

No.: 3266/2019 in file No. 49-2019

D E C I S I O N No. 139/2019 P

Chairperson of the Nuclear Regulatory Authority of the Slovak Republic (hereinafter referred to as the “Authority“) as a second-instance authority pursuant to Section 61 par. 2 of Act No. 71/1967 Coll. on the administrative procedure (the Administrative Procedure Code) as amended (the “Administrative Procedure Code“) in accordance with the provisions of Section 61 par. 3 and pursuant to Section 59 par. 2 of the Administrative Procedure Code

D i s m i s s e s

the appeal against the Authority’s Decision No. 298/2018 of 29 October 2018

filed by Dr. Reinhard Uhrig on behalf of the Global 2000 (Friends of the Earth Austria), Neustiftgasse 36, A-1070, Wien (the “Global 2000“),

by letter of 16 November 2018, received by the Authority on 16 November 2018 by electronic mail, and subsequently on 10 December 2018 in writing and registered as No. 7876/2018,

a n d c o n f i r m s

the Decision of the Authority No. 298/2018 of 29 October 2018 (No. 6875/2018),

by which the Authority, as the competent administrative body, pursuant to Section 5 and Section 46 of the Administrative Procedure Code, and pursuant to Section 4 par. 1 (d) having regard to Section 8 par. 3 of Act No. 541/2004 Coll. on the peaceful uses of nuclear energy (the Atomic Act), and on amendments to certain laws as amended (hereinafter only as the “Atomic Act“) issued an authorization for Slovenské elektrárne, a. s., BIC: 358 29 052, with its registered office in Bratislava, Mlynské Nivy 47, 821 09 Bratislava 2, with the place of business - plant of Units 3&4 Mochovce NPP, 935 39 Mochovce, incorporated in the Commercial Register of the District Court Bratislava 1, record No.: Sa 2904/B, for the commissioning of the nuclear installation pursuant to Section 5 par. 3 (b) of the Atomic Act in the scope of handling and storage of fresh nuclear fuel in a fresh fuel node, and a permit pursuant to Section 121 par. 2 (e) of the Act No. 50/1976 Coll. on land use planning and building regulations (the Building Act) as amended (hereinafter the “Building Act“) for an early use of the building, the Nuclear Power Plant Mochovce WWER 4x440 MW, Project 3, SO 800/1-02 Reactor Building II, Main Generating Block, Room No. 407 Storage of Fresh Fuel.

Justification:

1. On 16 November 2018 the Authority received by electronic mail an appeal from the party to the proceedings, Global 2000, referred to as “Appeal to Decision 298/2018“, sent as a scanned letter by email from patricia.lorenz@global2000.at and signed by Dr. Reihard Uhrig, Director of Friends of the Earth Austria.

2. In view of the fact that Section 19 par. 1 of the Administrative Procedure Code imposes an obligation to complement the electronic form of filing without qualified electronic signature within three working days in a written form, the Authority contacted Global 2000 by a letter asking to complete its submission also in paper form and then on 10 December 2018 Global 2000 delivered the paper form registered under record number 7876/2018.

3. The appeal therefore was not delivered to the Authority according to the prescribed legislative procedure within the time limit pursuant to Section 61 par. 1 of the Administrative Procedure Code. Despite the late submission of the appeal, the Authority examined it and pursuant to Section 57 par. 2 of the Administrative Procedure Code was submitted together with the file on 17 December 2018 by the first instance body to the Chairperson of the Authority for decision pursuant to Section 61 par. 2 of the Administrative Procedure Code. The file is registered under proceedings number 49-2019 (originally 2383-2018).

4. The Chairperson of the Authority designated a special commission to assess the entire administrative procedure, which led to the first instance decision and also to assess the appeal lodged by Global 2000. At its meeting held on 6 February 2019 the special commission assessed all aspects of the first instance proceeding and also the appeal and recommended the Chairperson of the Authority not to issue second instance decision, but to close this procedure by a letter.

5. After examining the dossier, the special commission found that Global 2000 filed an appeal against the Decision, which it delivered by electronic means to the Authority on 16 November 2018, since this electronic filing was not completed by the party within three working days in writing (paper form delivered on 10 December 2018) according to provisions of Section 19 par. 1 of the Administrative Procedure Code, or electronically authorized under a special regulation on the electronic form of performing public authority, or confirmed orally in the Minutes, such submission cannot be considered as a submission pursuant to Section 53 of the Administrative Procedure Code. In view of the above, and of the fact that other than Global 2000 no other party filed an appeal against the first instance Decision, upon expiration of the time limit the Decision came into force. Strict requirement to comply with the formal requirements for completing the electronic submission by written submission or submission with secured electronic signature, as required by Section 19 par. 1 of the Administrative Procedure Code from a foreign non-governmental organization could be considered a disproportionate barrier to the right of public participation in decision-making on defined activities and in the right to access to justice under Articles 6 and 9 of the Convention on Access

to Information, Public Participation in Decision-making and Access to Justice in environmental matters (the “Aarhus Convention“) (Notification of the Ministry of Foreign Affairs of SR No. 43/2006 Coll.). The Aarhus Convention is, according to the resolution of the National Council of the Slovak Republic No. 1840 of 23 September 2005, an international treaty under Article 7 par. 5 of the Constitution of the Slovak Republic, which takes precedence over the laws. This precedence over the laws allows for the non-application of the administrative and formal, disproportionately restrictive provisions of national law (Section 19 par. 1 of the Administrative Procedure Code) in favour of preserving the rights arising from the international treaty with precedence over the laws.

6. Although the submission did not comply with the requirements under Section 19 par. 1 of the Administrative Procedure Code, the Special Commission discussed, pursuant to Section 60 of the Act on Administrative Procedure the submission filed by Global 2000 and found that it did not contain any facts that could lead the Chairperson of the Authority to proceed under Section 65 par. 1 of the Administrative Procedure Code and on its own initiative examined the final decision outside the appeal proceedings.

7. The Special Commission did not detect any substantive or procedural violations of generally binding legislation when assessing the supporting documentation. The party to the proceedings does not indicate any new facts in the appeal that would affect the substantive and procedural assessment of the first instance decision, which would fundamentally alter the substance of the decision, on which the consideration and the decision-making of the first instance authority was based on.

8. As already stated in another part of this Decision, by strict application of the procedure solely under the national law on administrative procedure regarding formal deficiency in the lodged appeal, the party may have suffered more damage to its rights. The Chairperson of the Authority therefore considered it appropriate that the first instance administrative body called with a letter of 30 November 2018 the party, Global 2000, to complete its electronic submission with an official paper form submission. This procedure on one hand implemented Section 3 par. 2 of the Administrative Procedure Code, which includes among the basic rules for the proceeding, a principle that “Administrative authorities are required to act in the proceeding in close cooperation with the parties, interested parties and other persons concerned, and always give them the opportunity to effectively defend their rights and interests, in particular to comment on the substance of the decision, and put forward their proposals. Administrative authorities must provide assistance and guidance to the parties, interested parties and other persons concerned in order not to be prejudiced in the proceedings for lack of knowledge of the law.“.

In particular, however, the rights of the public provided for in Article 6 par. 3 and 7 of the Aarhus Convention are implemented through this procedure: “3) Public participation processes shall include a reasonable timeframe for each phase that provides sufficient time for informing the public in accordance with paragraph 2, and for the public to be prepared and effectively involved in the decision-making process regarding the environment.“ and “7) The methods of public participation shall enable the public to submit any comments, information,

analyses or opinions it considers important in relation to the proposed activity in writing or where appropriate, in a public hearing or review with the applicant“, and last but not least also Article 9 par. 1, the last sentence “Each Party shall ensure, within the framework of national law, that any person who considers that his/her request for information pursuant to Article 4 has not been taken into account, has been unjustifiably rejected, whether partially or totally, inappropriately answered or has not been handled as it should be, in accordance with the provisions of that Article, had access to the review process before a court or other independent and impartial body established by law. In those cases, where the Party allows such remedies before a court, it shall ensure that such person also has access to fast-track procedure established by law, free of charge or at a low fee, to a new hearing before a public authority or to a review before an independent and impartial body other than a court.“ Aarhus Convention, and also Article 9 par. 3 and 5 Aarhus Convention “3) In addition, without prejudice to the review procedures referred to in paragraphs 1 and 2, each Party shall ensure that if the conditions laid down in its national law are met, if any, that the members of the public have access to administrative or judicial proceedings to challenge acts and omissions of private persons and public authorities, which are in breach of its national law in the field of the environment“, and “5) With a view of enhancing the effectiveness of the provisions of this Article, each Party shall ensure that the public is informed of the approach to the administrative and judicial review and consider setting up appropriate support mechanisms to eliminate or reduce financial and other barriers to access to justice.“.

9. In order to protect the abovementioned rights arising from a multilateral treaty with the right of precedence, the Chairperson has decided not to endorse the conclusions of the special commission and not to apply provision of Section 19 par. 1 of the Administrative Procedure Code, has acted as a second instance body and reviewed the lodged appeal, as well as the conduct of the proceedings and the conclusions of the first instance body in substance. If the opposite interpretation was to be accepted, the party GLOBAL 2000 solely by acting of the administrative body regarding its failure to comply with the formal requirement of the appeal that was lodged, would be short of the possibility of a potential review of the lawfulness of the administrative decision by the court, since the time period for initiating a proceeding at the court would have lapsed.

10. The above considerations, as well as the experience of the two proceedings before the Aarhus Convention Compliance Committee (2009/41/Slovakia and 2013/89/Slovakia), led the Chairperson of the Authority to look at the submissions made by GLOBAL 2000 as filed properly and in a timely manner.

11. Due to the fact that it is a foreign party, the Chairperson of the Authority did not agree with the opinion of the special commission, and as a second instance administrative body examined the entire case file and the contested decision of the administrative body of the first instance in its entirety, the subject of which was not only the legality and the objective correctness of the first instance decision, but also the lawfulness of the first instance administrative procedure. The Chairperson of the Authority has assessed both the factual and legal aspects of the case.

12. However, no new facts emerged when examining the first instance decision, nor the party itself, Global 2000, in its appeal did not state any new facts or new evidence that would alter the factual situation identified by the first instance administrative body. The Chairperson of the Authority checked not only whether the first instance administrative body had correctly established the facts, but also whether it had applied the applicable substantive rules. During the review, no legal or factual deficiencies were found in the Decision of the administrative authority of the first instance, and in the decision-making the administrative body proceeded in accordance with the administrative procedure and duly ascertained the facts of the case.

13. The first instance Decision of the Authority No. 298/2018 of 29 October 2018 (record No. 6875/2018) together with the Authority's Decision No. 277/2018 of 29 October 2018 (record No. 6874/2018) were also supported by another party to the proceedings, the municipality of Nemčiňany by letter of 25 January 2019 No. 313/2018, represented by Mayor, Jozef Keseg, who proposed to dismiss the appeal by Global 2000 and confirm the first instance Decision. The municipality of Nemčiňany considers the appeal of Global 2000 as an attempt to stop and block a major investment in the region. The municipality of Nemčiňany stresses that nuclear energy has an irreplaceable position in the energy mix of Slovakia and is the largest low-carbon source of electricity generation. It allows Slovakia to progressively reduce the share of fossil fuel use that has negative environmental impacts not only on the climate, but also on the health and lives of the citizens.

