



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 1.8.2006
COM(2006) 434 final

2003/0210 (COD)

OPINION OF THE COMMISSION

**pursuant to Article 251 (2) third sub-paragraph, point (c) of the EC Treaty,
on the European Parliament's amendments
to the Council's Common Position regarding the
proposal for a**

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on the protection of groundwater against pollution

**AMENDING THE PROPOSAL OF THE COMMISSION
pursuant to Article 250 (2) of the EC Treaty**

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1. BACKGROUND

PROCEDURE

The proposal COM(2003) 550 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 31st March 2004.

The Committee of the Regions gave its opinion on 12th February 2004.

The European Parliament gave its opinion at first reading on 28th April 2005.

Following the opinion of the European Parliament and pursuant to Article 250(2) of the EC Treaty, the Commission adopted an amended proposal COM(2005) 282 final on 22nd June 2005.

Following the opinion of the European Parliament and pursuant to Article 250(2) of the EC Treaty, the Council adopted the Common Position formally on 23rd January 2006. The Commission's Communication on the Common Position was adopted on 10th February 2006 and the European Parliament adopted its position on second reading on 13th June 2006.

OBJECTIVE OF THE COMMISSION PROPOSAL

The proposed Directive seeks to establish a regime to prevent and control groundwater pollution in response to the requirements of Article 17 of the Water Framework Directive (Directive 2000/60/EC). This is done by setting up:

- (a) criteria for assessing the chemical status of groundwater based on environmental quality standards, which have to be established by Member States at the appropriate level (national, river basin or groundwater body), depending on the variations in natural groundwater conditions, identified pressures and related chemical substances, and

- (b) criteria for identifying significant upward trends in pollutant concentrations in groundwater and defining starting points for reversing these trends.

These criteria are complemented by measures for preventing or limiting direct – and indirect – inputs of pollutants into groundwater. The proposal provides clear specifications that will ensure that the environmental objectives of the Water Framework Directive will be achieved with respect to groundwater. Equally, the proposal seeks to achieve the right balance between issues that need to be addressed at Community level and those that are best left to Member States.

2. COMMISSION COMMENTS

2.1. General

On 13th June 2006, the European Parliament adopted 41 of the 47 amendments that were tabled. Out of the 41 amendments adopted, the Commission can accept 8 amendments in full, 6 in part and a further 12 in principle. 15 of the adopted amendments are not acceptable to the Commission.

2.2. Detailed Comments

2.2.1. Amendments Accepted in Full

Amendments **5**, **17** and **27** improve the consistency of the text with the Water Framework Directive. Amendment **8** introduces a new recital requesting an analysis of the impact of groundwater standards in the Member States on environmental protection and the internal market. Amendments **36** and **43**, which delete references to the Nitrates Directive (Directive 91/676/EC), are acceptable since the regulatory approaches of this proposal, the Water Framework Directive and the Nitrates Directive, do not provide material differences, in terms of their legally binding character, the objective to be achieved, the measures required and the deadlines. In the case of Amendment **43** in particular, the programmes and measures referred to are already covered in the Nitrates Directive and there is no need to repeat them. Amendment **38** details the types of pesticides covered, which is in line with Directive 98/83/EC on relevant metabolites, degradation and reaction products. Amendment **40** adds a provision on the impact of pollutants on groundwater *per se*, which requires groundwater protection in line with the requirements of the Water Framework Directive.

2.2.2. Amendments Accepted in Part

Amendment **2** modifies recital 1 by adding a reference to "deterioration" and specifying that the protection should concern "chemical" pollution. The Commission can accept the addition of "chemical", but not the mention of "deterioration" in the light of the new definition in Article 2(4) and redundancy with the Water Framework Directive. Amendment **3** introduces a new recital on the need for comparable protection between groundwater and surface water of good chemical status. However, the reference to groundwater being "the primary source" of drinking water is not acceptable as it not accurate. Amendment **11** introduces the term

"environmentally" significant in Article 2(3), which leads to legal uncertainty and cannot be accepted; however the addition of the words "in groundwater" is acceptable.

