

# Joint Project 2015

## Radioactive waste and spent fuel – transparency and participation in national programmes

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Content

Introduction..... 3

Overview on National Programmes and Strategic Environmental Assessments..... 3

Good practice in transparency and public participation ..... 9

Transparency and public participation in national programmes of selected countries ..... 11

    Effective access to information and communication ..... 11

    Effective access to public participation and consultation ..... 12

    Effective access to resources..... 17

First conclusions for anti-nuclear work concerning national programmes ..... 17

# Introduction

In the Joint Project, an evaluation of national programmes that are available until June 2016 was conducted with a focus on concepts for public participation and transparency and their implementation in the countries. This evaluation is based on selected results from an EU-financed project (BEPER). While the BEPER results provided us with a qualified position about transparency and participation from a societal and also scientific viewpoint (good practice), recent experience shows that this good practice mostly is not or only partially reflected in national programmes. Therefore a “reality check” of the national programmes of the Joint Project countries (if available) was carried out with the aim of identifying the Member states’ approaches and comparing them to the recommendations of international good practice of transparency and participation, identifying inconsistencies and developing recommendations for improvement of the implementation of Art. 10 of the Waste Directive.

## Overview on National Programmes and Strategic Environmental Assessments

According to the Council Directive 2011/70/Euratom „establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste“ (Waste Directive), the EU member states are obliged to prepare **national programmes** on the management of spent fuel and radioactive waste and notify them to the European Commission (Art. 13). The programmes need to include all waste management steps. Goal is the safe and responsible management to protect workers and the general public against the dangers arising from ionizing radiation. Any undue burden on future generations should be avoided. The relevance of transparency and public participation is also reflected in the Waste Directive: Every state has to include a transparency concept in its national programme.

The Member States are also obliged to submit a **national report** to the European Commission on the implementation of this Directive for the first time by 23 August 2015, and every 3 years thereafter (Art. 14 (1)).

Some countries also have a **national strategy/policy** for management of radioactive waste and spent fuel. This policy has to be based on the principles defined in Art 4 (3) of the Waste Directive.

Moreover, the preparation of the national waste management programme is a programme as defined by Directive 2001/42/EC “on the Environmental Impact Assessment of certain plans and programmes”. Therefore the national programmes should be subject to a **Strategic Environmental Assessment procedure (SEA)**. Not every Member State joins this perspective, partly because the Waste Directive is a Euratom Directive, and Euratom is not a party of the SEA Directive.

## Overview of activities of EU member states until June 2016

It has become evident that by far not all Member States notified their national programmes and submitted their national reports in time to the European Commission.

There exist a wide variety of approaches: Only in some countries the national reports are publically available, only some national programmes have been published, in some countries relevant legislation is changed before a national programme is prepared, and some countries seem to rely on older waste management strategies and do not seem to produce a separate national programme at all. Only few countries started a SEA on national level, and even less on a transboundary level.

The first information about the status of the submissions that can be found on the EU website is an answer from Mr. Arias Cañete on behalf of the Commission (30 September 2015<sup>1</sup>). In this answer he states that “As of 14 September 2015, the following Member States have notified either programmes approved by competent authorities, draft programmes or overviews: Austria, Belgium, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Luxembourg, Slovakia, Slovenia, Spain, Sweden and the UK. The Commission is requesting to receive officially approved national programmes.”

The regularly updated website of the NGO Enerweb<sup>2</sup> lists publically available reports.

Only recently the first total overview of national reports and programmes was published after a formal request of Nuclear Transparency Watch to the European Commission from March 2016. On 6 July, 2106 the list of reports and programmes was published on the NTW-website<sup>3</sup>.

An overview of the status in JP countries as of June 2016 can be found in the following table.

