

Comments Artmann in document - 02-02-2013

MINISTRY OF THE ENVIRONMENT

Reply to the Committee for the Implementation of the Aarhus Convention regarding a complaint concerning public participation in decisions on the Temelín Nuclear Power Plant Project.

Ref. ACCC/C/2012/71

1) Please provide detailed information on the decision-making process for the Temelín Nuclear Power Plant project. Please also specify: at what phase is the project at the present time? Have the final building and operating permits been issued?

In the Czech Republic, the decision-making process for the project in question has a number of phases:

- a) The EIA process: this is the first procedural step and all subsequent permit proceedings are subject thereto. After the completion of all stages (screening or scoping, EIA documentation, transboundary consultation, EIA expert report, public hearing), the EIA process ends with the release of an EIA statement by the Ministry of the Environment. Under Czech Act No. 100/2001 Coll., on environmental impact assessment (the EIA Act), this statement acts as a professional basis for the issue of follow-up decisions. It is therefore neither a decision nor a permit, but an expert opinion laying a foundation for subsequent administrative proceedings. No decisions or measures relating to the implementation of the project may be taken without this EIA statement, while measures to minimize the project's impact on the environment arising from the EIA statement, or reasons why specific measures were not taken into consideration, or only partially taken into account must be contained in the statement.*
- b) The zoning permit procedure: is the next procedure in accordance with Building Act No. 183/2006 Coll., which ends with the issue of a zoning permit by the Ministry of Regional Development. A zoning permit is a document that specifies the parameters of the project, which are essential for its location in the site in question. The zoning permit always takes account of the EIA opinion, its legal part therefore takes into consideration those measures to minimise the project's impact on the environment that derive from the EIA statement.*
- c) The building permit procedure: is the final procedure under Building Act No. 183/2006 Coll., which is based both on the EIA statement and on the planning permit. It ends with the issue of a building permit, which also contains measures to minimise the project's impacts on the environment arising from the EIA opinion and the planning permit and specifies all the parameters of the future constructions. It is issued by the Ministry of Industry and Trade and, within the meaning of the European legislation it is usually the last from the row of decision that need to be obtained in order to carry out the project (the so-called development consent).*

d) *The key independent documents issued for a nuclear facility are the licence for the siting of a nuclear installation and the licence for the construction of a nuclear installation. Both these licences are issued independently of the proceedings referred to above, in accordance with Atomic Act No. 18/1997 Coll., by the State Office for Nuclear Safety (Státní úřad pro jadernou bezpečnost), which is the authority responsible for nuclear supervision in the Czech Republic, and it is established practice that licences for the siting of a nuclear installation are issued prior to the issue of a planning permit and licences for the construction of a nuclear installation are issued prior to the issue of a building permit.*

The decision-making process of the project in question is currently at the stage of the EIA process, before issuing the final EIA statement. It follows from the above that no decision or permit has yet been issued in relation to the project in question.

Artmann: EIA Temelin 3,4 public participating was closed on 21-01-2013. The final statement/report was published in Czech language.

http://portal.cenia.cz/eiasea/detail/EIA_MZP230

The reactor typ will be chosen at the end of ...when? It will be Westinghouse or Atomstoj/Rosatom, Areva reactor is shit, I read. All out of public participating.

Found on Website of BMU. Short translation into English: Transboundary EIA Temelin 3,4 was closed on 21-01-2013. 40.000 submissions. All was done well, there are no problems at all. <http://www.bmu.de/themen/atomenergie-strahlenschutz/atomenergie-sicherheit/internationales/uvpsup/uvp-verfahrenstemelin/>

2) Does any agreement exist between the Czech Republic and Germany (and possibly other neighbouring states) under the Espoo Convention with regard to the Temelín NPP project?

The Czech Republic has not concluded a bilateral agreement, pursuant to the Espoo Convention, with the Federal Republic of Germany. In accordance with the Espoo Convention, the Federal Republic of Germany is involved in all stages of the transboundary EIA process for the project in question, including transboundary consultations, which it requested through the intermediary of the Free State of Bavaria. Transboundary consultations took place in June 2011. Transboundary consultations also took place with the Republic of Austria in January and June 2011.

