

Progress Report

The Slovak Republic submits the Progress Report in accordance with the decision VI/8i in the light of the findings and recommendations of the Compliance Committee Aarhus Convention to the case ACCC/C/2013/89/Slovakia

I. PROCESS BY WHICH THE PROGRESS REPORT HAS BEEN PREPARED

The Progress Report was prepared by the Nuclear Regulatory Authority of the Slovak Republic which pursuant to Section 29 of Act No. 575/2001 Coll. on the organization of government activities and the organization of the central state administration is a central government authority for the area of nuclear regulation in the Slovak Republic.

II. PARTICULAR CIRCUMSTANCES RELEVANT FOR UNDERSTANDING THE PROGRESS REPORT

On 5 March 2006, the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters ('the Aarhus Convention') entered into force in the Slovak Republic. The Aarhus Convention became part of the national legal system by being published in the Collection of Acts of the Slovak Republic under No. 43/2006 Coll.

The Slovak Republic implemented the obligations of the Aarhus Convention. With regard to the fact that the Aarhus Convention provisions cannot be regarded directly applicable, the Aarhus Convention is applied through the Slovak national law and the law of the European Union¹.

Pursuant to Article 15 of the Aarhus Convention, the Aarhus Convention Compliance Committee was established, which is competent to review the Parties' compliance with the provisions of the Aarhus Convention.

On 20 June 2017, the Slovak Republic received findings in communication ACCC/C/2013/89 regarding access to justice with respect to an extension to the Mochovce nuclear power plant. In paragraph 103 of the findings, the Committee found that 'the Party concerned has failed to comply with Article 4, paragraph 4 as well as Article 6, paragraph 6 in conjunction with Article 4, paragraph 4 of the Convention by providing access to nuclear-related environmental information.'

The above mentioned finding in communication ACCC/C/2013/89 has been incorporated into the Meeting of the Parties's Decision VI/8i.

¹ The Slovak Republic became one of the EU Member States on 1 May 2004.

The submitted Progress Report has been prepared under the obligations of the Slovak Republic as the party of the Aarhus Convention and in accordance with the decision VI/8i on compliance by the Slovak Republic, registered under reference No. ECE/MP.PP/2017/2/Add.1², endorsed and adopted by the Parties at the sixth session of the Meeting of the Parties to the Aarhus Convention (MOP 6) on 11 – 13 September 2017 in Budva, Montenegro.

The sixth session of the Meeting of the Parties to the Aarhus Convention, acting under paragraph 37 of the annex to its decision I/7 on the review of compliance:

Taking note of the findings of the Compliance Committee under the Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters on communication ACCC/C/2013/89³ concerning compliance by Slovakia in connection with public participation in decision-making and access to justice with respect to an extension to the Mochovce nuclear power plant, including paragraphs 74 and 75 thereof,

Encouraged by the willingness of Slovakia to discuss in a constructive manner with the Committee the compliance issues in question,

- 1. Endorses the finding of the Committee that in the context of a decision-making procedure subject to article 6 of the Convention, and with respect to requests for information under article 4 generally, the Party concerned has failed to comply with article 4, paragraph 4, and also article 6, paragraph 6, in conjunction with article 4, paragraph 4, of the Convention:*
 - a) By adopting an approach in the Directive on Sensitive Information whereby whole categories of nuclear-related environmental information are unconditionally declared as confidential and for which (contrary to the general legal regulation in the Freedom of Information Act) no release is possible;*
 - b) For failing to require that any grounds for refusal are interpreted in a restrictive way, taking into account the public interest served by disclosure and whether the information relates to emissions into the environment;*
- 2. Recommends that the Party concerned take the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that when providing access to nuclear-related information within the scope of article 2, paragraph 3, of the Convention, any grounds for refusal under article 4, paragraph 4, of the Convention are interpreted in a restrictive way and taking into account the public interest served by disclosure and whether the information requested relates to emissions into the environment;*
- 3. Requests the Party concerned:*

² The full text of addendum to the report of the sixth session of the Meeting of the Parties (ECE/MP.PP/2017/2/Add.1) is available in English, French and Russian from [http://www.unece.org/env/pp/aarhus/mop6_docs.html#/.](http://www.unece.org/env/pp/aarhus/mop6_docs.html#/)

³ ECE/MP.PP/C.1/2017/13.

