

Confidentiality of environmental public portals in the Slovak Republic

Structure of the presentation

- **The right for access to environmental information in the Slovak Republic (T. Tökölyová)**
- **Legal framework (T. Tökölyová)**
- **Application methods of confidentiality of the right for access to environmental information in the Slovak Republic (T. Tökölyová)**
- **Practical examples of the application methods of confidentiality of the right for access to environmental information in the Slovak Republic (P. Horváthová)**
- **Conclusion (P. Horváthová/T. Tökölyová)**

Rights under the Aarhus Convention

At the core of the Aarhus Convention are three rights, reflected in the three pillars of the Convention. These are following:

1. The right for **access to environmental information**.
2. The right for **participation in decision-making** in environmental matters.
3. The right for **access to justice** in environmental matters.

Being a Party to the Convention means that a Government must take the necessary legislative, regulatory and other measures, as well as proper enforcement measures, to establish and maintain a clear, transparent and consistent framework to implement these three rights of the Convention.

With regard to the fact that the Aarhus Convention provisions cannot be regarded directly applicable, **the Convention is implemented through the national law.**

The right for access to environmental information in the Slovak Republic

The Parliament of the Slovak Republic agreed to the Convention by its Declaration No. 840 from 23 September 2005. The charter on accession of the Slovak Republic to the Aarhus Convention was deposited at a depository (UN General Secretary) on 5 December 2005. It became valid for the Slovak Republic on the 90th day after the date when the charter on accession was deposited, that is on 5 March 2006 and 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 Convention is in the responsibility of the Ministry of Environment of the Slovak Republic.

The Slovak Republic fully realised the nature and importance of the right to information as a basic human right and thus it guarantees the right in the **Constitution of the Slovak Republic** (Constitutional Act **No. 460/1992 Coll.** Constitution of the Slovak Republic), concretely in:

- **Article 26 paragraph 1:**
Freedom of speech and right to information are guaranteed.
- **Article 44**
Everyone is obliged to protect and enhance the environment and the cultural heritage.

The right for access to environmental information in the Slovak Republic

Legal framework

General Act No. 211/2000 Coll. on free access to information and on amendments and supplements to certain act (Act on information freedom), which guarantees that:

- Everybody shall have the right of access to information
- Access to information shall be provided without any need to prove legal or other reason or interest for which information is required
- A mass access to information shall mean access of unlimited number of applicants by means of telecommunication, especially through the internet
- Disclosure of information upon request via telephone, fax, e-mail, orally or in writing form

Special Acts:

- Pursuant to **Act No. 17/1992 Coll. on environment** and the **Act No. 205/2004 Coll. on collection, storage, and dissemination of environmental information** which guarantees access to environmental information and Ministry of Environment according this act, annually issues – since 1993 – a Report on the State of the Environment evaluating the state of environment in the Slovak republic. The Report is also available to general public at the Ministry of Environment website and the website of Enviportal – information portal on environment.
- Both these mentioned regulations are fulfilled by the Ministry of Environment of the Slovak Republic and their organization.
- Another data resource is also the **Act. No. 3/2010 Coll. on national infrastructure for spatial information**, pursuant to which spatial data, like e.g. plots of land from the real estate register, co-ordinate reference systems, Earth surface altitude model is available (this information is a part of the geodesy, cartography and cadastre information system pursuant to article 20 of the **Act No. 215/1995 Coll. on geodesy and cartography as amended posterior** and the reference spatial data is available at the geoportal).

Act No. 211/2000 Coll. on free access to information and on amendment of some acts (Act on information freedom)

- As was mentioned before Access to information is regulated by the Act No. 211/2000 Coll. on free access to information and on amendment of some acts (Act on information freedom) and by the Act No. 205/2004 Coll. on collection, storage, and dissemination of environmental information as amended posterior.
- Pursuant to § 8 to 12 of the Act No. 211/2000 Coll. on free access to information specifying the limitations of access to information as e.g. protection of classified facts, protection of personality and personal data, trade secret protection, and other specific requirements of the limitation), as well as conditions for this limitation (application methods).
- *Practical example of a trade secret:*
Information classified as a trade secret information shall not be made available, if it is not information pursuant to § 10 para 2 of the Act on free access to information. Pursuant to this provision making information regarding significant impact on human health or on environmental pollution, etc. available does not constitute a breach or a threat to the trade secret. In this case, access to information should neither be refused, nor limited even if all the formal requirements of the trade secret would be met. If the information regards matters listed in § 10 para 2 of the Act on free access to information, the protection of the trade secret shall be breached and the information can be made available regardless of the trade secret.
- Pursuant to § 19 paragraph 1 of the Act on free access to information the decision of the obliged person on rejection of information requested can be appealed within 15 days from the day of delivering the decision or the day of vain elapse of the period determined for making a decision on the application. The appeal shall be lodged to the obliged person who issued the decision or was supposed to issue it.

