

Consolidated version of the Treaty establishing the
European Atomic Energy Community 2016/C 203/01

TITLE II

**PROVISIONS FOR THE ENCOURAGEMENT OF
PROGRESS IN THE FIELD OF NUCLEAR ENERGY**

CHAPTER 2

Dissemination of information

Section 3

Security provisions

Article 24

Information which the Community acquires as a result of carrying out its research programme, and the disclosure of which is liable to harm the defence interests of one or more Member States, shall be subject to a security system in accordance with the following provisions.

1. The Council shall, acting on a proposal from the Commission, adopt security regulations which, account being taken of the provisions of this Article, lay down the various security gradings to be applied and the security measures appropriate to each grading.
2. Where the Commission considers that the disclosure of certain information is liable to harm the defence interests of one or more Member States, it shall provisionally apply to that information the security grading required in that case by the security regulations.

It shall communicate such information forthwith to the Member States, which shall provisionally ensure its security in the same manner.

Member States shall inform the Commission within three months whether they wish to maintain the grading provisionally applied, substitute another or declassify the information.

Upon the expiry of this period, the highest grading of those requested shall be applied. The Commission shall notify the Member States accordingly.

At the request of the Commission or of a Member State, the Council may, acting unanimously, at any time apply another grading or declassify the information. The Council shall obtain the opinion of the Commission before taking any action on a request from a Member State.

3. The provisions of Articles 12 and 13 shall not apply to information subject to a security grading.

Nevertheless, provided that the appropriate security measures are observed,

Status: This is the revised version from EUR-Lex dated 01/05/2019. There are no timeline of changes available for treaties, instead, previous dated versions from EUR-Lex (as pdf) can be accessed via the More Resources menu.

- (a) the information referred to in Articles 12 and 13 may be communicated by the Commission:
 - (i) to a Joint Undertaking;
 - (ii) to a person or undertaking other than a Joint Undertaking, through the Member State in whose territory that person or undertaking operates;
- (b) the information referred to in Article 13 may be communicated by a Member State to a person or to an undertaking other than a Joint Undertaking, operating in the territory of that State, provided that the Commission is notified of this communication;
- (c) each Member State has, however, the right to require the Commission to grant a licence under Article 12 to meet the needs of that State or those of a person or undertaking operating in its territory.

Article 25

1 A Member State notifying the existence or communicating the contents of an application for a patent or utility model relating to a subject specified in Article 16(1) or (2) shall, where appropriate, draw attention to the need to apply a given security grading for defence reasons, at the same time stating the probable duration of such grading.

The Commission shall pass on to the other Member States all communications received in accordance with the preceding subparagraph. The Commission and the Member States shall take those measures which, under the security regulations, correspond to the grading required by the State of origin.

2 The Commission may also pass on these communications to Joint Undertakings or, through a Member State, to a person or to an undertaking other than a Joint Undertaking operating in the territory of that State.

Inventions which are the subject of applications referred to in paragraph 1 may be used only with the consent of the applicant or in accordance with Articles 17 to 23.

The communications and, where appropriate, the use referred to in this paragraph shall be subject to the measures which, under the security regulations, correspond to the security grading required by the State of origin.

The communications shall in all cases be subject to the consent of the State of origin. Consent to communication and use may be withheld only for defence reasons.

3 At the request of the Commission or of a Member State, the Council may, acting unanimously, at any time apply another grading or declassify the information. The Council shall obtain the opinion of the Commission before taking any action on a request from a Member State.

Article 26

1 Where information covered by patents, patent applications, provisionally protected patent rights, utility models or applications for utility models has been classified in accordance with Articles 24 and 25, the States which have applied for such classification may not refuse to allow corresponding applications to be filed in the other Member States.

Each Member State shall take the necessary measures to maintain the security of such rights and applications in accordance with the procedure laid down in its own laws and regulations.

2 No applications relating to information classified in accordance with Article 24 may be filed outside the Member States except with the unanimous consent of the latter. Should Member States fail to make known their attitude, their consent shall be deemed to have been obtained on the expiry of six months from the date on which the information was communicated to the Member States by the Commission.

Article 27

Compensation for any damage suffered by the applicant as a result of classification for defence reasons shall be governed by the provisions of the national laws of the Member States and shall be the responsibility of the State which applied for such classification or which either obtained the upgrading or extension of the classification or caused the filing of applications outside the Community to be prohibited.

Where several Member States have either obtained the upgrading or extension of the classification or caused the filing of applications outside the Community to be prohibited, they shall be jointly responsible for making good any damage arising out of their action.

The Community may not claim any compensation under this Article.