

European Communities

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EUROPEAN PARLIAMENT

# Working Documents

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30 April 1984

DOCUMENT 1-194/84

## Report

drawn up on behalf of the Committee on the  
Environment, Public Health and Consumer Protection

on bathing water

Rapporteur: Mrs V. SQUARCIALUPI

PE 89.122/fin.

Or. Ne.



At its sitting of 10 October 1983, the European Parliament referred the motion for a resolution tabled by Mr Simmonds on Community beaches pursuant to Rule 47 of the Rules of Procedure to the Committee on the Environment, Public Health and Consumer Protection as the committee responsible and to the Committee on Youth, Culture, Education, Information and Sport for an opinion.

At its meeting of 3 November 1983, the Committee on the Environment, Public Health and Consumer Protection decided to draw up a report and appointed Mrs Squarcialupi rapporteur.

The committee considered the draft report at its meetings of 25 January and 17 April 1984 and at the latter meeting adopted the motion for a resolution unanimously with one abstention.

The committee decided to recommend to Parliament that it apply Rule 34 of the Rules of Procedure.

The following took part in the vote: Mr Collins, chairman; Mrs Squarcialupi, rapporteur; Mr Bernard (deputizing for Mr Bombard), Mr Ceravolo (deputizing for Mr Spinelli), Mr Del Duca, Mrs Dury (deputizing for Mrs Van Hemeldonck), Mr Enright (deputizing for Mrs Weber), Mr Johnson, Mrs Lentz-Cornette, Mr Muntingh, Mr Petersen (deputizing for Mrs Seibel-Emmerling), Mrs Schleicher, Mr Schmid (deputizing for Mrs Krouwel-Vlam), Mrs Spaak, Mr Veronesi (deputizing for Mrs Le Roux) and Mr Verroken (deputizing for Mr Ghergo).

The Committee on Youth, Culture, Education, Information and Sport has decided not to deliver an opinion.

The report was tabled on 25 April 1984.

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The Committee on the Environment, Public Health and Consumer Protection hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

on bathing water

The European Parliament,

- having regard to the motion for a resolution on Community beaches, (Doc. 1-787/83)
- having regard to the first and second report of the Commission of the European Communities on the Council directive of 8.12.1975<sup>1</sup> concerning the quality of bathing water in the European Community,
- convinced that in the case of bathing water as in the case of all other elements of the environment, more attention must be given to the origin and combating of pollution in order to safeguard human health and protect the environment as well as to safeguard economic activities connected with tourism in areas on the sea coast or lakes,
- having regard to the report of the Committee on the Environment, Public Health and Consumer Protection (Doc. 1-194/84),

1. Calls on the Member States of the European Community to:

- a) adopt within the ten-year time limit, which expires at the end of 1985, all measures necessary to ensure that bathing water reaches the standards laid down in the directive;
- b) ascertain as soon as possible whether, in adjusting their national legislation, the Member States have taken into account the nineteen parameters which are mandatory (and must be compiled with) and those which are for guidance (and must be compiled with in successive stages);

<sup>1</sup> OJ No. L 31, 5.2.1976, p.1

- c) communicate promptly to the Commission data concerning the water which has been subjected to analysis and give permission without delay, for the publication of reports, in order to give an up-to-date picture of the condition of bathing water;
  - d) extend the supply of data - which some countries have neglected to do - to fresh water used for bathing since it is of considerable importance for tourism;
  - e) carry out extra inspections if the values approach the parameters laid down in the directive, especially in places where tourism is most intensive and during the tourist season;
  - f) make provision for giving, in good time, the necessary information and indications by means of notices and announcements in the event of bathing being prohibited;
2. Does not feel it is advisable to devise new signs to indicate the dangers of pollution, since it would take too long for tourists to become accustomed to them and furthermore it would not be easy to do this on a Community or international scale;
3. Urges Member States and the local authorities responsible to:
- a) inform tourists by means of leaflets to be distributed if possible at border crossing points and/or in tourist offices, in the event of serious or widespread sea or lake pollution being ascertained;
  - b) ensure that notices prohibiting bathing are written in at least four of the main languages of the European Community and that they are clearly visible and well-maintained;
  - c) urge the mass media to issue 'environmental health bulletins' including the condition of bathing water and containing information on permanent or temporary prohibitions on bathing and imminent dangers of pollution, which should also be broadcast in programmes for foreign tourists;

