



Miguel ARIAS CAÑETE
Member of the European Commission

Brussels, 20. 02. 2018
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Dear Ms Sima,

I would like to thank you and the co-signatories for your letter of 10 January 2018 in which you express concerns regarding the supervision of the safety of the EU nuclear power plants (NPPs).

Taking note of the concerns raised in your letter, I would firstly like to assure you that nuclear safety and the protection of all EU citizens are priorities for the Commission. However, as you know, in line with the current division of responsibilities under EU law, the decisions to operate NPPs remain with the Member States, which are also responsible for ensuring their safe operation. The Commission's role is to ensure that those Member States choosing to use nuclear energy do so within a legal framework that meets the highest standards.

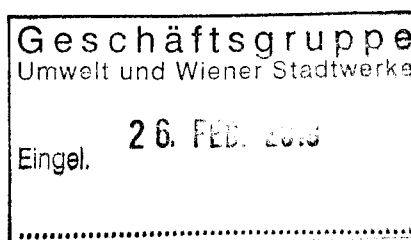
The Euratom legal framework has been significantly strengthened in the past five years, especially to take account of the lessons learned from the Fukushima nuclear accident in Japan.

In particular, Council Directive 2014/87/Euratom, amending the 2009 Nuclear Safety Directive (hereafter 'Directive'), introduces an ambitious EU-wide safety objective for all types of nuclear installations, with the aim of reducing the risk of accidents and avoiding large radioactive releases in the environment in case of a nuclear accident.

While the safety of nuclear installations remains the Member States' responsibility under the Directive, it enshrines the principle of close cooperation and information exchange between the EU Member States on nuclear safety matters with cross-border impacts. A good example of such cooperation would be the on-going cooperation activities between Belgium and France on nuclear safety matters as well as the mechanism of joint activities that has been instituted in 2016 between Belgian and German authorities, including the joint inspection agreement. A similar cooperation protocol has recently been signed between Dutch and Belgian regulatory authorities.

The EU-wide post-Fukushima comprehensive risk and safety assessments of NPPs ('stress tests') are another example of the key role of enhanced cooperation and coordination at the EU.

Deputy Mayor Ulli Sima
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In addition, inspired by the EU stress tests, the new legally-binding EU-level topical peer review will be carried out under the Directive every 6 years on a specific topic related to nuclear safety. The first topical peer review is currently underway and the topic chosen is the Ageing Management of Nuclear Power Plants.

I concur with you that transparency on nuclear safety matters and adequate involvement for the general public to participate in the decision-making process is important. Specific new requirements have been included in the revised Directive with a view to ensuring that the public is provided with relevant information and has the opportunity to participate in the decision-making process related to nuclear installations.

You are also raising the issue of the independence of competent regulatory authorities. I would like to inform you that the Directive's new requirements aim to substantially strengthen this independence and ensure that the national competent regulatory authorities are provided with the appropriate means and competencies to properly carry out the responsibilities assigned to them.

Furthermore, it should be noted that Directive 2013/59/Euratom (Basic Safety Standards Directive) provides for strengthened requirements on emergency preparedness and response (EP&R), especially in the light of the lessons learned from the Fukushima accident.

Moreover, discussions with and between EU Member States regulatory authorities, in particular on nuclear safety risks and challenges of a cross-border nature, are being continuously undertaken in the context of the European Nuclear Safety Regulators Group (ENSREG).

While national responsibility of Member States for the safety of nuclear installations is the fundamental principle on which nuclear safety regulation has been set up at the international and EU levels, the Euratom legal framework has been strengthened in recent years. Sufficient experience needs to be acquired with the implementation of the binding requirements enshrined in the revised Nuclear Safety Directive before considering any further changes.

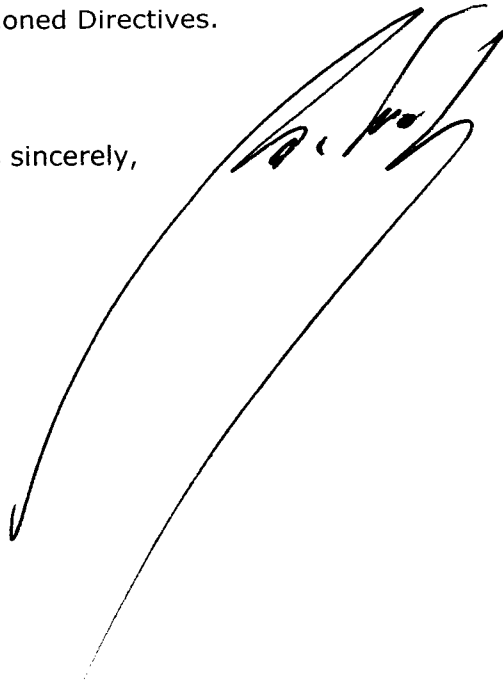
You are also raising the issue regarding the use of the provisions of the Treaty on the Functioning of the European Union (TFEU) rather than of the provisions of the Euratom Treaty as a legal basis to adopt EU nuclear safety legislation. In this regard, it should be recalled that according to the settled case-law of the Court of Justice of the European Union, the provisions of the Euratom Treaty constitute a more specific legal basis than the general legal basis for the protection of the environment resulting from the TFEU (principle of *lex specialis*). As such, the specific provisions of the Euratom Treaty should be used, according to the Court, to adopt legislation in the field of protection of populations against ionizing radiations (including nuclear safety)¹.

¹For instance in case C-29/99, the Court has established the competence of the Euratom Community in the area of nuclear safety on the basis of the Euratom Treaty. In its recent judgement of 2015 in case C-48/14, the Court has once more confirmed the *lex specialis* character of the Euratom Treaty vis-à-vis the TFEU and the use of the Euratom Treaty provisions as the correct legal basis for the protection of populations against ionizing radiations, irrespective of their source.

Finally, I assure you that I understand and closely follow the concerns expressed by EU citizens and various stakeholders, such as representatives of local and regional authorities as well as civil society representatives about the safety of EU NPPs.

The Commission is continuing to closely follow the situation and is carefully monitoring the timely, correct and effective transposition and implementation of the above-mentioned Directives.

Yours sincerely,

A large, stylized handwritten signature in black ink, written over the 'Yours sincerely,' text. The signature is highly cursive and difficult to decipher, but appears to be a personal name.

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