Complaint before EU Commission CHAP(2012)02383

I contacted EU Commission after hearing date in Ceske Budejovice on 22-06-2012 to start an infringement process. German and Austrian participants were not able to participate. Documents of 06-08-2012 and 18-07-2012 attached. Not yet finished.

Response of EU Commission

Dear Mrs ARTMANN

I hereby confirm the receipt of your letter dated 06/08/2012, that has been registered as complaint under reference CHAP 02383 (2012) (Please indicate in all correspondence). The allocation of this reference number does not necessarily mean that the Commission will start an infringement procedure.

Your complaint will be considered by the Commission departments on the basis of the relevant EU law. You will be informed personally of the result of this review and about the course of any infringement procedure. You can contact the relevant environment department by the following electronic mail address: ENV-CHAP@ec.europa.eu.

No charges will be raised not even if the Commission will initiate an infringement procedure. Incidentally, it is in your own interest to take advantage of the national legal remedies which generally allow a more direct and greater focus on your personal needs to exercise your rights. Damages can be obtained, for example, only in the state courts. Since national remedies also relate to time limits, there is a risk that you lose your rights at the national level, if you do not make claim them quickly.

I may also refer to attached documents which contain some important information on the infringement proceedings.

Sincerely yours

Ion CODESCU Head of Unit

Appendix 1: Notes on the infringement proceedings for non-compliance with EU law Appendix 2: Notes on data protection

Marktredwitz 2012-08-06

EIA Temelin 3+4 - EIA Temelin not correct Mueller/Potocnik 912707

Dear Janez Potočnik,

Mr Wolfgang Mueller from Bad Steben Germany asked me to give you knowledge of the attached statement to Mr Kremlis.

We already informed the EU Commission of EIA Temelin 3+4 being not correct.

With kind regards,

Brigitte Artmann

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To
European Commission
Directorat - General
Environment
Head of Unit
Mr Georges Kremlis

Hearing Temelin 3+4 2012/06/22 Ceske Budejovice ENV A.3/ZK/vm Ares (2012) 795861 Barroso (2012) A 626721

Marktredwitz 2012/07/18

Dear Mr Georges Kremlis,

Thank you for your letter. It is attached as document No 1.

Please let me ensure you, the two meetings Temelin 3+4 in Passau and Vienna have been explicitly not been part of the EIA or Espoo procedure. EU law was clearly breached. There

was no public hearing offered in Germany, in Austria, in Poland or Slovakia. There was only the official hearing for 5 states in Ceske Budejovice in Czech Republic in June 22, 2012. Here is an official reference of the Environment Ministry of Czech Republic - highlighted in red. A <u>public hearing</u> is an official hearing. If I want to participate officially to protect my rights, I must be there. No way out. That is no question of: "Participation in the public hearing is completely voluntary". And I am awfully sorry, but a public discussion is a public discussion, nothing more.

Excerpts:

German people could not participate at Temelin Hearing Ceske Budejovice 2012/06/22. We were there and we could not participate. I gave it to protocol in Ceske Budejovice at the only and official Temelin hearing 3+4 at around 3:00 on Saturday morning after 17:00 hours in which I tried to participate.

Here some more references of official sources to back up Passau have been no official hearings:

I have asked the Environment Ministry of Bavaria for references and a statement too. Here is the official invitation to an <u>informal discussion</u> in Passau 2012/06/12, not to an official hearing http://www.stmug.bayern.de/umwelt/reaktorsicherheit/temelin/doc/bekanntmachung_passau.pdf

My questions to Environment Ministry in Bavaria were:

Von: brigitte artmann [mailto:brigitte.artmann@gruene-fichtelgebirge.de]

Gesendet: Donnerstag, 12. Juli 2012 23:53

An: Heierth, Hans (StMUG)

Cc: Haverkamp Jan

Betreff: President Barroso and Temelin – confirmation please - Passau out of EIA and Espoo

Dear Mr Heierth,

attached a letter from Mr Kremlis, EU Commission on behalf of Mr Barroso. Please be so kind and give me a written confirmation that the information event in Passau was explicitly NOT part of the EIA and the Espoo process. That it was an event that was legally non-binding. If you want to, the StMUG may send the confirmation directly to Mr. Kremlis to the EU Commission. (...)

