

Draft guidance on the applicability of the Espoo Convention to the lifetime extension of nuclear power plants

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Remarks by

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We thank the co-chairs of the ad-hoc Working Group for their intensive work on this guidance. A lot of ground has been covered, and that would not have been possible without the many hours of work by the co-chairs, the ad-hoc Working Group and indeed without the transparency that we experienced and appreciate.

Still, we are not satisfied with where this long process has led us, and the length of the process itself is an important symptom of the reasons for the problems that the presented text still exhales.

Although it has become very clear over the last 10 years of this discussion that the issue of lifetime extension of nuclear power plants would be enormously helped with the inclusion of vital, up-to-date environmental information, short-sighted reluctance among some authorities from countries that are facing nuclear lifetime extension decisions has not only slowed down the necessary decision processes, it also has made this guidance less clear than necessary by adding irrelevant “but”s and “if”s.

As a result of the slowness of this process and the reluctance of some Parties to build constructively on the self-evident, we have seen ongoing problems with nuclear lifetime extensions in Armenia, Belgium, the Czech Republic, France, Finland, Netherlands, Slovakia, Slovenia, Switzerland, the UK and Ukraine. In all these countries, ageing nuclear power stations face different problems within their national energy system that could have been prevented when environmental considerations had been fully integrated in a transparent way in the decisions leading to long-term operation of reactors.

It is our clear impression, that some of the Parties to the Espoo Convention, most notably France, Belgium, Slovakia, and the Czech Republic, have from the outset tried to derail the search for clarity and continue to do so today. By insisting on ways to be able to wiggle out of the obligation for environmental impact assessment for nuclear lifetime extensions, they deprive themselves and others of important and vital information to reach justifiable decisions concerning the future of their nuclear fleets. This creates uncertainty in their energy policies for all involved stakeholders – a situation which is increasingly problematic where Europe and the planet face a climate emergency.

We unfortunately have to conclude that where we as Espoo community embarked in 2014 in Geneva on a constructive dialogue about how environmental information could best be included in decisions around nuclear lifetime extensions, six (!) years later we seem not to be able to give the necessary clarity because of short-sighted attitudes that think that without creating that information, decisions can be taken faster and cheaper – not realising that the quality of decisions

taken in that way is so low that they not only decrease the credibility of the energy and nuclear safety policies they are part of, but are an important part in the slowness of response to the climate crisis, and in the end also might increase the risk on a next severe nuclear accident taking place on the European continent.

The Implementation Commission is currently facing the fact that decisions about the continued operation of 55 reactors in 16 locations are taken without being informed by a transboundary environmental impact assessment. The guidance now under discussion should give it the handles to help Parties to implement the Espoo Convention in a way that would enable its decision makers to take all relevant environmental aspects into due account when setting out the lines to an energy future in which the electricity and heat sectors in 2050 will not emit greenhouse gasses any longer.

This guidance cannot do that yet. It contains too many brackets, too many “if”s and “but”s.

The guiding principle should be that States and citizens can rely on the Espoo Convention to secure the uptake of all relevant environmental information into decisions that have important impacts on that same environment and human society. And the framework of the Espoo Convention is able to do so. What stands in the way now, are short-sighted nuclear interests.

1. Whether or not a transboundary EIA should take place for nuclear lifetime extensions should not be a question to be decided on a case-by-case approach (par. 28 of the guidance) – It should be the default, without any exceptions. This guidance should give the handles to decision makers to chose on a case-by-case basis which decision is best suited to be preceded (and informed) by an EIA.
2. Every decision concerning the operation of nuclear power stations should be informed by information from an EIA that is relevant for the period in which the decision is taken. When no EIA exists that covers the environmental reality of that period, a new one should be carried out – when earlier (final) decisions were already taken without an EIA (par. 29, 61 and 75) even retrospectively if necessary. Decisions that have relevance for nuclear safety simply should never be taken without consideration of all relevant environmental information. That does not mean a separate EIA for every decision, it does mean an up-to-date EIA available at the time of every decision. Lifetime extension decisions are vital moments to have EIAs carried out for the prolonged operation time span. It also means that in an environmental impact assessment, cumulative minor changes should be assessed – this has nothing to do with retrospectivity, but everything with creating a full picture. Indeed, a large amount of cumulative minor changes can and should even be a triggering reason for a (new) EIA. Not acknowledging this would open the door to salami-slicing – a practice that in jurisprudence is not allowed (par. 75).
3. The Espoo Convention is part of a transparent society. Fear for not being able to justify a fore-gone conclusion by not wanting to take into account environmental information cannot be tolerated. A truly justifiable decision will always have benefited from an environmental impact assessment. There are simply no reasons or arguments *not* to carry out an EIA before deciding to operate a nuclear power plant longer than the period initially foreseen or perceived by citizens to have been approved. For that, no open mind, nor pro-activity is needed (par. 31), but simply a positive attitude towards democratic and lawful practices.

4. Not only ageing, unforeseen degradation or equipment becoming obsolete are reasons for replacement of structures, systems and components, but also new insights in risks, like caused by development of equipment, new insights in the extent of impacts, changes in the environment, etc. (par. 34).

5. In beyond-design accident scenarios, it is widely accepted – especially since the Fukushima catastrophe – that the unthinkable should be taken into account. That means that such accident scenarios have to include scenarios in which several to tens of percents of the gaseous radioactive content is emitted into the environment (as happened in Fukushima), irrespective of whether or not a responsible authority is capable of imagining such an event (par. 91).