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Ministry of the Environment of the Czech Republic

Legislative Department

c/o JUDr. Alena Chaloupková, Ph.D.

Vršovická 1442/65

100 10 – Praha 10

Submitted via e-mail to alena.chaloupkova@mzp.cz

Vienna, 29 July 2022

Regarding: Draft plan of action for decision VII/8e (*Czechia*)

Dear Ms. JUDr. Alena Chaloupková, Ph.D.,

ÖKOBÜRO – Alliance of the Austrian Environmental Movement, GLOBAL 2000, and Aarhus Konvention Initiative appreciate the opportunity to comment on the draft plan of action of Czechia regarding the implementation of decision VII/8e adopted by the Meeting of the Parties to the Aarhus Convention.

While we welcome all steps announced in the present draft plan, we consider further measures necessary in order to fully meet the requirements set out in decision VII/8e. Furthermore, we would like to note that a consultation period of less than four weeks, especially during the main summer holiday season, poses a great challenge on communicants and observers. This does not leave us much time for coordination and as a result our comments cannot be very detailed.

Additionally, we regret that only communicants and observers in the individual cases covered by the plan were notified of the present draft. In the sense of broad public consultation, we call upon the Ministry of the Environment to publish drafts – like the one subject to this submission – online, for all members of the public to comment thereon, if interested.

Regarding the specific paragraphs of decision VII/8e, we kindly ask Czechia to take note of the following remarks:

- **paragraph 2 (b) (i) and (ii) a**

ÖKOBÜRO, GLOBAL 2000, and Aarhus Konvention Initiative welcome the introduction of a new special tab within the existing CENIA information system envisaged by Czechia. In the draft plan of action, it is noted that this would facilitate the display of information about all new projects that are subject to transboundary



assessment (i.e., in relation to which cross-border effects are expected) “at any time and always in one place”.

In this regard we would like to stress that immediate publication of all relevant documents via this newly introduced function is crucial. Additionally, we would like to note that members of the public who are already party to a (transboundary) EIA procedure or any subsequent proceedings should still be notified directly of relevant procedural steps, which has not always been the case in the past. For example, GLOBAL 2000 as the only non-Czech organisation became party to the siting procedure (*územní řízení*), which was halted and re-started. However, GLOBAL 2000 was never notified about any steps taken since the opening of the procedure by the building authority (*stavební úřad*) in Třebíč.

Czechia’s obligation to ensure that, when selecting means of notifying the public under article 6 (2), public authorities are required to select such means that will ensure effective notification of the public concerned has already been laid down in decision VI/8e adopted at the 6th Meeting of the Parties to the Aarhus Convention in 2017. In the light of the long time passed since then, ÖKOBÜRO and GLOBAL 2000 consider an implementation of the new information function sooner than by 1 October 2023 more than adequate.

- **paragraph 2 (b) (ii) b**

It is outlined in the draft plan that public participation in the subsequent proceedings to an EIA is ensured by the current legislation of Czechia. According to the draft plan of action, this includes the zoning permit procedure and the building permit procedure. ÖKOBÜRO and GLOBAL 2000 regret the missing clarification whether public participation the final building inspection (*kolaudace*) as well as the procedure under the Atomic Act, which are also relevant subsequent procedures to the EIA, are also considered subsequent procedures and thus open to public participation by Czech authorities and courts.

We consider it a good sign that Czechia is currently amending its legislation to regulate subsequent proceedings in more detail. The draft plan of action only includes the envisaged wording of the newly created § 9f. We, therefore, cannot fully assess whether this provision, in conjunction with § 9c – which is not included in the draft – has the potential to fulfil the requirement laid down in paragraph 2 (b) (ii) b of decision VII/8e.

For this reason, we call upon Czechia to clarify this aspect by including the wording of the relevant sections/paragraphs which are mentioned in § 9f – including the conditions for public participation and review rights laid down in Act No. 100/2001 Coll. on the Environmental Impact Assessment – in the final plan of action.

Additionally, it should be clarified that the relevant information and documents regarding subsequent proceedings must be published via the newly created function within the CENIA information system. Only

this approach would allow for effective participation that is comparable to participatory rights at the EIA stage.

- **paragraph 6 (a)**

Regarding the Committee's recommendations derived from article 6 (10) of the Convention, Czechia expects that the amendments adopted after 2017 essentially meet the requirements, as they enable public participation in precisely those procedures that are intended for reconsiderations or updates of operating conditions.

We consider it an important step to analyse the public awareness of rights and options arising from the Atomic Act in the currently effective version. We would, however, suggest that, besides representatives of the Ministry of Environment and of the State Office for Nuclear Safety, members of the public themselves should be included in this evaluation and be invited to participate in the meeting planned for 22 September 2022 for a broad and in-depth impression.

To get a clear picture of the legislative changes related to Section 22 (1), (2) and (3) and Section 204 of the Atomic Act, we call upon Czechia to include the full provisions into the final action plan.

In addition, to get a clear picture on how the public will be retrospectively involved in the licensing of the long-term operation of NPP Dukovany as well as in the intended lifetime extension of NPP Temelín, a short description on how the new provisions will be applied regarding the respective reactors of these two power plants would be adequate and well-needed.

It is unclear to us why 1 October 2024 is named as the final date by when the implementation of this recommendation will be completed: after all, according to Czechia's explanations, relevant legislative changes have already been introduced and the evaluation of public awareness will already start in September 2022. We believe that the process can thus be completed much earlier.

- **paragraph 6 (b)**

Czechia notes in its draft plan of action that the public concerned has the possibility to go to court and demand a review of the legality of the decision taken. It, however, remains unclear to which extent this right to a review procedure is also given regarding decisions taken under the Atomic Act, inter alia, since the judgement referred to in the draft action plan was passed before the mentioned new legal provisions entered into force.

ÖKOBÜRO, GLOBAL 2000, and Aarhus Konvention Initiative therefore suggest clarification on how members of the public concerned can challenge decisions taken under the Atomic Act, e.g., demonstrated with the example of the licences extending the operational period of the Dukovany reactors for an indefinite time.

We hope that Czechia will be able to take our remarks into account when finalising the plan of action.

Yours sincerely,



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OEKOBÜRO – Alliance of the
Austrian Environmental Movement



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