



Economic Commission for Europe**Meeting of the Parties to the Convention
on Environmental Impact Assessment
in a Transboundary Context****Ninth session****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****Fifth session**

Geneva, 12–15 December 2023

Item 4 (a) of the provisional agenda

**Review of the workplan: compliance with and implementation
of the Convention and the Protocol****Report on the activities of the Implementation Committee*****Note by the Implementation Committee***Summary*

This document contains the report of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context and its Protocol on Strategic Environmental Assessment on the Committee's activities since the eighth session of the Meeting of the Parties to the Convention and the fourth session of the Meeting of the Parties to the Protocol (Vilnius (online), 8–11 December 2020). It was prepared in accordance with the Committee's structure and functions ^a, and the workplan adopted at the eighth and fourth sessions, respectively, of the Convention's and Protocol's governing bodies ^b and adopted by the Committee on 25 October 2023 by electronic decision-making procedure.

More details on the Committee's deliberations are presented in the Committee's reports on its sessions during the intersessional period 2021–2023.^c

The Meetings of the Parties to the Convention and the Protocol are expected to consider the information provided.

* The present document was submitted late owing to resource constraints.



^a ECE/MP.EIA/6, annex II, appendix, para.11.

^b ECE/MP.EIA/30/Add.1-ECE/MP.EIA/SEA/13/Add.1, decision VIII/2–IV/2, annex I, item II.A.4.

^c See <https://unece.org/sessions-3>.

I. Introduction

A. Mandate

1. In the intersessional period 2021–2023, the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention) and its Protocol on Strategic Environmental Assessment reviewed compliance by the Parties with their obligations under the Convention and the Protocol with a view to assisting them to fully meet their commitments, in accordance with decision II/4, adopted by the Meeting of the Parties to the Convention at its second session,¹ article 14 (6) of the Protocol and decision V/6–I/6, adopted at the fifth session of the Meeting of the Parties to the Convention and the first session of the Meeting of the Parties to the Protocol (Geneva, 20–23 June 2011).²

2. The Committee carried out activities as set out in the workplan for 2021–2023³ and decisions adopted by the Meetings of the Parties to the Convention and the Protocol at their eighth and fourth sessions respectively (Vilnius (online) 8–11 December 2020), including decisions on reporting and review of implementation of the Convention and the Protocol (respectively, decisions VIII/5 and IV/5).⁴ The Committee conducted its work following its structure and functions and operating rules.⁵

B. Membership and sessions of the Committee

3. The Committee members and the Parties they represented on the Committee for Convention and Protocol matters were: Mr. Christian Baumgartner (Austria), Mr. Anders Bengtsson (Sweden), Mr. Ralph Bodle (succeeding Ms. Heidi Stockhaus from the fifty-fourth session on) (Germany), Mr. Joe Ducombe (Luxembourg), Ms. Maria do Carmo Figueira (Portugal), Ms. Barbora Pavlačič Doneva (Slovakia), Ms. Zsuzsanna Pocsai (Hungary) and Ms. Aysel Rzayeva (Azerbaijan – only for Convention matters). Azerbaijan, Hungary, Portugal and Sweden were elected to nominate members at the seventh session of the Meeting of the Parties to the Convention (Minsk, 13–16 June 2017),⁶ so members nominated by it were serving their second term (exceptionally, the third term in the case of Hungary). Austria, Germany, Luxembourg and Slovakia were elected to nominate members at the eighth session of the Meeting of the Parties to the Convention.⁷ The elected member for Protocol matters was Mr. Lasse Tallskog (Finland). Finland had been elected by the Meeting of the Parties to the Protocol at its third session (Minsk, 13–16 June 2017) to serve as an alternate to Azerbaijan.⁸

4. In line with the Committee's structure and functions and operating rules, in addition to the permanent members, the following alternate members were appointed by the elected Parties for the same term of office: Ms. Ursula Platzer-Schneider (Austria), Ms. Leyla Aliyeva (Azerbaijan); Ms. Charlotta von Troil (Finland); Mr. Christof Sangenstedt (Germany); Ms. Evelyn Fábíán-Mayer (Hungary); Mr. Tom Uri (from the fifty-sixth session) (Luxembourg); Ms. Águeda Silva (Portugal), Mr. Roman Skorka (Slovakia) and Ms.

¹ ECE/MP.EIA/4, annex IV.

² ECE/MP.EIA/SEA/2.

³ ECE/MP.EIA/30/Add.1–ECE/MP.EIA/SEA/13/Add.1, decision VIII/2–IV/2, annex I, categories of activity II.A and II.B.

⁴ ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2 and ECE/MP.EIA/30/Add.3–ECE/MP.EIA/SEA/13/Add.3.

⁵ Available at <https://unece.org/sites/default/files/2021-02/Implementation%20Committee%20structure%20functions%20procedures%20rules.e%202020.pdf>; On the application of operating rule 5, see paras. 115–116 of present document.

⁶ ECE/MP.EIA/23–ECE/MP.EIA/SEA/7, para. 72.

⁷ ECE/MP.EIA/30–ECE/MP.EIA/SEA/13, para. 47 (c).

⁸ ECE/MP.EIA/23–ECE/MP.EIA/SEA/7, para. 73.

Christina Olsen Lundh (Sweden).⁹ Due to delays in that respect by some Parties, the Chair repeatedly recalled operating rule 4 in order to stress the obligation of all Parties to also appoint an alternate member.

5. At its forty-ninth session (Geneva, 25 February 20–21), the Committee elected Mr. Ducomble as Chair of the Committee, Ms. do Carmo Figueira as first Vice-Chair and Mr. Baumgartner as second Vice-Chair.¹⁰

6. The Committee held nine sessions during the intersessional period. Due to the COVID-19 pandemic, and later upon decision of the Committee, four online and five hybrid sessions were held. Reports on the Committee's sessions were made available to the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment (Working Group) and published on the Convention's website. Members nominated by Parties whose compliance was at issue were not present when the Committee considered the respective items in closed session.¹¹ The related documents and information on the compliance issues considered by the Committee, as specified in operating rule 16, were posted on the Convention's website.¹² The opinions of the Committee in the period 2021–2023 are included in the revised informal electronic publication of these opinions from 2001 onwards prepared by the secretariat.¹³ The summaries of compliance issues in sections II–VI below provide an overview of each case considered by the Committee. For the Committee's full conclusions, the respective session report is the primary source.

C. Workload

7. The Committee's workload continued to grow due to a constantly increasing number of compliance issues and their complexity. As summarized in sections II–VI below, the Committee had been considering 53 compliance issues (5 cases to follow-up on previous decisions of the Meetings of the Parties, 4 submissions, 7 Committee initiatives, 20 information gathering cases and 17 specific compliance issues arising from reviews of implementation of the treaties). The consultations with the European Commission on the European Union reporting templates (paras. 108–109 below) took up a significant share from the scarce resources of the Committee and the secretariat in 2021–2023. Long-term (full- or part-time) staff sick leaves and staff changes in the secretariat further increased the precarious situation and created delays in the Committee's consideration of numerous compliance issues. Additional challenges during the reporting period included the continuation of the coronavirus disease (COVID-19) pandemic, requiring new working arrangements, and the war in Ukraine.

II. Follow-up to decisions VIII/4 a–e¹⁴

8. In its follow-up to previous decisions of the Meetings of the Parties, the Committee considered the information regularly requested from the Parties on the steps they have taken to fulfil the requirements and recommendations of those decisions. The concerned Parties had three years to take the necessary actions and inform the Committee about them.

⁹ Portugal and Slovakia did not appoint a new alternate after the departure of the initially appointed member.

¹⁰ ECE/MP.EIA/IC/2021/2, para. 3.

¹¹ The reports on the Committee's sessions are available at <https://unece.org/sessions-3>.

¹² See www.unece.org/env/eia/implementation/implementation_committee.html.

¹³ Forthcoming.

¹⁴ See <https://unece.org/environment-policy/environmental-assessment/decisions-taken-meetings-parties>.

