



EUROPEAN COMMISSION

*Brussels, 18.7.2018
C(2018) 4499 final*

*Mr Reinhard TODT
President of the Bundesrat
Dr Karl Renner Ring 3
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Dear President,

The Commission would like to thank the Bundesrat for its Reasoned Opinion on the proposal for a Directive of the European Parliament and of the Council on the quality of water intended for human consumption (recast) {COM(2017) 753 final}.

In proposing a revision of Directive 98/83/EC (hereinafter the 'Drinking Water Directive'), the Commission is first of all responding to the first ever successful European citizens' initiative 'Right2Water', and secondly following up on the United Nations Agenda 2030, more particularly Sustainable Development Goal 6 and its associated targets. Finally, the proposal aims to modernise some out-dated elements of the current directive such as the list of parameters and information requirements.

The Commission welcomes the Bundesrat's broad support for the general aims of the proposal. It notes however the Bundesrat's subsidiarity and proportionality concerns in relation to the proposed provisions on hazard assessment, information to the public and access to justice. The Commission is pleased to provide a number of clarifications on these questions and trusts that these will allay the Bundesrat's concerns.

The Commission would like to recall that, in response to the European citizens' initiative 'Right2Water', the European Parliament has called on the Commission to propose a revision of the Drinking Water Directive¹. Moreover, the evaluation of the Drinking Water Directive conducted in the framework of the Regulatory Fitness and Performance Programme (REFIT)² confirmed the added value of drinking water legislation at EU level since, over time, it can help greatly in harmonising water quality across Europe.

¹ European Parliament Resolution of 8 September 2015 on the follow-up of the European Citizens' Initiative 'Right2Water', (2014/2239(INI)).

² SWD(2016) 428 final.

The Commission also considers that the proposal's objective of protecting human health by ensuring a high quality of drinking water for citizens across Europe can be better achieved at Union level. The Commission proposes to set minimum requirements throughout Europe for drinking water standards as in the 1998 Drinking Water Directive as well as minimum requirements for monitoring, reporting, access to water, transparency and remedial action when these standards are not met. As stated in the impact assessment accompanying the proposal, water catchment areas, such as the Danube, Rhine, Elbe and Maas, and groundwater reservoirs are cross-boundary, which means that an European Union-wide approach is utterly important to ensure that all European Union citizens benefit from the same level of health protection³.

The Commission notes that its choice of instrument leaves a wide margin of discretion to Member States when transposing and implementing the suggested provisions. For instance, Member States would be free to determine which concrete action (for example, type of remedial measures or monitoring measures) they wish to take.

As far as the issue of hazard assessment of the bodies used for abstraction of drinking water is concerned (Article 8 of the proposal), it is correct that rules are already in place under the Water Framework Directive⁴. However, the objective of the current proposal is to reinforce the complementarity between the Water Framework Directive and the Drinking Water Directive, thereby ensuring coherence of the legal framework, whilst avoiding any duplication of obligations. This means, for instance, that monitoring of water quality already carried out under the Water Framework Directive should be used for the purposes of the hazard assessment under the Drinking Water Directive.

As regards the question of 'Information to the public' (Article 14 of the proposal) the Commission would like to stress that the stakeholder consultation carried out during the preparation of the proposal showed an overwhelming support for improved provisions on transparency and public access to information on drinking water. The current provisions in the Drinking Water Directive are outdated and not adapted to the Internet age. It was therefore considered necessary to ensure, first, that the public could get essential information on their invoice (e.g. volumes consumed, price, etc.) and, second, that more general – but useful and user-friendly – information be made available on-line. The Commission has also proposed that the amount of information to be provided on-line and the frequency with which it would be updated be proportionate to the size of the water supplier, thereby limiting administrative burden for smaller water suppliers. In addition, it is expected that increased transparency will increase consumers' confidence in tap water, thereby leading to a reduction in the use of plastic bottles, and contribute to improving the efficiency of water suppliers, including leakage rates and energy efficiency.

³ SWD(2017) 449 final.

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.

With regard to access to justice (Article 16 of the proposal) the Commission recalls that the European Union has since May 2005 been party to the 'Aarhus Convention'⁵. Pursuant to that Convention, the Commission is required to ensure that the rights established by the Convention (access to environmental information, public participation in environmental decision-making, and access to justice) become effective. To that end, the European Union has adopted a number of directives on access to environmental information and public participation in environmental decision-making. The Commission also strives to ensure that access to justice is guaranteed in environmental directives. This is why it has proposed to include a provision on access to justice in the Drinking Water Directive. Precedents exist, such as for instance the Directive on industrial emissions⁶ which include a similar provision.

On that basis the Commission finds that the proposal complies with the principles of subsidiarity and proportionality.

Finally, the Commission would like to stress that it fully supports Austria's integrated and proactive approach when it comes to water management and congratulates Austria for its good results regarding the high quality of its water.

The Bundesrat's Reasoned Opinion has been made available to the Commission's representatives in the ongoing negotiations with the co-legislators and will inform these discussions. The legislative process, involving the Commission and both the European Parliament and the Council, is now underway and the Commission is hopeful that an agreement will be reached before the end of the current parliamentary term in 2019.

The Commission hopes that the above clarifications address the issues raised by the Bundesrat and looks forward to continuing the political dialogue in the future.

Yours faithfully,

*Frans Timmermans
First Vice-President*

*Karmenu Vella
Member of the Commission*

⁵ The Convention of the United Nations Economic Commission for Europe (UNECE) on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

⁶ Directive 2010/75/EU of the European Parliament and of the Council of 24 November 2010 on industrial emissions.