

# PARLAMENT EWROPEW

2004



2009

*Dokument ta' sessjoni*

FINALI  
A6-0001/2006

10.1.2006

**\*\*\*III**

## **RAPPORT**

dwar it-test kongunt approvat mill-Kumitat ta' Konciljazzjoni għal direttiva tal-Parlament Ewropew u tal-Kunsill dwar l-immaniġġjar ta' l-iskart mill-industriji ta' estrazzjoni u li temenda d-Direttiva 2004/35/KE (PE-CONS 3665/2005 – C6-0405/2005 – 2003/0107(COD))

Delegazzjoni tal-Parlament Ewropew fil-Kumitat ta' Konciljazzjoni

'Chairperson' tad-delegazzjoni: Dagmar Roth-Behrendt

'Rapporteur': Jonas Sjöstedt

***Tifsira tas-simboli użati***

- \* Proċedura tal-konsultazzjoni *maġġoranza tal-voti mitfugħa*
- \*\*I Proċedura ta' koperazzjoni (l-ewwel qari)  
*maġġoranza tal-voti mitfugħa*
- \*\*II Proċedura ta' koperazzjoni (it-tieni qari)  
*maġġoranza tal-voti mitfugħa, sabiex tiġi approvata l-pożizzjoni komuni*  
*maġġoranza tal-Membri kollha tal-Parlament, sabiex tiġi miċħuda jew emendata l-pożizzjoni komuni*
- \*\*\* Proċedura ta' kunsens  
*maġġoranza tal-Membri kollha tal-Parlament, minbarra fil-każi msemmija fl-Artikoli 105, 107, 161 u 300 tat-Trattat KE u fl-Artikolu 7 tat-Trattat UE*
- \*\*\*I Proċedura ta' kodeċiżjoni (l-ewwel qari)  
*maġġoranza tal-voti mitfugħa*
- \*\*\*II Proċedura ta' kodeċiżjoni (it-tieni qari)  
*maġġoranza tal-voti mitfugħa, sabiex tiġi approvata l-pożizzjoni komuni*  
*maġġoranza tal-Membri kollha tal-Parlament, sabiex tiġi miċħuda jew emendata l-pożizzjoni komuni*
- \*\*\*III Proċedura ta' kodeċiżjoni (it-tielet qari)  
*maġġoranza tal-voti mitfugħa sabiex jiġi approvat it-test kongunt*

(Dan it-tip ta' proċedura jiddependi mill-bażi legali proposta mill-Kummissjoni.)

## WERREJ

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## ABBOZZ TA' RIŻOLUZZJONI LEGIŻLATTIVA TAL-PARLAMENT EWROPEW

dwar it-test kongunt approvat mill-Kumitat ta' Konċiljazzjoni għal direttiva tal-Parlament Ewropew u tal-Kunsill dwar l-immaniġġjar ta' l-iskart mill-industriji ta' estrazzjoni u li temenda d-Direttiva 2004/35/KE (PE-CONS 3665/2005 – C6-0405/2005 – 2003/0107(COD))

(Proċedura ta' kodeċiżjoni: it-tielet qari)

