



Bundesministerium  
für Umwelt, Naturschutz,  
Bau und Reaktorsicherheit

Bundesministerium für Umwelt, Naturschutz, Bau und Reaktorsicherheit, 11055 Berlin

Ms. Fiona Marshall

Secretary to the Compliance Committee  
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**Communication to the Aarhus Convention Compliance Committee concerning compliance by Germany in connection with public participation in transboundary environmental impact assessment procedures (ACCC/C/2013/92) (Germany) - questions from the Committee**

**Comments on the communicant's response of 14 February 2015**

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Dear Ms Marshall,

Berlin, 05 March 2015

Thank you for giving us the opportunity to comment on the communicant's response of 14 February 2015 on case ACCC/C/2013/92 (Germany). We are commenting on this response to reiterate that the points raised therein are not relevant to the current compliance procedure ACCC/C/2013/92, and to put the communicant's response into the wider context of the compliance case.

The Federal Republic of Germany would like to submit the following comments:





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## **I. Questions to the Federal Republic of Germany**

As regards the response to question 5, the Federal Republic of Germany would like to note that the statements made by the communicant do not relate to the original question and the answer given by the German Government. The distance of a nuclear power plant project from the borders of the Federal Republic of Germany is not the decisive criterion for participation in a transboundary EIA (environmental impact assessment) procedure. The focus is on neighbouring countries and projects affecting joint sensitive water bodies, such as the Baltic Sea or the Danube. In the case of the Finnish nuclear power plant project Pyhäjoki the Baltic Sea region was affected, which is why participation in a transboundary EIA procedure was considered necessary despite the project being far away.

## **II. Questions to the communicant**

### **Re question 1 and communicant's response:**

The German Government would like to point out that the reactor design of a project planned abroad is not an aspect to be taken into account in resolving the questions at issue here. For further details, please refer to our answer to question 5.

### **Re question 4 and communicant's response:**

- **EIA on nuclear power plant operation at the Slovak site Jaslovské Bohunice**



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The German Government would like to begin by stating that question 4 was not put to the communicant with the intention of determining whether information submitted by the communicant caused Germany's participation in the activities listed by the German Government in its answer to question 5. The goal of the question was content-related, i.e. to determine whether the communicant actually participated in these procedures.

Against this background, in order to fully establish the facts, the German Government merely points out that Germany had already participated in the transboundary EIA procedure in the Slovak Republic on nuclear power plant operation in Mochovce in 2010 in accordance with the provisions of the UNECE Espoo Convention. The relevant documents were made available for public inspection by the competent authority in Bavaria from 29 March 2010 to 24 April 2010 after the procedure had been organised by Bavaria and the Federal Environment Ministry according to the applicable legal provisions. The competent authority did not receive any comments from the German public. As the communicant does not provide any specific information on this and based on the wording of question 4, it is assumed that she did not participate in the procedure. The communicant merely refers to the procedure on planned activities at the Jaslovské Bohunice site.

A procedure identical to the one described for the planned Slovak activities in Mochovce took place for the planned activities in Jaslovské Bohunice. As was the case for the procedure conducted in 2010, Bavaria had communicated its interest to participate to the Federal Environment Ministry at an early stage. This is also evident



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from the attachment the communicant has submitted, i.e. the e-mail from the Bavarian State Ministry of the Environment and Consumer Protection of 6 May 2014.

- **EIA on nuclear power plant operation in Pyhäjoki, Finland**

Even though the comments put forward by the communicant are not relevant to the question to be resolved here, the German Government would like to stress that it never claimed that the communicant did not contact the Federal Environment Ministry in October 2013 regarding an EIA on nuclear power plant operation in Pyhäjoki, Finland.

Against this background, in order to fully establish the facts, the German Government merely points out that Germany had already participated in the transboundary EIA procedure on the originally planned construction of a nuclear power plant in Pyhäjoki by Fennovoima Oy in 2008 in accordance with the provisions of the UNECE Espoo Convention. In this regard, we would like to refer to the facts submitted in our letter of 8 January 2015. Since the communicant does not provide any specific information on this and based on the wording of question 4, it is assumed that she did not participate in the above-mentioned procedure. The communicant merely refers to the procedure carried out in 2013.

A "repeat" transboundary EIA was carried out on the planned activities of the same developer at the same site as in 2008, and Germany participated again in accordance with the provisions of the UNECE Espoo Convention.



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- **SEA on the draft Polish nuclear energy programme**

Even though the comments put forward by the communicant are not relevant to the question to be resolved here, the German Government would like to stress that it never claimed that the communicant did not contact the Federal Environment Ministry regarding an SEA on the Polish nuclear energy programme. The communicant contacted the Federal Environment Ministry on this matter for the first time on 3 August 2011 by e-mail and asked for general information on the procedure, for example whether it was still possible for her as a private individual from Bavaria to participate in the procedure for the submission of comments in Poland.

Against this background, in order to fully establish the facts, the German Government would merely like to point out that Germany had already been involved in the procedure since mid-July 2011 in accordance with the provisions of the UNECE SEA Protocol.

On a more general note, the German Government would like to underline that Germany has a federal structure. Due to this structure, it may take some time to prepare and carry out procedures in Germany. This means, for example, that public participation procedures cannot be initiated immediately when activities become known. There may be overlaps with the requests of individuals for participation.



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In view of the above, the German Government does not share the final conclusion reached by the communicant based on her responses, the subject matter of question 4 and the objectives of the Espoo and Aarhus Conventions, even less so once the fully established facts are taken into account.

Yours sincerely,

For the Federal Ministry for the Environment, Nature Conservation,  
Building and Nuclear Safety

Alice Kinne