And, if possible - I would be thankful if you could confirm informally:

- 1- that we got NO agenda, an agenda was, according to the gentleman who accompanied Minister Berlakovich, only available when the Minister announced himself and only for the Minister.
- 2- that ordinary citizens were able to speak very late in the afternoon. After Martin Bursik and Ondrej Liska were able to speak, then the guests from Germany were allowed to speak. That was around the time when you left the hall. That hearings until 3.30 in the morning were not necessarily German procedure.

- 3 that there was no possibility to buy water or food within the hall (or lobby). What was possible in Passau event. (There was only this kiosk nearby and a restaurant outside and if I would not have had intervened and had a reasonably good relationship with Ms. Drábová, there would have been no drinking water for 17 long hours.)
- 4 Perhaps you and Prof. Dr. Göttle have observed how Mr. Urban Mangold, 2nd Mayor of the city of Passau and the official representative of the same, and me as I tried as county councilor to get the right to speak for Mrs Sellnow the representative of the District Office Wunsiedel simply power was switched off of the microfon. Both local authorities wanted to talk after the speech block of Czech local authorities. If yes, please confirm if you could.

Thank you.

Sincerely,

Brigitte Artmann

Here is the answer and a short statement of Environment Ministry of Bavaria:

From: <u>Hans.Heierth@stmuq.bayern.de</u> Sent: Tuesday, July 17, 2012 1:58 PM

To: brigitte.artmann@gruene-fichtelgebirge.de

Cc: abteilung9@stmug.bayern.de; Hans.Kuehlewind@stmug.bayern.de;

Andreas.Hessler@stmug.bayern.de

Subject: AW: Präsident Barroso und Temelin - bitte um Bestätigung - Passau außerhalb UVP und Espoo

Dear Mrs Artmann,

thank you for the transmission of the statements of the EU Commission.

I am happy to confirm you that the event in Passau on 12.06.2012 is not a formal public hearing in EIA Process, but at the expressly request of the Czech side, only a voluntary, informal discussion event for the German public to the construction of NPP 3 and 4. We have tried several times to move the Czech side to carry out this event as an official public hearing and even have included the Chancellor, to bring this claim on the highest political level. However, on the Czech side, there was no willingness to fulfill this requirement.

To your other points:

- to 1: We have received no agenda for the event in Budweis and we are also not aware when a specific agenda was available .
- to 2: We do not remember the exact date of when the German citizens were invited to announce their submissions, may be this part of the hearing began sometime after 14.00. We had the opportunity to hear in any case a series of submissions of citizens before we left

around 17.30 for home. Therefore in our opinion it was not late in the afternoon, when German people spoke out. In Bavaria, we would not perform a hearing date until 3:00 in the morning. We would interrupt the hearing in the evening at a specified time and continue the next day with the event.

to 3: At the beginning of the event in Budweis, it was forbidden even to take drinks into the hall. We had even to leave our plastic water bottles at the entrance. After your very valuable and useful intervention water could be purchased in the foyer of the hall. In Passau, we had offered from the beginning the opportunity to buy drinks and food in the foyer of the hall. This could be taken to the hall, but also in Passau no acquisition in the hall was possible.

to 4 In our perception, there was a technical problem, when the microfon turned off in the hall. It took a long time until it worked again and we were able to watch from the front row rather well as the technicians at the mixing desk in the corner have checked everything possible trying to get the system back up and running. Our impression was that for them it was only just embarrassing. We would not suggest an intention behind this defect.

Kind regards Hans Heierth

Bavarian Ministry of Environment and Health

Abteilung 9 Kernenergie, Strahlenschutz, Stilllegung

Referat 91

Rosenkavalierplatz 2 81925 München Postfach 810140 81901 München (0 89) 92 14-00 (Durchwahl) (0 89) 92 14-22 66 poststelle@stmuq.bayern.de http://www.stmug.bayern.de

German people could not participate. We were there, we tried but it was all a fake:

In Mr Dolezals (MZP Praha) Email from Thursday, June 07, 2012 12:23 PM attached (3a) I have been told the rules of hearing date Temelin 22/06/2012 in Ceske Budejovice: For this reason we ask you to clarify and specify your questions and we also ask you for determination of speakers who will present these your questions as the time for the public hearing will be limited. The time for the individual questions will be just 5 minutes. For the effective course of the public hearing will therefore be desirable to give us these questions in writing on the site too or to send these questions before the public hearing takes place, that would be optimal.

