

# Legal Aspects of Uranium in Environmental Compartments

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# Uranium fertiliser, sustainability, and the law

- It is pretty obvious that a creeping accumulation of uranium in soils and ground water caused by fertilisers is not in accordance with the idea of sustainability.
- Nevertheless, this is not a subject of European or national legislation.
- Neither fertiliser law nor soil protection law nor atomic energy and radiation law is applicable on the question of uranium and fertilisers. This is true for European environmental law as well as for national environmental law.

# Uranium and radiation protection law

- According to chapter three, the administrative authorities are entitled to take all “necessary measures” in cases of radiation.
- But, as the regulation (StrahlenschutzVO) points out, this means only measures in singular cases with a special risk potential for “single persons” – and not cases where everybody is concerned (like uranium in agriculture).
- Of course, Art. 13 of the EC directive of 1996 as well as the German law contains rules for the exposure of radioactivity to human beings. But are they enforced for farmers, crops, and drinking water – and are they strict enough?
- Furthermore, it’s not only radioactivity but also toxicity which is relevant with regard to uranium.

# Uranium and fertiliser law

- Unfortunately, soil protection law in most EC member states doesn't exist at all. So far, there is also no EC soil protection law.
- But the fertiliser law doesn't solve the uranium problem, either.
- The intention of fertiliser law is something different: to make European trade with fertilisers possible and to guarantee a stable food supply for all times.
- German soil protection law is only applicable for the deletion – but not for the prevention – of damage with regard to uranium.
- The fertiliser law and soil protection law rules of “good practice in agriculture” don't prove that these assumptions are wrong.

# Uranium and soil protection law

- Thus, soil protection law is only relevant for the clearance of damage that already exists.
- Unfortunately, the usual measures of clearance of damage refer to hot spots (industries, dumpsites), and not to the contamination of larger areas caused by uranium.
- Indeed, the administrative authorities are entitled to create new limit values of their own accord in such cases. But they have a wide discretion.
- It might be a pretty dangerous strategy to exclude a hazardous substance like uranium partially from legal steering.

# How to solve the uranium problem

- But it would be important to change this situation and to arrive at distinct rules – especially for the prevention and not only for the clearance of damage for soils, ground water, etc.
- And because of the fundamental right to life and health combined with the precautionary principle, whether or not to tackle the uranium question it is not merely a matter of discretion for the national and transnational legislators.
- Rules don't necessarily have to be commands and prohibitions concerning soils, ground water, fertilisers, or crops. Another way might be by means of just marking the uranium content of fertilisers for the farmers – or of adequate price signals, e.g. via ecological taxes on fertilisers.
- The only way to approach this dilemma can be by European and global rules for certain issues.
- This is also true because national or European instruments against uranium would always be in danger of being attacked before the WTO courts.

# Thank you for listening!



- Das Prinzip Nachhaltigkeit, C.H.Beck, 2005 (Paperback)
- Wird die Demokratie ungerecht?, C.H. Beck, August 2007 (Paperback)

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