

**INTRODUCTORY ADDRESS FOR GENEVA  
(16. 03. 2010)**

Dear Mr. Chairman,  
Dear members of Compliance Committee of Aarhus Convention  
Dear Secretariat of Aarhus Convention  
Dear audience

Let me in frame of negotiations deliver following introductory address.

With a high esteem for commitments of the Slovak Republic resulting from the Aarhus Convention; being aware of the significance of this Convention for sustainable development and conservation of environment for next generation and also in compliance with article 15, which provides presumptions for **non-confrontational, out of court and consultative solution** of the case No. ACCC/C/2009/41 in the face of committee for compliance with Aarhus Convention concerning observation of Aarhus Convention in relation to the building under way of the nuclear power plant Mochovce 3,4 I will, with a relevant respect to the authorities of Aarhus Convention as well as to the proponents (Global 2000) and to all participating, with the best belief and conscience, to explain and defend proceeding of Slovak Republic authorities in the negotiated case.

The Slovak Republic

- a) express its **principal disagreement** with the entry and reasoning of Global 2000,
- b) express a principal conviction that the proceeding of the Slovak Republic has been since the very beginning in compliance with international commitments resulting particularly from the Aarhus Convention and other international agreements,
- c) and I emphasize that in no case the international commitments of the Slovak Republic have been violated..

In the first place let me point out some important facts, which according to the opinion of the Slovak Republic, have to be taken into account as issues while making review of whole case and just by their misunderstanding or incorrect interpretation opening of this case on the international platform originated.

1. In the event of nuclear power plant Mochovce the matter unambiguously is non-standard case.
2. It is necessary to distinguish the most important milestones, which are relevant to the proceeding of the Slovak authorities in the event of nuclear power plant Mochovce 3,4.
3. In the event of nuclear power plant Mochovce 3,4 Global 2000 incorrectly perceives and presents activities for Mochovce 3,4 in its entries.
4. In the event of nuclear power plant Mochovce 3,4, there are targeted activities against nuclear power of some environmental organizations, which in their programmes are officially declared as one of their priorities.

5. In the event of nuclear power plant Mochovce 3,4 these environmental organizations permanently require information according to the article 6 par. 6 of Aarhus Convention in spite of the fact that this information does not fall under definition of „information about environment“ according to the article 2 par.3 of Aarhus Convention
6. At present in the event of nuclear power plant Mochovce 3,4 the process of environment impact assessment before an administrative procedure for delivery of authorization for nuclear installation commissioning, which non-governmental environmental organizations joined, is under way.
7. Building of Mochovce 3,4 complies with an energy strategy of EU up to 2020 and assurance of sufficiency of energy resources not only for the Slovak Republic but also for EU up to 2020. This strategy is supported by general public.

And now let me enter into details of individual points.

### **To the points 1 and 2 – non-standard situation and time milestones**

In the event of nuclear power plant Mochovce 3,4 it is necessary to draw the attention to following time milestones, which determine possibilities and titles of Slovak authorities and to them corresponding public rights to act in the event of nuclear power plant Mochovce 3,4:

The building permit for all 4 units of NPP Mochovce was issued **in 1986** i.e. **before signature** of Aarhus Convention (1998) **and entry** of the Slovak Republic to EU (2004), **before validity** of the Aarhus Convention for the Slovak Republic (2006). Shortly after it the construction started. In the first half of nineties construction of units 3, 4 slowed down due to several reasons (for example change of political system (1989), search for financial resources, change of economy conditions, etc.). Nevertheless the building **has never been stopped** and continued to be realized in compliance with the valid building permit, so it means the building has never lost a statute of nuclear power plant under construction.

Therefore as to the Mochovce 3,4 it is necessary **to consider very sensitively** when and **in which step the application** of rules being in force now is justified and when the matter would be **evidently retroactive**.

Essentially it is possible to make conclusion that the builder – Slovenske elektrarne, j.s.c. **could have realized the building alone regardless further consequences** without any restrictions according to the valid building permit issued in 1986 and without duty to initiate any new administrative procedure.

