



6th May 2009

Object: European approach to evaluate the implementation of the Aarhus Convention in the nuclear field

Dear Sir,

As part of its 2007-2009 plan of action, « an energy policy for Europe », the European Council of the 8th and 9th of March 2007 suggested that « further discussions should take place between all concerned stakeholders about opportunities and risks of nuclear energy ». This led to the establishment of the European Nuclear Energy Forum (ENEF), whose secretariat is provided by the Directorate-General Energy and Transport (DG TREN) of the European Commission. During the 26th and 27th November 2007 inaugural meeting in Bratislava, three working groups about « Risks », « Opportunities » and « Transparency » were established.

As a part of the « Transparency » working group, ANCLI has been entrusted with the task to lead a reflection about participation and practical implementation of the Aarhus Convention in the nuclear field. After a first participatory return of experience, ANCLI proposed to initiate a work program for the next two years (2009-2010) to pursue this issue, in partnership with ENEF, the French Ministry of Ecology, Energy, Sustainable Development and Land Planning (MEEDDAT), and in coordination with the three successive presidencies of the European Union (France, Czech Republic and Sweden).

In this context, a European workshop will be held on the 24th and 25th of June 2009 in the premises of the European Commission in Luxembourg. ANCLI would be pleased if you could attend this event that will allow sharing experiences within Member States and will be a part of a progress approach in terms of nuclear safety and democratic participation, which are a major importance in the current energy context of the European Union. The aim of the workshop is to be a first step towards the implementation of national round tables in member states which are interested, in order to carry out a return of experience on a national basis.

Please find enclosed the programme.

I look forward to hearing from you soon.

Yours sincerely,

Jean-Claude DELALONDE

**ANCLI President
EUROCLI President**



European workshop on the practical implementation of the Aarhus Convention in the nuclear field

Luxembourg, 24th-25th June 2009

For more information, please contact:
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Context of the initiative

The **Aarhus Convention on Public Access to Information, Public Participation in Decision-making and Access to Justice in Environmental matters** was signed in 1998 by European countries. The same year the Committee of the Regions passed a resolution on **nuclear safety and local and regional democracy**. Both texts represent a strong political and legal recognition of access to information and participation in the nuclear field.

Ten years later, how are these principles implemented in practice? Several experiments and best practices are available on the European continent. They reflect the wealth of member states democratic cultures. Do these experiences reflect a global deepening of information and citizen participation on issues and monitoring of nuclear facilities in Europe?

Recent studies in the nuclear field (IGNA, ENEF) and the monitoring of the Aarhus Convention implementation at the European level stress the importance to conduct specific reflections in each field of activity. The practical implementation of the Aarhus Convention is not being achieved in the same way in the nuclear field, as in the chemical field or for GMOs. This implementation is also specific to each country where the political, economical, legal and institutional national context plays a strong role, in each type of activity (waste release, decommissioning, post-accident ...). However, the European framework represents a major asset and one should also examine how European institutions and procedures can support and facilitate the implementation of the Convention for the EU and the Member States.

Following a first evaluation in the framework of the transparency group of the European Forum on Nuclear Energy (ENEf), the ANCLI / Eurocli in partnership with DG TREN and ENEF, the French Ministry of Ecology, Energy, Sustainable Development and Planning (MEEDDAT), in coordination with the European Union presidencies, organises on the 24th and 25th of June 2009 in Luxembourg, a **participatory European workshop of return of experience on the practical implementation of the Aarhus Convention in the nuclear field**.

Objectives of the European Workshop

The European Workshop on the practical implementation of the Aarhus Convention in the nuclear field has the following objectives:

- To make a first overview of the implementation of the Aarhus Convention in the nuclear field, particularly in terms of legal implementation and governance (session 1)
- To observe and analyse through concrete cases, practices and difficulties on three key-questions: participation, transparency and trans-border dimension (session 2)
- To open a discussion on further initiatives to be taken after the Luxemburg workshop; to propose and discuss a methodology to support these initiatives; to agree on further steps (session 3)

At the end of this workshop, national round-tables can be implemented in the Member States interested to continue a return of experience on a national basis. These roundtables will gather a **pluralistic group of actors** with a significant representation of civil society, and will focus on different nuclear issues: nuclear facilities monitoring (environment-safety), radioactive waste, accident and post-accident management, "newbuild", decommissioning ... This approach will enable the various stakeholders, through dialogue and exchange, **to identify possible ways for progress at each country level**. In addition, European round-tables can be established to examine transverse or European issues. In 2010, a return of experience conference will develop a European vision and measure the actions that can be carried out in a sustainable way to **improve transparency in the nuclear field at European level**.

