GOVERNMENT OF ROMANIA
MINISTRY OF ENVIRONMENT AND CLIMATE CHANGE

Impact Assessment and Pollution Control Directorate
Nr. 15983B /DP/18.02.2013

February 18th, 2013

Ref.: Information on the environmental impact assessment on a "planned repository for final disposal of nuclear waste" in Romania, close to the border with Bulgaria

Dear Chair of the Implementation Committee,

Following your letter EIA/IC/INFO/8 dated 2 October 2012, I would like to hereby provide the following information concerning the indicated subject:

The Romanian environmental protection agencies have not received yet any documentation for a nuclear waste deposit project or plan that might be subject to the environmental procedures.

(a) What is the decision – making procedure in Romania which determines in practical terms the locations for the repository – bearing in mind that such locations in order to be designated must be, under the specific legal requirements related to nuclear activities, subjects to all preparatory monitoring and studies?

According to the provisions *of Law no. 111/1996 on the safe deployment, regulation, authorization and control of nuclear activities*, republished, with subsequent amendments and *Order no. 400/2005 regarding the near surface disposal of radioactive waste*, **the site license** is issued by CNCAN (the Romanian nuclear regulatory body) at the request of the project holder, based on the following documents related to the final repository: the conceptual design, the safety assessment, the conceptual closure plan, the conceptual environmental monitoring program, the summary of site selection studies, the quality management plan and the *environmental agreement*. According to the provisions of *Government's Decision no. 445/2009 on the environmental impact assessment of certain public and private projects* and *Law no. 111/1996 on the safe deployment, regulation, authorization and*

control of nuclear activities, republished, with subsequent amendments, the environmental agreement can be obtained within *the environmental impact assessment (EIA) procedure*, conducted by the competent public authority for environmental protection, in consultation with CNCAN, with the Ministry of Public Health etc. The transboundary EIA procedure is applied in case of projects are likely to have a significant effect on the environment.

In summary, this means that first comes the EIA procedure (within which the developer enters with an EIA report based on the previously documentation, such as the summary of the site selection studies etc) and then the site license is issued by the nuclear regulatory body. We would like to emphasize that, in accordance with art.13 para.1 the GD 445/2009, the project owner submits to the environmental competent authority information on all the alternatives studied together with the reasons, including considerations on environmental impact, for choosing the proposed location for which they require the EIA decision. The EIA assessment has to include also other options for location and to justify why a certain location is more suitable. There are no provisions within the Romanian law by which a certain administrative act, issued before the EIA decision, if any, prevails against the latter. Therefore, within the EIA process all options are opened for locations and the authority may reject the issuance of the EIA decision for a certain location if the EIA assessment concludes that it is not suited for the project, because it will negatively impact the environment or human health (art.18, art.19(1) art.20 (2) of the GD445/2009).

In Romania ANDR is the body responsible for the realization of the nuclear waste deposits. The proposal for a site location is a task that belongs to ANDR. A location is considered acceptable if the project/the whole deposit meets the security criteria for a long term protection of the people. If within the EIA procedure another site is identified as being more suited for the deposit, all preparatory nuclear studies are undertaken for the new location and the final nuclear site license is issued only after the EIA procedure is completed and the environmental agreement is issued.

Finally, according to the provisions of Ordinance no. 7/2003 on the promotion, development and monitoring of nuclear activities, with subsequent amendments, the site of the radioactive waste and/or spent nuclear fuel repositories is approved by law, based on the authorizations/licences issued by the nuclear regulatory body, the National Commission for Nuclear Activities Control (CNCAN).

If the Romanian Parliament does not approve the proposed site, the entire site selection procedure, as described in Answer 1, is restarted.

(b) Is the decision – making for "partial locations authorization" required to consider alternative locations? Can this authorizations be granted to several locations? Has it been granted to several locations?

According to the Law no. 111/1996 on the safe deployment, regulation, authorization and control of nuclear activities, republished, with subsequent amendments, the authorization/license issued by the CNCAN has the character of a provisional decision. Thus, partial authorization is valid until the final authorization is issued, but no more than 2 years with an extension right, on request, for two more years, when all necessary information is not available in due time. From a legal point of view this **provisional authorization** has not the power to influence the EIA process when it comes to requesting alternatives to site locations, while in the same time is incouraging the project owner to proceed in order to obtain the other authorizations required by the law.

The partial site authorization for Low and Intermediate Level Waste Repository (DFDSMA) issued by CNCAN, enabled ANDR to perform further works to characterize Saligny site in order to obtain all the necessary permits, agreements and authorizations. If by the EIA process another site is proved to be more suited for a project, the partial/temporary authorization has no power to impose the site for which it was primary issued. It may be obtained for another proposed site, as well.

(c) It is legally possible and practically feasible that when adopting the Zonal Area Plan or environmental agreement (EIA decision) the relevant authorities would be able to designate another site for the repository, if it was not subject to all preparatory monitoring and studies allowed under the "partial locations authorizations"?

The environmental agreement request consists in a notification regarding the intention to develop the project, accompanied by a *Certificate of Urbanism* issued under the law on construction works authorization.

After the EIA procedure is finalized with the environmental agreement, the development consent (the construction authorization) is issued as well, based on the Law no.50/1991.

Given the provisions of *Law no. 50/1991 on construction works authorization*, republished, with subsequent amendments, in the case that the request for issuing the certificate of urbanism is required to amend the provisions approved in the urbanism documentation for the respective area, the local authority has the right through the certificate of urbanism to condition the investment authorization of developing a *Zonal Urban Plan (PUZ)*.

In accordance with the provisions of *Government's Decision no. 1076/2004 for environmental assessment of plans and programs*, republished, with subsequent amendments, if it is considered a plan that can have significant effects on the environment, PUZ is subjected to environmental assessment procedure in order to get the environmental approval. If the implementation of the plan may have significant

transboundary effects, the license holder shall submit the Plan and the Environmental Report to the central environmental authorities of the Member States potentially affected.

In accordance with art16 of the GD 1076/2004 the proponent of the plan has to propose other possible alternatives taking into account the objectives and the geographical area of the plan. Moreover, art.20 provides that the environmental report has to identify, describe and assess the reasonable alternatives to the plan. Therefore, from a legal stand point, within the environmental procedures, the plans or projects may be amended in order to include all the relevant environmental criteria before issuing any administrative act.

The above mentioned text is based, as well, on the responses received from the concerned authorities.

Finally we would like to kindly ask the IC to conclude that there is no state of non compliance by Romania with the provisions of the Convention or the Protocol.

Hoping that this letter provides the necessary clarifications,

Yours sincerely,

Director

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Focal Point to the Espoo Convention