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**Case ACCC/C/2009-41 - decision IV/9e concerning Slovak Republic and NPP Mochovce
Reaction on the Slovak statement of February 2013**

Vienna, 8. March 2013

Dear Ms. Behlyarova,

Concerning the latest submission of the Slovak Republic we react as follows on behalf of the associations Friends of the Earth Europe, Greenpeace Slovakia and OEKOBUERO:

Question 1:

It is formally correct that the public can participate in procedures issuing permits and/or approval by the Nuclear Regulatory Authority if its members (persons, legal entities – including NGOs) participated in the EIA procedure preceding the permission / approval procedure itself. The reason is that an EIA procedure was carried out (though only after the 2008 permits were issued).

Regarding the question of raising issues concerning nuclear safety we disagree: There is a provision in the Atomic Act saying: Such parties to the proceedings (i.e. public) will be refused to access the information if providing such information could adversely affect public safety (Article 8 paragraph 4 of the Atomic Act). This means the public can be party to the proceedings, but without access to relevant information. Such participation is then very limited and the public practically has no possibility to influence the final decision of the Nuclear Regulatory Authority.

Question 2:

The Slovak answer confirms the the MoP decision has not been implemented. If we understand correctly, no measures have been taken with regard to updating old permits since “these permits cannot be interfered because of the legislative principle of non-retroactivity”.

There were some important and also progressive changes of the relevant laws (EIA Act) adopted during 2011 and 2012, however, none of these legislative amendments refer to the old permissions. In other words – if the decisions of the Slovak Nuclear Regulatory Authority issued in 2008 were issued today, the process would be the same as in 2008 to 2010 and the public would not be granted right to

participate in the procedure. In other words: if there are old permissions issued during the period when there was no EIA Act valid in the Slovak legislation and they are reconsidered nowadays the administrative procedure would be held without public participation, unless the EIA precede such reconsidering of the old permit.

To state it shortly: nothing has changed in the Slovak legislation in this regard.

The referred legislative changes are positive, but did regulate different things than the MoP requested:

Amendments to the EIA Act no 24/2006 adopted in 2011 and 2012:

Law No. 258/2011: changes concerning geological issues

Law No. 408/2011: large amendment to the EIA Act:

- changes of the provisions dealing with the strategic EIA, including public participation in SEA
- some changes of the provisions dealing with public participation in EIA – new definition of legal entity, civic association, rights of the public interested
- prolonging of the validity of the Final Statement of the EIA from three years to 7 years
- some other (minor) changes

Law No. 345/2012: changes of competencies of the public authorities = powers of Regional authorities was transferred to the district authorities

Law No. 448/2012: minor, non-important change

Law No. 39/2013: minor change dealing with the validity of the Final EIA Statement

Question 3.

Following the answer of question 2 it is clear there can be no evidence: The Slovak government cannot provide such examples because there are none -due to insufficient legislation as stated above. It is difficult to prove something which does not exist.

Best wishes,

A handwritten signature in black ink, appearing to read "Dr. Klaus Kastenhofer".

Dr. Klaus Kastenhofer

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