review (2013 – 2015) – Implementation of the Convention on Environmental Impact Assessment in a Transboundary Context (United Nations 2018), and 2017 United Nations Guidance: Good practices Recommendations on the Application of the Convention to Nuclear Energy-related Activities.

In connection with the above, we propose the texts points 1, 3 and 4 from Decision IX/4h to be replaced with the next sentences:

The point 1, should read as follows:

1. Expresses regret at the difficulties with communication from Bulgaria with regard to providing the Committee with the information and documentation in a timely manner and complete information needed for its deliberations, requiring it to repeatedly request such information and documentation;

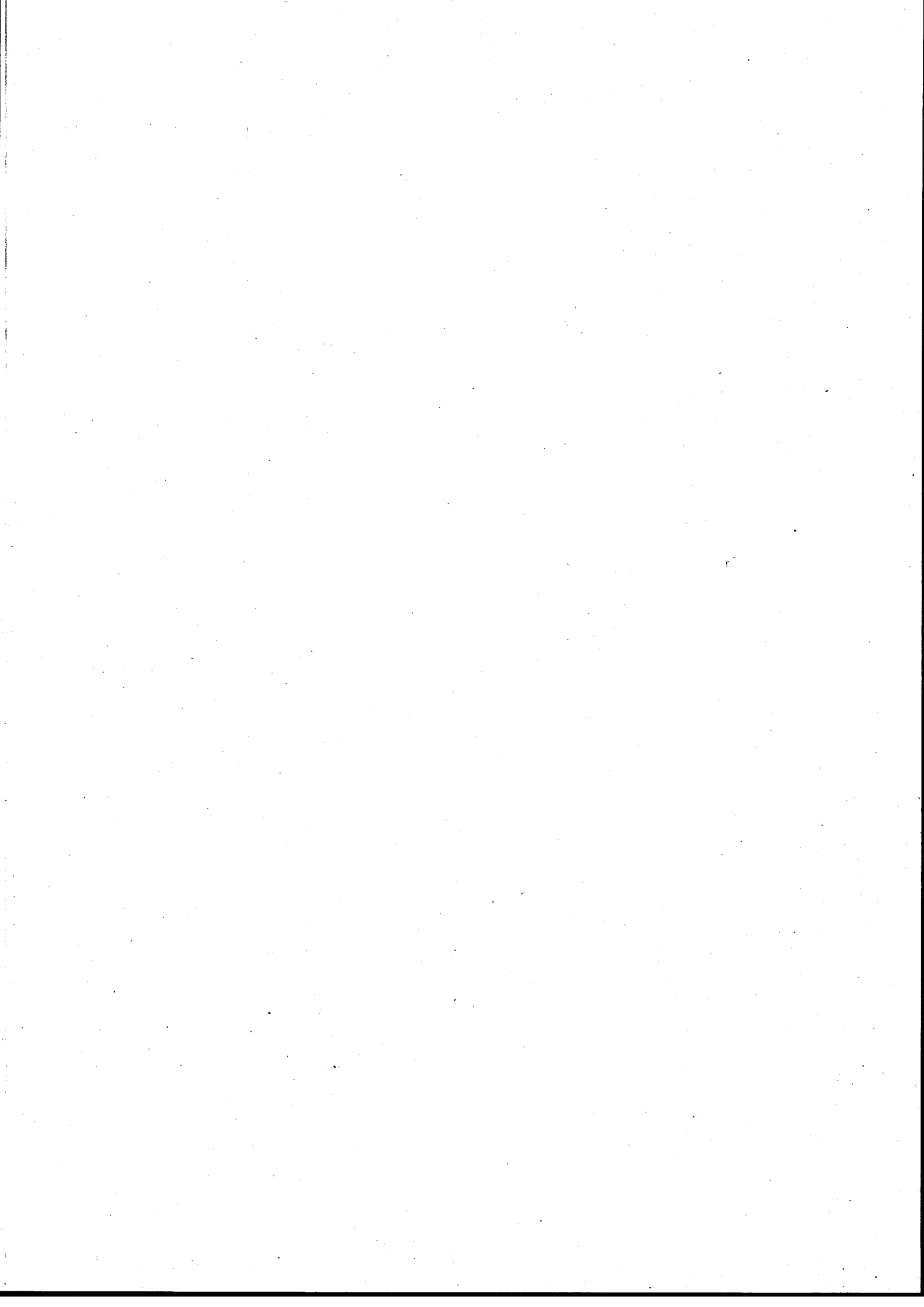
The point 3, should read as follows:

