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NOTE

from: General Secretariat
to: Permanent Representatives Committee/Council

Subject : Proposal for a Directive of the European Parliament and of the Council
concerning the quality of bathing water
– Outcome of the European Parliament's second reading
(Strasbourg, 9 to 12 May 2005)

I. INTRODUCTION

The rapporteur, Mr MAATEN (ELDR - NL), presented a report containing 34 amendments to the Council's common position on behalf of the Committee on the Environment, Public Health and Food Safety. The political groups also presented 20 additional amendments at the plenary session.

II. DEBATE

During the plenary debate the rapporteur emphasised that Parliament had set its sights high on this issue of crucial importance for European citizens. The general public was well acquainted with the existing Directive, which had done much to improve the quality of bathing water in the European Union. The rapporteur also highlighted the link between the Directive and the wider area of public health protection. Parliament was seeking to introduce proactive management of bathing waters in

Europe by means of a number of specific measures, such as a new harmonised public information system.

The political groups expressed the following views. The PPE-ED Group was dismayed at what it saw as the Council's excessive reticence in an area of such importance to public health and wellbeing. Parliament's more ambitious suggestions would not saddle Member States with exorbitant additional outlays, especially once account had been taken of the lower social and medical costs that a new and effective Directive would bring. The PSE Group criticised the rapporteur for seeking to scrap "sufficient" quality status for some bathing waters. It defended the concept of responsible bathers who understood that some waters were not entirely clean yet sufficiently so to bathe in for a short while. The PSE Group also supported different quality statuses for coastal waters and inland waters. The ELDR Group expressed its opposition to the draft Directive as a whole, since the quality of bathing waters ought to be solely a matter for the Member States. The Verts/ALE Group defended the draft Directive and highlighted the need for it to cover all recreational activities, such as sailing and canoeing.

On behalf of the Commission, Mr DIMAS underlined its enthusiasm for a clear monitoring system, a reasonable level of ambition and a transparent and consistent public information policy as means of promoting high-quality bathing water. The Commissioner expressed particular support for Parliament's amendments seeking to introduce a system of common symbols to describe the level of cleanliness of bathing waters. "Sufficient" quality status ought to be maintained in the water classification system. Lastly, the Commissioner defended the distinction between coastal waters and inland waters whilst rejecting any extension of the scope of the Directive to cover other recreational activities.

III. VOTE

Of the 54 amendments presented, the plenary adopted 26. The Commission's position on the adopted amendments was as follows:

1. Amendments acceptable in full or in part, or after suitable re-wording

Amendments 2, 9, 10, 13, 15, 16, 17, 19, 21, 22, 25, 26, 33 and 55.

2. Amendments which are not acceptable

Amendments 1, 3, 4, 6, 7, 11, 14, 20, 23, 24, 34 and 36.

The texts of the amendments adopted and of the European Parliament's legislative resolution are attached.

Quality of bathing water ***II

European Parliament legislative resolution on the Council common position for adopting a directive of the European Parliament and of the Council concerning the management of bathing water quality and repealing Directive 76/160/EEC (12884/1/2004 – C6-0006/2005 – 2002/0254(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (12884/1/2004 – C6-0006/2005),
- having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2002)0581)²,
- having regard to the amended proposal (COM(2004)0245)³,
- having regard to Article 251(2) of the EC Treaty,
- having regard to Rule 62 of its Rules of Procedure,
- having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A6-0102/2005),

1. Approves the common position as amended;
2. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 82 E, 1.4.2004, p. 115.

² OJ C 45 E, 25.2.2003, p. 127.

³ Not yet published in OJ.

Amendment 1
Recital 8 a (new)

(8a) To protect and inform the public in good time on exceptional events such as floods or infrastructure breakdowns, appropriate emergency plans should be developed, including early warning systems.

Amendment 2
Recital 11

(11) On 25 June 1998 the Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Århus Convention). Community law should be properly aligned with that Convention with a view to its ratification by the Community. It is therefore appropriate for this Directive to include provisions on public access to information and to provide for public participation in its implementation.

(11) On 25 June 1998 the Community signed the UN/ECE Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters (the Århus Convention). Community law should be properly aligned with that Convention with a view to its ratification by the Community. It is therefore appropriate for this Directive to include provisions on public access to information and to provide for public participation in its implementation ***in accordance with Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information¹ and Directive 2003/35/EC of the European Parliament and of the Council of 26 May 2003 providing for public participation in respect of the drawing up of certain plans and programmes relating to the environment².***

¹ OJ L 41, 14.2.2003, p. 26.

² OJ L 156, 25.6.2003, p. 17.

Amendment 3
Article 2, point 7(f a) (new)

(fa) setting up emergency plans and surveillance systems;

Amendment 4
Article 2, point 8

8. "Short-term pollution" means microbiological contamination as referred to in Annex I, column A, that has clearly identifiable causes, is not normally expected to affect bathing water quality for more than approximately 72 hours and for which the competent authority has established procedures to predict and deal with as set out in Annex II.

