



# ENVIRONMENTAL LAW SERVICE

**Reply to the questions of the Aarhus Convention Compliance Committee with regard to the Communication Ref. ACCC/C/2012/70**

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The Communicant hereby answers the questions of the Aarhus Convention Compliance Committee sent on 11 April 2013 after the discussion held during the Fortieth Compliance Committee meeting.

**1. Please provide a chronology of events.**

A separate Annex is attached to this document. Please see the document 2012\_70 Chronology\_MZP-EPS.pdf. The document was prepared and approved both by the Party and the Communicant as recommended during the discussion held in public session of the Fortieth Compliance Committee meeting.

**2. How did you get to know that the plan was in preparation?**

The Communicant referred to the valid legislation, specifically the Czech Act on the emission trading 695/2004 Coll. which sets forth the deadlines for the electricity operators to provide the data necessary for proceeding and preparation of the Application and the National Investment Plan.

On the basis of the deadlines provided in the Act on the emission trading 695/2004 Coll. the Communicant assumed that the Plan was under preparation and on 14 April 2010 approached Ministry of Environment with the request for the information concerning the following data.

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- Which electricity generators have applied for the free allowances (i.e. have submitted the necessary information) until 31 March 2010 pursuant to Article 10a of the Act 695/2004 Coll.?
- Which installations have been included in the list by the applying electricity generators pursuant to Article 10a para. 3, a) of the Act 695/2004 Coll.?
- What are the proposed plans for the investments into equipment and modernisation of the installations and clean technologies of the applying electricity generators pursuant to Article 10a para.3, b) of the Act 695/2004 Coll.?
- What are the proposed control mechanisms for the realisation of the planned investments submitted by the electricity generators pursuant to Article 10a, para.3, c) of the Act 695/2004 Coll.?

From the follow up communication with the Ministry of Environment it was evident that the Plan is under preparation.

For the reference, the Communicant provides the translation of the Article 10a of the Czech Act 695/2004 Coll. as provided by the Ministry of Environment to the European Commission<sup>1</sup>

#### *Section 10a*

##### *Transitional allocation of free allowances in connection with the upgrading of electricity generation procedures*

*(1) By 31 October 2009 at the latest, the Ministry will call electricity generators which hold permits according to Section 5 of this Act to submit requisite supporting documents for the processing of an application according to the relevant regulations of the European Communities 6b).*

*(2) Holders of permits according to subsection 1 will be able to submit the requisite supporting documents to the Ministry until 30 June 2010 at the latest.*

*(3) The requisite supporting documents for the purposes of subsection 1 are:*

*a) a list of the installations which holders of permits according to subsection 1 expect to be operating in the period from 1 January 2013 to 31 December 2019 and which were in operation, or*

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<sup>1</sup> Available at: [http://www.mzp.cz/C1257458002F0DC7/cz/narodni\\_plan\\_investic\\_cr/\\$FILE/OEOK-Methodology\\_Report-20120620.pdf](http://www.mzp.cz/C1257458002F0DC7/cz/narodni_plan_investic_cr/$FILE/OEOK-Methodology_Report-20120620.pdf), p.47.

*for which the investment process had been physically initiated, as of 31 December 2008; physical initiation of the investment process shall mean the submission of a notification of a project plan in accordance with Act No. 100/2001 Coll. on environmental impact assessment and amending certain related Acts (the Environmental Impact Assessment Act), as amended,*

*b) a draft plan regarding investments into the retrofitting and upgrading of installations, clean technologies etc. with a value corresponding to at least the expected market value of the emission allowances allocated for free, on the proviso that the plan is to propose the investment of the relevant funds by 31 December 2019 and that the investment process is to be physically initiated for at least one project under the submitted plan at the latest by 31 December 2013, whereas investments under the submitted plan initiated from 25 June 2009 may be counted for this purpose; the Ministry of the Environment will publish the expected market value of the allowances in its Official Journal by 31 May 2010 and on the public administration web portal,*

*c) a proposal for control checks on the performance of the planned investments according to paragraph b).*

*(4) On the basis of the supporting documents it receives, the Ministry will prepare an application for the allocation of free allowances so that as many free allowances as possible may be used for investments into retrofitting and upgrading of infrastructure and clean technologies. This application will state the proposed method for the allocation of the free allowances and the specific individual allocations of free allowances. The Ministry will submit the application for government approval by 30 November 2010 and will publish it in a manner allowing remote access. Immediately after its approval, the government will submit the application to the European Commission for assessment.*

*(5) The Ministry will prepare the application according to subsection 4 so as to make the maximum usage of the quantity of free allowances allocated for investments into retrofitting and upgrading of infrastructure and clean technologies. Such investments into the retrofitting and upgrading of infrastructure and clean technologies shall not include projects implemented in order to comply with requirements of legislation in effect as of 25 June 2009.*

*(6) Upon approval by the European Commission, the Ministry will then distribute the allocated free allowances among the specific individual operators of installations on the basis of duly submitted supporting documents and the approval of their applications for the allocation of free allowances for the relevant period. An operator of an installation that has received free allowances shall submit a report on the implementation of its investments to the Ministry by the end of each calendar year. The scope of the requisite information in this report will be determined under an implementing legal regulation. If a report submitted within the set deadline is nonetheless*

*incomplete or inaccurate, the Ministry will immediately request the operator of the installation to supplement or revise the report within a period of thirty days... Operators of installations which have received free allowances must implement all the investments into the retrofitting and upgrading of infrastructure and clean technologies based on which they received such allowances by the end of 2019.*

In Brno, 2 May 2013

Ms. Kristína Šabová