

# EUROPEAN PARLIAMENT

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*Committee on the Environment, Public Health and Food Safety*

PROVISIONAL  
**2003/0210(COD)**

6.2.2006

**\*\*\*II**

## **DRAFT RECOMMENDATION FOR SECOND READING**

on the Council common position for adopting a directive of the European  
Parliament and of the Council on the protection of groundwater against  
pollution  
(12062/05/2005 – C6-xxxxx – 2003/0210(COD))

Committee on the Environment, Public Health and Food Safety

Rapporteur: Christa Klauf

### ***Symbols for procedures***

- \* Consultation procedure  
*majority of the votes cast*
- \*\*I Cooperation procedure (first reading)  
*majority of the votes cast*
- \*\*II Cooperation procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\* Assent procedure  
*majority of Parliament's component Members except in cases  
covered by Articles 105, 107, 161 and 300 of the EC Treaty and  
Article 7 of the EU Treaty*
- \*\*\*I Codecision procedure (first reading)  
*majority of the votes cast*
- \*\*\*II Codecision procedure (second reading)  
*majority of the votes cast, to approve the common position  
majority of Parliament's component Members, to reject or amend  
the common position*
- \*\*\*III Codecision procedure (third reading)  
*majority of the votes cast, to approve the joint text*

(The type of procedure depends on the legal basis proposed by the Commission.)

### ***Amendments to a legislative text***

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Council common position for adopting a directive of the European Parliament and of the Council on the protection of groundwater against pollution (12062/05/2005 – C6-xxxxx – 2003/0210(COD))**

**(Codecision procedure: second reading)**

*The European Parliament,*

- having regard to the Council common position (12062/05/2005 – C6-xxxxx),
  - having regard to its position at first reading<sup>1</sup> on the Commission proposal to Parliament and the Council (COM(2003)0550)<sup>2</sup>,
  - having regard to the amended Commission proposal (COM(2005)0282)<sup>3</sup>,
  - having regard to Article 251(2) of the EC Treaty,
  - having regard to Rule 62 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on the Environment, Public Health and Food Safety (A6-0000/2006),
1. Approves the common position as amended;
  2. Instructs its President to forward its position to the Council and Commission.

Council common position	Amendments by Parliament
<b>Amendment 1</b>	
<b>Title</b>	
Proposal for a directive of the European Parliament and of the Council on the protection of groundwater against pollution	Proposal for a directive of the European Parliament and of the Council on the protection of groundwater against pollution <b>and deterioration</b>

### *Justification*

*Reinstatement of Amendment 1 from the first reading, adopted on 28 April 2005.*

*The precautionary principle and the minimisation of pollution are central to European water policy. Accordingly, clarification is needed that the directive deals with the protection of groundwater against both pollution and deterioration. The distinction between prevention*

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<sup>1</sup> P6\_TA(2005)0145.

<sup>2</sup> Not yet published in OJ.

<sup>3</sup> Not yet published in OJ.

*and restoration has clearly not been properly understood. Prevention is particularly important because the purification of groundwater - if feasible at all - is a very costly and time-consuming process.*

Amendment 2  
Recital 1

(1) Groundwater is a valuable natural resource ***which should*** be protected from chemical pollution. This is particularly important for groundwater-dependent ecosystems and for the use of groundwater in water supply for human consumption.

(1) Groundwater is a valuable natural resource ***and as such must*** be protected from ***deterioration and*** chemical pollution. This is particularly important for groundwater-dependent ecosystems and for the use of groundwater in water supply for human consumption.

