

**RULES OF PROCEDURE
OF THE GROUP OF EXPERTS REFERRED TO IN
ARTICLE 37 OF THE EURATOM TREATY**

THE GROUP OF EXPERTS REFERRED TO IN ARTICLE 37 OF THE EURATOM TREATY,

Having regard to Article 37 of the Euratom Treaty which requires that "*... the Commission shall deliver its opinion within six months, after consulting the Group of experts referred to in Article 31.*";

Having regard to Article 31 of the Euratom Treaty which requires that "*... basic standards shall be worked out by the Commission after it has obtained the opinion of a Group of persons appointed by the Scientific and Technical Committee from among scientific experts, and in particular public health experts, in the Member States.*";

Having regard to Article 134 of the Euratom Treaty that requires the setting up of a Scientific and Technical Committee;

Having regard to the Scientific and Technical Committee's decision of October 1959 to nominate a dedicated Group of scientific experts having the specific expertise to assist the Commission in implementing its obligation emanating from Article 37 (commonly referred to as *the Group of Experts set up under the terms of Article 37 of the Euratom Treaty*);

In the light of the Commission Decision of 30 May 2016 establishing horizontal rules on the creation and operation of Commission expert Groups¹ and the standard rules of procedure of expert Groups, proposed therein²;

Considering the role of the Group of experts set up under the terms of Article 37 of the Euratom Treaty;

ON 28 February 2018 HAS ADOPTED THE FOLLOWING RULES OF PROCEDURE:

Point 1

Operation of the Article 37 Group of Experts

1. The Commission services (hereafter the Secretariat) will consult the Article 37 Group of Experts (hereafter the Group):

¹ Commission Decision of 30/05/2016 establishing horizontal rules on the creation and operation of Commission expert Groups C(2016) 3301

² C(2016) 3301 (Annex 3)

- by default through a written procedure for all general data submissions not listed in the hyphen hereafter;
 - through an oral procedure for general data submissions that concern major new build such as nuclear power reactors, spent fuel reprocessing plants and deep geological repositories; an oral procedure will entail a plenary meeting of the Group, normally to be held in Luxembourg.
2. The members of the Group shall, independently of it being a written or oral procedure:
- examine the general data the Secretariat will transmit to them upon receipt at the Commission; followed by a Commission translation into EN of said general data if drafted in any other language;
 - confirm, in conjunction with the Secretariat, that the plan (*for the disposal of radioactive waste in whatever form*) as detailed in the general data falls within the remit of Article 37 as is further detailed in Commission Recommendation 2010/635/Euratom on the application of said article;
 - establish, in collaboration with the Secretariat, requests for additional information that may result from the examination of the general data, in due respect of the aim of the Article 37 procedure that is to '*determine whether the implementation of such plan is liable to result in the radioactive contamination [significant from a point of view of health] of the water, soil or airspace of another Member State*', in respect of the provisions laid down in the Basic Safety Standards Directive³;
 - validate for submission to the Commission the final draft of the Group's report and the conclusion presented therein on the general data under scrutiny, final draft that will be compiled by the Secretariat.

Point 2

Members of the Group

1. Members are appointed to the Group in their personal capacity by the Scientific and Technical Committee, set up under Article 134 of the Euratom Treaty, for a term of five years. Their appointment shall be renewable.
2. Members of the Group, in their capacity as such, shall be independent in the performance of their duties.
3. Having regard to the nature of the Group conferred upon it by the Treaty, no substitution of an absentee member shall be permitted.

³ Council Directive 2013/59/Euratom of 5 December 2013 laying down basic safety standards for protection against the dangers arising from exposure to ionising radiation; repealing Directives 89/618/Euratom, 90/641/Euratom, 96/29/Euratom, 97/43/Euratom and 2003/122/Euratom with effect from 6 February 2018.

Point 3

Term of Office

1. The term of office of a member of the Group shall commence on the date on which the formal appointment by the Scientific and Technical Committee takes effect.
2. Membership of the Group shall expire at the end of the five-year term. In case the Group's renewal is delayed, Membership shall continue on request of the Commission until appointment of new members.
3. The term of office of a member of the Group shall be terminated by resignation, permanent inability to discharge the duties or death. Any resignation must be communicated by the resigning member to the Secretariat or to the Scientific and Technical Committee.
4. In case of termination of membership, the Commission shall implement the replacement procedure by the Scientific and Technical Committee for the remainder of the term.

Point 4

Officers of the Group

1. The Group shall have no permanent Chair or Vice-Chair.
2. A Chair of the Group will be nominated *ad hoc* when a plenary meeting of the Group is scheduled as per second hyphen of point 1.1 above. For the duration of said meeting the Chair will be chosen among the members of the Group that are citizens of the Member State that holds the Presidency of the Council of the European Union. In case of unavailability the Chair will be chosen among the members of the Member State that holds the next Presidency or the one thereafter, should circumstances require.

Point 5

Convening a meeting

1. Meetings of the Group are convened by the Commission in case general data pursuant to Article 37 have been submitted as per second hyphen of point 1.1 above.
2. Meetings of the Group shall be held at a place in which the Euratom Community exercises an activity.

Point 6

Agenda

1. The Secretariat shall draw up the agenda under the responsibility of the Chair and send it to the members of the Group.
2. The agenda shall be adopted by the Group at the start of the meeting.

Point 7

Documentation sent to members of the Group

1. The Secretariat shall send the invitation to a meeting, as well as a draft agenda, to the members of the Group no later than thirty calendar days before the date of the meeting.
2. The Secretariat shall provide the members of the Group with the translated version of the general data (into EN) no later than fourteen calendar days before the date of the meeting.
3. In urgent or exceptional cases, the time limits for sending the documentation mentioned in the previous paragraph may be reduced to five calendar days before the date of the meeting.

