



31976L0160

Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water

Official Journal L 031 , 05/02/1976 P. 0001 - 0007

Greek special edition: Chapter 15 Volume 1 P. 0108

Spanish special edition: Chapter 15 Volume 1 P. 0133

Portuguese special edition Chapter 15 Volume 1 P. 0133

Finnish special edition: Chapter 15 Volume 2 P. 0003

Swedish special edition: Chapter 15 Volume 2 P. 0003

CONSLEG - 76L0160 - 31/12/1991 - 10 P.

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COUNCIL DIRECTIVE of 8 December 1975 concerning the quality of bathing water (76/160/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 100 and 235 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas, in order to protect the environment and public health, it is necessary to reduce the pollution of bathing water and to protect such water against further deterioration;

Whereas surveillance of bathing water is necessary in order to attain, within the framework of the operation of the common market, the Community's objectives as regards the improvement of living conditions, the harmonious development of economic activities throughout the Community and continuous and balanced expansion;

Whereas there exist in this area certain laws, regulations or administrative provisions in Member States which directly affect the functioning of the common market ; whereas, however, not all the powers needed to act in this way have been provided for in the Treaty;

Whereas the programme of action of the European Communities on the environment (3) provides that quality objectives are to be jointly drawn up fixing the various requirements which an environment must meet inter alia the definition of parameters for water, including bathing water; Whereas, in order to attain these quality objectives, the Member States must lay down limit values corresponding to certain parameters ; whereas bathing water must be made to conform to these values within 10 years following the notification of this Directive;

Whereas it should be provided that bathing water will, under certain conditions, be deemed to conform to the relevant parametric values even if a certain percentage of samples taken during the bathing season does not comply with the limits specified in the Annex;

Whereas, to achieve a certain degree of flexibility in the application of this Directive, the Member States must have the power to provide for derogations ; whereas such derogations must not, however, (1)OJ No C 128, 9.6.1975, p. 13. (2)OJ No C 286, 15.12.1975, p. 5. (3)OJ No C 112, 20.12.1973, p. 3. disregard requirements essential for the protection of public health;

Whereas technical progress necessitates rapid adaptation of the technical requirements laid down in the Annex ; whereas, in order to facilitate the introduction of the measures required for this purpose, a procedure should be provided for whereby close cooperation would be established between the Member States and the Commission within a Committee on Adaptation to Technical Progress;

Whereas public interest in the environment and in the improvement of its quality is increasing ; whereas the public should therefore receive objective information on the quality of bathing water,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. This Directive concerns the quality of bathing water, with the exception of water intended for therapeutic purposes and water used in swimming pools.

2. For the purposes of this Directive: (a) "bathing water" means all running or still fresh waters or parts thereof and sea water, in which: - bathing is explicitly authorized by the competent authorities of each member State, or

- bathing is not prohibited and is traditionally practised by a large number of bathers;

(b) "bathing area" means any place where bathing water is found;

(c) "bathing season" means the period during which a large number of bathers can be expected, in the light of local custom, and any local rules which may exist concerning bathing and weather conditions.

Article 2

The physical, chemical and microbiological parameters applicable to bathing water are indicated in the Annex which forms an integral part of this Directive.

Article 3

1. Member States shall set, for all bathing areas or for each individual bathing area, the values applicable to bathing water for the parameters given in the Annex.

In the case of the parameters for which no values are given in the Annex, Member States may decide not to fix any values pursuant to the first subparagraph, until such time as figures have been determined.

2. The values set pursuant to paragraph 1 may not be less stringent than those given in column I of the Annex.

3. Where values appear in column G of the Annex, whether or not there is a corresponding value in column I of the Annex, Member States shall endeavour, subject to Article 7, to observe them as guidelines.

Article 4

1. Member States shall take all necessary measures to ensure that, within 10 years following the notification of this Directive, the quality of bathing water conforms to the limit values set in accordance with Article 3.

2. Member States shall ensure that, in bathing areas specially equipped for bathing to be created by the competent authorities of the Member States after the notification of this Directive, the "I values" laid down in the Annex are observed from the time when bathing is first permitted. However, for

bathing areas created during the two years following the notification of this Directive, these values need not be observed until the end of that period.

3. In exceptional circumstances Member States may grant derogations in respect of the 10-year time limit laid down in paragraph 1. Justifications for any such derogations based on plans for the management of water within the area concerned must be communicated to the Commission as soon as possible and not later than six years following the notification of this Directive. The Commission shall examine these justifications in detail and, where necessary, make appropriate proposals concerning them to the Council.

4. As regards sea water in the vicinity of frontiers and water crossing frontiers which affect the quality of the bathing water of another Member State, the consequences for the common quality objectives for bathing areas so affected shall be determined in collaboration by the riparian Member States concerned.