Planning of the June 2009 European Workshop in Luxembourg

The Workshop starts the 24th of June at 2:00 pm and ends the 25th of June at 4:00 pm. It includes three sessions.

Session 1 - Presentation of the Aarhus Convention and stakes of its implementation in the nuclear field

This session reports about the current knowledge and main stakes for the implementation of the Aarhus Convention in the nuclear field, especially early reflections carried out in the ENEF Transparency group. This session runs from 2:00 pm to 4:00 pm on the first day.

Session 2 – Implementation of the Aarhus Convention in context: issues and practical cases

The second session investigates three key issues:

- **Participation, expertise and decision:** what involvement from citizens, which means to investigate nuclear issues, what impacts on the decision?
- **The implementation of transparency in the nuclear field:** how to conciliate right to information and right to confidentiality? What competencies for Europe?
- **The trans-border dimension:** cooperation for people's participation and information across borders within the frame of nuclear activities.

Every theme is analysed through a pluralistic case study and some actors' testimonials.

The case study is introduced by three actors, involved in the study context, allowing to compare the points of view and to bring in the different dimensions of the issue.

After the case study, it is expected to present some European actors' testimonials about other contexts of application of the Aarhus Convention in the nuclear field. Testimonies in the form of vignets -10 minutes each - provide additional insights on the topic from other situations.

Then a facilitator for each topic introduces the discussion with the audience, summarizing the main

elements (common points, differences, stakes) that emerge from the case studies and vignets, and offering some key questions for the audience.

Session 2 covers the second part of the first day and the whole morning of the second day.

The themes are introduced in more detail in the appendix (page 7).

Session 3 – Further steps from the Aarhus and Nuclear approach – Pluralistic evaluations at the national and European level

This session opens a discussion on the establishment of national and European pluralistic round-tables to deepen the return of experience. A methodology proposal for the national round-tables is introduced and discussed in plenary. Then during a coffee break participants split in national groups to consider the interest to set up a national round table for their country. Expressions of interest are reported in plenary.

The session 3 concludes the workshop with a highlight of the main opportunities brought by this event and the potential later milestones.

INDICATIVE PROGRAMME

24th June 2009 – Day 1

- 14h00 **Introduction**
- Mr. D. Ristori, Deputy Director-General, DG TREN
 - Mr. J.-C. Delalonde, ANCLI President

Session 1

Presentation of the Aarhus Convention and stakes of its implementation in the nuclear field

Chairperson :

This session reports about the current knowledge and main stakes for the implementation of the Aarhus Convention in the nuclear field, especially early reflections carried out in the ENEF Transparency group.

- 14h20 • **Implementation of the Aarhus Convention in the nuclear field in Europe: a legal overview**
Mrs B. Laville – Landwell Global
- 14h40 • **Current stakes about the practical implementation of the Aarhus Convention in the signatory countries**
Mr J. Wates - Aarhus Convention Secretariat
- 14h50 • **European Nuclear Energy Forum (ENEF): the Transparency group,**
Mr. J. Toth – EESC, President of the Transparency group
- 15h20 • **Issues and lessons of the first return of experience (ENEF, IGNA, AEN)**
Mrs C. Mouchet - ANCLI

Session 2

The implementation of the Aarhus Convention in context : issues and practical cases

THEME 1 - PARTICIPATION, EXPERTISE AND DECISION : WHAT INVOLVEMENT FROM CITIZENS, WHICH MEANS TO INVESTIGATE NUCLEAR ISSUES, WHAT IMPACTS ON THE DECISION ?

