THE MINISTRY OF THE ENVIRONMENT
OF THE SLOVAK REPUBLIC
812 35 BRATISLAVA, NÁM. ĽUDOVÍTA ŠTÚRA 1
the Environmental Politics Division

Bratislava, 23 December 2013
No: 60185/2013-4.1
Ref: ACCC/C/2013/89

Ms. Aphrodite Smagadi
Secretary to the Aarhus Convention Compliance Committee
United Nations Economic Commission for Europe
Environment Division, Room 348
Palais des Nations, Av. de la Paix 10
CH-1211 Geneva 10
Switzerland

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

Dear Ms. Smagadi,

In response to your letter ref. ACCC/C/2013/89 of 26 July 2013, by which you addressed the National Focal Point with the request to make statement to the above communication submitted by Greenpeace Slovensko, Via Iuris and GLOBAL 2000/Friends of the Earth Austria and addressed to the Convention 's Compliance Committee, enclosed you will find requested replies concerning compliance by the Slovak Republic with provision of the Convention in connection with the extension of the Mochovce nuclear power plant.

Yours sincerely,

RNDr. Kamil Vilinovič
Head of the Division

Enclosure:
- requested replies

Cc: Ms. Ella Behlyarova, Secretary to the Aarhus Convention
Ms. Maryna Yanush, Environmental Affairs Officer - Aarhus Convention Secretariat
Permanent Mission of the Slovak Republic to the United Nations Office and other international organizations in Geneva

Reply to E-mail received from Mr. Thomas Alge:

The arguments and statements contained in the E-mail received from Mr. Alge are as minimum inaccurate or incorrect and misleading.

1. The Nuclear Regulatory Authority of the Slovak Republic (hereinafter only as "ÚJD SR") did not issue any decision about "the continuation of construction" but a Decision of ÚJD SR No. 761/2013 pursuant to Section 55 par. 2 of the Act No. 71/1967 Coll. on Administrative Proceedings (the Administrative Code) as amended, on exclusion of suspensive effect of the appeal lodged, since the court's decision returns the status 5 years back to the day when the first instance decision No. 246/2008 dated 14 August 2008 originally took effect. Under these time line circumstances, logically thinking, it cannot be imagined, that since the judgement of the Supreme Court returned the case 5 years back (i.e. to the state as if the appeal against the first instance decision was filed on time), so it is not affecting the real state of the construction of Mochovce nuclear power plant Units 3,4 in any way (hereinafter only as "NPP MO 3,4"), which in the course of five years of continuous civil works and technology and installation works has undergone major real changes. This means that the actual state of construction of NPP MO 3,4 in 2013 is fundamentally different from the situation in 2008. During the five years period there have been many irreversible construction and technological changes implemented on the basis of design documentation approved by this Decision No. 246/2008. Decision No. 246/2008 should be regarded as valid and effective and unquestioned for almost 5 years, since the action filed as to the lawfulness of the Decision does not suspend the validity and enforceability of the administrative decision.

   The Decision in any case is not a decision on continuation of the construction as claimed by Mr. Alge in his E-mail. On the basis of Section 55 par. 2 of the Administrative Code, the administrative body may exclude the suspensive effect of appeals in the following two cases: (i) when required by urgent public interest, or (ii) when there is a risk that the suspension of the decision sustains the party or anyone else irreplaceable loss. Filing an appeal pursuant Section 55 par. 1 of the Administrative Code results in suspension of enforceability of the contested decision. According to Section 55 par. 2 of the Administrative Code, if required by overriding public interest, or where there is a risk that the suspension of the decision sustains the party or anyone else irreplaceable loss, the administrative body may exclude the suspensive effect. ÚJD SR was of the opinion that in this case application of the given provision is correct and that in this case both alternative conditions for its application have been met.

