

Annex 2 translation (Ref. ACCC/C/2012/71)

1. Please provide to the Committee English translation of Annexes 2, 4 and 8 of your communication, as well as of those annexes that are correspondence and that you consider necessary for the Committee to review (the working language is English). If you are not in a position to provide an English translation of all annexes that are currently in German, please provide a translation of excerpts that are crucial for the Committee's consideration.

www.reaktorsicherheit.bayern.de

Expert report on the procedure of transboundary EIA for the extension of the Czech NPP Temelin - another two blocks (blocks 3 + 4)

and

Public hearing date of the Ministry of Environment of Czech Republic as part of the Environmental Impact Assessment (EIA) for the "new nuclear power plant in Temelin, including the derivation of generator power in the substation with switchgear Kocin" on 2012/06/22 in Ceske Budejovice

1. Publication of the expert report

For the project "New nuclear power plant in Temelin, including derivation of generator power in the substation with switchgear Kocin", the Ministry of Environment of Czech Republic did send the EIA report of this project in the framework of cross-border environmental impact assessment to the Bavarian State Ministry of Environment and Health (StMUG).

The StMUG has sent the report on EIA for the planned construction of two additional nuclear power units at the site of Temelin to the border district offices (Cham, Freyung-Grafenau, Hof, Neustadt an der Waldnaab, Passau, Regen, Schwandorf, Tirschenreuth, Wunsiedel) and cities (Hof, Passau and Weiden in der Oberpfalz).

The following documents

- report on the project "New nuclear power plant in Temelin, including derivation of the generator power in the substation with switchgear Kocin"
- this notice of StMUG

will be available for public in internet by StMUG from 2012/05/07 until 2012/06/18 and will be available in the department during the usual office hours. Also the above mentioned district offices and municipalities, will make these documents available for public simultaneously for inspection during normal business hours.

Citizens and institutions in Bavaria is opened the possibility up to 2012/06/18 to inspect the documentation and statements and to send submissions in German language to the Czech Ministry of Environment.

The address of the Czech Ministry of Environment is:

Ministerstvo životního prostředí
100 00 Praha 10 - Vršovice
Vršovická 65
Czech Republic

2. Public hearing date for new NPP 3 and 4 in Ceske Budejovice

The Ministry of Environment of the Czech Republic has fixed a date for the formal public hearing as part of the Environmental Impact Assessment (EIA) for the "new nuclear power plant in Temelin, including the derivation of the generator power in the substation with switchgear Kocin".

Date: 2012/06/22, beginning at 10:00
Location Sportovní hala (gymnasium), Stromovka 695/12
37001 Ceske Budejovice, Czech Republic

The hearing will be used to discuss the issues and concerns of the public about the planned construction of the Temelin nuclear power plants 3 and 4. Invited to this event is also the interested German public. For the participants from Germany translation into German is available. Registration is not yet provided. The organization of travel and accommodation is in the responsibility of participants.

We do explain this public participation as follows:

The currently procedure is a cross-border public participation as the States Parties to the Espoo Convention have committed. According to the Espoo Convention concerned citizens as well as the Czech public do have to have an opportunity to participate. According to the Czech law also here the period of 30 days is granted period. Bavaria had asked the Czech Ministry of the Environment for an extension of another 30 days. The Czech Ministry of Environment has granted to an extension of time up to 2012/06/18.

The EIA procedure is not performed in accordance with German law, but according to the Czech law. In particular, the regulations of the German regulation on the procedure for licensing of plants under § 7 of the Atomic Energy Act (Nuclear Licensing Procedure Ordinance - AtVfV) are not applicable to this proceedings. Furthermore, the other in German administrative proceedings and litigation opened legal options are not applicable.

Publication of the informal discussion meeting of the Czech government on the planned construction of the Temelin nuclear power plants 3 and 4 in Passau on 2012/06/12.

The Czech government has offered the German Government an informal discussion event in Germany on the planned construction of the Temelin nuclear power plants 3 and 4. The Bavarian State Ministry for Environment and Health (StMUG) rejects the planned construction of the Temelin nuclear power stations 3 and 4. Nevertheless, it supports the organization and execution of this event in order to ensure the best possible information for the German citizens. The event will take place

2012/06/12 from 11:00 to 18:00 (entry at 09:00)
in Dreiländerhalle (Dr. Emil-Brichta-Straße 11, 94036 Passau).

Czech experts will discuss questions and concerns related to the subject which were sent from Germany to the Czech Ministry of Environment as part of the Environmental Impact Assessment (EIA) to Temelin 3 and 4.

To attend the event, registration is required.

