



European Economic and Social Committee

NAT/169
Bathing water

Brussels, 19 June 2003

OPINION

of the European Economic and Social Committee

on the

**Proposal for a Directive of the European Parliament and of the Council concerning the
quality of bathing water**

(COM(2002) 581 final - 2002/0254 COD)



On 13 November 2002 the Council, in accordance with Article 175(1) of the Treaty establishing the European Community, decided to consult the European Economic and Social Committee on the

Proposal for a Directive of the European Parliament and of the Council concerning the quality of bathing water
(COM(2002) 581 final – 2002/0254 COD).

The Section for Agriculture, Rural Development and the Environment, which was responsible for preparing the Committee's work on the matter, adopted its opinion on 26 May 2003 (rapporteur: **Mr Buffetaut**).

At its 400th plenary session of 18 and 19 June 2003 (meeting of 19 June 2003), the European Economic and Social Committee adopted this opinion by 81 votes to one, with no abstentions.

1. **Gist of the Commission document**

1.1 **Scope**

1.1.1 The proposal concerns bathing water and not recreational waters on which people indulge in sporting or leisure activities presenting a serious risk of falling into water, swallowing water or being submerged, such as surfing, windsurfing, canoeing and kayaking. The Commission considers nevertheless that it is desirable to improve the protection of persons who practise such aquatic activities, in particular by providing them with better information.

1.2 **Parameters**

1.2.1 The main new element lies in the drastic reduction in the number of parameters, from 19 to 2 key microbiological parameters, complemented by visual inspection (algae bloom, oil) and pH measurement in fresh waters.

1.2.2 The Commission considers that the two faecal indicator parameters retained (Intestinal Enterococci and *Escherichia coli*) provide the best available match between faecal pollution and health impact. In fact bathing water is classified and assessed according to the risk of a person becoming ill following a bathe in it.

1.2.3 The Commission therefore proposes a legally binding "*Good Quality*" value and an "*Excellent Quality*" guide value for Intestinal Enterococci and *Escherichia coli* concentration in bathing water. These standards (Annex I), which are based on the level of acceptable risk, are much stricter than those currently in force. They are equivalent to a risk of 5% ("Good" Standard) and 3% ("Excellent" Standard) for contracting gastro-interitis and to a risk of 2.5% ("Good" Standard) and 1% ("Excellent" Standard) for contracting an acute feverish respiratory illness (AFRI).

1.3 Achieving genuine bathing water management

1.3.1 The Commission has shown a certain flexibility in laying down bathing water monitoring frequency (2 analysed samples per month for routine monitoring) in Annex IV and harmonised standards for the handling of samples in Annex V, so as to ensure that the analyses carried out in the various Member States can be compared.

1.3.2 In addition to these rules, it would like the authorities responsible to achieve genuine integrated bathing water management involving the development of bathing water profiles (Annex III), the identification of potential sources of bathing water pollution, the collection, analysis and interpretation of information on water quality and its transmission to the public, and the measures to be taken in exceptional circumstances.

2. General comments

2.1 The protection of bathing water and the control of its quality were among the first elements of European water policy. The first directive, which dates from 1976, had very positive results and heightened public awareness. The reports published annually by the Commission clearly show that substantial progress achieved as regards the quality of bathing water. The most recent report (concerning the 2001 bathing season) shows a high degree of compliance with EU criteria as well as a significant improvement in bathing water quality, not only in coastal areas but also inland (rivers and lakes).

2.2 The EESC considers that the principle of a new proposal is justified in view of the scientific and technical progress made and the adoption of new EU directives on water policy, in particular the Framework Directive of 23 October 2000¹.

2.2.1 It considers that while the definition of acceptable risk remains a political decision, it must be based on the most up-to-date scientific knowledge.

2.2.2 However, it stresses the need to avoid any duplication of other texts, so as to avoid a proliferation of pointless restrictions.

2.2.3 It also stresses the need for clear and easy to apply transitional measures during the changeover from the old to the new rules, in particular to avoid conflicts of interpretation between old and new parameters.

¹ The current proposal concerning the quality of bathing water is an integral part (Action 16) of the strategy to protect and conserve the marine environment proposed by the Commission, on which the EESC has also issued an opinion (CESE 578/2003 of 14 May 2003).

2.3 Scope

2.3.1 It should be pointed out that water activities are practised farther from the shore than is the case with swimming, often in areas which are unsuitable for swimming or bathing, in rougher water and over a longer period of the year. So, including such "recreational waters" in the directive would significantly increase the obligations of the Member States both in space and time, without the usefulness of such new restrictions being proven.

