


# Procedure file

Basic information		
NLE - Non-legislative enactments Directive	<a href="#">2003/0022(NLE)</a>	Procedure lapsed or withdrawn
Nuclear energy: spent fuel and radioactive waste, safe management		
Subject		
3.60.04 Nuclear energy, industry and safety		
3.70.13 Dangerous substances, toxic and radioactive wastes (storage, transport)		

Key players			
European Parliament			
Council of the European Union			
	Council configuration	Meeting	Date
	<a href="#">Economic and Financial Affairs ECOFIN</a>	<a href="#">2798</a>	08/05/2007
	<a href="#">Environment</a>	<a href="#">2593</a>	28/06/2004
European Commission	Commission DG	Commissioner	
	<a href="#">Energy</a>	OETTINGER Günther	

Key events			
29/01/2003	Legislative proposal published	<a href="#">COM(2003)0032</a>	Summary
15/05/2003	Committee referral announced in Parliament		
27/11/2003	Vote in committee		Summary
26/11/2003	Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0442/2003</a>	
12/01/2004	Debate in Parliament		
13/01/2004	Decision by Parliament	<a href="#">T5-0011/2004</a>	Summary
28/06/2004	Resolution/conclusions adopted by Council		Summary
08/05/2007	Resolution/conclusions adopted by Council		Summary
02/12/2009	Additional information		Summary
30/07/2011	Proposal withdrawn by Commission		Summary

Technical information	
Procedure reference	2003/0022(NLE)

Procedure type	NLE - Non-legislative enactments
Procedure subtype	Consultation of Parliament
Legislative instrument	Directive
Legal basis	Euratom Treaty A 031; Euratom Treaty A 032
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	ITRE/5/19567

### Documentation gateway

Legislative proposal	<a href="#">COM(2003)0032</a>	30/01/2003	EC	Summary
Economic and Social Committee: opinion, report	<a href="#">CES0200/2003</a> <a href="#">OJ C 133 06.06.2003, p. 0070-0074</a>	26/03/2003	ESC	
Economic and Social Committee: opinion, report	<a href="#">CES0411/2003</a>	26/03/2003	ESC	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A5-0442/2003</a>	27/11/2003	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T5-0011/2004</a> OJ C 092 16.04.2004, p. 0020-0097 E	13/01/2004	EP	Summary

## Nuclear energy: spent fuel and radioactive waste, safe management

OBJECTIVE: to contribute to the establishing of best practice on the management of spent nuclear fuel and radioactive waste in the Member States. CONTENT: action was necessary at Community level in order to avoid further delays in the implementation of the programmes on the long-term management of radioactive waste and spent nuclear fuel in the EU Member States. To this end, the proposal for a directive laid down provisions concerning the safe management of spent nuclear fuel and radioactive waste. It reflected the fundamental principles of: protection of human health and of the environment; nuclear safety and environmental protection through application of precautionary and preventive measures; public information, dialogue and, where appropriate, participation in the decision-making process. Member States should develop appropriate strategies and prepare detailed programmes for the long-term management of all the waste types under their jurisdiction. Though the Community as a whole should maintain the capacity to store its waste, the emphasis of these programmes should be on the development of repositories for the disposal of radioactive waste. Open and comprehensive public information and involvement together with respect for the 'polluter pays' principle were crucial aspects of these programmes. Member States should ensure that the necessary R&TD was carried out to enable the deadlines for implementing their programmes to be met. For the further extended use of nuclear energy it might also be beneficial to explore alternative technologies that would produce less waste for possible application in the future. There should be greater collaboration between Member States, especially where this would help guarantee or reinforce the necessary high level of nuclear safety and environmental protection. An approach involving two or more countries could also offer advantages, especially to countries that have no or limited nuclear programmes, insofar as it would provide a safe and less costly solution for all parties involved. However, no Member State should be obliged to accept imports of radioactive waste from other Member States. ?

## Nuclear energy: spent fuel and radioactive waste, safe management

The committee adopted the report by Alejo VIDAL-QUADRAS ROCA (EPP-ED, E) amending the proposal under the consultation procedure: - owing to the many different situations in the Member States, it would be inappropriate to set a single timetable for waste management programmes in cases where there is no suitable alternative to disposal of solid or solidified radioactive waste or where such a disposal option is not yet available. MEPs therefore amended the proposal so as to provide for a two-step approach. Each Member State should submit to the Commission, by 2006, a detailed programme for the long-term management of all the radioactive waste types under its jurisdiction. Once the programme had been approved by the Council, each Member State would fix its own deadlines for authorising the development of appropriate disposal sites and the operation of the disposal facilities. Member States would also publish national individual programmes for permanent disposal solutions, taking account of the technical, geological, political and economic considerations specific to each country. Member States should submit to the Commission, by 2006, national programmes setting their own time-scales for final disposal of waste. These programmes would be peer-reviewed "in close cooperation by the European Commission and the national regulators"; - it should be clearly forbidden for Member States to sign contracts for shipments to third countries whose facilities do not meet EU and international norms and standards; - the public should be informed about the actions to be taken and the status of the decision-making process, in particular the criteria adopted for the choice of sites for final disposal. The Commission should implement a European programme to increase the general public's awareness of nuclear waste management; - disposal and storage may be above ground as well as underground. ?

