

**Observer response to the “Draft report of the Compliance Committee -
Compliance by Slovakia with its obligations under the Convention”
(document no. GE.17-12939(E), resp. draft document no. ECE/MP.PP/2021/xx)**

Dear Fiona, resp. ‘dear UNECE team’,

together with confirming the receipt of the above referred draft document, I would like to thank the Compliance Committee and its ‘supporting UNECE team’ for all its time and work! It seem to me that only thanks to the results of your work, the relevant Slovak authorities have started to realise the unlawfulness of misuse telecommunication and/or postal secrets in order to bypass the Slovak and foreign citizens’ rights to access the Slovak commercial nuclear sector related information.

As I tried to explain in my earlier communication, I consider this particular misuse of telecommunication and/or postal secrets as the most bizarre of the all the attempts of the Slovak authorities to bypass the implementation of the Aarhus Convention also with regard to the commercial nuclear sector. I am ashamed that so many politicians and public administration servants, quite generously paid also from my taxes, have not understood before that in democratic countries the laws on telecommunication and postal secrets primarily serve to protect privacy of us citizens, but not in order to hide the information about environmental impacts of nuclear industry from citizens.

Despite some progress reported in the above referred draft document, I am still concerned about the relevant Slovak politicians’ and public administration servants’ understanding of their legal duties in relation to the implementation of the Aarhus Convention particularly in relation to the commercial nuclear sector, which I would like to try to explain in this email/document.

As far as I know, the opportunity to misuse telecommunication and/or postal secrets in order to break the tenor of the Aarhus Convention particularly and only with regard to the public access to commercial nuclear sector related information may still exist in the current “melting pot” of many different relevant laws and constantly continuous amendments, often in a form of indirect amendments of questionably relevant laws (such as the Act on Geology). I have been unable to follow the relevant law amendments recently, mostly due to an inevitable need to dedicate a constantly increasing amount of time in order not to get lost in the mass of all these different amendments and their often speculative content.

Firstly, I would like to confirm the correctness and completeness of taking the content of my observer statement into account in the draft report, in particular in the paragraph 40. However, I find the draft report rather incomplete with regard to practical implications of the finding that Slovakia “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”. I would like to propose that a sentence or few sentences would be added to this part of a report, in order to make it clear whether, in order to follow up to the above quoted finding of Slovakia’s non-compliance with the Convention, the UNECE would (re)start ACCC proceeding from its own initiative, or whether a new communication from the representatives of the civil society (i.e., for ex., a new “letter from the communicant”) is necessary for the UNECE to be able to (re)start such proceedings.

Secondly, I would like to suggest that the above quoted part of the text of the paragraph 40 which reports the finding about Slovakia’s non-compliance with the Convention would be highlighted (by means of using an underlined and/or a bold font). I find this important especially after reading an anonymous document (i.e. unsigned by anyone whom I could attribute as the author of the text), titled ‘Statement of the Slovak Republic delivered at the 71st meeting of the Aarhus Convention Compliance Committee’, because its author(s) are trying to make from my perspective a false impression that the Slovak Republic “has been continuously trying to implement the pillars and provisions of the Aarhus Convention into its legal framework“. From my observations, there exist quite a large set of indirect evidence (summarized

for example in my two peer-reviewed academic paper, whose DOIs I referred in my observer statement) suggesting that a complete opposite may be correct, i.e. that the Slovak politicians have been intentionally and continuously trying to bypass implementation of the pillars and provisions of the Aarhus Convention into its legal framework by means of intentional continuous adoptions of controversial indirect amendments of several different relevant acts, in all cases aimed at limiting public access particularly and only for the commercial nuclear sector related information. I find it a very weird that the anonymous author(s) of the above referred document are “hiding behind the term Slovak Republic”, and use a phrase that a “Republic has been trying”, because the term “Republic” should refer to “a state in which supreme power is held by the people”, and not to any living being with his/her own abilities to try to implement the legislation by itself. On a contrary, I am afraid that the members of the Slovak Parliament, who are collectively responsible for more than a decade of Slovakia’s non-compliance with the Aarhus Convention, might have been misled by the representatives of Slovakia’s political institutions who also wrote the above referred anonymous document.

Thirdly, I would also like to suggest that the UNECE would review the relevant norms in order to ensure that the authors of all the statements and reports used in the ACCC proceedings would be known, i.e. that submission of anonymous documents would not be eligible. I am skeptical whether it is in fact legal to title documents as ‘statement of the Slovak Republic’, when they seem to me to be just statements of some selected unsigned employees of some unsigned administration bodies. Similarly as approved laws must be signed by the President of the Slovak Republic, the Speaker of the National Council of the Slovak Republic and the prime minister of the Slovak Republic (the Article 87 (3) of the Slovak Constitution, I believe that also statement made on behalf of the Slovak Republic towards the UNECE/ACCC should be signed, and only by the legally mandated representatives of the Slovak Republic, and not for ex. by some staff of the regulatory authority (whom I could find out in the properties of unsigned the PDF file).

Once again, let me thank the Compliance Committee and its ‘supporting UNECE team’ very much for all your exhausting work that has been necessary and inevitable in order to respond to a large set of controversial law amendments taken by the Slovak politicians in the recent about twelve years, all obviously aimed at bypassing our citizens’s rights set by the Aarhus Convention in particular and only with regard to access to the information related to the Slovakia’s commercial nuclear sector. And, at the same time, let me thank you very much in advance for all your work which will be necessary to respond to the Slovakia’s continuing failure “to comply with article 4, paragraph 4, and also article 6, paragraph 6, in conjunction with article 4, paragraph 4, of the Convention”, and let me wish all of you a good health and in general the most positive circumstances in these current very challenging times!



Peter Mihók

member fo the Slovak NGO ‘CEPTA – Centre for sustainable alternatives’

www.cepta.sk

mihok@cepta.sk