

Statement of the Czech Republic in regard to ACCC/C/2012/71,
draft findings and recommendations with regard to communication ACCC/C/2012/71
concerning compliance by the Czech Republic, part B Recommendation, point 118 a) (i) to (iii):

Ad i) Informing the public about the progress of the EIA process in the Czech Republic is regulated in Section 16 of the Act No. 100/2001 Coll., on the Assessment of the Effects on the Environment (hereinafter referred to as "the Act No. 100/2001 Coll."), which stipulates that the publication of all relevant information and documents processed in the EIA process is done in two ways, via Internet and via official notice boards in the concerned territorial self-governing units. The EIA's information system is used for publishing on the Internet, where it is possible to easily search for every project for which the notice of project has been submitted, as well as all the necessary information and documents related to such project. The official notice boards of territorial self-governing units have both an electronic form (on the Internet) and a physical form — in this case the document is placed in the physical form at the designated place. With regard to the publication of documents in a physical form, it is possible, given the scope of some large documents, to display only the information about the document being published and to allow access to it in a physical form in the building of the authority that ensures the publication. Information and documents are published at the official notice boards of all relevant/affected territorial self-governing units, i.e. municipalities and regions that form the territory in question, i.e. the territory, the environment and the population of which could be seriously affected by the realisation of the project.

To inform the public about the subsequent proceedings, in which the project is being approved, the Act No 100/2001 Coll. states in Section 9b (1) the list of information which the administrative authority leading the subsequent proceedings is obliged to provide to the public. This is done by posting at the official board of the administrative authority leading the subsequent proceedings. What was mentioned above about the physical and electronic form of the official board applies in this case as well.

The information or the document must be published at the official board at least for 30 days.

In case that in the EIA process an project is to be assessed, which can have an effect on the territory of another state, the provisions of Sec. 11 - Sec. 13 of the Act No. 100/2001 Coll. shall apply. In accordance with the requirements of the Espoo Convention and the EIA guidelines, according to the cited provision, the Czech Republic, as a country of origin, sends all information to the state concerned (notice of project, the project documentation, information on the progress of the assessment, on the time limits and on the possibility of their extension, on the competent authority, on the decisions which may be issued, etc.),

together with the request for the publication of such information in its territory. We believe that the obligation of the state of origin to inform the public of the state concerned is fulfilled by submitting the required information to the designated contact point of the state concerned, together with the requirement to publish them, because the Czech Republic and its administrative authorities may exercise their powers only in the territory of the Czech Republic and not in the territory of another sovereign state, which is implied by the general principles of the public international law, and may thus rely only on the publication of information in the territory of the state concerned by the competent authorities of such state concerned.

Ad ii) see the previous point, Ad i).

Ad iii) The Act No. 100/2001 Coll. has been fundamentally amended by the Act No. 39/2015 Coll., which came into force on April 1, 2015. This amendment considerably broadened the rights of the affected public in the subsequent proceedings, regardless of whether the affected public is domestic or foreign. The subsequent proceedings may newly be participated by any legal entity meeting the conditions under which it can be described as the affected public. It must therefore be a legal entity under a private law, the subject of which is, according to the founding legal actions, the protection of the environment or the public health, and the main activity of which is not business undertaking or other gainful activities. In addition, such legal person has had to be established at least three years before the publication of the information on the initiation of the subsequent proceedings at the official board, or if established later, must present the support of at least 200 people signed at the signing the Charter support .It may also be a foreign legal entity, since the Act No. 100/2001 Coll., does not provide for any restrictions in this respect. The legal entity that meets the given conditions becomes a party to the proceedings, if they sign up at the administrative authority leading such proceedings. Such a registration may be done by the legal entity within 30 days as of the publication of the information on the subsequent proceedings at the official board of the administrative authority, leading such proceedings. As the information is considered to be published only after it has been posted for 30 days, the legal entity, which is the affected public, has the total of 60 days from the first posting of the information on the initiation of the subsequent proceedings to sign up for participation in the proceedings.

The Czech Republic provides to the state concerned also, inter alia, the information on conditions of the participation of the affected public in the subsequent proceedings, and therefore, it is necessary to say again, that the provision of information to the affected foreign public on the possibilities and conditions of participation in the subsequent proceedings is the responsibility of the state concerned.