

# EUROPEAN PARLIAMENT

1999



2004

---

*Committee on Legal Affairs and the Internal Market*

PROVISIONAL  
2002/0021(COD)

29 October 2002

**\*\*\*I**

## **DRAFT REPORT**

on the proposal for a European Parliament and Council directive on  
environmental liability with regard to the prevention and remedying of  
environmental damage  
(COM(2002) 17 – C5-0088/2002 – 2002/0021(COD))

Committee on Legal Affairs and the Internal Market

Rapporteur: Toine Manders

***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission)

***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

## CONTENTS

	<b>Page</b>
PROCEDURAL PAGE.....	4
DRAFT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	
MINORITY OPINION .....	
OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS	
OPINION OF THE COMMITTEE ON PETITIONS.....	
OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER POLICY	
COMMISSION POSITION (Rule 66(3)) .....	

## PROCEDURAL PAGE

By letter of 19 February 2002 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 175(1) of the EC Treaty, the proposal for a European Parliament and Council directive on environmental liability with regard to the prevention and remedying of environmental damage (COM(2002) 17 – 2002/0021 (COD)).

At the sitting of 11 March 2002 the President of Parliament announced that he had referred this proposal to the Committee on Legal Affairs and the Internal Market as the committee responsible and the Committee on Economic and Monetary Affairs and the Committee on the Environment, Public Health and Consumer Policy for their opinions (C5-0088/2002).

At the sitting of 24 April 2002 the President of Parliament announced that he had also referred this proposal to the Committee on Petitions for its opinion.

The Committee on Legal Affairs and the Internal Market had appointed Toine Manders rapporteur at its meeting of 29 February 2000.

The committee considered the Commission proposal and draft report at its meetings of \*\* and \*\*.

At the latter meeting it adopted the draft legislative resolution by ... votes to ..., with ... abstention(s)/unanimously.

The following were present for the vote: ..., chairman/acting chairman; ... (and ...), vice-chairman/vice-chairmen; ..., rapporteur; ..., ... (for ...), ... (for ... , pursuant to Rule 153(2)), ... and ....

The opinion of the is attached; the Committee on ... decided on 3 June 2002 not to deliver an opinion.

The report was tabled on ....

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session/is ... a.m./p.m. on ...

## DRAFT LEGISLATIVE RESOLUTION

**European Parliament legislative resolution on the proposal for a European Parliament and Council directive on environmental liability with regard to the prevention and remedying of environmental damage (COM(2002) 17 – C5-0088/2002 – 2002/0021(COD))**

**(Codecision procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to the European Parliament and the Council (COM(2002) 17<sup>1</sup>),
  - having regard to Article 251(2) of the EC Treaty and Article 175(1) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0088/2002),
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the report of the Committee on Legal Affairs and the Internal Market and the opinions of the Committee on Economic and Monetary Affairs,.....) (A5-\*/\*/2002),
1. Approves the Commission proposal as amended;
  2. Asks to be consulted again should the Commission intend to amend the proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

---

Amendment 1  
Citation 1

Having regard to the Treaty establishing the European Community, and in particular **Article** 175 (1) thereof,

Having regard to the Treaty establishing the European Community, and in particular **Articles** 175 (1) **and 95** thereof,

*Justification*

*The proposed scheme will have wide implications for European businesses. It is necessary to avoid a situation in which a company's decision on where to establish its registered office is dependent on where the most favourable legislation applies. In order to avoid distortion of*

---

<sup>1</sup> OJ C not yet published.