*Il-Parlament Ewropew,*

- wara li kkunsidra t-test kongunt approvat mill-Kumitat ta' Konċiljazzjoni u d-dikjarazzjoni interistituzzjonali relevanti (PE-CONS 3665/2005 – C6-0405/2005),
  - wara li kkunsidra d-dikjarazzjoni kongunta mill-Bulgarija u mir-Rumanija dwar l-implimentazzjoni tad-Direttiva,<sup>1</sup>
  - wara li kkunsidra l-pożizzjoni tiegħu fl-ewwel qari<sup>2</sup> dwar il-Proposta tal-Kummissjoni lill-Parlament u l-Kunsill (COM(2003)0319)<sup>3</sup>,
  - wara li kkunsidra l-pożizzjoni tiegħu fit-tieni qari<sup>4</sup> dwar il-proposta komuni tal-Kunsill<sup>5</sup>,
  - wara li kkunsidra l-opinjoni tal-Kummissjoni dwar l-emendi tal-Parlament għall-pożizzjoni komuni (COM(2005)0477)<sup>6</sup>,
  - wara li kkunsidra l-Artikolu 251(5) tat-Trattat KE,
  - wara li kkunsidra l-Artikolu 65 tar-Regoli ta' Proċedura tiegħu,
  - wara li kkunsidra r-rapport tad-delegazzjoni tiegħu fil-Kumitat ta' Konċiljazzjoni (A6-0001/2006),
1. Japprova t-test kongunt u jikkonferma l-istqarrija tiegħu dwar id-dikjarazzjoni kongunta tal-Bulgarija u r-Rumanija;
  2. Jagħti istruzzjonijiet lill-President tiegħu sabiex jiffirma l-att flimkien mal-President tal-Kunsill, skond l-Artikolu 254(1) tat-Trattat KE;
  3. Jagħti istruzzjonijiet lis-Segretarju Ġenerali tiegħu sabiex jiffirma l-att, wara li jkun verifikat li ttiehdu l-proċeduri kollha, u, bi ftehim mas-Segretarju Ġenerali tal-Kunsill, li jipublikah, flimkien mad-dikjarazzjoni interistituzzjonali dwaru, fil-ĠU ta' l-Unjoni Ewropea.

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<sup>1</sup> Annessa mat-test kongunt

<sup>2</sup> ĠU C 103 E, 29.4.2004, p. 451.

<sup>3</sup> Għadha mhux ippublikata fil-ĠU.

<sup>4</sup> Testi Adottati, 6.9.2005, P6\_TA(2005)0319.

<sup>5</sup> ĠU C 172 E, 12.7.2004, p. 1.

<sup>6</sup> Għadha mhux ippublikata fil-ĠU.

4. Jagħti istruzzjonijiet lill-President tiegħu sabiex jgħaddi din ir-risoluzzjoni legiżlattiva lill-Kunsill u lill-Kummissjoni.

## NOTA SPJEGATTIVA

### Background

Waste from the extractive industries involves materials such as topsoil, overburden, waste rock and tailings, discarded during prospecting, extraction and treatment of mineral resources. It represents the largest single waste stream in Europe, accounting for over 20% of all waste generated.

On 2 June 2003, the Commission presented a proposal for a Directive on the management of such waste. The proposal 'provides for measures, procedures and guidance to prevent or reduce as far as possible any adverse effects on the environment, and any resultant risks to human health, brought about as a result of the management of waste from the extractive industries' (Article 1).

On 31 March 2004, the Parliament adopted 74 amendments to the proposal at first reading. The Council adopted its Common Position on 12 April 2005. At its second reading on 6 September 2005, the Parliament adopted 36 amendments to the Common Position. They concerned in particular:

- water pollution issues;
- financial guarantees to cover operators' liabilities under the Directive;
- the scope of the Directive;
- waste management and pollution prevention;
- transitional provisions and the obligations of acceding countries.

### Conciliation

Parliament's delegation to the Conciliation Committee held its constituent meeting on 27 September 2005. Its members instructed its Chair, Dagmar Roth-Behrendt, the Chair of the committee responsible, Karl-Heinz Florenz, and the rapporteur, Jonas Sjöstedt, to begin informal negotiations with the Council. The conciliation procedure was formally opened on 12 October as an agenda item without debate. Trialogues were held on 12 October and 25 October. At the third trialogue meeting, on 21 November, a compromise was reached covering all the unresolved issues. This was approved by Coreper on 23 November and by Parliament's delegation on 29 November (with 15 votes in favour, no votes against and no abstentions). It was subsequently confirmed by exchange of letters.

The key points of the agreement reached in the conciliation procedure can be summarised as follows:

## **1. Water pollution issues**

At second reading, Parliament had adopted amendments clarifying applicable obligations relating to water protection and establishing direct references to Community water legislation; prohibiting the discharge of waste into receiving waters unless prior compliance with the Water Framework Directive was established; and addressing operators' obligations with regard to waste placed in excavation voids and excavation voids which were left to flood. Council was opposed to any reference to 'other extractive materials' in addition to extractive waste; argued that excavation voids fell outside the scope of the Directive; and rejected what it saw as a reversal of the burden of proof as far as compliance with the Water Framework Directive was concerned.

