

Statement by ÖKOBÜRO on Czechia´s comments of 7 December on decision IX/4i on compliance by Czechia with its obligations under the Convention in respect of the lifetime extension of four reactors of Dukovany nuclear power plant (ECE/MP.EIA/2023/7)

I am a lawyer at ÖKOBÜRO which is one of the ENGOs that initially raised the issues concerning the lifetime extensions at the Dukovany nuclear power plant, so I speak with a special interest in this case. Before I continue my statement, I also want to take the opportunity to thank the IC and the Secretariat for their dedicated work regarding the draft decision at hand.

As regards to my statement, I would like to address three major issues: Firstly, Czechia´s comments to the draft decision in the Dukovany case suggest that the MOP take note of, and not endorse, the findings and recommendations of the IC. This diverges from long-standing practice concerning the endorsement of the findings of the IC. It is, however, imperative to refrain from any actions that may compromise the implementation mechanism´s efficacy, and consequently, the rights afforded by the Convention. The other proposed changes further attempt to reduce the findings and recommendations of the IC. It was stated in the previous debate (and I am just reproducing the spirit of the argument here) that there was no need to accept everything that the IC says. I would like to counter that and draw attention to the fact that if there is no trust the ICs findings that it came to well within its mandate and the practice of endorsing the ICs decisions is not continued, this opens a can of worms that has the potential to severely weaken the compliance mechanism.

Secondly, one must also consider the background to this case: Czechia is already subject to a MOP decision under the Aarhus Convention, binding as a matter of international law, concerning the same facts of the case that were presented in this IC case. By means of the implementation of the ACCC´s recommendations, Czechia already must adopt certain changes, which are complementary to and overlapping with the ICs findings and recommendations. In other words, the recommendations of the Espoo IC are a meaningful way to complete exactly this implementation.

Lastly, I am also concerned by Czechia´s approach to communicating its comments. Comments on the decisions being put forward to the MOP for its endorsement are as a matter of long-standing practice published on the UNECE´s website well in advance of the MOP. As the Chair and the Secretary already stated, deadlines that were previously highlighted more than once exist for the submission of comments to documents. This is for a good reason, as it serves the principles established by the Espoo Convention, which aim to ensure the promotion of transparent cooperation and public participation in decision-making processes. Czechia suggesting to share comments on documents only via e-mail on very short notice is inconsistent with these principles. It is also inconsistent with the spirit of inclusivity that the Espoo Convention seeks to foster and hampers the ability of the public to engage in a constructive dialogue and provide valuable input that contributes to the overall quality and transparency of the decision-making process.

Thank you for your attention to this matter. We trust that our concerns will be given the consideration they deserve in the sense of upholding the spirit, letter, and practice of the Espoo Convention.