

ENSREG WG2 Workshop 26-27 October 2016

Member States lessons learned from notification of National Programmes and submittal of National Reports under the EC Directive 2011/70/Euratom

Chairman's Summary Report *Final, 2017-05-23*

Background

1. The European Nuclear Safety Regulators Group (ENSREG) was established by a Decision of the European Commission in July 2007¹.
2. The task of ENSREG is to advise and assist the Commission in progressively developing common understanding and eventually additional European legislation in two fields: the safety of nuclear installations and the safety of the management of spent fuel and radioactive waste. ENSREG shall facilitate consultations, coordination and cooperation of national regulatory authorities.
3. On 19 July 2011, the Council of the EU (Council) adopted the Directive 2011/70/EURATOM establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste (the 'Directive'). Setting up a legislative framework, this Directive ensures that Member States provide appropriate national arrangements to protect workers and the general public against harmful effects of ionizing radiation, as well as to ensure the provision of necessary public information and participation in relation to spent fuel and radioactive waste management.
4. A key element in the Directive is the national programme: "Member States should establish national programmes to ensure the transposition of political decisions into clear provisions for the timely implementation of all steps of spent fuel and radioactive waste management from generation to disposal" see (Recital 28). Among other mandatory elements of the national programme according to Article 12, there shall be "an inventory of all spent fuel and radioactive waste and estimates for future quantities, including those from decommissioning, clearly indicating the location and amount of the radioactive waste and spent fuel in accordance with appropriate classification of the radioactive waste".
5. The Directive requires, in Articles 13.1 and 15.4, Member States to notify the Commission the contents of their national programme for the management of spent fuel and radioactive waste for the first time by 23 August 2015 and any subsequent significant changes.
6. The Directive also requires, in Article 14.1, that Member States produce a national report to the Commission on the implementation of this Directive for the first time by 23 August 2015, and every three years thereafter. Reporting on the implementation of the Waste Directive every three years also serves an important function in reporting on the progress with implementation of national programmes.

¹ Commission Decision of 17 July 2007 on establishing the European High Level Group on Nuclear Safety and Waste Management (2007/530/Euratom).

7. On the basis of the Member States' reports, as required by Article 14.2 of the Directive, the Commission shall submit to the European Parliament and the Council a) a report on progress made with the implementation of this Directive; and b) an inventory of radioactive waste and spent fuel present in the Community's territory and the future prospects.
8. ENSREG has taken the initiative to provide Member States with guidance on the structure and format of the national reports required under Article 14.1, taking account of experience in producing the tri-yearly reports to the Joint Convention. WG2 was tasked to develop a proposal for such guidelines. Final guidelines for MS national reports were endorsed by ENSREG in May 2014. ENSREG also noted that the Guidelines should be revisited by ENSREG to incorporate experience after the first Member States reports have been submitted.
9. Guidance for structure and content of national programmes has been developed by a working group set up by the European Nuclear Energy Forum, ENEF-NAPRO.

A list of relevant documents for the workshop is attached as Appendix 1.

Objectives of the ENSREG WG2 workshop

10. The Directive imposes a series of obligations on MS aiming at safe and responsible long term management of spent fuel and radioactive waste related to e.g. national polic(y)(ies), national framework, national programme, self-assessments and peer reviews, inventories as well as on notification and reporting to the European Commission.
11. The reporting to the European Commission on the implementation of the Waste Directive every three years introduces a new reporting requirement for MS, in addition to already existing obligations, e.g. reporting every three years under the Joint Convention, besides other non-binding practices of national reporting to e.g. the IAEA (e.g. Status and Trends) and NEA (e.g. Brown Book).
12. ENSREG considers it valuable for all MS to exchange and discuss MS experiences of preparing the national programmes and the first national reports to assist them in learning lessons to effectively and efficiently meet the future reporting requirements.
13. ENSREG considers it important to facilitate MS interaction and to enable discussions to share experiences and identify common issues (national process and responsibilities, challenges, issues...) from the notification of the national programme and first reporting on the implementation of the Waste Directive, i.e. a bottom-up approach.
14. Given the prerequisites above, the objectives of the ENSREG WG2 workshop were to e.g.:
 - a. Share lessons learned and experience and identify common issues requiring further discussion and clarification on the national programmes;
 - b. Identify common issues requiring further discussion and clarification on the MS reports and ENSREG Guidelines;
 - c. Identify common issues requiring further discussion and clarification on the MS national programmes;
 - d. Provide constructive input for the planned updating of the guidelines for MS national reports;

- e. Facilitate for MS to develop the next round of national reports on the implementation of the Waste Directive, to be submitted to the EC in 2018; and
- f. Provide consolidated feedback from Member States' experiences so far from developing national programmes and national reports on the implementation of the Waste Directive to support the planned EC Workshop in 2017.

