



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 4.1.2005  
COM(2004) 846 final

2002/0254 (COD)

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT**

**pursuant to the second subparagraph of Article 251 (2) of the EC Treaty**

**concerning the**

**common position of the Council on the adoption of a European Parliament and Council  
Directive concerning the quality of bathing waters**

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**1. PROCEDURE**

The proposal COM(2002) 581 final was transmitted to the European Parliament and the Council in accordance with the co-decision procedure provided for in Article 175 (1) of the EC Treaty.

The European Economic and social Committee gave its opinion on 19th June 2003.

The Committee of the Regions gave its opinion on 9th April 2003.

The European Parliament gave its opinion at first reading on 21st October 2003.

Following the opinion of the European Parliament and pursuant to Article 250(2) of the EC Treaty, the Commission adopted an amended proposal COM (2004) 245 final on 5<sup>th</sup> April 2004.

Following the opinion of the European Parliament and pursuant to Article 250(2) of the EC Treaty, the Council reached political agreement on a Common Position on 28<sup>th</sup> June 2004. The Council adopted by unanimity the Common position formally on 20<sup>th</sup> December 2004.

**2. 2. PURPOSE OF THE COMMISSION PROPOSAL**

The Commission proposal was intended to replace the existing bathing water directive which was adopted in 1976. That directive, while been very successful in promoting higher standards of bathing water is considered to be outmoded and to represent the state of technical and scientific knowledge in the mid-70s. The Commission's proposal increased the severity of the mandatory microbiological standards for Community bathing waters and updated the management and monitoring regime.

### **3. COMMISSION COMMENTS**

#### **3.1. General Comments**

The Commission accepted totally, in part or in principle 22 of the 37 amendments proposed by the European Parliament in the first reading. 17 of these 22 amendments are incorporated in the common position.

The Commission accepted all amendments which led to greater clarity, improved the information given to the public or which improved the effectiveness of management.

The Commission rejected, in particular, amendments which increased the scope of the directive or which would have resulted in duplication with the Water Framework Directive.

#### **3.2. Detailed Comments**

##### *3.2.1. Parliamentary Amendments accepted by the Commission and incorporated in full or in part in the common position.*

The following amendments which were accepted in whole or in part by the Commission are also to be found in the common position: Amendments number 10, 11, 15, 17, 18, 20, 21, 23, 24, 25, 26, 28, 32, 34, 35, 52 and 57.

##### *3.2.2. Parliamentary Amendments accepted by the Commission but not in the common position.*

Amendment 6 concerns a clarification of part of the definition of a “bathing water “: with the new drafting of Article 1 and Article 2 in the common position the amendment is no longer appropriate.

Amendment 29 concerns the modification of the methods of analysis referred to in Annex I. The amendment appears to make modification of the test procedures an obligation rather than a discretionary act based on the assessment of need. The Commission accepts the wish of the Member States to retain the word “may” rather than replacing it with “shall” as requested by the Parliament.

Amendment 30 concerns a commitment to introduce parameters relating to viruses which are important microbiological contaminants but for which robust test methods are not yet available. The Commission was happy to accept this amendment and in fact has already initiated a research project to develop robust test procedures for detecting and measuring the levels of the relevant viruses in water. On the basis of the results from this project, the Commission will make appropriate proposals. A commitment to introduce parameters for viruses into the directive is not part of the common position but with its right of initiative the Commission is free to introduce such proposals at any time.

Amendment 31 concerns the introduction of an assessment criterion “negative results on test” in Annex 1 of the Commission’s original proposal in relation to phytoplankton blooms. As this parameter is no longer in the table, the amendment is redundant.

Amendment 75 concerns calculative methods to address the problem of spoiled samples. However, with the provisions for the discard of samples now introduced into Annex II such procedures are no longer appropriate.

3.2.3. *Parliamentary Amendments rejected by the Commission but part of the common position.*

Amendment 54 concerns the possibility to change a planned sampling date by plus or minus four days. In the context of the global package of the common position, the Commission can accept this additional flexibility.

3.2.4. *Additional Changes made to the Proposal by the Council*

The common position contains a significant number of changes as compared to the Commission's original proposal. In presentational terms the text has been streamlined with several of the Articles in the original text being merged. However, all of the essential elements in the Commission's original proposal are retained.

In terms of the substance, the most important changes in the common position as compared to the original proposal are concerned with the assessment and classification of bathing water quality as provided for in Article 4 and Annexes I and II of the common position.

**Classification Criteria:** The common position introduces a fourth classification category "satisfactory" which becomes the mandatory standard which Member States have to achieve. This standard is based on a 90 percentile value rather than a 95 percentile. The level of protection afforded by the quality standard associated with the classification "satisfactory" is not as high as that represented by the "good" classification in the Commission's original proposal.

**Freshwater Standards:** The common position establishes different quality standards for freshwater and coastal waters. The Commission's original proposal established a set of standards for all bathing waters.

**Deadline for the Achievement of Standards:** The common position foresees that the mandatory standards (the classification "satisfactory") be achieved by 2015 at the latest. The Commission's original proposal required compliance with the "good" classification by approximately 2009/2010.

**Discarding of Samples:** To allow for the impact of short-term pollution incidents, the common position (Annex II) permits the discarding of 15% of all water samples.

**Fewer Parameters:** In Annex I of the common position, all parameters other than those concerning microbiological contamination have been removed. Provisions relating to other types of pollution are now to be found in Articles 8 and 9.

#### 4. CONCLUSION

The proposal has been discussed under three Presidencies and the major impediment to achieving agreement has always been the stringency of the water quality standards. A significant number of Member States were concerned that the Commission's original proposal was unrealistic and that benefits in terms of improvements to public health would have been disproportionate to the costs.

The Commission would clearly have preferred to maintain the quality standards set out in its original proposal. However, the Commission is also anxious to ensure that the original directive from 1976 is updated to bring in: i) more effective approaches to the management of bathing areas; ii) better provisions for providing information to the public and iii) improved monitoring regimes focussed on the real health risks.

The Commission considers that the common position represents a significant improvement on the arrangements under the existing directive and can therefore support it. The Commission recognises that there are outstanding concerns relating to the level of protection afforded by the new standards, particularly in freshwaters and is committed to address these concerns as part of a shared cost action under the 6<sup>th</sup> Framework Programme. The Commission made a statement for inclusion in the Council minutes to this effect (see Annex).

## **ANNEX I**

### Commission Declaration

The Commission's initial proposal provided for mandatory water quality standards which were stricter than those in the text agreed by the Council. However, the Commission also recognises that the current directive, adopted in 1976, is in urgent need of updating and it can therefore accept the Presidency text as overall it represents a significant improvement on the existing arrangements. The Commission considers that epidemiological and other scientific studies would further improve our understanding of the health risks associated with bathing, especially in relation to freshwaters. Accordingly, the Commission will undertake a scientific investigation the results of which will be available by 2008. If this scientific study gives rise to any concerns regarding the proposed standards, the Commission will bring forward, if appropriate, the necessary proposals.