

COMMISSION RECOMMENDATION

of 26 July 1991

on the application of the third and fourth paragraphs of Article 33 of the Euratom Treaty

(91/444/Euratom)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Articles 33, second paragraph, and 124, second indent, thereof,

Whereas Article 2 (b) of the Treaty provides for the establishment of uniform safety standards to protect the health of the general public and workers against the dangers arising from ionizing radiation ;

Whereas, in order to achieve this objective, Article 31 of the Treaty entrusts to the Council the task of establishing the basic standards in the area of radiation protection ;

Whereas the Council and the Commission have adopted a number of legal acts pursuant to this Article relating to the health protection of the general public and workers⁽¹⁾ ;

Whereas the basic standards are intended to evolve and may be supplemented on the basis of Article 32 ;

Whereas, pursuant to the first paragraph of Article 33 of the Treaty, each Member State is required to lay down the appropriate provisions, by legislation, regulation or administrative action, to ensure compliance with the basic standards which have been established, and to take the necessary measures with regard to teaching, education and vocational training ;

Whereas, on the basis of the second paragraph of Article 33, the Commission makes appropriate recommendations for harmonizing the provisions applicable in this field in the Member States ;

Whereas, pursuant to the third paragraph of Article 33 of the Treaty, each Member State is required to communicate to the Commission the draft laws, regulations and administrative provisions mentioned above ; whereas, pursuant to the fourth paragraph of Article 33, the Commission may issue recommendations within three months of the date on which such provisions are communicated ;

Whereas this procedure is designed to ensure that the uniform nature of the basic standards is reflected in the national provisions of the Member States and to bring about the harmonization of their legislation for the protection of the health of the general public and workers against ionizing radiation ;

Whereas the Commission's recommendations are designed to ensure that the draft laws, regulations and administrative provisions are adapted to take account of the basic standards ;

Whereas the Commission's recommendations can be fully effective only if they are addressed to the Member States before the latter adopt their draft provisions ;

Whereas the Member States should therefore not finally adopt any draft provisions until the period of three months granted to the Commission under Article 33, fourth paragraph, of the Treaty has elapsed ;

⁽¹⁾ Directive 80/836/Euratom (OJ No L 246, 17. 9. 1980, p. 1).
Directive 84/466/Euratom (OJ No L 265, 5. 10. 1984, p. 1).
Directive 84/467/Euratom (OJ No L 265, 5. 10. 1984, p. 4).
Directive 89/618/Euratom (OJ No L 357, 7. 12. 1989, p. 31).
Directive 90/641/Euratom (OJ No L 349, 13. 12. 1990, p. 21).
Decision 87/600/Euratom (OJ No L 371, 30. 12. 1987, p. 76).
Regulation (Euratom) No 3954/87 (OJ No L 371, 30. 12. 1987, p. 11).
Regulation (Euratom) No 2218/89 (OJ No L 211, 22. 7. 1989, p. 1).
Regulation (Euratom) No 944/89 (OJ No L 101, 13. 4. 1989, p. 17).
Regulation (Euratom) No 770/90 (OJ No L 83, 30. 3. 1990, p. 78).

Whereas it is essential that the Member States, in accordance with the spirit of Article 192 of the Treaty and with a view to facilitating the work of the Commission, communicate to the Commission the provisions as finally adopted in order to make it possible for the Commission to ensure, pursuant to Article 124 of the Treaty, that the provisions of Community law are applied;

Whereas, in order to ensure correct application of the procedure provided for in Article 33, it is useful to define the draft provisions which must be communicated to the Commission for this purpose;

Whereas experience has been gained in the application of the third and fourth paragraphs of Article 33 of the Treaty,

HEREBY RECOMMENDS :

1. The Member States, after completion of the consultation procedure provided for in the national decision-making process and, in any event, at the last three months before their adoption, communicate to the Commission, in accordance with the third paragraph of Article 33 of the Treaty establishing the European Atomic Energy Community, the draft laws, regulations and administrative provisions, defined in the Annex, which are designed to ensure compliance with the basic standards.
2. The Member States refrain from finally adopting any draft provisions before the Commission has communicated its recommendations to them or, in any event, before the period of three months mentioned in the fourth paragraph of Article 33 of the Treaty, starting from the date on which the Commission receives the draft provisions, has elapsed.
3. Any major amendment to draft provisions which have already been presented to the Commission for recommendations be communicated to the Commission.
4. The Member States communicate to the Commission the text adopted and the date on which it enters into force.

This recommendation is addressed to the Member States.

Done at Brussels, 26 July 1991.

For the Commission
Carlo RIPA DI MEANA
Member of the Commission

ANNEX

'Provisions, whether by legislation, regulation or administrative action', as referred to in the first paragraph of Article 33 of the Treaty establishing the European Atomic Energy Community, are taken to mean :

- all laws and all other acts which are legally binding,
- circulars, directives and codes of practice of a general nature which are not legally binding but are binding on the administrative body concerned,
- national, regional or local emergency plans, depending on the organization adopted in the Member States, for dealing with a radiological emergency within the meaning of Council Directives 80/836/Euratom and 89/618/Euratom,
- in so far as the contents of the following have not been laid down in the abovementioned acts :
 - the training programmes for workers, approved medical practitioners and qualified experts within the meaning of Articles 24 and 40 (3) of Directive 80/836/Euratom and for doctors, dental practitioners and other practitioners and assistants within the meaning of Article 2 of Directive 84/466/Euratom,
 - the programmes for informing the general public and the persons likely to be involved in organizing assistance in the event of a radiological emergency within the meaning of Directive 89/618/Euratom,
- the inventory of medical radiological equipment within the meaning of Article 3 of Directive 84/466/Euratom,

which are appropriate to ensure compliance with the standards laid down in the Directives adopted pursuant to Article 31 of the Treaty.