Mode of operation

15. The workshop was held on 26th October to 27th October 2016, in Oldbury Technical Centre, Oldbury Power Station, United Kingdom, and was hosted by the UK nuclear regulatory authority, ONR².
16. The workshop was attended by 37 participants from 18 EU Member States (AT, BE, CY, CZ, DE, DK, ES, FI, FR, HR, HU IE, IT, LT, LU, NL, PL, SK, SE, UK), 2 participants representing the EC and one observer from the IAEA and OECD-NEA, respectively.

A list of participants is attached as Appendix 2.

17. The first day of the workshop was devoted to presentations from Member States of Member States experiences from developing national programmes as required under Article 11 of the EC Directive 2011/70/Euratom and discussions to identify lessons learned. The second day was devoted to presentations from Member States on reporting on the implementation of the Directive as required by Article 14.1 and discussions on the lessons learned. This was followed by a concluding discussion on overall conclusions from the workshop.
18. The EC presented the requirements of the Directive, especially those under Articles 13 to 15, related to MS transposition, notification of national programmes and periodic reporting on Directive implementation, and also the status of implementation of the Directive. The EC representatives also responded to the questions raised and took part in the discussions.

The workshop program is attached as Appendix 3.

Some general observations

19. The workshop was a very good event that provided the opportunity for open discussion and exchange of views and experience of MS in the development of national programmes and reports.
20. Participants represented a variety of different national situations and contexts, i.e. a good representation of the diversity of EU member states situations, including MS with large nuclear programs (e.g. DE, FR, UK), as well as MS with medium sized programs (e.g. FI, ES, SE) and MS with only research reactors or no nuclear reactors at all (i.e. AT, CY, DK, HR, IE).
21. The Directive is addressed to all the MS, as “all Member States generate radioactive waste from power generation or in the course of industrial, agricultural, medical and research activities, or through decommissioning of nuclear facilities or in situations of remediation and interventions” (Recital 19). Being true that all MS generate radioactive waste, it is also true that the challenges of setting a national framework and drafting the national programme and report are bigger for countries not having commercial reactors. The

² Office for Nuclear Regulation.

challenges for these countries often include the establishment of adequate financial mechanisms as required by the Directive.

22. Different approaches have been taken to producing the national programme by different MS. In some MS (e.g. DE, UK), the national programme constitutes a short and concise high-level top document, with reference to more comprehensive and detailed reports for specific areas. For other MS (e.g. ES, FR) the “national plan” or the “national programme” is in itself a comprehensive stand-alone document, providing all the necessary details.
23. The “national plan/programme” has different status in different MS. Some MS have used a concept corresponding to a “national plan” or “national programme” for a long time. Other MS developed a “national programme” for the first time, to satisfy the requirements in the Waste Directive. In many MS (e.g. FI, HU, SE, DE) most of the contents that Article 12 requires for the “national programme” were already established before the Directive was enacted. Some MS were already using a national plan/programme as a tool, others didn’t have a comprehensive document and the strategy was laid out in different documents. Therefore the national programme fulfils different purposes ranging from a document providing a regular update of the current situation in the country, i.e. more of a descriptive function, to a management tool.
24. It appears that there is no common understanding of MS for justifying the national programme being subject (or not) to a Strategic Environmental Assessment (SEA) process. MS need further clarification on when SEA is required for the national programmes on spent fuel and radioactive waste management. Whereas the value of public consultation is recognized, using the SEA tool might pose important additional challenges to the drafting and adoption of national programmes in some countries.

The EC representatives reminded participants that clarifying information on the implementation of the SEA Directive was sent to MS in a letter in April 2015.

25. Article 13.1 requires MS to notify any “significant changes” to the Commission, but there is no definition or explanation of what “significant” means, or how these changes should be reported, which has caused confusion amongst MS.
26. There is a general concern regarding the interpretation of Article 12.1 (g) which requires MS to include in their national programme key performance indicators (KPI). In particular, the concern is due to the difficulties in interpreting the term “KPI” and the means to define and monitor meaningful KPIs.
27. MS acknowledged that whereas the first MS report on the implementation of the Directive focused on the legislation and transposition of the directive, subsequent reports should have a stronger focus on the updated information about the implementation of the national programme.
28. There is a general concern as regards the additional burden of reporting to the EC as required by Article 14.1 in the Waste Directive. Many participants consider that most information required in the Waste Directive report is more or less already reported in the Joint Convention report. Some MS (i.e. CZ, LT) presented comparisons of reporting requirements under the Waste Directive with reporting under the Joint Convention. Some MS questioned the added value of compiling a separate document and report to the EC only 10 months after reporting under the Joint Convention.

