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To: **Mr Frans Timmermans**
Executive Vice-President for the European Green Deal

Mr Valdis Dombrovskis
Executive Vice-President for an Economy that Works for People

Ms Kadri Simson
Commissioner for Energy

Ms Mairead McGuinness
Commissioner for Financial Services, Financial Stability and Capital Markets Union

Mr Virginijus Sinkevičius
Commissioner for Environment, Oceans and Fisheries

Cc.: EEB, Greenpeace EU Unit, CAN, WWF Europe, CEE Bankwatch

Re.: **Nuclear Energy and the Taxonomy Regulation – Public participation before decision**

Paris / Amsterdam / Brussels, 20 July 2021

Dear Executive Vice-Presidents, dear Commissioners,

The European Commission is currently preparing a decision on whether nuclear energy should be included in the Taxonomy Regulation for sustainable activities. It has asked the JRC to make a report on the extent that nuclear energy fulfils the Do No Significant Harm principle, it has received a review of this report from the Art. 31 Expert Group under Euratom and SCHEER.

As watchdog NGO overseeing transparency in the nuclear sector, and especially the implementation of the Aarhus Convention around nuclear issues, Nuclear Transparency Watch would like to be informed **when** the European Commission intends to carry out a round of **public participation** before it intends to take a decision on the issue of inclusion of nuclear energy into the Taxonomy Regulation, **and which form** this public participation will have.

The **EU Aarhus Regulation 1367/2006/EC**¹ obliges the European Commission in art. 9(1) to carry out early and effective public participation during the preparation, modification or review of plans or programmes relating to the environment when all options are still open. In particular, where the Commission prepares a proposal for such a plan or programme which is submitted to other Community institutions or bodies for decision, it shall provide for public participation at that preparatory stage.

The Taxonomy Regulation is a plan that has been submitted to other Community institutions for a decision in the form of a delegated act. The Taxonomy Regulation relates directly to the environment, as does the activity of generating nuclear energy. Inclusion of nuclear energy in the Taxonomy is therefore also a modification or review of the Taxonomy Regulation that requires the European Commission to be informed by public participation. This modification was addressed by many during the public consultation before the adoption of the Taxonomy Regulation, but remarks were not taken into due account in the final process of adoption, because a decision on inclusion of nuclear energy into the Taxonomy was then postponed, awaiting a special process. Only now, the information at the basis of such a decision has been produced in the form of the JRC report and the reviews of the Euratom Art. 31 Expert Group and SCHEER. The availability of this information is a fundamental new situation compared to when the initial public consultation on the Taxonomy took place.

The Aarhus Directive implements in the EU the Aarhus Convention. Public participation before inclusion of nuclear energy into the Taxonomy is a policy decision relating to the environment. Art. 7 of the Aarhus Convention requires appropriate practical and/or other provisions for the public to participate during the preparation of plans and programmes relating to the environment.

It may be clear from the above, that public participation is an obligation for the Commission before an important decision like that of inclusion of nuclear energy into the Taxonomy on Sustainable Finance is taken.

We therefore ask the Commission to inform us about the time-frame and the form in which this public participation will be organised.

Sincerely,



Dr. Nadja Železnik
President of Nuclear Transparency Watch

¹ Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies; <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006R1367>