

Evaluation of the implementation of Directive 2011/70/Euratom

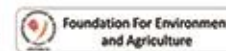
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Nuclear Risk & Public Control – The Joint Project

- 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/
- 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

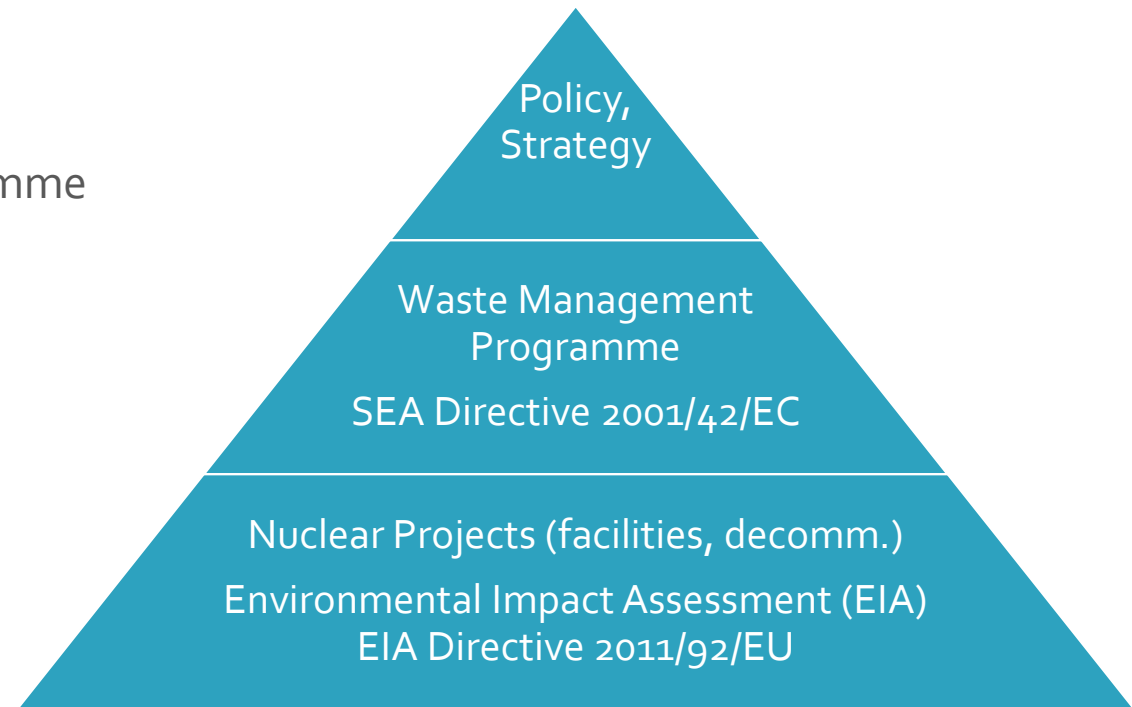
- **Not in time**
- **Aug. 2015:** National programme and a first national report were to be submitted to EC
- **Jan. 2017:** Still 6 open infringement cases for “Failure to notify the national programme” (Austria, Croatia, Czech Rep., Italy, Latvia, Portugal)

- **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



Status of SEA in JP countries

Country	National SEA?	Transboundary SEA?
Austria	Planned	?
Bulgaria	?	?
Czech Republic	Ongoing	Planned
Hungary	Finished	Finished (Austria is still waiting for final documents)
Poland	Finished	No
Romania	Planned	?

Is a SEA compulsory?

- 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)

3. Time frames in the national programmes

- 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?**

Conclusions of the Joint Project

- 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