

**Secretary to the Aarhus Convention**

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**Conc.: Communication to the Aarhus Convention's Compliance Committee**

Non-appliance with the Aarhus Convention by the Kingdom of the Netherlands in relation to the plant life-time extension of the Borssele nuclear power plant.

Amsterdam, 6 May 2014

Dear Members of the Aarhus Commission Compliance Committee,

Stichting Greenpeace Netherlands ("Greenpeace") seated in Amsterdam, the Netherlands, hereby files a complaint to the Aarhus Convention Compliance Committee concerning non-compliance with the Aarhus Convention by the Kingdom of the Netherlands in relation to the plant life-time extension of the Borssele nuclear power plant.

The Borssele nuclear power station reached its design life-time of 40 years in 2013. In 2006 the Dutch government and the utilities made a gentlemen's agreement to grant Borssele a life-time of up to 60 years, which was incorporated in the Dutch nuclear energy law. In order to allow a period of operation until the closing date set in Dutch law at 31 December 2033, the owner asked for an authorisation to adapt the safety report to an operation period of 60 years. The Dutch nuclear regulator carried out a review of the modified safety report, resulting in a positive decision. This latter decision did include a public consultation, but only on the limited issue of technical nuclear safety. The public consultation excluded public participation on issues relating to the potential impact on the environment (e.g. an environmental impact assessment (EIA)) of the decision to grant the project twenty years more lifetime than originally foreseen.

The Dutch nuclear regulator is furthermore in the process of finalising a 10 year periodic safety review. Also this decision is not supposed to be preceded by any form of public participation relating to environmental impacts of another 10 years of operation.

Because the decision involves an extension of activities (par. 22 of Annex I of the Aarhus Convention) which can have potential severe effects on the environment, we believe that the public should have been given under art. 6 of the Convention a chance on participation that includes the potential impacts on the environment.

Greenpeace has sought legal recourse against this omission, which was finally rejected on 19 February 2014 by the highest Administrative Court (Raad van State). With this, Greenpeace has exhausted legal procedures in the Netherlands (see Annex 1).

The Ministry of Economic Affairs of the Netherlands justified the lack of an EIA with the argument that no material changes took place in the power station before the life-time extension was granted and that therefore no environmental impact assessment was needed with reference to European case law. However, the Convention is clear about the fact that also an extension of activities should be submitted to public participation concerning potential significant effects on the environment and that a reference to material changes is in that framework irrelevant.

Relevant for this case is, however, that the Implementation Commission of the Convention on Environmental Impact Assessment in a Transboundary Context (“Espoo Commission”) concluded regarding the plant life time extension of the Rivne nuclear power station in Ukraine in its twenty-third and twenty-fifth sessions, that the extension of the life-time of a nuclear power plant, even in absence of any works, was to be considered as a major change to an activity and consequently subject to the provisions of the Espoo Convention. Greenpeace has brought the breach of the Espoo Convention in the case of the Borssele nuclear power plant to the attention of the Espoo Commission.

Among the significant effects that are irreversibly attached to the decision to allow a further 20 years of operation of the Borssele nuclear power plant after its design life-time of 40 years are:

- An increasing risk of malfunction by ageing components and increased compatibility problems from the introduction of new replacement components, potentially escalating in a severe accident with emissions of radioactive substances into the environment;
- an increase of the time of exposure to potential terrorist attack, sabotage or acts of war with 50%;
- an increase of the time of exposure to extreme natural events with 50% that could alone or in combination with human failure or malevolent human acts lead to emissions of radioactive substances into the environment;
- an increase in risk of a nuclear accident because of the planned use of the more dangerous MOX-fuel. Increased risk means in this case an increased chance because of the larger complexity of reactor management and higher burn-up rate of MOX, times an increased impact because of the spread of more plutonium from the MOX fuel. MOX use was accepted for Borssele after an EIA including public participation in 2010, but plant lifetime extension – and thus the extended exposure to risk from this use – was not part of that decision.

- an increased use of uranium and therefore increased environmental impacts from uranium mining, processing and fuel production;
- an increased production of radioactive waste;
- the production of more toxic and higher level radioactive waste from the planned use of MOX-fuel.

We therefore ask the Committee to investigate a potential breach of the Convention by the Kingdom of the Netherlands in this case.

You may consider this correspondence to be public.

Yours sincerely,



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