



Gorlebens High-Level Nuclear Waste and Consensus Building

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International Symposium on

**Public Participation and Access to
Justice in Environmental Matters**

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Outline

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I. Introduction



https://www.tagesschau.de/ausland/tschernobyl158~magnifier_pos-0.html



https://www.tagesschau.de/wirtschaft/atomunraette-schadenskosten100~magnifier_pos-0.html

II. Use of Nuclear Power in Germany

- 1959 Atomic Energy Act
- 2000 Atomkonsens
- 2002 Act on the Controlled Termination of the Use of Nuclear Energy
- 2010 Extension of operating lives
- 2011 Withdrew of extension, final nuclear phase-out until 2022
- 2013 Repository Site Selection Act
- 2016 Report of Repository Commission

III. Repository Commission

33 Members:

- Elected by Bundestag and Federal Assembly
- Representatives of the science, of environmental and conservation organizations, religious communities, commerce and of trade unions
- Members of the German Bundestag and of the Länder governments

Meetings in public.

Minutes and expert opinions etc. were published.

Social dialogue and extensive public participation.

Find criteria for Repository.

Make proposals for public participation

IV. Gorleben or the Endless Search for a Repository



<http://www.tagesschau.de/inland/castor-gegner-schmerzengeld-101.html>



<http://www.tagesschau.de/multimedia/bilder/castortransport124.html>



V. Models of Public Participation in Germany

1. Participation of those directly affected

Federal Constitutional Court Mülheim-Kärlich case 1979:

- Processes have to be carried out in such way that substantial basic rights can be safeguarded.
- Consequence:
 - Citizens affected can take action against the final approval decision **and**
 - Citizens can claim that necessary procedural steps have not been observed.

V. Models of Public Participation in Germany

2. Participation of Everybody

Functions:

- Retrieval of information.
- Increase of acceptance.
- Transparency
- Democratic legitimacy

V. Models of Public Participation in Germany

3. Participation of Associations

- Aarhus-Convention
- Directive 2003/35/EG regarding the Participation of the Public and Access to the Courts
- Environmental Appeals Act

V. Models of Public Participation in Germany

4. Process and Functions

Stages of Procedure:

- Evaluation by the authority
- Public announcement of the project
- Gathering of statements of authorities and public agencies
- Public display of documents
- Collection of objections of citizens
- Conduction of a hearing
- Assessment by the authority
- Decision by the authority

VI. The Repository Site Selection Act

4. Process and Functions

Steps of the site selection process:

- Pre-phase: Revision of the act based on the proposals of the Repository Commission
- Phase 1: Localization of eligible regions
- Phase 2: Surface exploration
- Phase 3: Underground exploration
- Approval phase

