

Decision IS/1

General issues of compliance with the Convention

The Meeting of the Parties to the Convention,

Recalling article 11, paragraph 2, and article 14 bis of the Convention on Environmental Impact Assessment in a Transboundary Context and decisions III/2, IV/2, V/4 and VI/2 of the Meeting of the Parties to the Convention on the review of compliance,

Determined to promote and improve compliance with the Convention,

Seeking to promote the identification, as early as possible, of compliance difficulties encountered by Parties and the adoption of the most appropriate and effective solutions for resolving those difficulties,

Having considered the analysis made by the Implementation Committee on general compliance issues contained in the fourth and fifth reviews of implementation of the Convention contained in documents ECE/MP.EIA/2014/3, adopted by decision VI/1, and ECE/MP.EIA/2017/9, adopted by decision VII/1,

Having also considered the findings and recommendations of the Implementation Committee on a Committee initiative concerning the United Kingdom of Great Britain and Northern Ireland, as set out in the report of the Committee on its thirty-fifth session¹ and in document ECE/MP.EIA/2019/14,

Having further considered the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its seventh session² and the reports of the Committee on its ad hoc,³ thirty-ninth,⁴ fortieth,⁵ forty-first⁶ and forty-second sessions,⁷

Recalling its decision at its seventh session (Minsk, 13–16 June 2017) to finalize its deliberations on the review of compliance with the Convention at an intermediary session, based on a revised draft decision to be prepared by the Implementation Committee and taking into account the work carried out and progress achieved before and during the seventh session,⁸

Having reviewed the structure and functions of the Committee, as described in the appendix to decision III/2⁹ and annex I to decision VI/2,¹⁰

Having also reviewed the operating rules adopted in decision IV/2,¹¹ as amended by decisions V/4,¹² annex, and VI/2,¹³ annex II, and recognizing the importance of improving the efficiency of the working methods of the Committee in view of the growing number and complexity of compliance issues brought before the Committee,

Having further reviewed the opinions of the Committee,

¹ ECE/MP.EIA/IC/2016/2, annex.

² ECE/MP.EIA/2017/4-ECE/MP.EIA/SEA/2017/4.

³ Informal document ECE/MP.EIA/IC/ad-hoc/2017/INF.6, available from <https://www.unece.org/index.php?id=48313>.

⁴ ECE/MP.EIA/IC/2017/4.

⁵ ECE/MP.EIA/IC/2017/6.

⁶ ECE/MP.EIA/IC/2018/2.

⁷ ECE/MP.EIA/2018/4.

⁸ See ECE/MP.EIA/23-ECE/MP.EIA/SEA/7, para. 27. See also draft decision VII/2 (ECE/MP.EIA/2017/8).

⁹ ECE/MP.EIA/6, annex II.

¹⁰ See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1.

¹¹ ECE/MP.EIA/10, annex IV.

¹² See ECE/MP.EIA/15.

¹³ See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1.

Recognizing the importance of rigorous reporting by Parties on their compliance with the Convention, and noting the fifth review of implementation of the Convention based on the answers of Parties to the questionnaires on the implementation of the Convention adopted in decision VII/1,

Recalling that the compliance procedure is assistance-oriented, and that Parties may make submissions to the Committee on issues regarding their own compliance with the Convention,

Recalling also its related decisions IS/1a, IS/1b, IS/1c, IS/1d, IS/1e, IS/1f, IS/1g and IS/1h, concerning compliance by Armenia, Azerbaijan, Belarus, Serbia, Ukraine and the United Kingdom of Great Britain and Northern Ireland, adopted at the intermediary session,

1. *Adopts* the report of the Implementation Committee on its activities contained in document ECE/MP.EIA/2017/4-ECE/MP.EIA/SEA/2017/4, welcomes the reports of the Committee on its meetings in the period after the sixth session of the Meeting of the Parties to the Convention, and requests the Committee:

- (a) To keep the implementation and application of the Convention under review;
- (b) To promote and support compliance with the Convention, including by providing assistance in this respect, as necessary.

2. *Welcomes* the examination by the Committee of specific compliance issues identified in the fourth review of implementation of the Convention regarding Cyprus, which resulted in the Committee declaring its satisfaction with the clarifications provided by the Party;

3. *Also welcomes* the examination by the Committee of information received from other sources, including the public, regarding Belarus, Belgium, Bosnia and Herzegovina (on two issues), Czechia, the Netherlands, Serbia, Spain (on two issues) and Ukraine (on three issues), which:

(a) In one instance regarding Ukraine resulted in the Committee declaring its satisfaction with the clarifications provided by the Party at the time,

(b) In the case of Serbia led both to a Committee initiative, regarding which the Committee is now satisfied with the clarifications provided and the actions taken by the Party,¹⁴ and also to information gathering by the Committee regarding compliance with the Protocol that is to be continued at its upcoming sessions;¹⁵

(c) In the cases of Belarus, Belgium, Bosnia and Herzegovina (two issues) Czechia, the Netherlands, Spain and Ukraine (two issues) required further consideration by the Committee at its upcoming sessions.

