

**Study on the consequences of a possible reorganisation
of the ASN and IRSN on scientific and technological plans
nuclear safety and radiation protection**

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**Hearing by Jean-Luc Fugit, Deputy and Stéphane Piednoir, Senator
for the Parliamentary Office for the Evaluation of Scientific and Technical
Choices (OPECST)**

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Julien Dewoghélaëre, for Nuclear Transparency Watch (NTW)

Tuesday 6 June 2023 at 5.30pm, in room 7326 (101 rue de l'Université)

The European network Nuclear Transparency Watch (NTW) was created in 2013 following a call "for vigilance on nuclear transparency" launched by a group of around twenty members of the European Parliament from different political backgrounds. The NTW network brings together more than fifty members (individuals and organisations) from twenty European countries and promotes citizen vigilance on safety and transparency around nuclear issues.

In the spirit of the Aarhus Convention's principles of access to information, public participation in the decision-making process and access to justice in environmental matters, the NTW network seeks to:

- Increase the contribution of civil society to the governance of nuclear activities (including participation in European research projects) with a view to improving safety,
- Raise awareness among political decision-makers and European society of the need for transparency in nuclear decision-making processes at local, national and European level.

Nuclear Transparency Watch's activities cover all aspects of the nuclear cycle, including nuclear safety and security, ageing and life extension of nuclear facilities, new build and decommissioning of old facilities, radioactive waste management, emergency preparedness and post-accident management. In particular, the network is involved in European research projects on the above-mentioned subjects, as well as in partnerships with the European Commission to discuss transparency in the nuclear sector in Europe (BEPPER report) and access to information and public participation (Aarhus Convention & Nuclear - ACN multi-stakeholder round table process).

Because of its activities and missions, NTW has closely followed the proposed reform of the French nuclear safety expertise and control system, and more particularly the proposed merger of ASN and IRSN. On 16 March 2023, the NTW network, with the support of 12 European associations and 23 MEPs, wrote an open letter to the Minister for Energy Transition, Ms Agnès Pannier-Runacher, to express its concern at the urgency with which the reform was being carried out, as it was based neither on

an impact study nor on dialogue with stakeholders. In its letter, NTW supported the ANCCLI's position, urging the government not to rush ahead and overturn the current system of nuclear safety governance in France without first carrying out a study.

This position was in line with one of the recommendations made by the OPECST, which stated that the *"reform cannot do without the greatest possible transparency regarding the strengths and weaknesses of the current control system and a complete, rigorous and rapidly made public preliminary diagnosis, with the greatest possible transparency, of the strengths and weaknesses of the current control system"*.

As a result, we were relieved to see the emergency strategy abandoned and the desire to take the time to assess the current system and the consequences of a potential restructuring of the expert assessment and control institutions. We are therefore responding favourably to OPECST's request for a hearing to pass on the NTW network's opinion on the consequences of a possible reorganisation of ASN and IRSN.

Our position on this issue revolves around four points that highlight the qualities of the current French system:

- The exemplary nature of the French control system, recognised as a model at European level, and the importance of strictly independent expert assessment institutions,
- The ability of the French control and expertise system to maintain a link between research and expertise, as well as the pluralism of expertise that guarantees its quality,
- Maintaining a high level of involvement in exchanges and research conducted at European level on the various technical and socio-technical issues related to the nuclear field,
- Maintaining the development of a shared safety culture and openness to civil society in the spirit of the Aarhus Convention.

Axis 1 - The exemplary nature of the French control system, recognised as a model at European level, and the importance of independent expertise and control institutions.

In 2011, the Fukushima accident reminded the world of the importance of good governance of the safety system, with France's dual ASN-IRSN system emerging as a model for risk governance. Even today, as part of our participation in various European research projects, including projects linked to the EURAD platform, which deals with the issue of radioactive waste management and geological disposal, the French model of the independence of the expert institute from the regulator is cited as an example and seen as one of the most robust models, making it possible to guarantee a high level of safety and transparency. This observation is underlined by members of civil society (some of whom testify to the difficulties encountered in terms of transparency in their national contexts) but also by the other players involved (operators, assessment institutes, research bodies).

