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

2015/0136(NLE) - 27/03/2017 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Legal Affairs adopted the report by Pavel SVOBODA (EPP, CZ) 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 regard to the aspects related to judicial cooperation in civil matters.

The committee recommended the European Parliament to **give its consent** to 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 (1996 HNS Convention), with regard to the aspects related to judicial cooperation in civil matters.

In a short justification accompanying the draft recommendation, it was recalled that in view of the substantial discrepancies between the draft Council decision and the original proposal, the European Parliament adopted, on 8 June 2016, an **interim resolution** with recommendations for modification of the said draft Council Decision. The aim being to work towards a positive outcome with the Council and the Commission that would ensure the uniformity, integrity and effectiveness of Union law as well as the fundamental principle of conferral of EU competences.

The **main discrepancies** between the draft Council decision and the Commission proposal concerned in particular:

- the extent of exclusive Union competence pursuant to Article 3(2) TFEU;
- the extent of overlap between Chapter IV of 2010 HNS Convention and the recast Brussels I Regulation;
- the necessity for an obligation on Member States to ratify the Convention within a fixed-timeframe.

The Commission welcomed the adoption by Parliament of this interim resolution and confirmed that it would have been ready to accept a compromise solution on the legal basis of the proposal and an extended reasonable timeframe for ratification of the 2010 HNS Convention. The Council took note of Parliament’s resolution but found that there was **no scope to reopen the discussion** on the text of the draft Council Decision, since it fell under the consent and not the co-decision procedure.

Having regard to the cross-boundary impact accidents involving HNS cargo are likely to have, the rapporteur considered that it is in the interest of the Union to have a homogenous liability regime applicable to environmental damage arising from the carriage of HNS at sea.