



9 April 2021

Ms. Fiona Marshall  
Secretary to the Aarhus Convention Compliance Committee  
United Nations Economic Commission for Europe  
Palais des Nations, Room 429-2  
CH-1211 Geneva 10, Switzerland

Dear Ms. Marshall,

**Re: Communication to the Aarhus Convention Compliance Committee concerning compliance by Hungary in connection with a plan to extend the Paks Nuclear Power Plant (ACCC/C/2014/105)**

In your letter on 11 March 2021 you informed us that the Committee has further questions, based on the discussion of the above communication.

Please, find below our answers to the Committee's request.

Yours sincerely,

Martina Méhes

Managing and Policy Director

Energiaklub Climate Policy Institute



**Questions 7-9.:**

**7. With respect to the outstanding information you refer to in your letter to Dr. Krisztina Hajdu of 10 April 2012 only:**

**(a) Please provide a chronology of all correspondence since 10 April 2012 regarding the provision of the information referred to in your letter to Dr. Krisztina Hajdu of 10 April 2012, including the dates on which the outstanding information was provided to you.**

**(b) Please provide a copy of any court decisions or decisions by the National Agency for Data Protection issued since 10 April 2012 regarding the outstanding information referred to in your letter to Dr. Krisztina Hajdu of 10 April 2012.**

**8. In your letter to Dr. Krisztina Hajdu of 10 April 2012 you state: "I would like to draw your attention that in case of failure to comply fully with the court judgement, we are entitled to seek enforcement." Please describe the enforcement mechanism to which you refer. Please also provide the relevant legal provisions concerning this enforcement mechanism, together with an English translation.**

**9. Did you in fact use this mechanism to enforce the judgements concerning your requests for information regarding either the Teller or Levai projects? If so, please provide a copy of the relevant orders of enforcement. Did the enforcement orders result in the disclosure of the information addressed by the order? If not, what action did you take as a result?**

We are answering the above questions in merge.

The chronology of our correspondence with MVM, and their legal representative, Dr. Krisztina Hajdu is as follows:

1. To the letter to Dr. Krisztina Hajdu of 10 April 2012 Energiaklub received no answer.
2. To the advice of Energiaklub's legal counsellor, before pursuing legal execution, we sent a new letter to MVM asking again for the documents on 19 June 2012.
3. The answer for this letter was sent on 6 July 2012 by Dr. Krisztina Hajdu. In this letter MVM only partially fulfilled its obligation. It disclosed the following items: (1) list of contracts made within the framework of Lévai project (but not the contracts themselves); (2) Assessment of potential domestic suppliers; (3) monthly reports on the information truck about Paks-2; (4) different social, regional and educational assessments. **The disclosure of the following documents was denied despite the court ruling:** (1) Assessments on the conditions for the integration of the new units into the electricity grid, the necessary system-level control reserve and network development needs, as well as the optimal cooling solutions; (2) Preliminary consultation documents for the environmental licensing procedures; (3) Surveys



on investment and operational labour demand, specialized human resources and regional enterprises; (4) Feasibility studies of possible business scenarios and risks of the new NPP blocks.

4. On 31 July Energiaklub sent another letter to ask for the documents which were not disclosed. On 17 August some contracts were sent by MVM.
5. After processing the documents, on 24 September 2012 another request was sent to MVM, as there were contracts that have not been sent. Disclosure was denied on 8 October 2012. Further letter was sent on 25 October 2012 to MVM, to which MVM's representative Dr. Krisztina Hajdu replied that they can provide information through personal appointment.
6. On 10 December 2012 two documents were disclosed by MVM: (1) Assessment of dose constraints on new nuclear power plant units; (2) Preliminary consultation documents for the environmental licensing procedures.
7. In the meantime, on 1 August 2012, Energiaklub filed a submission to the National Data Protection Agency for authoritative advice in the case, as a large proportion of documents were denied disclosure. By March, 2013 the Agency issued a statement, according to which MVM was obliged to issue all the rest of the requested documents – however, only a part of them were sent to Energiaklub. By the time in the Autumn of 2013 the Energiaklub have received these documents, the expert studies in them were more than 2 years old already.

As can be seen from this description Energiaklub chose to turn to the National Data Protection Agency for seeking enforcement.

**10. At page 15 of your reply of 9 March 2016 you state: "During the preparation of the 2008 Parliament Resolution, the Ministry in charge for energy matters (at that time Ministry of Economy and Transport) launched a so-called public consultation. Between 15 June and 15 July of 2008 the concept of the energy policy was published on the website of the Ministry, with the opportunity for sending comments to the concept by anyone. After the one month long commenting period, three section meetings, with the participation of the interested experts and organisations were held." (Committee's emphasis).**

**(a) Based on the translation of Parliamentary Resolution no. 40/2008 provided by the Party concerned,<sup>1</sup> the resolution was adopted on 17 April 2008. Is your reference "15 June to 15 July 2008" correct? If not, what was the actual timeframe of the public participation on the concept of the energy policy.**

Unfortunately there was a mistype: the correct date is between 15 June and July 2007.



**11. At paragraphs 40-42 of its reply of 9 March 2016, the Party concerned states that the 2008 and 2009 resolution are not required by legislative, regulatory or administrative provisions. Do you agree that there was no legal requirement for Parliamentary Resolution no. 40/2008 on the 2008-2020 Energy Policy to be prepared? If you consider that national law required the 2008-2020 Energy Policy to be prepared, please provide the text of the relevant legal provisions as then in force that you consider required its preparation, together with an English translation thereof.**

In our interpretation Article 6, 7 and 8 of the Convention constitute a closed system of state decisions relevant to the environment, ranging from the individual decisions through several kinds of planning decisions not having general normative effects and the preparation of legislation also of several kinds and levels. This interpretation is in harmony with the cases of ACCC and the available explanations and guides of the Aarhus Convention, while the interpretation of the Hungarian Party seem to contradict the system of the Convention and would lead to a treacherous legal path where certain state decisions could be taken out from the scope of the Convention quite arbitrarily. Needless to say in our opinion that apart from those under the SEA Directive or the Espoo Convention there are several other levels and kinds of strategic type State decisions either with the requirement of certain environmental impact assessment (such as high level state plans under Article 43-44 of the Environmental Code) or without such requirement.