14. Reasons for dismissal of the appeal lodged by the party to the proceedings of 16 November 2018 against the first instance decision and confirmation of that first instance Decision of the Authority No. 298/2018 of 29 October 2018 (record No. 6875/2018), are as follows:

15. ÚJD SR, on the basis of application dated 12 December 2016, ref. SE/2016/077759, registered at the Authority under reg. No. 7604/2016, file No. 3720-2016, initiated an administrative proceeding on 12 December 2016 concerning the application filed by Slovenske elektrárne (the "SE, a.s.") for:

- Authorization for the commissioning of the nuclear installation in the scope of handling and storage of fresh nuclear fuel in the fresh fuel node, m. No. A407 pursuant to Section 5 par. (3) (b) of the Atomic Act (the "Administrative proceeding No. 1.2"),
- Permit for an early use of the structure MO3&4 pursuant to Section 83 of the Building Act and pursuant to Section 5 par. (3) (b) and Section 19 par. (3) of the Atomic Act, part of the structure in the scope of handling and storage of fresh nuclear fuel in the fresh fuel node (the "Administrative proceeding No. 1.3").

16. SE, a.s., in its letter No. SE/2016/077759 dated 12 December 2016, in addition to an authorization for commissioning of a nuclear installation in the scope of handling and storage of fresh nuclear fuel in the fresh fuel node, m. No. A407 pursuant to Section 5 par. (3) (b) of the Atomic Act and permit for an early use of the structure MO3&4 pursuant to Section 83 of the Building Act and pursuant to Section 5 par. (3) (b) and Section 19 par. (3) of the Atomic

Act, part of the structure in the scope of handling and storage of fresh nuclear fuel in the fresh fuel node, which are subject of this Decision, applied for other authorizations:

- a) Authorization for the management of nuclear materials in the nuclear installation, Nuclear Power Plant Mochovce, project 3 (the “MO3&4“), in the scope of handling and storage of fresh nuclear fuel in the fresh fuel node, m. No. A407 pursuant to Section 5 par. (3) (g) of the Atomic Act (the “Administrative proceeding No. 1.1“),
- b) Authorization for the management of radioactive waste and spent nuclear fuel pursuant to Section 5 par. (3) (f) of the Atomic Act in the scope of objects and facilities for operation of Unit 3, and in the scope of objects and facilities common for Units 3&4 serving for operation of Unit 3, including the fresh fuel node (the “Administrative proceeding No. 2.1“),
- c) Authorization for the commissioning of the nuclear installation pursuant to Section 5 par. (3) (b) of the Atomic Act in the scope of objects and facilities for operation of Unit 3, and in the scope of objects and facilities common for Units 3&4 serving for operation of Unit 3 (the “Administrative proceeding No. 2.2“),
- d) Permit for an early use of the structure pursuant to Section 83 of the Building Act and pursuant to Section 5 par. (3) (b) of the Atomic Act and Section 19 par. (3) of the Atomic Act in the scope of objects and facilities for operation of Unit 3, and in the scope of objects and facilities common for Units 3&4 serving for operation of Unit 3 (the “Administrative proceeding No. 2.3“),
- e) Authorization for the management of radioactive waste and spent nuclear fuel pursuant to Section 5 par. (3) (f) of the Atomic Act in the scope of objects and facilities for operation of Unit 4, and in the scope of objects and facilities common for Units 3&4 serving for operation of Unit 4 (the “Administrative proceeding No. 3.1“),
- f) Authorization for the commissioning of the nuclear installation pursuant to Section 5 par. (3) (b) of the Atomic Act in the scope of objects and facilities for operation of Unit 4, and in the scope of objects and facilities common for Units 3&4 serving for operation of Unit 4 (the “Administrative proceeding No. 3.2“),
- g) Permit for an early use of the structure pursuant to Section 83 of the Building Act, and pursuant to Section 5 par. (3) (b) of the Atomic Act a Section 19 par. (3) of the Atomic Act in the scope of objects and facilities for operation of Unit 4, and in the scope of objects and facilities common for Units 3&4 serving for operation of Unit 4 (the “Administrative proceeding No. 3.3“).

17. The Authority informed on initiation of these administrative proceedings all the parties in writing. Issue of authorizations in the administrative proceedings Nos. 1.1, 2.1, 2.2, 2.3, 3.1, 3.2, 3.3 is not subject of this Decision.

18. Documentation of the Administrative proceedings Nos. 1.2, 1.3 and other administrative proceedings related to the application of SE, a.s., for an authorization for the

commissioning of nuclear installation MO3&4 (Administrative proceedings Nos. 1.1, 2.1, 2.2, 2.3, 3.1, 3.2 and 3.3) with removed sensitive information according to their definition in Section 3 par. (16) and (17) of the Atomic Act, was made available by the Nuclear Regulatory Authority of SR from 16 March 2017 until 30 June 2017 in the leased premises in Mochovce.

19. After reviewing the documentation submitted, the Authority concluded that the applicant must complete his filing, and interrupted the administrative proceeding Nos. 1.1, 1.2, 1.3, 2.1, 2.2, 2.3, 3.1, 3.2 and 3.3 by the Authority's Decision No. 334/2017 dated 23 August 2017. At the same time, it invited the applicant to remove, pursuant to Section 19 par. (3) of the Administrative Procedure Code, taking into account Section 3 par. (4) of the Administrative Procedure Code, the deficiencies in the filing by 15 February 2018. Deficiencies in the filing of the administrative proceedings No. 1.2 were listed in Annex 2 to the Authority's letter reg. No. 5260/2017 of 22 August 2017, and related to the submitted documentation for the administrative proceedings (Plan for the management of radioactive waste and spent nuclear fuel, including their shipment). The Authority, with its decision on interrupting administrative proceedings, has set as a condition for the continuation of the administrative proceeding No. 1.2 also removal of deficiencies in the documentation for the Administrative proceeding No. 1.1. These deficiencies were listed in Annex 1 to the Authority's letter reg. No. 5260/2017 of 22 August 2017 (Plan for the management of radioactive waste and spent nuclear fuel, including their shipment, and the Pre-operational Safety Report for MO3&4). At the same time, the Authority invited the applicant to submit the protocols on the readiness of the fresh fuel node or a document on the readiness of all the equipment of the fresh fuel node to the Authority not later than 12 months from the date of delivery of the decision on interrupting the above-mentioned administrative proceedings.

20. The deficiencies in the filing in the administrative proceeding No. 1.3 were listed in Annex 3 to the Authority's letter reg. No. 5260/2017 of 22 August 2017, and related to the requirements of the Authority to complement the evidence of fulfilment of the conditions from the ÚJD SR Decisions with specific reference to the relevant part of the documentation (in most of the cases to the Pre-operational Safety Report for MO3&4), confirming such fulfilment. The Authority, with its decision on interrupting administrative proceedings, has set as a condition for the continuation of the administrative proceeding No. 1.3 removal of deficiencies in the documentation for the administrative proceeding Nos. 1.1 and 1.2. These deficiencies were listed in Annexes 1 and 2 of the Authority's letter reg. No. 5260/2017 dated 22 August 2017 (Plan for the management of radioactive waste and spent nuclear fuel, including their shipment, and the Pre-operational Safety Report for MO3&4). At the same time, the Authority invited the applicant to complement the documentation according to Annex 4 to the Authority's letter reg. No. 5260/2017 of 22 August 2017, not later than by the deadline for issuing a decision in the Administrative Proceeding No. 1.2. The requirements for the submission of documentation for the oral hearing linked with a local survey have been set by the Authority in Annex 4 to the letter reg. No. 5260/2017 in line with the proposal of SE, a.s., which was part of the submission from 12 December 2016, and applying mutatis mutandis the provision of Section 82 of the Building Act and Section 17 of the Decree of the Ministry of Environment of SR No. 453/2000 Coll., implementing certain provisions of the Building Act. The scope of the Authority's

requirements for submission of documentation for the oral hearing linked with a local survey for an early use of the structure was determined in such a way that the documentation in question guaranteed full compliance with the requirements for nuclear safety, fire safety, safety at work and technical security already at the stage of commissioning.

21. SE, a.s., has gradually submitted documentation to the Authority with eliminated deficiencies. The Authority has continuously evaluated removal of deficiencies in the documentation. With its letter reg. No. 768/2018 of 13 February 2018 the Authority confirmed removal of deficiencies in the submission in the Pre-operational Safety Report MO3&4 and with letter reg. No. 766/2018 of 07 February 2018 confirmed removal of deficiencies in the submission in the Plan for the management of radioactive waste and spent nuclear fuel, including their shipment. With its letter reg. No. 897/2018 of 14 February 2018 the Authority confirmed removal of deficiencies in the submission in the account of fulfilling the conditions from the ÚJD SR Decisions No. 246/2008 of 14 August 2008, No. 266/2018 of 14 August 2008 and No. 267/2018 of 14 August 2008. SE, a.s., has removed the deficiencies in the documentation in question within the deadline, which was in line with the requirement contained in the decision on interruption of the administrative proceedings (i. e. earlier than 15 February 2018).

22. SE, a.s., on 22 June 2018 supplemented its filings related to application for authorizations referred to in the operative part of this Decision and the administrative proceeding No. 1.1. The Authority carried out a preliminary assessment of the additions in the filings related to the administrative proceedings No. 1.1, 1.2 and 1.3, stating that Slovenské elektrárne, a.s., by completing the submissions from 22 June 2018 fulfilled all the conditions from the Authority's Decision No. 334/2017 for the continuation in the proceedings in question.

23. Subsequently, the Authority with its letters reg. No. 4339/2018, 4531/2018 and 4526/2018 of 17 July 2018 informed all the parties that the administrative proceedings Nos. 1.1, 1.2 and 1.3 continue from 22 June 2018. The documents for the decision in administrative proceedings were published at the Authority's website as "documentation for the decision on fresh fuel node". The Authority invited the parties in writing to comment the documentation for the decision not later than by 27 August 2018. The Authority subsequently extended, at the request of one of the parties, the period for commenting the documentation forming the basis for a decision until 14 September 2018. The parties were informed about the extension of the time limit with letters reg. No. 5418/2018, 5422/2018 and 5425/2018 of 27 August 2018.

24. After completing the filing, the Authority reviewed the documentation for the administrative proceeding No. 1.2 in the following scope:

a) Identification data pursuant to Section 6 par. (1) (b) of the Atomic Act.

SE, a.s. submitted the relevant identification data required under Section 6 par. (1) (b) of the Atomic Act in the filing of 12 December 2016. The applicant in the complemented submission of 22 June 2018 confirmed that the data remain unchanged when compared to the data submitted on 12 December 2016.

- b) Description of the activity, for which authorization is requested under Section 6 par. (1) (c) of the Atomic Act.

SE, a.s. clearly defined the activity, for which he is seeking authorization. This is the operation of the fresh fuel node, in which fresh nuclear fuel is to be stored and handled. The description of activity, for which authorization is sought, was submitted by the applicant in the filing of 12 December 2016.

- c) Evidence of the integrity of the company and members of statutory body of the company pursuant to Section 6 par. (2) (a) of the Atomic Act.

SE, a.s. submitted abstracts from the Criminal Record Registry of the General Prosecutor's Office of SR for all members of the statutory body of the company and an extract from the Criminal Record of the General Prosecutor's Office of SR on the legal person Slovenské elektrárne, a.s., on 12 December 2016. All extracts were without a record. The updated extracts were submitted also in the completed filing from 22 June 2018.

- d) Extract from the Commercial Registry pursuant to Section 6 par. (2) (b) of the Atomic Act.

SE, a.s. submitted extract from the Commercial Registry of the District Court of Bratislava I as at 17 May 2018.

- e) Evidence of the functional technical equipment of the applicant for the required activity pursuant to Section 6 par. (2) (e) of the Atomic Act.

