



How to Communicate with the Public in the Event of an Emergency – Legal Aspects of Public Information in revised EURATOM legislation

Dr. Verena M. Ehold, Legal Expert Support/SCK CEN, Austria/Belgium.



STUDIECENTRUM VOOR KERNENERGIE
CENTRE D'ETUDE DE L'ENERGIE NUCLEAIRE

merience

- EURATOM Treaty – basically unchanged since **25 March 1957**
 - Objective: foster research and use of nuclear energy in the Community
 - Legal basis: for protection of the general public from ionizing radiation
- EURATOM legal framework for public communication in the event of a radiological emergency
 - **NEW** Basic Safety Standards Directive **2013/59/Euratom**, recast of
 - Council Directive 89/618/Euratom, BSS Directive 96/29/Euratom,
 - **NEW** Nuclear Safety Directive **2009/71/Euratom** as amended by Directive **2014/87/Euratom**
 - **NEW** Council Regulation **2016/52/Euratom** on contaminated food
 - **(OLD)** Council Decision **87/600/Euratom** (not amended so far)
 - ECURIE notification system to COM and Member States – review required!

- Windscale, UK, 10 October 1957
 - *Poor risk communication approach*
 - » drastically reduced public acceptance, profound political effects
- Three Mile Island Accident, 28 March 1979
 - *Conflicting official statements about risk, mixed & inadequate messages*
 - » increased stress & high number of unnecessary evacuations (~150k)
- Chernobyl Accident 26 April 1986
 - *Minimal disclosure to the public, politicized communication*
 - » unnecessary radiation doses, depression, posttraumatic stress disorder, psychological, sociological, political impacts on public perception
- Fukushima Dai-Ichi Accident 11 March 2012
 - *inconsistency in the release of information to the public - no formal procedures*
 - » e.g. Japan used different INES rating for different units as public information tool early in the event, while the gravity of the accident was being established.
 - *Projected integrated dose estimates were published after 12 days, without explanation that this information was not available at time of evacuation ;*
 - *Not enough staff available to ensure a 24/7 provision of information;*
 - » Significant public and media confusion, misunderstandings and concerns.

- ARTICLE 16. EMERGENCY PREPAREDNESS

1. [...].
2. Each Contracting Party **shall** take the appropriate steps to ensure that, insofar as they are **likely to be affected by a radiological emergency**, its **own population and the competent authorities of the States in the vicinity of the nuclear installation are provided with appropriate information for emergency planning and response**.
3. [...].

- ARTICLE 25. SUMMARY REPORTS

1. The Contracting Parties shall adopt, by consensus, and **make available to the public** a document addressing **issues discussed and conclusions reached** during a meeting.

- → Legal obligation to inform the public likely to be affected, also outside of an event (= routine communication).
- → No requirements on emergency communication; not general public!

- Article 2 Notification and information
 - In the event of an accident specified in article 1 (hereinafter referred to as a "nuclear accident"), the State Party referred to in that article shall:
 - a. forthwith **notify**, directly or through the International Atomic Energy Agency (hereinafter referred to as the "Agency"), those **States which are or may be physically affected** as specified in article 1 and the Agency of the nuclear accident, its nature, the time of its occurrence and its exact location where appropriate; and
 - b. promptly provide the States referred to in sub-paragraph (a), directly or through the Agency, and the Agency with such available **information relevant to minimizing the radiological consequences** in those States, as specified in article 5.

- → Legal obligation to notify affected Countries and the IAEA.
- → NO provision on public information or communication!

- Article 6 Confidentiality and public statements
 1. The requesting State and the assisting party shall protect the confidentiality of any confidential information that becomes available to either of them in connection with the assistance in the event of a nuclear accident or radiological emergency. Such information shall be used exclusively for the purpose of the assistance agreed upon.
 2. The assisting party shall **make every effort to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a nuclear accident or radiological emergency.**
- → Legal obligation to coordinate emergency assistance measures before information to the public!
- → NO obligation to inform the public in the event of an emergency , but provisions on confidentiality!