*competition in the internal market, it is important that the directive is applied in as uniform a way as possible in the EU Member States. For those reasons, it is proposed that Article 95 be taken as a legal basis in addition to Article 175.*

Amendment 2  
Recital 2a (new)

***(2 a) The objectives of this Directive can best be achieved by Community action; a framework Directive is therefore necessary. The scheme should have a uniform application in the Member States in order to prevent distortions on the internal market. The Directive should therefore be based on both Article 175 and Article 95 of the Treaty.***

*Justification*

*The proposed scheme will have wide implications for European businesses. It is necessary to avoid a situation in which a company's decision on where to establish its registered office is dependent on the Member State with the most favourable legislation. In order to avoid distortion of competition in the internal market, it is important that the directive is applied in as uniform a way as possible in the EU Member States. For those reasons, it is proposed that Article 95 be taken as a legal basis in addition to Article 175.*

Amendment 3  
Recital 7 a (new)

***(7 a) Besides the prevention and the polluter pays principle, this Directive is also based on the general principle of the duty of care.***

*Justification*

*In most member-states the duty of care principle already exists, so it is better to harmonise it within this Directive.*

Amendment 4  
Recital 7 b (new)

***(7 b) This Directive is without prejudice to national company law and in particular national rules regulating liability of employees for acts committed whilst exercising a function assigned to them.***

*Justification*

*It is necessary to prevent the directive from providing a basis for holding employees of a company liable. Clear rules governing the liability of employees and managers are laid down in company law. Those rules should not be undermined by this directive.*

Amendment 5  
Recital 28 a (new)

***(28 a) Within a period of 5 years the Commission should determine clear definitions, clean-up standards and European calculation methods, especially with regard to Annex II, to be incorporated in this Directive.***

*Justification*

*A number of concepts in the draft Directive are still not formulated clearly enough and therefore greater precision is necessary. For example concepts like 'biodiversity', 'baseline condition', 'interim losses' etc. Moreover, the guidelines for restoration and valuation of environmental damage provided for in Annex II are still rather vague. It is very important that the competent authorities and other parties involved have clear guidelines, not least in order to create uniform standards in the EU.*

Amendment 6  
Recital 28 b (new)

***(28 b) Whithin a period of 5 years the Commission should come forward without delay with a legislative framework for an 'Environmental Risk Assessment Management' System (ERAM) for the prevention of environmental damage,***

***including common European conditions and standards for certification and for auditors. Only users of ERAM shall be permitted to use the state of the art defence.***

#### *Justification*

*At the request of the Legal Affairs and Internal Market Committee, a study has been carried out by Ecoteam in Trier (Project No EP/IV/A/2001/06/04) assessing whether the proposed ERAM system will lead to prevention of environmental damage. One of the conclusions is that the system will lead to prevention of environmental damage, which is one of the primary purposes of the Directive. It is important to create a European legal framework with the conditions and standards necessary to guarantee a level playing field in the EU.*

*It is proposed that such a system be voluntary and subject to certified control/ auditing according to common European conditions and standards as referred to in the legal framework of ERAM. The audit should be published in a public register, which can be monitored by the national authority, NGOs and other interested parties. The proposed system should have similar features to existing financial accounting systems that can be randomly monitored by the tax authorities and other interested parties. An efficient 'ERAM' system will substantially reduce the number of incidents. The authority will have the possibility to focus its efforts on controlling the bad behaving companies. The ERAM should be the best parts of existing environmental auditing systems like EMAS, ISO 14001, a.o. based on the best practises over a period of 5 years. The auditors will have an own responsibility and the duty to warn the authority in cases of misbehaviour. Because of the direct link to the defence of the state of the art, the insurance companies will make it compulsory.*

#### Amendment 7

#### Recital 28 c (new)

***(28 c) Whereas the Commission should develop a mechanism for once-only financial assistance to SMEs to set up a voluntary Environmental Risk Assessment Management (ERAM) system for the prevention of environmental damage.***

#### *Justification*

*The introduction of an ERAM system might be disproportionately costly for SMEs compared to multinationals. In order to stimulate the introduction of ERAM also by SMEs a system of financial assistance should be developed. This assistance should however be once-only and for a limited period of time.*



Amendment 8  
Recital 28 d (new)

***(28 d) Whereas the Commission already prepared a European Fund for natural disasters and non-recoverable environmental damage, tRegarding to this Directive, Member States only can use this fund on co-financial base. For damages below the minimum of the European fund and above the maximum amount of compensation one can be liable per case, the Member States should have to initiate a national disaster fund..***