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<sup>1</sup> Parliamentary questions P-012254/2015, legal notice,

<http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=P-2015-012254&language=EN>

<sup>2</sup> [http://www.enerwebwatch.eu/directive-euratom\\_2011-70-t46.html?langnav=en](http://www.enerwebwatch.eu/directive-euratom_2011-70-t46.html?langnav=en)

<sup>3</sup> <http://www.nuclear-transparency-watch.eu/activities/radioactive-waste-management/access-to-national-programmes-on-radioactive-waste-management.html>, seen 22 July, 2016

**Overview of the status in the JP countries as of end of June 2016**

<b>Country</b>	<b>National programme</b>	<b>National report</b>	<b>Infringement</b>	<b>National policy/strategy, accompanying legislation</b>	<b>Status of SEA</b>
Czech Republic	An updated version of the Czech concept was published by SÚRAO in Nov. 2014 (available in Czech and English). This update from 2014 was conducted to make the concept compatible with Dir. 2011/70/Euratom.	A national report, vers. 1.1., was published in June 2015 (in English).			A national SEA scoping procedure for the national programme was finished at the end of 2015, the scoping conclusion was issued in Jan 2016. The next step of the SEA will probably start in autumn 2016, a transboundary SEA is also envisaged.
Hungary	The national programme was submitted to the EC in August 2015 but has not been made public. During the transboundary SEA in May 2015, a German translation of the national programme was provided by Hungary to the Environment Agency Austria <sup>4</sup> , but only after having explicitly asked for it; the Hungarian public got the	The national report from August 2015 is available in Hungarian only at NTW-website.	Yes, 28 Apr 2016: "Failure to notify the national programme for the implementation of a spent fuel and radioactive waste	A national policy was adopted in May 2015. The policy is publically available (in Hungarian, and a German translation at the Environment Agency Austria <sup>6</sup> ).	A scoping-phase was conducted end of 2015, when a scoping report was published with the proposed structure for the SEA. The public had the possibility to submit comments, but only between 28 Dec 2015 and 4 Jan 2016 – which is not in agreement with Aarhus.

<sup>4</sup>German version:

[www.umweltbundesamt.at/fileadmin/site/umweltthemen/umweltpolitische/SUP/ungarn/entsorgungsprogramm/HUNational\\_Programme\\_rad\\_waste\\_DE.PDF](http://www.umweltbundesamt.at/fileadmin/site/umweltthemen/umweltpolitische/SUP/ungarn/entsorgungsprogramm/HUNational_Programme_rad_waste_DE.PDF)

<sup>6</sup>

[www.umweltbundesamt.at/fileadmin/site/umweltthemen/umweltpolitische/SUP/ungarn/entsorgungsprogramm/Ungarische\\_Regierung\\_Entsorgungspolitik\\_Amtsblatt\\_61\\_2015.pdf](http://www.umweltbundesamt.at/fileadmin/site/umweltthemen/umweltpolitische/SUP/ungarn/entsorgungsprogramm/Ungarische_Regierung_Entsorgungspolitik_Amtsblatt_61_2015.pdf)

Country	National programme	National report	Infringement	National policy/strategy, accompanying legislation	Status of SEA
	national programme only after the SEA.		management policy <sup>5</sup>		<p>The main phase of the SEA in Hungary was conducted in March and April. The next step in public participation started in June.</p> <p>The transboundary SEA also started in March. Bilateral consultations between Austria and Hungary are still ongoing.</p>
Bulgaria	<p>Bulgaria's strategy for the management of spent fuel and radioactive waste is outlined in the "Strategy for management of spent nuclear fuel and radioactive waste". This strategy was updated in January 2011 and covers the period till 2030. A second updated (2015) version of the national strategy was submitted to EC. According to Bulgaria's national report the updated strategy from 2011 can be regarded as national programme according to Dir 2011/70/Euratom.</p>	A national report of July 2015 is available at the NTW website (in Bulgarian only)			Za Zemiata submitted comments on the 2015 draft version (partly available in English)

<sup>5</sup> [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&r\\_dossier=&decision\\_date\\_from=&decision\\_date\\_to=&EM=HU&DG=ENER&title=&submit=Search](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&decision_date_from=&decision_date_to=&EM=HU&DG=ENER&title=&submit=Search) (seen 19 July 2016)

