



*Minister of Environment
of the Slovak Republic
Jozsef Nagy*

Bratislava, 3 February 2011
No: 4103/2011

Mr. Veit Koester
Chair to the Aarhus Convention Compliance Committee
Ms. Aphrodite Smagadi
Secretary to the Aarhus Convention Compliance Committee

United Nations Economic Commission for Europe
Environment, Housing and Land Management Division
Bureau 332, Palais des Nations, Avenue de la Paix 10
CH-1211 Geneva 10, Switzerland

Re: Objections to Final Findings of the Aarhus Convention Compliance Committee with regard to Communication ACCC/C/2009/41 concerning Compliance by Slovakia in the matter of the Mochovce nuclear power plant

Dear Mr. Koester, dear Ms. Smagadi,

With high regard for the function and responsibility of the Aarhus Convention Compliance Committee, we strongly feel that the final findings adopted by the Committee on 17 December 2010 in the matter of the Mochovce nuclear power plant were not consistent with the letter and spirit of the Aarhus Convention.

We believe that the Compliance Committee incorrectly assessed the facts of the case, in particular the scope of the changes or extensions in the relevant permits and the possibility of their significant effect on the environment. Even though this issue is crucial, the Compliance Committee simply states that "it is clear" that the decisions of the Slovak authorities "amounted to a reconsideration or update of the operating conditions". The Committee however fails to give any explanation whatsoever as to why and how it reached such clear conclusion.

The Compliance Committee also gave no consideration to the fact that the Slovak authorities properly evaluated the proposed changes in light of the Convention and took the view that public participation was not necessary.

The Compliance Committee's critical failure prevents Slovakia as well as the other Parties to the Convention from distinguishing between the changes that amount to reconsiderations or updates in a project and those that do not.

The conclusions reached in the Mochovce case are of general importance and may have far-reaching repercussions for projects in other countries, not only in the nuclear field but in any other sector of the economy. It suggests that a new public participation procedure may be required in any project where reconsiderations, updates, changes or extensions of activities covered by the Aarhus Convention take place, irrespective of their scope or significance; or the nature of the project or economic sector.

Such approach is inconsistent with the provisions of the Convention and is disproportionate to the objectives of the Convention. It must be up to the State authority to interpret the Convention within the boundaries of, and in light of, the objectives of the Convention. The Committee cannot be entitled to find against a sovereign decision of a State authority by applying its own interpretation of an unclear provision of the Convention, without providing clear and transparent evaluation criteria or the involvement of the Meeting of the Parties in the interpretation of that provision.

Yours sincerely,

A handwritten signature in blue ink, consisting of a large, rounded loop followed by a smaller loop and a long, thin tail extending downwards and to the right.

Cc:
Ms. Ella Behlyarova, Secretary to the Aarhus Convention

Permanent Mission of the Slovak Republic to the United Nations Office and other international organizations in Geneva