- a) To submit to the Committee detailed progress reports on 1 October 2018, 1 October 2019 and 1 October 2020 on the measures taken and the results achieved in the implementation of the above recommendations;
 - b) To provide such further information as the Committee may request in order to assist it to review the progress of the Party concerned in implementing the above recommendations;
 - c) To participate (either in person or by audio conference) in the meetings of the Committee at which the progress of the Party concerned in implementing the above recommendations is to be considered;
4. *Undertakes* to review the situation at its seventh session.

The Slovak Republic, considering the non-confrontational, non-judicial and consultative nature of the findings and recommendations (Article 15 of the Aarhus Convention), took note of the Compliance Committee findings and recommendations regarding the Slovak communication ACCC/C/2013/89. The Slovak Republic, as a party to the Convention, fully avows its principles, and will continue to act to fulfil its obligations arising therefrom.

In decision VI/8i invites the Slovak Republic to submit to the Committee a progress report on 1 October 2018. The Slovak Republic, as above mentioned, submits the Progress Report to the Aarhus Convention Compliance Committee Secretary on time i.e. 1st October 2018.

III. REPORT

Note:

The first part of the Progress Report describes the situation since the first half of 2017, and information that has not been taken into account and considered by ACCC in the process of preparation its MOP Decision VI/8i regarding communication ACCC/C/2013/89/Slovakia (see paragraphs 74⁴ and 75⁵ of findings and recommendations ACCC/C/2013/89/Slovakia).

⁴ Paragraph 74: In its comments on the revised draft findings, the Party concerned informed the Committee of an amendment to the Nuclear Act adopted by the parliament on 23 March 2017 that would enter into force on 1 August 2017. While welcoming this legislative development, since it was put before the Committee after the revised draft findings were sent to the parties and, moreover, has not yet entered into force, the Committee is not in a position in the context of the present communication to examine the extent to which the amendment meets the requirements of the Convention. Rather, the Committee may examine the amendment in its review of the implementation of the present findings and recommendations and any related decision of the Meeting of the Parties on compliance.

⁵ Paragraph 75: In its comments on the revised draft findings, the Party concerned also informed the Committee of the measures it is presently taking to provide access to information regarding the procedure to license the commissioning of Mochovce Units 3 and 4, which commenced on 12 December 2016, and provided the Committee with a DVD of licensing documentation in that regard. While the Committee appreciates the efforts of the Party concerned to demonstrate the measures it is taking to provide the public with access to information during the current licensing procedure, it does not impact the Committee's findings on the matters examined below.

Inconsistencies in the ACCC's Decision

In the first place, we would like to point out an inconsistency in the statement "a) by adopting an approach in the Directive on Sensitive Information whereby whole categories of nuclear-related environmental information are unconditionally declared as confidential and for which (contrary to the general legal regulation in the Freedom of Information Act) no release is possible". It is not entirely clear why the ACCC claims that the Directive on Sensitive Information is inconsistent with the Act No. 211/2000 Coll. on free access to information and on amendments to certain laws (Freedom of Information Act) as amended. The Nuclear Regulatory Authority of SR (hereinafter referred to as "ÚJD SR") insists that the Directive is fully in compliance with this Act. Pursuant to Section 11 par. 1 (i) of the Freedom of Information Act "The liable entity shall restrict the disclosure of information or the information shall not be made available in case of documentation containing information, the disclosure of which could be used to plan and execute activities to cause disruption or destruction of nuclear installations or objects of particular importance and other important objects under special regulations."

The Decision VI/8i itself also includes a term "nuclear-related environmental information". From the point of view of SR this is a new concept, which is not even found in the Aarhus Convention, where only "environmental information" is mentioned.

Amendment to the Atomic Act effective from 1 August 2017

On 23 March 2017 the Slovak Parliament adopted the amendment to the Atomic Act, which inter alia, redefines access to documentation in nuclear activities. The amendment was published in the Collection of Laws (No. 96/2017 Coll.) and entered into force on 1 August 2017. Section 3 par. 16 of the Atomic Act reads: "(16) Documentation containing sensitive information is considered documentation, the disclosure of which could be used to plan or carry out activities aimed at disruption or destruction of a nuclear facility, and thus adversely affect the public safety and cause ecological or economic damage. This documentation shall be made available following the exclusion of sensitive information."

