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Palais des Nations, Room 429-4
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Ref: ACCC/C/2014/105

3 February 2016

Ms. Andrea Barad
Head of Unit
Ministry of Rural Development
Hungary

Mr. János Mező,
Climate and energy campaigner
Hungarian Greenpeace Association
Hungary

Ms. Zsuzsanna Koritár,
Project Manager
Energiaklub Climate Policy Institute and Applied Communications
Hungary

Dear Ms. Barad, Mr. Mező, Ms. Koritár,

Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Hungary in connection with a plan to extend the Paks Nuclear Power Plant (ACCC/C/2014/105)

During the discussion of the above communications at its fiftieth meeting (Geneva, 6-9 October 2015), the Compliance Committee indicated that it would send further questions for the response of both the communicants and the Party concerned. Please now find enclosed the questions prepared by the Committee for your attention.

The Committee would be very grateful to receive your responses to the enclosed questions on or before **Wednesday, 24 February 2016**. Please send your response to aarhus.compliance@unece.org, copying the other party. The other party will then have until **Wednesday, 2 March 2016** to provide the Committee with any comments it wishes to make on your response. The Committee will consider the responses and comments received by the above deadlines when deliberating upon its draft findings at its upcoming fifty-second meeting (Geneva, 8-11 March 2016).

Please do not hesitate to contact the secretariat if you require any further information.

Yours sincerely,

Fiona Marshall
Secretary to the Aarhus Convention Compliance Committee

Cc: Permanent Mission of the Hungary to the United Nations Office and other international organizations in Geneva

Enc: Questions for the parties

Questions to the parties regarding communication ACCC/C/2014/105

Questions to both the Party and communicants:

1. Please list the provisions of Hungarian legislation that directly transpose the Aarhus Convention's provisions concerning access to environmental information and in particular, the provisions transposing the following:
 - Article 2, paragraph 2 of the Convention (in the context of access to environmental information);
 - Article 2, paragraph 3 of the Convention;
 - Article 4, paragraphs 1(a), 2, 3, 4 (including the requirement that: *“The aforementioned grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure and taking into account whether the information requested relates to emissions into the environment”*) and article 4, paragraph 7 of the Convention;
 - Article 5, paragraphs 1, 2 5, 6 and 7 of the Convention.

When answering question 1, please indicate where in the annexes of the communication an English translation of the text of each relevant provision of Hungarian legislation can be found or otherwise please provide an English translation of each relevant provision of Hungarian legislation.

2. a) Please explain if, and under what circumstances, commercial companies are considered to “perform public administrative functions” or “have public responsibilities or functions or provide public services in relation to the environment” under Hungarian legislation and/or relevant case law of the Hungarian courts.

b) If MVM Paks NPP Ltd., MVM Hungarian Electricity Ltd., or another company related to the Paks nuclear power plant, are considered to “perform public administrative functions” or “have public responsibilities or functions or provide public services in relation to the environment”, please provide an English translation of the acts of creation (documents establishing) the company.
3. Please explain the precise legal consequences for the planned extension of the Paks Nuclear Power Plant of the following Parliament Resolutions:
 - a) Parliament Resolution No. 40/2008 (IV. 17.) Ogy on the Energy Policy of Hungary in the Period 2008-2020;
 - b) Parliament Resolution No. 25/2009 (IV. 2.) Ogy (by which the Parliament gave its “preliminary, principal consent to start the preparatory activities of establishing new block(s) at the site of the Paks nuclear power plant”);
 - c) Parliament Resolution No. 77/2011 (X. 14.), approving National Energy Strategy for the period up to 2030;

In what, if any, respects are any of the above Parliament Resolutions binding upon the subsequent decision-making procedures concerning the planned extension?

4. For each of the Parliament Resolutions listed in question 3 above, please state whether you consider that the Resolution, or document approved by it, should be considered a plan, programme or policy relating to the environment under article 7 of the Convention or not.

5. Please clearly describe the opportunities that the public had to participate during the preparation of each of the Parliament Resolutions listed in question 3 above, or documents approved by them.
6. Was any information (explanatory materials, fact sheets, analyses etc.), related to the above Parliament Resolutions, or documents approved by them, published before their adoption in accordance with article 5, paragraph 7 of the Convention?
7. What is the current stage of the decision-making (permitting) process for the planned extension of the Paks Nuclear Power Plant? Which, if any, aspects of this project have already been decided upon, and by what act(s) or decision(s)? What kind of decisions are yet to be issued in the future?

Questions to the Party concerned:

8. What kind of information concerning the planned extension of the Paks Nuclear Power Plant has the Party concerned published so far in accordance with article 5, paragraph 7 of the Convention?
9. Is it correct that the Office of the Hungarian Ombudsman for Future Generations, in statement No. JNO-128/2010, invited the Hungarian Government to publish the results of the EIA and strategic assessments, if any, and to proceed with the preparatory work of the extension of the Paks Nuclear Power Plant with the fullest inclusion of the general public? If yes, what was the Government reaction to this statement?

Questions to the communicants:

10. What information requested in the individual requests mentioned in the communication has never been provided and which therefore, in your view, amounts to a breach of the provisions of the Convention?
 11. Did the fact that the information requested in the individual requests was either not provided in a timely manner, or not provided at all, prevent the communicants from being able to effectively participate in any decision making (permitting) process for the planned extension of the Paks Nuclear Power Plant ? If yes, please specify which of the decision-making processes.
 12. Why did Energiaklub apply to the National Data Protection Agency in November 2012 regarding the request for information addressed to MVM Hungarian Electricity Ltd. instead of the court? What is the difference between the procedure before the court and the National Data Protection Agency, in particular with respect to the possible remedy?
 13. Please explain further your allegation regarding article 5, paragraph 7 of the Convention. Which specific information do you allege that the Party concerned should have published under this provision, but has failed to do so?
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