

**MINISTERSTVO ŽIVOTNÉHO PROSTREDIA  
SLOVENSKEJ REPUBLIKY**

**Sekcia environmentálneho hodnotenia a riadenia**

**Odbor environmentálneho posudzovania**

Námestie Ľudovíta Štúra 1, 812 35 Bratislava

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Ms. Vesna Kolar Planinšič  
Chair of the Implementation Committee  
Ministry of Agriculture and Environment  
Directorate for Environment  
Dunajská cesta 22  
1000 Ljubljana Slovenia  
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Váš list číslo/zo dňa  
EIA/IC/INFO/10,  
12.09.2013

Naše číslo

Vybavuje/☎  
Papajová Majeská, PhD  
0905/731 855

Bratislava  
18. 11. 2013

Dear Ms. Kolar Planinšič,

thank you for your e-mail from 12 September 2013 regarding the transboundary EIA procedure for the construction of Units 3 and 4 of the Khmelnitsky NPP.

Slovakia was notified by Ukraine on 28 January 2011 in accordance with article 3 of the Espoo Convention. However, the notification in question was of a rather brief form without the possibility to see the documentation made available on the Ukrainian Ministry's webpage. At the same time, its content contained inconsistencies and in some parts it contradicted itself (e.g. timetable for public consultations).

Since Slovakia – based on the acquired information – could not exclude significant negative impact on its territory, the notification was made publicly available on the webpage of the Ministry of Environment and the Ministry consulted public and affected authorities.

Slovakia answered to the Ukrainian Party in writing from 11 February 2011 stating that due to several ambiguities included in the notification it would be useful to reconsider the time table for public consultations as regards the transboundary EIA procedure and asked for a quick clarification of the situation, namely concerning the public participation procedure and given deadlines. Slovakia also recommended – with the view of flexible mutual communication – using electronic communication or fax between the official Contact Points for Espoo.

Ukraine reacted on 27 July 2012 by sending technical documentation (172 pages) in English language.

With respect to the fact, that the technical documentation was sent only in English language, which did not enable for an effective public participation and neither for effective internal consultations with affected authorities, Slovakia had this documentation translated bearing the cost for the translation. The translated documentation was then made publicly available.

In the beginning of September 2012 Slovakia was informed by Austria (also an affected Party in the procedure), that the Ukrainian Parliament had allegedly adopted the Act on location, design and construction for this project, which seemed to be the final decision.

Slovakia together with several other affected Parties sent a Ministerial letter to the Ukrainian Ministry for Ecology and Natural Resources in February 2013 asking for clarifications as regarded the adopted Act and also asking for fulfillment of Ukraine's obligations arising from international law.

In May 2013 during the meeting of the WG for Espoo Convention and its SEA Protocol in Geneva Slovakia learned that other affected Parties were either carrying out consultations with Ukraine regarding the project in question, or were at least invited to consultations. Since Slovakia did not receive any invitation, it approached the Ukrainian Party in person with request for clarifications. The representatives of Ukraine stated that Slovakia was indeed invited. Since the representatives of Slovakia insisted that no such invitation from Ukraine was received, they asked the representatives of Ukraine for a proof. Ukraine showed Slovakia a letter of invitation for consultations that was addressed to an inexistent Ministry. Slovakia expressed its regrets about the situation and asked Ukraine to resend the letter using official Contact Point published on the UNECE webpage.

Since no action was taken by Ukraine until September 2013, Slovakia sent an informal e-mail to the representatives of Ukraine asking again for the long lost letter of invitation. No answer was received.

In November 2013 during another session of the WG for Espoo Convention and its SEA Protocol in Geneva the representative of Slovakia approached the representatives of Ukraine once again reminding them of the fact that the Khmelniisky case was being considered by the Implementation Committee (hereafter "IC") and that Slovakia was asked to inform the IC about the transboundary procedure from its point of view. Slovakia urged Ukraine to send any form of reaction to its Ministerial letter as soon as possible.

On 18 November 2013 Slovakia received a short e-mail from Ukraine saying that Ukraine sent a letter of invitation on 21 March 2013 but did not receive response. Furthermore it stated that the Ukrainian Party only learned about the fact that Slovakia had not received its letter of invitation in November 2013. The email finished with a paragraph stating that the financing of the project was suspended and that Ukraine offers to conduct expert consultations under Article 5 of the Espoo Convention using electronic meetings or messaging email or official letters by the end of 2013.

In response to your request included in your letter from 12 September 2013, Slovakia would like to state that it finds the conduct of Ukraine unsatisfactory, mainly its slow - if any reactions, that significantly prolong the procedure. Also we do not see the point of holding any consultations if the project in question is not going to be built. However, since this is new information for us, we would like to ask for clarifications and details, namely:

- Is there going to be any project for Units 3 and 4 of the Khmelniisky NPP approved and built?
- Will there be a correct Espoo procedure applied?
- If yes, why would Slovakia accept being treated differently from other affected Parties due to a mistake that did not occur on our side?


- If no, what would the consultations be useful for?

Also we would like to state that due to the inflexibility in reactions from the Ukrainian Party, as well as due to the fact that there is in principle only one month (of working days) left till the end of 2013 (due to Christmas holidays in Slovakia), we do not see it as realistic to conduct consultations via official letters or e-mails.

All in all, we would like to express our regrets as regards the current situation and also we regret to say that we do not feel being sufficiently informed by the Party of Origin about the current and future state of the IEA procedure and the project itself. That is also why we do not see the ratio of our special treatment in comparison to other Parties, neither the use nor meaning of the outcome of the possible expert consultations.

Best regards,

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