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Bulgaria:

Centre for Environmental
Information and Education
(CEIE)

Za Zemiata, For the Earth

Croatia:

Green Action

Czech Republic:

Centrum pro dopravu a
energetiku (CDE)

Hnuti DUHA

Estonia:

Estonian Green Movement–FoE

Georgia:

Green Alternative

Hungary:

National Society of
Conservationists – Friends of
the Earth Hungary (MTVSZ)

Latvia:

Latvian Green Movement

Lithuania:

Atgaja

Macedonia:

Eko–svest

Poland:

Polish Green Network (PGN)

Russia:

Sakhalin Environmental Watch

Serbia:

Center for Ecology and
Sustainable Development
(CEKOR)

Slovakia:

Friends of the Earth – Center
for Environmental Public
Advocacy (FoE–CEPA)

Ukraine:

National Ecological Centre of
Ukraine (NECU)

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.

TO:

Director General, Marco Buti,
European Commission,
Directorate–General for Economic and Financial Affairs

August 10, 2015

**Re: EBRD and EURATOM funds should not back Ukraine's
decision–making to extend the life–time of its nuclear reactors
in breach of international law**

Dear Mr. Buti,

Thank you for your reply to us dated June 2nd 2015, regarding the EBRD and EURATOM loans for the Complex (Consolidated) Safety Upgrade Program of nuclear power plants in Ukraine and the issue of its compliance with Ukraine's obligations under the Espoo and Aarhus Conventions.

In your letter you state that, *“based on the evidence provided, the European Commission considers the steps undertaken with regards to the Espoo and Aarhus Conventions sufficient as to allow for disbursing the first payment ...”*

At the same time the letter states that the Commission is of the opinion *“that any decision by Ukraine to extend the life–span of any of its nuclear power plants will require assessment under the conventions mentioned above”*.

With this we would like to draw the Commission's attention to the fact that currently Ukraine has three nuclear power units officially in the process of extending their life–span with EU financial support for safety upgrades. Yet, no assessment, as mandated by the Espoo Convention, has been launched for any of these units.

Evidence regarding the ongoing life–time extensions:

Official applications to Ukraine's State Nuclear Regulatory Inspectorate (SNRIU) to extend the license for the period of operation beyond projected lifetime were submitted by nuclear units' operator Energoatom for the three units as follows:

- On April 10, 2014 for South-Ukraine nuclear power plant's Unit 2 (design life-span expired on May 12, 2015)¹
- In May 2015 for Zaporizhia nuclear power plant's Unit 1 (projected life-span to expire on December 23, 2015)²
- In July, 2015 for Zaporizhia nuclear power plant's Unit 2 (projected life-span to expire on February 19, 2016)³

According to Ukraine's 2030 Energy Strategy, the lifetime of 11 nuclear units currently in operation is to be extended for 20 years beyond their design lifespan.

Referring to your statement that the “loans are exclusively meant to cover safety upgrades measures which are necessary irrespective of any potential subsequent and differentiated decision regarding lifetime extension projects”, it is difficult to make a clear distinction between safety upgrades and lifetime extensions. In fact, more than half of the proposed activities of the Complex (Consolidated) Nuclear Power Plant Safety Upgrade Program consist of measures required for lifetime extensions of operating nuclear reactors⁴.

On April 30, 2015, the SNRIU’s Board ordered a temporary shutdown of South Ukraine unit 2 after it exceeds its design lifetime two weeks later. The decision states that implementation of a number of measures from the Complex (Consolidated) Nuclear Power Plant Safety Upgrade Program is a necessary condition for making a decision on possibility of extension of South Ukraine unit 2 operational lifetime beyond projected. List of such measures is specified in Technical Decision № TP.2.3812.1133, from 30.05.2014: “About safe operations of South Ukraine unit 2 after 27th fuel campaign in the period of modernizations works aimed at unit’s life-time extension”⁵. The above illustrates that safety upgrades, financed by Euratom and the EBRD, are an inseparable part of nuclear units' lifetime extensions preparatory process.

¹ <http://www.snrc.gov.ua/nuclear/uk/publish/article/281213>

² http://energoatom.kiev.ua/ua/actvts/extension/43540-energoatom_podav_zayavu_na_vnesennya_zmn_do_ltcenz_dlya_podovjennya_termnu_ekspluatatc_bloku_zaes/

³ http://energoatom.kiev.ua/ua/actvts/extension/43752-podana_zayava_na_vnesennya_zmn_do_ltcenz_z_metoyu_prodojennya_termnu_ekspluatatc_energobloka_zaporzko_aes/

⁴ NECU's assessment of activities within the Complex (Consolidate) Nuclear Safety Upgrade programme in 2011 revealed that more than half of the proposed activities are necessary for lifetime extensions. Priority II activities (57% of all activities) of Energoatom's Complex (Consolidated) Nuclear Power Plants Safety Upgrade Programme are planned as part of the lifetime extension preparatory programme. All these Priority II activities are part of the project proposed by Ukraine for EBRD and Euratom financing and are listed in the technical appendices to the Ecological Assessment Main Report. In the case of the South Ukrainian Units 1 and 2, 68 percent of activities are a part of the lifetime extension programme, as indicated by Energoatom.