*Justification*

*A clear choice has been made. In some cases when nature or an environmental accident causes a disaster and no liable party can be found or if the liable operator has insufficient financial means (e.g. because of limits to insurability or because the exceeding of the maximum amount of money for which one can be liable), the costs of restoration/prevention of environmental damage will be borne by the government authorities / tax payer. Some years ago such a catastrophe took place in the South of Spain. In some cases the restoration costs will be higher than the proposed maximum per case and lower than the minimum of the European fund, for those cases the member states should initiate a national fund to cover the not covered costs. Co-financing out of the European disaster fund is proposed to avoid free picking out of the fund and to stress the importance of a good controlling system in the member states.*

Amendment 9  
Article 2, paragraph 1, point 2

(2) "**biodiversity**" means natural habitats and species listed in Annex I to Directive 79/409/EEC, or in Annexes I, II and IV to Directive 92/43/EEC, or habitats and species, not covered by those Directives, for which areas of protection or conservation have been designated pursuant to the relevant national legislation on nature conservation;

(2) "**Euroepan biodiversity**" means natural habitats and species listed in Annex I to Directive 79/409/EEC, or in Annexes I, II and IV to Directive 92/43/EEC, or habitats and species, not covered by those Directives, for which areas of protection or conservation have been designated pursuant to the relevant national legislation on nature conservation;

### *Justification*

*During the hearing in the legal affairs committee, several experts pointed out the complexity of the concept of 'biodiversity', which is disadvantageous to the clarity of the legislation. Therefore, this amendment foresees in replacing the concept of 'biodiversity' by 'European biodiversity' throughout the entire Directive in order to prevent confusion and misunderstandings with other, similar concepts, as been used in the Convention on Biological Diversity..*

### Amendment 10 Article 3, paragraph 3

3. This Directive shall not apply to environmental damage or to any imminent threat of such damage arising from an incident in respect of which liability or compensation is regulated by any of the following agreements:

(a) the International Convention of 27 November 1992 on Civil Liability for Oil Pollution Damage;

(b) the International Convention of 27 November 1992 on the Establishment of an International Fund for Compensation for Oil Pollution Damage;

(c) the International Convention of 23 March 2001 on Civil Liability for Bunker Oil Pollution Damage;

(d) the International Convention of 3 May 1996 on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea;

(e) the Convention of 10 October 1989 on Civil Liability for Damage Caused during Carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels.

3. This Directive shall not apply to environmental damage or to any imminent threat of such damage arising from an incident in respect of which liability or compensation is regulated by any of the following agreements, ***provided that these conventions are in force and have been ratified by the EU Member States:***

(a) the International Convention of 27 November 1992 on Civil Liability for Oil Pollution Damage;

(b) the International Convention of 27 November 1992 on the Establishment of an International Fund for Compensation for Oil Pollution Damage;

(c) the International Convention of 23 March 2001 on Civil Liability for Bunker Oil Pollution Damage;

(d) the International Convention of 3 May 1996 on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea;

(e) the Convention of 10 October 1989 on Civil Liability for Damage Caused during Carriage of Dangerous Goods by Road, Rail and Inland Navigation Vessels.

***In cases where two schemes are applicable, one being this Directive and the other being one of the abovementioned conventions, the most stringent scheme shall apply if the competent authority can establish that other schemes are not effective in restoring or preventing damage.***

#### *Justification*

*The first insertion is intended to clarify the text, as conventions are only applicable in a Member State if they have been ratified by the latter and have entered into force.*

*Furthermore, it should be stressed that the most stringent scheme should apply in the event of damage to natural resources. If a specific case of damage occurs, the scheme providing the greatest protection should be declared to be applicable. On the basis of existing conventions, restoration or prevention of environmental damage have frequently not proved possible.*

#### Amendment 11

##### Article 3, paragraph 4

4. This Directive shall not apply to such nuclear risks or environmental damage or imminent threat of such damage as may be caused by the operation of the activities covered by the Treaty establishing the Atomic Energy European Community or caused by an incident or activity in respect of which liability or compensation is regulated by any of the following agreements:

(a) the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy and the Brussels Supplementary Convention of 31 January 1963;

