



LIETUVOS RESPUBLIKOS APLINKOS MINISTERIJA
THE MINISTRY OF ENVIRONMENT OF THE REPUBLIC OF LITHUANIA

A. Jakšto St 4/9, LT-01105 Vilnius, tel: (+370 5) 266 35 39, fax: (+370 5) 266 36 63, e-mail: info@am.lt http://www.am.lt

Implementation Committee
Convention on Environmental Impact
Assessment in a Transboundary Context
Office S.319, Palais des Nations, CH - 1211
Geneva 10
Switzerland

3 January 2018 No. (10-3)-D8-38

LITHUANIAN YEARLY REPORT ON THE IMPLEMENTATION OF THE DECISION VI/2 REGARDING BELARUS

Following the request of the Meeting of Parties set out in Decision VI/2 on the Review of compliance with the Espoo Convention adopted on its sixth session on 2–5 June, 2014, we kindly present Lithuanian yearly report on the implementation of the recommendations further to a submission by Lithuania regarding the Belarus nuclear power plant in Ostrovets (hereinafter – Belarus NPP). Our consistent and continuous efforts towards the effective implementation of the above mentioned recommendations are described in detail below.

I. Site and External Events Design (SEED) mission

It is important to stress that since 2013 Lithuania has been requesting Belarus to invite the IAEA SEED mission for the assessment of site selection and evaluation. Moreover the sixth Meeting of Parties of the Espoo Convention, in 2014, adopted a decision VI/2 regarding Belarus „to invite the International Atomic Energy Agency (IAEA) for a Site and External Events Design (SEED) mission with a view to evaluating the site selection criteria and studies for the nuclear power plant, as well as its development and operation, to fully ensure its safety.” The IAEA SEED mission hosted in Belarus on 16-20 January 2017 was incomplete and did not assess whether the Ostrovets site was suitable for the construction of a NPP, i.e. it hasn't analysed the criteria for the site selection, environmental impact assessment, the scope and methodology for necessary surveys (e.g. seismic surveys). Considering the scope of the IAEA SEED mission chosen by Belarus, **no conclusions could be drawn regarding site evaluation and selection criteria as these topics were not analysed by the IAEA experts.**

The Lithuanian State Nuclear Power Safety Inspectorate (VATESI), regulatory and supervisory authority in the areas of nuclear energy and safety of activities involving sources of ionising radiation, has analysed the publicly available report of the IAEA SEED review service for the Belarus NPP and concluded the following:

- 1) IAEA proposes to its Member States SEED review service that consists of six modules:
 - Module 1: Site selection process review. The IAEA experts assess if national safety requirements related to site selection, assessment and design preparation are in line with the IAEA safety standards;
 - Module 2: Site environmental assessment review. The IAEA experts assess if all safety aspects were taken into account in the site selection process in order to ensure that the NPP in the selected site would not cause unacceptable risks to population and environment throughout the lifetime of the NPP;

- Module 3: Integrated site evaluation review. The IAEA experts assess if the IAEA safety requirements were followed and how comprehensive were the site researches for the determination of site parameters necessary for the preparation of the NPP design;
- Module 4: Site hazards evaluation review. The IAEA experts assess if the IAEA environmental impact assessment requirements, including data collection and analysis, analysis of impacts, mitigation of impacts and environmental monitoring programs, were followed;
- Module 5: Safety review of SSCs against external and internal hazards. The IAEA experts assess safety important site characteristics monitoring methodologies and plans, including preparation for operation and operation stages;
- Module 6: Design safety margin assessment. The IAEA experts assess if IAEA safety requirements were followed in order to ensure that the NPP design can resist the external hazards inherent to the selected site.

2) Based on the SEED review service report on Belarus NPP, **the mission** carried out on 16-20 January 2017 **in Belarus was not of full scope**. The review was conducted only in accordance with the sixth module of the SEED service, which is related to review of the relevant NPP design parameters against site-specific hazards. **The SEED review service report proves that the IAEA experts did not conduct a review of site selection and evaluation, including environmental impact assessment (2-4 modules of the SEED service) that are the key issues raising concerns to Lithuanian public and authorities.** It is important to mention that in line with the IAEA rules, the scope of the IAEA missions, including the SEED mission in Belarus, fully depends on the request of the party receiving the mission, in this case, Belarus.

3) The executive summary of the IAEA SEED mission report confirms the statements mentioned above: the IAEA and the Belarus representatives agreed on the objectives and scope of the SEED mission during preparatory meeting held in Belarus on 25-27 July 2016. The key objective of the SEED mission in Belarus was to review the relevant NPP design parameters against site-specific hazards. The report states that the IAEA SEED mission reviewed the chapters of Preliminary safety analysis report of the Belarus NPP, which describes a screening of site hazards, site characterization and NPP design parameters, site hazards monitoring and specific challenges related to external events in light of the lessons learned from the Fukushima Daiichi accident.