   On 21 August 2013 ÚJD SR issued a "Notice of reopened initiation of appealed building proceedings for change of construction before completion". ÚJD SR, as the competent building authority according to Section 4 par. 1 subpar. j) of the Act No. 541/2004 Coll. on peaceful use of nuclear energy (the Atomic Act), and on changes and amendments to certain laws and according to Section 121 par. 2 subpar. e) of the Act No. 50/1976 Coll. on spatial planning and construction (the Building Act) as amended, according to Section 18 par. 1 and 3 of the Administrative Code and

according to Section 61 of the Building Act, announced the initiation of civil proceedings and because the building authority knows the conditions of the construction site very well, it dropped the local investigation and the hearing pursuant to Section 61 par. 2 of the Building Act. The notice was published on the website of ÚJD SR, the electronic notice board of ÚJD SR in Bratislava, as well as on the websites and on the notice boards of Kalná nad Hronom and Nový Tekov municipalities. Separate letter was sent to Greenpeace Slovakia, as well as to its legal representative, Mgr. Eva Kováčechova. Public participation is ensured so that everyone has the possibility to consult the documentation and to make comments from 15 October 2013 until 30 November 2013, which ÚJD SR as the permitting body will treat in a manner as prescribed by the law and will take them into account in its decision-making process within the legal and technical possibilities.

ÚJD SR pointed out to the affected authorities that the remonstration procedure is hereby opened against ÚJD SR Decision No. 246/2008 dated 14 August 2008, in which the affected authorities rigorously reviewed the submitted documentation and expressed their opinions already in 2008. If it was necessary to change their opinions, ÚJD SR asked the authorities concerned to make their opinions available no later than 30 November 2013. ÚJD SR also pointed out that the documentation needed for the licensing procedure contains also sensitive information pursuant to Section 3 par. 14 of the Atomic Act. Their disclosure could be used to plan and carry out activities to cause disruption or destruction of a nuclear facility and thus adversely affect the safety of the public and to cause ecological or economical damage.

As regards the other parties, they have the opportunity to become familiar with the documentation, which will have the sensitive information excluded from it, from 15 October 2013 in the Information Centre of NPP Mochovce, where the documentation needed for the licensing procedure will be available for consultation. These parties can present their views on the documentation no later than 30 November 2013, otherwise any late positions will be disregarded. The judgement of the Supreme Court was thus fully met, and public, including Greenpeace Slovakia, was included in the proceedings with the possibility to present opinions within the given deadline.
By these steps ÚJD SR fulfilled the court's judgment, that the case is returned for further proceedings, and that Greenpeace Slovakia should be treated as a party to the proceedings.

2. The argument of Mr. Alge that the "Slovak Highest Court abolished one of the 2008 decisions" we consider for misleading and false. The Supreme Court of the Slovak Republic (hereinafter only as "the Supreme Court") by its judgement No. 5Sžp/21/2012 dated 27 June 2013 annulled the **ÚJD SR Decision No. 79/2009**, which was the second instance decision (appeal), and returned the case to ÚJD SR for further procedure. **Therefore the claim that the Supreme Court abolished one of the decisions from 2008 is false and misleading.**

3. Regarding another claim by Mr. Alge that "the court further decided an EIA is needed", also this one we consider misleading. In the grounds of the judgement, not in

the operative part of the judgement of the Supreme Court No. 5Sžp/21/2012 dated 27 June 2013, page 15, the Supreme Court summed up the objections of the plaintiff, Greenpeace Slovakia, and agreed with them. One of the objections was that the public participation shall be ensured in a way that it is "timely and effective and the administrative body, given that in the present administrative proceedings it is unquestionably an activity consisting of licensing to operate a nuclear installation, shall carry out the environmental impact assessment, taking into account the Article 6, Annex 1 to the Aarhus Convention". Besides, the obligation to carry out EIA is being ordered by the Supreme Court in the reasoning to the administrative body (but it does not specify which one). The party to the proceedings was ÚJD SR, but the competent authority for the EIA process is the Ministry of the Environment of the Slovak Republic (hereinafter only as the "MoEnv SR"), but MoEnv SR on the other hand was not a party to the legal proceedings. ÚJD SR is the licensing authority and has no legal powers to order, require or carry out the EIA process.
Regarding the NPP MO 3,4 Project, the EIA process (environmental impact assessment) was carried out in the period 2009-2010 by MoEnv SR, while Greenpeace Slovakia submitted its comments within the given process. The EIA was completed with a final opinion of MoEnv SR No. 395/2010 – 3.4/hp dated 28 April 2010. The opinion states that the environmental impact assessment in 2009-2010 was carried out, inter alia, also in relation to the assessment of impacts of the entire proposed activity, which is a "nuclear power plant". Therefore, from the substantive point of view, Greenpeace Slovakia has already been given the possibility to present its comments, while the MoEnv SR expressed its opinion on these comments and took them into account in the extent, to which they were appropriate, the ÚJD SR as the licensing authority will take them into account in its final opinion and in the newly opened appellate proceedings.