A. Armenia

EIA/IC/CI/1 and SEA/IC/SCI/3/1

9. The Committee initiative on Armenia dates back to 2007, prompted by the Committee's examination of national responses to the questionnaire for the first review of implementation of the Convention (to mid-2003) and the request from Armenia for technical assistance from the Committee in developing national legislation for implementing the Convention. The secretariat has provided legislative assistance to Armenia since 2011, including most recently with European Union funding under the European Union for Environment (EU4Environment) programme. In 2014, Armenia adopted the Law on Environmental Impact Assessment and Expert Examination, which only partially complied with the Convention. Consequently, during the subsequent intersessional periods, in order to comply with the Convention and the Protocol, which Armenia ratified in 2011, Armenia has been invited to amend its legislation and adopt secondary legislation.

10. Since the eighth session of the Meeting of the Parties to the Convention, Armenia has repeatedly informed the Committee about its intention to adopt amendments to the Law of 2014 and secondary legislation, in order to bring its national legislative framework into full compliance with the Convention and the Protocol, as requested by decision VIII/4a.

11. Following the third review of implementation of the Protocol, the Committee requested at its fifty-second session (Geneva, 29–31 March 2022) clarification on how “minor modifications” to a plan or a programme (art. 4 (4) of the Protocol) were identified in the legislation and administrative instructions of Armenia.¹⁵ At its fifty-sixth session (Geneva, 2–5 May 2023), the Committee decided to continue its further examination of this specific compliance issue as part of the follow-up to decision VIII/4a (see also table 3 below).¹⁶

12. Armenia informed the Committee about its adoption of the new Law on Environmental Impact Assessment and Expert Examination on 3 May 2023.

13. In draft decision IX/4b–V/4b,¹⁷ based on its review of the amended legislation, the Committee recommended that the Meetings of the Parties note with concern that, while providing some improvements, the new law did not address most of the fundamental deficiencies of the previous law, therefore not ensuring full compliance by Armenia with its obligations under the Convention and the Protocol.

B. Azerbaijan

EIA/IC/CI/2

14. The Committee initiative on Azerbaijan was prompted by the responses of Azerbaijan to the questionnaire on implementation of the Convention in the period 2009–2011, indicating that it lacked national legislation on the Convention's application, and by the request from Azerbaijan for technical assistance from the Committee. To support the efforts of Azerbaijan to develop compliant legislation to implement the Convention, (and also the Protocol), Azerbaijan has benefitted from technical assistance from the secretariat since 2011, including most recently with European Union funding under the EU4Environment programme.

15. In 2018, Azerbaijan adopted a framework Law on Environmental Impact Assessment, followed by the adoption between 2018 and 2022 of six pieces of secondary legislation to implement said framework Law. In the intersessional period, Azerbaijan informed the Committee about steps taken to fulfil decision VIII/4b. The Committee noted deficiencies of the framework Law and the final two of the above-mentioned pieces of secondary legislation.

¹⁵ ECE/MP.EIA/IC/2022/2, para. 59 (a).

¹⁶ ECE/MP.EIA/IC/2023/4, para. 58.

¹⁷ ECE/MP.EIA/2023/4–ECE/MP.EIA/SEA/2023/4.

16. In draft decision IX/4d,¹⁸ the Committee recommended that the Meeting of the Parties note with concern that the legislation adopted by Azerbaijan to implement the Convention was not fully compliant therewith but contained deficiencies, as described in said draft decision.

C. Belarus

EIA/IC/S/4

17. The Committee continued its consideration of its follow-up to decision VIII/4c concerning the Belarusian nuclear power plant in Ostrovets. By decision VIII/4c, the Meeting of the Parties at its eighth session recalled its decisions VI/2 and IS/1d, and urged Belarus to apply the Convention in the future with regard to a proper evaluation of reasonable alternatives. Furthermore, it again encouraged Belarus and Lithuania to conclude a bilateral agreement for the implementation of the Convention further to article 8 thereof, carry out a post-project analysis, and continue bilateral expert consultations on issues of disagreement.

18. The Committee expressed appreciation for the timely submission of the annual reports by Belarus and Lithuania, further to paragraph 5 of decision VIII/4, but noted the lack of progress in their bilateral cooperation.¹⁹ During the intersessional period, Belarus and Lithuania held only one bilateral expert meeting with the aim of discussing remaining differences, and to make progress in accordance with decision VIII/4c, but were unable to agree on the outcomes of said meeting.

19. During its fifty-fourth session (Geneva, 4–7 October 2022), the Committee conducted informal consultations – held separately, at the request of Lithuania – with the two Parties.

20. In draft decision IX/4e,²⁰ the Committee recommended that Belarus and Lithuania complete the actions requested by previous decisions of the Meeting of the Parties, except for the establishment of a joint bilateral body, by the tenth session of the Meeting of the Parties to the Convention (at the latest) and continue their annual reporting.

D. Ukraine

21. Further to the military aggression of the Russian Federation against Ukraine, the Committee, at its fifty-second session,²¹ postponed its consideration of all compliance issues concerning Ukraine.²² Based on the interest expressed by Ukraine to resolve the compliance matters, the Committee resumed its deliberations at its fifty-sixth session and conducted informal consultations with Ukraine during that session.

EIA/IC/S/1

22. The issue of compliance by Ukraine with its obligations under the Convention regarding its legislation and the Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (Bystroe Canal Project) has been under the Committee's consideration since 2004.

23. The Committee welcomed the progress made by Ukraine in the implementation of decision VIII/4d, in particular the conclusion of a bilateral agreement between Ukraine and Romania on the implementation of the Convention on 18 November 2022, as requested by the Meeting of the Parties in 2008²³ and repeated subsequently, with the secretariat's support and European Union funding.

¹⁸ ECE/MP.EIA/2023/7.

¹⁹ The reports are available at <https://unece.org/environment-policy/environmental-assessment/eiaics4-belarus>.

²⁰ ECE/MP.EIA/2023/7.

²¹ ECE/MP.EIA/IC/2022/2, para. 3.

²² EIA/IC/S/1, EIA/IC/CI/4, EIA/IC/CI/7, EIA/IC/INFO/10, EIA/IC/INFO/13 and EIA/IC/INFO/20.

²³ ECE/MP.EIA/10, decision IV/2, para. 14.

24. The Committee also welcomed the information by Ukraine that operational dredging in the Bystroe Channel had been halted further to paragraph 11 of decision VIII/4d. The Committee also expressed appreciation for the steps taken by Ukraine in the environmental impact assessment procedure on the new project, the Bystroe Route project, referred to in paragraphs 7 and 14 of decision VIII/4d, the notification of Romania on 22 June 2020, and the submission of the environmental impact assessment report, including a plan for compensatory measures and post-project monitoring, to Romania on 3 May 2023.

25. However, the Committee noted with regret that, despite important steps taken to bring the Bystroe Canal Project into compliance with the Convention, paragraphs 4–6 and 12 of decision VIII/4d and preceding decisions have yet to be fully implemented. In draft decision IX/4k,²⁴ the Committee recommended that the Meeting of the Parties, inter alia, endorse the Committee’s finding that the caution issued to the Government of Ukraine at its fourth session (Bucharest, 19–21 May 2008) still could not be lifted.

EIA/IC/CI/4

26. The Committee followed up to decision VIII/4e regarding the extension of the lifetime of reactors 1 and 2 of Rivne nuclear power plant by Ukraine.

27. It welcomed the steps taken by Ukraine to complete the transboundary environmental impact assessment procedure but noted that it had thus far not fully completed the procedure under the Convention.

28. It recommended that, in draft decision IX/4k,²⁵ the Meeting of the Parties, inter alia, request Ukraine to finalize the transboundary environmental impact assessment procedure with the Parties that still considered themselves to be affected.

III. Submissions by Parties

29. The Committee considered three submissions from Parties expressing concerns about the Convention’s application (two of them had been initiated in the previous intersessional period), and one concerning the Convention and the Protocol (see table 1 below).

Table 1
Submissions

<i>Committee reference</i>	<i>Party concerned</i>	<i>Submitted by</i>	<i>Issue</i>
EIA/IC/S/6	Serbia	Bulgaria	Mining-related activities by Serbia
EIA/IC/S/7	Albania	Montenegro	Planned construction of number of small hydropower plants by Albania on Cijevna River
EIA/IC/S/8- SEA/IC/S/1	Bosnia and Herzegovina	Montenegro	Construction of Buk Bijela hydropower plant on Drina River
EIA/IC/S/9	Poland	Belarus	Construction of barrier in “Bialowieza Forest” by Poland

A. Serbia

EIA/IC/S/6

30. On 30 May 2019, Bulgaria made a submission to the Committee expressing concerns about compliance by Serbia with its obligations under the Convention regarding several

²⁴ ECE/MP.EIA/2023/7.

