



*THE MINISTRY OF THE ENVIRONMENT
OF THE SLOVAK REPUBLIC
812 35 BRATISLAVA, NÁM. ĽUDOVÍTA ŠTÚRA 1
Legal Services and Appeals Department
Aarhus Convention National Focal Point*

Bratislava, 14 June 2013
No: 29978/2013/2199/2013-1.10

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 letter of 30 April 2013 and e-mail of 17 May 2013, we would like on behalf of the all concerned subjects to submit you requested additional explanation concerning the implementation of Decision IV/9e of the Meeting of the Parties to the Aarhus Convention on compliance by Slovakia, discussed at 40th meeting of the Aarhus Convention Compliance Committee (Geneva, 25 – 28 March 2013).

With regard to the findings and recommendations of the case ACCC/2009/41/Slovakia, namely the decisions no. 246/2008, no. 266/2008 and no. 267/2008 of 14 August 2008 concerning the Mochovce 3,4 NPP, the Slovak Nuclear Regulatory Authority at the present does not see in the legal instruments of the Slovak Republic nor in the law of the European Union any adequate procedural tool applicable to achieve a progress/remedy in the three decisions already issued, unless the Slovak court will decide on the cancellation of the decisions and will return the case back to the administrative body, which has issued decisions, for a new administrative procedure, or will confirm decisions of the administrative body if illegality of decisions or the procedure has not been detected. The Slovak Republic, i.e. the Slovak Nuclear Regulatory Authority has therefore to wait for the independent and impartial court decision in this mater.

In connection on the above mentioned fact, please note that at the Regional Court in Bratislava the procedure under the file 4 S 125/09 was carried out, initiated by Greenpeace Slovakia in order to review the legality of the decisions no. 246/2008, no. 266/2008 and no. 267/2008 of 14 August 2008 issued by the Nuclear Regulatory Authority of the Slovak Republic, which authorized the change before the construction of Mochovce 3, 4 NPP. Regional Court in Bratislava by its issued **judgment of 11 May 2012** dismissed Greenpeace

Slovakia litigation versus the Nuclear Regulatory Authority of the Slovak Republic to review the legality of the 2008 decisions.


Subsequently, on **2 July 2012 Greenpeace Slovakia has appealed** against the issued judgment of the Regional Court in Bratislava on 11 May 2012.

Supreme Court of the Slovak Republic as the Court of Appeal will decide on Greenpeace Slovakia appeal of 2 July 2012.

Unless the Supreme Court of the Slovak Republic will decide on the appeal, it is not in the competency of the Nuclear Regulatory Authority of the Slovak Republic to start the procedure on its own initiative to change or cancel respectively to review the decisions of 2008.

In conclusion, the Slovak Republic would like to stress that in any case, as it has assured the Compliance Committee, the Slovak Nuclear Regulatory Authority in the subsequent permitting procedure, namely **official approval procedure (permitting to use the facility) pursuant to the Act 50/1976 on spatial planning and building code (Building Act) and in the procedure concerning introduction the nuclear facility of the Mochovce NPP 3,4 into operation pursuant to the Act 541/2004 on peaceful use of nuclear energy (Atomic Act) and amending some other Acts**, which starts based on the application submitted by the developer, shall provide for early and effective public participation, starting from non-governmental organisations up to natural persons, in accordance with the Act 24/2006¹ on environmental impact assessment and amending some other Acts as amended. **According to the legislation in force, the public concerned participating in environmental impact assessment is also the party in subsequent decision-making procedures.**

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

¹ **Article 65b**

Transitional provisions for regulations effective from 1 December 2011

(1) The provision of article 65 paragraph 3 does not apply to assess the impact of strategic documents that were subject to preparation and approval from 21 July 2004 to 31 January 2006. Strategic Assessment of the effects of such documents shall be made in accordance with the law effective from 1 December 2011. Assessment of the effects of strategic documents that were subject to preparation and approval before 21 July 2004 and were approved by more than 24 months from 21 July 2004 shall be made only if the competent authority on a proposal from the contracting authority decides to assess the impact of the strategy documentation is feasible. The competent authority shall publish its decision on the Ministry web site.

(2) If the written statement pursuant to article 23 paragraph 4, article 30 paragraph 5 or article 35 paragraph 3 cannot be given because the process of assessing environmental impacts under this Act was completed by 30 April 2010, involved the public pursuant to articles 24a and 24b is a participant in the subsequent licensing procedure, if during the licensing process submitted a written statement, which shows its interest in the decision and the interested public pursuant to article 25, articles 26 and 27, the participants follow the authorization procedure by special legislation, if during the licensing process submitted a written statement.