II

(Acts whose publication is not obligatory)

COMMISSION

COMMISSION DECISION

of 8 October 2001

granting Portugal a derogation regarding urban waste water treatment for the agglomeration of the Estoril coast

(notified under document number C(2001) 2657)

(Only the Portuguese text is authentic)

(2001/720/EC)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 91/271/EEC of 21 May 1991 concerning urban waste water treatment [1], as amended by Commission Directive 98/15/EC [2], and in particular, Article 8(5) thereof,

Whereas:

(1) Article 8(5) of Directive 91/271/EEC provides a concession whereby, in exceptional circumstances, discharges into less sensitive areas of waste water from agglomerations exceeding 150 000 population equivalents may nonetheless be subject to the less stringent requirements set out in Article 6(2).

(2) In such circumstances, Member States are required to submit beforehand the relevant documentation to the Commission, showing that the discharges receive at least primary treatment and that they will not affect the environment.

(3) Portugal has identified its coastal waters, except those of the Algarve region, as a 'less sensitive area' under Article 6 of Directive 91/271/EEC.

(4) On 16 June 1999 Portugal sent a request to the Commission under Article 8(5) of Directive 91/271/EEC, concerning the discharge of waste waters into the Atlantic Ocean near the Tagus estuary, from the agglomeration of the Estoril coast, which accounts for 720 000 population equivalents.

(5) At the request of the Commission, Portugal sent the Commission additional information on the matter, by letters dated 25 November 1999 and 15 February 2000.

(6) The hydrodynamic conditions of the western coast of Portugal, which result from the wind conditions, tides, currents and dispersion, are some of the most favourable of European coastal waters for the dilution and dispersion of waste water. Moreover, the point of discharge is situated outside the outer limit of the Tagus estuary. Consequently, the criteria for less sensitive areas are applicable to the point of discharge.

(7) The point of discharge is far away from the bathing areas of the Estoril coast.

(8) The documentation transmitted by Portugal demonstrates that the discharge will not have any impact on the dissolved oxygen rate, the trophic status, the transparency and the benthic community of the receiving waters.

(9) The bathing waters along the agglomeration of the Estoril coast have not, for years, complied with the requirements of Council Directive 76/160/EEC of 8 December 1975 concerning the quality of bathing water [3], as last amended by the Act of Accession of Austria, Finland and Sweden, inasmuch as the microbiological concentrations in those waters exceed the standards specified in that Directive.

(10) Since 1995, seven of the twelve bathing areas of the agglomeration of the Estoril coast, namely the beaches of Carcavelos, Parede, Rainha, Cresmina, S. Pedro de Estoril, Tamariz and Torre, have not complied with the mandatory bacteriological values of Directive 76/160/EEC.

[1] OJ L 135, 30.5.1991, p. 40.
[2] OJ L 67, 7.3.1998, p. 29.
[3] OJ L 31, 5.2.1976, p. 1.

(11) The Commission considers that, even if the deficiencies of collecting systems appear to be the major source of this microbiological pollution, the waste water discharge in question can reach bathing areas and therefore contribute to the microbiological pollution of those areas unless waste waters are treated appropriately before discharge.

(12) Microbiological removal treatment, prior to discharge into the sea, is necessary to prevent the risk of pollution of bathing waters.

(13) In order to be efficient, microbiological removal treatment needs low levels of suspended solids and reduced concentration of organic matter in waste waters.

(14) After consultation of the Committee set up pursuant to Article 18 of Directive 91/271/EEC and discussion with the Commission, Portugal sent additional documentation on 21 December 2000, proposing microbiological removal treatment after advanced primary treatment and before discharge into the sea during the bathing season.

(15) The Commission considers that, on the basis of the information and assurances provided by Portugal and because of the exceptional circumstances concerning dilution and dispersion of the receiving waters, the treatment proposed by Portugal will be able to protect the adjacent bathing areas from microbiological contamination.

(16) The Commission, having examined the documentation submitted by Portugal in support of the request for a derogation, concludes that the request corresponds to the circumstances envisaged by Article 8(5) of the Directive: the documentation demonstrates that the discharge from the Estoril coast agglomeration would, after the proposed treatment, not adversely affect the environment, and that more advanced treatment would not produce any environmental benefits.

