



Council of the
European Union

Brussels, 16 April 2021
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ATO 27

NOTE

From: General Secretariat of the Council
To: Delegations

Subject: Commission Decision of 7.4.2021 setting up the group of experts on financial aspects of nuclear decommissioning and spent fuel and radioactive waste management

In view of the informal videoconference of the members of the Working Party on Atomic Questions on 21 April, delegations will find in the annex the Commission Decision of 7.4.2021 setting up the group of experts on financial aspects of nuclear decommissioning and spent fuel and radioactive waste management.



Brussels, 7.4.2021
C(2021) 2109 final

COMMISSION DECISION

of 7.4.2021

setting up the group of experts on financial aspects of nuclear decommissioning and spent fuel and radioactive waste management

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COMMISSION DECISION

of 7.4.2021

setting up the group of experts on financial aspects of nuclear decommissioning and spent fuel and radioactive waste management

THE EUROPEAN COMMISSION,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 135 thereof,

Whereas:

- (1) Recital 23 of Commission Recommendation 2006/851/Euratom¹ announced the Commission's intention to establish a permanent group on decommissioning funding to exchange information between national experts concerning the various approaches to and financial arrangements for decommissioning and waste management. That group, called Decommissioning Funding Group (DFG), has been operating on an informal basis, providing advice on the preparation of situation reports on the national funds for decommissioning.
- (2) Article 4 of Council Directive 2011/70/Euratom² provides that each Member State shall have ultimate responsibility for the management of the spent fuel and radioactive waste generated in it. This responsibility includes the establishment and maintenance of national frameworks, which shall provide for financing scheme(s) for spent fuel and radioactive waste management. The national framework must require that adequate financial resources be available when needed for the implementation of national programmes, especially for the management of spent fuel and radioactive waste, taking due account of the responsibility of spent fuel and radioactive waste generators.
- (3) While, as concerns the management of spent fuel and radioactive waste, the European High Level Group on Nuclear Safety and Waste Management (ENSREG) advises and assists the Commission in progressively developing a common understanding and additional European rules in the fields of the safety of the management of spent fuel and radioactive waste, a new group is needed to assist the Commission on the specific issue of financial aspects of spent fuel and radioactive waste management.
- (4) It is therefore necessary to set up a new group of experts in the field of financial aspects of nuclear decommissioning, and spent fuel and radioactive waste management, which will take over from the former DFG, and to define its scope and tasks, and its structure. This new group should operate in compliance with the

¹ Commission Recommendation of 24 October 2006 on the management of financial resources for the decommissioning of nuclear installations, spent fuel and radioactive waste, OJ L 330, 28.11.2006, p. 31-35.

² Council Directive 2011/70/Euratom of 19 July 2011 establishing a Community framework for the responsible and safe management of spent fuel and radioactive waste, OJ L 199, 2.8.2011, p. 48-56.

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Commission's horizontal rules on the creation and operation of Commission expert groups³ (hereafter 'horizontal rules').

- (5) In particular, the new group should work on financial aspects, related to the pre-decommissioning and decommissioning of nuclear installations and other facilities using radioactive material and to the management of spent fuel and radioactive waste generated through the lifecycle of facilities – until disposal and post-closure.
- (6) The new group should be composed of representatives of the Member States, competent in the financial aspects of nuclear decommissioning and spent fuel and radioactive waste management.
- (7) Rules on disclosure of information by members of the new group should be laid down.
- (8) Personal data should be processed in accordance with Regulation (EU) 2018/1725 of the European Parliament and of the Council⁴.

HAS DECIDED AS FOLLOWS:

Article 1

Subject matter

The group of experts on financial aspects of nuclear decommissioning and spent fuel and radioactive waste management such as cost estimations, financing mechanisms, funds management and their securing is set up (hereafter, 'the group'). Its abbreviated title shall be "Nuclear Backend Financial Aspects expert group (NuBaFA)".

Article 2

Tasks

The group's tasks shall be to provide the Commission and its departments with advice and expertise in relation to financial aspects of nuclear decommissioning, and spent fuel and radioactive waste management.

Article 3

Consultation

The Commission may consult the group on any matter relating to financial aspects of nuclear decommissioning, and spent fuel and radioactive waste management.

Article 4

Membership

1. Members shall be Member States's competent authorities.
2. Member States' authorities shall nominate their representatives and shall be responsible for ensuring that they provide a high level of expertise in the financial

³ Commission Decision of 30.5.2016 establishing horizontal rules on the creation and operation of Commission expert groups - C(2016) 3301 final.

⁴ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39–98.

aspects of nuclear decommissioning and spent fuel and radioactive waste management.

3. Member States' authorities may appoint more than one representative. However, only one vote shall be expressed by each Member State.

