

4 September, 2017

**United Nations
Economic and Social Council
Economic Commission for Europe
Implementation Committee, 39th session
Convention on Environmental Impact Assessment in a Transboundary Context (Espoo
Convention)**

Annex 1. to the

**Communication by the representatives of Civil Society of Belarus and Lithuania
regarding implementation by Republic of Belarus
of the 6th MOP decision provisions VI/2 and
Implementation Committee Decision on the compliance matters concerning Ostrovets
Nuclear Power Plant construction.**

We express our support in general to Implementation Committee findings and recommendations ECE/MP.EIA/IC/2017/2 regarding *Belarus Nuclear Power Plant construction* http://www.unece.org/fileadmin/DAM/env/eia/documents/ImplementationCommittee/2017/IC_38/ece.mp.eia.ic.2017.2_IC38report_13.03.2017_as_adopted_for_web.pdf.

1. *At the same time, we object to wording of provision 7 thereof, saying that: “Belarus had undertaken all the required steps to reach the final decision as provided for in the Convention”.*

We would like to emphasize that:

1.1. Before January 2017, the Belarusian legislation had not provided a clear definition of a “final resolution” authorizing certain activity. This fact was also reflected in paragraph 51 of the decision by the Aarhus Convention Compliance Committee of the UN EEC “The second review of implementation of decision V/9c”, that refers to its obligations under the Convention.

1.2. At the moment of commencement of Belarus NPP project implementation, for a number of public authorities the final decision, i.e. the one authorizing the activity, was the “Final political decision by the Republic of Belarus on construction of its own atomic power station” adopted at the meeting of the Security Council of the Republic of Belarus on January 15, 2008: http://atom.belta.by/ru/dosie_ru/view/stroitelstvo-belorusskoj-aes-xronologija-sobytij-41/. Following that decision, on June 30, 2008 the Law “On the Use of Atomic Power” was adopted, and in September 2008 Belarus informed the participants of the IAEA General Conference held in Vienna about the decision on construction of the first Belarus NPP made by the Belarusian government. On December 20, 2008, according to Belarusian Information Agency BELTA http://atom.belta.by/ru/dosie_ru/view/stroitelstvo-belorusskoj-aes-xronologija-sobytij-41/ “The State commission for selection of a construction site for the Belarusian NPP decided that nuclear power plant will be erected on the Ostrovets site in the Grodno oblast”.

These decisions (by the Security Council and by the State commission for selection of a Ostrovets site) authorized construction of the Belarus NPP, which started in summer 2009: construction works on the NPP infrastructure as well as the excavations have been commenced. All these steps have been taken

before the end and even prior to beginning of the consultations on the Environmental Impact Assessment with affected countries, which Belarus started in spring of 2010. The Convention bodies should not be misled by the fact that the Presidential Decree on NPP construction and the Decree on Approval of the Ostrovets Site were adopted in 2014 and 2013, respectively, as by autumn 2011 the main components of infrastructure for the Ostrovets NPP had been built, and construction works were in progress.

However, if the final decision, authorizing NPP construction, had been considered as the document of the findings of the state environmental expertise (dated July 14, 2010 http://minenergo.gov.by/o_ministerstve/yadernaya_energetika/stroitelstvo_atomnoy_elektrostancii/), based on Article 15 of the Law of the Republic of Belarus “On State Environmental Assessment, Strategic Environmental Assessment and Environmental Impact Assessment” dated June 18, 2016, it should be taken into account that the findings had been issued before the end of consultations under the Espoo Convention procedures, which does not meet to its principles.

2. We also believe that, under the observation procedures, the Committee should provide follow up to the assessment of implementation by the Republic of Belarus of the VI/2 decision by the 6th session of the MOP to the Espoo Convention in 2014. The Committee abstains from direct judgment, although, in our opinion, it is obvious with regard to the failure by the Republic of Belarus to implement the following provisions of the decision:

2.1. Provision C.51, requesting the Government of Belarus “to take a final decision on the site selection, in full compliance with the requirements of article 6, i.e., ensuring that due account has been taken of the outcome of the EIA documentation, and the comments thereon received pursuant to article 3, paragraph 8, and article 4, paragraph 2, as well as the outcome of the consultations referred to in article 5”.

By June 2014 Belarus had already selected a site, and no further decisions regarding site selection have been taken since then. After 2014 the decisions on Ostrovets site selection have not been revised with due account of the EIA procedure and public consultations.

2.2. Provision C.53, with a further request to Belarus “to continue the procedure of transboundary EIA on the basis of the final EIA documentation” and paragraph 55, requesting Belarus and Lithuania “to ensure that the Lithuanian public is informed about the final EIA report and provided with possibilities for making comments or objections to it”.

To our knowledge, neither the Lithuanian authorities nor the Lithuanian public had received a full and final version of the EIA documentation, to which our experts had received limited access in 2010 (the unreasonable nature of the restrictions, as well as confirmation of existence of such a full version were confirmed by clause 1. (i) of the decision ECE /MP.PP/2014/2/Add.1 V/9C by the 5th session of the Meeting of the Parties to the Espoo Convention in 2014). Further to that, Lithuanian public was not provided an opportunity to comment on the EIA documentation starting June 2014, and their opinion was not taken into account.

2.3. Provision C.64, encouraging 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”.

Belarus failed to comply with this paragraph of the 6th MOP decision, as it excluded the site assessment component from the agenda of the IEIA SEED mission, which had been invited in 2016. The fact of exclusion, however, has been recognized by the Committee indirectly, as it mentions in paragraph 10 of decision ECE/MP.EIA/IC/2017/2, that Belarus “had not entirely followed the encouragement of the

Meeting of the Parties by not having specifically invited the IAEA to evaluate the site selection criteria as well”.

We believe that, in the text of the decision, the 7th session of the MOP to the Espoo Convention should provide assessment of compliance by the Republic of Belarus to the decision by the 6th session of the MOP, even in case this assessment is not full.