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OF THE SLOVAK REPUBLIC
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Legal Services and Appeals Department
Aarhus Convention National Focal Point*

Bratislava, 15 August 2013
No: 41340/2013

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: Decision IV/9e of the Meeting of the Parties to the Aarhus Convention

Dear Ms. Smagadi,

referring to your letters of 30 April 2013, 15 July 2013 and subsequent comments of NGOs (communicant on ACCC/C/2009/41 and other supporting NGOs) of 26 June 2013, we submit you requested additional explanation to Slovakia statement of 14 June 2013 to Decision IV/9e of the Meeting of the Parties to the Aarhus Convention.

The main subject of the case ACCC/2009/41/Slovakia was reviewing the public participation in decision-making process for the construction of the Mochovce Nuclear Power Plant 3,4 in issued decisions of the Nuclear Regulatory Authority of the Slovak Republic (hereinafter referred to as „NRA SR“) no. 246/2008, no. 266/2008 and no. 267/2008 of 14 August 2008.

The Compliance Committee in the mentioned case endorsed the findings and recommendations that the Party concerned, i.e. the Slovak Republic, by failing to provide for early and effective public participation in the decision-making leading to the decisions by the Slovak Nuclear Regulatory Authority no. 246/2008, no. 266/2008 and no. 267/2008 of 14 August 2008 concerning the Mochovce NPP, failed to comply with article 6, paragraphs 4 and 10 of the Aarhus Convention

In regard to your additional request for the further clarification, we would like to state that the Slovak Republic so far has acted in accordance with the findings and recommendations set out in the decision IV/9e adopted by the Parties at the fourth session of the Meeting of the Parties to the Aarhus Convention (MOP 4, 27 June – 1 July 2011, Chisinau) considering their non-confrontational, non-judicial and consultative nature in accordance to which the Slovak Republic has to review its legal framework so as to ensure that early and effective public participation is provided for in decision-making when old permits are reconsidered or updated or the activities are changed or extended compared to previous conditions in accordance with the Aarhus Convention.

In accordance with the findings and recommendations of the Compliance Committee the Slovak Republic has reviewed the legal framework since March 2010 and has carried out the amendments in the relevant legislation concerning the public participation in decision-making processes, especially in the Act no. 24/2006 on environmental impact assessment and amending some other acts as amended (hereinafter referred to as „the EIA Act“), which extended the activities for which it is necessary to carry out the EIA process and also extended subjects, including the participation of each individual, thereby ensuring the early and effective public participation in decision-making EIA process.

In the Progress report, as well as in the Implementation report were described in detail the specific legislative changes that have resulted in precisely specification of the term the public concerned both for the natural and legal persons. As regards the provisions on public concerned, the restricting conditions have been dismissed (e.g. the number of persons/members of civic initiative) and the spectrum of administrative proceedings, where the civic initiative, civic association and non-governmental organisation can be a party to subsequent permitting procedures, has been extended. This is **the important extension of the rights of the public** that is interested in taking part in decision-making on environmental matters so that it has sufficiently efficient instruments to promote their requirements, so that it is notified of reasons of a refusal of such requirements and so that it has an opportunity to question the decision at a court. Both natural and legal persons should have an open access to the court, being one of the pillars of the Aarhus Convention.

For foreign observers the national legislation may seem to be complicated in many aspects, because the legislation of each country has its own unique specifics.

Old, still valid permits issued under the applicable laws and effective at the time of their issue, cannot be changed and no intervention is possible, in order to preserve the rule of law – the principle of legal certainty and non-retroactivity, except to the decision of a national court in case of action filed on time.

In general, the jurisprudence with respect to preserve the principle of legal certainty and non-retroactivity rule means that legislative changes in the law, i.e. their amendments shall be applied in the future, i.e. from the moment of their entry into force and effect. For more details see the transitional and final provisions of a specific law.