²⁵ Ibid.

mining activities close to the border with Bulgaria. The activities concerned the construction of an experimental facility to test flotation technology for processing copper, lead and zinc ore in Karamanica, ore exploitation and mining at the Podvirovi and Popovica mines and the extension of production of metals at the Grot mine. Under this matter, the Committee also considered information provided on 10 February 2019 by the Bulgarian non-governmental organization (NGO) Balkanka Association, regarding the Karamanica experimental facility (EIA/IC/INFO/31).

31. The Committee invited both Parties to enter into bilateral discussions, with a view to identifying possible solutions. At a hearing during the Committee's fiftieth session (Geneva, 4–7 May 2021), Bulgaria and Serbia provided clarifications.²⁶

32. The Committee found that Serbia had complied with the Convention concerning the Karamanica pilot facility and the expansion of the exploitation of the Podvirovi and Popovica mining sites by notifying Bulgaria about the proposed activity at the Grot mine in 2009. However, the Committee found that Serbia had failed to comply with the Convention in 2019, by not notifying Bulgaria regarding the major change to the activity. The Committee also found that Bulgaria had failed to fulfil its obligations under the Convention by not responding to the notification of Serbia within the time frame specified therein.²⁷

33. On 14 August 2022, following the publication of the Committee's findings and recommendations, Balkanka Association informed the Committee that the Podvirovi mine was still operating and no domestic or transboundary environmental impact assessment had been conducted. It also expressed concerns about the planned construction of several small hydropower plants on the Dragovishtitsa River. Considering the new information, the Committee included an additional request to Serbia in the draft decision.

34. In draft decision IX/4j,²⁸ the Committee recommended that the Meeting of the Parties request: *inter alia*, that Bulgaria and Serbia ensure that the public of Bulgaria be given an opportunity to participate in the ongoing transboundary procedure regarding the Karamanica permanent flotation plant; and, that Serbia ensure that the Convention is fully applied in the context of any future decision-making regarding planned mining activities, and that the cumulative impact of new and pre-existing mining activities, as well as the cumulative impact of other activities affecting the conditions in the water system, are properly considered.

B. Albania

EIA/IC/S/7

35. On 11 September 2019, Montenegro made a submission to the Committee expressing concerns about compliance by Albania with its obligations under the Convention and the Protocol regarding the planned construction of several small hydropower plants on the Cijevna River. As the construction of small hydropower plants is not listed in appendix I to the Convention or in annex I to the Protocol, the Committee examined the application of article 2 (5) of the Convention.

36. Also in 2019, following a request by Montenegro, an advisory procedure was initiated under the Convention on the Protection and Use of Transboundary Watercourses and International Lakes (Water Convention).²⁹ After a delay in the procedure under the Espoo Convention due to resource constraints, the Committee requested an update from the Parties concerned on their bilateral discussions at its fifty-fourth session, before preparing its findings and recommendations.³⁰

37. In draft decision IX/4a–V/4a,³¹ the Committee recommended that the Meetings of the Parties endorse the Committee's findings to the effect that: Albania and Montenegro had

²⁶ ECE/MP.EIA/IC/2021/4, paras. 19–22.

²⁷ ECE/MP.EIA/IC/2022/8.

²⁸ ECE/MP.EIA/2023/7.

²⁹ ECE/MP.EIA/IC/2023/9, para. 33.

³⁰ *Ibid.*, para. 13.

³¹ ECE/MP.EIA/2023/4–ECE/MP.EIA/SEA/2023/4.

fulfilled their obligations under article 2 (5) of the Convention; Albania was not in non-compliance with article 2 (2) and (6) of the Convention; and the Protocol was not applicable.

C. Bosnia and Herzegovina

EIA/IC/S/8-SEA/IC/S/1

38. On 11 December 2020, Montenegro submitted information to the Committee expressing concerns about compliance by Bosnia and Herzegovina with its obligations under the Convention and the Protocol regarding the construction of the Buk Bijela hydropower plant on the Drina River. Prior to the submission, on 15 May 2020, the Committee had received information from four NGOs (Aarhus Centar and Centre for Environment (Bosnia and Herzegovina), Green Home and Environmental Movement Ozon (Montenegro)) on the same matter.

39. During a hearing at the Committee's fifty-second session, Bosnia and Herzegovina and Montenegro clarified some facts on their transboundary exchanges during the 2012/2013 environmental impact assessment procedure, and Bosnia and Herzegovina on its energy strategy. After the publication of the Committee's findings and recommendations³² and the submission of draft decision IX/4c-V/4c to the twelfth meeting of the Working Group (Geneva, 13–15 June 2023), Montenegro informed the Committee that Bosnia and Herzegovina had not set a time limit for Montenegro to respond during the 2012/2013 procedure.

40. Considering the new information, the Committee revised its findings and recommendations³³ and draft decision IX/4c-V/4c.³⁴ It recommended that the Meetings of the Parties endorse the Committee's findings that, by not notifying Montenegro regarding the activity early in the 2012/2013 procedure, Bosnia and Herzegovina had failed to fulfil its obligations under articles 2 (4) and 3 (1) of the Convention. By not conducting a new environmental impact assessment before issuing a new permit in 2019, Bosnia and Herzegovina had further failed to comply with its obligations under articles 2 (2)–(3) and 4 (1) of the Convention and was requested to conduct a transboundary environmental impact assessment procedure involving Montenegro and, as needed, other affected Parties.

D. Poland

EIA/IC/S/9

41. At its fifty-seventh session (Geneva, 29 August–1 September 2023), the Committee began its consideration of the submission by Belarus, dated 12 April 2023, expressing concerns about compliance by Poland with its obligations under the Convention regarding the construction of a barrier in "Bialowieza Forest" – a transboundary United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage Site – on the Polish-Belarusian border. According to the response by Poland to the submission, dated 17 July 2023, the construction of the State's border security wall did not fall under the Convention and, under article 2 (8) thereof, for national security reasons, national laws might be applied and take precedence over the Convention, allowing for the wall to be built. The Committee requested clarifications from Belarus and Poland for its next session (Geneva, 27 February–1 March 2024).

³² ECE/MP.EIA/IC/2023/5.

³³ ECE/MP.EIA/IC/2023/8, annex II.

³⁴ ECE/MP.EIA/2023/4–ECE/MP.EIA/SEA/2023/4.

IV. Committee initiatives

42. Further to operating rule 15, the Committee opened five Committee initiatives in accordance with paragraph 6 of its structure and functions,³⁵ based on a profound suspicion of non-compliance by a Party with its obligations under the Convention. It closed one Committee initiative concerning the obligations of a Party under the Convention, opened in 2020, and one under the Protocol, opened in 2019.

A. Convention matters

1. Belarus

EIA/IC/CI/11 and EIA/IC/INFO/21

43. On 18 July 2016, Belarus adopted Law No. 399-3 on State Ecological Expertise, Strategic Environmental Assessment and Environmental Impact Assessment (the Law). At its thirty-ninth session (Geneva, 5–7 September 2017), the Committee began its information gathering regarding said Law.³⁶ In examining the Law and the related subsidiary legislation, the Committee noted several deficiencies vis-à-vis the Convention. By letter dated 2 January 2019, it shared a non-exhaustive list of deficiencies with Belarus and requested clarification from Belarus about its plans to address said deficiencies.³⁷

44. Between 2017 and 2021, Belarus received European Union-funded legislative assistance, first under the Greening Economies in the European Union's Eastern Neighbourhood Programme, and later under the EU4Environment programme, and supported by the secretariat. Since 2017, the Committee had repeatedly asked Belarus about steps being taken to bring its legislation into compliance with the Convention.

45. The Committee conducted informal consultations with Belarus at its fifty-fourth session. It noted with regret that Belarus had not yet adopted the amended legislation and that it planned to do so only by December 2023. The Committee recalled the 10 years of legislative assistance provided to Belarus with European Union funding, and the recommendations of areas for improvements.³⁸

46. At its fifty-sixth session, the Committee opened, after six years of monitoring of the revision by Belarus of its legislation, a Committee initiative, based on a profound suspicion of non-compliance by Belarus with its obligations under the Convention. In its findings and recommendations³⁹ and draft decision IX/4f⁴⁰ the Committee recommended that the Meeting of the Parties welcome the improvement by Belarus of its national legislation through the adoption in July 2023 of the Law, but express regret that not all deficiencies of the previous legislation had been addressed.

