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Date: 05/22/2014 08:52AM
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Subject: AW: Decision IV/9e (Slovakia) - response from the Party concerned

Dear Fiona,

finally here are the comments, prepared by Eva Kovacechova. I am very sorry for the delay!

General remark to the submission of the Slovak Republic: they still keep saying the same albeit the legislative situation still did not change according to the findings of the ACCC.

General introduction

Ad 1:

As to the last sentences: public participation is conditioned and bound to the previous participation in EIA - in case there was no EIA preceding the original permit, public still does not have access to the proceedings!! The problem is that even if the public is party to the proceedings (i.e. even if there was EIA preceding the permit procedure), the public is not sufficiently provided with the necessary information "if providing such information could adversely affect public safety" Article 8 paragraph 3 of the Atomic Act (514/2004)

Ad 2:

This is true in case of new installations. But it is still not true in case of CHANGE of the original permission. The provisions on EIA regarding the change of the permission (in EIA Act) were not changed properly yet. The fact is that the Ministry of Environment is facing an infringement procedure (or threat of infringement) and therefore they are working on amending legislation in this case. But - the legislative procedure is still an ongoing process and the draft of the amendment is not even in the Parliament yet. So the actual state of the relevant legislation does not guarantee that any significant change is subject to the EIA. And thus - if there is not EIA, there is no public participation guaranteed in subsequent permission procedures.

Ad 3, 4:

This statement is such an irony! As I mentioned above - the public (even as a party to the proceedings) has very limited access to the case files, since the nuclear authority (which is the Nuclear Regulatory Authority = Urad jadroveho dozoru = UJD) can decide that providing information could adversely affect public safety and therefore information will not be provided. This happened to Greenpeace Slovakia in autumn 2013 where as a party to the proceedings (based upon court decision) they were given hundreds of pages with blackened or whitened text - so - unlike other party to the proceedings concerning nuclear installations, the public has only very limited access to the files and information in it - which is based on a very broad and vague provision in the Atomic Act - article 8 paragraph 3.

So - there is no compliance with article 4 and 6 of the Aarhus Convention.

Repeated proceedings ..

Ad 1, 2, 3:

It must be stated that the repeated procedure was ridiculous: Greenpeace was given hundreds of pages with hidden information.. they were given copies of documents with no text.. (By the way - The files and all documents were not available in the seat of the

Nuclear Authority (which is in Bratislava), but in Mochovce, which is over 120 kilometers from Bratislava)

The last paragraph:

This is not true. The same process would not occur in similar situations, unless there is a court judgement making the nuclear authority to do so. As mentioned above - if there was no EIA procedure preceding original permission, the public has no access to the proceedings on change of this procedure. Any public participation is bound to the EIA process.

More important: Slovenske Elektrarne filed a case to the Constitutional Court asking for revision of the court decision issued in June 2013. This was the court judgement which finally allowed at least formal participation of Greenpeace Slovakia in the procedure and re-open the procedure. We just discovered this move of Slovenske elektrarne by chance and we will try to enter the proceedings at the constitutional Court as a party to the proceedings - but I don't know whether we will succeed.

Best,

Tina