The agreement reached requires (Article 10) Member States to ensure that, when placing extractive waste back into excavation voids, operators take appropriate measures to ensure the monitoring of the extractive waste and the excavation void. Moreover, where extractive waste is placed back into excavation voids which will subsequently be allowed to flood, operators are required (Article 13) to take the necessary measures to prevent or minimise water status deterioration and soil pollution, and to provide the competent authority with the information necessary to ensure compliance with Community obligations, in particular, those under the Water Framework Directive.

## **2. Financial guarantees to cover operators' liabilities**

This was one of the most contentious issues. Parliament's position was that financial guarantees should be periodically adjusted in accordance with rehabilitation work to be carried out and that guarantees must cover the potential cost of rehabilitation work on land within the site, as well as land directly affected by the waste facility. Council emphasised that, if operators' were to be able to insure themselves against their liabilities under the Directive, these must be defined as clearly as possible.

In the agreement reached (Recital 25, Article 12(3), Article 14(1)(b), and Article 14(3)) Parliament's concerns are substantially met. Financial guarantees must be sufficient to cover the cost of rehabilitation of the land affected by the waste facility, which includes the waste facility itself, as described in the waste management plan. The size of the guarantee must be periodically adjusted in accordance with any necessary rehabilitation work.

## **3. Scope**

References to radioactive extractive waste and to potentially relevant legislation under the Euratom Treaty have been clarified in Recital 10.

A substantial recasting of Recital 30 addresses Parliament's concerns by adding abandoned waste facilities to the closed waste facilities which are to be the subject of inventories of facilities actually or potentially posing a serious threat to human health or the environment; and by stating that such inventories should provide a basis for an appropriate programme of measures.

A new recital (Recital 32) promotes the integration of environmental protection considerations into other Community policies and activities, with a view to promoting sustainable development.

The definition of 'treatment of mineral resources' in Article 3(8) has been modified so as to cover the burning of limestone.

#### **4. Waste management and pollution prevention**

The agreement reached reinforces environmentally-sensitive and sustainable development. Recital 13 stresses the importance of preventing or minimising (rather than merely treating, recovering and disposing of) extractive waste, while four substantial amendments to Article 5(1), 5(2)(c) and 5(3) clarify the content of the waste management plans which operators will be required to draw-up. For example, Article 5(3)(h) now requires that waste management plans include a survey of the original condition of the land to be affected by the waste facility, to serve as a benchmark for rehabilitation of the site after closure of the waste facility.

#### **5. Transitional provisions and acceding countries**

Three related issues were at stake: transitional provisions in respect of waste facilities already in operation; the deadline for the transposition of the Directive; and the question of possible derogations from the provisions of the Directive in the case of acceding countries.

Parliament's position at second reading was that the Directive should be transposed within 18 months of its entry into force; that existing waste facilities be subject to certain requirements during the transitional period granted and that no transitional provisions be granted to inactive but not yet closed facilities; and that any potential derogations to be granted to acceding countries should not undermine the objectives of the Directive. Council's position was that the transitional provisions foreseen in its Common Position were reasonable; that a period of 24 months was necessary to ensure adequate transposition of the Directive; and that the right of acceding countries to seek derogations from the corpus of Community law - and its right to grant these - was enshrined in the accession treaty.

The agreement reached provides (Article 24) for more stringent transitional provisions than foreseen in the Council's Common Position. Moreover, Member States are required to ensure that, from the date on which it enters into force, and notwithstanding any closure of a waste facility before the Directive is transposed, extractive waste is managed in a way that does not prejudice the fulfilment of the objectives of the Directive or of environmental requirements set out in other Community legislation, including the Water Framework Directive. Member States are given (Article 25(1)) two years to transpose the Directive.

The proposed Directive is accompanied by an inter-institutional declaration welcoming a joint declaration by Bulgaria and Romania. The joint declaration by the two countries acknowledges 'the significance of the present Directive for environmental protection in Europe'; states that they are 'committed to make all necessary efforts to implement the



Directive within the deadlines provided for in the text'; and states 'their strong political will to undertake all necessary measures to comply with the provisions of the Directive ... in the same way as the other Member States.'

