

## Opinion of the

### Group of Experts referred to in Article 31 of the Euratom Treaty

on the

#### **Draft proposal for a Council Directive amending Directive 2009/71/EURATOM establishing a Community framework for the nuclear safety of nuclear installations (version 28 December 2012)**

The *Group of Experts referred to in Article 31 of the Euratom Treaty* takes note of the draft text for a Council Directive amending Directive 2009/71/EURATOM establishing a Community framework for the nuclear safety of nuclear installations, Version 28.12.2012.

The Group of Experts notes that this consultation takes place at an early stage of development of the *Proposal for a Nuclear Safety Directive* and that the proposed text may still undergo significant changes. The Group of Experts notes further that in the consultation procedure foreseen under Article 31 of the Euratom Treaty this is the only opportunity given to the group to express its Opinion.

The Group of Experts emphasises the fact that the Commission proposed on 30 May 2012 a revised *Council Directive laying down basic safety standards for the protection against the dangers arising from exposure to ionising radiation* (revised BSS) which brings the current Basic Safety Standards Directive in line with recent scientific developments. Although already in an advanced stage of development, the text of the Basic Safety Standards may still be subject to amendments during ongoing discussions. The Group of Experts notes that the Basic Safety Standards comprise detailed requirements in several areas with a potential interface with the proposed Nuclear Safety Directive, as justification, optimisation, and dose limitation, as well as authorisation procedures, emergency preparedness and response, and information of the public in case of a nuclear accident. Furthermore, the BSS covers the role of the national competent authorities.

1. A fundamental lesson learnt from the Fukushima accident is the necessity of the independence of regulators from the interests of operators and governments. The Experts note that the *Proposal of the Nuclear Safety Directive*; as a main reflection of the Fukushima accident, aims at more independence and transparency of regulatory decisions. However, the Experts note that a full evaluation of the implementation of the current provisions has not yet been carried out. The Experts emphasise that the necessary independence in regulatory decisions needs to be assured by Member States within their national systems.
  - In complying with the Basic Safety Standards and the Nuclear Safety Directive, Member States have to establish national competent authorities with responsibilities for regulatory control of radiation protection and nuclear safety. Whether the Member State decides on a single competent authority or distinct competent authorities, the Group of Experts underlines the complementarity between nuclear safety and radiation protection and the need for coordination between the entities in charge of regulatory control in both fields, also with organisations in charge of emergency preparedness and response. Furthermore, the Group of Experts recommends to develop European guidance on this topic, taking into account good practices.
  - The Experts note the development of the requirements regarding personnel of the competent regulatory authorities for nuclear safety with necessary qualification, experience and expertise. In line with strengthening the importance of qualification, experience and expertise of personnel of competent regulatory authorities for nuclear safety, the Group of

Experts recommends to highlight the need that such personnel should include those with qualifications, experience and expertise not only in nuclear safety but also in radiation protection, in accordance with the requirements in the revised BSS.

- The Experts underline that requirements on the nuclear safety regulatory framework should still allow for the involvement of technical support organisations.
2. The Experts welcome the introduction of requirements on on-site emergency preparedness and response in the proposal. The Experts also note that off-site nuclear emergency preparedness and response is covered by the revised BSS which provides requirements for the protection of members of the public in emergency exposure situations. The emergency management system provided for in the revised BSS requires emergency response plans at national level, local level and within the installation as well as appropriate coordination. The Experts recommend that a recital in the *Proposal of the Nuclear Safety Directive* clarifies the interface between on-site and off-site emergency preparedness and response.
  3. The Experts welcome the strengthening of the requirements for information of the public in relation to nuclear safety in nuclear installations. However, the obligation of the licence holder, and not only of the competent regulatory authority, for sharing relevant information should be strengthened. With regard to emergencies, information to be provided to the population likely to be affected by an emergency is covered by Council Directive 89/618/Euratom of 27 November 1989 on informing the general public about health protection measures to be applied and steps to be taken in the event of a radiological emergency (Official Journal L-357 of 07.12.1989, page 31). The Experts recommend that coherence of requirements is achieved and any potential overlap of requirements with existing requirements in the EU legislation related to information is avoided.
  4. The Experts recommend that terms and concepts in the *Proposal for a Nuclear Safety Directive* should be consistent with respective terms and concepts in the Basic Safety Standards Directive. For example, when introducing "nuclear safety criteria" in the siting of nuclear installations, the *Proposed Nuclear Safety Directive* makes reference to radiation protection criteria such as "potential radiation doses" and "radiation dose limits". The Experts recommend to avoid any requirement conflicting with the BSS.
  5. The Experts note that with respect to the "Siting of nuclear installations" in the *Proposal of the Nuclear Safety Directive*, Member States shall consult interested Member States and their public on the appropriateness and completeness of the procedure in place to evaluate the radiological impact of the proposed nuclear installation on the general public, the air, water and soil, in both normal operating and in severe accident conditions. The Experts welcome the level of transparency introduced by the proposal.

In addition, in this context, the experts recall that provisions under Article 37 of the Euratom Treaty are already in place giving competences to the Commission to assess whether planned nuclear installations are liable to result, both in normal operation and in the event of an accident, in a radioactive contamination significant from the point of view of health of the water, soil or airspace of another Member State. The assessment performed by the Commission in consultation with a specific group of experts appointed by the Scientific and Technical Committee give rise to a formal opinion notified to the submitting Member State and published in all languages in the Official Journal.

While recognising that the assessment of the radiological consequences of the siting of nuclear installations on the population of neighbouring Member States is of particular importance, the

Experts seek clarification on the relationship between the above requirement and the provisions under Article 37 of the Euratom Treaty.

6. The *Proposal of the Nuclear Safety Directive* requires up-to date expertise and skills in nuclear safety. The Experts welcome the enlargement of the obligation of the Member States stating that the expertise and skills are required not only for the staff having responsibilities to the nuclear safety but also to on-site emergency preparedness and response arrangements.
7. The Experts emphasise that the *Proposal of the Nuclear Safety Directive* should allow for more regulatory flexibility to be given to Member States in relation to the nature and complexity of the nuclear installation to which the Directive applies.
8. The Experts are concerned that the *Proposal for a Nuclear Safety Directive* does not take into account the fundamental principle of optimisation of protection (particularly in relation to potential exposures) which should take into account such factors as:
  - the likelihood of exposure occurring;
  - the magnitudes of the exposures;
  - the number of people exposed to radiation;
  - economical, societal and environmental factors.
9. The Group of Experts notes the intention of the European Commission to implement monitoring, reporting and verification in line with the post-Fukushima lessons to be learned aiming to ensure an effective implementation of safety measures. The Group of Experts sees this as the most important part of the proposal to be addressed by the Member States, the Commission and other involved parties in the negotiation of the Directive in order to find a sustainable European solution to this problem. The Group of Experts would like to emphasise that all parties having a role in monitoring, reporting and verification (regulatory authorities, international review teams, Commission) should be subject to the proposed requirements regarding independence, transparency and documentation of decisions.
10. Finally, the Group of Experts recommends that the Euratom Nuclear Safety Directive should keep pace with the evolving international safety standards and should be periodically revised.

Luxembourg, 26 March 2013



Helena Janžekovič  
Chair of the Group of Experts