4. *Considers*, following the opinions of the Committee, that:

(a) Early and appropriately wide notification in accordance with the Convention, regardless of the number of the affected Parties, plays an essential role in the transboundary procedure, in keeping with the precautionary approach and the principle of prevention enshrined in the Convention and with the Convention's objective of enhancing international cooperation in assessing environmental impact, in particular in a transboundary context, as mentioned in its preamble;¹⁶

(b) Although the likelihood of a major accident, accident beyond design basis or disaster occurring for nuclear activities listed in appendix I to the Convention is very low, the likelihood of a significant adverse transboundary environmental impact can be very high, if the accident occurs. Consequently, when assessing, for the purpose of notification, which Parties are likely to be affected by a proposed nuclear activity listed in appendix I, the Party of origin should make the most careful consideration on the basis of the precautionary principle and available scientific evidence;

¹⁴ See ECE/MP.EIA/2019/6.

¹⁵ ECE/MP.EIA/2017/4-ECE/MP.EIA/SEA/2017/4, para. 76.

¹⁶ ECE/MP.EIA/2019/14, para. [102].

(c) Where no notification has taken place in accordance with article 3, paragraph 1 of the Convention, but where a Party that considers that it would be affected by a likely significant transboundary environmental impact of a proposed activity listed in appendix I to the Convention enters into discussions on the application of the Convention with the Party of origin, that discussion should be conducted under article 3, paragraph 7, of the Convention. It may also be regarded as good practice to offer Parties that have indicated their wish to be notified under article 3, paragraph 1, an opportunity to receive a notification in line with the provisions of the Convention;

(d) In so far as their consideration is required under the Convention, procedural and substantive aspects¹⁷ of transboundary environmental impact assessments should not necessarily be treated separately by the Implementation Committee when assessing compliance, where such consideration is essential for the assessment. The Committee does not examine compliance with technical provisions and requirements outside the scope of the Convention, such as those related to nuclear safety;

(e) Environmental impact assessment documentation, as defined in appendix II, should contain sufficient information, including any of a substantive nature on the selection of the alternatives and the reasons and considerations to be taken into account in the final decision.

5. *Encourages* Parties to bring issues concerning their own compliance before the Committee;

6. *Requests* the Committee to provide assistance to Parties in need of such assistance, as appropriate and to the extent possible, and in this respect refers to decision VII/3 on the adoption of the workplan, recommending general requirements to be met by Parties wishing to receive technical advice from the Convention;

7. *Urges* Parties to take into account in their future work the recommendations for further improving the implementation of and compliance with the Convention, including by strengthening national legislation, based on but not limited to the analyses on general compliance issues from the reviews of implementation, adopted by decisions III/1, IV/1, V/3 and VI/1, in conjunction with the general guidance on enhancing consistency between the Convention and environmental impact assessment within the framework of State ecological expertise in countries of Eastern Europe, the Caucasus and Central Asia adopted by decision VI/8;

8. *Also urges* Parties to ensure the application of the Convention in nuclear energy-related activities, and in that respect recalls the 2014 Geneva Declaration¹⁸ (Part A) on the application of the Convention and the Protocol to nuclear energy issues, and in particular:

(a) Emphasizes that Parties to the Convention that carry out nuclear energy-related activities should do so in accordance with the Convention, in a sustainable manner, taking into consideration the precautionary and polluter pays principles, and respecting international nuclear safety standards and relevant environmental legislation;

(b) Also emphasizes that close cooperation and improved mutual understanding of the practices and needs of other Parties in the field of nuclear energy will facilitate the application of transboundary environmental procedures in full compliance with the Convention and the Protocol;¹⁹

(c) Encourages effective cooperation among Parties and calls upon the Convention secretariat to foster cooperation, maximize synergies and strengthen capacities with all relevant international organizations and international treaties, with a view to ensuring the highest possible quality of environmental assessment and level of safety in the nuclear energy

¹⁷ Under appendix II to the Convention

¹⁸ See ECE/MP.EIA/20/Add.3-ECE/MP.EIA/SEA/4/Add.3.

¹⁹ Declaration, para. A9.

field, especially stressing the importance of the treaties under the auspices of the International Atomic Energy Agency (IAEA).²⁰

9. *Further urges* Parties to take into account in their further work the opinions of the Committee in the period 2001–2018, and requests the secretariat to arrange for the revision of the informal electronic publication of these opinions to include the opinions of the Committee from 2014–2018;

10. *Decides* to keep under review and to develop, if necessary, the structure and functions of the Committee and its operating rules at its eighth session, in the light of experience gained by the Committee in the interim, and requests the Committee to prepare any proposals, as it deems necessary, for submission to the Meeting of the Parties at its eighth session.

²⁰ Declaration, para. A10.