

Statement of the Slovak Republic to the “First progress review of the implementation of decision VI/8i on compliance by Slovakia with its obligations under Convention“

The Slovak Republic in the First progress report requested from the ACCC to provide some clarification in a relation to terms as “environmental information” or “nuclear-related environmental information”, which the ACCC uses in a general meaning. Despite Slovakia’s request, there was no answer to the question whether the ACCC defined any of the specifically required information from the MO 3&4 Safety Report as environmental information, and how the content requirements for the definition of environmental information are met specifically in relation to the requested information by GLOBAL 2000.

Furthermore, Slovakia pointed out that GLOBAL 2000 requested specific information that were listed in the First progress report. Thus, Slovakia asked the ACCC to provide a comment/clarification on the requested information that GLOBAL 2000 claims to have not received (they were blacked out). Given the nature of the blacked out information, the Slovak Republic believes that this information is not environmental information. From this point of view, it might seem that GLOBAL 2000 requires that information not because they were environmental information, but because they were as sensitive information blacked out. Slovakia believes that it has already provided all relevant environmental information.

On 26 April 2017, the Slovak Republic sent to the ACCC a DVD with deleted parts of the Preoperational Safety Report (hereinafter “Safety Report”) with the purpose to provide the ACCC with information on the extent and nature of information blacked out. The safety report, presented in the licensing process of commissioning NPPs, is intended to demonstrate compliance with legislative requirements that create a framework for achieving the high level of nuclear safety. Based on the requirements of the Slovak legislation and the requirements of the Nuclear Regulatory Authority the Safety Report is complex and technically very detailed in our case (about 7000 pages).

Disclosure of technical details (in particular the designation of technology, rooms, parameters whose publishing would lead to equipment damage) would lead to a change in the assumptions with which the NPP physical protection was designed.

This data has been blacked out in the Safety Report. In no case the environmental impact of the equipment should be diminished.

All aspects of the NPP impact on the environment are summarized and detailed in a separate section of the Safety Report (section 13). In this section, blackening has been done to the minimum necessary and, as in the rest of the Safety Report, blacked out content did not apply to environmental data.

In an effort to ensure a transparent procedure in publishing documentation, the Nuclear Regulatory Authority followed suitably and, apart from the part of the Safety Report describing the impact of the nuclear power plant on the environment, Nuclear Regulatory Authority also

published the technical part of the Safety Report. Any information that could have parameters with emissions (gaseous, liquid, solid) of releases to the environment, are available. GLOBAL 2000 requires in principle only deleted information, but has never identified it as environmental information.

In the First progress review, the ACCC did not take a stance on this requested information, which GLOBAL 2000 claims to have not received. The ACCC's statement does not contain an opinion on this point. Therefore, Slovakia would welcome if the ACCC could take a clear position on how the individual elements of the definition "environmental information" under Article 2 par. 3 of the Aarhus Convention have been fulfilled in individual points, i.e. in documentation listed in the First progress report (on pages 10 – 11).

The Slovak Republic would further like to emphasize that it is fully aware that the Aarhus Convention framework is legally binding for it. Moreover, Slovakia wants to reassure the ACCC that it takes its obligations arising from the provisions of the Aarhus Convention very seriously. On the other hand, the Slovak Republic is bound also by other legal instruments, such as multilateral international treaties, or decisions of other international recognised institutions and has to take them into account. Worth to mention is the Convention on the Physical Protection of Nuclear Material and Nuclear Facilities, for example its article 2A, par. 3, A, or article 2A, par. 3, L. Other example is the judgment of the European Court of Human Rights, which Slovakia has cited in the First progress report. Therefore, the Slovak Republic underlines that it cannot realise its obligations from different international legal instruments and decisions of international institutions separately, but must takes into account all its existing international obligations.

Similarly, it is important to have in mind that when disclosing information, it is necessary to proceed not solely in the interest of claimants, but rather act in a balanced way taking into account also the legitimate interests of other public representatives. Especially, when dealing with a potential disclosure of a nuclear-related information, which is capable to compromise the physical protection of nuclear material and nuclear facilities, that could lead to a threat of endangering public safety.

Lastly, the Slovak Republic currently examines and considers its options in relation to what measures (legislative, regulatory and administrative) would be the most appropriate in order to ensure that the refusal to disclose of nuclear-related environmental information or the removal of information in disclosed documents is handled in a required restrictive manner. The ACCC will be informed on this and other new development in Slovakia's next Progress report due 1st October 2019.