Basic information

2015/2352(INI) INI - Own-initiative procedure	Procedure completed
Liability, compensation and financial security for offshore and gas operations **Subject** 3.60.02 Oil industry, motor fuels 3.60.03 Gas, electricity, natural gas, biogas 3.70.16 Law and environment, liability	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
JURI Legal Affairs	CHRYSOGONOS Kostas (GUE/NGL)	28/01/2016
	Shadow rapporteur RADEV Emil (PPE) GUTELAND Jytte (S&D) DZHAMBAZKI Angel (ECR) USPASKICH Viktor (ALDE) ANDERSSON Max (Verts/ALE)	

Committee for opinion	Rapporteur for opinion	Appointed
ENVI Environment, Public Health and Food Safety	ANDROULAKIS Nikos (S&D)	15/12/2015
ITRE Industry, Research and Energy		

European Commission

Commission DG	Commissioner
Energy	ŠEFČOVIČ Maroš

Key events

Date	Event	Reference	Summary
		COM(2015)0422	

14/09/2015	Non-legislative basic document published		
21/01/2016	Committee referral announced in Parliament		
13/10/2016	Vote in committee		
19/10/2016	Committee report tabled for plenary	A8-0308/2016	Summary
30/11/2016	Debate in Parliament		
01/12/2016	Decision by Parliament	T8-0478/2016	Summary
01/12/2016	Results of vote in Parliament		
01/12/2016	End of procedure in Parliament		

Technical information

Procedure reference	2015/2352(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	JURI/8/05388

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE582.416	26/05/2016	
Amendments tabled in committee		PE584.225	22/06/2016	
Committee opinion	ENVI	PE575.123	12/07/2016	
Committee report tabled for plenary, single reading		A8-0308/2016	19/10/2016	Summary
Text adopted by Parliament, single reading		T8-0478/2016	01/12/2016	Summary

European Commission

Document type	Reference	Date	Summary
Follow-up document	COM(2015)0422	14/09/2015	Summary
Commission response to text adopted in plenary	SP(2017)128	27/03/2017	

Liability, compensation and financial security for offshore and gas operations

2015/2352(INI) - 14/09/2015

PURPOSE: to present an overview how liability for damage from offshore accidents in oil and gas prospection, exploration and production is addressed in the EU.

CONTENT: the Commission presents a report on liability, compensation and financial security for offshore oil and gas operations pursuant to Directive 2013/30/EU on the safety of offshore oil and gas operations (the Offshore Safety Directive or OSD). The OSD defines the elements of such a comprehensive EU-wide framework for preventing major accidents and limiting their consequences.

The report analyses how Europe deals with a series of societal dilemmas arising in relation to offshore oil and gas:

- who is liable for what kinds of damage and loss to whom;
- how to ensure that liable parties have sufficient financial capacity to provide rightful compensation for the damage and loss they are liable for;
- how compensation should be disbursed so that it reaches legitimate claimants quickly and the risks of cascading impacts to the broader economy are minimised.

Liability regimes: whilst there are national differences in the way liability regimes govern access to justice for victims of offshore accidents, the Commission stated that no clear case can be made at the present time that any of the current approaches to civil liability in the Focal States is less effective in reinforcing the OSD's aim of ensuring the safety of offshore oil and gas operations across the EU.

The report highlighted the following aspects:

- **the transposition of the OSD** in national law will prompt Member States to explore in which ways their liability rules will best protect general public interest in line with the compensation requirements of the OSD;
- in certain cases, the Brussels I and Rome II Regulations prevent differences in national regimes from disadvantaging claimants from other EU Member States;
- in addition, **some Member States may be reappraising their existing liability regimes** for offshore accidents in tandem with other changes introduced by the OSD.

The effects of the OSD, as implemented by Member States, will show in the coming years whether it is appropriate to bring certain conduct leading to major offshore accidents within the **scope** of criminal law for further re-enforcing offshore safety. When appropriate, the Commission will put forward a legislative proposal.

Broadening liability provisions through EU legislation does not appear appropriate at this juncture according to the Commission. However, the Commission will be able to conclude on the need for further steps by the time of the OSD's first implementation report.

