



**EUROPEAN COMMISSION**  
DIRECTORATE-GENERAL FOR ENERGY

DIRECTORATE D - Nuclear Safety and Fuel Cycle  
**D.3 - Radiation Protection**

**COUNCIL DIRECTIVE 2013/51/EURATOM LAYING DOWN REQUIREMENTS FOR THE  
PROTECTION OF THE HEALTH OF THE GENERAL PUBLIC WITH REGARD TO RADIOACTIVE  
SUBSTANCES IN WATER INTENDED FOR HUMAN CONSUMPTION**

**(EURATOM DRINKING WATER DIRECTIVE, E-DWD)**

**TRANSPOSITION WORKSHOP**

**10 DECEMBER 2014**

Euroforum Building, Meeting room EUFO 0001, Luxembourg

***Minutes***

- Chairman**      **Mr Vesa Tanner, European Commission DG ENER D3**
- Participants**    - **Representatives from the EU Member States**  
                      - **Observer from the IAEA**  
                      - **Officials of the European Commission (DGs Energy (ENER),  
Environment (ENV) and Joint Research Centre (JRC))**
- Secretaries**     **Ms Elke Schieben, European Commission DG ENER D3**  
                      **Ms Diana Vaneckova, European Commission DG ENER D3**

(Full list of participants in Annex 2)

**1. OPENING OF THE WORKSHOP AND ADOPTION OF THE AGENDA**

Chairman Mr Tanner opened the workshop at 09:30 on 10 December 2014. It was agreed that the Commission provides the chairman for the workshop.

A provisional agenda had been sent to the nominated participants in advance along with the preparatory documents. The proposed agenda (Annex 1) was adopted.

**2. INTRODUCTION OF UNIT ENER D3 RADIATION PROTECTION**

Head of Unit ENER D3, Mr Ivo Alehno, welcomed the participants. He presented Unit ENER D3 and outlined its organisation and main work areas.

### **3. INTRODUCTION TO THE EURATOM DRINKING WATER DIRECTIVE**

Mr Tanner presented the Euratom Drinking Water Directive 2013/51/EURATOM (E-DWD) article by article. He informed that the E-DWD supersedes the general Drinking Water Directive 98/83/EC (DWD) and enhances the legal status of the earlier recommendation on radon in drinking water (2001/928/Euratom). Recommendation as such is not repealed by the Directive, so the parts not covered by the Directive remain valid.

### **4. RESULTS OF THE E-DWD QUESTIONNAIRE OF 2014**

Mr Tanner presented the results of the E-DWD questionnaire, which was distributed to the Member States in July 2014. The purpose of the questionnaire was to (1) collect information about the competent authority in each Member State (MS), (2) establish a list of contact persons in the MS and (3) collect information on legal transposition plans, associated technical issues and possible problem areas. Reply to the questionnaire had been received from 24 Member States; it had not been received from Bulgaria, Italy, Malta and Poland.

Many countries have not decided on the exact transposition measures yet, therefore many answers were uncertain. Main problems identified concerned reporting, analysing Radon in water, general logic of defining minimum sampling frequencies for natural/artificial radionuclides and possible misuse of derived concentrations.

Mr Tanner informed that the E-DWD does not require the MS to nominate a competent authority. However, for practical reasons in the questionnaire the Commission has requested this information and it intends to make it available at the E-DWD website.

### **5. MODALITIES OF DIRECTIVE TRANSPOSITION**

Mr L. Kapos (ENER D3) presented the Directive transposition process. The purpose of the presentation was to illustrate the activities undertaken by the Commission in order to monitor and support the transposition of the E-DWD into national legislation as well as to inform Member States about their respective obligations. In particular, Member States are obliged under Article 33(3) of the Euratom Treaty to communicate any national draft measures. They are encouraged to do so fairly early, preferably by April 2015. Mr Kapos informed that the Commission may issue recommendations with regard to such draft provisions within three months of the date on which they are communicated, as provided for in Article 33(4) of the Euratom Treaty.

