



EUROPEAN COMMISSION

*Brussels, 3.8.2018
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Dear President,

The Commission would like to thank the Bundesrat for its 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 United Nations Agenda 2030, more particularly Sustainable Development Goal 6 and its associated targets. The proposal also aims to modernise some out-dated elements of the current Directive such as the list of parameters and information requirements, which are no longer fit for the digital age.

The Commission welcomes the Bundesrat's support for the general aims of the proposal. It notes the Bundesrat's general concern that several issues in the proposal would not be properly covered and regulated, as well as its concerns in relation to the proposed provisions on parameters, spring waters, risk/hazard assessment, monitoring, information to the public, reporting and delegated acts. 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 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 everywhere in Europe minimum requirements for drinking water standards, as well as minimum requirements for monitoring, reporting, transparency and remedial action when these standards are not met.

The Commission has taken over the large majority of the recommended parameters and parametric values from the World Health Organization, and added new microbiological and chemical parameters also upon recommendation of the World Health Organization. On a few parameters, the Commission has suggested a different approach or proposed

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stricter values, as it is already the case in the current Directive. The differences are set out in the explanatory memorandum accompanying the proposal. The Commission proposes that information on those parameters of interest to consumers (such as taste, colour and valuable minerals) is made available online. Therefore, for simplification purposes, the Commission finds it important to maintain at European Union level the current mix of operational and acceptability indicator parameters as laid down in Annex I Part C.

The Commission would also like to stress that the evaluation of the 1998 Drinking Water Directive carried out within the Regulatory Fitness and Performance Programme (REFIT) framework confirmed its added value since, over time, this legislation greatly helped in further harmonising water quality across Europe. Member States, particularly smaller ones that do not always have the necessary resources and specific expertise, expect the European Union to continue modernising parameters and related values to secure a high quality of drinking water.

The Commission has thus proposed new provisions on risk assessments translating the World Health Organization risk-based approach into a legislative frame. 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 Directive. 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 already carried out under the Water Framework Directive should be used for the purposes of the hazard assessment under the Drinking Water Directive.

The impact assessment has confirmed that the proposed provisions would increase coherence with other provisions, such as those in the Water Framework Directive. It recognises that water suppliers will be most affected by the new monitoring provisions and the application of the risk based approach, but that it leads in the longer term to economic savings, beyond identified benefits like better water quality, better health protection, less treatment needs, or a better application of the polluter-pays-principle.

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 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. For example, the proposal does not require online access for all small suppliers, but is open for alternative solutions to make information online available. The proposed

transparency requirements are furthermore consistent with Union security legislation, as elaborated in the explanatory memorandum. In addition, it is expected that increased transparency will increase consumers' confidence in tap water, 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.

The Commission would like to stress that the proposal leaves a wide margin of discretion to Member States when transposing and implementing these provisions into national law. For instance, Member States would be free to set stricter requirements at national level for drinking water or they would be free to determine which concrete action (for example, type of remedial measures or monitoring measures) they wish to take.

The Commission finally notes the Bundesrat's objection to the proposed delegation of powers to amend the Annexes to the Directive by way of delegated acts (Article 18 of the proposal). The Commission's approach to the delegation of power is based on the principle that acts adopted through a legislative procedure best ensure the democratic legitimacy envisaged by the Treaty. However, properly used, delegated powers are an integral tool of better law-making, contributing to simple and up-to-date legislation and its efficient and swift implementation. With regard to the review of the Annexes to the Directive, the proposed delegation is meant to ensure that these Annexes remain in line with the latest scientific documents. The Commission is convinced that all essential elements of the initiative have been included in the proposal and that the balance between the contents of the basic act and the use of tertiary legislation is appropriate.

The legislative process, involving 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. The Bundesrat's Opinion has been made available to the Commission's representatives in the ongoing negotiations with the co-legislators and will inform these discussions.

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,

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