# Maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency

2013/0451(NLE) - 10/01/2014 - Legislative proposal

PURPOSE: to lay down maximum permitted levels of radioactive contamination of food and feed following a nuclear accident or any other case of radiological emergency.

PROPOSED ACT: Council Regulation.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: following the accident at the **Chernobyl nuclear power-station** on 26 April 1986, Council Regulation (Euratom) No 3954/87 laid down maximum permitted levels of radioactive contamination to be applied following a nuclear accident or any other case of radiological emergency which is likely to lead or has led to significant radioactive contamination of food and feed.

The codification of Council Regulation (Euratom) No 3954/87 was initiated by the Commission, and a relevant proposal was submitted to the legislative authority.

In the course of the legislative procedure relating to that initial codification proposal, it was acknowledged that a provision appearing in the draft 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. In the light thereof, **codification of Regulation (Euratom) No 3954/87, Regulation (Euratom) No 944/89 and Regulation (Euratom) No 770/90 was transformed into a recast** in order to incorporate the said amendment, and a relevant proposal was submitted to the legislative authority.

In the course of the legislative procedure relating to that recast proposal, it became apparent that certain existing provisions contained in Regulation (Euratom) No 3954/87 have now become incompatible with the **new "Comitology" system** laid down in Regulation (EU) No 182/2011 of the European Parliament and of the Council. It has therefore been decided to withdraw the **recast proposal** and to draft a revised proposal of Regulation (Euratom) No 3954/87, which includes its consolidation and the implementation of the new "Comitology" system.

Following the accident at the **Fukushima** nuclear power station on 11 March 2011, the Commission was informed that radionuclide levels in certain food products originating in Japan exceeded the action levels in food applicable in Japan. Such contamination may constitute a threat to public and animal health in the Union and therefore measures were adopted imposing special conditions governing the import of feed and food originating in or consigned from Japan, in accordance with the opinion of the Standing Committee on the Food Chain and Animal Health.

The Commission considers it necessary to set up a system allowing the European Atomic Energy Community, following a nuclear accident or any other case of radiological emergency which is likely to lead or has led to a significant radioactive contamination of food and feed, to establish maximum permitted levels of radioactive contamination in order to protect the population.

In order to ensure **uniform conditions for the implementation of this Regulation** as regards rendering applicable the pre-established maximum permitted levels, **implementing powers should be conferred on the Commission**.

CONTENT: this proposal seeks to lay down the **maximum permitted levels of radioactive contamination of food**, the maximum permitted levels of minor food, and the maximum permitted levels of radioactive contamination of feed, which may be placed on the market following a nuclear accident or any other case of radiological emergency which is likely to lead to or has led to significant radioactive contamination of food and feed, and the procedures to render these maximum permitted levels applicable.

In the event of the Commission receiving official information on accidents or on any other case of radiological emergency, substantiating that the maximum permitted levels for food, minor food or feed are likely to be reached or have been reached, it shall **adopt, if the circumstances so require, an implementing Regulation rendering applicable those maximum permitted levels**.

On duly justified imperative grounds of urgency relating to the circumstances of the nuclear accident or the radiological emergency, the Commission shall adopt **an immediately applicable implementing Regulation in accordance with the examination procedure**.

As soon as the Commission adopts an implementing Regulation rendering applicable maximum permitted levels, food or feed not in compliance with those maximum permitted levels shall not be placed on the market.

The Commission shall be assisted by the **Standing Committee on the Food Chain and Animal Health** established by Article 58 (1) of Regulation (EC) No 178/2002 of the European Parliament and of the Council. That committee shall be considered as a committee within the meaning of Regulation (EU) No 182/2011.