



with participation of **ENSUREG** and **anccli**  
European Nuclear Safety Regulators Group LA SÛRETÉ NUCLÉAIRE PARLONS EN !

## Aarhus Convention and Nuclear Round Table

*"Implementation of the Nuclear Safety Directive: transparency, public participation, and the role of civil society in independent nuclear regulation"*

**January 21-22, 2025**

### Organisation

This ACN (Aarhus Convention and Nuclear) Roundtable was an initiative of Nuclear Transparency Watch (NTW) and was **organised by the NTW network and the European Commission's DG ENER (ENER.D3)** with the participation of the European Nuclear Safety Regulators Group (ENSREG) and the National Association of Local Information Committees and Commissions (ANCCLI).

### Participation

- Approx. **75 participants**, attending both in-person and online, representing civil society, the Aarhus Convention Compliance Committee (ACCC), nuclear regulatory authorities (from Belgium, Bulgaria, Czechia, Germany, Estonia, Ireland, Spain, France, Italy, Lithuania, Hungary, Austria, Portugal, Slovenia, Slovakia, Finland, Sweden), the International Atomic Energy Agency (IAEA), as well as the European Commission (DG ENER and DG ENV).
- Facilitator: Jan Haverkamp, NTW / Greenpeace.

### Objective

- Based on the Aarhus Convention and the Nuclear Safety Directive (NSD), this Roundtable addressed the topics of **transparency, public participation and the interaction between the nuclear regulatory system and civil society concerning nuclear safety**.

- The overall aim of the event was to identify both challenges and good practices by encouraging an open exchange of views and experience.

## Process

- The Roundtable took place over two half-days and covered two transparency-related sessions. The first session on 21 January 2025 (afternoon) focussed on **public participation** and the second session on 22 January 2025 (morning) addressed **access to information**.
- The event's format was **interactive**. General presentations and examples of practical experiences provided by speakers were followed by interactive discussions. The agenda of the event is attached, for reference.
- The discussions between the civil society participants and the regulators took place in a spirit of openness and mutual interest in exchanging experience – both in the plenary and the discussion groups.
- This Report was drafted by the co-organisers of the Roundtable (NTW and DG ENER), reflecting the discussions and the presentations given during the event.

## Key Themes and Discussions:

### 1. Transparency and Public Participation:

- The **Aarhus Convention** emphasizes three pillars: **access to information**, **public participation**, and access to justice in all environmental matters. A comprehensive body of EU legislation based on the TFEU, aligned with the Convention, is in place at the EU level. Sharing the same transparency philosophy with the Aarhus Convention, the Euratom Treaty-based Nuclear Safety Directive / NSD (Council Directive 2009/71/Euratom, as amended by Council Directive 2014/87/Euratom) lays down nuclear safety requirements on transparency, covering both access to information and public participation. Having in mind this legal framework, the discussions in the Roundtable focussed on the Aarhus Convention pillars of access to information and public participation.

- In the introduction, the ACCC (Aarhus Convention Compliance Committee) highlighted the importance of clarifying concepts and roles in light of the Aarhus Convention: 'public', 'concerned public', 'public authorities', and 'competent authorities'.

- ENSREG (European Nuclear Safety Regulators Group) highlighted the importance of timely, accurate, and comprehensive information sharing with the public, especially in areas like nuclear safety and decommissioning.

- Introducing the voices of civil society, the Austrian Institute of Ecology underlined that even when public participation is taking place, its effectiveness depends on a number of conditions, notably the presence of independent expertise for safety-relevant topics.

## 2. Implementation of the Nuclear Safety Directive (NSD):

- The **NSD** (2009/71/EURATOM) and its amendments post-Fukushima (2014/87/EURATOM) were discussed, with a focus on transparency and public participation mechanisms. The Directive enshrines the obligation to make available information on the nuclear safety of nuclear installations and its regulation to the general public; specific consideration should be given to local authorities, population and stakeholders in the vicinity of a nuclear installation. Furthermore, the Directive calls for the general public to be given appropriate opportunities to participate effectively in the decision-making process related to the licensing of nuclear installations.