It was clarified by the EC during the workshop that the Directive itself suggests to take advantage of the reporting to the Joint Convention but also that the Directive contains

requirements which are additional to the ones under the Joint Convention and on which MS should report anyway (e.g. KPIs, decommissioning waste inventories, outcomes of international peer reviews).

29. In the past, the EC has collected information about inventories and reported on this subject to the European Institutions making use of Situation Reports. The most recent report, the seventh situation report, was published in 2011³. This is now reinforced by the legal obligation contained in Article 14.2 of the Directive. Comparing the inventories of the Member States is a very challenging task. Not least as they are based on different classification systems according to the specific needs of each country, but also with regard to the different levels of uncertainty associated with inventories when compiling numbers together (e.g. the definition of a “location”). Some MS also expressed concern as regards security aspects linked to providing detailed information on inventories (e.g. activity) at specified sites.
30. The IAEA, the OECD-NEA and the EC cooperates currently in the joint Status & Trends project to develop a report providing a global perspective on radioactive waste and spent fuel management, including information on current inventories and future arisings. One aim is to facilitate for MS to report to international fora, e.g. by working towards harmonised sets of reporting data, but the interface between reporting to the EC and the Status & Trends report is, however, currently not clear.

Overarching conclusions

31. There were good and constructive discussions during the workshop. The conclusions of the discussions in the breakout groups were largely consistent and confirmed during plenary discussions following the report back from the breakout groups.
32. The NAPRO Guidelines for the establishment of national programmes as well as the ENSREG Guidelines for reporting under the Waste Directive were considered generally valuable and followed by MS and provide good support for MS efforts to develop their national programmes and national reports.
33. The outcome from the workshop will provide a good basis for the planned updating of the ENSREG guidelines for reporting under Article 14.1 of the Waste Directive.
34. The outcome from the workshop will provide constructive input to EC workshop (preliminary) planned for 7-9 June 2017, Brussels, on all aspects of the implementation of the Waste Directive.
35. There is no “one-size-fits-all” format for the national programme, which is suitable for all MS. Flexibility should be allowed for MS to choose an approach adopted for their specific situation.
36. The aim of the National programme as required by the Directive is to serve as an “icebreaker” to initiate actions to progress in the implementation of policies in spent fuel and radioactive waste management (see Recital 28). Furthermore, it serves as an important communication tool. Some MS developing the “national programme” for the first time have found it useful as it serves the purpose of presenting an overarching overview of the situation in the country. It facilitates communication with stakeholders and the general public by providing an overall context for the backend of the nuclear fuel cycle. It may also serve as a tool to explain the justification of necessary activities.

³

SEC (2011) 1007 final.

37. The “national plan/programme” should preferably be set up to provide for stability over time. Too much detailed information may result in information becoming outdated and a need for frequent updates of the document. At the same time, it is not clear whether such updates would constitute “significant changes” in the sense of Article 13.1 of the Directive. It was agreed that the meaning of “significant changes requires clarification.
38. Terminology in the Waste Directive is not entirely consistent with terminology used in the IAEA Safety Standards and the Joint Convention (e.g. national programme versus national strategy). Likewise, terminology in the Waste Directive may be interpreted such as not to be entirely consistent with terminology used in the SEA Directive (e.g. use of programmes versus plans)⁴.

Areas for potential improvement to ENSREG Guidelines

39. Consideration should be given to improving the guidelines to facilitate interpretation of the concept of how KPIs should be defined and be used to report on the implementation of the national programme when reporting to the EC.
40. Consideration should be given to improving the guidelines to facilitate understanding of specific terminology, i.e. national “programme” versus the concepts of policy, and strategy used in other internationally established contexts.
41. Consideration should be given to improving the guidelines to facilitate flexibility for reporting making better use of reporting under the Joint Convention. In particular, focus on how to optimize the reporting efforts under both legal instruments, the Joint Convention and the Waste Directive.
42. Consideration should be given to possible harmonizing the deadline for submitting of the Waste Directive report with the Joint Convention report.
43. Consideration should be given to improving the guidelines to facilitate their application using a graded approach for MS with only research reactors or no nuclear reactors.