Application methods of confidentiality of the right for access to environmental information in the Slovak Republic

Methods of applications procession is specified by article 20 of the Act No. 211/2000 Coll. on free access to information:

- When considering whether it is necessary to classify certain information as confidential for the purposes of other constitutional interests (e.g. public and national safety), **it is also taken into consideration whether it was not possible to achieve the objective by different means, or in another way which would less limit the basic right. This is a generally accepted principle of proportionality.** In case of right for information it is verified whether another way did not exist that would have achieved the objective (e.g. public and national safety), but which would have less limited the right for information.
- **The principle reflecting the requirement of necessity is that if an applicant requests information in a form of a document which includes several protected information, access to this document as a whole cannot be refused, but the protected information should be excluded from the document (e.g. blacked out) and the rest of the document shall be made available.** This principle is also embodied in the Act No. 211/2000 Coll. on free access to information, namely in the provision of **article 12** in the following wording: "All limitations to the right for information shall be executed by the obliged person so that the obliged person makes the requested information available after having excluded such information, which is specified by the Act."
- The access to environmental information, as well as the principle (if an applicant requests information in a form of a document which includes several protected information, access to this document as a whole cannot be refused, but the protected information should be excluded from the document (e.g. blacked out) and the rest of the document shall be made available) **is applied also to all information.**

Access to the environmental information

<http://www.minzp.sk/en/>

- The Slovak Ministry of Environment and its organizations run 33 publicly accessible information systems (IS)

Enviroportal.sk

- Basic platform for publishing outputs of IS
- Provides authorized, verified information and daily updated quality-assured data and information on the environment

The screenshot displays the Enviroportal.sk website interface. At the top, there is a navigation bar with the logo 'enviro portál' and the tagline 'Informačný portál rezortu HZP SR'. The main content area features a large article titled 'Priemyselné emisie 2016' with a sub-header 'Environmentálne škody'. Below this, there are several news snippets: 'Silymos: Obchodovanie so významnými druhmi živočíchov a rastlín', 'Ochrana morských druhov, tropického dreva, slonoviny či nosorožcov je pálivou témou debát v juhoafrickom Johannesburgu, kde sa zišlo takmer 2500 delegátov zo 183 krajín sveta.', 'Greenpeace: Odmietla dohody TTIP a CETA z bratislavského UFO spustila transparent', and 'Desať aktivátor z environmentálnej organizácie Greenpeace zo Slovenska, Rakúska a Chorvátska vyrazilo na známu reštauráciu UFO na Moste SNP v Bratislave. Spustili z nej transparent s nápisom No TTIP vo veľkosti 2,5 krát desať metrov.'. On the right side, there is a video player titled 'Odporúčame z videotéky' and a section for 'Aktuálne' events, including 'Priemyselné emisie 2016' and 'EKO Inovačné Slovensko'.

Environmental impact assessment

http://enviroportal.sk/en/eia

- Environmental impact assessment is considered to be one of main instruments of international environmental policy of sustainable development
- Documentation from EIA is published in electronic form on the web site of the competent authority within a complex IS and is available to the general public
- On-line access to all documents required by EIA law (Act No. 24/2006 Coll.)
- Comprehensive documentation is archived for 15 years after the end of the assessment process
- Some parts of documentation could be classified as a trade secret
- Documentation is also protected by the Act on copyright

The screenshot shows the 'enviroportál' website interface. At the top, there is a navigation bar with links for 'About Enviroportal', 'Sitemap', and 'Contact'. Below this is a main menu with categories like 'Environment', 'Information and monitoring systems', 'Documents', 'Video gallery', and 'Contact us'. A secondary menu lists 'Env. problems', 'Risk factors', 'Projects and status', 'Zoo', 'Starostlivost o ZP', 'Medzinarodna spolupraca', and 'Terminologia v ZP'. The main content area is titled 'Search in EIA/SEA projects' and includes a search form with fields for 'Project name', 'IČO', 'Legislation', 'State of the a statement', 'Region', and 'Transboundary environmental impact a statement'. Below the search form is a table of search results.

