Liability, compensation and financial security for offshore and gas operations

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The European Parliament adopted by 506 votes to 106, with 15 abstentions, a resolution on liability, compensation and financial security for offshore oil and gas operations, following the Commission report on this issue.

Members recalled that offshore oil and gas operations are progressively taking place in increasingly extreme environments and could potentially have **major and devastating consequences** for the environment and economy of the sea and coastal areas. A number of studies, including one by the European Parliament Research Service and one by the Joint Research Centre, estimate in the thousands (more precisely, **9 700 between 1990 and 2007**), the number of incidents in the EU oil and gas sector.

Bringing up to date and extending the system of compensation and financial security: whilst welcoming the adoption of the Offshore Safety Directive 2013/30/EU (OSD), which complements the Environmental Liability Directive 2004/35/EC (ELD), Parliament called on Member States to **guarantee the independence of the competent authorities**, and called on the Commission to assess the appropriateness of introducing **further harmonised rules** on liability, compensation and financial security with a view to preventing any further accidents with cross-border implications.

Parliament stressed that the effective application of the 'polluter pays' principle to offshore oil and gas operations should extend not only to the costs of preventing and remedying environmental damage, but also to the **costs of remedying traditional damage claims**, in line with the precautionary principle and the principle of sustainable development.

Liability to third parties: Members regretted that the OSD does not deal with liability for civil damage to either natural or legal persons, be it bodily injury, property damage or economic loss, whether direct or indirect.

Stressing that the way civil liability is handled **varies considerably** from one Member State to another and that there is no regime in the vast majority of Member States for compensation payments, Parliament stated that a **European framework** is needed, which should cover not only bodily injury and property damage but also pure economic loss, and should ensure **effective compensation mechanisms for victims and for sectors that may be severely affected** (e.g. fisheries and coastal tourism). It called in this respect on the Commission to assess whether a horizontal European framework of collective redress would be a possible solution.

Compensatory regimes: compensatory regimes must be able to address transboundary claims effectively, **rapidly, within a reasonable timeframe** and **without discrimination** between claimants from different EEA countries.

Parliament recommended:

- that they cover both primary and secondary damage caused in all the affected areas;
- that **strict civil liability rules** should be established for offshore accidents in order to facilitate access to justice for victims (both legal and natural persons) of offshore accidents;
- that **financial liability caps should be avoided**.

The Commission was asked to revisit the need to introduce common EU standards for remedial and compensatory claim systems.

Financial security instruments: Members regretted the **over-reliance on insurance** to cover the damage caused by the most costly offshore accidents. They called for:

- Member States to **develop financial security instruments** concerning compensation for traditional damage claims resulting from incidents linked to general offshore oil and gas activities or to offshore oil and gas transport, including in cases of insolvency;
- the assessment of the possibility of a **fund** to be established based on fees paid by the offshore industry.

Criminal liability: Parliament suggested analysing to what extent the introduction of **criminal liability** at EU level will add a layer of deterrence beyond civil penalties. While welcoming the EU's introduction of the Environmental Crime Directive 2008/99/EC (ECD), it called for the harmonisation of the **definitions of the criminal offences and of minimum sanctions** when it comes to offshore safety breaches.