

**Comments of the Slovak Republic as the Party concerned to the Aarhus Convention
Compliance Committee's revised draft findings and recommendations with regard
to communication ACCC/C/2013/89 concerning compliance by Slovakia**

The Slovak Republic would like to thank the Aarhus Convention Compliance Committee for preparing its revised draft findings and recommendations regarding communication ACCC/C/2013/89/Slovakia. The Slovak Republic also welcomes and appreciates the opportunity to consider and possible comment on the revised draft findings and recommendations pursuant to paragraph 34 of the annex to decision I/7.

The Nuclear Regulatory Authority of the Slovak Republic (hereinafter only as "ÚJD SR") disagrees with the main findings and recommendations in paragraphs 99 and 100 of the revised draft findings and recommendations with regard to communication ACCC/C/2013/89 concerning compliance by Slovakia that were sent to Slovakia on 6 April 2017.

Regarding this fact there is a reservation of the Slovak Republic with the Compliance Committee making recommendations in accordance with paragraph 36 (b) of the annex to decision I/7.

We are not sure whether the comments and evidence sent by Slovakia to the ACCC dated 25 July 2016 were examined thoroughly. In our view the revised draft findings and recommendations are only slightly different from the original version of the draft findings and recommendations from June 2016, while the opinion sent by Slovakia dated 25 July 2016 was extensive and backed by lots of documentary evidence supporting the claim of ÚJD SR.

ÚJD SR has repeatedly pointed out that **there is no legally binding definition** either in the Aarhus Convention, or in the Implementation Guide to this Convention, or in the Maastricht Recommendations on Promoting Effective Public Participation in Decision-making in Environmental Matters, **concerning which is environmental information in the nuclear licensing documentation**. Nor do they define environmental information in any proposed activity listed in Annex 1 to the Aarhus Convention. All proposed activities listed in Annex 1 must be treated equally and non-discriminatorily, and therefore it is essential that unequivocal and unified elements of environmental information should be adopted, which are part of the technical and technological documentation for their authorization. It is necessary to define in a centralized manner, on the side of ACCC, what is the available overall structure of required technical information and in particular to define, which of such information are at the same time specified as environmental information.

We are not entirely sure, whether the ACCC is also dealing with other major projects, such as the construction of oil pipelines, airports, ports, chemical plants, metallurgical installations. We believe that the Aarhus Convention is applied to all sectors of the industrial economy, constructions of major projects of national economy importance. **ÚJD SR has always informed the public, throughout the entire construction process there was no negative attitude presented by the public living in the vicinity of nuclear power plants, rather the contrary. Residents of towns and villages located in the vicinity of nuclear power plants have rather positive or neutral sentiment in relation to nuclear power plants.**

ÚJD SR in the authorization procedure for commissioning of nuclear installation reviews, assesses and verifies technical nuclear safety, technical and technological information, which is then verified and determines what is missing in the documentation so that the documentation can be used in the operation of nuclear installation. ÚJD SR basically assesses and evaluates the technological equipment inside the nuclear facility in terms of its ability to ensure nuclear safety.

Please note that globally (in the IAEA) or in European terms (within the EU) there is no framework for **unified process and material licensing** of nuclear installations. **There are only IAEA requirements to be met by the operator of the nuclear installation (technical, technological, software, personnel, organizational, quality management systems, securing the physical protection, etc.** (<http://www-ns.iaea.org/standards/default.asp?s=11&l=90>). **There are also framework requirements for the existence, status, independence and powers of the regulatory body.** Similar infrastructure requirements for the regulatory body are laid down in the EU legislation (Directive 2009/71/Euratom as amended by 2014/87/Euratom, Directive 2011/70/Euratom and Directive 2013/59/Euratom). **However, there is no European or global (international), legally binding document that would unify the process of authorization, the content and structure of the licensing documentation. Therefore, every state will have a different approach and the ACCC has no reference, to which it could relate its assessment of availability or unavailability of environmental information.**

In the same way, the procedure and examples of factual fulfilment of individual points of Article 4 par. 4 of the Aarhus Convention must be interpreted uniformly (anchored in a unified manner). ÚJD SR expressly insists on that unless uniformity is achieved in this interpretation, unanimously endorsed by all Member States, the dispute will persist on which data from the technological documentation are environmental information and which are not. Until such unification happens, ÚJD SR insists that in the elimination of sensitive information it proceeded correctly and did not breach anything. The authorization to exclude sensitive information is formally regulated by the Atomic Act, referring directly to the Aarhus Convention. From the material and legal point of view these are defined in the Act and the specific procedure, which specific details from the licensing documentation and for what reasons (the degree and the line of the security risk) are sensitive information, then these are set out in an internal directive, which is accessible on the website of the ÚJD SR.