Lifetime extensions of nuclear power plants by Belgium, Bulgaria and Czechia

EIA/IC/CI/9, EIA/IC/CI/8 and EIA/IC/CI/10

47. During the intersessional period, the Committee continued the consideration of lifetime extensions of nuclear power plants that it had put on hold during the preparations of the *Guidance on the Applicability of the Convention to the Lifetime Extension of Nuclear Power Plants* (the Guidance)⁴¹ that the Meeting of the Parties to the Convention adopted at

³⁵ Available at <https://unece.org/sites/default/files/2021-02/Implementation%20Committee%20structure%20functions%20procedures%20rules.e%202020.pdf>

³⁶ ECE/MP.EIA/IC/2017/4, para. 60.

³⁷ ECE/MP.EIA/IC/2018/6, para. 9.

³⁸ ECE/MP.EIA/IC/2022/7, paras. 41–42.

³⁹ ECE/MP.EIA/IC/2023/8, annex I.

⁴⁰ ECE/MP.EIA/2023/7.

⁴¹ United Nations publication, ECE/MP.EIA/31.

its eighth session through decision VIII/6 (ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2).

48. While several Parties of origin contested the Guidance’s applicability to proposed activities before its endorsement in 2020, the Committee stressed that the Guidance only interprets the Convention to support its practical application. It neither imposes new obligations on the Parties, nor expands the application of the Convention’s articles. As recommended by the Meeting of the Parties at its eighth session, the Committee considers the Guidance when performing its functions.⁴² It does so with a view to ensuring consistent interpretation of the Convention regarding new and pending lifetime extension cases. Therefore, the Committee also considers the Guidance in proceedings already under its review prior to the Guidance’s endorsement.

2. Belgium

EIA/IC/CI/9

49. On 14 March 2016, the Committee received information from the German Federal States of North Rhine-Westfalia and Rhineland-Palatinate expressing concerns about compliance by Belgium with its obligations under the Convention regarding the lifetime extensions of units 1 and 2 of Doel nuclear power plant and unit 1 of Tihange nuclear power plant.⁴³ The German Federal States alleged that Belgium had failed to comply with articles 1–7 of the Convention by not conducting an environmental impact assessment procedure prior to authorizing the extension of the lifetime of the nuclear power plant units.

50. Between 2016 and 2017, the Committee gathered information from Belgium, Germany, the two German Federal States, and from a German NGO. Following a request by Belgium in 2017 to await the outcome of the legal proceedings before the Court of Justice of the European Union⁴⁴ and the Constitutional Court of Belgium concerning Doel nuclear power plant, and due to the then-ongoing preparation of the Guidance, the Committee did not consider the matter further before its fiftieth session (Geneva, 4–7 May 2021).

51. Further to the decision of the Constitutional Court of Belgium of 5 March 2020, Belgium initiated a transboundary procedure under the Convention regarding units 1 and 2 of Doel nuclear power plant with all Parties who had expressed their interest. The Committee therefore closed the consideration of the matter regarding those two units. It also noted that Belgium had taken no steps to initiate a transboundary procedure regarding unit 1 of Tihange nuclear power plant.

52. At its fifty-second session, the Committee opened a Committee initiative regarding unit 1 of Tihange nuclear power plant,⁴⁵ and conducted hearings with the concerned Parties at its fifty-fourth session.⁴⁶

53. When examining the relevant provisions of the Convention in articles 2 (3) and 3 (1) and their application, the Committee considered the Guidance (see para. 48 above).

54. The Committee found that the implementation of several measures included in the 2012 long-term operation action plan amounted to a major change to an activity listed in appendix I to the Convention.⁴⁷ It found that the activity was a lifetime extension, falling under the specific situations in chapter II, section C, of the Guidance.⁴⁸ It also found that Belgium did not assess all significant adverse transboundary impacts of operational states and accidents of the continued operation beyond 2015.⁴⁹ The Committee found that Belgium

⁴² ECE/MP.EIA/30/Add.2–ECE/MP.EIA/SEA/13/Add.2, decision VIII/6, para. 5.

⁴³ See Letter from the German Federal States of North Rhine-Westfalia and Rhineland-Palatinate, dated 8 March 2016, received on 14 March 2016.

⁴⁴ *Inter-Environnement Wallonie ASBL and Bond Beter Leefmilieu Vlaanderen ASBL v. Council of Ministers*, Case No. C-411/17.

⁴⁵ ECE/MP.EIA/IC/2022/2, para. 41.

⁴⁶ ECE/MP.EIA/IC/2022/7, para. 34.

⁴⁷ ECE/MP.EIA/IC/2023/10, para. 59.

⁴⁸ *Ibid.*, paras. 41 and 60.

⁴⁹ *Ibid.*, para. 61.

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

55. The Committee welcomed the fact that Belgium had committed itself to notifying possibly affected Parties in accordance with article 3 (1) ahead of any future lifetime extension of other units of Tihange nuclear power plant. It recommended in draft decision IX/4g⁵⁰ that the Meeting of the Parties endorse the Committee's findings (see para. 54 above) and request Belgium to fully apply the Convention in the context of any future decision-making regarding Tihange nuclear power plant.

3. Bulgaria

EIA/IC/CI/8

56. On 13 March 2018, the Committee received information from the Romanian NGO Actiunea pentru Renasterea Craiovei claiming non-compliance by Bulgaria with its obligations under the Convention regarding the lifetime extension of units 5 and 6 of Kozloduy nuclear power plant by not having undertaken a transboundary environmental impact assessment procedure regarding the decision-making on the planned extension of the two units. Bulgaria, for its part, asserted that the Convention did not apply to the extension of the lifetime of nuclear power plants, as such an extension did not qualify as a "new activity" or as a "major change" within the meaning of article 1 (v) of the Convention and was not expressly listed in appendix I thereto.

57. Between 2018 and 2020, the Committee gathered information from Bulgaria, the affected Parties Austria, Romania and Serbia, and the NGO. The Committee's work was hindered by the uncooperativeness of Bulgaria with regard to providing it with the requested information and documentation.

58. At its fifty-second session, the Committee opened a Committee initiative and conducted hearings with Austria, Bulgaria, Romania and Serbia at its fifty-third session (Geneva (online), 10–13 May 2022).

59. The Committee found that Bulgaria was in non-compliance with articles 2 (3) and 3 (1) of the Convention by extending the lifetime of units 5 and 6 of Kozloduy nuclear power plant and preparing the units for long-term operation without applying the Convention. It welcomed the fact that Bulgaria had committed itself to notifying Austria, Romania and Serbia ahead of any future lifetime extension for units 5 and 6 of Kozloduy nuclear power plant in accordance with article 3 (1) of the Convention.⁵¹ It recommended in draft decision IX/4h⁵² that the Meeting of the Parties endorse the Committee's findings and request Bulgaria to fully apply the Convention in the context of any future decision-making for activities listed in appendix 1 thereto regarding Kozloduy nuclear power plant.

4. Czechia

EIA/IC/CI/10

60. On 27 July 2016, the Committee received information from four NGOs – Oekobuero and Global 2000 (Austria), Jihočeské matky and Calla (Czechia) – expressing concerns about compliance by Czechia with its obligations under the Convention regarding the lifetime extension of four units of Dukovany nuclear power plant.

61. Between 2016 and 2017, the Committee gathered information from Austria, Czechia, Germany, Poland and Slovakia and the NGOs. Due to the then-ongoing preparation of the Guidance, the Committee did not consider the matter further before its forty-ninth session (Geneva, 2–5 February 2021).

⁵⁰ ECE/MP.EIA/2023/7.

⁵¹ ECE/MP.EIA/IC/2023/6, para. 74.

⁵² ECE/MP.EIA/2023/7.

62. At its fifty-third session, the Committee opened a Committee initiative⁵³ and conducted hearings with Austria, Czechia and Germany at its fifty-fourth session.⁵⁴

63. When examining the relevant provisions of the Convention in articles 2 (3) and 3 (1) and their application, the Committee considered the Guidance (see para. 48 above).

64. The Committee welcomed the good cooperation with Czechia that had facilitated its work, providing it with the requested information in a timely manner and in good quality.

