



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
ENVIRONMENT

The Director-General

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*Liese Honourable Members,*

Honourable Members of the European Parliament,

Thank you for your letter of 15 November 2017 concerning the application of Directive 2011/92/EU ("EIA Directive") to lifetime extensions (LTEs) of nuclear power plants and nuclear reactors. I would like first of all to apologise for the delay in my reply due to an administrative error in our services.

The objective of this Directive is to ensure that before development consent is given, projects likely to have significant effects on the environment by virtue, *inter alia*, of their nature, size or location are made subject to an assessment with regard to their environmental impacts.

Lifetime extensions<sup>1</sup> fall under Annex II, point 13 (a) of the EIA Directive, which is why they do not automatically require an environmental impact assessment. Such planned activities are, however, subject to a screening process, i.e. the determination of likely significant effects on the environment, either on a case by case basis or according to thresholds or criteria set out in national legislation.

Member States have discretion in deciding whether the projects listed in Annex II will be subject to an EIA; however, they have to take into account the relevant criteria of Annex III of the EIA Directive and ensure that such an assessment shall be carried out if the project is likely to have significant effects on the environment.

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<sup>1</sup> "Lifetime extension" (LTE) means a decision to be enshrined in a legal document to extend the operating licence of a reactor as defined in Article 3(4) of the Nuclear Safety Directive. It should be noted that not every long term operation of Nuclear Power Plants can be considered to be an LTE.

The EIA Directive has been amended in 2014 and the amendments improve the effectiveness and the efficiency of the screening procedure. No further amendment of the Directive is currently envisaged. Besides, the amended Article 4 of the EIA Directive has introduced a requirement for the developer to provide information on the characteristics of any Annex II project and its likely significant environmental effects. Based on this information and the updated criteria of Annex III, the competent authority shall determine the likely significant environmental effects during the screening process and inform the public<sup>2</sup>.

Concerning the long term operation<sup>3</sup> (LTO) of nuclear reactors and the consideration on whether these are "*projects*" in the sense of the EIA Directive, I would like to refer to the currently relevant case law of the Court of Justice of the European Union (CJEU). In its case C-275/09 (Brussel-Capital region a.o. v. Flemish region), the Court has ruled that the renewal of an existing permit to operate an airport cannot, in the absence of any works or interventions involving alterations to the physical aspect of the site, be classified as a "*project*" within the meaning of the EIA Directive. This interpretation is considered as mandatory for the Member States and the EU Institutions and is the one that is considered applicable also as regards LTOs. I would like to inform you that a preliminary reference from the Belgian Constitutional Court is currently pending before the CJEU on the LTOs issue (Case C-411/17) which is expected to clarify several issues in this respect.

It has to be recalled that nuclear safety issues are as such covered under the Euratom Treaty and its secondary legislation.

I trust this information is of assistance to you.

Yours,

Yours sincerely,



Daniel Calleja

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<sup>2</sup> See Article 4(4)-(5) of the EIA Directive, as amended.

<sup>3</sup> "Long term operation" (LTO) is defined as the planned continuation of operation beyond the design lifetime basis of the reactor, which usually corresponds to the 4<sup>th</sup> decennial safety review.