## Nuclear energy: spent fuel and radioactive waste, safe management

The European Parliament adopted a resolution drafted by Alejo VIDAL-QUADRAS ROCA (EPP-ED, Spain), making several amendments to the Commission's proposal. (Please see the summary dated 27/11/03.) Parliament also made the following key amendments: - certain methods of disposal of radioactive waste should be excluded for environmental reasons, including dumping at sea, disposal in under-sea repositories and disposal in space; - Member States must ensure that financial resources sufficient to cover the decommissioning and waste management costs of each nuclear installation are available as funds at the time envisaged. These funds must meet the minimum criteria set out in the Annex, and of any relevant directive under the EC Treaty. Furthermore, six months after the adoption of the Directive, the Commission must propose legislation to ensure the availability of funds for future decommissioning and to avoid obstacles to fair competition in the energy market. Member States must adopt separate accounting for the financing of future decommissioning or waste management activities. These funds must be reviewed and audited annually by an independent body to verify that the revenues raised for these future activities are only be used for decommissioning or waste management activities, and not used to fund activities in the market. In the case of nuclear installations whose main purpose is other than the sale of products or services, Member States should determine the means of meeting the specific decommissioning resource requirements.?

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The Council adopted conclusions reaffirming the commitment of the Community and its Member States to a high level of nuclear safety and to the safe management of spent fuel and radioactive waste.

With a view to further improving nuclear safety and the safety of the management of spent nuclear fuel and radioactive waste, the Council :

- stresses that national responsibility for the safety of nuclear installations is the fundamental principle on which the regulation of nuclear safety and of radioactive waste management has been developed by the international community as endorsed by the Convention on Nuclear Safety and its Parties including the European Atomic Energy Community and reflected in the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management;

- acknowledges that International Atomic Energy Agency's (IAEA) standards and approaches, as reflected notably in the IAEA Safety Fundamentals and Safety Requirements Series, constitute an internationally recognised framework which national safety requirements use as a reference level and to the improvement of which Member States have made considerable contributions, as well as to the work within other relevant fora such as the Nuclear Energy Agency (NEA) and the Western European Nuclear Regulators Association (WENRA);

- notes the contributions of expert groups, such as the Nuclear Regulators Working Group (NRWG), the Reactor Safety Working Group (RSWG) and the CONCERT Group;

- calls on Member States, who have not yet done so, to accede, as a matter of urgency, to the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, is of the view that instruments in this field should be developed following extensive consultations with stakeholders and, particularly in the field of harmonised safety approaches, should take account of the work conducted by national nuclear regulatory authorities in this respect.

The Council urges Member States together with the Commission:

- to avail themselves in particular of the possibilities offered by the review meetings under the Convention on Nuclear Safety and the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management in 2005 and 2006 respectively, to assess the results achieved under these Conventions, including at previous Conferences of the Parties, to take stock of the outcome of the work conducted by national nuclear regulatory authorities in multinational fora, including in the WENRA framework, and on that basis to engage in a wide-ranging consultation process facilitating the choice of instrument(s), in the framework of the Euratom Treaty, that can contribute more effectively to achieving nuclear safety and the safe management of spent fuel and radioactive waste, without excluding any instrument and in line with the principles of better law-making, invites the relevant Working Parties of the Council to keep this process under regular review.

The Commission is invited to report on and, together with Member States, assess the outcome of this process, and in the light of the high importance it attaches to nuclear safety and to the safe management of spent fuel and radioactive waste, the Council decides to return to this matter in a timely manner.

## Nuclear energy: spent fuel and radioactive waste, safe management

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The Council adopted conclusions on the safe management of spent nuclear fuel and radioactive waste.

It proposes that the following list of possible actions be addressed:

Safety of nuclear installations:

- promotion of the practical use of current international contexts (Convention on Nuclear Safety, Joint Convention, IAEA, OECD/NEA, WENRA) at EU-level in terms of common approaches and good practices to the safety of nuclear installations and how the results are used, also taking into account the interaction between the different contexts;
- strengthening of the existing international contexts and allowing Member States and the Commission to make further use of each other's experience to improve nuclear safety. By means of the coordination of national follow-up actions among EU Member States and the Commission, and a structured exchange of experience acquired from the actions taken, new insights should be provided to achieve common approaches to safety and regulatory issues;
- holding of consultations between review meetings held under the Convention on Nuclear Safety on lessons learned and on future actions. To this end ? identify areas for improvement, ? identify areas where harmonisation is feasible and useful for nuclear safety, ? promote better focussed national reports and further elaborate on the review process under the Convention, ? highlight areas of best practice in Member States;
- review of the IAEA Safety Standards and Safety Glossary with regard to how EU Member States use those in the national regulatory framework;
- exchange experience on how to address the challenges and utilise good practices from IAEA safety missions as appropriate;

