



**МІНІСТЭРСТВА
ПРЫРОДНЫХ РЭСУРСАЎ І АХОВЫ
НАВАКОЛЬНАГА АСЯРОДДЗЯ
РЭСПУБЛІКІ БЕЛАРУСЬ**

вул. Калектарная, 10, 220004, г. Мінск
тэл. (37517) 200 66 91; факс (37517) 200 55 83
E-mail: minproos@mail.belpak.by
р/р № 360490000111 ААБ "Беларусбанк"
г. Мінск, код 795, УНП 100519825; АКПА 00012782

16.11.2018 № 111-1/264-инд
На № _____ ад _____

**МИНИСТЕРСТВО
ПРИРОДНЫХ РЕСУРСОВ И ОХРАНЫ
ОКРУЖАЮЩЕЙ СРЕДЫ
РЕСПУБЛИКИ БЕЛАРУСЬ**

ул. Коллекторная, 10, 220004, г. Минск
тел. (37517) 200 66 91; факс (37517) 200 55 83
E-mail: minproos@mail.belpak.by
р/с № 360490000111 АСБ "Беларусбанк"
г. Минск, код 795, УНН 100519825; ОКПО 00012782

The Implementation Committee
under the Convention on
Environmental Impact Assessment
in a Transboundary Context

The Bureau of the Convention on
Environmental Impact Assessment
in a Transboundary Context

In preparation for the upcoming intermediary session of the Meeting of the Parties to the Espoo Convention Belarus studied the report of the Implementation Committee on its 42nd session, including the Committee's considerations and findings related to the Lithuania's submission concerning the Belarusian NPP, and would like to make the following observations and comments.

On procedure

1. At its 42nd session in September 2018 the Committee for the first time since it began consideration of Lithuania's submission regarding Belarus in June 2011 assumed that Belarus failed to comply with article 4, paragraph 1 of the Convention.

This new finding of the Committee does not constitute a follow-up to decision VI/2 regarding the Belarusian NPP since it does not derive from the analysis of the steps undertaken after the adoption of the Committee's respective recommendations to the 6th Meeting of the Parties (Committee's report on its 27th session, March 2013).

This new finding of the Committee is on the content of the EIA documentation while the Committee's earlier recommendations and decision VI/2 touched upon other aspects of the EIA procedure and not the content of the EIA documentation.

In violation of its operating rules¹ the Committee did not provide Belarus with the opportunity to comment on its new finding of September 2018.

¹ Once prepared, the draft findings and recommendations should be transmitted to the Parties involved inviting them to comment (or make representations) within a reasonable deadline, and to submit their comments through the secretariat (rule 13, paragraph 1).

Belarus could not use the 7th meeting of the Working Group in May 2018 to comment on the new finding contained in the draft decision IS/1d since the Committee did not finalize its consideration of the Belarusian NPP case by that time.

Therefore the new Committee's findings on the Belarusian NPP case are submitted for the consideration of the Meeting of the Parties in violation of the established procedure for review of compliance.

2. The Committee in December 2017 took a liberty to revise the official decision of its predecessors. It happened for the first time since the establishment of the review compliance mechanism under the Convention. Namely, the Committee revoked its earlier decision on the substance of the so called "technical and scientific questions" regarding the Belarusian NPP.

This new working method is **not in line with** the spirit of **the compliance review procedure and Committee's operating rules²** and disrupts the continuity and credibility in its work.

In our view such a precedent in the Committee's work compromised the compliance review mechanism.

The argument of the current Committee that its predecessors made a hasty decision in respect to those questions due to the lack of sufficient time (namely, one week from June 5 to June 12) to consider the information from Belarus is a subjective judgment that taints the credibility and professional reputation of the Committee.

On substance

3. The Committee's findings on non-compliance of Belarus with the Convention are based on the assumption that Belarus both in the EIA documentation and in the correspondence with the Committee did not provide sufficient information supporting and justifying the selection of the Ostrovets site over the other alternative sites.

This assumption has no ground.

Belarus, acting in good faith, deemed appropriate to describe in the EIA documentation for the Belarusian NPP possible locations of the proposed activity (as required by Appendix II, paragraph (b) to the Convention) and an indicative estimation of the potential environmental impact of the NPP alternatives (as required by Appendix II, paragraph (d))³.

The final choice (approval) of the location of the proposed activity, namely Ostrovets site, was made on 2 November 2013 after the completion

² It is intended that the Committee's operating rules promote consistency, predictability, credibility, transparency, accountability and efficiency in the work of the Committee, particularly with regard to procedures for the review of compliance (decision IV/2, annex 4, preamble).

³ Please refer to pages 48 - 58, 62 - 64 in the original document in Russian (EIA Report, 06.07.2010 version), and pages 44 - 54, 58 - 60 in its English version respectively.

of the transboundary EIA procedure taking into account lack of evidence of the possible significant adverse environmental impact as a result of the NPP construction at the site.

Other Parties participating in the transboundary EIA procedure for the Belarusian NPP – Austria, Latvia, Poland and Ukraine – did not question the sufficiency of the information provided by Belarus on the selection of the Ostrovets site.

