

From: Tökölyová Tatiana <email address redacted>  
To: Fiona Marshall  
Date: 26/06/2015 14:12  
Subject: Important circumstances

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Dear Fiona,

First of all I would like to thank you for your kind and helpful opportunity.

The representatives of the Slovak Republic interested in the communication ACCC/C/2013/89/Slovakia also welcome and highly appreciate the opportunity to stress several important circumstances of the communication.

The representatives in their view think that the communication is primarily concentrated more on access to justice as the previous communication ACCC/C/2009/41/Slovakia and therefore they would like informally stress these facts:

- 1) The Supreme Court annulled the decision of the Nuclear Regulatory Authority (NRA SR) no. 79/2009 - the first appellate decision – and issued judgement in absolute favour of Greenpeace.
- 2) Greenpeace has never asked actions in the suspension of operation or interim measures.
- 3) NRA SR fulfilled the obligation and immediately after the judgment came in force opened the new appellate proceedings on 21 August 2013. NRA SR proceeded strictly in line with the verdict of the Slovak Supreme Court and acted promptly towards fulfilment of the ruling with broad-spectrum potential of public participation. According to NRA SR, obligations explicitly defined in the verdict part of the ruling are legally enforceable and binding, not formal.
- 4) The representatives also stress the 30-page appellate decision of NRA SR in which was in detail evaluated each comment made by the public during the new appellate proceedings started on 21 August 2013 (immediately after the judgment becomes in force) and also the previous process, including a public hearing in Kalná nad Hronom and NRA SR open call for comments on the decision, which Greenpeace did not use. On the substance of the comments Greenpeace used the outdated and unused old analysis.
- 5) Greenpeace did not submit an appeal to the Supreme Court against the 30-page appellate decision of NRA SR (decision no. 291/2014).
- 6) The decision no. 761/2013 (NRA SR decision on exclusion of suspensive effect) was first given by Greenpeace to the prosecutor to evaluate steps and mentioned decision and raised a protest against unlawful steps of NRA SR. Greenpeace even did not wait for the outcome and filed a lawsuit with the Regional Court Bratislava. The prosecutor, however, had acted and evaluated instigation of Greenpeace as unreasoned, thus NRA SR acted fully in compliance with the law.
- 7) Withdrawal of the Greenpeace appeal against the decision no. 761/2013 on the exclusion of suspensive effect two days before the hearing.
- 8) The finding of the Constitutional Court of October 2014, found a violation of the rights of the other party – Slovenské elektrárne, a. s. in the judgment of the Supreme Court issued in absolute favour of Greenpeace, but did not cancel the judgment and confirmed it because the 30-page second instance decision no. 291/2014 in appellate proceeding had been already issued by NRA SR.

Based on the mentioned facts the representatives state that the public in the Slovak Republic has sufficient time and opportunity to exercise and protect its rights in the environmental matters.

Finally, the Slovak representatives would like to express their confidence that the Compliance Committee in its upcoming 49th meeting (Geneva, 30 June – 3 July 2015) will adopt an appropriate findings and recommendations in considering the communication.

Thank you once again and have a nice weekendJ

Tatiana