4. Furthermore requests the Commission to supply, as soon as possible, a study on the right of ownership and the public right of access to sea coasts and lake shores;
5. Hopes for a rapid review of the CLC (Civil Liability Compensation) Convention and the Fund Convention as regards the criteria for compensation in the event of hydrocarbons and chemical substances being discharged into the water and an increase in compensation in order to take into account the present value of currencies;
6. Instructs its President to forward this resolution to the Commission, the Council and the governments of the Member States.

EXPLANATORY STATEMENTI. INTRODUCTION

1. The motion for a resolution (Doc. 1-787/83) on Community beaches tabled by Mr SIMMONDS refers to the only Council directive on the subject, the directive of 8 December 1975<sup>1</sup> on the quality of bathing water in the Community. On 10 October 1983, this resolution was referred to our committee as the committee responsible and to the Committee on Youth, Culture, Education, Information and Sport for an opinion. On 4 November 1983 the latter decided not to deliver an opinion.

2. In essence, the motion for a resolution calls for:

- (a) the introduction of a common system of warning people that bathing in polluted waters might constitute a danger to health (paragraphs 1 and 2);
- (b) tourists to be informed of local health and pollution problems, adequate advice to be provided for prospective visitors, and action to ensure that they take any medical precautions necessary (paragraph 3).

3. Your rapporteur intends to summarize briefly the existing directive, raising some questions concerning its implementation and the action taken upon it since it was passed in 1975, before proceedings to consider Mr SIMMONDS' motion for a resolution further.

II. CONTENTS OF THE COUNCIL DIRECTIVE OF 8 DECEMBER 1975 (76/160/EEC)

4. This directive lays down precise standards for the quality of running or still fresh waters or sea water in which bathing is authorized or not prohibited (Article 1).

5. The directive includes an Annex laying down 19 parameters for polluting discharges and other substances; in the case of 13 of the latter, the directive lays down either a mandatory value which must not be exceeded, or

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<sup>1</sup> OJ No. L 31 of 5.2.1976, p. 1

a value to be regarded as a guide, and prescribes the inspections to be carried out and the methods of analysis to be applied. Member States may choose not to impose any values for the remaining 6 parameters, for which no values are prescribed, but they must check whether they are present in the water nevertheless.

6. All the pollutants and other substances (pesticides and heavy metals) listed in the directive are such that their presence in water, whether dissolved or in suspension, contributes in some way to disturbing the ecological balance of the aquatic environment and could constitute health risks for bathers.

7. The main cause for concern has been the part played in the transmission of infectious diseases such as typhoid, cholera and hepatitis by the pollution of bathing waters by sewage. The directive therefore stipulates that water should be checked for the presence of bacteria which transmit disease, such as coliforms, streptococci and salmonella.

8. In addition to being bacteriologically pure, it is desirable that bathing water should be transparent and devoid of poisonous substances and visible traces of oil, and that it should be acceptable from the point of view of taste, smell and colour.

9. Bathing water should also contain enough dissolved oxygen, the presence of which plays an important part in the self-purifying process whereby polluting substances decompose.

10. Substances to be controlled include those which give the water an unpleasant taste, such as phenols, the main source of which is the chemical industry, and hydrocarbons, which do not enter the water only as a result of disasters at sea, but also from a variety of sources on land.

11. Detergents also have an unpleasant taste and can produce foam at certain points on rivers and waterways. Quite apart from its unpleasing appearance, this foam is also a threat to health as viruses can be concentrated in it and spread over considerable distances if it is carried by the wind.

12. The directive also mentions other pollutants whose presence in bathing water must be monitored, such as pesticides and certain metals including lead, arsenic, mercury and cadmium, poisons which have a cumulative effect on man and are dispersed in the water only very slowly.