- The Commission's **2nd NSD progress report (2022)** noted good implementation levels but identified room for improvement in several key areas (including transparency), encouraging a cooperative approach between the Commission, regulators, licence holders, and the public.

- Other tools facilitating for public participation in the Member States include **Environmental Impact Assessments (EIA)**, public hearings, and non-technical summaries.

## 3. Challenges in Public Participation:

- in the national frameworks public participation processes are typically conducted in the context of environmental assessment procedures, with specific nuclear safety processes in place only in a few cases. This is an observation also made in the Commission's 2022 second report on the implementation of the Nuclear Safety Directive.
- **Early public involvement** is often lacking, especially in transboundary cases where neighbouring countries are affected by nuclear projects (e.g., lifetime extensions of NPPs).
- The need for the public to be involved from an early stage in decision-making process needs to avoid a 'lock-in effect'. It was clarified (from the Aarhus Convention perspective) that some decisions, such as the use of nuclear power, are strategic, policy related – and full public participation is not always guaranteed in this stage of decision making, especially when strategic decisions are taken as part of legislative processes, where public participation is not foreseen. However, when a country provides for public participation in the context of a specific licensing stage – and not in the form of, for example, a Strategic Environmental Assessment (SEA) in the strategic process, all options (including the zero-option – yes/no) should in that case still be available. This holds also true for site licensing procedures that are part of further stages of the nuclear licensing procedures; no preparatory groundwork should be carried out beforehand when in the licensing procedure all options (zero-option, other site choices) still need to be open. In case proper process is conducted (principle strategic decisions with public participation on SEA level, licensing procedures with early and effective public participation), certain options can be closed at a certain moment, which cannot be reopened by the public at a later stage. For instance, an in-principle decision procedure with SEA incl. full and in court challengeable public

participation can lead to the choice of the development of a project with a certain justification. The project then has to prove in later phases (siting, technology choice, detail project) that it falls within the earlier made justification but does not have to revisit the decision in principle. All options remain open in the sense that when the justification is no longer met (because of more concrete developments), the initial decision may have to be revisited.

- **Concrete concerns from the side of civil society** included:
  - the lack of sufficient opportunities for public participation (examples mentioned included no public participation outside limited regions, let alone transboundary participation; limited opportunities for oral hearings);
  - the need for trusted expert resources to respond effectively (examples included: lack of resources to bring forward independent expert viewpoints; independent review of information delivered by the project promoter– not only concerning environmental issues, but also concerning nuclear safety issues);
  - the absence of a clear reflection of the public's input and analyses in the decisions taken by the authorities (no feed-back or clear explanations on how the comments were considered or not). In many jurisdictions, it is the project promoter that delivers a response on public input, whereas the Aarhus Convention requires the relevant authorities to take issues into due account, meaning the public authorities need to explain how the public's views were reflected.
- **The role of Environmental Impact Assessments (EIA's):** Whereas in most countries, the EIA is the only legal procedure including public participation concerning the environment and implementing the obligation to provide the public with sufficient information, for nuclear regulators, the EIA provides only little input relevant to their decisions – and they do not see themselves the (prime) authority to take viewpoints from the public into due account. Generally, regulators reported on their responsibility for nuclear safety and radiation protection aspects, while the environmental aspects are led by the environmental ministries. Even when the responsibilities are split, they point out that interactions between the regulators and the environmental authorities take place; each one takes into account the evaluations / statements made by the other. However, NGOs have the impression that environmental aspects are not often included in the decisions made about technical safety. An example mentioned was the influence of environmental developments and changes on the acceptable level of risk. The procedural dichotomy often does result in a decisional dichotomy.

There seems to be a need for a clearer picture / procedure how the EIA functions in nuclear decision making in a way that it also fulfils the obligations under the Aarhus Convention.
- **SMRs** – The interest in SMRs, especially in countries without existing nuclear power installations, draws concerns from civil society around proper implementation of Aarhus and the Nuclear Safety Directive transparency rules

and especially public participation obligations. These are in principle not different than for large nuclear installations.