I did so. But it was all a fake.

I was told to send my questions days before the hearing in Ceske Budejovice to the MZP. I did, what Mr Dolezal told me. But when I was able to talk in the hearing, I was told "3 questions for me and then back in row and wait again for hours." I asked for a program in hearing date in Ceske Budejovice and did get none. I asked the Bavarian Environment Ministry weeks before hearing date in Ceske Budejovice to ask for a program. I did get none. We had an "energy break" after the part where the Czech communities were allowed to speak on 22/06/2012. The microfon was dead, just in the moment Mr Mangold City of Passau and me together with Mrs Kati Sellnow Council of Wunsiedel wanted to participate as German communities after the Czech communities. But we were not allowed to speak after the break.

At around 14:00/14:30 it restarted with Mr Martin Bursik, former Environment Minister Czech Republic, Mr Ondrej Liska The Greens Czech Republic, a lady Czech Republic, a gentlemen Czech Republic, Mr Jan Haverkamp Greenpeace international, then after hours waiting Mrs Sellnow Council of Wunsiedel, Mr Herbert Barthel Bund Naturschutz Bayern and then me. Protocol, minutes, video, everything should be available. When I stood at the microfon at around 17:30 - the Environment Ministry of Bavaria, Mr Heiert and Prof. Dr. Göttle, left at that time - I was told: only three questions, than back in row. No words of speaker, nothing about the rules I have been told, I have asked loud and clear for the rules I have been told by Mr Dolezal in June 7th 2012, nothing. Just to remember: at 17:30 I spoke for the German Greens, for NGOs and for the political part of the Council of Wunsiedel, the first "normal" German person followed hours later!!! I am talking about the one and only official hearing. Three questions than back in row. I did not obey, I told them, please give me a written answer for our 68 questions and please do give the answers to the Bavarian Environment Ministry, they will give it to me. That was promised. Until today: nothing.

We do have the opinion, that over European law also stand international treaties - and especially where the EU is party to those treaties, it is the European Commission that has to guard over their implementation. Nevertheless, also European law prescribes that we - as Germans - do have the right on equivalent access to the public participation procedures in transboundary EIA procedures. Czech people got a hearing easy to reach for them. We had to travel for hours, for days, Czech authorities played with us, it was terrible expensive for us to participate or better it was terrible expensive for us not to be able to participate.

International and European law tells us:

Aarhus 3(9): Within the scope of the relevant provisions of this Convention, the public shall have access to information, have the possibility to participate in decision-making and have access to justice in environmental matters without discrimination as to citizenship, nationality or domicile and, in the case of a legal person, without discrimination as to where it has its registered seat or an effective centre of its activities.

Espoo 2(6): The Party of origin shall provide, in accordance with the provisions of this Convention, an opportunity to the public in the areas likely to be affected to participate in relevant environmental impact assessment procedures regarding proposed activities <u>and</u>

shall ensure that the opportunity provided to the public of the affected Party is equivalent to that provided to the public of the Party of origin.

EIA Directive 85/337/EC, art. 7(5). The detailed arrangements for implementing this Article may be determined by the Member States concerned and shall be such <u>as to enable the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedures</u> referred to in Article 2(2) for the project.

I have written to the Czech Environment Ministry days after the hearing: Letter to Mr Brix and Mr Dolezal of Czech Environment Ministry (MZP)

Please take attached to protocol of Temelin hearing 3+4 2012-06-22 the questions of members of the Greens Germany and NGOs and several other persons. We were not able to discuss or even read in full length on Friday hearing. We are waiting for your written answers.

