Environment: public participation in plans and programmes

2000/0331(COD) - 25/04/2002 - Council position

The Council's common position seeks to clarify, and where possible make more practicable the provisions proposed by the Commission. Indeed many of the Council's modifications aim to re-instate the original text of the Arhus Convention, while leaving out its non-compulsory parts. Amendments proposed by the European Parliament and accepted by the Council include, in summary: - that the public be given relevant information by using electronic media. - that the public must receive, inter alia, information about the right to participate in the decision making process. - that the public must be entitled to express comments without prejudice to any opinion. The formulation accepted by the Council is based on the Arhus Convention. - an obligation on the competent authorities to make reasonable efforts to reply to the public individually or collectively. Indeed the Council has added a new Article obliging competent authorities to make reasonable efforts to inform the public about the decisions taken and the reasons and considerations therefore. - an obligation on Member States to issue practical directions for judicial review and to provide the public with information on administrative and judicial review procedures. Parliamentary amendments not accepted by the Council include, inter alia: - extending public participation to Community legislation and plans and programmes that do not directly concern the environment but which have a significant effect on the environment, health and well-being. - encouraging public participation for the preparation of executive regulations and general binding rules, and, implicitly to encourage parties to promote public participation for the preparation of policies relating to the environment. - that the Directive include "policies" set up under Community legislation. This has been rejected on the grounds that the formulation of policies is a matter for representative bodies. - that the public participate in "the different stages" of decision-making. The Council has rejected this amendment on the grounds that such a measure would make decision-making overly lengthy and burdensome. - that the public should be educated about decision-making has similarly been rejected since the Council believes that this Directive is not the right place for educational actions. - amendments aimed at modifying the provisions on national defence. - that Member States provide information in the language of those requesting it. Translation is a matter for the Member State under the subsidiarity principle. The Council has, however, included in the text the term "in an appropriate manner". - that the "reconsideration of permits" be allowed. The Council reasons that reconsideration is normally an internal administrative act without consequences for the permit. New Articles inserted by the Council include, in summary,: - a change in the title to clarify that Directives 85 /337/EEC and 96/61/EC are amended with regard to public participation and access to justice. - a new article describing the overall objectives of the Directive to allow for increased clarity. - a modification to the proposed provisions of Directive 96/61/EC (IPPC) concerning public participation in the updating of a permit in cases where the emission limit values need to be significantly changed. While the Commission proposal provides for public participation in the decision-making procedure concerning the "issuing or the updating of a permit or permit conditions", the Council has decided to restrict this provision. The Common Position provides that the public concerned shall participate in the procedure for issuing a permit for new installations, only in cases where there is evidence of substantial change in the operation of an installation. The Council reasons that there need not be public participation for minor increases in emission limit values - nor for tightening the rules on the operations of an installation. The Council notes that the Arhus Convention only requires updates being included within the scope of the provisions in cases "where appropriate".