At the event, all persons registered with primary residence in Germany are invited who gave a submission under the transboundary EIA for the project "New nuclear power plant in Temelin, including derivation of the generator power in the substation with switchgear Kocin" to the Czech Ministry of Environment. You can register online via link:

<http://diskussionsveranstaltung-temelin.de/feedback/>. Registration is also possible by fax (089-60 88 2355) or by mail (keyword "Temelin", PO Box 1212, 85503 Riemerling). Please add your name, surname and address. Registration provides not a legal right to attend the event. Once all the seats are occupied, for safety reasons, access can no longer be granted

Registration deadline is Friday 2012/06/08, 18:00.

Please have with you for admission control a valid identity card or passport and note the safety instructions for the event. It is carried out a security check. This may be associated with waiting periods. It is therefore requested to be on site in time.

Accreditation to the press:

Media representatives may apply for accreditation via the following link:

<http://diskussionsveranstaltung-temelin.de/presse/>

Parking and entrance for press are assigned locally. Please keep press card ready.

Audio and video recordings are not permitted during the event.

Explanation:

The event in Passau on 2012/06/12 is not the formal hearing date in the EIA that the StMUG and the Bavarian Parliament had demanded and which was rejected by the Czech government. This formal hearing date is according to communication of the Czech Ministry of Environment held on 2012/06/22 in Ceske Budejovice. The details of this event will be announced separately.

Safety

Pyrotechnic articles, notably fireworks or smoke candles, all kinds of weapons and other dangerous objects, glass containers, cans, spirits, alcoholic beverages, or other objects that may interfere the performance or the safety of other visitors, are prohibited. The same applies for promotional, commercial and political objects of all kinds, including banners, signs, symbols and leaflets. The above items may not be brought to the event site and into the hall.

Privacy Policy

The Bavarian State Ministry for Environment and Health organized the registration for the event. We take the protection of your personal data very seriously and adhere strictly to the rules of the German data protection laws.

Your information will be collected and stored only as necessary for the planning and

execution of this event scope. The information of any personal data will be deleted after a period of four weeks after the event!
In no case will the data be sold, marketed, or otherwise transferred to third parties!

Annex 4 translation (Ref. ACCC/C/2012/71)

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Translation Annex 4

Excerpts of minutes of joint meeting District Committee and Committee of Environment and Agriculture District Office of Wunsiedel 2011/09/26

Decision No. 402 and 18/public session

Members each committee 13, present 13 respectively 12

The proposed resolution was adopted in each committee by unanimous vote

**Temelin resolution addressed to German Government and Bavarian State Government:
application of The GREENS**

At the suggestion of Landrat Karl Doehler the members of District Committee and Committee of Environment and Agriculture conclude following resolution:

The two existing nuclear reactors at NPP Temelin 1 +2 endanger the public of the district Wunsiedel. They are a threat to the health and property of our citizens. Would the planned expansion of Temelin by two more reactors 3 +4 become reality, this risk would increase significantly.

The district of Wunsiedel i Fichtelgebirge appeals to the German Government and to the Bavarian government

- to demand submission period of 6 instead of 3 weeks in the current EIA process Temelin 3 +4.
- to demand from the Czech government compliance with all international standards under Aarhus Convention and Espoo Convention in the current EIA process of the proposed expansion of the Temelin units 3 and 4.
- to demand an official hearing date for the citizens of Bavaria in the current EIA process in accordance with applicable European law as Aarhus Convention Article 3 (9) and Espoo Convention Article 2 (6) in a city in Bavaria easy to reach for Bavarian public.
- to encourage the competent Bavarian / German authorities to offer the Czech authorities extensive assistance in the organization and execution of an adequate hearing.
- to use all legal options to prevent by legal action the construction of additional reactors at NPP Temelin.

Justification:

Many citizens of the district Wunsiedel i Fichtelgebirge have participated in the transboundary EIA procedure 2010 of the planned expansion of the nuclear power plant Temelin Units 3 and 4. In August 2010, the objection period was also extended from 3 to 6 weeks. The scheduled hearing date for Germans who want to participate is - allegedly contrary to previous commitments - now

not planned and carried out in Germany, but in the Czech Republic in Czech language alone. This makes it difficult for many Bavarian citizens to present their submissions and to participate. Many people already have announced to go to the possible hearing in Ceske Budejovice. As international regulations do not provide any restrictions, the Bavarian Government and the German Government should use all legal options against the planned construction of Units 3 and 4 at Temelin comprehensively. Financing the damage of a Temelin "SuperGAU" (worst case scenario) would have to be done by the European community. Czech Republic could not finance it alone. One can mathematically demonstrate this based on the example of Japan. But Japan has no close neighbors. The effects of Chernobyl still target the district of Wunsiedel. There is no doubt about it that each country is responsible for its energy supplies, and nuclear plants are plants with which money is earned. Those states who want to build nuclear power plants must be able to cover economically the residual risk in the neighboring European countries. Europe cannot afford a second "nuclear Greece" in Europe. Damage to the property of the inhabitants of the district of Wunsiedel i Fichtelgebirge must be fully covered in case of damage by a nuclear liability. It is necessary to consider in what way "legal options" (country / Bilateral / EU) can be filled with substance.

