

From: Jan Haverkamp
Sent: 30 October 2019 3:23 PM
To: ECE-Aarhus-Compliance; Fiona Marshall
Subject: Re: Decision VI/8i (Slovakia) - Second progress report of the Party concerned

Dear members of the Aarhus Convention Compliance Committee,

Due to illness the last month, I have unfortunately not been able to assess in detail the progress reports from Slovakia, the Czech Republic and the Netherlands, as I had planned to do.

However, concerning the progress report from Slovakia, I would like to make the following remarks:

1. The issue of a rather hostile attitude towards NGOs and members of NGOs has not been cleared over the last months. I refer for this to my earlier letter from 08.04.2019 and ask the Committee to seriously look into compliance with art. 3(8) of the Convention.

2. In its Progress Report, Slovakia clearly shows it does not understand the principle of "information regarding the environment". The best and most clarifying illustration can be found on page 6, last line: "None of the listed information contains data regarding the environment." Above this sentence, the Party has described extensively information related to safety and security of nuclear power stations. Because this information concerns vital information to assess the potential risk of emissions of radioactive substances in the case of a severe accident, the information described falls without doubt under the definition of information regarding the environment as defined in art. 2(3b) of the Convention: " Factors, such as substances, energy, noise and radiation, and activities or measures , including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;"

Nuclear safety and security measures are important factors preventing impact on the environment - or when insufficient, impacting the environment.

That means that exceptions to access to this information for the public are ruled by art. 4(4) of the Convention, and cannot be excluded from it.

It may be clear that this environmental information is not disclosed by default (as stated in par. 1.2 Environmental Information of the Progress Report (page 7)), but is subjected to an exception that in our view is maintained too stringent and not in compliance with art. 4(4).

I believe that this too stringent interpretation of the exceptions under art. 4(4) of the Convention is based on the hostile attitude towards NGOs, as described above.

For clarification: I do not plead for full disclosure of all safety and security information, but that disclosure of safety and security information is only exempted after application of the criteria under art. 4(4) of the Convention. I have as yet not seen any proof that the Party, e.g. ÚJD is doing this or is willing to do this. A separate transparency regime under the Atomic Act, separate from the transparency regime under the Environmental Act, will most likely continue to lead to lack of clarity in this respect.

3. The Party has over the last years not sought any constructive dialogue about the interpretation of which information from the nuclear sector should be considered to fall under the exceptions in art. 4(4) of the Convention with those members of the public it deems acting out of bad faith, i.c. Austrian NGOs, several Slovak NGOs (e.g. Greenpeace SK) and me. In contrary, see above under point 1.

I wish the Committee wisdom in dealing with assessing the progress reports,
sincerely,

Jan Haverkamp