

Brussels, 19 February 2004

**OPINION**

of the

Committee of the Regions

of 11 February 2004

on the

**Proposal for a directive of the European Parliament and of the Council**

**on the protection of groundwater against pollution**

(COM(2003) 550 final – 2003/0210 (COD))

**THE COMMITTEE OF THE REGIONS,**

**Having regard** to the EU Commission's Proposal for Directive of the European Parliament and of the Council on the *Protection of groundwater against pollution* (COM(2003) 550 final – 2003/0210 (COD));

**Having regard** to the decision of the Council of 3 October 2003 to consult it on this subject, under Article 175(1) of the Treaty establishing the European Community;

**Having regard** to the decision of its Bureau of 19 June 2003 to instruct its Commission for Sustainable Development to draw up an opinion on this subject;

**Having regard** to its opinion on the EU Commission's *Proposal for a Council directive establishing a framework for Community action in the field of water policy* CdR 171/1997 fin<sup>1</sup>;

**Having regard** to Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 *establishing a framework for Community action in the field of water policy*;

**Having regard** to its opinion on the *Communication from the Commission on the sixth environment action programme of the European Community "Environment 2000: Our future, our choice" – The Sixth Environment Action Programme and the Proposal for a Decision of the European Parliament and of the Council laying down the Community Environment Action Programme 2001-2010* CdR 36/2001 fin<sup>2</sup>.

**Having regard** to its draft opinion (CdR 240/2003 rev. 1) adopted on 12 December 2003 by the Commission for Sustainable Development (rapporteur: **Mr Johannes Flensted-Jensen**, Chairman of Århus County Council (DK, PES));

**Whereas:**

1) Groundwater is a resource that is both important and at risk, and one which is of great importance to the quality of the environment in a number of wetlands and nature areas on land, for industrial and agricultural production and as a source of drinking water;

2) Protecting the quantity and quality of groundwater should therefore be a major political priority at both European and national level, and common European initiatives are necessary in order to harmonise rules in this area as much as possible, bearing in mind the major natural differences to be seen throughout groundwater areas in Europe;

3) Matters concerning the quantity of groundwater are dealt with in the Water Framework Directive, which is why the Groundwater Directive focuses on the quality of groundwater,

**adopted the following opinion at its 53<sup>rd</sup> plenary session, held on 11 and 12 February 2004 (meeting of 11 February 2004)**

**1. The Committee of the Regions' views**

**The Committee of the Regions**

1. **considers** that the EU Commission's proposal for a new groundwater directive and the Water Framework Directive (WFD), which is the mother directive, expresses a reasonable and responsible strategy both as regards the environment and the economy as a whole, with the emphasis on preventing pollution and restoring the environment;
2. **welcomes** the proposal for a new groundwater directive and considers it to be a good supplement to the WFD's provisions concerning groundwater;

3. **approves** the fact that the proposal does not contain a comprehensive list of common European standards in the form of limit values for the amount of various pollutants in groundwater, but merely includes limit values in pursuance of Community legislation that has already been approved, including the Nitrates Directive and the Plant Protection and Biocidal Products Directives;
4. **notes with satisfaction** that, instead of common European quality standards, the Member States are to draw up threshold values for relevant groundwater pollutants – both those occurring naturally and those resulting from human activity – on the basis of criteria in the directive;
5. **supports** the directive containing a minimum list of substances for which the Member States are to draw up threshold values;
6. **considers it reasonable** that the EU Commission should subsequently, in the light of the Member State's reports, be able to adopt a position on whether there is a basis for proposing common European quality standards leading to a further harmonisation of rules in this field;
7. **assumes** that the Committee of the Regions will be consulted on any amendments to Annex I of the directive, which contains common European quality standards;
8. **considers it necessary** that common European standards – both now and in the future – may be made more rigorous in Member States in order to protect surface water;
9. **wishes, moreover, to emphasise** that, when grouping together groundwater bodies and designing monitoring networks, it is necessary for the Member States to ensure that the comparison of groundwater quality is made with a homogenous material, e.g. comparable redox ratio or comparable geological conditions.

## 2. The Committee of the Regions' recommendations

### The Committee of the Regions

1. **recommends** that it should be evident from the groundwater directive that river basin district authorities are able to impose more rigorous national threshold values if this is necessary in order to comply with the WFD's environmental quality objectives in the river basin districts concerned;
2. **recommends** that where the background levels of naturally occurring substances in groundwater are not known, background levels should be laid down in accordance with the best professional opinion until monitoring data is produced. In some cases it will still hardly be possible to find natural background levels;

3. **recommends** that the Member States ensure that comparable monitoring points are used when identifying significant and sustained upward trends in bodies of groundwater or groups of bodies;
4. **recommends** that phosphorus be included on the minimum list in part A.1 of Annex III to the proposed directive, as this is a substance that in the long term threatens the chemical quality of groundwater;
5. **recommends that insofar as old contaminated industrial sites cannot be cleaned up in a** balanced way under Article 4(4) and (5) of the Water Framework Directive, these provisions should be amended at the first opportunity. At the same time, consideration should be given to reintroducing the concept of Risk Management Zones into water management plans for catchment areas; this concept takes account of the environmental and economic aspects, as well as of practical feasibility;
6. **recommends** that it be made quite clear in Article 4(3) of the groundwater directive which committee is to be asked for an opinion before any amendments are made to Annex I;
7. **recommends** that the Committee of the Regions be consulted to the fullest possible extent over future amendments to the groundwater directive, including significant adjustments to Annexes II to IV, as the regional and local authorities often have extensive technical and administrative experience on groundwater matters, and that the Member States be called upon to make use of such experience in further work to do with the directive;
8. **recognises** that the proposed directive, as part of the Water Framework Directive, will have serious financial implications for Member States and urges that the new and existing financial schemes must address the economic burden the Member States will bear when fulfilling the environmental objectives of the Water Framework Directive;
9. **proposes**, therefore, the following concrete amendments:

