



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 27.6.2005
COM(2005) 277 final

2002/0254 (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

concerning the quality of bathing waters

**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(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 5th April 2004.

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 20 December 2004. The Commission's Communication on the Common Position was adopted on 4th January 2005 and the European Parliament adopted its position on second reading on 10th May 2005.

OBJECTIVE OF THE COMMISSION PROPOSAL

The Commission's 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.

2. COMMISSION COMMENTS

2.1. General

On 11th May 2005, the European Parliament adopted 26 of the 54 amendments that were tabled. Out of the 26 amendments adopted, the Commission can accept 10 amendments in full, 1 amendment in part and a further 3 amendments in principle. 12 of the adopted amendments are not acceptable to the Commission.

2.2. Detailed Comments

2.2.1. Amendments Accepted in Full

Amendments **9, 17, 19, 21 and 33** concern improvements to the provision of information to the public and the Commission can accept them. Amendment **2** changes the text of recital 11 to include references to directives dealing with access to environmental information and public participation in the drawing up of plans and programmes and is a useful clarification. Amendments **13 and 26** bring forward respectively the dates for developing beach profiles and for the entry into force of the directive. The Commission considers that these amendments are acceptable and will expedite the implementation. Amendment **25** allows the technical updating of the directive to include viruses as well as bacterial indicators. Given that viral contamination is an important consideration in bathing waters and that the Commission is currently promoting research on this issue under the 6th Framework Programme, this is a constructive addition to the text. Amendment **10** is a minor wording change to Article 5.

2.2.2. Amendments Accepted in Part

Amendment **15** concerns the consultation and participation of interested parties in a number of the measures foreseen in the directive. The Commission can accept most of the text as proposed, but considers that Member States can only be required to create the conditions for interested parties to give their input to the process: Member States may not be able to identify all such parties and they certainly cannot oblige them to take part.

2.2.3. Amendments Accepted in Principle

Amendments **16 and 22** concern the establishment by the Commission of an EU wide symbol (16) or system of symbols (22) for providing information to the public. The Commission can accept to develop standard symbols, but these should be restricted to providing information on the classification of the bathing water quality according to the directive and perhaps warnings in the case of short-term pollution incidents.

Amendment **55** proposes quality standards for the classification category “sufficient”, which are considerably more stringent than those in the Common Position. While the standards as proposed in the amendment are far too severe to gain the necessary support in the Council, a certain degree of tightening up of the standards is one possible option for bridging the gap between the two institutions. The Commission can therefore accept the principle of this amendment in so much as it serves to develop an agreement between the Council and the Parliament.

2.2.4. Amendments Not Accepted

Amendments **1**, **3** and **14** concern emergency planning provisions which do not need to be included on a directive dealing with bathing water. The Common Position already contains suitable provisions for dealing with short-term pollution events, but there is no need to extend the scope of the directive to include actions more properly covered within the framework of civil protection and disaster response. Amendments **6** and **7** seek to advance the dates for compliance with the quality standards in the directive. The dates established in the Common Position are aligned with the effective date for achieving good status under the Water Framework Directive (2000/60/EC) and this synchronisation was done deliberately in order to streamline the process of planning and investment. For this reason, the Commission supports the dates in the Common Position and cannot accept these amendments. Amendment **4** seeks to introduce a new definition of short-term pollution which is ambiguous and difficult to implement and control. Accordingly, the Commission cannot accept this amendment. Amendment **11** introduces information elements which are already present in the Common Position (Article 12) and is therefore redundant.

Amendment **20** requires translations of information in English and French to be made available to the public. However, the local authorities are far better placed to decide upon the appropriate languages to be used and the Commission does not consider it appropriate to impose a language regime as suggested. Amendments **23** and **24** impinge upon the Commission's right of initiative and for that reason cannot be accepted. Amendment **34** allows calculation methods to be used in cases where water samples are not stored or processed correctly. This will simply encourage bad practice and is not acceptable. Amendment **36**, seeks to limit the length of the time that the "sufficient" classification category remains in use to 8 years after the entry into force of the directive. As this would mean that the "sufficient" category would disappear by 2013 and the date for compliance with the quality standards is 2015, this amendment is not compatible with the rest of the text and cannot be accepted.

2.3 Amended Proposal

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