European Maritime Safety Agency

2000/0327(COD) - 07/03/2002 - Council position

The Council, unanimously, has brought an important number of amendments to the initial proposal of the Commission. Many of them however mainly aim at clarifying the text. The objectives of the initial Commission's proposal have largely been kept intact or even been strengthened. The Common position also takes largely into account the views of the European Parliament in first reading. The Council in its common position have accepted the following amendments: - the addition of a new recital in relation to the transparency and control of the Community budget allocated to the Agency; - the possibility for the Agency to act with regard to assistance to accession countries; without an explicit request by the Commission; - the obligation for the Agency to communicate the findings of the visits to Member States, not only to the Commission but also to the Member State concerned; - the requirement for the Members of the Administrative Board to be appointed on the basis of their degree of experience and expertise in the fields dealt with by the Agency; - the appointment/dismissal of the Executive Director to be decided by the Administrative Board, in relation to which the Commission may propose a candidate or candidates; - a specific article regarding the combat against fraud. The Council also partially accepted the following amendments: - the provision concerning the composition of the Administrative Board of the Agency, in which the Parliament decided not to be represented. The new text provides that the Administrative Board will consist of one representative of each Member State, four representatives of the Commission and four professionals nominated by the Commission. Furthermore, the Common position provides that in order to exclude cases of conflict of interest, these professionals should not represent specific organisations and that they will not have the right to vote; - most of the provisions concerning the Agency budget; - the provisions regarding the evaluation of the Agency, within five years of its operation. In the following three cases the Council accepted unanimously the Parliament amendments which were not included in the amended proposal: - the Commission's role in the adoption of the work programme of the Agency by its Administrative Board. Almost in line with the Parliament, the Council has agreed that the Administrative Board will proceed taking the opinion of the Commission into account; - the obligation for the Executive Director to respond to requests for assistance from a Member State; - the process of preparation of the work programme. The Council has specified that the Executive Director will submit the work programme to the Administrative Board after consultation with the Commission. The Council rejected amendments which concern the name of the Agency and the terms of Office of the Chairman and Vice-Chairman of the Administrative Board. New provisions introduced by the Council concern : - the tasks of the Agency : the common position improves the text presenting clearly the Agency tasks, under seven sections:assistance to the Commission, co-operation with Member States, facilitation of the co-operation between Member States and the Commission, elaboration and treatment of the relevant data bases on maritime safety and pollution prevention and assistance to accession countries; - visits to Member States : the Council has deleted from the text the reference to the specific tasks of the Agency officials, during their visits to Member States and has included a provision according to which these visits will be carried out in accordance with the policy defined by the Administrative Board; - transparency and protection of information : the modified title now makes reference to the new Regulations EC/1049/2001 and EC/45 /2001, which relate to transparency and the protection of information on individuals; - legal status, regional centres : the Council has deleted the reference to the decision regarding the location for the Agency; - staff : the text contains a specific reference to officials seconded to the Agency by Member States; - languages : the Council has established that the official language regime of the Community (Regulation 1/58/EC) shall apply to the Agency; - powers of the Administrative Board : the Council has included a number of modifications, the most important of which are: the addition of a provision whereby the Administrative Board examine the requests of assistance from Member States and the establishment of a special procedure for the adoption of the work programme of the Agency in case of Commission disagreement with this programme; - procedures for the meetings : the Council has specified that the Administrative Board may decide to examine certain questions without the presence of the four professionals, when there is matter of confidentiality or conflict of interest; - voting : the new text has

been clarified and improved and specifies that the Executive Director will not have the right to vote in the meetings of the Administrative Board; - verification of lawfulness : the article was deleted by the Council on the grounds of transparency, with the reasoning that the Agency will not take any binding legal decisions affecting third parties. For all cases where third parties may be affected by administrative decisions of the Agency, they will have the possibility to challenge such decisions before the competent Community bodies.