65. The Committee clarified that it might review compliance with the Convention even after the final decision on the activity in question had been taken, consistent with the Committee's objective and functions.⁵⁵

66. The Committee concluded that the Guidance was applicable to the lifetime extension of units 1–4 of Dukovany nuclear power plant, as the activity was related to a specific situation described in chapter II, section C, of the Guidance.⁵⁶ It also concluded that the licence renewal for units 1–4 and the investment project for the long-term operation of the four units constituted a “major change” to an activity listed in appendix I to the Convention.⁵⁷

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

68. It welcomed the fact that Czechia had committed to notifying Austria and Germany ahead of future lifetime extensions of nuclear power plants or significant changes in the licences of the operating units of the nuclear power plants in its territory. It recommended in draft decision IX/4i⁵⁸ that the Meeting of the Parties endorse the Committee's findings and request Czechia to fully apply the Convention regarding any lifetime extension activities of any Czech nuclear power plant.

5. France

EIA/IC/CI/12 and EIA/IC/INFO/32

69. On 9 March 2020, the Committee received information from the NGO Greenpeace France regarding the planned lifetime extension by France of 32 units of eight nuclear power plants.⁵⁹ Between 2020 and 2023, the Committee gathered information from France and the NGO. In view of the apparent plans by France to continue operating the 32 units beyond the fourth periodic safety review without a prior transboundary procedure in accordance with the Convention, the Committee issued on 18 February 2022 a guidance letter to France to ensure compliance with the Convention.⁶⁰

70. Following the conclusion of the fourth periodic review of the 900 MWe reactors, the Nuclear Safety Authority of France issued decisions regarding Tricastin nuclear power plant on 23 February 2021, 29 June and 7 July 2023, prescribing the conditions for the continued operation and authorizing the modifications. Despite the Committee's guidance to France of February 2022 regarding possible transboundary impacts of lifetime extensions and the request of Italy of 14 January 2021 to France to be involved in a transboundary procedure, France argued that there was no transboundary impact.

71. At its fifty-seventh session, the Committee found that there was a profound suspicion of non-compliance by France with its obligations under articles 2 (2)–(3) and 3 (1) and (7) of the Convention regarding the lifetime extension of unit 1 of Tricastin nuclear power plant,

⁵³ ECE/MP.EIA/IC/2022/4, para. 25.

⁵⁴ ECE/MP.EIA/IC/2022/7, para. 38.

⁵⁵ ECE/MP.EIA/IC/2023/11, para. 39.

⁵⁶ *Ibid.*, para. 49.

⁵⁷ *Ibid.*, paras. 50–59.

⁵⁸ ECE/MP.EIA/2023/7.

⁵⁹ For more information about the units see ECE/MP.EIA/2020/4–ECE/MP.EIA/SEA/2020/4, table 4.

⁶⁰ ECE/MP.EIA/IC/2022/2, paras. 45–46.

and opened a Committee initiative. It invited France to a hearing at its fifty-ninth session (Geneva, 18–21 June 2024).⁶¹

6. Ukraine

EIA/IC/CI/7

72. The Committee continued the consideration of its initiative on compliance by Ukraine with its obligations under the Convention regarding the construction of a large tourism complex in the Svydovets mountains (Ukraine), opened at the Committee's forty-eighth session (Geneva, 1–4 September 2020). It recalled that Ukraine had informed its own public about the planned activity close to the border with Hungary and Romania in March 2018. Despite requests from Hungary and Romania, Ukraine had not notified them in accordance with articles 2 (4) and 3 (1) of the Convention. It also noted that Ukraine had not responded to the reiterated request from Romania to exchange sufficient information and to enter into discussions under article 3 (7) of the Convention.

73. The Committee held a hearing with Hungary, Romania and Ukraine at its fifty-first session (Geneva, 4–7 October 2021), noting the clarification of Ukraine that the activity constituted a mere project, with no activity going on at the current time.

74. The Committee resumed its considerations at its fifty-sixth session and held informal consultations with Ukraine (see para. 21 above). Ukraine confirmed that, currently, the activity still constituted a project and that no permits for any preparatory or construction works had been issued.

75. The Committee agreed at its fifty-seventh session (Geneva, 29 August–1 September 2023) that, without evidence that the activity was expected to be implemented, there were no grounds for it to continue its consideration of the matter and closed the case. It reminded Ukraine that if the proposed activity was to be implemented in the future, Ukraine should assess whether it fell under the Convention, and recalled previous opinions of the Committee regarding such assessment.⁶²

B. Protocol matters

Serbia

EIA/IC/CI/6

76. Further to the Committee's information gathering (SEA/IC/INFO/1) started at its thirty-second session (Geneva, 9–11 December 2014),⁶³ following information provided by the NGO Bankwatch Romania, the Committee opened, at its forty-sixth session (Geneva, 10–13 December 2019), a Committee initiative based on the profound suspicion of non-compliance by Serbia with its obligations under article 10 (1) and (2) of the Protocol regarding the Energy Sector Development Strategy of the Republic of Serbia for the Period up to 2025 with Projections up to 2030 and the Strategy's Implementation Programme for the Period 2017–2023.⁶⁴

77. In the intersessional period, the Committee requested further information from Serbia and the affected Parties Croatia, Hungary and Romania, following a hearing with Serbia in November 2020.

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

⁶¹ ECE/MP.EIA/IC/2023/8, paras. 49–69.

⁶² *Ibid.*, paras. 27–29.

⁶³ ECE/MP.EIA/IC/2014/5, para. 10.

⁶⁴ ECE/MP.EIA/IC/2019/6, para. 97.

Serbia was in non-compliance with its obligations under the Protocol concerning the Energy Sector Development Strategy, for not having notified Croatia, Hungary and Romania, and regarding the Strategy's Implementation Programme for the Period 2017–2023, concerning transboundary consultations with Hungary and detailed arrangements thereof, and on taking into account the results of the transboundary consultations in decision-making and informing the affected Parties accordingly.⁶⁵

79. It recommended in draft decision V/4d⁶⁶ that the Meeting of the Parties endorse the Committee's findings.

V. Information from other sources (information gathering cases)

80. The Committee also considered information received from sources other than Parties further to operating rule 15 (1). These included in total 20 matters: 18 on the application of the Convention and 2 on the application of the Protocol (see table 2 below).

Table 2

Information from other sources

<i>Committee reference</i>	<i>Party concerned</i>	<i>Status</i>	<i>Issue</i>
Convention matters			
EIA/IC/INFO/10	Ukraine	Ongoing since Nov. 2012	Planned construction of nuclear reactors 3 and 4 at Khmelnytsky NPP
EIA/IC/INFO/13	Ukraine	Ongoing since June 2014/reopened Sept. 2020	Planned construction and operation at Muzhiyevo gold mine
EIA/IC/INFO/15	Netherlands	Started Sept. 2014/closed Aug. 2023	Lifetime extension of Borssele NPP
EIA/IC/INFO/16	Bosnia and Herzegovina	Closed Feb. 2021	Construction of Ugljevik TPP
EIA/IC/INFO/18	Belgium	Started Sept. 2016/closed Oct. 2022/led to EIA/IC/CI/9 ^a	Lifetime extension of Doel and Tihange NPPs
EIA/IC/INFO/19	Czechia	Started Mar. 2016/closed Mar. 2022/led to EIA/IC/CI/10 ^a	Lifetime extension of Dukovany NPP
EIA/IC/INFO/20	Ukraine	Ongoing since Sept. 2016	Lifetime extension of 12 units at Rivne, South Ukrainian, Zaporizhia and Khmelnytsky NPPs
EIA/IC/INFO/21	Belarus	Started Sept. 2017/closed May 2023/led to EIA/IC/CI/11 ^a	Compliance with Convention of Law and regulations of Belarus on environmental impact assessment, strategic

⁶⁵ ECE/MP.EIA/IC/2022/5.

⁶⁶ ECE/MP.EIA/SEA/2023/7.