The new legislation responds to the need to increase transparency in the disclosure of information related to the nuclear safety of nuclear installations to the public (with particular regard to local authorities, population and stakeholders in the vicinity of a nuclear facility). In this sense, information to the public should be done in accordance with the relevant national legislation and international obligations of the SR, while taking into account overriding interests when making available documentation containing also sensitive information under the Atomic Act. Such overriding interests are typically security interests to the extent they are defined in the Atomic Act and in the relevant international conventions. The proposed legislation allows the disclosure of documentation containing sensitive information after the **identified sensitive information is excluded from it**.

The provision removes the doubts as to whether the entire licensing documentation referred to in the individual points of Annex 1 to the Atomic Act is considered to be a documentation containing exclusively sensitive information, and so as a whole, by law, considered to be inaccessible to the public. In this context, the safety documentation according to Annex 1 to the Atomic Act is considered to be a documentation containing both elements

accessible to the public, as well as elements classified as sensitive information that is not disclosed to the public.

The new provision transposed Art. 8 par. 2 and 4 of the Directive 2009/71/Euratom as amended by Directive 2014/87/Euratom. At the same time, the new legislation in the Slovak legal order with respect to the nuclear safety of nuclear installations specifies provisions reflecting Art. 4 of Directive 2003/4/EC of the European Parliament and Council of 28 January 2003 on public access to environmental information, repealing Council Directive 90/313/EEC, as well as Art. 4 par. 4 of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Aarhus Convention), to which Slovak Republic is a contracting party. The opinion of the SR is that at the same time implementing the conclusions contained in the finding of the Aarhus Convention Compliance Committee in the case ACCC/C/2013/89/Slovakia.

Administrative Procedure for Issuing Authorization for Commissioning of MO 3&4 Nuclear Installation

Currently there is an open administrative procedure to license commissioning of the nuclear power plant Mochovce Units 3&4. On 12 December 2016, Slovenské elektrárne (hereinafter referred to as “SE, a.s.”) delivered to ÚJD SR application for license for commissioning of nuclear power plant Mochovce Units 3&4 (hereinafter referred to as “MO 3&4”). SE, a.s. also applied for authorization for an early use of the facility, permit for radioactive waste management and spent fuel management and permit for management of nuclear materials inside the nuclear installation. The application was accompanied by the relevant documentation containing 377 annexes in the range of several thousand pages. All the parties were informed about the initiation of the procedure, parties in the process of environmental impacts assessment (the “EIA process”), municipalities around the nuclear facility and the whole public via the web.

[http://www.ujd.gov.sk/ujd/www1.nsf/\\$All/5162232EEBF1B542C12580C900564A50](http://www.ujd.gov.sk/ujd/www1.nsf/$All/5162232EEBF1B542C12580C900564A50)

The public in the neighbouring countries (Austria, Czech Republic, Poland, Hungary and Ukraine) was informed also by publication of information about initiation of the proceeding through their national press.

This process was opened to all interested parties, whether natural persons, or legal entities, civic associations, governments, associations, organizations, both in Slovakia and abroad.

To facilitate familiarization with the documentation in the currently ongoing administrative procedure concerning the application of SE, a.s. for the license for the commissioning of the nuclear power plant Mochovce Units 3&4 and related permits, ÚJD SR established a separate workplace at the site of the nuclear power plant Mochovce Units 3&4. The workplace, where it is possible to consult the documentation is located in rented premises of the nuclear power plant Mochovce Units 3&4, building No. 11-643/006, on the 3rd floor. There are free parking lots available in front of the building.

The documentation was available from 16 March 2017 until 30 June 2017 every Tuesday from 09:00 h. until 15:30 hours and Thursdays from 14:00 h. until 18:00 hours.

[http://www.ujd.gov.sk/ujd/www1.nsf/\\$All/E83784128749A7EFC12580D8002799A4](http://www.ujd.gov.sk/ujd/www1.nsf/$All/E83784128749A7EFC12580D8002799A4)

One of the parties in the procedure, Mr. H. asked for access to the documentation on DVD. After appropriate modifications were made (since ÚJD SR needed to prepare the data carriers and to digitalize the blacked documentation), the DVD with the documentation was sent on 7 April 2017. Before that ÚJD SR informed Mr. H. on 31 March 2017 that his request was received, it was registered and after digitalization of the documentation it will be sent to him. ÚJD SR, under equal treatment principle, sent the documentation electronically to Austrian citizens, Ms. L, Mr. U and Mr. R. As can be seen from the above example, ÚJD SR fully satisfies all requests for information, unless this would impair the safety of nuclear installation. For the ACCC representatives to have an idea what is contained in the licensing documentation needed for the proceeding for commissioning of a nuclear installation and what information was eliminated, in April 2017 we sent the documentation on a DVD, which is used in the current licensing procedure. According to this documentation the ACCC can assess, which information was eliminated and whether the environmental information was eliminated.