However, the Supreme Court in its judgement does not specify, how it dealt with the fact that the EIA process has already been carried out in years 2009 – 2010 and was completed with a final opinion of MoEnv SR No. 395/2010 – 3.4/hp dated 28 April 2010. The Supreme Court judgement issued in June 2013, ordering in June 2013 to do something that has already been done in the years 2009 – 2010 without facing this fact in the judgement, and therefore ÚJD SR considers that this judgement is at this point very difficult to enforce. The incomprehensibility of the judgement in the part relating to the EIA process is increased by the fact that the Supreme Court joined several stages of the life of a nuclear facility (construction and operation of the nuclear installation, which are sequential periods of existence) and also licensed separately, into a single sentence, from which even with the best willingness one cannot conclude what the Supreme Court intended to impose in relation to the EIA process.

To conclude this part we would like to note that this communication to the Compliance Committee should be made subject to stringent check by the Committee itself and we note that supplying false and distorted information places unnecessary burden to both the Compliance Committee, as well as the Party concerned.

On the communication itself:
Communication by Greenpeace Slovakia, Via Iuris and Global 2000/Friends of the Earth Austria in an overwhelming majority describes the steps of the previous communication ACCC/C/2009/41. On many points ÚJD SR has no way how to comment them, as they describe facts, as well as inadequacy of the legislative environment in judicial matters, the state of the Civil Procedure, litigations and court action. ÚJD SR as the executive body cannot and will not interfere nor comment exercise of judicial power in the Slovak Republic. Also, as mentioned above, the judgement of the Supreme Court No. 5Sžp/21/2012 dated 27 June 2013 abolished the ÚJD SR Decision No. 79/2009 (which was a decision on appeal) and returned the case to ÚJD SR for further procedure.

Opinion on individual points of the ACCC/C/2013/89 communication:

Points 5 – 13	These are statements on the course of construction of NPP MO 3,4. These are historical facts that cannot be commented objectively, most of them are truthful. Under point 11 there is incorrect statement that the decision was taken by the Slovak Republic. This was a decision of shareholders – the decision was taken by the General Assembly of SE, a. s.
Point 14	Incorrect statement that the appeal (remonstration) against the decision 246/2008 was filed in June and in August 2008. The appeal (remonstration) dated 14 November 2008 was delivered to ÚJD SR with the date 19 November 2008.
Point 15	The permit for change of construction prior to its completion does not require the EIA, as it is not a new project or a different (new) activity and the changes were not of a nature with potential adverse effect on the environment. MoEnv SR performed screening – whether the proposed changes may have any substantial adverse effects on the environment. The conclusion was negative. The review was carried out by an expert impartial body.
Point 16	This is incorrect statement that the construction of NPP MO 3,4 officially started in November 2008. It was not the official launch, but a continuation of works according to the new decisions. Works on NPP MO 3,4 have never been stopped.
Points 17 - 23	These are just statements on the course of the first proceeding at ACCC No. ACCC/C/2009/41. This is a summary of objective facts. On this point we would like to add that ÚJD SR issued its Decision on 28 April 2009 and delivered on 4 May 2009. Greenpeace Slovakia delivered the action to the court on 8 July 2009.
Point 25	This is a summary of current legislation. However, it is necessary to complement - after the numbers of these laws also "as amended". ÚJD SR also suggests to complement the following ÚJD SR Decrees: Decree No. 30/2012 laying down details of the requirements for management of nuclear materials, radioactive waste and spent nuclear fuel. Decree No. 31/2012 amending and complementing the ÚJD SR Decree No. 58/2006 laying down the details of the scope, content and method of preparation of the nuclear installation documentation needed for individual

