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# ARE THERE LEGAL GROUNDS FOR THE PARLIAMENT TO ALLOW CONSTRUCTION OF NEW NUCLEAR BLOCKS N3 AND N4 AT KHMELNYTSKA NPP?



## **Are there legal grounds for the parliament to allow construction of new nuclear blocks N3 and N4 at Khmelnytska NPP?**

In April 2024 the Parliament registered the draft Law on location, designing and construction of energy blocks № 3 та № 4 at Khmelnytska NPP (<https://itd.rada.gov.ua/billInfo/Bills/Card/43948>) №11146 dated 03.04.2024. The main committee – Committee on Energy, Housing and Utilities Services provided its conclusion on 17.06.24, allowing inclusion of this draft law into the agenda of the parliamentary hearing for adoption in the first reading.

Its worth mentioning that the decision on construction of blocks № 3 та № 4 at Khmelnytska NPP had been discussed in bureaucratic rooms for a long time. The main facts are the following.

On July 21, 2005 the Cabinet of Ministers of Ukraine adopted the decision: «On preparative activities for construction of new blocks at Khmelnytska NPP» № 281-2005-p, which obliged the Ministry of Energy and state company “Energoatom” to conduct assessment of old facilities and equipment of energy blocks № 3 i № 4 at Khmelnytska NPP and as a result to prepare proposals for further possibility of usage of the facility of Khmelnytska NPP for construction of nuclear blocks № 3 i № 4.

In December 2008 the statement of intent to construct energy blocks № 3 i № 4 at Khmelnytska NPP was published. On January, 2011, the Parliament ratified an Agreement between the Cabinet of Ministers of Ukraine and Government of Russia Federation on cooperation in construction of energy blocks № 3 i № 4 at Khmelnytska NPP. On July 2012 p. the Government of Ukraine adopted the Resolution № 498 on Approval of Feasibility Study for Construction of Energy Blocks № 3 i № 4 at Khmelnytska NPP. On September, 2012, the Parliament adopted the Law on location, designing and construction of energy blocks № 3 та № 4 at Khmelnytska NPP № 5217 – VI.

On 16 September, 2015, the Parliament adopted the decision of the annulment of the Law on location, designing and construction of energy blocks № 3 та № 4 at Khmelnytska NPP from 06.09.2012. This step was superseded by the denouncing of the Agreement between the Cabinet of Ministers of Ukraine and Government of Russia Federation on cooperation in construction of energy blocks № 3 i № 4 at Khmelnytska NPP by the Parliament.

In July 2018, the Cabinet of Ministers of Ukraine approved the feasibility study Feasibility Study for Construction of Energy Blocks № 3 i № 4 at Khmelnytska NPP (city Netishyn), prepared by the Ministry of Energy and Coal Industry. Later, but before the full scale war in Ukraine, the President issued a decree in September 2020, by which the Government was obliged to transfer to the Parliament for consideration the draft law on location, designing and construction of energy blocks № 3 та № 4 at Khmelnytska NPP during two months. EPL provided critical comments concerning such decision in 2020 (more details here) The main arguments against adoption of such law – the absence of the EIA decision, as EIA decision was taken only on 1 October 2021. Also the EIA report, which was made public in January 2019, mentioned that energy blocks № 3 and 4 will host the reactor type BBEP-1000 produced by Škoda JS a.s., and later is owned by Russian company «**United Heavy Machinery**», and controlled by Russian Gasprombank, which is under sanctions.

Nevertheless nuclear lobby did not give up their plans, and prepared the draft law allowing to construct blocks 3 and 4 at Khmelnytska NPP and submitted it to the parliament for the second time. So let's describe the procedure for adoption of such parliamentary decision.

According to article 5 of the Law "On adoption of the decisions on location, designing, construction of nuclear facilities and radioactive waste management objects, which have national importance", to the draft law on location, designing, construction of nuclear facilities the following documents should be annexed:

- Feasibility study of such nuclear facility or radioactive waste management objects, and grounding of the decision of their location;
- Results of EIA;
- Results of consultative referendum concerning placement of nuclear facility or radioactive waste management object, when it was conducted, or decision of central agency dealing with legal regime of the territory with radioactive pollution as a result of Chornobyl disaster, in case of placement of such objects in the exclusion zone;
- Report on measures of informing of affected countries on possible transboundary impact in accordance with the law;
- Other documents, if this is stipulated by the law.

Thus, today the initiators of this draft law should submit to the parliament the documents described above.

### **Feasibility study**

**Feasibility study** of construction of blocks № 3 та № 4 at Khmelnytska NPP (correction) was transferred to the parliament, but the members of main parliamentary committee questioned this study as it needs actualization, as it was developed and adopted more than 6 years ago, in 2018, thus its indicators might be not relevant nowadays concerning the price of construction, price of equipment and value of construction works. Also members of the parliament indicated the need to ensure transparency of usage of financial resources, specification of the price of auxiliary equipment and transportation costs to ensure successful construction.

