



EUROPEAN COMMISSION

DIRECTORATE-GENERAL

ENVIRONMENT

Directorate A - Legal Affairs and Cohesion

ENV.A.1 - Enforcement, infringements coordination and legal issues

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Dear Ms. Artmann,

I thank you for your letter of 10 January 2013 concerning the construction of incineration plant in Cheb, Czech Republic, registered by the Commission under CHAP(2013)00189. In relation to your concern on transboundary environmental impact assessment, I would like to provide you with the following information.

The role of the Commission is to make sure that all relevant EU legislation is respected. It is to be noted that the EIA Directive (Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment¹) has been brought in line with the Convention on Environmental Impact Assessment in a Transboundary Context (the Espoo Convention) and with the Convention on Access to Information, Public Participation in decision-making and Access to Justice in Environmental Matters (the Aarhus Convention). Accordingly, Member States shall ensure that projects which are likely to have significant effects on the environment are made subject to an assessment with regard to their effects before the projects are approved and consult the public in this respect.

Pursuant to Annex I of the EIA Directive, waste disposal installations for the incineration or chemical treatment of non-hazardous waste with a capacity exceeding 100 tons per day are subject to mandatory EIA assessment. With regards to the project of your concern in Cheb, Czech Republic, the incineration plant seems to be planned of capacity 20.000 tons per year and therefore does not qualify as project covered by Annex I of the EIA Directive. For this reason, a full EIA assessment is not required by the EU law.

In the framework of the ESPOO Convention (Convention on Environmental Impact Assessment in a Transboundary Context), it is to be noted that pursuant to Article 2(3) of the Convention, environmental impact assessment is required for proposed activities and projects listed in Appendix I, which are likely to cause a significant adverse transboundary impact. To this end, waste-disposal installation for the incineration of non-

¹ OJ L 26, 28.1.2012, p. 1-21

hazardous waste with a capacity of 20,000 tons per year (which is the capacity of the project in Cheb, Czech Republic) does not seem to qualify under point 10(b) of Appendix I of the ESPOO Convention. For this reason, a transboundary assessment is not obligatory under the Convention.

Nevertheless, based on publicly available information, the screening procedure was finalized on 19 December 2012 with a statement that the project will be assessed with respect to its impacts on the environment. You can access relevant information on the following link (in Czech): http://portal.cenia.cz/eiasea/detail/EIA_KVK458

Pursuant to Article 7 of the EIA Directive and the ESPOO Convention, an assessment of transboundary impacts on the environment is required either because the party of origin (Czech Republic) identifies that the project is likely to have significant effects on the environment in another Member State or where a Member State (Germany) considers to be significantly affected and so requests. However, neither the Czech Republic nor Germany has identified significant transboundary impacts on the environment as regards the incineration plant in Cheb. Therefore, to this end, I would like to invite you to address your concern to the respective national authorities either in Germany to consider a request for consultations with the Czech Republic or contact directly the Czech authorities.

Based on publicly available information and based on information provided in your letter, it is not possible to establish a breach of EU law, as no evidence of a breach of the requirements of EU and international legislation has been produced. For these reasons, we will be closing the file CHAP(2013)00189. However, if you have some other information related to this issue, we should be most grateful to receive it at your earliest convenience and at any rate within four weeks of this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ion CODESCU', written over a horizontal line.

Ion CODESCU

Head of Unit