Moreover, Member States shall notify their transposing legislation ("National Execution Measures") to the Commission by 28/11/2015, pursuant to Article 8(1) of the E-DWD, optionally accompanied by a Correlation Table. They are also required under Article 8(2) to communicate the texts of the essential provisions of domestic law adopted in the field governed by the E-DWD, in case they amend or repeal the transposing legislation. If a Member State does not or only partially communicates its transposing domestic law(s), the Commission may open an infringement case.

All articles and annexes must be transposed into the national legislation texts. Material may be sent to the Commission in the national languages. The Commission will translate all the legal texts received. Mr Tanner recommended the MS's to request these

translations from the Commission. He also indicated that there is no specific deadline for the Commission to carry out the assessment of the transposing legislation. However, under the guidance of the DG Secretary General, it will be done as soon as possible and Member States will be informed thereof.

## **6. TRANSPOSITION PROCESS OF THE EURATOM BASIC SAFETY STANDARDS DIRECTIVE 2013/59/EURATOM**

Mr Stefan Mundigl (ENER D3) presented the transposition process of the Directive 2013/59/Euratom (the new Basic Safety Standards Directive), which was adopted in December 2013 and is therefore also awaiting transposition by the Member States.

## **7. DISCUSSION ON TRANSPOSITION OF THE E-DWD**

Mr Colgan (IAEA) referred to Article 7 of the Directive and asked how Member States would determine if exceeding parametric values represents “a risk to human health”. He questioned what radiation protection criteria should be used and what factors should be taken into account. In his opinion it will be a policy decision whether or not to discontinue the use of a particular water supply, but this decision should be based on scientific criteria. He suggested that it might be useful to get some input from WHO or IAEA and to develop a joint guidance document (framework of IAEA, WHO and EC could be used).

Mr Colgan went on to stress that flexibility is very much needed and it could be difficult to reflect this in national legislation with a tight legal wording. The situation has to be judged case-by-case by considering the parameters. Actions should be justified and are likely to vary from MS to MS. The harmonisation may be different depending on economic and societal factors.

Belgium pointed out that flexibility is needed in particular in the case of post-accidental situations. Mr Colgan asked if the criteria also apply to emergency situations as WHO drinking water guidelines do not apply to emergencies. In contrast, IAEA has established operational intervention levels for use in an emergency and reference levels for use in the recovery phase after the emergency has ended. Mr Tanner replied that the E-DWD does not make any distinction between normal and emergency situations.

Belgium informed that they have problems to deliver the information for both Drinking Water Directives in one report. On the contrary, Germany indicated that they don't have those problems. Their problem is to know what should be reported or not.

It was inquired whether the draft legislation and all other material can be written in the national language. Mr Kaposos replied that this is the case - the documents will be translated by the Commission.

Another question was, whether there is a given form for the correlation tables. Mr Kaposos replied no – Member States can decide on their form.

It was also asked whether also the Annexes have to be transposed. Mr Kaposos replied yes.

Lithuania asked who actually should communicate the transposition to the Commission. Mr Tanner replied that Member State's government is responsible for the communication, but in practice it is often done by the authorities authorised by the government.

## **8. RELATIONSHIP BETWEEN DIRECTIVES 98/83/EC AND 2013/51/EURATOM**

Mr Tobias Biermann (ENV C2) explained the relationship between Directives 98/83/EC (Directive on the quality of water intended for human consumption) and E-DWD. He indicated that the E-DWD is closely linked to Directive 98/83/EC, which includes Tritium and Indicative Dose as indicator parameters, but that the E-DWD supersedes as “lex specialis” (as referred to in recital 5 of the E-DWD) on all provisions related to radioactive substances in drinking water.