SE, a.s. submitted to the Authority documents on the preparedness of the nuclear facility for commissioning in the scope of the fresh fuel node. Subsequently the Authority carried out inspection No. 404/2018, which focused on the completeness and correctness of protocols on the functional testing of all systems related to the operation of the fresh fuel node and handling and storage of fresh nuclear fuel. Inspected programs were:

Program 3P010 – Program of testing equipment for receiving, storage and transport of fresh fuel,

Program 3P053A – Program of functional tests of radiation protection in Main Generating Unit, Unit 3,

Program 3P053C – Program of functional tests of radiation control – Electrical part, Unit 3,

Program 3P056B – Program of functional test of ventilation of the air-tight zone of Unit 3,

Program 3P056C – Program of functional tests of air supply systems for the ventilation systems of Unit 3,

Program 3P097 – Fire protection system Unit 3,

Program 3P101 – Program of tests for communication equipment and data network Unit 3,

Program 3P114 – Program FUS outlets from switchboards 6 kV and 0.4 kV for supply of energy consumers,

Program 3P160 – Program of tests for secondary switchboards LV, Unit 3.

The result of the inspection by the Authority is a statement that the fresh fuel node is operational and ready to receive fresh nuclear fuel.

- f) Evidence that SE, a.s. has permanent staff with the required expertise pursuant to Section 6 par. (2) (e) of the Atomic Act and an evidence on the number of permanent staff indicating their expertise pursuant to Section 6 par. (2) (i) of the Atomic Act.

SE, a.s. submitted analysis of the capacity of the fuel management unit with scheduled activities for operation and maintenance of equipment of EMO1&2 and MO3&4 Units and new systematization of the fuel management unit as at 1 June 2018. The result of the analysis is to demonstrate the ability of the fuel management unit to provide all activities related to the operational and maintenance of the equipment needed for the management of fresh nuclear fuel in MO3&4.

- g) Evidence on providing for the radioactive waste management including its financial coverage pursuant to Section 6 par. (2) (f) of the Atomic Act.

SE, a.s. submitted evidence on radioactive waste management including its financial coverage in the filing from 12 December 2016. The Authority has requested the addition of some data (contained in the list of deficiencies in the filing in Annex 1 to the letter reg. No. 5263/2017 from 22 August 2017). Subsequently, the applicant supplemented required data in the letter of 13 November 2017. The Authority carried out an inspection No. 230/2017, which confirmed the completeness and correctness of supplemented data. The Authority confirmed removal of deficiencies in the filing by letter reg. No. 395/2018 from 22 January 2018.

- h) Evidence on the ownership and organizational structure of SE, a.s. pursuant to Section 6 par. (2) (g) of the Atomic Act.

SE, a.s. submitted an extract from the Commercial Registry of the District Court of Bratislava I dated 17 May 2018 and the organizational structure and systemization of MO3&4 plant and unit B4000 letter of 2 November 2017.

- i) Documentation requested for the application for commissioning pursuant to Section 6 par. (2) (h) of the Atomic Act, Annex 1 C (documentation required for the application for authorization of commissioning of the nuclear installation in the scope of the fresh fuel node, administrative proceeding 1.2):

- Limits and conditions for safe operation – approved by the Authority’s Decision No. 88/2018 of 24 April 2018.
- List of safety related equipment – approved by the Authority’s Decision No. 495/2016 of 19 September 2016.
- Programs of testing of safety related equipment designated by the Authority – programs of testing of safety related designated by the Authority were submitted by SE, a.s., for Unit 3 of MO3&4 as part of the submission from 12 December 2016. The Authority had comments on the programs in question, which it classified as deficiencies in the filing. To remove the deficiencies the Authority specified a deadline in its Decision No. 334/2017 on the interruption of the administrative proceeding, not later than by 15 February 2018. SE, a.s., gradually submitted to the Authority documentation with removed deficiencies. The Authority confirmed removal of deficiencies in the filing with its letter reg. No. 767/2018 of 8 February 2018. SE, a.s., submitted to the Authority programs of testing of safety related equipment specified by the Authority for Unit 4 of MO3&4 with incorporated comments from the Authority on analogical program for Unit 3. The Authority accepted submission of

these programs with its letter reg. No. 765/2018 of 7 February 2018.

- Program of commissioning of nuclear installation divided into phases – program for commissioning nuclear installation divided into phases was submitted by SE, a.s., for Unit 3 of MO3&4 as part of the submission of 12 December 2016. The Authority had comments on the Program and related programs of physical and energy commissioning, which it classified as deficiencies in the filing. For removal of these deficiencies it specified a deadline in its Decision No. 334/2017 on interruption of the administrative proceeding as not later than 15 February 2018. SE, a.s., gradually submitted to the Authority documentation with removal deficiencies. The Authority confirmed removal of deficiencies in the filing with its letter reg. No. 769/2018 of 13 February 2018. SE, a.s., submitted to the Authority a Program for commissioning, divided into phases for Unit 4 of MO3&4 together with incorporated comments on analogical program for Unit 3. The Authority accepted submission of these programs with its letter reg. No. 765/2018 of 7 February 2018.
- Program of operational controls of safety related equipment – submitted to the Authority in the filing of 12 December 2016. The Authority at this stage agrees with the submitted document and expects its update on the basis of results of equipment tests and the expected commissioning of Units 3&4.
- Quality Management System documentation of the applicant – approved by the Authority's Decision No. 410/2016 of 21 July 2016 (Management System Manual) and No. 445/2016 of 5 August 2016 (Phased quality assurance program for construction and commissioning).
- Operating regulations acknowledged by the Authority – submitted by SE, a.s., for Units 3&4 of MO3&4 as part of the filing from 12 December 2016. The Authority had comments on the regulations, which it classified as deficiencies in the filing. For removal of these deficiencies the Authority has set a deadline with its Decision No. 334/2017 on interrupting the administrative proceeding, not later than by 15 February 2018. SE, a.s., had gradually submitted documentation to the Authority with removed deficiencies. The Authority confirmed removal of deficiencies in the filing with its letter reg. No. 771/2018 of 13 February 2018.
- Internal Emergency Plan – approved by the Authority's Decision No. 396/2016 of 15 July 2016. The validity of the internal emergency plan is from the commencement of commissioning of MO3&4. Until the start of commissioning of MO3&4 the Preliminary Internal Emergency Plan is valid, which was approved by ÚJD SR Decision No. 261/2018 of 13 September 2018.
- Pre-operational Safety Report (the "PpSR MO3&4") – submitted by SE, a.s., as part of the filing from 12 December 2016. The Authority had comments on PpSR MO3&4, which it classified as deficiencies in the filing. For removal of these deficiencies the Authority has set a deadline with its Decision No. 334/2017 on interrupting the administrative proceeding, not later than by 15 February 2018. SE, a.s., had gradually submitted documentation on PpSR MO3&4 with removed deficiencies. The Authority confirmed removal of deficiencies in the filing with its letter reg. No. 768/2018 of 13 February 2018.
- For nuclear installations with a nuclear reactor, probabilistic safety assessment for a

shutdown reactor and for low power levels, as well as for full power of the reactor (the “PSA Study“) – submitted by SE, a.s., as part of the filing from 12 December 2016. The Authority had comments on the PSA Study, which it classified as deficiencies in the filing. For removal of these deficiencies the Authority has set a deadline with its Decision No. 334/2017 on interrupting the administrative proceeding. SE, a.s., had gradually submitted documentation to the Authority with removed deficiencies. The Authority confirmed removal of deficiencies in the filing with its letter reg. No. 896/2018 of 14 February 2018.

- Physical Protection Plan, including an agreement with the Police Corps pursuant to Section 26 par. (10). ÚJD SR Decision No. 154/2018 of 24 May 2018 approved the document “Plan of physical protection of MO3&4 fresh fuel node“, issue 1, revision 0.
- Plan for the management of radioactive waste (the “RAW“) and spent nuclear fuel (the “SNF“) – submitted by SE, a.s., as part of the filing from 12 December 2016. The Authority had comments on the Plan for the management of RAW and SNF, which it classified as deficiencies in the filing. For removal of these deficiencies the Authority has set a deadline with its Decision No. 334/2017 on interrupting the administrative proceeding. SE, a.s., had submitted documentation to the Authority with removed deficiencies. The Authority confirmed removal of deficiencies in the filing with its letter reg. No. 766/2018 of 7 February 2018.
- Conceptual decommissioning plan – submitted by SE, a.s., as part of the filing of 12 December 2016. The Authority reviewed the document in question and had no requirements for its completion or modifications.
- Proof of financial coverage of liability for nuclear damage except the repository under special regulation – fulfilment is shown under point 7) of the reasoning.
- Training System – training system for the MO3&4 staff was approved by the Authority’s Decision No. 356/2017 of 2 October 2017.
- Training Programs for selected staff – approved by Authority’s Decisions No. 97/2016 of 22 March 2016, 393/2016 of 27 July 2016, 355/2017 of 25 September 2017 and 240/2018 of 20 August 2018.
- Training Programs for professionally competent staff – approved by Authority’s Decisions No. 123/2016 of 22 March 2016 and No. 611/2015 of 5 October 2015.
- Evidence on meeting the qualification preconditions for selected staff and professionally competent staff – for the purposes of administrative proceedings 1.1 and 1.2, were submitted by SE, a.s., within the scope of the mandate to perform functions for the fuel management staff. Mandates certify completion of training in accordance with the training system.
- Evidence on preparedness for commissioning – list of submitted documents on preparedness is contained under point 5) of the reasoning.
- Population Protection Plan in the emergency planning zone – approved by the ÚJD SR Decision No. 276/2015 of 13 April 2015 and 277/2015 of 24 April 2015 and opinions of MoI SR No. SKR-4-20/2015 and SKR-14-22/2015.
- Definition of boundaries of the nuclear installation – approved by the ÚJD SR Decision No.

922/2014 of 12 December 2014.

- Determining the size of the emergency planning zone of a nuclear installation – approved by the ÚJD SR Decision No. 1040/2012 of 23 November 2012.
 - Documentation pursuant to the Building Act – submitted for an inspection with a local survey for the fresh fuel node.
- j) Documentation required by the Building Act for an early use of the structure pursuant to Section 6 par. (2) (j) of the Atomic Act – submitted for an inspection with a local survey for the fresh fuel node.
- k) The data required by a special regulation “Treaty establishing the European Atomic Energy Community“ pursuant to Section 12 par. (5), Art. Commission Regulation (Euratom) No. 302/2005 of 8 February 2005 on the application of Euratom safeguards.

SE, a.s. submitted a letter SE/2016/067700 on sending the basic technical characteristics (“BTC“) to the Authority, and letter SE/2016/007696 on sending BTC to the European Commission, annexed to which was the Report on the basic technical parameters for the MO3&4 site. Submission of the Report is in line with Article 4 of the Commission Regulation (Euratom) No. 302/2005.

- l) Liability insurance for nuclear damage pursuant to Section 8 par. (1) and (2) of Act No. 54/2015 Coll. on civil liability for nuclear damage and its financial coverage and on amendments to certain laws.

SE, a.s. submitted Insurance Policy for liability insurance for the operator of a nuclear installation in the Mochovce site for damage caused by nuclear event No. 03/2016/SE-EMO3/KSJPP.

25. The Authority has divided the application of SE, a.s., for authorizations associated with the commissioning of MO3&4 into an administrative proceedings 1.1, 1.2 and 1.3 (related to the fresh fuel node), 2.1, 2.2 and 2.3 (related to Unit 3 of MO3&4) and 3.1, 3.2 and 3.3 (related to Unit 4 of MO3&4) due to a dual-unit structure of MO3&4 project, and the time sequence of expected activities during gradual preparation of equipment, systems and objects of MO3&4 for commissioning. Part of the documentation submitted by SE, a.s., relates only to the fresh fuel node, part of the documentation demonstrates fulfilment of the requirements from the applicable law not only for the fresh fuel node (administrative proceedings 1.1 and 1.2), but also for Unit 3, Unit 4, resp. nuclear installation of MO3&4 as a whole – it is mainly the documentation stated under points 7), 9), 11) and 12). The Authority performed review of this documentation in full, which actually goes beyond the scope required for the administrative proceeding 1.2.