Result of the vote: The proposed resolution is accepted with 13:0 respectively 12-0 votes.

For correctness
Wunsiedel 2012/03/01
District Office
Signed
Karl Doehler

Excerpts of minutes of meeting District Committee District Office of Wunsiedel 2012/02/27

Decision No. 468/public session
Members 13, of which 11 attended
Voting is unanimous

Temelin resolution addressed to German Government, Bavarian State Government and the European Commission: application of The GREENS

After explanation of Council member Brigitte Artmann the members of the District Committee adopted on proposal of Landrat Karl Doehler following resolution:

"The already in 2011/09/26 formulated and adopted resolution will be amended by application of 2012/02/14 inclusive the attached text of the laws, and sent again to the previous recipients of German Government and Bavarian Government, but in addition it will also be forwarded to the European Union. In addition, the support of the Bavarian District Councils will be sought. "

Result of the vote: The decision is made by 11-0 votes.

For correctness
Wunsiedel 2012/03/01
District Office
Signed

Karl Doehler

BUENDNIS 90/ THE GREENS
District Councillor Wunsiedel
Brigitte Artmann

Marktredwitz 2012/04/12

Dear Landrat,

In view of the plans to expand the NPP Temelin with two new units the district councils members of BUENDNIS 90/The Greens presented on 2011/09/08 the in a separate annex attached resolution. The resolution was adopted unanimously at the joint meeting of District Committee and Committee of Environment and Agriculture on 2011/09/26. Chancellor Merkel and Czech Prime Minister Necas have decided not to carry out a hearing date in Germany, but only a set of non-binding "presentation dates". To support this proposal, we do ask for the right to speak in the District Committee. Attached please find a letter of Mr. Prime Minister Necas, in which the Czech government officicer, Mr. Bartuska, spoke of "Temelin discussions" (in case of the Passau event). Legally binding participation in an ongoing EU EIA process is something else.

The district council members of BUENDNIS 90/The GREENS submit the following proposal for the next meeting of District Committee:

The District Committee may decide: the Temelin Resolution of 2011/09/26, this application and attached laws will be forwarded once again to Ms. Merkel, Mr. Prime Minister Seehofer and - new - to EU Commission . In EU Commission to the competent authorities for cross-border nuclear regulation process and to the relevant authorities for implementation of Aarhus Convention and EU law. Support of the Bavarian District Councils will be asked for.

Justification

A representation event cannot replace a legally binding hearing! Also German citizens have the right of a legally binding hearing in a city in Bavaria easily accessible by public transport in the current EIA process Temelin 3 +4 within the Aarhus Convention Article 3 (9) and the Espoo Convention, Article 2 (6) and the EIA (EIA) Directive 85/337/EC, art 7 (5) . (1)

Over the German EIA Law is European law. And over European law stand international treaties. Especially where the EU is party to these international treaties, it is the European Commission that has to guard over their implementation. But also European law prescribes that German citizens have the right on equal access to the public participation procedures in transboundary EIA procedures. (1)

Czech Republic has already lost an infringement procedure against the European Commission. Therefore, the European Commission has to be asked to guard European law in the current EIA process Temelin 3 +4 in Germany. (1)

The legally binding hearing date for Germans is in Ceske Budejovice in Czech Republic in Czech language- may be with translation. This makes it difficult for Bavarian citizens to present their questions and submissions. They have to face an unreasonably long journey from Bavaria. Many people from different countries are expected. Also Austrian, Polish and Slovakian people have to

participate there. For this reason many people have already announced the Environment Ministry in Prague to come by bus in order to avoid the expected chaos. In the current Polish nuclear program, there have been 60,000 submissions from Germany, so you can imagine how many people may travel from Germany to Ceske Budejovice. European and international law demands equal treatment and non-discrimination for all European citizens and so, a legally-binding hearing date in Bavaria must be offered. (1)

Attached (1) EU legal text for extensive public participation and for hearings in Germany in transboundary procedures:

Text Jan Haverkamp Greenpeace.org

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 Germans have the right on equivalent access to the public participation procedures in transboundary EIA procedures.