<b>Country</b>	<b>National programme</b>	<b>National report</b>	<b>Infringement</b>	<b>National policy/strategy, accompanying legislation</b>	<b>Status of SEA</b>
Romania	ANDR notified the EC on 08/23/2015 and sent a report on the national programme for the safe management of radioactive waste and spent nuclear fuel. It is available in English on the NTW website.	ANDR notified the EC on 08/23/2015 and sent a national implementation report of the Directive. It is available in English on the NTW website		In the submitted national programme it is stated that the programme is part of the national strategy. This national strategy is still under review, according to ANDRA the strategy is to undergo a process of inter-institutional public consultation. After that it will be approved by the Government.	The strategy is covered by GD 1076/2004 which provides procedures for carrying out environmental assessment of plans and programs. After editing the final strategy document the SEA will start in the course of 2016.
Poland	In Oct 2015, the national programme was finally adopted by the Committee of the Prime Minister. An English version is available on NTW website (called National Plan)	A national report from July 2015 has been submitted to EC – available on NTW website.	Because of a ca. two month delay, the EC started a legal action to clarify the lack of submission but withdrew it after they received the report.		A national SEA was conducted in 2015. It was not possible to achieve a transboundary SEA.
Austria	A national programme in a draft version (dated August 2015) has been sent to Brussels, but has only been made public in Nov 2015 on the website of the BMLFUW (only in German)	A national report dated Aug.2015 has been submitted. It is available in German on the NTW website.	Yes, 28 Apr 2016: “Failure to notify the national programme for the implementation of a spent fuel and	Changes in the Radiation Protection Law with the aim of adaption to Dir 2011/70/Euratom were passed in 2015. Selected stakeholder had the	According to the national programme a SEA will be held. No timetable is given. More information is promised in the next national report.

Country	National programme	National report	Infringement	National policy/strategy, accompanying legislation	Status of SEA
			radioactive waste management policy <sup>7</sup>	possibility to comment on the draft in summer 2015. NGOs were not formally invited in this procedure but nevertheless made their comments.	

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<sup>7</sup> [http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement\\_decisions/index.cfm?lang\\_code=EN&r\\_dossier=&decision\\_date\\_from=&decision\\_date\\_to=&EM=HU&DG=ENER&title=&submit=Search](http://ec.europa.eu/atwork/applying-eu-law/infringements-proceedings/infringement_decisions/index.cfm?lang_code=EN&r_dossier=&decision_date_from=&decision_date_to=&EM=HU&DG=ENER&title=&submit=Search) (seen 19 July 2016)



# Good practice in transparency and public participation

One of the key issues of Directive 2011/79/Euratom is recognizing the enormous value of transparency and public participation for a successful programme by establishing Article 10 and 12 (1)j.

Directive 2011/79/Euratom Art. 10 provides the frame for transparency in waste management:

## Article 10

### Transparency

1. Member States shall ensure that necessary information on the management of spent fuel and radioactive waste be made available to workers and the general public. This obligation includes ensuring that the competent regulatory authority inform the public in the fields of its competence. Information shall be made available to the public in accordance with national legislation and international obligations, provided that this does not jeopardise other interests such as, inter alia, security, recognised in national legislation or international obligations.
2. Member States shall ensure that the public be given the necessary opportunities to participate effectively in the decision- making process regarding spent fuel and radioactive waste management in accordance with national legislation and international obligations.

And Art. 12 (a) lit. j. demands to include transparency in the national programme:

## Article 12

### Contents of national programmes

1. The national programmes shall set out how the Member States intend to implement their national policies referred to in Article 4 for the responsible and safe management of spent fuel and radioactive waste to secure the aims of this Directive, and shall include all of the following:

....

- (j) a transparency policy or process as referred to in Article 10;

While the national programmes mostly do not give very detailed information on the country's concept for transparency in information and participation, they provide us with a first assessment. To make a more qualified analysis of the transparency policies it is also necessary to take a look at actual practices during SEA and other participation procedures during establishment of the national waste management.