However, in the area of nuclear energy, the Czech Republic has signed a Czech-German cooperation agreement on nuclear safety, which contains expert solutions to current issues and developments in the area of nuclear energy and nuclear safety. This agreement also covers the exchange of information in relation to the preparations for the construction of the Temelín NPP. The Czech Republic has also concluded a similar agreement with Austria.

Artmann: Since the year of 2000 the welding case 1-4-5 (file and working paper 15/2001/SUJB) is known to the public and was handed over to former EU Commissioner Guenther Verheugen by Jan Haverkamp, Greenpeace, in the hope for help and is known to all relevant bodies from Praha to Bonn/Berlin to Brussels and IAEO in Vienna. There never were investigations to take care for public safety. The

welding case inspector of SUJB, Ms.Ing. Jana Kroupová, communicates until today this welding will not stand stress.

Greenpeace documentation welding case 1-4-5 Temelin unit 1

http://gruene-fichtelgebirge.de/uploads/media/The_Risks_of_Skoda_Greenpeace.pdf

The experts who confirmed Jan Haverkamp that his witness was reliable were:

Prof. Dr. Wolfgang Kromp, former head of Institute for Risk Analysis of the BOKU University in Vienna;

Lothar Hahn, former head of GRS Germany,

Norbert Mayer, welding expert Greifswald, Germany.

Ms. Sylvia Kotting-Uhl, Member of German Parliament, asked German BMU in 2012 about this case and BMU answered: nothing known. On the welding hearing on 18-10-2012 in Landratsamt of Wunsiedel, Germany, I got offered an investigation of vessel and weldings of Temelin unit 1 in 2014 by Ms. Dana Drábová, head of SUJB Czech Republic. This investigation has to be done with BMU or another nuclear safety office. But to my surprise BMU refused with the argumentation the existing files were enough for the expert of GRS to decide, that this welding is safe. The expert made his decision in German/Czech Commission (DTK) on 12-11-2012 in Berlin. I had demanded to be with this case on the agenda. That happened, but I and my experts were refused to be there. I asked Mr. Altmeier for the protocol referring to Aarhus 4 and public safety interest.. Mr. Altmeier is still refusing to give the protocol to me. We definitely know, these welding files 15/2001/SUJB are not complete and are a working paper because two signatures are missing. Ministerialdirigent a.D. Dieter Majer, the former head of the technical part of nuclear safety office in BMU, who was with me when I got the investigation offer, told me, these files and working papers have to be investigated. If they are not complete, this reactor never should have got permission. It was Ms. Kotting-Uhl who submitted the existing files to BMU after translation into German language. Dieter Majer told me the expert in DTK either has files that were not given to me by BMU or he is missing experience. BMU told me, if we would get information of the spoken words in DTK BMU will not be able to follow and guard the extension and building of Temelin units 3 and 4. The German Economy Minister Philip Roesler is planning to give German export credit guarantee for German companies to build Temelin 3,4. The German public safety interests are not to build Temelin. 40.000 submissions document this interest.

An Ines 7 case of unit 1, because of welding case 1-4-5 will not stand stress, is relevant for the two new units 3 and 4 and is therefore relevant for EIA Temelin 3,4. I do have submitted these questions to MZP but I don't know the decision of the expert because the final EIA report is in Czech language.

What BMU and MZP talk about in their bilateral meetings when BMU did know nothing about welding case 1-4-5 for 12 long years until 2012 is another question.

Documents – except of protocol DTK – can be submitted to ACCC if necessary.

3) How, in your opinion, do you comply with Article 3, paragraph 9 of the Convention, in terms of the participation of the German public in decision-making on the Temelín NPP project?

As has already been mentioned above, the decision-making process for the project in question is currently at the phase of the EIA process, before the issue of a final EIA statement. As has also been described in detail under section 4, the Czech Republic has so far taken all necessary steps to comply with Article 3 paragraph 9 of the Aarhus Convention. Natural and legal persons in the Federal Republic of Germany have received the same attention as natural and legal persons in the Czech Republic. As can be seen in section 4, the additional steps taken by the Czech Republic meant that the German public, civic associations and municipalities were given more than ample opportunity to participate.