Attached is also Greenpeace stresstest documentation. As I gave to protocol on Temelin hearing 3+4 on Friday please include this documentation into protocol of Temelin hearing 3+4 and to our questions. An illustration on page 14 shows the radioactive cloud of a possible INES 7 case of Temelin NPP will reach very quickly the North of Bavaria and Berlin. Again for protocol: We were not able to participate. We gave our questions to you as demanded on June 15. You wanted a speaker. You got me as speaker. We told you this on June 15. You did not put me on the list of speakers. You did not even give me a program for what I have asked you for several times. You have none was the answer. On Friday, you told me because of the program I am not allowed to speak and have to wait. You did not allow me as our speaker to read all our questions. You told me only three questions a person are allowed, then back in row and wait until we are allowed to ask the next three questions. We did as you wanted and we ended this play-off games Saturday in the morning at 3:00 because you and us were simply tired. Thomas Hecht, Jürgen Bielicke-Linge, Florian Urmann, Irene Pohl, Astrid Galik, Albert Stemplinger, Ludwig Simek, Wolfgang Müller and a lot of other people were not able to participate and had to leave without being able to participate. They all travelled a long way to Ceske Budejovice for nothing. You did not even want to allow us drinking water in the hall. It was hot in this hall. I had to demand for water several times until you allowed it.

I gave 17 hours of my life to you, while you did let talk the representatives of cities and villages nearby to Temelin NPP who told us how wonderful Temelin is and will be. Those communities only did have a few minutes to go home. We had to stay two nights in Ceske Budejovice or had to leave in the night for an hour-long travel home by bus. As I told you in the middle of the night - Saturday morning around 3 o`clock - before I left together with Jan Haverkamp Greenpeace international: we could not participate.

Brigitte	Artmann

And last but not least: No water was planned to be allowed in the hall. For 17 hours. I demanded water and told the responsible persons we would go, if no water will be allowed. They managed to sell water in the lobby some time later. We then were allowed to take water into the hall in plastic cups, what we ignored. We took bottles in, it was hot. No food was allowed or sold in the lobby for 17 hours.

If anybody is interested in: Personally I had a quarter of a pizza during the whole day and for lunch some mushrooms and three small potatoes, others did have nothing.

What would have happened, if thousands would have decided to participate? Not only few? If not only the few councils at the direct border of Czech Republic would have been officially informed by German authorities? If the rest of Germany would have known they had to go to Ceske Budejovice to participate? What about disabled persons? They do have the same rights to participate.

People from Germany could not participate in Ceske Budejovice. Here is some more information about the problems we had as Germans – and Austrians - to participate in the hearing in Ceske Budejovice. Here are some names of people who wanted to speak but could not. They had to go home without participating. Possibility to speak for normal German and Austrian public persons started in the afternoon with my person around 17:30 and lasted until 3:30 in the morning. Most of the Germans had to go when their bus left at 20:00. No questions were cleared or discussed. Hearing had to be stopped early on the morning because people were simply tired and wanted to sleep:

1.Eike Hallitzky,MdL,
Member of Parliament Bavaria
Bayerischer Landtag
BÜNDNIS 90/DIE GRÜNEN
Germany
Had to go home without participating

2. Prof. Dr. habil. Klaus Buchner Bundesvorsitzender ÖDP/ Chairman OEDP Germany

At the hearing, I have officially represented the city of Passau and the ODP (Ecological-Democratic Party). First was promised that the city of Passau would be able to present their statement written of their mayor (not lord mayor) in the first block that had been set for the foreign institutions. Then it was said that this should be first contribution after the lunch break, then the final contribution of this block, then the first contribution of the next block. Finally I should speak in the general discussion, but in a reasonable time I could not speak. Because I had a long journey home, I left the meeting at 17 o`clock. Previously, I had asked the (very friendly) interpreter to tell the Assembly line that I felt snubbed. But the assembly line was not willing to let me speak.

To Mr Barroso we should also argue that the event in Passau was just a briefing, no hearing in EIA process.

3. Ludwig Simek Germany

I would have liked to talk. When I had theoretically could have been able to talk, it would have been late at night. Regarding my long and difficult journey home, this was not reasonable.

Denied right to speak in Ceske Budejovice

The following persons had had a long trip hearing date in Ceske Budejovice and could not talk in EIA process Temelin 3 + 4.

- 4. Sabine M.
- 5. Ramona S.
- 6. Renate D.