Here's the law:

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 **and 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 **as to enable the public concerned in the territory of the affected Member State to participate effectively in the environmental decision-making procedures** referred to in Article 2(2) for the project.

For questions please do contact:

*| Jan Haverkamp
| Greenpeace nuclear energy campaigner
| expert on energy issues in Central Europe |
| tel.: +420 242 482 286
| mobile CZ: +420 603 569 243
| mobile PL: +48 534 236 502
| mobile NL: +31 621 334 619
| e-mail: jan.haverkamp@greenpeace.org
| GREENPEACE
| <http://www.greenpeace.org>*

You can't sink a rainbow

Annex 8 translation (Ref. ACCC/C/2012/71)

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<http://www.bayern.landtag.de/cps/rde/papp/Vorgangsmappe/www/servlet/Vorgangsmappe?wp=16&typ=V&drsnr=11864&intranet=#pagemode=bookmarks>

Bavarian Parliament
16th Legislature printed matter 16/11864
14.03.2012
Priority application

Members of Parliament **Margarete Bause, Dr. Martin Runge, Ulrike Gote, Claudia Stamm, Eike Hallitzky, Thomas Mütze, Renate Ackermann, Dr. Sepp Dürr, Thomas Gehring, Ludwig Hartmann, Christine Kamm, Dr. Christian Magerl, Anne Franke, Maria Scharfenberg, Theresa Schopper, Adi Sprinkart, Christine Stahl, Susanna Tausendfreund, Simone Tolle und Fraktion (BÜNDNIS 90/DIE GRÜNEN)**

EU Commission should get involved against Temelin expansion

The Parliament may decide:

The State Government is called upon to formally lodge an appeal with the EU Commission against the planned action of Czech Government of EIA Temelin 3+4.

Justification:

The Czech government has apparently decided only to conduct a meaningless information event in the ongoing EIA process for German citizens in Germany, and to deal with the formal submissions only in a public hearing in Czech Republic. Czech Republic violates international law, in particular Aarhus Convention (Article 3, 9), Espoo Convention (Art 2, 6) and EIA Directive 85/337/EC. Given transboundary risk of these reactors, especially to the people of eastern Bavaria, Bavaria cannot accept the Czech Republic's violating international and European law.

Printed matter as well as the agendas of plenary proceedings of the Assembly and its Committees is available online at www.bayern.landtag.de - *documentes*
Current session overview is www.bayern.landtag.de - *actual/meetings*

Yes 59 votes, no 81 votes, abstentions none.
The urgent application 16/11864 was rejected

Question 2 (Ref. ACCC/C/2012/71)

2. Please provide details on the information event organized in Passau, Germany

Passau event was an informal discussion. Persons who wanted to participate in Passau had to register, had to have sent submission first to be allowed to participate, had to have their primary residence in Germany. Passau event has not been formal hearing date under Espoo.

www.reaktorsicherheit.bayern.de

Publication of the informal discussion meeting of the Czech government on the planned construction of the Temelin nuclear power plants 3 and 4 in Passau on 2012/06/12.

The Czech government has offered the German Government an informal discussion event in Germany on the planned construction of the Temelin nuclear power plants 3 and 4. The Bavarian State Ministry for Environment and Health (StMUG) rejects the planned construction of the Temelin nuclear power stations 3 and 4. Nevertheless, it supports the organization and execution of this event in order to ensure the best possible information for the German citizens. The event will take place

2012/06/12 from 11:00 to 18:00 (entry at 09:00)
in Dreiländerhalle (Dr. Emil-Brichta-Straße 11, 94036 Passau).

Czech experts will discuss questions and concerns related to the subject which were sent from Germany to the Czech Ministry of Environment as part of the Environmental Impact Assessment (EIA) to Temelin 3 and 4.

To attend the event, registration is required.

At the event, all persons registered with primary residence in Germany are invited who gave a submission under the transboundary EIA for the project "New nuclear power plant in Temelin, including derivation of the generator power in the substation with switchgear Kocin" to the Czech Ministry of Environment. You can register online via link:

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Explanation:

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I have furthermore asked Bavarian Environment Ministry for an English version of the publicizing of Passau event and Ceske Budejovice Hearing. Mr. Michael Henzler is Government Director of Bavarian Environment Ministry. Here are the relevant answers in English:

From: Michael.Henzler@stmug.bayern.de

Sent: Thursday, August 30, 2012 6:43 PM

To: brigitte.artmann@gruene-fichtelgebirge.de

Subject: AW: Bitte um Begutachtung. Englische Übersetzung Bekanntmachungen Temelin

Sehr geehrte Frau Artmannn,
(...)