In the event that at the present there would be a situation that the old valid permit is going to be revised, then it shall be proceeded according to the law in force at the time, when this permit is to be amended, supplemented or repealed, i.e. under the current legislation. In that case, for the old valid permits the current provisions of amended laws on ensuring active public participation in the decision-making process is applied.

In accordance with the appeal of Greenpeace Slovakia to review the legality of the decision and procedure of the administrative authority (NRA SR) issuing the decision no. 246/2008, to which relate NRA SR decisions no. 266/2008 and no. 267/2008 of 14 August 2008, authorizing the change before the construction of Mochovce 3, 4 NPP, the Supreme Court of the Slovak Republic, as the court of appeal, issued on 27 June 2013 the judgement ref. to procedure 5 Sžp/21/2012, which was submitted to NRA SR on 9 August 2013.

The Supreme Court regarding Greenpeace Slovakia appeal (2 July 2012) decided to change the first instance judgment of the Regional Court in Bratislava ref. to procedure 4S/125/2009 and abolished decision no. 79/2009 of 28 April 2009

(i.e. appeal/decomposition against the decision no. 246/2008 of NRA SR) and the case returned to Nuclear Regulatory Authority of the Slovak Republic for further proceedings.

The Supreme Court ordered Nuclear Regulatory Authority of the Slovak Republic by the mentioned judgment: "to re-discuss the matter and decide on it with the participation of Greenpeace Slovakia; Nuclear Regulatory Authority of the Slovak Republic will be required to deal with all relevant objections of participants of the administrative procedure (§ 59 par. 1 of the Administrative Code) and will decide that its conduct and decision will be in accordance under the provisions of § 4 and § 47 of the Administrative Code, and is obliged in detail to reason its point of view on the objections raised". The judgment of the Supreme Court admitted Greenpeace Slovakia the status of a party with all rights in the proceedings relating to change before the construction of Mochovce 3, 4 NPP.

Licensing process for nuclear installations in the Slovak Republic is governed by two major laws. One of them is the Act No. 50/1976 Coll. on land use planning and building code (the Building Act) as amended, and the second law is the Act No. 541/2004 Coll. 1. on peaceful use of nuclear energy (the Atomic Act) and on amendments to certain laws as amended.

The issue of the legislative framework for the update of old licenses/permits may ultimately be seen, both in terms of content, as well as from the point of practice, as amendment to the permit governed under the Building Act or under the Atomic Act.

In terms of the Building Act any change in the original building permit is understood as an independent building proceeding resulting in a decision. Changes in the original building permits may be as follows:

- a) in the permit for change of construction before completion according to § 68 of the Building Act and § 11 of the Decree No. 453/2000 Coll. I. as amended;
- b) in the decision on renewing its validity according to § 69 of the Building Act;
- c) in the permit for change of use of a building according to § 85 of the Building Act and § 21 of the Decree No. 453/2000 Coll. I. as amended;
- d) in the permission to demolish the building according to §§ 88 to 90 of the Building Act and §§ 24 and 25 of the Decree No. 453/2000 Coll. I. as amended.

Each of these procedures is a specific, individual, unique procedure. In all these cases the process is in accordance with the law, as in the original building procedure, i.e. the notification requirements, provisions on participation in the proceedings, on deadlines, on particulars of a decision, on authorities concerned, on publishing decisions, on opportunities for public participation, etc., apply according to the § 140 of the Building Act, unless the building regulations explicitly state otherwise, for the process of building permit, as well as for individual changes stated above, the provisions of the Administrative Code apply.

For a better understanding and orientation in the given issue, we attach excerpts of the relevant articles of the Building Act and its implementing decree.

Building permission - Article 66 of the Building Act

(1) In the building permission the building office shall determine the binding terms for the execution and use of the building and shall rule on the objections of participants of the proceedings. The building office shall secure with certain conditions in particular the interests of the public in the construction and in the use of the building, the comprehensiveness of the building, adherence to general technical requirements for construction or their regulations and technical standards and the adherence to requirements determined by the relevant state authorities, above all the prevention or restriction of negative effects from the building and its use on the environment.