On 23 August 2017, ÚJD SR by its Decision No. 334/2017 interrupted the administrative procedure for the issue of an authorization for commissioning of MO 3&4 nuclear installation. All stakeholders were informed about this interruption. The deadline for eliminating the deficiencies is 12 months.

On 22 June 2018, SE, a.s. delivered to ÚJD SR a letter, in which it supplemented the application for authorization in the following administrative procedures:

- Application for authorization for the management of nuclear material in a nuclear facility Nuclear Power Plant Mochovce VVER 4x440 MW construction part 3 (MO 3&4), pursuant to Section 5 par. (3) (g) of the Act in the scope of handling and storage of nuclear fuel in the fresh fuel node (the “FFN”, administrative procedure No. 1.1),
- Application for authorization for commissioning of nuclear installation MO 3&4 according to Section 5 par. (3) (b) of the Act in the scope of handling and storage of fresh nuclear in the fresh fuel node SO 800/1-02 Reactor hall II. HVB (administrative procedure No. 1.2),
- Application of SE, a.s. for authorization for an early use of the structure of MO 3&4 pursuant to Section 83 of the Building Act, and pursuant to Section 5 par. (3) (b) and Section 19 par. (3) of the Act in the scope of handling and storage of fresh nuclear fuel in the fresh fuel node (administrative procedure No. 1.3).

(hereinafter referred to all of three procedures as “FFN administrative procedures“)

And requested ÚJD SR to continue in the administrative procedures to the extent of FFN. ÚJD SR carried out a preliminary assessment of the submitted supporting documentation based on which it stated that SE, a.s. has fulfilled all requirements of the ÚJD SR Decision No.

334/2017 for this administrative procedure and that the administrative procedures to the extent of FFN continue from 23 June 2018.

ÚJD SR continues in the proceeding from 23 June 2018 in relation to licensing the fresh fuel node after removing the deficiencies in the documentation, and the elimination of deficiencies in the documentation on the preparedness of the nuclear installation for commissioning. At that time ÚJD SR was assessing the documentation. The result of the assessment was identification of deficiencies in the submission in a form of comments of ÚJD SR on the documentation of the administrative procedure, which were sent in writing to SE, a.s. Among the deficiencies of the procedure were also the comments of the persons involved in consulting the documentation. The list of deficiencies in the procedure was published on the website of ÚJD SR (<https://www.ujd.gov.sk/ujd/www1.nsf/viewByKeyMenu/Sk-xx-06-08-07>). - “Deficiencies in the submission identified by ÚJD SR – Part 1“.

ÚJD SR informed the parties about the continuation of the administrative procedure with letters, reg. No. 4339/2018, 4531/2018 and 4526/2018, information on the continuation of these proceedings was published in the form of public notice in the municipalities of Nový Tekov and Kalná nad Hronom, on the ÚJD SR website and on the central official electronic board.

The Decision contains an assessment of how the deficiencies were eliminated in the documentation, which were identified by the ÚJD SR, and which is part of the filing in the administrative procedure No. 1.1. By incorporating the comments, or removal of deficiencies in the filing changes occurred in the documentation in question (being the basis for the Decision) compared to the documentation that was disclosed by the ÚJD SR from 16 March 2017 until 30 June 2017 in Mochovce.

Furthermore, the Decision contains an assessment of the way of remedying the deficiencies in the documentation, as identified by the ÚJD SR, and which is part of the filing in the administrative procedure No. 1.2.