Notably, the Commission can:

- continue to advance liability issues through structured EUOAG discussions;
- focus on liability-related provisions in the OSD conformity checks;
- use EUOAG meetings for systematic data gathering covering all liability-related aspects of newly transposed laws.

Financial security and compensation mechanisms: the report noted that there is broad variety of financial security products available to hedge oil and gas companies' operating risk. These range from self-insurance options, to third-party insurance, to mutual schemes such as the Offshore Pollution *Liability Association Ltd* (OPOL), to alternative risk transfer mechanisms and others.

Whilst not all of these products may currently be in widespread use by the offshore industry, **the marketplace for financial security instruments appears to have the depth and innovation necessary** to cater to all oil and gas companies operating under the current EEA liability obligations.

There is currently a lack of uptake of financial security instruments to fully cover the more infrequent and costly offshore accidents in the EEA. In addition, **there are just two compensation mechanisms** currently in place specifically for oil and gas accidents in the Focal States.

However, **provisions in the OSD should lead to significant improvements in both of these areas.** Such anticipated changes should be seen following the July 2015 implementation deadline for the OSD and the implementation of the Offshore Protocol of the Barcelona Convention.

Should the new national laws not improve the availability of financial security instruments and put in place procedures for ensuring prompt and adequate handling of compensation claims, **the Commission will reassess whether and what further EU action** could achieve these objectives.

The Commission **encourages Member States to share their experiences** on financial security instruments, liability, compensation and criminal penalties, first of all, in the framework of the European Offshore Authorities Group.

After the implementation of the Directive and based on experiences of Member States working with the new legal basis the Commission may update its assessment as provided by this report.

Liability, compensation and financial security for offshore and gas operations

2015/2352(INI) - 19/10/2016 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted an own-initiative report by Kostas CHRYSOGONOS (GUE/NGL, EL) on liability, compensation and financial security for offshore oil and gas operations, following the Commission report on this issue.

Members recalled that offshore oil and gas operations are progressively taking place in increasingly extreme environments and could potentially have **major and devastating consequences** for the environment and economy of the sea and coastal areas. A number of studies, including one by the European Parliament Research Service and one by the Joint Research Centre, estimate in the thousands (more precisely, **9 700 between 1990 and 2007**), the number of incidents in the EU oil and gas sector.

Bringing up to date and extending the system of compensation and financial security: whilst welcoming the adoption of the Offshore Safety Directive 2013/30/EU (OSD), which complements the Environmental Liability Directive 2004/35/EC (ELD), the report called on Member States to **guarantee the independence of the competent authorities**, and called on the Commission to assess the appropriateness of introducing **further harmonised rules** on liability, compensation and financial security with a view to preventing any further accidents with cross-border implications.

Members stressed that the effective application of the 'polluter pays' principle to offshore oil and gas operations should extend not only to the costs of preventing and remedying environmental damage, but also to the **costs of remedying traditional damage claims**, in line with the precautionary principle and the principle of sustainable development.

Liability to third parties: Members regretted that the OSD does not deal with liability for civil damage to either natural or legal persons, be it bodily injury, property damage or economic loss, whether direct or indirect.

Stressing that the way civil liability is handled varies considerably from one Member State to another, Members believed that an **European framework** is needed, which should be based on the legislation of the most advanced Member States, should cover not only bodily injury and property damage but also pure economic loss, and should ensure **effective compensation mechanisms for victims and for sectors that may be severely affected** (e.g. fisheries and coastal tourism). They called in this respect on the Commission to assess whether a horizontal European framework of collective redress would be a possible solution.

Compensatory regimes: compensatory regimes must be able to address transboundary claims effectively, **rapidly, within a reasonable timeframe** and **without discrimination** between claimants from different EEA countries.

The report recommended that they cover both primary and secondary damage caused in all the affected areas. It considered that **strict civil liability rules** should be established for offshore accidents in order to facilitate access to justice for victims (both legal and natural persons) of offshore accidents, and that **financial liability caps should be avoided**.