Germany

The first three people have left their home early at 5.00 clock and reached at 10.00 clock just in time for the opening of the hearing procedure in the sports hall of Ceske Budejovice. At the entrance all drinks and meals were taken, or deposed under pressure at the entrance. There was neither food nor drink in the hall. Therfore one had to leave the hall again, pass security line and when coming back, find oneself back at the end of the line of speakers. There was no timetable, no agenda, despite efforts the order of events could not be experienced, at the end of about 6 hours, the first submissions and questions of normal persons could be raised. At this time it was already 16.00 o'clock. The bus left for home at 20.00 o'clock. (Arriving home-town at 1:00 in the night). Try to get on the list of speakers was not possible, it was refused. These three women had to go home to their children after 10 hours of trying to participate at 20.00 clock.

7. Wolfgang Mueller

Germany

The same was true for Mr. Mueller, who went even a day earlier at its own expense to Ceske Budejovice to be at the hearing in time. The same scenario at the entrance, hours of waiting, useless trying to get on the list of speakers, it was impossible, the security services refused to let Mr Mueller to get in contact with the interpreters for translation.

After 17 hours of listening and waiting to be able to speak, finally fell asleep on the chair, finished mentally and physically, Mr Mueller had to leave the hall around 3:30 in the morning without being able to talk. This EIA process is not run correctly, participation for all attending persons was not given under these circumstances, it was impossible!

8. Gerhard G.

Germany

Had to go home without participating

9. Thomas Hecht

Germany

I had no chance to speak, because our bus had to go back at 20.00 o'clock and until then I was not able to participate because of massive interest. (Reached home at 1 0'clock in the morning) Thank you for forwarding.

10. Astrid G.

Germany

Had to go home before able to speak

11. Gunda B.

Germany

Had to go home before able to speak

12. Albert Artmann

Germany

Was not able to speak

13. Brigitte H.

Germany

Had to go home before able to speak

14. Florian U.

Germany

Had to go home before able to speak

15. Wilfried K.

Germany

Had to go home before able to speak

16. Thomas Bergner

Germany

Had to go home before able to speak

17. Irene P.

Germany

Had to go home before able to speak

18. Franz Botens,

Germany

Mr Botens travelled a long way from Mainz in Rheinland-Pfalz/Germany to Ceske Budejovice. He had to go home without participation.

19. Petra Filbeck

Germany

Dear Mr. Baroso,

because of the hearing date to Temelin I traveled on 22.06.2012 to Ceske Budejovice. Unfortunately, for lack of time, my questions could not be answered ther. I ask you for a longer hearing date in Germany. As the date also was held on a day in the week, it was impossible for a lot of people to travel to this hearing.

Thank you for your support in advance.

Sincerely yours

Petra Filbeck

Persons who could talk but were clearly discriminated:

20. Dipl.-Ing. Rudi Seibt Vorstand der Ingenieurgruppe München eG Germany

Notice for recovery:

- Formulation of my question in Ceske Budejovice was possible at 21:16 in the state of exhaustion on both sides
- Noting that the hearing was a farce, because the CZ Government decision "positive assessment of the project by the report creator" was recited again and again on the podium
- So far I have received no word protocol yet despite demand
- So far I have not got from the Czech government to my timely written submission no acknowledgment and no response received (what the NL Government did regarding EIA Borssele)

Harassment:

- Own water bottle was not admitted into the room, not even to leave at the wardrobe
- Break bread was not admitted to the room, not even to leave at the wardrobe
- Identification of the venue was totally absent, even directly in front of the hall: finding the hall was a time problem
- No directions, no evidence, no agenda, no documentation of the podium before or at the event: no preparation was possible For questions please contact me.

Sincerely yours Rudi Seibt

21. Patrick Held Bayern Germany

Email: patrick.held@bayreuther-dialoge.de http://www.gemeinsam21.de/

16. Juli 2012

Dear European Commission,

At the 22. of June I traveled to the Czech town Budweis to participate in the European hearing concerning the expansion of the nearby nuclear power plant Temelin.