### **Recommendation 2.1**

#### Article 4(1)

<b><i>Commission draft proposal</i></b>	<b><i>Proposed CoR amendment</i></b>
1. On the basis of the characterisation process to be carried out under Article 5 of Directive 2000/60/EC and under sections 2.1 and 2.2 of Annex II thereto, in accordance with the procedure described in Annex II to this Directive, and taking account of the economic and social costs, Member States shall, by 22 December 2005, establish threshold values for each of the	1. On the basis of the characterisation process to be carried out under Article 5 of Directive 2000/60/EC and under sections 2.1 and 2.2 of Annex II thereto, in accordance with the procedure described in Annex II to this Directive, and taking account of the economic and social costs, Member States shall, by 22 December 2005, establish threshold values for each of the pollutants, which

<p>pollutants, which within their territory have been identified as contributing to the characterisation of bodies or group of bodies of groundwater as being at risk. Member States shall as a minimum establish threshold values for the pollutants referred to in parts A.1 and A.2 of Annex III to this Directive. These threshold values shall inter alia be used for the purposes of carrying out the review of groundwater status as provided for in Article 5.2 of Directive 2000/60/EC.</p> <p>Those threshold values can be established at the national level, at the level of the river basin district or at the level of body or group of bodies of groundwater.</p>	<p>within their territory have been identified as contributing to the characterisation of bodies or group of bodies of groundwater as being at risk. Member States shall as a minimum establish threshold values for the pollutants referred to in parts A.1 and A.2 of Annex III to this Directive. These threshold values shall inter alia be used for the purposes of carrying out the review of groundwater status as provided for in Article 5.2 of Directive 2000/60/EC.</p> <p>Those threshold values can be established at the national level, at the level of the river basin district or at the level of body or group of bodies of groundwater.</p> <p><u>Should the Member States choose to lay down national threshold values, these may be made more rigorous by the river basin district authorities if such action is necessary in order to comply with the Water Framework Directive's environmental quality objectives in the river basin districts concerned.</u></p>
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### Reason

If the Member States choose to lay down national threshold values, the river basin district authorities should have the power to impose more rigorous values in vulnerable regional and local areas in the river basin districts concerned if such action is necessary in order to comply with environmental quality objectives. Such reasoning is consistent with that in the Water Framework Directive and could beneficially be transferred to the text of the proposed groundwater directive.

### Recommendation 2.2

Annex III, part B.2.2

<i>Commission draft proposal</i>	<i>Proposed CoR amendment</i>
<p>2.2 The relationship between the threshold values and, in the case of naturally occurring substances, the observed background levels.</p>	<p>2.2 The relationship between the threshold values and, in the case of naturally occurring substances, the observed background levels. <u>Where the background levels of naturally occurring substances in groundwater are not known, background levels shall be laid down in accordance with the best professional opinion.</u></p>

### Reason

In some cases the background level will not be known until after a long period of monitoring – for some groups of groundwater bodies it may also be difficult to find bodies where the natural background level can be measured. In both cases it will be necessary to establish background levels on the basis of skilled professional opinion.

### Recommendation 2.3

Annex IV, 1.2(a)

<i>Commission draft proposal</i>	<i>Proposed CoR amendment</i>
a) the assessment shall be based on arithmetic mean values of the mean values of the individual monitoring points in each bodies or groups of bodies of groundwater bodies, as calculated on the basis of a quarterly, a half-yearly or an annual monitoring frequency. (sic)	a) the assessment shall be based on arithmetic mean values of the mean values of the individual monitoring points in each bodies or groups of bodies of groundwater bodies, as calculated on the basis of a quarterly, a half-yearly or an annual monitoring frequency. <u>It is necessary to ensure here that the monitoring points are comparable.</u>

### Reason

There are big differences in the natural chemical composition of groundwater, both within a single groundwater body and between different bodies. For instance, there is a chemical difference between the upper and lower groundwater in a body. So, for an assessment to be a true one, the monitoring points should be comparable as regards geology or the redox ratio, for example.

### Recommendation 2.4

Annex III, part A.1

<i>Commission draft proposal</i>	<i>Proposed CoR amendment</i>
Ammonium	Ammonium
Arsenic	Arsenic
Cadmium	Cadmium
Chloride	Chloride
Lead	Lead
Mercury	Mercury
Sulphate	Sulphate
	<u>Phosphorus</u>

## **Reason**

Phosphorus is a substance that obviously threatens the chemical quality of groundwater.

Brussels, 11 February 2004.

The President  
of the  
Committee of the Regions

The Acting Secretary-General  
of the  
Committee of the Regions

**Peter Straub**

**Gerhard Stahl**

<sup>1</sup> OJ No. C180 of 11.6.1998, page 38

<sup>2</sup> OJ No. C357 of 14.12.2001, page 44

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CdR 240/2003 fin EN/o

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