

COMBINED EVALUATION ROADMAP/INCEPTION IMPACT ASSESSMENT

This combined evaluation roadmap/Inception Impact Assessment aims to inform citizens and stakeholders about the Commission's work in order to allow them to provide feedback on the intended initiative and to participate effectively in future consultation activities. Citizens and stakeholders are, in particular, invited to provide views on the Commission's understanding of the current situation, problem and possible solutions and to make available any relevant information that they may have, including on possible impacts of the different options.

TITLE OF THE INITIATIVE	Bathing water quality – review of EU rules
LEAD DG – RESPONSIBLE UNIT – AP NUMBER	DG ENV UNIT C.2 - MARINE ENVIRONMENT & WATER INDUSTRY
LIKELY TYPE OF INITIATIVE	Legislative proposal
INDICATIVE PLANNING	PLANNED START: Q1 2021 PLANNED COMPLETION DATE: Q1 2023
ADDITIONAL INFORMATION	https://ec.europa.eu/environment/water/water-bathing/index_en.html

This combined roadmap/Inception Impact Assessment is provided for information purposes only. It does not prejudge the final decision of the Commission on whether this initiative will be pursued or on its final content. All elements of the initiative described by this document, including its timing, are subject to change.

A. Context, Evaluation, Problem definition and Subsidiarity Check

Context

In December 2019, the Commission set out a European Green Deal¹ for the European Union (EU) and its citizens - a new growth strategy which aims to protect, conserve and enhance the EU's natural capital, and protect the health and well-being of citizens from environment-related risks and impacts. The Green Deal provides a roadmap with actions to boost the efficient use of resources by moving to a clean, circular economy, restore biodiversity and cut pollution. One of its eight policy areas focuses on reducing pollution and adopting an EU action plan towards a Zero Pollution Ambition for air, water and soil². The review of the EU rules regarding bathing water quality is directly in line with the objectives of the Green Deal. It will examine how the directive has worked, in particular if it has helped to protect public health and clean water, supplementing national efforts. It will also assess whether there is a need to improve the existing rules and propose relevant updates to address the ambitions set out in the European Deal.

The objective of the Bathing Water Directive 2006/7/EC³ (hereinafter referred to as "the Directive") is to **protect human health** and to **preserve, protect and improve the quality of the environment**.

To achieve these objectives, the Directive lays down provisions for:

- (i) the monitoring and classification of bathing water quality at designated bathing sites,
- (ii) the management of bathing water quality at those sites, and
- (iii) the provision of information to the public on bathing water quality.

The Directive complements the Water Framework Directive (2000/60/EC)⁴. It also incorporates into EU law the approaches elaborated by the World Health Organization (WHO), including those in relation to monitoring and quality assessment⁵.

¹ https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en

² https://ec.europa.eu/environment/strategy/zero-pollution-action-plan_en

³ Directive 2006/7/EC of the European Parliament and of the Council of 15 February 2006 concerning the management of bathing water quality and repealing Directive 76/160/EEC *OJ L 64, 4.3.2006, p. 37–51*

⁴ Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy, *OJ L 327, 22.12.2000, p. 1–73*

For the purpose of monitoring and assessment, the Directive defines harmonised methods and practices of analysis and classification. It requires Member States to monitor and assess the bathing water for 2 parameters of faecal bacteria (Intestinal enterococci and E.coli). The assessment of the data sets from the monitored bathing sites is done for all Member States based on the relevant assessment period as foreseen in Article 4 of the Directive – namely the last bathing season and three preceding bathing seasons. The current classification system consists of four levels: excellent, good, sufficient and poor. It also requires Member States to inform the public about bathing water quality and bathing site management through the so-called bathing water profiles. These profiles contain for instance information on the kind of pollution and sources that could affect the quality of the bathing water and are a risk to bathers' health. The determination of the quality of bathing waters is crucial to ensure human health and environmental protection in the EU through timely and appropriate management measures, including, if necessary, by temporary bathing prohibition and active dissemination of information to the public.

The Directive aims at preventing and reducing pollution in bathing water to levels that are no longer harmful to human health and the environment. By doing so, it helps stimulate the economic growth of tourism dependent communities and ensuring a good quality of life in the EU.