4) **The IAEA SEED mission did not assess whether the Ostrovets site is suitable for NPP construction, taking into account possible NPP impact on population and environment.** The IAEA SEED mission did not assess what data and assumptions were used in evaluating the Ostrovets site and its conditions, and whether site characteristics were properly evaluated against all the requirements set out in IAEA Safety Requirements No. NS-R-3 (Rev. 1) "Site Evaluation for Nuclear Installations" and its supplementing IAEA Safety Standards.

It is important to emphasize that in the environmental impact assessment documentation or any other documentation provided to Lithuania on the Belarus NPP project, Belarus did not provide evidence that Lithuania's population density, population distribution and other characteristics important to the implementation of emergency preparedness measures were properly considered in the selection of the Ostrovets site. The radiological impact under normal operational and accident conditions of Belarusian NPP was not properly considered either. Due to short distance from Belarus NPP to Lithuania, especially to the capital Vilnius, in case of a severe accident at Belarus NPP 1/3 of Lithuanian population (at 100 km distance from Belarusian NPP) might be affected. The emergency situation would be extremely difficult to manage because central governmental institutions would be forced to work under the same hazardous conditions.

EU risk and safety assessment (stress tests). Belarus national stress test report was published on the website of the European Nuclear Safety Regulators Group (ENSREG) and opened for public

consultation from 13 November 2017 to 13 January 2018. It is also under review of international experts until June 2018. However, Lithuanian State Nuclear Power Safety Inspectorate (VATESI) already noted that the stress test report due to the specification and purpose of the stress test does not provide answers to Lithuania's key questions regarding site selection, environmental impact assessment and construction safety or quality.

II. Bilateral Lithuanian–Belarus Agreement on the Implementation of the Espoo Convention

Following the recommendation of the sixth Meeting of Parties of the Espoo Convention and with a view to enhance practical implementation of the Convention Lithuania continued the coordination of the draft Bilateral Lithuanian–Belarus Agreement on the Implementation of the Espoo Convention. Lithuanian and Belarus experts held detailed discussions on the matter on 9-10 of March 2017 in Vilnius. During the meeting Lithuanian and Belarus delegations reiterated their intentions to conclude the Agreement on intergovernmental level and discussed the following items: preamble, general provisions (Article 1), notification (Article 2), EIA documentation (Article 3) and access to information and public participation (Article 4) with the aim to sort out the text. Remaining issues for further analysis are:

- Provision on concept of consultations and discussions (Article 1.2);
- Specification of references to Article 8 of the Agreement (Articles 1.4 and 2.3);
- Content requirements for the “scoping document”: concept of “raw materials” (Article 2.1 point 2);
- Provision on nature of the decisions that may be applied to the proposed activity and timeframe for the proposed activity: adjustment of wording taking into account the MOP decision I/4 on the Format for Notification and terms used in Belarus legislation;
- Provision on substantial change of EIA report and its resubmission to the affected Party (Article 3.3). Belarus delegation will present to Lithuania available information on the concept of “major change” developed within UNECE Espoo Convention framework at the earliest convenience;
- Timeframe for submission of the position of the Affected Party. The timeframe should be compatible with the duration of public participation procedure (Article 3.4).

Delegations also entered into preliminary discussion on further Articles of the Agreement, however only bilateral consultations (Article 5) were covered.

It was agreed that Lithuanian and Belarus delegations will exchange information on the issues pointed out above. Preliminary, the next meeting was scheduled in September/October 2017 in Minsk. Ministry of Environment of the Republic of Lithuania on 23 March 2017 by its letter No. (10-3)-D8-2286 sent the minutes of the meeting and working version of the agreement to Belarus (copy to the Implementation Committee); however, we haven't received any response or invitation to the next meeting.

III. Joint body on bilateral cooperation

The following existing legal instruments of bilateral cooperation in the field of environmental protection could be used in bilateral cooperation regarding relevant issues concerning the Ostrovets NPP:

- Bilateral Agreement between the Lithuanian Ministry of Environment and the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus Regarding the Cooperation in the Field of Environment Protection signed in Minsk on 14 April 1995. This Bilateral Agreement foresees meetings and consultations of experts in different areas of environment protection, the permanent working group and working subgroups for particular questions.

- Technical Protocol on Cooperation in Monitoring and Information Exchange on Status of Transboundary Surface Waters, which was signed in Minsk on 10 April 2008. This Agreement includes the element of intercalibration of monitoring devices and harmonization of methodologies related to surface water analysis. In accordance with it, the Plan for the Joint Sampling of Surface Waters in the Transboundary Areas of the Water Bodies is agreed by competent authorities of both Parties every year.