- The **combination of fear and inadequate communication** makes the adverse effects of a radiation episode worse!
- In the early stages of an emergency:
 - **well coordinated, accurate and timely information** across borders is key (=emergency communication)
 - periodic press releases, conferences, responses to enquiries from media and public, increased social media presence related to a particular event
 - →NO international obligation to inform the general public in an emergency!
- Outside of an emergency
 - the public needs to **be regularly given updated information** (=routine communications), what to do in case of an emergency.
 - general stakeholder involvement activities, public meetings and news stories. People perceive radiation as one of the most fearful of all hazards.
 - →Nuclear Safety Convention, to inform the public likely to be affected
 - →No international obligation to inform the general public outside of an event.

● ARTICLE 5 70

1. Member States shall ensure that the ~~population~~ **members of the public** likely to be affected in the event of a radiological emergency ~~is~~ **are** given information about the health protection measures applicable to ~~it~~ **them** and about the action ~~it~~ **they** should take in the event of such an emergency.
2. The information supplied shall at least include the elements set out in **section A of Annex I XII**.
3. ~~This~~ **The** information shall be communicated to the ~~population~~ **members of the public** referred to in paragraph 1 without any request being made.
4. Member States shall **ensure that** ~~update~~ the information and circulate ~~it~~ **is updated and distributed** at regular intervals and whenever significant changes ~~in the arrangements that it describes~~ take place. This information shall be permanently available to the public.

- → Legal obligation to inform public outside of an event (= routine information)
- → NO major changes in content of obligation

- **Article 6-71 Information to the members of the public actually affected in the event of an emergency**

1. Member States shall ensure that, when a radiological **an** emergency occurs, the ~~population~~ **members of the public** actually affected is **are** informed without delay of **about** the facts of the emergency, of the steps to be taken and, as appropriate to the case in point, of the health-protection measures applicable to it **these members of the public**.
2. The information provided shall cover the points ~~contained~~ **listed** in **Section B of Annex XII** which are relevant to the type of radiological emergency.

- → Legal obligation to inform the public actually effected in the event of an emergency (= emergency communication).
- → No new requirements or major changes (in content).

- ANNEX **XII** A. Prior information **to the members of the public likely to be affected by an emergency referred to in Article > 5**
 1. Basic facts about radioactivity and its effects on human beings and on the environment.
 2. The various types of radiological emergency covered and their consequences for the general public and the environment.
 3. Emergency measures envisaged to alert, protect and assist the general public **and the environment** in the event of a radiological emergency.
 4. Appropriate information on action to be taken by the general public in the event of an ~~radiological~~ emergency.

- 1. ➔ Details of routine communication (basically unchanged).
- 2. ➔ New provisions for the protection of the environment.

- **B. Information to be provided to the affected members of the public in the event of an radiological emergency referred to in Article 6**
 1. On the basis of the intervention **emergency response** plans previously drawn up in the Member States, the ~~population~~ **members of the public** actually affected in the event of an radiological emergency ~~will~~ **shall** rapidly and regularly receive:
 - a. information on the type of emergency which has occurred and, where possible, its characteristics (e.g. its origin, extent and probable development);
 - b. advice on protection, which, depending on the type of emergency, ~~might~~ **may**:
 - cover the following: restrictions on the consumption of certain foodstuffs and water likely to be contaminated, simple rules on hygiene and decontamination, recommendations to stay indoors, distribution and use of protective substances, evacuation arrangements,
 - be accompanied, where necessary, by special warnings for certain ~~population~~ groups **of the members of the general public**;
 - c. announcements recommending cooperation with instructions or requests by the competent authorities.
- → Details on emergency communication, no major changes.
- → No information requirements to the „unaffected“ general public.

