

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)

04 April 2018

Dear Mr Tarasenko,

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-first session, held in Geneva from 13 to 16 March 2018, the Committee continued the consideration of the follow-up by Ukraine on decision VI/2 and the review of draft decision VII/2 in relation to the Danube-Black Sea Deep-Water Navigation Canal in the Ukrainian Sector of the Danube Delta (Bystroe Canal Project). Based on the curator's analysis of the information from Romania dated 13 February 2018 and from Ukraine dated 12 and 16 February 2018, the Committee again noted that Ukraine had made only limited progress in bringing the project into full compliance with the Convention as required by the Meeting of the Parties to the Convention since 2008 in decisions IV/2 (paras. 12–14), V/4 (ECE/MP.EIA/15, V/4, para. 24) and VI/2 (paras. 24–25). With reference to its previous opinion, the Committee also reiterated, that the continuation of the dredging activities by the Government of Ukraine would constitute a further breach of its obligations under the Convention.

At the same time, the Committee appreciated that, taking into account the Committee's proposals at its fortieth session (5-7 December 2018), Ukraine had prepared a road map with concrete steps to bring the Bystroe Canal Project into full compliance with the Convention, and had reported on the results of monitoring and post project analysis and on the preparation of a bilateral agreement with Romania.

At its forty-first session, the Committee held informal consultations with Ukraine on its progress in adopting secondary legislation to ensure full compliance with the Convention and on the draft roadmap to bring the project into full compliance with the Convention.

Concerning the legislation, the Committee noted that to implement its legislation on environmental impact assessment that had entered into force in December 2018, Ukraine had adopted three pieces of secondary legislation from December 2017 to mid-March 2018 with further two pieces waiting for adoption. According to Ukrainian delegation, the Law on Environmental Impact Assessment together with all the five secondary acts would ensure full compliance of Ukrainian national legislation

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with the Convention.

With regard to the road map, the Committee welcomed the genuine wish of its Government to bring the project into full compliance with the Convention as outlined in the roadmap. The Committee noted with regard to the phases I and II of the Project, that Ukraine intended among other steps to stop works, repeal the final decision, assess damage to the environment and develop a plan for compensatory and mitigation measures. It also noted that Ukraine intended to launch a new Bystroe Route project and to conduct the transboundary environmental impact assessment procedure according to the Convention.

On behalf of the Committee I am addressing you with the purpose to inform the Government of Ukraine, that after the discussion with the Ukrainian delegation and the clarifications obtained, the Committee concluded that although the list of the declared steps presented in the road map is not exhaustive, the road map represents a good basis and a way forward for bringing the project into full compliance with the Convention. Consequently, the Government of Ukraine is invited to implement the road map without delay.

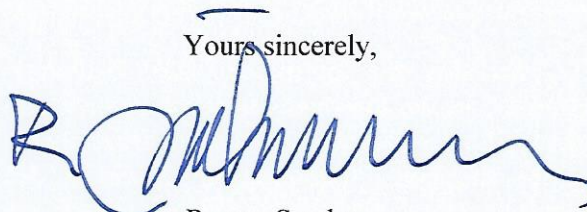
In addition, the Government of Ukraine is invited:

- (a) to transmit the road map to Romania and to conduct consultations with Romania on its implementation;
- (b) to report to the Committee on the progress achieved in bringing the project into compliance with the Convention, substantiating the report with the relevant confirming documents;
- (c) to continue reporting to the Committee on the monitoring programme for the Bystroe Canal Project on an annual basis;
- (d) to report on the further developments with regard to the preparation of the bilateral draft agreement between Ukraine and Romania further to paragraph 27 of draft decision VII/2.

Please also be informed that taking into account the outcomes of the informal consultations with Ukraine, the Committee prepared the revised draft MOP decision VII/2 with regard to Bystroe Canal project (draft MOP decision IS/1f). At the request of the Committee, draft MOP decision IS/1f will be forwarded by the secretariat as an informal document for information to the Working Group on Environmental Impact Assessment and Strategic Environmental Assessment. In this regard, the draft MOP decision will be made available at the end of April 2018 at the web-page of the seventh session of the Working Group (Geneva, 28-30 May 2018) following the link <http://www.unece.org/index.php?id=47337>.

Finally, before transmitting draft decision IS/1f for consideration of the Meeting of the Parties at its intermediary session (Geneva, 5-7 February 2019), the Committee also agreed to finalize draft decision IS/1f at its forty-second session (Geneva, 11-14 September 2018) based on the progress to be made by Ukraine and further evidence based information to be provided by the Government of Ukraine and the Government of Romania in advance of that session. To this end, you are kindly invited to provide the requested information in English **by 30 July 2018** through the secretariat.

Yours sincerely,



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