

Designation of Projects of Common Interest

Czech Republic

Country Study

Justice and Environment 2013

Designation of the projects of common interest (PCI) in the Czech Republic

Country study

1. The Union list – evaluation of the process in the Czech Republic

According to data published by the Commission in 2012,¹ Czech project promoters submitted 32 projects to be considered as potential Projects of Common Interest in energy infrastructure (hereinafter „PCI“). The projects were submitted directly by project promoters, in this case by the Czech Transmission System Operators (hereinafter „TSO“) ČEPS and NET4Gas, the underground gas storage facility operator SPP Storage, s.r.o. and the crude oil pipeline operator MERO. The majority of submitted projects relate to electricity infrastructure (27) while only a minor number of projects relate to gas (4) and oil (1) infrastructure. Except for one oil infrastructure project and one gas infrastructure project, all the submitted projects are included in² relevant national investment plans prepared by Czech TSOs.

According to Art. 3, para 6 of the Regulation, projects included in the Union list shall become an integral part of the relevant national infrastructure plans and shall be conferred the highest possible priority within each of those plans. In addition, a project of common interest may be removed from the Union list only if its inclusion on that list was based on incorrect information that was a determining factor for inclusion, or if the project does not comply with Union law. The initial Union list will thus establish a relatively firm framework for future treatment of enlisted PCIs, and the public will only have restricted opportunities to influence content after the list is adopted. Therefore, in order to fulfill general requirements on open and transparent governance and early and effective public participation³ in decision-making related to the environment, public consultation must be also part of this very initial stage.

According to our findings, neither the Czech authorities⁴ nor the project promoters have carried out any stand-alone public consultation process related to PCI designation. According to our knowledge, so far no opportunity for consultation on projects potentially affecting the public in the Czech Republic has been provided at the regional level, either (the Regional Group). Therefore, there are only two processes where the broader public could have opportunity to express its concerns and comments on projects intended to be included on the Union list.

1

http://ec.europa.eu/energy/infrastructure/consultations/20120620_infrastructure_plan_en.htm

² In fact, vast majority of the ČEPS and NET4Gas ten year development plans was submitted to the PCI list.

³ As this general principles are entitled in various EU relevant legislation – such as the Aarhus Convention, Art. 15 TFEU, Reg (EC) No 1367/2006, Dir (EC) 2001/42 etc.

⁴ In this case the relevant authorities could be most probably the Energy Regulatory authority or the Ministry of Industry and Trade.

The first option was the process of adoption Czech TSOs' national investment plan; however, this option is limited to a theoretical sense. According to the Czech Energy Act⁵ Transmission System Operators are obliged to develop and to regularly update a ten year network development plan. The law does not provide detailed requirements on the development process for the electricity network development plan, and only limited information can be found on the gas plan development process as applied. In general, the law does not require participation of public during the process of development of the plan. According to the Art. 24, para 10 of the Energy Act, the electricity network TSO is only obligated to publish the plan after it is approved by the Energy Regulator. According to the Art. 58k, para 4 and 7, the gas network TSO and the Energy Regulator are only obligated to consult on draft plan with current or future users of the network whose interests might be affected by the plan. The current practice of the TSOs and the Energy Regulator also evidence that the broader public is not heard during the adoption process for the ten year network development plans.

The Commission carried out a public consultation on the list of potential PCI projects between June and October 2012. Only limited information was published about the submitted projects allowing only an ineffective review of the list. In many cases it was even difficult to properly identify the submitted projects in order to look for additional information.⁶ Since the first Union list shall be adopted by 30th September 2013, there is only little time left to ensure that the the public is effectively consulted on the content.

Conclusions:

The PCI designation process concerning projects submitted by Czech project promoters cannot be considered as transparent and inclusive for potentially affected public, because

- Czech national law restricts access of the broader public to the process of development of electricity and gas network development plans,***
- No stand-alone consultation procedure on the list of potential PCIs has been carried out at the national level,***
- No or insufficient opportunity for public to comment on list of potential PCIs was provided at the regional or at the EU level.***

2. Compatibility of projects submitted to the Union list with the Regulation⁷

E38 - Substation connection with OHL Kocin - Mirovka

Project description:

The project aims at the connection of 2 existing 400 kV substations in Czech territories of Kocin and Mirovka, with a double circuit of 120.5 km of overhead line. The cost of this project is estimated at about 450 mil. EUR.

⁵ Act No. 458/2000 Coll

⁶ For instance in the list of electricity infrastructure projects only a very simple description is provided – such as: OHL upgrade Tynec (CZ) - Krasikov (CZ), Hradec (CZ) Chrast (CZ) or Detmarovice (CZ)

⁷ All quotations were translated from Czech language by authors of this document and therefore these cannot be regarded as official translations.

