

## EUROPEAN PARLIAMENT

# Working Documents

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17 March 1980

DOCUMENT 1-29/80

ORAL QUESTION (O-152/79/rev.)

with debate pursuant to Rule 47 of the Rules  
of Procedure

by the Legal Affairs Committee

to the Commission of the European Communities

Subject : Directive on liability for defective products

On 1 October 1979 the Commission submitted to the Council an amended proposal for a directive relating to the approximation of the laws, regulations and administrative provisions of the Member States concerning liability for defective products (O.J. C 271, 26.10.1979).

Although this directive incorporates certain points of the opinion delivered by the European Parliament on 21 April 1979 (O.J. C 127, 21.5.79) it fails to include the fundamental provision adopted by our Parliament on the exclusion of the producer's liability in respect of development risks.

In the debate of 26 April 1979<sup>1</sup> the Commission

- recognized a 'general acceptance' (i.e. by the European Parliament and the Commission) 'that individual preferences would have to be subordinated to a precise and specific first step affecting a large number of people';
- considered that on the question of development risks, 'the right kind of policy is the one that is now enshrined in the directive, in other words, where the onus is on the producer to prove that his product could not have been any different, bearing in mind the state of technology at that particular moment. For the time being, this can be regarded as a fair compromise';
- approved paragraph 2 of the European Parliament's resolution which reads as follows : 'requests the Commission to report to Parliament and the Council, five years after the entry into force - in implementation of Article 13 - of the national provisions necessary to comply with the directive, on the advisability of transferring liability - wholly or in part, generally or in respect of certain risks only - from the producer to a guarantee fund, more particularly with a view to protecting consumers and producers against development risks'.

In view of the above, how can the Commission explain the step, which conflicts with its declarations to our Parliament, of reintroducing the liability of the producer in the event of development risks?

On what facts does it base its claim that development risks have no significant effects?

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<sup>1</sup> See debates 242, page 216