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Ref: ACCC/C/2013/89

3 November 2014

Tatiana Tökölyová
Department of the Sustainable Development
Ministry of the Environment
Námestie. Ľ. Štúra 1
Bratislava 812 35
Slovakia

Thomas Alge
OEKOBÜERO
Neustiftgasse 36/3a
A-1070 Vienna
Austria

Dear Ms. Tökölyová, dear Mr Alge,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Slovakia in connection with access to justice regarding the extension of the Mochovce nuclear power plant (ACCC/C/2013/89)

During the discussion of the above communications at its forty-sixth meeting (Geneva, 22-25 September 2014), the Compliance Committee indicated that it would send further questions for the response of both the communicants and the Party concerned. Please now find enclosed the questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your responses to the enclosed questions on or before **Monday, 1 December 2014**. Please send your response to aarhus.compliance@unece.org, copying the other party. The other party will then have until **Monday, 8 December 2014** to provide the Committee with any comments it wishes to make on your response. The Committee will consider the responses and comments received by the above deadlines when deliberating upon its draft findings at its upcoming forty-seventh meeting (Geneva, 16-19 December 2014).

Please do not hesitate to contact the secretariat if you require any further information.

Yours sincerely,

Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of the Slovakia to the United Nations Office and other international organizations
in Geneva
Tina Rametsteiner, OEKOBUERO
Jan Haverkamp, Greenpeace Slovensko
Eva Kovacechova, Via Iuris
Reinhard Uhrig, GLOBAL 2000/Friends of the Earth Austria

Enc: Questions for the parties

Questions for the communicants:

- 1) Please set out your understanding of the meaning of the ruling of the Slovak Supreme Court of 27 June 2013 with regard to the allegations of non-compliance made in your communication.
- 2) With respect to article 9, paragraph 3, of the Convention:
 - a) You allege that members of the public concerned are not granted the status of a Party to the proceedings in procedures conducted under the Nuclear Act. Is this allegation based on your interpretation of Slovak law or on jurisprudence related to the Administrative Procedure Act and/or Nuclear Act? Please support your answer with concrete references to the Administrative Procedure Act, the Nuclear Act and jurisprudence.
 - b) Have you or any other member of the public sought to be granted the status of a party to proceedings under the Nuclear Act since 2011? If so, what was the outcome of those applications?
- 3) With respect to timeliness of procedures under article 9, paragraph 4, please provide the Committee with examples of environmental court proceedings that you allege to be too lengthy. For each example, please specify the date when the request/appeal was filed, the number of hearings, the reasons for adjourning each hearing, and the date of the final decision.
- 4) With respect to article 9, paragraph 4 and the allegation that the court failed to provide an explicit answer to a request to grant an injunction, please provide the Committee with:
 - a) Examples of cases where the public concerned asked the court to grant an injunction or sought to appeal via court proceedings an administrative refusal to grant an injunction and the court did not address the request/appeal of the public concerned at all.
 - b) The text of the Slovak legal provisions and/or jurisprudence (together with English translations thereof) that allow the courts not to answer a request by the public concerned for an injunction or an appeal by against a refusal to grant an injunction.

Questions for the Party concerned:

- 1) Please provide an English translation of the ruling of the Slovak Supreme Court of 27 June 2013. Please also provide your understanding of the meaning of the Court's ruling.
- 2) With respect to the requirement in article 6, paragraph 6, of the Convention to give the public concerned access to all information relevant to the decision-making, please provide your position on the following:
 - a) If "sensitive information" under the Nuclear Act happens to be "environmental information" in accordance with article 2, paragraph 3, of the Convention are there legal provisions or institutional arrangements guiding how the requirements of the Convention should be applied in such cases? Alternatively, is the application of the Convention excluded in the case of "sensitive information"? To support your answer, please provide the text of the relevant legal provisions (together with an English translation thereof) and/or an explanation of the relevant institutional arrangements.
 - b) Was article 4, paragraph 4, of the Convention, including the last sentence of that paragraph, applied to any of the information that was redacted from the documentation made available to the public for inspection between 15 October and 30 November 2013, and if so, how.
- 3) With respect to article 9, paragraph 3:
 - a) You submit that members of the public concerned can be granted the status of a Party to the proceedings in procedures conducted under the Nuclear Act. Is this submission based on your interpretation of Slovak law or on jurisprudence related to the Administrative Procedure Act and/or

Nuclear Act? Please support your answer with concrete references to the Administrative Procedure Act, the Nuclear Act and jurisprudence.

- b) Has any member of the public sought to be granted the status of a party to proceedings under the Nuclear Act since 2011? If so, what was the outcome of those applications?