(2) The binding terms of the execution of construction shall ensure or determine

- a) siting of a building on the land in cases of the connected proceedings on siting of a building with the building proceedings,
- b) protection of public interests, especially protection of health of people and environment,
- c) adherence to the respective technical regulations, access and use of the building by persons with limited moving and orientation ability,
- d) deadline for construction completion,
- e) meeting of requirements applied in binding positions pursuant to article 140b by the relevant authorities, unless they are stipulated by the administrative decisions, or requirements of the owners of the networks and equipment of public transport technical facilities for connection to these networks,
- f) building supervision or qualified person if the construction is carrying out on his own or by help of other persons,
- g) use of suitable building products, 1k)
- h) obligation to notify the commencement of construction.

(3) Furthermore in the binding terms of the execution of construction it is determined as needed:

- a) submission of detailed documentation prior to commencement of construction that is necessary for control of adherence to the conditions determined for execution of the construction,
- b) notice of particular stage of construction for the purpose of performance of state building supervision,
- c) submission of documents, expert's reports, measurements and opinions,
- d) detailed requirements for execution of the construction especially in the light of comprehensiveness and fluency, connection to networks and equipment of technical facilities, road communications, draining of surface water, formation of surroundings of building and conditions of green protection or its displacement,
- e) definition of inevitable dimension of area of the plots that will form the part of the site,
- f) details for measurements on the neighbouring land or on the building pursuant to article 135,
- g) provision of detailed static calculations for execution of the construction,
- h) stating the name (title) and address (seat) of the contractor of the building if he will be determined in tender proceeding [article 62, paragraph 1, letter d] ,
- i) allowances regarding staking-out the construction (article 75a, paragraph 1),
- j) requirements for marking the construction on the site.

Article 68 of the Building Act

(1) The building office may in justified cases on the application of the developer allow changes to the building before its completion.

(2) To the extent to which the change affects the rights, the legally protected interests or obligations of participants of the building proceedings, as well as the interests protected by the relevant authorities, the building office shall review the application and shall issue a decision with which it shall allow the change, upon which it shall also rule on any objections from participants and determine if necessary further binding conditions, or shall refuse the application. For proceedings on the change the provisions referring to building proceedings apply appropriately.

Article 69 of the Building Act

(1) Building permission and decisions on the extension of its validity are notified in the same way as the commencement of building proceedings and the notification of hearings; these decisions concerning simple and small constructions are also notified to the state administration authorities which have reserved the right of assessment of the documentation.

(2) If the building permission is notified through a public announcement, it shall be displayed for 15 days in the manner usual in the locality. The last day of this period is the date of delivery.

Articles 8 - 11 of the Decree No. 453/2000

Application for a Building Permit

Article 8

(1) Application for a Building Permit shall contain:

- a) First name, family name (name) and address (seat) of the builder/developer,
- b) Type, purpose and location of the structure, expected date of completion and in case of temporary structure also the period of its duration,
- c) parcel numbers and types of building land plot with ownership or other rights according to the Land Register 1) and parcel numbers of adjacent land plots and of neighbouring buildings or other land to be used as construction site,
- d) First name, family name (name) and address (seat) of the designer,
- e) An indication, whether the construction is carried out by a contractor as self-help,
- f) Basic information about the building, its structure, technical or production facility, future operation and its impact on the environment and human health and on related measures,
- g) List of participants in the construction proceedings, which are known to be builder; if it is a linear structure and very large structure with a large number of participants in the construction proceedings, the list of participants is not stated.