We do not have an English translation of our publicizing and we do not intend to create one. It was meant for the German public. You may, however, make a translation of your own of our publicizing and of our letters.

One must differentiate to legal remedies:

The event on 12/06/2012 in Passau was not the formal public hearing in Bavaria as

requested by the Bavarian State Government, but according to the offer of the Czech side a voluntary purely informal discussion event. In such a purely informal event, there are none options to call the courts as existing in a formal public EIA hearing.

The public hearing on 22/06/2012 in Ceske Budejovice was the formal public hearing under the EIA procedure, as is required by EU law. It is performed under Czech law, there are those remedies provided existing under Czech law. The remedies available under Czech law must not remain behind the requirements of EU law.

Remedies under German law are ruled out, because it is a Czech procedure.

For your further information I am sending you the following links to Federal Government information on transboundary public participation (Bundestag printed paper 17/9832) and No. 343 for the right to a public hearing in Germany.

Mit freundlichen Grüßen

Henzler
Regierungsdirektor

<http://dipbt.bundestag.de/dip21/btd/17/098/1709832.pdf>

http://www.bundestag.de/presse/hib/2012_07/2012_343/03.html

Question 3 (Ref. ACCC/C/2012/71)

3. Please clarify in what capacity you are submitting the communication: as a physical person, as a Government representative, or as a representative of an NGO or other non-governmental entity?

I submit this communication as a physical person.

Question 4 (Ref. ACCC/C/2012/71)

4. Have you exhausted all available domestic remedies? Why do you think that it is not possible to file a complaint before the Courts, if your rights have been violated?

1.Environment Ministry of Bavaria told me I do not have domestic remedies at all. It is not possible to file a complaint before German courts, because EIA Temelin 3+4 is carried out under Czech Law.

The EIA procedure is not performed in accordance with German law, but according to the Czech law. In particular, the regulations of the German regulation on the procedure for licensing of plants under § 7 of the Atomic Energy Act (Nuclear Licensing Procedure Ordinance - AtVfV) are not applicable to this proceedings. Furthermore, the other in German administrative proceedings and litigation opened legal options are not applicable.

(1)

2. I have asked Bavarian Environment Ministry, Mr. Henzler, whether I am able to call Czech courts.

What possibility is given in Czech law could only tell a lawyer used to Czech Law. Up to Czech authorities Czech Law do not allow an official hearing in Germany. (2)

3.I have asked Bavarian Environment Ministry whether I do have a chance to complain because of hearing in Ceske Budejovice.

One must differentiate to legal remedies:

The event on 12/06/2012 in Passau was not the formal public hearing in Bavaria as requested by the Bavarian State Government, but according to the offer of the Czech side a voluntary purely informal discussion event. In such a purely informal event, there are none options to call the courts as existing in a formal public EIA hearing.

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Remedies under German law are ruled out, because it is a Czech procedure.(3)

4.Federal Government told me, I do not have the right to get a hearing under Espoo in Germany.

Federal Government: No right for hearing in Germany in EIA Temelin 3 + 4

Umwelt/Antwort - 18.07.2012

Berlin: (hib/AS) **There is no right for a hearing in Germany for the German public in EIA planning process of the Czech nuclear power plant Temelin 3 +4 is the opinion of the Federal Government. The government says in a reply (17/10269) to an inquiry of Buendnis 90/The Greens (17/10049). Such an obligation could not be derived from the "principle of an equivalent public participation", says the federal government. (4)**

Czech people can call their own courts in their own country in their own language and without wasting so much money as I have to do just to find out that I will not have a chance to call Czech courts in case of hearing date in Germany. Aarhus 3(9), Espoo 2(6) and UVP Directive 85/337/EC, art. 7(5) are clearly violated by EIA Temelin 3+4.

(1)

www.reaktorsicherheit.bayern.de

Expert report on the procedure of transboundary EIA for the extension of the Czech NPP Temelin - another two blocks (blocks 3 + 4)

and

Public hearing date of the Ministry of Environment of Czech Republic as part of the Environmental Impact Assessment (EIA) for the "new nuclear power plant in Temelin, including the derivation of generator power in the substation with switchgear Kocin" on 2012/06/22 in Ceske Budejovice

1. Publication of the expert report

For the project "New nuclear power plant in Temelin, including derivation of generator power in the substation with switchgear Kocin", the Ministry of Environment of Czech Republic did send the EIA report of this project in the framework of cross-border environmental impact assessment to the Bavarian State Ministry of Environment and Health (StMUG).

