Opinion of the European Economic and Social Committee on the "Proposal for a Council regulation (EURATOM) laying down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency (Recast)"

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On 27 April 2010 the Commission decided to consult the European Economic and Social Committee, under Article 31 of the Treaty establishing the European Atomic energy Community, on the "Proposal for a Council regulation (EURATOM) laying down maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency (Recast)"


The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee’s work on the subject, adopted its opinion on 31 August 2010.

At its 465th plenary session, held on 15 and 16 September 2010 (meeting of 15 September), the European Economic and Social Committee adopted the following opinion by 127 votes to 1 with 1 abstention.

1. Conclusions and recommendations

1.1 Radioactive fallout is nearly always transboundary. It causes a prolonged release of radioactive materials, dispersing over long distances and having effect over large areas. Hence, with this type of accident we are facing a potential disaster of international dimension.

1.2 There is a real need for clear and up-to-date legislation that EU institutions and Member States can easily apply in the event of radioactive fallout. For this reason, reform of the legislation is both appropriate and necessary.

1.3 Since the Chernobyl nuclear accident in 1986, the Community has developed standards setting contamination limits for foodstuffs and feeding stuffs following a nuclear accident (¹), as well as arrangements for the early exchange of information in the event of a radiological emergency (²). The validity of the permitted levels was last reviewed by the Group of Experts under Article 31 Euratom in 1995. Permitted levels should therefore be reviewed again.

1.4 The EU has created an effective and internationally respected risk evaluation body, the European Food Safety Authority (EFSA) (Regulation (EC) 178/2002 of 28 January 2002). The EFSA should be entrusted with the task of the health evaluation of radioactive residues in foodstuffs and feedingstuffs, and the Commission should review the existing arrangements.

1.5 To ensure a high level of control of radiation levels in foodstuffs and feedingstuffs, national food authorities should be legally empowered, alongside the national radiation protection agencies, to supervise the maximum permitted levels and to control the import of food and feedingstuffs when the maximum permitted levels are exceeded, without having to obtain confirmation by the radiation monitoring authority.

1.6 The Commission should also seek to ensure, within the framework of the Codex Alimentarius Commission’s standards and guidelines, that international regulations are laid down on the presence of radioactive fallout and its effects on foodstuffs and feedingstuffs, and determine which institutions shall primarily be responsible for border controls of imports and exports in the European Union in the event of an accident.

1.7 As water contains one of the major ingredients for foodstuffs and feedingstuffs, it should be included the Annexes to the Regulation. Moreover, the rules should apply to drinking water of all kinds, not just water in food and feedingstuffs.

¹ Council Regulation (Euratom) 3954/87 of 22 December 1987, as amended.
1.8 When accidents occur it is important to try to influence people's behaviour and induce them to choose foodstuffs and drinks which are safe or less dangerous. National authorities and sector organisations bear responsibility in providing guidance and raising awareness.

2. Introduction

2.1 Background

2.1.1 Following the accident at the Chernobyl nuclear power station on 26 April 1986, considerable quantities of radioactive materials were released into the atmosphere, contaminating foodstuffs and feedingstuffs in several European countries to levels significant from the health point of view.

2.1.2 For the first time measures were taken at Community level to deal with this type of nuclear accident, causing a prolonged release of radioactive compounds, dispersing over long distances and having a potential effect over large areas.

2.1.3 Only on one previous occasion, the Committee has set out its views on the issue of radiative contamination of foodstuffs and feedingstuffs following a nuclear accident or any other case of radiological emergency (1). However, this opinion represented only an initial viewpoint, as the Commission still had to propose maximum permitted radioactivity levels. Therefore the present consultation provides the opportunity for the Committee to express a more up-to-date opinion on the issue.

2.2 Legislative framework

2.2.1 Council Regulation (Euratom) No 3954/87 of 22 December 1987 lays down the procedure for the adoption of maximum permitted levels of radioactive contamination of foodstuffs and of feedingstuffs following a nuclear accident or any other case of radiological emergency. It has been substantially amended over the years (2). Maximum permitted 'reference' levels were laid down in separate Annexes with the second amendment of the Regulation.

2.2.2 Where the Commission has received information about the existence of an accident or any other case of radiological emergency during which the maximum permitted levels are likely to be reached or have been reached, it shall adopt a Regulation rendering applicable those maximum levels. The period of validity of such a Regulation shall be as short as possible and not exceed three months.