Acting upon the request of the Committee Belarus provided a clear, concise and non-classified summary of the site selection procedure⁴.

It is unclear what kind of other “new information that would have explained the rationale for choosing the Ostrovets site over the alternative sites” the Committee expected to receive.

As recognized by the 7th Meeting of the Parties there is no single standard of the EIA documentation, which all the Parties to the Espoo Convention follow. Please refer to the decision VII/6, which endorsed good practice recommendations on the application of the Convention to nuclear energy-related activities⁵. Different countries, including in the EU region, follow different practice and approaches to detail the information in the EIA documentation but this does not represent non-compliance.

4. The Committee’s “exceptional” approach to the consideration of the Belarusian NPP case to examine the respective EIA documentation in its substance clearly discriminates Belarus.

Belarus believes that any Party’s compliance shall be considered on a non-discriminatory, non-arbitrary and unbiased basis as provided for in the Committee’s operating rules⁶ and any mechanism for review of compliance shall not be exceptional to any Party but be uniform for all compliance cases.

Enclosure: information on the justification of the selection of Ostrovets site on 2 pages.

First Deputy Minister,
National Coordinator on the Espoo
Convention of the Republic Belarus



Iya Malkina

⁴ Please refer to Belarus’ letters to the Committee of 26.02.2018, 28.06.2018.

⁵ Please refer to document ECE/MP.EIA/2017/10.

⁶ The Committee should consider the information on a non-discriminatory, non-arbitrary and unbiased basis (rule 15, paragraph 3).

On the justification of the selection of Ostrovets site

The site selection procedure for NPP is a comprehensive complex and multifactor task, essentially connected with ensuring of the plant operation safety and, as a consequence, the safety of the environment and the population. During the site selection procedure, Belarus acted in good faith and responsibly. The Belarusian side has carried out a full-fledge site selection procedure for the Belarusian NPP applying the full set of site selection and sorting out criteria in accordance with international safety standards of the IAEA. This has been done regardless the experience that Belarus has, which confirms that not all Contracting parties always consider locational alternatives during EIA.

Concerning the Convention's approaches to defining reasonable alternatives, selecting a suitable site, there is in paragraph b) of Appendix II only indication that the EIA documentation should contain a description, **where appropriate**, of reasonable alternatives to the proposed activity (for example, locational). The Convention and other documents developed in its support do not contain the definition of the concept of «reasonable alternatives» and criteria for the selection of a specific alternative (do not include methods for determining alternatives).

In addition, the Contracting parties approaches regarding estimation of the reasonable alternatives, providing their descriptions and taking decisions on their suitability are very diverse and ambiguous.

At the Committee's request Belarus provided by the letters of the Ministry of Environment of February 26 and June 29, 2018 detailed explanations on site selection, indicating how the relevant IAEA standards had been applied for site selection stages. The detailed justification for the selection of the preferred site (Ostrovets) and two reserve sites (Krasnopolye and Kukshinovo) were provided.

The EIA report of the Belarusian NPP sufficiently reflects the site selection process for the Belarusian NPP. To substantiate the selection of a suitable site, **a complex of detailed surveys and studies equivalent for the three sites** has been carried out to establish geographic, topographic, demographic, meteorological and aerological, hydrological and hydrotechnical, geological and hydrogeological, engineering-geological and geotechnical, geodynamic and seismotectonic conditions. Not all of the listed data and information is public. The results of these surveys and studies (a summary of the site characteristics), which are non-confidential, is presented in the EIA report. The presented data on the sites allow to carry out a comparative analysis regarding their correspondence with the established safety criteria for the site for the nuclear power plant's location.

The unfavorable factors* regarding the geotechnical and hydrological conditions of the Krasnopolye and Kukshinovo sites which had been identified

during the detailed studies a priori significantly would have influenced the safety of NPP operation, thereby increasing the potential risk of adverse environmental consequences, and would have required the implementation of additional technical solutions to ensure safety.

**At the Krasnopolye site, the potential possibility of suffusion-karst processes activation due to the occurrence of chalk and its contact with water-saturated sands has been identified.*

The Kukshinovo site is characterized by a very complicated geological structure due to the irregular occurrence of soils of different composition and properties, as well as the presence of potentially karst dolomites. This site has unfavorable hydrogeological conditions, since groundwater is pressurized and their level is close to the ground surface.

Please refer to the EIA Report (version of 06.07.2010), pages 48 - 45 in Russian version and on pages 44 - 54 in its English version.

Thus, the Krasnopolye and Kukshinovo sites, by a combination of factors that are essential for safety, less corresponded to the criteria established for site of the NPP location compared to the Ostrovets site.

Consequently, the Ostrovets site was selected as the preferred (reasonable) alternative, the Krasnopolye and Kukshinovo sites remained as reserve ones.

The final approval of the selection of the Ostrovets site was made by Decree of the President of the Republic of Belarus of November 2, 2013 after the completion of the EIA on the basis that, following the results of the EIA, no significant adverse impact of the NPP was found in case of its location on this site.