- Public participation is more than the right of NGOs to participate. Civil society also includes interested citizens, academics and others. All these different groups will insert another angle of view on nuclear projects and hence may bring forward important considerations for nuclear regulators and other decision makers.
- Drawing from the experience of some civil society organisations and reflected in several communications to the Aarhus Convention Compliance Committee, **legal frameworks** in some countries do not adequately support public participation, leading to delays, lack of transparency, and limited access to justice. Especially for nuclear projects, some countries have sought to limit public participation and transparency. EU Member States authorities, including nuclear regulators, should be reminded that experience drawn from the Aarhus Convention related case-law shows that inadequate implementation of international public participation obligations only leads to confusion and a slow-down of decision processes.
- In terms of proper implementation of the Aarhus Convention, consultations should allow sufficient time, and should not be conducted during official holiday periods.
- **Good practices** were highlighted. The Czech nuclear regulator described how, in reaction to the findings from the ACCC, it is revising its decision procedures around nuclear lifetime extensions and periodic safety reviews. Also, Slovenia revised its decision procedures around nuclear lifetime extensions in response to court findings on the basis of Aarhus and the NSD. In France, a group of local information committees (CLI's) (incl. NGOs), the national association of CLI's (ANCCLI), the then independent nuclear TSO IRSN and then nuclear regulator ASN (both now merged into ASNR) collaborated on the development of a white book on the risks of tritium, including interactive participation of the wider public and inclusion of independent academic and civil society research.

#### 4. Access to Information:

- The **Aarhus Convention** guarantees the public's right to access environmental information, but challenges remain in ensuring timely and comprehensive disclosure.
- The discussions in the second day were more focussed on concrete examples where civil society pointed out experiences in the way access to documents was handled by the regulators and the licensees. The focus on concrete cases determined the concerned regulators to respond and provide clarifications during the event.

- **Access to information** is, jointly with early, fair and open public participation, one of the pillars under a **credible nuclear regulatory system**. The other pillar is a lived and perceived **independence** of the nuclear regulatory bodies.
- **NGOs** and civil society face challenges in accessing information, particularly in cases where governments or operators withhold data citing security or national interest concerns.
- **Electronic access** to documents is increasingly important, but some countries still rely on paper-based systems, making it difficult for the public to obtain information. Given the fact that all information is nowadays electronically produced, authorities are under the Aarhus Convention obliged to provide information in electronic form when so requested, even when they are also obliged by their local legal system to provide access in paper form.
- From the Aarhus Convention angle, an important distinction between access to information and public participation was clarified. The access to information obligation pertains to all public authorities that have the information, but also to private entities fulfilling public functions. This is different from the public participation obligation, which applies only to “**competent**” **authorities**. In this way, regulators might not be the competent authority for all decisions, for example those on siting, thus the public participation obligations do not apply to them, but to another, competent, state authority. However, the access to information obligations do apply insofar as regulators are in the possession of the requested information, even when they are not responsible for the decision process.
- Also from the Aarhus Convention perspective, it was underlined that not only public authorities but also private companies with public mandate are liable for access to information. That notion of public mandate is central.
- The issue of **what exactly are ‘civil society organisations’** (non-governmental and non-profit) was raised by civil society. Although there has been a surge over the last decade of so-called pro-nuclear organisations, many of those have been organised and in concrete cases financed by the industry and for that reason do not count under civil society. As stated by NGOs, organisations representing public authorities (example: the organisation of local municipalities hosting nuclear installations GMF) are not part of civil society, but of the state governance structure. As an example: The French local information committees (CLI’s) do not define themselves as representing civil society, because they also incorporate local authorities in their function. They do, however, have members of civil society among their participants. It is important to realise that the viewpoint that civil society organisations can bring into the decision process is not meant to copy and paste viewpoints already brought forward by project promoters and their backers, or double the input from governance structures, but deliver a wider spectrum of insight that can enhance the quality of decisions made.



