International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea with the exception of aspects related to judicial cooperation in civil matters; Protocol of 2010: ratification and accession by Member States

2015/0135(NLE) - 08/06/2016 - Interim resolution adopted by Parliament

The European Parliament adopted by 640 votes to 8, with 33 abstentions, a resolution on the draft Council decision on the ratification and accession by Member States, in the interest of the European Union, to the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, with the exception of the aspects related to judicial cooperation in civil matters.

To recall, the aim of the 2010 HNS Convention is to ensure accountability and the payment of adequate, prompt and effective compensation for loss or damage to persons, property and the environment arising from the carriage of hazardous and noxious substances by sea through the specialised International HNS compensation Fund.

Based on the interim report presented by the Committee on Legal Affairs, Parliament called on the Council and the Commission to take into consideration the following recommendations:

- guarantee **respect for the principle of conferral of Union competences** under Article 5(1) TEU and the settled case law of the Court of Justice which provides that ‘the choice of legal basis for a Community measure must rest on objective factors amenable to judicial review, including in particular the aim and the content of the measure’;
- embrace the opinion in letter form of 19 February 2016 adopted by the Committee on Legal Affairs according to which **Articles 100(2), 192(1) and 218(6)(a)(v) TFEU** constitute the appropriate legal bases for the proposal;
- ensure that the uniformity, integrity and effectiveness of common Union rules will not be adversely affected by the international commitments undertaken by the ratification of or accession to the 2010 HNS Convention;
- pay increased attention in this regard to the **overlap** between the Environmental Liability Directive and the 2010 HNS Convention in so far as environmental damage caused to the territory and marine waters under the jurisdiction of a state party, damage by contamination of the environment caused in the EEZ or equivalent area (up to 200 nautical miles from baselines) of a state party and preventive measures to prevent or minimise such damage (preventive measures, primary remediation, and complementary remediation) are concerned;
- reduce the risk of creating and consolidating a competitive disadvantage for the states that are ready to accede to the 2010 HNS Convention;
- ensure that the possibility for a **conflict** between the Environmental Liability Directive and the 2010 HNS Convention is minimised;
- ensure the **removal of the permanent co-existence of two maritime liability regimes** - a Union-based one and an international one;

- ensure that a clear obligation is imposed on Member States to take all necessary steps to achieve a concrete result, namely to ratify or accede to the 2010 HNS Convention within a reasonable timeframe, which should be no longer than **two years** from the date of entry into force of the Council decision.

Parliament concluded that this resolution would be a further possibility for the Council and the Commission to address the recommendations set out above.