On 23 March 2017 the Slovak Parliament adopted the amendment to the Atomic Act, which inter alia, redefines access to documentation in nuclear activities. The amendment to the law, after the President signed it, is currently at the editor of the Collection of Laws and shall enter into force on 1 August 2017. Section 3 par. 16 of the Atomic Act reads: *“(16) Documentation containing sensitive information is considered documentation, the disclosure of which could be used to plan or carry out activities aimed at disruption or destruction of a nuclear facility, and thus adversely affect the public safety^{3b)} and cause ecological or economic damage. This documentation shall be made available following the exclusion of sensitive information.”*

Currently there is an open administrative procedure to license commissioning of the nuclear power plant Mochovce Units 3&4. On 12 December 2016, the representatives of Slovenske elektrárne (SE) delivered to ÚJD SR application for license to commissioning of nuclear power plant Mochovce Units 3&4. SE also applied for authorization for an early use

of the project, permit for the radioactive waste management and spent fuel management and permit for management of nuclear materials inside the nuclear installation. The application was accompanied by the relevant documentation containing 377 annexes in the range of several thousand pages. All the parties were informed about the initiation of the procedure, parties in the process of environmental impacts assessment, municipalities around the nuclear facility and the whole public via the web.

[http://www.ujd.gov.sk/ujd/www1.nsf/\\$All/5162232EEBF1B542C12580C900564A50](http://www.ujd.gov.sk/ujd/www1.nsf/$All/5162232EEBF1B542C12580C900564A50)

The public in the neighbouring countries (Austria, Czech Republic, Poland, Hungary and Ukraine) was informed also by publication of information about initiation of the proceeding in the national press.

This process is open to all interested parties, whether natural persons, or legal entities, civic associations, governments, associations, organizations, both in Slovakia and abroad.

To facilitate familiarization with the documentation in the currently ongoing administrative procedure concerning the application of SE for the license for the commissioning of the nuclear power plant Mochovce Units 3&4 and related permits, ÚJD SR established a separate workplace at the site of the nuclear power plant Mochovce Units 3&4. The workplace, where it is possible to consult the documentation is located in rented premises of the nuclear power plant Mochovce Units 3&4, building No. 11-643/006, on the 3rd floor. There are free parking lots available in front of the building.

The documentation is available from 16 March 2017 until 30 June 2017 every Tuesday from 09:00 h. until 15:30 hours and Thursdays from 14:00 h. until 18:00 hours.

[http://www.ujd.gov.sk/ujd/www1.nsf/\\$All/E83784128749A7EFC12580D8002799A4](http://www.ujd.gov.sk/ujd/www1.nsf/$All/E83784128749A7EFC12580D8002799A4)

One of the parties in the procedure, Mr. H. asked for access to the documentation on DVD. After appropriate modifications were made (since ÚJD SR needed to prepare the data carriers and to digitalize the blacked documentation), the DVD with the documentation was sent on 7 April 2017. Before that ÚJD SR informed Mr. H. on 31 March 2017 that his request was received, it was registered and after digitalization of the documentation it will be sent to him. ÚJD SR, under equal treatment principle, sent the documentation electronically to Austrian citizens, Ms. L, Mr. U and Mr. R. As can be seen from the above example, **ÚJD SR fully satisfies all requests for information, unless this would impair the safety of nuclear power plant.**

On the other hand we can say that there is no globally (internationally) unified or European harmonized legally binding document, how a licensing documentation for a nuclear facility should look like. So no one can say in an authoritative manner, what should it contain and what not. **ÚJD SR then, under international commitments, maybe would not need to request such extensive licensing documentation, it could be dealt with by on-site inspections,** but since the safety of nuclear power plants is of paramount importance, ÚJD SR is trying to get the documentation from the applicant or operator as comprehensive as possible and containing all the evidence needed for the correct decision.

For the ACCC representatives to have an idea what is contained in the licensing documentation needed for the proceeding for commissioning of a nuclear installation and what information was eliminated, we are sending the documentation **on a DVD, which is used in the current licensing procedure.** According to this documentation the ACCC can

assess, which information was eliminated and whether the environmental information was eliminated.

Encl.: (Attachment – 1 DVD)

Please note that DVD also with the hard copy of a cover letter and Slovakia comments will be send by post.

The Slovak Republic kindly request the ACCC that the DVD is only accessible to members of the ACCC and only for the purpose of adopting the final decision on communication ACCC/C/89 (Slovakia) and not to make it publicly available through the UNECE web page.

At the end the Slovak Republic kindly asks the Compliance Committee to consider and take into account all about mentioned basic comments before finalizing the findings.