Protection of consumers: liability for defective products (amend. Directive 85/374/EEC)

1997/0244(COD) - 05/11/1998 - Text adopted by Parliament, 1st reading/single reading

In adopting the report by Mrs ROTH-BEHRENDT (PSE, D), the European Parliament expressed itself in favour of extending the scope of the Directive on liability for defective products to primary agricultural products (i.e. products of the soil, of stockfarming and of fisheries) and game. The principle posited is that the producer is responsible for damage caused by a defect in his products. 'Producer' is defined as the manufacturer of a finished product, the producer of any raw material or the manufacturer of a component part and any person who, by putting his name, trade mark or other distinguishing feature on the product, presents himself as its producer (in the field of agriculture, this includes producers of agricultural inputs such as seeds, plant-protection and fertilising agents, animal feed, etc). The raw materials of agricultural and forestry products also include seeds or other genetic material used in their production and fertilising, plant-protection and nutrition agents used in the production of agricultural and forestry products. 'Damage' means damage caused by death or by physical and/or mental injuries. Parliament considered that if damage caused by a hidden defect became apparent only after a delay of more than ten years, the rights vested in the victim should lapse only after 20 years from the date on which the producer placed the product in circulation. Parliament adopted an amendment concerning the amount of damages payable in the event of death or physical injury caused by identical goods containing the same defect. It called for the limit on the total liability of the producer to be not less than ECU 140 m, rather than ECU 70 m. However, Parliament did not accept the rapporteur's proposal that 'hidden defect' should mean a defect which it was not objectively possible to detect when the product was put into circulation and which, because of its particular nature, could only be identified subsequently. Nor did it endorse the rapporteur's proposal that producers should not be allowed to claim exemption from liability on the grounds that it was not possible to discover the existence of the defect because of the state of scientific and technical knowledge when the product was put into circulation (development risk). Parliament called on the Commission: - to submit to Parliament and the Council every five years a report on the implementation of the Directive, accompanied by appropriate proposals where necessary; - to report to the Council and Parliament by 01/01/2000 on the implementation of the Directive with regard to agricultural raw materials and game products and its impact on agriculture.