### **Conclusion**

This Directive is an important piece of environmental legislation. The agreement reached in the course of the conciliation procedure represents a positive outcome for Parliament, with satisfaction having been found on most of the issues covered by its second reading amendments. The delegation accordingly recommends that Parliament approve the joint text at third reading.

## PROĊEDURA

<b>Titolu</b>	Test kongunt approvat mill-Kumitat ta' Konċiljazzjoni għal direttiva tal-Parlament Ewropew u tal-Kunsill dwar l-immaniġġjar ta' l-iskart mill-industriji ta' estrazzjoni u li temenda d-Direttiva 2004/35/KE
<b>Referenzi</b>	(PE-CONS 3665/2005 – C6-0405/2005 – 2003/0107(COD))
<b>Bażi legali</b>	Artikoli 251(5) u 175 KE
<b>Bażi fir-Regoli ta' Proċedura</b>	Regola 65
<b>'Chairperson' tad-delegazzjoni: Viċi President</b>	Dagmar Roth-Behrendt
<b>'Chairperson' tal-Kumitat responsabbli</b>	Karl-Heinz Florenz ENVI
<b>'Rapporteur'</b>	Jonas Sjöstedt
<b>Proposta tal-Kummissjoni</b>	Proposta għal direttiva tal-Parlament Ewropew u tal-Kunsill dwar l-immaniġġjar ta' l-iskart mill-industriji ta' estrazzjoni - COM(2003)0319 - C5-0256/2003]
<b>Data ta' l-ewwel qari tal-Parlament – P[5]</b>	31.3.2004 P5-TA(2004)0240
<b>Pożizzjoni komuni tal-Kunsill Data mhabbra fil-plenarja</b>	16075/1/2004 – C6-0128/2005 12.5.2005
<b>Pożizzjoni komuni (Artikolu 251(2), subparagrafu 2, inċiż 3)</b>	COM(2005)0170
<b>Data tat-tieni qari tal-Parlament – P[5]</b>	6.9.2005 P6-TA(2005)0319
<b>Fehma tal-Kummissjoni (Artikolu 251(2), subparagrafu 3, punt (ċ))</b>	COM(2005)0477
<b>Data meta l-Kunsill irċieva t-tieni qari</b>	29.9.2005
<b>Data ta' l-ittra tal-Kunsill dwar iċ-ċahda ta' l-emendi tal-Parlament</b>	6.10.2005
<b>Laqgħat tal-Kumitat ta' Konċiljazzjoni</b>	12.10.2005 6.12.2005
<b>Data tal-vot tad-delegazzjoni tal-Parlament</b>	29.11.2005
<b>Riżultat tal-votazzjoni</b>	favur: 15 kontra: astensjonijiet:
<b>Membri preżenti</b>	Karl-Heinz Florenz, Françoise Grossetête, Jutta D. Haug, Gyula Hegyi, Marie Anne Isler Béguin, Caroline Jackson, Linda McAvan, Riitta Myller, Dagmar Roth-Behrendt, Jonas Sjöstedt, Renate Sommer, María Sornosa Martínez, Åsa Westlund
<b>Sostituti preżenti</b>	Richard Seeber, Bogusław Sonik
<b>Data tal-ftehim fil-Kumitat ta' Konċiljazzjoni</b>	6.12.2005
<b>Data meta l-ko-'chairmen' stabbilixxew illi t-test kongunt kien ġie approvat u bagħtuh lill-Parlament u lill-Kunsill</b>	8.12.2005
<b>Data tat-tressiq - A6</b>	10.1.2006 A6-0001/2006

## ESTENSJONI TA' L-ISKADENZI

<b>Estensjoni ta' l-iskadenza ghat-tieni qari mill-Kunsill</b>	Le
<b>Estensjoni ta' l-iskadenza ghat-tlaqqigh tal-Kumitat</b> Istituzzjoni li qed tagħmel it-talba – data	Le
<b>Estensjoni ta' l-iskadenza ghax-xoghol fil-Kumitat</b> Istituzzjoni li qed tagħmel it-talba – data	Iva  Kunsill – 17.11.2005
<b>Estensjoni ta' l-iskadenza għall-adozzjoni ta' l-att</b> Istituzzjoni li qed tagħmel it-talba – data	Le