

**Opinion of the European Economic and Social Committee on the Proposal for a Directive of the European Parliament and of the Council on environmental quality standards in the field of water policy and amending Directive 2000/60/EC**

COM(2006) 397 final — 2006/0129 (COD)

(2007/C 97/02)

On 15 September 2006 the Council decided to consult the European Economic and Social Committee, under Article 175 of the Treaty establishing the European Community, on the abovementioned proposal.

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 25 January 2007. The rapporteur was Mr Buffetaut.

At its 433rd plenary session, held on 15 and 16 February 2007 (meeting of 15 February), the European Economic and Social Committee adopted the following opinion by 188 votes to 1 with 9 abstentions.

**1. The grounds for a directive on environmental quality standards**

1.1 This proposal is actually for a 'daughter directive' stemming from the Water Framework Directive (WFD) (2000/60/EC). The framework directive set out a strategy for dealing with the chemical pollution of water, which can disturb aquatic ecosystems, causing loss of habitats and biodiversity. Pollutants may accumulate in the food chain and humans can be exposed to pollutants through the aquatic environment not only by eating fish or seafood or drinking water but also during sporting and recreational activities.

1.2 It should also be pointed out that pollutants may be found in the environment many years after being banned; and some may be transported long distances and reach remote areas that might appear to be unaffected by pollution.

1.3 Lastly, these pollutants may be released into the environment from various sources (e.g. domestic activities, agriculture, incineration or industry).

1.4 The Commission's first step in this strategy was to produce a list of 33 substances of priority concern at Community level (Decision 2455/2001/EC). The present proposal aims to ensure 'a high level of protection' against risks to or via the aquatic environment stemming from these 33 priority substances and certain other pollutants.

1.5 To achieve this objective, the draft directive establishes environmental quality standards (EQS). It points out that a number of emission control procedures necessary to achieve these standards have already been adopted in various Community acts over recent years.

1.6 The proposal also entails the repeal of certain existing 'daughter' directives, in order in particular to take account of scientific and technical progress and pollutants not yet covered.

**2. The method chosen to define the environmental quality standards**

2.1 The Commission proposes a combination of two measurement criteria:

- annual average concentrations;
- and maximum allowable concentrations.

2.2 In this way, the environmental quality standard is defined not only on the basis of maximum allowable concentration, so as to avoid serious irreversible consequences in the short term for ecosystems owing to acute pollution, but also on the basis of annual average in order to avoid the long-term irreversible consequences of continued pollution that is not necessarily acute.

2.3 The Commission proposes that for most substances the standards should apply to the level of pollutants present in surface water. But for some substances which may accumulate up the food chain the Commission notes that limits applying only to surface water may be insufficient to avoid indirect effects and secondary poisoning. It therefore proposes that for three of these substances (hexachlorobenzene, hexachlorobutadiene and mercury) environmental quality standards for biota should be established by Member States.

**3. The division of responsibilities between the European Union and the Member States**

3.1 The Commission proposes that the environmental quality standards for water should be determined at Community level in order to ensure the same level of environmental protection in all Member States and to ensure a level playing field for economic operators. In general the Commission considers that existing pollution control regimes should be adequate to enable Member States to achieve the quality standards. If any additional measures are needed, it should be left to the Member States to include appropriate control measures in the programme of measures to be developed for each river basin in accordance with Article 11 of the Framework Directive.

#### 4. The measures proposed

4.1 The directive's main components are:

- the establishment of environmental quality standards with the introduction of transitional areas of exceedance;
- the establishment of an inventory of emissions, discharges and losses so as to determine whether the reduction objectives have been reached;
- the repeal of certain existing 'daughter directives';
- the identification of the priority hazardous dangerous substances among the 14 substances proposed for review in Decision 2455/2001/EC.

#### 5. General comments

5.1 The EESC naturally supports the objective of preventing hazardous substances that pose potentially serious risks with irreversible consequences from polluting water.

5.2 The EESC considers it important that the Commission should maintain a robust and scientifically based capacity for identifying promptly any substances that may cause harmful pollution in surface water and for establishing prudent quality standards for the maximum levels of such substances to be allowed either individually or in combination. The EESC notes and supports the initial list of priority substances and standards included in the present proposal. It suggests that arrangements should be made for an annual assessment to be made on a comprehensive, scientific and transparent basis to identify whether any new substances should be added to the list or new maximum permitted levels be applied for any of the substances. It should examine in particular other substances identified as priorities by OSPAR or other relevant international agreements.

5.3 The EESC is concerned that definitive standards have not yet been established for lead, nickel and their compounds. Work on this should be prioritised and appropriate limits established, if possible in time to be included in the present directive before it is finalised.

5.4 The ultimate purpose of improving water quality is to protect biota and the food chain up to and including humans. If it were possible to measure levels of all pollutants in biota reliably, consistently and efficiently it would in principle be better to set standards and monitor in this way. But in general this is still difficult, and for most of the priority substances it is more practicable at present and usually sufficiently reliable to set a standard for the maximum concentration allowable in surface water. (The proposal to base the monitoring of compliance on an annual average and maximum admissible concentration is realistic, well established and fully justified).

5.5 However there are some toxic substances which have a tendency to accumulate up the food chain. For these substances

a surface water standard alone does not guarantee sufficient protection against toxic effects. For these substances it is desirable to set a standard based on the maximum concentration of the substance to be permitted in the prey tissue of fish, molluscs, crustaceans and other biota as the Commission proposes. These substances include hexachlorobenzene, hexachlorobutadiene and methyl-mercury. Others may be identified in the future. There is not yet a fully-agreed methodology for setting standards in this way so the Commission merely proposes to allow Member States to introduce such standards for the three substances so far explicitly identified.