	decisions. Decree No. 32/2012, amending and complementing ÚJD SR Decree No. 48/2006 laying down the details of the method of notification of operational events and events during transport and the details identifying their causes. Decree No. 33/2012 on periodical, comprehensive and systemic assessment of nuclear safety of nuclear installations. Decree No. 34/2012 amending and complementing ÚJD SR Decree No. 52/2006 on professional competence. Decree No. 35/2012 amending and complementing ÚJD SR Decree No. 55/2006 on the details in emergency planning for an incident or an accident. Decree No. 430/2011 on requirements for nuclear safety Decree No. 431/2011 on quality management system Decree No. 46/2006 on special materials and equipment that fall under the regulation of the Nuclear Regulatory Authority of the Slovak Republic. Decree No. 47/2006 on details of maximum limits of quantities of nuclear materials and radioactive waste, which are not expected to cause nuclear damage. Decree No. 48/2006 laying down the details on the method of notification of operational events and events during transport and the details identifying their causes. Decree No. 51/2006 laying down the details on requirements for ensuring physical protection. Decree No. 52/2006 on professional competence. Decree No. 54/2006 on record keeping and control of nuclear materials and on notification requirement for selected activities. Decree No. 55/2006 on details in emergency planning in case of an incident or an accident. Decree No. 57/2006 laying down the details of requirements in transport of radioactive materials. Decree No. 58/2006 laying down the details on the scope, content and on the method of preparation of documentation of nuclear installations needed for individual decisions. ÚJD SR also suggests complementing the Decree No. 453/2000 implementing certain provisions of the Building Act.
Point 29	Communicant argues that the Slovak Republic has not provided for members of the public concerned access to the review procedure before an independent and impartial body. The reality is that the case was discussed by the courts of the Slovak Republic that are impartial and independent. If the communicant is of a different opinion, it should be backed up with specific evidence, not the Court's reasoning, which it does not agree with.
Points 30 and 31	The claim of the communicant is false.

	The Regional Court of Bratislava considered the arguments of the communicant, Greenpeace Slovakia, with respect to Article 6 of the Aarhus Convention and dealt with them. Please note that in the reasoning the Court expressly stated that in the event that it was a completely new permit for the construction of a nuclear power plant, it would be subject to Article 6, Annex 1 to the Aarhus Convention and it would be clearly necessary to perform environmental impact assessment (EIA). The Court therefore took into account the provisions of the Aarhus Convention in interpreting the national legislation.
Point 32	The Slovak courts decide according to the Slovak law in accordance with international treaties and conventions. Please note that also the ACCC said in its findings dated 12 May 2011 (ECE/MP.PP/2011/11/Add.3, par. 66) that the decision-making for the 2008 decisions on the Mochovce NPP appears to have been in accordance with Slovak national law.
Point 33	The Regional Court of Bratislava received the action from the communicant, Greenpeace Slovakia, and properly acted on it and took a decision. It dealt with all substantive and procedural arguments raised by the plaintiff, therewith granting the plaintiff legal protection and access to justice. It is not possible to conclude that the Slovak Republic is in breach of Article 9 par. 2 of the Aarhus Convention on the basis of an individual case, in which the state court dismissed the action on the ground that it did not accept the arguments of the plaintiff.
Point 34	ACCC in its findings dated 12 May 2011 (ECE/MP.PP/2011/11/Add.3, par. 69) noted non-compliance in the procedure applied by the Slovak Republic in matters of issuing licenses by ÚJD No. 246/2008, 266/2008 and 267/2008 with Article 6, par. 4 and 10 of the Aarhus Convention. From this it cannot be concluded that there is non-compliance with Article 9, par. 2. The communicant obviously confuses the nature of ACCC with a court or a tribunal. The ACCC/C/2009/41 proceeding was not performed to ensure the rights of individuals or of non-governmental organizations, but to ascertain the fulfilment of obligations (ECE/MP.PP/2/Add.8, Decision No. 1). The Slovak Republic did not get recommendations for actions that should remedy the incompatibility in an individual case. The Slovak Republic fulfilled the recommendations of ACCC approved by MOP by amendments in its national legislation, on which also various non-governmental organizations actively participated. Slovakia informed about the results of ACCC and any additional questions from ACCC were properly answered.
Point 36	Communicant creates an impression that the Slovak authorities followed a lengthy and inefficient procedure. The appeal (remonstration) dated 14 November 2008 was delivered to ÚJD SR on 19 November 2008 and not in June 2008. The communicant also failed to