Incompatibility with requirements of Art. 4 of the Regulation:

According to **the EIA documentation**⁸ provided by the investor (ČEPS), the purpose and justification of the project is to allow connection of the planned new nuclear units in Temelín:

“In connection with the planned construction of a new nuclear power plant in Temelin, it is also necessary to strengthen the system of transmission in Czech Republic. For this strengthening the following investments are considered ... In the case of realization of 2x1 blocks with 1200 MW capacity it will be necessary to build a double circuit 400kV interconnection connecting the 400 kV substation in Kočín with the 400 kV substation in Mírovka [...]

Strict conditions for safe operation of nuclear power plants according to the criteria N-2 ... require the strengthening of the transmission network around the new NPP units with the construction of new transmission elements in order to allow safe operation ... The purpose of the project is therefore to ensure sufficient transmission capacity and reliability of the transmission system in the Czech Republic in relation to the project of construction of new energy sources.”

Similarly, in the **decision of the Energy Regulatory Authority concerning the ČEPS network development plan**,⁹ the purpose and justification of the project is explicitly linked to connection of new nuclear units in Temelín:

„...2. Construction of a new nuclear source for the Temelin power plant – investments are necessary in relation to the connection of two 1700 MW units in the nuclear power plant Temelin

- construction of a new double circuit interconnection 400kV Kocin – Mirovka (V406/V407)...“

The same can be found in the current **ČEPS ten year network development plan**¹⁰. In addition, the project is listed among other projects in section 5.2.1 of the plan (*Effect of resource base expansion*) while projects with indicated significant cross border impact are grouped in section 5.2.3 of the plan (*Effect of foreign cooperation and networking with other EU MS transmission system*).

⁸ V406/V407 Kočín- Mírovka, nové vedení 400kV, Oznámení záměru, p. 9 and p. 11 – 12, http://portal.cenia.cz/eiasea/detail/EIA_MZP281

⁹ Dec. of the Energy Regulatory Authority no. 05442-10/2012-ERU, p. 3 – 4, <http://www.ceps.cz/CZE/Cinnosti/Technicka-infrastruktura/Stranky/Rozvoj-PS.aspx>

¹⁰ Plan of transmission network development in the Czech Republic 2013 – 2022, p. 12 – 13, <http://www.ceps.cz/CZE/Cinnosti/Technicka-infrastruktura/Stranky/Rozvoj-PS.aspx>

From what is mentioned above it appears that:

- It is highly questionable whether the project fulfills requirements of Art. 4, para 1 (a) of the Regulation. Based on the justification of the project offered by ČEPS, **no evidence exist that the project is necessary to complete the internal market, nor it will allow the integration of energy generation from renewable sources (Annex I para 1 (3) of the Regulation)**. Rather, the investor highlights that the project will only allow the integration of a new nuclear energy source into the domestic transmission network.
- For the same reason, it is highly questionable whether the project fulfills requirements of Art. 4, para 1 (a) of the Regulation. Although there might be some minor positive effects of the project in terms of market integration or sustainability of supply (increase in system flexibility), the main effect will be allowing the planned nuclear units in Temelin. Therefore, **it is very probable that the project potential will be „consumed“ by operation of the NPP and the effect of project will not be neutral in terms of the criteria indicated in Article 4, para 2 of the Regulation**. This project's costs are estimated to be 450 mil. EUR, this project is highly controversial in terms of protecting the environment and local communities, and, as reported in the EIA documentation, the investor failed to consider cheaper and less harmful alternatives for strengthening the transmission network.
- The project does not fulfil the requirements of of Art. 4, para 1 (a) of the Regulation. It does not cross the border of two or more Member States or at least one Member State and a European Economic Area country, and **no evidence exists that the project increases the cross border grid transfer capacity at the border of the Czech Republic by at least 500 MW compared to the situation without commissioning of the project**. The latter conclusion can be indirectly supported with the fact that current capacity of cross border transmission lines as such in the Czech Republic significantly exceeds the demand¹¹ and as well as by the fact that ČEPS did not mark the project as relevant for increasing cross border grid capacity in its ten year development plan.¹²

Other issues to be considered:

The project has been perceived as highly controversial by the public. It will directly or indirectly affect approximately fifty municipalities. During the EIA procedure more than fifteen local authorities expressed strict disapproval with the project as it was drafted by ČEPS. In addition, five petitions against the project were organized in affected localities, five NGOs (either grassroot initiatives or environmental NGOs monitoring the project) submitted negative opinions on the project, and more than seventy individuals expressed their disagreement with the project in the EIA procedure.

¹¹ The data can be found on <http://www.ceps.cz/ENG/Data/Vsechna-data/Pages/Preshranicni-prenosove-kapacity.aspx>

¹² See the Plan of transmission network development in the Czech Republic 2013 – 2022, p. 15 – 16, where other projects are identified as projects increasing the EU market integration (E42 Upgrade OHL Hradec - Reporyje, E48 OHL upgrade Tynec – Krasikov, E54 Prosenice Krasikov, E56 Prosenice Kletne, E31 CZ New 400kV OHL Vitkov – Mechlenreuth, E32 400kV substation Vitkov, E33 400kV substation Vernerov, E34 400kV OHL Vernerov – Vitkov, E35 400kV OHL Vitkov – Prestice).