- **Concrete suggestions and experiences** on improving interactions between the public and regulator included the existence of a dedicated communication department within the regulator (Belgium); voluntary communication activities conducted by the regulator (France); a communication platform for exchanges between civil society and the regulators on radioactive waste matters (Belgium).
- The possibility to ensure **informal dialogue between civil society and regulators** was pointed out as a way to improve communication. This might indeed prevent issues being forwarded to court procedures or may lead to court procedures being withdrawn. It even may lead to constructive cooperation projects between regulators and NGOs, like the cooperation of ASNR (France) with several NGOs involved in radiation measurements. While the regulators present were generally in favour of this approach, it was also generally acknowledged that the procedures defined in the legislation need to be followed, which require a formal way of dealing with information requests or public participation procedures.

## 5. Case Studies and Practical Experiences:

- **France:** Public participation mechanisms include **public debates, technical dialogues**, and **public inquiries**. However, concerns were raised about the lack of meaningful public influence on decisions, especially when projects are already financially committed. Participation of a wider group of citizens than those in the direct vicinity (e.g. transboundary procedures) is not clearly organised.
- **The Czech Republic:** Efforts to improve transparency include raising public awareness and strengthening legal frameworks, but challenges remain in ensuring active public engagement.
- **Slovakia:** Recent legislative changes have reduced public participation opportunities, with authorities often avoiding or delaying transparency measures. NGOs face difficulties in accessing information, e.g. in cases involving nuclear waste management.
- **Hungary:** Public participation has been sometimes reduced only to contacts established with local elected officials, while this does not correspond to the Aarhus Convention definition. About access to information, the Hungarian authority refused the access of a journalist to documentation linked to NPP construction permits for national security reasons, the following lawsuit supported that lack of disclosure of information. NGOs face difficulties to have access to the justification for this court decision.
- **Slovenia:** Public participation in the **Krško NPP** lifetime extension process faced significant opposition due to lack of early public involvement, leading to important legal challenges and delays.

## 6. Future Steps and Recommendations deriving from the discussions:

- **Civil society and regulators** should collaborate more closely to improve transparency and public participation. A possible equivalent to the [SITEX](#) network adapted to Nuclear Safety topics with support of EC could be envisioned and discussed.
- There is a need to further work out **the synergies between the role of EIA's** and of the public participation procedures for nuclear decision processes.
- **Electronic platforms** for information sharing and informal communication could help bridge gaps between regulators, NGOs, and the public.
- 10-yearly **Periodic Safety Reviews** need public participation, according to unanimously adopted and hence binding findings during the 7<sup>th</sup> Meeting of Parties of the Aarhus Convention in 2021.<sup>1</sup> Implementation of this obligation needs to be speeded up.
- **Transboundary consultations** should be part of public participation procedures, including in cases like PSRs and lifetime extensions, construction of new nuclear power stations, and others where nuclear projects may impact neighbouring countries.

### Conclusion:

The Roundtable highlighted the importance of **transparency, public participation, and access to information** in nuclear safety regulation. While progress has been made since the adoption of the Aarhus Convention and the Nuclear Safety Directive, challenges remain, particularly in ensuring early and meaningful public involvement and enhancing access to information. The event underscored the need for continued collaboration between regulators, NGOs, and civil society to address these challenges and ensure that the principles of the Aarhus Convention and the transparency prescribed in the Nuclear Safety Directive are fully implemented. A truly independent status of nuclear regulators as defined under the Nuclear Safety Directive is a prerequisite for that.

### Proposed Topics for Future ACN Roundtables:

- Synergies between the requirements on public participation in nuclear projects from an environmental angle (**EIA's and transboundary consultations**) and from a nuclear safety angle.
- **Deep Geological Repositories (DGR)** for nuclear waste.
- **Small Modular Reactors (SMRs)** and their regulatory challenges.
- Impacts of nuclear accidents and **liability** of nuclear installations
- The establishment of a CS-TSO-Regulators-EC platform for regular exchange on issues of Nuclear Safety at European level comparable to the SITEX network on radioactive waste

---

1 See par. 63 and 64 of the General Findings from the ACCC adopted by the 7th Meeting of Parties of the Aarhus Convention in 2021 : [https://unece.org/sites/default/files/2024-03/ECE\\_MP.PP\\_2021\\_45\\_E.pdf](https://unece.org/sites/default/files/2024-03/ECE_MP.PP_2021_45_E.pdf)