26. SE, a.s. submitted a document to the Authority with its letter SE/2018/003485 of 12 January 2018, “Fulfilment of the binding conditions from the building permit No. 2010/86, ÚJD SR Decisions No. 246/2008, 266/2008 and 267/2008“. This document completes and specifies a similar document presented to the Authority together with the application of SE, a.s., on 12 December 2016. The update of this document was done as part of the conditions from the ÚJD

SR Decision No. 334/2017 and the Authority accepted is by its letter reg. No. 897/2018 of 14 February 2018. The document confirms fulfilment of conditions from the Authority's Decisions No. 246/2008, 266/2008 and 267/2008 for the whole project of MO3&4. Only a small part of the conditions of the Authority's Decisions No. 246/2008, 266/2008 and 267/2008 are related to the management of fresh nuclear fuel in the fresh fuel node, and most of this is indirectly. For this reason, the Authority considers proving fulfilment of conditions of Decisions No. 246/2008 of 14 August 2008, No. 266/2008 of 14 August 2008 and No. 267/2008 of 14 August 2008 in the document "Fulfilment of binding conditions from the building permit No. 2010/86, ÚJD SR Decisions No. 246/2008, 266/2008 and 267/2008" to be sufficient in relation to the administrative proceeding 1.2 and as going beyond the needs of this proceeding. Fulfilment of the conditions of the Decision 266/2008, relating to the fresh fuel node:

- a) Conditions Nos. 1 and 2 (Condition No. 1 "In line with the best international practice, to complete the design of the nuclear installation of Units 3&4 of Mochovce with a reference scenario with events involving deterministic effect from external source, for example, impact of a small aircraft, and to submit it to the Authority for review", and condition No. 2 "On the basis of a scenario developed according to condition No. 1 to evaluate the functional potential of resistance of the design of Units 3&4 of Mochovce NPP, and to apply in the design appropriate additional systems, structures or components, as well as strategies for management of a nuclear power plant aimed at securing its resistance against possible deterministic effects from an external source, for example, deliberate impact of a small aircraft, by bringing the design in line with the best international practice. Relevant modifications to the basic design to be submitted to the Authority in accordance with the applicable legislation"). SE, a.s., submitted the relevant documents to the Authority. Their content is secret. The Authority issued Decision No. 290/2010 of 16 August 2010, permitting the construction of a protective barrier. Related documentation is subject to secrecy regime pursuant to Act No. 215/2004 Coll. on the protection of confidential information and on amendments to certain laws, therefore it was not made available to the public. The Authority considers conditions No. 1 and 2 of the Decision No. 266/2008 as fulfilled.
- b) Conditions Nos. 4, 5 and 6 (to complete the calculations of seismic resistance of equipment, the seismic resistance of which is required by the basic design and their verification by an independent organization, develop a manual for authors of implementation projects for calculations of anchoring of components the seismic resistance of which is required, and to ensure independent control of implementation projects of all operational sets involving seismically qualified components). SE, a.s., submitted the required documentation and the Authority confirmed fulfilment of the above-mentioned conditions of Decision No. 266/2008 in writing. The fresh fuel node and its facilities are seismically reinforced in accordance with the conditions of the Authority's Decision No. 266/2008.

27. Other conditions of the Decision No. 266/2008 have no connection with the fresh fuel node. Their fulfilment will be subject of assessment in the administrative proceedings No. 2.1, 2.2, 3.1 and 3.2. Fulfilment of conditions of the Authority's Decision No. 267/2008 that relate to the fresh fuel node, is incorporated in the relevant chapters of the Pre-operational Safety

Report for MO3&4:

- a) Condition No. 5 from the annex to the Decision (To complete chapter 7.4.20 of the Report in such a way that compliance with the requirement from the ÚJD SR Decree No. 50/2006 Coll., Annex part B II. E. (2) (a) point 2 is sufficiently demonstrated, while taking into account the current good practice applied in this area) – incorporated in chapters 7.2.3.2 and 7.4 of the PpSR MO3&4. The quoted requirement of the ÚJD SR Decree No. 50/2006 Coll. is identical with the requirement of Annex 3 B II. E. (2) (a) point 2 of ÚJD SR Decree No. 430/2011 Coll. as amended by Decree No. 103/2016 Coll.,
- b) Condition No. 10 from the annex to the Decision (Relevant parts of chapter 9 of the Report to complete the requirements with the requirements for coordinating the registration of other nuclear materials such as fresh nuclear fuel and spent nuclear fuel) – is incorporated in chapter 9 of PpSR MO3&4,
- c) Condition No. 11 from the annex to the Decision (To harmonize the classification of nuclear materials referred to in chapter 9.5.5 of the Report with the European Commission Regulation No. 302/2005, and to supplement the possibility of sending nuclear materials from the MBA produced in the nuclear installation of MO3&4) – is incorporated in chapter 9.5 PpSR of MO3&4,
- d) Condition No. 22 from the annex to the Decision (Add to the relevant parts of the Report an internal flood analysis within the scope of requirements of chapter 2.5.4.3 of the approved Requirements for the quality of nuclear installation of Units 3&4 of Mochovce NPP) – incorporated in chapters 7.2.3.1 and 6.10 PpSR MO3&4,
- e) Condition No. 23 from the annex to the Decision (Add to the relevant chapters of the Report to supplement analysis of events related to fires and floods that are triggered by a seismic event in accordance with the requirement of the IAEA Guide, GS-G-4.1, 3.68 b) – incorporated in chap. 7.2.3.2 and 6.0 PpSR MO3&4,
- f) Condition No. 30 from the annex to the Decision (Add to the relevant chapters of the Report an explosion or fire risk analysis to determine the required fire resistance of the fire-separating structures in accordance with the requirement referred to in the ÚJD SR Decree No. 50/2006 Coll., Annex 3 part B I. I. (5), and in accordance with the requirements of chapter 2.5.4.3 of the approved Requirements for quality of nuclear installations of Units 3&4 of Mochovce NPP) – incorporated in chapter 7.2.3.1 PpSR MO3&4,
- g) Condition No. 31 from the annex to the Decision (Add to the relevant parts of the Report an analysis of combination of effects of phenomena caused by natural conditions and human activity, in accordance with the requirement referred to in the ÚJD SR Decree No. 50/2006 Coll., Annex 3 part B I. J. (2) (b) – incorporated in chap. 7.2.3.2 PpSR MO3&4. The quoted requirement from the ÚJD SR Decree No. 50/2006 Coll. is identical with the requirement of Annex 3 part B I. J. (2) (b) of ÚJD SR Decree No. 430/2011 Coll. as amended by Decree No. 103/2016 Coll.

28. The Ministry of Environment of the Slovak Republic (the “MoEnv SR“) within the procedure and following the evaluation of meeting of the conditions defined in the Final

Opinion No. 395/2010 – 3.4/hp Nuclear Power Plant Mochovce VVER 4x440 MW, project 3, issued by MoEnv SR (the “Final Opinion on EIA for MO3&4“) pursuant to Act No. 24/2006 Coll. on environmental impacts assessment, and on amendments to certain laws (the “Impact Assessment Act“) issued its Binding Opinion No. 9704/2018-1.7/hp-Zs (the “Binding Opinion of MoEnv SR“) of 22 October 2018, delivered to the Authority on 24 October 2018. In the Binding Opinion of MoEnv SR it is stated that: “...a motion for the proceeding to issue:

- a) Authorization for the management of nuclear material in the nuclear installation pursuant to Section 5 par. (3) (g) of the Atomic Act in the scope of handling and storage of fresh nuclear fuel in the fresh fuel node (the Administrative proceeding No. 1.1),
- b) Authorization for the commissioning of nuclear installation pursuant to Section 5 par. 3 (b) of the Atomic Act, in the scope of fresh fuel node, in the scope of storage and handling of fresh nuclear fuel in the building SO 800/1-02 Reactor Building II. Main Generating Block (the Administrative proceeding No. 1.2),
- c) Authorization for an early use of the structure according to Section 83 of the Building Act, and according to Section 5 par. 3 (b) and Section 19 par. 3 of the Atomic Act for the fresh fuel node in the scope of storage and handling of fresh nuclear fuel in the object SO 800/1-02 Reactor Hall II. Main Generating Unit, in Room No. 407 Storage for fresh fuel (the Administrative proceeding No. 1.3),

Is conceptually in accordance with the Impacts Assessment Act, with the Final Opinion issued by MoEnv SR No.: 395/2010-3.4/hp dated 28 April 2010 and its conditions.“

29. In the second instance proceeding the Authority turned again to MoEnv SR by letter No. 119/2019 on 7 January 2019, requesting an opinion on the appeal filed by Global 2000. The Ministry of Environment of SR replied by letter No. 2576/2019-1.7/zg (3154/2019) dated 17 January 2019, stating among others that:

„On the basis of the notice of initiation, MoEnv SR issued a Binding Opinion No. 9704 / 2018-1.7/hp-Zs of 22 October 2018, in which it is stated that: “...a motion for the proceeding to issue:

- A. Authorization for the management of nuclear material in the nuclear installation pursuant to Section 5 par. (3) (g) of the Atomic Act in the scope of handling and storage of fresh nuclear fuel in the fresh fuel node,
- B. Authorization for the commissioning of nuclear installation pursuant to Section 5 par. 3 (b) of the Atomic Act, in the scope of fresh fuel node, in the scope of storage and handling of fresh nuclear fuel in the building SO 800/1-02 Reactor Building II. Main Generating Block,
- C. Authorization for an early use of the structure according to Section 83 of the Building Act, and according to Section 5 par. 3 (b) and Section 19 par. 3 of the Atomic Act for the fresh fuel node in the scope of storage and handling of fresh nuclear fuel in the object SO 800/1-02 Reactor Hall II. Main Generating Unit, in Room No. 407 Storage for fresh fuel

Is conceptually in accordance with the Impacts Assessment Act, with the Final Opinion issued by MoEnv SR No.: 395/2010-3.4/hp dated 28 April 2010 and its conditions.“

30. Pursuant to Section 7 par. (5) of the Atomic Act, a special condition for issuing an authorization under Section 5 par. (3) (g) of the Atomic Act the approval of the physical protection plan. The document: “Physical Protection Plan for MO3&4 UČP“, edition 1, revision 0, was approved by the Authority’s Decision No. 154/2018 of 24 May 2018. This document approved the technical, regime and organizational provision of physical protection in connection with commissioning of nuclear installation MO3&4, in the scope of handling and storage of fresh nuclear fuel in the fresh fuel node.

31. SE, a.s. has submitted to the Authority a report on implementation of the project for the installation of surveillance equipment of the International Atomic Energy Agency and the European Commission. The surveillance equipment will be installed, based on the request of the responsible staff of the IAEA and the European Commission, before commencing the commissioning of Unit 3.

32. Documentation supporting the decision for the administrative proceeding No. 1.1, 1.2 and 1.3 was published on the website of the Authority and the parties were informed about them in writing, letters reg. No. 4339/2018, 4531/2018 and 4526/2018. Two parties made statements on the supporting documentation for the decision: Dr. Reinhard Uhrig on behalf of Global 2000, Friends of Earth Austria, Neustiftgasse 36, 1070 Wien (the “Global 2000“) and Mag. Norbert Hörmayer on behalf of Wiener Umweltschutz, Muthgasse 62, 1190 Wien (the “Wiener Umweltschutz“). Both statements were delivered to the Authority by E-mail on 14 September 2018 within the time period set by the Authority.

33. Both statements (Global 2000, Wiener Umweltschutz) formulate questions /requirements referring to the document “Fulfilment of the EIA process requirements“, which was published on the website of the Authority as part of the supporting documentation for the decision concerning fresh fuel node. The document “Fulfilment of the EIA process requirements“ contains the account of meeting the conditions Nos. 3.1 to 3.35 of the Final Opinion on EIA for MO3&4.

