

Ms. Fiona Marshall

Secretary to the Aarhus Convention Compliance Committee
United Nations Economic Commission for Europe
Environment and Human Settlement Division
Palais des Nations, Av. De la Paix 10
CH-1211 Geneva 10

Vienna, 19 March 2014

Re: Draft report of the Aarhus Convention Compliance Committee on the implementation of decision IV/9e of the Meeting of the Parties concerning compliance by Slovakia: Comments by NGOs

Dear Ms. Marshall,

Thank you for offering the opportunity to comment on the draft report of the Aarhus Convention Compliance Committee dated March 3. The former communicant GLOBAL 2000 together with the organizations that had been supporting the case VIA IURIS, Greenpeace Slovakia, Greenpeace CEE, Friends of the Earth Europe and OEKOBUEERO agree to the wording proposed.

While we welcome that Slovakia has taken some steps to review its legal framework, we wish to reiterate the following aspects:

1. EIA legislation:

- We agree to the conclusions of the Committee. The Party concerned has failed to demonstrate that if the 2008 decisions were to be taken today, under the current legal framework, the public would be entitled to participate in an early and effective manner on those decisions. This means that nothing important and relevant has changed in the EIA Act since 2011 – the amendment no. 408/2011.
- Currently, there is a new process going on for amending the EIA Act – Via Iuris has participated in the process, commented it and took part in official meetings with the representatives of the Legislative and EIA section of the Ministry of Environment. At the moment we are waiting for the final draft of the amendment. This amendment is a response of the Slovak Republic to the infringement procedure initiated by the European Commission. Once the draft amendment is finished, it should be subject of discussion by the Legislative Council of the Government, then by the Government and then by the Parliament. The amendment should be passed sometime this autumn.

2. The permission procedure itself:

- The Supreme Court abolished the decision of the Nuclear Authority No. 79/2009 (which upheld decision no. 246/2008) in June 2013 (the decision was delivered only in August 2013). In other words, the Supreme Court abolished the valid decision on the "change of the construction before its finishing" - sort of construction permit.
- By abolishing this decision (No. 79/2009) the process returned to the point when Slovenske Elektrarne (ENEL) did not have a valid permission to continue with the construction of the 3rd and 4th block of the nuclear power plant Mochovce (JEMO). The nuclear authority (UJD) was supposed to repeat the second instance administrative procedure with Greenpeace as a party to the proceedings – with all its rights.
- UJD instead of guaranteeing Greenpeace the full scope of necessary rights did two things:
 - It issued a decision on the annulment of the suspensive effect of Greenpeace's appeal (the suspensive effect is normally granted by the law)
 - It invited Greenpeace to study an enormous stock of the relevant documents – however, most of which were whitened or blackened, i.e. most of the information were HIDDEN
- Greenpeace filed a petition to the general prosecutor's office appealing against the decision on the annulment of the suspensive effect – but it didn't succeed.
- Greenpeace filed also a court petition to the Regional Court in Bratislava against the decision on the annulment of the suspensive effect (claiming that the strict conditions stipulated by the law in order to permit the annulment of the suspensive effect were not fulfilled) – but there is no response so far.
- Currently, Greenpeace is waiting for the decision of UJD (which should be the second instance and final decision of the nuclear authority concerning the construction of the nuclear power plant) as well as waiting for the judgment of the Regional Court.

To sum up:

Slovakia did not reply in a relevant way to the original conclusions and recommendations of the ACCC (as stated above in section 1).

Slovakia continues to obstruct Greenpeace as a public to use all relevant rights of the party to the proceedings – Greenpeace (unlike other participants) does not have any access to most of the relevant information and therefore it is more "looking" than "participating".

Best wishes,



Thomas ALGE
Director OEKOBUEO