	supply another fact that Greenpeace Slovakia performed all actions in the very last days of the time limits provided for by the law. This undoubtedly contributed to the prolongation of the whole decision-making process of the courts. The courts have effectually decided. The Supreme Court judgment No. 5Sžp/21/2012 dated 27 June 2013 annulled the ÚJD SR Decision No. 79/2009 and returned the case to ÚJD SR for further proceedings. The whole proceedings in the courts of both degrees took 4 years. Such length of the proceedings cannot be regarded as unreasonable in view of complexity of the case. At the same time, please note that the published statistics by the Ministry of Justice for the average length of judicial proceedings currently considered period 13 -14 months. Length of the judicial proceedings depends mainly on the complexity of the case, as well as utilization of individual judges and senates. The above-mentioned four-year length of the proceedings, which represents the proceedings in the courts of both degrees can be considered in view of the complexity of the case as appropriate. (note: The published statistics of the Ministry of Justice are available: http://www.justice.gov.sk/Stranky/Sudy/Statistika-priemerna-dlzka-konania.aspx https://www.justice.gov.sk/Stranky/Sudy/Statistika-sudy.aspx http://www.justice.gov.sk/stat/roc/12/)
Point 37	While the Committee found these arguments, but it was not clear even from the final findings what was actually supporting these arguments. Already in 2008, before the decisions were issued, the nuclear installation was completed to roughly 70% and its appearance was not significantly different from appearance of a similar power plant in operation. The building permit for all four Units of the nuclear power plant Mochovce was issued still in 1986, which was before accession of the Slovak Republic to the European Union, prior to signing the Aarhus Convention, as well as before it became effective for the Slovak Republic. Due to economic, political and other reasons the construction was slowed down, but not stopped. Since the building permit was issued in 1986, the building authority decided several times on prolongation of the period for completing the construction. Decisions issued by the Nuclear Regulatory Authority of the Slovak Republic in 2008 permitted (approved) only changes in technological systems and new technological system at the construction site, where 70% of the civil works and delivery of 30% of the technological systems has been implemented. ÚJD SR reiterates that in 2008 it was not deciding about a new construction or increased installed thermal or power output, or planning higher production of electricity, did not alter the physical and technological nature of the production process, the built-up area was not extended, it approved only the safety requirements in order to increase the level of nuclear safety.
Points 37 and	The public access to justice is in terms of the current Act No. 99/1963 Coll. the

