

**THE ROLE OF THE "ARTICLE 31 EXPERTS GROUP"
IN HARMONISING THE STANDARDS
FOR RADIATION PROTECTION IN THE EUROPEAN UNION**

A PERSONAL VIEW

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1 PRELIMINARY REMARK

The personal reflections made by this communication are strictly on my own behalf, using my experience as member of the group of experts referred to in Article 31 of the Euratom Treaty and might differ from the opinion of the members of the group of experts and of the European Commission.

2 THE REGULATORY CONTEXT

Article 2 of the Euratom (European Atomic Energy Community) treaty [ref. 1] requires the establishment of uniform safety standards to be implemented by each member state:

Article 2, b:

In order to perform its task the community shall ... establish uniform safety standards to protect the health of workers and of the general public and ensure that they are applied.

The scope of those standards is defined by Article 30 and relates to:

- doses compatible with adequate safety;
- levels of exposure and contamination;
- the fundamental principles governing the health surveillance of workers.

Article 31 stipulates the decision making process with respect to those standards.

Article 31:

The 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. The Commission shall obtain the opinion of the Economic and Social Committee on these basic standards.

After consulting the Assembly the Council shall, on a proposal from the Commission, which shall forward to it the opinions from these Committees, establish the basic safety standards; the Council shall act by a qualified majority.

Today, the role of the “Assembly” is resorted to the “European Parliament”.

This communication discusses the contribution of the “group of persons” referred to in Article 31 to the harmonisation of radiation protection standards in the European Union.

3 DISCUSSION OF THE REGULATORY CONTEXT

The Article 31 - group of experts is the advisor of the Commission in preparing the basic standards on radiation protection. The scope is restricted to health issues related to the exposure to ionising radiation and does not include e.g. nuclear safety or waste management. It is important to notice that the final decision is taken by the Council, on a proposal by the Commission, considering compulsory the opinions of other stakeholders giving a more social, economic or political input.

The group of experts has today 35 members (3 from each of the 5 larger member states, 2 from each of the 10 smaller member states). The group is a good mixture of experts with a medical and a technical background and of persons having responsibilities in national administrations, regulatory bodies and research organisations.

In practice, the group of experts advises the Commission on all relevant issues related to radiation protection. In this context, the group does not restrict its activities on the formal drafting of the basic standards, but proposes also to the Commission recommendations on the interpretation and on the practical implementation of those standards. The group gives also its opinion on the need for additional regulatory actions, based on its review of scientific developments and subsequent to the identification of new problems that are considered not to be covered by adequate legislation or recommendations.

4 THE OUTCOME OF THE ARTICLE 31 – GROUP OF EXPERTS

The main formal outcome of the group is the advice on the basic standards and its modifications at the request of the Commission. The group releases also opinions, state of the art reports, recommendations and guidelines on all living radiation protection issues. The publication and distribution of those reports is controlled by the rules of the Commission.

5 THE CODE OF ETHICS

The Article 31 – group agreed on its “Rules of Procedure” [ref. 2], including as Annex II a “Code of Ethics”. The spirit of this code can be paraphrased as a commitment to give clear, independent advises on health aspects due to the exposure to ionising radiation, considering all points of view, avoiding confusion between scientific and other values.

The priority to health concern is an important factor. The experts may consider other arguments, but health considerations must always be clearly identifiable in their opinions. The experts shall act independently of all pressure, e.g. national interests of their home country. The code of ethics is also a commitment by the experts to a continuous updating of their scientific knowledge and to openness to diverging points of view.

Implicit ethical issues have to be identified and when recommendations depend on ethical choices, the eventual decision-makers should be informed. The way of thinking expressed by

the code of ethics may be considered as an ideal breeding ground for harmonised solutions in order to protect each citizen in an equal way.

6 A CONTRIBUTION TO EUROPEAN HARMONISATION OF RADIATION PROTECTION

6.1 The Article 31 – group and research

Since a few years the group organises annually a short seminar together with invited experts out of the research community on a well-chosen living issue. The group stimulates the confrontation of ideas and tries to summarise the points of consensus and to identify the needs for further research. The group decides whether the new insights require new regulatory actions or recommendations. The scientific contributions and a summary of the discussions are published as a Radiation Protection (RP)-report. Although this action is still rather modest, it contributes to harmonisation at the European level by the creation of a common European knowledge base on specific issues and allows the group to give an input to the priority setting for the European research programmes.

