

# **Environment: liability with regard to the prevention and remedying of environmental damage**

2002/0021(COD) - 02/12/2003

The committee adopted the report by Toine MANDERS (ELDR, NL) amending the Council's common position under the 2nd reading of the codecision procedure: - to prevent distortion of competition between the Member States, there should be uniform liability rules throughout the EU. Whereas the common position stipulated that national regulations on cost allocation should apply in cases of "multiple party causation" (i.e. where environmental damage is caused by more than one operator), the committee said that in such cases the competent authority in the Member State should be obliged to apportion the share of the costs to be borne by each operator "on a fair and reasonable basis"; - cost recovery proceedings should be initiated within 5 years rather than 3 years as proposed; - public authorities should be obliged, and not simply allowed, to take preventive measures if the operator fails to do so where there is an imminent threat of serious environmental damage; - the functioning of the directive should be evaluated after 6 years (rather than 10 as suggested by the Council), so that the legislation can be further harmonised on the basis of best practice. Proposals for amendment should include a clear European standard for definitions, clean-up standards and calculation procedures and a feasibility study on the introduction of an "Environmental Risk Assessment Management System" (ERAM) or other similar systems; - the provisions in the Annex on "compensatory remediation" and compensation for the temporary loss of natural resources should be deleted on the grounds that they would create a kind of system of penalties or criminal damages. This would raise serious problems of monetary valuation, which would make it much harder in practice to apply the new provisions, and also of insurability; - firms should not be required to bear the cost of environmental damage where the damage is caused by emissions or activities that were explicitly authorised or where the potential for damage could not have been known when the emission or activity took place.