DG ENV is currently preparing an adaptation of the monitoring Annexes II and III of Directive 98/83/EC to technical progress via a comitology procedure. The revision will take into account the E-DWD, remove the provisions related to radioactive substances in the Annexes, and clarify in particular that monitoring programmes for radioactive substances fall in the remit of the E-DWD.

It is important to note that while Directive 98/83/EC requires the Member States to report every three years to the consumers and afterwards to the Commission and that up-to-date drinking water quality information needs to be available to the public, the E-DWD has no such requirements.

Mr Biermann also informed that Directive 98/83/EC is a part of the Commission "Regulatory fitness" exercise and that the Directive will be evaluated in the near future.

Germany commented that it is difficult to explain the abolition of radioactivity monitoring to the public and therefore guidance on this matter would be desired from the Commission to justify national actions.

## **9. PERFORMANCE VERIFICATION OF MEMBER STATE LABORATORIES FOR RADIOACTIVITY IN DRINKING WATER**

Ms Katarzyna Sobiech-Matura (JRC D4) presented the JRC activities in supporting quality control of the Member States' laboratories carrying out monitoring of radioactivity.

According to Article 36 of the Euratom Treaty the EU Member States are obliged to inform the Commission on the levels of radioactive contamination of the various compartments of the environment, including drinking water. This data is collected in the REM-database. Objectives of the database are to preserve for further scientific study a historical record of the Chernobyl accident and to store the radioactivity monitoring data of the EU Member States.

The role of the JRC Institute of Reference Materials and Measurements (IRMM) is to coordinate and to organise regular intercomparisons among Member States and other laboratories for monitoring of radioactivity. IRMM also carries out preparation and characterisation of reference materials and facilitates knowledge transfer by workshops and trainings. The interlaboratory comparison (ILC) scheme supports the REM database with laboratories' performance identifications.

Mr Tanner recommended the MS to participate in the intercomparison exercises organized by the JRC and the IAEA for quality improvement. Participation is anonymous; the laboratories are identified with numbers only.

Lithuania requested the Commission to organize intercomparisons on Tritium or Radon in water. According to Ms Sobiech-Matura this has already been discussed. However, the planning can take a few years.

#### **10. DISCUSSION ON TECHNICAL QUESTIONS ASSOCIATED WITH MONITORING RADIOACTIVITY IN DRINKING WATER**

Germany referred to the problem that Art. 13 of DWD on Information and Reporting had not been adopted in the E-DWD. It lays down the requirement for the MS to ensure that up-to-date information on the quality of water intended for human consumption is available to consumers. Without prejudice to Council Directive 90/313/EEC on the freedom of access to information on the environment, DWD requests each MS to publish a report every three years on the quality of water intended for human consumption with the objective of informing consumers. The Commission has examined the MS's reports and published a synthesis report on that basis. MS are also required to produce an additional report to be forwarded to the Commission on the measures they have taken or plan to take to fulfil their obligations pursuant to Article 6(3) and Annex I.

There is also a need for a kind of adaptation on what is reasonable to report (DWD only requires reporting on exceeding values) and electronic interfaces/electronic fields to be filled in, as reporting is possible by IT-systems nowadays. According to Mr Biermann reporting to the Commission isn't needed when the data are made available to the public by the MS.

Germany pointed out the problem that E-DWD, contrary to DWD, has no requirement for the MS to inform the public on the quality of the drinking water unless a failure to comply with a parametric value occurs that poses a risk to human health. There is no need to report on radioactivity parameters and it will be difficult to explain this to the public. E-DWD does not stipulate any of the reporting mechanisms of the DWD (reports on 3-year-basis). Reporting requirements are lost, as E-DWD supersedes DWD. As the Federal States of Germany are autonomous, they may not be forced by the national government to deliver regular reports. Usually, they make a 1:1 transposition of the Directives. Thus, it is problematic for the national government to explain to the public why the reporting of radiation parameters to the public is no longer required. It would be very helpful for Germany, if the Commission notified in writing, that such reporting is still demanded.