(2) An application for a building permit shall be accompanied by:

- a) documents, by which the developer demonstrates his ownership to the land or the building or has other rights to the land or structure authorizing him to establish on the land the required structure or to make change to the structure, or maintenance works on it,
- b) Design documentation (design of the construction) prepared by an authorized person in triplicate; in case of buildings according to § 45 par. 6 a) of the Act, documentation prepared by a person with the relevant vocational education is sufficient,
- c) Decisions, opinions, statements, consents, assessments or other measures of the relevant government bodies and bodies of municipalities,
- d) Evidence of negotiations with the parties to the building proceedings, if held before the application,
- e) A copy of the generally binding regulation on approval of the zoning plan, if planning permission is not required,

- f) *In the case of construction undertaken with self-help, declaration of the construction supervision or a qualified person that will provide professional management of the construction.*
- (3) *If it is a building having a nuclear installation built-in, the application shall be accompanied by the authorization from the Nuclear Regulatory Authority granted based on a safety documentation review according to a special regulation.*

Article 9 of the Decree No. 453/2000

(1) *Design documentation (design), which is submitted for the building proceedings, includes – according to the type and purpose of the building – in particular:*

- a) *Accompanying report with data that complement the basic information about the construction specified in the application for the Building Permit, with information on compliance with the conditions of the decision on placement of the construction, if issued, or on compliance with the conditions of the approved zoning plan, if the territorial decision is not required, with the information on the outcome of surveys and measurements,*
- b) *Summary technical report, from which it must be sufficiently clear*
1. *Proposed urban, architectural and construction and technical design of the building, its components and the use of appropriate construction products in relation to fulfilling basic requirements for structures (§ 43d of the Act) and compliance with general technical requirements for construction, including general technical requirements for buildings used by persons with reduced mobility, 11)*
 2. *Fire-safety solution under special regulations, 4)*
 3. *Demands for energy and water supply, sewerage, transport (including parking), waste disposal and connection to the existing networks and technical equipment,*
 4. *Information on overhead and underground structures at the construction site (including networks and technical equipment) and on existing protection zones,*
 5. *For buildings with operational, production or technical equipment data about such equipment, the concept of storage, solution of internal transport and space for operation, maintenance and repairs, and requirements for trial operation after construction completion,*
 6. *Information on fulfilment of conditions determined by the state authorities, if received before filing the application,*
 7. *Layout of the construction site and measures to ensure safety and protection of health at work, when it comes to carrying out construction work under special conditions,*
 8. *Way of ensuring occupational health and safety and safety of technical equipment for the construction and for future operation,*
- c) *The overall layout (building plan) as a rule in scale 1:200 to 1:500,*
1. *Boundaries of land plots and their parcel numbers according to the Land Register, including adjacent land plots and existing structures on them,*
 2. *Underground networks and technical equipment,*
 3. *Design of connections for transport and technical facilities of the area,*
 4. *Protection zones; in case of linear structure, plotting its path in the base map at a scale of 1:10 000 or 1:50 000; additional drawings by purpose and complexity of construction,*
- d) *Alignment drawings or necessary geometric parameters indicated in the building plan of simple structures,*
- e) *construction drawings, showing the extent to date and the proposed state, especially floor plans, cross-sections and views (as a rule, scale 1:100) containing different types*

of structures and parts of structure (e.g. foundations, supporting structures, staircases, building envelope, roof structures, chimneys), horizontal and vertical arrangement of the building and all its areas showing the exact functional determination, a schematic indication of internal wiring and installations (e.g. sanitary, including fire water main, heavy current, low-voltage, gas, hot water), technical equipment (e.g. boiler room and elevators), modifications and solutions prescribed for specific security of structures in terms of civil protection, 8) fire protection 4) and in terms of meeting the basic requirements for structures,

- f) Static assessment of the building demonstrating mechanical strength and stability of the supporting structure,*
- g) Proposed modifications to the surroundings (exterior) and proposal for protection of greenery during the construction,*
- h) In case of buildings with operational, production or technical equipment, construction drawings including spatial location of machinery and equipment including solution for internal roads,*
- i) In case of buildings with special requirements for implementation, project of construction organization, if the data given in the summary technical report are not sufficient.*

(2) If the developer applies for a Building Permit on each set of buildings, the design documentation of the first building contains the general layout (building plan) of the whole set of buildings, including construction site equipment.

(3) The overall layout of the building and construction drawings, in particular floor plans, cross sections and views, shall be presented in an original, which guarantees stability of the print.

