

## The role of European financing in promoting the application of the Espoo convention in nuclear-energy related activities: experience from Ukraine.

[For more information](#)

### Contact

Iryna Holovko  
Ukraine campaigner  
Email:  
[iryna@bankwatch.org](mailto:iryna@bankwatch.org)

Fidanka McGrath  
EBRD campaign coordinator  
Email:  
[fidankab@bankwatch.org](mailto:fidankab@bankwatch.org)

CEE Bankwatch Network's mission is to prevent environmentally and socially harmful impacts of international development finance, and to promote alternative solutions and public participation.

[www.bankwatch.org](http://www.bankwatch.org)

Public financial institutions including the EBRD and the European Commission's EURATOM facility that support nuclear energy-related projects are obliged to act in line with principles of international law on access to environmental information and participation in decision-making on issues that may have negative transboundary impacts, such as the Aarhus and Espoo Conventions. Beneficiaries of such financial support are also expected to adhere to both conventions, thus promoting the effective application of these conventions in countries that have yet to ratify or who do not properly implement them. However, only a limited positive effect has been seen in Ukraine due in part to a lack of transparency by the financial institutions and to the selective application of convention requirements. Public finance can play a role in ensuring nuclear safety and the transparency and accountability of government decisions related to nuclear energy by encouraging governments to fully apply Espoo procedures at earlier stages of the programme or plan and to provide more information about loan conditionalities.

The EBRD and the Commission can provide loans for safety improvements and the decommissioning of nuclear facilities, but not for the construction of new units or the expansion of existing ones. However in practice the safety upgrade programme<sup>1</sup> in Ukraine is actually an integral part of the lifetime extension plan for all existing units in the country,<sup>2</sup> 12 of which are to reach the end of their designed lifetime by 2020. The state-owned Energoatom, at the request of the EBRD, prepared a study called the "Ecological Assessment (EA) of the planned safety improvement program taking into account the requirements of EU SEA Directive (Directive 2001/42/EC) and UNECE Strategic Environmental Assessment (SEA) Protocol"<sup>3</sup>. The EBRD refers to this study as 'among the first SEAs of its type in Ukraine, and the first for the nuclear sector'<sup>4</sup>. Ukraine has yet to ratify the SEA protocol to the Espoo Convention and does not have experience with its application, so the bank's insistence on the study, together with the dedicated technical assistance was a welcome initiative. The scope of the EA was specified to a standard<sup>5</sup> agreed between the project's owner Energoatom, the EBRD and the Ministry of Ecology and Natural Resources of Ukraine and included, among other things, an assessment of the possible transboundary impacts when implementing the safety upgrade programme.

However, the positive effect of this exercise was limited by the fact the study was not a full SEA but rather a good EIA report. The draft report overlooked the connection between the safety upgrade programme and the lifetime extension plan. This connection was acknowledged later in final EA report, after being pointed out by the public during consultations. However, an assessment of the effects from the over-design of operations and an elaboration of a "no lifetime extension" alternative was not provided, thus reducing the "strategic" value of the report. Potential transboundary impacts (including from non-designed accidents) were elaborated briefly and were found to be negligible. While the two-stage public consultation process and the subsequent publication of a "questions and answers" report was welcome, little input from this process was actually reflected in the final EA report. In a situation where no SEA had been conducted at the time that the lifetime extension plan was prepared, the SEA for the safety upgrade programme could have at least belatedly enabled public participation and the assessment of alternatives to the lifetime extension option. However, as things stand, these are still missing.

The Commission meanwhile stipulates in the guarantee agreement between Ukraine and Euratom a number of conditions "**including compliance with international environmental conventions such as Aarhus and Espoo**"<sup>6</sup>. As for the EBRD, the bank sets "**a number of specific commitments in ESAP**

## regarding the Espoo and Aarhus conventions”

<sup>7</sup>. Yet what these commitments are exactly remains unclear, because the environmental and social action plan for category B projects is not disclosed. The bank has also denied access to the part of the project’s board document relevant to conditionality and transition impacts because it believes that it would potentially undermine the policy dialogue with the government if the information was public<sup>8</sup>.

Later, the Espoo Implementation Committee ruled that Ukraine was not in compliance with “its obligations under article 2, paragraph 2, with respect to the general legal and administrative framework applicable in the decision-making for the extension of the lifetime for nuclear reactors.” In theory this means that both the EBRD and the Commission should suspend disbursement until Ukraine amends its legislation to the satisfaction of the Espoo Convention Secretariat. By doing so the EBRD and the Commission would use their leverage to help establish an effective legislative framework for the implementation of the Espoo Convention in Ukraine.

Previous attempts by the Commission to encourage Ukraine to implement Aarhus and Espoo Conventions included the provision of technical assistance<sup>9</sup> for the Ministry of Environment to assist with the development of necessary EIA legislation. However to date no such provisions have been adopted to date. By combining technical assistance and strong, transparent (i.e. disclosed to the public) conditionalities attached to funds, the Commission and the EBRD can increase their effectiveness and help Ukraine comply with its international obligations, thus effectively improving and unifying decision-making practices for nuclear energy projects in Ukraine and Europe.

In its upcoming good practice guidance, Espoo Convention bodies should reflect the importance of the IFIs and the Commission for promoting the effective application of the Espoo Convention, including in non-EU countries where EU legislation may not be fully applicable. Binding requirements to fully comply with the Espoo Convention should be clearly stipulated in EBRD policies and country strategies, related bilateral memorandums and agreements, as well as attached to any loan for projects in the nuclear sector. These requirements should be disclosed to the public and accompanied by a set of publicly-available indicators that enable better oversight of these processes and increases the chances for timely implementation. The practice of weakening requirements or limiting the scope for an SEA, or referring to country not having ratified the SEA Protocol, should be avoided by financiers. This can undermine the strategic component and send the wrong message to authorities in beneficiary countries about the amount of flexibility that can be allowed in applying provisions of the Espoo Convention.

## Notes

1. Ukraine nuclear power plant safety upgrade program with EUR 300 million approved by the EBRD Board in March 2013 and a parallel loan of the same size approved by the EC in June 2013;
2. <http://bankwatch.org/our-work/projects/nuclear-power-plant-safety-upgrades-ukraine>
3. Ukraine NPP Safety Upgrade Program – Ecological Assessment Report – version 4;
4. The EBRD Project summary document (accessed on April 10th 2014) <http://www.ebrd.com/pages/project/psd/2011/42086.shtml>
5. 004:2011 Standard Ecological Assessment of Nuclear power plants: general requirements of the assessment materials’ structure and contents;
6. A reply from European Commission to an MEP’s request dated 19.02.2014 <http://www.europarl.europa.eu/sides/getAllAnswers.do?reference=E-2013-014393&language=FR>
7. Correspondence between the EBRD President and European NGOs – EBRD letter dated 13.05.2014
8. Correspondence between the EBRD Office of the Secretary General and NECU dated 25 July 2013;
9. Support to Ukraine to implement the Espoo and Aarhus Conventions — follow-up activities