Evaluation of the implementation of Directive 2011/70/Euratom

Brussels, 07 Feb., 2017

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In the Joint Project, European NGOs and research institutions cooperate since 2003 on safe and sustainable energy issues with a focus on anti-nuclear activities in Central and Eastern Europe. More information: [www.joint-project.org/](http://www.joint-project.org/)

The Joint Project partners are:
- Austrian Institute of Ecology, AT
- Patricia Lorenz, Friends of the Earth Europe (FOE)
- Foundation for Environment and Agriculture, BG
- Za Zemiata, BG
- Calla – Association for the Preservation of the Environment, CZ
- South Bohemian Mothers, CZ
- Energiaklub, HU
- Hungarian Environmental Partnership Foundation, HU
- Association 'Common Earth' ('Wspólna Ziemia'), PL
- Terra Mileniul III, RO
Problems that became apparent during implementation of Directive 2011/70/Euratom

1. Access to national programmes and national reports
2. Participation on a national and transboundary level
3. Timeframes in the national programmes
4. Export and responsibilities
1. Lack of access to national programmes and national reports

- **Not in time**
  - **Aug. 2015:** National programme and a first national report were to be submitted to EC
  - **Jan. 2017:** Still 6 open infringement cases for “Failure to notify the national programme” (Austria, Croatia, Czech Rep., Italy, Latvia, Portugal)

- **Not publically available**
  - Only after a request by Nuclear Transparency Watch to EC the national programmes and reports were made public in July 2016

- **Draft versions**
  - EC requested to receive officially approved national programmes
  - Czech Republic: In its answer to the infringement CZ argued that it has a valid national programme (approved in 2002), and that the Strategic Environmental Assessment (SEA) is still ongoing
2. Participation on a national and transboundary level?

- Strategic Environmental Assessment (SEA):
  - The only comprehensive participation procedure for a programme
  - To minimize environmental impacts of a programme
  - Legally binding

- Options and their environmental impacts have to be discussed in a SEA
- The decision for an option has to be based on its environmental impacts

Diagram:
- Policy, Strategy
- Waste Management Programme
- SEA Directive 2001/42/EC
- Nuclear Projects (facilities, decomm.)
- Environmental Impact Assessment (EIA)
- EIA Directive 2011/92/EU
<table>
<thead>
<tr>
<th>Country</th>
<th>National SEA?</th>
<th>Transboundary SEA?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austria</td>
<td>Planned</td>
<td>?</td>
</tr>
<tr>
<td>Bulgaria</td>
<td>?</td>
<td>?</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Ongoing</td>
<td>Planned</td>
</tr>
<tr>
<td>Hungary</td>
<td>Finished</td>
<td>Finished (Austria is still waiting for final documents)</td>
</tr>
<tr>
<td>Poland</td>
<td>Finished</td>
<td>No</td>
</tr>
<tr>
<td>Romania</td>
<td>Planned</td>
<td>?</td>
</tr>
</tbody>
</table>
Is a SEA compulsory? Yes!
   - National waste management programme is a programme in the meaning of the SEA-Directive 2001/42/EC
   - This view was also expressed by DG Environment (Mr. Kremlis, June 2015)

But: EC and some Member States are using the following arguments:
   - Euratom is a lex specialis for nuclear energy and therefore outside the SEA Directive – Court could give the answer (Mr. Garribba, Dec. 2016)
   - The national programme is based on a strategy that has already been subjected to a SEA (But: former strategies have not included costs and concepts for transparency & participation)
Problem: Very long or no time frames at all

- Regional (multinational) disposal: 10 members of ERDO (European Repository Development Organisation) Working Group, but no timeframe

Open issue: Substantial changes in time frames?

- Example Germany:
  - Site for final disposal 2031 / start of operation 2050 (national programme 2015);
  - updated in 2016 to 2058/2083
4. Export and responsibility

• Art 4(2): The **ultimate responsibility for the safe and responsible disposal** of exported materials shall remain with the Member State.

• Problem: **Not all exported material is under the Directive 2011/70/Euratom:**
  • Reprocessing is not covered by Directive 2011/70/Euratom – problematic environmental situation in Mayak.
  • Intracommunity transfer is not included in export (M. Garribba, Dec 2016).
  • Legacies are not included.

• Open issue: **How can a member state prove its ultimate responsibility?**
A SEA has to be conducted to ensure national and transboundary participation

Sanctions for delays in submitting national programmes and not keeping the waste programme timetable should be installed

Substantial changes should be clearly defined

The Member States’ responsibility for exported waste should be expanded to legacies, to reprocessing and intracommunity transfers