*Justification*

*Reinstatement of Amendment 2 from the first reading, adopted on 28 April 2005.*

*These additional changes are particularly important because bodies of groundwater are independent ecosystems and must be protected **as such**. This must be clearly stated at least once.*

Amendment 3  
Recital 1 a (new)

***(1a) Groundwater is the most sensitive and the largest body of freshwater in the European Union and in particular also the primary source of public drinking water supplies. The level of protection against new discharges, emissions and losses must be at least comparable to that for surface water of good chemical status. Pollution or deterioration frequently gives rise to irreversible damage.***

*Justification*

*Reinstatement of Amendment 4 from the first reading, adopted on 28 April 2005.*

*In some EU Member States, e.g. Austria and Germany, drinking water is largely drawn from groundwater and in most cases supplied directly to consumers with no chemical treatment. Any treatment processes which are carried out are merely intended to prevent corrosion, by removing iron and manganese, or to improve the appearance/taste of the water; they do not involve purification.*

Amendment 4  
Recital 6 a (new)

***(6a) The protection of groundwater may in some areas require a change in farming/forestry practices, which could entail a loss of income. This issue should be addressed when the rural development plans under the reformed CAP are drawn up.***

*Justification*

*Reinstatement of Amendment 8 from the first reading, adopted on 28 April 2005.*

*Annex I lays down binding groundwater quality standards only in respect of nitrates and pesticides. These substances are chiefly released as a result of farming practices. The reports on the implementation of the nitrates directive show just how difficult, costly and time-consuming the process of reducing such pollution is. Community aid must therefore be provided under the CAP.*

Amendment 5  
Recital 13 a (new)

***(13a) The impact on the environmental protection level and on the functioning of the internal market of different groundwater quality standards (threshold values), as applied by the Member States following their revision, should be analysed.***

*Justification*

*Reinstatement of Amendment 9 from the first reading, adopted on 28 April 2005.*

*This EP call is all the more pressing because, according to the common position, the Member States will be free to decide whether to lay down threshold values and, if so, for which substances listed in Annex II, Part B.*

Amendment 6  
Recital 13 b (new)

***(13b) Research should be conducted in order to provide better criteria for groundwater ecosystem quality and protection. Where necessary, the findings obtained should be taken into account when implementing or revising this Directive.***

*Justification*

*Reinstatement of Amendment 95 from the first reading, adopted on 28 April 2005.*

Amendment 7  
Recital 14 a (new)

***(14a) This Directive should apply until 31 December 2018, unless the European Parliament and the Council decide otherwise, acting on a proposal from the Commission.***

*Justification*

*Parliament approves the common position subject to the proviso that at the latest in 2018 the directive will be subject to a thorough review of its effectiveness. With a view to guaranteeing that time-limit, it should be stipulated that the directive will cease to apply once the time-limit has expired.*

Amendment 8  
Article 2, point 3

(3) ‘significant and sustained upward trend’ means any statistically significant increase of concentration of a pollutant, group of pollutants, or indicator of pollution, ***which presents an environmental risk*** for which trend reversal is identified as being necessary in accordance with Article 5;

(3) ‘significant and sustained upward trend’ means any statistically ***and environmentally*** significant increase of concentration of a pollutant, group of pollutants, or indicator of pollution ***in groundwater*** for which trend reversal is identified as being necessary in accordance with Article 5;

*Justification*

*Reinstatement of Amendment 18 from the first reading, adopted on 28 April 2005.*



*The proposed amendment would require Member States to focus their efforts on reversing trends which might have environmentally significant consequences. This approach would also be effective in environmental and cost terms. Retaining the words ‘which presents an environmental risk’ would amount to acceptance of a ‘topping-up trend’.*

Amendment 9  
Article 2, point 4 a (new)

***(4a) ‘deterioration’ means any slight, anthropogenically induced and persistent increase in concentrations of pollutants in relation to the status quo in the groundwater.***

*Justification*

*Reinstatement of Amendment 21 from the first reading, adopted on 28 April 2005.*

*All the terms used in the legislative text and which are fundamental to the interpretation of the legislative text and the purpose of the directive must be defined. In the water framework directive, Article 2, point 33, defines only the term ‘pollution’. This gives rise to conceptual confusion - not least in the water framework directive itself - which may have a significant bearing on groundwater protection.*