- optimal use of the OECD/NEA outputs with regard to how EU Member States address emerging safety issues, raised within the NEA framework, and use significant NEA documents in the national regulatory framework;
- discussion of generic safety issues relevant to nuclear facilities identified within the existing international contexts and national experiences with the aim of achieving a common understanding of a safety issue based on state-of-the-art knowledge and best practice;
- co-ordination of the work programmes of Member States and the Commission in the field of nuclear safety, by means, if appropriate, of respective information management tools concerning international nuclear safety programmes;
- provide all Member States with opportunities to be informed, put questions, and contribute to the work done by the nuclear Member States in the framework of non - EU activities with the aim of achieving a common understanding of nuclear safety and regulatory issues within the EU;
- compiling information and knowledge from Member States based on national activities and activities by EURATOM in the field of nuclear safety using modern technological interfaces; added value could be achieved by providing support through study contracts or services rendered by European Community facilities;
- investigate appropriate actions to close the feedback loop for the evaluation and practical use of operating experience for nuclear power plants in Europe and assess the benefits of going beyond efforts in the international context;
- exchange of information on nuclear safety research and national regulatory research programmes and making results available to Member States and the Commission in line with national and EU legislation to prevent parallel and redundant efforts;
- exchange of information on ongoing processes for the identification of safety aspects of future reactor concepts;
- ensure a high level of transparency on issues relating to the safety of nuclear installations within their jurisdiction;
- provision of Information to the public in an accurate and timely manner about important nuclear safety issues;
- making available annual reports by Member States on safety-relevant incidents.

Safety of the management of spent fuel and radioactive waste:

- carrying out consultations between review meetings held under the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management;
- developing strategies for the safe management of all types of spent fuel and radioactive waste. In this respect, urge each EU Member State to establish and keep updated a national programme for the safe management of radioactive waste and spent fuel that includes all radioactive waste under its jurisdiction and covers all stages of management. The national programmes should be made available to the interested parties (Council, Commission, and Member States);
- exchange of ideas on how to answer the challenges regarding qualified staff and knowledge resources during and beyond the decommissioning phase.

Financing of the decommissioning of nuclear installations and safe management of spent fuel and radioactive waste:

- review of the national systems which are different due to specific developments and the national situation;
- focus on methods and criteria to evaluate funding, placed in a national framework and including a comprehensive review of the appropriateness of the funding and transparency with regard to the amount of funding available, for safe decommissioning of nuclear facilities; safe and orderly management of spent fuel elements, and safe and orderly management and disposal of radioactive waste;
- analyse the legal framework of the financial provisions for decommissioning arrangements in each country;
- discuss, with the aim of a common understanding, the availability of adequate financial resources when needed for decommissioning including liquidity planning by operators and external review in place.

Taking into account existing international co-operation and the recommendations of the WPNS report, the Council supports the establishment of a High Level Group at EU-level aimed at furthering a common approach on the areas concerned. It invites the Commission to set up the High Level Group supported by the Commission's secretariat and services. The High Level Group should consist of delegations composed of senior representatives, assisted by alternates, as deemed appropriate by the Member States, from safety authorities, regulatory or administrative bodies of the Member States, having competence in the areas covered by the High Level Group, and a representative of the Commission. It should designate a chairperson from among its members and adopt its rules of procedure.

Lastly, the Council expects the High Level Group to prepare a report for the Council and the European Parliament on the outcome of the work undertaken, results achieved and future actions, at the latest two years after the High Level Group's establishment, after which a progress report should be submitted at least every three years.

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The Lisbon Treaty, which entered into force on 1 December 2009, amended the EU's two core treaties, the Treaty on European Union (TEU) and the Treaty establishing the European Community (EC Treaty). The latter was renamed the Treaty on the Functioning of the European Union (TFEU).

These changes had various consequences for many ongoing procedures. First of all, the articles of the TEU and of the old EC Treaty that constitute the legal basis of all the proposals founded on those Treaties were renumbered in accordance with the table of equivalences mentioned in Article 5 of the Lisbon Treaty.

In addition, some proposals underwent a change to their legal basis going beyond a mere change to their numbering, and this resulted in changes to the type of procedure.

The Lisbon Treaty also introduced new concepts of decision-making procedure. The old "codecision procedure" was extended to new areas and renamed the "ordinary legislative procedure". A new "consent procedure" replaced the old "assent procedure". New interinstitutional procedures were also set up for the adoption of certain non-legislative acts, for example the conclusion of some international agreements.

The ongoing proposals concerned by these changes were formally modified by the Commission in a Communication published on 2 December 2009 ([COM\(2009\)0665](#)).

In the case of the proposal for a Council Directive (Euratom) on the management of spent nuclear fuel and radioactive waste, the entry into force of the Lisbon Treaty had the following impacts:

- the proposal, which had previously fallen under the old consultation procedure (CNS), was classified as an interinstitutional non-legislative procedure (NLE).

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As announced in Official Journal C 225 of 30 July 2011, the Commission decided to withdraw this proposal, which had become obsolete.