### **Ad 3**

In the English version of Global 2000 entry as well as in the headline of challenge for participation in the administrative procedure it is introduced „...**with extension of the Mochovce nuclear power plant**“. We raise an essential protest against use of term „**extension**“ the matter is not extension but it is completion and therefore according to our opinion the right term is „**completion**“. This our declaration we justify by the fact that **no one** from fundamental parameters of nuclear power plant Mochovce 3,4, (by which it could be considered with extension) **is designed differently** in comparison with the original project. It means that the increase of **neither thermal nor electrical capacity** is suggested, it is not

suggested increase of number of reactors, it is not suggested increase of releases over the allowed level and it is not suggested any new and further extension of building in any part compared with approved project from 1986. Changes occur **only in relation to the technology changes relevant to safety point of view**, which are subject to development and are suggested in compliance with the state-of-the-art requirements to nuclear safety. These facts should be seen also from the view that if regarding the civil engineering the works of the building has been completed to some 60-70 % and technology part to some 30-40 %.

#### Ad 4

From the process point of view we find out that formal and official entry towards Compliance Committee Aarhus Convention was addressed by Austrian environmental association Global 2000. This subject declares albeit than the entry was prepared in co-operation with Slovak environmental associations Greenpeace Slovakia and For Mother Earth the truth, however, is such that the association Global 2000 itself **has not been ever and in any way engaged** in the attacked process in Slovakia. On the contrary at the beginning *only associations Greenpeace Slovakia and For Mother Earth* were engaged in the attacked process in Slovakia and it was only up to the moment when facts putting the legal identity of subject For Mother Earth to question were revealed. In the continuation of administrative procedure **only association Greenpeace Slovakia had been active with categorical exclusion of association For Mother Earth.**

Therefore in the light of these facts we emphasize that by all these subjects **to lead campaigns against nuclear power** is one of the programme workloads and mentioned subjects do not hide it at all and they officially do the publicity for this line of activities. From such a point of view it is not principally possible to expect from subjects so established and oriented, an effort to enter the process on the level of expert discussion but on the level of „microreferendum“, in which they express their opinion and reluctance against nuclear power. Besides it has not been proved what part of the general public is represented by mentioned grouping . They namely have never submitted a relevant evidence that they are empowered to plead and act also on behalf of other natural or legal persons with the exception of themselves. Subjective activities from the side of environmental organizations and their perception by national or international authorities **without possibility for the general public** to express their opinion to the same issue could be considered as a restrictive interpretation of article 2 par.5 of Aarhus Convention due to the fact that the term „interested public“ has a much more broader frame than the non-governmental organizations supporting environment protection defined in this paragraph.

#### Ad 6

Highly respectable Mr. Chairman, dear members of Compliance Committee of Aarhus Convention it is honour and pleasure for me to inform you that the Slovak Republic in frame of policy openness supporting international co-operation and relevant negotiations started in February 2009 in compliance with national legislation and Espoo Agreement the process of environment impact assessment related to suggested activity linked with nuclear power plant Mochovce 3,4, which at present decline and which the general public, citizens in surroundings, neighbouring countries as well as non-governmental organizations Greenpeace Slovakia, For Mother Earth and among others also Global 2000 participated in. In frame of

this opened process, which passed in compliance with both the national legislation and Espoo Agreement, public hearings were performed not only in the Slovak Republic but also in Austria (Vienna, on September 25, 2009) and Hungary ( Oestergom, October 12,2009). These public hearings were organized by interested communities and by activity promoter. During these public hearings not only representatives of general public, official representatives and representatives of non-governmental organizations of neighbouring countries claimed their standpoints but also representatives of nongovernmental organizations including Global 2000. The conclusive standpoint from this process will be used **in frame of licensing of nuclear installation commissioning. In terms of the legal order of the Slovak Republic this licensing procedure is indubitable licensing procedure of suggested activity because it changes principally existing up to now legal and factual status for a future.**

**Conclusions:**

1. Let me at the conclusion to emphasize once more that the Slovak Republic proceeded in compliance with the national legislation, Aarhus Convention as well as with other international commitments and that the GLOBAL 2000 accusations are in this case unfounded.
2. At the same time we stick to our written formulation we sent in October 2009, which we can complete verbally by required information
3. We require Compliance Committee of Aarhus Convention to take into account our general standpoint into its consideration and at the same time **at least following other international conventions and European legislation**, which put the truth for our formulations, for example

*Convention on physical protection of nuclear materials and nuclear installations (IAEA Vienna, revised in 2005)*

*Convention on suppression of terrorists acts*

*EU Directive No. 2009/71/Euratom dated June 25,2009 by which the framework of Community for nuclear safety of nuclear installation has been established*

4. Likewise we require Compliance Committee of Aarhus Convention to take into account during its further activities the running process of environment impact assessment and participation of non-governmental organizations in it.