34. The document “Fulfilment of the EIA process requirements“ is an account of the current fulfilment of requirements contained in the Final Opinion on EIA for MO3&4, which was elaborated as at 26 June 2018. It refers to the project of MO3&4 as a whole. Major part of the requirements from the Final Opinion on EIA for MO3&4 has no relationship or only very marginal relationship to the administrative procedure No. 1.1. The Authority evaluated the statements made by Global 2000 and Wiener Umweltschutz in accordance with Section 19 par. (2) of the Administrative Procedure Code.

35. Global 2000 states the following in its opinion:

a) As to point 3.1 - Scenarios and documents are missing to explain whether changes have been implemented in accordance with the then valid decisions from 2008 (in the text, Global 2000

refers to the Authority's Decision No. 266/2008), or others according to current claims. To this statement of Global 2000, the Authority, as the administrative body states that under point 3.1 of the document "Fulfilment of the EIA process requirements" there is a confirmation of meeting the conditions contained in the Authority's Decision Nos. 246/2008, 266/2008 and 267/2008. Modifications to the basic design, which the Authority approved by its Decision No. 266/2008, were part of the EIA process for the commissioning and operation of nuclear installation of MO3&4. Changes to the Preliminary Safety Report for Units 3&4 of MO3&4, approved by the Authority by its Decision No. 267/2008, were incorporated in the PSR MO3&4, which is in compliance with Annex 1 Part C (i) of the Atomic Act clarifying the Preliminary Safety Report. PpSR MO3&4 was made available to the public while removing sensitive information according to their definition in Section 3 para (16) and (17) of the Atomic Act from 16 March 2017 until 30 June 2017 in the leased premises in Mochovce. Changes in the PSR of MO3&4 that resulted from the comments made by the Authority, were in the scope of the fresh fuel node published as "Supporting documentation for the fresh fuel node decision (UČP)" on the website of the Authority. The parties were informed about the supporting documentation in writing. For the fresh fuel node, the following modifications to the basic design were implemented (in addition to modifications that resulted from the Authority's Decision No. 266/2008): modification of the escape routes from the building object – Main Generating Block (placement of additional fire extinguishers in the fresh fuel node and removal of the wall hydrant), a change in the technical means of physical protection (this is classified information) and the possibility of changing the applied paint system. The author of the basic design confirmed full consistency of these modifications with the concept of the basic design. The Authority accepted these changes to the basic design in writing. The fresh fuel node, its building part and equipment are fully compliant with the current applicable legislative requirements, including WENRA requirements and the IAEA documents. The binding opinion of MŽP SR No. 9704/2018-1.7/hp-Zs of 22 October 2018, which was delivered to the Authority on 24 October 2018 states the following: "The assessment of the project in question in accordance with Section 38 par. 4) of Act No. 24/2006 Coll. on environmental impacts assessment, and on amendments to certain laws as amended (the "Impact Assessment Act") did not reveal any such facts that would have led to a reassessment of the project in question pursuant to Section 18 par. 1 and par. 2 of the Impact Assessment Act."

- b) As to point 3.2 - Global 2000 has stated that as an NGO it has no access to the outcome of expert seminars in areas of common interest in nuclear safety with experts from Austria within the relevant bilateral Slovak-Austrian Agreement within the European Atomic Energy Community, Euratom, coordinated by ÚJD SR. ÚJD SR, as the administrative body states on the statement made by Global 2000: the document "Fulfilment of the EIA process requirements" confirming that the condition No. 3.2 from the Final Opinion on EIA for MO3&4 ("Continue in providing information and organizing expert seminars in the areas of common interest in nuclear safety with the experts from Austria within the relevant bilateral Slovak-Austrian Agreement within the European Atomic Energy Community, Euratom, coordinated by ÚJD SR...") was fulfilled. This fact is also confirmed by the record from expert seminars, confirmed by the Austrian party. The meetings were attended by experts

commissioned by the Austrian Government and also by representatives of government of the federal states. Given the fact that the subject of discussions was also sensitive information, the outputs from the seminars are not publicly available.

- c) K As to point 3.4 – Global 2000 stated that the MO3&4 power plant is not secured against the impact of an aircraft in accordance with the existing best practice. Statement by the Authority: the MO3&4 power plant is secured against the impact of a small aircraft by a separate construction design, as well as documentation describing the staff activity in case of occurrence of an initiation event – an impact of a small aircraft on the nuclear installation MO3&4. Addressing of a situation when the power plant is endangered by an aircraft, according to Section 12 par. 1 (e) of Act No. 575/2001 Coll. on the organization of government activities and organization of the central public administration as amended, is in the competence of the Ministry of Defence of SR, quote: "Ensuring the inviolability of the airspace of the Slovak Republic". Further activity of Armed Forces concerning airspace disruption is stated under Section 4 of Act No. 321/2002 Coll. on armed forces of the Slovak Republic, as amended. The design documentation on securing the MO3&4 power plant against an impact of a small aircraft is subject to a regime, which is stipulated by Act No. 215/2004 Coll. on the protection of classified information and on amendments to certain laws, therefore it was not made available to the public.
- d) Global 2000 stated that the issue of the impact of the expected climate change (+20C) on the flow of the Hron River and its water temperature is not sufficiently addressed. The Authority, as the administrative body states that the statement made by Global 2000 has no direct relation to the management of nuclear fuel in the fresh fuel node. However, in the submitted documentation by SE, a.s., (besides other PpSR MO3&4) it is stated that the nuclear power plant has a closed circuit of cooling system with cooling towers. Make-up water to the cooling circuits can be also secured from reserve sources due to their safety function. For this purpose, the power plant has established procedures that have been tested on Mochovce Units 1&2 as part of the stress tests carried out after the accident in Fukushima NPP.

36. Wiener Umweltanwaltschaft commented on the fulfilment of the conditions of the Final Opinion on EIA MO3&4, which is contained in the document "Fulfilment of the EIA process requirements". The Wiener Umweltanwaltschaft statement is directed at points 3.22, 3.26 and 3.28.

- a) As to point 3.22 it requests information about the tightness test for the tank scheduled for the second half of 2018, or whether it was already made. The requirement from the Final Opinion on EIA MO3&4 in point 3.22 is the following: "To ensure that within the proposed operation, such technical solutions are implemented to secure facilities, where hazardous substances are to be handled that will allow capturing hazardous substances that could be released during technical failure, or destruction, or would surface when extinguishing fire with water, and which are constructed in accordance with the requirements of the Slovak technical standards". The method of fulfilment of the requirement 3.22 is given in "Fulfilment of the EIA process requirements":

- Storage of chemicals is provided in warehouses that are taken over by the contractors, and therefore they are responsible for the way and safety of storage.
- MO3&4 conducts regular monthly inspections focusing on fire safety, safety at work and preventing occurrence of an accident related to the storage and handling of chemicals.
- All chemical substances must be approved according to the internal document MO3&4/MNA - 190.03 Management of chemicals for the completion of Units 3&4, suppliers provide Safety Data Sheets for approval, product technical sheets, certificates and other documents, as needed.
- In December 2013, tightness tests were carried out for all hold-up tanks in the warehouses and these are valid until 2018.

ÚJD SR has requested from SE, a.s., information on the tightness tests of all hold-up tanks in the warehouses. These tanks are located in the storage place for flammable materials and in the paint store. Currently valid MoEnv SR Decree No. 200/2018 Coll. has changed the legislative requirements from July 2018, and this test is no longer required by the legislation, or is to be performed in other periods (10, or 20 years depending on the type of tank). The technical safeguarding of facilities, in which the hazardous substances are to be handled, is in compliance with the valid MoEnv SR Decree No. 200/2018 Coll. Change in the legislative conditions for performing tightness tests of hold-up tanks occurred only after the publication of the document “Fulfilment of the EIA process requirements“ as part of the documentation used as a basis for the decision in the administrative proceedings Nos. 1.1, 1.2 and 1.3 on the website of the Authority.

- b) As to point 3.26 it requires information, whether the monitoring data are available to the public. The requirement from the Final Opinion on EIA for MO3&4 in par. 3.26 states: “Evaluate regularly all proposed monitoring activities. Results from monitoring to be regularly provided to the public administration authorities concerned and to the public.“ Statement of the Authority on this request from Wiener Umweltanwaltschaft: The monitoring data are available, for example, on the website of SE, a.s., access: “media“ → “publications“ → “Environmental Impact NPP Mochovce“ or “Environmental Impact NPP Mochovce - Units 3&4 under construction“ in the relevant month.
- c) As to point 3.28 it requires that dose limits are approved in the following process for MO3&4 not higher than for EMO1&2. The Authority states on this request: dose limits will be determined in the decision of the Public Health Authority of SR (the “ÚVZ SR“). The Authority expects that the decision of ÚVZ SR will be in line with the data from the Report on Evaluation of the proposed activity for environmental impacts assessment (July 2009), which was the basis for the Final Opinion on the EIA MO3&4.

37. The submitted documentation for submission in the administrative proceeding No. 1.1 has been reviewed by the Authority in terms of fulfilment of legislative requirements laid down in the Atomic Act, ÚJD SR Decrees, as well as in the documents of the International

Atomic Energy Agency (the "IAEA") and the Association of Nuclear Regulators of the EU states and of Switzerland (the "WENRA"):

- 1) ÚJD SR Decree No. 52/2006 Coll. on professional competence, as amended by Decree No. 34/2012 Coll..
- 2) ÚJD SR Decree No. 54/2006 Coll. on record keeping and control of nuclear materials and on notification of selected activities
- 3) ÚJD SR Decree No. 430/2011 Coll. on the requirements for nuclear safety as amended by the ÚJD SR Decree No. 103/2016 Coll.
- 4) ÚJD SR Decree No. 30/2012 Coll., laying down the details of the requirements for management of nuclear materials, radioactive waste and spent nuclear fuel as amended by the ÚJD SR Decree No. 101/2016 Coll.
- 5) ÚJD SR Decree No. 51/2006 laying down the details of the requirements for ensuring physical protection
- 6) Safety Guide, IAEA SSG-15 Storage of Spent Nuclear Fuel
- 7) Safety Guide, IAEA, NS-G-2.5 Core Management and Fuel Handling for Nuclear Power Plants
- 8) Safety Guide issued by the IAEA, NS-G-1.4 Design of Fuel Handling and Storage Systems for Nuclear Powerplants
- 9) WENRA requirements Report – Safety Reference Level for Existing Reactors, September 2014.

38. The requirements and recommendations of the IAEA and WENRA for the management and storage of fresh nuclear fuel in the nuclear facility are fully implemented in Slovak legislation, namely in the Atomic Act and the ÚJD SR Decrees, the exact identification of which is given above.

39. As part of the appeal, Global 2000 had made the following comments:

„1. We are basically opposed to salami tactics when evaluating EIA conditions. It is not possible to divide one project (MO3&4) into smaller projects and argue that, for example, the temperature of Hron river does not concern this partial project (fresh fuel node).

2. Conditions No.1 and 2, an aircraft impact: We want to point out that the best international practice lies in the protection against all types of aircraft by design measures. Reference to airspace protection is not acceptable when it is clear that so fast reaction as would be necessary in case of air-raid to Mochovce NPP, the army is unable to react. For more modern types of reactors, such as EPR, it is foreseen impact resistance against large commercial aircrafts.

3. On modifications against the basic design: Modifications were decided about even after 2008, for example, as a result of stress tests. These modifications should also be subject to cross-border EIA.