Article 5

Chair

The group shall be chaired by a representative of the Commission's Directorate-General for Energy ('DG ENER').

Article 6

Operation

1. The group shall act at the request of DG ENER and shall operate in compliance with the horizontal rules.
2. Meetings of the group shall, in principle, be held on Commission premises.
3. DG ENER shall provide secretarial services. Commission officials from other departments with an interest in the proceedings may attend meetings of the group and its sub-groups.
4. In agreement with DG ENER, the group may, by simple majority of its members, decide that deliberations shall be public.
5. Minutes on the discussion on each point on the agenda and on the opinions delivered by the group shall be meaningful and complete. Minutes shall be drafted by the secretariat under the responsibility of the Chair.
6. In principle, the group shall adopt its opinions, recommendations or reports by consensus. In the event of a vote, the outcome of the vote shall be decided by simple majority of the members. The members that voted against or abstained shall have the right to have a document summarising the reasons for their position annexed to the opinions, recommendations or reports.

Article 7

Sub-groups

1. DG ENER may set up sub-groups for the purpose of examining specific questions on the basis of terms of reference defined by DG ENER. Sub-groups shall operate in compliance with the horizontal rules, and shall report to the group. They shall be dissolved as soon as their mandate is fulfilled.
2. The members of sub-groups that are not members of the group shall be selected via a public call for applications, in compliance with the horizontal rules⁵.

⁵ See Articles 10 and 14(2) of the horizontal rules.

Article 8

Invited experts

DG ENER may invite other experts with specific expertise with respect to a subject matter on the agenda to take part in the work of the group or sub-groups on an *ad hoc* basis.

Article 9

Observers

1. Individuals, organisations and public entities other than Member States' authorities may be granted an observer status, in compliance with the horizontal rules, by direct invitation.
2. Organisations and public entities appointed as observers shall nominate their representatives.
3. Observers and their representatives may be permitted by the Chair to take part in the discussions of the group and provide expertise. However, they shall not have voting rights and shall not participate in the formulation of recommendations or advice by the group.

Article 10

Rules of procedure

On a proposal by and in agreement with DG ENER the group shall adopt its rules of procedure by simple majority of its members, on the basis of the standard rules of procedure for expert groups, in compliance with the horizontal rules.

Article 11

Professional secrecy and handling of classified information

The members of the group and their representatives, as well as the invited experts and observers, are subject to the obligation of professional secrecy, which by virtue of the Treaties and the rules implementing them applies to all members of the institutions and their staff, as well as to the Commission's rules on security regarding the protection of Union classified information, laid down in Commission Decisions (EU, Euratom) 2015/443⁶ and 2015/444⁷. In the event of failure to fulfill these obligations, the Commission may take all appropriate measures.

Article 12

Transparency

1. The group and its sub-groups shall be registered in the Register of expert groups.
2. As concerns the group and sub-groups composition, the following data shall be published on the Register of expert groups:
 - the name of Member States' authorities;

⁶ Commission Decision (EU, Euratom) 2015/443 of 13 March 2015 on Security in the Commission, OJL 72, 17.3.2015, p. 41-52.

⁷ Commission Decision (EU, Euratom) 2015/444 of 13 March 2015 on the security rules for protecting EU classified information, OJL 72, 17.3.2015, p. 53-88.

- the name of observers.
 - the name of Member States' representatives / third countries' representatives / other public entities representatives / observers' representatives.
3. All relevant documents, including the agendas, the minutes and the participants' submissions, shall be made available either on the Register of expert groups or *via* a link from the Register to a dedicated website, where this information can be found. Access to dedicated websites shall not be submitted to user registration or any other restriction. In particular, the agenda and other relevant background documents shall be published in due time ahead of the meeting, followed by timely publication of minutes. Exceptions to publication shall only be foreseen where it is deemed that disclosure of a document would undermine the protection of a public or private interest as defined in Article 4 of Regulation (EC) No 1049/2001⁸.

Article 13

Meeting expenses

1. Participants in the activities of the group and sub-groups shall not be remunerated for the services they offer.
2. Travel and subsistence expenses incurred by participants in the activities of the group and sub-groups shall be reimbursed by the Commission. Reimbursement shall be made in accordance with the provisions in force within the Commission and within the limits of the available appropriations allocated to the Commission departments under the annual procedure for the allocation of resources.

Done at Brussels, 7.4.2021

For the Commission
Kadri SIMSON
Member of the Commission

⁸ These exceptions are intended to protect public security, military affairs, international relations, financial, monetary or economic policy, privacy and integrity of the individual, commercial interests, court proceedings and legal advice, inspections/investigations/audits and the institution's decision-making process.

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