Specific feedback to the EC workshop planned for 7-9 June, 2017

44. Consider requesting the EC to facilitate the understanding of “significant changes” as basis for notification of changes or re-notification of the national programmes.
45. Consider requesting the EC to improve understanding of the different terminology used in the Waste Directive in relation to terminology in the IAEA Safety Standards, the Joint Convention and the SEA Directive.
46. Consider requesting the EC to clarify the expectations on KPIs and how they may be used to monitor the implementation of elements in the national programmes. Those MS which are more advanced in this respect might provide examples of the methodology they have used to define KPIs.
47. Given the fundamental principle of national responsibility for managing radioactive waste within the national context, consider requesting the EC to better explain and justify the need for aggregating waste inventories on the European level and better explain and justify

⁴ There is an ambiguity in the terms that are used in the 2011/70/Euratom Directive and the 2001/42/EC Directive, the so-called “SEA Directive”. In both Directives, the term “programme” is used either included in the “plans and programmes” or with the meaning of a “national programme”. The question is therefore the following: is the “programme” of the 2011/70 Directive a particular case of the “plans and programmes” of the 2001/42/EC Directive?

the need for detailed reporting on inventories rather than high-level aggregated numbers on the national level.

48. Consider requesting the EC to explain in a more transparent way the approach regarding the review of the national programme (especially with regard to the level of detail of the questions) and what are the further steps the EC is planning.
49. Consider requesting the EC to better clarify and justify the applicability of the Directive 2001/42/EC as basis for conducting – or not – a Strategic Environmental Assessment of the national programmes required by the Waste directive.

Some additional concerns expressed by participants

50. Article 13.2 specifies that “Within 6 months of the date of notification, the Commission may request clarification and/or express its opinion on whether the content of the national programme is in accordance with Article 12”. Some MS expressed concern about the timing and level of detail of questions from EC on the national programme. Especially with regard to the effort and resources needed to answer the questions keeping in mind that the next reporting under the Joint Convention and the Waste Directive is due in a short time frame. Furthermore, some participants also expressed concern as regards non-clarity of the legal function/status of “EC opinion” according to Article 13.2 of the Waste Directive.

It was clarified by the EC representatives during the workshop that the Commission may issue an opinion on the national programmes as per Art 13(2) of the Directive after clarification of the questions with MS.

51. The EC has not presented any objective for the comprehensive review of MS national programmes and national reports other than referring to Article 14.2 of the Waste Directive where it is stated that; “On the basis of the Member States’ reports, the Commission shall submit to the European Parliament and the Council the following: (a) a report on progress made with the implementation of this Directive; and (b) an inventory of radioactive waste and spent fuel present the Community’s territory and the future prospects.”

It was clarified by the EC during the workshop that that it is EC's exclusive responsibility to draft such reports and supporting documents.

52. The EC has indicated that the report to Parliament and Council was planned to be about 10 pages, annexed by a staff working document with factual information for MS and a report on inventories. Some participants expressed concern as regards the absence of a mechanism to allow MS to verify factual correctness of the draft report to Parliament and Council and the supporting staff working document.

Relevant reference documents

1. EC Directive 2011/70/Euratom, establishing a c Community framework for the responsible and safe management of spent fuel and radioactive waste
2. Final Guidelines for MS Reports to the Waste Directive, HLG_p(2014-27)_137
3. Guidelines for the establishment and notification of National Programmes under the Council Directive 2011/70/Euratom of 19 July 2011 on the responsible and safe management of spent fuel and radioactive waste. ENEF Working Group Risk, Working Group on National Programmes NAPRO, January 2013
4. EC Directive 2009/71/Euratom as amended by EC Directive 2014/87/Euratom
5. Consolidated version of the Treaty establishing the European Atomic Energy Community (2010/c 84/01
6. Joint Convention on the safety of spent fuel management and on the safety of radioactive waste management, INFCIRC 546, December, 1997
7. Convention on Nuclear Safety, INFCIRC 449, July, 1994
8. SEA Directive, Directive 2001/42/EC of the European Parliament and of the Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment
9. Management of spent nuclear fuel and its waste, European Commission Joint Research Centre, EASAC, the European Academies' Science Advisory Council, EASAC policy report no. 23, 2014
10. Seventh situation report on radioactive waste and spent fuel management in the European Union. Commission staff working paper. SEC (2011) 1007 final, 22 August 2011.

