

Case C-411/17, Inter-Environnement Wallonie and Bond Beter Leefmilieu Vlaanderen

Prof. Dr. Luc LAVRYSEN
President Constitutional Court of Belgium
President EUFJE

2021 EU FORUM OF JUDGES FOR THE
ENVIRONNEMENT ANNUAL CONFERENCE
17-18 SEPTEMBER 2021 — ONLINE

COOPERATION BETWEEN
CJEU AND NATIONAL JUDGES
IN ENVIRONMENTAL CASES



REPUBLIC OF BELGIUM
MINISTRY OF JUSTICE
JUDICIAL TRAINING CENTRE

BACKGROUND

- Law of 31 January 2003: nuclear power stations (7) will gradually be taken out of service after 40 years of operation between 2015 and 2025
- Government can derogate if security of the electricity supply is threatened (share + 50 %)
- Amendment of 31 January 2013: lifetime expansion of some reactors within that time frame
- Amendment of 28 June 2015: another lifetime expansion with an extra 10 years of 2 reactors (Doel 1 & 2) – Doel 1 had already been disconnected according to the previous law on 15 February 2015

CONSTITUTIONAL COURT



CONSTITUTIONAL COURT

- January 2016: demand for annulment of the Amending Law of 28 June 2015
 - Inter-Environnement Wallonie & Bond Beter Leefmilieu Vlaanderen
 - Violation of Art. 10, 11 and 23 of the Belgian Constitution *juncto* Espoo Convention, Aarhus Convention, EIA and Habitat Directives
 - Act could not be passed by the Parliament without prior EIA, proper assessment, public participation and transboundary consultation
- Main question:
 - is such an Act of Parliament subject to those international and European rules
 - what if the answer is positive, can the Court uphold the effects of the law for a certain period of time
- Reference for a preliminary ruling: Judgment 82/2017 of 22 June 2017
 - 8 questions with some questions with different branches

COURT OF JUSTICE OF THE EU

Submissions by

- Environmental NGOs
- Operator of the plant
- Governments of BE, CZ, DE, A, PT, FI, UK
- EC

Opinion of AG Kokott
Grand Chamber



CJEU (Grand Chamber), 29 July 2019, C-411/17,
*Inter-Environnement Wallonie and Bond Beter
Leefmilieu Vlaanderen*

- Law of 28 June 2015 is subject to prior EIA - implementation implies measures which entail work to upgrade the power stations in question such as to alter the physical aspect of the sites - constitute a 'project' – even when other subsequent acts, such as a new specific consent for the production of electricity for industrial purposes, are needed – effects of those acts must also be taken into consideration
- Exemption only under very specific circumstances (urgency – risk to the security of energy supply) and conditions
- Specific legal act exemption is not applicable
- Proper assessment under the Habitats Directive is also needed

- The objective of ensuring security of the electricity supply in a Member State at all times constitutes an imperative reason of overriding public interest according to the Habitat Directive
- If a protected site likely to be affected hosts a priority natural habitat type or priority species, only a need to nullify a genuine and serious threat of rupture of that Member State's electricity supply constitutes a public security ground
- The referring court may, by way of exception, maintain the effects of the measures, adopted in breach of the EU obligations, where such maintenance is justified by overriding considerations relating to the need to nullify a genuine and serious threat of rupture of the electricity supply in the Member State concerned, which cannot be remedied by any other means or alternatives, particularly in the context of the internal market; the effects may only be maintained for as long as is strictly necessary to remedy the breach.

BACK TO THE CONSTITUTIONAL COURT

Judgment
34/2020 of 5
March 2020



FINAL JUDGEMENT

- Annuls the law of June 28, 2015
- Maintains the effects of the nullified law until the adoption of a new law preceded by the required environmental impact assessment and appropriate assessment, with public participation and a cross-border consultation, and at the latest until December 31, 2022

FOLLOW-UP

- EIA Procedure has been launched on the basis of Chapter III *ter* of the Law of 15 April 1994 concerning protection against ionizing radiation
- EIA published
- Including transboundary consultation - 15 April - 15 June 2021
- 9552 reactions received
- Comments received under consideration

- Bill to Parliament ?

FOLLOW-UP

Projet de report de la désactivation des centrales nucléaires de Doel 1 et de Doel 2 - Consultation du public sur le rapport des incidences sur l'environnement



- Contexte de la consultation
- Durée de la consultation
- Documentation
- Consultation du public
- Décision et suivi

Contexte de la consultation

La Belgique compte 7 centrales nucléaires (Doel 1, 2, 3 et 4, et Tihange 1, 2 et 3) qui, ensemble, représentent environ la moitié de notre production d'électricité.