13. Under Article 4 of the directive, the Member States must comply with the values indicated for all bathing water in their jurisdiction within ten years, i.e. by the end of 1985.

14. However, this article stipulated that these values were immediately applicable in areas opened up for bathing with the explicit permission of the relevant authorities of the Member States.

15. The directive contains safeguard clauses allowing for derogations from the above-mentioned provisions. They concern derogations from the ten-year limit (Article 4(3) and Article 8).

16. Finally, Article 10 created a Committee on Adaptation to Technical Progress. Articles 9 and 11 established the usual procedure to be followed for making any necessary amendments.

### III. PRELIMINARY REMARKS

17. Although it is difficult to assess accurately the health risks involved in bathing, it appeared necessary to introduce a system of regular monitoring of all bathing areas for possible health risks.

18. Obviously, the points at which this monitoring is carried out must be chosen on the basis of the number of bathers, geographical features (relief, configuration of the coast, length of beaches), any particular risk of pollution which may exist (e.g. at river-mouths, near ports, near waste water outlets), opportunities for conducting analyses and the results of previous samplings.

19. If the results of the samples collected while inspecting the quality of bathing water approach or exceed the parameters laid down, additional monitoring must be carried out and, if necessary, a serious public health warning, which may even involve prohibiting bathing in the area or part of the area, must be issued and publicized on the spot.

20. Warnings of this kind, and bans on bathing in polluted zones, if necessary, should be issued in good time and in an unprejudiced manner. Mr SIMMONDS' proposal that this should be done by means of a uniform and harmonized system seems to us to be thoroughly justified, given the increasing importance of leisure pursuits.

#### IV. PRELIMINARY COMMENTS AND QUESTIONS CONCERNING THE IMPLEMENTATION OF THE 1975 DIRECTIVE AND CONCRETE ACTION TAKEN IN ITS WAKE

21. The fact that the Council decided, after consulting Parliament, that the water at resorts in the Community ought to be brought into line with the parameters set out in the Annex to the directive within ten years of the notification of the directive and that derogations for exceptional cases ought to be notified to the Commission by the Member States within six years after the notification of the directive, does not change the fact that the problem of the quality of bathing water is very complex, wide-ranging and difficult to assess and harmonize, and is of crucial importance for the development and preservation of the resorts in question from many points of view.

22. In view of the foregoing, the following questions arise immediately:

- (a) whether all the Member States have in fact implemented the directive with regard not only to those areas in which bathing is explicitly authorized by the relevant authorities, but also those places where bathing is not prohibited and is traditionally practised by a large number of bathers, e.g. camp sites beside lakes, rivers and swimming areas in canals (see Article 1 of the directive);
- (b) in how many cases has the Commission been notified of exceptional cases in which Member States have granted derogations from implementing the directive within ten years (which notification should have been provided within six years), see Article 4(3);
- (c) whether the statistical assumptions included in Article 5 of the directive have proved satisfactory, since the deviations of 5%, 10% and/or 20% seem rather dubious;

(d) whether the Commission has already had to make amendments, on a proposal from the Committee on Adaptation to Technical Progress, to the methods of analysis and parametric values laid down in the Annex to the directive.

#### V. THE FIRST REPORT ON THE QUALITY OF BATHING WATER

23. Under Article 13 of Directive 76/160/EEC on the quality of bathing water, the Member States must submit, four years after the notification of the directive and at regular intervals thereafter, a comprehensive report on their bathing water and the most significant characteristics thereof.

24. All the Member States complied with this requirement, but the data provided, which referred to 1979, were not published by the Commission until 1982. The situation appears to be satisfactory in general and to be improving in many cases, for example in Italy, as a result of the implementation of Italian Law No. 319/76.

25. Since it appears that Mr Simmonds' resolution is intended to apply chiefly to beaches which, in the summer season, are visited by large numbers of tourists, many of whom come from other countries (and therefore have difficulty in reading, understanding and being informed as to possible prohibitions on bathing), it can be assumed that he has the Mediterranean beaches particularly in mind. No data have been provided on Greek bathing water however, since at the time the reports were submitted Greece was not yet a member of the European Community.