Ministry of Environment of the Republic of Lithuania on 16 November 2017 by its letter No (10-3)-D-7625 informed the Ministry of Natural Resources and Environmental Protection of the Republic of Belarus that Lithuanian side agreed to supplement the Technical Protocol mentioned above by bottom sediments and aquatic vegetation sampling of the Drukshiai/Drisvyaty Lake with the aim of carrying out interlaboratory comparative analyses and is ready to launch bilateral consultations regarding the amendment of the Technical Protocol. Moreover, we kindly proposed to Belarus to hold strategic discussions on radiological monitoring (further harmonisation of methodologies, compatibility of data and etc.) after the results of the international expert mission for the assessment of national radiological monitoring system according to the Euratom Treaty Article 35 in Belarus become available. It's worth mentioning that in 2015, European Commission sent to Belarus an official proposal to host the mentioned international expert mission, because such missions are also carried out in the neighbouring countries and Belarus was considered as an especially important verification target. However, according to our knowledge the verification of radiological monitoring system in Belarus has not been accomplished.

Moreover, the draft Bilateral Agreement on Cooperation and Information Exchange on Safety Regulation Using Nuclear Energy for Peaceful Purposes and on Early Notification of a Nuclear Accident between the Lithuanian State Nuclear Power safety Inspectorate and the Ministry for Emergency Situations of the Republic of Belarus, could be used as an instrument for exchange of information in the future as this agreement should include issues related to radiation and nuclear safety of nuclear facilities. The latest version of the mentioned draft Bilateral Agreement prepared by Lithuanian State Nuclear Power safety Inspectorate was presented to Belarus in October 2017 for further harmonisation.

IV. Meeting of the Parties to the Espoo Convention

Despite the considerable efforts of the Implementation Committee to reach consensus on the compliance matters at the seventh Meeting of the Parties of the Espoo Convention held on 13-16 June 2017 in Minsk (MOP-7), the adoption of the decision on the review of compliance with the Convention (including the Ostrovets NPP case) was postponed until an Intermediary Meeting of the Parties of the Espoo Convention. Taking into account all the circumstances, especially Belarus' plans to start operation of the Ostrovets NPP in 2019–2020, it is important that the Intermediary MOP is organized in autumn 2018 at the latest.

Lithuania fully supported the Committee's draft decision VII/2 regarding Belarus and stressed that the questions raised by the Committee regarding the site, assessment of aircraft crash, evaluation of population density in assessing radiological impacts of major accidents and in preparation of emergency measures, assessment of radiological impacts on rivers and ground waters in case of major accidents, radioactive waste and spent fuel management are of utmost importance in order to ensure that significant adverse transboundary impacts have been properly assessed and considered in the decision-making. Moreover, Ministry of Environment of the Republic of Lithuania on 31 August 2017 by in its letter No. (10-3)-D8-5952 presented to the Implementation Committee the question specifically addressing the site selection issue: *"According to current international recommendations, guidelines and other relevant guidance documents, what are the requirements for conducting environmental impact assessment that cover collection and analysis of data, analysis of impacts, mitigation of impacts and initiating of environmental monitoring programmes? Were*

these requirements used in the case of the Ostrovets nuclear power plant when assessing site-related factors, seeking to ensure elimination of unacceptable risks to people and the environment over the lifetime of the installation?”, which was commonly supported by the European Union at the MOP-7. Taking into account the complexity of the case, we are convinced that **independent analysis of the transboundary EIA procedures and substance of the Ostrovets NPP project, as proposed in the decision VII/2, is extremely important.**

V. Meeting of the Parties to the Aarhus Convention

The third Aarhus MOP in a row has acknowledged that Belarus was implementing the Ostrovets NPP project in non-compliance to the Aarhus Convention that is closely related to the Espoo Convention as far as it concerns public participation. The previous decisions were taken in 2011 and 2014; however, the given recommendations were not implemented. The mentioned decisions were taken after comprehensive analysis of three submissions from Belarus and European NGO's. In September 2017, MOP of the Aarhus Convention endorsed a decision stating that Belarus was developing the Ostrovets NPP project against the provisions of the Convention. The decision VI/8c concerning Belarus stated that:

- Belarus had no clear mechanism that would allow for meaningful and effective public information and participation in decision-making processes in environmental matters. Also, Belarus' legal framework did not clearly designate, which decision is considered to be the final decision permitting the activity. It was noted that the decision had to be made publicly available – violation of Art.6 of the Convention;
- The arrest of four environmental activists by Belarus in 2012 and their related administrative detention or fine constituted harassment, penalization and persecution – violation of Art.3 of the Convention.

Lithuania considers that Belarus violated the rights of the Lithuanian public as well. Therefore, in 2015 Lithuania filed a complaint to the Aarhus Convention Compliance Committee with regard to infringement of 5 articles of the Aarhus Convention: Art. 3 para 9, Art. 6 paras 2-4, Art. 6 para 6, Art. 6 para 8.

Lithuania highly appreciates the attention of the bodies of the Espoo Convention to the Belarus NPP case, renews its full support to the work done by the Committee in order to analyse the steps undertaken by Belarus and Lithuania after the adoption of the Implementation Committee's report of its twenty-seventh session on 12-14 March, 2013, and confirms its readiness to continue the close cooperation with the bodies of the Espoo Convention. We sincerely hope that the Lithuanian yearly report will be useful for this purpose.

Yours sincerely,

Martynas Norbutas
Vice-Minister