<i>Committee reference</i>	<i>Party concerned</i>	<i>Status</i>	<i>Issue</i>
			environmental assessment and State ecological expertise
EIA/IC/INFO/23	Bosnia and Herzegovina	Closed May 2021	Construction of Banovići TPP
EIA/IC/INFO/24	Bosnia and Herzegovina	Closed Oct. 2021	Construction of Tuzla TPP
EIA/IC/INFO/25	Switzerland	Closed May 2021	Construction of runways at and change in operating rules of Zurich Airport
EIA/IC/INFO/28	Bulgaria	Started Mar. 2019/closed Mar. 2022/led to EIA/IC/CI/8 ^a	Lifetime extension of Kozloduy NPP
EIA/IC/INFO/30	Denmark	Closed Feb. 2021	Nord Stream 2: preconditions for inquiry commission
EIA/IC/INFO/32	France	Started Mar. 2020/closed Sept. 2023/led to EIA/IC/CI/12 ^a	Lifetime extension of 32 units of 8 NPPs
EIA/IC/INFO/34	Spain	Closed Oct. 2022	Lifetime extension of Almaraz NPP
EIA/IC/INFO/35	Germany	Ongoing since Aug. 2023	Liquefied natural gas project
EIA/IC/INFO/36	North Macedonia	Ongoing since Aug. 2023	Development of gold-copper mine
EIA/IC/INFO/37	Bulgaria	Ongoing since Aug. 2023	Mining activities in Bulgaria
Protocol matters			
SEA/IC/INFO/4	Poland	Closed May 2022	Energy Policy of Poland until 2040
SEA/IC/INFO/5	Germany	Closed Oct. 2022	Siting of high-level radioactive waste storage facility

^a Information gathering cases that led to a Committee initiative are summarized in section IV above.

Abbreviations: NPP, nuclear power plant; TPP, thermal power plant.

A. Convention matters

1. Bosnia and Herzegovina

EIA/IC/INFO/16

81. On 18 September 2014, the Committee received information from the Centre for Environment (Bosnia and Herzegovina) concerning the planned construction of a third block for the thermal power plant in Ugljevik (Bosnia and Herzegovina), close to the border with Serbia. The Committee held informal consultations with Bosnia and Herzegovina and Serbia on 29 October 2020. At its fiftieth session, the Committee noted that Serbia, on 27 January

2020, had confirmed its willingness to participate in the transboundary procedure, in response to the preliminary notification regarding the activity by Bosnia and Herzegovina, dated 11 October 2019. The Committee also noted that, in its information of 25 January 2021, Bosnia and Herzegovina had confirmed that it would duly notify neighbouring States when initiating a new administrative procedure to approve the environmental impact study.⁶⁷

82. The Committee concluded that there was no need for it to pursue further its information gathering and expressed recommendations to Bosnia and Herzegovina.⁶⁸

ECE/IC/INFO/23 and ECE/IC/INFO/24

83. On 14 April 2017, the Committee received information from “Ekotim” - Society for protection and advancement of environment, nature and health (Bosnia and Herzegovina) regarding the planned construction of two coal power plants close to the borders with Croatia and Serbia, in, respectively, Banovići and Tuzla. The Committee held informal consultations with all three countries on 29 October 2020.

84. At its fiftieth session, the Committee noted that the environmental permit for the construction of Banovići power plant had expired, and that Bosnia and Herzegovina had assured the Committee that it would initiate a new procedure in compliance with the Convention and consultations with Croatia and Serbia, should the developer submit a new application. The Committee closed ECE/IC/INFO/23 in May 2021.⁶⁹

85. Regarding Tuzla power plant, at its fifty-first session, the Committee noted that, following the expiry of the old environmental permit for the activity on 18 July 2021, Bosnia and Herzegovina had initiated a new permitting procedure. On 22 July 2021, it had notified Croatia, Serbia and Montenegro. The Committee concluded that there was no need for it to pursue further its information gathering, closed ECE/IC/INFO/24, and expressed recommendations to Bosnia and Herzegovina.⁷⁰

2. Bulgaria

EIA/IC/INFO/37

86. The Committee began its consideration of information received on 14 August 2023 from the Bulgarian NGO “Balkanka Association” concerning several planned mining activities in Bulgaria, close to the border with Greece. According to the NGO, the “Ada Tepe” and “Tintyava” gold mines threatened to poison the transboundary Byala Reka River and Arda River basins.⁷¹ The Committee requested information from Bulgaria about the planned activity and the application by Bulgaria of the Convention, for consideration at its fifty-eighth session (Geneva, 27 February–1 March 2024).

3. Denmark

EIA/IC/INFO/30

87. Further to the request by Ukraine of 22 January 2019 to establish an inquiry commission concerning the construction of a natural gas pipeline from the Russian Federation to Germany (Nord Stream 2 project), the Committee clarified preconditions for establishing an inquiry commission under article 3 (7) of and appendix IV to the Convention and gathered information from Denmark, Finland, Germany and Sweden as Parties of origin. The Committee noted that all the Parties of origin, except Denmark, had completed a transboundary environmental impact assessment in 2018.

88. Upon request by the Committee, Denmark provided sufficient information to Ukraine to hold discussions under article 3 (7), as a precondition before establishing an inquiry commission. Further to the information provided by Denmark, Ukraine concluded that a

⁶⁷ ECE/MP.EIA/IC/2021/4, para. 37.

⁶⁸ ECE/MP.EIA/IC/2021/4, para. 38.

⁶⁹ Ibid., paras. 40–42.

⁷⁰ ECE/MP.EIA/IC/2021/6, paras. 50–51.

⁷¹ ECE/MP.EIA/IC/2023/8, para. 76.

significant adverse transboundary impact from a Danish subsection of the Nord Stream 2 project was not likely. The Committee agreed that Denmark and Ukraine had concluded their discussions under article 3 (7) of the Convention to the satisfaction of both Parties and closed the case.⁷²

4. Germany

EIA/IC/INFO/35

89. At its fifty-seventh session, the Committee considered information submitted by the German NGO Deutsche Umwelthilfe on 29 June and 17 July 2023, Coalition Clean Baltic and Greenpeace Poland, on 5 and 21 July 2023, respectively, expressing concerns about compliance by Germany with its obligations under the Convention regarding a liquified natural gas project in the Bay of Western Pomerania (Baltic Sea). The Committee requested information from Germany about the planned activity and the application by Germany of the Convention, for consideration at its fifty-eighth session.⁷³

5. Netherlands

EIA/IC/INFO/15

90. The Committee examined information provided by the NGO Greenpeace Netherlands concerning the lifetime extension of Borssele nuclear power plant in the Netherlands and additional information from the Netherlands, Belgium and Germany, in the light of the Guidance. It considered that the activity was related to situations described in the Guidance.⁷⁴ At its fifty-seventh session, the Committee agreed that the renewal of the operating authorization of the nuclear power plant was a lifetime extension and that the modifications that were prerequisites for the lifetime extension were subject to environmental impact assessments. Regarding notification, based on facts in the case in question, there was no profound suspicion of non-compliance. The Committee closed the case and welcomed the recent application by the Netherlands of the Convention in the process for the extension of the operating life of Borssele nuclear power plant beyond 2033.⁷⁵

6. North Macedonia

EIA/IC/INFO/36

91. At its fifty-seventh session, the Committee began its consideration of information submitted by the Bulgarian NGO Balkanka Association on 19 July 2023, expressing concerns about compliance by North Macedonia with its obligations under the Convention regarding the development of a gold-copper mine close to the border with Bulgaria. The Committee requested information from North Macedonia about the planned activity and the application by North Macedonia of the Convention, for consideration at its fifty-eighth session.⁷⁶

7. Spain

EIA/IC/INFO/34

92. The Committee examined information it had gathered further to information received on 30 July 2020 from the Portuguese political party Pessoas–Animais–Naturaleza expressing concerns about the application of the Convention by Spain to the planned lifetime extensions of two units of Almaraz nuclear power plant. Having reviewed the information in the light of the Guidance, the Committee considered that the activity was related to a specific situation described in the Guidance, notably that the renewal of the operating authorization was a lifetime extension within the scope of the Guidance. However, the Committee did not

⁷² ECE/MP.EIA/IC/2021/2, paras. 54–55.

⁷³ ECE/MP.EIA/IC/2023/8, paras. 70–72.

⁷⁴ Situations 1 and 2, respectively, paras. 25 and 27.

⁷⁵ ECE/MP.EIA/IC/2023/8, paras. 40–48.