(4) For simple structures and temporary structures, for the equipment of the construction site, after consultation with the Building Authority, the scope and content of the design documentation may in individual cases be reasonably limited.

Article 10 of the Decree No. 453/2000

Content of the Building Permit (to Article 66 of the Act)

(1) The Building Permit contains, in addition to general requirements 10)

- a) First name, family name (name) and address (seat) of the developer and other parties to the proceedings,*
- b) Type and purpose of construction or change of thereof,*
- c) Parcel numbers of building plots according to the Land Register, on which the construction is being permitted,*
- d) Conditions for implementing the construction or for use of the building,*
- e) Other conditions that ensure protection of public interests and legitimate interests of the parties,*
- f) The location of the building on the property, if the territorial proceeding was linked to building proceedings or if a territorial decision is not required,*
- g) If the construction is undertaken by a contractor, the first name, family name (name) and address (seat) of the Contractor or a notice that it will be determined from a tender; if the construction is implemented by self-help, the name and address of the construction supervision or qualified person, who will provide professional management of the construction,*
- h) Setting a deadline for completion of construction,*
- i) Decision on objections of the parties,*

j) Notice to the builder about the obligation to notify the building authority about start of construction.

(2) The Building Authority shall attach to the Building Permit certified design documentation of the structure or changes thereof.

Article 11 of the Decree No. 453/2000

Application for permitting change of construction prior to completion (to Article 68 of the Act)

(1) Application for permitting change of construction prior to its completion contains:

- a) First name, family name (name) and address (seat) of the developer,
- b) Identification of the building and of part affected by a change,
- c) Description of changes and their comparison with the building permit and certified design documentation.

(2) The application for permission of change of construction prior to its completion is accompanied by:

- a) Design documentation in triplicate, containing:
 1. Summary report containing data specified in § 9 par. 1a) and b) to the extent of proposed change including data whether the proposed change in construction will have effect on the surroundings, environment or use of the building,
 2. Site plan, if the external or vertical arrangement of the building is changed,
 3. Construction drawings to the extent of the proposed change,
 4. In case of interference into the support structure, static assessment of the proposed change,
 - b) Evidence of consultation with government authorities, whose interests are affected by the proposed change in construction.
- (3) If the change in construction is only in immaterial deviations from the design documentation verified during the building procedures (e.g. the location is not changed, the floor plan or the height limit for the building, the purpose, design solution or layout), the change, after agreement with the Building Authority, may be indicated directly in the certified copy of the original design documentation and to discuss it in the approval proceedings.

(4) Paragraphs 1 to 3 apply *mutatis mutandis* also for applications for permission of changes in the conditions of the original Building Permit.

Article 85 of the Building Act

Changes in the use of the building

(1) The building may be used only for the purpose set out in the approval decision or in the building permission. Changes in the purpose of the use of the building that result in change of way of use of the building, its operational facilities, in the change of way and in material extension of manufacture or activities that could threaten the life and health of people or environment, require the decision of the building office on change in the building use; the proceedings on change in the building use are governed by the respective provisions of article 76 to 84.

(2) A change in the use of the building which is connected to a change in the building shall be reviewed by the building office at the building proceedings and after the completion of this change it shall execute the approval of the change to the building. A change in the use of the building which is connected to a change in the building which lies in the structural modifications that substantially change the appearance of the building and do not interfere

with the load-bearing constructions of the building, may be reviewed by the building office in the connected proceedings on changes in the use of the building under paragraph 1.

(3) Changes in the purpose of the building use that lies in the changes pursuant to paragraph 1 and 2, will not be permitted by the building office, if they are in conflict with the binding part of land-use planning documentation.

Article 21 of the Decree No. 453/2000

Proposal to authorize change in the use of the building

(to Article 85 of the Act)

(1) Proposal for authorization of change in the use of the building, which is not associated with change in the structure, shall include:

- a) First name, family name (name) and address (seat) of the applicant,
- b) identification of the structure according to data from the Land Register 1) stating the ownership and other rights,
- c) information about the new use of the building,
- d) List of parties to the proceedings, known to the applicant.