26. The salient feature of the Italian situation is the relatively small number of areas, given the total length of its coastline, where bathing is subject to prohibition because the parameters laid down by the European Community have been exceeded. But it must be pointed out that this does not mean that there is a complete absence of polluting substances in bathing water, even if forms of pollution which are a health risk to people engaged in leisure pursuits are not present.

27. For example, the water around some parts of the Italian coast most frequented by tourists are affected by eutrophication, which leads to a lack of oxygen that is fatal for aquatic life forms, whether vegetable or animal, but does not generally involve the presence of toxic or viral substances and

is not harmful to human health. This situation has been created as a result of the construction of purifying plant which, since they are mostly limited to the first two stages (physical and biological treatment) discharge into the sea water which, although purified, contains a large proportion of nutrient substances.

28. It is important to point out, however, that the report, in the case of Italy for example, has the serious defect of omitting any analysis of bathing areas in fresh waters, which are very important for tourism, particularly in the case of the main northern Italian lakes.

29. Turning to the French situation as a whole (since it is difficult to distinguish here between Mediterranean and Atlantic beaches), it emerges from the report that only 419 areas were taken into account, with the following results:

- (a) - of those inspection points at which more than ten samples were taken during the 1979 summer season (43 places):
  - 7 areas' water proved to be of good quality;
  - 16 were of medium quality;
  - 11 were temporarily polluted;
  - 9 were of bad quality.
  
- (b) - of the inspection points where between 4 and 9 samples were taken during the summer season (376 places):
  - 270 had water of good or medium quality;
  - 106 had bad quality or temporarily polluted water.
  
- (c) - the 419 inspection points as a whole, out of a total of 1,115, produced the following results:
  - 293, i.e. 70%, complied with the mandatory values laid down by the directive of 8 December 1975;
  - 126 inspection points, i.e. 30%, produced results which exceeded the mandatory values in less than 5% of the measurements.

## VI. SYSTEM FOR DRAWING ATTENTION TO HAZARDS

30. With regard to the resolution's call for the dangers of bathing in polluted waters to be signalled by flying a flag of a specified colour, experience and a survey of the accidents which happen on beaches every year show that simply flying a flag is not an adequate means of prevention. The efficacy of such a measure would be reduced even further if it were decided to use a new colour and a type of warning which individuals and the public at large would take some time to get used to.

31. It also seems utopian to expect tourist guides and promotional literature, the purpose of which is to encourage tourism in the areas which they describe, to criticize the latter by providing information on the level of pollution at resorts which they are intended to promote. Nor does it appear feasible that the Member States - whose economies are greatly boosted by tourism - will exceed their duty to prohibit, and draw public attention to, the most serious cases of pollution which could be detrimental to public health.

32. It appears, therefore, that the most appropriate body might be the Commission, which could produce publications summarizing the state of the Community's bathing waters as revealed in the reports submitted by the Member States, which should be updated at least once a year and, above all, should be issued promptly. Unfortunately, the 1979 reports were not published until 1982 because of the chronic shortage of staff in the directorate-general for the environment.

## VII. THE THREE PROPOSED LEVELS OF TOURIST INFORMATION

33. With regard to action to be taken by the relevant authorities and the kind of information they should provide, we consider that three levels of action should be distinguished, corresponding to the three degrees of risk arising from the presence of pollution.

A. First level: areas subject to heavy pollution, which may be classified as high risk zones on the basis of the parameters laid down by Directive 76/160 on the quality of bathing water.

