Decision IS/1d

Compliance by Belarus with its obligations under the Convention in respect of the Belarusian nuclear power plant in Ostrovets

The Meeting of the Parties,

Recalling article 11, paragraph 2, and article 14 bis of the Convention on Environmental Impact Assessment in a Transboundary Context,

Recalling also its decision VI/2, paragraphs 48–64,[1] concerning compliance by Belarus with regard to the construction of the nuclear power plant in Ostrovets,

Recalling further its decision at its seventh session 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,[2]

Having considered the sections concerning Belarus in the report on the activities of the Implementation Committee to the Meeting of the Parties to the Convention at its seventh session[3] and in the reports of the Committee on its ad hoc,[4] thirty-ninth,[5] fortieth,[6] forty-first[7] and forty-second sessions,[8]

1. *Adopts* the present decision in accordance with decision IS/1 on general issues of compliance with the Convention, adopted at the intermediary session.

2. *Notes* the annual reports and information provided by Belarus and Lithuania to the Implementation Committee further to decision VI/2 (para. 59) since the sixth session of the Meeting of the Parties;

3. *Welcomes* the steps taken by both Parties since the sixth session of the Meeting of the Parties to address the recommendations in decision VI/2 (paras. 51–58, 62 and 64);

4. *Commends* the Implementation Committee for its thorough analysis of the steps taken by Belarus after the twenty-seventh session of the Committee, as outlined in the report of the Committee on its activities to the Meeting of the Parties at its seventh session and the reports of the Committee's ad hoc, thirty-ninth, fortieth, forty-first and forty-second sessions;

5. *Endorses* the finding of the Implementation Committee that Belarus had taken all the required procedural steps to reach the final decision on the planned activity at Ostrovets, as provided for in the Convention;[9]

6. *Also endorses* the finding of the Implementation Committee that the essence of the compliance matter concerned unresolved substantive aspects[10] of the environmental impact assessment documentation, which it addressed in the questions referred to in

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1 See ECE/MP.EIA/20/Add.1-ECE/MP.EIA/SEA/4/Add.1.
2 See ECE/MP.EIA/23-ECE/MP.EIA/SEA/7, para. 27. See also draft decision VII/2 (ECE/MP.EIA/2017/8).
3 ECE/MP.EIA/2017/4-ECE/MP.EIA/SEA/2017/4, paras. 36–44.
4 See Informal document ECE/MP.EIA/IC/ad-hoc/2017/INF.6, available from https://www.unece.org/index.php?id=48313, paras 7–11.
5 ECE/MP.EIA/IC/2017/4, para. 36.
6 ECE/MP.EIA/IC/2017/6, paras. 27–36.
7 ECE/MP.EIA/IC/2018/2, paras. 40–48.
8 ECE/MP.EIA/2018/4, paras. 32–40, and annex.
9 ECE/MP.EIA/IC/2017/2, para. 8.
10 Considered under appendix II of the Convention on Environmental Impact Assessment in a Transboundary Context.

paragraph 8 below, including reasonable locational alternatives and the methodology and data used in determining the siting;

7. *Further endorses* the finding of the Implementation Committee that to reach a final conclusion on whether Belarus complied with its obligations under the Convention both procedural and substantive aspects[11] of the environmental impact assessment procedure had to be examined, since these two aspects could not necessarily be treated separately;[12]

8. *Notes* that to enable it to reach its final conclusion the Implementation Committee identified the need for additional resources and specific expertise that were not made available to it;

9. *Acknowledges* the efforts of the Implementation Committee to seek external expert advice, notably on technical and scientific questions related to the environmental impact assessment documentation that it had identified in order to conclude its deliberations on the matter;[13]

10. *Notes* that having exhausted all the avenues for receiving external expert advice, including from the two concerned Parties and the International Atomic Energy Agency, and considering the unprecedented circumstances related to the compliance matter, the Committee decided exceptionally to examine the documentation prepared by Belarus under the environmental impact assessment procedure and, as appropriate, seek the services of scientific experts and other technical advice or consult other relevant sources in accordance with the Committee's structure and functions;[14]

11. *Acknowledges* the extensive work of the Committee to examine the environmental impact assessment documentation and the decisions taken by Belarus based on the environmental impact assessment procedure, and also the Committee's efforts to seek clarifications from Belarus, in particular to fill in the gaps in the information regarding the selection of the Ostrovets site over the alternative locations;

12. *Regrets* that, despite several opportunities it was given to do so by the Implementation Committee, Belarus failed to provide the Committee with the information referred to in paragraph 10 above;

13. *Endorses* the findings of the Implementation Committee that, on the basis of its assessment, the environmental impact assessment documentation of Belarus on the Ostrovets nuclear power plant includes information required by the Convention that sufficiently addresses issues referred to in technical and scientific questions related specifically to the Ostrovets site;[15]

14. *Also endorses* the findings of the Implementation Committee[16] that the environmental impact assessment documentation, which was made available to the affected parties and the public, makes reference to locational alternatives for a nuclear power plant and to criteria for the site selection, but does not provide sufficient information under appendix II of the Convention about the reasons and considerations, explaining the selection of the Ostrovets site over the alternative locations to be taken into account in the final decision on the activity in accordance with the Convention;

15. *Further endorses* the findings of the Implementation Committee,[17] that by not providing such information under appendix II of the Convention in the environmental impact assessment documentation and the final decision on the activity, Belarus failed to comply with article 4, paragraph 1, article 5, paragraph (a), and article 6, paragraph 1, of the Convention;

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[11] Idem.

[12] ECE/MP.EIA/IC/2017/2, para. 9.

[13] ECE/MP.EIA/IC/2018/4, annex, paras 15–19.

[14] Decision III/2, appendix (ECE/MP.EIA/6) as amended by decision VI/2 (ECE/MP.EIA/20/Add.1−ECE/MP.EIA/SEA/4/Add.1), para 7 (d).

[15] ECE/MP.EIA/IC/2018/4, annex, paras. 21–24.

[16] Ibid., para. 28 (a).

[17] Ibid. paras. 25, 26 and 28 (b).

16. *Urges* Belarus to ensure that, in the context of any future decision-making regarding any planned activity that falls under the Convention, the Convention is applied ensuring that the environmental impact assessment documentation contains a proper evaluation of reasonable alternatives, including the no-action alternative, and sufficient explanation for the selection of the option decided upon;

17. *Expresses regret* that the bilateral agreement for the implementation of the Convention has not yet been concluded, encourages Belarus and Lithuania to accelerate the preparation of such an agreement further to article 8 of the Convention and requests Belarus and Lithuania to report to the Meeting of the Parties at its eighth session on progress in that regard;

18. *Encourages* Belarus and Lithuania to continue bilateral expert consultations on issues of disagreement, including on matters that are beyond the scope of the Convention;

19. *Also encourages* both Parties to continue working on the post-project analysis and to reach an agreement on establishing a joint bilateral body and the procedures for such analysis, in particular to ensure sufficient public participation in the framework of the post-project analysis regarding the activity at Ostrovets;

20. *Requests* Belarus and Lithuania to report annually to the Implementation Committee on the progress made in implementing the recommendations in paragraphs 16 to 18 above.