Chairperson :

- 16h00 • PLURALISTIC CASE STUDY: RADIOACTIVE WASTE MANAGEMENT - SLOVENIA
The Slovenian local partnerships and the Cowam In Practice Slovenian national stakeholders group (Mrs M. Marega – REC; Mrs N. Zeleznik* – ARAO; Mr S. Preskar*, Brezice partnership, a local NGO)
- 16h30 *Break*
- 17h00 • VIGNETS
- The contribution of local communities in matters of governance on the issue of nuclear legacy in Great-Britain : from Sellafield to NDA policy (Mr B. Clark, CORWM)
 - IRSN policy and practices of openness to society (Mr J. Repussard, IRSN)
 - Local participation on radioactive waste management projects in Romania (Mr. G. Tatulescu*, Saligny Mayor)
 - AREVA's involvement in pluralistic groups of expertise : GEP Mines and GRNC (AREVA)
- 17h40 • PRESENTATION OF THE QUESTIONING
- 17h50 • DISCUSSION
- 19h00 End of the first day

(* representative to be confirmed)

25th June 2009 – day 2

9h00

Session 2 (concluded)

The implementation of the Aarhus Convention in context : issues and practical cases

THEME 2 – THE IMPLEMENTATION OF TRANSPARENCY IN THE NUCLEAR FIELD : HOW TO CONCILIATE RIGHT TO INFORMATION AND RIGHT TO CONFIDENTIALITY ? WHAT COMPETENCIES FOR EUROPE ?

Chairperson :

This session observes and analyses through practical cases, good practices and difficulties on three key-questions: participation, transparency and trans-border dimension.

- PLURALISTIC CASE STUDY : « NEW BUILD » IN FRANCE
The treatment of confidentiality in the public debate : example of the EPR public debate in France and results (CPDP (Mrs A. Sugier), ASN, EDF, Wise (Mr. Y. Marignac))

9h30

- VIGNETS
 - Information request to the European Commission from the civil society (Mr. P. Faross, DG TREN)
 - The nuclear operators point of view on confidentiality and transparency issues (Mr P. Rorive* - Foratom)

9h50

- PRESENTATION OF THE QUESTIONING

10h00

- DISCUSSION

11h00

Break

11h20

THEME 3 – THE TRANS-BORDER DIMENSION : COOPERATION FOR PEOPLE'S INFORMATION AND PARTICIPATION ACROSS BORDERS

Chairperson :

- PLURALISTIC CASE STUDY : IGNALINA POWER PLANT PROJECT – BALTIC COUNTRIES
Impact on the Lake Drisviaty environment: public information and participation between Baltic countries and Belarus (Mrs K. Tingas – REC; Mr I. Gubaciov – VAE; a Lithuanian or Latvian NGO; a representative of the Belarusian Ministry of Natural Resources and Environment)

11h50

- VIGNETS
 - Access to information about safety studies of foreign-flag vessels: transparency and defence information in France and Great-Britain (Mr H. Revol - High Committee on Transparency and Information on Nuclear Safety HCTISN)
 - Information of neighbouring countries and their population about the new nuclear projects in central and eastern Europe (Mr. J. Haverkamp, Greenpeace)

12h10

- PRESENTATION OF THE QUESTIONING

12h15

- DISCUSSION

13h00

Lunch

(* representative to be confirmed)

Session 3

Further steps of the Aarhus and Nuclear approach at national and European levels and Conclusion of the Workshop

Chairperson :

This session opens a discussion on the further steps, notably the establishment of national and European pluralistic round-tables to deepen the return of experience. Finally, the session concludes the workshop with a highlight of the main opportunities brought by this event and the potential later milestones.

Further steps

- 14h00 **Identification of thematic *European* round tables**
- Identified needs, opportunities, expressions of interest
- 14h45 **Presentation of a pluralistic evaluation methodology for the implementation of *national* round tables in interested countries**
- 15h10 ***Coffee break in national groups***
- 15h40 **Expression of interest and progress, by countries**

Conclusions

- 16h25 **Synthesis and perspectives**
Mrs. B. Laville (Landwell Global), Mr. G. Hériard-Dubreuil (Mutadis),
- 16h45 **Conclusion**
Mr. D. Ristori, European Commission
Mr. J-C. Delalonde, ANCLI
EU presidency representative(s)
- 17h00 End of the Workshop

Appendix 1 – Themes and case studies suggested for discussion in session 2 of the Steering Committee (26th March 2009)

Theme 1 - Participation, expertise and decision: what involvement from citizens, which means to investigate nuclear issues, what impacts on the decision?