This situation could be met by:

- (a) putting up notices proclaiming a complete ban on bathing in at least four of the most widely spoken languages, which should be on permanent and prominent display and situated at sufficiently frequent intervals at strategic points;
  - (b) the publication of lists, accompanied by explanatory notes, of the dangers to human health and to the marine environment in the zone in question; these should be publicized by the mass media, particularly by local radio and TV networks with broadcasts in several languages, and by notices issued at frontier crossing points.
- B. Second level: high risk zones to be regularly monitored, which would cover areas with pollution levels slightly below the prescribed limits, which might easily be exceeded. In such cases:
- (a) it would be very important to conduct careful and, above all, regular monitoring by means of samples taken at fairly frequent intervals. The rate laid down by Directive 76/160 of one sample every fortnight might prove to be insufficient, and therefore it would be advisable to take samples at weekly intervals;
  - (b) it would be a necessary and welcome step if weather forecasts were to publicize, in addition to information on weather conditions at sea, information on health hazards at beaches, the possibility of conditions favourable to increased or decreased pollution, and other useful information.
- C. Third level: low risk zones, or risk of isolated incidents. In the case of zones which can still be regarded as 'clean', the risk consists in the possibility of a serious accident happening nearby. The ability to take action as swiftly as possible in such cases requires:
- (a) research into potential accidental causes of pollution, for example the release into the sea of water from a waterway into which polluting or toxic substances have been discharged, accidents at sea resulting in the

discharge of cargoes which in some cases are extremely toxic (as was the case of the tetraethyl lead being transported in the 'Cavtat', which sank in the Otranto canal);

- (b) in such emergencies, the means of information referred to above should be used;
- (c) action will also be required, however, on the part of the bodies responsible for monitoring and providing information on public health risks, which may be local, national or even Community organizations, whose respective tasks ought to be precisely defined with a view to establishing their legal responsibilities and preventing them from evading responsibility. In Italy, for example, conflicts of responsibility could arise between the Ministry of Merchant Shipping, port authorities, civil protection bodies, local health authorities, communes and provincial health inspectorates and public health institutions.

34. It would be interesting, in any event, to study the possibility of establishing forms of compensation for losses caused to the local economy by disastrous tourist seasons, environmental damage which might jeopardize future tourist seasons and, finally, the cost of measures to remedy damage to resorts which, although not themselves responsible for such damage, have suffered the reduction or loss of their bathing amenities, and hence a drop in their income from the tourist industry.

#### VIII. PROVISIONS ON ACCESS TO SEA BEACHES AND RIGHT OF WAY ALONG THE SHORE-LINE CURRENTLY IN FORCE IN SOME MEMBER STATES OF THE COMMUNITY

##### 35. Belgium

Under Article 538 of the Civil Code, the shore and foreshore of the sea are considered to be public property.

Note: the following definition is given: 'The seashore or beach is considered to be the area covered and uncovered by the sea during the new moon and the full moon up to the point reached by the spring flood-tide'.

In principle, the public may have free access to Belgian beaches except for the military zone near Nieuport, to which access is prohibited.

The beaches are administered by the communes who in turn may grant concessions to private individuals, but free access to beaches must be guaranteed (cf. Royal Decree of 4.8.81 on the administration of beaches).

- The beach is not public property on certain sections of the coast, which belong to private individuals, but they grant free right of way to the public. It is therefore possible to move freely on all Belgian beaches except in the case of
  - special regulations
  - beaches reserved for purposes which are in the public interest but whose use by the general public is restricted, such as military zones.

### 36. DENMARK

In general there is free access to beaches. In the case of private property, access to the beach and bathing are permitted at a distance of 50 metres from dwellings. Boats and other craft without engines may be moored on the beaches surrounding private property.

### 37. FRANCE

- (a) In France the seashore is property in the public domain belonging to the State. It belongs neither to the communes nor to private individuals.

Except in the case of police regulations to the contrary or their being used for a public service such as military installations, which may restrict access to and movement on them, the beaches are in principle open directly to the public who have the right to move freely on them and bathe.

- (b) In the case of beach concessions, since 1972 it has been obligatory to allow free right of way along the shoreline and it has been forbidden to charge a fee for access to the sea.

Since 1972 the policy has been to leave certain beaches free for the public without handing them over to concessionaires.

(c) Private property: private individuals may not own beaches.

The law of 31.12.1976 on town planning reform established a right of way, for pedestrians only, up to a distance of 3 metres from the shoreline in front of properties bounding on the seashore. Owners of property on the seashore may thus not prohibit the right of way along the beach in front of their dwellings.

