



2015/0136(NLE)

29.4.2016

AMENDMENTS

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Draft interim report
Pavel Svoboda
(PE580.548v01-00)

on the draft Council Decision on the ratification and accession by Member States on behalf of the Union to the Protocol of 2010 to the International Convention on Liability and Compensation for Damage in connection with the Carriage of Hazardous and Noxious Substances by Sea with regard to aspects related to judicial cooperation in civil matters

(14112/2015 – C8-0409/2015 – 2015/0136(NLE))

Amendment 1
Daniel Buda

Motion for a resolution
Recital A

Motion for a resolution

A. whereas the aim of the 2010 HNS Convention is to **provide** adequate, prompt and effective compensation for loss or damage to persons, property and the environment arising from the carriage of hazardous and noxious substances by sea through the International HNS Fund;

Amendment

A. whereas the aim of the 2010 HNS Convention is to **ensure accountability and the payment of** adequate, prompt and effective compensation for loss or damage to persons, property and the environment arising from the carriage of hazardous and noxious substances by sea through the **specialised** International HNS **compensation** fund;

Or. ro

Amendment 2
Daniel Buda

Motion for a resolution
Recital A a (new)

Motion for a resolution

Aa. whereas the basic principles underlying International Maritime Organisation conventions, including the 2010 HNS Convention, are: strict liability of the shipowner, mandatory insurance to cover damages to third parties, a right of direct recourse of persons suffering damages against the insurer, limitation of liability and, in the case of oil and Hazardous and Noxious Substances (hereinafter referred to as 'HNS'), a special compensation fund that pays for damages when these exceed the liability limits of the shipowner;

Or. ro

Amendment 3

Daniel Buda

Motion for a resolution

Recital B

Motion for a resolution

B. whereas therefore on the one hand it aims to provide for the polluter pays principle and ***for the principle that*** preventive action should be taken in case of environmental damage, and thus falls within the Union policy on the environment, and on the other hand it aims to regulate damage caused by maritime transport, as well as to prevent and minimise such damage, and thus falls within the Union policy on transport;

Amendment

B. whereas therefore on the one hand it aims to provide for the polluter pays principle and ***the principles of prevention and precaution to the effect that*** preventive action should be taken in case of ***possible*** environmental damage, and thus falls within the Union policy ***and general principles regarding*** the environment, and on the other hand it aims to regulate ***issues arising from*** damage caused by maritime transport, as well as to prevent and minimise such damage, and thus falls within the Union policy on transport;

Or. ro

Amendment 4

Daniel Buda

Motion for a resolution

Recital C

Motion for a resolution

C. whereas the 2010 HNS Convention contains rules on the jurisdiction of courts of state parties over claims made by persons suffering damage covered by the convention against the owner or its insurer, or against the HNS Fund, also containing rules on the recognition and enforcement of judgments by courts in state parties;

Amendment

C. whereas the 2010 HNS Convention contains rules on the jurisdiction of courts of state parties over claims made by persons suffering damage covered by the convention against the owner or its insurer, or against the ***specialised*** HNS ***compensatory*** fund, also containing rules on the recognition and enforcement of judgments by courts in state parties;

Or. ro

Amendment 5

Daniel Buda

Motion for a resolution

Recital D

Motion for a resolution

D. whereas according to the Commission proposal (COM(2015)0305), the conclusion of the 2010 HNS Convention **would thus affect** the scope **and** the rules of the recast of Brussels I Regulation;

Amendment

D. whereas according to the Commission proposal (COM(2015)0305), the conclusion of the 2010 HNS Convention would thus **overlap with** the scope **of** the rules of the recast of Brussels I Regulation;

Or. ro

Amendment 6

Daniel Buda

Motion for a resolution

Recital E

Motion for a resolution

E. whereas the recast of Brussels I Regulation allows for multiple grounds of jurisdiction, at the same time when Chapter IV of the 2010 HNS Convention establishes a very restrictive jurisdiction, recognition and enforcement regime;

Amendment

E. whereas the recast of Brussels I Regulation allows for multiple grounds of jurisdiction, at the same time when Chapter IV of the 2010 HNS Convention establishes a very restrictive jurisdiction, recognition and enforcement regime **in order to ensure a level playing field for claimants and ensure uniform application of the rules regarding liability and compensation**;

Or. ro

Amendment 7

Daniel Buda

Motion for a resolution

Recital I

Motion for a resolution

I. whereas the ELD excludes from its scope of application environmental damages or imminent threats of such damages covered by the 2010 HNS Convention once the latter enters into force (Article 4(2) and Annex IV of the ELD);

Amendment

I. whereas the ELD excludes from its scope of application environmental damages or imminent threats of such damages ***that are*** covered by the 2010 HNS Convention once the latter enters into force (Article 4(2) and Annex IV of the ELD);