The StMUG has sent the report on EIA for the planned construction of two additional nuclear power units at the site of Temelin to the border district offices (Cham, Freyung-Grafenau, Hof, Neustadt an der Waldnaab, Passau, Regen, Schwandorf, Tirschenreuth, Wunsiedel) and cities (Hof, Passau and Weiden in der Oberpfalz).

The following documents

- report on the project "New nuclear power plant in Temelin, including derivation of the generator power in the substation with switchgear Kocin"
- this notice of StMUG

will be available for public in internet by StMUG from 2012/05/07 until 2012/06/18 and will be available in the department during the usual office hours. Also the above mentioned

district offices and municipalities, will make these documents available for public simultaneously for inspection during normal business hours.

Citizens and institutions in Bavaria is opened the possibility up to 2012/06/18 to inspect the documentation and statements and to send submissions in German language to the Czech Ministry of Environment.

The address of the Czech Ministry of Environment is:

Ministerstvo životního prostředí
100 00 Praha 10 - Vršovice
Vršovická 65
Czech Republic

2. Public hearing date for new NPP 3 and 4 in Ceske Budejovice

The Ministry of Environment of the Czech Republic has fixed a date for the formal public hearing as part of the Environmental Impact Assessment (EIA) for the "new nuclear power plant in Temelin, including the derivation of the generator power in the substation with switchgear Kocin".

Date: 2012/06/22, beginning at 10:00
Location Sportovní hala (gymnasium), Stromovka 695/12
37001 Ceske Budejovice, Czech Republic

The hearing will be used to discuss the issues and concerns of the public about the planned construction of the Temelin nuclear power plants 3 and 4. Invited to this event is also the interested German public. For the participants from Germany translation into German is available. Registration is not yet provided. The organization of travel and accommodation is in the responsibility of participants.

We do explain this public participation as follows:

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The EIA procedure is not performed in accordance with German law, but according to the Czech law. In particular, the regulations of the German regulation on the procedure for licensing of plants under § 7 of the Atomic Energy Act (Nuclear Licensing Procedure Ordinance - AtVfV) are not applicable to this proceedings. Furthermore, the other in German administrative proceedings and litigation opened legal options are not applicable.

(2)

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Subject: AW: Bitte um Begutachtung. Englische Übersetzung Bekanntmachungen Temelin

Sehr geehrte Frau Artmann,

(...)

Welche Klagemöglichkeiten nach tschechischem Recht bestehen, kann nur ein im tschechischen Recht kundiger Jurist beurteilen. Nach Auffassung der tschechischen Behörde lässt das tschechische Recht keinen Erörterungstermin in Deutschland zu.

What possibility is given in Czech law could only tell a lawyer used to Czech Law. Up to Czech authorities Czech Law do not allow an official hearing in Germany.

Die Zahl der Einwendungen aus Deutschland schätzen wir auf etwa 30.000. Was die Beantwortung der offenen Fragen aus dem Erörterungstermin anbelangt und hinsichtlich der genauen Zahl der Einwendungen aus Deutschland müssen wir wohl das angekündigte Protokoll und die Abschlussentscheidung im UVP-Verfahren abwarten.

Mit freundlichen Grüßen
Henzler
Regierungsdirektor

(3)

From: Michael.Henzler@stmug.bayern.de
Sent: Thursday, August 30, 2012 6:43 PM
To: brigitte.artmann@gruene-fichtelgebirge.de
Subject: AW: Bitte um Begutachtung. Englische Übersetzung Bekanntmachungen Temelin

Sehr geehrte Frau Artmannn,

(...)

We do not have an English translation of our publicizing and we do not intend to create one. It was meant for the German public. You may, however, make a translation of your own of our publicizing and of our letters.

One must differentiate to legal remedies:

The event on 12/06/2012 in Passau was not the formal public hearing in Bavaria as requested by the Bavarian State Government, but according to the offer of the Czech side

a voluntary purely informal discussion event. In such a purely informal event, there are none options to call the courts as existing in a formal public EIA hearing.

The public hearing on 22/06/2012 in Ceske Budejovice was the formal public hearing under the EIA procedure, as is required by EU law. It is performed under Czech law, there are those remedies provided existing under Czech law. The remedies available under Czech law must not remain behind the requirements of EU law.

Remedies under German law are ruled out, because it is a Czech procedure.

For your further information I am sending you the following links to Federal Government information on transboundary public participation (Bundestag printed paper 17/9832) and No. 343 for the right to a public hearing in Germany.