4. This decision was issued by ÚJD SR in a situation, where we as a party to the proceedings did not have the necessary information, as mentioned in the decision on classified or deleted

information.“

40. As for comment No. 1:

The Authority rejects this allegation by Global 2000 as unjustified. In the reasoning of the Decision it is directly stated that: “The Authority divided the application of SE, a. s., for authorizations related to commissioning of MO3&4 into administrative proceedings 1.1, 1.2 and 1.3 (related to fresh fuel node), 2.1, 2.2 and 2.3 (related to Unit 3 of MO3&4), and 3.1, 3.2 and 3.3 (related to Unit 4 of MO3&4) due to the two-block structure of MO3&4 project, and time sequence of expected activities during the gradual preparation of installations, systems and objects of MO3&4 for commissioning.

Part of the documentation submitted by SE, a. s., is related only to the fresh fuel node, part of the documentation demonstrates compliance with the requirements of the applicable legislation not only for the fresh fuel node (for the administrative proceeding 1.1 or 1.2), but also for Unit 3 and Unit 4 or for the nuclear installation of MO3&4 as a whole. The Authority carried out a review of this documentation in full, which in fact exceeds the scope required for the administrative proceedings 1.1, 1.2, 1.3.

The above applies fully also for the account of fulfilled requirements from the Final Opinion of MoEnv SR “Mochovce Nuclear Power Plant WER 4 x 440 MW, project 3“.

The Authority conducted a detailed check of the MO3&4 documentation, which is referred to in the account of fulfilled requirements from the Final Opinion on EIA MO3&4. This control was carried out as part of Authority’s inspection No. 404/2018. The list of documentation, which was submitted at the request of inspectors of the Authority for inspection is given on p. 5/17 and 6/17 of the applicable protocol, results of checked correctness of the account of fulfilled requirements from the Final Opinion on EIA MO3&4 are given on p. 7/17 to 12/17 (together with the inspection of readiness of the equipment and systems of the fresh fuel node for receiving fuel).

In the first point of the appeal Global 2000 it further states: “It is not possible to divide one project (MO3&4) to smaller projects and argue that for example, the temperature of Hron river does not relate to this partial project (fresh fuel node).“

The Authority maintains its position that the Global 2000 statement is not related to the administrative proceedings No. 1.1. and 1.2 for the fresh fuel node. Notwithstanding the foregoing, the Authority in the reasoning of its decision has dealt with the Global 2000 statement and responded directly in the text of the reasoning of its decision.

Furthermore, if the supply of cooling circuits for Units MO3&4 during their operation is insufficient, then in accordance with the valid regulations, the staff should provide for reduced power or even that the Units are shut down.

41. As for comment No. 2

The implementation of the technical solution and also elaboration of the documentation describing the activities of the staff in the event of small aircraft impact on the nuclear facility of MO3&4 implemented the recommendations set out in the Commission’s Opinion pursuant

to Article 43 of the Euratom Treaty [K(2008)3560 of 15 July 2008]. Detailed information on addressing the issue of a small aircraft impact on MO3&4 is stated in the document “Meeting the requirements of the EIA process“, which states the following:

- On the basis of risk assessment of accidental impact of an aircraft according to international methodologies and the current state of air traffic in the vicinity of EMO, the threat to nuclear safety of NPP Mochovce can be considered very low and no additional technical or organizational security measures are required;
- In the communication according to Article 43 of the Euratom Treaty, the Commission recommended in the MO3&4 completion project to evaluate the effect from an external source (e.g. deliberate impact of small aircraft) and to apply appropriate additional corrective actions. To solve this task a methodology developed on the basis of internationally recognized documents was used to demonstrate the possibility of fulfilling more important safety functions:
 - physical protection of installations and structures that are important in terms of nuclear safety;
 - shutdown of the reactor;
 - keeping the Unit in a safe shutdown condition;
 - preventing significant release of radioactivity to the vicinity of NPP.
- Analyses were performed for a total of 12 building objects within the premises of MO3&4 and more than 60 conservatively selected aircraft impacts were analysed. Analyses after aircraft impact on objects focused on global effects on buildings, on local effects on the structural elements of buildings, on vibration effects, on secondary effects of fire and explosions of fuel, in current cases also on radiation consequences on the population in the vicinity of MO3&4.
- The objectives of the analyses were achieved because the ability of MO3&4 NPP to safely shutdown the Unit and remove residual heat from the reactor after each such even was demonstrated (while proposing also necessary modifications to the MO3&4 design).
- Details of safety analyses performed are not publicly available, because in Slovakia these are included in the category of classified information.

The Authority further states that in the Pre-operational Safety Report (chapter 7.2.3.2) the risk of accidental impact of an aircraft on MO3&4 object is collectively identified for passenger flights, sports and recreational civil flights, agricultural flights and special works and for military flights about 2-times lower than the screening value recommended in the international practice (NS-G-3.1, IAEA Safety Standard Series). The information about the risk of accidental impact of an aircraft is available to Global 2000 in chapter 7.2.3.2 of the Pre-operational Safety Report of MO3&4. Pre-operational Safety Report of MO3&4 was made available to the public from 16 March 2017 until 30 June 2017 at the premises in Mochovce. Pre-operational Safety Report of MO3&4 was sent to Global in electronic format (on DVD) with removed sensitive information.

42. As to comment No. 3

The EIA Binding Statement on MO3&4 states directly that: “Modifications in the details of the construction design do not affect the subject matter of the proposed activity, represent only the details of the solution corresponding to the documentation in the details of the solution, do not represent any other interference into the natural environment or the landscape that would change physical aspects of the location. Following the submitted application for a building decision, the conditions set out in the Final Opinion were adequately met in the preparatory phase and also will be met at the stage of permitted operation. When assessing the structure in question according to Section 38 par. 4 of the Act on impacts assessment, no such facts were found that would justify reassessment of the building in question according to Section 18 par. 1 and 2 of the Act on impacts assessment.” The EIA Binding Statement on MO3&4 is valid only for the fresh fuel node (fresh fuel storage).

The document “Fulfilment of EIA process requirements”, concerning the requirement 3.2 states the following:

“In cooperation with ÚJD SR and SE, a. s., all information and experts were provided for the following seminars organized by ÚJD SR:

Seminar No.1: Severe accidents, including external causes – 15 December 2009; some questions remained open and will be re-discussed when the necessary information is available;

Seminar No.7: Severe accidents – Part 2 – took place on 27 and 28 April 2016; all questions raised in advance and also complementary questions were answered and evaluated as closed.

With the meeting on the topic Severe Accidents the series of expert seminars was closed, the Austrian side appreciated the details of the answers and the readiness of Slovak experts.

On the basis of these seminars the Austrian side has prepared “short technical reports“ for its government, which are not going to be publicly available due to the sensitivity of information provided. After a consultation with the Slovak side only a brief summary – abstract was prepared and published.“.

It follows from the above that the Slovak side provide the experts from Austria detailed answers to all their questions.

Chapter 6.12 of the Pre-Operational Safety Report provides basic data on systems for mitigating the consequences of severe accidents. Pre-operational Safety Report was made available to the public with excluded sensitive information as defined in Section 3 par. 16 and 17 of the Atomic Act during consultation of the documentation from the administrative procedure in the premises in Mochovce from 16 March 2017 until 30 June 2017.

43. As to comment No. 4

The Authority has disclosed the documentation from the administrative procedure concerning authorization for commissioning of MO3&4 in the premises in Mochovce from 16 March 2017 until 30 June 2017. Sensitive information was excluded from the documentation as defined in Section 3 par. 16 and 17 of the Atomic Act. The Authority does not disclose such information under the Atomic Act. The identification of sensitive information from the

documentation of the administrative procedure and their removal was carried out according to the methodology published on the Authority's website, the Directive on Identification and Removal of Sensitive Information from the documentation [https://www.ujd.gov.sk/ujd/WebStore.nsf/viewKey/Directive/\\$FILE/smernica_citlive_informacie_EN.pdf](https://www.ujd.gov.sk/ujd/WebStore.nsf/viewKey/Directive/$FILE/smernica_citlive_informacie_EN.pdf)

The list of classified information is published on the Authority's website [https://www.ujd.gov.sk/ujd/WebStore.nsf/viewKey/ZUS_2016/\\$FILE/ZUS_2016%20EN.pdf](https://www.ujd.gov.sk/ujd/WebStore.nsf/viewKey/ZUS_2016/$FILE/ZUS_2016%20EN.pdf)

44. As stated in paragraph 9 the Authority's Chairperson, in light of the procedural errors by the party GLOBAL 2000, has focused on the substantive examination of the appeal. Even after an in-depth analysis of the challenged facts stated in the appeal, the Chairperson of the Authority did not succeed in believing that the first instance body would fail in one of the procedural steps or in the merit assessment of the case.

45. On 13 February 2019, the Authority's Chairperson, at the request of the party, an Austrian NGO, Global 2000, held a meeting of experts, to discuss expert issues. Representatives of the Authority provided a detailed interpretation on the issues that interest the Austrian environmentalists, and exchanged views on some issues.

One of such issues was a discussion about the need to reinforce the power station against the impact of a large aircraft. According to the legal requirements, EMO 3&4 is already made resistant against the impact of a small aircraft with a separate civil structure. The Slovak legislation or the EU legislation does not currently contain any legislative requirements for withstanding an impact of a large aircraft, and such requirements are not found in the reference levels developed by WENRA group (association of representatives of European nuclear regulators) or in the guides of the International Atomic Energy Agency (IAEA). To deal with the situation when the power plant is under threat by a passenger aircraft is by law in the competence of the Ministry of Defence of the Slovak Republic, which provides for inviolability of the airspace of the Slovak Republic.

Another topic already discussed several times was the availability of cooling water from the Hron river due to the decreasing river flow as a result of climate changes. It was explained to the representatives of Global 2000 that the Hron river provides with sufficient reserve the necessary amount of cooling water for the operation of 4 Units at full power even when taking into account the lower flow. Permitted water offtake from Hron river is determined by decision of water management authorities. In addition, if there is a need to cool down the shutdown reactor, there is sufficient water supply directly at the site of the power plant, and procedures are prepared for its possible additions. Consumption of cooling water for a shutdown reactor represents a fraction of normal consumption during operation at full power.

46. The Chairperson of the Authority, pursuant to Section 33 par. 2 of the Code of Administrative Procedure, gave the parties to the proceedings the opportunity to comment on the whole second-instance proceedings and even sent them a link to the draft second-instance decision, both in the Slovak and English language versions, which was published on the Authority's website and on the Central Official Electronic Board. The information about the publication was sent by registered mail to 33 entities in the Slovak Republic, and 44 entities

abroad delivered by letter No. 1311/2019 sent on 22 February 2019. The English version of the information letter about publication was sent to the foreign parties to the proceedings.

The draft of this Decision has been published since 22 February 2019 on the website of the Authority when clicking on: <https://www.ujd.gov.sk/ujd/www1.nsf/viewByKeyMenu/En-xx-06-08-19> for comments to all the parties. This is how Section 33 par. 2 of the Code of Administrative Procedure was implemented: “(2) The administrative authority shall be obliged to give the parties and the stakeholders the opportunity to comment on its background and the manner of establishing it or to propose its amendment before issuing a decision“, as well as Article 6 par. 3, 6 and 7 of the Aarhus Convention.

In the Slovak Republic, the mail was delivered to 29 entities, and with 4 entities the letters were returned with the notice “Addressee unknown“ although the addresses of these civic association were established and confirmed in the Register of Civic Associations maintained by the Ministry of Interior of the Slovak Republic. From the Slovak addressees, three entities expressed their opinion within the given deadline: the municipality of Nemčičany (25 January 2019 - 313/2018), the municipality of Veľké Kozmálovce (16 January 2019 – 226-207/2018) and the town of Tlmače (24 January 2019 - PRIM-S2019/00086), all of which demanded dismissal of the appeal and the confirmation of the first-instance decision.