8. "Short-term pollution" means microbiological contamination as referred to in Annex I, column A, that has clearly identifiable causes, is not normally expected to affect bathing water quality for more ***than 48 hours after the termination of the cause and does not last longer*** than approximately 72 hours and for which the competent authority has established procedures to predict and deal with as set out in Annex II.

Amendment 6
Article 5, paragraph 2

2. The first classification according to the requirements of this Directive shall be completed by the end of the **2015** bathing season.

2. The first classification according to the requirements of this Directive shall be completed by the end of the **2011** bathing season.

Amendment 7
Article 5, paragraph 3

3. Member States shall ensure that, by the end of the **2015** bathing season, all bathing waters are at least "sufficient". They shall take ***such realistic and proportionate*** measures as they consider appropriate with a view to increasing the number of bathing waters classified as "excellent" or "good".

3. Member States shall ensure that, by the end of the **2011** bathing season, all bathing waters are at least "sufficient" They shall take ***all necessary*** measures as they consider appropriate with a view to increasing the number of bathing waters classified as "excellent" or "good".

Amendment 9
Article 5, paragraph 4, point (a)(i a) (new)

(ia) identification of the causes and reasons for the failure to achieve "sufficient" quality status; and

Amendment 10
Article 5, paragraph 4, point (a)(ii)

(ii) adequate *management* measures to prevent, reduce or eliminate the causes of pollution.

(ii) adequate measures to prevent, reduce or eliminate the causes of pollution

Amendment 11
Article 5, paragraph 4, point (a)(ii a) (new)

(iia) alerting the public by a clear and simple warning sign and informing them of the causes of the pollution and all measures undertaken, on the basis of the bathing water profile .

Amendment 13
Article 6, paragraph 1, footnote

¹**Six** years after the date of entry into force of this Directive.

***Five** years after the date of entry into force of this Directive.

Amendment 14
Article 7

Member States shall *ensure that timely and adequate management measures are taken when they are aware of unexpected situations that have, or could reasonably have, an adverse impact on bathing water quality and on bathers' health. Such measures shall include information to the public and, if necessary, a temporary prohibition on bathing.*

1. Member States shall establish emergency plans for events such as floods, accidents or infrastructure breakdowns which may have an adverse impact on bathing water quality. Such plans shall identify potential causes and risks of impacts, establish surveillance and/or early warning systems and provide guidance on prevention or mitigation of damage.

2. Member States shall ensure that comprehensive national and/or local surveillance and early warning systems are established, improved or maintained which will:

(a) identify incidents of pollution or significant risks of such incidents which may have an adverse effect on bathing water quality, including those resulting from extreme weather conditions;

(b) give prompt and clear notification to the relevant public authorities of such incidents or risks;

(c) in the event of any imminent risk to public health, disseminate to those members of the public who may be affected all the relevant information that is held by a public authority and which could help the public to prevent or mitigate harm;

(d) make recommendations to the relevant public authorities and, where appropriate, to the public about preventive and remedial actions;

(e) ensure that, in the event of an emergency situation, temporary signs are posted in prominent locations at the bathing water site.

3. Member States shall ensure that the relevant public authorities have the necessary capacity to respond to such incidents or risks in accordance with the relevant emergency plan.

4. Surveillance and early warning systems, emergency plans and response capacities in relation to incidents and threats to bathing water quality may be combined with those in relation to other matters.

Amendment 15
Article 11

Member States shall encourage public participation in the implementation of this Directive by providing opportunities for the public concerned to formulate suggestions, remarks or complaints. Competent authorities shall take due account of any information obtained.

Member States shall ensure that all interested parties, including those at local level, are consulted and allowed to participate in establishing, reviewing and updating the list of bathing waters, bathing water profiles and the management measures. Member States shall inform the Commission and the public of the way(s) in which this is organised.

Amendment 16
Article 12, paragraph 1, point (b)

(b) a general description of the bathing water, in non-technical language, based on the bathing water profile established in accordance with Annex III;

(b) a general description of the bathing water, in non-technical language, based on the bathing water profile established in accordance with Annex III. **It shall display prominently a Commission-approved symbol to advise users of the current status of bathing water quality;**

Amendment 17
Article 12, paragraph 1, point (e a) (new)

(ea) in the event of a bathing water being removed from the list of bathing waters, a notice advising the public of such a removal and giving the reasons for it. Such notice shall be put up in the immediate vicinity of the water during the bathing season of the year that the removal takes place and the following year. It shall include warning signs at the beach and shall also indicate to the public the nearest available bathing water;

Amendment 19
Article 12, paragraph 1 a (new)

1a. In the event of an emergency, public authorities shall work together with all interested parties to ensure that the public is informed of any potential hazards clearly and coherently via temporary signs posted at the bathing site.