⁷⁶ ECE/MP.EIA/IC/2023/8, paras. 73–75.

consider that the lifetime extension constituted a major change, considering the extent of physical works, the duration of the extension, and the decision of Spain to phase out nuclear energy. The Committee concluded that the information made available to it did not give rise to a profound suspicion of non-compliance by Spain with its obligations under the Convention and closed the case.⁷⁷

8. Switzerland

ECE/IC/INFO/25

93. At its fiftieth session, the Committee noted information from Switzerland to the effect that the environmental impact of the high-speed taxiways from two runways at Zurich Airport and the changes in the 2014 operating regulations had been assessed cumulatively under the 2013–2014 environmental impact assessment procedure and it had been shown that a significant adverse impact on the territory of Germany was not likely. Considering that Germany had not demonstrated its willingness to use the mechanism under article 3 (7) and that the Parties communicated bilaterally about the implementation of the proposed activities, the Committee agreed that there was no ground for it to continue its consideration of the matter. It encouraged Switzerland to apply article 2 (7) to any future decision-making regarding Zurich Airport, or to similar strategic developments, and closed the matter.⁷⁸

9. Ukraine

EIA/IC/INFO/10

94. The Committee reviewed information provided by the Belarusian NGO Ecohome concerning the planned construction of two units of Khmelnytsky nuclear power plant in Ukraine, close to the borders with Belarus, the Republic of Moldova and Romania. During the informal consultations with Ukraine at the Committee's fifty-sixth session, Ukraine explained that it was uncertain whether the decision would be taken during the validity period of the environmental impact assessment conclusion until 2026. The Committee advised Ukraine to inform the concerned Parties accordingly and,⁷⁹ in the absence of new information from Ukraine at its fifty-seventh session, reiterated its advice.

EIA/IC/INFO/13

95. The information gathering dates back to 2014, when the Committee received information from a Hungarian political party concerning the planned reopening of a gold mine using cyanide technology in Muzhiyevo, Ukraine, close to the border with Hungary. Following informal consultations with Hungary and Ukraine at the Committee's fifty-first session⁸⁰ and the provision of the environmental impact assessment documentation to Hungary, the Committee noted at its fifty-sixth session, that the questions of Hungary to Ukraine dated 9 December 2021 remained unanswered.⁸¹ Ukraine clarified that no mineral extraction activities had been carried out at the site, but measures for the disposal of ore dumps accumulated from past mining activities were still ongoing. Due to the insufficient response from Ukraine, the Committee lacked evidence that Ukraine had entered into discussions with Hungary in accordance with article 2 (5). Furthermore, the Committee could not exclude the possibility 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). The Committee agreed to consider opening a Committee initiative at its fifty-ninth session.

EIA/IC/INFO/20

96. The Committee reviewed information provided by the NGO Central and Eastern Europe Bankwatch Network concerning the planned lifetime extension of 12 power units

⁷⁷ ECE/MP.EIA/IC/2022/7, paras. 47–51.

⁷⁸ ECE/MP.EIA/IC/2021/4, paras. 45–49.

⁷⁹ ECE/MP.EIA/IC/2023/4, paras. 82–85.

⁸⁰ ECE/MP.EIA/IC/2021/6, paras. 53–55.

⁸¹ ECE/MP.EIA/IC/2023/4, para. 91.

located at Rivne, South-Ukrainian, Zaporizhzhya and Khmelnytsky nuclear power plants in Ukraine. Considering the information provided by the affected Parties in response to the Committee's inquiry dated 19 May 2023 on the state of the transboundary procedure, the Committee concluded that most affected Parties were still expecting the final decision from Ukraine. The Committee, following the lack of response from Ukraine, repeated its information request to Ukraine and agreed to continue its deliberations at its next session.

B. Protocol matters

1. Germany

SEA/IC/INFO/5

97. On 13 April 2022, the Committee received information from the German NGO Nationales Begleitgremium concerning the site selection process for a high-level radioactive waste disposal facility initiated by Germany, with a view to its completion by 2031. As requested by the Committee, Germany informed it about the main stages of planning and the decision-making process regarding the site selection, and about its intention to apply the Protocol, in particular article 8 on public participation. At its fifty-fourth session, the Committee found that the information provided by Germany provided a sufficiently clear picture to conclude that there was no profound suspicion of non-compliance regarding articles 8 and 10 of the Protocol and closed the matter.⁸²

2. Poland

SEA/IC/INFO/4

98. The Committee examined information received from a German parliamentarian dated 11 February 2020, expressing concerns about the application of article 10 of the Protocol by Poland regarding the draft Energy Policy of Poland until 2040. The Committee noted that a strategic environmental assessment was ongoing in accordance with article 4 (2) of the Protocol. The Policy included a section on nuclear activities, built on the Nuclear Power Programme of Poland, adopted in 2014, upon completion of a strategic environmental assessment, including in a transboundary context.

99. Based on the environmental report concerning the Policy, Poland had concluded that a significant transboundary environmental effect of implementing the Policy was not likely and that, subsequently, Poland had not notified the neighbouring countries under article 10.

100. Further to the Committee's invitation to Germany, of 28 October 2020, to take the necessary steps under article 10 of the Protocol if it considered itself potentially affected, Germany requested that it be notified by Poland on 17 March 2021. Poland, however, in the absence of a communication from Germany, adopted the Policy on 2 February 2021.

101. The Committee found that Germany had had ample opportunity to request a notification. It concluded that there was no need for it to continue consideration of the matter and closed it, recommending, inter alia, that Germany and Poland use the existing cooperation platforms for information exchange on matters potentially falling under the scope of the Convention and the Protocol.⁸³

VI. Examination of the outcomes of the reviews of implementation

102. As requested in decisions VIII/5 (para. 4) of the Meeting of the Parties to the Convention and IV/5 (para. 4) of the Meeting of the Parties to the Protocol, the Committee took into account in its work information on general and specific compliance issues identified

⁸² ECE/MP.EIA/IC/2022/7, paras. 52–54.

⁸³ ECE/MP.EIA/IC/2022/4, paras. 36–44.

in the sixth review of implementation of the Convention⁸⁴ and the third review of implementation of the Protocol.⁸⁵

A. General compliance issues

103. The Committee noted some general weaknesses or shortcomings in the Convention's and Protocol's implementation identified in the reviews of implementation. It observed that some of those issues had already been recognized in previous reviews.

B. Specific compliance issues

104. The Committee examined specific compliance issues arising from the review of implementation of the Convention regarding thirteen Parties, and specific compliance issues concerning the Protocol regarding two Parties, as well as continuing to examine specific compliance issues concerning the Protocol regarding the European Union and Serbia addressed in previous reviews of implementation (see table 3 below).

105. The Committee was satisfied with the answers provided by Armenia, Azerbaijan, Belgium, Bosnia and Herzegovina, Croatia, Denmark, Finland, Kazakhstan, Latvia, the Republic of Moldova, Spain, Switzerland and the United Kingdom of Great Britain and Northern Ireland, and closed the cases. It regretted, however, that Kyrgyzstan, North Macedonia and Serbia had failed to respond to the Committee's reiterated requests since May 2022 and that it needed to continue the consideration of those matters in the next intersessional period.

Table 3
Specific compliance issues

<i>Party concerned</i>	<i>Committee reference</i>	<i>Status</i>	<i>Issue</i>
Convention matters			
Azerbaijan	EIA/IC/SCI/6/1	Closed	Implementation of art. 7
Belgium	EIA/IC/SCI/6/2	Closed	
Bosnia and Herzegovina	EIA/IC/SCI/6/3	Closed	
Croatia	EIA/IC/SCI/6/4	Closed	
Finland	EIA/IC/SCI/6/6	Closed	
Kazakhstan	EIA/IC/SCI/6/7	Closed	
Latvia	EIA/IC/SCI/6/9	Closed	
Switzerland	EIA/IC/SCI/6/12	Closed	
United Kingdom	EIA/IC/SCI/6/13	Closed	
Kazakhstan	EIA/IC/SCI/6/7	Closed	Definition of "major change"
Kyrgyzstan	EIA/IC/SCI/6/8	Ongoing	
Rep. of Moldova	EIA/IC/SCI/6/10	Closed	

⁸⁴ United Nations publication, ECE/MP.EIA/32.

⁸⁵ United Nations publication, ECE/MP.EIA/SEA/14.