Participants list

Name		Organisation
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ENSREG WG2 workshop programme



ENSREG WG2 workshop programme, Oldbury, UK, 26-27 October, 2016

(Final draft 2016-10-12)



DAY 1 – Wednesday October 26, 2016		
09:00	1	Opening Remarks
09:00		Introduction of workshop by workshop chair <i>Mr Bengt Hedberg, ENSREG WG2</i>
		Welcome by hosting organisation <i>Ms Mina Golshan, ONR</i>
09:15		EC Directive 2011/70/Euratom - short presentation <i>Ms Borislava Batandjieva, EC</i>
09:30		Workshop objectives and methodology <i>Mr Bengt Hedberg, Workshop chair</i>
09:45	2	Setting the scene
09:45		Introduction to Day 1 <i>Mr Bengt Hedberg, Workshop chair</i>
09:50		ENEF-NAPRO Guidelines for National Programmes <i>Ms Cherry Tweed, RWMD</i>
10:05		EC observations from notified programmes <i>Ms Borislava Batandjieva, EC</i>
10:15		Break [30 min]
10:45	3	National experiences from notification of National Programs (Article 13.1)
10:45	3.1	Presentations in plenary; National Programs
10:45		Experiences from UK <i>Ms Cherry Tweed, RWMD</i>
11:05		Experiences from Germany <i>Jörg Reckers, Federal Ministry of the Environment, Nature Conservation, Building and Nuclear Safety</i>
11:25		Experiences from Cyprus <i>Michalis Tzortzis, Ministry of Labour, Welfare and Social Insurance</i>
11:45		Experiences from Denmark <i>Mr David Ulfbeck, Danish Health Authority, Radiation Protection (SIS)</i>
12:05		Experiences from Spain <i>Ms Elena Vico Del Cerro, ENRESA</i>

12:30		LUNCH [1 hr]
13:30	3.2	Breakout session – small group discussions [1 hr 45 min]
15:15		Break [45 min]
16:00	3.3	Experiences on National Programs - Consolidation
16:00		Group 1 summary <i>Group 1 rapporteur</i>
16:10		Group 2 summary <i>Group 2 rapporteur</i>
16:20		Group 3 summary <i>Group 3 rapporteur</i>
16:30		Group 4 summary <i>Group 4 rapporteur</i>
16:40		Discussion <i>All</i>
17:00		Chair's concluding remarks on discussions on National programs - [10 min] <i>Mr Bengt Hedberg, Workshop chair</i>
17:10		End of Day 1

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DAY 2 – Thursday October 27, 2016

08:30	4	Setting the scene
08:30		Introduction to Day 2 <i>Mr Bengt Hedberg, Workshop chair</i>
08:45		ENSREG Guidelines for National Reports <i>Mr Peter De Preter, NIRAS/ONDRAF</i>
09:00		EC observations from National Reports <i>Ms Borislava Batandjieva, EC</i>
09:10		Break [10 min]
09:20	5	National experiences from first National Reporting (Article 14.1)
09:20	5.1	Presentations in plenary; National Reports
09:20		Experiences from France <i>Mr Louis-Marie Gard, French Ministry for the Environment and the Sea</i>
09:35		Experiences from Czech Republic <i>Mr Peter Lietava, State Office for Nuclear Safety, SÚJB</i>
09:50		Experiences from Lithuania <i>Mr Vidas Paulikas, State Nuclear Power Inspectorate, VATESI</i>
10:05		Experiences from Finland <i>Mr Kai Hämäläinen, Radiation and Nuclear Safety Authority of Finland, STUK</i>
10:30	5.2	Breakout session – small group discussions [1, 5 hr]

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12:00		LUNCH [30 min]
12:30	5.3	Experiences on National reporting - Consolidation
12:30		Group 1 summary <i>Group 1 rapporteur</i>
12:40		Group 2 summary <i>Group 2 rapporteur</i>
12:50		Group 3 summary <i>Group 3 rapporteur</i>
13:00		Group 4 summary <i>Group 4 rapporteur</i>
13:10		Discussion <i>All</i>
13:20		Chair's concluding remarks on discussions on National reporting - [10 min] <i>Mr Bengt Hedberg, Workshop chair</i>
13:30		Break [10 min]
13:40	6.	Summary of the workshop
13:40		EC observations from an EC perspective <i>Ms Borislava Batandjieva, EC</i>
13:50		Chair's concluding remarks on the workshop and way forward <i>Mr Bengt Hedberg, Workshop chair</i>
14:00		Workshop Adjourn