38	Code of Civil Procedure guaranteed by several procedural institutes – by the principle of public, or by allowing the intervention in the proceedings. Participants in the proceedings in the administrative judiciary are under the second head of the fifth part of the Code of Civil Procedure defined in Section 250 and in the proceedings under the third head of the fifth part of the Code of Civil Procedure are defined in Section 250m par. 3. Section 250 par. 1 of the Code of Civil Procedure allows the court without motion and of its own order to include a party to the administrative proceedings whose rights and obligations could be affected by the abolition of the administrative decision. The interveners were also extended to legal persons whose subject of activity is the protection of rights under the special law and the obligatory demonstration of a legal interest in the outcome of the case is not required (Section 93 par. 2 of the Code of Civil Procedure). Each party is allowed by the relevant provisions of the Civil Procedure Code (Section 251) mentioned by the communicant to bring a free trial motion to postpone the enforcement of the decision (in which case the permit is not feasible), but must be justified by the possibility of serious injury to the party. Imposing interlocutory judgment (Section 74 – 77a) pursuant to the Code of Civil Procedure must be reasonable, that is proportionate to the interests of the other parties or the public. At the same time, please note that in addition to the imposition of provisional measures and the suspension of enforceability of the decision of the court under the provisions of the Code of Civil Procedure, may also administrative authority which decides on an administrative decision to impose provisional measures (Section 43 of Act No. 71/1967 Coll. Administrative Code) or suspension of enforceability of the decision (Section 75 of Act No. 71/1967 Coll. Administrative Code). This conclusion is clearly in line with Article 9 par. 4 of the Aarhus Convention, which says about interlocutory judgment, inter alia, that the state should allow provisional remedy through legal measures, which must be "appropriate, and be fair, equitable, timely and not prohibitively expensive".
Points 39 - 42	It is not clear in what the communicant sees the impossibility for Greenpeace Slovakia to argue the possibility of serious injury in accordance with the national legislation. This claim is not supported by any explanation. Should it be the fact that for the communicant Greenpeace Slovakia itself no property damage could arise as a result of the activity, this conclusion is not correct. The Slovak law provides protection to all rights including the right to a favourable environment (Article 44 of the Slovak Constitution). Thus if the

	communicant Greenpeace Slovakia, as an organization, has demonstrated real possibility of serious environmental damage in case of implementation of activities under the permit from ÚJD SR No. 246/2008, the court could order the suspension of enforceability of the ÚJD SR's decision. This conclusion is supported by the practice of the Slovak courts, which has already ordered suspension of enforceability of a formal decision in environmental matters in the past. At the same time, please note again that in addition to the imposition of provisional measures and the suspension of enforceability of the decision of the court under the provisions of the Code of Civil Procedure, may also administrative authority which decides on an administrative decision to impose provisional measures (Section 43 of Act No. 71/1967 Coll. Administrative Code) or suspension of enforceability of the decision (Section 75 of Act No. 71/1967 Coll. Administrative Code). It is thus clear that in the legal system of the Slovak Republic there are means for an adequate effective remedy within the meaning of Article 9 par. 4 of the Aarhus Convention.
Point 43	It is a statement on divided processes in several countries with a nuclear program.
Points 44-56	This is an incorrect interpretation of Article 9 par. 3 of the Aarhus Convention by the communicant. It is the State's duty to provide members of the public with legal instruments to challenge arbitrary decisions and actions of public authorities and third parties in violation of national law in the field of environment. This protection exists and has been granted by the Slovak courts by duly dealing with the action filed by Greenpeace Slovakia. The communicant, however, clearly confuses the right to such legal protection with the right of participation in any environmental proceedings. Such right, or the obligation of a member state to ensure such right, is not stated in Article 6 par. 1 of the Aarhus Convention. Greenpeace Slovakia demanded in litigation before the Regional Court of Bratislava annulment of the ÚJD's Decision 246/2008 on the grounds that it was not accorded the status of a party in the proceedings and before the decision was issued the environmental impact assessment did not take place (EIA). The communicant Greenpeace Slovakia failed to present for the trial any other claims for acts and omissions by private persons and public authorities, which would be in conflict with the national law in the field of environment. We emphasize that the argument on rejecting participation for the communicant Greenpeace Slovakia, in the proceedings under the Atomic Act, is false. In fact, Greenpeace Slovakia did not demand participation in any proceedings under the Atomic Act. However, if such demanding of participation occurred, ÚJD would