The strengths recognised in the French model are as follows:

- Rigorous independence of the expertise, both from industry (or private bodies) and from decision-making bodies (the weight of the decision does not fall on the institute in charge of the expertise and research associated with the decision). This strict independence means that opinions can be issued on the basis of scientific knowledge and socio-technical issues, without economic or political influence or pressure.
- Another recognised strength is the transparency of information, a factor that enhances safety,
- Pluralism of expertise and openness to civil society.

These three factors are all pillars guaranteeing the quality of the decision and the building of trust among all the players involved, including society. Conversely, a new system of governance that took a step backwards in terms of pluralism and independence of expertise would be perceived by the public as sufficient reason for mistrust.

To sum up, in NTW's experience, foreign systems regard France as a model. It is France that is driving the quality of safety upwards at European level. Not guaranteeing the strengths of the current system would send the wrong signal to our neighbours.

Axis 2 - The capacity of the French control and expertise system to maintain a link between research and expertise and a pluralism of expertise.

At present, IRSN brings together research and assessment departments that work in close collaboration. Given the complexity of the issues and subjects in the nuclear field (which interweaves different technical and socio-technical dimensions), this day-to-day collaboration is necessary for the quality of the expertise. This synergy should be maintained and even strengthened.

In addition, the multiplication of sources of expertise (ASN, IRSN, non-institutional expertise involved via permanent groups or mechanisms set up by the two institutions) is a guarantee of the quality of safety insofar as it enables the implementation of an in-depth safety system.

Axis 3 - Maintaining a high level of commitment to exchanges and research at European level on the various technical and socio-technical issues relating to the nuclear sector.

Exchanges and research at European level are of fundamental importance for the quality of expertise in the various national countries. Given the technical nature and specific nature of the issues to be dealt with, knowledge transfer and the pooling of certain types of research are essential. IRSN's technical skills are also based on its research programmes with European and international partners.

Experimental research makes it possible to develop tools that are essential for expert assessments, including in crisis situations.

The announcement of the reform has caused a stir among all those involved in European research (within EURAD, among others), who wonder about the negative impact it could have on European research, given the quality and high level of commitment of IRSN in this area. For example, IRSN plays a leading role in the European SITEX network, which enables fruitful exchanges at European level between the various expert institutes and representatives of civil society.

In the opinion of the NTW network, this European research dimension must be maintained at a high level in the French expert assessment system.

Axis 4 - Continuing to develop a shared safety culture and openness to civil society in the spirit of the Aarhus Convention

Finally, IRSN's current expert assessment system allows civil society to be involved in the spirit of the Aarhus Convention. By being "a public institute at the service of the public authorities but also of the public", it ensures that the public's skills are enhanced via ongoing dialogue systems, an essential complement to ad hoc public consultations. These approaches initiated by IRSN at national and European level, in which NTW members have been involved (in the field of radiation protection, for example, with Open Radiation, or in the field of nuclear waste with the creation of the pluralist dialogue tool in the form of a serious game, Pathway Evaluation Process or PEP, as part of the SITEX-II research project), enable the deployment of a shared safety culture that reinforces safety by making it an issue of joint consultation.

Questions suggested by OPECST.

1 - What is your assessment of the current nuclear safety system? What are its main strengths and weaknesses?

France is a model in Europe - mainly because of the rigorous independence of the regulator, supported by a rigorously independent institute of expertise.

The recognised strengths of the French model are as follows:

- Rigorous independence of the expert assessment from both industry (or private bodies) and the decision-making bodies (the weight of the decision does not fall on the institute, which is responsible for the expert assessment and research associated with the decision). This strict independence means that opinions can be issued on the basis of scientific knowledge and socio-technical issues, without economic or political influence or pressure.
- Another recognised strength is the transparency of information, a factor that enhances safety,
- Pluralism of expertise and openness to civil society.

- These three factors are all pillars guaranteeing the quality of the decision and building confidence among all the players involved, including society. Conversely, a new system of governance that takes a step backwards in terms of pluralism and independence of expertise would be perceived by the public as sufficient reason for mistrust.

2- Do you think that the current safety system needs to be improved or strengthened in the context of a nuclear revival, and in what way? Should we take inspiration from foreign systems?

