RECOMMENDATIONS

COMMISSION

COMMISSION RECOMMENDATION

of 7 July 2009

for a secure and effective system of transmission of documents and information relating to the provisions of Council Directive 2006/117/Euratom

(2009/527/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,

Having regard to Council Directive 2006/117/Euratom of 20 November 2006 on the supervision and control of shipments of radioactive waste and spent fuel [1], and in particular Article 19(1), thereof,

After consulting the Advisory Committee,

WHEREAS:

(1) The competent authorities of the Member States should cooperate to ensure the smooth operation of the automatic consent procedure laid down in Article 9(2) of Directive 2006/117/Euratom.

(2) The competent authorities of the Member States involved shall take the necessary measures to ensure that all information regarding shipments covered by that Directive is handled with due care and protected against any misuse.

(3) General security measures should be applied to all information which is processed by the competent authorities of the Member States when applying Directive 2006/117/Euratom,

HEREBY RECOMMENDS:

1. All information processed by the competent authorities in application of Directive 2006/117/Euratom should receive a level of protection which is equivalent to the one provided by the other competent authorities concerned.

2. Competent authorities should choose the most appropriate level of protection to ensure the smooth operation of the automatic consent procedure laid down in Article 9(2) of Directive 2006/117/Euratom.

3. The appropriate protection level should be ensured by a variety of measures in accordance with Member States law and regulations, including the obligation of discretion and confidentiality, limiting access to information to authorised personnel, data protection requirements as far as personal data are concerned and general technical and procedural measures to safeguard the security of the information.

4. Electronic links between the competent authorities of the different Member States should provide a level of protection which is equivalent to the level of protection provided by Member States within their respective territories for analogous information and documentation transmission.

5. A common standard for these electronic links should be agreed by the competent authorities of the Member States.

6. All information processed by the competent authorities in application of Directive 2006/117/Euratom, in case classification is required in accordance with Member States laws and regulations, should be classified to the lowest classification level.

7. Information requiring additional security measures should be subject to a higher than the lowest classification level, indicated by a specific marking, only where strictly necessary and for the time necessary.

8. As originators, competent authorities supplying information to other competent authorities concerned should be responsible for the choice of appropriate classification level taking into account:

[1] OJ L 337, 5.12.2006, p. 21.

(a) their own national information classification regulations;

(b) the operational flexibility and effectiveness requirements needed to apply the automatic consent procedure;

(c) the exceptional nature of the classification requirements.

9. In accordance with Member States laws and regulations, the competent authorities should use the classification markings as listed in the table of comparison of national security classifications annexed as Appendix 2 to Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations [1] and, similarly, to Commission Decision 2005/94/EC, Euratom of 3 February 2005 amending Decision 2001/844/EC, ECSC, Euratom [2]. The Practical Classification Guide annexed as Appendix 3 to Council Decision 2001/264/EC and, similarly, as Appendix 2 to Commission Decision 2001/844/EC, ECSC, Euratom of 29 November 2001 amending its internal rules of procedure [3] could be used as a guide to the choice of the most adequate level of classification.

10. As originator, the competent authority supplying information should specify the period for which the choice of classification level applies, and any possible changes to the classification level after that period.

11. The originator competent authority could at any time require, in writing, a previous classification level to be changed, including the possible removal (i.e. declassification), reduction (i.e. downgrading) or addition of such a level.

12. The competent authorities to whom the information was supplied should be obliged to remove, change or add a classification level in accordance with those requests.

13. As originator, the competent authority supplying the information should, as soon as circumstances allow, ask for, in writing, the classification level in question to be downgraded or removed (i.e. declassified) altogether.

14. In accordance with the need-to-know principle, access to and possession of information should be restricted within the designated competent authorities to those persons who, by reason of their duties or obligations, need to be acquainted with such information or to handle it. Whenever required in accordance with Member States laws and regulations, such persons should be security cleared to the relevant classification level.

15. This Recommendation is addressed to the Member States.

Done at Brussels, 7 July 2009.

For the Commission

Andris PIEBALGS

Member of the Commission

[1] OJ L 101, 11.4.2001, p. 1.
[2] OJ L 31, 4.2.2005, p. 66.
[3] OJ L 317, 3.12.2001, p. 1.