It is also helpful to define what good practice in transparency and public participation could be. Here results of the BEPPER project can be used:

### **Broad Framework for Effective Public Information and Participation in Environmental Decision-making in Radioactive Waste Management (the BEPPER project):**

This project was carried out under the auspices of Nuclear Transparency Watch (NTW) in the working group on radioactive waste management. Goal of this project was to develop innovative thinking and

practice on transparency in radioactive waste management. A first report has been issued in December 2015<sup>8</sup>.

BEPPER is **based on results from other international projects** that were dealing with transparency and public participation in radioactive waste management since the 1990ies. These projects are COWAM, ARGONA, INSOTEC, IPPA, PIPNA, NEA activities, ACN and E-Track (NTW 2015, appendix 1)

In the BEPPER project, several guidelines for evaluation of transparency in radioactive waste management were defined along **four pillars** that are based on the Aarhus Convention but have been extended:

- Effective access to information and communication
- Effective access to public participation and consultation
- Effective access to justice and decision-making
- Effective access to resources

Also **fourteen key components** have been formulated:

Principles:

- Trust
- Multi-generational perspective
- Safety and risk
- Energy policy

Practices

- Enhancing dialogue
- Demystify and democratise
- New decision-making processes
- Horizontal as well as vertical information exchange
- The importance of implementing access to justice

Innovation in resources and transparency assessment

- Make sure that civil society has the resources to participate
- Create the conditions for civil society access to expertise
- Engage experienced and widely trusted facilitators
- Libraries, compendia, websites of good practices, etc.
- Standards for transparency assessment

In the BEPPER network, many anti-nuclear NGOs are involved. In 2015, they described their experiences with transparency and public participation on a national level in two questionnaires. Based on these answers, a level system has been developed for evaluation of effectiveness of transparency. In this tool system, the above mentioned four pillars have been divided into up to eight levels each, reaching from no transparency/public participation to innovative methods that a country is offering.

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<sup>8</sup> NTW (2015): Transparency in Radioactive Waste Management. A first report from the Nuclear Transparency Watch (NTW) BEPPER project. Johan Swahn, Philip Kearney, Nadja Železnik, Vanessa Liston, Gilles Heriard-Dubreuil, Jan Haverkamp, Patricia Lorenz. December 2015.

Since the national programmes have to be seen in context to the waste policy of a country, arguments prepared in BEPPER should be taken into account for a “reality check” – how are transparency and public participation defined in the national programmes and how are the four pillars and the key components considered?

## Transparency and public participation in national programmes of selected countries

For this report, transparency and public participation (TPP) in national programmes of the following countries were assessed: Hungary, Czech Republic, Poland and Germany. Hungary and Germany conduct a transboundary SEA procedure, therefore the national programmes were made public and there has been enough time for assessment. The Austrian Federal Ministry of Agriculture, Forestry, Environment and Water Management ordered expert statements to these SEA procedures which also provide detailed information. Czech Republic and Poland make/made national SEAs, their documents are available in English and Joint Project member NGOs contributed their experiences. Some experiences from other countries will also be included to highlight certain aspects.

### Effective access to information and communication

#### **1) Availability of the national programmes and national reports for the public**

As discussed above, by far not all member states made their documents available for the public, not even after submission to the EC. Only after the request of NTW to the EC, the whole list of national programmes and national reports has been forwarded by the EC and published by NTW (see also p.4).

*Hungary:* In Hungary, the national programme was asked for when the national SEA started, but was not made public only after the SEA was finished.

*Romania:* To the EC, a redaction of the national programme has been submitted without a table with the summary inventory of spent fuel and radioactive waste quantities in Romania. This information was removed on the basis of Article 4 of Reg 1049/2001. (Source: Annex of the answer of the EC to the request of NTW, 19 May 2016). This is especially strange as Romania already published this information in its fifth National Report for the Joint Convention<sup>9</sup>, which is publically available<sup>10</sup>. However, in the documents the EC sent to NTW in July 2016, the inventory was included.