2.2.3 The Commission shall submit to the Council a proposal for a Regulation to adapt or confirm the provisions of the first Regulation within one month of adoption, and after consultation of the group of experts under article 31 of the Euratom Treaty. The period of validity of this second Regulation is also limited. In the long term, i.e. after the nuclear accident or the radiological emergency, other legal instruments or another legal basis could be used for the purpose of controlling foodstuffs or feedingstuffs being placed on the market.

2.2.4 The maximum permitted levels laid down in the Annexes to the Regulation may be revised or supplemented in the light of expert opinion on the basis of Article 31. The validity of the established maximum permitted levels was last examined in 1995 by the Group of Experts under Article 31, in the light of the provisions of Council Directive 96/29/Euratom, which requires Member States to stipulate intervention levels in the event of accidents (3).

2.2.5 As regards imports, the EU has adopted measures to ensure that agricultural products are only imported into the Union according to common arrangements which safeguard the health of the population while maintaining the unified nature of the market and avoiding deflections of trade.

2.2.6 In the event of a radiological emergency, Member States are required to exchange information through the 'Ecurie' system (4). This system requires Member States to notify and provide information to the Commission and to the Member States affected or liable to be affected whenever a Member State decides to take measures of a widespread nature in order to protect the general public in the event of a radiological emergency. Such information must include the nature and time of the event, its exact location and the nature of the facility or activity involved, the cause, the foreseeable development and the protective measures taken or planned, as well as levels of radioactivity measured by their monitoring facilities in foodstuffs, feedingstuffs, drinking water and the environment.

2.3 The Commission document

2.3.1 The Commission had initiated the codification of Council Regulation No 3954/87 and its successive amendments.

2.3.2 However, 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.

(4) See footnote 2 above.
2.3.3 Since the insertion of such a recital would imply a substantive change and would therefore go beyond straightforward codification, it was considered appropriate to transform the codification into a recast in order to incorporate the necessary amendment.

2.3.4 The additional clause 15 in the Preamble of the Proposal refers to the possibility that, in certain situations, the Council, instead of the Commission, may immediately adopt adjusted measures, within a very short timeframe rendering applicable pre-established maximum permitted levels of radioactive contamination.

3. Assessment

3.1 There is a real need for clear and up-to-date legislation that EU institutions and Member States can easily apply in the event of radioactive fallout. For this reason, reform of the legislation is both appropriate and necessary. The likelihood of nuclear power station accidents and other radioactive fallout could also be increasing in the EU, among other things because of the ageing of existing nuclear power plants, the construction of numerous new plants and the risk of other unexpected accidents.

3.2 Radioactive fallout is nearly always widespread and does not necessarily decrease significantly in intensity when borne over long distances. Hence, we are dealing here with a potential international health and environmental disaster.

3.3 In comparison with 1986, the EU now has an effective and internationally respected risk evaluation body, the European Food Safety Authority (EFSA) (Regulation (EC)178/2002). Radioactive residues in foodstuffs and feedingstuffs are comparable with food contaminants. Therefore one might have expected that EFSA would have been entrusted with the task of the health evaluation of such residues. However, in its proposal the Commission retains the existing, in some cases decades-old, arrangements without further consideration or justification.

3.4 When accidents occur it is important to try to influence people's behaviour and induce them to choose foodstuffs and drinks which are safe or less dangerous. Moreover, agricultural producers must in any case know about levels of radioactive contamination of feedingstuffs and the feeding of animals during a crisis situation. Here, national authorities and sector organisations can play a lead role in providing guidance and raising awareness.

3.5 It is crucial that the provisions governing radioactive fallout and levels of radioactivity are now recast in such a way that their implementation at EU and Member State level becomes easier and clearer.

3.6 The maximum permitted radioactivity levels must be tailored to the needs of particularly endangered groups in the population: stricter values should apply for infant food than for foodstuffs for consumption by the population as a whole.

3.7 Radioactive materials may find their way into surface water in connection with nuclear tests and the use of nuclear energy or the use of radioactive materials in healthcare, industry and research. Although in normal circumstances the amounts involved are insignificant, the situation can change in the event of a radiation accident. Therefore, as water contains one of the major ingredients for foodstuffs and feedingstuffs, it should not have been excluded from the Annexes to the Regulation.

Brussels, 15 September 2010.

The President
of the European Economic and Social Committee
Mario SEPI