⁵ <http://www.snrc.gov.ua/nuclear/uk/publish/article/281213>

Evidence regarding Ukraine's refusal to meet its obligations under the Conventions:

CEE Bankwatch Network's member group in Ukraine, the National Ecological Center of Ukraine (NECU) was informed by Energoatom, that the company considers "the statement in your [NECU's] letter regarding the requirement to develop EIA materials for a lifetime extension process for unit 1 at the Zaporizhia nuclear power plant and for unit 2 at South Ukraine nuclear power plant and carrying out a corresponding transboundary consultation to be unjustified" and that "The applicable national laws do not require carrying out a separate EIA procedure in cases of nuclear units' lifetime extension" ⁶.

Moreover, no EIA documentation, compatible with the Espoo Convention requirements, was released for public scrutiny in March 2015 during the public consultations regarding lifetime extension of South Ukraine's Unit 2.⁷

In preparation for lifetime extensions of each of the nuclear units, Energoatom conducts an "Assessment of Impact on Environment", a Safety Factor 14 of the Periodic Safety Review (PSR) which covers only radiological impacts from nuclear units' operations. Public consultations in the form of hearings are restricted to communities within a 30 km radius from the power plant and there is no independent body that oversees this process.

Additionally, the operator claims to be currently conducting EIAs for the South Ukraine and Zaporizhia nuclear power plants as whole sites, covering also an interim nuclear waste storage at Zaporizhia. However, this type of environmental assessment is only for operating plants, not for lifetime extension of each unit. Such process does not assess risks of the lifetime extension program, it does not contain analysis of alternatives and it does not include adequate participation of all affected parties including neighboring EU member states. Evidently, the environmental assessment conducted by Energoatom in Ukraine does not meet the requirements set by international law and therefore should not be considered sufficient by the European Commission, Euroatom or the EBRD.

At least four neighboring countries, as "potentially effected" parties to the Espoo Convention, have sent letters to the Ukrainian government expressing their explicit interest in participating in transboundary

⁶ Energoatom's letter to NECU N 60/32 from January 6, 2015;

⁷ List of available materials included periodic safety review (PSR) report and a report of expected radiological impacts from beyond design operation:
<http://www.sunpp.mk.ua/uk/ltoe/2680>

procedures based on the Article 3.7 of the Convention. These letters⁸ were sent via official correspondence in April 2015. According to our information, as of today, no reply has been received from the Ukrainian authorities.

Disregarding the Espoo Convention's Implementation Committee decision from 2014 on the case of nuclear power plants Rivne 1 and Rivne 2, Ukraine still has not made any amendments to its legislation and procedures on the lifetime extension program in order to be in compliance with the above-mentioned conventions. We consider Energoatom's efforts insufficient in this respect.

Since it is EU public money, which is to be used for the Ukrainian nuclear safety upgrade program, we find it inadmissible to look away when obligations set by international law are ignored and the rights of both Ukrainian and EU citizens are violated, including the right to participation, consultations and the right to a safe environment.

We, therefore, expect the Commission to reconsider disbursement of the Euratom and the EBRD loans. The Commission should demand Energoatom starts preparations for transboundary EIA processes involving the public in neighboring EU countries for all units in question prior to further proceeding with the loan.

In order to understand the situation better we would like to further clarify the following issues:

- Which steps taken by Ukraine to comply with the Espoo and Aarhus Conventions were considered by the Commission as sufficient to allow the disbursement of the first payment?
- Was the Commission informed by its Ukrainian counterparts about the ongoing lifetime extension procedures for the South Ukraine Unit 2? If so, did the Commission take this information into consideration when considering the loan effectiveness and how was it reflected?
- Has the first loan tranche been disbursed to Ukraine already? If so, when?
- Which specific steps will the Commission take regarding the situation described above, given that Ukraine is violating international law and not respecting the conditionality of the loans? For example, is the Commission considering to proceed in

⁸ Letter of the Minister of Environment of the Slovak republic to the CEE Bankwatch campaigner in Slovakia

accordance with Article 3.7 of the Espoo Convention and request a transboundary EIA process on behalf of EU citizens?

Yours truly,

A handwritten signature in blue ink, appearing to read 'Mark Fodor', written in a cursive style.

Mark Fodor

CC:

Mr. Katainen, EC Vice-president, EU Governor of the EBRD

Mr. Verwey, Deputy Director General, DG ECFIN

Mr. Reichenbach, Principal Adviser – EU member of the Board of Directors in the EBRD

Mr. Falkenberg, Director General, DG Environment

Mr. Hanley, Head of Unit, DG Environment