The Commission may participate in these deliberations.

Article 5

1. For the purposes of Article 4, bathing water shall be deemed to conform to the relevant parameters: if samples of that water, taken at the same sampling point and at the intervals specified in the Annex, show that it conforms to the parametric values for the quality of the water concerned, in the case of: - 95 % of the samples for parameters corresponding to those specified in column I of the Annex;

- 90 % of the samples in all other cases with the exception of the "total coliform" and "faecal coliform" parameters where the percentage may be 80 %

and if, in the case of the 5, 10 or 20 % of the samples which do not comply:

- the water does not deviate from the parametric values in question by more than 50 %, except for microbiological parameters, pH and dissolved oxygen;

- consecutive water samples taken at statistically suitable intervals do not deviate from the relevant parametric values.

2. Deviations from the values referred to in Article 3 shall not be taken into consideration in the calculation of the

percentage referred to in paragraph 1 when they are the result of floods, other natural disasters or abnormal weather conditions.

Article 6

1. The competent authorities in the Member States shall carry out sampling operations, the minimum frequency of which is laid down in the Annex.
2. Samples should be taken at places where the daily average density of bathers is highest. Samples should preferably be taken 30 cm below the surface of the water except for mineral oil samples which shall be taken at surface level. Sampling should begin two weeks before the start of the bathing season.
3. Local investigation of the conditions prevailing upstream in the case of fresh running water, and of the ambient conditions in the case of fresh still water and sea water should be carried out scrupulously and repeated periodically in order to obtain geographical and topographical data and to determine the volume and nature of all polluting and potentially polluting discharges and their effects according to the distance from the bathing area.
4. Should inspection by a competent authority or sampling operations reveal that there is a discharge or a probable discharge of substances likely to lower the quality of the bathing water, additional sampling must take place. Such additional sampling must also take place if there are any other grounds for suspecting that there is a decrease in water quality.
5. Reference methods of analysis for the parameters concerned are set out in the Annex. Laboratories which employ other methods must ensure that the results obtained are equivalent or comparable to those specified in the Annex.

Article 7

1. Implementation of the measures taken pursuant to this Directive may under no circumstances lead either directly or indirectly to deterioration of the current quality of bathing water.
2. Member States may at any time fix more stringent values for bathing water than those laid down in this Directive.

Article 8

This Directive may be waived: (a) in the case of certain parameters marked (0) in the Annex, because of exceptional weather or geographical conditions;
(b) when bathing water undergoes natural enrichment in certain substances causing a deviation from the values prescribed in the Annex.

Natural enrichment means the process whereby, without human intervention, a given body of water receives from the soil certain substances contained therein.

In no case may the exceptions provided for in this Article disregard the requirements essential for public health protection.

Where a Member State waives the provisions of this Directive, it shall forthwith notify the Commission thereof, stating its reasons and the periods anticipated.

Article 9

Such amendments as are necessary for adapting this Directive to technical progress shall relate to: - the methods of analysis
- the G and I parameter values set out in the Annex.

They shall be adopted in accordance with the procedure laid down in Article 11.

Article 10

1. A Committee on Adaptation to Technical Progress (hereinafter called "the committee") is hereby set up. It shall consist of representatives of the Member States and be chaired by a representative of the Commission.
2. The committee shall draw up its own rules of procedure.

Article 11

1. Where the procedure laid down in this Article is to be followed, matters shall be referred to the committee by the chairman, either on his own initiative or at the request of the representative of a Member State.
2. The representative of the Commission shall submit to the committee a draft of the measures to be adopted. The committee shall deliver its opinion on the draft within a time limit set by the chairman having regard to the urgency of the

matter. Opinions shall be adopted by a majority of 41 votes, the votes of the Member States being weighted as provided in Article 148 (2) of the Treaty. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged where they are in accordance with the opinion of the committee.

(b) Where the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is adopted, the Commission shall without delay propose to the Council the measures to be adopted. The Council shall act by a qualified majority.

(c) If, within three months of the proposal being submitted to it, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 12

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive within two years of its notification. They shall forthwith inform the Commission thereof.

2. Member States will communicate to the Commission the texts of the main provisions of national law which they adopt in the field covered by this Directive.

Article 13

Member States shall, four years following the notification of this Directive and at regular intervals thereafter, submit a comprehensive report to the Commission on their bathing water and the most significant characteristics thereof.

After prior consent has been obtained from the Member State concerned the Commission may publish the information obtained.

Article 14

This Directive is addressed to the Member States.

Done at Brussels, 8 December 1975.

For the Council

The President

M. PEDINI

ANNEX QUALITY REQUIREMENTS FOR BATHING WATER

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