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To

Mr Balint Dobi
Ministry of Agriculture
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The Environmental Authority in Baranya County
Mr. Tibor Schwarz, head of unit
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The German Environmental Ministry
Ms Martina Palm
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The Bavarian Environmental Ministry
Mr Hans Heierth
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The European Commission Department for Legal Affairs
Mr Paul Speight
Paul.Speight@ec.europa.eu;
Mr Ion Codescu
ion.codescu@ec.europa.eu;

Marktredwitz, 19 May 2015

Subject: Equal conditions for Hungarian and German public concerned in Environmental Impact Assessment PAKS II

Dear Mr Dobi, dear Mr Schwarz,
Dear Ms Palm, dear Mr Heierth,
Dear Mr Speight, dear Mr Codescu from European Commission,

I'm a founding-member of Nuclear Transparency Watch. We're interested in transparency in nuclear issues. But here, I write to you as a German local councilor and as a member of the German public concerned. May be because I've asked several times to be informed when the Environmental Impact Assessment PAKS II procedure will be open, I was personally informed by the Bavarian STMUV via an e-mail on 6 May 2015, two weeks after the submission period started on 23 April 2015. But until today, almost 80.5 million other persons from the German public concerned don't know anything about the Environmental Impact Assessment procedure because in Germany an active non-discriminating way of information is missing. That's the reason why in Germany no one from Germany participated in Environmental Impact Assessment Mochovce in 2010. Passive information only on a website isn't enough as already concluded in the legal expertise "Environmental Impact Assessment Temelin" from Dr. Michael Zschiesche, lawyer from UfU Berlin¹. It's necessary to make sure that there are equal conditions in the Environmental Impact Assessment PAKS II for the Hungarian and the German public concerned.

The 30 day deadline from 23 April to 22 May 2015 provided by the Bavarian Environmental Ministry to the affected public in Germany² for commenting the Hungarian Paks II Nuclear Power Plant's Environmental Impact Assessment documentation is

- a) unreasonably short and
- b) contrary to international law

According to the Espoo Convention on Environmental Impact Assessment in a Transboundary Context, Art. 5

The Parties shall agree, at the commencement of such consultations, on a reasonable time-frame for the duration of the consultation period. Any such consultations may be conducted through an appropriate joint body, where one exists.

¹ <http://www.gruene-fraktion-bayern.de/themen/energie/atomenergie/temelin-oeffentlichkeitsbeteiligung-mit-schweren-maengeln>

² <http://www.stmuv.bayern.de/umwelt/reaktorsicherheit/paks/index.htm>

According to the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters, Art. 6

The public participation procedures shall include reasonable time-frames for the different phases, allowing sufficient time for informing the public in accordance with paragraph 2 above and for the public to prepare and participate effectively during the environmental decision-making.

The Aarhus Convention Compliance Committee has decided in a case against Lithuania under No. ACCC/C/2006/16 that

69. The requirement to provide “reasonable time frames” implies that the public should have sufficient time to get acquainted with the documentation and to submit comments taking into account, inter alia, the nature, complexity and size of the proposed activity. A time frame which may be reasonable for a small simple project with only local impact may well not be reasonable in case of a major complex project.

70. The time frame of only 10 working days, set out in the Lithuanian EIA Law, for getting acquainted with the documentation, including EIA report, and for preparing to participate in the decision-making process concerning a major landfill, does not meet the requirement of reasonable time frames in article 6, paragraph 3. This finding is not negated by the fact that the fixed period of 10 working days is commonly approved by Lithuanian legislation and that until now, according to the Party concerned, no one has questioned such period as being unreasonable.

Also the afore mentioned Espoo Convention Art. 2, par. 6, states that

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.

Therefore the public participation opportunities provided to the German public have to be equivalent to the ones provided by the Hungarian public.

According to the prevailing Hungarian legislation, Government Decree 314 of 2005 (25 of December), Art. 8 par. 3, the Hungarian public has to be informed by a public notice published by the competent regional environmental authority on the commencement of the environmental impact assessment procedure. This public notice has to include various data including the availability of the environmental impact assessment documentation. The public notice has to be accessible for the public for at least 30 days.

According to Art. 9 par. 7 of the said Hungarian Government Decree, a public hearing has to be held in an environmental impact assessment case and the announcement of the public hearing has to precede the actual session of the hearing with at least 30 days. Art. 9 par. 8 of this Decree states that the public can submit comments to the procedure at least until the date of the public hearing to the competent regional environmental authority.

Combining all these information and the prevailing international and Hungarian domestic legislation, we are convinced that the public participation opportunities to be provided to the public in Germany have to be equivalent to the ones provided to the public in Hungary. In light of this, the respective deadline for the German public for submitting its comments to the environmental impact assessment documentation should be the date of the public hearing to be held in Germany on the matter. Given that this date is unknown today we urge the responsible Ministry of Agriculture and the other responsible authorities to ensure that the German public will be informed in an active way when this date will be and to be able to provide its comments in the foregoing procedure until at least the day the hearing in Germany will take place.

Kind regards,

Brigitte Artmann