Amendment 10  
Article 2, point 4 b (new)

***(4b) ‘background concentration’ means the concentration of a substance in a groundwater body corresponding to no, or only very minor, anthropogenic alterations to undisturbed conditions.***

*Justification*

*Reinstatement of Amendment 22 from the first reading, adopted on 28 April 2005.*

*All the terms used in the legislative text and which are fundamental to the interpretation of the legislative text and the purpose of the directive must be defined. The wording has been brought into line with that of the common position.*

Amendment 11  
Article 2, point 4 c (new)

***(4c) ‘the baseline concentration’ of a***

***substance in a groundwater body is the average concentration measured during the reference years 2007 and 2008 on the basis of the monitoring programmes established under Article 8 of Directive 2000/60/EC.***

*Justification*

*Reinstatement of Amendment 24 from the first reading, adopted on 28 April 2005.*

*All the terms used in the legislative text and which are fundamental to the interpretation of the legislative text and the purpose of the directive must be defined.*

Amendment 12

Article 3, paragraph 1, letter b a (new)

***(ba) The groundwater quality standards and threshold values applicable to good chemical status shall be based on the human and ecotoxicological criteria underpinning the definition of pollution in Article 2(33) of Directive 2000/60/EC.***

*Justification*

*Reinstatement of Amendment 27 from the first reading, adopted on 28 April 2005.*

*The criteria governing admissible concentrations of pollutants in groundwater which are not sufficient to alter good chemical status must be based on the concept of risk underpinning the definition of pollution in Article 2(33) of the water framework directive. The general expert view is that this threshold is defined by the human and ecotoxicological threshold values for groundwater.*

Amendment 13

Article 4, paragraph 2 a (new)

***(2a) Where, in a body or group of bodies of groundwater, the natural geogenically determined levels of pollutants or indicators for which a threshold value has been laid down pursuant to Annex II, Part B, are above these values, the natural contents plus the prescribed threshold values shall define the point of transition from good to poor status.***

### *Justification*

*Reinstatement of Amendment 91 from the first reading, adopted on 28 April 2005.*

*Since natural levels of pollutants, which differ very widely in Europe, cannot be taken into account when quality standards are laid down, it must be made clear what should happen if the natural levels - the so-called background concentrations - already exceed the quality standards. In such cases, the higher natural levels should be regarded as the quality standard/threshold value.*

### Amendment 14

Article 4, paragraph 2 b (new)

***(2b) Compliance with the standards shall be based on a comparison with the arithmetic means of the monitoring values at each of the measurement points in the body or group of bodies of groundwater characterised as being at risk pursuant to the analysis to be carried out under Article 5 of Directive 2000/60/EC. Measurements at individual measurement points which are not compliant with the standard shall determine the classification only where the measurement point is, according to expert verification pursuant to Annex I and Annex II to this Directive, representative of the pollution of the body of groundwater or a part thereof.***

### *Justification*

*Reinstatement of Amendment 28 from the first reading, adopted on 28 April 2005.*

*Classification of the body of groundwater as having good or poor status on the basis of measurements is a key feature of the directive. The provisions governing classification must therefore be absolutely clear. If a measuring point is not representative of the body of groundwater, or at least a part of it, it will not be used to determine classification. Classification of a body of groundwater thus also always requires an assessment by experts.*

### Amendment 15

Article 4 a (new)

