

Case of nuclear accident or other radiological emergency: maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs

2010/0098(CNS) - 27/04/2010 - Legislative proposal

PURPOSE: to lay down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency (recast).

PROPOSED ACT: Council Regulation (Euratom).

LEGAL BASE: Article 31 of the European Atomic Energy Community Treaty

IMPACT ASSESSMENT: no impact assessment was carried out.

CONTENT: the Commission initiated the codification of Council Regulation (Euratom) No 3954/87 laying down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency, Commission Regulation (Euratom) No 944/89 and Commission Regulation (Euratom) No 770/90, and a [relevant proposal](#) was submitted to the legislative authority. The new Regulation was to have superseded the various acts incorporated in it.

In the course of the legislative procedure, it was acknowledged that a provision appearing in the proposal for a codified text provided for a reservation of implementing powers by the Council which was not justified in the recitals of Regulation (Euratom) No 3954/87. In the light of the judgment of the Court of Justice of 6 May 2008 in Case C-133/06, it was considered necessary to insert a new recital in the new act replacing and repealing that Regulation in order to justify that reservation of implementing powers. Since the insertion of such a recital would imply a substantive change, and would therefore go beyond straightforward codification, it was considered necessary that point 8 of the Interinstitutional Agreement of 20 December 1994 - Accelerated working method for official codification of legislative texts - be applied, in the light of the Joint Declaration on that point.

Pursuant to Regulation (Euratom) No 3954/87, the Commission, after being informed of a nuclear accident or of any other case of radiological emergency which is likely to lead or has led to a significant radioactive contamination of foodstuffs and feedingstuffs, is to immediately adopt, if the circumstances so require, a Regulation rendering applicable pre-established maximum permitted levels of radioactive contamination. The period of validity of such a Regulation is to be as short as possible and must not exceed three months. Within one month of its adoption and after consultation with experts, the Commission is to submit to the Council a proposal for a Regulation to adapt or confirm the provisions of the Regulation previously adopted by the Commission, in particular the establishment of maximum permitted levels of radioactive contamination, based on Article 31 of the Euratom Treaty, in view of the need to protect the health of the population. Therefore, as a matter of urgency, it is appropriate for the Council to reserve the right to exercise directly the power to adopt those adjusted measures within this short timeframe. This is, however, without prejudice to the possibility that, in the long term after the nuclear accident or the radiological emergency, other legal instruments or another legal basis may be used for the purpose of controlling foodstuffs or feedingstuffs being placed on the market, for which this reservation of implementing powers will not apply. It is therefore appropriate to transform the codification

of Regulation (Euratom) No 3954/87, Regulation (Euratom) No 944/89 and Regulation (Euratom) No 770/90 into a recast in order to incorporate the necessary amendment.

FINANCIAL IMPLICATIONS: the proposal has no implication for the Community budget.