Artmann: As described under 1 natural and legal persons in Germany have received no attention at all because the EIA public participating is closed, the final EIA statement was published in Czech language and as described, the public could not participate.

Landratsamt Wunsiedel and city of Passau, the only two German municipals present at the hearing, were not accepted in the block of municipals. Only Czech municipals were accepted there.

4) Please provide evidence, if available, that you have provided the public in areas that might be affected by the Temelín NPP project with sufficient opportunities to participate in the decision-making process for the project in question.

Given that project preparation is currently at the stage of the EIA process, the documents listed below show that all the individual steps of this process have been followed, in accordance with the Czech Act on EIA, EIA directives and international treaties. These documents are aimed at Austria and Germany, from where we have received the majority of the almost 70,000 public comments. They are:

- a) Letters that were sent with the EIA documentation for publication and for comment to Germany and Austria on 29.6.2010.*
- b) Letters extending the deadline for Germany and Austria to comment on the EIA documentation to 30.9.2010. It follows from the above that the standard period of 30 days allowed for comment was extended by more than 30 days longer than provided for in the Act on EIA.*
- c) Letters sending the EIA expert report for publication and for comment to Germany and Austria on 19.3.2012.*
- d) Letters extending the standard 30 day deadline for Germany and Austria to comment on the EIA expert report by 10 days, to 18.6.2012, and 28.5.2012 respectively.*
- e) An invitation to a public hearing, which was sent to the authorities of the Czech Republic and all countries affected for publication on 14.5.2012, in other words over a month before it was held. The public hearing took place on 22.6.2012.*

- f) *Letters to organise a public discussions in Germany and Austria in addition to the EIA process. This was a completely voluntary activity undertaken by the Czech Republic to ensure the transparency of project preparations for the general public in Germany and Austria, because neither the Czech Act on EIA nor international treaties and directives include any obligation to organise this type of event.*

If necessary, we can also provide Slovak and Polish versions of those letters listed under paragraphs a) to d). However the public in these countries has not expressed any interest in information concerning the project and we have therefore only received comments from the relevant government authorities of these states.

Artmann: As I was informed, the public in Poland and Slovakia was possibly not informed at all. Jan Haverkamp, Greenpeace has more information about this unbelievable situation. The German situation was already explained.

Were the opportunities provided to the public in affected areas in the Czech Republic the same as the opportunities provided to the public in affected areas in neighbouring countries, such as Germany, for example?

Yes, they were. As is described below in section 5, the general public in the affected states was able to comment on the documentation for the EIA process, translated into their official languages.

As far as the deadlines for comment were concerned, the Czech Act on EIA is designed to allow a longer period for comment by the general public from affected states than for comments by the general public of the Czech Republic in cases where the affected state requests an extended period. This possibility was used in the present EIA process and the affected states therefore had a longer period in which to comment on the EIA documentation and on the EIA expert report than the period allowed for comments in the Czech Republic.

All comments received from affected states regarding the EIA documentation and the EIA expert report (their authorities, municipalities, NGOs and the general public), were translated and handed over to the author of the EIA expert report to be dealt with the EIA expert report, or the EIA statement. The author of the EIA expert report dealt with all these comments in the same way as with comments received from the Czech Republic.

As far as the invitation to the public hearing is concerned, this was sent out to citizens of the Czech Republic and the general public in affected states on the same day and sufficiently in advance in order to ensure broad public participation.

The public hearing was held on 22 June 2012 in České Budějovice in the Czech Republic. The location in the regional capital was selected on the basis of its easy accessibility by road, its parking capacity and the fact that the venue was large enough to reflect the importance of the project. The town of České Budějovice was also selected as a site close to the project, close to the state border with Germany (approximately 80 km) and the state border with Austria (approximately 40 km). The public hearing took place in the České Budějovice Sports Centre with the capacity of 2,500 people. It started at 10 a.m. and finished at 3:15 a.m. on the following day, 23 June 2012, after 17 hours, when no further questions had been raised by the general public. Translation into German and Polish was provided during the entire period, as

had been stated in the invitation. Despite all this, only around 250 people attended the public hearing.