Another Slovak entity that confirmed the correctness of the first-instance decision was also the Public Health Authority of the Slovak Republic, which by letter dated 18 January 2019 No. p. OOZPŽ/258/2019 confirmed the continuity of its Decision No. OOZPŽ/7604/12018 dated 23 November 2018 for the collection, storage and handling of fresh fuel pursuant to Section 28 par. 1 (b) Act No. 87/2018 Coll. on radiation protection and on amendments to certain laws.

There were 36 entities that received the mailing abroad, for 5 entities the letters were returned as “not taken over“, for 1 entity neither the letter nor the receipt was returned, for 1 entity (the Netherlands) it did not support the international delivery receipt, and for 1 entity the delivery receipt was returned with a note “incomplete address“ – although it is the same address as for the Wiener Umweltschutz, where another mailing was delivered without any problem.

Abroad, on 20 March 2019 the Wiener Umweltschutz, which received the mail on 26 February 2019 and had time for commenting until 9 April 2019 – which means 30 business days, requested extension of the deadline for translation, although the draft was sent both in Slovak and English versions. The Chairperson of the Authority did not comply with this request, on which the party to the proceedings was informed by letter No. 2304/2019 dated 2 April 2019. The main reason was that this entity did not file an appeal against the first-instance decision, moreover, 30 business days is more than a standard period for submitting proposals and comments for the purpose of fulfilling Section 33 par. 2 of the Code of Administrative Procedure.

On 15 April 2019, the Authority received a letter from Wiener Umweltschutz No.

p. WUA 44578-2019 of 9 April 2019, which states, inter alia the following:

“Wiener Umweltanwaltschaft in its reply asks the Authority for a substantive procedure.

As for paragraph 36 of this Decision: As regards paragraph 3.28, the Wiener Umweltanwaltschaft requires that in the following procedure the dose limits for MO3&4 are not set higher than for EMO 1&2. The Authority points out that the dose limits will be determined by the Decision of the Public Health Authority of SR. The Authority assumes that this Decision by the Public Health Authority of SR will be adopted in accordance with the EIA Report from July 2009, which was a document for issuing the final position for MO3&4.

The Wiener Umweltanwaltschaft considers this type of response to be symptomatic for the whole procedure. The arbitrary breakdown into individual procedural steps creates a situation, where any question of procedural steps or other proceedings with the competent authorities arises from the past or in the future, practically to make a consistent assessment of fulfilment of obligations arising from the EIA will not be possible.

In this context, the Wiener Umweltanwaltschaft proposes to consider also the efforts of the Slovak party to manage the procedure in accordance with the Aarhus Convention. The fact that seems to be theoretically impossible, taking into account that the Aarhus Implementation Committee in its review of the implementation of the Decision IV/8i this year found that it has not been implemented yet.

In this sense, the Wiener Umweltanwaltschaft calls for a procedure that is in line with the international conventions on public participation and the related European regulations, which allows a rigorous evaluation of the project not only for procedural authority.“.

In formulating the statement of reasons for Decision No. 298/2018 of 29 October 2018 (No. z. 6875/2018), the Authority did not actually have the Decision of the Public Health Authority (hereinafter only as the “ÚVZ SR“) on the limit for discharges from MO3&4. This fact was also stated in the recital of the Decision. It is also stated in the recital that the Authority expects that the future Decision of ÚVZ SR on discharges will be in line with the Report on the assessment of the proposed activity for environmental impact assessment.

With regard to the Decision currently under assessment, even if fresh nuclear fuel is brought into the fresh fuel node after the Decision has become valid, and the fresh nuclear fuel will be handled there, no discharges from MO3&4, gaseous or liquid, are associated with these activities. This means that there will be no discharges from the operation of MO3&4 in the period between fuel intake into the fresh fuel node until its loading to the reactor.

Dose limits caused by discharges will not be dealt with until the Decision of ÚVZ SR is issued, and before the Decision for commissioning of Unit 3 is issued. And there, it will have to be demonstrated that dose limits are not higher than for EMO1&2, or that they comply with the Final Report on Environment Impact Assessment for MO3&4.

On 23 April 2019, the Authority received a letter from Slovenske elektrárne, a.s. No. p.

SE/2019/024207 dated 17 April 2019, stating among others the following:

“On the first point of filed appeal, in which the party - GLOBAL 2000 stated “We are fundamentally against the salami tactics when evaluating the EIA conditions. It is not possible to divide one project (MO3&4) into smaller projects and argue that the temperature of the Hron river does not concern this sub-project (fresh fuel node).“, Slovenské elektrárne state the following:

The fresh fuel node, which is the subject of the contested ÚJD SR decisions, is a separate part of the project of Nuclear Power Plant Mochovce Units 3&4 (hereinafter as “EMO 3&4“). The specificity and the differentiation of the technical requirements of the fresh fuel node is the reason why it is advisable to deal with the fresh fuel node in separate permitting procedures, separately from the permitting procedures, the subject of which are objects and facilities for the operation of EMO 3&4.

Many technical standards and requirements regarding reactor parts of a nuclear power plant are not directly related to the fresh fuel node, so in this context and with such a large-scale project, as completion of EMO 3&4 undoubtedly is, it is not advisable to require a fresh fuel node and objects and equipment for the operation of EMO 3&4 to be dealt with in a single administrative procedure. A fresh fuel node is to be understood as a separate object, which has a separate intended use, which is essential for the operation of a nuclear installation, but is not directly related to the safety and technical requirements for objects and facilities for operation of EMO 3&4. Moreover, it is also logical in terms of the procedures for commissioning a nuclear installation that the authorization for the fresh fuel node will be issued in a separate administrative procedure.

In its first paragraph, GLOBAL 2000 further states that it cannot be argued that the temperature of the Hron river does not relate to the fresh fuel node. As mentioned above, the temperature of the Hron river is not directly related to the fresh fuel node.

The cooling water coming from the Hron river is used for cooling in reactor parts of a nuclear installation, but the fresh fuel node does not need cooling for its operation, and therefore cooling water does not affect the operation of the fresh fuel node. Thus, the argument concerning the temperature of the Hron river is not at all related to this administrative procedure, in which Decision No. 298/2018 was issued and against which the filed appeal is directed.

Despite the obvious lack of connection with this administrative procedure we note that the temperature of the Hron river, its flow during the year, as well as the flow of the river in the summer months, have been addressed since the beginning of EMO 3&4 project, especially in the process of environmental impact assessment and in the technical documentation of the project itself. The EMO 3&4 nuclear power plant has a closed cooling system and makeup water for the cooling systems is possible to get also from back-up sources. The power plant has established procedures for this purpose that have been tested on EMO1&2 Units as part of the Stress Tests, and these procedures have become part of the internal regulations also for EMO

3&4.

For the reasons given above, Slovenské elektrárne considers the first argument of the party to the proceedings, GLOBAL 2000, to be irrelevant in its entirety, purposeful and unrelated to the subject matter of the administrative proceeding, in which Decision No. 298/2018 was issued.“

The second paragraph of the filed appeal, in which the party, GLOBAL 2000, stated: “Condition No. 1 and 2, aircraft impact: We want to point out that the best international practice is to protect against all kinds of aircraft by design measures. The reference to the airspace protection is not acceptable, when it is clear that the army cannot respond at all as quickly as it would be necessary for NPP Mochovce raid. More modern reactors are expected to withstand the impact of large commercial aircrafts, e.g. EPR.“, Slovenské elektrárne states the following:

It is not clear from this, whether GLOBAL 2000 requires the protection of fresh fuel node from the impact of large aircrafts or merely points to the best international practice.

In this context, we would like to remind that the issue of deterministic effect from an external source, e.g. a malicious impact of a small aircraft, attention was paid in several documents in the planning and licensing of the completion of EMO 3&4.

In its opinion on the completion of EMO 3&4 dated 15 July 2008, the European Commission recommended that the project be resistant against malicious impact of a small aircraft.

The Opinion of the European Commission was followed by the Ministry of Environment of the Slovak Republic (hereinafter the “MoEnv SR“) in the Final Opinion No. 395/2010 dated 28 April 2010, which in line with the Opinion of the European Commission recommended the development of a reference scenario involving a deterministic effect from an external source, and exemplified the impact of a small aircraft.

Based on this Opinion of the European Commission and the requirements of the MoEnv SR in its final opinion, Slovenské elektrárne stood up to this requirement within the project basis of the proposed investment by evaluating, applying and implementing appropriate additional elements, functional potential and management strategies to resist a possible deterministic effect from an external source (e.g. impact of a small aircraft caused by malicious intent), to bring the project in line with existing best practice. The result of this process was an engineering solution, for which ÚJD SR issued a separate building permit, and the design included new building objects called the protective barriers.

In addition to the above-mentioned measures, the Government of the Slovak Republic, in cooperation with the State Defence Council, has implemented measures in the framework of the state defence system for selected economic buildings of particular importance, including EMO 3&4, which are related to the protection of these economic buildings.

Further we state that the argument of GLOBAL 2000 about the unpreparedness and

inability of the Slovak Armed Forces of the Slovak Republic to intervene effectively and in time against potential attack by an aircraft on a nuclear installation should be considered unprofessional and uninformed. Air corridors in the airspace of the Slovak Republic are controlled and constantly monitored so that the air forces as a component of the Armed Forces of the Slovak Republic can effectively protect not only all nuclear installations located in the territory of the Slovak Republic, but its entire territory. Details of the military protection and defence of the Slovak Republic are subject to classified information.

In the third paragraph of the appeal made by GLOBAL 2000 regarding modifications to the basic design it claims that “the modifications were decided even after 2008, e.g. as a consequence of Stress Tests. These changes should also be subject of cross-border EIA.”

Modifications resulting from the Stress Tests carried out in EMO 3&4 design were partial modifications to the basic design that contribute to a higher level of safety of a nuclear installation. The proposal for modifications made on the basis of the Stress Tests in response to events at the Fukushima Nuclear Power Plant was submitted to MoEnv SR for comments, which in its statement No. 8245/2013-3.4/dp dated 18 November 2013 has clearly stated that the change in the proposed activity, i.e. changes in connection with the Stress Tests, does not have a significant adverse effect on the environment. This statement made by the MoEnv SR served as a basis for the ÚJD SR Decision No. 34/2014 dated 16 January 2014, permitting these modifications. Changes to the design documentation, as well as the structural changes to the MO3&4 Project must be understood in the context of increasing the level of safety of the nuclear installation, and thus reducing the risk of burdens on the environment and the human health.

In addition to the above stated substantive arguments, we consider that the appeal filed by the party to the proceedings does not satisfy the requirements for a filing pursuant to the Code of Administrative Procedure. It is not clear from the filing of the appeal, what the party to the proceedings, GLOBAL 2000, suggests, the facts set out in the appeal are not justified or substantiated, and therefore the appeal filed does not constitute a ground for annulment or amendment of the contested Decision No. 298/2018.

In view of all the above, Slovenské elektrárne, a. s. proposes that the Nuclear Regulatory Authority of the Slovak Republic should reject the above appeal in full and confirmed the Decision No. 298/2018 dated 29 October 2018“.

On April 24 2019, a letter of Interest Association of Towns and Municipalities Mochovvce (No. 2949/2019) was delivered to the Office, which associates 4 towns and more than 90 municipalities in the vicinity of the nuclear facility, in which the association expressed support for the completion of the EMO 3&4.

47. The Authority’s Chairperson in her decision-making also relied on the judgements of the Supreme Court of the Slovak Republic file No. 5Sžz/21/2012 of 23 June 2013, File No. 5Sžz/1/2010 of 28 April 2011 and File No. 8Sžz/1/2010 of 27 January 2011 stating that no law of the Slovak Republic or the Aarhus Convention provides for a legal title of civil associations

and the public concerned, to comply with their comments. The purpose of access to information and public participation in the decision-making process, as well as access to justice in environmental matters guaranteed by the Convention is that the public can not only express its opinion, but in particular through environmental experts, submit qualified comments so that the assessment process is maintained in a professional and material context with respect to the objective achieved.