Project name	Region	District	Field of Activity
Strážske – naplnenie odpadových striebrov, neenergetický a biomasový výskum včelárstva Legislation: 24/2006 novella 314/2014 Z.z. Časť EIA State of the a statement: Notification/Preliminary environmental study	Žilenský	Žilina	Infrastructure
Extrakt z EIA Legislation: 24/2006 novella 314/2014 Z.z. Časť EIA State of the a statement: Notification/Preliminary environmental study	Nitranský	Nové Zámky	Other industrial branches
Zariadenie na ošetrovanie odpadov mesta Dolný Kubín Legislation: 24/2006 novella 314/2014 Z.z. Časť EIA State of the a statement: Notification/Preliminary environmental study	Žilenský	Dolný Kubín	Infrastructure
Program hospodárskeho rozvoja a sociálneho rozvoja obce Oravská Lesná 2014 – 2023 (územná operačná stratégia) Program hospodárskeho a sociálneho rozvoja obce Oravská Lesná 2014 – 2023 Legislation: 24/2006 novella 314/2014 Z.z. Časť EIA State of the a statement: Notification/Preliminary environmental study	Žilenský	Čadca Dolný Kubín Nemešterovo	podľa § 4, ods. 2

Integrated Pollution Prevention and Control

<http://enviroportal.sk/en/topics/integrated-pollution-prevention-and-control>

- Set of measures focused on the prevention of environmental pollution, on reduction of emissions into air, water and soil, on prevention of waste generation and on waste recovery and disposal in order to achieve a high level of protection of the environment taken as a whole.
- Integrated permit procedure is a procedure by which conditions for the performance of activities in existing and new installations are being permitted in a coordinated manner in order to ensure the efficient integrated protection of environmental components and to keep the level of environmental pollution within the environmental quality standards.
- Some parts of documentation could be classified as a trade secret: a list of raw and auxiliary materials, detailed description of technological equipment, technological process...
- Documentation is also protected by the Act on copyright

The screenshot shows the 'enviroportal.sk' website interface. At the top, there is a navigation bar with 'Topics', 'Reports', and 'Indicators' tabs. The main content area is titled 'Integrated Pollution Prevention and Control'. On the left side, there is a sidebar menu with categories: 'Topics', 'Reports', and 'Indicators'. Under 'Topics', there are sub-items: 'Environmental Burdens', 'Environmental Damages', 'Major Industrial Accidents Prevention', 'Environmental Impact Assessment', 'Integrated Pollution Prevention and Control', and 'Waste Management'. Under 'Reports', there is 'Contact'. Under 'Indicators', there is 'State of Environment Reports', 'Sectoral Indicator Reports', and 'Other environmental reports'. The main text area contains the following information:

Integrated Pollution Prevention and Control

Integrated pollution prevention and control, according to the Act No. 39/2013 Coll. On integrated pollution prevention and control and on change and amendment of certain acts, is a set of measures focused on the prevention of environmental pollution, on reduction of emissions into air, water and soil, on prevention of waste generation and on waste recovery and disposal in order to achieve a high level of protection of the environment taken as a whole.

Act No. 39/2013 Coll. On integrated pollution prevention and control and on change and amendment of certain acts regulates, beside others, rights and obligations of persons in the field of integrated pollution prevention and control, procedures in the process of integrated permits, compliance of state administration bodies in the field of integrated pollution prevention and control and fines for violation of obligations. The implementing regulation to the above-mentioned Act is the Decree of PôE SR No. 183/2013 Coll., by which the Act No. 39/2013 Coll. on integrated pollution prevention and control and on change and amendment of certain acts is being implemented.

At the international level, the integrated pollution prevention and control is being regulated at present by the Directive 2010/75/EU of the European Parliament and of the Council on industrial emissions (integrated pollution prevention and control), which replaces the IPPC Directive 2008/1/EC and by Regulation (EC) No 166/2006 of the European Parliament and of the Council concerning the establishment of a European Pollutant Release and Transfer Register amending and supplementing Council Directives 91/676/EEC and 96/61/EC (E-PRTR).

