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

2002/0021(COD) - 17/12/2003 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a resolution based on the draft by Toine MANDERS (ELDR, NL). The majority of the amendments adopted within the Legal Affairs Committee on 02/12/03 (please see the preceding document) were not adopted. The Parliament favoured the Council common position. In practice this means that a further tightening up of the rules governing environmental liability throughout the EU, as proposed by the Legal Affairs Committee, was not supported by the full House. However, Parliament did back an amendment that calls on the Commission to report to the European Parliament and the Council on measures taken by Member States aimed at encouraging the development of financial security instruments and markets, in order to enable operators to use financial guarantees to cover their responsibilities under the Directive. If, however, these instruments are not established, Parliament urges the Commission to submit proposals on a harmonised compulsory financial guarantee for water and soil damage. Nonetheless, Member States will be free to decide not to apply this provision to low risk activities and may consider establishing thresholds in relation to any insurance requirements under these provisions. This goes against the Council common position, which is less inclined towards harmonisation at this level. Parliament also adopted an amendment, which will not allow operators to limit their liability in accordance with national legislation on the Convention on Limitation of Liability for Maritime Claims and the Strasbourg Convention on Limitation of Liability in Inland Navigation. There is a general provision in both of these Conventions which could mean that environmental damage caused by a navigation accident could be effectively excluded from the operation of the directive, which goes against the grain of the directive, as it should be used as an incentive to up-grade national legislation in these fields instead. Lastly, when drafting a report on the proposal modifications, the Commission is called upon to consider the relationship between shipowners' liability and oil receivers' contributions in order to shift responsibility to shipowners. Thus the allocation of financial compensation with regard to liability should be more balanced.