Amendment **19** introduces complementary compliance criteria related to groundwater quality standards in Article 4(2), which is acceptable; however, the proposed elimination of unfavourable monitoring results by "expert verification" is not acceptable. Amendment **21** introduces a reference to "baseline concentration" in Article 5(2), which is acceptable; however, the addition of the words "prevent deterioration" is not consistent with the Water Framework Directive and is therefore not acceptable. Amendment **22** seeks to strengthen the obligation in Article 6 to prevent the input of hazardous substances into groundwater and adds criteria concerning the classification of hazardous substances. The Commission can accept the first part of the amendment, although it has to be recognised that there are practical limitations to prevention measures; the second, part is unacceptable as the Water Framework Directive already provides for a clear definition of hazardous substances.

2.2.3. *Amendments Accepted in Principle*

Amendment **1** introduces "deterioration" in the title, which is consistent with Water Framework Directive provisions and therefore acceptable in principle. Amendment **6** is a new recital referring to the need to take account of possible changes in farming and forestry practices as a result of groundwater protection measures in the implementation of rural development programmes under the Common Agricultural Policy. This is acceptable to the Commission subject to it being clarified that the related decisions on priorities and projects rest with the Member States. Amendment **7** introduces a new recital on criteria and justifications regarding exemptions. Amendment **9** concerns a new recital on research, which is in line with Article 20 of the Water Framework Directive on scientific progress. Amendment **10** introduces a new recital on groundwater storage and practice, which is acceptable, subject to redrafting to ensure consistency with Article 11(3)(f) of the Water Framework Directive.

New definitions proposed by Amendments **13** and **14** on "background concentration" (Article 2(4)b) and "baseline concentration" (Article 2(4)c) are acceptable; however, "concentration" should be changed to "levels" to be consistent with Annex II, part A.1(d) of the proposal.

Amendment **16** on compliance criteria with groundwater quality standards is acceptable subject to improved drafting. Amendment **20** concerning a future revision of groundwater quality standards and threshold values is also acceptable provided that the revision timetable is consistent with the implementation milestones. Amendment **30** is acceptable provided the text is improved to avoid duplication with the Water Framework Directive. Amendments **9** and **31** on the dissemination of research results are acceptable in principle, but could be consolidated in a single recital. Amendment **37** specifies that more stringent standards shall apply for pesticides in relation to drinking water, the principle of which is accepted by the Commission.

2.2.4. *Amendments Not Accepted*

Amendment **4** on the need to protect groundwater so that good quality drinking water can be achieved by simple purification duplicates Article 7 of the Water Framework Directive and is not in line with the objectives of the present directive concerning environmental water chemical status. Amendment **15** which stipulates that groundwater quality standards shall be based on human and eco-toxicological criteria is also not consistent with the Water Framework Directive.

Amendment **12**, which introduces a new definition of "deterioration", and Amendment **18**, which deals with natural levels of pollutants in comparison to threshold values, also contradict the principle of non-deterioration of status in the Water Framework Directive and the obligation to reverse upward pollution trends in this proposal and are therefore not acceptable. As a consequence, Amendment **23** is also not acceptable. Amendment **25** on measures to be undertaken by Member States and Amendment **28** on exemptions from monitoring obligations are not acceptable as these topics are adequately addressed in the Water Framework Directive. Specific protection measures related to spas or medicinal water sources as proposed in Amendment **32** are not acceptable since it would not be reasonable to consider all possible cases in the context of this directive. Amendment **33** unnecessarily restricts the adaptation of the Directive in light of scientific and technical progress. Amendment **34** calls for the establishment of a catalogue of aquifers, which is not necessary in light of existing reporting requirements under the Water Framework Directive.

Amendment **39** on the question of indicators of pollution is not consistent with the Water Framework Directive. Amendments **41** and **42** regarding the time when Member States should initiate actions to reverse adverse trends in pollution are not acceptable as they are inconsistent with provisions of Article 5(2) of the proposal. Amendment **44** refers to the possibility for Member States to adopt stricter protection measures, which does not need to be included in the Directive in light of the relevant provisions of the Treaty. Finally, Amendment **46**, which refers to reporting and review, is not acceptable as these issues are already covered in the Water Framework Directive.

2.3 **Amended Proposal**

Pursuant to Article 250(2) of the EC Treaty, the Commission amends its proposal as set out.