(b) the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage, and the Vienna Convention of 12 September 1997 on Supplementary Compensation for Nuclear Damage;

4. This Directive shall not apply to such nuclear risks or environmental damage or imminent threat of such damage as may be caused by the operation of the activities covered by the Treaty establishing the Atomic Energy European Community or caused by an incident or activity in respect of which the liability or compensation is regulated by any of the following agreements, ***provided that these conventions are in force and have been ratified by the EU Member States:***

(a) the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy and the Brussels Supplementary Convention of 31 January 1963;

(b) the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage, and the Vienna Convention of 12 September 1997 on Supplementary Compensation for Nuclear Damage;

(c) the Joint Protocol of 21 September 1988 Relating to the Application of the Vienna Convention and the Paris Convention;

(d) the Brussels Convention of 17 December 1971 relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material.

(c) the Joint Protocol of 21 September 1988 Relating to the Application of the Vienna Convention and the Paris Convention;

(d) the Brussels Convention of 17 December 1971 relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material.

***In cases where two schemes are applicable, one being this Directive and the other being one of the abovementioned conventions, the most stringent scheme shall apply if the competent authority can establish that other schemes are not effective in restoring or preventing damage.***

#### *Justification*

*The first insertion is intended to clarify the text, as conventions are only applicable in a Member State if they have been ratified by the latter and have entered into force.*

*Furthermore, it should be stressed that the most stringent scheme should apply in the event of damage to natural resources. If a specific case of damage occurs, the scheme providing the greatest protection should be declared to be applicable. On the basis of existing conventions, restoration or prevention of environmental damage have frequently not proved possible.*

*Finally, there is proposed that the competent authority should motivate its regime choice in order to prevent lengthy and complex legal procedures concerning the applicability of a regime.*

#### Amendment 12

Article 3, paragraph 6 a (new)

***6 a. In order to find compensation for diffuse pollution, a TREE FEE (to cover the costs of planting one young tree) should be introduced per passenger for all intercontinental flights leaving from the EU. The TREE FEE should be used to plant new vegetation inside or outside the EU.***

### *Justification*

This proposal will directly benefit the environment. The fee should only apply to intercontinental airline tickets because kerosene is not or is hardly taxed. The fee should be imposed on all flights departing from the EU to ensure that European airline companies will not be alone in having to pass the fee on to their passengers. Currently, the costs of planting one young tree are approximately EUR 15. Finally, this measure will stimulate the achievement of the Kyoto purposes..

### Amendment 13

#### Article 9, paragraph 1, point (d)

(d) emissions or activities which were not considered harmful according to the state of scientific and technical knowledge at the time when the emission was released or the activity took place.

(d) emissions or activities which were not considered harmful according to the state of scientific and technical knowledge at the time when the emission was released or the activity took place, ***under the condition that this can be proved on the basis of an updated and audited 'Environmental Risk Assessment Management' (ERAM) system, of the operator concerned.***

### *Justification*

*Clear standards should exist to determine what exactly was the state of scientific and technical knowledge at the time the activity causing the damage took place. If an operator keeps an 'ERAM' accounting system, the administration of the books will clearly identify all operations undertaken, the status of permits and preventive measures undertaken. In practice, the 'ERAM' accounting system will lead to clear standards that can be imposed on an operator. The auditor needs to have adequate expertise to advise the operator on how to obtain a certified audit.*

*Moreover, an 'ERAM' system, for the elaboration of which the rapporteur urges the Commission to undertake studies, will contribute to the prevention of environmental damage, one of the prime purposes of this Directive.*

*For more information on a model for such an 'ERAM' accounting system, please consult the study undertaken by Ecoteam in Trier, 'Impact of the Application of an Environmental Risk Assessment Management System (ERAM) on Prevention of Environmental Damage', May 2002.*

Amendment 14  
Article 9, paragraph 2

2. Paragraph 1(c) and (d) shall not apply if the operator has been negligent.

2. Paragraph 1(c) and (d) shall not apply if the operator has been negligent ***or if the operator has breached the duty of care principle.***