By the way, there are questions concerning the main equipment as EIA report and feasibility study mention the use of reactors BBEP-1000 produced by Škoda JS a.s, which distributes Russian reactors. In the last letter of "Energoatom" addressed to the head of the committee of the Parliament on energy dated 14.06.2024, where nuclear lobby asked the committee to reformulate the draft law provision as follows: "Provide the investor of the construction the right during design of the project of construction of nuclear blocks 3 and 4 № 3 at Khmelnytska NPP to change BBEP-1000 into other type of Pressurized water reactor". But the Committee did not support this wording of p.2 art.3 of draft law. The change of type of reactor should be followed by re-drafting of project documentation, new EIA procedure, and new transboundary EIA, and "Energoatom" doesn't have time for this.

In the meantime, as the draft Law on location, designing and construction of energy blocks № 3 та № 4 at Khmelnytska NPP awaits consideration by the Parliament, JSC Energoatom ordered from the company "Westinhouse Electric Sweden AB" the analysis of options of construction of blocks № 3 та № 4 at Khmelnytska NPP at the price of 700 000 Euro. By the end of 2024 the contracted company has to perform the analysis of options of construction of energy blocks № 3 та № 4 at Khmelnytska NPP. According to procurement documentation, Swedish company has to perform examinations of existing remnants of reactor building and evaluate the current condition of existing facilities and the amount of construction works that need to be performed, and to provide its conclusion concerning 2 scenarios of procurement: option "A" – transfer of

reactor B4-466B from Belene NPP (Bulgaria) and option “B” - transfer of reactor B-320 from Škoda JS a.s (Czechia). It's interesting, that in 2022 Skoda JS totally was transferred into 100% ownership by Czech national energy company CEZ, and in May 2023 the USA delisted Czech company Skoda JS from the list of sanctions against Russia. Skoda JS was listed in the US sanctions list in 2016, as it was a subsidiary of machinery group Skoda, which in 2004 was bought by Russian company «**United Heavy Machinery**», controlled by Russian Gasprombank. Ukraine probably also delisted this Czech company from its sanctions list, and this opens the doors for cooperation of Ukraine in case of construction of blocks 3 and 4 at Khmelnytska NPP.

According to the agreement on provision of services by “Westinhouse Electric Sweden AB”, the latter has to perform the assessment of integration of complex reactor B-466B into existing project KNPP with the focus on building formations and compatibility of systems, after negotiations with Bulgarian party. It's worth mentioning, that in 2006 Rosatom won international procurement on construction of two energy blocks BBEP-1000 at Belene NPP in Bulgaria, but after 3 years the project was suspended. In 2012 Bulgaria totally gave up construction plans at Belene due to financial reasons. In January, 2013, Bulgaria organized a referendum concerning completion of Belene NPP project, but due to low turnout (20%) its results were invalid. In a month the Parliament of Bulgaria took a decision to ban construction and operation of Belene NPP by 114 votes.

Thus, if Ukraine will buy 10-years old reactor from Bulgaria, or nuclear reactor B-320 from Škoda JS a.s, final decision will be worded by experts of Westinhouse Electric. We hope that their decision will be based on the safety considerations of the operation of the reactor. We also hope that experts from Westinhouse Electric will provide us with real evaluation of old construction formations of KHNPP.

## EIA

**The results of EIA** which lasted near 3 years, were made public through the EIA conclusion on admissibility of planned activity. The main impact from planned activity is expected on waters and from management of radioactive wastes. The Ministry of Environment prepared the huge list of environmental conditions, also based on comments from the public, and its implementation will safeguard the environment from negative impact and minimize it. Namely, the Energoatom company has to conduct the following studies before the launch of planned activity:

- Assessment of technical condition of dam of cooling water reservoir;
- Study of habitats on the presence of species of flora and fauna, listed in Resolutions 4 and 6 of Berne Convention in cooling water reservoir;
- Calculation of water management balance of Horyn` river during operation of 4 reactors of KHNPP by the end of their lifetime;
- Preparation of the concept of safe end of lifetime of blocks 3 and 4 of NPP.

All these documents and assessments should be made public on the web-site of “Energoatom”. There are no such documents on the web-site.

Although the EIA conclusion banned planned activity without the study of protected species and habitats at Emerald network site Iziaslavsko-Slavutytskyi (UA0000123), and nuclear investor is obliged to ensure conservation of natural habitats and natural flora and fauna in a long-term at this site.

It seems that absence of necessary and full information on the impact of planned activity on environment in EIA report did not affect the decision of the Ministry of Environment on admissibility of planned activity, but due to the comments of the public the EIA decision

included the list of several specific environmental conditions (e.g. to ensure that the temperature in cooling water reservoir do not exceed +33C), which are oriented at environmental consciousness investor and at the availability of few instruments for the public to control the implementation of these environmental conditions.

Thus, the environmental safety of continuation of construction of blocks № 3 та № 4 at Khmelnytska NPP should be supported by more actual and up-to-date studies and assessments which should be included in the EIA report of this project. The Ministry of Environmental Protection obliged “Energoatom” to present special technical solutions and measures of increase of safety by the request of affected states at the stage of Project in its EIA conclusion, and also to conduct assessment of technical condition of existing construction formations of blocks № 3 та № 4 and provide the public of affected countries with access to such assessment. We have doubts whether such assessment will be performed with due diligence and open access to it will be provided.

