

EUROPEAN PARLIAMENT

2004



2009

Committee on Petitions

15.05.2009

NOTICE TO MEMBERS

Subject: **Petition 1385/2008 by Peter Penchev (Bulgarian), on behalf of the association 'Anna Politovskaya', on protecting the Bulgarian nuclear physicist Georgi Kotev**

1. Summary of petition

The petitioner calls on the European Parliament to intervene in the case of the above-mentioned nuclear physicist. The petitioner maintains that Georgi Kotev, who worked at the controversial Kozloduy nuclear power station for 17 years, is being threatened by the plant's administrative director because he published information about irregularities there, including the use of dangerous recycled fuel.

2. Admissibility

Declared admissible on 25 February 2009. Information requested from Commission under Rule 192(4).

3. Commission reply, received on 15 May 2009.

The petition

In their petition, the "Anna Politkovskaya" Association for Free Speech calls upon the European Commission to turn to their specialised security and law enforcement structures and take immediate steps to defend the life and human dignity of Bulgarian nuclear scientist Georgi Kotev. Allegedly, Mr Kotev was threatened by the administrative director of the Kozloduy nuclear power plant because he has made public allegations of the illegal use of dangerous recycled fuel from a Russian supplier in this power plant (as well as allusions to possible disguising of these facts, corruption and fraud).

The Commission's comments on the petition

Background on Kozloduy nuclear power plant

The European Commission is aware of the allegations concerning nuclear fuel used at the Kozloduy nuclear power plant and has been in contact with the interested parties. In 2008 and 2009, there has been an exchange of information between the European Commission and Mr Kotev as well as with the Bulgarian Nuclear Regulatory Authority and the Kozloduy Nuclear Power Plant.

The technical background centres on the use of allegedly recycled fuel (reprocessed uranium):

a) Change of fuel and the subsequent deviation in the calculation of the length of the fuel cycle:

It appears that following a gradual change in the type of fuel (TVSA instead of the previously used TVSM) starting in 2004, a slight deviation has occurred in the observed length of the fuel campaign compared with the predicted length and, as a consequence, in the burn-up of the fuel. The Bulgarian Nuclear Regulatory Authority has obtained clarifications from the Russian fuel supplier TVEL, and has assured that these deviations are negligible and have not endangered nuclear safety or the protection of workers or the environment. According to information received by the Commission, the problem was likely due to the software used ("KASKAD") that was not fully adapted to the new kind of fuel but would be updated.

In his letter of 19 February 2009, the Director of Safety and Quality of Kozloduy Nuclear Power Plant has stated that the *"problem with the abnormal deviations between the calculated and the observed fuel cycle length was completely solved."*

b) Use of recycled uranium:

The Bulgarian Nuclear Regulatory Authority has used an independent contractor (the Swedish firm Studsvik Nuclear AB) which confirmed that the measurements of isotope U232 (an indicator of the presence of recycled uranium) correspond to the certificate (i.e. no evidence for the use of recycled uranium).

Even if recycled uranium U236 was used (this is the practice in some nuclear power reactors), it would not have a direct impact on the safety of these reactors.

Assessment of technical background

a) Legal framework

Since the accession of Bulgaria on 1st January 2007, EURATOM safeguards inspections have been and continue to be performed at nuclear facilities in Bulgaria. Verification of the nuclear accountancy records is also done on a permanent basis (Title II, Chapter 7 of the Euratom Treaty, especially Articles 79, 81 and 82).

However, in the absence of binding EU legislation on nuclear safety, this issue is within the competence of the national nuclear safety authorities (Article 33 EURATOM Treaty). The Commission's scope for action under the Euratom Treaty is limited to cases where health and safety of workers or the general public is in danger, i.e. following a release of ionising radiation into the environment, (Title II, Chapter 3 of the Euratom Treaty, especially Article

35, and the Basic Safety Standards Directive) or when nuclear materials are diverted to non-declared use (Chapter 7 of the Euratom Treaty, especially Article 77 (a)).

On 26 November 2008, the Commission put forward a proposal for a Council Directive (EURATOM), setting up a Community framework for nuclear safety.¹ This proposal is currently being discussed by Member States for adoption in the Council.

b) Findings

The European Commission's scope for action under the Euratom Treaty is limited to cases where there is a release of ionising radiation into the environment or when nuclear materials are diverted to non-declared uses. The Commission has no information, neither from the competent Bulgarian Nuclear Regulatory Authority nor from the Kozloduy Nuclear Power Plant itself, that there has been any such release. Hence, there was no reason for a verification mission according to Euratom Article 35. EURATOM nuclear safeguards inspections also did not give any indications on the diversion of nuclear material from Kozloduy Nuclear Power Plant to non-declared uses.

Since answering Parliamentary question E-5775/08 on this subject, the Commission has received assurance from the operator of Kozloduy NPP on 19 February 2009, that, following recalculations with the new version of software package "KASKAD", the *"problem with the abnormal deviations between the calculated and the observed fuel cycle length was completely solved."*

The Commission's answer to parliamentary question E-1813/09 (follow-up to E-5775/08) reconfirms that the Commission will continue to monitor the evolution of the situation by taking further contacts with the responsible Bulgarian nuclear safety authorities.

Accusations of threats to Mr Kotev

In accordance with the Treaties, the European Commission is not vested with powers of dealing with allegations of criminal offences against individuals. These will have to be dealt with by the respective law enforcement bodies and the judiciary in the Member state concerned.

The functioning of Bulgarian law enforcement bodies in cases of corruption and organised crime as well as the judiciary, are being monitored in the context of the "Co-operation and Verification mechanism" on the basis of a number of benchmarks Bulgaria committed itself to meet. On 12 February 2009 the Commission issued its 4th report to the European Parliament and the Council on the extent to which Bulgaria was meeting these benchmarks. This was a factual update on developments mid-way between the 3rd report, issued on 23 July 2008, and the next full report due in summer 2009. The report states that in order to demonstrate systemic and irreversible change, Bulgaria needs to show that it has put in place an autonomously functioning, stable judiciary which is able to detect and sanction conflicts of interests, corruption and organized crime and preserve the rule of law.

¹ COM/2008)0890 final

Conclusion

- On the technical questions:

The Commission will continue to monitor the evolution of the situation by making further enquiries with the responsible Bulgarian nuclear safety authorities on any technical question related to the Euratom Treaty.

- On the alleged threats against Mr Kotev:

In accordance with the Treaties, the European Commission is not vested with powers for dealing with allegations of criminal offences against individuals. These will have to be dealt with by the respective law enforcement bodies and the judiciary in the Member state concerned.

The Commission will continue to monitor Bulgaria's progress in dealing with cases of corruption and organised crime in the context of the Co-operation and Verification Mechanism.