

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

2002/0021(COD) - 14/05/2003 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Toine MANDERS (ELDR, NL) and made several amendments to the Commission's proposal on environmental liability. (Please see the summary dated 29/04/03.) In addition, it made the following principal changes: - the recitals emphasised that there are currently some 300, 000 sites in the Community, which have been identified as definitely or potentially contaminated; - the importance of local conditions must be stressed as far as remedying the damage is concerned. Parliament inserted definitions for "favourable" conservation status of a natural habitat and "favourable" conservation status of a species. Member States must establish and monitor the conservation status of the habitats and species listed in Annexes I, II, and IV of Directive 92/43/EEC; - the definition of "operator" is expanded to include a person who is effectively controlling the operator; - the polluter pays principle requires that a clear causal link is proven between the environmental damage or imminent threat of environmental damage and the act or failure to act of the operator from whom costs are to be recovered. The competent authority is empowered to recover certain costs from the operator where it can prove a clear causal link between the operator's acts or failure to act and the environmental damage or the imminent threat of it; - good agricultural and forestry practice is listed among the exceptions; - five years after the entry into force of the directive, the latter will apply to all environmental damage caused or likely to be caused by the operation of any occupational activity, not just those listed in Annex I; - the Commission must provide a gap analysis after five years, of the relevant conventions and Community legislation. It must then develop proposals to apply the directive to environmental damage caused by marine transport and nuclear pollution to the extent that the relevant conventions do not impose liability for that damage; - the competent authority may instruct operators to take certain actions where there is a threat of environmental damage; - operators have the right of appeal against decisions of the competent authority; - besides the obligation for operators to have insurance cover, Parliament inserted a clause stating that Member States may decide not to apply this provision to low risk activities, and may consider the establishment of thresholds in relation to any insurance requirements. The Commission must make proposals within six years on the thresholds to be set for the minimum financial required according to the different activities covered by Annex I; - the Commission must present proposals on liability for damage caused by GMOs.