#### **2) Information concept about every sector of radioactive waste management**

It is not enough to inform about spent fuel. Information concepts have to include all radioactive waste that is generated and has to be managed as they are also posing risks for environment and health.

*Hungary:* Information is only given about spent fuel from Paks, other sectors are neglected.

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<sup>9</sup> [www.cncan.ro/assets/Deseuri-radioactive-si-dezafectare/Conventie-de-deseuri/RomaniaJC5thNational-Report.pdf](http://www.cncan.ro/assets/Deseuri-radioactive-si-dezafectare/Conventie-de-deseuri/RomaniaJC5thNational-Report.pdf)

<sup>10</sup> <http://www-ns.iaea.org/conventions/results-meetings.asp?s=6&l=40>

*Czech Republic:* Information includes all steps of waste management

*Germany:* With the exception of the final repository site selection no information concepts for the other waste disposal areas are available.

Effective access to public participation and consultation

### **1) Participation in preparing the national waste management policy (and other related policies)**

Dir 2011/70/Euratom demands not only a national programme but also a national policy from the member states. In Art. 4 the general principles of this national policy are outlined, among them the requirement to minimize radioactive waste, the requirement that costs for the management shall be borne by those who generate the waste and the principle that radioactive waste should be stored in the country where it was generated. Also in other plans and programmes like national action plans or nuclear energy strategies, important policy decisions can be included concerning radioactive waste and spent fuel.

Such national policies or similar plans and programmes therefore can define important cornerstones for the national programme and should also undergo a public participation.

*Hungary:* This has not been the case in Hungary, where a national policy for waste management was decided upon in Parliament in 2015 without real public participation. The Hungarian Environmental Council, which is a semi-official advisory body to the government and contains members from civil society organizations, industry and the academia, got the draft document for commenting, but it was not available for the general public.

*Czech Republic:* In the case of the State Energy Policy and the National Action Plan, the professional community (such as NGOs dealing with energy efficiency or renewable energy sources) has been excluded from their preparation, with the exception of the experts who advocate a predominant centralized model of nuclear energy.

*Poland:* There was a public participation process usually provided for in line with the law.

### **2) Strategic Environmental Assessment for the national programme**

The first national report on the implementation of the national programme should have been submitted to EC in August 2015. In the understanding of many experts and professional NGOs the national programme should not only have been ready before this date, but also a SEA should have been undertaken. There are very few countries which chose this way, Germany among them. But even Germany was not able to finish its SEA in 2015, it is still ongoing.

Also the questions came up if a SEA had to be done before or after approval of the national programme by EC.

Moreover, during talks with Dir. Massimo Garribba/DG Ener from January 2016 it became obvious that the EC was not only dissatisfied with the quality of submitted national programmes. Dir. Garribba also stated that a SEA could not be expected because it was not part of the Directive 2011/70/Euratom. On the contrary, DG Env represents the opinion that national programmes

according to Dir 2011/70/Euratom are plans/programmes in the meaning of Dir 2001/42/EC and therefore have to undergo a SEA, whereas the draft programme and the environmental report have to be submitted for public participation.<sup>11</sup>

*Hungary:* A SEA is being held in 2016, national and transboundary. Especially problematic was the fact that the national programme was not submitted as an official document for the SEA, it was published only after the national SEA finished. For the transboundary SEA with Austria, Austria explicitly asked for the national programme and received it in German translation before the SEA deadline started.

*Czech Republic:* A national SEA started in 2015, also a transboundary SEA is planned.

*Poland:* First, a transboundary SEA was rejected when the national SEA was carried out. It seems there will be no more, even after its approval by the EC. The arguments then were that there is no concrete investment like a disposal site which could have a transboundary impact so no transboundary SEA is relevant. However, Civil Nuclear Monitor has been told, if the Espoo countries had wanted to be invited to participate in transboundary consultations they would be allowed to (and by default the transboundary SEA would have been opened).

*Germany:* A SEA started in 2015 and is now in the process of finishing.