An overview of interested persons, to whom this Decision on the interruption of the proceeding, a decision on the continuation in the proceeding, and the above mentioned letters were delivered to:

- 1) Slovenské elektrárne, a.s., Mlynské nivy 47, 821 09 Bratislava
- 2) Village Nový Tekov, mayor, Obecný úrad Nový Tekov, 935 33 Nový Tekov + public notice
- 3) Village úrad Kalná nad Hronom, mayor, Červenej armády ČA 55, 935 32 Kalná nad Hronom + public notice
- 4) Labour Inspectorate in Nitra, Jelenecká 49, 950 38 Nitra
- 5) Ministry of Transport and Construction of the SR, Railroad Section, Track construction Office, P. O. box 100, Námestie Slobody 6, 810 05 Bratislava
- 6) Ministry of Environment of the SR, Department of Environmental Assessment and Waste Management, Department for Environmental Impact Assessment, Nám. Ľ. Štúra 1, 812 35 Bratislava 1
- 7) Ministry of Interior of the SR, Prezídium Hasičského a záchranného zboru, Drieňová 22, 826 86 Bratislava

- 8) Regional Directorate of Fire and Rescue Corps in Nitra, Dolnočermánska 64, 949 11 Nitra
- 9) Ministry of Health of the SR, Limbová 2, P.O.BOX 52, 837 52 Bratislava 37
- 10) Public Health Authority of the SR, Trnavská cesta 52, P.O.BOX 45, 826 45 Bratislava
- 11) Regional Public Health Authority in Levice, Komenského 4, 934 38 Levice
- 12) Transport Authority, Letisko M. R. Štefánika, 823 05 Bratislava
- 13) Ministry of Economy of the SR, Mierová 19, 827 15 Bratislava 212
- 14) Slovak Environment Agency, Tajovského 28, 975 90 Banská Bystrica
- 15) District Office Levice, Department of Road Transport and Roads, ulica Ľudovíta Štúra 53, 934 03 Levice
- 16) District Office Levice, Department of Environmental Care, Dopravná 14, 934 03 Levice
- 17) District Office Nitra, Crisis Management Department, Štefánikova tr. 69, 949 01 Nitra
- 18) Slovenské elektrárne, a.s., Závod 3. a 4. blok Elektrárne Mochovce, 935 39 Mochovce
- 19) Central Government Portal
- 20) District Office Nitra, Department of Environmental Care, Štefánikova trieda 69, 949 01 Nitra
- 21) District Office Nitra, Department of Remedies, Štefánikova trieda 69, 949 01 Nitra
- 22) Nitra Self-governing Region, Rázusova 2A, 949 01 Nitra
- 23) Slovenský vodohospodársky podnik, Odštepny závod Banská Bystrica, Partizánska cesta 69, 974 98 Banská Bystrica
- 24) Ústav jaderného výskumu Řež, a.s., divize EGP Praha, Na Žertvách 2247/29, 180 00 Praha 8 – Libeň, ČR
- 25) Village Starý Tekov, Tekovská 1, 935 26 Starý Tekov
- 26) Village Veľký Ďur, Hlavná 80, 935 34 Veľký Ďur
- 27) Town Tlmače, Nám. odbojárov 10, 935 21 Tlmače
- 28) Village Malé Kozmálovce, Municipal office 1, 935 21 Tlmače
- 29) Municipal office Nemčiňany, č. 128, 951 81 Nemčiňany
- 30) Greenpeace Slovensko, Vančurova 7, P. O. Box 58, 814 99 Bratislava 1
- 31) Združenie Slatinka, A. Sládkoviča 2, 960 01 Zvolen
- 32) Spoločnosť priateľov Slatinky, Poštová 6565/6, 917 01 Trnava
- 33) VLK VÝCHODNÉ KARPATY, Ul. Kpt. Nálepku 102, 069 01 Snina
- 34) Občianske združenie Za matku Zem, Radlinského 39, P.O.Box 93, 814 99 Bratislava
- 35) Za matku Zem, Mlynské nivy 37, 824 91 Bratislava
- 36) Ing. Jozef Križan
- 37) Ing. Jozef Pacala
- 38) Mgr. Michal Jesenič
- 39) Ing. Ľubomír Sikeľa, mayor, Veľké Kozmálovce
- 40) Dalibor Stráský
- 41) Mr. Jorgo Riss, Director, Greenpeace European Unit, Rue Belliard 199, 1040 Brussels, Belgium
- 42) Mr. Jan Haverkamp, EU Policy campaigner dirty energy, Greenpeace European Unit, Rue Belliard 199, 1040 Brussels, Belgium
- 43) Prof.Dr. Hubert Weiger, Bund für Umwelt und Naturschutz Deutschland, Am Köllnischen Park 1, 10179 Berlin, Germany
- 44) Office of the Lower Austrian Land Government, Department of Spatial Planning and EU Regional Policy, Landhausplatz 1, A-3109 St.Pölten, Austria
- 45) Mag. Ulli Sima, Amtsführende Stadtratin für Umwelt von Wien, Ratthaus, A-1082 Wien Austria
- 46) Wiener Umweltschutz und Atomschutzbeauftragte der Stadt Wien, Muthgasse 62, 1190 Wien, Austria

