Maritime safety: ship inspections and survey organisations, package Erika I

2000/0066(COD) - 26/02/2001 - Council position

The Council agreed with the general thrust of the Commission proposal for the strengthening and harmonisation of the Community regime concerning recognised organisations. The Council sought in particular to maintain and strengthen this thrust of the proposal while adhering to the scope of the directive and taking into account the principle of subsidiarity, to facilitate its application in practice, to respect the international obligations of the Community and to enhance transparency. The Council made the following adjustments to the Commission proposal, which essentially concern the provisions on financial liability: - the Council agreed with the Commission proposal that for gross negligence and wilful act or omission the liability of the recognised organisations should be unlimited. However, the Council strengthened the liability regime concerning negligent or reckless act or omission. The Council agreed that in such cases of less severe negligence the Member States could limit the liability of the organisations. Nevertheless, in the spirit of making the parties involved in maritime transport better accountable, the Council found appropriate to establish at Community level a minimum level for such a possible ceiling, i. e. EUR 5 million for death or personal injury and EUR 2.5 million for damaged property; - concerning the liability for special, indirect or consequential losses or damages and the defences for the personnel of the recognised organisations, the Council felt that it would be premature to legislate in such detail at Community level. It is considered preferable to leave these existing national rules on liability, subject however to possible future proposals by the Commission in the framework of the overall evaluation of the functioning of the liability regime; - recognising that this Directive would for the first time introduce Community rules for the liability of recognised organisationd, the common position includes two elements for a possible revision of these rules, which build upon the amendments by the European Parliament: - the Committee procedure may be used to increase the minimum limits of financial liability, if said amounts were to be found too low; - the Commission will monitor the functioning of the liability regime, submit a report to the European Parliament and the Council and propose amendments where necessary. The Council also made certain technical amendments aimed at increasing the technical and legal clarity of the text, facilitating the application, improving transparency and taking account of the principle of subsidiarity. Furthermore, the Council departed from the opinion of the Parliament on certain amendments, thereby following the Commission. The reasons therefore were reasons of preserving legal clarity and, in the substance: - reasons of not widening the scope of the Directive; - reasons of avoiding a weakenig of the Directive; - reasons for respecting the Community's commitments within the framework international trade fora.