*Belgium<sup>12</sup>:* Belgium finally published its National Programme in June 2016. Although required under the EU Directive, Belgium did not organize a SEA. The Belgian federal department of Environment organized an Advise Committee to evaluate if a SEA was necessary and they decided that it was not.

## **SEA Scoping Phase**

Effective public participation has to start as early as possible, meaning at a time when there is still the chance to influence relevant topics. A SEA scoping phase provides the opportunity to establish the frame of the SEA environmental report, therefore public participation in this stage of the procedure would be good practice even if it is not mandatory according to SEA legislation of many member states.

*Hungary:* There has been a scoping phase during the national SEA, but it was not in compliance with the Aarhus Convention. SEA scoping document was published on the ministry's website on 28 December 2015, to which comments could be sent until 4 January 2016. As far as Energiaklub knows, no comments from the public arrived.

*Czech Republic:* The SEA scoping procedure was publicized only formally. Calla had ensured a greater awareness by setting up an online form on [www.nechcemeuloziste.cz](http://www.nechcemeuloziste.cz). Over a hundred people used it to express their opinions.

*Poland:* There has been no scoping phase.

*Germany:* During the scoping phase, only selected organizations were invited to comment.

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<sup>11</sup>

[https://www.unece.org/fileadmin/DAM/env/eia/meetings/2015/June\\_Chisinau\\_17.05\\_SEA/1.3.\\_Kremlis\\_SEA\\_Directive.pdf](https://www.unece.org/fileadmin/DAM/env/eia/meetings/2015/June_Chisinau_17.05_SEA/1.3._Kremlis_SEA_Directive.pdf)

<sup>12</sup> Information from Eloi Glorieux, Greenpeace Belgium, from June 2016

### **Public consultations in the frame of a SEA (national and/or transboundary)**

It is good practice to conduct a public hearing during a SEA procedure, to clarify open questions and discuss about problematic topics.

*Hungary:* There has been no consultation. The SEA was put on the website of the Ministry for National Development, and could be reviewed for 30 days. Comments could be sent to the ministry, between March 8 and April 11.

*Poland:* There was one public hearing within the national SEA.

### **Is there information about what will happen if there are major changes in radioactive waste management? Will there be a new SEA?**

*Hungary:* No information in the NP.

*Czech Republic:* There is no information on this.

### **3) Plans for public participation in national programmes**

According to Art. 12 (1) lit. j a transparency policy or process as referred to in Article 10 shall be set out in the national programme. This should include not only plans for information of the public but also possibilities for participation and a concrete timetable for these measures.

*Hungary:* Four citizens' groups were founded in the surroundings of existing facilities and the planned Deep Geological Repository. Those groups receive funds to inform the local population, to enable communication between the inhabitants and the facilities and to monitor the waste management activities. But there are no plans set out for active information and participation of inhabitants outside the site communities and people in neighboring countries.

*Czech Republic:* There is no plan for public participation.

*Germany:* In the so-called StandAG (law for searching and deciding upon sites for geological disposals in Germany) there exists a plan for public information and participation. The issues of co-decision rights for the population and the right to veto have not been decided yet. Public participation in form of citizen dialogues have not worked out satisfactorily. It started not early enough, and meetings had the character of information events. Also legal possibilities for the public and NGOs have been curtailed which is not seen in compliance with Aarhus.<sup>13</sup>

### **4) Have NGOs been enabled to participate in some other framework than a SEA in the phase of preparing the national programme?**

*Hungary:* No possibility for participation other than in the SEA.

*Czech Republic:* Small (not very significant) improvements of the Concept of Radioactive Waste were possible to make through the Working Group for Dialogue on Geological Disposal.

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<sup>13</sup> [http://www.atommuellkonferenz.de/wp-content/uploads/Ausser\\_Spesen\\_nichts\\_gewesen-Stellungnahme\\_Abschlussbericht\\_Kommission.pdf](http://www.atommuellkonferenz.de/wp-content/uploads/Ausser_Spesen_nichts_gewesen-Stellungnahme_Abschlussbericht_Kommission.pdf)

*Poland:* No possibility for participation other than in the SEA.