(2) The proposal for authorizing change in the use of building shall be accompanied

- a) Documentation showing original and proposed method of use of space in the building,
- b) a document evidencing ownership or other right to the building; consent of the owner with the proposed change in the method of use, if the applicant is not the owner of the building,
- c) evidence of negotiations with the parties to the proceeding, if held before the application, and decisions, opinions, statements, consents, assessments or other measures of the affected government or municipality bodies,
- d) Occupancy permit or building permit, which indicates the purpose for which the construction was permitted or as-built documentation (building log), if other evidence is not preserved.

(3) If it is a structure, where nuclear installation will be built-in, the application shall be accompanied with the consent from the Nuclear Regulatory Authority granted on the basis of safety documentation reviewed according to special regulation. 14)

Article 22 of the Decree No. 453/2000

The content of the application for authorizing change in construction, which is associated with a change in its use, is similar to when applying for building permit; in addition, it indicates what change in the use of the building will be proposed when filing application for final inspection of the completed change in construction.

Article 88 of the Building Act

Building demolition

(1) The building office shall order that the owner of the building demolish

- a) a defective building threatening the life or health of persons unless it can be repaired at an economic viable cost,
- b) the building erected without building permission or not in compliance with it or without written notice to the building office pursuant to article 57, paragraph 2 in case of, buildings that should be notified; an order for the demolition of the building is not issued only in cases when additional permission for the building is not in conflict with the interests of the public,
- c) the buildings for which building permission was revoked (Article 102 paragraph 3),
- d) the temporary buildings for which the duration of use has expired or for which the purpose for which they were erected is no longer applicable.

(2) The building office shall order the demolition of the building pursuant to paragraph 1 letter b) to the owner of building who is the developer or the tenant of the building, if he is the developer pursuant to article 58 paragraph 3.

(3) For the demolition of a building, unless it has been ordered, it is necessary the permission of the building office. The owner of the building may request such permission. In the application for permission the owner of the building shall state the type, purpose and specification of the building, reasons for the building demolition and date of expected commencement and completion of the works and whether he shall remove the building on his own and with the help of other persons or through the contractor, how the waste and vacant land will be disposed of and which measures are necessary for ensuring of neighbouring building plots and buildings.

(4) Permission from the building office is not required for the removal of building site equipment whose temporary nature was determined in the building permission for the duration of construction and for the demolition of buildings and facilities which are not subject to building permission. For small structures [Article 55 paragraph 2 letter b)] and informational, advertising or promotional structures, it will be sufficient the notification of the date by which they will be demolished.

(5) The owner of the building site equipment reviews in advance with the building office the possibility of future use of the site equipment, if it can be used after the completion of construction for another purpose. According to the result of the review he shall either submit to the building office a proposal for changes in the purpose of use or structural modifications, or he shall remove the building site equipment after the completion of construction.

Article 90 of the Building Act

(1) Building demolition proceedings are carried out by the building office which would be competent to issue the building permission for the building.

(2) In the decision which orders or permits the demolition of the building, the building office shall prescribe the terms for the provision of essential documentation for the demolished building, for the provision of Professional foreman services for the work and to ensure safe conditions, including nearby buildings, and also the terms resulting from general technical requirements for construction and terms for the archiving of documentation.

(3) The building office shall ensure by the terms of decision on building demolition especially

- a) the adherence to the general technical requirements for construction,
- b) the adherence to the requirements of the relevant state administration authorities and commune,

- c) protection of rights and legally protected interests of the participants of the proceedings,
- d) carrying out of the works in building demolition by the legal person or physical person authorized for such activities; in case of buildings that will not be removed by such person by the person that will ensure the professional supervision over the works.

