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To: Fiona.Marshall, Aarhus Compliance,  
Cc: Andras Perger Koritár Zsuzsanna Andriy Andrusevych  
Date: 09/10/2015 15:45  
Subject: My statements as observer during C/105

Ahoj!

Here my observations as observer during the C105 procedure on Hungary.

greetings,

jan

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1. In Point 12 of the original Party statement, it proudly states that it fulfilled a court order to provide information after 7 months, and the Party calls this a sufficient remedy of the court process, and on top of this in point 12, I quote “early”. I struggle with calling information provision 7 months after the court order “early” in relation to art. 4(2) of the Convention.
2. In the introduction the Party claimed that the European Commission has accepted the Paks II project under Euratom and all EU legislation. I would like to point out that the Commission has only given its viewpoint under art. 43 of Euratom, which states nothing more than that the project in principle does not violate provisions of the Euratom Treaty. Nothing more. The Party still needs to get viewpoints from the Commission on more precise parts of Euratom concerning release of radioactive substances, about its nuclear waste programme and others. Also, the Euratom art. 43 viewpoint of the European Commission does **not** relate to any provisions of the TEU and TFEU. There are still several assessments from the European Commission under TFEU pending or upcoming, including environmental ones and issues of competition.
3. The Party claimed earlier this morning that the last year all environmental information was available and that they did not receive a single request for information. However, during the EIA procedure, I have requested quite a bit of missing information, including economic and socio-economic assessments relating to the project and its environmental effects, alternatives, lacking information on waste and potential emissions – all information under the definition of art. 2(3b) of the Convention. I was told by the party that at least part of this information was not considered environmental information and it therefore would not be provided. I also requested access to the above mentioned Euratom art. 43 viewpoint from the European Commission, which stated it waited still for Hungary's permission to share that information.
4. The Paks II company officially carries out the EIA, but it is the Prime Minister Office which represents the project at all levels including during national and transboundary EIA hearings.... Furthermore, the Paks II company is implementing a state decision on the basis of a bilateral Hungarian–Russian state agreement. All market related dynamics were excluded: there was no tendering of capacity, no tendering of technology and there are plans for market regulatory

measures to guarantee necessary income from the project – This is all decided by the Government. The current Paks II project is build upon the preparatory steps delegated by the Government to MVM and Paks I in the Teller and Levai projects. The full control of the government over these activities in my eyes supports the conclusion and verdict from the Hungarian courts that the information involved was information from a public authority in exactly the same sense as defined in Article 2(2c) of the Convention.

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\*You can't sink a rainbow\*