- 47) Der Grüne Klub im Parlament, 1017 Wien, Austria
- 48) Dipl. Ing. Dr. Constance Sperka-Gottlieb, Amt der Salzburger Landesregierung, Postfach 527, 5010 Salzburg, Austria
- 49) Ing. Kurt Fink, Amt der Steiermarkischen Landesregierung, Abteilung 13, Landhausgasse 7, 8010 Graz, Austria
- 50) Ms. Sandra Trenovatz
- 51) Mr. Harald Mark
- 52) Dr. Peter Weish, Das Forum Wissenschaft & Umwelt, Mariahilfer Str. 77-79, 1060 Wien, Austria
- 53) Dipl. Ing. Josef Korber
- 54) Umweltschutzorganisation, GLOBAL 2000/ Friends of Earth Austria, Neustiftgasse 36, 1070 Wien, Austria
- 55) Dipl. Ing. Dalibor Strasky, Amt der Oberösterreich Landesregierung, Anti-Atom-Beauftragter, Kärntnerstraße 10-12, 4021 Linz, Austria
- 56) Ms. Waltraud Petek, Federal Ministry of Agriculture, Forestry, Environment and Water Management, Stubenbastei 5, A-1010 Wien, Austria
- 57) Mr. Gerald Smolle
- 58) Mr. Wolfgang Goebel
- 59) Mr. Egger Konrad
- 60) Mr. Lothar Berlich Grooden
- 61) Ms. Virág Pomozi, Hungarian Ministry of Agriculture, Department of Environmental Preservation, Kossuth Lajos tér 11, H-1055 Budapest, Hungary
- 62) Greenpeace Magyarország Egyesület, Barbara Stoll, Zászlós utca 54, 1143 Budapest (Zugló), Hungary
- 63) Eliška Dvorská, Department of EIA and Integrated Prevention, Ministry of the Environment, Vršovická 65, 100 10 Praha 10, Czech Republic
- 64) Ms. Katarzyna Twardowska, Deputy Director, Department of Environmental Impact Assessment, General Directorate for Environmental Protection, Wawelska St. 52/54, 00-922 Warsaw, Poland
- 65) Mr. Michael Henzler, Bayerisches Staatsministerium für Umwelt und Gesundheit, Rosenkavalierplatz 2, 81 925 München, Germany
- 66) Ms. Julia Paul, Federal Ministry for the Environment, Building, Nature Conservation and Nuclear Safety, Division G I 2, Stresemannstraße 128-130, D-10117 Berlin, Germany
- 67) Mr. Kristóf Horváth, Deputy Director General of HAEA, Hungarian Atomic Energy Authority, Fényes Adolf utca 4., H-1036 Budapest, Hungary
- 68) Zdeněk Típek, Deputy Chairman for Nuclear Safety, Státní úřad pro jadernou bezpečnost, Senovážné náměstí 9, 110 00 Praha, Czech Republic
- 69) Mr. Michal Koc, Head, Coordination and Planning Division, President's Office, National Atomic Energy Agency, Państwowa Agencja Atomistyki, Krucza 36, 00-522 Warsaw, Poland
- 70) Mr. Andreas Molin, Director, Directorate I/6, General Coordination of Nuclear Affairs, Federal Ministry of Agriculture, Forestry, Environment and Water Management, Stubenbastei 5, 1010 Vienna, Austria
- 71) Ms. Ulrike Hartmann, Head of Unit "Energy", Department III.6 – Environmental Protection, Energy, Transport and Telecommunication, Federal Ministry for Europe, Integration and Foreign Affairs, Minoritenplatz 8, 1014 Vienna, Austria
- 72) Mr. Myhailo Gashev, First Deputy Chairman – Chief State Inspector on Nuclear and Radiation Safety of Ukraine, Division of International Co-operation and European Integration, State Nuclear Regulatory Inspectorate of Ukraine, 9/11 Arsenalna Street, Kyiv 010 11, Ukraine

