

Procedure file

The information here reflects the current status of the procedure

Existing summary

Related factsheets : FII/2006/0005

Identification

| | |
|--------------------------|--|
| Reference | COD/2006/0005 |
| Title | Natural disasters: reduction and management of the risks of floods for human health, environment, infrastructure and property |
| Legal Basis | CE 175-p1 |
| Dossier of the committee | ENVI/6/43035 |
| Subject(s) | 3.70.11 natural disasters, solidarity Fund |
| Stage reached | <i>2nd reading by Council pending</i> |

Stages

| Stages | Documents: references | | | Dates | |
|---|-----------------------|-----------------------|--------------|------------------------------------|--|
| | Source reference | Equivalent references | of document | of publication in Official Journal | |
| Commission/Council: initial legislative document | EC | COM(2006)0015 | C6-0020/2006 | 18/01/2006 | |
| Document annexed to the procedure | EC | SEC(2006)0066 | | 18/01/2006 | |
| EP: decision of the committee responsible, 1st reading/single reading | | | | 04/05/2006 | |
| EP: draft report by the committee responsible | EP | PE370.124 | | 15/05/2006 | |
| EP: tabled legislative report, 1st reading or single reading | EP | A6-0182/2006 | | 16/05/2006 | |
| EP: position, 1st reading or single reading | EP | T6-0253/2006 | | 13/06/2006 | |
| Council: statement on common position | CSL | 14566/2006 | | 31/10/2006 | |
| Council: common position | CSL | 12131/6/2006 | C6-0038/2007 | 23/11/2006 | |
| Commission: communication on the common position | EC | COM(2006)0775 | | 06/12/2006 | |
| EP: decision of the committee responsible, 2nd reading | | | | 27/02/2007 | |
| EP: draft report by the committee responsible | EP | PE382.534 | | 09/03/2007 | |
| EP: tabled legislative report, 2nd reading | EP | A6-0064/2007 | | 09/03/2007 | |
| EP: position, 2nd reading | EP | T6-0143/2007 | | 25/04/2007 | |

Agents

European Parliament

| Committee | Rapporteur / Co-rapporteurs | Political group | Appointed |
|--|-----------------------------|-----------------|------------|
| Environment, Public Health and Food Safety (responsible) | Seeber Richard | PPE-DE | 29/11/2005 |

European Commission and Council of the Union

| | | | |
|------------------------|--|--------------------------------|-----------------|
| European Commission DG | Environment | Transmission date : 18/01/2006 | |
| Council of the Union | Transport, Telecommunications and Energy | meeting : 2765 | of : 23/11/2006 |
| Council of the Union | Environment | meeting : 2740 | of : 27/06/2006 |

Summaries

27/02/2007 - EP: decision of the committee responsible, 2nd reading

The committee adopted the report by Richard SEEBER (EPP-ED, AT) modifying - under the 2nd reading of the codecision procedure - the Council's common position on the proposed directive on the assessment and management of flood risks. The committee reinstated, sometimes in slightly modified form, many of the amendments adopted by Parliament at 1st reading which had not been taken up by the Council:

- preliminary flood risk assessments should take account of studies on long-term developments, in particular climate change, and the role that floodplains play as natural retention areas. They should also include, if need be, an assessment of the effectiveness of existing man-made flood defence infrastructures, taking into account their real capacity to prevent damage as well as their economic and environmental effectiveness;
- Member States should complete the preliminary flood risk assessment by 22 December 2010 rather than 2012 as originally proposed;
- flood risk maps and management plans should include floodplains and other natural areas that can serve as a retention or buffer area at present or in the future. Human uses of floodplains should be adapted to the identified flood risks. Flood risk management plans should include "measures that work with natural processes such as maintenance and/or restoration of floodplains in order to give back space to rivers wherever possible and promote appropriate land use and agricultural and forestry practices throughout the river basin";
- to strengthen the principle of solidarity between Member States, management plans should take account of measures in upstream or downstream areas;
- when drawing up its periodic reports to Parliament and the Council on the implementation of the directive, the Commission should take account of the impact of climate change;
- flood risk management plans should also seek to protect natural habitats, wild birds and wild fauna and flora;
- new provisions aimed to flesh out the detail of these plans so that they protect wetlands more, prevent the construction of new buildings in flood zones and require prior authorisation or registration for permanent activities in floodplains such as industrial development.