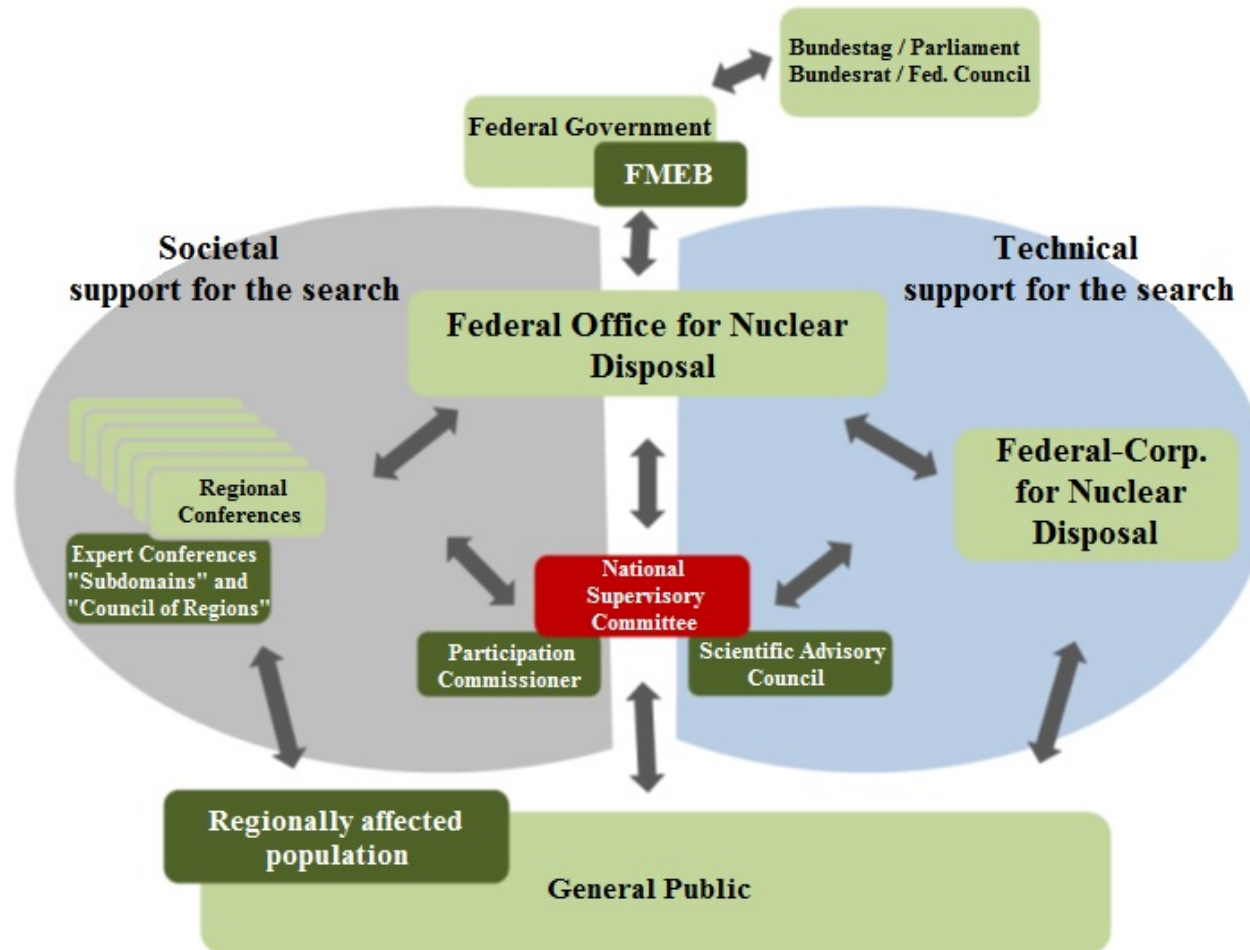
VII. Participation of authorities and the public

1. Target and Forms

- Target:
 - Increase willingness of citizens to take over responsibility
 - Gain in democratic legitimacy
 - Information, consultation, possibility to comment and cooperate
- Forms:
 - National support body
 - Symposium subareas
 - Regional conferences
 - Council of the regions
 - Comments procedure and hearings
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VII. Participation of authorities and the public

1. Target and Forms



VII. Participation of authorities and the public

2. Further forms of participation

- Public dialogue site selection
- Information campaign
- Workshops with representatives of the regions
- Workspace and symposium with the professional public
- Series of workshops with young adults and participation practitioners
- Offers of dialogue to skeptical groups
- Letters and online formats
- Draft of Commission report

VII. Participation of authorities and the public

3. Practical experience of Repository Commission

- It was not possible to motivate skeptical groups to get into dialogue and to participate.
- „Broad public“ was not sufficiently reached.
- Workshops: no balanced proportion between the individual groups of participants.
- It was not possible to sufficiently involve young adults.

VII. Participation of authorities and the public

4. Legal Protection

- Series of legal remedies based on Repository Site Selection Act and Atomic Energy Act
- Series of legal remedies based on individual special laws which also provide for public participation

Repository Commission: these options are not sufficient.

- Recommendation: introduction of further legal remedies
 - Comprehensive and preferably final review of the site selection process including all pre-tests and intermediate steps. Details are not clear yet.

VIII. Conclusion

- Comprehensive public participation with multitude of new instruments within repository selection process.
- If decision can be found in agreement remains questionable.
- Problem of handling the existing high-level radioactive waste will keep Germany busy for quite a while.

Thank you for your attention!