- 73) Division of Environmental Issues, Directorate General for Economic Cooperation, Ministry of Foreign Affairs, Mykhaylivska sqr. 1, 010 18 Kyiv, Ukraine
- 74) Dr. Reinhard Uhrig, Global 2000 – Friends of Earth, Austria, Neustiftgasse 36, A-1070, Wien, Austria
- 75) Mag. David Reinberger
- 76) Ms. Paricia Lorenz, Global 2000 – Friends of Earth, Austria, Neustiftgasse 36, A-1070, Wien, Austria
- 77) The Embassy of the Slovak Republic in Vienna, Armbrustergasse 24, A-1190 Wien, Austria
- 78) The Embassy of the Slovak Republic in Prague, Pelléova 12, Praha 6, Czech Republic
- 79) The Embassy of the Slovak Republic in Warsaw, ul. Litewska 6, Warszawa Poland
- 80) The Embassy of the Slovak Republic v Kiev, Yaroslaviv Val St, 34, 019 01 Kyiv, Ukraine
- 81) The Embassy of the Slovak Republic v Budapešti, Stefánia út. 22-24, 1143 Budapest, Hungary

In closing: In the context of access to information, the Pre-operational Safety Report of MO 3&4 NPP, after excluding all sensitive information, was provided to all (also foreign) parties in the proceedings, and for a better idea, also the ACCC members, even in electronic form. It is also clear from this that the ÚJD SR decisions in the given proceedings are published in such a way that all the stakeholders have the opportunity to get acquainted with them. As it can be seen, the ÚJD SR in all the proceedings and when issuing decisions always takes into account in the first instance the public interest and duly informs about all steps taken.

Further developments

ÚJD SR as a liable entity pursuant to Section 2 par. 1 of the Freedom of Information Act, on 30 August 2017, a request information disclosure was delivered, filed by – p. U., GLOBAL 2000, Neustiftgasse 36, 1070 Wien, in which the applicant requested disclosure of full, not deleted text of the documentation related to the application of SE, a.s., for an authorization for commissioning of MO 3&4, permit for an early use of the structure, issue of authorization for radioactive waste management and spent nuclear fuel management, and authorization for handling nuclear materials in a nuclear installation – in particular:

1. Pre-operational Safety Report of MO 3&4, chapter 6.7.1 “Water Management“ (PNM3436107504_S_C01), p. 53 to 57/88, including Table 6.7.1.6-1 (“List of fire water pumps in the relevant fire water systems“) *Sub-chapter 6.7.1.6 “Fire water“*
2. Pre-operational Safety Report MO 3&4, chapter 6.7.1 “Water Management“ (PNM3436107504_S_C01), p. 67 to 69/88, including Table 6.7.1.6-2 (“Amount of industrial waste water with annual use of installed capacity of 7,875 h/y⁻¹“)

3. Pre-operational Safety Report MO 3&4, chapter 6.11 “Radioactive waste management“ (PNM3436109706_S_C01) part 6.11.1.1.2.5 “Instrumentation and Control Systems“ p. 15/49
4. Pre-operational Safety Report MO 3&4, chapter 6.12 “Systems to mitigate the consequences of severe accidents“ (PNM3436109805_S_C01) part 6.12.1.1.4 “Main Components“, and part 6.12.1.1.5 “Operating Modes“ p. 11 to 13/69.
5. Pre-operational Safety Report MO 3&4, chapter 6.12 „Systems to mitigate the consequences of severe accidents“ (PNM3436109805_S_C01) part 6.12.3.1.4 “Main Components“, and part 6.12.3.1.5 “Operating Modes“ p. 29/69
6. Pre-operational Safety Report MO 3&4, chapter 11.2 “Sources of ionizing radiation“ (PNM3437396506_S_C01) Table 11.2-1 “Activity of fission products in the code and under the PP cladding for Gd-II fuel with enrichment 4.25% (original fuel) and with enrichment of 4.87% (new fuel), 1,375 MWt“
7. Pre-operational Safety Report MO 3&4, chapter 14 (Description of radioactive waste management. PNM3436177109_S_C01) (*Balance of RAW generated during the operation of Units 3&4 of Mochovce NPP until decommissioning of MO 3&4, and Balance of RAW generated during decommissioning of Units 3&4 of Mochovce NPP*) p. 76/82 to 77/82
8. Pre-operational Safety Report MO 3&4, chapter 15 “Decommissioning procedure NI“ (PNM3436113809_S_C01) p. 13/52 (Table 15-1 “RAW inventory from decommissioning of NPP MO 3&4“)

Request for information was delivered to the ÚJD SR of 30 August 2017. ÚJD SR by its Decision 346/2017 of 12 September 2017 partly did not comply with the request, and thereby on the basis of that request, information requested under point 2 (information marked with codes 312 to 319), and information requested under points 1, 3, 4, 5 and 6 did not disclose, because it contains sensitive information.