Mit freundlichen Grüßen

Henzler
Regierungsdirektor

<http://dipbt.bundestag.de/dip21/btd/17/098/1709832.pdf>
http://www.bundestag.de/presse/hib/2012_07/2012_343/03.html

(4)

http://www.bundestag.de/presse/hib/2012_07/2012_343/03.html

Federal Government: No right for hearing in Germany in EIA Temelin 3 + 4

Umwelt/Antwort - 18.07.2012

Berlin: (hib/AS) **There is no right for a hearing in Germany for the German public in EIA planning process of the Czech nuclear power plant Temelin 3 +4 is the opinion of the Federal Government. The government says in a reply (17/10269) to an inquiry of Buendnis 90/The Greens (17/10049). Such an obligation could not be derived from the "principle of an equivalent public participation", says the federal government.** At the same time the Federal Government points out Czech authorities produced a report in German in accordance with the Espoo and Aarhus Convention which provide for projects with significant environmental effects the participation of the neighboring country. This was available until 7th May 2012 in Bavaria and Saxony. Public participation of the German public took place up to 18th June the Bavarian and Saxon authorities had demanded and got an extension of time for submissions. On June 22 a public hearing took place in Ceske Budejovice in Czech Republic with German interpretation according to the Government. In autumn the German-Czech Commission for information on issues of common interest related to nuclear safety and radiation protection (DTK) will meet again.

Question 5 (Ref. ACCC/C/2012/71)

5. Please provide evidence to the Committee that "you were told by the Government, there is no possibility to call the courts" (p.2 of your communication).

1. Bavarian Government told me: "The EIA procedure is not performed in accordance with German law, but according to the Czech law. In particular, the regulations of the German regulation on the procedure for licensing of plants under § 7 of the Atomic Energy Act (Nuclear Licensing Procedure Ordinance - AtVfV) are not applicable to this proceedings. Furthermore, the other in German administrative proceedings and litigation opened legal options are not applicable".
-

Document:

www.reaktorsicherheit.bayern.de

Expert report on the procedure of transboundary EIA for the extension of the Czech NPP Temelin - another two blocks (blocks 3 + 4)

and

Public hearing date of the Ministry of Environment of Czech Republic as part of the Environmental Impact Assessment (EIA) for the "new nuclear power plant in Temelin, including the derivation of generator power in the substation with switchgear Kocin" on 2012/06/22 in Ceske Budejovice

1. Publication of the expert report

For the project "New nuclear power plant in Temelin, including derivation of generator power in the substation with switchgear Kocin", the Ministry of Environment of Czech Republic did send the EIA report of this project in the framework of cross-border environmental impact assessment to the Bavarian State Ministry of Environment and Health (StMUG).

The StMUG has sent the report on EIA for the planned construction of two additional nuclear power units at the site of Temelin to the border district offices (Cham, Freyung-Grafenau, Hof, Neustadt an der Waldnaab, Passau, Regen, Schwandorf, Tirschenreuth, Wunsiedel) and cities (Hof, Passau and Weiden in der Oberpfalz).

The following documents

- report on the project "New nuclear power plant in Temelin, including derivation of the generator power in the substation with switchgear Kocin"
- this notice of StMUG

will be available for public in internet by StMUG from 2012/05/07 until 2012/06/18 and will be available in the department during the usual office hours. Also the above mentioned district offices and municipalities, will make these documents available for public

simultaneously for inspection during normal business hours.

Citizens and institutions in Bavaria is opened the possibility up to 2012/06/18 to inspect the documentation and statements and to send submissions in German language to the Czech Ministry of Environment.

The address of the Czech Ministry of Environment is:

Ministerstvo životního prostředí
100 00 Praha 10 - Vršovice
Vršovická 65
Czech Republic

2. Public hearing date for new NPP 3 and 4 in Ceske Budejovice

The Ministry of Environment of the Czech Republic has fixed a date for the formal public hearing as part of the Environmental Impact Assessment (EIA) for the "new nuclear power plant in Temelin, including the derivation of the generator power in the substation with switchgear Kocin".

Date: 2012/06/22, beginning at 10:00
Location Sportovní hala (gymnasium), Stromovka 695/12
37001 Ceske Budejovice, Czech Republic

The hearing will be used to discuss the issues and concerns of the public about the planned construction of the Temelin nuclear power plants 3 and 4. Invited to this event is also the interested German public. For the participants from Germany translation into German is available. Registration is not yet provided. The organization of travel and accommodation is in the responsibility of participants.