Even so the discussion was from a technical point of view on an acceptable level (there were big screens and translators), the way the discussion was held was not. It appeared to me that the main goal of the Czech officials was not to engage in a real discussion with the critics, but rather to keep them quiet and get them tired. This started with the fact that we were not allowed to bring water and food into the area. This was changed after some activists impended to leave the room. Then questions were answered in a way to buy time (there was no speaking time limit for both sides). To ask my question I had to wait 6 hours in the line. At the very end I had to leave the place to get my bus and was unable to hear if they provided an answer. I did not find any official recordings of this hearing on the web. This should be changed. A public hearing should be obliged to be uploaded on the internet. I have to

conclude that there is no real interest of the Czech to engage in a discussion with critical minds. I recommend to put these discussion live and permanently on the web to change this. Mit freundlichen Grüßen,

Patrick Held

22. Elisabeth Kerschbaum Bundesrätin Österreich Austria

I was advised that I can only speak on the environmental impact in the narrow sense, several questions were not answered - could talk late late at night - no water - no food - no program

23. Ulrike Schwarz Stellv. Klubobfrau Grüner Klub im OÖ Landtag

Austria

H: www.ooe.gruene.at

I could not clear all questions I could not participate.

24. Council of Wunsiedel

From: <u>Sellnow, Kati (LRA Wunsiedel i. F.)</u>
Sent: Thursday, July 19, 2012 9:49 AM

To: 'brigitte.artmann@gruene-fichtelgebirge.de'

Cc:

Subject: Temelin

Dear Mrs Artmann

I like to give you an opinion via the public hearing date for the expansion of the Temelin nuclear power plant in Ceske Budejovice on 22/06/2012 at which I attended with the environmental engineer Mr. Sticht as a representative of the district Wunsiedel Fichtelgebirge.

As already outlined, you could enter the gym in which the hearing date took place only after a control of bags and delivery of water bottles. Drinks inside the gym for visitors were only granted after you have demanded for.

We started the event with detailed presentations on the planned extension of this measure, as well as opinions of Czech Competent Ministries. Thereafter, selected participants were permitted to deliver their comments (Czech surrounding communities, the Austrian environment minister and a representative of the Austrian Ministry of the Environment, a representative of the Saxon Ministry of the Environment and a representative of the Bavarian Ministry of the Environment).

A statement of foreign neighboring authorities was not provided in this section of the event. Even after repeated requests by you at the Czech organizers we were given as representatives of the district Wunsiedel no special right to speak. An argument with the

opinion of the district Wunsiedel was only possible with a "queue behind the microphone," together with the representatives of political parties, associations and individuals. At this point, once again a big thank you for letting me "jump the queue".

The event was abandoned by us about 17.15 o'clock. Over the course of the hearing and the date of termination, therefore I cannot comment.

Mit freundlichen Grüßen

Kati Sellnow Landratsamt Wunsiedel i. Fichtelgebirge

Tel.: 09232/80-0

25. Brigitte Artmann

I could not participate. My questions were not cleared. These three days in Ceske Budejovice took me around 500 Euros. Czech people did not have to stay 3 days for nothing. Not participating with me were millions of persons who simply did not know, they were asked to participate in EIA Temelin 3+4 in Germany, Czech Republic, Austria, Slovakia, Poland and the rest of Europe as Aarhus 3(9), Espoo 2(6) and EIA Directive 85/337/EC, art. 7(5) – the §§s of public participating – do guarantee to us all.

To repeat in short:

- 1. Meetings in Passau (and Vienna) were not explicitly part of EIA or Espoo procedure. References of sources that back that up included.
- 2. People from Germany and Austria could not participate in Temelin hearing 3+4 in Ceske Budejovice in Czech Republic. Names and addresses included.

Thank you very much for your efforts.

Kind regards,
Brigitte Artmann

I have asked the German Party "The Pirates" why nobody of them was on Temelin Hearing in Ceske Budejovice. The explanation "why not" is exactly the reason, why so many people in Germany could not participate in Czech Republic and why a Hearing in Germany is necessary. I sent this answer to EU Commission too.

Ben Stöcker,

Political Managing Director, District Association Bamberg, Pirate Party Germany.

Telefon: 0175 58 42 640

Jabber: einfachben@jabber.ccc.de

The 22/06/2012 was a Friday. Probably most of the pirates did have to work. Of course you could take for such an appointment as well some free days, but one would have to pay also for the trip and accommodation. Since both holidays and money are in short supply, their use must be balanced. Had the presence of a member of the Pirate Party changed the course?

My answer was: Yes, at 3:00 the following Saturday morning – that was the time I left the hearing - every single person would have changed something!