(4) In the conditions of the decision on building demolition the building office may

- a) impose the obligation to notify of the particular stage of works for ensuring the performance of state building surveillance,

- b) impose on the owners of the neighbouring lands to tolerate the carrying out some works from their lands or buildings,

- c) determine detailed conditions of procedure and way of the works especially for ensuring the stability of the neighbouring buildings, for ensuring the safe use of the neighbouring buildings, traffic on the adjacent roads etc.,

- d) impose the obligation to reface the land after building demolition, ensure draining of surface water and to plant the green vegetation,
 - e) impose the obligation to hand over the building documentation for the purposes of record making and filing.
- (5) If a court has ruled on the demolition of the building, the building office shall prescribe only the conditions under paragraph 2.

Article 24 of the Decree No. 453/2000

An application for permit to demolish a building (to Article 88 of the Act)

- (1) The application for permit to demolish a building shall include:
- a) First name, family name (name) and address (seat) of the owner of the building,
 - b) Type, purpose, location and identification of the building according to the Land Register, 1)
 - c) reasons for removal of construction and expected date of commencement and completion of works,
 - d) name and seat of professionally equipped legal entity, which will remove the structure; if the owner will be removing the structure himself, the name and address of an authorized person, who will professionally manage the demolition works,
 - e) An indication whether the building will be removed using explosives,
 - f) Information on how to dispose with the removed material and where the excess material will be disposed,
 - g) List of parties to the proceeding, known to the applicant,
 - h) Information on how the prior tenants of flats and business premises are secured with substitute flats, accommodation or space,
 - i) How the loose land plot will be used,
 - j) Proposed measures on the neighbouring plot or construction, if the demolition works are to be performed from these properties or otherwise use them.
- (2) The application for permitting removal of construction shall be accompanied by:
- a) a document evidencing ownership or other right to the building or land,
 - b) technological description of work or drawings with necessary adaptations of land plot,
 - c) in case of terraced houses a static opinion demonstrating mechanical strength and stability of supporting structures of adjacent structures and their safe use,
 - d) evidence of negotiations with the relevant state authorities, network administrators and with parties to the proceeding, if held prior to removal of the structure,
 - e) for buildings, removal of which will not be performed by professionally equipped legal person, a declaration of the authorized person, who has undertaken to professionally manage the works associated with the removal of the building,
 - f) decisions, opinions, statements, consents, assessment or other measures of relevant government authorities,
 - g) for a structure, which will have a nuclear installation built-in, a license from the Nuclear Regulatory Authority granted based on reviewed nuclear safety documentation for decommissioning according to special regulation. 16)
- (3) When it comes to removal of property that is a cultural monument, the application shall include photos, documentation drawings or other documentation (e.g. measuring or modelling).

Article 25 of the Decree No. 453/2000

Contents of a decision on removal of building (to Article 90 of the Act)

Decision on removal of building contains, in addition to general requirements 10) in particular:

- a) First name, family name (name) and address (seat) of the owner of the building, the removal of which is being permitted or ordered,
- b) Location and identification of the building according to the Land Register,
- c) Period for removal,
- d) Conditions for removal of the building according to § 90 of the Act,
- e) Other conditions resulting from special regulations.

From the view of the Atomic Act this issue can be viewed in the following levels. Large "permits for activity", or licences for nuclear installations, i.e. for activities associated with nuclear installations stated in § 5 par. 3 of the Atomic Act, are issued in accordance with applicable law, either once during the lifecycle of that nuclear installation (such as building permit), or every 10 years (such as license for operation of a nuclear installation).

For better understanding we describe following articles of the Atomic Act

Article 5 of the Atomic Act

Use of nuclear energy

(1) Nuclear energy may only be used based on an authorization or license issued by the Authority to a natural person or a legal person.

(2) Authorization is required for siting a nuclear installation.