48. After examining the file, the Authority's Chairperson did not find any fault on the part of the administrative body of first instance, which would have the effect of cancelling or amending the Decision.

49. Having regard to the above, after examining the entire file and taking into account all evidence, the Authority's Chairperson decided as stated in the operative part of this Decision.

50. With regard to the number of parties to the proceedings and in order that all parties to the proceedings know exactly when the Decision will become valid, the Chairperson of the Authority proceeded in accordance with Section 8 par. 10 of the Atomic Act, supported pursuant to Section 26 of the Code of Administrative Procedure, and published a signed second-instance Decision on the website of the Authority and on the Central Official Electronic Board in the Slovak Republic, on which the parties were informed by registered letter.

Guidance:

Pursuant to Section 61 par. 2, the second sentence of the Administrative Procedure, this Decision is final and cannot be appealed against. This Decision is reviewable by the court in accordance with Section 177 et seq. of the Administrative Procedure Code.

Done in Bratislava 6th May 2019

Marta Žiaková
Chairperson of the Authority

This Decision, pursuant to Section 8 par. 10 of the Atomic Act, and Section 26 of the Code of Administrative Procedure, was published in a form of a public notice on the Central Official Electronic Board – Slovakia <https://cuet.slovensko.sk/> and on the website of the Authority:

[https://www.ujd.gov.sk/ujd/www1.nsf/\\$All/DDF0CD538E85B9C8C12580C800539E42](https://www.ujd.gov.sk/ujd/www1.nsf/$All/DDF0CD538E85B9C8C12580C800539E42) from 7th May 2019 until 22nd May 2019. The last day of the period (22nd May 2019) shall be deemed to be the date of delivery and validity of this Decision.

To be delivered by public notice to:

1. Slovenské elektrárne, a. s., Mlynské nivy 47, 821 09 Bratislava
2. GLOBAL 2000 – Friends of the Earth, Ms. Dr. Reinhard Uhrig, Neustiftgasse 36, A-1070 Wien, Austria
3. GLOBAL 2000 – Friends of the Earth, Ms. Patricia Lorenz, Neustiftgasse 36, A-1070 Wien, Austria
4. Umweltschutzorganisation, GLOBAL 2000/ Friends of Earth Austria, Neustiftgasse 36, 1070 Wien, Austria
5. Municipality Nový Tekov, Mayor, Municipal Office of Nový Tekov, 935 33 Nový Tekov + VV
6. Municipal Office Kalná nad Hronom, Mayor, Červenej armády ČA 55, 935 32 Kalná nad Hronom + VV
7. Labour Inspectorate Nitra, Jelenecká 49, 950 38 Nitra
8. Ministry of Transport and Construction of the SR, Railway transport and rail tracks, track construction office, P. O. box 100, Námestie Slobody 6, 810 05 Bratislava a
9. Ministry of Environment of SR, Environmental Assessment and Waste Management, environmental impacts assessment, Nám. L. Štúra 1, 812 35 Bratislava 1
10. Ministry of Interior of SR, Presidium of Fire and Rescue Services, Drieňová 22, 826 86 Bratislava
11. Regional Headquarters, Fire and Rescue Services in Nitra, Dolnočermánska 64, 949 11 Nitra
12. Public Health Authority of SR, Trnavská cesta 52, P.O.BOX 45, 826 45 Bratislava
13. Transport Authority, M. R. Štefánik Airport, 823 05 Bratislava
14. Ministry of Economy of the SR, Mlynské nivy 44/a, 827 15 Bratislava 212
15. Slovak Environmental Agency, Tajovského 28, 975 90 Banská Bystrica
16. District Office Levice, Road transport and roads dept., ulica Ľudovíta Štúra 53, 934 03 Levice
17. District Office Levice, Department of Environmental Care, Dopravná 14, 934 03 Levice
18. District Office Nitra, Crisis Management Dept., Štefánikova tr. 69, 949 01 Nitra
19. Central Public Administration Portal of the SR
20. District Office Nitra, Department of Environmental Care, State Water Administration, Štefánikova trieda 69, 949 01 Nitra
21. Nitra Self-Governing Region Office, Rázusova 2A, 949 01 Nitra
22. Slovak Water Management Company, Banská Bystrica office, Partizánska cesta 69, 974 98 Banská Bystrica
23. Nuclear Research Institute Řež, a.s., EGP Division Praha, Na Žertvách 2247/29, 180 00 Praha 8 – Libeň, ČR
24. Municipality Starý Tekov, Tekovská 1, 935 26 Starý Tekov
25. Municipality Veľký Ďur, Hlavná 80, 935 34 Veľký Ďur

26. Municipality Tlmače, Nám. odbojárov 10, 935 21 Tlmače
27. Municipality Malé Kozmálovce, Obecný úrad 1, 935 21 Tlmače
28. Municipal Office Nemčiňany, č. 128, 951 81 Nemčiňany
29. Greenpeace Slovensko, Vančurova 7, P. O. Box 58, 814 99 Bratislava 1
30. Slatinka Association, A. Sládkoviča 2, 960 01 Zvolen
31. Society of Friends of Slatinka, Poštová 6565/6, 917 01 Trnava
32. VLK VÝCHODNÉ KARPATY, Ul. Kpt. Nálepku 102, 069 01 Snina
33. Civic Association For Mother Earth, Radlinského 39, P.O.Box 93, 814 99 Bratislava
34. Za matku Zem (For Mother Earth), Mlynské nivy 37, 824 91 Bratislava a
35. Ing. Jozef Križan, Adlerova 21, 040 22 Košice
36. Ing. Jozef Pacala, Starý Tekov
37. Mgr. Michal Jesenič, Súťažná 1, 821 08 Bratislava
38. Municipality Veľké Kozmálovce, Mayor, Veľké Kozmálovce 178, 935 21 Veľké Kozmálovce
39. Dalibor Stráský, Žižkovo náměstí 80, 373 12 Borovany, Czech Republic
40. Mr. Jorgo Riss, Director, Greenpeace European Unit, Rue Belliard 199, 1040 Brussels, Belgium
41. Mr. Jan Haverkamp, EU Policy campaigner dirty energy, Greenpeace European Unit, Rue Belliard 199, 1040 Brussels, Belgium
42. Prof. Dr. Hubert Weiger, Bund für Umwelt und Naturschutz Deutschland, Am Köllnischen Park 1, 10179 Berlin, Germany
43. Office of the Lower Austrian Land Government, Department of Spatial Planning and EU Regional Policy, Landhausplatz 1, A-3109 St.Pölten, Austria
44. Mag. Ulli Sima, Amtsführende Stadtratin für Umwelt von Wien, Rathaus, A-1082 Wien Austria
45. Wiener Umweltschutz und Atomschutzbeauftragte der Stadt Wien, Muthgasse 62, 1190 Wien, Austria
46. Der Grüne Klub im Parlament, 1017 Wien, Austria
47. Dipl. Ing. Dr. Constance Sperka-Gottlieb, Amt der Salzburger Landesregierung, Postfach 527, 5010 Salzburg, Austria
48. Ing. Kurt Fink, Amt der Steiermarkischen Landesregierung, Abteilung 13, Landhausgasse 7, 8010 Graz, Austria
49. Ms. Sandra Trenovatz, Hauptstrasse 35, Klostermarnberg, 7444 Mannersdorf a.d.R., Austria
50. Mr. Harald Mark, Keseweg 73, A-6710 Nenzing, Austria
51. Dr. Peter Weish, Das Forum Wissenschaft & Umwelt, Palmgasse 312, A - 1150 Wien, Austria
52. Dipl. Ing. Josef Korber, Höhenweg 32, 8044 Graz – Maria Trost, Austria
53. Dipl. Ing. Dalibor Strasky, Amt der Oberösterreich Landesregierung, Anti-Atom-

Beaufragter, Kärtnerstraße 10-12, 4021 Linz, Austria

54. Dr. Waltrad Petek, Federal Ministry Republic of Austria Sustainability and Tourism, Stubenbastei 5, A-1010 Wien, Austria
55. Mr. Wolfgang Goebel, Geisstussgasse 2, 1100 Wien, Austria
56. Mr. Egger Konrad, Dr. Eduard Fugger Str. 11, 5083 St. Leonhard, Austria
57. Mr. Lothar Berlich Grooden, Rillen Nr.5, 29584 Gross Thondorf, Germany
58. Ms. Virág Pomozi, Hungarian Ministry of Agriculture, Department of Environmental Preservation, Kossuth Lajos tér 11, H-1055 Budapest, Hungary
59. Greenpeace Magyarország Egyesület, Barbara Stoll, Zászlós utca 54, 1143 Budapest (Zugló), Hungary
60. Eliška Dvorská, Department of EIA and Integrated Prevention, Ministry of the Environment, Vršovická 65, 100 10 Praha 10, Czech Republic
61. Ms. Katarzyna Twardowska, Deputy Director, Department of Environmental Impact Assessment, General Directorate for Environmental Protection, Wawelska St. 52/54, 00-922 Warsaw, Poland
62. Mr. Michael Henzler, Bayerisches Staatsministerium für Umwelt und Gesundheit, Rosenkavalierplatz 2, 81 925 München, Germany
63. Ms. Julia Paul, Federal Ministry for the Environment, Building, Nature Conservation and Nuclear Safety, Division G I 2, Stresemannstraße 128-130, 10117 Berlin, Germany
64. Mr. Kristóf Horváth, Deputy Director General of HAEA, Hungarian Atomic Energy Authority, Fényes Adolf utca 4., H-1036 Budapest, Hungary
65. State Authority for Nuclear Safety, Zdeněk Típek, Senovážné náměstí 9, 110 00 Praha, Czech Republic
66. Mr. Michal Koc, Deputy Director, Chairman's Office, National Atomic Energy Agency of the Republic of Poland, Bonifraterska 17, 00-203 Warszawa, Poland
67. Dr. Andreas Molin, Director, Directorate I/6, General Coordination of Nuclear Affairs, Federal Ministry Republic of Austria Sustainability and Tourism, Stubenbastei 5, 1010 Vienna, Austria
68. Ms. Ulrike Hartmann, Head of Unit "Energy", Department III.6 – Environmental Protection, Energy, Transport and Telecommunication, Federal Ministry for Europe, Integration and Foreign Affairs, Minoritenplatz 8, 1014 Vienna, Austria
69. Mr. Myhailo Gashev, First Deputy Chairman – Chief State Inspector on Nuclear and Radiation Safety of Ukraine, Division of International Co-operation and European Integration, State Nuclear Regulatory Inspectorate of Ukraine, 9/11 Arsenalna Street, Kyiv 010 11, Ukraine
70. Division of Environmental Issues, Directorate General for Economic Cooperation, Ministry of Foreign Affairs, Mykhaylivska sq. 1, 010 18 Kyiv, Ukraine
71. Mag. David Reinberger, Muthgasse 62, 1190 Wien F1.29, Austria
72. Embassy of the Slovak Republic in Budapest, Stefánia út. 22-24, 1143 Budapest, Hungary
73. Embassy of the Slovak Republic in Vienna, Armbrustergasse 24, A-1190 Wien, Austria

74. Embassy of the Slovak Republic in Praha, Pelléova 12, Praha 6, Czech Republic
75. Embassy of the Slovak Republic in Warsaw, ul. Litewska 6, Warszawa, Poland
76. Embassy of the Slovak Republic in Kiev, Yaroslaviv Val St, 34, 019 01 Kyiv, Ukraine
77. Mr. Jan Haverkamp, Oeverpad 379, 1068 PL Amsterdam, Netherlands