In our view, the current system should be strengthened:

- by guaranteeing the position and independence of the two institutions (regulator and institute of expertise) and giving them the resources (human and financial) to carry out their functions.
- By strengthening research/expertise cooperation
- By continuing to guarantee the transparency of information and openness to society (in this specific case, we can draw on the Danish model and the implementation since 2016 of a "national contact forum" for the management of nuclear waste under the supervision of the Ministry of Education and Science, which allows regular and direct exchanges with stakeholders and is associated with a panel of academics who answer questions from the public).

Generally speaking, in NTW's experience, foreign systems regard France as a model. It is France that is driving the quality of safety upwards at European level. Not guaranteeing the strengths of the current system would send the wrong signal to our neighbours.

3 - The government communiqué of February 2023 states that the ASN's technical review and decision-making processes should be "streamlined to meet the growing volume of activities associated with the revival of the nuclear industry". What do you think of this approach? If it seems relevant to you, do you think that a reorganisation could be a solution?

The procedural problems are not due to the regulatory system, but to the construction and operation of the facilities. Reducing the independence and competence of the institute of expertise will only increase the number of incidents in the nuclear industry, leading to further delays.

Reorganisation does not appear to be a solution insofar as the current system has demonstrated its robustness in dealing with these issues and it is dangerous to make savings (in time or money) on control in the field of safety.

On the contrary, it would be better to reinforce the strengths of the current system.

4 - What guarantees should be provided regarding information, transparency and technical dialogue with society if the current system is reformed?

Transparency in the sense of the Aarhus Convention (access to information, public participation and access to justice in environmental matters) must be fully guaranteed. But also, in the interests of nuclear safety, the obligations arising from the Aarhus Convention should be fully implemented by all players - i.e. the right to public information and the right to protection of privacy on the basis of Articles 4 and 5 of the Convention, public participation on the basis of Articles 6 and 7 and access to justice on the basis of Article 9 of the Convention.

In addition, the existence of ongoing dialogue processes enabling citizens to increase their skills, the implementation of citizen science mechanisms and public access to expertise must be ensured if the current system is reformed.

5 - The law on energy transition for green growth requires IRSN to publish its opinions, in consultation with ASN. This principle would "force" the ASN's decision. What is your opinion on this? Is there a compromise to be found between transparency and efficiency?

ASN is not afraid of evidence-based public debate. Neither is IRSN. Only such a debate can contribute to optimal decision-making. Experience shows us that in the field of safety, it is not efficient to do without transparency, and that it is preferable to focus on a robust long-term strategy with a control system that creates the conditions for confidence for all players, which implies transparency and the involvement of civil society at all stages.

There is no trade-off between transparency and efficiency, because transparency is a prerequisite for the quality of nuclear safety decisions. Lack of transparency will ultimately lead to more and more incidents, which in turn will undermine efficiency. Furthermore, the refusal of transparency can lead to a risk of opposition and conflict with society.

In this area, hasty procedures have already shown their inefficiency: the British and German examples of site selection for geological disposal show that trying to avoid the socio-technical dimension of nuclear issues ultimately means having to start the process all over again.

6 - At the hearing on 16 February, OPECST insisted on the "independence of expertise from decision-making". How can this separation be guaranteed in a unified organisation?

A unified organisation would be a huge step backwards from the current situation. We find it difficult to guarantee the separation of the autonomy of expertise from decision-making in such a context.

7 - Do you think that Parliament, via OPECST, could guarantee a form of counter-expertise for nuclear safety if the two bodies were merged?

No, because independence must be deeply rooted in the system as a whole. This counter-expertise would not counterbalance the loss of independence inherent in the merger. Having said that, in a current system, this counter-expertise is complementary and likely to further strengthen the quality of the decision.

8 - If expertise and decision-making are integrated into a single body, how can the skills needed to operate an open and transparent control system be developed in other bodies?

We recommend that expertise and decision-making should not be integrated into a single body. To counterbalance this loss of independence, considerable and costly efforts would have to be made to return to an institution with the same profile as IRSN.

It is more desirable to keep what exists by reforming the weak points than to start from scratch.