06/12/2006 - Commission: communication on the common position

The Commission accepted totally, in part or in principle 59 (including one separate vote) of the 76 amendments proposed by the European Parliament in the first reading. 35 of these 59 amendments are incorporated in the Common Position. The Commission accepted all amendments which led to further clarifications on the links to Directive 2000/60/EC, on the importance of climate change considerations and on the use of existing instruments.

The Commission rejected, in particular, amendments which limited the application of the Directive to floods with specific causes, which introduced too detailed requirements or which could create unclear legal situations.

The Commission considers that the Common Position, adopted unanimously by the Council, represents an improvement on the flood risk management plans and on international cooperation and can therefore support it. The Commission recognises that there are outstanding concerns relating to delay of the considerations of potential future developments, including climate change, in the preliminary flood risk assessment and that there have been modifications of coordination requirements with Directive 2000/60/EC.

The Commission made two statements for inclusion in the Council minutes:

- **on climate change:** the Commission regrets that the political agreement did not include a text which would have ensured that the impact of climate change on flood risk was properly assessed and considered;
- **on the correlation table:** the Commission wishes to highlight its proposal, in accordance with the objectives of the inter-institutional agreement on better lawmaking, concerning the establishment by the

Member States of tables that demonstrate the correlation between the Directive and the transposition measures taken by the Member States, so as to allow the Commission to verify the conformity of national measures with the provisions in Community legislation. The Commission will not block a political agreement by the Council. The Commission however expects that this issue, which is of a horizontal nature, will be assessed jointly by the institutions.

23/11/2006 - Council: common position

The common position incorporates a number of the European Parliament's first reading amendments, either verbatim, in part or in spirit. These improve or clarify the text of the proposed Directive.

The Common Position contains a significant number of changes compared to the Commission's original proposal. In presentational terms, the text has been streamlined with several of the Articles in the original text being merged and recitals simplified. However, all of the essential elements in the Commission's original proposal are retained. In terms of the substance, the most important changes in the Common Position as compared to the original proposal and that are not reflected in the Parliament's amendments, concern the streamlined preliminary flood risk assessment, strengthened international cooperation and weakened coordination with Directive 2000/60/EC.

Restriction in the definition of floods of the types of floods concerned by the Directive: the Common Position adds an inclusive list of types of floods that are to be covered by the Directive, but also includes the possibility to exclude sewerage floods from the application of the Directive.

Smaller units of management than river basin districts: the Common Position establishes that coastal areas and individual river basins may be used as units of management

Streamlining of the preliminary flood risk assessment and the consideration of climate change: the Common Position streamlines and simplifies the preliminary flood risk assessment, in particular as regards the assessment of the future potential extent and consequences of floods and factors changing flood risks. This includes the consideration of climate change, which has been weakened by making it optional until the first review of the preliminary flood risk assessment in 2018. The European Parliament, on the other hand, maintains the Commission's level of ambition as regards climate change, and in addition proposes more detailed requirements in the preliminary flood risk assessment. The Commission can accept the common positions delay of climate change considerations only in the view of an overall compromise, but added a statement to the Council conclusions that citizens expect that the impact of climate change on flood risk is properly assessed and considered.

Timetable: the Common Position changes the date for the finalisation of the first preliminary flood risk assessment to 22 December 2012, rather than 3 year's after the entry into force of the Directive.

Cooperation in shared river basin: this is strengthened in the common position in relation to all three stages of the Directive, in the preliminary flood risk assessment, the flood maps as well as in relation to the flood risk management plans.