Une loi du 31 janvier 2003 réglait la sortie progressive de l'énergie nucléaire à des fins de production industrielle d'électricité. Le but était de désactiver l'ensemble du parc des centrales nucléaires d'ici 2025 et plus particulièrement Doel 1 et 2 en 2015. Cependant, afin de garantir à tout moment la sécurité d'approvisionnement, il a été décidé de reporter la désactivation des centrales nucléaires de Doel 1 et 2 de 10 ans jusqu'en 2025. Un amendement du 28 juin 2015 à la loi du 31 janvier 2003 a formalisé cette décision.

La Cour constitutionnelle a jugé, par un arrêt du 5 mars 2020, que cette décision ainsi que les travaux nécessaires au bon fonctionnement de Doel 1 et 2 pendant 10 ans supplémentaires, étaient soumis à la réalisation d'une évaluation des incidences sur l'environnement, accompagné d'une consultation publique.

Durée de la consultation

Du 15 avril au 15 juin 2021.

Documentation

Le rapport des incidences sur l'environnement et un résumé non technique de ce dernier sont disponibles en français, en néerlandais et en allemand.

Documents concernant la partie travaux

- [Étude d'incidence environnementale : Centrale nucléaire de Doel Prolongation de la durée de vie Doel 1 et 2 \(PDF, 18.86 Mo\)](#)
- [Résumé de l'étude d'incidence environnementale \(PDF, 1.29 Mo\)](#)
- [Environmental Impact Report \(PDF, 18.26 Mo\)](#)
- [Environmental Impact Report Summary \(PDF, 4.63 Mo\)](#)

Documents concernant la décision stratégique

- [Évaluation de l'impact environnemental - Etude d'impact \(PDF, 6.22 Mo\)](#)
- [Résumé non-technique de l'Évaluation de l'impact environnemental \(PDF, 1.6 Mo\)](#)
- [Non-technical summary of the Environmental Assessment \(PDF, 1.63 Mo\)](#)



ENVIRONMENTAL IMPACT REPORT SUMMARY Doel Nuclear Power Station for LTO of Doel 1 and 2



Consultation

Transboundary Environmental Public Consultation - Decision on the extension of the operational life of the Doel 1 & 2 Nuclear Power Plants, located near the Port of Antwerp, Belgium

From [Department of Housing, Local Government and Heritage](#)

Published on 28 April 2021

Open for submissions from 28 April 2021

Submissions closed 23 June 2021

Last updated on 30 April 2021



Suche Person... Suchen...

THEMEN ▾ POLITIK ▾ VERWALTUNG ▾ FÖRDERUNGEN ▾ PRESSE ▾

Kernkraft

- Informationen >
- Radioaktivität >
- Links >

Land Salzburg > Themen > Umwelt > Recht > Kernkraft

Kernkraftwerk Doel, Belgien Laufzeitverlängerung

Belgien hat der Republik Österreich gemäß Artikel 4 des UN/ECE Übereinkommens über die Umweltverträglichkeitsprüfung im grenzüberschreitenden Rahmen (Espoo-Konvention) und Artikel 7 der UVP-Richtlinie die Umweltverträglichkeitserklärung und weitere Unterlagen zur Laufzeitverlängerung der Kernkraftwerke Doel 1 und Doel 2 in Belgien übermittelt.

UVP Kernkraftwerk Doel 1 und 2

NUKLEARRELEVANTE VERFAHREN

nach Ländern nach Jahren

Home | Umweltthemen | Energie | Kernenergie | Nuklearrelevante Verfahren | UVP Kernkraftwerk Doel 1 und 2

Belgien hat der Republik Österreich gemäß Artikel 3 und 4 des UN/ECE



Om Naturvårdsverket Kontakt Nyheter och press A-Ö Lyssna Teckenspråk English

VÅR NATUR

Friluftsliv & jakt

SÅ MÅR MILJÖN

Fakta & statistik

MILJÖARBETE I SAMHÄLLET

Miljömål & samverkan

Belgien samråder om livstidsförlängning av kärnkraftsreaktorer

Belgien har bjudit in Sverige för samråd gällande 10 års livstidsförlängning av två kärnkraftsreaktorer, Doel 1 och 2. Nu ges svenska myndigheter, organisationer och allmänhet möjlighet att kommentera på miljökonsekvensbeskrivning av projektets potentiella gränsöverskridande effekter.

SKRIV UT DELA KONTAKT LYSSNA

Naturvårdsverket fick 2020-08-31 frågan om Sverige önskade delta i samråd om miljökonsekvensbeskrivning gällande livstidsförlängning av de två kärnkraftverken Doel 1 och Doel 2. Belgien meddelades då att Sverige önskade få ta del av

REN

Rem

> Re

> Re

> Re

> Re

> Ri

gr

> Sc

Yttra