Evaluation

The evaluation will be based on latest scientific evidence, progress and innovation, recommendations issued by the WHO, inputs from MS and the experience gained from implementing the Directive. In compliance with the Better Regulation Guidelines, the evaluation will assess effectiveness, efficiency, relevance, coherence and EU added value of the Directive. The list of questions below is non-exhaustive but outlines the direction of the evaluation.

On effectiveness: To what extent have the Directive's objectives been met? What factors have contributed to or hindered their achievement? What have been the quantitative and qualitative effects of the Directive?

On efficiency: What are the costs and benefits of the Directive? To what extent are the costs associated with the Directive proportionate to the benefits it has generated? How proportionate were the costs of the Directive borne by different stakeholder groups taking into account the distribution of the associated benefits? If there are significant differences in costs (or benefits) among Member States, what is causing them? Are there opportunities to simplify the legislation or reduce unnecessary regulatory costs without undermining the intended objectives of the Directive and what are they? How timely and efficient is the process for reporting and monitoring set out in Directive?

On coherence: To what extent is the Directive internally consistent and coherent? To what extent is the Directive coherent with other relevant EU environmental policy, such as the Water Framework Directive (2000/60/EC), Marine Strategy Framework Directive (2008/56/EC), the Urban Waste Water Treatment Directive (91/271/EEC), or the Nitrates Directive (91/676/EEC)? To what extent is the Directive coherent with the objectives of the European Green Deal⁶ and, in particular, the Biodiversity Strategy and the forthcoming Zero Pollution Action Plan⁷?

⁵ WHO "Guidelines for safe recreational waters, Volume 1 - Coastal and fresh waters", at http://www.who.int/water_sanitation_health/publications/srwe1/en/ and "Monitoring bathing waters: A practical guide to the design and implementation of assessments and monitoring programmes" at http://www.who.int/water_sanitationhealth/bathing/bathing3/en/index.html

⁶ https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en

On relevance: To what extent is the Directive still relevant, in the light of the more recent policy developments as the European Green Deal, notably the Biodiversity Strategy and the forthcoming Zero Pollution Action Plan? To what extent do the (original) objectives of the protection of the environment and human health (still) correspond to the needs within the EU? To what extent can the Directive contribute to the implementation of the Water Framework Directive (2000/60/EC) and the Marine Strategy Framework Directive (2008/56/EC) also taking into consideration its review foreseen by 2023? Is the Directive flexible enough to respond to new issues such as pollutants of emerging concern or new health concerns (e.g. viruses)?

On the EU-added value: What is the European added value of the Directive including in comparison with the Blue Flag Programme⁸? To what extent does the Directive comply with the principles of subsidiarity and proportionality? How detailed were the technical prescriptions agreed by the legislator on how the objectives are to be attained (e.g. legislative ‘density’)? What has been the role of and impact on local and regional authorities? Do the issues addressed by the Directive continue to require action at EU level?

Problem the initiative aims to tackle

According to the annual report on the quality of the bathing water⁹ the Directive is generally well implemented by Member States.

Nevertheless, experience from best practices applied in some Member States, as well as latest scientific and technological developments point to some areas of particular attention for the evaluation:

1. the **target group**, currently limited to bathers during the bathing season, thus excluding recreational water users and vulnerable groups;
2. the **level of afforded health protection**, having regard to enhanced knowledge on pollution, including on **pollutants of emerging concern** (such as micro-plastics, pharmaceuticals), as well as latest scientific evidence and recommendations on health issued by the WHO (viruses, cyanobacteria);
3. current requirements regarding **identification and management of bathing sites** by Member States that may result in a number of sites that are not officially identified and classified;
4. the added value of the **classification of bathing sites**, notably with regards to the “sufficient” status;
5. the **level and timeliness of information provided to the public**, notably having regard to other key policy developments such as **Digitalisation, the new Consumer Agenda and the Blue economy, including sustainable tourism**;
6. the **alignment of the Directive to the European Green Deal¹⁰ objectives**, in particular the revamped EU Biodiversity Strategy for 2030¹¹ and the Zero-Pollution Action Plan¹²;
7. **legal issues/clarifications** needed based on experience in the implementation of the Directive by Member States and the varying interpretation of some provisions across the EU;
8. **simplification of monitoring and reporting obligations**, having regard to latest digitalisation,