#### ***Article 4a***

***Revision of the list of groundwater quality standards set out in Annex I and of the***

***list of threshold values which the Member States must lay down pursuant to Annex II***

***In the first instance five years after the entry into force of this Directive and subsequently every six years:***

- the Commission shall review the list of groundwater quality standards set out in Annex I and the list of threshold values laid down pursuant to Annex II, Part B, on the basis, in particular, of the information provided by the Member States through the management plans, scientific and technical progress and an opinion of the committee referred to in Article 16(5) of Directive 2000/60/EC;***
- the Commission shall draw up, taking particular account of the comparability of the threshold values laid down by the Member States, the impact of those threshold values on the competitiveness of the economic sectors concerned, compliance with the deadlines laid down and an assessment of the progress made towards reducing groundwater pollution, a summary report and, if necessary, submit proposals for a directive amending the list of pollutants, groups of pollutants and pollution indicators and/or related pollutant concentrations in accordance with the procedure laid down in Article 251 of the Treaty.***

#### *Justification*

*Reinstatement of Amendment 36 from the first reading, adopted on 28 April 2005.*

*This amendment is intended to ensure that the list of pollutants and groundwater quality standards (threshold values) are reviewed at regular intervals and that Parliament is involved in the legislative process. However, it is also essential that the threshold values to be laid down by the Member States should be assessed on the basis of competition-related considerations.*

*The wording of the amendment has been brought into line with the terminology used and deadlines laid down in the common position.*

Amendment 16  
Article 5, paragraph 2

(2) Member States shall reverse trends which present a significant risk of harm to the quality of aquatic ecosystems or terrestrial ecosystems, to human health, or to actual or potential legitimate uses of the water environment, through the programme of measures referred to in Article 11 of Directive 2000/60/EC, in order progressively to reduce pollution of groundwater.

(2) Member States shall reverse trends which present, ***by comparison with the baseline concentration***, a significant risk of harm to the quality of aquatic ecosystems or terrestrial ecosystems, to human health, or to actual or potential legitimate uses of the water environment, through the programme of measures referred to in Article 11 of Directive 2000/60/EC, in order progressively to reduce pollution of groundwater ***and prevent deterioration***.

*Justification*

*Reinstatement of Amendment 38 from the first reading, adopted on 28 April 2005.*

*The programme of measures must also seek to prevent deterioration (see Article 1(2) of the common position).*

Amendment 17  
Article 6, paragraph 1, subparagraph 1, letter (b)

(b) for pollutants listed in Annex VIII to Directive 2000/60/EC which are not considered hazardous, and any other non-hazardous pollutants not listed in that Annex considered by Member States to present an existing or potential risk of pollution, or measures necessary to limit inputs into groundwater so as to ensure that such inputs do not cause deterioration of ***good groundwater chemical status, do not cause any significant and sustained upward trends in the concentrations of pollutants in groundwater and do not otherwise cause pollution of groundwater***. Such measures shall take account of established best practice, including the Best Environmental Practice and Best Available Techniques specified in the relevant Community legislation.

(b) for pollutants listed in Annex VIII to Directive 2000/60/EC which are not considered hazardous, and any other non-hazardous pollutants not listed in that Annex considered by Member States to present an existing or potential risk of pollution, or measures necessary to limit inputs into groundwater so as to ensure that such inputs do not cause deterioration of groundwater. Such measures shall take account, ***at least***, of established best practice, including the Best Environmental Practice and Best Available Techniques specified in the relevant Community legislation.

### *Justification*

*The prevention of fresh instances of the deterioration and/or pollution of groundwater by new inputs is the key area covered by this directive (and already by Directive 80/68/EEC, which will cease to apply in 2013). The relevant emissions principle should be based strictly on the precautionary principle, the principle of prevention and the principle of combating environmental pollution, as laid down in the EC Treaties.*

### Amendment 18

Article 6, paragraph 1, subparagraph 2 a (new)

***The programmes of measures may  
comprise appropriate measures of a legal,  
administrative or contractual nature.***

### *Justification*

*Reinstatement of Amendment 40 from the first reading, adopted on 28 April 2005.*

*In the field of groundwater protection, in addition to legal and administrative instruments, voluntary and contractual measures based on cooperation are increasingly proving their worth. In the interests of effective groundwater protection, and with due regard for the principle of proportionality, priority should be given to contractual and cooperative instruments in cases when they can be used to achieve objectives to the same degree.*