Amendment 20
Article 12, paragraph 2, subparagraph 1, introductory part

2. Member States shall use appropriate media and technologies, including the Internet, to ***actively and promptly*** disseminate the information concerning bathing waters referred to in paragraph 1 and also the following information:

2. Member States shall use appropriate media and technologies, including the Internet, to disseminate ***as quickly as possible*** the information, ***including at least English and French translations thereof***, concerning bathing waters referred to in paragraph 1 and also the following information:

Amendment 21
Article 12, paragraph 2, subparagraph 1, point (b)

(b) the classification of each bathing water over the last three years and its bathing water profile, including the results of monitoring carried out in accordance with this Directive since the last classification;

(b) the classification of each bathing water over the last three years and its bathing water profile, including the results of monitoring carried out in accordance with this Directive since the last classification.
Results of water inspection shall be available on the Internet within a week;

Amendment 22
Article 12, paragraph 4

4. Member States and the Commission shall, wherever possible, provide information to the public using geo-referenced technology and present it in a clear and coherent manner, in particular through the use of signs and symbols.

4. The Commission shall, after hearing the Member States, relevant tourist and consumer organisations, environmental organisations and other interested parties, develop within two years a simple standardised system of symbols which can be used in different matters by Member States, regional or local authorities, the tourist industry etc. as one among other information tools designed to provide information to the public. The system must be available on an EU website.

Amendment 23
Article 14, paragraph 3

3. In the light of that report, and of an extended impact assessment, the Commission ***may, if appropriate, accompany its report with proposals for amendment of*** this Directive.

3. In the light of that report, and of an extended impact assessment, the Commission ***shall, no later than 2020, review this Directive with particular regard to the parameters for bathing water quality, and shall present if necessary appropriate legislative proposals in accordance with Article 251 of the Treaty.***

Amendment 24
Article 15, introductory part

It **may** be decided in accordance with the procedure referred to in Article 16(2):

It **shall** be decided in accordance with the procedure referred to in Article 16(2):

Amendment 25
Article 15, point (c a) (new)

(ca) to review the parameters in Annex I concerning virus detection on the basis of scientific results;

Amendment 36
Article 17, paragraph 3 a (new)

3a. The quality status "sufficient" shall apply only for a period of 8 years after the entry into force of this Directive and shall not be renewed.

Amendment 26
Article 18, paragraph 1, subparagraph 1, footnote

* **Three** years after the date of entry into force of this Directive.

* **Two** years after the date of entry into force of this Directive.

Amendment 55
Annex I, Tables 1 and 2, column D "sufficient"

Council common position

FOR INLAND WATERS

	A	B	C	D	E
	Parameter	Excellent Quality	Good Quality	Sufficient	Reference methods of analysis
1	Intestinal Enterococci (cfu/100 mL)	200 *	400 *	360 **	ISO 7899-1 or ISO 7899-2
2	Escherichia coli (cfu/100 mL)	500 *	1000 *	900 **	ISO 9308-3 or ISO 9308-1

FOR COASTAL WATERS AND TRANSITIONAL WATERS

	A	B	C	D	E
	Parameter	Excellent Quality	Good Quality	Sufficient	Reference methods of analysis
1	Intestinal Enterococci (cfu/100 mL)	100 *	200 *	200 **	ISO 7899-1 or ISO 7899-2
2	Escherichia coli (cfu/100 mL)	250 *	500 *	500 **	ISO 9308-3 or ISO 9308-1

* Based upon a 95-percentile evaluation. See Annex II.

** ***Based upon a 90-percentile evaluation. See Annex II.***

Amendment by Parliament

FOR INLAND WATERS

	A	B	C	D	E
	Parameter	Excellent Quality	Good Quality	Sufficient	Reference methods of analysis
1	Intestinal Enterococci (cfu/100 mL)	200 *	400 *	450 *	ISO 7899-1 or ISO 7899-2
2	Escherichia coli (cfu/100 mL)	500 *	1000 *	1100 *	ISO 9308-3 or ISO 9308-1

FOR COASTAL WATERS AND TRANSITIONAL WATERS

	A	B	C	D	E
	Parameter	Excellent Quality	Good Quality	Sufficient	Reference methods of analysis
1	Intestinal Enterococci (cfu/100 mL)	100 *	200 *	250 *	ISO 7899-1 or ISO 7899-2
2	Escherichia coli (cfu/100 mL)	250 *	500 *	550 *	ISO 9308-3 or ISO 9308-1

* Based upon a 95-percentile evaluation. See Annex II.

Amendment 33
Annex III, paragraph 4

4. *When appropriate*, the information referred to in paragraph 1(a) and (b) is to be provided on a detailed map.

4. The information referred to in paragraph 1(a) and (b) is to be provided on a detailed map.

Amendment 34
Annex V, paragraph 4, subparagraph 3

The time between sampling and analysis is to be kept as short as possible. It is recommended that samples be analysed on the same working day. If this is not possible for practical reasons, then the samples are to be processed within no more than 24 hours. In the meantime, they are to be stored in the dark and at a temperature of $4^{\circ}\text{C} \pm 3^{\circ}\text{C}$.

The time between sampling and analysis is to be kept as short as possible. It is recommended that samples be analysed on the same working day. If this is not possible for practical reasons, then the samples are to be processed within no more than 24 hours. In the meantime, they are to be stored in the dark and at a temperature of $4^{\circ}\text{C} \pm 3^{\circ}\text{C}$. ***In the event of delay between sampling and analysis, the concentration of bacteria measured shall be adjusted by the known formulae of T-90 decay to give the concentration of bacteria at the time of sampling.***