6.2 The Article 31 – group and the international organisations

The world-wide harmonisation of radiation protection is undeniably steered by the International Commission on Radiological Protection (ICRP). Several members of the Article 31 – group are also member of one of the committees of ICRP. The mission of both groups is obviously different, but the communication between ICRP and the Article 31 – group is fruitful for both sides. Since the Article 31 – group unites the follow-up of scientific developments with the knowledge of practical problems, it is an ideal sparing partner for ICRP. This process became much more productive since ICRP decided to organise a broad consultation of stakeholders on preparing its recommendations. This stakeholder involvement and the continuous dialogue between ICRP and the Article 31 – group of experts is a guarantee against cognitive dissonance i.e. the reluctance to consider viewpoints or even facts that do not meet common ideas, on both sides. By organising the above-mentioned scientific seminars, the group can put also some pressure on ICRP to consider specific issues.

Mutatis mutandis the group has a similar interaction with UNSCEAR and IAEA. The links between the group and international organisations and between individual members of the group with those organisations can be considered as a useful instrument for the harmonisation of radiation protection on the European and world-wide level.

6.3 The Article 31 – group and the European legislation

It is obvious that the main impact of the group is related to its formal mission, advising the European Commission on the basic standards and their implementation. The harmonisation of radiation protection standards in the European Union has been a political objective, agreed by the fathers of the union in 1957. New members have to join this objective. The group of experts is acting within the framework of this objective and tries honestly to reach a consensus, without compromising on health issues. This implies that the group defines a complete list of the points that should be covered by a regulation.

The degree of detail that has to be taken up in the European legislation depends on the importance of harmonisation (the subsidiary principle requires that decision that can be taken by the member states, without endangering the European interests, should be taken up by the member states) and on the possibility to reach a consensus. If no consensus on a detailed regulation can be found, a maximal consensus at the level of principles is sought. In these cases, member states can be enforced to work out a national regulation respecting the principles. In some cases, this implementation is not compulsory. The Commission can however, on advice by the Article 31-group, draft recommendations how to implement principles that are not precisely regulated at the European level. It is obvious that the spectrum between precise regulations and vague recommendations is often coloured by the discussions outside the Article 31-group.

6.4 Article 31 – group of experts and the national authorities

The Article 31 – group is a group of persons independent of a/o. national interests. The individual members can however play an informal role as interface between the European decision process and the national authorities. They can inform the group about specific problems in their country and can also explain the rationale of the health related issues, as discussed in the Article 31 – group, to the national authorities, who are called to decide at the political level... In this way informal links can accelerate the harmonisation process in Europe.

7 BARRIERS AGAINST HARMONISATION

The main barriers against harmonisation are related to the country-specific approaches to regulations and the variation among experts of the individually perceived tolerability of risks. Some countries in Europe prefer very detailed and strict regulations, where other countries prefer to restrict the regulatory context to more qualitative statements at the level of principles, objectives, commitments of best effort, etc... Since this difference is culturally bounded, it emerges implicitly during discussions among experts from different countries. The Article 31 – group tries always to agree on principles and seeks a maximal consensus in the way of implementation and control. Another kind of divergence is related to choices to be made with regard to the radiation protection system and the weighting of risks.

Generic personal attitudes having an impact on the regulatory approaches are e.g.:

- the weighting between the protection of the most exposed individual, the collectivity or the environment and the balancing of health effects against economic benefits;
- the position of radiation protection compared to the protection against other hazardous materials or risks (Has radiation protection to play a precursor role or is a harmonised approach of all risks preferable?);
- the application of the precautionary principle (How far should regulations be covered by scientific evidence?);
- the situational aspects of radiation protection. Differences between practices and interventions, differences between occupational, public and medical exposure, discrimination between exposure to manmade and natural sources, ...

The Article 31 – group is an ideal forum for the confrontation of those trends applied to practical problems. Multiple discussions lead to a clarification of the arguments and of the implicit assumptions and objectives.

8 CONCLUSIONS

The founding fathers of the European Union wanted radiation protection standards to be harmonised. The Article 31 – group of experts supports this harmonisation process by advising the Commission on all relevant radiation protection related issues. The group adopted an ethical charter committing to independent competence. The group is in contact with the scientific world and with the users of the regulations. Harmonisation is stimulated by scientific review, participation as an important stakeholder to international activities, as e.g. by ICRP, and last but not least by the direct impact on the legislation in the European Union. When no consensus can be achieved on precise regulations, common principles are mostly covered by recommendations. Some barriers against a complete harmonisation will always remain. They are related to cultural differences towards regulations and with the natural divergences within experts how to handle low risks.

9 REFERENCES

European Commission – Radiation Protection: Community Radiation Protection Legislation, September 2000.