

Thursday 30 March 2000

7. Liability for defective products

A5-0061/2000

European Parliament resolution on the Commission Green Paper 'Liability for defective products' (COM(1999) 396 – C5-0184/1999 – 1999/2158(COS))

The European Parliament,

- having regard to the Commission Green Paper (COM(1999) 396 – C5-0184/1999),
 - having regard to Articles 95 and 153 of the EC Treaty,
 - having regard to Rule 47(1) of its Rules of Procedure,
 - having regard to Council Directive 85/374/EEC of 25 July 1985 on the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products⁽¹⁾,
 - having regard to its opinion of 5 November 1998⁽²⁾ and its Decision of 23 March 1999⁽³⁾ with a view to the adoption of a European Parliament and Council Directive amending the abovementioned Council Directive 85/374/EEC,
 - having regard to the report of the Committee on Legal Affairs and the Internal Market and the opinion of the Committee on the Environment, Public Health and Consumer Policy (A5-0061/2000),
- A. whereas Member States were required to comply with Directive 85/374/EEC no later than 31 July 1988,
- B. whereas Articles 15(3), 16(2) and 21 of the Directive imposed reporting requirements upon the Commission,
- C. whereas the Green Paper is intended to prepare a report on the application of the Directive,
- D. whereas revision of Directive 85/374/EEC may open the way towards greater harmonisation,
1. Is of the opinion that any revision of the Product Liability Directive needs to be based on clearly established factual evidence;
 2. Calls on the Commission to collect factual evidence not only by asking concerned parties, but also by applying scientific methods and by involving the academic community and civil society;
 3. Believes in this respect that extensive use should be made of European Parliament and Council Decision No 372/1999/EC adopting a programme of Community action on injury prevention in the framework for action in the field of public health (1999 to 2003)⁽⁴⁾ in order to collect relevant data on personal injuries due to defective products;
 4. Suggests that research projects appropriate for this area of the law at the interface of fault-based corrective justice and no-fault liability based on a principle of redistribution of risk could be launched; recalls that in relation to the law of obligations, valuable work has been achieved by various initiatives such as the Lando Commission and the 'European Centre on Tort and Insurance Law' ('*Europäisches Zentrum für Schadenersatz- und Versicherungsrecht*') in Vienna;

⁽¹⁾ OJ L 210, 7.8.1985, p. 29; amended by European Parliament and Council Directive 1999/34/EC of 10 May 1999 (OJ L 141, 4.6.1999, p. 20).

⁽²⁾ OJ C 359, 23.11.1998, p. 25.

⁽³⁾ OJ C 177, 22.6.1999, p. 28.

⁽⁴⁾ OJ L 46, 20.2.1999, p. 1.

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5. Takes the view that further development of product liability law could be a good starting point for a process of reflection on the possibility and desirability of deeper harmonisation of private law in market-relevant domains;
6. Recommends that if any sound factual evidence obtained as a result of the evaluation of the effects of the Product Liability Directive suggests a pressing need for early legislative action the Commission should submit appropriate legislative proposals as soon as possible; further recommends that European Community legislators should in any event engage in a broad dialogue and review concerning development of European law on Product Liability, even if no immediate action is shown to be required on the basis of the Green Paper and responses to it;
7. Is of the opinion that any dialogue commenced in response to the foregoing recommendation should include careful consideration of aspects of the Directive which have given rise to expressions of concern in Parliament during the recent consultation and debate, including particularly:
- the issue of burden of proof and other procedural devices such as those that make it easier for an injured party to have access to information and documents in the possession of the maker or supplier of the product alleged to have caused damage,
 - exceptions to strict product liability, especially concerning 'development risk',
 - the exclusion of liability for damage caused in the course of professional or commercial use of products that are also in general use as consumer products,
 - the appropriateness of the currently imposed time-limits on liability, having regard, for example, to the problem of latent defects whose injurious effects become apparent only after a long interval of time,
 - the categories of damage covered by product liability (for example, psychological as well as physical injury),
 - the approach of Courts to quantification of damages in product liability litigation as contrasted with their approach in cases of civil liability based on fault,
 - the appropriateness of lower and upper money limits for liability in damages,
 - relevant problems of access to justice;
8. Takes the view that food safety can be best achieved by the adoption, adaptation and application of legal instruments containing production, labelling and tracing requirements; notes that the Product Liability Directive can have only a very limited protective effect;
9. Instructs its President to forward this resolution to the Council, the Commission and the parliaments of the Member States.

8. Electricity

A5-0078/2000

European Parliament resolution on Electricity from renewable energy sources and the internal electricity market (SEC(1999) 470 – C5-0342/1999 – 2000/2002(COS))

The European Parliament,

- having regard to the Commission working document (SEC(1999) 470 – C5-0342/1999) ⁽¹⁾,
- having regard to the Competition and Environment Titles of the Treaties, as revised by the Amsterdam Treaty,

⁽¹⁾ See also SEC(1999) 711.