Thank you for your attention

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In the event of nuclear power plant Mochovce 3,4 since the very beginning it is manipulated with terms, the significance of which is subject of various interpretations but the Aarhus Convention itself does not specify them in no way.

**To the basic terms**

In the whole case it is manipulated with terms “suggested activity” or “licensing administrative procedure”.

Definition mechanism of the Aarhus Convention, however, in the article 2 does not specify both these terms. The article 6 par. sets down that it is necessary to apply provisions

of this convention in relation to decisions whether to permit suggested activities in the Enclosure. Enclosure 1 in paragraph 1 Power industry in the item 5 introduces among others **“nuclear power plants and other nuclear reactors”**. It, however, does not introduce further details. In connection with this we raise following questions, which are decisive ones for us and which are necessary to be answered. Answers to them have an extraordinary significance for the further development of procedure.

1. Is it truth that if the Aarhus Convention itself does not determine process of issue of decisions upon suggested activity then it is up to the conventional state **to regulate conditions, procedure and extent of licensing administrative procedure in its domestic legislation?**

If yes then it is exclusively within the competence of the conventional state to determine in its domestic legislation **the result of which process would be the decision upon permission of suggested activity.**

2. In the Enclosure 1 of the Aarhus Convention we see **an uncertainty of principal nature**. The headline introduces **“A list of activities introduced in the article 6 par.1 letter a)”**. **Then it follows, however, the list of various items but called as “things”, not “activities”**.

The “activity, after all means the activity controlled by the mind and will of the man, which is performed with individuals, with things and with rights. Therefore how the suggested activity can be defined as a thing:

Therefore concrete question sounds:

### **What is the suggested activity in case of nuclear power plant?**

Is it its designing? Its siting? Its construction? Its commissioning? Its operation? Its decommissioning? Or something completely different?

According to our opinion it is imperative to explain and bindingly interpret the term **“suggested activity”** and only after defined and bindingly interpreted term in a such away it is possible to move to definition or binding interpretation of that what is **“decision upon permission of suggested activity”**. The Aarhus Convention itself does not provide answer to these questions in its normative text.

### **Ad 6**

As to the access to information for an interested public an information minimum, in the extent according to the articles 6 par. 6 letters a) to f), should be accessible. Among others it is introduced under letter d) that **non-technical summary of parameters** introduced in letters a) to c) **should be accessible**. Based on 17 years of history of Nuclear Regulatory Authority of the Slovak Republic we can conclude that in contradiction with this provision the non-governmental organizations request a detailed license documentation such as preoperational safety report, analyses of severe accidents including computing codes, etc. I do not speak about the fact that **it is very difficult to subsume information**, which is solicited by nongovernmental organizations in relation to the nuclear installation, **under definition of**

**information about environment introduced in the article 2 par. 3 letters a) to c) of Aarhus Convention.**

At the conclusion of this point we would like to raise following question:

**How do the experts and representatives of nongovernmental organizations imagine, along with full respect of article 6 par. 6 and 7 of Aarhus Convention, also “participation on responsibility” for decision making, when they request every right on “participation in decision making”?** It is not thinkable that the public authorities, within of which are responsibilities for decision making upon permission of suggested activity, would have on one side according to the article 6 par.8 of Aarhus Convention **duty to take appropriately into account results of public participation** but on the other side they have **to bear exclusively themselves responsibility for decision.** Namely in all aspects of licensing activity, it means not only concerning environmental issue but also in economy, social and particularly safety ones. I do not speak about the fact that the licensing documentation of nuclear installation, with some negligible exceptions, is a documentation, which in case of its release to the unauthorized hands is capable by a marked means to easy planning and execution of non-authorized activities directed towards damaging or destruction of nuclear installation and therethrough also to an increase of public security threat and in case of large extent of pertinent terrorist action also to jeopardy of the state defence and to the degradation of international relations and all this are the reasons to eliminate publishing of information according to the article 4 par.4 letter b) of Aarhus Convention.

#### **Ad 8**

If a premise should be valid that the participation of public in licensing administrative procedure have to be assured in all stages of licensing (licensing processes are staged or sequentioned) and it is possible in all stages of licensing procedures to apply the comments of public and relevantly take them into account, in that case we consider it as discriminative approach. In case when domestic administrative does not set up any or only simplified, for example one-shot licensing (authorization process) then it is, from the point of view of observation of Aarhus Convention, less vulnerable than in case when the process is multi-staged, sequentional or graded.