2.3.2 Because of the differences in the nature and characteristics of bathing and recreational waters, the very great difficulty - or even technical and scientific impossibility - of carrying out reliable measures at sea, especially in rough waters, and the weakness of the available scientific data on the health risks associated with indulging in water sports in recreational waters, the EESC feels that limiting the proposal's scope to bathing water is justified. After all, in waters that are the starting point of recreational activities, where in practice the risk of capsizing or of falling into the water is at its highest, the problem does not arise because these are also used for bathing.

2.4 Parameters

2.4.1 Under the current rules, only 3 microbiological parameters have been used in practice to determine water compliance with European standards. The other data (oil, pH etc.) have been collected for statistical and information purposes. In most cases, microbiological pollution is the main obstacle to good water quality. Moreover, the Water Framework Directive has already established a comprehensive chemical and biological monitoring system for all waters, and legislative duplication should be avoided.

2.4.2 Risk levels may still seem high. But it should be noted that, if the old and the new standards are compared, the 1976 Guide standards ("Excellent Quality") correspond to a risk of 5% for contracting gastro-enteritis and the 1976 Imperative standards to a risk of 12 to 15%. The new standards of "Excellent Quality" are moving towards the total absence of contaminants and the "Good Quality" standards correspond to the risk of a family member catching the flu; the real risk lies in exceeding the proposed standards.

2.4.3 The EESC would stress that the key elements of the proposal are the definition of parameters and the principle of managing bathing waters. The new parameters for both "Good Quality" and "Excellent Quality" water impose notably stricter requirements for bathing water than the 1976 Directive. With this in mind, the EESC requests that the epidemiological study carried out to determine the thresholds be properly endorsed and, in particular, that it be based on the analysis of a sufficient number of cases. While the microbiological parameters selected are relevant, the statement that research on viral indicators is still necessary seems unfounded in view of the current state of knowledge and at a practical level owing to the great variability of viral dilution in water, which rules out any stable and reliable measurement.

2.4.4 The EESC feels that the request of public opinion to be able to benefit from bathing water of high quality is natural and justified. The difference between the proposed criteria for "Good Quality" and "Excellent Quality" water seems, on first analysis, to be so small that some specialists wonder what the real gain is in terms of public health by differentiating between the two, as proposed in the new text. The EESC requests the Commission to provide more clarity and enlightenment here. However, the mere existence of an "Excellent Quality" category can be a major incentive for the competent authorities to improve bathing water quality so as to achieve excellence. Thus there is an encouragement to constantly improve water quality, whereby the competent bodies themselves can best decide between the economic cost and benefit.

2.4.5 It would like the impact assessment to provide more details about the consequences of implementing the new parameters as regards the downgrading of bathing areas.

2.5 **Monitoring and standards for the handling of samples**

2.5.1 The EESC approves of the flexibility allowed in monitoring to take account of the specific features of the water concerned and local characteristics, since this is in keeping with the principle of subsidiarity.

2.5.2 It also approves the harmonisation of standards for handling samples and considers that such action is necessary if one wants to compare water quality throughout the European Union. However, it stresses that comparisons will only be really reliable if there is intercalibration of the methods of analysis under consideration.

2.5.3 It points out that there are, within the European Union, two methods of analysis, one by microplate, which is the most modern and the most effective, the other by filtration, which uses an older technique. It considers that generalised use of the most modern techniques would improve the quality control of bathing water.

2.6 **Bathing water profile**

2.6.1 Annex III (b and c) contains extremely wide-ranging provisions on bathing water profile which do not seem entirely practical or realistic. It calls for an identification - quantitative and qualitative - of all potential sources of pollution and an assessment of their potential to pollute bathing water. How are such things to be measured on a large navigable river? How far upstream? How should the risk of diffuse pollution be assessed, particularly from agricultural sources? It should be spelt out what kind of pollution is to be taken into account.

2.6.2 Although the EESC understands the Commission's wish to urge the Member States and the local authorities to establish bathing water profiles, it feels that the recommendations are so broad as to become unrealistic or impossible to satisfy. It would therefore be necessary to define the type of pollution under consideration and the potential sources of pollution more precisely. It would

also be more realistic to concentrate on the main sources of potential pollution, rather than aim at an impossible level of exhaustiveness.

3. **Specific comments**

3.1 **Article 4: Quality status**

3.1.1 Given the apparently only small difference between "Good Quality" and "Excellent Quality" water, the EESC requests the Commission to provide more clarity and enlightenment, so that one can assess the doubts that some specialists have over what real benefits in terms of public health are gained by achieving "excellent quality" status. The EESC is sure that the cost-effectiveness of the measure is best assessed by the competent bodies themselves, but is positive that the mere existence of an "Excellent Quality" category can be a major incentive for the improvement of bathing water quality, which will both benefit the environment generally and can constitute a competitive advantage for certain regions.

3.1.2 The EESC requests that the impact of the new parameters on the downgrading of bathing areas be measured properly and that the epidemiological study carried out to determine the thresholds be properly endorsed.