Over and above the EIA process, public discussions were also organised for the German and Austrian public in their own countries. These events were held outside the on-going EIA process, but with the participation of experts involved in preparing documents for the EIA process. Interpreters were also present for the whole duration of these events. On 30 May 2012 a public discussion was held in Austria, where the Austrian side selected the City of Vienna for the meeting in the Aula der Wissenschaften, with a capacity of around 600 people. On 12 June 2012 a public hearing was held in Germany, where the German side selected the town of Passau for the meeting in the Drei-Länder-Halle, with a capacity of around 3,500 people. Despite all these facts and the great interest that had been expressed by the general public, only around 80 people attended the public discussions in both countries.

We can therefore describe the opportunities offered to the general public in affected areas of the Czech Republic as the same as those opportunities offered to the general public in affected areas of Austria and Germany.

Artmann: Czech participants got not the same period to participate as German? They were clearly discriminated.

Nearly 4 hours for 280 km is not easy to reach by road. It was impossible to reach and go home by train on one day. From Marktredwitz to Ceske Budejovice on a Friday (like hearing date Friday) it took over 10 hours. From Hamburg, also a possible affected area by air and by river Elbe, it took 15 hours. Public participating started at 15:30 as his Excellence the German Ambassador documented in his protocol (could be forwarded, if requested by ACCC). The person had to leave at 20:00 o'clock to go home travelling the next 10 to 15 hours.

Marktredwitz Departure	Do, 31.01.13 ab 21:13	10:46 Hours	2 VBG, OS, R
Ceske Budejovice Arrival	Fr, 01.02.13 an 07:59		
Approximately 80,00 EUR			
Ceske Budejovice Departure	Fr, 01.02.13 ab 20:01	10:51 Hours	2 R, OS, DPN
Marktredwitz Arrival	Sa, 02.02.13 an 06:52		
Approximately 80,00 EUR			
Hamburg Hbf Departure	Do, 07.02.13 ab 16:29	15:26 Hours	2 IC, EN, R
Ceske Budejovice Arrival	Fr, 08.02.13 an 07:55		
Approximately 140,00 EUR			
Ceske Budejovice Departure	Fr, 08.02.13 ab 2 0:04	14:57 Hours	2 R, EN, ICE
Hamburg Hbf Arrival	Sa, 09.02.13 an 11:01		
Approximately 140,00 EUR			

Hotel****, Singleroom, booked by a Hotel Portal: between 50,00 EUR and 80,00 EUR

Travel costs inclusive two accommodations per person

Marktredwitz: **260,00 EUR up to ?**

Hamburg: **380,00 EUR up to ?**

Any questions why there were not more German participants?
Besides this, public in Hamburg and most of Germany was not informed.

Documented by cameras and micro, around 3:00 o'clock Saturday morning, my last statement for EIA hearing protocol was: "I am tired. I go. I want to make sure, I could not participate". When I left together with Jan Haverkamp, Albert Artmann and Wolfgang Müller short before 3:30 there were still persons in the hall wanting to participate.

I asked for video documentation what was rejected. May be one could found protocol in the official final report of EIA Temelin 3,4.

http://portal.cenia.cz/eiasea/detail/EIA_MZP230

I got no invitation at all. I only read an official announcement by luck.

The ladies and the gentleman of the team who translated worked admirable! The problem was what they had to translate. The words of his Excellence, the Czech Ambassador in Vienna, are not better in any language. He told us "We rule the fire and the wild animals". He talked about nuclear power. He was one of the Czech nuclear experts on the stage.

Information date in Passau was outside of the on-going EIA process, outside Espoo, outside legal remedies. Any questions why only few persons were there?

5) Is the documentation relating to decision-making on the Temelín NPP project also available in the official languages of neighbouring states (where the public may be affected by the Temelín NPP project implemented in the Czech Republic) or at least in English? Is this documentation equally available in all countries impacted by the extension of the Temelín NPP?