	be deciding on the relevant petition on the basis of its content. The claim that ÚJD SR rejected application of the provisions on participation in the proceedings of the Administrative Code is incorrect. Pursuant to Section 35 of the Atomic Act the general regulation on administrative proceedings applies on the conduct of the Authority, with the exception of the time limits provided for issuing a decision in proceedings pursuant to Section 8 par. 5 and Section 15 par. 4, and with the exception of essentials of a decision in the proceedings under Section 15 par. 4, Sections 16 to 16l and 24. It is clear from this that for the proceedings under the Atomic Act also Section 14 par. 1 and 2 of the Administrative Procedure applies, which provides for the participation in the proceedings. Section 14 establishes the following: 1) A party to the proceedings is the one, whose rights, legally protected interests or obligations are to be held or whose rights, legally protected interests or obligations may be directly affected by a decision; a party to proceedings is also the one who claims that he may be directly affected by a decision in his rights, legally protected interests or obligations, and that is up until the contrary can be proved. 2) A party to the proceedings is also the one, to whom a special law affords such status.
Points 52-56	These are statements from the current case at ACCC. These are objective facts.
Points 57-61	Pursuant to Section 35 of the Atomic Act the general regulation on administrative proceedings applies on the conduct of the Authority, with the exception of time limits provided for issuing a decision in proceedings pursuant to Section 8 par. 5 and Section 15 par. 4 and with the exception of essentials of a decision in the proceedings under Section 15 par. 4, Sections 16 to 16l and 24. It is clear from this that for the proceedings under the Atomic Act also Section 14 par. 1 and 2 of the Administrative Procedure applies, which provides for the participation in the proceedings. Section 14 establishes the following: 1) A party to the proceedings is the one, whose rights, legally protected interests or obligations are to be held or whose rights, legally protected interests or obligations may be directly affected by a decision; a party to proceedings is also the one who claims that he may be directly affected by a decision in his rights, legally protected interests or obligations, and that is up until the contrary can be proved. 2) A party to the proceedings is also the one, to whom a special law affords such status. The national legislation of the process of environmental assessment (EIA) guarantees the participation of the public in the decision-making process, also the access to justice and is the fulfillment of the legal framework of article 9 par. 3 of the Aarhus Convention.

	Access to a review procedure before a court or another independent and impartial body established by law, which may review the acts or omissions of public authority and which decisions may become final is guaranteed by: **Act No. 71/1967 Coll.** on Administrative Proceedings (Administrative Code) as amended Institute: Renewal of the proceedings (Section 62) - the proceedings held in front of the administrative authority concluded by a final decision shall be renewed upon the party's request by the law defined reasons. Institute: Examination of the decision beyond the appeal proceedings (Section 65). A decision which is final may be examined by the administrative authority on a higher level which is immediately superior to the authority which pronounced the decision, based upon its own or a someone else's motion (Section 58). In case of a decision of a central body of public administration (Slovak National Council body) the examination shall be carried out by its Chief Officer based on a motion of a Special Committee established by the latter (Section 61 par. 2). The administrative authority competent to examine the decision shall amend the decision or declare it null and void if it is contrary to the law, generally binding legal rules or a generally binding decree, keeping in mind to prejudice the rights acquired in good faith as little as possible. **Act No. 9/2010 Coll.** on Complaints as amended Institute: complaint (Section 3) is a submission by a natural person or a legal person who are seeking to protect their rights or legally protected interests, which the person considers that have been violated by action or inaction ("the activity") of the public authority. Points to specific/concrete deficiencies, in particular the violation of the law, the elimination of which is under the responsibility of the public authority. **Act No. 564/2001 Coll.** on the Public Defender of Rights as amended Institute: initiative/motion of Legal Protection of Natural Persons and Legal Entities (Section 11) - Anybody who believes that his fundamental rights and freedoms were infringed contrary to the legal order or principles of the democratic state and the rule of law in relation to the activities, decision-making or inactivity of a public administration body can turn to the public defender of rights. **Act No. 153/2001 Coll.** on Public Prosecution Service as amended Institute: Prosecutor's protest (Section 22 par. 1) is used to review measures or decisions of a public authority, which violated the law or other generally binding regulation. Institute: Prosecutor's notice (Section 28 par. 1) is used to eliminate violations of laws and other generally binding regulations, which occurred in the procedure of a public authority in issuing the measures or decisions or its inaction. Institute Prosecutor's right to file an action before the court: 1. According to Section 27 par. 2 of Act No. 153/2001 Coll. as amended if the directly superior authority, the supervising authority or the public