The Aarhus Convention states that "each Party shall provide for early public participation, when all options are open and effective public participation can take place" and "each Party shall ensure that in the decision due account is taken of the outcome of public participation". How to ensure early participation which can effectively influence the decisions? The contributions to the first return of experience done within the Transparency group report a wide variety of practices, often innovative, sometimes failing, to develop participation in the nuclear sector. Still, there is frustration from representatives of the civil society for whom participation do not feel in decision. As a matter of fact, the Aarhus Convention does not define neither the nature of participation, nor the way participation is expected to be taken into consideration (how? to what extent? what is the expected impact? how is it visible?). There is no unique normative answer on the link between participation and decision. What responses have been brought in a practical way on the ground? What is the role of the stakeholders in the implementation of the Aarhus Convention with regard to participation?

Moreover, the nuclear field is a sector characterized by highly technical information. Participation is strongly associated with a capacity for stakeholders to have access to expertise, to enable them to develop their own understanding of the risks and consequences involved in nuclear activities. In addition, most of the expertise comes from regulators and operators. As a consequence, a number of representatives of civil society, strongly request pluralism and diversification of sources of expertise. How can the civil society skill up on nuclear issues? What are the tools and best practices? What are the difficulties encountered and how are they overcome?

Theme 2 – The implementation of transparency in the nuclear field: how to conciliate right to information and right to confidentiality? What competencies for Europe?

Operators who have contributed to the ENEF Transparency group's return of experience emphasized the efforts made by their companies regarding corporate communications. Representatives of civil society insisted about obligations the information owners have, and requested a more proactive approach to enable easier and more effective access to information they consider relevant. They indicated efforts to obtain information remained important for ordinary citizens. These barriers may discourage citizens who wish to use the right of access to information.

A major stumbling block on the way towards access to information lies in a constant tension with confidentiality. Access may be denied for the protection of commercial interests or defence. Both access and confidentiality are valid requests, it is recognised. The Aarhus Convention states that "*the grounds for refusal shall be interpreted in a restrictive way, taking into account the public interest served by disclosure*". How confidentiality should be interpreted? Experience shows that there is no one size fits all solution to overcome the opposition between these two principles. However, some practices have been experimented in different national contexts, especially to simplify access to information, even in conditions of confidentiality. There is a strong interest to discuss about and analyse these practices.

The implementation of the Aarhus Convention raises strictly legal questions. Thus, the Convention imposes to public authorities obligations of information and makes recommendations to operators. Are public operators on the one hand and private operators providing a public service on the other hand, affected by these provisions? How?

The role of Euratom in the implementation of the Aarhus Convention is also questioned. How can European institutions deal with the Aarhus Convention as their competence in the nuclear field is governed by the Euratom Treaty, which contains very specific provisions limiting access to information?

Theme 3 – The trans-border dimension: cooperation for information and people’s participation across borders

Nuclear facilities affect large geographical areas. Several legal devices (Euratom, Espoo Convention ...) include provisions to inform neighbouring countries, and allow them to express an opinion. Do these devices, primarily intergovernmental, guarantee the public a good information and participation in the meaning of the Aarhus Convention? What other tools are there to promote information and public participation across borders? Which regional cooperation can be established between the countries concerned by a same facility or project? How can the public participate in this cooperation?

At the European level, what roles can the European Commission and European networks such as WENRA, ETSON play in those trans-borders issues? What about Euratom?

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**COLLOQUE AARHUS NUCLEAIRE
ANCLI**

24 -25 juin 2009

Merci de nous faire parvenir ce formulaire par fax ou E-mail avant le **24 Mai 2009**

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AARHUS and NUCLEAR

European Workshop on the Practical Implementation of the Aarhus Convention in the Nuclear Field

24th – 25th June 2009, Luxemburg

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« Aarhus and Nuclear » Support team
Anne-Juliette Coutret
E-mail : ancli-aarhusnuclear@orange.fr
Tel : (0033) 1 48 01 88 73
Fax: (0033) 3 28 24 42 01

The workshop will take place on the 24th of June 2009 from 02:00 pm to 07:00 pm and the 25th of June 2009 from 09:00 am to 05:00 pm at the European Commission: Room M2

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