*Justification*

*The defences/pleas mentioned in (c) and (d) should not apply in absolute terms. Operators should always have a responsibility of care, despite any authorisation, permit or situation. In practice, this addition will give a tool to judges in concrete cases.*

Amendment 15  
Article 9, paragraph 4 a (new)

***4 a. All exemptions are only defences/pleas which will provide the judges with a tool permitting them to mitigate the level of financial compensation in respect of liability.***

*Justification*

*Defences/pleas are necessary in a justifiable, fair and workable system to give suspected polluters the opportunity to prove what measures they took to prevent damages. It is fair that a company that invested millions in prevention will have to pay less compensation according to their liability for a pollution than a company that does not do anything to avoid damage.*

Amendment 16  
Article 11, paragraph 1

1. Subject to paragraph 2, where the competent authority is able to establish with a sufficient degree of plausibility and probability that one and the same instance of damage has been caused by the actions or omissions of several operators, ***Member States may provide either that the relevant operators are to be held jointly and severally financially liable for that***

1. Subject to paragraph 2, where the competent authority is able to establish with a sufficient degree of plausibility and probability that one and the same instance of damage has been caused by the actions or omissions of several operators, ***the competent authority shall be required to establish with a sufficient degree of plausibility and probability the share of***

*damage or that the competent authority is to apportion the share of the costs to be borne by each operator on a fair and reasonable basis.*

*the costs to be borne by each operator on a fair and reasonable basis.*

#### *Justification*

*In order to prevent distortion of competition between the Member States, the rules on liability should, essentially, be uniform throughout the EU (see also justification to the amendments concerning the legal basis). Leaving Member States the option of providing for proportional or joint and several liability would lead to wide differences in national legislation. What's more, this could result in distortion of competition within the internal market.*

*Liability determined on a proportional basis is preferable on grounds of reasonableness and fairness. A polluter should be held liable for that part of the damage which he inflicts, not the whole of the damage. Moreover, it is virtually impossible, with the burden of proof reversed, to prove that another polluter is liable for part of the damage.*

*Finally, there are also technical reasons related to insurance. During the hearing on this issue, the relevant expert stated that insurance premiums would be disproportionately higher if liability was not determined on a proportional basis.*

#### Amendment 17

##### Article 12

The competent authority shall be entitled to initiate cost recovery proceedings against the operator who has caused the damage or the imminent threat of damage in relation to any measures taken in pursuance of this Directive during a period of **five** years from the date on which the **measures in question were effected**.

The competent authority shall be entitled to initiate cost recovery proceedings against the operator who has caused the damage or the imminent threat of damage in relation to any measures taken in pursuance of this Directive during a period of **ten** years from the date on which the **damage occurred or could reasonably have been discovered**.

#### *Justification*

*The time from which the period runs should be that when the damage was, or should have been, discovered, and not when the competent authority carried out the final measures, as this produces legal uncertainty, making it an uninsurable risk.*

#### Amendment 18

##### Article 13, paragraph 1

1. Member States shall designate **a**

1. Member States shall designate **an**

competent authority or ***competent*** authorities responsible for fulfilling the duties provided for in this directive.

Where a Member State decides not to give the competent authority the power to issue binding decisions or the power to enforce any such decisions, that Member State shall ensure that a court or other independent and impartial public body is competent to issue and enforce such decisions.

***independent and impartial*** competent authority or authorities responsible for fulfilling the duties provided for in this directive.

Where a Member State decides not to give the competent authority the power to issue binding decisions or the power to enforce any such decisions, that Member State shall ensure that a court or other independent and impartial public body is competent to issue and enforce such decisions.