2. If the emergency is preceded by a pre-alarm phase, the population members of the public likely to be affected in the event of a radiological emergency ~~should~~ **shall** already receive information and advice during that phase, such as:
 - an invitation to the ~~population~~ **members of the public** concerned to tune in to radio or television **relevant communication channels**,
 - preparatory advice to establishments with particular collective responsibilities,
 - recommendations to occupational groups particularly affected.
3. This information and advice ~~will~~ **shall** be supplemented, if time permits, by a reminder of the basic facts about radioactivity and its effects on human beings and on the environment.

- → Legal obligation to inform public (“likely to be affected”) already in a “pre-alarm” phase, if any.
- → NO major changes or new provisions.

- **Article 99**

- 4. Each 1. Member States shall ~~seek to~~ cooperate with other Member States or and with non-Member States third countries in relation to addressing possible radiological emergencies at installations on its own territory which may affect other Member States or non-Member States third countries, in order to facilitate the organisation of radiological protection in ~~these States~~ those Member States or third countries.
- 2. Each Member State shall, in the event of an emergency occurring on its territory or likely to have radiological consequences on its territory, promptly establish contact with all other Member States and with third countries which may be involved or are likely to be affected with a view to sharing the assessment of the exposure situation and coordinating protective measures and public information by using, as appropriate, bilateral or international information exchange and coordination systems. These coordination activities shall not prevent or delay any necessary actions to be taken on a national level.

- → NEW legal obligation to collaborate with all other MS and involved third countries to assess exposure situation, coordinate protective measures and public information, without delaying national measures.

- Article 8 ~~Information to the public~~ **Transparency**

1. Member States shall ensure that **necessary** information in relation to the ~~regulation of nuclear safety~~ **of nuclear installations and its regulation** is made available to the workers and the general public, **with specific consideration to local authorities, population and stakeholders in the vicinity of a nuclear installation**. This ~~That~~ obligation includes ensuring that the competent regulatory authority **and the licence holders, within their fields of responsibility, provide in the framework of their communication policy: (a) information on normal operating conditions of nuclear installations to workers and the general** the public in the fields of its competence; **and (b) prompt information in case of incidents and accidents to workers and the general public and to the competent regulatory authorities of other Member States in the vicinity of a nuclear installation**.
2. [...]

- → Enhanced legal obligation of regulator and operator to provide routine and emergency information to the public.

3. **Member States shall, without prejudice to Article 5(2), ensure that the competent regulatory authority engages, as appropriate, in cooperation activities on the nuclear safety of nuclear installations with competent regulatory authorities of other Member States in the vicinity of a nuclear installation, inter alia, via the exchange and/or sharing of information.**
4. **[...]**

- → New legal obligation of regulators to cooperate with regulators in other MS exchanging/sharing information!
- → Already current practice, but with big differences in bilateral cooperation agreements.

● Conclusion:

- Communication with the general public should be obligatory in international and EURATOM legislation.
- Basically unchanged legal obligations (EURATOM) on Public Information.
- New obligation to coordinate protective measures & public information.
- Implementation by 15 August 2017 (NSD) and 15 February 2018 (BSS).
- Update of ECURIE agreement required - bilateral cooperation and information exchange agreements should be harmonised in the EU, taking into account best practices (CH-D, AT-CZ).
- Extensive international guidelines exist, but should be implemented and exercised in a national routine and emergency communication plan.
- Its questionable if EURATOM should establish own recommendations on
 - How to cooperate and exchange information between MS and third countries?
 - How to coordinate public information (avoiding undue delays in communication)
 - How to Communicate with the Public in the Event of an Emergency (using example of IAEA communication during Fukushima crisis)?

Effective public communication can not be regulated, no law can guarantee its success in the event of an emergency.

„To effectively communicate, we must realize that we are all different in the way we perceive the world and use this understanding as a guide to our communication with others“ – *Tony Robbins*.

„Effective communication is 20% what you know and 80% how you feel about what you know.“ – *Jim Rohn*.

Dr. Verena M. Ehold

Independent CBRN legal expert support

For SCK-CEN

verena.ehold@gmail.com