3. Takes into account the strong motivated objections from Bulgaria for dissenting with the findings of the Implementation Committee and assumes that Bulgaria has been in compliance with the 2014 MOP Declaration for activities related to the production of electricity from nuclear power plants approved by the parties in implementing the Convention (document ECE/MP.EIA/20.Add.3 ECE/MP.EIA/SEA/4.Add.3) by extending the lifetime of units 5 and 6 of Kozloduy nuclear power plant;

The point 4, should read as follows:

4. Welcomes the fact that Bulgaria committed itself to notifying Austria, Romania and Serbia ahead of any future activities listed in Appendix I of the Convention, in accordance with article 3 (1) regarding Kozloduy nuclear power plant after the Parties had requested such notification;

For clarity, we are attaching the proposed changes in "Track Changes" mode.



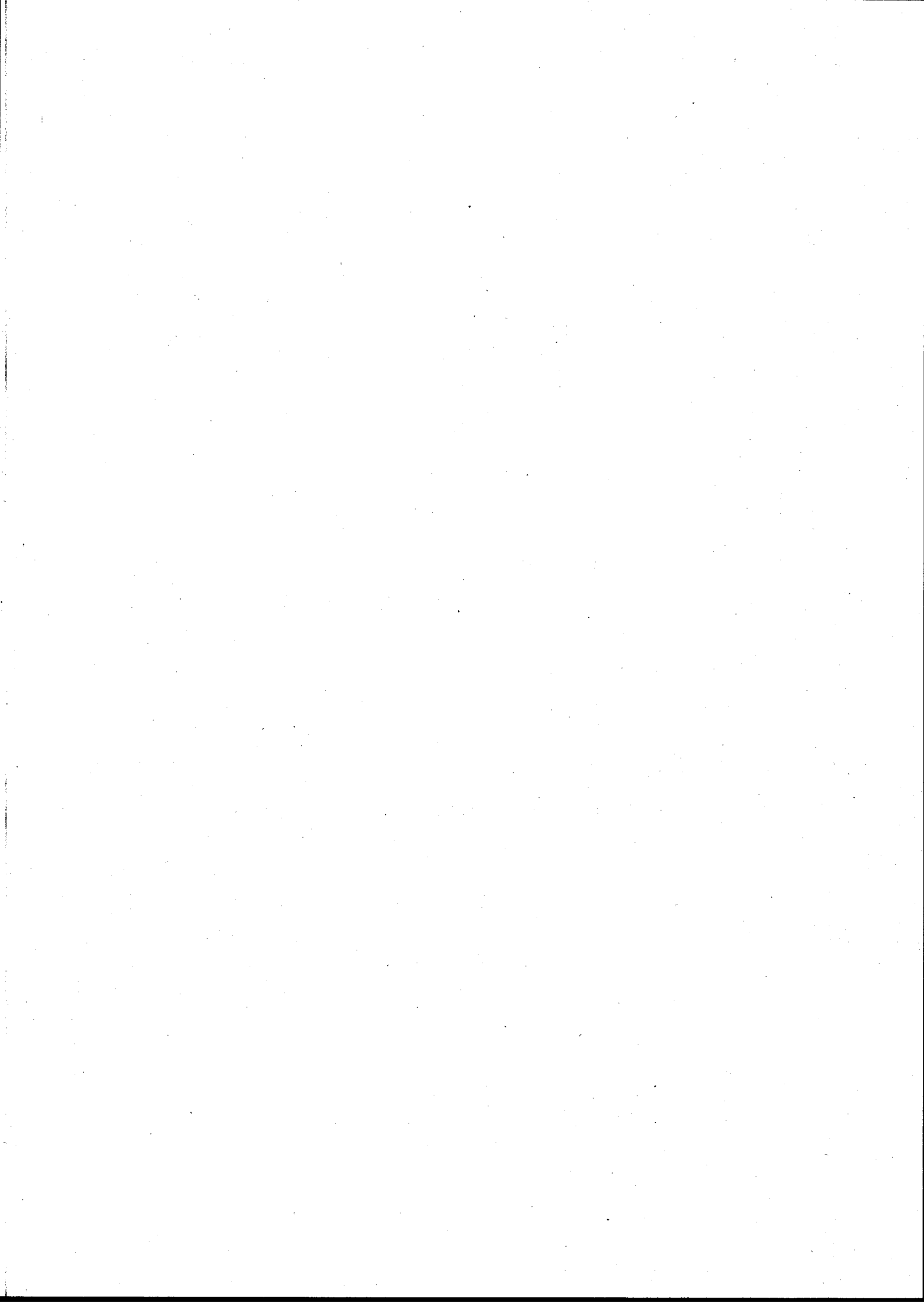
Dear Sir/Madam,

We would like to inform you that Bulgaria intends to present its national position regarding the Draft Decision IX/4h on compliance with the obligations under the Convention in respect of the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant, at the Meeting of the Parties to the Convention on Environmental Impact Assessment in a Transboundary Context (Geneva, 12 – 15 December 2023) in order this Decision to be finalized and approved during the high-level segment.

Yours sincerely,

Julian Popov
Minister of Environment and Water

A handwritten signature in black ink, appearing to be 'JP', located to the right of the typed name and title.



5. 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

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 decision IX/4¹ on general issues of compliance with the Convention adopted at its ninth session (Geneva, 12-15 December 2023),

Having considered the findings and recommendations of the Implementation Committee on compliance by Bulgaria with its obligations under the Convention with respect to the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant, as set out in document ECE/MP.EIA/IC/2023/6,

Having considered also 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 Bulgaria,²

1. *Expresses* regret at the difficulties with communication from the uncooperativeness of Bulgaria with regard to providing the Committee with the information and documentation in a timely manner and complete information needed for its deliberations, requiring it to repeatedly request such information and documentation;

2. *Reminds* Bulgaria, that, as a Party, it has been strongly urged to facilitate the Committee's work in good faith,³ and that it should act accordingly, also in line with article 26 of the Vienna Convention on the Law of Treaties;