## **5) Accompanying legislation for implementing the national programme and participation in this process**

Public participation not only should be enabled in a SEA for the national programme, but also in the process of amendment of relevant laws – especially if the laws are amended before the national programme is submitted to public participation.

*Austria:* The first step was the amendment of the Strahlenschutzgesetz (Radiation Protection Law) to be in line with Directive 2011/70/Euratom. An invitation for comments was sent to 56 institutions, among them no NGO or research institute engaged in anti-nuclear work. In the amendment several very relevant topics like import/export of radioactive waste are regulated. In Nov 2015 a draft version of a national programme was published on the website of the Ministry of Environment, dated back to August 2015. In this draft, 1.5 pages deal with transparency and public participation. First of all it is stated that the right of public participation will be included in the new Radiation Protection Law. But with the Law itself the direction of radioactive waste management has already been decided upon – so public participation starts not at the earliest possible time which is problematic.

*Czech Republic:* It is necessary to adopt the Act to Strengthen the Rights of Municipalities in Search of Geological Disposal. The Draft is to be submitted to the Government this year. However, only strengthening the rights of municipalities is too little in order to achieve effective public participation under the Council Directive 2011/70/Euratom. The legislative intent was prepared by the Working Group for Dialogue on Geological Disposal which includes mayors and non-governmental initiatives of localities and national environmental organizations

*Hungary:* No information on that. However, public participation in legislation is very limited in Hungary. Only if higher legislation (i.e. Laws and Acts) needs to be amended public participation is usually carried out.

*Poland:* Not recognized yet. It should be explored further. Participation is just normally within the legal provisions (draft law announced, then usual period of public consultation announced at an appropriate stage).

## **6) How are transparency and public participation defined in the national programme?**

*Hungary:* The NP defines transparency and public participation in a very narrow sense. First of all, transparency and participation are restricted to providing information to the public, or in other words: PR/communication. It is still mostly a one-way communication, where true interactions and cooperation do not take place.

Second, providing information and public participation is only meant in the NP for a restricted group, the so called municipal associations. There are 4 associations around each existing or planned nuclear facility. They include some of the municipalities around the sites. They get funding from the Central Nuclear Financial Fund (radwaste and decommissioning fund) each year for “information activities” (under which they are supposed to give information to the inhabitants on the facilities) as well as for municipal development. They mostly spend it on the latter... The NP describes interaction only with them under “transparency and public participation”. No other municipalities or CSOs are addressed in the NP. And even with these associations “transparency and public participation”

mostly means publications, flyers, webpage and information days. This is definitely not in line with the intention of the Directive.

*Czech Republic:* Under the headline “Public Relations” three factors are described that are defined as primarily important: Provision of information and communication, Incentives for local communities financial support, social benefits and the extension of the powers of the municipal authorities concerned) and involvement of communities (Working Group for Dialogue on the Deep Geological Repository which is made up of, in addition to representatives of the State, representatives from both chambers of parliament, candidate sites and non-governmental organizations).

*Poland:* It seems there are no distinct definitions of those notions. However, it is stated at the beginning of the dedicated chapter 10 of the document [p.59], that “rules for informing the society and its participation are regulated” by two legal acts in the Polish law. Those are the act on environmental information access as well as the so called 'Atomic Law'. In addition, it is allegedly claimed that “transparency, dialogue and consultations with civil society members are at the heart of the activities provided under the Programme” [p.9]. Those are also among the principles of the RWM [p.13].

### **When does public participation start? Does it start early enough to influence the relevant decisions?**

*Hungary:* Since no real public participation is described in the NP, this question cannot be answered. The one process, building Bataapati LILW disposal site, included some kind of participation, but it was restricted to asking the inhabitants whether they accept the site in their neighborhood.

As for the planned HLW and SF final storage site, Hungary's 5th biggest city, Pécs is left out from any kind of participation, as they are not part of the association.