(17) The measures provided for in this Decision are in accordance with the opinion of the Committee set up under Article 18 of Directive 91/271/EEC,

HAS ADOPTED THIS DECISION:

Article 1

The request by Portugal of 16 June 1999 under Article 8(5) of Directive 91/271/EEC, to be permitted to provide, for the agglomeration of the Estoril coast, less stringent waste water treatment than that prescribed in Article 4 of that Directive is accepted under the conditions set out in Articles 2 to 6 of this Decision.

Article 2

During the bathing season, defined by Portugal for the purposes of Directive 76/160/EEC as running from 1 June to 30 September, the urban waste water from the agglomeration of the Estoril coast shall, prior to discharge into the sea, be at least subject to advanced primary treatment and to a disinfection system in accordance with the requirements set out in heading 1 of the Annex of this Decision.

Article 3

Outside the bathing season, the urban waste water from the agglomeration of the Estoril coast shall, prior to discharge, be at least subject to primary treatments defined by Article 2(7) of Directive 91/271/EEC.

Article 4

The competent Portuguese authority or appropriate body shall monitor the discharge in accordance with the provisions set out in heading 2 of the Annex to this Decision.

Article 5

Acting in accordance with Article 15(3) of Directive 91/271/EEC, Portugal shall monitor and carry out other relevant studies to verify that the discharge does not adversely affect the environment.

In particular, at least twice a month during the bathing season, samples shall be taken in at least two well-defined points of the receiving waters, one point being located above the eastern diffuser of the discharge and the other one at 200 metres to the west of the western diffuser. At each of these two points, one sample shall be taken at surface level and another at middle depth: of these samples, 80 % shall contain not more than 100 faecal coliforms per 100 millilitres, the analysis being performed by a laboratory having a system of analytical quality control as specified in heading 2 of the Annex to this Decision.

Article 6

By 30 April of each year, commencing on 30 April 2002, Portugal shall provide the Commission with a report containing the results of the monitoring carried out during the previous calendar year, according to the provisions of Articles 4 and 5, as well as the results of the monitoring for the same year of the bathing waters situated in the area of the Estoril coast agglomeration, according to the provisions of Directive 76/160/EEC.

The report shall also include explanations of any failure to meet the requirements of this Decision or those of Directive 76/160/EEC.

Article 7

During the year 2006, the Commission shall re-evaluate the situation and shall, if necessary, submit a proposal to the Committee set up under Article 18 of Directive 91/271/EEC, no later than 31 December 2006.

Article 8

This Decision is addressed to the Portuguese Republic.

Done at Brussels, 8 October 2001.

For the Commission
Margot WALLSTRÖM
Member of the Commission

ANNEX

1. **Requirements for the discharge from the Estoril urban waste water treatment plant during the bathing season (Article 2)**

Parameter	Concentration	Minimum percentage of reduction (1)	Reference method of measurement
Faecal coliforms/100 ml	2 000 (geometric mean)	—	Reference method of Directive 76/160/EEC
Biochemical oxygen demand (BOD 5 at 20 °C) without nitrification (2)		50	Reference method of Directive 91/271/EEC
Total suspended solids	40 mg/l	—	Reference method of Directive 91/271/EEC

(1) Reduction in relation to the load of the influent.
(2) The parameter can be replaced by another parameter: total organic carbon (TOC) or total oxygen demand (TOD) if a relationship can be established between BOD 5 and the substitute parameter.

2. **Reference methods for monitoring and evaluation of results (Articles 4 and 5)**

— In order to monitor compliance with the requirements for biochemical oxygen demand, BOD 5, and total suspended solids, flow-proportional or time-based, 24-hours samples shall be collected, at least weekly, at the same well defined point in the outlet and in the inlet of the treatment plant.

— The results will be evaluated according to the provisions of Annex I.D.4 to Directive 91/271/EEC.

— In order to monitor compliance with the requirement for faecal coliforms, samples shall be collected at least weekly during the bathing season, during daytime maximum flow, at the same defined point in the outlet of the treatment plant.

— The treated waste water shall be assumed to conform to this parameter if the geometric mean of the parametric values obtained during the bathing season does not exceed 2 000/100 ml.

— The analysis shall be carried out by laboratories which have a system of analytical quality control that is subject to regular monitoring by a person who is not under the control of the laboratory and who is approved by the competent authority for that purpose.