

## **Second progress report on the implementation of decision VI/8e on compliance by Czechia with its obligations under the Convention**

Prague, 1 October 2019

Ev. No.: MZP/2019/320/1049

In accordance with paragraph 7(a) of decision VI/8e the Czech Republic provides the Compliance Committee with an update regarding the recommendations included in decision VI/8e. The report is based on the conclusions made by the Compliance Committee in the first progress review. Moreover it further elaborates the statement of Czechia delivered at the open session on decision VI/8e at the Committee's 63rd meeting.

### **On paragraph 3(a) of decision VI/8e**

According to conclusion of the Compliance Committee in the first progress review of the implementation of decision VI/8e, with respect to the recommendation set out in paragraph 3(a) of decision VI/8e, Czech Republic was asked to submit the texts of any legislative, regulatory or administrative measures intended to implement the recommendation with respect to:

- (i) Access to justice for members of the public to challenge an act or omission by an operator or competent authority with respect to time-limited exceptions from Law 258/2000 Coll. on the protection of public health;
- (ii) Access to administrative or judicial procedures for members of the public to challenge other acts and omissions by an operator or competent authority when an operator contravenes provisions of national law relating to noise;

that are available either in draft or final form at the time of submitting its second progress report, together with English translations thereof, as well as an approximate timeline for the adoption of any of the proposed measures still then in draft form.

**With regard to paragraph 3(a) of decision VI/8e, we reiterate our position from the statement delivered at the open session on the 14th of March 2019. We recognize that the legal situation has not developed as far as the possibility to challenge the acts by administrative authorities are concerned.**

**Nevertheless, we are convinced that we address effectively the core issue of this communication which are the noise exceptions through already reported amendment of the Public Health Protection Act. The Act is now in the first reading of the Czech parliament - Chamber of Deputies (proposal no. 530/0). This proposal creates stricter conditions for granting noise-exceptions.**

**As described in the previous report, according to the proposed amendment, it will not be possible to grant the exception unless it is proven that all available measures (organizational, technical...etc.) had been used to decrease the level of noise. Moreover, even if all measures have been exhausted, at the moment of the exception expiry, the individual/company that requests another extension will have to, once again, prove that all measures has been exhausted. We are convinced these measures will provide a solution to a noise issue in general.**

### **On paragraph 3(b) of decision VI/8e**

With respect to the recommendation set out in paragraph 3(b) of decision VI/8e was Czech Republic requested to provide:

- (i) A list of the types of plans and programmes that it will in future ensure are subjected to public participation under article 7 of the Convention; or
- (ii) A list of criteria which it will apply in future to determine which plans and programmes

are “similar in nature to the National Investment Plan” and thus will be subjected to public participation under article 7 of the Convention; or

- (iii) A list of the types of plans and programmes that it has already determined will be subjected to public participation under article 7, together with a set of criteria to identify which other as yet unknown types of plans and programmes may in fact be “similar in nature to the National Investment Plan” and thus need to be subjected to public participation under article 7 of the Convention.

**We would like to mention two recent examples of documents of the type of plans and programmes, which were subjected to public participation:**

- **National Energy and Climate Plan**

In order to meet the EU's new energy and climate targets for 2030, Member States are required to establish a 10 - year National Energy and Climate Plan (NECP) for the period from 2021 to 2030. The draft NECP was prepared by the Ministry of the Industry and Trade on the basis of the requirements of the Governance of the Energy Union Regulation. The draft of the document was published on the website of the ministry in December 2018 in order to receive preliminary comments from the public. 500 contributions were received and were implemented into the proposal. The NECP proposal was submitted, assessed and analysed by the EU Commission.

Currently, the regional consultation has been launched in accordance with Article 12 of the EU Regulation 2018/1999 on the Governance of the Energy Union and Climate Action. Neighboring countries of the Czech Republic, but also other EU Member States, are invited to comment on the level of the competent ministries. English version of the Czech draft National Plan is available below as well as on the official website of the European Commission, see the link: <https://ec.europa.eu/energy/en/topics/energy-strategy-and-energy-union/governance-energy-union/national-energy-climate-plans>. Comments can be submitted by October 15, 2019. Contributions may be submitted via email to Ministry of Industry and Trade contact person.