Maps: limited requirements to map different probability scenarios depending on the type of floods: the Common Position introduces the possibility to only map the low probability scenario (most extreme scenario) for groundwater floods and for coastal floods where there are appropriate protection measures in place. Mapping of the high probability floods (less extreme scenario) has also been made optional. Other changes introduced are clarifications that maps shall be made at the appropriate scale, that the flood extent shall be shown in the flood hazard maps and how to describe potential damage to economic activities and the environment in the flood risk maps.

Flood risk management plans: the Common Position introduces the possibility to produce more than one flood risk management plan in the river basin district, provided these are coordinated at the level of the river basin district. It also lays down specific cooperation possibility requirements in international sub-basins. It furthermore requires that "objectives of flood risk management" are established, rather than the desired "level of protection", thus accepting that it may not be possible to guarantee a specific level of protection in the light of unpredictable natural hazards like floods. It also introduces the possibility to increase risks upstream or downstream countries provided there is agreement between the parties concerned. The Common Position also includes a number of other clarifications of the role of the flood risk management plans (links to the maps in Chapter III, specific consideration of the protection of ports infrastructure and navigation, the specification that flood forecasting and early warning systems as part of preparedness shall be in focus, the explicit possibility to use controlled floods of certain areas to reduce overall risk) which do not change the essential components of the proposed Directive.

Implementing measures and amendments: the Common Position introduces a deadline for specifying technical formats for reporting to the Commission to two years before the respective deadline. It also limits the possible adaptation of the Directive to scientific and technical progress by Committee procedure to the Annex only.

Correlation table: the Common Position moves the requirement to provide a correlation table with the transposition. **In the annex** a requirement to describe the method for cost-benefit analysis of measures in shared river basins is included, as is a report on monitoring mechanisms for the implementation, along with certain clarification as the formats for components of the plans.

27/06/2006 - Council's activities

The Council reached political agreement on a draft directive on the assessment and management of flood risk. Concerning the main issues yet to be resolved, the Council decided:

- that the scope of the Directive would cover both international and national river basins;
- to require that the preliminary flood risk assessment would be complete by 22 December 2012;
- to require the revision and updating of the flood hazard maps and of the flood risk maps by 22 December 2019 and revision of plans in 2021 and every six years thereafter.

The text will be adopted without further discussion at a forthcoming Council meeting in the form of a common position and sent to the European Parliament with a view to the second reading.

13/06/2006 - EP: position, 1st reading or single reading

The European Parliament adopted a resolution drafted by Richard **SEEBER** (EPP-ED, AT) making several amendments to the Commission's proposal:

- to reflect the fact that this piece of legislation is essentially concerned with risks, rather than with actual flood events, the title should read "Proposal for a directive..... on the assessment and management of flood risks", and this wording should also appear in Article 1 setting out the aims of the directive;
- emphasis should be placed on the principles of solidarity and cooperation among neighbouring countries, including non-EU countries, so that flood risk management can be coordinated over the entire area of a cross-border river catchment basin. Networks should be developed for the exchange of information between the competent authorities, and flood risk management plans should take account of the impact of these plans

on neighbouring countries. River basin flood management should aim to create a common responsibility and solidarity within the basin. To that end Member States should endeavour to raise awareness and encourage cooperation among all stakeholders as well as in areas that are not, or are less, prone to flooding but which can contribute by their land use and practices to downstream or upstream floods.