We do explain this public participation as follows:

The currently procedure is a cross-border public participation as the States Parties to the Espoo Convention have committed. According to the Espoo Convention concerned citizens as well as the Czech public do have to have an opportunity to participate. According to the Czech law also here the period of 30 days is granted period. Bavaria had asked the Czech Ministry of the Environment for an extension of another 30 days. The Czech Ministry of Environment has granted to an extension of time up to 2012/06/18.

The EIA procedure is not performed in accordance with German law, but according to the Czech law. In particular, the regulations of the German regulation on the procedure for licensing of plants under § 7 of the Atomic Energy Act (Nuclear Licensing Procedure Ordinance - AtVfV) are not applicable to this proceedings. Furthermore, the other in German administrative proceedings and litigation opened legal options are not applicable.

2. German Government told me: "There is no right for a hearing in Germany for the German public in EIA planning process of the Czech nuclear power plant Temelin 3 +4 is the opinion of the Federal Government".
-

Document:

http://www.bundestag.de/presse/hib/2012_07/2012_343/03.html

Federal Government: No right for hearing in Germany in EIA Temelin 3 + 4

Umwelt/Antwort - 18.07.2012

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-
3. Bavarian Government told me: "The public hearing on 22/06/2012 in Ceske Budejovice was the formal public hearing under the EIA procedure, as is required by EU law. It is performed under Czech law, there are those remedies provided existing under Czech law. The remedies available under Czech law must not remain behind the requirements of EU law.

Remedies under German law are ruled out, because it is a Czech procedure".

From: Michael.Henzler@stmug.bayern.de

Sent: Thursday, August 30, 2012 6:43 PM

To: brigitte.artmann@gruene-fichtelgebirge.de

Subject: AW: Bitte um Begutachtung. Englische Übersetzung Bekanntmachungen Temelin

Sehr geehrte Frau Artmann,

(...)

We do not have an English translation of our publicizing and we do not intend to create one. It was meant for the German public. You may, however, make a translation of your own of our publicizing and of our letters.

One must differentiate to legal remedies:

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Mit freundlichen Grüßen

Henzler
Regierungsdirektor

<http://dipbt.bundestag.de/dip21/btd/17/098/1709832.pdf>

http://www.bundestag.de/presse/hib/2012_07/2012_343/03.html

-
4. Bavarian Government told me: "What possibility is given in Czech law could only tell a lawyer used to Czech Law. Up to Czech authorities Czech Law do not allow an official hearing (meant is one under Espoo) in Germany".

From: Michael.Henzler@stmug.bayern.de

Sent: Thursday, August 30, 2012 6:43 PM

To: brigitte.artmann@gruene-fichtelgebirge.de

Subject: AW: Bitte um Begutachtung. Englische Übersetzung Bekanntmachungen Temelin

Sehr geehrte Frau Artmann,

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Die Zahl der Einwendungen aus Deutschland schätzen wir auf etwa 30.000. Was die Beantwortung der offenen Fragen aus dem Erörterungstermin anbelangt und hinsichtlich der genauen Zahl der Einwendungen aus Deutschland müssen wir wohl das angekündigte Protokoll und die Abschlussentscheidung im UVP-Verfahren abwarten.

Mit freundlichen Grüßen
Henzler
Regierungsdirektor

I have communicated with an expert of Czech law. I understood that the law Nr. 436/2009 has in the part of legal protection in EIA-process in § 23 of law added a new subparagraph 10 but with no suspensory effect to the process. That non-compatibility of Czech law with EIA law still exists, because it is only possible to make a complaint because of breaching the EIA process in a lawsuit against subsequent procedure, equal whether for substantive or process-legal reasons. Only exhaustively defined subjects have complaint-legitimization by a special provision. According to the current legal regulation can therefore be stated that the Czech legal regulation of the EIA process is still not fully compatible with the EIA Directive and therefore it is necessary to appeal to a direct effect of the directive.

Even if Czech people could depend on a reliable law protecting their rights in EIA process, it would discriminate me as a German. Because Czech people would be able to call their own courts in their own country in their own language and without wasting so much money and time as I have to do, just to find out, whether I am allowed to call Czech courts or not. But it looks like Czech physical persons also do not have their full rights. What chance do I have to complain before a Czech court and demand a hearing date in Germany? To call a German court is clearly ruled out. EIA Temelin 3+4 clearly violates Aarhus 3(9), Espoo 2(6) and UVP Directive 85/337/EC, art. 7(5).

I have complained before EU Commission after hearing date 22-06-2012 in Ceske Budejovice because I could not participate during the 17 hours I was there from 10 o'clock in the morning until 3:30 the following morning. I even had to demand to allow drinking water in the hall of the hearing. We had to leave drinking water completely out on a hot summers day. No decision of EU Commission until today. Complaint attached.