⁷ https://ec.europa.eu/environment/strategy/zero-pollution-action-plan_en

⁸ <https://www.blueflag.global/>

⁹ <https://www.eea.europa.eu/themes/water/europes-seas-and-coasts/assessments/state-of-bathing-water/european-bathing-water-quality-in-2019>

¹⁰ https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal_en

¹¹ https://ec.europa.eu/info/strategy/priorities-2019-2024/european-green-deal/actions-being-taken-eu/EU-biodiversity-strategy-2030_en

¹² https://ec.europa.eu/environment/strategy/zero-pollution-action-plan_en

earth observation and satellite navigation developments, including checking feasibility of using EU space services, data and application to support efficient implementation of the directive;

9. **the effectiveness of implementation of the Directive:** management measures to effectively protect citizen's health and the environment, based on the monitoring of the parameters used for the classification of bathing sites, as well as on relevant elements identified by Member States in the bathing water profiles (sources of pollution, cyanobacterial and algal blooms, protected areas under Water Framework Directive etc.).

Basis for EU intervention (legal basis and subsidiarity check)

The evaluation and impact assessment supporting the review of the Directive will enable the Commission to fulfil its obligations under **Article 14(3)**, which requires that the Commission to review the Directive with particular regard to the parameters for bathing water quality, including whether it would be appropriate to phase out the 'sufficient' classification or modify the applicable standards'. Article 14(3) requires further that 'the Commission shall present, if necessary, appropriate legislative proposals in accordance with Article 251 of the Treaty'.

Due to the cross-border nature of water pollution, the common standards for bathing water quality and high level of environmental protection cannot be achieved by the Member States acting alone. Taking due account of the natural and socio-economic differences among Union's regions, the Directive ensures a harmonised classification of bathing sites – thus offering a similar level of protection and information to EU citizens. Nevertheless, most decisions on measures ensuring the protection of bathers are to be taken at a local, regional or national level fully respecting the principles of subsidiarity and proportionality of an EU level action.

B. Objectives and Policy options

The evaluation will run largely in parallel with (and feed into) the impact assessment. In its impact assessment, the European Commission will consider how the scientific evidence available in the field of bathing water quality could be best uptaken.

Without pre-empting the evaluation results, and taking into consideration the issues identified in the above section on the problem definition, the following objectives will guide the work:

1. alignment of the **scope of the Directive** to the needs resulting from new environmental, health and societal challenges;
2. **update of parameters**, amongst others to take into consideration latest WHO recommendations;
3. revision of the **classification system** (ranking, number of samples, calculation and laboratory methods),
4. **identification** of a bathing site;
5. ensuring timely, accessible and user-friendly provision of **information to the public**;
6. update of the requirements regarding **management measures** taken by Member States;
7. alignment with **European Green Deal** objectives;
8. **governance** (monitoring, reporting and enforcement).

These aspects will be complemented by evaluation results. A corresponding set of policy options to address these objectives will be developed and assessed. This will be done later in the process, when the work on evaluation progresses.

C. Preliminary Assessment of Expected Impacts

Likely economic impacts

Subject to the evaluation and impact-assessment results, it could be assumed that:

- improved quality of bathing waters results in enhanced tourism opportunities, and thus economic

