

1. In case that identical decision as in 2008 were to be taken today (2014), would the EIA be conducted?

Answer: Yes.

The EIA should be conducted upon two main reasons:

A/ The Ministry of the Environment of the Slovak Republic shall state whether the change will have such an adverse impact that an environmental impact assessment (EIA) is required (Section 18, of the EIA Act).

B/ According to existing interpretation of Slovak courts (even in case of NPP Mochovce 3&4 Unit) EIA is necessary when the old permits (i. e. permits issued prior to EIA Act effectiveness without previous EIA) are reconsidered or updated, or the activities are changed or extended compared to previous conditions.

Regarding EIA, the European Court of Justice (ECJ) has confirmed the vertical direct effect of Article 2(1) of the EIA Directive. Moreover in its judgement the ECJ expressed: "In a consent procedure comprising several stages, that assessment must, in principle, be carried out as soon as it is possible to identify and assess all the effects which the project may have on the environment."

This means that omission of the EIA in case of changes to old permits would be a breach of Slovak and European law.

2. In case that EIA would not be conducted how the participation of members of the public is to be assured?

In case that competent authority would not execute EIA the public concerned can participate in a permitting procedure according to Section 14 of the Administrative Procedure Code. Any person representing its concern for the decision on environmental matters is considered to be a party to the proceeding. According to decision of the ECJ in case C-240/09 (Lesoochránárske zoskupenie VLK) Slovak authorities and courts apply interpretation of procedural rules to fullest extent possible in favour of public concerned, including non-governmental organisations, in order to bring administrative or judicial proceedings in accordance with the objectives of Article 6 and article 9 of the Aarhus Convention.

Application of the law is now fully compliant with Aarhus Convention.