The project has been repeatedly criticized for various reasons:

- The infrastructure is **located very close, or directly in, number of protected areas** (CHKO Blaník, PP Černická obora, PP Turovecký les, PP Polánka a PP Čeřínek and several others). The **impact on protected areas was not sufficiently assessed**, and no adequate compensation measures (including amendments of the construction corridor) were proposed.
- There are **two Natura 2000 protected areas in the close proximity of the project corridor** (EVL CZ03104421 Borkovická blata, CZ0613321 Jankovský potok). Although these localities will be very likely directly or indirectly affected by the project (construction works, change in the face of landscape etc) only a basic and **insufficient screening of potential impacts was conducted** by the investor.
- The project will dramatically change face of the landscape of a large area that has, so far, not been affected by similar kinds of infrastructure buildings. **The impact of landscape was not assessed properly during the EIA procedure** and, as a consequence, no adequate changes in the project design or compensation measures were planned to lower the project's impact on the face of the landscape.
- The area is regarded as highly attractive for tourism, and this status will be severely damaged by presence of the transmission infrastructure.
- The transmission lines will be localized in a **very close proximity to inhabited areas, increasing health risks for local citizens** as well as negatively affecting prices of real estate in these areas.¹³
- The investor **did not provide any detailed assessment of the project alternatives** – such as using alternative corridors, as was proposed by several subjects participating in the EIA procedure, utilization of underground cables, or utilization of alternative pylons.¹⁴

E36 Upgrade substation 400kV Kocin

E37 Upgrade substation 400kV Mirovka

E39 New OHL 2x1385MVA Mirovka V413

E40 Upgrade OHL Kocin – Prestice

E41 Upgrade OHL Mirovka - Cebin

Projects description:

These five projects are closely interlinked with the project E38 and, as well as project E38, these projects aim at allowing future connections between new nuclear units in Temelín.

According to the EIA documentation of project Kocin - Mirovka¹⁵:

¹³ For instance citizens from the following residential areas protested against the transmission infrastructure being localized in a near proximity of their homes: Dudín – Buková, Herálec, Častonín, Ovčín, Mendlova Ves, Svatý Kříž, Ústí and others.

¹⁴ Using of alternative pylons that require relatively smaller land to be treated as protection zone and thus minimizing conflicts with local land owners.

¹⁵ V406/V407 Kočín- Mirovka, nové vedení 400kV, Oznámení záměru, p. 9

“In connection with the planned construction of a new nuclear power plant in Temelin, it is also necessary to strengthen the system of transmission in the Czech Republic. For this strengthening the following investments are considered ... In the case of realization of 2x1 blocks with 1200 MW capacity, it will be necessary to build a double circuit 400kV interconnection of the substation 400 kV Kočín with the substation 400kV Mírovka and strengthen the interconnection of substation 400kV Mírovka by its connection to existing lines V413 Řeporyje - Prosenice. In the case of realization of 2x1 blocks with 1700 MW capacity, ... , it will be necessary to strengthen the transmission network by increasing transmission capacity on the line Kočín – Prestice and double the existing lines V432 Kočín-Prestice as well as further strengthening the interconnection of the substation 400kV Mírovka by doubling of existing lines V422 Mírovka - Čebín. In relation to that, modifications of the relevant substations need to be realized as well.”

Similarly in the decision of the Energy Regulatory Authority concerning the ČEPS network development plan,¹⁶ the purpose and justification of these projects is explicitly linked to interconnection of new nuclear units in Temelin:

2. Construction of a new nuclear source of Temelin power plant – investments necessary in relation to interconnection of two 1700 MW units in the nuclear power plant Temelin

...

- connection of the substation 400kV Mírovka to existing lines V413 Řeporyje - Prosenice)*
- doubling the existing lines V432 Kočín-Prestice*
- doubling of existing lines V422 Mírovka – Čebín*
- extension of 400kV substations Přeštice, Mírovka, Čebín*
- reconstruction and extension of the 400kV substation Kočín onto a higher short circuit level.“*

Last but not least, the current ČEPS ten year network development plan¹⁷ lists all the projects in question again in section 5.2.1 of the plan (*Effect of resource base expansion*).

Compatibility with Art. 4 para 1 of the Regulation:

Similarly to the project E38, the purpose and justification of projects, as it was provided by the project promoter to national authorities, is inconsistent with criteria referred in Art. 4, para 1 of the Regulation. For a detailed explanation, we refer to the relevant section of this document related to the project E38.

¹⁶ Dec. of the Energy Regulatory Authority no. 05442-10/2012-ERU, p. 3 – 4,

¹⁷ Plan of transmission network development in the Czech Republic 2013 – 2022, p. 12 – 13,

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