Mr Tanner referred to Article 36 of the EURATOM treaty that requires the competent authorities of each MS to provide regularly the environmental radioactivity monitoring data resulting from their Article 35 obligations to the EU, to keep it informed on the levels of radioactivity in the environment (air, water and soil) which could affect population. However, he admits that this might not be a complete solution, since this process appears to be unknown among the competent authorities carrying out regular drinking water reporting and also among the general public. The public may expect all the water parameters to be reported together.

Mr Biermann stressed that DG ENV and its experts group would like to establish a good co-operation and coordination with the MS also concerning the implementation, possibly via a forum, where the meaning of single words may be discussed.

Germany inquired whether there is a laboratory accreditation foreseen for the national implementation of the E-DWD. The German government has the tendency to make an accreditation mandatory for the laboratories after the transition period, also for the E-DWD. Belgium informed that they have also foreseen an accreditation. Mr Biermann replied that DWD covers already an analytical quality control. Annex III of DWD has been copied in Art. 6 of the E-DWD. The text is exactly the same.

It was asked whether the term "reference level" can be used for Radon, Tritium and ID in the meaning of the E-DWD. Mr Tanner advised to be cautious with this, since "reference level" is a term used by the ICRP (and the EU BSS) in a different meaning than "parametric value" in the E-DWD.

Slovakia indicated that they have problems how to calculate "uncertainty" according ISO 11929. There is no recommendation how to use this uncertainty. Has it to be taken into consideration when the parametric values are exceeded? Mr Biermann replied that when DWD Annexes II and III will be amended there will be a comment in the included tables that all parametric values are already taking into account the uncertainty of measurement. According to him the uncertainty of the measurements should therefore not be taken into account. The uncertainty is already comprised in the values in the tables.

Mr Biermann continued to state that DG ENV is considering a proposal for the wording: *"...the limits of quantification and the characteristics like monitoring of measurement in this Annex shall not be used as an additional tolerance to the values set out in Annex I of the DWD"*. The word "tolerance" is used to explain that this cannot be misused. There shouldn't be values added to the required ones. Mr Tanner commented that the same approach should be used with the E-DWD, as neither the Directive itself nor the Annexes give a direct answer to this question.

Lithuania informed that only ground water is used for drinking in Lithuania. During the past 20 years neither Tritium nor natural radionuclides have exceeded the reference parameters. Lithuania questioned whether it is possible to make monitoring for one year to show that the results are not exceeding the parametric values and to omit the monitoring for small water suppliers for 3 or 4 years? Lithuania asked the other MS about their decision for monitoring small water suppliers with a volume of less than 100 m<sup>3</sup> per day (Annex II). France replied that they monitor it every 2 years, very small ones (<10 m<sup>3</sup>/day every 10 years. Germany has the tendency to analyse them every year in case of exceeding values. In Spain the Health Authority decides on this (minimum every 5 years).

Germany informed about the fact that in Germany there are classifications of water supplies, one of them refers to the supply of less than 10 m<sup>3</sup> per day and fewer than 50 persons, but in the context of commercial use. Referring to Article 3(b) Germany asked for a more detailed definition of the term "commercial activity". According to DWD renting of rooms with showers is a commercial activity, however, local authorities can decide if they have to make an analysis. Exemptions are possible if it is non-commercial. Germany gave an example of a small farm which has its own well delivering less than 10 m<sup>3</sup> per day serving fewer than 50 persons and which rents rooms to tourists during the summertime. Germany questioned whether they have to make an expensive analysis or if the local authority can decide if they have to make an analysis according to the geographic region (Germany later found out that its question was answered by Annex II, 1.).

Lithuania informed that in Lithuania monitoring is a national decision since 90% of the water supply companies are out of scope of the tables indicated.

Belgium questioned whether the first Radon activity (100 Bq/l) value in Annex I is still used. Mr Tanner confirmed this.