5.6 In the present state of knowledge this may have to be accepted. Nevertheless the EESC urges the Commission to continue to support further scientific analysis of the phenomenon of bio-accumulation of some toxic substances, and to be ready to move towards a more widespread use of standards for maximum levels of toxic substances present in biota as soon as the science and the methodology for monitoring become more securely established. Meanwhile monitoring should also be designed to ensure that contamination levels in sediments and biota do not actually increase.

5.7 Establishing an inventory of emissions, discharges and losses resulting from human activity so as to determine whether the objectives of reducing or stopping pollution have been reached is sensible. Drawing up a complete list of natural sources of pollution is difficult. However, in certain cases it may be useful to determine the link between natural pollution and pollution of human origin.

5.8 As regards the inventory, care should be taken to avoid any inconsistencies or duplication vis-à-vis other existing instruments covering the protection of surface water.

5.9 The issue of transitional areas of exceedance has been looked at in a realistic manner, but cannot be said to be entirely satisfactory. It seems that it would be difficult to be able to guarantee that the environmental quality of the rest of the body of water will not be compromised. If the concept of transitional areas is applied, it will be necessary to develop a precise methodology for defining such areas and the location of the pollution measurement points.

5.10 Attention should be drawn to those non-EU neighbouring countries on whose territories are located the sources of a number of rivers whose courses continue within EU Member States and to countries bordering lakes whose other banks are on Member State territory. If countries situated outside the frontiers of the EU fail to protect their bodies of water, the efforts made by the Member States could be in vain and the goals set for 2015 might not be attained. This state of affairs should be considered when it comes to the implementation of the directive. The issue is mentioned in Article 12 of the Water Framework Directive.

## 6. Specific comments

6.1 **Timetable:** Article 4(5) of the proposed directive sets 2025 as the date when emissions must cease or the withdrawal from market of the dangerous priority substances must take effect. Conversely, in accordance with the water framework directive, the environmental quality objectives must be achieved by 2015. This target date might prove difficult to meet in some cases, all the more so because the adoption of this daughter directive has been delayed. Nevertheless, the Member States must do all within their power to reach this objective, in the knowledge that under certain limited circumstances recourse will be possible to provisional exemption measures. The EESC recommends that the Commission should monitor progress with implementation and stand ready to propose further measures to assist as widespread compliance by the due date as possible, with the minimum of derogations

### 6.2 *The role of Member States*

It is right that appropriate additional measures are left to the Member States because, in many cases, the situations that need to be addressed vary according to the local or regional context. Nevertheless, this flexibility must be counterbalanced by reliable reporting mechanisms as recommended by the Commission in Action 4 of its communication <sup>(1)</sup>.

6.2.1 However, the Commission communication (point 3) seems rather optimistic in its assessment of the legal instruments that Member States can use to achieve the WFD objectives relating to priority substances, particularly because some significant sources of pollution are not covered by appropriate regulations, such as diffuse pollution emanating from household products or service industries, which would require new directives on products.

6.2.2 In these circumstances, it is unrealistic to suppose that each Member State could impose new measures that might not necessarily be consistent, particularly if they are likely to be overtaken by fresh European legislation.

### 6.3 *Protection of drinking water supplies*

6.3.1 Adopting the proposed directive will involve repealing Directive 75/440/EC on the quality required of surface water intended for the abstraction of drinking water. Coherence between the new directive and the drinking water directive <sup>(2)</sup> must be maintained as legislative changes are made.

## 6.4 *Monitoring*

6.4.1 Maintaining progress on the objectives of this directive and ensuring a level playing field across Europe will require more consistent and reliable standards of monitoring. The EESC looks forward to the new proposals for a 'Reporting Water Information System for Europe' that are shortly to be brought forward, and hopes that it will be possible to make use of these to keep close track of the implementation of the priority substances directive.

## 7. **Coherence between the directive on environmental quality standards for water and the REACH regulation**

7.1 Coherence between the provisions of the present directive and the REACH regulation must be guaranteed, even if in principle the Commission had anticipated the success of the negotiations on REACH and thus its implementation. At any event, the introduction of new chemicals onto the market must be taken into account when considering environmental quality standards for water.

## 8. **Conclusion**

8.1 The EESC agrees with the initial list of priority substances proposed and the standards proposed for them. But it urges action to complete the missing standards for lead and nickel and a robust process for keeping the list and the standards under regular review so as to be able to keep it up to date promptly and effectively when needed.

8.2 The EESC agrees with the broad thrust of the proposed directive.

8.3 Achieving the environmental quality objectives by 2015 will be challenging. Nevertheless, the EESC urges the Member States to step up their efforts in order to reach these objectives.

8.4 The EESC emphasises the need to finalise a system for reporting information and monitoring the implementation by Member States of the directive and the achievement of its objectives. It welcomes the Commission's Water Information System for Europe (WISE) initiative.

8.5 It recommends ensuring the new proposal is consistent with legislation that is currently in force, and that appropriate European legislation be adopted in relation to certain sources of pollution that are not covered by existing legislation (such as diffuse pollution from household products).

Brussels, 15 February 2007.

The President  
of the European Economic and Social Committee  
Dimitris DIMITRIADIS

<sup>(1)</sup> COM(2006) 398 final.

<sup>(2)</sup> Directive 98/83/EC.