### **Support by the communities**

Nuclear agency has to provide the results of consultative referendum concerning placement of nuclear facility, when it was conducted in administrative communities, to the parliament. Such referendum is missing and “Energoatom” in explanatory note there is no mentioning about such public poll. In chapter 6 of explanatory note to the draft law there is such mentioning: draft law requires public consultations concerning the placement of nuclear facility, which were held during EIA procedure in accordance with the Law “On Environmental Impact Assessment”. By the additional letter to the Parliament dated 14.06 24, the “Energoatom” sent to the chief Committee the following documents:

- report on public consultations concerning planned activity on construction of blocks № 3 та № 4 at Khmelnytska NPP;
- decision on taking into account the results of transboundary EIA of the project of construction of blocks № 3 and № 4 at Khmelnytska NPP (Minutes of the hearing of Intergovernmental coordination Council on Espoo Convention dated 10.09.2021 No 1 and cover letter of the Ministry of Environment dated 22.09.2021 No 25/1-15/20215-21);
- decision of Slavuta town council of Khmelnytsk region dated 02.03.2018 No 14- 27/2018 concerning approval of location of reactor facility BBEP-1000 at nuclear blocks № 3 and № 4 at Khmelnytska NPP;
- decision of Izyaslav regional council dated 07.12.2017 No 19 concerning approval of location of reactor facility BBEP-1000 at nuclear blocks № 3 and № 4 at Khmelnytska NPP.

Its worth mentioning, that around Khmelnytska NPP there are the following zones: sanitary protective zone with radius 2,7 km and 30 km observation zone. Observation zone includes the territory of Khmelnytska and Rivnenska regions. This zone encompasses 207 settlements with more than 200 000 inhabitants. Despite of this, the decisions on approval of the construction (under certain circumstances) of new blocks at KhNPP were taken only by few bodies of local self-government - Slavuta town council in 2018 and Izyaslav regional council in 2017. Is it sufficient to have the decisions of only 2 bodies of local self-government for adoption of the law on construction? Are there decisions on approval from Netishyn local community (its lands are allocated for placement of NPP), Ostrog community, which lands are located around NPP? And numerous villages around NPP were not asked and heard.

Its interesting that these 2 supportive decisions mention that approval of construction of blocks № 3 and № 4 at Khmelnytska NPP is given under certain conditions, and these conditions were not included in the draft law on location, designing and construction of energy blocks № 3 and

№ 4 at Khmelnytska NPP, thus such decisions could questionably be regarded as supporting construction?

Public hearings on planned activity during EIA procedure were held in big cities – Khmelnytskyi, Rivne, Ternopil, Vinnytsya, Chernivtsi, Kyiv, Lytsk, Ivano-Frankivsk, Zhytomyr in 2019. These hearings were not overcrowded, specially in cities more distant from NPP. Also based on the list of cities where hearings took place, the opinion of local population that will likely be affected by planned activity was not heard. Moreover, dwellers from villages and towns had no possibility to be transported to cities for sole participation in public hearings. Such behavior of investor violates the Law “On Environmental Impact Assessment”, which foresees the public discussions in local communities which are likely to be affected by planned activity. Thus, JSC «Energoatom» had an obligation to conduct public hearings in all administrative communities of 30 km observation zone in Khmelnytska and Rivne oblasts. But this was not a case. Hence, there are grounded doubts that local population of 30 km observation zone supports construction of blocks 3 and 4 at Khmelnytska NPP. The absence of the support of local community of 30 km observation zone of these plans to construct blocks 3 and 4 at Khmelnytska NPP might lead to the problems with passing of this law by the Parliament and financial support of this project by international financial institutions in case of involvement of credit or other financial resources.

### **Informing of affected countries**

The draft Law was not followed by the document: Report on measures of informing of affected countries on possible transboundary impact in accordance with the law, although there is a mentioning about this report in explanatory note. This drawback is mentioned in the Conclusion of the Chief scientific expert department of the Apparatus of the Supreme Council of Ukraine dated 30.05.2024 p., as this violates art.5 of the Law “On adoption of the decisions on location, designing, construction of nuclear facilities and radioactive waste management objects, which have national importance”.

*Under such conditions, we state that possible decision of the Parliament approving the Law on location, designing and construction of energy blocks № 3 and № 4 at Khmelnytska NPP is premature and ungrounded, as some of the necessary documents provided by Energoatom are missing, not all the necessary approvals from the affected local communities were received from the settlements, which are likely affected by the planned activity. There is an urgent need to conduct necessary studies, which were listed in 2021 in the conclusion on EIA. All th studies, assessments and public hearing results should be made public.*

Description of the case:  
<https://epl.org.ua/en/law-posts/spravy-budivnytstvo-atomnykh-enerhoblokiv-3-ta-4-na-khmelnytskii-aes/>