### 38. FEDERAL REPUBLIC OF GERMANY

In Germany, access and right of way are regulated by laws of the Lander having a section of sea coast (Lower Saxony and Schleswig-Holstein). The regulations are identical in the two Lander.

According to current legislation, the beaches are accessible to the general public.

This principle may however be subject to certain restrictions. For example, under paragraph 14 of the Schleswig-Holstein law on environmental protection, the communes are authorized to charge fees for access to beaches on which they install bathing facilities.

Access and right of way may be prohibited in military zones.

### 39. IRELAND

The coasts belong to the State. There is no right of access clearly laid down by law. There are a few private beaches (in consequence of a privilege bestowed on individuals a long time ago), but they are exceptions.

In practice, however, the public may have access to beaches without running the risk of incurring penalties.

### 40. ITALY

By virtue of Article 822 of the Civil Code, the coasts, beaches, roadsteads and harbours belong to the State and are considered public property.

The regulation implementing Presidential Decree No. 328 of 15 February 1952 enforces the provisions of Article 28 et seq. of the Navigation Code, concerning concessions of maritime State property.

On the basis of this implementing regulation, the Ministry for the Merchant Navy issued three circulars (No. 143 of 17 January 1974, No. 159 of 1 April 1976 and No. 167 of 1977), to the effect that it is prohibited to put up fencing less than five metres from the shoreline.

This means that there is a right of access within this distance.

#### 41. THE NETHERLANDS

Under Article 577 of the Civil Code, the sea beaches belong to the State.

In practice, the beaches are administered by the communes or by other local authorities, who may make concessions of sections of the beach to private individuals for public use (for example for the renting of deck-chairs and bathing-huts).

It is not possible to acquire ownership or concessions for exclusively private use.

This means that access to the beaches and right of way along the shoreline are permitted to everybody.

#### 42. UNITED KINGDOM

There is no right of way, unless it is explicitly stated or may be assumed, for example on the basis of historical rights of access.

Extensive areas of the coast are now national property and are therefore accessible to the public.

#### 43. GREECE

Under a series of laws and presidential decrees dating from 1926, that part of the beach washed by the sea during the winter is regarded as public property, as are the 10 meters of land that form the continuation of the beach. This second stretch of land is reserved for the construction of a road along the beach.

According to Law No. 1337/83 (OJ No. 33), which came into force on 14 March 1983, it is forbidden to put up fencing, outside town boundaries or residential areas, less than 500 metres from the shoreline.

Derogations from this rule are allowed in order to protect farms or for other specific purposes. Such derogations are granted by presidential decree upon a proposal by the Minister for Regional Planning, Housing and the Environment.

## MOTION FOR A RESOLUTION (DOCUMENT 1-787/83)

tabled by Mr SIMMONDS

pursuant to Rule 47 of the Rules of Procedure

on Community Beaches

The European Parliament,

- A. having regard to Council Directive 76/160 on the quality of bathing waters,
  - B. alarmed by reports from many coastal regions of the Community that the health of tourists has been jeopardised by the presence of untreated effluent and other pollutants in the bathing waters off popular beaches,
  - C. recognising that through growth in tourism more visitors are unaware of beach pollution problems which may be of short duration because of exceptional weather or tidal conditions. Likewise visitors may be unaware of medical advice to take precautions before bathing,
  - D. conscious of the fact that many European countries have a system of warning visitors to popular beaches of dangerous sea conditions by the flying of a red flag,
1. Urges the Commission to investigate with the ten Member States the practicality of introducing a common system of warning tourists locally on popular beaches when bathing in polluted waters might constitute a real danger to health;
  2. Suggests that a warning flag of common design be flown when potential dangers to health are present in such waters;
  3. Urges the Commission to investigate what, if any, advice is given to tourists in tourist guides and promotional literature concerning local health and pollution problems and any preventive medical practices which may be desirable, and if necessary, to seek legislation in the appropriate quarters to ensure that tourists are adequately advised in advance in such literature;
  4. Requests its President to forward this resolution to the Council and the Commission of the European Communities.

