

66TH ACCC MEETING

Report on Sessions of 13 March 2020

Decision VI/8e (Czech Republic)

The Curator presented the different subject matters addressed in the Committee's second progress review of the implementation of Decision VI/8e on compliance by the Czech Republic with its obligations under the Convention.

The first issue subject to Decision VI/8e concerns access to justice relating to noise. The Czech Republic did not report on any measures taken to implement article 9 (3) of the Convention in this regard. Regarding the question of public participation regarding plans and programmes, the Czech Republic was requested to submit a list of the types of plans and programmes that it will in future ensure are subjected to public participation under article 7 of the Convention or a list of criteria to be applied in this regard. Yet, the Party had not submitted such a list within its second progress report.

Correspondent to paragraph 6 of Decision VI/8e, the Party was requested to report on measures taken to ensure that when selecting means of notifying the public under article 6 (2) of the Convention, public authorities are required to select such means as will ensure effective notification of the public concerned, bearing in mind the nature of the proposed activity and including, in the case of proposed activities with potential transboundary impacts, the public concerned outside the territory of Czechia.

The Czech Republic also had to provide evidence that members of the public concerned are entitled to participate at the subsequent stages of the multistage decision-making procedure regarding the Temelín nuclear power plant, including procedures under the Nuclear Act. The multi-stage decision-making procedure was not addressed in the Party's second progress report.

The Czech focal point noted to be new to the case and thus could not provide any reasons why the Czech Republic did not follow the Committee's requests from the previous years. Neither could the Party provide an approximate timeline for the adoption of measures concerning access to justice in the area of noise and public participation regarding plans and programmes. Regarding the notification of the public, the Party reported that the EIA Act would provide the same rights to the public concerned inside and outside the territory of the Czech Republic, however it would be hard to prove that this notification is effective. The Party had evaluated the situation on national level and defined necessary measures. As these measures according to the Compliance Committee were not sufficient, the Party would now try to re-assess its approach.

The communicant Jan Haverkamp and the observers ÖKOBÜRO and GLOBAL 2000 expressed their concerns regarding the developments in Czech Republic. In fact, the situation would have rather changed to the worse than to the better. After a recent amendment, the EIA Act now explicitly lists procedures to be considered as subsequent to the EIA. Procedures according to the Atomic Act are not listed as subsequent procedures, although they involve decisions which directly affect the environment. The Communicants have since the EIA procedure on Temelín reactors 3 and 4 not received any documentation or information concerning further procedures, although their email and mail addresses are known by the relevant authorities. There had also been a proposal to amend the Building Act with a chance to limit public participation. As currently there is no clear information on the Czech Republic's plans in this respect, more information should be submitted by the Party within its next progress report in October 2020.

Documents on the implementation of Decision VI/8e are available online via:

<https://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/tfwg/envppcc/implementation-of-decisions-of-the-meeting-of-the-parties-on-compliance-by-individual-parties/sixth-meeting-of-the-parties-2017/decision-vi8e-concerning-czechia.html>

Decision VI/8i (Slovakia)

The Curator pointed out the main conclusions expressed in the second progress review of the implementation of Decision VI/8i on compliance by Slovakia with its obligations under the Convention. The Party was requested to provide evidence that it had taken the necessary legislative, regulatory and administrative measures and practical arrangements to ensure that when providing access to nuclear-related information within the scope of article 2 (3) of the Convention, any grounds for refusal under article 4 (4) of the Convention are interpreted in a restrictive way and taking into account the public interest served by disclosure and whether the information requested relates to emissions into the environment. In this regard, Slovakia had reported on a directive on sensitive information as well as an amendment to the Atomic Act regarding postal and telecommunications secrets.

The Party had submitted an English translation of the Directive on Identification and Removal of Sensitive information from Documents which are made available to the Public. While the Committee commended this transparent form of reporting, it noted that article 3 (4) of the Directive listed several exceptions from the disclosure of information. This information (e.g. on identification and designation of facilities and structures, parameters and designation of equipment and technology, resources and place of their storage or category of seismic resistance) could exceed the exceptions acceptable according to 4 (4) of the Convention. Also, the curator noted that telecommunications and postal secrets were not a ground for refusal according to the Convention.

The Party argued that the Directive in question was drafted in a restrictive way and highlighted the challenge to balance different interests in this regard. Authorities would weigh each request of information against public security.

The communicants ÖKOBÜRO, GLOBAL 2000 and Greenpeace Slovesko expressed their concerns regarding the Directive on Sensitive Information and the postal and telecommunications secret. The new legislative developments in fact added grounds for refusal of information rather than limiting them. Their main concern in this regard is that the grounds for refusal are too vague. Hence, authorities would have much room for interpretation on what can be classified as sensitive information and must thus be held back. Finally, the communicants also questioned why the Nuclear Regulatory Authority submits the progress reports to the Committee on behalf of the Party instead of the Ministry for Environment as focal point.

Documents on the implementation of Decision VI/8i are available online via:

<https://www.unece.org/environmental-policy/conventions/public-participation/aarhus-convention/tfwg/envppcc/implementation-of-decisions-of-the-meeting-of-the-parties-on-compliance-by-individual-parties/sixth-meeting-of-the-parties-2017/decision-vi8i-concerning-slovakia.html>