Public access to environmental information (repeal. Directive 90/313/EEC)

2000/0169(COD) - 28/01/2002 - Council position

On 14 March 2001, the European Parliament adopted all 30 amendments that had been tabled. In general, the Commission accepted those amendments seeking to make the proposal more consistent with the Aarhus Convention. Other amendments which usefully clarified some provisions of the proposal were accepted in principle or in part. However, those amendments which substantially deviated from the Aarhus acquis or which fell outside the scope of the proposal were not accepted. The Council's common position, whilst maintaining the approach proposed by the Commission, modifies the provisions of the proposal in order to clarify or to strengthen them in order to make them more practicable. Many modifications aim at re-instating the original text of the Aarhus Convention. The common position widens the definition of "information relating to the environment" contained in Directive 90/313/EEC so as to cover not only written, visual, aural or data-base information, but also electronic information. The definition not only covers the elements of the environment and the activities and measures affecting or protecting them, but also genetically modified organisms, the interaction among the above elements, economic analyses and the state of human health, conditions of life, cultural sites and built structures affected by the environment. Where the former directive only addressed public administrations with the responsibilities relating to the environment and private natural or legal persons having public responsibilities in relation to the environment under the control of administrations, the common position also covers all governments and public administrations as well as private persons independently performing public administrative functions in relation to the environment. Regarding the "passive right of information", the common position shortens from two months to one month the period within which information in the format asked by the applicant, unless it is already publicly available and unless it is reasonable to provide it in another form, and requests defining practical arrangements for making the information available. If the requested information is held by another authority, the request has to be transferred to that authority or the applicant has to be informed of the identity of the authority that is believed to hold the information. A refusal must be notifed in writing if the request was in writing or if the applicant requested a written reply. If a request is formulated in too general a manner, the public authorities will within the one-month period ask the applicant to specify his request and assist in doing so. As under the 1990 Directive, charges must be publicised and be of a reasonable amount. The common position adds that they may not cover the consultation of publication registers nor the consultation in situ of the information. The administrative or judicial review of Directive 90/313/EEC is replaced by an administrative and judicial review in two stages. Regarding the "active right of information", Directive 90 /313/EEC only required providing the public with general information on the state of the environment by such means as the periodic publication of descriptive reports. The common position aims atdisseminating, in addition, legal texts, policies, progress reports, data from monitoring, information about preventing or mitigating harm arising from imminent threats to human health or the environment etc, through several means, but in particular, through telecommunication technology. In a public statement for the minutes, the Council agrees to undertake steps in order to apply to the Community's Institutions the same rules as those laid down in the "information" pillar of the Aarhus Convention and calls upon the Commission to present a proposal for that pillar, taking into consideration the more extensive requirements of the present Directive. This should contribute to enabling the Community to ratify the Aarhus Convention.