

Overview of the nuclear issues discussed at the 46th session of the Espoo Convention
Implementation Committee

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46th session of the Espoo IC took place on December 10-13, 2019¹. The committee discussed the following nuclear-related issues:

New construction of NPPs

- (a) **Follow-up on MOP decision IS/1d regarding the Belarusian nuclear power plant in Ostrovets.** No details are available, except that Lithuania and Belarus submitted their annual reports and made progress in negotiating bilateral agreement. Belarus also requested the IC to gather and share with Belarus information about established practice under the Convention with respect to the evaluation of reasonable alternatives for nuclear energy-related activities and the selection of the preferred option in the environmental impact assessment documentation. Similar proposal was made by Belarus at the last Working Group meeting.
- (b) **Information gathering on Construction of units 3 and 4 at the Khmelnytsky nuclear power plant in Ukraine.** The committee expressed regret at the fact that Ukraine had failed to provide concrete and comprehensive answers to the Committee's questions in its letter of 17 October 2019. Questions were related to the status of consultations and timeline of the transboundary procedure.
Note: Strangely, Hungary's member of IC was absent to avoid conflict of interest.

LTE

- (c) **Follow-up by Ukraine to decision IS/1g regarding the Rivne nuclear power plant (LTE).** Ukraine wrote it had sent EIA documentation to several parties and the consultation process is ongoing. Ukraine failed to submit its annual report on implementation of the MOP decision.
- (d) **Kozloduy nuclear power plant (LTE), Bulgaria.** The committee received answers from Bulgaria and asked a number of further questions regarding units 5 and 5 of the NPP. *One of the questions relates to legal difference between granting new licenses and amending existing licenses as outcome of the LTE decision making.*
- (e) **Several NPPs in Ukraine (LTE).** Ukraine seemed to suspend relevant transboundary procedures subject to adoption of the guidance by MOP. The committee reiterated its earlier conclusion that, by suspending the ongoing transboundary procedure, Ukraine had put itself in noncompliance with the Convention ECE/MP.EIA/IC/2019/4, para. 89). Moreover, the Committee pointed out that, since the concerned Parties had already initiated the application of the Convention to the proposed activities in question by a common agreement, the availability of a guidance document in that

¹ Report available at
https://www.unece.org/fileadmin/DAM/env/documents/2019/EIA/Meetings/46_IC_meeting/Doc/ece.mp.eia.ic2019.6e_Advance_copy.pdf

respect was irrelevant. In the Committee's view, a notification by a Party of origin regarding a proposed activity under articles 2 (4) and 3 (1) of the Convention, followed by the indication by the affected Party of its intent to participate in the environmental impact assessment procedure further to article 3 (3) of the Convention, *constituted a mutual agreement* between the Parties concerned that a significant transboundary environmental impact on the territory of the affected Party was likely. The subsequent steps of the transboundary procedure set out in the Convention, including the preparation of the environmental report under article 4, carrying out transboundary consultations further to article 5 and taking a final decision as set out in article 6, *should be completed based on that agreement* regardless of the general discussions by the Parties on application of the Convention to similar activities. The Committee considered that the guidance being prepared would be useful for Parties in the future regarding a related proposed activity when the Parties concerned could not agree whether significant adverse transboundary impact was likely and, consequently, when the transboundary procedure had not started.

Note: *Meanwhile Ukraine granted LTE license to 3rd reactor of the South-Ukrainian NPP on December 26, 2019. In addition, nuclear operator Energoatom on Dec 16, 2019, published a statement² regarding EIA in the LTE process. In its statement, the company, in particular, said that “national nuclear legislation does not require EIA during life time extensions of the operating NPPs” and “that LTE activity is not subject to EIA under EIA legislation”; “transboundary consultations [as required by MOP decision on Rivne LTE] have been suspended by the Ministry of Environment for unknown reasons in 2018”.*

² http://www.energoatom.com.ua/ua/actvts-16/extension-150/p/vikonanna_energoatomom_zakonu_pro_ovd_pri_prodovzenni_terminu_ekspluatacii_energoblokiv_aes-45632 (available in Ukrainian only)