- the subsidiarity principle should also be given due importance, and considerable flexibility should be left to the local and regional level in particular as regards organisation and responsibility of authorities, flood management plans and risk maps, the level of protection and the measures and the timetables to achieve the objectives set. For example, Member States should be able to lay down specific measures for areas with special characteristics. They should also be allowed some discretion as to what investigation period or what likely return period they wish to use as the basis for their flooding maps;

- there should be a broader definition of the concept of "flood", so as to include heavy rainfall as another cause of this phenomenon;

- in order to reduce the administrative and technical burden of implementing the directive, it should be possible for Member States to make use of existing work carried out in the area of flood protection, i.e. existing preliminary flood risk assessments as well as flood risk maps and management plans;

- Member States may decide, in respect of river basins, sub-basins and stretches of coastline for which a sufficient potential risk may already be assumed, to dispense with the preliminary flood risk assessment if certain conditions are met;

- flood risk management measures, especially those related to building infrastructures, should be subject to a sound and transparent economic and environmental appraisal to ensure their long-term viability for citizens and businesses, taking into account the principle of cost-recovery, including environmental and resource costs;

- flood risk maps may divide areas into zones according to land use and vulnerability to any likely damage;

- Member States shall determine the specific points at which the flood risk is higher. That information must be taken into account in land use planning;

- Member States' flood risk management plans at the level of the river basin district must describe flooding processes and their sensitivity to change, including the role of flood plain areas as a natural retention/buffer of floods and flood conveyance routes at present or in the future. Plans must also describe development plans that would entail a change of land use or of allocation of the population and distribution of economic activities resulting in an increase of flood risks in the area itself or in upstream or downstream regions;

- the flood risk management plan will include measures to prevent accidental pollution from technical installations as referred to in Annex I of Directive 96/61/EC and covered by Directive 96/82/EC as a consequence of flooding;

- Member States should inform and actively involve the public "to ensure a high level of preparedness as part of the flood risk management plans". Member States will provide the inhabitants of risk areas with information and training on a regular basis, so as to enable them to take appropriate pre-flood precautions and post-flood action;

- when drawing up its assessment report by the end of 2018, the Commission should take account of the impact of climate change.

04/05/2006 - EP: decision of the committee responsible, 1st reading/single reading

The committee adopted the report by Richard SEEBER (EPP-ED, AT) broadly approving the proposed directive on the assessment and management of floods, subject to a number of amendments under the 1st reading of the codecision procedure:

- to reflect the fact that this piece of legislation is essentially concerned with risks, rather than with actual flood events, the title should read "Proposal for a directive..... on the assessment and management of flood risks", and this wording should also appear in Article 1 setting out the aims of the directive;

- emphasis should be placed on the principles of solidarity and cooperation among neighbouring countries, including non-EU countries, so that flood risk management can be coordinated over the entire area of a cross-border river catchment basin. Networks should be developed for the exchange of information between the competent authorities, and flood risk management plans should take account of the impact of these plans on neighbouring countries;

- the subsidiarity principle should also be given due importance, and "considerable flexibility should be left to the local and regional level". For example, Member States should be able to lay down specific measures for areas with special characteristics. They should also be allowed some discretion as to what investigation period or what likely return period they wish to use as the basis for their flooding maps;

- there should be a broader definition of the concept of "flood", so as to include heavy rainfall as another cause of this phenomenon;

- in order to reduce the administrative and technical burden of implementing the directive, it should be possible for Member States to make use of existing work carried out in the area of flood protection, i.e. existing preliminary flood risk assessments as well as flood risk maps and management plans;

- flood risk management plans should include measures to prevent accidental pollution from technical installations with potential risk as classified in the "Seveso II" directive;

- flood risk maps may divide areas into zones according to land use and vulnerability to any likely damage;

- Member States should inform and actively involve the public "to ensure a high level of preparedness as part of the flood risk management

plans”;

- when drawing up its assessment report by the end of 2018, the Commission should take account of the impact of climate change.

09/03/2006 - Council's activities

Pending the opinion of the European Parliament, the Council took note of a report concerning progress achieved during the examination by the Council of a proposal for a Directive on the assessment and management of floods.

The progress report mentions the technical issues – related to coordination with the water framework Directive, the preliminary flood risk assessment, flood maps and flood risk management plans – yet to be resolved with a view to reaching political agreement in June if the opinion of the European Parliament is available.

18/01/2006 - Commission/Council: initial legislative document

PURPOSE: to reduce and manage the risks which floods pose to human health, the environment, infrastructure and property.