Croatia inquired about the requirement to monitor: In order to justify not carrying out monitoring can information from previous years be used – and for how long? Mr Tanner replied that using information of previous years is acceptable, when a study has been carried out and the references are still valid. The study must be credible. Competent Authorities have to evaluate this first - if they are not confident with the study, they should not report it to the Commission. Mr Mundigl added that for Radon there is a requirement in the BSS to follow the Radon action plan. MS should decide within this framework.

Romania indicated that in principle concentrations of natural radioactivity are typically very stable, so there is no logic for defining minimum levels or sampling frequencies at all. In case of artificial radionuclides in water, there must have been an event (normally known) which caused this. Such sudden increases give no reason for continuous, long-time monitoring.

#### **11. CASE C-48/14 AGAINST THE EURATOM DRINKING WATER DIRECTIVE IN THE EUROPEAN COURT OF JUSTICE**

Mr Antonio Perez Van Kappel (ENER D1) informed the workshop about the Case C-48/14 "*Parliament v. Council – Action for annulment of Council Directive 2013/51/Euratom*", pending before the European Court of Justice. The Commission and the Member States have the right to intervene.

The European Parliament argues that the Euratom Treaty is not the correct legal basis for the E-DWD (1st Plea), its parallel existence with Directive 98/83/EC creates legal uncertainty (2nd Plea) and it violates the principle of mutual and sincere cooperation among institutions (3rd Plea).

The Commission has given its opinion to the case and the written procedure is closed; there will be no oral procedure or hearing. A judgement is expected during the 2nd half of February 2015.

#### **12. OTHER ITEMS**

No other items were discussed. Mr Tanner requested the participants to send additional questions via email after the workshop.

#### **13. CLOSE**

Mr Tanner informed that DG ENER will produce the draft workshop minutes and distribute them to the participants for comments. Final minutes will thereafter be distributed to the participants of the meeting. It was also agreed to distribute all the workshop presentations to the participants via email.

Mr Tanner reminded the participants that Unit ENER D3 remains available for the Member States on all questions concerning the E-DWD transposition or implementation. He also informed that ENER D3 will report on the workshop at the upcoming meeting of the informal Expert Group under Directive 98/83/EC on 18 December 2014.

Chairman Mr Tanner thanked the participants and closed the meeting at 16:30 on 10 December 2014.

## **Annexes**

Annex 1 Meeting agenda

Annex 2 List of meeting participants



**COUNCIL DIRECTIVE 2013/51/EURATOM LAYING DOWN REQUIREMENTS FOR THE PROTECTION OF THE HEALTH OF THE GENERAL PUBLIC WITH REGARD TO RADIOACTIVE SUBSTANCES IN WATER INTENDED FOR HUMAN CONSUMPTION**

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**AGENDA**

- (1) Opening of the workshop and adoption of the agenda (09.30) (Ivo Alehno, ENER D3)
- (2) Introduction of Unit ENER D3 Radiation protection (Ivo Alehno, ENER D3)
- (3) Introduction to the Euratom Drinking Water Directive (Vesa Tanner, ENER D3)
- (4) Results of the E-DWD questionnaire of 2014 (Vesa Tanner, ENER D3)
- (5) Modalities of directive transposition (Loukas Kapolos, ENER D3)
- (6) Transposition process of the Euratom Basic Safety Standards Directive 2013/59/Euratom (Stefan Mundigl, ENER D3)
- (7) *Discussion on transposition of the E-DWD Directive*
- (8) Relationship between Directives 98/83/EC and 2013/51/EURATOM (Tobias Biermann, ENV C2)
- (9) Performance verification of Member State laboratories for radioactivity in drinking water (Katarzyna Sobiech-Matura, JRC D4)
- (10) *Discussion on technical questions associated with monitoring radioactivity in drinking water*
- (11) Case C-48/14 against the Euratom Drinking Water Directive in the European Court of Justice (Antonio Perez Van Kappel, ENER D1)
- (12) Other items
- (13) Close

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