

Slovenské elektrárne

Enel

Authorizations and licensing Unit  
C3100

EMO plant, Units 3&4  
Mochovce

Úrad jadrového dozoru SR  
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Your ref.: 4731/2015

Our ref.: SE/2015/056386

Contact person/line:

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Location: Bratislava

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Registry Office

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**Re: Notice of initiation of a new appellate procedure on disclosure of the Preliminary Safety Report of MO 3&4 – after the effect of the judgement by the Supreme Court of the Slovak Republic No. 3SŽi/22/2014**

Dear Chairperson, Ms. Marta Žiaková,

On 24 July 2015 Slovenske elektrarne, a.s. (hereinafter only as the “SE”) received a call from the Nuclear Regulatory Authority of SR (hereinafter only as the “UJD SR”) to give a statement on the newly opened appellate procedure on disclosure of the Preliminary Safety Report of NPP MO 3&4 (hereinafter only as “PSR MO 3&4”).

SE acknowledge the fact that a valid judgement of the Supreme Court of the Slovak Republic No. 3SŽi/22/2014 dated 09 June 2015 confirmed and subsequently the judgement of the Regional Court in Bratislava No. 3S 142/2010-212 dated 14 May 2013 became effective. Despite the obligation of UJD SR to provide information from the Preliminary Safety Report, SE does not agree with its complete and unconditional provision to the civic association Greenpeace Slovakia or any other party. In particular we do not agree with provision of any information contained in chapters 7 and 11 of PSR MO 3&4, which in our opinion represent the most sensitive facts that could be misused for the purpose of endangering public safety or threatening the operation of a nuclear installation.

SE point out at the following facts relating to the judgement of the Supreme Court of SR:

1. The Supreme Court of SR stated that the “Directive 2003/4/EC or the Aarhus Convention do not confer public access to environmental information in an unlimited scope.”
2. The Supreme Court of SR pointed out in the recital an established case-law of the European Court of Justice that it is possible to limit the provision of information on the grounds laid down by the Directive.
3. Despite the fact that the Supreme Court of SR mentioned the possibility to classify information the disclosure of which could compromise safety, the extent of information which the public authority has the right and duty not to disclose, as laid down in Article 4 par.2, sub-par. a) to h) of the Directive 2003/4/EC, as well as Sections 8 to 11 of the Act No. 211/2000 Coll. on free access to information and on amendments to certain laws (Freedom of Information Act).

SE considers itself to be a party to the proceeding, since by disclosure of information contained in

PSR MO3&4 its rights and legitimate interest could be affected, relating in particular to:

- Physical protection of nuclear installations operations of NPP MO1&2 and MO 3&4;
- Intellectual property rights of SE, as well as suppliers of goods and services for the operations of NPP MO1&2 and MO 3&4; and
- Confidentiality of commercial or industrial information, including trade secrets of SE.

These information are considered by SE to be information according to Article 4 par.2, sub-par. b), c) and e) of the Directive 2003/4/EC, as well as according to the provisions of Sections 8 to 11 of the Act No. 211/2000 Coll.

Given the fact that the Preliminary Safety Report contains information that could have adverse impact on the safety of buildings and operations, as well as the economy of SE, SE as a party to the proceeding requests that UJD SR, after eliminating sensitive information according to the enabling provisions of the Act No.541/2004 Coll. as amended, according to Directive 2003/4/EC and the Aarhus Convention, sends the modified document of PSR MO 3&4 intended for disclosure to the public to SE to allow verifying elimination of all information and proposing possible necessary changes that would be necessary according to the opinion of SE in accordance with the provisions of Directive 2003/4/EC, as well as the Act No. 211/2000 Coll.

For the verification and possible proposed changes, SE requests a time period of minimum one month from the delivery of the modified PSR MO 3&4.

Yours truly,

Nicola Cotugno

Cc: C0000, 10400, C3000, C3100