

Progress report on the measures taken and the results achieved by the Czech Republic in the implementation of the recommendations of the Decision VI/8e

Prague, 1 October 2018

Ev. No.: MZP/2018/140/918

According to the Decision VI/8de, party concerned has not yet fully met the recommendations set out in **paragraph 4 (e)** (*Members of the public are provided with access to administrative or judicial procedures to challenge acts of private persons and omissions of authorities which contravene provisions of national law relating to noise and urban and land-planning environmental standards*); and **paragraph 6** (*Party concerned, in future, shall submit plans and programmes similar in nature to the National Investment Plan to public participation as required by article 7, in conjunction with the relevant paragraphs of article 6, of the Convention*) **of decision V/9f**, and should provide information concerning the **communication ACCC/C/2012/71**.

Relevant measures taken by the Czech Republic are described as follows:

ad Decision VI/8e, 3 a) Members of the public are granted access to administrative or judicial procedures to challenge acts and omissions by an operator or competent authority when an operator contravenes provisions of national law relating to noise;

CZ MoE: Relevant measures have been taken at the level of the newly established working group on the elaboration of the National Actions Portfolio on Environment and Health. The WG is a shared endeavour of the MoE and MoH and the Portfolio is the main implementation tool of the 6th Ministerial Conference on Environment and Health (2017).

So far, the WG has agreed to proceed with meetings with the National Reference Laboratory for Local Noise to discuss the problem of granting time-limited exceptions (TLE) from the Law 258/2000 Coll. on the protection of public health. The discussions will review the practice of granting TLE as it has been established that these do not lead, eventually, to implementing noise-decreasing measures.

This should lead to a reconsideration of granting TLE, decreasing their number and thus also the need to challenge these acts. In further steps, the obstacles to effective access to justice in these matter will be discussed. Concrete steps are expected in early 2019.

ad Decision VI/8e, 3 b) The Party concerned, in future, submits plans and programmes similar in nature to the National Investment Plan to public participation as required by article 7, in conjunction with the relevant paragraphs of article 6, of the Convention

CZ MoE: MoE maintains the position from previous progress reports and its commitment to enable public participation in the preparation of the plans similar in nature to the National Investment Plan. At this moment, MoE is not aware of the conception similar to the NIP being prepared in the near

future. We would also like to mention again that public participation is ensured for plans that are subject to SEA proceedings. Public can get involved in a SEA procedure in several cases. The scoping and screening procedure is the first case when everybody has an opportunity to submit his or her written comments to a plan or programme notification. It is also possible to submit written comments to both a draft plan or programme and related SEA report that were made publicly available. There is also possibility of a facultative public hearing enshrined within a SEA procedure. All three cases, all submitted comments are dealt with and as the case may be reflected in a draft plan or programme or in a SEA report as well as the comments can become a basis for a SEA statement.

At this moment there is no SEA proceeding on the concept of a similar nature to National Investment Plan, and as has been reported several times, MoE is not aware (cannot be aware) about any plan, whose preparation is only in stage of reflection, if the intention of it was not manifested explicitly. Although the notification of some plans can be envisaged, e.g. due to their periodicity, the MoE does not have an exhaustive list of plans to be approved. Therefore, the MoE has not provided a list of plans of similar nature to National Investment Plan, because such a list is not available, not because of unwillingness to do so.

ad Decision VI/8e, 6a), b i) and b ii)

- *A legal framework to ensure that when selecting means of notifying the public under article 6, paragraph 2, public authorities are required to select such means as will ensure effective notification of the public concerned, bearing in mind the nature of the proposed activity and including, in the case of proposed activities with potential transboundary impacts, the public concerned outside the territory of the Party concerned;*

CZ MoE: MoE would like to provide a general comment on the merits of the decision. From our cooperation on transboundary issues with our neighbours, we have been assured on many occasions that the current extensive practice of providing information to the affected party is more than sufficient. We have been consistent in this argumentation since the very beginning when we made clear that the notification of public concerned in affected parties is in our view sufficient. In this light we also consider the approach of the Czech Republic in line with Art. 3 para 8 of the Espoo Convention.

The legal framework on the national level is following:

EIA Act (No. 100/2001 Coll.)

- Notice boards of the concerned territorial self-governing units (physical and internet).
- EIA information system website.

Decision making following the EIA (subsequent proceedings)

- Notice board of the authority conducting the permitting procedure – both physically and on the internet.

Ad activities with transboundary impacts – see response to the next part.

– *The necessary arrangements to ensure that:*

- *When conducting transboundary procedures in cooperation with the authorities of affected countries, the competent public authorities make the necessary efforts to ensure that the public concerned in the affected countries is in fact notified in an effective manner;*

CZ MoE: Under the EIA Act, the Czech competent authority provides the affected country (countries) with all the relevant documents - translated into the language of the affected country – i.e. the notification of the project and the environmental report and also information about the course of the assessment, including identification of the competent authority responsible for the transboundary assessment of the project and information on subsequent decisions which may be issued in subsequent proceedings.

We believe that the obligations regarding informing the public and the public concerned in the affected country are met by providing all the relevant information to a competent authority in the affected country. Czech authorities cannot exercise their power on the territory of another country.

- *There will be proper possibilities for the public concerned, including the public outside the territory of the Party concerned, to participate at the subsequent stages of the multistage decision-making procedure regarding the Temelín nuclear power plant;*

CZ MoE: Any NGO that meets the conditions set by the EIA Act may participate in the decision-making procedure regarding the Temelín NPP

- The conditions: a legal person of private law whose principal activity is not business (or other profit making activity) and whose activity set in the founding act is protection of the environment or public health + either has been in existence for 3 years or is supported by at least 200 persons by their signatures.
- There is no condition regarding the state of origin of an NGO that intends to participate in the decision-making procedure – therefore foreign NGOs may participate as well.