	authority not comply with the prosecutor's protest, the prosecutor may file an action before the court for reviewing the legality of the decision according to Act No. 99/1963 Coll. the Code of Civil Procedure as amended (Section 250b par. 5). 2. According to Section 250t par. 2 of Act No. 99/1963 Coll. the Code of Civil Procedure as amended the prosecutor may file an action before the court if the public authority is inactive in the procedure despite the Prosecutor's notice. **Act No. 99/1963 Coll.** the Code of Civil Procedure as amended Institutes: 1. 1 Section 247 et seq. – reviewing the legality of decisions and procedures of administrative authorities, 2. 2 Section 250t et seq. - measures of court against the failure by the administrative authorities, 3. 3 Section 250v et seq. - measures of court against unlawful interference by administrative authorities.
Point 63	The Slovak Republic had not breached its obligations under Article 6 par. 2 (d) (vi) of the Aarhus Convention by adjusting the legal framework for provision of environmental information. Pursuant to Section 3 par. 14 the documentation containing sensitive information shall be the documentation, the disclosure of which could be used to plan and carry out activities to cause disruption or destruction of a nuclear facility and thus adversely affect the safety of the public 3b) and to cause ecological or economical damage. This documentation shall not be published according to a special regulation. Paragraph 15 - Documentation containing sensitive information means the documentation stated in Annex 1, point A sub-par. c), point B sub-par. a), b), i), m), point C sub-par. a), d), i), j), s), w) and Annex 2 point A sub-par. b), point B sub-par. b). Section 11 par. 1 sub-par. h) of the Act No. 211/2000 on free access to information: The obligor shall limit disclosure of information or shall not make information accessible, if it relates to exercise of control, supervision or regulation by a public authority under special regulations, except information on decisions or on other result of inspection, supervision or regulation, if its disclosure is not prohibited by special regulations. ÚJD SR decides about non-disclosure of a specific piece of information in relation to a nuclear power plant. The relevant provisions of the law set out a framework for deciding on disclosure of information. Infringements of the provisions concerning the right of the public to access to information are addressed by the courts.

Points 64 - 66	It is not clear how the communicant would want to equate the legislative framework of the Slovak Republic or the specific case of NPP MO 3,4 to the Rosia Montana case. Within the EIA process decisions on refusing access to information are not being issued. The whole EIA documentation is accessible to the public and the public has complete information at its disposal. As regards the details on radiation, these were duly made available to the public during the EIA process. In general it can be stated that the EIA process for the NPP MO 3,4 project was conducted in accordance with the EIA Act, EIA Directive, as well as the intentions of the Espoo Convention. It is true that the documentation solving particularly complex impact of the operation of a nuclear facility on the environment in the area Mochovce (i.e. all four blocks) was submitted for consideration, and in addition it was also included in the issue of the current state of development of nuclear installation of NPP MO 3,4. The preliminary safety report is the basis for licensing procedure. The EIA documents included all significant publishable information from the preliminary safety report. Greenpeace did not ask for the preliminary safety report within the EIA, but demanded it in a separate process under the Act No. 211/2000 on free access to information as amended Assertion of the communicant on incompatibility of the legislation of the Slovak Republic with the Aarhus Convention is misinterpretation of the national legal framework.
Point 66	ÚJD SR disagrees with the allegation of infringement. In the procedure for the change of construction prior to completion of NPP MO 3, 4 it was the approval of modifications enhancing the level of nuclear safety and states again what was said regarding point 37 what was decided in 2008.