PROPOSED ACT: Directive of the European Parliament and of the Council.

CONTENT: between 1998 and 2004, Europe suffered over 100 major floods. These floods caused some 700 fatalities, the displacement of about half a million people and insured economic losses totalling at least EUR 25 billion. Assets at risk include private housing, transport and public service infrastructure, commercial and industrial enterprises and agricultural land. More than 10 million people live in areas at risk of extreme floods along the Rhine and the potential damage from floods totals EUR 165 billion. In addition, floods can have severe environmental consequences, such as affecting waste water treatment plants or factories holding large quantities of toxic chemicals. Floods can also destroy wetland areas and reduce biodiversity.

Although the Commission has a tradition of environmental legislation on water quality, to date the Commission has taken no measures to reduce and manage floods. Its justification for presenting this proposal is based on the fact that most of Europe's river basins are shared. Rivers and regional seas are not confined to existing geo-political boundaries, instead most river basins and coastal areas are shared between various countries. Under these conditions, a purely national approach to flood risk management, the Commission argues, is neither technically nor economically feasible. Concerted Community action could bring considerable added value and improve the overall level of flood protection. The Commission is preparing this proposal following the publication of its Communication on flood risk management and following a 2004 Council conclusion, in which the Council requested the Commission to submit an appropriate proposal on the management of floods in the EU. The proposal is also being presented following extensive consultation with stakeholders and interested parties. The consultation process revealed broad support for the suggested approach being proposed.

In summary, the proposed Directive would provide for flood mapping in all areas at risk of significant flooding, for co-ordination within shared river basins and for producing flood risk management plans through a broad participatory processes. The Directive allows for considerable Member State flexibility, allowing them to determine the level of protection required, the measures to be taken to achieve this level of protection and the timetables for implementing flood risk management plans. River basins, sub-basins and regions which are not at significant risk may be exempted from the any measures under the Directive.

The proposed Directive is closely linked to the implementation of Water Framework Directive. As such, the Commission proposes to fully align the organisational and institutional aspects and timing between the Directives based on the river basin districts, the competent authorities and the committee established by the WFD. Once the Flood Directive is adopted, implementation of the two Directives will be closely co-ordinated. The Commission points out that the objective of the Directive, namely Member State co-operation and co-ordinated planning has already commenced under the auspices of International River Commissions such as those for the Danube, Oder, Elbe, Rhine, Maas and the Scheldt.

FINANCIAL IMPLICATIONS :

While implementation and financing of environmental policy is as a rule a right and obligation of the Member States (Article 175(4) of the EC Treaty), the Community has a variety of funding mechanisms which can be used to promote flood protection, e.g. under research policy, cohesion policy and agricultural (rural development) policy. Flood-related initiatives and measures are eligible both under the legislation in force in these policy areas and under legislation proposed for 2007 - 2013. However, this proposal will have no financial implications beyond the proposals already adopted by the Commission.

18/01/2006 - Document annexed to the procedure

COMMISSION'S IMPACT ASSESSMENT

For further information regarding the context of this issue, please refer to the summary of the Commission's proposal for a Directive of the European Parliament and of the Council on the assessment and management of floods – COM(2006)0015.

1- POLICY OPTIONS AND IMPACTS

Having thoroughly examined, and then ruling out as not feasible, three possible options, (no action, amending existing legislation and a prescriptive legislative instrument), the Commission considered two main options:

1.1- Option A – A strictly voluntary approach delivered through a Communication with non-binding recommendations: The development and implementation of action programmes would be based on voluntary political commitment by Member States and international

river commissions. The Communication would set out the essential features of the action programme, as described in the Commission's 2004 Communication on flood risk management (COM(2004)0472 of 12.7.2004).

1.2- Option B – A combination of cooperation between the Commission, Member States and other involved parties, plus a flexible legislative instrument: This option is a combination of flexible non-binding mechanisms and flexible legislative instruments on those issues where progress needs to be guaranteed.

