

Framework for community action in the field of marine environmental policy. Marine Strategy Framework Directive

2005/0211(COD) - 23/07/2007 - Council position

The Council adopted, by all but one Member State (Italy abstained), the common position.

The common position accepted totally, in part or in principle a certain number of amendments (37 in total) made by the European Parliament in the first reading. 47 amendments were rejected.

The Council has sought to clarify the scope and objectives of the proposed Directive by adding definitions of key terms and concepts (Article 3) as well as an annex (Annex I) containing generic qualitative descriptors to guide determination of good environmental status, bearing in mind that the proposal is for a framework Directive that should not burden implementation with too much technical detail.

Furthermore, the Council has added or amended a number of provisions to specify Member States' obligations in implementation. Notably, the obligations of Member States without marine waters are clarified in a way that ensures that all EU Member States will cooperate towards achieving good environmental status in the marine environment.

The common position also foresees situations where environmental targets established by Member States might not be achieved or might not be achieved within the timetable foreseen. In such cases, Member States would be under the twofold obligation to provide the Commission with justifications and to take ad hoc measures so as to mitigate damage. On the other hand, the text agreed by the Council provides for situations where more urgent or stronger action is needed concerning pilot projects and on marine protected areas.

The Council has reacted to the Parliament's amendments in the following way:

Good environmental status (GES): the Council, very much like the EP, has considered that GES is central to this proposed Directive. Both institutions have logically complemented the initial proposal with a definition and a set of qualitative descriptors to guide determination of good environmental status in each marine region or sub-region. The two institutions have taken rather different approaches. The Council's concept is mostly based on status (in other words: what are the features that need to be present for the status of the marine environment to be considered good), but recognises that, for obvious reasons, some human activities (related to agriculture, fisheries or shipping) are more likely than others to increase pressure on the marine environment. On the other hand, most EP amendments, though not all, focus on human-induced, and even sector-specific, pressures upon that environment. Furthermore, the level of technical detail in several EP amendments is not compatible with the Council's approach to this proposal for a framework Directive.

Objectives, timetables and costs: the Council stresses that it has adopted an ambitious and realistic approach to the related issues of obligations and timetables. As opposed to the EP, the Council is not in favour of an overall tightening of deadlines, in particular 2017 instead of 2021 for achieving good environmental status, given the high diversity of situations across Europe. Nevertheless, the Common position allows for speedier implementation wherever Member States deem that it is desirable and/or feasible. It should also be noted that the timetable adopted by the Council for this Directive is compatible with the implementation and reporting timing under the Water Framework Directive. The Council also

considered that it would be unrealistic, no matter how desirable, to make achievement of good environmental status, even by 2021, a legally binding objective. The common position makes it mandatory to take a number of measures and steps according to a precise timetable. This alone should ensure visible progress towards the GES objective, if not complete achievement by 2021.

Along similar lines, the Council also considered that Member States, in developing and implementing marine strategies, should not be under an obligation to take steps where there is no significant risk to the environment, or where action would entail disproportionate costs taking into account the risks to the marine environment. Here too, however, Member States are required to provide the Commission with a justification.

Marine strategies and regional cooperation: the Council can agree with the EP that cooperation within marine regions or sub-regions, both amongst EU Member States and with third countries, is crucial. The common position emphasises the need to use existing international institutional cooperation structures, including those established under regional seas conventions, to avoid duplication of efforts. The Council cannot, however, accept the notion of joint responsibility for developing one single marine strategy per region or sub-region. This would dilute the legal responsibility for compliance between several Member States and would hinder progress towards the objective of the proposed Directive. The Council considers that the ultimate responsibility for meeting obligations under Community legislation in general, and under this Directive in particular, must lie strictly with individual Member States.

The following amendments were also introduced into the common position: they refer to the expansion of the geographical coverage of the Directive in particular to the Black Sea apart from the reference to the Arctic Ocean; the demands on oceans and seas; the importance of ecosystems; referring to biological and environmental targets; the importance of cooperation with third countries (with the exception of the idea of launching partnerships); the cost-effectiveness and research and monitoring needs; the inclusion of a reference to ecological functions; the importance of marine research in the 7th Framework Programme for Research; the need for the Common Fisheries Policy; the insertion of references to the ecosystem-based approach and to the precautionary approach; the introduction of useful references to the quality of waters in applicant and associated states; addressing cooperation between Member States and with third countries; including a reference to Marine Protected Areas; taking into consideration existing obligations, commitments and initiatives at international level is partly introduced in the definition of 'marine waters' in the Common Position through the reference to the UN Convention on the Law of the Sea; definitions cover 'Marine Waters', 'Environmental Status', 'Good Environmental Status', 'Pollution'; the preparation of regional marine strategies on the condition that regional marine strategies are again understood as a compilation of national strategies, not implying collective responsibility; the extent that it would recognise a fast-track implementation mechanism; the inclusion of references to the Birds and Habitats Directives (79/409/EC and 92/43/EC) in Article 11 (Monitoring Programmes).