### Amendment 19

Article 6, paragraph 3, letter a b (new)

***(ab) domestic effluent from house  
sewerage plants belonging to isolated  
dwellings;***

### *Justification*

*Reinstatement of Amendment 88 from the first reading, adopted on 28 April 2005.*

*Directive 80/68/EEC already contains the above exemption. In keeping with the subsidiarity principle, it is not justifiable for an EC directive to concern itself with all emitters, however small. This exemption is particularly significant for mountainous and thinly populated regions and for islands. In 2013, when Directive 80/68/EEC ceases to apply, loopholes will arise in the legislation unless this text is incorporated.*

### Amendment 20

Article 6, paragraph 3, subparagraph 1 a (new)

***The measures pursuant to letters (a) to (f) may be taken only where the Member States' competent authorities have established that the groundwater, and in particular its quality, is being monitored.***

#### *Justification*

*Reinstatement of Amendment 46 from the first reading, adopted on 28 April 2005.*

*This reservation concerning the monitoring of inputs which may pose a risk to groundwater, which is contained in Directive 80/68/EEC, has not yet been incorporated into Directive 2000/60/EC or this directive. It is, however, the most important instrument for ensuring that the precautionary provisions are implemented and enforced. Article 8 of Directive 2000/60/EC covers only general quality monitoring of the status of bodies of groundwater and cannot, as a rule, be used to regulate such inputs.*

#### **Amendment 21 Article 6 a (new)**

##### ***Article 6a***

##### ***Measurement methods***

- 1. Each Member State shall submit to the Commission a complete description of measurement methods for each of the substances for which a Community-wide or national groundwater quality standard has been set.***
- 2. The Commission shall determine whether the measurement methods are fully comparable and whether differences between methods may lead to distortions likely to cause faulty or unequal application of this Directive in the Community. Local climate conditions and soil types shall be the decisive factors.***
- 3. On the basis of its findings, the Commission shall approve or reject the measurement methods submitted by the Member States.***
- 4. If the Commission rejects the measurement methods submitted by a Member State, that Member State shall submit revised measurement methods for approval by the Commission in***

*accordance with the provisions of paragraphs 1 to 3.*

***5. Approved measurement methods shall be operational in all Member States by the date specified in Article 8 of Directive 2000/60/EC.***

*Justification*

*Reinstatement of Amendment 41 from the first reading, adopted on 28 April 2005.*

*Agreement on techniques for measuring groundwater pollution is essential for equal and fair transposition of this directive. Each Member State should measure pollution on the basis of comparable threshold values. The Commission should therefore be given the authority to approve measurement techniques, provided that these are equivalent with regard to environmental goals.*

Amendment 22  
Article 6 b (new)

***Article 6b***

***Research and dissemination***

***The Commission, in agreement with the Member States, shall encourage the dissemination of known methods of measuring and calculating parameters for the description and monitoring of aquifers and shall promote new research to improve the technologies available for the monitoring and management of groundwater bodies and their quality, including with regard to groundwater ecosystems.***

*Justification*

*Reinstatement of Amendment 100 from the first reading, adopted on 28 April 2005.*

*Parliament regards it as essential that Community research programmes should earmark more funding for research into groundwater as an ecosystem.*

Amendment 23  
Article 8

Annexes II, III and IV may be adapted to

Annexes II, ***Part A***, III and IV may be



scientific and technical progress in accordance with the procedure referred to in Article 21(2) of Directive 2000/60/EC, taking into consideration the period for reviewing and updating river basin management plans, as referred to in Article 13(7) of that Directive.

adapted to scientific and technical progress in accordance with the procedure referred to in Article 21(2) of Directive 2000/60/EC, taking into consideration the period for reviewing and updating river basin management plans, as referred to in Article 13(7) of that Directive.

