

**IMPLEMENTATION COMMITTEE**  
**CONVENTION ON ENVIRONMENTAL IMPACT ASSESSMENT IN A TRANSBOUNDARY**  
**CONTEXT**  
**PROTOCOL ON STRATEGIC ENVIRONMENTAL ASSESSMENT**

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Ref. Follow-up on decision VI/2 of the Meeting of the Parties  
(EIA/IC/S/1 Bystroe Canal Project)

19 November 2018

Dear Ms. Măcelaru,

I am writing to you on behalf of the Implementation Committee under the Convention on Environmental Impact Assessment in a Transboundary Context (Espoo, 1991) and its Protocol on Strategic Environmental Assessment (Kyiv, 2003).

At its forty-second session, held in Geneva from 11 to 14 September 2018, the Committee followed up on decision VI/2 of the Meeting of the Parties to the Convention concerning Danube-Black Sea Deep Water Navigation Canal in the Ukrainian sector of the Danube Delta (Bystroe Canal Project, EIA/IC/S/1).

The Committee noted the information provided by Ukraine on 30 July 2018 that, following the entry into force of its Law on Environmental Impact Assessment in December 2018, Ukraine had adopted four pieces of secondary legislation and that the adoption of the secondary legislation on transboundary environmental impact assessment procedure was still pending.

The Committee also noted that since its forty-first session, at which Ukraine had expressed its genuine wish to bring the project into full compliance with the Convention as outlined in the draft road map that it had presented to the Committee, Ukraine had taken only limited steps to implement the road map. The Committee regretted that, despite the Committee's request for it to do so, Ukraine had provided no information with regard to repealing the final decision on Phase I. The Committee also emphasized that, at its forty-first session, the Committee had not "adopted", "agreed" or "endorsed" the road map presented by Ukraine, as Ukraine had indicated in its letter to the Committee. Instead, the Committee had concluded that the draft road map represented a good basis and a way forward for bringing the project into full compliance with the Convention, and had pointed out that the list of the declared steps presented in the draft road map was not exhaustive (ECE/MP.EIA/IC/2018/2, para. 34).

The Committee welcomed the fact that, on 24 July 2018, Ukraine had transmitted to Romania the following documents:

- (a) A draft bilateral agreement between Romania and Ukraine to implement the Convention, as revised in accordance with the new Law on Environmental Impact Assessment;
- (b) A "draft" Monitoring Programme for the Bystroe Canal Project for the period 2017–2018.

Ms. Mihaela Măcelaru  
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The Committee also noted the information provided by Romania on 27 July 2018, including:

- (a) Comments to draft decision IS/1f;
- (b) The position of Romania concerning the road map prepared by Ukraine and the intent of the Government of Ukraine to launch a new Bystroe Canal Project;
- (c) Concerns regarding the announcement by Ukraine of plans to suspend works on the Project for three months, instead of stopping them until the Project complied with the provisions of the Convention;
- (d) That no progress had been reached in preparing the bilateral agreement;
- (e) Deficiencies in the Ukrainian report on the monitoring results in 2017;
- (f) The readiness of Romania to assist Ukraine in assessing the damage and in developing a plan of compensatory measures, and therefore the need for bilateral consultations and constructive discussions between the Parties.

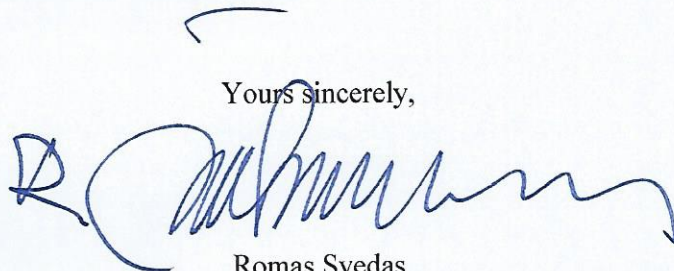
It requested the Government of Ukraine among others:

- (a) To implement the road map without delay, including repealing the final decision on Phase I of the Bystroe Canal Project, and to provide documentation confirming that the respective steps and decisions had been taken;
- (b) To enter into consultations with Romania on implementation of the road map, including assessing the damage and development of a plan of compensatory measures;
- (c) To supplement the monitoring reports with:
  - (i) Baseline data that would allow the assessment of changes;
  - (ii) An assessment of the impact of the operation, including regular maintenance dredging and shipping traffic;
- (d) To report to the Committee by 15 February 2019 on the progress achieved, and to substantiate its report with relevant documentation confirming that progress.

I am now writing to you, on behalf of the Committee, to thank the Government of Romania for the information provided and kindly request it to transmit its comments with regard to the road map the results of monitoring to the Government of Ukraine. In addition, the Government of Romania is invited to accelerate the preparation and conclusion of the bilateral agreement between Ukraine and Romania to implement the Convention further to paragraph 27 of decision VI/2. To this end, you are kindly invited to provide the report on the progress achieved and any other relevant information to the Committee through the secretariat **by 15 February 2018** for consideration by the Committee at its forty-fourth session (12-15 March 2019).

Finally, be informed that the Committee at its forty-second session reviewed and finalized the text of draft decision IS/1f concerning compliance by Ukraine with the Convention with regard to the Bystroe Canal Project taking into account the information provided by Romania and by Ukraine. Once prepared as an official document in the middle of November 2018, the secretariat will transmit the draft decision to the Governments of Romania and Ukraine for information and to the Meeting of the Parties for consideration at its intermediary session (5-7 February 2019).

Yours sincerely,



Romas Svedas  
Chair, Implementation Committee,  
Convention on Environmental Impact Assessment  
in a Transboundary Context  
Protocol on Strategic Environmental Assessment