

To: The President of the 7th Review Meeting of the
Convention on Nuclear Safety (CNS)

Mr. Ramzi Jammal – CNSC

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The Secretary General of the IAEA

Mr. Yukiya Amano

e-mail: Y.Amano@iaea.org

Cc.: IAEA Deputy Director General and
Head of Department of Nuclear Safety and Security

Mr. Juan Carlos Lentijo

e-mail: J.C.Lentijo@iaea.org

Re.: **Concerns about compliance of Hungary with the CNS**

Vienna / Brussels / Budapest, 10 January 2017

Dear Mr. Amano, dear Mr. Jammal,

Greenpeace Central and Eastern Europe, Friends of the Earth Europe, Energiaklub, WISE International and the Nuclear Information and Resource Service (NIRS) are turning to you with the request to raise the issue of independence of the Hungarian Atomic Energy Agency (HAEA) during the 7th Review Meeting of the Convention on Nuclear Safety.

In December 2016, the Hungarian parliament passed amendments to the Hungarian energy legislation which contained two paragraphs that directly undermine the independent position of the HAEA to independently set and maintain the license conditions for the construction of nuclear power stations, as well as the license conditions for radioactive waste management.¹

We are concerned that these two paragraphs are in non-compliance with the Convention on Nuclear Safety as they undermine the independence of the HAEA as prescribed in art. 8(2) of the Convention.

Act CXLIII of 2016, § 14 (1) and (2):

(1) The following sub-point (dh) is added to point (d) of Section 67 of Act CXVI of 1996:

(The Government shall be authorised to regulate, in a decree:

(d) in respect of nuclear facilities)'

(dh) possible ways and conditions of deviating from the official licences at a nuclear facility being established;'

(2) Section 67(w) of Act CXVI of 1996 is replaced by the following:

(The Government shall be authorised to regulate, in a decree:)

'(w) safety requirements for radioactive waste repositories and detailed rules for the related requirements of the authorities as well as possible ways and conditions of deviating from the licences at the radioactive waste repository being established;'

¹ Act CXLIII of 2016, § 14 (1) and (2); <http://magyarkozlony.hu/hivatalos-lapok/ed5602bae3bbe7ea64f0c00119c5dcdffde61910/dokumentumok/69ee0fd67e37f09aff57cd7be072ddcb8b8f81d5/letoltes>

Art. 8(2) of the Convention postulates “an effective separation between the functions of the regulatory body and those of any other body or organization concerned with the promotion or utilization of nuclear energy”.

As mentioned in the national report of Hungary² for the 7th Review Meeting of the CNS under paragraph 7.1, it is the mandate of the HAEA to determine the license conditions for the construction and operation of nuclear facilities, including nuclear power plants and nuclear waste facilities. The construction of the Paks II project in Hungary is executed by a body that falls under the Prime Minister’s office, i.e. the same Hungarian Government as defined in the above mentioned amendments to the energy legislation. This means that during construction and waste management, the Government – the *de facto* operator of the Paks II project and 100% owner of the other entity producing nuclear power, MVM – may divert by decree from the license conditions set by the independent nuclear regulator HAEA.

This fundamentally changes the definition and allocation of tasks of ministries, national authorities and bodies of competence in licensing and oversight procedures as mentioned in paragraph 7.1 of the Hungarian national report to the CNS. It undermines the mandate of the facility-level licensing authority of nuclear installations attributed to the HAEA, which is also referred to in paragraph 8.1. The statement there, that “[t]he HAEA, as a governmental office, cannot be directed in its scope of authority as defined in law.” has been rendered powerless with the potential of the Government / operator changing license conditions by decree.

Greenpeace Central and Eastern Europe, Friends of the Earth Europe, Energiaklub, WISE international and the Nuclear Information and Resource Service are concerned that this legal backdoor for Government / operator intervention in the conditions of nuclear construction and radioactive waste management licenses may lead to a weakening of nuclear safety and therefore kindly ask you to raise this issue of non-compliance with the Convention during the 7th Review Meeting.

Sincerely,

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² HAEA, *Seventh National Report Hungary Prepared in the Framework of the Convention on Nuclear Safety Budapest, 2016*; http://www-ns.iaea.org/downloads/ni/safety_convention/7th-review-meeting/hungary-seventh-national-report-to-the-cns.pdf