#### *Justification*

*The purpose of this insertion is to ensure that legal procedures based on this directive are objective and impartial, in the same way as those covered by the law governing criminal procedure.*

#### Amendment 19 Article 14, paragraph 6 a (new)

***6 a. Relevant persons and qualified entities shall have access to court in order to demand action from the competent authority and in cases of emergency they may be granted for an injunction with a ruling given within a period of 72 hours***

#### *Justification*

*It seems that relevant persons and qualified entities do not have the possibility of an injunction procedure in all member-states to force the competent authority to take action to restore or to take preventive measures in cases of eminent threat.*

#### Amendment 20 Article 16, paragraph 1 (new)

***1. The operator responsible for the damage shall be held financially liable up to a maximum to be determined on a***



*sliding scale that shall be established by the competent authority. The maximum amount should in any case be extremely high and comparable to the extremely high maximum in non-EU economic regions and depend on the annual turn over of the group or holding and the risks of a company. The maximum can vary from €5 million for a small business to €100 million for a multinational per case.*

#### *Justification*

*A cap on liability will have a very positive effect on insurability, a necessary precondition for the Directive's workableness in practice. The maximum that will be determined must be adapted to the maximum in other non- EU economic regions, e.g. the US, in order to guarantee a level playing field and the competitiveness of the EU in the world. This maximum should depend on the annual turn-over of the group or holding and the risk of a company, in practice this means that a small business has to insure its self to a maximum of €5 million and that this maximum will increase to the above mentioned maximum. The maximum is a so-called flex-max, to be determined by the competent authority .*

#### Amendment 21

##### Article 16, paragraph 2 (new)

Member States shall encourage the use by operators of any appropriate insurance or other forms of financial security. Member states shall also encourage the development of appropriate insurance or other financial security instruments and markets by the appropriate economic and financial operators, including the financial services industry.

**2.** Member States shall encourage the use by operators of any appropriate insurance or other forms of financial security. Member states shall also encourage the development of appropriate insurance or other financial security instruments and markets by the appropriate economic and financial operators, including the financial services industry. *As soon as possible, but at least within a period of 5 years after the entry into force of this Directive, insurance or other means of financial security should be mandatory on the basis of a sliding scale as referred in article 16, paragraph 1, provided that financial security instruments are developed and available at reasonable, market prices.*

### *Justification*

*A mandatory character of financial security will significantly contribute to the preventive working of the Directive. A financial security, in most cases by means of an insurance, is desirable, however, market products should be available.*

### Amendment 22 Article 17

Where environmental damage affects or is likely to affect several Member States, those Member States shall co-operate with a view to ensuring that proper and effective preventive action and, where necessary, restorative action is taken in respect of any such environmental damage.

Where environmental damage affects or is likely to affect several Member States, those Member States shall co-operate with a view to ensuring that proper and effective preventive action and, where necessary, restorative action is taken in respect of any such environmental damage.

***The competent authority of the Member State where the damage occurred shall determine which national legislation applies and shall have the lead in the procedure. The competent authority of the Member State where the polluter resides shall be required to provide any necessary information to the authority in the other Member State and to cooperate in any other way upon request.***

***Within this framework, the European Environment Agency (EEA) or any other existing European organisation may assume coordinating, monitoring and information tasks in cooperation with the national competent authorities and the Commission if required.***

### *Justification*

*It is important that it is made clear which national legislation applies in the event of pollution with cross-border effects, in order to avoid conflicts of jurisdiction.*

*In addition, it is desirable that an organisation should fulfil an 'umbrella' role in the event of pollution with cross-border effects. For example, the EEA, which already exists and which has its seat in Copenhagen, would be very well suited to this role, if its powers were extended.*

*The relevant organisation could also keep the Commission and the national authorities informed regarding the implementation of the directive.*

Amendment 23  
Article 21, paragraph 1

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2005 at the latest. **They** shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 30 June 2005 at the latest, ***within a period of 5 years after going in to force the EC will come forwards with proposals to the European Parliament in accordance with recitals 28 (1), (2), (3), (4), (5) and (6) has been carried out.*** **The Member States** shall forthwith inform the Commission thereof.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

*Justification*

*Due to the complexity and the different cultures in the member states there will arise a diversity of interpretations. It is therefore useful to evaluate the functioning of the Directive after a period of five years and further harmonise hereafter based on best practices. For reasons mentioned before, the Commission is assigned to come forwards with proposals, within five years after going into force of the Directive, based on best practices in order to establish European standards of definitions, restoration methods, calculation methods and the Environmental Risk Assessment Management (ERAM, best practices of existing systems).*