#### *Justification*

*Reinstatement of Amendment 55 from the first reading, adopted on 28 April 2005.*

*Part A should be covered by the comitology procedure, but Part B should not. Part B of Annex II, which the Council has rewrote, contains the list of substances for which the Member States must at least lay down groundwater quality standards (threshold values). That list cannot be amended using the comitology procedure, but only in accordance with the procedure laid down in Article 251 of the Treaty, on the basis of codecision with Parliament.*

#### Amendment 24 Article 10

##### Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

##### Entry into force/*expiry*

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

***Unless otherwise decided, this Directive shall remain in force until 31 December 2018. The Commission shall draw up a report which must assess in particular, in respect of each Member State, whether implementation of the Directive has given rise to differing levels of environmental protection, instances of the deterioration of groundwater or distortions of competition.***

***On the basis of the conclusions of that report, if necessary the Commission shall submit a proposal to the European Parliament and the Council by 31 December 2015.***

#### *Justification*

*Parliament approves the common position subject to the proviso that at the latest in 2018 the directive will be subject to a thorough review. With a view to guaranteeing that time-limit, it*

*should be stipulated that the Directive will cease to apply once the time-limit has expired.*

Amendment 25  
Annex I, table, column 3

***Comment***

***Deleted***

***For activities falling within the scope of Directive 91/676/EEC, programmes and measures required in relation to this value (i.e. 50 mg/l) will be in accordance with that Directive<sup>1</sup>.***

***<sup>1</sup> Activities outside the scope of Directive 91/676/EEC are not covered by this provision.***

***Justification***

*Reinstatement of Amendment 60 from the first reading, adopted on 28 April 2005.*

*Taken in conjunction with the footnote, this comment could mean that differing demands are made on economic sectors with regard to pollution by nitrates. This is the subject of criticism by both Parliament and some Member States. This comment creates legal uncertainty.*

Amendment 26  
Annex I, table, footnote 3

<sup>3</sup> ‘Total’ means the sum of all individual pesticides detected and quantified in the monitoring procedure.

<sup>3</sup> ‘Total’ means the sum of all individual pesticides detected and quantified in the monitoring procedure, ***including their relevant metabolites, degradation and reaction products.***

***Justification***

*New Council text; without this addition, the text of the footnote could be misunderstood.*

Amendment 27  
Annex II, Part B, numbers 1 and 1 a (new)

1. Substances or ions which may occur both naturally and as a result of human activities

Arsenic

Cadmium

1. Substances or ions which may occur both naturally and as a result of human activities

Arsenic

Cadmium

Lead  
Mercury  
Ammonium  
**Chloride**  
**Sulphate**

Lead  
Mercury  
Ammonium

***1a. Indicators which may occur both naturally and as a result of human activities***

***Chloride***

***Sulphate***

*Justification*

*Reinstatement of Amendment 90 from the first reading, adopted on 28 April 2005.*

*It should be made clear that chloride and sulphate are not pollutants.*

Amendment 28  
Annex III, number 4, letter (-a) (new)

***(-a) the impact of the pollutants in the groundwater body***

*Justification*

*This is the precondition if the requirements laid down in letters (a) to (d) are to be valid.*

Amendment 29  
Annex IV, Part B, introduction

According to Article 5, Member States will reverse identified significant and sustained upward trends ***where these trends present a risk of harm to associated aquatic ecosystems, to directly dependent terrestrial ecosystems, to human health or to actual or potential legitimate uses of the water environment***, taking into account the following requirements:

According to Article 5, Member States will reverse identified significant and sustained upward trends taking into account the following requirements:

*Justification*

*The ecosystem groundwater must be protected as such against pollution and deterioration*

*(see Article 4 of Directive 2000/60/EC, Article 1 of the common position and the statement of the Council's reasons under II. Objective: 'with particular emphasis on prevention as groundwater quality is generally long and difficult to restore, even once the source of pollution has been removed').*