Appeal against the ÚJD SR decision on partial non-disclosure of information was filed on 4 October 2017. ÚJD SR by its Decision No. 387/2017 dated 16 October 2017 rejected the above mentioned appeal and confirmed the first instance decision of ÚJD SR. This decision on the appeal has 121 pages and it thoroughly describes, why individual documents cannot be disclosed. ÚJD SR in its decision-making did not proceed in a formal, blanket manner, without a proper assessment of individual requests of the applicant. On the contrary, in each part of the decision it duly considered the interest of the public, to which it is disclosed, against the interest served by rejecting it - in this case it is the defence of the State and public safety.

The texts of both ÚJD SR Decisions are also available on its website:

[https://www.ujd.gov.sk/amis/dbrozhod.nsf/0/9A2E5F1F372E977AC12581DA0050F225/\\$FILE/346.pdf](https://www.ujd.gov.sk/amis/dbrozhod.nsf/0/9A2E5F1F372E977AC12581DA0050F225/$FILE/346.pdf)

[https://www.ujd.gov.sk/amis/dbrozhod.nsf/0/433F56A587E8E322C12581DA002A9529/\\$FILE/387.pdf](https://www.ujd.gov.sk/amis/dbrozhod.nsf/0/433F56A587E8E322C12581DA002A9529/$FILE/387.pdf)

Despite of extensive justification of non-disclosure of some information, Global 2000 filed a lawsuit at the Regional Court in Bratislava on 17 December 2017, to review the legality of the decision. By the action they compromise the extent of deleted information and the justification, which according to the action is made mechanically for each refusal in the same way, and according to them, the reasons for refusal were not assessed individually, which the ÚJD SR does not agree with. They also claim in the action that the ÚJD SR has taken too hypothetical risks and very excessive interpretation, and according to them, ÚJD SR did not evaluate thoroughly whether it is environmental information. The action was filed at the ÚJD SR on 26 February 2018 and the court set the time limit for defence and sending the administrative file by 26 March 2018.

ÚJD SR encloses as Annex 1 the Statement on the Action.

Rulings of the European Court of Human Rights

We also draw the attention of ACCC to a ruling on the provision of information on a nuclear power plant, issued by the European Court of Human Rights (the “ECHR“), which is the highest instance in the area of human rights, which the complainant can turn to, after exhausting national remedies. Thus the international judicial authority of the last instance, comparable in character to the European Court of Justice.

The ECHR has stated that nuclear facilities and information on them, by their nature and security aspect, are largely out of the nature of common information. In k. 19101/03 – The South Bohemian Mother Association v. the Czech Republic dated 10 July 2006, the ECHR unanimously declared a violation of Article 10 of the European Convention for the Protection of Human Rights and Fundamental Freedoms as inadmissible. The court reasoned its verdict as follows: “The court finds that the decisions issued by the Czech authorities are fully justified and cannot be considered arbitrary. It notes that the circumstance of the case differ markedly from those relating to restrictions of press freedom, which has repeatedly recognized the existence of the right of the public to receive information. This case, however, concerns access to information relating to a nuclear power plant, which is a very complex facility requiring an exceptionally high level of protection (see, mutatis mutandis, Wretlund v. Sweden, Complaint No. 46210/99, Admissibility Decision of 9 March 2004). **The Court considers that Article 10 of the Convention cannot be interpreted as guaranteeing an absolute right of access to all the technical details relating to a construction of a nuclear power plant.**

.... Nor can the state authorities’ argument be rejected on the need to protect the contractual obligations and business secrets invoked by the builder of the power station, and to ensure the safety of the facility against external attack. Where the exercise of the right to receive information may compromise the rights of others, public security or health, the scope of the right to access to such information is limited by the provision of the second paragraph of Article 10 of the Convention.“