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Aarhus Convention Secretariat

c/o Fiona Marshall
Palais des Nations
8-14 avenue de la Paix
1211 Geneva 10, Switzerland

Vienna, 19 June 2019

Regarding: Decision VI/8i on compliance by Slovakia with its obligations under the Aarhus Convention; update on the implementation

Dear Ms. Marshall,

With this letter we would like to notify the Aarhus Convention Compliance Committee of a recent development in Slovakia which we consider very alarming.

Currently, the Slovak government intends to amend the Atomic Bill (No. 541/2004 Coll.). The parliament will be asked to vote on it next week in the respective committees. On June 12, 2019, our legal adviser contacted the members of the Slovak parliament and asked them to refuse the new amendments.

The following key points were addressed in the letter to the Slovak members of parliament (letter attached in Slovak language):

The members of the respective committees are asked to vote against the proposed changes to the Atomic Bill and to act in the interest of the people and nuclear safety, where transparency and public control are key issues. In this respect, Slovakia is already in violation of the Aarhus Convention and was asked during the last hearing in March which remedies were in the pipeline; no answer was given by the Slovak representative. Now the following amendments are put forward to become part of the Atomic Bill:

1. Classification of "sensitive information", in particular the "postal and telecommunication secrecy" (amendment referred to as „doplňenie § 8 odsekmi 11 až 13“):

The proposed amendment would enable the nuclear regulator UJD to classify any type of documents submitted via postal service or e-mail as sensitive information. Important information from administrative procedures or letters sent to the authority by other institutions or participants in procedures could thus be withheld. This would be inconsistent with the general rule that postal secrecy does not apply to information contained in administrative files.



2. Excluding extraordinary legal remedies– reopening of procedures and examination of the decision outside appeal procedure (referred to as „ § 35 odsek 1 “):

Administrative procedures in Slovakia generally allow for extraordinary legal remedies such as retrials/reopening of procedures and an extraordinary examination of the decision separately from the common appeal procedure. According to the proposed amendment, these extraordinary legal remedies would be precluded in certain procedures according to the Atomic Bill, including the procedure for a start-up license of the operation of nuclear facilities or operation of a nuclear facility. There is no reason why such a differentiation would be justified especially regarding potentially dangerous decisions according to the Atomic Bill. If this legal instrument would be adopted, participants whose rights to participation in a procedure were unlawfully denied would have no more remedy to challenge a decision. Nor could a decision be challenged if new evidence occurred or a conflicting decision in a criminal case was taken.

The timing of this amendment might not be utterly coincidental, because the nuclear regulator UJD is taking decisions concerning the licensing of two reactor units.

We stand ready to submit any further information on the issue if needed.

Sincerely,

Thomas ALGE
OEKOBÜERO – Alliance of the
Austrian Environmental Movement

Reinhard UHRIG
GLOBAL 2000 / Friends of the Earth Austria

Enclosed:

- Statement on the proposed amendment of the Slovak Atomic Bill (No. 541/2004 Coll.)
- Letter to the Slovak parliament of 12 June 2019