Amendment 30  
Annex IV, Part B, number 1, letter c

<b><i>(c) the rate of increase and the reversibility of the trend are such that a later starting point for trend reversal measures would still enable such measures to prevent most cost-effectively, or at least mitigate as far as possible, any environmentally significant detrimental changes in groundwater quality.</i></b>	<b><i>Deleted</i></b>
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*Justification*

*In keeping with the precautionary principle, this exception is unacceptable (see also justification for Amendment 28). There can be no question of a risk being recognised and no measures taken.*

Amendment 31  
Annex IV, Part B, number 1, paragraph 2

<b><i>For activities falling within the scope of Directive 91/676/EEC, the starting point for implementing measures to reverse significant and sustained upward trends will be established in accordance with that Directive and with Directive 2000/60/EC;</i></b>	<b><i>Deleted</i></b>
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*Justification*

*Annex IV deals with trend reversal, which represents an important precautionary instrument. The same rules should apply to all the economic sectors concerned (see also justification for the amendment to Annex I, table, column 3, Comment).*

## EXPLANATORY STATEMENT

Following the lengthy discussions held and the clearer understanding of the problem gained since the entry into force of the water framework directive, Parliament had been expecting a better directive on groundwater protection which lays down clear, effective provisions geared to specific objectives. In Parliament's view, neither the Commission proposal nor the Council's common position fulfils the remit issued in Article 17 of Directive 2000/60/EC.

Parliament's main criticisms can be summarised as follows:

- The common position contains only minor substantive improvements in the area of groundwater protection by comparison with the existing legislation, i.e. the water framework directive (2000/60/EC) taken in conjunction with Council Directive 80/68/EEC of 17 December 1979 on the protection of groundwater against pollution caused by certain dangerous substances, which will not remain in force **beyond 2013**, however.
- The issue of groundwater as an independent ecosystem is ignored.
- **As a result, the groundwater protection requirements are not geared to maintaining groundwater in the most natural state possible.**
- **The good quality of drinking water from groundwater, which in many parts of Europe can be supplied direct from source without treatment, can therefore no longer be guaranteed.**
- The principle of comprehensive and preventive groundwater protection has been abandoned, and that of receptor-based, piecemeal groundwater protection is now set in stone.
- **No clear distinction** is drawn between prevention and restoration. The key area covered by the groundwater daughter directive must be prevention, i.e. new inputs **must not** be allowed to turn into long-term problems requiring large-scale restoration measures.
- Significant matters are left to the discretion of the Member States, in particular when it comes to assessing the chemical status of groundwater, laying down the criteria for the reversal of upward trends in concentrations of pollutants and to defining starting points for trend reversals.
- This approach in itself rules out the uniform implementation of the provisions - e.g. concerning the identification and reversal of trends - of both the **water framework directive** and this **daughter directive**.

- It also runs counter to or rules out **the comparability at EU level** of the threshold values, assessments of the chemical status of groundwater and possible protection or restoration measures, even in cases where other circumstances are in fact similar.
- The task of dealing with the most serious groundwater problem brought to light by the inventory - nitrate pollution of groundwater - is left almost exclusively to the nitrates directive.
- In addition, many undefined concepts and descriptions are employed and some passages of the common position are vague and difficult to understand.
- Clarification of the principle that the assessment of the **good** chemical status of groundwater should be carried out on the basis of quality standards, as called for in Article 17 of the water framework directive, has not come about. By the same token, the criteria for establishing national threshold values are so vague **as to rule out the establishment of comparable restoration provisions or protection levels, as has been achieved in the case of surface water, even though groundwater represents our largest body of water and our real drinking water reserve.**

The very fact that significant matters are left to the discretion of the Member States raises the question of why the groundwater daughter directive, in the form set out in this common position, is necessary as an item of European legislation. Moreover, the many vague wordings requiring further interpretation employed in the common position are not consistent with the principle of better regulation, will not lead to any simplification of Community legislation and will certainly not make for effective implementation in the Member States.

