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To
Secretary to the Aarhus Convention
United Nations Economic Commission for Europe
Environment and Human Settlement Division
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Marktredwitz, 04-03-2013

Subject: ACCC/C/2012/71

Dear Ladies and Gentlemen,

One of the questions of the Aarhus Convention Compliance Committee was, whether I have used all possible remedies. There are none in Germany was already explained. Last Wednesday, 27-02-2013, Mgr. Martin Sip from Czech Republic told me that it is impossible to complain against EIA Temelin or any other EIA under Czech EIA law. So, I also cannot demand a hearing date in Germany before a Czech court. The deadline for complaining against EIA Temelin is the 18-03-2013 Mgr. Sip told me. Until today, it was for Germans even not possible to read the final report of EIA Temelin 3 and 4 because it was not yet translated into German or English.

To lose before court would cost around 1000 Euro plus the fees for my own lawyer. I will fail, because I cannot complain under Czech EIA law. But I have to complain, because of the deadline. So it is a classic win-win-situation for Czech Republic. I have already demanded from MZP to extend the deadline and respect binding International and European law which demands access to justice. In EIA Temelin there is completely none access to justice. Attached is a statement from Mgr. Martin Sip and information from MZP about final report.

With kind regards,

Brigitte Artmann

Mgr. Martin Šíp

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Otevřeli jsme novou pobočku v Písku

I come to you with the requested information concerning the action against Czech EIA report issued by the Czech Ministry of Environment.

1. Chances are low but it could be useful

At our opinion the general practice of the administrative bodies and of the Czech courts breaches the Aarhus Convention and EU EIA directive in relation with the permission of the nuclear power plant in Temelín.

As I informed you, **under Czech law, it is not possible to contest the EIA report (opinion of the Czech Ministry of Environment) by the legal action before the court** and there is a high probability that it will be rejected. **EIA report is not a decision of the administrative body (EIA report is only factually published by the Ministry) and these kind of administrative acts cannot be attacked by an action.**

Despite it, we intend to do this action against EIA report in order to exhaust all the legal ways and to have the information on the arguments of the courts. We are using the information obtained from these “lost” judgments in the following phases of the authorisation process (and we had some little success). **We calculate the term for file the action from the publishing date of EIA report (the action must be filed before 18 March 2013).**

2. Cost of the proceedings (“proceskosten”)

Pursuant to the type of procedure there are 3-4 degrees of the proceedings. Action against EIA report consist of four degrees – first degree (ordinary Court), appeal (Supreme administrative Court), Constitutional Court (free of proceeding charges), European Court of human rights in Strasbourg (free of proceeding costs). There are only two degrees where we can lose the costs (first degree and appeal).

Charges:

- Court fee (for opening the procedure) CZK 3000 (EUR 120) (if we will lose the procedure, we will lose also the court fee),
- Court fee for appeal – CZK 5000 (EUR 200)
- If we lose the Court we will pay approx. CZK 9.300 (EUR 372) – it is the amount for the attorney of the winning party (the amount provided by the edict of Ministry of Justice); however, this fees are attributed to the wining party only when the party is represented by the attorney. Ministry of Environment is not often represented by attorney, because it has his own lawyers.

Financial risk summary for all this procedure by one plaintiff is:

- CZK 3000 (EUR 120)
- CZK 5000 (EUR 200)
- Approx. CZK 18.600 (EUR 744)- (2 x CZK 9300 (resp. 2 xEUR 372)

In total the procedure risks are approx. 1070 EUR by one plaintiff

The final EIA report is still - with date 04.03.2013- only available in Czech language. Also the Annex 5 is in Czech language.

From: Evzen.Dolezal@mzp.cz
Sent: Tuesday, January 22, 2013 10:32 AM
To: brigitte.artmann@gruene-fichtelgebirge.de
Cc: Jaroslava.Honova@mzp.cz ; Daniel.Brix@mzp.cz
Subject: Temelin EIA Statement

Dear Mrs. Artmann,

Ministry of the Environment of the Czech Republic issued the final EIA Statement on January 18, 2013.

In response to this fact you will find the public hearing protocol and the final EIA Statement on http://portal.cenia.cz/eiasea/detail/EIA_MZP230

Answers to your questions from the public hearing are the part of the annex No. 5 of the EIA Statement. For completeness you can find this annex No. 5 also bellow.

With best regards

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