

## **Observations concerning the Second progress review of the implementation of decision VI/8i on compliance by Slovakia with its obligations under the Convention**

Jan Haverkamp – representing communicant Greenpeace Slovakia in ACCC/C/2013/89  
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I would like to make three observations in reaction to the second progress report of Slovakia, the ACCC review of this progress report, and the statements made during the open hearing on 13 March 2020.

### **First observation: a test is not an outcome**

The claim from both the Slovak Ministry of Environment and the regulatory agency ÚJD that in spite of the existence of art. 3(4) of the Directive on sensitive information, ÚJD would test every request under art. 4(4) of the Aarhus Convention is of course true, but hollow in its outcome. ÚJD is bound by art. 3(4) of the Directive to refuse any information that falls under those categories on the basis that it is not considered environmental information – even though it is environmental information under the definition of not only the Aarhus Convention but also EU Directives. When Slovakia concedes that the mentioned categories contain or are environmental information under the definition of the Convention, they should be removed as defining what is not environmental information.

### **Second observation: the requirements under the Aarhus Convention are no problem under any international nuclear safety obligation**

As the chair already mentioned during the open session, many of the Parties to the Aarhus Convention have nuclear power stations and are bound to international law concerning nuclear safety, and have seen no need for the strict definitions introduced by Slovakia. It has to be noted, however, that none of the existing international conventions (e.g. the Convention on Nuclear Safety and its related conventions), nor Euratom or any of its directives demands concerning transparency stricter regulations than can be allowed under the Aarhus Convention. In contrary, the Euratom Directive on Nuclear Safety (Council Directive 2009/71/Euratom as amended by Directive 2014/87/Euratom) article 8 explicitly refers to the obligations of international law, which include the Aarhus Convention.

### **Third observation: all categories of art. 3(4) of the Directive on Sensitive Information contain environmental information**

We would like to make it clear, that not only the two categories that were in paragraph 35 of the ACCC progress review mentioned as illustration to contain at least some environmental information, but that all of the categories from art. 3(4) of the Directive on sensitive information cover at least some environmental information. It can even be argued well, that all information covered in documentation covering those categories falls under the definition environmental information as defined in the Aarhus Convention (art. 2(3b)).

I will give for each category an illustration:

- a) Identification and designation of facilities and structures, the room numbers and the description of the location, where they are located,

These data are important to be able to understand and give constructive feedback on, among others, internal emergency response plans in the case of a severe accident with substantial emissions of radioactive substances. This clearly falls under art. 2(3b) of the Convention.

b) Description, parameters and designation of equipment and technology;

Understanding of potential risk is related to knowledge about, for instance, the type of reactor used, including its parameters. This information is crucial for feedback on emergency preparedness and response and falls under art. 2(3b)

c) Resources and place of their storage;

The resources themselves include chemicals (partially toxic), fresh fuel and spent fuel. Amounts are important to estimate risk, their location important to enable feedback on emergency preparedness and response. Hence this information falls under art. 2(3b).

d) The numbers and the description of technological units;

In order to be able to give feedback on risk assessment of severe accidents with substantial emissions of radioactive substances, it is important to know which technological units are there, in which numbers and where they are allocated. This falls under art. 2(3b).

e) Category of seismic resistance;

To enable the public (incl. independent experts) to assess whether a nuclear power plant fulfils the international and national obligations concerning seismic robustness, this information is of crucial importance. Categorisation of seismic resistance of different parts of a nuclear power plant is crucial information affecting or likely to affect the elements of the environment within the scope of subparagraph (a) of art. 2 of the Convention.

f) Functionality, parameters and components of the system and its backup;

To be able to assess whether or not the installed redundancy in the system may or may not be vulnerable to common cause failures, this information is of crucial importance. On the basis of an assessment of this information, the necessity of certain measures as discussed under the recent European post-Fukushima nuclear stress tests is based. Public input in establishing those measures was an important part of these stress tests. This information falls under art. 2(3b).

g) Instrumentation and control systems;

Recently, severe cyber-vulnerabilities were discovered by external experts in the I&C systems of the (also Russian designed) Kundankulam NPP in India. Access to general parameters of this system played an important role. Because these systems are defining in risks on severe accidents, information concerning these systems falls under art. 2(3b).

h) Ancillary systems for the safety systems, e.g. secondary cooling systems, diesel systems, fire water systems;

One of the most widely adopted conclusions in the European post-Fukushima stress tests was the need for upgrade of the diesel systems, including the installation of mobile diesel generators. Recently, information appeared about malfunctioning diesel systems in Mochovce 3,4. It is of crucial importance that when this occurs, also independent experts from civil society are able to assess the situation. When these diesels do not function properly, they can be a key link in the chain of events leading to a severe accident with substantial radioactive emissions.

i) Power supply: General arrangement, control, distribution.

Recent changes in the access to outside power at the Borssele NPP in the Netherlands led to temporarily less availability of back-up power and hence increase in risk. This was noted and communicated by civil society groups.

Slovakia would be well advised to remove art. 3(4) completely and replace it with taking up the exception rules as defined in art. 4(4) of the Aarhus Convention. These rules of exception give the regulator sufficient space to define what information can and cannot be shared with the public. It also removes the artificial and erroneous differences that ÚJD makes between environmental and non-environmental information.