Integrated permit procedure is a procedure by which conditions for the performance of activities in existing and new installations are being permitted in a coordinated manner in order to ensure the efficient integrated protection of environmental components and to keep the level of environmental pollution within the environmental quality standards.

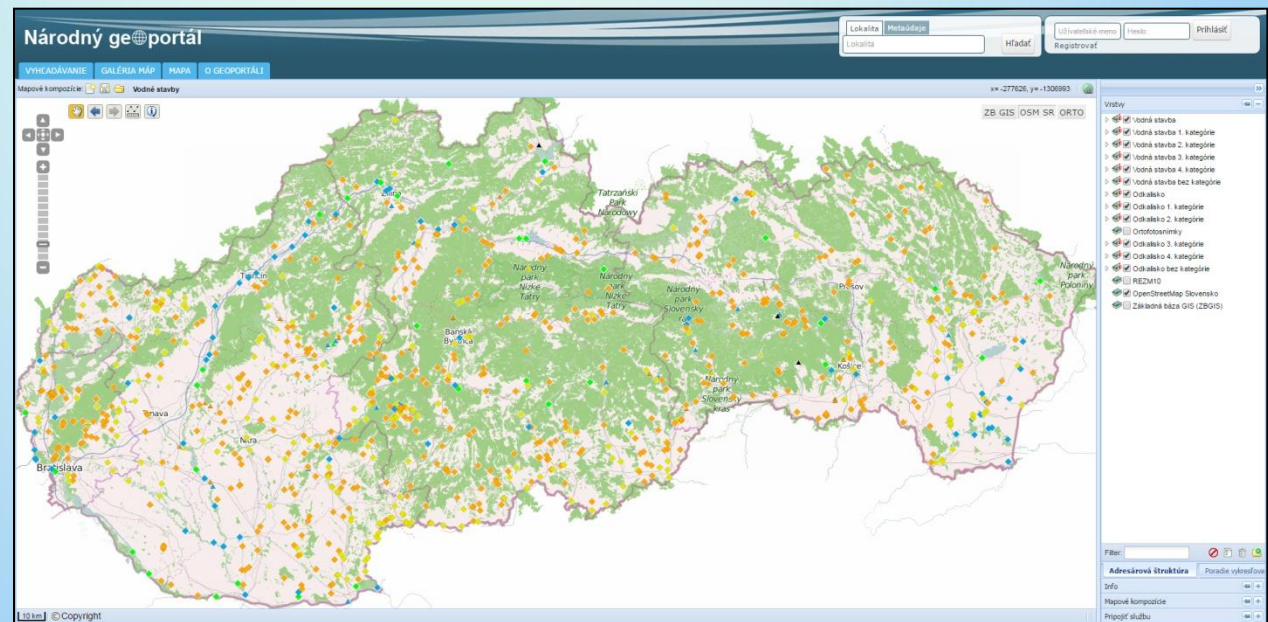
The state administration under Act No. 39/2013 Coll. is carried out by the Ministry of the Environment of the SR, which is the central state administration authority in matters of integrated pollution prevention and control and the Slovak Inspectorate of the Environment (SIE), which is the administrative authority in integrated permit procedure and the state supervisory authority. SIE imposes fines for administrative offences.

At the bottom of the page, there is a footer with the text: '© 2004 - 2018 pta MPE SR prevádzka SACP' and 'Dizajn: Tereza vova strankova 1421'.

EnviroGeoPortal

<http://geoportal.gov.sk/sk/cat-client>

- Portal with spatial topic in resort of Ministry of Environment of the Slovak Republic
- Publication of Inspire obligation
- Access, processing and exchange of spatial data
- Open source application
- Available to the public
- Some of the spatial data can be classified as confidential – nests of endangered birds, publicly inaccessible caves...



Conclusion

- The Slovak Republic fulfils its obligations resulting from the Aarhus Convention that means it pays increased attention to the creation of European legislation in the given field, reflects on potential changes and amendments in this field, actively co-operates not only with all concerned state administration central bodies, but also with environmental NGOs.
- Finally, let me point out that the Slovak Republic guarantees wide access to information in accordance with the first pillar of the Aarhus Convention and also respects confidentiality of selected information based on Slovak Acts.

Thank you for your attention

For more information please contact:

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