The outputs from the regional consultation will be reflected in the final version of the Czech National Plan in line with the EU Regulation 2018/1999 on the Governance of the Energy Union and Climate Action.

- **State Environmental Policy of the Czech Republic**

Furthermore we would like to highlight the preparation of the State Environmental Policy of the Czech Republic 2012-2020 (SEP). The Czech Ministry of the Environment started to prepare a new document in 2019, which builds on existing efforts to improve and protect the environment until 2050.

State Environmental Policy preparation schedule is planned as follows:

March 2019 - public involvement in defining environmental problems and opportunities;

March - July 2019 - processing of analytical data and preparation of the analytical part;

July - December 2019 - formulation of environmental protection objectives and design part;

2020 - document finalization and approval procedures. The new State Environmental Policy of the Czech Republic will be submitted for approval to the Government of the Czech Republic by the end of 2020.

A total of 963 respondents participated in the public consultation on the preparation of the SEP, which took place in March 2019 in the form of a web questionnaire. A summary of the replies received is available in the online in Czech.

We believe that these examples demonstrate that Czech Republic is committed to ensure public participation on the preparation of plans and programmes.

### **On paragraph 6 of decision VI/8e**

According to the recommendation in paragraph 6(a), evidence, including the text of the relevant measures, together with English translations thereof, that a legal framework has been or is being put in

place to ensure that when selecting means of notifying the public under article 6(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 Czechia;

According to the recommendation in paragraph 6(b)(i), evidence that it has put in place the necessary arrangements to ensure that, when conducting transboundary procedures, in cooperation with the authorities of affected countries or otherwise, the competent authorities make the necessary efforts to ensure that the public concerned in the affected countries is in fact notified in an effective manner;

According to the recommendation in paragraph 6(b)(ii) of decision VI/8e, to provide the Committee with:

- (i) Evidence that Members of the public concerned other than NGOs, including such members of the public outside the territory of Czechia, are entitled to participate at the subsequent stages of the multistage decision-making procedure regarding the Temelín nuclear power plant;
- (ii) A list of the stages of the subsequent decision-making for the Temelín nuclear power plant, and an explanation, with appropriate supporting evidence, of the stages at which the public concerned, including the public outside Czechia's territory, can participate, including with respect to relevant procedures under the Nuclear Act.

**With regards to this matter we reiterate all our previous statements. Czech Republic is committed to ensure effective public participation and we believe that recent public consultations provide evidence that issues that were encountered in the past and that were a subject of a communication to the Compliance Committee have been an exceptional occurrence, not a systematic issue.**

**As described in our statement from the 14th of March 2019, Czechia recently organized official hearings for an EIA process with transboundary impact potential similar to case no. ACCC/C/2012/71. The subject of the EIA process is the construction of new nuclear resources at Dukovany Nuclear power plant (Dukovany II).**

**In April 2018, international consultations on EIA documentation were held with Germany and Austria. In May 2018 a public hearing was held in Hungary, in June 2018 a public discussion was held in Austria (Vienna) and Germany (Munich), followed by a public hearing in June 2018 in the Czech Republic (Ice Hockey Stadium Třebíč). At all of these consultations, all members of a public regardless of their nationality had an opportunity to effectively participate, and the Ministry of the Environment is not aware of any complaints from the public regarding any obstacles to effective participation or lack of information regarding where and when these consultations are held.**

**We would like to state that Czechia is willing to include the public from the concerned territories outside Czechia in procedures relevant to paragraph 6 of decision VI/8e pursuant to the relevant provisions of the EIA Act, according to which the public concerned of the affected country has the same rights as the public concerned of the country of origin, i.e. the Czech republic, and we remain open to further questions regarding the public consultations.**

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