Yes. Particularly in relation to the German and Austrian public, the Czech Republic has taken additional steps to ensure that documents from the EIA process have been made available to the public in German language handle and in their entirety. Despite the fact that international law, by which the Czech Republic is bound, does not address the issue of mandatory translation and that the translation of selected parts of the EIA documentation may only be requested on the basis of a methodological recommendation by the Espoo Convention Secretariat, the Czech Republic has translated both the full text of the EIA documentation, including all its annexes, and the full text of the EIA expert report, including all its annexes, into German.

Both documents were provided to Slovakia in Czech, because the commonality of both languages means that Czech is sufficiently intelligible for the Slovak public. A translation of selected parts of the EIA documentation and the EIA expert report was sent to Poland, which referred to transboundary aspects that are important for the Polish people. The Polish side has found the scope of this translation to be satisfactory.

Artmann: If participants get only parts of the documents, how can they participate without discrimination?

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.

Please let me count Euros: Even if the documentation is accessible in my own language, in German. Working language of ACCC is English.

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.

If I have to complain before ACCC I have to translate files and documents of EIA process which costs me either money (one document, 2 pages DIN A 4, professional translated around 75,00 to 100,00 EUR) or time, if I translate unprofessional myself. If at least the full papers and documentation of EIA would be accessible in the language of the country affected AND in English, it would be much less discriminating.

Further: If I have to complain before courts in Czech Republic (the party concerned) I have to complain in a foreign country in a foreign language. Travelling and accommodation costs see under 4. This EIA is a legal European procedure under European and international law. Why it is not possible to complain in my own country and the decision being binding for the party concerned? Aarhus, Espoo and EU-Directive are the same law under which I have to complain.

The MZP has a lot of employees and works with public money. I myself, as public, have to play on the same level as MZP. If I am not able to, I have to use a lawyer who is an expert of Aarhus, costs around 1500 EUR. I have to finance all on my own. If I am not able to, bad luck. Sorry, I (the public) am clearly discriminated. There should be more help for the public to be able to participate and to complain.

Conclusion: Although the preparation process for the project to expand the Temelín Nuclear Power Plant is still in its initial phase, the Czech Republic is aware of the major significance that this project has for both the Czech and the international public. For this reason, all stages to date have been as open as possible in order to ensure a maximum level of transparency and public participation in the on-going process.

Artmann: Mr.Dolezal was so kind to forward the final report to me on 22-01-2013. Attached to email was Annex 5, also in Czech language. Until late yesterday evening, 01-02-2013, the report was not accessible in German language.

From: Evzen.Dolezal@mzp.cz
Sent: Tuesday, January 22, 2013 10:32 AM
To: brigitte.artmann@gruene-fichtelgebirge.de
Cc: Jaroslava.Honova@mzp.cz ; Daniel.Brix@mzp.cz
Subject: Temelin EIA Statement

Dear Mrs. Artmann,

Ministry of the Environment of the Czech Republic issued the final EIA Statement on January 18, 2013.

In response to this fact you will find the public hearing protocol and the final EIA Statement on http://portal.cenia.cz/eiasea/detail/EIA_MZP230

Answers to your questions from the public hearing are the part of the annex No. 5 of the EIA Statement. For completeness you can find this annex No. 5 also bellow.

With best regards

Mgr. Evžen Doležal
department of environmental impact assessment
unit of transboundary EIA
Ministry of the Environment of the Czech Republic
Phone: +420 267 122 733
E-mail: evzen.dolezal@mzp.cz
Address: Vršovická 1442/65, 100 10 Praha 10
Web: <http://www.mzp.cz>

Brigitte Artmann
Kreisrätin/Kreisvorsitzende
BÜNDNIS 90/DIE GRÜNEN
KV Wunsiedel
Am Frauenholz 22
95615 Marktredwitz/Germany
Tel +49 923162821
Mobil +49 1785542868
brigitte.artmann@gruene-fichtelgebirge.de
www.gruene-fichtelgebirge.de