<p>benefits.</p> <ul style="list-style-type: none"> - if the number of parameters to monitor or the number of samples to be taken per bathing season were to increase, this would entail some additional monitoring and reporting costs for Member States.
<p>Likely social impacts</p>
<p>Subject to the evaluation and impact-assessment results, it could be assumed that the safety and health related requirements set in the directive will continue to ensure and improve health and well-being of the EU citizens through better quality of bathing water.</p>
<p>Likely environmental impacts</p>
<p>Improved bathing water quality will first of all have an impact on the health of the bathers and improve public health – which is the main objective of the directive. Improving monitoring and a better identification of the bathing waters will help to better identify those zones where additional efforts are needed to ensure better water quality. It might trigger additional upstream investments to better collect and treat waste waters. By doing so, the overall quality of the upstream waters will improve which will contribute to improve the environment and better preserve biodiversity. This will contribute to achieve the objectives of the Green Deal including the Biodiversity Strategy and the Zero Pollution Ambition.</p>
<p>Likely impacts on fundamental rights</p>
<p>We do not expect the present initiative to have any significant impact on the fundamental rights.</p>
<p>Likely impacts on simplification and/or administrative burden</p>
<p>Subject to the evaluation and impact-assessment results, it could be assumed that the exercise might result in the simplification of the legislation, potential removal of unnecessary reporting/information obligations and call for application of modern digital technologies that can reduce the costs of implementing the Directive including for public authorities. At the same time, there might be some additional monitoring and reporting costs for Member States if the number of parameters to monitor or a number of samples to be taken per bathing season were to increase.</p>
<p>D. Evidence base, Data collection and Better Regulation Instruments</p>
<p>Impact assessment</p>
<p>An impact assessment is being prepared to support and guide the Commission's decision. Problem analysis in the impact assessment will build largely on the evaluation results. As required by the Better Regulation Guidelines, the impact assessment will examine the economic, social and environmental impacts of the policy options in order to identify a preferred option. The standard cost model will be used to quantify administrative costs. The evaluation and impact assessment will be supported by an external study. The assessment is tentatively planned to be completed in the fourth quarter of 2022.</p>
<p>Evidence base and data collection</p>
<p>The Evaluation will build on existing data (see the non-exhaustive list below) as well as data that are yet to be collected. The Commission work will be supported by an external contract.</p> <p>Depending on the results of the evaluation, a subsequent impact assessment will guide the Commission's decision as to whether a legislative and/or non-legislative follow up is needed. The related problem analysis will largely build on the evaluation results.</p> <p>The yearly reports on the quality of bathing water in the EU¹³, based on data reported by the Member States, provide valuable information on the implementation of the Directive. Recent studies on specific</p>

¹³ <https://www.eea.europa.eu/themes/water/europes-seas-and-coasts/assessments/state-of-bathing-water>

topics, such as the assessment of Member States' compliance with the requirements of the Directive¹⁴, will feed into the process as will other sources, such as the 2018 WHO Recommendations on scientific, analytical and epidemiological developments relevant to the parameters for bathing water quality¹⁵, the work by the EEA on reporting and the work of the Joint Research Centre on cyanobacteria¹⁶, as well as their expertise and that of the European Microbiology Expert Group. Relevant research projects results funded by EU through FP7 and H2020 research programmes will also be used.

To assist the analysis, particular effort will be made to collect additional information on the costs and benefits of administrative burden stemming from the Directive's requirements. A variety of data sources will be used to carry out this analysis – from data available at EU-level (e.g. the European Environment Agency) to those elaborated by other international institutions, such as the Organisation for Economic Cooperation and Development, next to input from national websites and stakeholders. Where data is not available in a systematic manner at EU level, the evaluation will revert to the use of case-studies or consider the use of appropriate proxies.

Consultation strategy

The Commission will develop a consultation strategy aimed to collect stakeholders' opinions to complement the analysis based on other information sources. Once finalised, the consultation strategy outlining all the activities planned will be made available on a dedicated Commission's website¹⁷. The consultation strategy will cover both retrospective and prospective aspects of the work.

Consultation activities will target the large spectrum of stakeholders impacted by the Directive, for instance bathers, bathing site operators, tourist operators, environmental stakeholders, national, regional and local authorities, academics and scientists by collecting a broad range of stakeholders' opinions to complement the analysis. To this purpose, a number of consultation activities are being considered and are expected to include at least: an on-line public consultation targeting the general public; specific expert meetings on sub-topics identified during the evaluation/impact assessment; a conference targeting stakeholders directly involved in the implementation of the Directive to validate the evaluation and Impact assessment conclusions; other targeted consultation of relevant stakeholders and international bodies.

The on-line public consultation will cover both retrospective and prospective aspects of the work. It will stay open for 12 weeks. The questionnaire for the public consultation will be available in all EU languages. Replies can be submitted in any of the 24 official EU languages.

The on-line public consultation and a consultation synopsis report will be published via the Commission's central [public consultations page](#) and on a website dedicated to the bathing water policy. Consultation results will feed into the evaluation work and the preparation of the Impact Assessment.

Will an Implementation plan be established?

Subject to the evaluation and impact-assessment results, an implementation plan might be established.

¹⁴ [EU overview report](#), [28 country reports](#).

¹⁵ [WHO Recommendations](#)

¹⁶ <https://ec.europa.eu/jrc/en/publication/algal-blooms-and-their-socio-economic-impact>

¹⁷ https://ec.europa.eu/environment/water/water-bathing/index_en.html