3. *Endorses* the findings of the Implementation Committee that, in accordance with the information provided to the Committee, 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 said units for long-term operation without applying the Convention. *Takes into account* the strong motivated objections from Bulgaria for dissenting with the findings of the Implementation Committee and *assumes* that Bulgaria has been in compliance with the 2014 MOP Declaration for activities related to the production of electricity from nuclear power plants approved by the Parties in implementing the Convention (document ECE/MP.EIA/20.Add.3 ECE/MP.EIA/SEA/4.Add.3) by extending the lifetime of units 5 and 6 of Kozloduy Nuclear Power Plant;

4. *Welcomes* the fact that Bulgaria committed itself to notifying Austria, Romania and Serbia ahead of any future activities listed in Appendix I of the Convention lifetime extension for units 5 and 6 of Kozloduy nuclear power plant, in accordance with article 3 (1) regarding Kozloduy nuclear power plant of the Convention, after the Parties had requested such notification;

5. *Requests* Bulgaria to ensure that the Convention is fully applied in the context of any future decision-making for activities listed in appendix 1 thereto regarding Kozloduy nuclear power plant, including ensuring that:

(a) All impacts of operational states and accidents are properly taken into account during the environmental impact assessment procedure;

(b) When considering whether the lifetime extension constitutes a major change, the activities implemented to prepare for long-term operation prior to the latest licence renewals are taken into account;

(c) Bulgaria notifies, in accordance with article 3 (1) of the Convention, any Party that it (Bulgaria) considers may be affected, including Austria, Romania and Serbia, which, in the context of the present case, have expressly considered themselves to be potentially affected and requested to be notified;

6. *Recommends* that Bulgaria follow the good practice recommendations of the Meeting of the Parties that, given the great public concern and national interests involved

¹ ECE/EIA.MP/2023/6.

² ECE/MP.EIA/2023/13-ECE/MP.EIA/SEA/2023/13.

³ ECE/MP.EIA/30/Add.2-ECE/MP.EIA/SEA/13/Add.2, decision VIII/4, para. 11.

when it comes to nuclear energy-related activities, a wide notification, that is to say, beyond neighbouring Parties, could prevent later misunderstandings and potential disputes.⁴

⁴ *Good Practice Recommendations on the Application of the Convention to Nuclear Energy-related Activities* (ECE/MP.EIA/2017/10), para. 28, endorsed by the Meeting of the Parties at its seventh session (Minsk, 13-16 June 2017), through decision VII/6 (ECE/MP.EIA/23.Add.2- ECE/MP.EIA/SEA/7.Add.2).