Cooperation between Member States, facilitated by the Commission, would lead to the improved exchange of information, sharing of experiences and development and promotion of best practices between Member States and other stakeholders. It would also result in the development of stronger linkages between the research community and the authorities responsible for water management and flood risk management.

In addition, the Commission would improve the co-ordination between the relevant Community policies by developing a targeted approach to EU funding possibilities. Relevant funding instruments have been proposed as regulations within the Common Agricultural Policy and the Cohesion Policy. The legal instrument would be ambitious in its scope but not prescriptive in its tools. It would translate the approach of the Communication on flood risk management of July 2004 and the discussions during the stakeholder consultation process into operational actions.

CONCLUSION: It was clear from the assessment of impacts that the most cost effective and appropriate regulatory level was Option B (a 'package' approach of voluntary and cooperation measures linked to and underpinned by a flexible legislative instrument). It would establish the principles of flood risk management, allow for prioritisation and leave flexibility to Member States in defining their desired level of protection, and the necessary measures and time schedules for implementing them. Existing preparatory, planning and operational measures would be fully integrated, including the relevant transboundary cooperation, and a range of Community funding instruments and research would underpin implementation.

IMPACTS

Economic: The selected option's economic impacts on cooperation through the open method of coordination would be negligible as it includes no binding measures and there are provisions governing the funding of cooperation projects in the new Cohesion policy. Moreover, the development of flood risk maps and flood protection plans would be important tools to use in deciding on the priorities for EU funds to be used in flood protection programmes.

The flexible legislative instrument would have budgetary consequences for public authorities as they have to develop preliminary flood risk assessment, flood maps and flood risk management. In general terms, the costs arising from these obligations would depend on the size of the river basin districts.

Option B would have a positive impact on the competitive position of EU industry. EU industries would be less affected or disturbed by flood events, in terms both of frequency and impact. It would help to improve the conditions for investment and for the proper functioning of markets by reducing the likelihood and impact of flood events, so there would be less chance of disruption of production.

Both elements of Option B would stimulate research and development, e.g. modelling at river basin level, and would result in more cost effective measures.

Social: Option B will decrease the likelihood of health risks related to flood events, e.g. psychological distress by reducing the likelihood and impact of floods. It would have a positive impact on the functioning of the labour market, as companies and industries are less affected or disturbed by flood events.

Producing flood risk maps will mean the public is better informed about flood risks, resulting in increased public awareness. There should be monetary benefits from this raised awareness since when people are aware of the risk they are likely to be more receptive to flood warnings and thus more inclined to protect themselves and their property (e.g. by simple flood-proofing measures).

Environmental: Firstly, the negative consequences of flooding on the environment would be decreased. By mapping the areas at risk of flooding, Member States can prevent future activities that affect the environment (like waste water treatment plants, chemical industries, etc.) in flood prone areas or adapt those activities to the flood risks.

Secondly, the close links with the WFD (Water Framework Directive) ensure not only that flood-related measures will not have a negative effect on the ecological status of water bodies, but will indeed result in measures that contribute to the ecological status. Member States will be looking more for cost efficient measures that benefit both floods and WFD.

2- FOLLOW-UP

Firstly, informal cooperation between the Commission and the Member States will provide for regular and transparent exchanges of information, identifying challenges, solutions, etc.

Secondly, the Commission will prepare regular reports on the progress of implementation. These reports will, where appropriate, also include elements of ex post evaluation, review and amendment of preliminary flood risk assessments, flood risk maps and flood risk management plans. Reporting through the "Water Information System for Europe" will not only drastically ease the administrative burden but should also bring considerable synergies. It should also give easy access to all the relevant information and action required under the three key management steps under the Directive.

Thirdly, evaluation of implementation will be complemented by similar assessments of the other two components of the Flood Action Programme, namely the exchange of information and knowledge and research efforts, and promotion of best use of funding instruments.