Point 8

Conclusions of the Group

1. As far as possible, the Group shall, at the end of a plenary meeting, adopt its conclusions on the general data under scrutiny by collegial consensus.
2. In the event of a vote, the outcome of the vote shall be decided by simple majority of the members of the Group. The members that have voted against or abstained shall have the right to document the reasons for their position in the minutes of the meeting.
3. A member of the Group who is unable to attend a meeting will not participate in the examination of the general data and will not be entitled to participate in the formulation of the conclusions. However, written contributions provided by members of the Group to the Secretariat before the meeting may be taken into account while preparing the conclusions.

Point 9

Working Parties

1. At the request of the Commission, a working party may be set up for the purpose of amending the Commission's recommendation on the application of Article 37 of the Euratom Treaty. To that effect, the Secretariat will summon the Group to an ad-hoc plenary meeting where, based on a proposal by the Secretariat, the terms of reference of the working party will be defined.
2. Only members of the Group may become members of the working party. The working party shall be chaired by a member of the Group. The working party may elect a vice-chair if appropriate.
3. The working party shall present the final outcome of its activities at an ad-hoc plenary meeting. The Group shall by the end of the plenary meeting deliver its opinion on the

proposed amendments to the Commission's recommendation on the application of Article 37 of the Euratom Treaty.

4. The working party shall be dissolved as soon as its mandate is fulfilled.

Point 10

External experts

Within the framework of written or oral Article 37 procedures it is not foreseen to consult external experts. Should the need arise, the Secretariat and the Group may decide, in mutual agreement, to consult an external expert in matters relevant to a particular Article 37 procedure. Such a consultation shall take place prior to the procedure. The consultant shall however be excluded from participating in the procedure proper.

Point 11

Third party observers

Within the framework of written or oral Article 37 procedures it is not intended to invite third party observers. In the unlikelihood of third party observers being present, these will be excluded from participating in the procedure.

Point 12

Written procedure

As per point 1 above.

Point 13

Secretariat

The Commission shall provide secretarial support for the Group and any working parties.

Point 14

Summary report of the meetings

The Secretariat will compile draft minutes after a plenary meeting. The draft minutes will be submitted for amendments and approval to the members of the Group present at the meeting.

Point 15

Attendance list

At each plenary meeting, the Secretariat shall draw up, under the responsibility of the Chair, an attendance list.

Point 16

Conflicts of interest

1. At the start of every written or oral consultation the Commission shall remind all members of the Group of their obligation to promptly inform the Commission of any conflict of interest, be it in general or be it related to a specific consultation, or of any relevant change in the information provided during the nomination procedure⁴. Any member concerned shall immediately submit a declaration of interests form, identical to the one attached in the horizontal rules (Annex III) so as to enable the Commission to assess it, taking due account of the horizontal rules.
2. Should a conflict of interest in relation to an expert appointed in a personal capacity arise, the Commission shall take all appropriate measures to resolve the conflict of interest as soon as possible, taking due account of the horizontal rules.
3. Where the Commission concludes that no conflict of interest exists, the individual in question may participate in the specific consultation or may continue to be member of the Group.
4. Where the Commission concludes that the expert's interests may compromise or be reasonably perceived as compromising the expert's capacity to act independently and in the public interest when advising the Commission, the expert shall be excluded from the specific consultation or from the Group.

Where current members of the Group or working parties refuse to submit duly completed declaration of interest forms, they shall be excluded from the Group.

5. Conflicts of interest shall be reported in writing, e.g. in the Group's reports on specific consultations and in the minutes of the Group's meetings. Information registered must be adequate, relevant and not going beyond what is necessary for the purpose of the management of the conflict of interest.

Point 17

Correspondence

1. Correspondence relating to examination of general data shall be addressed to the Commission, for the attention of the Secretariat.
2. Correspondence for Group members shall be sent to the address that they provide for that purpose.

⁴ The following process needs to be incorporated into the nomination procedure followed by the Scientific and Technical Committee:

Individuals nominated to be appointed as members of the Group in a personal capacity shall disclose any circumstances that could give rise to a conflict of interest. In particular, the Commission shall require those individuals to submit a declaration of interests ('DOI') form on the basis of the standard DOI form for expert Groups, together with an updated curriculum vitae (CV), as part of their application. Submission of a duly completed DOI form shall be necessary in order to be eligible to be appointed as a member in a personal capacity. The conflict of interest assessment shall be performed in compliance with the Commission's horizontal rules on expert Groups ('the horizontal rules').

Point 18

Transparency

1. As concerns the Group's composition, the name of individuals appointed in a personal capacity shall be published on the Commission website.
2. Experts who do not wish to have their names disclosed may submit a request to the Commission for derogation from this rule. Derogation shall be granted where justified on compelling legitimate grounds in relation to the specific situation of the expert, in particular where disclosure of the experts' name could endanger their security or integrity.

Point 19

Access to documents

Applications for access to documents held by the Secretariat shall be handled in accordance with Regulation (EC) No 1049/2001.

Point 20

Processing of data

Personal data may be processed by EU institutions only in accordance with the provisions of Regulation (EC) No 45/2001.

Point 21

Revision of the Rules of Procedure

1. The Commission shall decide whether there is a need to amend these Rules of Procedure, either in part or in full.
2. The Rules of Procedure shall enter into force immediately after their approval by the Group.