The Commission was asked to revisit the need to introduce common EU standards for remedial and compensatory claim systems.

Members regretted the **over-reliance on insurance** and the lack of uptake of financial security instruments in the EU to cover the damage caused by the most costly offshore accidents. They asked the Commission to encourage Member States to **develop financial security instruments** concerning compensation for traditional damage claims resulting from incidents linked to general offshore oil and gas activities or to offshore oil and gas transport, including in cases of insolvency;

They also considered that in that context, the establishment of **a fund** based on fees paid by the offshore industry could also be assessed.

Lastly, the report noted it necessary to analyse to what extent the introduction of **criminal liability** at EU level will add a layer of deterrence beyond civil penalties. It also called for harmonisation of the **definitions of the criminal offences and of minimum sanctions** when it comes to offshore safety breaches.

Liability, compensation and financial security for offshore and gas operations

2015/2352(INI) - 01/12/2016 - Text adopted by Parliament, single reading

The European Parliament adopted by 506 votes to 106, with 15 abstentions, a resolution on liability, compensation and financial security for offshore oil and gas operations, following the Commission report on this issue.

Members recalled that offshore oil and gas operations are progressively taking place in increasingly extreme environments and could potentially have **major and devastating consequences** for the environment and economy of the sea and coastal areas. A number of studies, including one by the European Parliament Research Service and one by the Joint Research Centre, estimate in the thousands (more precisely, **9 700 between 1990 and 2007**), the number of incidents in the EU oil and gas sector.

Bringing up to date and extending the system of compensation and financial security: whilst welcoming the adoption of the Offshore Safety Directive 2013/30/EU (OSD), which complements the Environmental Liability Directive 2004/35/EC (ELD), Parliament called on Member States to **guarantee the independence of the competent authorities**, and called on the Commission to assess the appropriateness of introducing **further harmonised rules** on liability, compensation and financial security with a view to preventing any further accidents with cross-border implications.

Parliament stressed that the effective application of the 'polluter pays' principle to offshore oil and gas operations should extend not only to the costs of preventing and remedying environmental damage, but also to the **costs of remedying traditional damage claims**, in line with the precautionary principle and the principle of sustainable development.

Liability to third parties: Members regretted that the OSD does not deal with liability for civil damage to either natural or legal persons, be it bodily injury, property damage or economic loss, whether direct or indirect.

Stressing that the way civil liability is handled **varies considerably** from one Member State to another and that there is no regime in the vast majority of Member States for compensation payments, Parliament stated that a **European framework** is needed, which should cover not only bodily injury and property damage but also pure economic loss, and should ensure **effective compensation mechanisms for victims and for sectors that may be severely affected** (e.g. fisheries and coastal tourism). It called in this respect on the Commission to assess whether a horizontal European framework of collective redress would be a possible solution.

Compensatory regimes: compensatory regimes must be able to address transboundary claims effectively, **rapidly, within a reasonable timeframe** and **without discrimination** between claimants from different EEA countries.

Parliament recommended:

- that they cover both primary and secondary damage caused in all the affected areas;
- that **strict civil liability rules** should be established for offshore accidents in order to facilitate access to justice for victims (both legal and natural persons) of offshore accidents;
- that **financial liability caps should be avoided**.

The Commission was asked to revisit the need to introduce common EU standards for remedial and compensatory claim systems.

Financial security instruments: Members regretted the **over-reliance on insurance** to cover the damage caused by the most costly offshore accidents. They called for:

- Member States to **develop financial security instruments** concerning compensation for traditional damage claims resulting from incidents linked to general offshore oil and gas activities or to offshore oil and gas transport, including in cases of insolvency;
- the assessment of the possibility of a **fund** to be established based on fees paid by the offshore industry.

Criminal liability: Parliament suggested analysing to what extent the introduction of **criminal liability** at EU level will add a layer of deterrence beyond civil penalties. While welcoming the EU's introduction of the Environmental Crime Directive 2008/99/EC (ECD), it called for the harmonisation of the **definitions of the criminal offences and of minimum sanctions** when it comes to offshore safety breaches.