Vienna Convention (1963) on Civil Liability for Nuclear Damage, Protocol: ratification or accession by Member States

2012/0262(NLE) - 26/09/2012

PURPOSE: to permit those Member States that are contracting Parties to the Vienna Convention on Civil Liability for Nuclear Damage of 21 May 1963 ("Vienna Convention") to ratify the Protocol amending that Convention in the interest of the European Union, or to accede to it.

PROPOSED ACT: Council Decision.

BACKGROUND: the Vienna Convention of 21 May 1963 was adopted in order to provide adequate and fair compensation to victims of damage caused by nuclear accidents. The following nine EU Member States have ratified the Convention or acceded to it: Bulgaria, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Slovakia, Poland and Romania. The United Kingdom and Spain signed but have not ratified the Convention (these two countries became Contracting Parties to the Paris Convention). The Convention has ceased to apply to Slovenia.

The **Protocol of 12 September 1997** amending the Vienna Convention in order to improve the system of compensation for nuclear damage. The Protocol is of particular importance in regard to the European Union's interests and those of its Member States because it improves compensation for damage caused by nuclear incidents. In particular, the 1997 Protocol:

- contains a new definition of nuclear damage (now also addressing the concept of environmental damage and preventive measures);
- extends the geographical scope of the Vienna Convention;
- extends the period during which claims may be brought for loss of life and personal injury; and
- substantially raises the minimum limits of compensation; as well as
- encompassing new provisions on jurisdiction which have implications in cases where the nuclear incident occurs during the transport of nuclear material to or from an installation situated in the territory of a State which is Party to the Vienna Convention.

The 1997 Protocol was signed by the Czech Republic, Hungary, Lithuania and Italy (the latter is a Contracting Party to the Paris Convention). The Protocol was ratified by Romania and Latvia (before their accession to the EU) and by Poland (after accession to the EU).

The Vienna Convention and its 1997 Protocol are not open to participation by regional organisations. As a result, the European Union is not in a position to sign or ratify the Protocol. Under these circumstances, it is justified, on an exceptional basis, that the Member States ratify or conclude the 1997 Protocol in the interest of the European Union.

IMPACT ASSESSMENT: the amendments to the Vienna Convention contain aspects that are beneficial to potential victims of a nuclear accident, i.e. an increase in the amounts of liability and a wider definition of nuclear damage. Therefore, in line with the conclusions of a study published in 2009 and a workshop held in June 2010 on nuclear liability[2], it is recognized, after consultation with the stakeholders, that any initiative in the field of nuclear liability must not hamper the accession by Member States to any international convention improving the situation of potential victims in the European Union.

LEGAL BASIS: Article 81(2) of the Treaty on the Functioning of the European Union (TFEU) in conjunction with Article 218(6)(a) thereof.

CONTENT: the Commission proposes that the Council **authorises the Member States which are Contracting Parties to the Vienna Convention** – i.e. Bulgaria, the Czech Republic, Estonia, Hungary, Lithuania, Poland (*ex post*) and Slovakia - to ratify or conclude, in the interest of the European Union, the Protocol amending the Convention, which was adopted on 12 September 1997 under the auspices of the International Atomic Energy Agency.

The **rules on recognition and enforcement of judgments** laid down in Article XII of the Vienna Convention, as amended by Article 14 of the 1997 Protocol, should not take precedence either over the relevant rules established in Regulation (EC) No 44/2001, as extended to Denmark, on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, or in the Lugano Convention on jurisdiction and the Recognition and Enforcement of Judgments in Civil and Commercial matters of 30 October 2007.

Therefore, when ratifying or acceding to the 1997 Protocol, the Member States must make the declaration with the aim of ensuring continued application of the relevant EU rules.

BUDGETARY IMPACT: the proposal has no impact on the Union’s budget.