*Czech Republic:* However, the reality, in terms of the state with respect to public participation in the process, takes place at the level of public relations - RAWRA hires PR agency and employs several people in the communication department. The state sells its “concept” using significant financial contributions to the municipalities' budget. The state does not at all respect the opinion of citizens which was even expressed in local referendums in three dozen villages.

### **What is the definition of the public which is allowed to participate?**

*Hungary:* Public in NP = Municipal associations

*Czech Republic:* The public is perceived by RAWRA/SÚRAO as municipalities, i.e. self-governing bodies. This is also stated in the proposed laws.

### **Will there be public hearings?**

*Hungary:* No indication. There was a public hearing in case of Bataapati on one occasion.

*Czech Republic:* There should be held a public hearing or debates etc. However, in my opinion, the public opinions will not have any relevant impact on the final decision.



- 7) Has the public any possibility to participate in decision-making? During the process as well as some opt-out options, if e.g. a community or a partnership does not want to continue, or is there even the possibility of a veto for communities, when waste sites are decided?**

*Hungary:* No indication on that.

*Czech Republic:* The public can take part in some licensing actions, but its role is very limited. The public does not have a veto.

Effective access to resources

**Does the public get resources to participate in the SEA? Will be funds made available for civil society to monitor and participate in radioactive waste processes?**

*Hungary:* Not at all.

*Czech Republic:* The public does not have the financial resources to participate, we (as Calla) draw the financial support from the government of Upper Austria. Nor does the Working Group for Dialogue on Geological Disposal have own financial resources.

## First conclusions for anti-nuclear work concerning national programmes

These experiences of the first year when actual waste management programmes were available leave a lot to be desired. While it is an important step that transparency and public participation are now mandatory elements in Directive 2011/70/Euratom, the actual implementations have many deficiencies. The most important of these are listed below:

### **Complete publishing of national programmes**

All national programmes and national reports should be published by the EC on a publically available website. It is not understandable why some countries hold back on their national programmes – especially as much information is already available through the national reports in the frame of the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

Inventory lists are not a sensitive information and therefore should not be allowed to be redacted from the publically available national programme.

### **Mandatory SEA**

A SEA is mandatory for management programmes under Directive 2011/70/Euratom. This is not only in line with Directive 2011/42/EC but also with recent views of DG Environment. Many EU countries

conduct a SEA, but some try to bypass it. DG Energy seems not to be completely in line with DG Environment in this aspect.

A SEA should be conducted when the draft of the national programme is available and before it is sent to EC.

### **SEA Scoping Phase**

Although Directive 2001/42/EC does not require public participation in the scoping phase, some EU member states allow for public comments. Because experiences with SEAs show that the scope of the SEA is not always as clear as it would seem (e.g. are NORM<sup>14</sup> wastes included? are beyond-design basis accidents in waste management facilities included?). Therefore, public participation should start as early as possible, meaning in the scoping phase.

### **Mandatory transboundary SEA**

Transboundary public participation in the SEA should be mandatory. A national waste management programme can have various impacts on other countries, e.g. through accidents in interim storages, leakages in deep geological repositories, transport routes to and from reprocessing etc.

### **Mandatory SEA for relevant changes in the national programme**

For every relevant change in the national programme a new SEA should be conducted. In most SEA legislations it is not defined what a relevant change is – this should be defined in advance because it is foreseeable that in the next years important decisions will be made in the member stated, e.g. if the option of a regional disposal<sup>15</sup> has to be given up.

### **Enlarge definition of “the public”**

When public participation is concerned, the meaning of “public” seems often to be restricted to local municipalities that will or should want to host a site for nuclear waste.

This is not sufficient because spent fuel and radioactive waste management can have adverse impacts also on people living outside the site communities and in neighboring countries.

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<sup>14</sup> NORM = naturally occurring radioactive material; radioactive material that contains naturally occurring nuclides and result from technological practices

<sup>15</sup> see <http://www.erdo-wg.eu/Home.html>