<i>Party concerned</i>	<i>Committee reference</i>	<i>Status</i>	<i>Issue</i>
Kazakhstan	EIA/IC/SCI/6/7	Closed	Notification in accordance with art. 3 (1)
United Kingdom	EIA/IC/SCI/6/13	Closed	
Spain	EIA/IC/SCI/6/11	Closed	Definition of “impact”
Denmark	EIA/IC/SCI/6/5	Closed	Extension of time frame of 14 days to respond to notification
Switzerland	EIA/IC/SCI/6/12	Closed	Role of governmental authorities in ensuring content of environmental impact assessment documentation in accordance with art. 4 (1)
Protocol matters			
Serbia	SEA/IC/SCI/2/2	Ongoing	Lack of environmental report quality control system (art. 7 (3)), dating back to second review of implementation
Armenia	SEA/IC/SCI/3/1	Closed	
Bosnia and Herzegovina	SEA/IC/SCI/3/2	Closed	Definitions of “minor modifications” and “other plans and programmes”
North Macedonia	SEA/IC/SCI/3/3	Ongoing	Implementation of art. 11 (1) c
European Union	SEA/IC/SCI/1/4	On hold until reporting templates have been duly noted by Meetings of the Parties	

VII. Revised questionnaires and reviews of implementation

A. Modification of the questionnaires

106. The Committee agreed on modifications to the questionnaires for the seventh review of the implementation of the Convention and the fourth review of the implementation of the Protocol, considering the suggestions for improving the questionnaires.⁸⁶ With reference to the 2021–2023 workplan (decision VIII/2–IV/2, annex I, item II.B)⁸⁷ and the long-term strategy (ECE/MP.EIA/2020/3–ECE/MP.EIA/SEA/2020/3, item II.A.9), the Committee suggested ways of maximizing the questionnaires’ usefulness as a source of information for: better monitoring progress achieved and remaining challenges; collecting and disseminating

⁸⁶ Decisions VIII/5, para. 5, and IV/5, para. 5.

⁸⁷ Available at https://unece.org/sites/default/files/2021-02/Decision_VIII-2_IV-2_Adoption_of_the_workplan.pdf.

good practice; and, informing the Committee on potential non-compliance. In December 2021, the Working Group approved the revised questionnaires.⁸⁸

107. The secretariat sent both questionnaires to the Parties in January 2022, for completion by 30 April 2022.⁸⁹ The Committee noted the findings of the draft seventh review of implementation of the Convention (ECE/MP.EIA/WG.2/2022/3) and the draft fourth review of implementation of the Protocol (ECE/MP.EIA/WG.2/2022/4) prepared by the secretariat with consultants' assistance, and the suggestions for improvement of the questionnaires for the next reporting round.

B. Reporting templates for the European Union

108. As mandated by decisions VIII/5 and IV/5 of the Meetings of the Parties to, respectively, the Convention and the Protocol, the Committee prepared, in consultation with the European Commission, templates for the reports of the European Union on the implementation of the Convention and the Protocol⁹⁰ for the reporting period 2022–2024 onwards, with a view to facilitating the reporting of the European Union under article 14 bis of the Convention and articles 13 (4) and 14 (7) of the Protocol. Since 2003, the European Union has not completed the questionnaires sent to Parties for fulfilling their reporting obligations, submitting instead informal notes containing information it chose to provide.

109. To enhance the comparability and usefulness of the information on how Parties implement the treaties, the Committee kept the reporting templates for the European Union as close as possible to the questionnaires for States parties. The Committee noted that separate reporting templates for the European Union were an exception. As the experience from other treaties showed, the circumstances of the European Union as a regional economic integration organization could most often be explained in the answers, rather than by setting different questions. It was solely with a view to facilitating compliance by the European Union with its reporting obligations that the reporting templates were separate from the questionnaires for States parties.

VIII. Structure and functions and operating rules

110. In accordance with decisions VIII/4 and IV/4 of the Meetings of the Parties to, respectively, the Convention and the Protocol, and the workplan for 2021–2023, the Committee prepared proposals to amend its structure and functions and operating rules.⁹¹ It reviewed its *modus operandi* and identified several issues that needed clarification and/or adjustment to allow it to continue to effectively fulfil its mandate and to further improve its working methods, considering the extent of its current workload. It submitted its amendment proposals to the Working Group at its twelfth session for information and possible comments.

111. The Committee identified eight key topics for clarification and/or adjustment. It emphasized the importance for the Parties to understand their obligations when nominating representatives to serve on the Committee, including to ensure that appropriate time and resources are allocated to allow Committee members to accomplish their tasks. A new footnote was suggested to improve the understanding of said obligations.

112. The Committee identified a contradiction between the general rule on decision-making in operating rule 18 and in paragraph 9 of the structure and functions, and suggested harmonizing the rules for decision-making.

113. The current provisions concerning the entitlement of Parties or the public to participate in the Committee's sessions do not cover all situations where this would be necessary. The Committee suggested using the same rules governing the participation of Parties or the public for all its deliberations, such as information gathering or Committee

⁸⁸ ECE/MP.EIA/WG.2/2021/2, para. 13.

⁸⁹ *Ibid.*, para. 15.

⁹⁰ ECE/MP.EIA/2023/10–ECE/MP.EIA/SEA/2023/6.

⁹¹ ECE/MP.EIA/2023/5–ECE/MP.EIA/SEA/2023/5.

initiatives. Similarly, the Committee suggested reflecting its practice to organize “hearings”, not only for submissions, but for all its proceedings.

114. Concerning the rules on conflict of interest and the Committee’s quorum, in the Committee’s experience, these were no longer adapted for the consideration of the hugely increased compliance matters relating to nuclear matters, including lifetime extensions of nuclear power plants, which often involved numerous concerned Parties. Consequently, a majority of Committee members would find that they had a direct or indirect conflict of interest preventing the Committee from reaching the quorum of five members. Referring the matter to the Meeting of the Parties was not practicable, as its sessions were convened only every three years.

115. Consequently, the Committee decided at its fifty-first session to exceptionally, and provisionally, abstain from applying operating rule 5.⁹² It suggested a set of proposals to address this issue. First, to merge paragraph 10 of the structure and functions with operating rule 5, leaving the main provision only in paragraph 10 of the structure and functions with the wording of the former operating rule 5.

116. The Committee emphasized that the new paragraph 10 of the structure and functions should be interpreted in such a manner as to disqualify the participation of members appointed by the Party of origin and by a Party that has been actively engaged in the information gathering phase. On the other hand, treating all potentially affected Parties in an identical way as the Party of origin or as a Party that has made a submission seemed not to be reasonable. The potentially affected Parties often represented a wide range of interests, from those that do not wish to participate in a transboundary procedure of a proposed activity to those that want to be consulted by the Party of origin and those that oppose the project but have not referred the matter to the Committee. In such a situation, the individual Committee member may abstain from participating, depending on his or her previous involvement in any procedures regarding the particular project.

117. Furthermore, as a proposed new provision, Parties should have the opportunity to express their objections regarding Committee members’ participation at an early stage.

118. Another tool for enhancing the stability and capacity of the Committee to act is to strengthen the role of Committee members elected for Protocol matters only. The Committee proposed allowing members who represent Parties to the Convention and the Protocol, but who were elected for Protocol matters only, to participate in the considerations and decision-making, provided that there was no objection by a member elected for Convention matters and vice versa.

119. Lastly, the Committee proposed lowering the quorum for decision-making to four members to avoid a situation when the matter in question would have to be referred to the Meetings of the Parties. Given that the Meetings of the Parties have no means to effectively carry out review of compliance procedures and that their sessions are convened only every three years, the existing provision does not provide an adequate solution.

120. The Committee noted that its operating rules did not cover ad hoc sessions or provide for the publication of informal documents, including reports of ad hoc sessions. It suggested enabling the publication of such documents in certain circumstances. It also considered that correspondence from Parties to the Committee regarding compliance matters should be made available to all Parties concerned, whenever necessary.

121. Due to the increasing number and complexity of issues brought before the Committee, it considered possibilities to improve the effectiveness of its work by providing regular online meetings and generally for an extended use of electronic means of communication. This proposal reflects its practice in particular since the outbreak of the pandemic.

122. The operating rules lack clarity on the procedure to be followed when new relevant information on a compliance matter becomes available before the Meetings of the Parties endorse the draft decision. The Committee proposed an amendment to clarify the procedure.

⁹² ECE/MP.EIA/IC/2021/6, paras. 56–58.

123. The Committee stressed that respect for deadlines by the concerned Parties was crucial when providing information, responding to the Committee's inquiries and delivering progress reports. Late submission of information or submission of insufficient quality by the Parties concerned significantly hindered the Committee's work. It proposed stating explicitly that, if a Party does not provide information, the Committee is free to disregard any late information.