(3) License is required for:

- a) Construction of a nuclear installation (hereinafter only as the "building permit"),
- b) Commissioning of a nuclear installation, c) operation of a nuclear installation,
- c) Decommissioning phase,
- d) Closure of a repository and institutional control,
- e) Radioactive waste or spent nuclear fuel management,
- f) Nuclear materials management at the nuclear installation,
- g) Imports or exports of nuclear materials,
- h) Exports of special materials and equipment in compliance with a special regulation, 9)
- i) Transportation of radioactive materials including international transfers; such authorization does not apply for a party performing transportation, unless it is a carrier at the same time,
- j) Training of license holder employees pursuant to subparagraphs b) to g),
- k) Re-shipment of radioactive waste pursuant to § 21 par. 11 subpar. a),
- l) Imports of radioactive waste pursuant to § 21 par. 11 subpar b),
- m) Management of nuclear materials outside the nuclear installation.

(4) Authorization granted by the Authority according to paragraph 2 and a license granted by the Authority according to paragraph 3 shall not replace a license, permit, authorization or certification issued by other administrative bodies according to special regulations. 10)

(5) The Authority may adopt all its decisions subject to fulfillment of conditions related to nuclear safety, physical protection, quality assurance or emergency preparedness. The Authority may modify these conditions whenever the conditions relevant for nuclear safety, physical protection or emergency preparedness are changed, under which such decision was issued, or based on the latest knowledge of

science and technology or upon justified written request from the authorization or license holder.

In principle, all other decisions of the Authority are partial approval decisions to the individual documentation prescribed by the Atomic Act and to its changes. Decision-making process is under the Atomic Act led by the Administrative Procedure Act, if the Atomic Act does not otherwise provide in particular cases.

Article 35 of the Atomic Act

Relationship to the Administrative Order

The general regulation on administrative proceedings 45) shall apply for the conduct of the Authority with the exception of the time limits provided for issuance of decisions in the proceedings pursuant to § 8 par. 6 and § 15 par. 4 and with the exception of essentials of a decision in the proceedings pursuant to § 15 par. 4, § 16 to 16l and 24.

Public participation according the Atomic Act – article 8 provision 4

(4) The Authority shall decide about issuing an authorization or a license after having verified that the applicant fulfilled all the conditions stipulated by this Act, and the relevant generally binding legal regulations issued on the basis hereof. The authorization or license issuance proceedings followed by the Authority are independent from the proceedings of any other administrative authority. Party to the proceeding for issuance of license, which was preceded by proceedings on environmental impact assessment according to special regulation, 11a) is also a natural person or a legal person, for whom such position arises from special regulation. 11b) The Authority shall refuse disclosure of information to these parties according to special regulation, 3d) if such disclosure could have an adverse impact on the safety of the population. 3c)


Process of changes to the original decisions is subject to the same procedural action, as it was in the original proceeding (the original decision-making process), i.e. at initiation of proceeding to permit a change based on an application of a party to the proceeding all process institutes are initiated, as in the original proceeding. Licenses, with respect to nuclear installations under the Atomic Act, are issued every ten years and in fact during this period of ten years a change to these licenses occurs only rarely. If there is a change then this relates only to conditions of licenses associated with increasing the level of nuclear safety. In other cases of decisions under the Atomic Act these are decisions on approving implementation of modifications affecting nuclear safety and approval of changes to the documentation reviewed or approved by the Authority. These approval decisions in principle have never or only rarely affect the content, text and conditions of licenses under § 5 par. 3 of the Atomic Act.

Slovakia would like to stress that despite the respect of the Compliance Committee status in the system of the Aarhus Convention bodies, Slovakia considers according to Article 15 of the Aarhus Convention the findings and recommendations of the Compliance Committee as non-confrontational, non-judicial and of consultative nature.

On the basis of the mentioned facts, Slovakia is convinced that it has fulfilled all its commitments and obligations under the paragraph 4 in accordance with the decision of IV/9e on compliance by the Slovak Republic, registered under reference No. ECE/MP.PP/2011/L.16

and firmly believes that the additional information will contribute to better mutual understanding and assures that after adopted acts amendments Slovakia guarantees active public participation in decision-making processes at the present time.

Yours sincerely,



JUDr. Róbert Ružička
Head of the Department

Cc: Ms. Ella Behlayrova, 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