3.2 **Article 10: Studies and analysis following classification**

3.2.1 The timing of the studies and analyses following classification suggests that the Commission considers the results noted to be lasting. In practice the local authorities will carry out more frequent checks in very popular bathing areas. It should therefore be made clear that the provisions of Article 10 are minimum recommendations.

3.3 **Article 11: Harmonised standards**

3.3.1 The EESC is wholly in favour of harmonised standards but stresses that these can only be really effective if there is intercalibration of the methods of analysis to ensure that analyses are really comparable.

3.3.2 It also regrets that nothing has been done to encourage adoption of the most modern and effective methods of measurement (microplate method).

3.4 **Article 12: Emergency plans**

3.4.1 The EESC considers that the provisions of Article 12 go into practical details which are matters for civil protection organisations and have no place in this proposal. The article could be limited to its first paragraph, or even deleted.

3.5 **Article 13: Conformity**

3.5.1 Article 13(2) allows poor quality water to be tolerated for three years. In practice this amounts to a temporary exemption. During this period the public should be provided with clear information about the steps taken to improve bathing water quality and the results achieved.

3.6 **Article 14: Assessment of physico-chemical parameters**

3.6.1 The EESC stresses that it would be more useful and effective if the physico-chemical tests were carried out on sediments rather than on water.

3.6.2 As regards toxicity tests, ecotoxicity exposure tests on mussels, fish or algae, for example, are more relevant as regards chronic toxicity than the tests on mice mentioned in Annex I.

3.7 **Article 16: Information to the public**

3.7.1 There is no mention of daily chromaticity tests or microbiological indication tests, which are in the process of being approved but which would be an aid as regards prevention, information and, ultimately, decision-taking for local authorities, who have to react in real time if water quality deteriorates.

3.8 **Article 19: Technical adaptations**

3.8.1 Article 19(2) mentions the integration of virus detection data, but with the techniques in normal current use it is technically almost impossible to obtain reproducible and reliable data in this field for bathing water, and all the more so for rough waters.

3.9 **Article 20: Committee**

3.9.1 The EESC does not dispute the establishment of this committee but regrets that there are not more details about its composition and the qualifications of its members.

3.10 **Annex I: Parameters for bathing water quality**

3.10.1 In addition to the remark already made about the "good" and "excellent" quality water parameters, the EESC points out that in column D (methods of analysis) the first ISO standard mentioned is incomplete, as the last figure after the dash is missing. On the other hand, while the second is complete, it excludes the microplate measurement method, which is more accurate, and allows only the filtration method.

3.11 **Annex II: Bathing water assessment**

3.11.1 The last point, which is very clearly the result of a compromise, is unclear and should be deleted.

3.12 **Annex III: Bathing water profile**

3.12.1 Points (b) and (c) require information that, in all seriousness, cannot be provided. Any modelling here is nonsense. It would be reasonable merely to ask for identification of the main potential sources of pollution.

3.12.2 Point (e) cannot have any serious practical application. The fact that it is mentioned in the "excellent quality" profile makes it impossible for such a rating to be obtained. The EESC therefore asks that point (e) be deleted.

3.13 **Annex IV: Monitoring frequency**

3.13.1 The minimum frequency of two samples taken per bathing season is low and does not reflect practice in popular areas. What is more, it does not enable relevant statistical data to be obtained.

3.14 **Annex V: Standards for the handling of samples**

3.14.1 Guidelines: in practice the number of bathers has little influence on bathing water quality as defined in accordance with the parameters in the present proposal.

3.14.2 Sampling: it would be useful to stress the importance of intercalibrating methods of analysis.

3.15 **Impact assessment form**

3.15.1 The EESC considers that the impact assessment form is inadequate, both from the cost/benefits angle of the proposal and as regards assessing the consequences of bathing areas being downgraded.

4. **Conclusions**

4.1 The EESC recognises the interest of a new directive that takes account of scientific and technical progress, which is a tool for measuring the quality of bathing water better and improving its quality. It stresses the need to stick to realistic recommendations that are of real interest to public health; in this connection it supports the exclusion of recreational waters from the scope of the directive and stresses the need for the choice of new parameters and criteria to be based on sound and relevant scientific and epidemiological studies. It recommends encouraging the most modern and

reliable techniques and those which allow the authorities concerned and the public to be informed as quickly as possible. It considers that the bathing water profile defined in Annex III should provide a better definition of the type of pollution concerned and needs to be reviewed so that it does not contain provisions that cannot be applied in practice. It asks that the transitional measures between the old and the new standards be spelt out clearly.

4.2 The EESC stresses that, above all, the public wants clear, rapid and frequent information on bathing water quality.

4.3 Finally, given the great diversity of bathing areas throughout the European Union, the EESC urges respect for the principle of subsidiarity, which is the key to good governance in Europe.

Brussels, 19 June 2003.

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of the
European Economic and Social Committee

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