

Protection of groundwater: prevention and control of pollution

2003/0210(COD) - 23/01/2006 - Council position

According to the Council, the common position adopted, by qualified majority, represents a balanced package of measures that would contribute to the pursuit of the objectives of Community environmental policy and would advance the protection of groundwater against pollution, while ensuring compliance with the groundwater-related requirements contained in Directive 2000/60/EC and allowing for effective implementation by the Member States, taking due account of specific hydro-geological circumstances at national level.

The common position incorporates 54 out of the 89 amendments adopted by the European Parliament at first reading, either verbatim, in part or in spirit. These improve or clarify the text of the proposed Directive. In addition, the Council has incorporated key Parliamentary amendments related to good groundwater chemical status compliance, identification and reversal of pollution trends as well as

exemptions linked to provisions to prevent or limit pollutant inputs.

However, other amendments are not reflected in the common position because the Council agreed that they were unnecessary or unacceptable or, in several cases, because provisions from the original Commission proposal were deleted or thoroughly redrafted. This applies in particular to the annexes, which the Council aimed to simplify and clarify as much as possible so as to ensure effective implementation.

The Council partly accepted a Parliamentary amendment which was actually rejected by the Commission. This amendment made a reference to 'environmentally' significant increases of concentrations of pollutants in groundwater. The Council changed the formulation which is now clearer.

Parliamentary amendments rejected by the Commission and the Council concerned repeating WFD provisions, e.g. concerning groundwater used as drinking water, groundwater quantitative issues, references to human or eco-toxicological criteria, or they added new provisions on the management of historically contaminated sites. Prevention measures and a provision on 'polluter pays principle' were not retained, nor were specific provisions on spas and medicinal water sources. Another amendment, which referred to INSPIRE, was also not incorporated. Finally, research recommendations were considered to be misplaced in the directive.

The Council rejected the following Parliamentary amendments accepted in full, in part or in principle by the Commission : some of these amendments concerned editorial changes such as the addition of the term 'chemical' to pollution throughout the text and 'resulting from the impact of human activity' in Article 5. Others were more substantial, e.g. incorporation of a new recital on farming/forestry practices, new definitions on 'background concentration' and 'baseline concentration' or reference to natural geogenically determined levels of pollutants, which would be useful and in line with the Common Position. The possible proposal for a directive amending Annex I of the proposal was also not retained. A new article on measurement methods was not incorporated. Finally, a reference to measures and groundwater monitoring has not been included in the common position.

Furthermore, the Council has made additional changes to the common position:

- a paragraph has been extended to include a reference to the 'prevent or limit' provision of the WFD, and incorporated as a separate paragraph;
- a new definition of 'groundwater quality standard' has been included, the 'threshold value' now being linked to this definition. Former definitions have been slightly modified by including a cross-reference to 'environmental risk' and changing 'indirect discharges' to 'input' (which covers both direct and indirect introduction of pollutant into groundwater);
- in the original proposal, Article 3 concerning compliance criteria for good groundwater chemical status has now been changed by consolidating criteria for assessing groundwater chemical status in Article 3, namely 'groundwater quality standards' and 'threshold values', and including requirements on the establishment of the latter with additional provisions on trans-boundary groundwater bodies. The date at which threshold values should be reported has also been changed to 2008 from 2006 as proposed by the Commission. Restructuring this Article had the logical consequence that all elements related to compliance are now incorporated in Article 4, including provisions that were originally included in Annex I, and providing flexibility to the 'one out all out principle' (one point exceeding the standard classifying the groundwater body as being in poor chemical status) with a risk-based approach;
- the spirit of Article 5 remains the same as in the original proposal, but it now includes provisions that were imported from the former Annex IV, thus making it more extensive. A new provision has been included concerning the reasons for the definition of starting points for trend reversal;
- Article 6 has also been substantially extended, covering provisions to 'prevent or limit' inputs of pollutants (instead of indirect discharges as in the original proposal). The pollutants whose input is to be prevented or limited and the related measures are clarified in Article 6(1). A new provision on diffuse sources is included in Article 6(2). Finally, a series of exemptions, either recalling WFD provisions, imported from the 80/68/EEC Directive, or highlighting allowable water management practices, have been incorporated in Article 6(3);
- Article 7 has been slightly modified in that it now refers to 'any new authorisation procedure' instead of 'prior investigation and authorisations';
- the core of the text of Article 9 is also unchanged, but the implementation date has been modified to 24 months instead of 18 months;
- the clarity of Annex I has been improved by changing the footnotes into separate paragraphs which clarify the scope and applicability of the groundwater quality standards. The comment in the right column of the table concerning nitrates has been extended to all activities falling within the scope of the Directive 91/676/EEC instead of only referring to nitrate-vulnerable zones. Finally, the value of 0.5 µg/l for 'total pesticides' has been included in the table;
- the sequence of Annexes II and III has been modified. Annex II, part A, now concerns guidelines for the establishment of threshold values (new text) Minimum lists of substances or ions related to threshold values are included in part B, splitting the tables (originally in Annex III) in three different categories, and specifying that threshold values linked to saline concentrations due to anthropogenic activities may be established either for sulphate or chloride or for electrical conductivity. Part C of the annex now includes the former Part B of Annex III with additional details which improve the text;
- Annex III now concerns the assessment of groundwater chemical status and extends the original text of the former Annex II with details and cross-references to Article 4;

- lastly, Annex IV has been simplified in order to provide general requirements rather than specifications, in particular time series, which might not be applicable to all groundwater situations in Europe. New requirements have been added regarding monitoring frequencies and locations.