Or. ro

Amendment 8
Daniel Buda

Motion for a resolution
Recital J

Motion for a resolution

J. whereas the 2010 HNS Convention establishes strict liability of the shipowner for any damages resulting from HNS carriage by sea covered by the Convention prohibiting for that purpose any other claim being made against the shipowner except in accordance with the said Convention (Article 7(4)(5));

Amendment

J. whereas the 2010 HNS Convention establishes strict liability of the shipowner for any damages resulting from HNS carriage by sea covered by the Convention ***as well as the obligation to take out insurance or other financial security to cover his liability for damage under the Convention*** prohibiting for that purpose any other claim being made against the shipowner except in accordance with the said Convention (Article 7(4)(5));

Or. ro

Amendment 9
Daniel Buda

Motion for a resolution
Recital K

Motion for a resolution

K. whereas unless all Member States ratify or accede to the 2010 HNS

Amendment

K. whereas unless all Member States ratify or accede to the 2010 HNS

Convention within the same timeframe, there **will be** a risk that the shipping industry be subjected to two different regimes at the same time, an EU one and an international one, which could also create a disparity for the victims of pollution, such as coastal communities, fishermen, etc. and would also be against the spirit of the 2010 HNS Convention;

Convention within the same timeframe, there **is** a risk that the shipping industry be subjected to two different **legal** regimes at the same time, an EU one and an international one, which could also create a disparity for the victims of pollution, such as coastal communities, fishermen, etc. and would also be against the spirit of the 2010 HNS Convention;

Or. ro

Amendment 10
Daniel Buda

Motion for a resolution
Paragraph 1 – point ii

Motion for a resolution

(ii) Pay attention in this regard to the overlap between the recast of Brussels I Regulation and the 2010 HNS Convention in so far as rules of procedure applicable to claims and actions under the said Convention before courts of state parties are concerned;

Amendment

(ii) Pay **greater** attention in this regard to the overlap between the recast of Brussels I Regulation and the 2010 HNS Convention in so far as rules of procedure applicable to claims and actions under the said Convention before courts of state parties are concerned;

Or. ro

Amendment 11
Daniel Buda

Motion for a resolution
Paragraph 1 – point iii

Motion for a resolution

(iii) **Minimise** the possibility for a conflict between the ELD and the 2010 HNS Convention by taking all appropriate action to ensure that the exclusivity clause under Article 7(4) and (5) of the 2010 HNS Convention, whereby no other claim can be made against the shipowner except in

Amendment

(iii) **Ensure that** the possibility for a conflict between the ELD and the 2010 HNS Convention **is minimised** by taking all appropriate action to ensure that the exclusivity clause under Article 7(4) and (5) of the 2010 HNS Convention, whereby no other claim can be made against the

accordance with the said Convention, is fully respected by the ratifying or acceding Member States;

shipowner except in accordance with the said Convention, is fully respected by the ratifying or acceding Member States;

Or. ro

Amendment 12

Daniel Buda

Motion for a resolution

Paragraph 1 – point iv

Motion for a resolution

(iv) **Diminish** also the risk of creating and consolidating a competitive disadvantage for the states that are ready to accede to the 2010 HNS Convention, compared to those who might wish to delay this process and continue to be bound by the ELD only;

Amendment

(iv) **Ensure that** the risk **is diminished** of creating and consolidating a competitive disadvantage for the states that are ready to accede to the 2010 HNS Convention, compared to those who might wish to delay this process and continue to be bound by the ELD only;

Or. ro

Amendment 13

Daniel Buda

Motion for a resolution

Paragraph 1 – point v

Motion for a resolution

(v) **Avoid the** permanent co-existence of two maritime liability regimes - an EU-based one and an international one - which would compromise the clear channelling of liability and could lead to lengthy and costly legal proceedings to the detriment of victims and the shipping industry;

Amendment

(v) **Ensure the removal of** the permanent co-existence of two maritime liability regimes - an EU-based one and an international one - which would **result in the fragmentation of EU legislation and, moreover,** compromise the clear channelling of liability and could lead to lengthy and costly legal proceedings to the detriment of victims and the shipping industry;

Or. ro

Amendment 14
Max Andersson

Motion for a resolution
Paragraph 1 – point viii

Motion for a resolution

(viii) Ensure in that regard that a clear obligation is imposed on Member States to take all necessary steps to achieve a concrete result, namely to ratify or accede to the 2010 HNS Convention within a reasonable timeframe, which should be no longer than **four** years from the date of entry into force of the Council decision;

Amendment

(viii) Ensure in that regard that a clear obligation is imposed on Member States to take all necessary steps to achieve a concrete result, namely to ratify or accede to the 2010 HNS Convention within a reasonable timeframe, which should be no longer than **two** years from the date of entry into force of the Council decision;

Or. en