One welcome feature of the common position is that the requirement to lay down national threshold values for the substances listed in Annex II, Part B, will put pressure on the Member States to take action. Regrettably, the experience gained with the transposition by the Member States of the nitrates directive shows that it often takes lengthy and difficult infringement proceedings against the Member States to make that hope a reality.

If it is to accept the common position, Parliament **therefore** regards further improvements, as set out in the amendments, as essential.

(1) The protection objectives and groundwater as an ecosystem

The **emissions-related approach** taken in the old groundwater directive (80/68/EEC) must be fully incorporated into the new directive with a view to ensuring that groundwater protection is based on the precautionary principle, involving measures to prevent or limit the deterioration of groundwater by means of new inputs. The aim of Article 4 of Directive 2000/60/EC is to protect the ecosystem groundwater as such against pollution and deterioration.

(2) Pollution/deterioration

That approach is closely bound up with the issue of **the clarity of the concepts employed**. The ban on deterioration called for in the water framework directive must be enforced more effectively. With that aim in view, it is also important that the

concept of ‘deterioration’ should be defined in Article 2 of this directive. This will serve to clarify the conceptual confusion between pollution and deterioration, clarification which Directive 2000/60/EC has failed properly to bring about. This also applies to the provisions set out in Article 6(1)(b). In the case of the pollutants listed in Annex VIII to Directive 2000/60/EC, the wording employed in the common position would allow for groundwater to be topped up by means of new, indirect inputs until **the poor chemical status threshold** has been reached. Already at first reading, Parliament tabled a number of amendments seeking to change that approach. Although these pollutants ‘present an existing or potential risk of pollution’, this provision might give rise to new long-term problems requiring restoration measures. This is not consistent with a strict precautionary approach and runs counter to the direct ban on discharges laid down in Article 11(3)(j) of Directive 2000/60/EC and to Article 6(1)(a) of the common position. The implications for the implementation of the directive would be as follows: direct discharges of such pollutants are banned, but seepage through a passage in the ground, irrespective of soil conditions, would be allowed.

(3) Relationship between the groundwater protection directives and the nitrates directive

Both the initial inventory carried out with a view to implementing the water framework directive and the report on Directive 91/676/EEC, the so-called nitrates directive, for the period from 2000 to 2003 show that the measures taken, including the requirement to comply with good agricultural practice, have not led to any substantial decrease in groundwater pollution in catchment areas used for agricultural purposes. Both the nitrates directive, on the one hand, and the water framework directive and the groundwater daughter directive, on the other, lay down requirements to be met by the farming industry. It is vital, therefore, to avoid duplicating provisions and to clarify the relationship between the various directives. In your rapporteur’s view, the relevant provisions of the common position - the ‘comment’ in Annex I and the provisions in Annex IV - fail to do this. These provisions instead create further confusion and offer more scope for differing interpretations. Parliament rejects this and regards it as essential that the farming industry, as the economic sector chiefly affected by these provisions, should receive Community aid under the CAP.

(4) National threshold values/revision clause

In keeping with the approach employed in the common position, the Member States are solely responsible for laying down the groundwater quality standards (threshold values) for the substances listed in Annex II, Part B, which provide the criteria for classification as being of good chemical status and for trend reversal if upward trends in groundwater pollution are identified. Your rapporteur takes the view that this runs counter to the objective of comprehensive groundwater protection and that distortions of competition will be the inevitable result of differing implementing arrangements in the Member States.

The aim of European legislation must be to lay down uniform, European provisions. Parliament is convinced that it is particularly important, therefore, that the impact and effectiveness of this approach should be reviewed once a given period has expired. That review must also cover the list of pollutants, groundwater quality standards and threshold values set out in Annexes I and II and, if necessary, lead to a revision of the directive with the direct involvement of Parliament under the codecision pursuant to

Article 251 of the Treaty.